

3 February 2017

Mr. Hamid Sharif

Director General of the Compliance, Effectiveness, and Integrity Unit (CEIU)
Asian Infrastructure Investment Bank
B9 Financial Street, Xicheng District, Beijing 100033
P.R. China.

RE: Consultation Process on AIIB Accountability Mechanism/Complaint Mechanism

Dear Mr. Sharif,

We are writing regarding the upcoming public consultation on the AIIB's accountability mechanism. We welcome the openness of the AIIB and the CEIU to engaging with external stakeholders, and would like to take this opportunity to recommend that the CEIU design a consultation process that improves upon prior AIIB efforts to solicit stakeholder input. As we explain in more detail below, we recommend that the CEIU conduct a two-phase public consultation process that is consistent with the practices of other international financial institutions (IFIs). As an immediate step, we request that you share a proposed timeline for this consultation, including a deadline for the adoption of the mechanism's procedures, on the AIIB's website.¹

I. Prior AIIB Efforts to Solicit Stakeholder Input

We appreciate the AIIB's efforts thus far to give stakeholders the opportunity to provide input on proposed AIIB policies, and we welcomed the AIIB's efforts to solicit stakeholder input on the Environmental and Social Framework (ESF) and the Energy Sector Strategy Issues Note. In our view, however, these prior processes have had some shortcomings that reduced their effectiveness.

- As a result of language barriers² and a lack of in-person meetings,³ many civil society organizations and other stakeholders were unable to fully participate in prior processes.
- Due to the short time frames for submission of input,⁴ stakeholders were only able to raise broad concerns rather than provide detailed recommendations on policy issues.⁵
- Stakeholder input on the ESF was solicited only after the AIIB's overall approach had been formulated,⁶ raising concerns about whether stakeholder input could influence the final policy.

¹ Other IFIs, including the Asian Development Bank and European Bank for Reconstruction and Development, post and regularly update provisional schedules for upcoming policy reviews on their websites.

² Prior processes have been conducted in English only.

³ Neither consultation process involved any in-person meetings, and the consultation process on the Energy Sector Strategy only permitted the public to submit written feedback.

⁴ The time frame for consultation on the draft ESF was six weeks, and the time frame for the first consultation on the Issues Note was one month.

⁵ See, e.g., Inclusive Development International (IDI), *Comments on the Asian Infrastructure Investment Bank Draft Environmental and Social Framework* (October 12, 2015) (stating that "The inadequate time period for the consultation has precluded IDI, like many other organizations, from carefully reviewing the draft AIIB framework and providing detailed comments to support the AIIB in developing effective safeguard policies. Nonetheless, in these comments we raise a number of broad concerns. ... [Our comments] touch on a few key issues only, and do not exhaustively reflect IDI's opinion on the draft ESF.")

- Unlike other IFIs,⁷ the AIIB has not published individual stakeholder comments received during previous processes, the Bank’s response to individual comments, or a list of stakeholders that contributed to the processes.

In our view, early and ongoing engagement with stakeholders will lead to more sustainable and fruitful investments that ultimately benefit the Bank, its clients, and the people on the ground. Dedicating such resources to the consultation process would demonstrate that the CEIU is committed to meaningful engagement with stakeholders and serious consideration of their inputs.⁸

II. Recommendations for the CEIU Consultation Process

We recommend that the consultation process on the future AIIB accountability mechanism take place in two phases. We request that the first phase of the process:

- Be conducted before the AIIB releases an initial draft of the accountability mechanism’s procedures, and allow for a minimum of 60 days for public comment as has been the case with the most recent reviews of the accountability mechanisms of the Asian Development Bank (ADB),⁹ European Bank for Reconstruction and Development (EBRD),¹⁰ Inter-American Development Bank (IDB),¹¹ and World Bank.¹²
- Offer the opportunity for the public to provide input on the development of the AIIB’s accountability mechanism, including recommendations for ways that the AIIB could improve upon the approach taken by other IFIs.
- Incorporate in-person meetings and videoconferences in addition to written submissions, conducted in a culturally-appropriate manner and in the national languages of recipient countries. In-person meetings will increase the AIIB’s responsiveness to the communities and local organizations that will ultimately be the users of the mechanism.
- Develop a transparent process by which public input will be considered and potentially incorporated in the final version of the new procedures, as is generally accepted practice among IFIs. As part of this process, we ask that the AIIB post on its website a summary of key recommendations received during Phase 1, as well as specific responses to those recommendations, prior to commencing Phase 2 of the consultation.

