

May 21, 2020

Mr. Philippe Le Houerou
Chief Executive Officer
International Finance Corporation
via email

Re: Request for information and recommendations for protecting workers in response to Covid-19

Dear Mr. Le Houerou:

Greetings from the undersigned organizations. We hope this letter finds you and the IFC community well in this difficult time.

We welcome IFC's decision to provide US\$8 billion financing in response to the Covid-19 pandemic and note that the IFC will [disburse](#) \$2 billion to support existing clients in the infrastructure, manufacture, agriculture, and services industries and \$6 billion through Financial Intermediaries (FIs) under four different programs. We also appreciate IFC's April interim advice on [supporting workers](#), preventing and managing [health risks](#) of Covid-19 in the workplace, and [childcare](#) in the Covid-19 era.

We are writing to request information about the occupational health and safety and social protection measures implemented by current IFC clients and those who may receive new financing in response to the Covid-19 pandemic (Appendix 1).

We are also writing to share recommendations for steps the IFC could take to help clients avoid, minimize, or revisit retrenchment decisions and to align with IFC Performance Standards and international labor and human rights standards. We strongly urge the IFC to build upon its interim advice with binding steps and monitoring to promote paid sick and family leave, job protection, employer-provided childcare and health care, occupational health and safety, and non-discriminatory retrenchment.

We recommend the following steps:

1. Introduce greater transparency and civil society engagement: We welcome IFC providing information that it [expanded](#) trade-financing limits for four Vietnamese banks to help them continue lending.

We urge the IFC to publish a Covid-19 responsive financing strategy that outlines how IFC's financing instruments will be used to advance specific goals to protect workers' rights for each of the clients receiving Covid-19 responsive money. We believe these goals should include one or more of the following—minimizing job loss; promoting occupational health and safety, paid sick and family leave, access to child care and other social protection; improving equitable access to health and other essential services without discrimination; and temporarily suspending debt recovery proceedings of microfinance institutions that would put workers under additional economic distress.

We urge the IFC to proactively engage with a broad range of civil society groups, including trade unions and grassroots organizations, throughout the project cycle to provide more information.

We also urge the IFC to follow and build on the good practice of the [World Bank](#) and create a dedicated website to publish information about *all* clients receiving IFC Covid-19 response financing either directly or through FIs. For each of the clients receiving additional Covid-19 responsive financing, we believe the IFC should disclose the client name, amount received, and relevant loan documents providing information about the contractual obligations on clients to ensure that IFC money will be used to advance protections for workers.¹ In addition, we urge the IFC to also disclose on this page, those clients that are substantially revising their projects in response to Covid-19.

We welcome IFC's latest reforms on [transparency](#) around *new* FI projects and urge that in the longer-term these disclosure requirements be extended to *all* FI projects.

2. Integrate specific goals related to job preservation, occupational health and safety, paid sick and family leave, childcare, and other social protection in Environmental and Social Action Plans and loan documents. Work with existing clients on these issues during reviews of loan disbursements, monitoring and ongoing engagement, including further revision of Environment and Social Action Plans.

More specifically:

a. Prioritize preservations of jobs, including by requiring retrenchment reviews and non-discriminatory retrenchment plans. The IFC should ensure that clients prioritize preserving jobs and comply with Performance Standard 2, including an analysis of alternatives to retrenchment of workers and a plan to reduce adverse impacts of retrenchment on workers.²

Moving forward, the IFC should ask clients to immediately notify the IFC where any retrenchment is being contemplated and maintain communication throughout the process. We note that the interim advice currently suggests that clients examine if “costs can be saved by outsourcing noncore activities, streamlining activities, [or] re-organizing.” This implies job loss or at least the degradation of job quality and stability and should be revised.

The IFC should also review retrenchment decisions already made by clients since December 2019 (when global supply chains were first impacted by the Covid-19 outbreak) to ensure compliance with Performance Standard 2.

