

Mandate of the Working Group on the issue of human rights and transnational corporations and other business enterprises

Ref.: OL OTH 49/2025

(Please use this reference in your reply)

29 April 2025

Dear Mr. Banga,

I have the honour to address you in my capacity as Chair of the Working Group on the issue of human rights and transnational corporations and other business enterprises, pursuant to Human Rights Council resolution 53/3.

The Working Group is a group of five independent experts appointed and mandated by the United Nations Human Rights Council (resolutions 17/4, 26/22, 35/7, and 44/15) to promote the effective and comprehensive dissemination and implementation of the [UN Guiding Principles on Business and Human Rights](#) (UNGPs). Part of the Working Group's mandate is to "make recommendations at the national, regional and international levels for enhancing access to effective remedies".

In this connection, I would like to express the Working Group's concerns with the potential dilution of the World Bank's (WB) and Asian Development Bank's (ADB) environmental and social safeguard and accountability standards for projects co-financed under the recently approved [Full Mutual Reliance Framework](#) (FMRF). Although the FMRF's goals of increasing the efficiency and cost-savings in co-financed projects are laudable, the FMRF approach lowers the environmental and social standards applicable to co-financed projects and allows trail financiers to derogate their responsibilities to address and prevent harm, in contravention of UNGPs.

In June 2023, the Working Group released a [report](#) to the UN Human Rights Council that set out to "establish a common understanding of how the UNGPs are relevant to development finance institutions and, in so doing, to delineate the human rights due diligence expectations for development finance institutions and associated States". Development financial institutions (DFIs), and the states that govern them, have duties and responsibilities under the UNGPs' "Protect, Respect, and Remedy" framework. In particular, DFIs are required "to make a policy commitment to respect human rights, carry out human rights due diligence and provide for, or cooperate in, remediation where the financial institutions identify adverse impacts that it has caused or to which it has contributed". In its 2023 report, the Working Group recognised the many important steps that DFIs, including the WB and ADB, have taken to meet their core obligations, such as through the development of safeguards and accountability mechanisms. The Working Group is deeply concerned, however, that the model of the FMRF constitutes an alarming step back for those safeguards and for accountability and can undermine the WB's and ADB's compliance with their human rights obligations under the UNGPs. Any replication of the current FMRF model by other DFIs will further constitute a significant step back with respect to international legal norms concerning business and human rights.

First, the FMRF allows a derogation of standards that would have been otherwise applicable to a project. By their own [admission](#), the WB's and ADB's environmental and social standards are not fully harmonised and continue to offer different levels of protection. By stating that the lead financier's safeguards apply, rather than stipulating that the most stringent protections apply, project-affected communities are at risk of being less protected from harm and face reduced access to remedy under the FMRF. The FMRF approach is also in direct conflict with the ADB's own recent commitment to a common approach in co-financed projects, "while maintaining that the requirements that are most stringent or protective of the environment and the project-affected persons are applied".¹

Second, the FMRF can enable trail financiers to ignore their obligation to create and use their leverage to prevent, mitigate, and remedy harm. The UNGPs clarify how DFIs' obligations arise from their underlying finance and cannot be entirely delegated to any other actor in the ecosystem. A key consequence of the FMRF would be that the trail financier, despite committing significant financing to the project, could take a hands-off approach to human rights due diligence and close its door to any environmental and social concern that project-affected communities raise, taking the institution back decades in terms of safeguards and accountability practices. As adopted, the FMRF would create blind spots in both the WB's and ADB's portfolios, where the institution would not be actively aware of the environmental and social risks and impacts that its financing may have contributed to or caused.

Under no circumstances do the UNGPs envisage a deliberate relinquishing of the obligation to prevent and address harm and to utilise leverage with clients to address project impacts. The Working Group is concerned that the FMRF, in its current form, constitutes a weakening of the WB's and ADB's institutional commitment to your intended beneficiaries and could start a troubling trend in development finance. The FMRF is not in compliance with the UNGPs and international human rights frameworks and can, therefore, potentially result in adverse human rights impacts.

There is still an opportunity to course correct. The Working Group understands that the FMRF will be implemented in an initial phase over the next four years and will be the subject of independent evaluations at both institutions. Even as the FMRF is being implemented and evaluated, the Working Group encourages you to take note and rectify when it appears that weaker standards are being implemented in a project, or when communities' access to effective remedies is being disadvantaged by the application of the FMRF. The Working Group believes that the FMRF's twin goals of reducing transaction costs for borrowing countries and maximising development impacts will be better achieved if the co-financiers are required to commit to applying the highest safeguard and accountability standards, with both institutions retaining their obligations to remedy harm associated with their financing.

The commitment² to a 'case-by-case' analysis of the potential negative impacts to communities' access to independent accountability mechanisms (IAMs), together with the inclusion of an observer role for the trail financier's IAM, are small

¹ <https://www.adb.org/sites/default/files/institutional-document/1033311/environmental-social-framework.pdf>

² <https://documents1.worldbank.org/curated/en/099012925115057536/pdf/BOSIB12d76bf450a18f1417496696b3cf7.pdf>

improvements over the initial plans shared during consultations in November 2024. The Working Group encourages you to formalise the commitment for case-by-case analysis, take additional steps to ensure effective collaboration between your respective IAMs, and encourage those IAMs to support your institutions to identify instances where the FMRF may have contributed to weaker environmental and social performance. Importantly, the Working Group also calls on both the WB and ADB to use your leverage and resources to ensure that harms stemming from projects co-financed under the FMRF are fully remediated, regardless of whom the lead or trail financier is.

The Working Group respectfully asks that you draw its comments here to the attention of your respective boards of directors. Thank you for your kind attention.

As it is the Working Group responsibility, under the mandates provided to it by the Human Rights Council, to seek to clarify all cases brought to its attention, the Working Group would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above observations.
2. Please provide information on the steps that you intend to take to address the above mentioned points and requests.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please be informed that a letter on this subject matter has been also sent to the President of the Asian Development Bank.

Please accept, Excellency, the assurances of my highest consideration.

Lyra Jakulevičienė
Chair-Rapporteur of the Working Group on the issue of human rights and
transnational corporations and other business enterprises