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The labour standards of the multilateral development banks: A trade union guide



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Foreword

The exploitative global economic model actively promotes or permits attacks on human and labour rights and suppresses wages and social protection. The ITUC Global Rights Index documents the systematic attacks on workers' rights by governments and businesses globally. These attacks dismantle the foundations of workplace democracy. The global trade union movement is campaigning in solidarity with unions in countries where they are most at risk.

We need a sustainable development model that fosters decent work and a new social contract between workers, government and business to fulfil Sustainable Development Goal 8. This goal is the promise of decent work for all, where rights are respected and, jobs are decent with minimum living wages, collective bargaining and maximum working time limits. This means universal social protection coverage, due diligence and accountability for business operations, guaranteed access to justice for workers, the realisation of women's equality and social dialogue that ensures just transition measures for people affected or displaced by climate and technology.

In 1998, the ILO Declaration on Fundamental Principles and Rights at Work established the core labour standards of freedom from forced labour, child labour and discrimination alongside the right to organise and collectively bargain. The core labour standards are an inalienable set of human rights at work to be protected throughout the global economy and the multilateral system. In practice, this was not achieved,

and progress has been slow. A highlight has been the adoption of labour safeguards by the World Bank, African Development Bank, International Finance Corporation and other multilateral development banks. These safeguards require that the core labour standards and safe, decent working conditions be provided to workers on loan projects funded by the development banks.

The 2019 ILO Centenary Declaration for the Future of Work builds on that concept and elaborates a labour protection floor, which includes the core labour standards alongside adequate statutory or negotiated minimum wages, maximum limits on working time and safety and health at work. It is time to build a trade union strategy to ensure that governments, companies and international financial institutions respect the labour protection floor as part of our new social contract.

This guide to the binding labour standards of the multilateral development banks provides us with a baseline and describes how sectoral, national and international trade union organisations can use the safeguards to defend labour rights and build workers' power to change the rules of the global economy.

Our fight goes on.

Sharan Burrow

General Secretary

International Trade Union Confederation

A quick guide to using the labour safeguards

Multilateral development banks provide billions of dollars in loans every year to projects in developing countries, involving a vast number of workers. Borrowers of the loans include both public entities and private companies.

Trade unions successfully fought for the adoption of binding labour standards, or safeguards, by several multilateral development banks:

- World Bank
- International Finance Corporation (the private sector lending arm of the World Bank)
- African Development Bank
- European Bank for Reconstruction and Development
- European Investment Bank
- The Asian Development Bank has not created a detailed safeguard but has incorporated the core labour standards into its procedures. There are binding rules on occupational health and safety.
- The Asian Infrastructure Investment Bank and the New Development Bank have adopted limited labour safeguards
- The Inter-American Development Bank is drafting a labour safeguard, and the private sector lending arm (IDB Invest) uses the IFC safeguards

The labour safeguards are a tool to organise, build power, defend workers' rights and hold the banks and borrowers accountable. **The safeguards apply to workers employed by a borrower of the multilateral development bank, whether they are directly hired or subcontracted.** Requirements cover:

- freedom of association and collective bargaining;
- occupational health and safety;
- terms of employment;
- collective dismissals;
- forced and child labour; and
- worker grievance mechanisms.

- A limited set of requirements apply to the supply chain of the borrower.

These requirements are binding through their incorporation into the legal loan documents between the multilateral development bank and the borrower. The safeguards provide an important source of leverage to press for worker rights, along with workplace actions, national law, public attention, and complaints to the ILO or under the OECD Guidelines for Multinational Enterprises.

This tool is only useful if we use it. Here is how:

- **Keep track of loan projects** in your country, sector, etc. so that we can **raise concerns about proposed projects prior to approval**, when the pending decision provides additional leverage. Concerns can be related to ongoing disputes, irresponsible borrowers, and failures by the bank to consider labour rights violations and problems. The multilateral development banks provide a list of proposed, ongoing and past loan projects on their websites. Monitor proposed projects using the public information disclosed by the multilateral development banks (Appendix 1). Contact us at the email below to be added to our monthly mailing list of new disclosures from the International Finance Corporation and the European Bank for Reconstruction and Development. Proposed projects are listed before approval by the board of directors of the bank, and sometimes earlier.
- Once a project is underway, **raise problems that occur on the ground**. The disclosures mentioned above can also help a trade union find out if an employer is currently part of a multilateral development bank project. In these cases, the labour safeguards are a tool to demand fair conditions for these workers. If employers refuse to abide by the standards or engage in dialogue with the trade union, the multilateral development banks can be contacted. There are direct procedures for trade unions to raise concerns through the International Finance Corporation's labour portal and the European Bank for Reconstruction and Development trade union communication mechanism (Appendices 2 and 3). The World Bank's Grievance Redress Service can also be

used as a first method of raising issues, or trade unions can contact country representatives of the banks or the bank staff overseeing the project.

- When raising a complaint, it is important to **document the violation** by providing as much detail as possible about the problem, attempts to engage the employer, and the specific labour standards being violated. It is not necessary to provide the names of individuals in the complaint, and any requests for confidentiality should be included in the documentation.
- It is also useful to **propose how the issue can be resolved**. This can include actions by the borrower to change their behaviour, such as reinstating workers and negotiating in good faith, and actions by the development bank including increased monitoring of the project.

The development bank will usually follow up to gather more information from the trade union, and then discuss with the company or government borrower. This can result in an action plan agreed between the bank and borrower to correct the problem, further investigation by the bank, or the convening of dialogue between the borrower, the bank and the trade union. The development bank may seek to involve a third-party auditor to gather information. However, the social auditing industry has been shown to be ineffective at upholding labour standards and it is best to ask the bank to handle the issue directly. If auditing does occur, trade unions should press for criteria on selecting the auditor, use of best practices in gathering information, and trade union involvement in crafting next steps after the auditor delivers a report.

If a borrower continues to violate the labour safeguard, the development bank has the option to suspend the disbursement of the loan, or to recall it and require the money to be paid back.

- If the multilateral development banks refuse to engage, or do not act in a timely and good faith manner to enforce the labour safeguards, then trade unions can **use the independent accountability mechanisms that handle formal complaints**. These independent accountability mechanisms at each bank can facilitate mediation or conduct thorough, although often slow, investigations to determine if the bank acted appropriately to ensure safeguard compliance by the borrower. Although publicly overseen by governments and mandated to support development, the multilateral development banks are ultimately financial institutions. They may be reticent to pressure borrowers to comply or to enforce the binding nature of the requirements.

In addition to pressing for stronger requirements in the safeguards, trade unions are actively demanding that the multilateral development banks improve due diligence and oversight, and act appropriately to enforce the labour safeguards.

The ITUC/Global Unions Washington Office is available to assist in gathering information and engaging the multilateral development banks: washington@ituc-csi.org

Acronyms

African Development Bank	AfDB
Asian Development Bank	ADB
Asian Infrastructure Investment Bank	AIIB
Compliance Advisor Ombudsman	CAO
European Bank for Reconstruction and Development	EBRD
Environmental Health and Safety Guidelines	EHSGs
European Investment Bank	EIB
Environmental and Social Action Plan	ESAP
Environmental and Social Framework	ESF
Environmental and Social Impact Assessment	ESIA
Environmental and Social Standard	ESS
Independent Accountability Mechanism	IAM
Inter-American Development Bank	IDB
International Bank for Reconstruction and Development	IBRD
International Development Association	IDA
International Federation of Consulting Engineers	FIDIC
International Finance Corporation	IFC
International Financial Institutions	IFIs
International Labour Organization	ILO
Independent Accountability Mechanism	IAM
Multilateral Development Bank	MDB
New Development Bank	NDB
Operational Safeguard	OS
Performance Standard	PS
Performance Requirement	PR

Introduction

This manual aims to provide practical information on the labour safeguards used by the Multilateral Development Banks (MDBs). Every year, these institutions provide billions of dollars in loans to governments and companies. This funds a range of projects and involves a large number of workers, from the expansion of manufacturing plants in Turkey to new roads in Myanmar to education in Colombia.

Trade union action to uphold labour standards on the projects of the multilateral development banks is one part of a broader strategy to challenge international financial institutions and change the rules of the global economy.

The global labour movement led a long fight for the adoption of labour standards, referred to as safeguards, that provide workers on projects funded by the multilateral development banks with a basic and universal set of protections. This effort began after the 1998 Declaration of Fundamental Principles at Rights at Work by the International Labour Organization, which applied the core labour standards to all member countries. Trade unions demanded that the MDBs comply with the core labour standards. Prior to this, MDBs already had safeguards for environmental and social impacts, but not for workers.

In 2001, the Asian Development Bank pledged to promote the core labour standards but did not make compliance a binding condition of their loans. The first binding labour safeguard was introduced in 2006 by the International Financial Corporation, a part of the World Bank Group. Companies that borrow money from IFC are required to respect the freedom of association, prevent child and forced labour, combat discrimination and unequal treatment, create safe working conditions, and monitor their supply chains. The safeguards provide workers with tools to hold

their employers accountable when workers' rights violations occur. It also compels borrowers to take steps toward greater responsibility and fairness.

In the ensuing years, labour safeguards were adopted at the European Bank for Reconstruction and Development, the African Development Bank, and the World Bank. These labour safeguards function as part of a broader set of safeguard policies on environmental and social impacts. The Inter-American Development Bank is currently in the process of reviewing its policies to include a labour safeguard; the Asian Development Bank has not yet adopted a labour safeguard.

As with any labour law or rule, the application of these safeguards by the banks has been uneven, with borrowers sometimes seeking to avoid compliance. Loans in countries with routine violations of workers' rights and unfair national labour laws, studied by the ITUC Survey of violations of trade union rights, compound these problems.

Labour safeguards provide workers with additional tools alongside ILO standards and national law. Most importantly, the safeguards can provide leverage to stop rights violations. However, it is up to workers and their unions to claim their rights and take action.

After a brief description of the structure and operation of MDBs, this manual explains the labour safeguards and how trade unions can use them to organise, build power and fight for fairness. Methods to raise complaints and engage the institutions are provided in detail, alongside examples of trade union actions using the safeguards.

The multilateral development banks

The multilateral development banks are international institutions dedicated to financing economic development. The most prominent is the World Bank, established after the Second World War to assist in rebuilding efforts. By the 1960s, its focus shifted to the developing world and poverty alleviation. The International Monetary Fund (IMF) was founded alongside the World Bank to provide loans to countries experiencing economic distress but is not a development bank. Collectively, the IMF and the multilateral development banks are known as international financial institutions (IFIs).

Four regional multilateral banks mirror the World Bank's functions: the African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, and the Inter-American Development Bank. The regional multilateral development banks, modelled after the World Bank, were established in the late 1950s and 1960s. These banks loan money to the public and private sectors. The European Union operates the European Investment Bank, a separate lending institution, governed by its member states.

Multilateral development banks are governed by all their member countries, which are represented on the board of directors. Voting power is allocated based on the capital contributed. Most borrower governments only provide a small amount of capital, giving them a place at the board but leaving the primary influence with the developed countries. The majority of influence and voting power on the boards of directors are held by donor governments from the developed world that occasionally replenish the capital used by the MDBs to operate.

The primary focus of an MDB is lending. Loans are provided at interest rates that are lower than the rates that developing countries can access from private markets. Many MDBs divide their borrower countries into two categories, with the least-developed countries accessing very low-rate "concessional" loans, and middle-income countries receiving loans at higher rates.

Countries that experience sustained growth and development can graduate from concessional financing to middle-income status or exit borrowing entirely. The latter is rare. Since the founding of the

European Bank for Reconstruction and Development in 1991, only the Czech Republic has graduated out of borrowing. At the World Bank, 44 countries have graduated from concessional borrowing to loans for middle-income countries, but nine subsequently moved backwards. Since 1973, 22 countries have graduated out of World Bank borrowing completely, with six subsequently returning to borrower status.

The World Bank Group

The World Bank Group is a part of the United Nations system but keeps its distance and operates independently. The World Bank's operations are guided by the "twin goals" announced in 2013: ending extreme poverty and boosting shared prosperity. For many, the World Bank continues to be linked to the "Washington Consensus" policies pushed through the structural adjustment programmes of the 1980s and 1990s. The Bank supported an aggressive push toward privatisation, free trade, deregulation, labour market flexibility, and other measures that hurt working people and development. Popular backlash and recurrent debt crises ended the heyday of structural adjustment by the early 2000s. The World Bank has since evolved on some issues, such as the implementation of labour safeguards to protect workers on projects. However, many of its policies remain oriented toward promoting the interests of business and international finance.

The World Bank Group is composed of three major arms. The first is the International Development Association (IDA), which lends money to low-income countries at concessional interest rates and occasionally provides grants that do not need to be repaid. The International Bank for Reconstruction and Development (IBRD) focuses on middle-income economies. Together, IBRD and IDA are referred to as simply the "World Bank" and disburse over \$30 billion per year in lending. In addition to lending operations, the World Bank also has extensive staff and resources devoted to research and policy advice.

International Finance Corporation (IFC)

The third arm of the World Bank Group is the International Finance Corporation (IFC), which can be thought of as a hybrid of a development institution and an investment bank. The IFC lends to private companies operating in developing countries. The

IFC has a substantial level of independence from the rest of the World Bank. This includes having a different labour safeguard that was adopted ten years prior to standard covering IBRD and IDA loans. Around \$12 billion is disbursed by IFC each year. Its operations are primarily focused on middle-income countries with viable private sectors and businesses that have a solid ability to repay loans. Efforts are underway to increase IFC lending in fragile and lower-income countries.

Regional multilateral development banks

The African, Asian, and Inter-American regional development banks perform a similar set of functions as the World Bank, lending to both governments and the private sector. As smaller institutions, they have different internal structures from the World Bank.

The African Development Bank (AfDB) is headquartered in Côte d'Ivoire and lends to the entire African continent. The AfDB consists of the concessional African Development Fund and a middle-income arm, also called the African Development Bank. The latter includes a department that lends to the private sector. Disbursements total approximately \$5.2 billion per year. The AfDB focuses on infrastructure, energy, transport, agriculture, health, and education.