Ensure non-discrimination in any retrenchment plans: The IFC should monitor to ensure that any retrenchment plan is non-discriminatory, including based on union affiliation, does not target union

¹ See for example, Oxfam International, Washington Office, “Transparency and accountability: the soap and water for COVID-19 financial packages to the private sector,” May 11, 2020, <https://medium.com/@OxfamIFIs/transparency-and-accountability-the-soap-and-water-for-covid-19-financial-packages-to-the-private-5f0007fc3630> (accessed May 19, 2020).

² International Finance Corporation, “Performance Standard 2, Labor and Working Conditions,” https://www.ifc.org/wps/wcm/connect/88f1f09e-5fe4-4fad-9286-33ecb221ab23/PS2_English_2012.pdf?MOD=AJPERES&CVID=jiVQIns (accessed April 20, 2020), p. 4.

representatives, members or supporters, and that any rehiring does not blacklist such workers.³ Retrenchment plans should not discriminate amongst casual, temporary, short-term contract, and permanent workers when paying severance.

IFC can encourage the adaptation and replication of emerging good practices. For example, the Solidarity Center, a US-based nongovernmental organization, successfully supported four garment unions in Myanmar to negotiate collective bargaining agreements with their respective factories to outline a non-discriminatory retrenchment procedure.⁴

The IFC should strongly encourage all its clients that have unions to explore signing collective bargaining agreements that have strong anti-discrimination protections, including during retrenchment. Without strong monitoring on these issues, the few firms that act responsibly during Covid-19 and sign collective bargaining agreements, find themselves in competition with those that do not.

b. Require occupational health and safety and social protection policies and programs in response to the Covid-19 pandemic: All clients should undertake a comprehensive review of their occupational health and safety policies and implementation and align them with international standards and good practice with respect to Covid-19,⁵ including on personal protective equipment. This should cover worker accommodations where provided.

The IFC should also require clients to undertake a comprehensive review of their policies governing **employer-provided health care, paid sick and family leave, childcare, and other social protection, and their implementation**, and provide this information to the IFC. Clients and sub-projects receiving financing under the Covid-19 response should, at a minimum, be required to provide paid sick and family leave and childcare coverage for workers if school closures and activity restrictions are present, and, where applicable, safely continue to provide worker accommodation and canteens at low or no cost.

³ Ibid. The IFC Performance Standard 2 states that the “retrenchment plan will be based on the principle of non-discrimination,” and will reflect the “client’s consultation with workers, their organizations, and, where appropriate, the government, and comply with collective bargaining agreements if they exist.”

⁴ Collective Bargaining Agreement signed between Myanmar unions and factories, on file with Human Rights Watch. The following clauses offer protection without discrimination: “If and when the factory re-opens (or rehires in the case of a partial cessation), the employer agrees to rehire all current employees (at time of signing this agreement). If all workers cannot be rehired at once, workers will be rehired in order of their seniority [or use your bargaining language below]. The employer agrees not to hire any external employees until all employees who were on the payroll at the time the agreement was reached have been offered re-employment. All rehired employees shall be offered the same or similar employment at the wages, benefits and working conditions they were afforded prior to termination. The employer agrees to recognize the union which was registered at the time of the total cessation of work. The employer agrees to a principle of non-discrimination against union leaders and members in the re-opening and re-hiring process.”

“Any compensation received at the time of closure or partial cessation shall not forfeit an employee’s right to return to work upon re-opening or re-hiring per this agreement.”

⁵ World Health Organization, Country and Technical Guidance, <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance-publications?healthtopics=b6bd35a3-cf4f-4851-8e80-85cb0068335b&publishingoffices=aeebab07-3d0c-4a24-b6ef-7c11b7139e43&healthtopics-hidden=true&publishingoffices-hidden=true> (accessed May 19, 2020); US Centers for Disease Control and Prevention, “Businesses and Workplaces: Plan, Prepare, Respond,” <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/businesses-employers.html> (accessed May 19, 2020).

