

SUBJECT: U.S. Response to Letter from the Working Group on the issue of human rights and transnational corporations and other business enterprises–34th session – consultation with States on “Development Financial Institutions and Human Rights”, 9 February 2023

1. What is your Government’s understanding of the role of national and international Development Finance Institutions (DFIs) in promoting business respect for human rights and the environment? What challenges have you observed in this regard?

- Governments have a duty to protect human rights in line with the UNGPs, which extends to their engagement in national and international (bilateral and multilateral) DFIs.
- One of the challenges the United States has observed is limited expertise on human rights in the context of development finance projects. The U.S. Department of State monitors development finance best practices with respect to human rights concerns and contributes human rights expertise to the internal U.S. government review process of DFI projects and policies – both bilaterally and multilaterally, when appropriate.
- It would be helpful if there were: (1) deeper expertise on human rights within DFIs’ staff and executive boards, (2) stronger requirements by DFIs for human rights due diligence and contextual risk assessments to mitigate potential adverse impacts in their operations; (3) better access to remedy, including through the establishment of accountability mechanisms; and (4) more effective policy on preventing and addressing reprisals.

2. Does your Government have a national DFI? If so, please provide a website link or background information.

The U.S. International Development Finance Corporation (DFC) is the U.S. government’s DFI. DFC works with other U.S. agencies that provide important bilateral development assistance, including the Millennium Challenge Corporation (MCC) and U.S. Agency for International Development (USAID).

DFC: <https://www.dfc.gov/>

MCC: <https://www.mcc.gov/>

USAID: <https://www.usaid.gov/>

3. How does your Government encourage development financing activities and policies to be consistent with international human rights standards and principles, and ensure that human rights risk is integrated into the due diligence processes of DFIs?

- A State Department bureau with expertise in human rights, the Bureau of Democracy, Human Rights, and Labor (DRL), reviews projects by multilateral development banks, the U.S. Development Finance Corporation, and the Export Import Bank of the U.S. (EXIM) that meet certain criteria, for human rights concerns.
 - The State Department also weighs in on the periodic updates of environmental and social safeguard policies of some DFIs, where the State Department or the U.S. Government is a board member, suggesting ways to strengthen the policy's protection of human rights in the context of development finance. For the multilateral development banks' projects and policies, the State Department participates in processes led by the U.S. Treasury Department, which coordinates U.S. participation in the multilateral development banks.
 - During summer 2021, the U.S. Government also coordinated with the Lifeline Embattled CSO Fund to raise awareness of issues related to reprisals in the context of development activity and to encourage the development of strong policies and practices to prevent and address reprisals. The U.S. Government coordinated a briefing by civil society for both U.S. government agencies as well as for Lifeline member governments, including representatives in the executive offices of multilateral development banks.
4. **What are the specific human rights risks posed by DFIs to groups in the most vulnerable situations, such as women and girls, indigenous communities, human rights defenders, persons with disabilities, persons with different sexual orientation or gender identity, older persons, persons living in poverty or migrant workers?**

We welcome your further attention to this important issue and look forward to more reporting by the Working Group on this. DFIs can substantially help projects mitigate and manage the risks their operations present by improving the oversight they provide. It is imperative that DFIs ensure their programs do no harm to the most vulnerable.

Two examples:

- Infrastructure projects with labor influx into communities raises risks of gender-based violence in those communities.
 - There are risks of reprisals for communities or individuals that object to projects.
5. **What measures can States take to ensure access to an effective remedy when DFI-supported projects are associated with adverse impacts to communities and the environment?**

States can both establish or strengthen effective accountability systems at their bilateral DFIs and encourage, through their engagement at multilateral DFIs, such as the multilateral development banks, the creation or strengthening of effective

accountability systems at these institutions. For both bilateral and multilateral DFIs, effective systems include the DFI's management, an independent accountability mechanism for the DFI, and the DFI's borrowers/clients, and include not only the identification of harm but also the provision of remedy.