The Asian Development Bank (ADB) is based in the Philippines and includes members in Asia-Pacific and Central Asia, stretching as far as Azerbaijan and Georgia. The biggest shareholders are the United States and Japan. Their priority sectors consist of energy, transport, the financial sector, and both rural and urban development. Annual disbursements are between \$10 and \$12 billion per year. For more on the ADB, see [Engaging with Asian Development Bank for workers' rights: A trade unions guide to understanding the ADB](#).¹

The Inter-American Development Bank (IDB) disburses around \$10 billion each year. Around half of this financing is destined for infrastructure projects that include sanitation, energy, rural development, and natural disaster preparedness or mitigation. In 2016, the IDB closed its concessional lending arm, as only five countries in the region were still eligible for the lowest-interest loans. Similar to the World Bank, the IDB has a semi-independent arm that lends to the private sector, called IDB Invest.

The European Bank for Reconstruction and Development (EBRD) was founded in 1991 to promote the private sector and aid the transition to a market economy in the former socialist states of Eastern Europe and Central Asia. It mostly lends to private companies, but governments sometimes receive money to support privatisation or infrastructure. EBRD began expanding its geographic focus in 2009, with the entrance of Turkey. It is now one of the biggest destinations of EBRD loans. After the Arab Spring, the expansion continued into Egypt, Tunisia, Jordan, Morocco, and Lebanon. Since 2014, the EBRD has suspended lending to Russia in response to geopolitical pressure.

The European Investment Bank (EIB) differs from the mandate and aims of the other multilateral development banks and is governed exclusively by EU member states. Its lending volume dwarfs the other multilateral development banks: over \$65 billion is disbursed annually. Over 90 per cent is destined for the EU. Although a limited share of the portfolio, lending in developing countries is substantial.

New multilateral development banks

A changing international landscape led to the creation of two non-traditional MDBs that began operations in 2016: the Asian Infrastructure Investment Bank (AIIB) and the New Development Bank. The latter is commonly referred to as the "BRICS Bank" because of the central role played by Brazil, Russia, India, China, and South Africa. Of these countries, China has exercised the most influence, with both the AIIB and New Development Bank headquartered in China. The New Development Bank is modelled after the World Bank but governed only by the BRICS countries. The AIIB has rapidly evolved into a broad-based institution with 87 members. Traditional donor governments, including Germany, the United Kingdom, and Canada have contributed capital and sit on the AIIB board of directors, although China remains the biggest shareholder and controls around one-quarter of the voting power. Compared to other MDBs, the Asian Infrastructure Investment Bank has a narrow focus.

¹ http://www.world-psi.org/sites/default/files/documents/research/a_trade_union_guide_to_understanding_adb_psi-2012.pdf

Project lending

Labour safeguards apply to project lending — also called investment project financing — when money changes hands between a multilateral development bank and a country or company.

Investments in the public and private sectors

Projects can range from the very simple, such as IFC funding a new cement production plant, to broad efforts with multiple components. For instance, a World Bank loan to diversify agriculture across an entire country. Infrastructure and energy are often prioritised by the MDBs to catalyse economic growth. Infrastructure of various forms, including water, waste, energy, and transport is the biggest destination of MDB lending in to the public sector. MDBs also fund substantial interventions in health, education, agriculture, communications, and the functioning of government agencies. Lending in the private sector overlaps with many of these areas while focusing more on financial institutions, transportation providers, manufacturing, commercial and residential construction, and agribusiness.

In addition to providing loans to private companies, the MDBs also take ownership, or equity, stakes in client companies. This is most common at IFC and EBRD. In this case, the MDB is a partial owner and sometimes has a seat on the company's board of directors. This model can provide additional ways for the MDB to engage with the company toward responsible behaviour, but also blurs the lines between lender and borrower. Equity stakes also publicly associate the MDB with a company and its actions. The IFC's stake in Amalgamated Plantation Private Ltd., alongside majority owner Tata Global Beverages, generated controversy over mistreatment of tea workers in Assam, India.

A significant and growing share of private sector lending is to financial intermediaries. In these cases, the MDB provides money to a bank or investment fund which, in turn, lends that money to a particular sector or area, such as medium and small businesses. Up to half of IFC's lending is to financial intermediaries, and lending to financial intermediaries usually constitutes the majority of the African Development Bank's small private sector portfolio.

Outside of loans to fund a project, the World Bank engages extensively in research by staff and policy advice to countries. The regional MDBs have a more modest capacity for research and policy. Research and policy advice can have significant impacts on workers, such as the World Bank recommending pension reform, the redesign of unemployment benefits, or changes in the education system. Sometimes this policy advice is bolstered by a project loan, for example, to support the training of healthcare providers and to build new rural clinics.

In other cases, World Bank policy advice is implemented through Development Policy Lending or Programme-for-Results loans. The World Bank safeguards do not apply to either of these forms of lending. Development Policy Lending is a new name for structural adjustment lending, after the latter became synonymous with poor results. These loans provide budget support to assist reform measures and are conditional upon progress on those reforms and economic policies judged adequate by the World Bank.² This is an important avenue for promoting policies which can have serious ramifications for workers, for example, privatisation or changing laws on special economic zones and foreign investment. Development Policy Lending comprises roughly one-third of World Bank lending. Programme-for-Results was created in 2012 and conditions additional funding on the achievement of certain metrics, such as health outcomes or educational attainment. This comprises a small portion of World Bank lending, but not a small amount of money: \$12.9 billion was approved between 2012 and the end of 2016.³

In contrast, the IFC's safeguards apply to both project loans and technical advisory projects. In advisory projects, IFC provides or pays for trainings, studies, and other activities to increase the capacity of a borrower. Sometimes this a complement to a project loan, helping to build the expertise of a borrower while it expands its operations. In other cases, the scope is broader and might involve training farmers or small businesses to use technology. In designing technical advisory projects, the IFC pledges to provide advice "in a manner consistent with the principles" of its safeguards. Similarly, the EBRD applies its safeguards to technical cooperation projects. The African Development Bank uses the safeguards for

² <http://www.worldbank.org/en/projects-operations/products-and-services#DPF>

³ <http://www.worldbank.org/en/events/2016/11/10/pforr-for-sustainable-development-results>

Results-Based Financing (equivalent to the World Bank's Programme-for-Results) and in financing for budget support, called Program-Based Operations.⁴

Examples of project lending

These projects illustrate the variety of project types and sectors involved in lending by the multilateral development banks:

Asian Development Bank — Bangladesh — Rupsha 800-Megawatt Combined Cycle Power Plant (public)⁵

“The project targets improving energy security in Bangladesh. It will increase availability of efficient and cleaner energy by developing a state-of-the-art power plant with 800-megawatt (MW) generation capacity using cleaner and highly efficient power generation technology. The project also envisages the construction of associated natural gas supply and power transmission infrastructure facilities, as well as strengthening of the institutional capacity and overall business process of the project's executing agency, North-West Power Generation Company Limited (NWPGL), to efficiently plan and operate power plants.”

European Bank for Reconstruction and Development — Poland — Arctic Paper (private)⁶

“The EBRD is providing a long-term loan of up to EUR 30 million to Arctic Paper S.A. (the “Company” or “Arctic Paper”), one of the leading European producers of bulky book paper and high-quality graphic paper headquartered and managed out of Poland and production plants located in Poland and Sweden...EBRD loan will be used by the Company to finance investments into resource and operating efficiency improvements as well as capacity expansion in Poland. These will lead to increased competitiveness of Arctic Paper in the European graphic paper market.”

International Finance Corporation — Central African Republic — Telecel Afrique (private)⁷

“Telecel CAR is implementing a Capital Expenditure (“CapEx”) program that will enable further digital inclusion in CAR by making quality mobile and broadband services available to previously under- and un-served populations in the country. This will be achieved through the deployment of the necessary telecom infrastructure for the delivery of digital services to the government, individuals and businesses in CAR. Telecel CAR will increase its 2G and 3G sites in CAR from 167 to 197 through new site deployments, site upgrades from 2G to 3G, and the rehabilitation/re-installation of about 20 sites that were destroyed by the civil disturbances. Through Telecel CAR's sister company, the Project will help in substantially improving the quality and capacity of digital connectivity in CAR by deploying fiber infrastructure for the first time in the country.”

World Bank — Argentina — Northwestern Road Development Corridor Project (public)⁸

“The development objectives of Northwestern Road Development Corridor Project for Argentina are to improve connectivity and road safety along targeted road sections of the Northwestern Corridor and to support corridor development in the Northwest of Argentina. This project has three components. 1) The first component, Road Infrastructure, aims to finance infrastructure works to expand the capacity from two lanes to a four-lane access-controlled expressway with grade-separated intersections and returns, and rehabilitation works, along the most congested and deteriorated sections of the Northwestern (NW) Corridor on National Road (NR) 34, NR 66, and NR 1V66, for a total length of 93.1 kilometers. 2) The second component, Infrastructure for Development Corridor Management, aims to finance works and Technical Assistance (TA) activities that will improve the Corridor's management and contribute to roadside service and logistics development along the Corridor.”

4 https://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/SSS_%E2%80%93vol1_%E2%80%93Issue4_-EN_-Environmental_and_Social_Assessment_Procedures_ESAP_.pdf

5 <https://www.adb.org/projects/50161-003/main>

6 <https://www.ebrd.com/work-with-us/projects/psd/arctic-paper.html>

7 <https://disclosures.ifc.org/#/projectDetail/SII/40265>

8 <http://projects.worldbank.org/P163115?lang=en>

Development finance and workers' rights

Despite lofty goals, development finance has often caused more harm than good. This was first recognised by the MDBs with regard to the environment. In 1975, the World Bank established voluntary guidelines to limit negative ecological impacts. Mandatory measures were adopted in 1984 regarding assessments of impacts on the environment and local communities. However, structural adjustment programmes were excluded from this process and the effect on working people, poverty, and the environment was rarely considered.

Several investment projects became flashpoints for criticism and resulted in the strengthening of World Bank requirements. In the 1980s, the World Bank's proposed support for the construction of dams on the Narmada river in India encountered massive popular resistance because it would displace thousands of residents. The fight led to the creation of the Inspection Panel at the World Bank in 1993 to address complaints about social and environmental aspects of projects. The environmental and social safeguards at the Bank were updated over time to better address issues such as involuntary resettlement.⁹ These environmental and social safeguards began to be adopted at other MDBs.

Labour standards and development

Gradual improvements in the viewpoints of the international community were occurring at the same time. The 1995 World Summit for Social Development in Copenhagen identified ending poverty, realising full employment, and driving social integration as the goals of development. This moved beyond economic growth as the only goal. The Summit's declaration recognised the importance of workers' rights in realising inclusive development.

In 1998, the International Labour Organization unanimously adopted the Declaration of Fundamental Principles and Rights at Work, applying the core labour standards to all member states. Trade unions redoubled their commitment to workers' rights as a pillar of development and called upon the World Bank to make its operations consistent with the core labour standards. 1998 was a year of replenishment for the World Bank's International Development Association, when donor governments provide additional

funding to the institution. Governments use this as an opportunity to push for policy changes. The core labour standards were acknowledged three times in the final replenishment agreement, with a focus on the consideration of labour in Country Assistance Strategies, the forerunner of today's Country Partnership Frameworks between the World Bank and a borrower. It recommended that an analysis of core labour standards in the country be done as part of designing the strategies.

However, the Bank was still wary of the core labour standards and reticent to accept freedom of association and collective bargaining. Little attention was paid to these elements of the core labour standards. Some at the Bank still considered trade unions and collective bargaining to be a threat to economic growth or argued that trade union rights were a political and purely domestic issue. A review of the economic impact of the core labour standards was completed by the Bank in 1999 and found no evidence that trade unions or bargaining limited growth. In fact, the study noted that trade union density and collective bargaining coverage reduced inequality. The report was not released publicly until 2003. A year prior to this delayed release, World Bank leadership accepted the validity of all elements of the core labour standards. This was a step forward on principles, but the Bank still refused to make adherence a requirement in loans. In meetings with the World Bank, trade unions leaders continued to press for the safeguarding of workers' rights as a binding condition of lending. In 2004, a study by the Asia Labour Network on the IFIs found child labour, gender discrimination, and violations of trade union rights on projects in Indonesia.¹⁰

The Asian Development Bank more readily embraced the core labour standards but also declined to make adherence mandatory. The social protection strategy of the ADB in 2001 endorsed the core labour standards and initiated joint work with the International Labour Organization on social protection and decent work. The ADB produced a Handbook on core labour standards in 2006, aimed at assisting bank staff and borrower governments in upholding workers' rights. The ADB took a broad approach, addressing both project lending and policy advice. For example, this prompts the consideration of the effect of public sector

⁹ <http://documents.worldbank.org/curated/pt/263231468739184595/pdf/multi-page.pdf>

¹⁰ https://www.ituc-csi.org/IMG/pdf/Challenging_IFI_EN-PDF.pdf

restructuring on poverty, if changes will lead to job loss. On projects, the ADB committed to follow the core labour standards in design and implementation. Because the handbook did not change operational procedures and the social protection strategy laid out broad and vague commitments around decent work, implementation has been inconsistent. Only occupational health and safety is covered in the ADB's safeguards, under Safeguard Requirement 1: Environment.

Adoption of labour safeguards

The International Finance Corporation took a different approach and announced its intention in 2003 to create a labour safeguard, which was completed in 2006. The European Bank for Reconstruction and Development followed the lead of the IFC and adopted a labour safeguard in 2008. [In 2013](#), the African Development Bank became the first MDB with a mostly public-sector portfolio to have a safeguard.¹¹ The safeguards of the IFC and EBRD have been revised since their initial adoption.

Pressure on IFC results in first collective agreement in Haitian export processing zone

Drafting of the IFC safeguard took place against the backdrop of a major labour dispute at Grupo M in Haiti, a recipient of an IFC loan. Because of violations of labour rights and poor working conditions at the garment manufacturer, global unions pressured the IFC to require respect for the freedom of association. IFC inserted a covenant on labour into the loan, but Grupo M nonetheless refused to recognise or bargain with the workers' trade union. Hundreds were terminated in retaliation for organising, with little legal or practical recourse because of a fragile political situation and the facility's location in an export processing zone.

Working together, the local union and global trade union bodies pressured the IFC to hold Grupo M accountable. Under pressure from trade unions and IFC, Grupo M rehired the workers in 2005 and bargained with the trade union. This became the first collective bargaining agreement in a Haitian export processing zone. The Grupo M case demonstrated the need for a labour safeguard, and how binding requirements could address irresponsible corporate behaviour.

