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# The Beijing-led Asian Infrastruc- ture Investment Bank: Global Leader in Infrastructure, at What Cost?

A Study

BY KORINNA HORTA AND WAWA WANG

Published by the Heinrich Böll Foundation, May 2022





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# Executive Summary

The Beijing-led Asian Infrastructure Investment Bank (AIIB) opened for business in 2016 and rapidly became a major actor in global finance. By the end of 2020, the AIIB could count 102 approved member countries. The participation of Europe's largest economies as founding members of the AIIB was critical to the AIIB obtaining a triple-A credit rating from the world's leading rating agencies.

This paper provides an overview of the institution's close alignment with China and the concentration of decision-making power in its President. It then examines the AIIB's policy provisions on transparency and disclosure as the institution positions itself to enter a dynamic growth phase. These are stated in its Policy on Public Information (PPI) of 2018 and in its Environmental and Social Framework (ESF) of 2016, which was amended in 2019, and in the revised ESF, which entered into force in October 2021.

The AIIB plays an important role in China's efforts to shape a new form of multilateralism in which it defines the rules. China's President, Xi Jinping, refers to it as a new type of professional, efficient, and clean multilateral development bank (MDB). He had proposed the establishment of both the AIIB and China's flagship Belt and Road Initiative (BRI) in the same year and for the same purpose. However, in its early years, the AIIB sought to clearly demarcate itself from the BRI. This is no longer the case. The AIIB now refers to the natural complementarity between the two. A sign of cooperation is that the AIIB will begin to serve as the administrator for the Multilateral Cooperation Center for Development Finance (MCDF). Established by the Chinese Ministry of Finance, Chinese media refer to the MCDF as a platform for BRI investments. The MCDF is not subject to oversight by the AIIB's Board of Directors.

The AIIB's particular governance model is characterized as an innovation in efficiency. The AIIB's non-resident Board of Directors agreed to an arrangement known as the «Accountability Framework,» which entered into force in 2019 and increasingly delegates financing decisions to the AIIB's President. This concentration of decision-making power has no precedent at other MDBs.

The AIIB's business is financing large-scale infrastructure projects such as power plants, dams, and transportation corridors. Such investments by their very nature carry high environmental and social risks. They are also often associated with corruption and high levels of debt.

Standards on public access to information in advance of the approval of financing are a key element in addressing these risks. They allow for public scrutiny and participation, which are critical in helping to avoid or mitigate negative impacts and promote more sustainable outcomes.

To date, the AIIB has mostly contributed funds to the investments of other MDBs where the standards of the leading bank applied. However, now firmly established, the AIIB plans to increasingly develop its own lending pipeline with the goal of becoming the world's leading financier of infrastructure. This is where its own standards will matter in a fundamental way.

The AIIB's standards on transparency and public access to information are stated in its PPI (2018) and in its revised ESF, which entered into force in October 2021.

The PPI is largely limited to listing general principles and does not include a listing of documents to be made public. The policy does include exceptions, such as a provision for non-disclosure if a government considers the information to be sensitive.

The ESF is more specific and addresses public access to information on the environmental and social impacts of AIIB investments. Its recent revisions seek to address the concerns of some key shareholders by including a reference to specific timeframes for the public release of draft environmental assessments for high-risk projects. However, the very same paragraphs also contain caveats that leave the ultimate decision-making on whether and when to publish information to AIIB Management. Disclosure can be deferred or not take place at all, as in cases where transactions may be commercially sensitive. The provisions for lending through financial intermediaries (FIs), such as commercial banks and private equity funds, are even more open-ended, and none of the ESF provisions apply to the AIIB's efforts to mobilize private capital markets to expand its infrastructure reach.

The AIIB standards contain the right words and tick all the boxes. They are designed to address the sensitivities of some shareholding governments. But a closer reading reveals loopholes and caveats that undermine transparency and fail to ensure public access to information.

There is now a broader risk that the AIIB's efficiency drive, with its promises of no red tape and fast financing, encourages weaker safeguards and due process across the board as other MDBs fear losing out on investment and business opportunities. The need to closely monitor financial flows that potentially have severe environmental and social impacts has never been greater.

AIIB shareholders must fully employ their political capital to ensure that AIIB-supported, large-scale infrastructure projects do not cause both local and global harm. They should not become complicit in high-risk ventures that are incompatible with the rule of law and human rights, as well as the protection of the Earth's life support systems.

# Overview

The business of the Asian Infrastructure Investment Bank (AIIB) is all about support for large-scale infrastructure, which by its very nature carries significant environmental and social risks. The climate emergency and the alarming loss of the planet's biodiversity are closely related to ill-conceived, large-scale infrastructure projects. These include power plants and infrastructure for natural gas that lock in greenhouse gas emissions for decades to come, large hydro dams, mining projects, and export corridors that slice through the world's remaining wild areas and intact forests. In addition to the globally felt consequences, there are often severe impacts on local communities affected by pollution, loss of livelihoods, and forced resettlement.

Beyond the environmental and social impacts of large-scale infrastructure projects, they often serve as magnets for corruption and lead to the accumulation of unsustainable levels of debt that undermine longer-term development prospects.

Standards on transparency and public access to information in advance of the approval of financing are key elements in addressing these risks. This paper analyses the AIIB's standards that are stated in its Policy on Public Information (PPI) (2018) and its Environmental and Social Framework (ESF) (2016, 2021).

## A brief introduction to the AIIB

The AIIB provides loans to both governments and the private sector. But the areas where growth is expected to be highest is lending through financial intermediaries (FIs), such as commercial banks and private equity funds, as well as investments in publicly traded securities to support a greater role for capital markets in infrastructure.

Since it began operations in 2016, the AIIB has established itself as major actor in multilateral finance. Its membership grew from 57 founding members to 102 approved members by the end of 2020. Its rapid evolution speaks to the diplomatic skills of its President and his team, who were able to build on many years of experience gathered while working at the World Bank Group and other multilateral development banks (MDBs).

In addition to hiring staff from other MDBs, the AIIB has shown great strategic intelligence by hiring officials who previously occupied key government positions in countries that are important to the AIIB's international credibility. The current AIIB positions of Vice-President for Policy and Strategy and for Vice-President and Corporate Secretary are occupied by former senior government officials in the United Kingdom and Germany who

played key roles in the negotiations that led to both countries becoming founding members of the AIIB.<sup>[1]</sup> They work at the AIIB's most senior level in their personal capacities.<sup>[2]</sup>

The United Kingdom, Germany, France, and Italy – the largest European economies – became founding members of the AIIB in open defiance of the Obama Administration's request not to join the AIIB. Although the United States and Japan have, to date, not joined the AIIB, the membership of Western countries in the AIIB has been critical to the institution gaining international credibility. The participation of major European countries was essential for the AIIB to obtain the much-coveted triple-A credit rating from the world's leading credit rating agencies. Critical to the AIIB's international credibility are its claims to work on the basis of robust environmental, social, and governance (ESG) criteria. These claims would hardly have been taken seriously if based solely on the track record of its three largest shareholders: China, India, and Russia. The top rating enables the AIIB to raise additional funds on international capital markets beyond its initial subscribed capital stock of US\$100 billion.

