



Urgewald e.V. · Von-Galen-Straße 4 · 48336 Sassenberg

Jürgen Zattler
Executive Director for Germany
The World Bank Group

1818 H Street, N.W.
Washington, D.C. 20433

Rückfragen an Ute Koczy
Ute.koczy@urgewald.org

Sassenberg, 24. March 2020

Dear Mr. Zattler,

We are writing to you out of serious concerns surrounding the World Bank's assistance to Guyana through the Petroleum Resource Governance and Management Project (P166730). Our main concerns include:

- Multiple ExxonMobil-linked contractors have been hired to draft Guyana's new petroleum laws. At least two contractors cleared by World Bank should have been disqualified due to Conflict of Interests.
- The World Bank is in violation of World Bank Procurement Regulations to protect against Conflict of Interest and contract disclosure requirements.
- The oil contractor hired to re-draft the new Local Content Policy reduced transparency and accountability.
- Activities carried out under the World Bank project are undermining good governance in Guyana.
- Activities funded by World Bank public assistance are facilitating the significant expansion of upstream oil operations and thus undermine the goals of the Paris Climate Agreement.

Through the Petroleum Resource and Management Project (P166730) (the "WB Project"), the World Bank is providing \$20 million to fund the government of Guyana's Oil and Gas Development Program, which is aimed at the creation of an oil sector, including marketing to potential investors.¹ Part of the Bank's assistance targets the drafting of new policies and laws, including the Local Content Policy and Petroleum Taxation and Fiscal Regulations. However, in a clear breach of legal and ethical standards, multiple contractors hired under the WB Project to draft these laws are linked to ExxonMobil, the developer of Guyana's giant Stabroek offshore oil block.

In February 2019ⁱⁱ, the government of Guyana announced that an oil consultant, Mr. Michael Warner, was hired to finish the drafting of the new Local Content Policy – a policy that would apply to new oil projects’ requirements surrounding the participation of Guyanese labor, services and goods. There was public criticism of the hiring of Mr. Warner as he is the same contractor hired and paid by ExxonMobil to run the company’s Local Content Centre for Development in Guyana.ⁱⁱⁱ He has a clear conflict of interest in attempting to provide advice to the Government of Guyana. The hiring was further criticized because Mr. Warner has no track record of independently producing a local content policy for any country.^{iv}

On February 13, 2020, it was reported that the revised Local Content Policy developed by Mr. Warner ignored key recommendations, including to improve transparency.^v The February 2020 draft policy contains a provision by which Local Content reports submitted to the government by foreign oil companies will remain confidential and only a “summary” of those reports would be made public. Stakeholders have criticized that such confidentiality would hinder the public’s ability to hold the companies, regulators and government to account and would prevent them from being able to analyze either compliance with the law or the degree of local economic contributions.

The independent national newspaper, *Kaieteur News*, reports that the confidentiality provisions were not included in the first two drafts of the policy that were done by Trinidadian Local Content Expert, Anthony Paul.^{vi} The confidentiality provisions were only added after the ExxonMobil-linked oil consultant, Mr. Warner, was hired to revise the new policy.

When questioned about the procurement process surrounding the hiring of Mr. Warner, the government responded that it used a limited competitive selection process to expedite the award of the contract consistent with the World Bank’s Procurement Regulations.^{vii} In addition, an evaluation report was completed and sent to the World Bank for its no-objection.^{viii} *Kaieteur News* has since confirmed with the former Business Minister, Dominic Gaskin, that this contract was never advertised.^{ix}

In addition to the clear conflict of interest and resulting policy changes that undermine governance in favor of oil companies, it also raises the important question of why, if Guyana already had a local content expert drafting the new policy, did the WB Project fund another contractor under a limited, non-transparent process?

In the last few weeks, it was disclosed that yet another ExxonMobil-linked contractor has been hired under the WB Project. The law firm Hunton Andrews Kurth has been representing ExxonMobil for some 40 years, yet it has been hired for US\$1.2 million to draft new petroleum laws, covering, *inter alia*, tax regime, production sharing contracts, and environmental regulations.

The hiring of Hunton Andrews Kurth and Mr. Warner for the drafting of new laws involving oil development clearly violates the Bank’s Procurement Regulations.^x Section 3.17 of the regulations regarding Conflict of Interest for consulting services, states:

“Consultants shall not be hired for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a

position of being unable to carry out the assignment in the best interests of the Borrower.”

In addition, it appears that the Bank’s Procurement Regulations are also not being followed regarding public disclosure surrounding the awarding of said contracts, which requires public disclosure of all rejected bidders and proposals.^{xi} Furthermore, these contracts were subject to the Bank’s prior review. As such, the Regulations require that the “Bank will arrange the publication on its external website of a conforming copy of the signed contract.” None of these disclosures appears to have taken place.

