

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

REFERENCE: SPB/SHD/NF/GF/ff

6 October 2020

Dear Mr. Rioux,

We are writing to you in your capacity as Chief Executive Officer of the French Development Agency (Agence Française de Développement (AFD)), as it has come to our attention that AFD will convene [Finance in Common](#), the “first global meeting of all public development banks,” on 10-12 November 2020 during the Paris Peace Forum.

The [United Nations Working Group on the issue of human rights and transnational corporations and other business enterprises](#) (hereinafter the Working Group) is pleased to share our recommendations with you concerning the importance of human rights as part of the Finance in Common agenda. Our letter follows up on the joint letter signed by multiple Special Rapporteurs and Independent Experts of the UN Special Procedures Branch, including the Working Group. We very much endorse the key messages conveyed in that letter, especially concerning the involvement of impacted communities and rights holders in the summit. This supplementary letter follows up with specific recommendations relating to the key role that development finance institutions must play in ensuring respect for human rights.

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 dissemination and implementation of the [UN Guiding Principles on Business and Human Rights](#) (hereinafter the Guiding Principles), which provide the globally recognized and authoritative framework for the respective duties and responsibilities of governments and business enterprises to identify, prevent, mitigate, and address business-related human rights impacts. The expectations set out in the Guiding Principles have been integrated in other leading standards for responsible business conduct, including the [OECD Guidelines for Multinational Enterprises](#).

We are writing with concern that the public materials, draft agenda, and the expressed deliverables of the summit do not yet adequately reflect how financial institutions must ensure respect for human rights as part of any efforts toward sustainable development. The UN Working Group and the [Office of the High Commissioner for Human Rights](#) have previously focused on the role of both public and

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private financial institutions in ensuring respect for human rights in alignment with the Guiding Principles. The Working Group has also [underscored the relationship between the Guiding Principles, business respect for human rights, and sustainable development](#).

[As we have stated before](#), the responsibility to respect human rights under the Guiding Principles [applies to both financial institutions \(both public and private\) and their clients and the companies they invest in](#), as well as other business partners and entities in the value chain. In particular, the standards set out in the Guiding Principles regarding human rights due diligence and processes to enable remediation of adverse impacts are critical in preventing and addressing the [widely documented](#) risks to people in the context of development finance. The Working Group has engaged with development finance institutions in much of our work, including in our country visits, where we have met with communities adversely impacted by development projects. At our most recent Annual Forum on Business and Human Rights, we featured a [session on development finance actors](#) who have aligned their activities with the Guiding Principles.

Like any other business enterprise, public development banks may cause or contribute to adverse impacts and may be directly linked to adverse human rights impacts through their investments and projects across industries and regions. As part of their own human rights due diligence, they should therefore identify and assess risks and use their leverage to seek to prevent and mitigate potential and actual adverse impacts, covering not only the project level narrowly but also how a project may affect contextual dynamics that increase the severity or likelihood of potential human rights impacts. They should also continuously engage with affected rights-holders, including individuals from groups or populations that may be at heightened risk of vulnerability or marginalization (e.g., human rights defenders and Indigenous Peoples), and bear in mind the different risks that may be faced based on gender.

We therefore strongly recommend that AFD, in convening Finance in Common later this year, take concrete steps to ensure that the role of development finance institutions in ensuring respect for human rights is a focus throughout the summit. In particular, we would request that AFD:

- (1) Feature human rights, community-led development, and access to effective remedy for affected stakeholders throughout the agenda and in the joint declaration being planned as a deliverable of the summit;
- (2) Ensure that the joint declaration explicitly refer to and align with the Guiding Principles;
- (3) Proactively facilitate participation of individuals and communities impacted by public development banks' investments and projects, with a particular focus on individuals from groups or populations that may be at heightened risk of vulnerability or marginalization (e.g., human rights defenders and Indigenous Peoples), and bear in mind the different risks that may be faced based on gender; and
- (4) Demonstrate prioritization of human rights as part of the summit discussion and deliverables by involving key human rights experts, as well as rights holders.

We appreciate the leadership role that AFD is playing in convening this first-of-its kind summit. The event is timely and important, especially as COVID-19 responses

and the economy recovery period are taking shape. These efforts, particularly as we are now in the final decade of implementation toward the 2030 Agenda for Sustainable Development, must put human rights at the center if they are to succeed. The [World Bank Group Strategy for Fragility, Conflict, and Violence 2020-2025](#) also strongly underscores the linkages between human rights violations and fragility, conflict, and violence. The need for public development banks to carry out HRDD and enabling access to effective remedy are thus highly critical to discuss at the summit.

We hope that Finance in Common will play a pivotal role in ensuring that public development finance means rights-based development going forward. We remain at your disposal to discuss these topics further and to provide technical input on the application of the Guiding Principles to the financial sector and to development finance in particular.

Yours sincerely,



Anita Ramasastry
Chairperson

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