As the driving force behind the AIIB, China is shaping a new form of multilateralism in which it defines the rules. The governance model adopted by the AIIB represents a radical departure from the established procedures at other MDBs.<sup>[3]</sup> In the name of efficiency, it increasingly concentrates decision-making power in the hands of the AIIB's President.<sup>[4]</sup> The assumption is that a fast and flexible (efficient) approach to finance will attract clients and move the AIIB toward its stated goal of becoming the world's lead financier in infrastructure finance from 2021 onwards.<sup>[5]</sup>

Ensuring transparent governance, fairness, and environmental sustainability in AIIB-supported activities will continue to be a major challenge for government shareholders. The growing reliance on using private equity funds and other FIs as well as the new emphasis on supporting private capital markets further complicates detailed supervision. The risks

- 1 They served as Chief Secretary to the Treasury and as Chief Economist in the German Ministry of Finance, institutions that are represented on the AIIB's Board and as such have a supervisory function; see AIIB (2021, July 22), AIIB Makes Changes to Leadership Team, <https://www.aiib.org/en/news-events/news/2021/AIIB-Makes-Changes-to-Leadership-Team.html>
- 2 There had sometimes been the misperception that Europeans who occupy top management positions at the AIIB are representing their home countries. They are not. They are pursuing their personal career interests.
- 3 See K. Horta (2019), The Asian Infrastructure Investment Bank (AIIB): A Multilateral Bank Where China Sets the Rules, Berlin: Heinrich Böll Foundation and Urgewald, <https://www.boell.de/en/2019/03/26/asian-infrastructure-investment-bank-aiib-multilateral-bank-where-china-sets-rules>
- 4 AIIB (n.d.), Paper of the Accountability Framework, p. 1, paragraph 3, became effective in January 2019.
- 5 AIIB (2018, February 9), Strategy on Mobilizing Private Capital for Infrastructure.

this represents to the environment cannot be overstated, because affected communities risk being swept aside in the name of infrastructure development.

Large-scale infrastructure development is a critical contributing factor to the climate emergency and the irreversible losses of biodiversity, which have reached critical levels. The need for social and environmental safeguards to be monitorable in a public way has never been greater. Yet, the political space for such public oversight has been shrinking dramatically in many countries or has disappeared entirely.

This adds to the responsibility of AIIB shareholders, who have provided the AIIB with international credibility to exercise serious oversight of AIIB-supported activities and ensure the time-bound public release of critical environmental and social documentation, including land acquisition and resettlement plans.

Disclosure of such information within established timeframes is critical to obtaining input from affected communities and other third parties to minimize project risks, possibly reformulate project design, or find alternatives. Transparency of detailed project information also supports anti-corruption efforts and helps avoid the build-up of debt, which serves little or no purpose. This applies not only to lending for specific projects but to all lending and investment instruments.

Public and parliamentary pressure and the engagement of key, mostly European shareholders of the AIIB has led to the introduction of some disclosure deadlines in the AIIB's revised ESF, which entered into force in October 2021. However, our analysis shows that what seems to be a welcome development at first sight is immediately undermined by other provisions, loopholes, and caveats, which ultimately leave public disclosure decisions to Bank Management and the client. In addition, the ESF does not apply to the new frontier of AIIB engagement in mobilizing private capital markets to expand its reach in infrastructure investment.

This paper provides an overview of the institution's close alignment with China and the concentration of decision-making power in its President. It then examines the AIIB's policy provisions on transparency and disclosure as the institution positions itself to enter a dynamic growth phase. These are stated in its PPI of 2018 and in its ESF of 2016, which was amended in 2019, and in the revised ESF, which entered into force in October 2021.



# Why the AIIB's Specific Context Matters

## Shaping a New Type of Multilateralism

In his opening remarks at the 2020 AIIB Annual Meeting, President Xi Jinping stated:

*«In late 2013, I proposed on China's behalf the establishment of the AIIB. The initiative is designed to develop infrastructure and connectivity in Asia and deepen regional cooperation for shared development. On January 16, 2016, the AIIB was officially launched. In the ensuing years or more, the AIIB has followed the operating model and principles of multilateral development banks and acted as a truly international, rule-based, and high-standard institution. [...] With more good friends and partners getting on board for higher quality cooperation, the AIIB has established itself in the world as a new type of professional, efficient, and clean multilateral development bank.»<sup>[6]</sup>*

This concise overview by President Xi of the development of the AIIB offers an important entry point for our understanding of the AIIB. It indirectly calls attention to the fact that China's Belt and Road Initiative (BRI) and the AIIB were initiated by the same leadership, in the same year, and for the same purpose. Already earlier, AIIB President Jin Lique asserted that both the AIIB and the BRI were initiated by the Chinese government, and function as «two engines of an airplane,» serving the same purpose.<sup>[7]</sup>

In its early years while it was still consolidating itself as an international actor, the AIIB insisted on being distinct from the BRI and emphasized that some overlap was merely coincidental, as both are investing in large-scale infrastructure. More recently in well-chosen words, the AIIB insisted that it is an international institution as opposed to the BRI, which was established by the Chinese government.<sup>[8]</sup>

Given its membership, the AIIB is indeed an international institution. However, in view of growing concerns on the lack of accountability and transparency practices associated with Beijing-led investments and projects around the world, European and like-minded members of the AIIB must redouble their efforts to closely scrutinize the Beijing-led institution's

**6** Remarks by H.E. Xi Jinping, President of the People's Republic of China, at the Opening Ceremony of the Fifth Annual Meeting of the Asian Infrastructure Investment Bank, Beijing, July 28, 2020, [https://www.fmprc.gov.cn/ce/cgbelfast/eng/zgxw\\_1/t1801603.htm](https://www.fmprc.gov.cn/ce/cgbelfast/eng/zgxw_1/t1801603.htm)

**7** See [https://www.thepaper.cn/newsDetail\\_forward\\_3231704](https://www.thepaper.cn/newsDetail_forward_3231704) (in Chinese).

**8** See J. Lique (n.d.), The AIIB As a New Player in Infrastructure Financing, OAV, <https://www.oav.de/iap-32018/artikel-915.html>

investments. Ensuring transparency and time-bound information disclosure play a paramount role in their ability to monitor the Bank they are supporting.

Transparency and public access to information are essential to all infrastructure investments whether the financing banks are located in Washington, Frankfurt, Manila, or elsewhere. Freedom of the press and the internet as well as freedom of civil society to organize provide a measure of checks and balances. When a Washington-based bank created problems for villagers in India, they were able to bring their case to the US Supreme Court. The German Parliament frequently raises questions that are meant to hold the German government's participation in MDBs accountable. None of this is perfect, but it is essential to the values of democratic systems.

The political culture of the AIIB's largest shareholder leaves little to no room for freedom of expression, public questioning, or dissent. The coercive apparatus of China's one-party system permeates all sectors of activity, and even the slightest divergence from the official narrative is punishable. President Xi has tightened his grip over the country's media and civil society, including those involved with human rights as well as environmental and public health issues. This cannot but increase the responsibility of the AIIB's shareholders to closely scrutinize AIIB projects and their impacts.

In his opening remarks, President XI stated that, in the years following its inception, the AIIB followed the models and principles of MDBs. Indeed, the AIIB showed great strategic intelligence by filling senior management positions with former government officials from countries that are important for building the institution's international credibility as well as others who had extensive previous experience in other MDBs. Not surprisingly, its founding constitution – the Articles of Agreement – and several of its policies largely mirror, in an almost cut and paste fashion, the corresponding policies of existing banks.

