

The Beijing-led Asian Infrastructure Investment Bank (AIIB): Global leader in infrastructure finance at what cost?

The AIIB's Approach to Transparency and Public Access to Information

Dr. Korinna Horta and Wawa Wang

Verein für sozial-ökologischen Wandel (VSOW)

November 2019

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 that generate greenhouse gas emissions for decades to come, large hydro dams, mining projects and export corridors that slice through the world's remaining surviving 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.

The AIIB's business is financing large-scale infrastructure, which by definition is high risk. In its early years after opening for business in 2016, the AIIB mostly contributed funds to investments made by other multilateral banks, where the environmental, social and transparency policies of the leading bank apply. The AIIB used this period to build its own capacity. Now it has embarked on a new phase where it will focus on developing its own lending pipeline with the goal of becoming the global leader in infrastructure investments from 2021 onwards.¹ These investments will not be limited to Asia, but also target Africa, Latin America and Europe.

The AIIB has established itself as a major player in record time. At present it counts 74 member states with a further 26 states having applied for membership. Since the U.S. and Japan have not joined the AIIB to date, the membership of European shareholders in the AIIB, with Germany at the helm, has been critically important to the AIIB's international credibility. This was attested by the world's leading credit rating agencies which provided the AIIB with the same rating as that of western-led institutions, such as the World Bank. The AIIB received the coveted Triple A credit rating, allowing it to raise additional funds on international capital markets to increase its initial capital base of US\$ 100 billion.

Germany and other European governments justified their AIIB membership 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 while the language is carefully tailored to Western sensibilities, its substantive contents is shallow, abstract and lacks precise instructions.

The AIIB's standards on transparency and public access to information are of key importance. They are the foundation stone of accountability to the Bank's shareholders and the public. The fact that the AIIB concentrates decision-making power in the hands of its president to an extent unknown at western-led multilateral banks,² makes adherence to clearly spelled out rules even more important.

The time-bound public release of draft environmental and social assessments and resettlement plans is indispensable to public consultation processes and obtaining input from affected communities and other third parties to minimize project risks, reformulate its design or find alternatives. Transparency of detailed project information is also essential to preventing that large-scale infrastructure investments turn into swamps of corruption and mountains of debt, while serving little or no purpose.

Hollow Standards, Vague Policy

Certain kinds of information such as those related to personnel and business confidentiality are not made public and this is justified and common practice. However, information on the specific location and details about projects,

¹ AIIB, Strategy on Mobilizing Private Capital, February 9, 2018.

² See for example, the AIIB's Accountability Framework, which became effective in January 2019. In the name of efficiency, it allows the President to increasingly approve the financing of projects without involving the AIIB's Board of Directors.

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.

The AIIB's approach to public access to information is scattered in two main policy documents, none of which provides the needed clear-cut rules:

(1) The Environmental & Social Framework (ESF) of 2016 includes two paragraphs related to information disclosure. Paragraphs 57 and 58 of the ESF refer to information disclosure requirements by the client and by the AIIB respectively. While they contain the right vocabulary, they do not include the essential time-bound requirements for the public release of documents, such as environmental and social impact assessments. 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 sectors should do so as early as possible during appraisal.³

However, in February 2019, a technical amendment to these paragraphs, which was decided on behind closed doors, further weakened their already vague provisions.⁴ The amendment now instructs the client to make information public "**as soon as it becomes available.**" This is a further downgrade 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 situations such as commercial sensitivity or where the financial worth or assets of a corporate entity could be affected.

But how can commercial or corporate interest outweigh the public interest in the release of information on environmental and social impacts that can cause irreversible harm locally and contribute to global emergencies? Bank Management has a self-interest in making loans. It cannot be left to its 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 existing two paragraphs on information disclosure as too vague. In meetings with civil society they expressed their conviction that the final version of a new AIIB Policy on Public Information (PPI), which was then being developed, would fill the gaps and provide clear rules on time-bound requirements for information disclosure. This was reinstated by a letter from the German Ministry of Finance to the German parliament in 2017, which stated the German position would require the PPI to include clearly spelled out time frames for the public release of project information in order to make active stakeholder participation possible.⁵

(2) The Policy on Public Information (PPI), which adopted in September 2018, does nothing of the sort. It again contains all the right buzzwords and emphasizes its intention to provide a maximum of disclosure and transparency. But the PPI is a "principles-based" as opposed to a "list-based" policy. This means that it is focused on overarching principles and on listing 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 disclosure.

The AIIB stated that the PPI did not address the question of the release of information related to environmental and social impacts because this subject was already dealt with in the Environmental and Social Framework (ESF). But as described above, the ESF fails to do so in a meaningful way.

Buzzwords versus Substance

While the principles listed in the PPI are welcome, they are insufficient. The application of the principles also will be limited. It is already the practice that documents, whose public release would be in the interest of an informed dialogue between all stakeholders, are kept confidential. These include the pipeline of proposed projects, quarterly monitoring reports for private sector projects, early learning assessments, and very importantly, when the proposed

³ AIIB, Environmental and Social Framework, Paragraphs 57 and 58, February 2016.