In 2011, the ITUC published [Labour Standards in World Bank Lending: Lessons Learned and Next Steps](#) to outline priorities for a planned safeguards review at the Bank.¹² Originally slated to end in 2013, the review did not begin until late 2012. With the review, the World Bank moved from operational policies formed over time, such as the ones on displacement, and toward a unitary Environmental and Social Framework. This was the same approach taken by the African Development Bank with the Integrated Safeguards System.

Trade unions were consulted throughout the World Bank's drafting process, including at meetings to specifically discuss labour. A first draft of the World Bank labour safeguard was released in 2014 for consultation and shocked many trade unions. The safeguard would only apply to directly-hired workers, not those at contractors. This would exclude huge numbers of workers on Bank-funded projects and render the safeguard largely symbolic. This provision was subsequently removed.

In 2016, a full decade after IFC adopted a labour safeguard, the main part of the World Bank Group approved the new Environmental and Social Framework (ESF) including the safeguard. Both the ITUC and the International Labour Organizations expressed disappointment that it did not reference the core labour standards. The "ILO believes that their inclusion would set appropriate expectations of borrowers' behaviour and make it easier for the Bank to implement its new Safeguards on the ground." The standard-setting body observed:

the objective of "supporting the principles of freedom of association and collective bargaining" now to be required only "in a manner consistent with national law" undercuts the universal principles adhered to by the [ILO's 187 member states](#) and jeopardizes the purpose of having such an objective. In the [ILO Declaration on Fundamental Principles and Rights at Work](#), all categories of rights and principles are of equal importance, and they are applicable to all ILO members. As ILO and World Bank membership is almost identical, this could create difficulties for member States in applying these fundamental principles and rights consistently. None of the other objectives of ESS2 are qualified in this manner.¹³

¹¹ Peter Bakvis, "The African Development Bank's new labour safeguard", <<https://www.equaltimes.org/the-african-development-bank-s-new>>

¹² <https://www.ituc-csi.org/labour-standards-in-world-bank>

¹³ ILO, "ILO Statement on the World Bank Environmental and Social Policy", <https://www.ilo.org/global/about-the-ilo/newsroom/statements-and-speeches/WCMS_508328/lang-en/index.htm>.

Despite the misgivings, both the ITUC and ILO expressed commitment to dialogue with the Bank on effective implementation of the new standard. The General Secretary of the ITUC [encouraged](#) the Bank to:

(1) ensure their staff are properly trained on labour issues; (2) make clear to borrowers that the standard is obligatory and the precise actions they must take for their labour practices to be in compliance; (3) work in close cooperation with workers' organisations that can inform the bank of potential safeguard violations. Early consultation with trade unions on risks of non-compliance in new projects is probably the most effective practice for preventing violations.¹⁴

During lengthy World Bank review, construction workers in Pakistan fight for rights and safety

While the World Bank review was ongoing, problems at the Tarbela hydropower project in Pakistan underscored the necessity of a labour safeguard. Chinese contractor Sinohydro was the general contractor for the Tarbela-IV Extension project. The Awami Labour Union, affiliated to the Pakistan Federation of Building and Wood Workers, was recognised as the collective bargaining agent in 2014 but had problems resolving basic issues on the project including wages, working conditions, pensions and health and safety. Sinohydro began monitoring and pressuring workers about trade union activity and fired eight workers. A strike was narrowly averted in late 2014 with agreements on some issues including the reinstatement of the terminated workers and improvements on payment including proper overtime. However, the union noted a lack of implementation following this settlement. In July 2016, six workers were killed and 20 injured when scaffolding collapsed. The trade union and BWI blamed negligence by the borrower and contractor, and the need for greater World Bank involvement to guarantee basic safety standards. During that same month of July, minimum wages should have increased. However, workers only started receiving a raise in February 2017. By May, workers went on strike to demand backpay and urgent occupational health and safety improvements.

The World Bank took a further two years to prepare for implementation and write guidance notes to explain the content of the new safeguards. In October 2018, projects began to be designed under the new safeguards. Projects already designed under the previous policies continue to be governed by the older requirements.

Labour requirements in construction projects

Construction bidding documents are another front in ensuring that MDBs promote the core labour standards. Proposals were first made in 1999 by trade unions to incorporate the core labour standards into the World Bank standard bidding document for the procurement of works. The standard bidding documents are used when a contract over \$10 million for the provision of works — i.e. construction — is opened for proposals. This applies only to works, not the procurement of goods. In 2004, Building and Wood Workers' International submitted detail proposals for incorporating the core labour standards and other protections such as health and safety into procurement. Many of the proposals were taken up in the 2007 standard bidding documents as suggested elements of a tender.

The MDBs use a common template for construction contracts designed by the banks and the International Federation of Consulting Engineers (FIDIC). This is formally known as the MDB Harmonized Edition of the Conditions of Contract for Construction. Building and Wood Workers' International engaged extensively with FIDIC and the MDBs around incorporation of the core labour standards. The 2010 revision added general conditions that are consistent with the core labour standards. This strengthens the treatment of labour from a suggested element to a normal condition. Other requirements cover worker housing, the provision of food, and working hours. The World Bank and the regional MDBs all use the harmonized conditions of contract when there is international competitive bidding for major construction works contracts. The World Bank's standard bidding documents for the procurement of works have been updated to reflect the full incorporation of labour standards into the MDB harmonized conditions.

Positive effects of the safeguards for workers, borrowers and governments

Trade unions demand labour safeguards to support the realization of the core labour standards and the universal labour protection floor.

¹⁴ Sharan Burrow, "The World Bank's new labour safeguard", <<https://www.equaltimes.org/the-world-bank-s-new-labour>>.

Use of IFC's labour safeguard to defend trade union rights of subcontracted workers in Iraq

Trade unions have found that labour safeguards adopted by multilateral development banks, as a result of campaigns by the international labour movement, can be particularly useful in contexts where labour laws and their implementation are weak. An example of successful use of IFC's Performance Standard 2 (PS 2) to correct violations of workers' rights took place in Iraqi Kurdistan after the multinational cement producer Lafarge obtained a \$150 million investment from IFC in 2010 for expanding facilities in Iraq.

Iraqi labour laws were notoriously weak and their application was sporadic in the several years of chaos that followed the US-led invasion in 2003. Disagreements with Lafarge concerning working conditions and unjust dismissals, which workers believed violated Iraqi law but were unable to resolve expeditiously through the labour ministry, had led to work stoppages at both of the company's plants in Kurdistan.

The Iraqi Kurdistan construction union used the leverage of an International Framework Agreement between Lafarge and two GUFs signed in 2005 to obtain union recognition, after which the parties agreed to limits on working time, improved pay and resolution of some health and safety issues. However, these negotiations failed to bring any improvement for the more than 40 per cent of the 2,300-strong workforce that worked for eleven Lafarge sub-contractors at the Kurdistan sites. Many of these subcontracted workers did not receive legally stipulated rest periods or leave, nor were they provided social security coverage or even written contracts. They were essentially treated as day-labourers even though some had been doing the same job for five years.

Local Lafarge management initially claimed that they had no obligation regarding the rights and conditions of subcontracted workers, but the workers rejected the company's assertion that it lacked any responsibility. Using information provided by an Iraqi labour expert familiar with the provisions of IFC's PS 2, the Kurdistan construction union met with management in 2011 and pointed out that the IFC safeguard was clear in specifying Lafarge's obligations vis-à-vis the employees of subcontractors. With the exception of provisions regarding retrenchment procedures, the labour safeguard not only applied to contract workers but, as IFC's borrower, Lafarge was responsible for establishing "policies and procedures for managing and monitoring the performance of [subcontractors] in relations to the requirements" of PS 2. The specified procedures include incorporating the PS 2 requirements in contractual agreements with the subcontractors.

At the end of the negotiations, the company acknowledged its obligations concerning the application of PS 2 to employees of the subcontractors, and in the months that followed took steps to bring the larger ones, who employed most of the thousand or so subcontracted workers, into compliance. The Kurdistan union found almost all of the employees working for the subcontractors ready and willing to join the union, which subsequently negotiated agreements that equalised the working conditions at subcontractors to the terms enjoyed by direct employees.

The Iraqi Kurdistan union's use of PS 2 in 2011 to improve the conditions of the workforce of Lafarge's subcontractors led to a substantially more successful outcome than for workers elsewhere in Iraq who attempted around the same time to obtain respect of their rights in projects financed by the public-sector divisions of the World Bank. The divergent outcomes were documented in an [article written by the ITUC in 2013](#). Until a new Environmental and Social Framework went into effect in October 2018, for several years the World Bank tolerated a situation in which violations of workers' fundamental rights in Bank-financed projects were treated differently according to which division of the Bank provided the funding.

Today, the labour safeguards are an additional avenue to promote implementation of international labour standards in the public and private sectors, and to promote MDBs that are accountable and contribute to development through decent work.

Although there are shortcomings in implementation and the text of the various safeguards, the routine assessment of labour issues on all projects and monitoring of borrower actions have benefited thousands of workers and caused many companies and public agencies to improve their labour relations.

Proper implementation of labour safeguards can have a lighthouse effect, creating an example of responsible business conduct that encourages others to follow. This is particularly meaningful in countries with routine violations of workers' rights. In such situations, or in sectors where trade union organising is difficult, the safeguards can be a window of opportunity for workers to build trade unions and claim their rights. For borrowers, responsible behaviour can provide a competitive edge through a more productive and better skilled workforce with lower turnover.

The creation of labour safeguards at the multilateral development banks has encouraged labour standards at other financial institutions. The IFC Performance Standards have been adopted by several bilateral development finance institutions such as the Commonwealth Development Corporation, the arm of the United Kingdom Department for International Development that lends to the private sector. Through the Equator Principles, 96 private financial institutions and investors agreed to use the IFC Performance Standards to assess projects when investing in developing countries. However, despite the underlying use of the same standards, the voluntary application of the safeguards by the signatories of the Equator Principles has fallen short of the progress made at IFC. Real improvements will require a stronger commitment to applying the standards in a binding manner, a consistent analysis of labour, social, and environmental issues, compliance monitoring and complaint mechanisms.

The labour safeguards

The following section provides an overview of the categories and requirements in the following safeguards:

- [African Development Bank Operational Safeguard 5 \(OS 5\)](#)
- [European Bank for Reconstruction and Development Performance Requirement 2 \(PR 2\)](#)
- [European Investment Bank Standard 8](#)
- [IFC Performance Standard 2 \(PS 2\)](#)
- [World Bank Environmental and Social Standard 2 \(ESS 2\)](#)

The IFC's labour safeguard, adopted in 2006 and revised in 2012, served as a template for the safeguards of these MDBs. The excerpts in this section are illustrative. If engaging on a specific project or multilateral development bank, consult the relevant labour safeguard to determine the exact requirements.

The commitments of the Asian Development Bank are described in a subsequent section. IDB Invest, the arm of the Inter-American Development Bank that lends to the private sector, uses the IFC safeguards.

The Asian Infrastructure Investment Bank has a far less detailed and weaker set of requirements on labour in its set of [safeguards](#). The safeguards of the [New Development Bank](#) are even more brief, but do call for complying with “relevant International Labour Organization conventions as applicable to the country.”

Contents of the labour safeguards

Stated objectives

The labour safeguards begin with a general statement of intent and the obligations of borrowers. The African Development Bank seeks to “Align Bank requirements with the ILO core labour standards, and the UNICEF Convention on the Rights of the Child, where national laws do not provide equivalent protection” and “promote compliance with national legal requirements and provide supplemental due

diligence requirements where national laws are silent or inconsistent” with the safeguard.

EBRD requires projects to “comply, at a minimum, with (i) national labour, employment and social security laws, (ii) the fundamental principles and standards embodied in the ILO core conventions, (iii) and this [safeguard].” EBRD states that “a sound worker-management relationship based on respect for workers’ rights, including freedom of association and right to collective bargaining, are key ingredients to the sustainability of business activities.” The objectives including ensuring “fair treatment, non-discrimination, and equal opportunities of workers in accordance with the decent work agenda”.

The World Bank notes that borrowers can “enhance the development benefits of a project by treating workers in the project fairly and providing safe and healthy working conditions.” Although the subsequent language in the World Bank safeguards is similar to the other multilateral development banks, the lack of reference to the ILO means that protections could fall short of international norms.

Scope of application

The labour safeguards are broadly applicable to all workers on a project, regardless of whether they are employed by the borrower or by a contractor. The World Bank makes clear that its safeguard “applies to project workers including full-time, part-time, temporary, seasonal and migrant workers”. IFC, EBRD, and AfDB include a provision requiring migrants be provided with similar terms and conditions as non-migrant workers doing similar work. Limited protections apply to workers in the immediate supply chains of the projects.

The World Bank does not apply its standard to civil servants “unless there has been an effective legal transfer of their employment or engagement to the project.” Instead, civil servants “working in connection with the project...will remain subject to the terms and conditions of their existing public sector employment agreement or arrangement”, with the additional protections of the labour safeguard on occupational safety, and child and forced labour.

A new and potentially risky category of “community workers” was introduced by the World Bank for situations where “labour is provided by the community as a contribution to the project, or where projects are designed and conducted for the purpose of fostering community-driven development, providing a social safety net or providing targeted assistance in fragile and conflict-affected situations.”

The World Bank standard states that not all requirements of the labour safeguard may be appropriate in such cases. Borrowers are required to assess the sections on working conditions and occupational health safety on a case-by-case basis and “clearly identify the terms and conditions on which community labour will be engaged, including amount and method of payment (if applicable) and times of work.” The World Bank requires that the work be voluntary, including through an individual or community agreement, and that steps are taken to prevent child or forced labour. However, the looser requirements and the possibility of unwaged work creates the potential of workers from impoverished communities being denied basic protections.

Terms and conditions of employment

A basic but transformative aspect of the safeguards is the requirement to proactively provide information to all project workers on their terms of employment. The IFC states “the client will provide workers with documented information that is clear and understandable, regarding their rights under national labour and employment law and any applicable collective agreements, including their rights related to hours of work, wages, overtime, compensation, and benefits upon beginning the working relationship and when any material changes occur.”

The IFC prioritizes compliance and coherence with collective agreements, stating that if “the client is a party to a collective bargaining agreement with a workers’ organization, such agreement will be respected. Where such agreements do not exist or do not address working conditions and terms of employment, the client will provide reasonable working conditions and terms of employment.” Reasonable is defined as being based on prevailing standards and collective agreements in the sector or region, judicial decisions, and national law.