But as President Xi indicates in his remarks, the AIIB has now entered a new chapter. He states that, following the initial years of consolidating its membership («... With more good friends and partners getting on board for higher quality cooperation... »),<sup>[9]</sup> the AIIB has now established itself in the world as a new type of more efficient institution.

9      Remarks by H.E. Xi Jinping (see note 6).

## A New Governance Model: Concentration of Decision-making Power

With the goal of being perceived as more efficient, faster, and more flexible than other banks, the AIIB has adopted a new model of governance designed to expedite financing decisions. Known as the «Accountability Framework,»<sup>[10]</sup> it formalizes the delegation of decision-making power on project financing from the Board of Directors to the AIIB's President. It took effect in January 2019 and initially only applies under certain conditions. The first project in a given sector or a given country, as well as projects in non-regional countries, still require the approval of the Board. Other than that, the AIIB President can decide on the financing of projects for up to US\$200 million for the public sector, US\$100 million for the private sector, and US\$35 million for equity investments. Both the amounts of lending and the proportion of projects that the President can approve on his own are set to increase over time.

The emphasis on efficiency and the fast processing of financing decisions risks cutting short anything that may be perceived as time-consuming and unnecessary red tape. This includes adhering to time-bound rules on information disclosure that enable the public – and especially directly affected communities – to provide input into the design of infrastructure projects, which often require land acquisition entailing forced resettlement and loss of livelihoods.

The «lean» in the AIIB's slogan of being «Lean, clean and green» implies less bureaucracy and fewer due diligence staff. This «lean» approach is likely to be highly problematic when it comes to avoiding and mitigating the environmental and social impacts of large-infrastructure – the core business of the AIIB. Substantial resources in specialized staff and in time are required to ensure adequate baseline studies, meaningful consultations with affected communities, and other fundamental measures are carried out. This is unless, of course – as seems to be the case – the AIIB simply leaves these to its clients, thereby limiting itself to the minimum of due diligence requirements.

The «lean» approach is also expressed in the way the AIIB Board works. Contrary to the wishes of Germany, France, and other shareholders, the AIIB's Board of Directors is a non-resident Board. The AIIB has deflected the concerns about this setup by pointing to the non-resident Board structure in the European Investment Bank. However, the European Investment Bank's principles are based on EU primary law and policies, including the Charter of Fundamental Rights, which guarantee the principles and right to access documents that ensure the transparency and democratic legitimacy.

**10** AIIB, Paper of the Accountability Framework (n.d.), p. 1, paragraph 3, became effective in January 2019.

This non-resident and mostly non-full-time Board appears to have been swayed by the AIIB's efficiency arguments. The Board agreed to the Accountability Framework in the absence of clear rules on public access to information on projects. Even the level of detail of information made available to the Board is unclear. The Board will have access to a revolving two-year pipeline of proposed projects, which is limited to basic information about the name, sector, country, and loan amount of the project. At a later stage, timeline unspecified, the Board will be provided with a Project Summary Document. The question is whether a brief summary is sufficient to reflect the significant risks associated with large-scale infrastructure development.

The term «Accountability Framework» is an example of the AIIB's adoption of the terminology used by other banks but imbuing it with a different meaning. At the World Bank Group, the Asian Development Bank, and other MDBs, the term «accountability» has become closely associated with their «Accountability Mechanisms.» These have become important pillars of governance at these institutions over the past 25 years. Accountability Mechanisms represent bottom-up accountability since they are charged with independently investigating local complaints about a lack of compliance with environmental and social policies and with facilitating mediation. In contrast, the AIIB's Accountability Framework is a top-down arrangement designed to accelerate financing decisions.

The AIIB has stated that it will undertake a review of its Accountability Framework. When it does so, it should take into account an evaluation report by the European Bank for Reconstruction and Development (EBRD). This evaluation identified serious problems in the delegation of project approval decision power for much smaller amounts of funding.<sup>[11][12]</sup>

The fact that the AIIB concentrates decision-making power in the hands of its President to an extent unknown at traditional MDBs makes adherence to clearly spelled out, mandatory rules on transparency and the disclosure of documentation in all areas of lending and investment even more important. Since the AIIB delegates much of the responsibility for the environmental and social management of AIIB-supported activities to its clients, such documentation must include the AIIB's own assessment of environmental and social management systems, track record, and implementation capacity of its sovereign and

**11** The EBRD allowed the management to approve projects by way of delegated authority for the threshold of €25 million, raised from €10 million, in a pilot project. In ensuring institutional checks and balances, the EBRD's Evaluation Department assessed the delegation of project decision power and found the quality to have suffered: For instance, the vague description of the use of funds, and shortcomings on the quality of project design, approval, and reporting documents. Furthermore, the evaluation highlighted the lack of a system for informing the EBRD Board about material changes to projects approved by delegation.

**12** Special Study on Delegated Authority by EBRD's Evaluation Department, March 2019.

non-sovereign clients, as well as of the financial intermediaries (FIs) and asset managers to whom AIIB investments are channeled.

Under the Accountability Framework, the Bank has approved thirteen large-scale infrastructure projects in the energy, water, and transportation sectors as of March 2022.<sup>[13]</sup> According to brief project summaries disclosed on the day of – or one day after – project approval, at least two of the four approved projects would require major land acquisition and involuntary resettlement. However, the late – and miniscule – disclosure of the project's environmental and social impact assessments means that neither the Board nor independent monitors have had an opportunity to suggest improvements to the project design prior to approval.

## Toward Global Leadership in Infrastructure Finance

During its initial years, the AIIB mostly contributed funds to investments made by other MDBs in which the environmental, social, and transparency policies of the leading bank apply. It used this opportunity for institutional consolidation and capacity-building.

While continuing with co-financing arrangements, the AIIB is now preparing to enter a new stage in its development by increasingly developing its own lending pipeline without referrals from other banks. According to its Strategy on Maximizing Private Finance, the goal is to become the global leader in infrastructure investments from 2021 onwards.<sup>[14]</sup> These investments are not to be limited to Asia but also target Africa, Latin America, and Europe.

Although public funding remains important, constraints on government budgets indicate that there is not much room for expansion by relying mostly on public sources. Using limited public funds to mobilize private finance is becoming more prevalent among multilateral financial institutions. Using FIs such as commercial banks and private equity funds is meant to broaden their reach.<sup>[15]</sup> Although this type of outsourcing carries risks for all multilateral institutions, corrective action is more feasible where freedom of speech and association as well as a free press enable checks and balances.

**13** The AIIB states in March 2022 that it approved 13 projects under the Accountability Framework. Some of these projects – in water, energy and transport sectors – are category A and high risk due to impacts caused by permanent resettlement and land acquisition. The project summary information documents do not clearly label if and when a project has been approved under the Accountability Framework.

