

# Is it accessible?

## International Financial Institutions and public disclosure



In January 2016, the landscape of public, multilateral financial institutions welcomed a 'new bank on the block', the Asian Infrastructure Investment Bank (AIIB). Its establishment gives reason to pause and reflect on the developments of today's international financial institutions. Ambiguity is the word that most aptly captures their behaviour, as these *public* institutions more and more operate according to market principles. This has serious implications for issues of transparency and access to information.

### PUBLIC BANKS: A LANDSCAPE OF AMBIGUITY

International Financial Institutions (IFIs) such as the World Bank, the Asian Development Bank, the Asian Infrastructure Investment Bank and the European Investment Bank are all public institutions. Their mission is to invest public money in projects that benefit the public good – be it in agriculture, infrastructure, energy, or health.

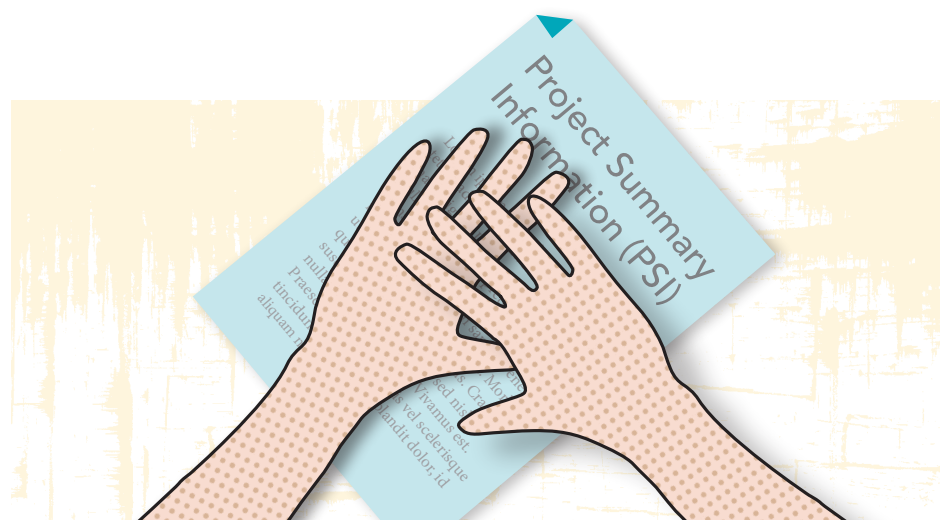
The recently founded Asian Infrastructure Investment Bank is a Chinese-led multilateral financial institution. It was established to finance of infrastructure needs across Asia. The AIIB has been referred to as a Chinese version of the World Bank and has also been compared to the Asian Development Bank. However, there is a significant

difference between the AIIB and these other two banks: the AIIB operates as an investment bank and not as a development bank. Comparison with the European Investment Bank (EIB) is therefore much more appropriate.

What is the difference between Development Banks and Investment Banks? First, Development Banks, at least on paper, primarily aim at reducing poverty in the world, while Investment Banks aim at boosting economic growth. A second important

difference lies in the way both types of banks obtain their capital. Development Banks are primarily replenished in cash by governments, while Investment Banks raise capital on the international markets.

The differences between the two, however, are becoming less pronounced. Development Banks increasingly raise capital on markets as well, and both types of public banks can do so on favourable terms, thanks to the support they receive from



▶ governments. Since both Development and Investment Banks raise capital on the international markets, both also follow market terms in their operations to achieve profitable returns on their investments. Moreover, both types of banks operate according to the nowadays prevailing banking culture, which is to lend money to clients as efficiently (read, 'leniently') as possible. NGOs find that in their discussions with development bankers about social and environmental safeguards, efficiency is the magic word. The widely-held conviction, also among public banks, is that efficient banking reduces poverty. It may come as no surprise that social and environmental concerns are regularly seen to stand in the way of efficiency.

There is yet another conflation or fusion between the public banks and private market logic. While Development Banks disburse aid money and/or provide loans against low interest rates, they more and more do this to support private sector development and private investors via their corporate branches (e.g. the International Finance Corporation (IFC) that is part of the World Bank Group).