Safeguards also mandate policies providing adequate rest and leave including family and sick time. All the safeguards include language on completing payments to social programmes and pensions prior to the date of termination and providing documentation to workers. This can avoid situations in which terminated workers

learn they have no recourse to unemployment or other benefits because of employer delinquency.

When worker housing accommodations are provided, such as on remote construction sites, the facilities must be of adequate quality, and be provided without discrimination and not restrict freedom of movement. Given the large amount of development finance directed towards construction of infrastructure, this is an important element.

Non-discrimination and equal opportunity

Echoing international labour standards, the safeguards prohibit employment decisions ‘on the basis of personal characteristics unrelated to inherent job requirements.’ This applies to hiring, firing, promotion, training, discipline, wages, working conditions, and terms of employment.

Examples of personal characteristics include, per EBRD: “gender, race, nationality, political opinion, affiliation to a union, ethnic, social or indigenous origin, religion or belief, marital or family status, disability, age, sexual orientation or gender identity.” IFC instructs borrowers to “take measures to prevent and address harassment, intimidation, and/or exploitation, especially in regard to women.”

An exception is provided to the non-discrimination requirements to allow for preferential programmes, such as provisions for local hire or efforts to hire workers from groups that have historically faced discrimination.

IFC and AfDB address cases in which national law may have discriminatory elements. AfDB’s Operational Safeguard (OS) states: “When national laws are silent on non-discrimination in employment, the borrower or client meets the requirements of this OS. Where national law is inconsistent with this OS, the borrower or client should endeavour to carry out its operations consistent with this OS and/or ILO standards, without contravening applicable laws.”

Child and forced labour

The labour safeguards are clear on condemning child labour and forced labour.

The AfDB demands that the borrower “does not employ children in any manner that is economically exploitative, or is likely to be hazardous or to interfere with the child’s education or to be harmful to the child’s health or physical, mental, spiritual, moral, or social development as stipulated in national laws in

compliance with the provisions of ILO Convention C138 and C182. All work is subject to an appropriate risk assessment and regular monitoring of health, working conditions, and hours of work.”

On the issue of forced labour, the IFC states: “The client will not employ forced labour, which consists of any work or service not voluntarily performed that is exacted from an individual under threat of force or penalty. This covers any kind of involuntary or compulsory labour, such as indentured labour, bonded labour, or similar labour-contracting arrangements. The client will not employ trafficked persons.”

Workers’ organizations

In contrast to child and forced labour, the approach to the freedom of association and collective bargaining defers to national law. The IFC section on workers’ organizations, in full:

13. In countries where national law recognizes workers’ rights to form and to join workers’ organizations of their choosing without interference and to bargain collectively, the client will comply with national law. Where national law substantially restricts workers’ organizations, the client will not restrict workers from developing alternative mechanisms to express their grievances and protect their rights regarding working conditions and terms of employment. The client should not seek to influence or control these mechanisms

14. In either case described in paragraph 13 of this Performance Standard, and where national law is silent, the client will not discourage workers from electing worker representatives, forming or joining workers’ organizations of their choosing, or from bargaining collectively, and will not discriminate or retaliate against workers who participate, or seek to participate, in such organizations and collective bargaining. The client will engage with such workers’ representatives and workers’ organizations, and provide them with information needed for meaningful negotiation in a timely manner. Workers’ organizations are expected to fairly represent the workers in the workforce.

EBRD adds that “The client will inform workers that they have the right to elect workers’ representatives, form or join workers’ organisations of their choosing and engage in collective bargaining, in accordance with national law.”

Trade unions and workers can use these requirements, and the rest of the safeguards, to claim and defend

their rights. In countries where anti-union pressure from employers is common, the labour safeguard may not restrain attempts to surveil, harass, and retaliate. However, the safeguard arms workers with a way to fight back, and the ability to use financial leverage to constrain these actions by employers.

On collective bargaining, the safeguards are useful in explicitly requiring the provision of adequate information in the bargaining process, such as financial data.

The use of alternative mechanisms, such as a workers’ committee, is largely untested.

Retrenchment

The IFC and EBRD included protections around retrenchment, which cover collective dismissals that could be caused by economic hardship for the employer or restructuring. The borrower is required to first consider alternatives to retrenchment. If alternatives are not possible, the borrower is mandated to create a plan that will reduce the negative effect on workers, to consult workers on implementation and adhere to any collective agreements. Borrowers are required to maintain non-discrimination in laying off workers.

However, IFC and EBRD exclude workers at contractors and other third parties from protection under the retrenchment section. In the 2019 revision of its labour safeguard, EBRD added that the borrower should “identify risks associated with the recruitment, engagement, and demobilisation of project workers by third parties and establish commensurate policies and procedures for managing and monitoring the performance of third-party employers in relation to the project and requirements of this [safeguard].”

The World Bank, which does not have a standalone section on retrenchment, addresses dismissals in the terms and conditions section.

Occupational health and safety

Worker safety is often covered with reference to further resources such as the World Bank Environmental Health and Safety Guidelines (EHSs) and good international industry practice, to encompass the wide range of hazards that occur in different sectors.¹⁵

IFC requires that the borrower address risks in “a manner consistent” with the EHSs and other good international industry practice. The World Bank requires that borrowers “at a minimum” apply relevant

¹⁵ https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/ehs-guidelines

parts of the guidelines. EBRD references European Union legislation on occupational health and safety as guiding borrower actions, which is notable as several EBRD borrower countries are not EU members.

The World Bank requires:

(a) identification of potential hazards to project workers, particularly those that may be life-threatening; (b) provision of preventive and protective measures, including modification, substitution, or elimination of hazardous conditions or substances; (c) training of project workers and maintenance of training records; (d) documentation and reporting of occupational accidents, diseases and incidents; (e) emergency prevention and preparedness and response arrangements to emergency situations; and (f) remedies for adverse impacts such as occupational injuries, deaths, disability and disease.

When a worker is hurt, the remedies are to be based on wage, age of the worker, dependents, and degree of negative impact. All the safeguards require that workers are given personal protective equipment as necessary. This implies the free provision of equipment, which is explicitly stated under World Bank and EBRD standards.

Crucially to prevent the worst accidents, the World Bank states that workers can “remove themselves from a work situation which they have reasonable justification to believe presents an imminent and serious danger to their life or health” and not return until it has been corrected. The safeguard demands that no retaliation occur against workers exercising this right. A similar provision from EBRD instructs the client to “encourage workers to stop work in situation of imminent danger and report any unsafe acts and conditions in the workplace.” IFC and the African Development Bank do not have equivalent provisions.

The World Bank requires that all entities working on a project collaborate on occupational health and safety, and for regular reviews of health and safety performance. This is particularly important on large infrastructure projects with multiple contractors.

The EBRD requirements are detailed separately from the labour safeguard, in Performance Requirement 4: Health, Safety and Security. In its [Safeguard Requirement 1: Environment](#), the Asian Development Bank has similar occupational health and safety clauses.

Grievance mechanisms

Grievance mechanisms have become an area of focus in implementation of labour safeguards and can be one of the first changes to a borrower’s practices after receiving an investment. Importantly, grievance mechanisms are barred from replacing or impeding access to trade union or collectively bargained procedures or other avenues such as judicial recourse and arbitration.

EBRD states:

“The client will provide an effective grievance mechanism for workers (and their organisations, where they exist) to raise workplace concerns. The client will inform the workers of the grievance mechanism at the time of hiring and make it easily accessible to them. The mechanism will involve an appropriate level of management and address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned, without any retribution. The mechanism will include provisions for confidential complaints, and those requiring special protection measures such as reports of gender-based violence.”

Contractors and third parties

Workers on a project who are employed by a contractor or other third party are covered by almost all requirements of the safeguards. The IFC and the World Bank clarify that the safeguards apply to contractors performing “core” functions for the project or business. The IFC defines this as “production and/or service processes essential for a specific business activity without which the business activity could not continue.” Trade unions interpret this as covering services such as food and security.

The primary difference is that the main responsibility for overseeing compliance falls to the borrower, rather than the multilateral development bank. Borrowers must conduct due diligence on potential contractors, making reasonable efforts to determine that the contractor’s capacity and past actions demonstrate an ability to meet the safeguards. The safeguards also mandate that the borrower have procedures for monitoring contractors and incorporate safeguard implementation into the commercial agreements with the contractor. The World Bank directs borrowers to accompany this “with appropriate noncompliance remedies” if contractors violate the safeguards. The African Development Bank, World Bank, and EBRD instruct borrowers to ensure that any further sub-contracts also demand safeguard compliance.

Supply chains

Workers in the project supply chain are provided with the least amount of protection. The requirements apply only to the primary supply chain. Per IFC “Primary suppliers are those suppliers who, on an ongoing basis, provide goods or materials essential for the core business processes of the project.”

Under the safeguards, protections are limited to forced and child labour, and serious occupational health and safety problems. The main mandate is for the borrower to identify supply chain risks in these areas and take steps commensurate with the level of risk. If child or forced labour is discovered, the World Bank states that the borrower “will require the primary supplier to take appropriate steps to remedy them.” In cases of serious health and safety problems, the borrower “will require the relevant primary supplier to introduce procedures and mitigation measures to address such safety issues. Such procedures and mitigation measures will be reviewed periodically to ascertain their effectiveness.”

Borrowers must change suppliers if there are recurrent violations, but it comes with a caveat. From IFC, “The ability of the client to fully address these risks will depend upon the client’s level of management control or influence over its primary suppliers. Where remedy is not possible, the client will shift the project’s primary supply chain over time to suppliers that can demonstrate that they are complying with this Performance Standard.”

Contractors are not required to follow requirements on supply chain due diligence and monitoring.

Guidance and good practice notes

The IFC and World Bank created Guidance Notes to better explain the expectations of their labour safeguards to borrowers and staff. The World Bank’s guidance note addresses the gap in their labour safeguard by citing and listing the core labour standards on the first page.

Because the safeguards are legally enforceable, the MDBs have been cautious about providing details that could complicate application. The accompanying guidance notes have more latitude to provide commentary, interpretation, and examples.

They describe both good practices that improve working conditions and labour relations, as well as negative practices that are not expressly prohibited in the safeguard. For example, the IFC guidance note describes the good practice of providing access for trade union representatives to be present on the worksite and conduct meetings in an appropriate space on non-work time.

Both the IFC and World Bank guidance notes strongly advise borrowers against disguised employment relationships in the guidance note. The topic is not explicitly addressed in the safeguards text. The World Bank’s guidance note states: “borrowers should not enter into or condone the use of disguised employment relationships such as contractual or other arrangements that hide the true legal status of the employment relationship or contractual arrangements”. In addition, the two guidance notes discuss the determination of when an employment relationship exists, based on ILO Recommendation 198.¹⁶

In the process of refining implementation of the labour safeguard, the IFC produced several ‘good practice notes’ that cover specific topics such as non-discrimination, retrenchment, and child labour in supply chains. The IFC and EBRD also produced a joint guidance note on [worker accommodation](#).¹⁷ The World Bank released a good practice note on addressing [gender-based violence](#) on major civil works projects following a failure to prevent abuse on the Uganda Transport Sector Development Project. The good practice notes can be useful tools for trade unions to encourage better behaviour by employers (Appendix 1).

MDB and borrower staff may have a limited understanding of labour issues broadly, and the requirements of the safeguards specifically. The guidance notes and related materials can be useful in demanding fair working conditions, implementation of the safeguards, and respect for workers’ rights. Trade unions should always be clear about instances where the safeguard has been violated and can use the notes to illustrate and supplement a complaint.

¹⁶ IFC Performance Standard 2 Guidance Note: https://www.ifc.org/wps/wcm/connect/2398880048855835bf4cff6a6515bb18/2007%2BUpdated%2BGuidance%2BNote_2.pdf?MOD=AJPERES (Français | Español)

World Bank Environmental and Social Standard 2 Guidance Note: <http://documents.worldbank.org/curated/en/149761530216793411/ESF-Guidance-Note-2-Labor-and-Working-Conditions-English.pdf>

<http://projects-beta.bancomundial.org/es/projects-operations/environmental-and-social-framework/brief/environmental-and-social-standards>

<http://projects-beta.banquemoniale.org/fr/projects-operations/environmental-and-social-framework/brief/environmental-and-social-standards>

¹⁷ Workers’ accommodation : processes and standards - a guidance note by IFC and the EBRD, <http://documents.worldbank.org/curated/en/604561468170043490/Workers-accommodation-processes-and-standards-a-guidance-note-by-IFC-and-the-EBRD>

Asian Development Bank procedures on the core labour standards

Only occupational health and safety is covered in the environmental and social safeguards of ADB. In its 2001 [Social Protection Strategy](#), the Asian Development Bank committed to comply with the core labour standards. The strategy, still in effect, states:

- (a) in the design and formulation of its loans, ADB will comply with the internationally recognized core labour standards;
- (b) take all necessary and appropriate steps to ensure that for ADB-financed procurement of goods and services, contractors, subcontractors and consultants will comply with the country's labour legislation (e.g., minimum wages, safe working conditions, and social security contributions, etc.) as well as with the core labour standards; and
- (c) As part of its regular loan reviews, ADB will monitor that (i) and (ii) are complied with.

The [Social Protection Operational Plan for 2014-2020](#) reiterates that “ADB will comply with the internationally recognized core labour standards (CLS) in its lending”. However, indicators are not in place to track progress and compliance. Discussing infrastructure, the Plan states:

ADB will ensure that its lending operations in infrastructure (and in other sectors) adhere to the CLS. A project's potential impacts on workers will be identified and assessed early in the project cycle. In addition, plans to avoid, minimize, or mitigate potential adverse impacts on workers will be developed and implemented. ADB will utilize the Large Works (International Federation of Consulting Engineers, or FIDIC) and Plant (Engineering Advancement Association of Japan, or ENAA) Conditions of Contract requiring contractor compliance.¹⁸

The ADB Strategy 2030 reiterated that the bank will “help enhance the work environment by supporting core labour standards.”

The Operational Manual of the ADB discusses the consideration of labour issues in project preparation and specifically references the possibility of a retrenchment plan. As a result, labour standards and issues can be addressed in a range of project documents including an initial poverty and social analysis (IPSA), a summary poverty reduction and social strategy (SPRSS), or the report and recommendation of the President (RRP). However, the ad-hoc nature of this approach means that labour is often not comprehensively addressed.