**14** AIIB (2018, February 9), Strategy on Mobilizing Private Capital.

**15** AIIB (2021, May), Environmental and Social Framework, p. 8, paragraph 28.



## *Risky business with ESG*

One example of the AIIB's efforts at mobilizing private capital is its investment of US\$150 million in April 2020 in the Keppel Asia Infrastructure Fund, a Singapore-based private equity fund created by the Keppel Corporation.<sup>[16]</sup> Another of the corporation's offshoots, Keppel Offshore & Marine, was fined US\$422 million in December 2017 for paying US\$50 million in bribes to obtain lucrative deals in Brazil's oil sector.<sup>[17]</sup>

The AIIB delegates decision-making on sub-projects to be funded by FIs such as the Keppel Fund to the Keppel Fund's managers, who are also in charge of implementing and monitoring environmental and social impacts according to an ESG system, which they themselves put in place for each sub-project.<sup>[18]</sup> Although the AIIB claims that all will be done in accordance with its own environmental and social policies and that it will retain an environmental and social review function in initial sub-projects, this is not convincing in the absence of publicly available assessments of the FI's environmental and social management systems, implementation capacity, and track record.

In addition, the AIIB seeks to increase its investments in publicly traded securities in support of capital market engagement in infrastructure development. These investments are meant to operate within an undefined ESG Framework applied by an asset manager. Although infrastructure development – irrespective of the source of its financing – has real impacts on the environment and communities, the AIIB still chose to forgo its own standards for this new dynamic frontier of investment.

ESG standards are notoriously ill-defined, and there are increasing concerns about greenwashing in the ESG bond market. A series of articles in the Financial Times emphasize the need for independent data to support ESG claims and for much better oversight if they are not to turn into wasted money and a wasted opportunity to achieve something positive.<sup>[19]</sup> There is no indication that shareholders or the public will gain access to any kind of investment-specific information. This intentional withholding of information on how the portfolio develops into concrete sub-projects represents a serious obstacle to communities that are

**16** TEMSAK, Singapore's State Fund, holds ca. 20 percent of the shares in its parent company, the Keppel Corporation.

**17** H.E. Moyer, Jr. (2019), Anti-corruption Regulation, <https://www.lalive.law/wp-content/uploads/2019/11/GTDT-Anti-Corruption-Regulation-2019-1.pdf>

**18** See AIIB (n.d.), Multicountry: Keppel Asia Infrastructure Fund, <https://www.aiib.org/en/projects/details/2020/approved/Multicountry-Keppel-Asia-Infrastructure-Fund.html>

**19** Financial Times (2020, August 4), Sustainable Funds Must Work Harder to Vet Their Investments; Financial Times (2021, May 13), Swiss Private Banks at Odds with Clients over ESG; Financial Times (2021, July 16), The Activist Antidote to ESG Guff; Financial Times (2021, July 18), The Private Equity Backlash against ESG.

negatively affected by the investments as well as those that are denied access to any type of accountability measures or redress.

### *Multilateral cooperation with BRI in the center*

A different approach to expansion is the AIIB's new role as the administrator and host of the Multilateral Cooperation Center for Development Finance (MCDF). The MCDF is meant to coordinate and mobilize financing for infrastructure and connectivity, which would then be administered and presumably invested by the AIIB. The MCDF is characterized as functionally independent of the AIIB, that is, it does not respond to the AIIB's Board, but to a separate governing body.

Although the MCDF will have its own governance body, which will be responsible for ensuring all projects meet «Accredited IFIs Standards,»<sup>[20]</sup> there is no indication that it will have its own staff to prepare projects for financing. In the absence of clarity on detailed operations and standards, including its own policy on information disclosure, AIIB issued a directive (February 2021) stipulating how the AIIB Vice-President for Policy and Strategy will oversee administrative tasks. While the limited information available to the public points to how the MCDF's secretariat is headed by a CEO, the AIIB has not proactively disclosed to the public that the CEO of MCDF is in fact the Director General of the International Economic and Financial Cooperation Department of China's Ministry of Finance.<sup>[21]</sup>

This MCDF was established at the initiative of China's Ministry of Finance and, according to Chinese governmental reports, it is one of the deliverables of the 2017 Belt and Road Forum for International Cooperation that was held in Beijing.<sup>[22]</sup> Although Chinese media refer to the MCDF as a platform for BRI investments, a memorandum of understanding signed with eight multilateral financial institutions in 2019 makes no mention of the BRI.<sup>[23]</sup> Whereas some observers consider that the MCDF is intimately tied to the AIIB to potentially bring AIIB firepower into the broader BRI,<sup>[24]</sup> China's 2021 Whitepaper on

**20** Governing Instrument of the Finance Facility of the Multilateral Cooperation Center for Development Finance.

**21** China's International Development Cooperation in the New Era, The State Council Information Office of the People's Republic of China (January 2021), [http://www.mod.gov.cn/big5/topnews/2021-01/10/content\\_4876879\\_4.htm](http://www.mod.gov.cn/big5/topnews/2021-01/10/content_4876879_4.htm)

**22** See [http://www.xinhuanet.com/english/2017-05/15/c\\_136286376.htm](http://www.xinhuanet.com/english/2017-05/15/c_136286376.htm)

**23** Memorandum of Understanding on Collaboration on Matters to Establish the Multilateral Cooperation Center for Development Finance (March 25, 2019).

**24** See ODI (2020, September 15), Broadening the Belt and Road: China's New Fund for Multilateral Cooperation, <https://odi.org/en/insights/broadening-the-belt-and-road-chinas-new-fund-for-multilateral-cooperation/>

International Development and Cooperation confirms how the MCDF's primary purpose is to «attract more investment in the Belt and Road.»<sup>[25]</sup>

The memorandum of understanding refers to cooperation but does not include a commitment to funding. As per publicly available information, in addition to China, five other countries have contributed funding to the MCDF – Egypt, Saudi Arabia, Hungary, Cambodia, and the Philippines – for a total of US\$180.2 million.<sup>[26]</sup> All of them are known for their questionable records of governance.<sup>[27]</sup>

As the AIIB expands increasingly into lending for stand-alone projects, lending to and investing in FIs and capital markets, as well as its role in administering the MCDF, it is fundamentally important to ensure that shareholders and the public have the ability to monitor the environmental and social impacts of AIIB-supported investments. This requires the time-bound disclosure of documentation on the environmental and social impacts of the infrastructure initiatives being supported, on how these impacts will be addressed, and how they will be independently monitored, as well as how the monitoring and evaluation findings will be made available to the public.

**25** See [http://www.mod.gov.cn/topnews/2021-01/10/content\\_4876879.htm](http://www.mod.gov.cn/topnews/2021-01/10/content_4876879.htm)

**26** See <http://www.chinadaily.com.cn/a/202007/08/WS5f0582c6a3108348172581cf.html>

**27** According to the minutes from the 12th Coordination Committee meeting held in July 2021, Italy, Korea, Switzerland, and the United Kingdom participated as observers. The UK has joined as part of Treasury's 2019 UK-China financial dialogue.

# The AIIB's Transparency-related Policy Provisions

Certain kinds of information, such as that related to personnel and business confidentiality, is not made public. This is justified and common practice. However, information on the specific locations of and details about projects – including their direct and indirect environmental and social impacts – do not fall into this category. There can be no justification to keep this type of vital information confidential and independent of the financing instrument being used.

## The Policy on Public Information

Upon the Bank's adoption of the PPI in 2018, the AIIB President said, «Transparency and accountability are the two main pillars of AIIB's governance.»<sup>[28]</sup>

The PPI emphasizes its intention to provide a maximum of disclosure and transparency. However, the PPI is a «principles-based» as opposed to a «list-based» policy. This means that it is focused on what it refers to as «overarching intentions,» on governing principles, and on a list of exceptions of where the principles do not apply. It does not include a list of specific documents to be disclosed and the timing of the disclosures.

