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| United Nations Human Rights  Mary Lawlor – UN Special Rapporteur on the Situation of Human Rights Defenders  Palais des Nations  1211 Geneva 10  Switzerland  Email: [defenders@ohchr.org](mailto:defenders@ohchr.org) |

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**Contact Details**

Please provide your contact details in case we need to contact you in connection with this survey. Note that this is optional. (edited for public release)

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| --- | --- |
| Type of Stakeholder | International Financial Institutions |
| Name of Stakeholder  Name of Survey Respondent | FMO Entrepreneurial Development Bank |
| E-mail |  |
| Telephone |  |
| Address |  |
| Can we attribute responses to this questionnaire to your Business publicly? | X Yes  ~~O No~~  ~~Comments (if any):~~ |

**Questions**

Human rights defenders are persons, who individually or in association with others, work peacefully to promote and protect universally recognized human rights and fundamental freedoms, in accordance with the UN Declaration on Human Rights Defenders.

1. **How do you verify that true Free Prior and Informed Consent was given before you undertake an investment in large infrastructure (extractive mining, hydroelectric dams, agribusiness, etc.)?**

All infrastructure projects that FMO invests in directly, including hydroelectric dams and agribusiness, undergo a process of due diligence prior to committing to the investment. This due diligence includes a contextual risk screening and an in depth environmental and social analysis - whereby the key issues, risks and impacts are identified, the project’s mechanisms to address and mitigate these risks are verified, and - in many cases - improved with the involvement of FMO E&S specialists.

Under our reference framework (IFC Performance Standards), Free Prior and Informed Consent (FPIC) is required for projects that are assessed as having specific (potential) adverse impacts on Indigenous Peoples (IP), including impacts on Indigenous lands and / or natural resources, resettlement of Indigenous Peoples from their communal lands, impacts on critical cultural heritage, or use of Indigenous cultural heritage (including intangibles such as knowledge, practices, traditions, as well as tangible artefacts, etc.) for commercial purposes[[1]](#footnote-1).

In such cases, FMO’s E&S specialist, at times supported by an IP issues expert, is required on to undertake an on-site check to determine whether FPIC is in place. This entails assessing whether: a) a process of Informed Consultation and Participation was undertaken; b) Good Faith Negotiation took place between the parties; c) Consent was achieved in an acceptable manner for to the affected communities of Indigenous Peoples and d) it was suitably documented, including duly documenting any conditions that would remain important for maintaining Consent.

In cases where FPIC is not required, but there are significant (potential) impacts on communities, FMO requires projects to have achieved or to proceed towards achieving Broad Community Support (BCS) in a reasonable timeframe. Significant impacts on communities could include resettlement, loss of land and / or livelihoods, impacts on natural resources, impacts on community cohesion or local power dynamics. Projects in areas with IPs present, even if they do not trigger FPIC, require a demonstration of BCS. Also, projects in locations with a high level of contextual risk always require BCS, e.g. recent major social disturbance from disaster or conflict; severe restrictions on freedom of speech or association making community consultation difficult; communities with deep divisions, e.g. ethnic or religious.

In such situations, the FMO E&S specialist, in some cases supported by a more specialised external expert, is required to undertake an on-site check of the status of BCS. This entails a review and verification of whether a process of Informed Consultation and Participation has been performed, and whether, generally, community views have been taken on board, and where this was not possible, communities were provided feedback as to why not. The BCS check is also a means to reveal to FMO whether there is any hidden opposition to the project, and / or any stakeholder groups that have been excluded from the information, consultation and engagement processes around the project, for any reason.

FMO’s Financial Institutions and Private Equity Fund customers are contractually required to apply FMO’s FPIC requirements.

1. **How do you assess risks that a project might generate violent conflict or social division prior to investing, and how do you evaluate threats and restrictions on public dissent and civic space at both the project and country-level? What early warning mechanism do you follow to detect and respond to threats against human rights defenders?**

As part of our due diligence process, social assessments conducted by the project proponent are reviewed -and where needed augmented- to form an understanding of the social dynamics surrounding the project. This is viewed in conjunction with a contextual risk screening that FMO conducts as a desktop exercise early in the due diligence process to identify key issues and sensitive topics at national and local level and that may influence the local social dynamics of a project. For example, if unethical land transactions are found to be endemic in the region and / or the sector, FMO would subject the land acquisition process undertaken by the project proponent (or other parties) to additional scrutiny to determine whether or not it is or could become the source of violent conflict or social division.

Many of our countries of operation experience restrictions on public dissent and civic space, and this often comes to the surface in our contextual risk screening. We are increasingly including local Dutch Embassy and local NGO offices as key data points for due diligence, to triangulate the information received through our own visits to communities and the consultation processes undertaken by the project proponent. The BCS and FPIC checks described above also provide E&S specialists with a sense of the nature of civic space at play around the project.

Stakeholder interactions, including investee company interactions, are valuable in providing FMO staff with early warnings regarding human rights defenders. We may question whether or not project companies and / or communities have had interactions with local activists or NGOs, as part of our due diligence. Mentions of a particular organisation in a negative tone by state authorities, investee companies, contractors or other parties could point to project opposition and may indicate the need for further investigation. Similarly, community members may mention during consultation that a local organization supports them but faces reprisals from other parties.