Co-financing between multilateral development banks

Some projects receive funding from more than one multilateral development bank. To avoid complications such as diverging expectations or repetition, there is usually an agreement between the MDBs about the application of the safeguards. This can be determined on a case-by-case basis or through memorandums between MDBs that apply to all co-financed projects. Trade unions have advocated for the strongest protections to apply on co-financed projects where there are substantial differences between safeguards, to avoid any weakening.

The World Bank and EBRD policies state that on projects with financing from multiple development institutions, there will be an agreement for a common approach that, at minimum, is consistent with the bank's own safeguards. IFC, on the other hand, instructs staff to coordinate with other development banks to avoid duplication but does not require a common approach. Projects can also be co-financed with private investors, but in such cases, the private actor is less likely to have binding standards.

The World Bank and Asian Infrastructure Investment Bank signed a Co-financing Framework Agreement that designates the World Bank as the lead actor on environmental and social safeguards for most joint projects. Under this procedure, the World Bank standards apply and implementation is conducted as it would be on a solely financed project. The Asian Infrastructure Investment Bank has also deferred to the safeguards of other institutions in co-financing projects, meaning that a more robust set of labour protections apply than in cases where it is the sole multilateral financier.

¹⁸ ADB, “Social Protection Operational Plan, 2014-2020”, 2013, < <https://www.adb.org/documents/social-protection-operational-plan-2014-2020>>

Advocating for workers with the multilateral development banks

Gathering information and monitoring bank operations

Projects are usually disclosed in advance of a vote of approval by the board of directors. It is most strategic for trade unions to raise concerns prior to board approval, when the most leverage exists to stop or substantially change a project. The ITUC/Global Unions Washington Office provides monthly updates of proposed projects from the IFC and the EBRD, prior to board approval. To receive these updates, contact washington@ituc-csi.org

Information on potential World Bank projects is released earlier than project proposals from the IFC and the EBRD, which are typically publicly disclosed in full 30 to 45 days before a board vote. Only high-risk projects are disclosed earlier. In contrast, the World Bank releases some information to the public throughout project preparation.

All the MDBs maintain public disclosure websites with project details such as the procurement of contractors. The websites can be used to view materials for proposed, active and closed projects.

If a labour issue arises, a trade union can check the active project list to determine if there is a connection with an MDB. The active projects can also be used to gather information about ongoing activities in a relevant sector or country. Documents from the development banks may also provide information about an employer that is not readily available elsewhere, such as expansion plans, tax or corporate registration, and international operations. ITUC/Global Unions Washington Office can assist in finding and interpreting disclosed information.

The disclosures websites of the development banks are listed in Appendix 1.

Long-term advocacy with the banks

If an MDB is lending a significant amount into a country or sector, it can be worthwhile to establish communication with the bank's country representatives. While MDBs tend to be headquartered in donor countries, they

generally have a permanent in-country representative in borrower countries. Typically, these offices are not closely involved with specific projects but can make the proper connections and help ensure consultation on future projects.

Country offices are a useful point of entry for national trade union federations. For sectoral trade unions and global union federations, the country office may not have enough involvement or knowledge of sector-specific issues. In those cases, it may be more strategic to build a relationship with the relevant sector department at the headquarters of the MDB.

Building these relationships helps ensure that workers' voices are a part of the process of designing projects, not an afterthought once a project has been decided upon by the MDBs, governments, and business. It also assists in spreading the importance of decent work and labour standards beyond the specific department that is tasked with overseeing the implementation of the safeguards. When investment, project, and country staff at the MDBs understand trade union issues, they are more likely to take implementation of the labour safeguards seriously and dialogue with workers to identify risks and resolve problems.

Raising concerns and violations directly with a multilateral development bank

The labour safeguards can be used to advocate with employers that are linked to multilateral financing, or trade unions can involve the MDBs to address violations and obstinate employers. For example, a trade union at Lafarge in Iraq primarily used the labour safeguards in dealing directly with the company, insisting that it take steps to comply. As a result, subcontracted workers gained better working conditions and respect for trade union rights.

It is most effective to make first contact with the MDB staff team overseeing a project, or the department in charge of implementing the safeguards. This is usually called an environmental and social department, or a safeguards unit. The ITUC/Global Unions Washington Office (washington@ituc-csi.org) can assist in finding the proper contact. In case of urgent issues or

cases of unresponsive staff, the management and leadership of the overall MDB can be contacted. Dedicated contact procedures for trade unions have been created at the IFC and European Bank for Reconstruction and Development, alongside a similar procedure at the World Bank. These are described in the next section.

Safeguard violations should be documented in as much detail as possible. This demonstrates the seriousness of the complaint and can avoid attempts by a borrower to misrepresent the situation. Safeguard implementation is monitored by the MDBs, but often through self-reporting by the borrower. Trade union communications should therefore provide this information directly to the MDB, and not assume that its staff have a clear understanding of working conditions or the behaviour of a borrower.

When raising concerns, it is important to be specific about what provisions of the safeguards have been violated, and how. Trade unions can also reference guidance notes, good practice notes and relevant health and safety guidelines to best explain the problem and possible solutions. MDB staff will usually contact the company involved in the complaint to gather more information. This might precede or follow a conversation with the trade union raising a complaint. In some cases, MDB staff may assess that the issue is legitimate and form a roadmap to address it, which might include revising the Environmental and Social Action Plan.

In the initial communication or in dialogue with the MDB, it is helpful to be clear about what needs to be done to repair the harm that has been inflicted, or to avoid problems. Suggesting remedial action and insisting that it be created in dialogue with trade unions helps ensure that MDB staff and the borrower do not unilaterally decide upon an inadequate course of action.

Multilateral development banks have significant financial leverage to convince borrowers to change their behaviour, and the legal recourse to withhold money if this does not occur. Trade unions should firmly remind the MDBs of this fact, even when they claim an inability to intervene.

The most effective outcome of a trade union complaint is for the MDB to intervene with the client to remedy problems and start dialogue with a trade union. The efficacy of this approach and the need for a timely response should be communicated to bank staff.

Commissioning audits is a common reaction from bank staff when confronted with a complaint. An industry of social auditors has grown around the voluntary corporate social responsibility approach. Many auditors are compromised by their reliance on businesses to contract them for assistance. Other auditors may be competent in environmental and social issues but lack knowledge on international labour standards. Such factors have sometimes led to audits that completely ignore the perspective of workers. Even when reasonable recommendations are issued by an auditor, the results of the audit might be withheld from the complainant trade union. This hampers implementation, allowing the MDB and borrower to interpret the results as they wish. Trade unions may wish to suggest alternatives or demand a high standard for selecting an auditor. Alternatives to auditing include a joint fact-finding mission comprised of the bank, independent labour experts and global trade union bodies. This approach avoids the discredited auditing industry and stops the outsourcing of MDB oversight responsibilities.

In cases where an MDB is proceeding with a board vote regardless of serious concerns and evidence raised by a trade union, outreach can be conducted the executive directors who sit on the board. From a practical standpoint, it is useful to focus on the directors representing donor countries with a significant share of the votes.

Dedicated communication mechanisms

In order to improve communication between trade unions and the IFC toward the goal of improving the implementation of the labour safeguards, the IFC and the ITUC/Global Unions Washington Office created a labour portal for trade unions to raise concerns and complaints. The portal is formally titled the IFC Communication Form for Issues under PS2 (Appendix 2). It is a short form hosted on the IFC website, which trade unions can use to describe violations of the safeguards, identify overlooked issues in proposed projects or generally communicate problems.

Issues raised through the labour portal go directly to IFC staff. The list of questions includes basic information about the project, the trade union making the submission and its relation to the workforce, details of the issue, and background on the dispute (such as outstanding court cases). If any of the information provided is sensitive or could expose workers to retaliation, the trade union should ensure that its submission to the portal requests that IFC handle the information confidentially and not share it with the borrower.

Comprehensive campaign including engagement with EBRD builds power at Polish port

The European Bank for Reconstruction and Development provided €31 million to expand deepwater container operations of the Port of Gdansk in Poland. This expansion would add around 1,000 employees to the existing 500. There were a number of labour issues at the existing container terminal, including lack of overtime and holiday pay, use of temporary contracts, occupational health and safety, and lack of extra pay for hazardous work. The company, DCT Gdansk, pressured workers not to join the trade union. In collective bargaining, the company negotiated in bad faith with the dockers' union affiliated to Solidarność.

The situation worsened in 2015 when a union leader was terminated. Workers protested the firing, and in retaliation, the company barred trade union representatives from accessing the worksite. The International Transport Workers' Federation (ITF) assisted in a comprehensive campaign to pressure the company to change its behaviour and negotiate a collective bargaining agreement. The issues were raised with EBRD, in the media, with shipping lines that used the terminal and with other investors. The Australian-based asset manager Macquarie ran an investment fund that controlled the company. Among the investors were three Australian pension funds. The comprehensive campaign included petitions to these investors and customers and solidarity actions in other countries.

EBRD maintained regular communication with the company and the ITF around the dispute. The company agreed to an arbitration process mandated by the Polish Ministry of Labour and Social Policy. This helped to improve dialogue and in 2016 a collective bargaining agreement. This resolved many of the problems facing workers and assured that the new workers at the expanded operations would be treated fairly.

The case of Gdansk demonstrates how intervention with multilateral development banks can be part of successful strategies to tame rogue employers by intervening at multiple pressure points. Financing, both from private and multilateral sources, proved to be a strategic point of intervention to change the daily working conditions of port workers in Gdansk. The situation also reiterates the need for development banks to proactively consult trade unions and workers before and during an investment, to identify existing and emerging problems and uphold the labour standards of the bank.

Following the Gdansk dispute, EBRD has worked with the International Trade Union Confederation and Global Union Federations to improve its handling of labour issues and implementation of the labour safeguard. In addition to heightened attention by EBRD to the specific labour issues in each borrower country, this led to the creation of the Trade Union Communication Mechanism (Appendix 3). The Mechanism provides a streamlined process to raise concerns with the bank, facilitating dialogue and timely resolution of disputes.

In 2019, the EBRD created the Trade Union Communication Mechanism as a result of dialogue with ITUC and Global Unions. The mechanism is similar to the IFC labour portal but operates through a dedicated email address - TradeUnionCommunications@ebrd.com - rather than a webpage. The standard form resembles the IFC labour portal and is in Appendix 3.

The World Bank Grievance Redress Service resembles the IFC labour portal and EBRD trade union communication mechanism, in that it raises issues directly with bank staff. However, it was created by the World Bank and available to all civil society and stakeholders. Complaints to the Grievance Redress Service can relate to any of the World Bank

environmental and social safeguards. Once received, the Redress Service determines if the complaint is legitimate within 10 days and proposes a timebound action plan within 30-60 days.

Independent accountability mechanisms for formal complaints

Formal complaints through the independent accountability mechanisms are an alternative and complementary route for addressing labour safeguards issues. It is recommended that trade unions first attempt a timely resolution through direct engagement with MDB staff.

Direct engagement with the staff of the multilateral development banks can be a timely way to resolve existing violations before they become worse, or to avoid potential violations. However, problems can arise due to a lack of willingness from bank staff to fully implement the safeguards, especially when doing so requires firm pressure on the borrower or the possibility of not moving forward with a proposed project. The MDBs and their staff are not neutral parties when safeguards problems arise and can have an overriding interest in executing an investment even when it damages workers and communities. This can also lead to a discounting of trade union concerns when inconvenient to the approval of a project or the relationships between and MDB and borrower.

In those cases, issues should be escalated to the independent accountability mechanisms at each MDB that receive and investigate complaints about projects. Most independent accountability mechanisms report directly to the board of directors or have procedures to ensure impartiality and prevent interference from MDB management.

The mechanisms are:

- African Development Bank: [Independent Review Mechanism](#)
- Asian Development Bank: [Accountability Mechanism](#)
- [Asian Infrastructure Investment Bank: Project-affected People's Mechanism](#)
- European Bank for Reconstruction and Development: [Independent Project Accountability Mechanism \(formerly the Project Complaint Mechanism\)](#)
- [European Investment Bank: Complaints Mechanism](#)
- IFC: [Compliance Advisor Ombudsman](#)
- Inter-American Development Bank and IDB Invest: [Independent Consultation and Investigation Mechanism](#)
- World Bank: [Inspection Panel](#)

Although the Asian Development Bank lacks a labour safeguard, it is still possible to file a complaint on the basis of the [Operations Manual](#). Labour issues are referenced in Section C, number 3 of the Manual – “Incorporation of Social Dimensions into ADB Operations”.

Many of the independent accountability mechanisms have two functions. The first is mediation, sometimes termed problem solving or dispute resolution. The staff of the independent accountability mechanism or an experienced third-party mediator will attempt to clarify the disagreement and facilitate dialogue. Mediation is dependent upon the willingness of the borrower and complainant to participate. It can offer an opportunity for starting or regaining dialogue through the assistance of a neutral third party. In some cases, this is preferable to direct engagement with MDB staff, who may insist on meeting with trade unions separately from the borrower. This can lead to problems with follow-through, including the conversion of agreements reached between the MDB and trade unions to on-the-ground changes. Mediation led by an independent mechanism can be more effective at bringing the parties together and ensuring implementation of agreements.

The other function is compliance review, meaning an investigation of whether the development bank properly implemented its own procedures, including the safeguards. Many procedures of independent accountability mechanisms allow a complainant to choose dispute resolution or request an immediate compliance investigation. The procedures often call for a compliance investigation if dispute resolution fails due to a party withdrawing or other problems.

Some mechanisms have model templates for complaints, and others will accept a complaint in a variety of formats. The appendix contains a template for a formal complaint letter. The independent accountability mechanisms have eligibility criteria to accept or reject complaints. The criteria often focus on allegations that harm has occurred or has the potential to occur if the project moves ahead. From there, a first look at the alleged or potential harm will often be made to determine if the issue is legitimate.

The complaint can be made by a representative, such as a national trade union or global union federation, provided that the link with the affected group of workers is explained. Confidentiality can typically be requested and can be important if retaliation against workers is a risk. Some mechanisms require that the complainant has already made efforts to address the issue with the borrower or bank.

The content and strictness of eligibility criteria vary, including time limits on filing complaints after a loan is disbursed or repaid. Notably to the detriment of the African Development Bank, the Independent Review Mechanism will not accept compliance investigations if the matter is undergoing judicial review. This effectively forces project workers to choose an

avenue for their complaint and can block a legitimate compliance investigation of the Bank in the event that the affected workers have chosen to file legal proceedings.

