

November 14, 2009

MC 13-433

World Bank Group

1818 H Street, NW

Washington, D.C. 20433, USA

Dear Mr. Treffers and Ms. Solyanyk:

Re: November 17th 2009 Board consideration of the proposed policy "Toward Greater Transparency through Access to Information: The World Bank's Disclosure Policy"

We would like to applaud the Bank for the important advances in the proposed policy that reflects true belief in the right of citizens to access information. We recognize that the Bank is poised to take a major conceptual step by accepting the principle that all Bank information should be available to the public unless it falls within the scope of the regime of exceptions.

However, we would like to express our deep concern that some of the proposed exceptions to the presumption of disclosure threaten to severely undermine these positive developments. We would like all exceptions to be subject to harm tests. We also call on you to strengthen disclosure requirement of certain draft documents as well as ensuring translations of documents that are of special importance to the public.

a) We found it troubling that the proposed policy provides absolute protection to internal information through a "deliberative process" exception, viewed as so central that it posited as an independent principle in the policy, instead of being included as an ordinary exception. This "deliberative process" appears to cover practically all information that is not a decision. We propose that this broad exception be replaced by narrower exception designed to protect legitimate interests.

b) We are equally concerned about the right given to governments and third parties, such as Bank contractors, to veto the release of almost any information they provide to the Bank. We recognize that certain interests need to be protected through exceptions, but the proposed Policy would grant them the veto right on the basis of their ownership of the information, not to protect interests. We would like to see instead harm-based exceptions protecting legitimate interests of countries and third parties which provide information to the Bank.

c) We found it disturbing the Bank's claim that all communications exchanged between Executives Directors' offices and national authorities are records of the Bank, and therefore, the policy claims that those communications between the Executives Directors' offices and national authorities fall within the "deliberative process" and as a result are not subject to disclose, even if the national laws allows for such disclosure. The contrast between the draft Policy's absolute respect for country ownership when the country wishes to assert confidentiality, and the almost complete negation of such ownership when the Bank wishes to

assert confidentiality despite of national right to information laws, is striking. We would like to see this assertion, that the Bank's regime of exceptions extends to all communications exchanged between Executive directors' offices and national authorities, removed from the Policy, as it contradict many national right to information laws.

d) The new draft policy expands the list of documents which will be mandatorily disclosed, both government and Bank prepared, and this decision is genuinely welcomed. We would like to emphasis, however, the importance of disclosing drafts to allow public input the pivotal documents that have country-wide implications. Three documents are of particular importance: draft CAS, PRSP Annual Progress Reports and PRSP Status Reports. These documents bear information of national significance and their disclosure is essential for public debate and input as much as for monitoring and accountability reasons.

d) We cannot stress enough the need to translate key documents, such as summaries or drafts of CAS, CPS, PRSP, Category A projects, safeguards and appraisal documents. While we appreciate World Bank's Translation Framework, civil society requests the World Bank to explicitly require translation of these core documents in the disclosure policy. We would also like to see the Translation Framework translated and made available on Bank website. Drawing from the experiences of participating in a number of CAS and Policy related consultations in the region, we conclude that lack of translated draft Strategies defeats the purpose of public consultations and contributes to the alienation of groups who command little or no English language skills.

e) Civil society groups are very pleased that the World Bank plans to adopt an independent appeals body to review access to information complaints. We congratulate the Bank to be the first among IFIs to adopt such provision. We are also eager to see what specific leverage and power the appeals mechanism will have.

We urge the Board and the Management to commit to a specific, time-bound and well-resourced implementation strategy. We recommend that civil society views be taken into account when formulating a monitoring and evaluation component of the new Disclosure Policy.

Dear Executive Director, we ask you to consider a revision of the regime of exemptions, recommend explicit commitments to disclose abovementioned drafts and ensure translation of key documents. We also reiterate our support and expectation for a robust implementation and monitoring of the new disclosure norms.

Sincerely,

Nino Gujaraidze, Executive Director Green Alternative, Georgia

Inga Zarafyan, President, EcoLur, Armenia

Fidanka Bacheva-McGrathh, Balkan Coordinator, CEE Bankwatch Network/For the Earth, Bulgaria

Ana Colovic Lesoska, Executive Director, Eco-sense, Macedonia

Igor Sirenko, Head, National Ecological Centre of Ukraine, Ukraine