Although the key principle listed in the PPI – «Presumption in Favor of Disclosure» – is welcome, it is insufficient. What needs to be added to the principle is a detailed list of documents that are disclosed, and those that are subject to exceptions.<sup>[29]</sup> The principle on its own does not affect the current practice of keeping documents confidential, which would clearly be in the interest of an informed dialogue between all stakeholders. These include documents that are clearly in the public interest, such as the monitoring reports<sup>[30]</sup> for all of

**28** See AIIB (2018, October 11), AIIB Modernizes its Policy to Increase Transparency, <https://www.aiib.org/en/news-events/news/2018/AIIB-Modernizes-its-Policy-to-Increase-Transparency.html>

**29** It is the prerogative of the AIIB President to issue directives on the implementation of policies. The Directive on Public Information issued in November 2019 includes a list of some documents to be made public, but no timeframes for environmental and social documentation, [https://www.aiib.org/en/about-aiib/who-we-are/role-of-law/.content/index/\\_download/Directive-on-Public-Information.pdf](https://www.aiib.org/en/about-aiib/who-we-are/role-of-law/.content/index/_download/Directive-on-Public-Information.pdf)

**30** AIIB's Directive on Sovereign-backed and Non-sovereign-backed Financings (July 10, 2019) stipulates that the bank discloses its implementation monitoring reports for sovereign-backed financing and is silent on the disclosure of implementation monitoring reports for non-sovereign-backed projects. At the same time, the bank discloses «the full Project Document promptly following the approval of the Financing.»

AIIB's projects and its Early Learning Assessments, which were meant to inform the review of the AIIB's ESF.

The «overarching intentions» include an exception concerning «Due Regard to the Efficiency of the Bank.»<sup>[31]</sup> This translates into a loophole where efficiency and cost considerations may override the stated intention of maximum transparency. Leaving it to the discretion of AIIB Management to prioritize efficiency can only weaken incentives for implementation and ultimately justify the confidentiality of information that is of public interest.

The PPI also includes an exception that allows for the non-disclosure of information that might «compromise the international character of the Bank, in accordance with Article 31 of the Articles of Agreement, or is inconsistent with the Bank's duty of due respect to national laws and regulations.»<sup>[32]</sup>

The international character of the AIIB and its obligation to not interfere in the internal affairs of its member countries is clearly laid out in its Articles of Agreement, and it is left unclear as to how this relates to implementing the PPI.<sup>[33]</sup>

Including an exception concerning due regard for national laws and regulations in the PPI opens the doors to the non-disclosure of information on AIIB-supported projects if a government deems this to be sensitive.

### *Withholding critical evaluation information*

An example of the PPI's serious limitations is that it delegates disclosure rules to other AIIB policies. An example is the AIIB Learning and Evaluation Policy of 2021, which did not allow the disclosure of the Early Learning Assessment,<sup>[34]</sup> which was meant to review how the AIIB had implemented its ESF of 2016 and inform the review of this framework. Contrary to the practice at other MDBs, which routinely publish such evaluations, the AIIB's lack of disclosure forecloses public discussion of its evaluations and the lessons to be drawn from them.

In his introduction to the AIIB's Annual Report 2020, AIIB President Jin Liqun states: «Thinking openly about how we can improve our processes, products, and communications

**31** AIIB, Policy on Public Information, September 2018, paragraph 4.3.

**32** AIIB, Policy on Public Information, September 2018, paragraph 8.1.6

**33** This point is also raised by the Office of the United Nations (UN) High Commissioner for Human Rights, Recommendations for AIIB Policy on Public Information, March 16, 2018.

**34** AIIB Learning and Evaluation Policy, approved May 19, 2021, Section X, paragraph 21.



for the sake of our clients and Members must become core to the hallmark AIIB way.»<sup>[35]</sup> This did not apply to the Early Learning Assessment, despite it being an important input into the revisions of the ESF. Extremely well-executed public relations work by the AIIB must not be allowed to obfuscate the fact that the «hallmark AIIB way» was defined by President Xi Jinping, who at the AIIB's Annual Meeting in 2020 vowed to revamp the AIIB as a model for multilateral cooperation.<sup>[36]</sup>

Also, contrary to the expectations that had been raised, the PPI does not address information related to environmental and social impacts. It refers to paragraphs 57 and 58 of the AIIB's ESF of 2016 as dealing with this matter.

## The Environmental and Social Framework of 2016

Why does the AIIB's ESF of 2016, which underwent critical amendments in 2019, still matter when the revised ESF entered into force in October 2021? The ESF of 2016 remains important for the foreseeable future, as it is applicable to all projects and programs approved before October 1, 2021. At present, this covers about 134 approved projects for a total of US\$26.45 billion and possibly a portion of the ca. US\$50 billion in the pipeline of committed financing and included in the Project Preparation Special Fund financing. As with all infrastructure projects, they take several years to be built, and some of their impacts may only manifest years later.

### *A deliberate weakening of informed decision-making*

As noted in the PPI, the ESF of 2016 includes two paragraphs addressing information disclosure. These refer to the obligations of the client (para. 57) and those of the AIIB (para. 58). Although they contain the right wording, they do not include the essential time-bound requirements for the public release of documents, such as environmental and social impact assessments and resettlement plans. Instead, they call for the «**timely**» release of documents. In the case of sovereign-backed loans, this ought to occur prior to appraisal, while loans to the private sector should do so as early as possible during appraisal.<sup>[37]</sup>

**35** AIIB (n.d.), 2020 AIIB Annual Report and Financials, [https://www.aiib.org/en/news-events/annual-report/2020/home/index.html?utm\\_source=i4t%20newsletter&utm\\_medium=mailchimp&utm\\_campaign=July%20issue](https://www.aiib.org/en/news-events/annual-report/2020/home/index.html?utm_source=i4t%20newsletter&utm_medium=mailchimp&utm_campaign=July%20issue)

**36** See C.K. Tan (2020, July 28), Xi Vows to Revamp AIIB As model for Multilateral Cooperation, Nikkei Asia, <https://asia.nikkei.com/Economy/Xi-vows-to-revamp-AIIB-as-model-for-multilateral-cooperation>

**37** AIIB (2016, February), Environmental and Social Framework, paragraphs 57 and 58.

In February 2019, a technical amendment to these paragraphs was decided upon behind closed doors. This amendment further weakened these already vague provisions.<sup>[38]</sup> The amendment instructs the client to make information public «**as soon as it becomes available.**» This is a further downgrading from the previous provision of publishing information **prior to appraisal** (public-sector loans) or **as early as possible during appraisal** (private-sector loans).

Furthermore, the technical amendment allows Bank Management to postpone disclosure to an undefined future date in cases that are deemed to be commercially sensitive or where the financial worth or assets of a corporate entity could be affected. This means that commercial or corporate interest can outweigh the public interest in the release of information on environmental and social impacts that may potentially cause irreversible harm locally and contribute to global emergencies.

Bank Management has a self-interest in making loans. Yet, the policy provision leaves it to its potentially arbitrary decision-making to determine whether and when information is made public.

