

## **Development Finance Institutions and the Operationalization of the Guiding Principles**

Summary of panel discussion- Wednesday, 3 December 2014  
UN Forum on Business and Human Rights, Palais des Nations, Geneva

The discussion panel organised by the Civil Society Engagement Unit of the European Bank for Reconstruction and Development (EBRD) looked into the experience of multilateral and national development finance institutions (DFIs) in responding to challenges and opportunities provided by the operationalization of the Guiding Principles at policy and project level.

Lisa Misol, Senior Advisor on Business and Human Rights at Human Rights Watch, moderated the panel which was composed of two discussants, respectively coming from the private sector and civil society, and four speakers from DFIs. The discussants were Bennett Freeman, Senior Vice President, Sustainability Research and Policy, Calvert Investments and Komala Ramachandra, Director for South Asia at Accountability Counsel. The panel speakers were Margaret Kuhlow, Vice President Investment Policy at the Overseas Private Investment Corporation (OPIC); Michaela Bergman, Chief Social Counsellor at the EBRD; Lars-Olle Larsson, Senior Manager Environmental, Social and Governance Affairs at Swedfund and Eleni Kyrou, Social Development Specialist at the European Investment Bank (EIB).

The DFIs presented how human rights are incorporated in their respective policies and discussed how these policies translate into practice at due diligence level.

The European Bank for Reconstruction and Development (EBRD), which is the only IFI with a political mandate, looks at human rights both at country and investment level. As per its founding agreement the Bank invests in those countries committed to or applying the principles of multi-party democracy, pluralism and market economy. This is assessed in Country Strategies which are reviewed on an annual basis. At investment level, the EBRD adopted in 2014 a revised version of its Environmental and Social Policy, which requires its business clients to respect human rights within the scope of the Bank-financed projects. Human rights are integrated in the Bank's definition of social issues but also explicitly mentioned together with international human rights conventions in the new policy.

The European Investment Bank (EIB) is part of the architecture of the European Union (EU) and as such is bound by EU treaties and policies, the premise of which, in the context of this Forum, is the EU Charter of Human Rights. The EIB leverage on human rights is to be framed at the project level, whereas broader human rights issues at country level are dealt with at the EU level. In 2011 the EU Parliament asked the EIB to integrate human rights in its due diligence. The EIB proceeded to carry out a human rights gap analysis of its practices and standards against both the EU Charter and the UNGPs and the findings demonstrated that the Bank was already doing a lot in this regard, yet failing to explicitly acknowledge it or communicate accordingly to external stakeholders. In order to further embed human rights in its operations, the EIB opted for an integrated approach to human rights, as opposed to the avenue of standalone human rights impact assessment in current due diligence processes based on the 'no harm at all' principle. A year onward since its revised standards were disclosed in October 2013, the Bank will proceed next to take stock of lessons learnt since then.

Swedfund, the Swedish DFI, invests in SMEs in the poorest countries of the world with the aim to reduce poverty by creating sustainable businesses. Swedfund described its project management process from the initial assessment to the board's decision, and engagement and contribution to continuous improvement and impact. Swedfund is a promoter of UN Global Compact among its

clients and adopted a revised Policy for Sustainable Development on 3 December 2014. The UN Guiding Principles are implemented across its operations through a wide range of tools including its Investment Manual, Environmental Social and Governance (ESG) Toolkit, stakeholders' dialogues, clauses of loan agreements, site visits and audits, and environmental and social questionnaires. Swedfund also announced that an ESG Handbook will be produced in 2015 with the objective to provide further guidance to clients on how to operationalise human rights.

The Overseas Private Investment Company (OPIC) is the U.S. Government's development finance institution, established in 1971 as an independent government corporation with the mission to catalyse US capital to address development challenges. OPIC has been one of the pioneers in inspiring the private sector to develop political risk insurance. OPIC has long required the projects it supports to respect internationally recognized worker rights and in 2010 it adopted the IFC Performance Standards, which mainstreams consideration of human rights issues into environmental and social impact review. Labour and workers' rights have been traditionally high on the agenda of OPIC as demonstrated by the fact that a representative from the Department of Labour and a representative of organized labour both sit on OPIC's Board. Also, projects that might have negative impacts on labour and workers' issues fall under a specific project categorisation, for which additional reporting requirements and third party labour audits are required. In addition, separate human rights assessment might be conducted in collaboration with the US Department of State as well as with NGOs for projects located in countries where human rights issues might represent a matter of concern according to specific sectors.

The discussion following the panel acknowledged DFIs' efforts on human rights, identified challenges and highlighted areas where the DFIs could set examples of good practice for other investors. Human rights considerations should not be overlooked vis-à-vis profitability issues commented Komala Ramachandra from Accountability Counsel. She was of the view that DFIs still have leverage on clients, and could be improved by ensuring that DFI clients are following human rights and environmental norms, using human rights standards in investment decision-making and sharing results with external stakeholders for transparency purposes. She also raised the issues of how development is defined and by whom, and emphasized the need for community participation in defining development objectives. Based on her work in the field, she said there were outstanding questions on how human rights are being internalised within the DFI themselves, including what sort of sanctions were put in place in the event of non-compliance, both internally for staff and externally on clients.

Bennett Freeman of Calvert Investments, the largest US-based family of mutual funds specialising in sustainable and responsible investment, urged civil society organisations to live up to the expectations of their watchdog role. As a co-author of the first ever human rights impact assessment for a private sector company, he encouraged DFIs to play a leading role in setting standards of human rights protection for their investment projects.

The importance of the dialogue with civil society organisations was recognised as a fundamental element to advance the debate within DFIs on human rights, promote transparency with external stakeholders and a shift in investment practices.

Companies and NGOs do not speak the same language, argued Margaret Kuhlman from OPIC who reflected on the need to develop tools that might help companies in understanding and

operationalising human rights. Against this background, DFIs can play a leading role in setting human rights standards and improve the human rights records of its clients. Not becoming involved because of potential human rights risks can mean not having any influence which may also result in a lost opportunity to improve the situation and this is what DFIs have to often balance, said Michaela Bergman from the EBRD. Eleni Kyrou of EIB highlighted that the importance of maintaining a pragmatic approach while working with clients in helping them improve their human rights record. Lars-Olle Larsson from Swedfund reminded the audience that all decisions taken in relation to projects' approval are ultimately made by the respective Boards and therefore represent political decisions.

The audience was interested to hear more about the DFIs' commitments and practices on gender issues, supply chain and responsible taxation practices. The EBRD presented the principles of its Strategic Gender Initiative, which is looking at access to credit, resources and employment for women and announced it will be working on a Gender Strategy in the year to come. OPIC confirmed that the IFC performance standards they apply also include gender issues, whereas the EIB and Swedfund acknowledged that more needs to be done towards the integration of the gender dimension in relation to their investment projects. Regarding human rights in the supply chain, the EIB said that their revised Standards currently account for the first tier of suppliers and contractors.

The participants of the discussion agreed that times are changing. Concern for human rights has taken hold in many more domains. It is an element in the values of young generations, who are increasingly more interested in working for companies that are champions in corporate social responsibility. Human rights have also become a matter of interest for greater numbers of investors looking at the social outcomes of financially and socially sustainable investments. Human rights are now a matter of good business, in terms of the customer and employee base of companies, as well as for DFIs' shareholders.