The non-binding nature of the conclusions from independent accountability mechanisms can stand in the way of effective remedy. In most institutions, management responds to the findings of the independent accountability mechanism and designs a follow-up plan, usually called a management action plan. Management can reject or interpret findings, and the follow-up actions can diverge significantly from the findings. This limits cases in which remedy is provided.

Trade unions have found the independent accountability mechanisms most useful in changing future bank behaviour and holding the institutions accountable for failing to uphold their own safeguards, as described in the cases of Avianca and Sabah Forest Industries. The filing of a complaint may cause the MDB to take additional steps, particularly if the complaint generates public and press attention.

Further information on using the independent accountability mechanism can be found in Accountability Counsel's resource guide on [Accountability Resource Guide: Tools for Redressing Human Rights & Environmental Abuses in International Finance and Development](#).

Colombian workers fight union-busting airline with favourable rulings from IFC ombudsman and courts

In September 2008, IFC approved a \$50 million loan to Avianca, one of Latin America's largest airlines, despite information from Colombian trade unions and other sources about the company's record of abuse of workers' rights. Airline employee unions had filed complaints with the ILO about Avianca's practices as early as 2004. Two months before the loan approval, the ITF and ITUC submitted a complaint to IFC about the company's non-compliance with Performance Standard 2 (PS 2) on labour. The filing and subsequent exchanges provided information about numerous incidents of discriminatory practices against airline employees who chose to join a union, ranging from inferior wages and benefits compared to non-union workers, to denials of promotions and dismissals on trumped-up pretexts.

IFC acknowledged the problems by requiring that Avianca carry out an assessment, conducted to IFC's satisfaction, of the actions the company needed to take to come into compliance with PS 2 before any loan disbursement could be made. However, less than a year after the loan was approved, it was fully paid out even though IFC had not signed off on a labour assessment.

Given the lack of progress in correcting Avianca's labour practices during the first three years of the IFC loan, the Colombian unions with the assistance of ITF and ITUC lodged a formal complaint with IFC's Compliance Advisor Ombudsman (CAO) in November 2011. The complaint alleged that IFC had not taken sufficient action to oblige its borrower to comply with PS 2. It appeared to the union that the company, based in a country with one of the worst records for violations of workers' rights, felt that it could get away with its anti-union practices so long as it experienced no pressure from IFC. The CAO began a long investigation, which included reviews of documentation associated with the loan and interviews with the unions, the company and IFC staff responsible for administering the investment.

Three and a half years later, in May 2015, the CAO issued a report which found unequivocally that Avianca had never been in compliance with PS 2's freedom of association provisions, nor had it ever taken any genuine action to correct the non-compliant practices. Furthermore, the CAO found that IFC was at fault for not making it sufficiently clear to Avianca that its failure to comply with PS 2 – which was confirmed by three separate "labour audits" – was grounds for cancelling the loan. According to the ombudsman, IFC had erred in making loan disbursements in 2009 when it was fully cognisant of the serious labour violations.

By the time the CAO's report came out, Avianca had already decided to end any pretence of conforming to IFC's labour safeguard by fully reimbursing its loan in December 2013, long before it was due, thus hoping to avoid any further pressure from IFC to correct the violations. However, the CAO report provided useful corroboration of Avianca's illegal labour practices to the unions' lawyers, who were at that moment pursuing claims against the company before Colombia's supreme court. The court found against Avianca in June 2015.

One of the CAO report's key conclusions was that, in some cases, IFC client companies were unlikely to take their PS 2 or other safeguard obligations seriously unless there was a financial cost for not doing so. The ITUC urged IFC, on the basis of this finding, to adopt new procedures whereby disbursements would not be made to borrowers that failed to take rapid action to correct labour practices inconsistent with PS 2 requirements, as identified in appraisals of compliance. In 2017, IFC informed the ITUC that it would adopt such procedures.

The project cycle

To monitor the operations of multilateral development banks and identify projects where workers' rights are a concern, it is helpful to understand how the banks select, design, approve and monitor their investments. This supports trade union intervention at key moments to uphold worker's rights.

Selecting and designing projects

The procedures of the World Bank and the IFC are described in more detail here, and similar procedures are used at the other multilateral development banks.

Every three to five years, the World Bank and borrower countries create a Country Partnership Framework. This identifies national development priorities, challenges and areas of collaboration. A general roadmap is created for World Bank lending by identifying themes and sectors of focus. Themes are broad topics such as gender or job creation and are complemented by priority sectors such as education or electricity. Country Partnership Frameworks include consultation of citizens and stakeholders, although the quality of consultations depends upon government relations with civil society and trade unions, and the openness of World Bank staff to substantive dialogue.

Guided by the Country Partnership Frameworks, the World Bank and government officials identify potential projects, usually linked to a specific government ministry or agency. Bank staff create a Project Concept Note and begin identifying potential social and environmental impacts. This analysis is summarized in an Integrated Safeguards Data Sheet. A Project Information Document explains the overall aim of the project. These documents are disclosed to the public and updated as project design progresses.

The project process of the IFC is less frontloaded, a result of working with a myriad of private companies. Companies will proactively approach the IFC and its staff seek out potential investments. Industry strategies also guide the selection of potential projects. Next, IFC conducts an appraisal process in which it conducts due diligence on the practices of the company. If the project involves establishing a new facility or expansion into a new country, this includes examining the behaviour of the company globally. Ideally, this can uncover patterns of violations

of worker's rights and might include discussions with trade unions at other locations. When the project is focused on the expansion of an existing facility, such as a new assembly line at a production plant, the IFC tends to focus more narrowly on that existing facility. The staff of the may conduct a site visit as part of the process.

Environmental and social tools: impact assessments and management plans

After a concept has passed through initial review by the MDB, the responsibility shifts to the potential borrower for 'project preparation'. This involves extensive planning for the project, ranging from technical studies to engagement with communities who will be impacted or displaced. Central to this process is an Environmental and Social Impact Assessment (ESIA) study on the ramifications of carrying out the project for people and the environment. This and other assessments are often undertaken by a consultant. On larger projects, impact assessments are highly detailed. Even in those cases, labour issues are sometimes overlooked due to a lack of familiarity from the consultant and a borrower that does not prioritise fair treatment of workers.

The impact assessment feeds into the borrower's creation of an Environmental and Social Management Plan. Based on the impacts identified, the management plan designs procedures for avoiding, identifying and mitigating problems. Crucially for workers, the management plan shows how the borrower will monitor and oversee contractors.

The World Bank's labour safeguard mandates 'labour management procedures' as part of this process. In some areas, such as the hours of work, there is discretion for the borrower to decide on the terms and conditions of work within the boundaries of the safeguards. The labour management procedures identify the specific conditions that will be offered and how the borrower will implement working conditions consistent with the safeguard.

These requirements are typically covered in the first safeguard of a multilateral development bank, such as IFC Performance Standard 1: Assessment and Management of Environmental and Social Risks and Impacts.

The African Development Bank has also developed a Strategic Environmental and Social Assessment to analyse the effects of policy-based operations that support structural reform. The approach is tailored to the broader effects that policy changes can have, whereas environmental and social impact assessments tend to focus on the project site and the immediate surrounding area.

Risk categorization

The MDBs classify each project according to the likelihood and severity of possible negative social and environmental impacts. This determines the level of oversight and monitoring once the project is underway. Proper risk categorization is an important reason for multilateral development banks to consult relevant trade unions in the project design process. Some institutions, such as the IFC, conduct earlier disclosure for the projects in the highest risk category.

Most banks have three or four categories. IFC categorizes:

- Category A: “Business activities with potential significant adverse environmental or social risks and/or impacts that are diverse, irreversible, or unprecedented.
- Category B: Limited adverse impacts that are “largely reversible, and readily addressed through mitigation measures.”
- Category C: “minimal or no adverse environmental or social risks and/or impacts.”

Different procedures or categories generally exist for investments in financial intermediaries. The IFC created a parallel set of risk categories based on the level of risk in the portfolio of the intermediary. EBRD has a single risk category for all financial intermediary projects. The level of risk for each proposed sub-project based on the type of activity. In contrast, the World Bank uses the regular process for financial intermediaries.

Trade unions have urged the MDBs to pay closer attention to the risks related to labour rights, and to create procedures under which the risk category of a project can be increased because of labour issues in the sector or country. More weight is often given toward possible environmental damage in determining the overall level of risk.

Stakeholder consultation

Safeguards require consultation of stakeholders in a potential project, such as communities whose land will be affected. A lack of substantive consultation is a recurring problem for workers and community stakeholders alike. Identifying stakeholders is sometimes left to the prospective borrower, which naturally seeks consultation with groups that are unlikely to challenge their intentions.

The World Bank safeguards define stakeholders as those who may be affected by the project or “other interested parties” such as non-governmental organizations. This is primarily addressed in the Bank’s safeguard 10, on stakeholder engagement and information disclosure.

Workers whose work and livelihoods would be affected by a project are stakeholders. This might include workers in public enterprises targeted for privatization, or workers whose jobs and activities could be drastically changed or entirely displaced. For example, in cases where a project seeks to reconfigure and formalize a public transit system, or for fishery workers who would be affected by pollution from a project. Consultation of such groups is sometimes lacking.

Workers and trade unions that have knowledge of the sector or are familiar with the companies and contractors involved in a project should also be consulted in the early phases. Without such consultation, due diligence on the labour safeguard is incomplete.

For example, in the case of a project involving a new hospital, healthcare workers in the region can identify possible labour issues that might arise. In the case of private sector lending, loans often support the expansion of a business into a new country or activity. In such cases, existing workers at the other locations of the company can provide invaluable information, alongside trade unions in the sector and area where the company will expand.

Only the World Bank labour safeguard includes language that directly encourages consultation of trade unions, but it is still not mandated: “In conducting the environmental and social assessment and depending on the significance of the potential issues in the project relating to labour and working conditions, the views of representative workers’ and employers’ organizations may be sought.”

Environmental and Social Action Plans

Compliance with the entire set of safeguards is a legal condition of loans from multilateral development banks. An Environmental and Social Action Plan (ESAP) is also incorporated into the legal agreement.

This action plan identifies where the borrower may be out-of-step with the safeguards, or where particular attention is merited because of risks identified through due diligence. Based on this, an action plan is developed that identifies specific steps to be taken by the borrower. For labour, this could include amending human resources policies, changing occupational health and safety procedures, designing a retrenchment plan or mapping the company supply chain. Deadlines are attached to these steps.

Trade unions can intervene with the multilateral development banks to ensure that action plans will be effective in upholding the labour safeguard and decent working conditions. An action plan is typically disclosed alongside other information about the project prior to a vote of approval by an MDB board of directors. The action plan can also change after a vote of approval, during the final negotiation phase before the loan agreement is signed, and during project implementation.

Because the action items are detailed and timebound, the failure of a borrower to comply with an action plan can have more immediate and stronger repercussions than violating the safeguards. In practice, the MDBs regularly accept small transgressions of the safeguards.

The World Bank states that “all requirements will be set out clearly, so that there is no ambiguity around compliance, timing and monitoring”. Standard 1 of the World Bank’s safeguards states that the Environmental and Social Commitment Plan - as it calls an action plan - “will be disclosed as early as possible, and before project appraisal.”

Board approval, finalisation, and implementation

Proposed projects are formally approved by the board of directors. Voting power is weighted by the amount of money that a country provides to the development bank. Most executive directors will represent a group of countries to keep the board to a reasonable size. For example, the World Bank Group has 25 executive directors.

The input of the board can change aspects of the project, such as the amount of investment or the Environmental and Social Action Plan. At several multilateral development banks, the board approves a project in principle and the legal loan agreement is concluded afterward. The funds can be disbursed all at once or in instalments, sometimes called tranches. The latter approach can provide further financial leverage for the MDB to ensure effective realization of the labour safeguards on the project. In the wake of numerous labour issues at Avianca airlines, the IFC instituted measures to ensure better review of environmental and social standards before approving instalments of a loan.

Monitoring is conducted through a combination of written reports sent by the borrower and on-the-ground site visits by MDB staff, which help to verify the information provided in borrower reports. If the borrower fails to abide by the safeguards, the legally binding nature of the requirements can be invoked. However, it often takes outside intervention by trade unions for MDBs to act upon evidence of a labour rights violation.

Some MDBs will provide periodic updates, such as the Implementation Status and Results Reports disclosed by the World Bank. The IFC and other institutions revise public disclosure documents when changes occur.

Trade union agenda for improving the safeguards

In their current form, the labour safeguards in multilateral development banks will not ensure respect of the labour protection floor. In order to achieve this, safeguards would need to be significantly strengthened on three levels: scope, coverage and enforcement.

Scope

While the labour safeguards anticipate the labour protection floor by including occupational health and safety alongside the core labour standards, references to wages and working time are vague and flexible. Several safeguards reference these subjects in a section on terms and conditions, but give the borrower the ability to set the exact levels. IFC mandates reasonable terms and conditions of employment, including on working hours, stating:

Reasonable working conditions and terms of employment could be assessed by reference to (i) conditions established for work of the same character in the trade or industry concerned in the area/region where the work is carried out; (ii) collective agreement or other recognized negotiation between other organizations of employers and workers' representatives in the trade or industry concerned; (iii) arbitration award; or (iv) conditions established by national law.

Trade unions need to press the banks to include clear protections of basic rights to adequate living wages and limits on maximum working hours in the revision or creation of labour safeguards.

Meanwhile, several measures are needed to close gaps in the existing labour safeguards, avoid problems that have arisen in implementation, and fully align with international labour standards. In particular, the World Bank must incorporate the core labour standards into its labour safeguard, without exception.

While labour safeguards prohibit forced labour and child labour entirely, the protection of freedom of association and the right to collectively bargain are conditioned upon national law. Only the African Development Bank clearly states, without

qualification, that the borrower will respect workers' organisations and activities.

No other requirement has this caveat. The World Bank's non-discrimination sections handle the issue of national law differently: flatly barring discrimination and then instructing borrowers in countries where the law is inconsistent with the provisions to act "consistent with the requirements of this paragraph to the extent possible." On occupational health and safety, good international industry practice and transnational requirements such as the World Bank Environmental Health and Safety Guidelines or European Union legislation are the reference point, not national law. This avoids problems with inadequate health and safety laws that endanger workers. Instead it promotes an adequate and consistent level of protection regardless of where the project takes place.