We request that the second phase of the process:

- Give the public an opportunity to provide feedback on the draft procedures for the accountability mechanism and allow a minimum of 45 days for public comment, consistent

⁶ The AIIB did not solicit feedback from the public prior to developing a draft of the ESF.

⁷See, e.g., the summaries of the consultation processes of the ADB (available at <https://www.adb.org/sites/default/files/institutional-document/32883/files/am-letter-ngo-comments-attach2-0.pdf>) and AfDB (available at https://www.afdb.org/fileadmin/uploads/afdb/Documents/Compliance-Review/2nd_IRM_Review_-_Summary_of_Comments_from_Public_Consultation_-_ENG.pdf)

⁸See, e.g., NGO Forum on ADB, *Critique of AIIB Energy Strategy: Sustainable Energy for Asia Issues Note for Discussion* (October 2016) (“We thank the opportunity to comment on this draft but remain in the dark whether our valid and urgent concerns will be heard and addressed with due importance by the AIIB Management and Board of Directors. We hope that AIIB provides us with the necessary mechanisms to input into the ESS meaningfully as we look forward to future communications from your end.”)

⁹See <https://www.adb.org/sites/default/files/publication/29322/am-consultation-introduction.pdf>

¹⁰See <http://www.ebrd.com/downloads/research/policies/2013pcm.pdf>

¹¹See <http://www.iadb.org/en/civil-society/public-consultations/independent-consultation-investigation-mechanism-2014/revision-of-the-policy-of-the-independent-consultation-and-investigation-mechanism-icim,17761.html>

¹²See <http://ewebapps.worldbank.org/apps/ip/Pages/Panel-Operating-Procedures-Update.aspx>

with the approach taken by the ADB, EBRD, IDB, International Finance Corporation (IFC), and World Bank during the most recent reviews of their accountability mechanisms.

- Incorporate in-person meetings and videoconferences in addition to written submissions, conducted in a culturally-appropriate manner and in the national languages of recipient countries.
- Include posting all comments received during Phase 2, the Bank's response to each comment, and a list of contributing stakeholders on the AIIB website no later than the date that the final draft of the procedures is sent to the Board for approval. We ask that this final draft be posted on the website at the same time that it is distributed to the Board, as is the practice of other IFIs.

The robust consultation process outlined above will demonstrate the AIIB's commitment to sustainable investment and lay a foundation for an accountability mechanism that responds to stakeholders' concerns, resolves complaints, and enables the AIIB to continually develop more responsive, efficient, and innovative operations in the medium and long term.

Following the adoption of the accountability mechanism's procedures, we recommend that the CEIU carry out in-person compliance and accountability workshops in countries in which the AIIB is currently financing projects. The accountability mechanisms of other IFIs have undertaken similar efforts in order to ensure that project-affected communities are aware that accountability mechanisms exist and understand how to engage with these mechanisms.

We reiterate our appreciation of the openness of the AIIB and the CEIU to engaging with external stakeholders on these policy issues and look forward to working with the AIIB to develop and implement a robust and effective accountability mechanism. As an immediate first step, we would ask the AIIB to release a proposed timeline for a public consultation process that is consistent with the practices of other IFIs, including a deadline for the adoption of the mechanism's procedures.

Regards,

Accountability Counsel
Bank Information Center
Both ENDS
CEE Bankwatch Network
Centre for Environmental Justice/Friends of the Earth Sri Lanka
Centre for Research on Multinational Corporations (SOMO)
Crude Accountability
Foundation for the Development of Sustainable Policies (FUNDEPS)
Friends of the Earth - US
International Accountability Project
Lumiere Synergie pour le Developpement
NGO Forum on ADB
Oxfam
Rivers without Boundaries Coalition
Ulu Foundation
Urgewald