Already prior to the introduction of the technical amendment to the ESF, some European shareholder governments had considered the two existing paragraphs on information disclosure as being too vague. In meetings with civil society, they expressed their conviction that the final version of a new AIIB Policy on Public Information, which was then being developed, would fill the gaps and provide clear rules on time-bound requirements for information disclosure. As we have seen in the review of the PPI above, these expectations were not met.

The ESF of 2016 was in effect until September 30, 2021. All projects approved by the AIIB up until then were subject to its provisions during their entire project cycle, which means for years to come.

**38** AIIB (2019, March 14), Environmental and Social Framework, [https://www.aiib.org/en/policies-strategies/\\_download/environment-framework/Final-ESF-Mar-14-2019-Final-P.pdf](https://www.aiib.org/en/policies-strategies/_download/environment-framework/Final-ESF-Mar-14-2019-Final-P.pdf)





Construction site of a liquefied natural gas (LNG) terminal operated by Beijing Gas





## Examples of the weak implementation of the current ESF

### **Box 1: A Project on the AIIB's Doorsteps: Beijing Gas**

*An example of the lack of the AIIB's responsiveness to requests for information is the free-standing AIIB project loan of US\$ 250 million in 2017 to Beijing Gas, a private company. The project's goal is to improve air quality in Beijing by replacing coal with natural gas in surrounding villages, affecting more than 200,000 mainly poor households. The documentation omits crucial information, notably the list and location of the 510 affected villages. Given the project's location on the doorsteps of AIIB headquarters, this information should have been easily made available. But when European shareholders requested this information, the AIIB declined the request with the argument that, as a private company, Beijing Gas was not required to release detailed project information. When some information was eventually disclosed more than one year later, it was limited to the villages where implementation of the project had already taken place, but there was no information on the remaining villages where implementation would take place.*

*There are no transcripts of any concerns raised by the villagers about the design and operations of the project. There are no indications about the affordability of the gas for the more than 200,000 mainly poor households that are affected. For many, it may simply mean that access to energy for heating and cooking will be beyond reach.*

*Despite the earlier controversy surrounding Beijing Gas, in September 2019 the AIIB listed a new loan proposal of US\$ 500 million for Beijing Gas to build extensive liquefied natural gas infrastructure. As a high-risk category «A» project, it will have significant environmental and social impacts, both locally and as a further contributor to global greenhouse gas emissions.*

*In the same vein, there are many projects for which critical information has been lacking, during both the early planning phases and when projects are approved by the Bank, including where the project is sited or gender-disaggregated detailed documentation on resettlement and livelihood restoration plans.*



Aerial view of the Kuta Mandalika,Lombok, Indonesia





## **Box 2: Tourism Development on Lombok Island, Indonesia: The Mandalika Project<sup>[39]</sup>**

*AIIB's Vice-President, Joachim von Amsberg, stated that the Bank would take land procurement issues more seriously into account in assessing its infrastructure funding for Indonesia, and that land acquisition was indeed «a pretty challenging issue and quite critical for most infrastructure projects.»<sup>[40]</sup>*

*One such example is the Mandalika Urban Development and Tourism project, a category «A» project due to the nature of the project activities as well as the significant and irreversible impacts to the environment and communities, including Indigenous People. As AIIB's first standalone project in Indonesia, the so-called environmental and social due diligence assessment failed to disclose the most critical aspects relating to resettlement, land acquisition, and livelihood restoration critical to protecting the rights of the people impacted by the project. Furthermore, the Bank's own project monitoring report did not disclose the deployment of military and security personnel for the involuntary land acquisition between 2018 and 2020,<sup>[41]</sup> in spite of land acquisition taking place at an increased rate shortly after a civil society dialogue with the AIIB at its annual meeting in Luxembourg, July 2019.<sup>[42]</sup>*

*Both the AIIB and its client for the project – the Indonesia Tourism Development Corporation (ITDC) – claimed that 92.70 percent of the land to be acquired for the project was «Clean and Clear,» as in free of land title or disputes. However, land grabbing and involuntary displacement occurred in the Mandalika region on the island of Lombok for many years leading up to project approval, including in the planning of the AIIB project areas and the areas of project influence. The provincial government of West Nusa Tenggara (Lombok), where the project is sited, published a notice urging the ITDC to resolve land conflicts and livelihood restoration as a direct result of the Mandalika project in October 2018, two months before the project was approved by the AIIB.<sup>[43]</sup>*

*The environmental and social impact assessment documents failed to address how the AIIB's ESF requirement for public consultation and compensation prior to forced*

**39** Contains excerpts from Infrastructure Monitoring Coalition of Indonesia and Verein für sozial-ökologischen Wandel's Mandalika project monitoring reports (2019–2021).

**40** «AIIB to highlight land issues in loans assessment,» via <https://www.urbangateway.org/news/aiib-highlight-land-issues-loans-assessment>

**41** Institute for National and Democracy Studies (2019), AIIB Financial Support for Indonesia's Mandalika SEZ Deprives People's Rights.

**42** Reported in 2018 by rri.co.id. (an Indonesian media outlet) and independent monitors who conducted several site visits between 2018 and 2020.

**43** Government of West Nusa Tenggara Province Regional Secretariat, October 29, 2018 (no. 120/230/Pem/2018).

*resettlement and involuntary land acquisition has routinely been circumvented via the use of Indonesia's Law 2/2012 on Land Acquisition for Public Interest. The AIIB's disclosure of the client's completed Resettlement Action Plan was first disclosed 15 months after project approval.*

*Where livelihood restoration is concerned, the AIIB greenlighted the ITDC to use a unilaterally decided sum – devoid of meaningful public input – instead of providing land-for-land replacement for those with land-based livelihoods whose lands have been seized. The ESF requirement to provide compensation that is equivalent to and/or adequate for asset replacement costs has clearly not been met.*

*In not disclosing a «gap analysis» on the client's social due diligence, which is largely reliant on the use of the country legal framework (known as the «country system» or «client system»), the AIIB omits making transparent which measures it is taking to overcome such gaps to ensure that its minimum environmental and social safeguard requirements are met. The consequence is thus felt by project-affected communities, which have been deprived of any protection measures.*

*As late as September 2020, communities have reported that the land acquired through the buying and selling process has been done under conditions of intimidation and coercion. Closely monitoring the escalations at the project level, Indonesia's Human Rights Commission issued a public statement criticizing the ITDC for perpetrating an act of arbitrary land acquisition without any legal basis.<sup>[44]</sup> The Commission's attempt to intervene in the unauthorized land grabbing in late August 2020 calls attention to the strategy on the part of AIIB's client to evict by force, contrary to the claims of the Bank.<sup>[45]</sup> In early 2021, independent experts from the UN Human Rights Council Special Procedures<sup>[46]</sup> questioned the AIIB's practices and lack of due diligence after*

**44** Komnas HAM RI Dorong Perlindungan Hak atas Tanah Warga Terhadap Pratik Penggusuran Paksa di Kawasan Ekonomi Khusus Mandalika, NTB. Komisi Nasional Hak Asasi Manusia Republik Indonesia (Keterangan Pers, Nomor: 036/Humas/KH/IX/2020).

**45** Bank's response conveyed by the German government in a parliamentary inquiry (IC3-BIF5059/15/10044:001, DOK 2020/0864354), September 8, 2020.