Coverage

Supply chains protections remain limited to forced labour, child labour, and serious occupational health and safety concerns. This overlooks common abuses that occur in supply chains. An adequate set of protections would be consistent with the core labour standards, helping ensure that supply chain workers do not experience discrimination or violations of freedom of association and collective bargaining. The United Nations Model Approach to Environmental and Social Standards, an indicative set of safeguards to guide the many UN agencies, has extended the protection of supply chain workers to include fundamental worker rights under the core labour standards.

Multilateral development bank projects often involve many layers of subcontracting, particularly in the construction of infrastructure. However, the labour safeguards of the IFC and EBRD exclude third-party contractors from the requirements on retrenchment. On an EBRD-funded expansion of the Istanbul Metro in 2018, a subcontractor abruptly terminated over 350 workers.

Malaysian workers achieve trade union recognition despite failure by IFC to implement labour safeguard

In an investment in Bilt Paper and its Malaysian paper plant, IFC failed to account for an existing pattern of labour violations by the company and neglected adequate monitoring and enforcement of its safeguards. The problems are fully documented in a report by Building and Wood Workers' International, *[Dirty loan: When the IFC knowingly breached its own labour standards at SFI](#)*

Bilt Paper (Ballarpur Industries Limited/Avantha Group) is an Indian company that had previously received IFC loans. In 2014, IFC proposed a new investment that would involve a paper plant in Malaysia operating as Sabah Forest Industries. Workers at the facility first requested recognition of their union in 1990 but were rebuffed. Bilt purchased the plant in 2007, and in 2010 workers voted to affiliate with the Sabah Timber Industry Employees Union (STIEU). The Malaysian government ordered the company to recognise the union, but the company appealed and gained a favourable 2012 court decision. They followed this legal manoeuvre with the formation of a joint consultative committee, a sham attempt to undermine the union and setup a company-dominated mechanism. It failed after workers boycotted. Management also insisted that it would only recognise an in-house trade union, unaffiliated to a regional or industrial organisation such as STIEU.

Due largely to environmental concerns, the project was placed in the high-risk 'A' category. The Environmental and Social Review noted that trade union formation was a "key concern of the workers" and there had been years of legal wrangling. IFC positively cited the formation of a joint consultative committee and stated that Sabah Forest Industries had "committed to not opposing formation of a union and will undertake steps to facilitate union formation." The IFC's Compliance Advisor Ombudsman found no evidence that IFC analysed whether the consultative committee or the position on an in-house union were consistent with the labour safeguard.

BWI alerted IFC of problems at Sabah Forest Industries during the project appraisal process, and shortly after public disclosure used the IFC labour portal to raise the alarm on the entrenched anti-union behaviour of management. This clarified that the joint consultative committee and frivolous insistence on an in-house union were attempts to deny workers' freedom of association. IFC management chose to proceed with requesting board approval and did not disclose the complaint to the board of directors when it was approved in September 2014. IFC made their equity investment of \$100 million in Bilt just over a month later, before reaching a resolution with the trade union on acceptable steps forward. Shortly thereafter, management redoubled their anti-union actions with a memo to all employees insisting on an in-house union. Management again used legal tactics to delay a pending process for a new union election in 2015. Seeing no change in the anti-union behaviour of Sabah Forest Industries, contrary to the promise to not oppose union formation, and a lack of action from IFC, a formal complaint was filed with the IFC Compliance Advisor Ombudsman in May 2015.

IFC's lack of action worsened when in September 2015 it suspended monitoring for compliance with the safeguards, at the request of the company. The company claimed it intended to sell the plant, although no sale took place. The IFC Ombudsman found that this extraordinary suspension of monitoring was inconsistent with IFC's obligations. The Ombudsman concluded "shortcomings in IFC's review and supervision of this project have contributed to adverse outcomes for the complainants...workers highlighted concerns about unpaid annual salary increments, health and safety issues, social welfare and medical issues... Membership of a union that can negotiate on behalf of workers in relation to these types of issues is a right under international law and one which is recognized in IFC's Performance Standards. This right was denied to the workers of SFI for a period of over three years from the date of IFC's investment."

By the time that the report was issued, Bilt had sold Sabah Forest Industries. IFC management promised to better identify freedom of association issues in proposed projects when presenting to the board of directors, and to engage the new owner on the problems encountered. IFC management did not take any steps to avoid similar suspensions of monitoring in the future. At Sabah Forest Industries, workers persevered through temporary layoffs and the sale of the plant to win a 2018 trade union election in a landslide vote of 680-6.

The World Bank does not have an equivalent section on retrenchment, despite the role of the Bank in funding construction projects that can involve collective dismissals, either due to contractors becoming insolvent or as a result of construction works being completed.

The 2019 update of the EBRD's labour safeguard advanced in several areas. Although third parties continue to be exempted from the requirement on collective dismissals, the borrower is instructed to identify risks related to "recruitment, engagement, and demobilisation", and create procedures to manage and monitor the third parties on these subjects. On freedom of association, a provision was added that borrowers should inform workers about their freedom of association rights.

The Environmental and Social Framework of the Asian Infrastructure Investment Bank has only three standards. Labour is addressed in the first standard on environmental and social assessment and management. The New Development Bank uses a similar approach.

The AIIB framework does not have a fully elaborated labour safeguard and only mentions the issues of working conditions with no clearly defined standards. This vagueness and lack of specificity is a problem for implementation and borrower understanding of the expectations.

The AIIB creates unequal protection for workers on public sector project compared to private sector projects. Requirements are provided to all project workers on occupational health and safety, forced and child labour, and building and road safety.

A broader set of elements are extended to workers on private sector projects. This includes terms and conditions of employment, non-discrimination, adequate rest and leave, grievance mechanisms, and freedom of association under national law. A project is only considered as being in the private sector if it is "designed, constructed, operated and owned" by a private company. The definition excludes publicly owned or controlled companies. It also means that workers employed by a private contractor on a project in which the borrower is a government agency receive the lower level of protection.

The ITUC provided [input](#) on the creation of the AIIB safeguards and argued against the adoption of a standard that was less comprehensive than other MDBs and provided two tiers of protection.¹⁹

The community worker section of the World Bank standard weakens protections for workers, conditions and development itself. An institution such as the World Bank should always provide basic protection as described in the labour safeguard. The community worker section has significant leeway for borrowers to decide against applying parts of the safeguard. This endangers workers and blunts the effect of projects by potentially creating bad jobs, particularly in underserved rural areas where quality jobs are needed most.

Implementation

Safeguards for the respect for international labour standards can only be successfully implemented when workers and managers involved are fully informed, due diligence is applied throughout operations and where it is supported by grievance procedures to effect remedy. Here also, serious deficiencies remain.

The recourse to national law on freedom of association and collective bargaining provides significant room for borrowers to intentionally violate workers' rights in countries where the law is inconsistent with international standards. The multilateral development banks have sometimes refused to act until ineffective local court procedures occur or take inordinate time to analyse if the false excuses provided by borrowers about national law are accurate. Meanwhile, borrowers and contractors that violate the safeguards — such as through firing pro-union workers — are not put under pressure to change their behaviour. This causes a chilling effect that prevents workers from exercising their rights.

Severe and unremedied breaches, such as with Sabah Forest Industries, demonstrate the gaps that remain at the IFC in ensuring compliance with the longest-standing labour safeguard. Improvements are especially necessary in response to the findings of independent accountability mechanisms, as occurred in the case of Avianca.

In addition to raising specific cases, trade unions are advocating for systematic action at the multilateral development banks to improve implementation of the labour safeguards. This includes better consultation of trade unions in project preparation and execution. Improved procedures are needed to better identify sectors, countries, and other situations where there is a high risk of labour rights violations. Problems identifying a high risk of labour rights violations leads to inadequate monitoring.

¹⁹ ITUC/Global Unions, "Recommendations concerning labour provisions of AIIB's draft Environmental and Social Framework," 22 October 2015. <http://www.bankinformationcenter.org/wp-content/uploads/2015/10/aiib-esf.ituc-comment.1015.pdf>

Forced and child labour, grievance mechanisms, and occupational health and safety are given the most attention in environmental and social due diligence and oversight. Perhaps due to a lack of staff familiarity and training, freedom of association and collective bargaining are often only given cursory acknowledgement. Even when issues such as non-discrimination and freedom of association are considered, multilateral development banks can fail to require concrete measures from borrowers. A typical measure is to ask for revisions to the human resources manual. This is a symbolic measure that avoids firmer steps such as instructing supervisors to not interfere with trade union activities or collecting gender-disaggregated data to ensure that pay and hiring discrimination is not occurring.

Financial intermediaries are a growing part of the portfolio of multilateral development banks. For the development banks, it can mean an outsourcing of responsibility that lessens reputational risks and time spent on environmental and social standards. These investments are difficult to track, and it is even more difficult to monitor labour conditions on the myriad investments that are made by the intermediary. Procedures need to be rehailed to ensure that the use of financial intermediaries creates quality jobs and investments in the real economy, instead of furthering the harmful global trend of financialisation. Greater disclosure should be offered by financial intermediaries with regard to the working conditions on sub-projects, and the multilateral development banks should have an active responsibility to monitor implementation of the safeguards.

Several MDBs do not have a single occupational health and safety expert on-staff. This can lead to staff with limited experience and no credentials being assigned to do monitoring and oversight of related issues. In project preparation, occupational health and safety procedures are often designed by consultants. Without occupational safety specialists, the multilateral development banks are unable to determine if the borrower is taking timely steps to resolve safety hazards. Trade unions have asked IFC and other banks to create permanent positions for occupational health and safety experts.

Trade unions have an essential role to play in improving implementation. Only workers and their unions have a full picture of the reality on the ground. Much can be done to improve monitoring, but it can never capture everything that is happening. Therefore, the multilateral development banks should improve dialogue with trade unions and workers throughout the project cycle to avoid violations or address problems immediately. The grievance mechanisms

required by the safeguards can help resolve issues, but only when an employer is acting in good faith and is committed to a fair process.

Trade unions support measures to ensure that all project workers are aware of the MDBs funding the project and their rights under a labour safeguard. This can be through inclusion in employment contracts or during induction or safety training. Proactive information is the most effective method of ensuring safeguard compliance on the ground.

Improvement on access to remedy can be supported by mandating actions when rights are violated, such as the reinstatement of workers fired for organising a trade union. On subjects such as the ability to stop work when there is an imminent danger, or to file a grievance, the safeguards prohibit retaliation. However, this vague injunction may not be enough to prevent retaliation. The safeguards are lacking in procedures for swift corrective action.

Project-level grievance mechanisms can be a useful method of promoting better practices and addressing concerns. However, this can be limited in the absence of a trade union that balances power between management and labour and provides an ongoing framework for dealing with the employer. Trade unions advocate joint labour-management grievance committees and the right for aggrieved workers to be accompanied by a representative such as a co-worker or trade union agent.

Most importantly, the safeguards are a binding requirement of development project loans. The multilateral development banks must act accordingly and withdraw funding when borrowers violate workers' rights and refuse to reverse and remediate the action.

Winning standards at Inter-American Development Bank and Asian Development Bank

Since 2006, there has been a steady expansion of labour safeguards. Among the traditional multilateral development banks, only the Inter-American Development Bank and the Asian Development Bank do not yet have a binding safeguard to protect worker's rights.

The Inter-American Development Bank's Office of Evaluation and Oversight issued a [report](#) on the existing safeguards policy in 2019, noting the absence of a labour standard.²⁰ The Inter-American Development Bank has initiated a review process, with a stated intention of creating a new set of safeguards based on the IFC standards. Its private sector lending arm, IDB Invest, will use the IFC standards in full.

After initially leading the way in recognising the importance of the 1998 ILO Declaration and taking steps to incorporate the core labour standards into its activities, the Asian Development Bank has fallen behind as other banks have taken steps to comprehensively implement labour standards in all their projects through binding safeguards. Trade unions strongly support the continued joint work between the Asian Development Bank and the ILO on thematic elements related to the decent work agenda and core labour standards. These efforts by the ADB would be complemented and furthered by a labour safeguard for project loans. Trade unions in Asia Pacific have consistently called for a binding standard. In 2017, the ADB created a labour desk to enhance exchange with unions.

A 2015 report by Public Services International [examined](#) the implementation of the ADB's commitment to the core labour standards on a renewable energy project in India.²¹ The study found gaps in the consultation of the trade union representing workers at the borrower agency, and the integration of core labour standards into loan documents. On project worksites, worker accommodations including housing and restrooms were subpar or non-existent. Some workers did not receive personal protective equipment or guidance on working near high tension power lines. Evidence was found of the payment of a single wage to husbands and wives who work together. Such conditions violate the core labour standards and the gender inclusion measures called for in the ADB loan. Other studies by trade unions have found similar gaps in the ADB's implementation of its commitment to the core labour standards.

²⁰ IDB Office of Evaluation and Oversight, "Environmental and Social Safeguards Evaluation", March 2019, < <https://publications.iadb.org/en/environmental-and-social-safeguards-evaluation> >

²¹ Souparna Lahiri, "Rajasthan Renewable Energy Transmission Investment Programme: A study on ADB's Compliance with Social Protection Strategy and Core Labour Standards", December 2015. http://www.world-psi.org/sites/default/files/attachment/news/psi_report_on_rajasthan_adb_solar_project_dec2015.pdf

Final remarks

Through dedicated trade union mobilisation, labour safeguards that uphold fundamental workers' rights have become an operational requirement of loans from most multilateral development banks. Renewed advocacy will be necessary to align the safeguards with the labour protection floor.

It is incumbent on workers and trade unions to hold multilateral development banks and borrowers accountable. This means taking action on the ground to demand fair working conditions, as well as pressing the multilateral development banks to fully respond when violations of the safeguards occur. At all levels, the safeguards can be a tool to organise, defend workers' rights, build power, and fight for sustainable development through decent work.

Trade unions will continue to demand that the multilateral development banks adopt, expand and fully implement labour safeguards.