Nevertheless, when the World Bank was recently approached by *The Guardian* regarding potential Conflict of Interests related to ExxonMobil-linked Hunton Andrews Kurth law firm, the Bank responded that it reviewed the procurement and found no problems with the process.^{xii}

The World Bank operation is contributing to mounting governance problems, including decreasing transparency, in a drive to create a new oil industry in Guyana. Moreover, the World Bank continues to accelerate the oil development while turning a blind eye when its own regulations to protect against Conflict of Interest and lack of transparency are violated.

By providing financial support to help Guyana create an oil sector, the Bank is undermining the goals of the Paris Climate Agreement 2015 and acting contrary to Article 2(1)(c) which aims to restrict temperature increase by, “making financial flows consistent with a pathway towards low greenhouse gas development...”

The World Bank pledged in 2017 to end finance for upstream oil and gas by 2020. However, the World Bank stated that it would continue providing technical assistance to countries aimed at improving governance of oil development. The World Bank is clearly not improving governance in Guyana. Instead, the World Bank is undermining governance and facilitating the significant expansion of upstream oil development.

Guyana is currently in a fragile position. There is much strain and dispute surrounding the unresolved results of the March 2 election. Exacerbating this fragile situation, the *New York Times* reports “Opposition party suspicions have added to a growing number of voices within Guyana and abroad who worry that Exxon’s corporate muscle is overwhelming the country’s small and inexperienced government.”^{xiii} The World Bank-funded, Exxon-linked contractors are only adding to this strain.

Unless there is urgent intervention, the Exxon-linked contractors continue to draft new petroleum legislation and continue advising on new oil permits and contracts that will have significant consequences for the people of Guyana and the global Paris Climate Agreement goals. We are asking you to please intervene immediately to:

- **Halt the World Bank’s disbursement of funds through the Guyana Petroleum Resource Governance and Management Project.**
- **Instruct the World Bank to inform the Government of Guyana that the WB Project is suspended and the work of the ExxonMobil-linked contractors should be halted immediately.**

- **Require an independent investigation into the WB Project to determine if the hiring of contractors is in compliance with the Procurement Regulations and if the WB Project activities are in alignment with the Paris Climate Agreement's goals and principles.**
- **Suspend approval of any further World Bank assistance linked to the oil or gas sectors or operations providing general budget support for Guyana until it is clear that the WB Project is in compliance with Bank Procurement Policies and in alignment with the Paris Climate Agreement goals.** This includes, *inter alia*, no approval for the upcoming Second Programmatic Financial and Fiscal Stability Development Policy Credit.

We greatly appreciate your consideration of our requests and your actions taken to remedy the World Bank's violation of Procurement Regulations and the undermining of governance in Guyana.

Sincerely,



Ute Koczy

Urgewald, Germany



Knud Vöcking

ⁱ *OilNOW*, 2017. IDB/IDA begins funding Guyana O&G development programme. December 1, 2017. Available at: <https://oilnow.gy/featured/idbida-begins-funding-guyana-og-development-programme/>

ⁱⁱ While the Petroleum Resource and Management Project was approved on March 29, 2019, on July 18, 2018, the World Bank signed an agreement with the Government of Guyana to provide \$1.6 million in advanced funding for the Project (see Co-Operative Republic of Guyana: Advance Agreement for Preparation of Proposed Guyana Oil and Gas Capacity Building Project Preparation Advance No.V2160. Signed July 18, 2018.)

ⁱⁱⁱ <https://www.kaieteurnewsline.com/2019/05/17/sole-sourced-or-open-tenderquestions-surface-over-contract-awarded-to-exxonmobils-specialistman-hired-to-finish-guyanas-local-content-policy/>

^{iv} <https://gcci.gy/stakeholders-calls-being-ignored-draft-local-content-policy-plan-is-essentially-for-foreigners/>

^v <https://www.kaieteurnewsline.com/2020/02/13/guyanas-local-content-policy-remains-bound-by-confidentiality-provisions/>

^{vi} <https://www.kaieteurnewsline.com/2020/02/13/guyanas-local-content-policy-remains-bound-by-confidentiality-provisions/>

^{vii} <https://www.kaieteurnewsline.com/2019/09/06/draft-local-content-policy-proposes-oil-companies-reports-on-use-of-guyanese-goods-and-services-will-be-protected-by-confidentiality-clauses/>

^{viii} *Ibid.*

^{ix} *Ibid.*

^x The World Bank Procurement Regulations for IPF Borrowers: Procurement in Investment Project Financing Goods, Works, Non-Consulting and Consulting Services. July 2016. Revised November 2017 and August 2018.

^{xi} <https://gcci.gy/stakeholders-calls-being-ignored-draft-local-content-policy-plan-is-essentially-for-foreigners/>

^{xii} <https://www.theguardian.com/business/2020/mar/08/world-bank-accused-over-exxonmobil-plans-to-tap-guyana-oil-rush>

^{xiii} <https://www.nytimes.com/2020/03/18/world/americas/guyana-oil-exxon-elections.html>