**46** The special procedures experts are: Mr. Olivier De Schutter, Special Rapporteur on extreme poverty and human rights; Francisco Cali Tzay, Special Rapporteur on the rights of indigenous peoples; Ms. Mary Lawlor, Special Rapporteur on the situation of human rights defenders; Mr. Obiora Okafor, Independent Expert on human rights and international solidarity; Mr. Balakrishnan Rajagopal, Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Mr. Livingstone Sewanyana, Independent Expert on the promotion of a democratic and equitable international order; the UN Working Group on human rights and transnational corporations and other business enterprises (known as the Working Group on Business and Human Rights): Mr. Dante Pesce (Chairperson), Mr. Surya Deva (Vice-Chairperson), Ms. Elżbieta Karska, Mr. Githu Muigai, and Ms. Anita Ramasastry.

*considering testimonies from Indigenous and other communities that – when they asserted their rights to information and participation in the face of the threat of loss of land and livelihoods – suffered severe consequences.<sup>[47][48]</sup>*

*The findings highlight why the mandatory early disclosure of the Bank's assessment of the client's track record and its own environmental and social due diligence documents prior to project approval is key to mitigating risks and reduce the impacts being painfully felt by the already impoverished communities. These include the Indigenous communities that the AIIB promises to lift out of poverty through its financing.<sup>[49]</sup> Upon completion, the Mandalika project will deliver five-star hotels with sea views of the beaches and shoreline from which the fisherfolk and women made a living. The project will also include a «Grand Prix» motorcycle race circuit, none of which will meet the needs for sustainable development for the largely involuntarily displaced peasant communities. One year after the UN Human Rights Council's special procedures criticized the AIIB, ITDC and private businesses for violating human rights in the AIIB-financed Mandalika project, the UN special rapporteur for extreme poverty and human rights once again denounced the AIIB, its client ITDC and other entities for «violation of human rights of local populations, forcibly evicted without proper consultation». Further, the special rapporteur highlighted how the AIIB and ITDC are complicit in the rights violations resulting from MotoGP project, which «displaced populations through intimidation.»<sup>[50]</sup>*

## The Revised Environmental and Social Framework (effective as of October 1, 2021)

The adoption of the AIIB's ESF in 2016 included the provision that the document would be reviewed after three years of implementation. This review has taken place and the revisions were approved by the AIIB's Board of Directors in May 2021. The revised ESF entered into force on October 1, 2021.

- 47 OHCHR (2021, March 4), Letter to Jin Liqun, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26078>
- 48 OHCHR (2021, March 31), Indonesia: UN Experts Flag Rights Concerns over \$3bn Tourism Project, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26962&LangID=E>
- 49 AIIB, Indigenous People Development Plan (2018, October 6), [https://www.aiib.org/en/projects/approved/2018/\\_download/indonesia-mandalika/Indigenous-Peoples-Development-Plan.pdf](https://www.aiib.org/en/projects/approved/2018/_download/indonesia-mandalika/Indigenous-Peoples-Development-Plan.pdf)
- 50 See: [https://www.scmp.com/week-asia/economics/article/3171300/indonesian-motogp-may-be-over-land-conflicts-over-us3-billion?module=perpetual\\_scroll\\_0&pgtype=article&campaign=3171300](https://www.scmp.com/week-asia/economics/article/3171300/indonesian-motogp-may-be-over-land-conflicts-over-us3-billion?module=perpetual_scroll_0&pgtype=article&campaign=3171300) and <https://twitter.com/srpoverty/status/15052941698>

Public pressure, parliamentary questions, and the levels of unease in several AIIB shareholding governments over the lack of any specific timeframes for the publication of basic documentation on AIIB loans and investments has built up over several years.

For example, the German government, which is the largest non-regional shareholder in the AIIB and the former chair – and presently the deputy chair – of the constituency representing the Eurozone on the AIIB's Board, set out a clear bottom line in 2017. In a letter from the Ministry of Finance to the German Parliament, it stated that the German position would require the AIIB's Information Policy to include clearly spelled out timeframes for the public release of project information in order to make active stakeholder participation possible.<sup>[51]</sup>

Similarly, the Office of the UN High Commissioner for Human Rights recommended that the AIIB adopt specific timeframes for the early release of social and environmental information about projects prior to their approval.<sup>[52]</sup>

Both statements reflect concerns that public input and scrutiny of large-scale investments that can transform entire regions and countries will be difficult, if not impossible, in the absence of clear timebound rules on information disclosure.

In response to this high-profile and easily understood demand to establish specific timeframes for the disclosure of vital environmental and social documentation, the revised ESF includes such a reference to timeframes for project loans and highest-risk FI operations.

### *Project lending*

In the case of projects likely to have significant adverse environmental and social impacts that are irreversible, cumulative, diverse, or unprecedented (Category A), draft environmental and social documentation is to be published 60 calendar days prior to consideration for financing approval. In the case of projects with a limited number of potentially adverse environmental and social impacts – although some of them may be irreversible and cumulative (Category B) – such documentation is to be published 30 days prior to a financing decision. However, the same paragraphs add that, in exceptional circumstances, AIIB Management decides what the adequate disclosure period is.<sup>[53]</sup>

- 51** German Federal Ministry of Finance (2017, January 24), Letter Addressed to the Chairman of the Finance Committee of the German Bundestag. The original text in German reads: «In ihrer Kommunikationspolitik soll die Bank Kommunikationsfristen und Zeiträume eindeutig benennen, um eine aktive Stakeholder-Kommunikation zu ermöglichen.»
- 52** Office of the United Nations High Commissioner for Human Rights (2018, March 16), Recommendations for AIIB Policy on Public Information.
- 53** AIIB, Environmental and Social Framework, approved February 2016, amended February 2019 and May 2021, Section VII – A. Disclosure of Environmental and Social Information, paragraph 65.2.

There are no disclosure timeframes for the «Disclosure of other Environmental and Social Documentation,» which is to be published in a «timely manner following disclosure by the client.»<sup>[54]</sup>

The need to cross-reference with other sections of the ESF and the complex language do not make for easy reading of the disclosure paragraphs.

However, paragraph 66, «Deferral of Disclosure,» is very clear. It establishes the definite prerogative of Bank Management to decide the deferral of disclosure in certain cases. These include cases where legal or regulatory requirements come into play, or where a transaction is of a commercially sensitive nature.<sup>[55]</sup>

This leaves ample room for discretion by Bank Management, whose priority is to move loans and investments. It also indicates that the protection of private commercial interests and the corporate interest of the AIIB clearly outweigh the public interest in having access to documentation on environmental assessments, planned land acquisition, involuntary resettlement, and other critical documentation.

### *Lending through financial intermediaries*

Similar provisions are made for lending to FIs. Draft environmental and social documentation for «Higher-Risk Activity» (Category A) supported by the AIIB under an FI project is to be published 60 calendar days before financing approval. However, once again, Bank Management may decide that another timeframe, which may be shorter, is appropriate. Non-disclosure provisions exist for Category B projects, although they too may have irreversible environmental and social impacts.

All other environmental and social documentation is to be published annually for the preceding 12 months. However, such a disclosure is not required if it is subject to regulatory constraints, market sensitivities, or the consent of the sponsor.<sup>[56]</sup>

In the case of FIs, there are no requirements for Category B projects, although they too can potentially lead to irreversible damage.