⁴ <https://www.aiib.org/en/policies-strategies/download/environment-framework/Final-ESF-Mar-14-2019-Final-P.pdf>

⁵ German Federal Ministry of Finance, Letter addressed to the Chairman of the Finance Committee of the German Bundestag, 24. January 2017

projects would be coming up for Board discussion or decision. Unlike the practice of the other multilateral financial institutions of which European countries are shareholders, the AIIB has to date refused to disclose an indicative Board agenda prior to the Board meeting, thus keeping projects scheduled for discussion or approval a secret, away from the public eyes.

The right wording and buzzwords on transparency are also found in other documents, including the *Directive on Public Information* issued by the AIIB president and the quarterly *AIIB Reports on the Policy of Public Information*. They appear to be tailored to the sensitivities of Western shareholders. But this should not obfuscate the fundamental fact that the AIIB has refused to adopt time-bound rules for the public disclosure of vital information. In the absence of such rules, public input and scrutiny of large-scale investments that can transform entire regions and countries will be difficult, if not impossible.

To date, we know of at least two projects which the AIIB approved citing the exception to disclosure requirements under the PPI. Even after approval, the names and the nature of the projects are not publicly known.⁶

Additional loopholes

In addition to the ESF and the PPI, on the heels of AIIB's annual meeting in Luxembourg in July 2019, the Bank disclosed the **Directive on Sovereign-backed and Non-Sovereign-Backed Financing**. The AIIB President approves directives without involvement of the Board. This Directive includes a section on information disclosure, which further confirms the weakness of AIIB transparency requirements. It calls for the preparation of *Project Summary Information Documents (PSI)*, but the level of detail in these documents on critical environmental and social aspects is left unclear. In the case of private sector projects, a PSI will only be disclosed after the Final Review by the AIIB has taken place, that is at a point in time when financing is well on its way to being approved. But the Directive also allows delaying the disclosure of the PSI to some unspecified point in time in cases the AIIB deems it to be commercially sensitive or given certain legal or regulatory situations. In such cases the public will have no indication whatsoever that a project is being considered for financing.

When it comes to the disclosure of full Project Documents, the Directive only refers to sovereign-backed loans. In the case of loans to governments (sovereign-backed), the full project document is only disclosed following approval of the financing, when public input has become largely irrelevant and possible changes to the design of the project will hardly be feasible. There is no specification on the disclosure of the full project documents in the case of private sector (non-sovereign) loans.

An example of the lack of the AIIB's responsiveness to requests for information is the free-standing AIIB project loan of \$ 250 million to Beijing Gas, a private company, in 2017. 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 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. In the same vein, there are many projects for which critical information is lacking, including where the project is sited or detailed documentation on resettlement and livelihood restoration plans. These include the National Investment and Infrastructure Fund (India,) the National Slum-Upgrade Project in Indonesia and the Colombo Urban Regeneration Project in Sri Lanka.

Despite the earlier controversy surrounding Beijing Gas, in September 2019 the AIIB listed a new loan proposal of USD 500 million for Beijing Gas to build extensive Liquefied Natural Gas infrastructure. As a high risk category A

⁶ According to AIIB's website in August, "the AIIB has approved non-disclosure of certain projects on the basis that these fall within an applicable exception to disclosure requirements under the Bank's Policy on Public Information as disclosing such information would 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 regulation."

project, it will have significant environmental and social impacts both locally and as a further contributor to global greenhouse gas emissions.

More efficient, faster & more flexible than other banks

The AIIB states that it has adopted a new model of governance.⁷ In the name of efficiency, it delegates financing decisions from the AIIB Board to its President on a scale that is to increase over time. Its business model bets that its fast and flexible approach to large-scale infrastructure financing will attract clients unwilling to comply with rigorous rules on information disclosure, public consultation and environmental and social standards that are required by other institutions.

Instead of being understood as critical to the long-term sustainability of an investment, these rules are seen as unnecessary red tape. This approach is not compatible with electoral democracies, where infrastructure is meant to focus on the needs and wishes of citizens. It does, however, open the doors to political capture and corruption.

What can be done?

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 parliament can help strengthen their resolve in negotiations at the AIIB.

In addition to requesting regular reporting back on AIIB-financed projects, parliamentary committees have the opportunity to weigh-in as the AIIB's shareholders will be reviewing the AIIB's Environmental and Social Framework starting in 2020. This review should be used to introduce a mandatory requirement for the time-bound public release of vital project information, including environmental impact assessments and monitoring reports concerning the implementation of measures to protect communities and the environment.

As experience at the AIIB to date has shown, this will not happen without overcoming resistance. China is trying to create a new form of multilateralism where it sets the tone and defines the rules. The AIIB plays a central role in this. Germany and other shareholders must fully employ their political capital if there is to be progress on a critical issue such as the transparent and time-bound release of vital information on large-scale infrastructure projects. Otherwise they risk becoming complicit in investments that are incompatible with basic democratic and human rights.

⁷ AIIB, Paper of the Accountability Framework (no date), p. 1, paragraph 3, became effective in January 2019.