### GOVERNING OR GOVERNANCE?

In the last 30 years, public banks have grown increasingly detached from their original praxis as public institutions that invest public money for the public good. They are evolving into ambiguous institutions: public money is blended with private finance and the public identity gradually gets eroded. Public Development Banks more and more resemble Investment Banks, adhering to the model of 'governance' instead of 'governing'.

The 'governing' model is based on the perception that public banks are governed by the governments of countries and societal choices. The outcomes of democratic decision-making in parliament should be



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reflected in the way public banks spend their money. From this perspective, parliamentary oversight of IFIs is needed.

The 'governance' model is based on the perception that the governance of banks is not a result of open, public decision-making but comprehended as an internal technical banking instrument. In the perception of most bankers, political dynamics or the whims of public opinion should not interfere with the governance of banks, which is first and foremost a technical economic instrument to achieve the maximum efficiency of banking operations. In the prevailing market economy, banking is considered part of economics and the functioning of markets; the politically neutral role of banks is to provide services to customers as efficiently as possible. Bankers, in brief, tend to prefer governance to governing. And this is increasingly true as well for public bankers.

### THE IMPLICATIONS FOR INFORMATION DISCLOSURE AND TRANSPARENCY

How does the increasing ambiguity of public banks, and the blending of public with private money, translate to the public disclosure policies of the international financial institutions?

First it is important to stress that the right to access information held by public bodies is an international human right, set out in Article 19 of the United Nations Universal

Declaration of Human Rights. The 'Transparency Charter for International Financial Institutions: Claiming our Right to Know', launched in 2006, states that the right to information "is a key underpinning of meaningful participation, an important tool in combating corruption and central to democratic accountability".<sup>1</sup>

For civil society groups and potentially affected communities, access to information about planned projects and investment decisions is vital to prevent destructive outcomes of projects financed by international financial institutions. Damaging impacts on communities and the environment are moreover likely to result in significant delays in the implementation of projects, and markedly increased costs. Projects that are backed by informed support of local communities are more likely to succeed.

This is why the Asian Development Bank has a requirement in place that allows potentially affected communities to provide input on the environmental impact assessment of any high-risk project, prior to the project's appraisal. This normally means approximately 120 days prior to Board vote.

One would indeed think that there is a shared interest in transparency and timely information disclosure by IFIs. However, when bankers and civil society representatives sit around the table to discuss the right of access to information and the importance

► of public disclosure, they easily misunderstand each other. For the board members of a public bank, 'information' is likely to refer to the prioritising of business confidentiality, the efficiency of banking operations and risk control. While for a citizens and NGOs, public information disclosure first and foremost relates to democratic rights and the essence of citizenship.

institution for information, it is a principle by law that the information should be disclosed. The United States Freedom of Information Act, and many similar freedom of information laws in other countries, grant citizens the right to request information held by public authorities. The European Investment Bank, for instance, follows this governing rational, stating in its Transparency policy that "All information and documents held by the Bank are subject to disclosure upon request, unless there is a compelling reason for non-disclosure."<sup>2</sup>

exemptions of different banks include: 'The policy does not provide access to information whose disclosure could cause harm to specific parties or interests,' 'the Bank does not disclose information that undermines commercial interests', 'it does not provide personal information', 'it refuses disclosure that would seriously undermine the Bank's decision making process', etcetera.

The policies and practices of information disclosure applied by public banks nowadays ambiguously follow both models of governing and governance. In principle, the way that public disclosure is dealt with by public banks is still based on the governing model. If, in a constitutional state, a citizen demands a government

However, the list of exemptions that usually follows such a statement, seems to allude more to a 'governance' model. The many

In case a public bank withholds requested information citing confidentiality, the bank is obliged to clarify the reasons for withholding information. As a following step the applicant may lodge a complaint at an appeal panel. Most public banks have an appeal procedure and appeal mechanisms in place. The EIB has