1. **How do communities affected by your clients’ operations know about your institution’s commitment to safeguards human rights defenders and provide access to remedy? (NB: EBRD, IFC and World Bank have published commitments to zero tolerance to reprisals; IDB and EIB are soon to publish their own commitments)**

As stated in our [Human Rights Position Statement,](https://www.fmo.nl/policies-and-position-statements) FMO recognizes that, within the broader field of human rights, the protection of environmental and human rights defenders in particular is an issue of increasing importance internationally. FMO strongly values freedom of expression, the value of civil society, and recognizes the need to protect dissenting voices. We do not tolerate any activity by our clients that amount to the oppression of, violence towards, or any other violation of the human rights of those who voice their opinion in relation to FMO activities and the activities of our clients. We will take seriously credible allegations that a client has acted inappropriately, examine the veracity, and instigate further action as and where appropriate. As stated in our [Sustainability Policy](https://www.fmo.nl/policies-and-position-statements), meeting this responsibility also means creating access to an effective grievance mechanism that can facilitate early indication, and prompt remediation, of various project-related grievances.

We are transparent about our (planned) financing relationships through our [Worldmap](https://www.fmo.nl/worldmap), allowing communities affected by our clients’ operations, to identify FMO as a (planned) financier of the project. Further, we have included on the [Stakeholder Engagement page](https://www.fmo.nl/stakeholder-engagement) of FMO’s website, an invitation to “those who want to convey, in good faith, their concerns, allegations or any information indicating the oppression of, or violence towards, or persecution threats against individuals, because of their engagement with projects or activities financed by FMO or considered for financing by FMO”. This invitation is supported by an email address that can be used by anyone who wants to reach out to FMO. FMO staff, while visiting communities, may mention our commitment to safeguard human rights defenders, share our contact details in case community members wish to communicate directly with us, and emphasize the existence of our [Independent Complaints Mechanism](https://www.fmo.nl/independent-complaints-mechanism), which is accessible through our website. FMO provides clear information through a [Guide for Complainants or Communities](file:///C:/Users/bmn1501/Downloads/FMO%20Guide%20for%20Complainants%20or%20Communities.pdf), to guide them through the process.

In general, compliance with FMO’s E&S requirements requires the use of an effective grievance mechanism at project level by the project, which we see as the basis for providing remedy, as well as a key communication channel.

1. **If a human rights defender(s) or their organisation is threatened in connection with your client’s operations, what steps do you take to help protect them? How do you determine whether a threat to a human rights defender is connected with your client’s operations and what connections are sufficient to cause you, as an investor, to intervene?**

FMO recognizes the responsibility of the private sector to respect human rights as elaborated in our Position Statement on Human Rights. The ability of local communities, civil society and other stakeholders to engage freely with FMO and FMO’s clients is an important part of this. We recognize their role in optimizing the development outcomes of our activities, including the expression of concerns and dissenting voices. We do not tolerate any activity by our clients that amounts to the oppression of, violence towards, or any other violation of the human rights of those who voice their opinion in relation to FMO activities and the activities of our clients.

We apply our Human Rights Defender approach upon receipt of signals that individuals face violence or persecution threats because of their engagement in an activity financed by us or considered for financing by us. The approach prioritizes *safety first* and includes short-term steps to contribute towards protecting the safety of the person(s) concerned. Once short-term safety has been dealt with, the protocol requires FMO to plan long-term actions designed to understand multiple perspectives on the root causes of the issue, attempt to facilitate a resolution, and to understand the role of FMO and other external parties in the issue and where necessary build our leverage to help resolve the situation.

1. **Has your organization ever publicly condemned an act of threat or violence, criminalization, or death to a human rights defender speaking out about a client’s activities and/or impacts? (please share examples)**

FMO’s [Human Rights Position Statement,](https://www.fmo.nl/policies-and-position-statements) published on our website, contains a generic condemnation of threats or violation those who voice their opinion in relation to FMO activities and the activities of our clients. In a Dutch newspaper article this was also explained by FMO’s CIO in Dutch newspaper Trouw related to FMO’s investment in an investment in Congo. FMO’s CIO, responding to a tragic death related to FMO’s investment, stated that “every murder is one too many for FMO”.[[2]](#footnote-2)

Also, in an [FMO news item](https://www.fmo.nl/news-detail/1a6f6815-832c-4fda-a7d0-57f2ce5743f7/fmo-and-finnfund-s-initial-reaction-to-the-gaipe-report) related to the Agua Zarca project, FMO and Finnfund condemn all kind of violence, do not tolerate illegal conduct and are serious about respecting human rights.

1. **Could you please share good practices (evidence-based) that have proved effective to respond to death threats against defenders promoting and defending human rights from the adverse impact of your clients’ Business operations? Please provide examples of your work with clients to ensure proactive actions to support and protect civic space and defenders?**

FMO is building experience in implementing our commitment towards human rights defenders. We have cases in our portfolio that illustrate our actions after becoming aware of (death) threats to human right defenders, but we are not yet in the position to anonymize such cases and share our experience publicly. As we strive for a high level of transparency, also where it comes to our experiences with human rights defenders’ threats, we aim to better illustrate our approach.

1. See IFC PS7 (2012) for the full text of when FPIC is required. [↑](#footnote-ref-1)
2. <https://www.trouw.nl/nieuws/hoe-de-nederlandse-ontwikkelingsbank-verstrikt-raakte-in-landjepik~bbc69e6e/> [↑](#footnote-ref-2)