Although FIs may carry out AIIB-supported projects with the highest environmental and social risks, the FI's Environmental and Social Management System «is normally not

**54** Idem, paragraph 65.3.

**55** AIIB, Environmental and Social Framework, approved February 2016, amended February 2019 and May 2021, Section VII – A. Disclosure of Environmental and Social Information, paragraph 66.

**56** AIIB, Environmental and Social Framework, approved February 2016, amended February 2019 and May 2021, Environmental and Social Standard 1, paragraph 21.3.

disclosed.»<sup>[57]</sup> In other words, there is no way for the public to know whether an FI – be it a commercial bank, a private equity fund, or another entity – has the structures, capacity, and experience to address the irreversible and cumulative impacts that its activities may have on people and the environment.

### *Exceptions, loopholes, and caveats*

The introduction of «timeframes» in the revised ESF is likely to be used as proof that the AIIB has responded to the concerns of shareholders and the public. But the same paragraphs contain ill-defined exceptions, loopholes, and caveats that ultimately provide AIIB Management with the discretion to decide if and when to disclose critical information related to the environment and social impacts.

There are numerous other sections in the ESF that indicate the vast discretion that Bank Management has in moving financing through its lending and investment pipeline to circumvent public disclosure in meaningful timeframes.

One example would be the provision for use of a «phased approach» in non-defined circumstances deemed to be exceptional. Under this approach, the client's environmental and social assessment and the Bank's own due diligence may begin after the financing of the project has already been approved by the Bank.<sup>[58]</sup>

### *AIIB delegating the responsibility to its borrower*

Then there is the whole area of the use of Country and Corporate Systems, which allows the public or private clients of the AIIB to use their own environmental and social management systems instead of the AIIB's ESF.<sup>[59]</sup> The AIIB would review the client's system and undertake an assessment of the client's implementation practices, capacity, and commitment. Where the Bank identifies gaps in the client's system, gap-filling actions are taken to ensure that the system is materially consistent with the ESF. The AIIB states that it will disclose its findings in accordance with the provisions of Section 65 on Information Disclosure.<sup>[60]</sup> However, this provision is also subject to deferral, and the findings may not be made public before the financing for a project using country or corporate systems is approved.

**57** AIIB, Environmental and Social Framework, approved February 2016, amended February 2019 and May 2021, Environmental and Social Standard 1, paragraph 21.4.

**58** AIIB, Environmental and Social Framework, approved February 2016, amended February 2019 and May 2021, Environmental and Social Policy, paragraph 52.1.

**59** AIIB, Environmental and Social Framework, approved February 2016, amended February 2019 and May 2021, Environmental and Social Policy, paragraphs 54–55.

**60** AIIB, Environmental and Social Framework, approved February 2016, amended February 2019 and May 2021, Environmental and Social Policy, paragraph 56.



What the disclosure rules in the revised ESF indicate is that the commercial interests of the AIIB's clients and its own corporate interests outweigh the public interest at all times.

### *New frontier: Capital market operations*

The AIIB sees investing in private capital markets as the new frontier to mobilize greater amounts of finance for infrastructure development. However, the ESF will not apply to this area of activity. Instead, the AIIB will entrust asset managers with developing appropriate ESG frameworks, against which risks can be assessed. But ESG approaches are notoriously ill-defined, and they have come under growing criticism for being a marketing exercise with little substance.<sup>[61]</sup>

According to the AIIB, «The capital markets hold the key to unlocking the trillions of dollars needed to transform our global economy to one that is sustainable and inclusive.»<sup>[62]</sup> However, infrastructure development that does not address the environmental and social risks at the project level potentially leads to unforeseeable dangers that the world can ill-afford. Addressing those risks requires public disclosure of information to enable public participation before potentially harmful financing decisions are taken.

### *Vague policies and hollow standards*

European and other like-minded governments justified their membership in the AIIB by stating that they would work for the adoption of the best international standards and practices at the AIIB. The AIIB has responded by using language and terminology in its policies and standards that appear to mirror institutions such as the World Bank. But upon closer inspection, it becomes clear that, although the language is carefully tailored to Western sensibilities, its substantive contents is often shallow and contains so many caveats, loopholes, and exceptions that leave the ultimate decisions-making power with the AIIB's Management, led by the AIIB's President.

What our analysis shows is that the AIIB's obligations to disclose information leave us largely empty handed. Clear rules are essential if stakeholders are to engage in good faith with the AIIB in relation to decisions that directly affect them. They are also essential to the functioning of the AIIB's Project-affected People's Mechanism (PPM), which, analogous to the Accountability Mechanisms at other MDBs, is meant to provide a measure of recourse to communities negatively affected by the failure of the AIIB to implement its environmental and social policy.<sup>[63]</sup> Whereas the Accountability Mechanisms at other

**61** Financial Times (2021, March 10), Greenwashing in Finance, Europe's Push to Police ESG Investing.

**62** AIIB (2019, July 12), The Rise of the Sustainable Capital Market.

**63** AIIB (2018, December 17), AIIB Policy on the Project-affected People's Mechanism, [https://www.aiib.org/en/policies-strategies/\\_download/project-affected/PPM-policy.pdf](https://www.aiib.org/en/policies-strategies/_download/project-affected/PPM-policy.pdf)

institutions receive a flow of complaints to be investigated – indicating that affected people do have a transparent means of recourse – the AIIB's PPM, which has been in effect since March 2019, has not inspired trust and remains to be tested.

Independent of the financing instrument being used, clear requirements for the time-bound disclosure of information on large-scale infrastructure development make for better long-term investments and development results, while reducing opportunities for political capture and corruption.

The AIIB's primary focus on efficiency makes such requirements appear as unnecessary red tape. Yet, these rules were the result of the hard-won victories in the struggles of civil society in India, Brazil, and other countries of the Global South. With the support of lawmakers, the rules were translated into policies designed to ensure transparency, environmental protections, and access to redress.

Competitive pressure from the AIIB, tough competition of «no strings attached» loans from other Chinese financial institution, and the growing influence of China in the existing MDBs, will make it increasingly difficult to work for better implementation of policies designed to protect the environment and vulnerable communities.

Oversight by the appropriate Parliamentary committees in the AIIB's shareholding countries is vitally important. Such oversight helps set incentives for the government ministries directly engaged with the AIIB, such as the Federal Ministry of Finance in Germany. Demands by Parliamentarians can help strengthen their resolve in negotiations at the AIIB.

As experience at the AIIB to date has shown, this will not happen without overcoming resistance. The AIIB plays an important role in China's efforts to fashion a new form of multilateralism in which it sets the tone and defines the rules. Shareholders must fully employ their political capital to ensure that AIIB-supported, large-scale infrastructure projects do not cause both local and global harm. They should not become complicit in high-risk ventures that are incompatible with the rule of law and human rights, as well as the protection of the Earth's life support systems.

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## Imprint

Editor: Heinrich-Böll-Stiftung e.V., Schumannstraße 8, 10117 Berlin

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Proof reading: Robert Furlong

Place of publication: [www.boell.de](http://www.boell.de)

Release date: October 2021

Cover: N509FZ/Wikimedia Commons (CC BY-SA 4.0)

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