Table 1

|   | AiIB | ADB | EBRD | EIB | WORLD BANK |
|---|------|-----|------|-----|------------|
| Endorses right to information as a human right                            | ✗    | ✓   | ✗    | ✓   | ✗          |
| Public consultation for drafting or reviewing acces-to-information policy | ✗    | ✓   | ✓    | ✓   | ✓          |
| Disclosure of board minutes   | ✓    | ✓   | ✓    | ✓   | ✓          |
| Time-bound disclosure of board minutes                                    | ✗    | ✓   | ✓    | ✓   | ✓          |
| Time-bound disclosure of draft strategies and policies                    | ✗    | ✓   | ✓    | ✓   | ✓          |
| Requirements on level of information disclosed in project documents       | ✗    | ✓   | ✓    | ✓   | ✓          |
| Time-bound disclosure prior to board decision (category A projects)       | ✗    | ✓   | ✓    | ✓   | ✓          |
| Time-bound disclosure prior to board decision (category B projects)       | ✗    | ✓   | ✓    | ✓   | ✓          |
| Time-bound disclosure prior to board decision (private sector)            | ✗    | ✓   | ✓    | ✓   | ✓          |
| Access to information procedures  | ✗    | ✓   | ✓    | ✓   | ✓          |
| Treatment of access-to-information request and appeal procedures          | ✗    | ✓   | ✓    | ✓   | ✓          |
| Public registry for information request                                   | ✗    | ✓   | ✗    | ✗   | ✓          |

▶ even adopted the option within the framework of European law to initiate court proceedings against the Bank before the Court of Justice of the European Union.

The ambiguity of public banks today towards public disclosure, is illustrated by the example of the newly established Asian Infrastructure Investment Bank. Unlike the 120 days rule of the Asian Development Bank, the AIIB to date has no time-bound requirement for posting social and environmental information related to investment projects, prior to consideration of these projects by the Board. The AIIB only has a Public Information Interim Policy in place, which has been established without any public consultations. Yet within just over a year since its opening in early 2016, the Bank is already involved in multibillion dollar investment projects in Myanmar, Pakistan, Tajikistan, Azerbaijan, Bangladesh, Indonesia and other countries. The people and communities whose livelihoods and environment are potentially affected by these projects, have had very little or no access to information and no chance to influence or inform the decision-making process prior to project approval. This is likely to lead to Board approval of an increasing number of projects with damaging impacts on communities and the environment.

Providing the public with access to information and decision-making processes before development banks spend taxpayer money is a cornerstone of accountability and transparency. Table 1, on the previous page, developed by CEE Bankwatch Network, compares what information is being provided by different international financiers.

## CONCLUDING REMARKS

If IFIs grow too much detached from a public institution's practice of governing and de facto evolve into investment banks, they risk turning into 'non-credible', empty public institutions. Therefore, in addition to keeping a close eye on their performance in terms of governance, Both ENDS urges NGOs and governments to keep the governing aspects of banks top of their mind. When it comes to public disclosure, this means that access to information and informed public discussions and decision-making processes should be guaranteed.

Conflicts of interest between communities and, for instance, large-scale infrastructure developers, cannot be reduced to managerial problems to be solved by the Banks' technical instruments of governance. This is even less feasible for the complex societal issues of poverty and inequality that Development Banks claim to address. Answers to such issues demand a profound, open, multi-stakeholder debate and democratic processes of decision-making reflected in a governing model. International financial institutions that wish to avoid growing public discontent and anger should be wise to take this to heart.

## NOTES

1 Global Transparency Initiative: [http://www.ifitransparency.org/doc/charter\\_en.pdf](http://www.ifitransparency.org/doc/charter_en.pdf)

2 <http://www.eib.europa.eu/infocentre/publications/all/eib-group-transparency-policy.htm>

## USEFUL LINKS:

[http://www.ifitransparency.org/doc/charter\\_en.pdf](http://www.ifitransparency.org/doc/charter_en.pdf)

<http://bankwatch.org/isitaccessible>

<http://www.eib.org/infocentre/publications/all/eib-group-transparency-policy.htm>

<https://www.aiib.org/en/about-aiib/.content/index/pdf/20160226052345422.pdf>

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