The IFC should encourage the adaptation and replication of good practices of collective bargaining agreements such as those in Colombia, for instance, where SINTRAINAGRO [negotiated](#) comprehensive health and safety Covid-19 response measures for 22,000 banana workers with the industry association, Augura.

c. Incorporate consultation with civil society groups, unions, and grassroots organizations throughout the project cycle to gather information on company and local conditions at a time when field reviews are not possible, and in recognition of the information these actors provide during normal times.

3. Establish an emergency grant facility for access by existing clients to benefit workers, their families and communities: While the IFC's top priority should be job preservation, it should also work with existing clients to assess the community health and social risks to workers, ex-workers, their families, and their communities and provide additional resources that may be needed to specifically help address these needs. This is particularly relevant to IFC clients with workforces that have been retrenched or idled, especially when migrant workers are present; where the workplace or the nature of the job heightens the risks of contracting or transmitting Covid-19, which also puts their family members and communities at risk; or in cases where occupational hazards have had adverse health impacts causing underlying health conditions for current and former workers that make them more vulnerable to serious illness or death from Covid-19. Eligibility should be linked to satisfactory measures to reduce pre-existing hazards and those related to Covid-19, and - if applicable – retrenchment conducted in a manner consistent with the Performance Standards. **For example, the Dutch development bank, FMO, has created an emergency grant facility for this purpose. FMO's current clients can submit proposals to fund projects that directly benefit workers and surrounding communities.**

4. Develop additional interim guidance on microfinance institutions: Many workers who have lost jobs or income are struggling to make payments for housing, food, transportation, and utilities, including water and electricity, all essential for maintaining social distance and health during the pandemic. Microfinance institutions that are beneficiaries of IFC financing, either directly or through FIs, have a crucial role to play in preventing and responding to the economic distress on workers. The IFC should develop interim guidance, in consultation with a broad array of civil society groups, that outlines a range of steps that microfinance institutions should take to introduce special protections against debt recovery procedures, including suspending evictions and utility cutoffs, for individuals who borrow from microfinance institutions.

We trust the IFC will take these concerns seriously and support its clients in putting people's health and jobs first as they are faced with making daunting financial decisions during the Covid-19 pandemic.

We thank you for your consideration and welcome opportunities to discuss this further. Please do not hesitate to contact my colleagues Aruna Kashyap, aruna.kashyap@hrw.org and Komala Ramchandra komala.ramachandra@hrw.org for any clarifications on these proposals, to provide the information requested in Appendix I by June 5, 2020, or to coordinate a conference call with us.

Best Regards,

Arvind Ganesan, Director, Business and Human Rights Division, Human Rights Watch
Add other signatories

CC: XXX

Appendix I

Information Request to the IFC

We respectfully request the following information from the IFC by June 5:

1. What criteria were used to finalize which of IFC's existing clients will receive additional \$2 billion Covid-19 response financing?
2. What risk assessment steps is the IFC taking where existing clients (regardless of whether they receive additional Covid-19 financing) propose substantial changes to their project?
3. What steps is the IFC taking to determine whether current Environment and Social Action Plans are adequate to address the human rights risks from Covid-19?
4. Kindly provide information on consultation of worker and community stakeholders in evaluating possible recipients of response financing to assure job preservation and occupational health and safety.
5. Of all existing IFC clients that are already receiving IFC investments (not just Covid-19 response investments):
 - a. How many clients have paid sick and family leave policies?
 - b. How many clients have retrenched their workers?
 - c. How many clients are involved in providing "essential services" or "essential manufacturing"?
 - d. How many clients are providing personal protective equipment (PPE) appropriate to Covid-19 and how does the IFC determine the adequacy of PPE provided?
 - e. How many clients have employer-paid health insurance?
 - f. How many clients have employer-paid childcare?
 - g. How many clients make unemployment contributions?
 - h. How many clients make pension contributions?