Appendix 1: The labour safeguards and additional resources

Project disclosures

African Development Bank: <https://www.afdb.org/en/projects-and-operations>

- [French](#)

Asian Development Bank: <https://www.adb.org/projects>

Asian Infrastructure Investment Bank: <https://www.aiib.org/en/index.html#>

European Investment Bank: <https://www.eib.org/en/projects/index.htm>

- [French](#)

European Bank for Reconstruction and Development: <https://www.ebrd.com/work-with-us/project-finance/project-summary-documents.html>

International Finance Corporation: <https://disclosures.ifc.org/>

Inter-American Development Bank: <https://www.iadb.org/en/projects>

- [Spanish](#)

IDB Invest: <https://www.idbinvest.org/en/projects>

- [Spanish](#)

New Development Bank: <https://www.ndb.int/projects/>

World Bank: <https://projects.worldbank.org/> & <https://documents.worldbank.org>

Safeguards

African Development Bank, Operational Safeguard 5: Labour conditions, health and safety, in the Integrated Safeguards System: <https://www.afdb.org/en/documents/document/afdb-integrated-safeguards-system-policy-statement-and-operational-safeguards-34993/>

- [French](#)

Asian Development Bank, Safeguards Policy Statement: <https://www.adb.org/site/safeguards/main>

Asian Infrastructure Investment Bank, Environmental and Social Framework: <https://www.aiib.org/en/policies-strategies/framework-agreements/>

[environmental-social-framework.html](#)

European Investment Bank, Environmental and Social Standards: <https://www.eib.org/en/publications/environmental-and-social-standards.htm>

- [French](#)

European Bank for Reconstruction and Development, Performance Requirement 2: Labour and Working Conditions, and Performance Requirement 4: Health, Safety and Security, in Environmental and Social Policy: <https://www.ebrd.com/news/publications/policies/environmental-and-social-policy-esp.html>

International Finance Corporation, Performance Standard 2: Labor and Working Conditions - https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/performance-standards/ps2

- [French](#)
- [Spanish](#)
- [Arabic](#)

Inter-American Development Bank, Environmental and Social Policies (under revision): <https://www.iadb.org/en/about-us/sector-policies-and-sector-framework-documents>

- [Spanish](#)
- [French](#)

New Development Bank, Environment and Social Framework: <https://www.ndb.int/wp-content/themes/ndb/pdf/ndb-environment-social-framework-20160330.pdf>

World Bank, Environmental and Social Standard 2: Labor and Working Conditions, in World Bank Environmental and Social Framework: <https://projects.worldbank.org/en/projects-operations/environmental-and-social-framework/brief/environmental-and-social-standards>

- [Spanish](#)
- [French](#)
- [Arabic](#)

Streamlined methods for trade union contact

European Bank for Reconstruction and Development (See appendix 3): Email TradeUnionCommunications@ebrd.com

International Finance Corporation, Communication form for issues under PS 2 (trade union labour portal, appendix 2): <https://ifcext.ifc.org/ifcext/CommentsPs2.nsf/SurveyForm?OpenForm>

- [French](#)
- [Spanish](#)
- [Arabic](#)

World Bank Grievance Redress Service: <https://www.worldbank.org/en/projects-operations/products-and-services/grievance-redress-service>

- [Spanish](#)
- [French](#)
- [Arabic](#)

Independent accountability mechanisms for formal complaints

African Development Bank, Independent Review Mechanism: <https://www.afdb.org/en/about-us/organisational-structure/independent-review-mechanism-irm/>

- [French](#)

Asian Development Bank, Accountability Mechanism: <https://www.adb.org/site/accountability-mechanism/main>

[Asian Infrastructure Investment Bank](#), Project-affected People's Mechanism: <https://www.aiib.org/en/policies-strategies/operational-policies/policy-on-the-project-affected-mechanism.html>

European Bank for Reconstruction and Development, Independent Project Accountability Mechanism (formerly the Project Complaint Mechanism): <https://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism.html>

European Investment Bank, Complaints Mechanism: <https://www.eib.org/en/about/accountability/complaints/index.htm>

Inter-American Development Bank, Independent Consultation and Investigation Mechanism: <https://www.iadb.org/en/mici/independent-consultation-and-investigation-mechanism>

- [French](#)
- [Spanish](#)

International Finance Corporation, Compliance Advisor Ombudsman: <http://www.cao-ombudsman.org/>

- [French](#)
- [Spanish](#)
- [Arabic](#)

World Bank, Inspection Panel: <https://inspectionpanel.org/>

- [French](#)
- [Spanish](#)
- [Arabic](#)

Asian Development Bank

PSI, Engaging with Asian Development Bank for workers' rights: A trade unions guide to understanding the ADB: http://www.world-psi.org/sites/default/files/documents/research/a_trade_union_guide_to_understanding_adb_psi-2012.pdf

PSI, "Rajasthan Renewable Energy Transmission Investment Programme: A study on ADB's Compliance with Social Protection Strategy and Core Labour Standards": https://www.world-psi.org/sites/default/files/attachment/news/psi_report_on_rajasthan_adb_solar_project_dec2015.pdf

PSI/FNV, "Workers' Rights in ADB Funded Projects in India: Non Implementation of Core Labor Standards": http://www.world-psi.org/sites/default/files/documents/research/psi_book_jan.pdf

Operations Manual: <https://www.adb.org/documents/operations-manual>

Social Protection Strategy: <https://www.adb.org/sites/default/files/institutional-document/32100/social-protection.pdf>

Social Protection Operational Plan, 2014-2020: <https://www.adb.org/sites/default/files/institutional-document/42704/files/social-protection-operational-plan.pdf>

Asian Infrastructure Investment Bank

Programme on Women's Economic, Social and Cultural Rights, "AIIB's Roads to Inequality: A Gender Case Study from Gujarat": <https://www.pwescr.org/AIIBRoadstoInequalityfinalreport.pdf>

European Bank for Reconstruction and Development

Workers' accommodation: Processes and standards, a guidance note by IFC and the EBRD:

https://www.ebrd.com/downloads/about/sustainability/Workers_accomodation.pdf

Retrenchment and restructuring—labour and community issues, a brief guide: <https://www.ebrd.com/downloads/about/sustainability/retrenchment.pdf>

International Finance Corporation

Guidance Note on Performance Standard 2: https://www.ifc.org/wps/wcm/connect/0d7a4480498007faa1f7f3336b93d75f/Updated_GN2-2012.pdf?MOD=AJPERES

- [French](#)
- [Spanish](#)
- [Arabic](#)

Good Practice Note: Managing Risks Associated with Modern Slavery: https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/publications/publications_gpn_modernslavery

Good Practice Note: Managing Contractors' Environmental and Social Performance: https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/publications/publications_gpn_escontractormanagement

Good Practice Note: Non-Discrimination and Equal Opportunity: https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/publications/publications_gpn_nondiscrimination

Good Practice Note: Managing Retrenchment: https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/publications/publications_gpn_retrenchment

Good Practice Note: Addressing Child Labor in the Workplace and Supply Chain: https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/publications/publications_gpn_childlabor

Measure & Improve Your Labor Standards Performance: Performance Standard 2 Handbook for Labor and Working Conditions: https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/publications/publications_handbook_laborstandardsperformance

World Bank

Guidance Note and templates, ESS 2:

<https://projects.worldbank.org/en/projects-operations/environmental-and-social-framework/brief/environmental-and-social-framework-resources>

- [French](#)
- [Spanish](#)
- [Arabic](#)

Good Practice Note: Addressing Gender Based Violence in Investment Project Financing involving Major Civil Works - <http://documents.worldbank.org/curated/en/399881538336159607/Environment-and-Social-Framework-ESF-Good-Practice-Note-on-Gender-based-Violence-English.pdf>

Other

European Development Finance Institutions/Ergon Associates, "Decent work and development finance institutions": <https://ergonassociates.net/publication/decent-work-and-development-finance-2/>

ITUC, Labour Standards in World Bank Group Lending Lessons Learned and Next Steps: <https://www.ituc-csi.org/labour-standards-in-world-bank>

- [French](#)
- [Spanish](#)
- [Arabic](#)

Appendix 2: IFC labour portal

International Finance Corporation: Communication Form for Issues under PS2

<https://ifcext.ifc.org/ifcext/CommentsPs2.nsf/SurveyForm?OpenForm>

This page is dedicated to communication between IFC and trade unions. It is a result of an ongoing dialogue between IFC and Global Unions. It supports a new procedure that was designed to facilitate effective IFC-trade unions engagement on IFC-financed projects, and to systematise and accelerate IFC response to union communications on PS2. It is a part of IFC's effort to further strengthen implementation of PS2 at the local level.

☒

General Information ☒

Mandatory fields are indicated by * ☒

1. Please provide your name: ☒

First Name ☒ ☒

☒

Last Name ☒ ☒

☒

2. Please provide your e-mail address: * ☒

☒ ☒

☒

3. General information about the company: * ☒

☒

Name of the company (subject of this communication) ☒ ☒

Specific site/plant/operation relevant to this communication ☒ ☒

☒

4. IFC project number (if known): ☒

☒ ☒

☒

5. Information about the trade union initiating the communication: * ☒

☒

Name of organisation ☒ ☒

Country of operation ☒ ☒

☒

6. The trade union: * ☒

☒

has representation of the workforce in the company↵

has no representation in the company↵

If the company does have representation, what percentage of the workforce is represented?↵

↵

7. The communication is being filed on behalf of:↵

Group of unionized employees↵

Group of employees not unionised↵

Trade union↵

If others, please specify interest or link:↵

↵

↵

Details of Communication↵

8. Describe the actions taken by the company considered to be in non-compliance with provisions under PS2:↵

↵

9. Affected employees are:↵

Regular staff↵

Contracted↵

Sub-contracted personnel↵

Part of the supply chain↵

↵

10. Number of affected employees subject to this communication:↵

↵

11. Has there been any discussion with the company on the subject matter of this communication?↵

↵

Yes--If yes, provide details of the discussion with the company and the current status of discussion (see below).↵

No--If no, why not? (see below)↵

Please justify your answer above:↵

12. Has the subject matter of this communication been passed through internal or country grievance mechanisms for resolution?

□

- Yes---If yes, provide details, including type of mechanisms used, dates and resolution.
- No

Provide details:

13. Has the subject matter of this communication been reviewed by a court of law or administrative tribunal?

□

- Yes---If yes, provide details, including type and dates of proceedings, and current status.
- No

Provide details:

14. Has the subject matter of this communication been discussed with the Global Unions (Washington, DC office)?

□

- Yes
- No
- Don't know

15. Additional information relevant to this communication:

Appendix 3: EBRD trade union communication mechanism

This template and dedicated email address for trade unions to directly raise concerns with the European Bank for Reconstruction and Development follows the IFC labour portal approach²².

Send completed form to: TradeUnionCommunications@ebrd.com

Thank you for contacting us. In order to enhance our understanding of the issue you have brought to our attention, we ask you to kindly complete the questionnaire below and return it to us at your earliest convenience. Once received, we will share this information with Global Unions/ITUC in order to discuss how to proceed in view of assisting the resolution of the issue in question. We will also use this information when engaging with the company subject of this communication.

Please confirm that you are authorising EBRD to share this information and your identity with Global Unions:

YES NO

Please confirm that you are authorising EBRD to share your identity with the company subject of your communication:

YES NO

Please provide the following information (mandatory information is indicated by a *):

#	Question	Response
1.	First name:	
	Last name:	
	Email address*:	
2.	Name of the company subject of this communication*:	
	Specific site/plant/operation relevant to this communication*:	
	EBRD Project number (if known):	
3.	Name of the trade union initiating this communication*:	
	Country of operation of the trade union*:	
4.	Does the trade union have representation of the workforce in the company*?	<input type="radio"/> YES <input type="radio"/> NO
	If yes, what percentage of the workforce is represented by the trade union*?	
5.	The communication is being filed on behalf of:	
	(a) a group of unionised employees,	
	(b) a group of employees not unionised, or	

²² <http://www.cao-ombudsman.org/howwework/filecomplaint/documents/Complaintlettertemplate.pdf>

	(c) the trade union.	
	(d) if others, please specify interest or link:	
6.	Describe the actions taken by the company considered to be in non-compliance with provisions under EBRD's Performance Requirement 2 and 4*: Please state if any of the information provided in the description should be treated as confidential and cannot be shared with the company.	
7.	Affected employees are:	
	(a) Regular staff	
	(b) Contracted workers	
	(c) Sub-contracted workers	
	(d) Supply chain workers	
8.	Number of affected employees subject to this communication.*	
9.	Has there been any discussion with the company on the subject matter of this communication?*	<input type="radio"/> YES <input type="radio"/> NO
	(a) If yes, provide details of the discussion with the company and the current status of discussion.	
	(b) If no, why not?	
10.	Has the subject matter of this communication been passed through internal or country grievance mechanisms for resolution?*	<input type="radio"/> YES <input type="radio"/> NO
	(a) If yes, provide details, including type of mechanisms used, dates and resolution	

11.	Has the subject matter of this communication been reviewed by a court of law or administrative tribunal?*	<input type="radio"/> YES <input type="radio"/> NO
	(a) If yes, provide details, including type and dates of proceedings, and current status	
12.	Has the subject matter of this communication been discussed with the Global Unions (Washington, DC office)?*	<input type="radio"/> YES <input type="radio"/> NO <input type="radio"/> DON'T KNOW
13.	Additional information relevant to this communication:	

Appendix 4: Model complaint letter to an independent accountability mechanism

This model letter was created by the Compliance Advisor Ombudsman of the International Finance Corporation but can be adopted to file complaints with other independent accountability mechanisms.

I/we, _____, lodge a complaint concerning the _____ project, located in _____.

This complaint is made on behalf of _____ (ignore if not applicable). I/we live in the area known as _____ (show on an attached map if possible). I/we can be contacted through the following address, telephone and fax numbers, and e-mail:

Street address

Mailing address (if different from street address)

Country

Postal Code

Telephone

Fax

Email

I/we do not wish our identity to be disclosed (ignore if not applicable).

I/we have been, or are likely to be affected by social or environmental impacts of the project in the following way(s): _____

If possible, please provide the following information:

- A description of the name, location, and nature of the project (provide a map, if possible).
- A description of the action taken by me/us to try to resolve these issues (include dates, if possible).
- A list of other person(s) contacted by me/us in attempting to resolve these issues (attach copies of correspondence, if possible).
- Any other relevant facts to support this complaint.

In addition, please answer the following question:

- I/we would like to see this complaint resolved in the following way: _____

Note: The CAO will keep the identity of complainants confidential if requested to do so, but will not accept anonymous complaints. Material may also be submitted on a confidential basis to support a complaint and will not be released without the consent of the party that submitted it.

Complainants should be aware that other affected parties, including the company and IFC staff, will usually be informed about the substance of the complaint. Complainants should identify to the CAO from the start any information that complainants do not wish to be disclosed. A process for handling the complaint will be agreed with the complainant.



