



NGO FORUM ON ADB: CONCERNS AND SUGGESTIONS ON AIIB'S ACCOUNTABILITY MECHANISM



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INTRODUCTION

Multilateral Development Banks and other financing institutions are committed to ensure that their implementing instruments are in compliance with all their policies including disclosure, safeguards and other sectoral and operational policies at all levels of bank operations. The issue of accountability and grievance comes into play the moment project actions lead to direct and indirect harm to local communities and the environment because of implementation gaps and/or non-compliance. In that scenario, an independent accountability mechanism which will assess and mitigate the exact nature of the violation/harm at project site level proves to be an essential apparatus for the MDB machinery to be successful.

AIIB ACCOUNTABILITY MECHANISM EXPECTATIONS

Thus, we expect AIIB's Accountability Mechanism (AM) is designed for the use of affected communities who have grievances from AIIB Operations because these have impacted their lives. The mechanism should be independent and capable of conducting thorough investigations and address each complaint with the necessary due diligence. This includes meaningful consultation with affected communities and complainants, introspective EIAs and SIAs, and the conduct of robust process checks in the delivery of the mechanisms both from operational and policy frameworks. The mechanism should also have the right to design remedial action plans and allow affected communities to have a key role in designing those remedial actions. The mechanism should ensure that AIIB Board can invoke sanctions and penalties on project operators and bank management and operations (if issues of non-compliance are proven) to penalize violating actors and agencies. Sanctions may include- suspension of funding, termination of contract, even repayment of loans, loan moratorium and finally blacklisting violators and preventing them from any future lending and contracts.

The degree of remedial actions and sanctions would vary on the project's level of risk and type of safeguards under which there is non-compliance. These include irreparable harm to the environment, suspicion of human rights violations, forced displacement, livelihood displacement (including indirect loss and harm) or failure to address or investigate corrupt practices. These should be enough to trigger an immediate corrective action, including immediate suspension of funding. Corrective actions and remedies should be time bound and where there is urgent need, responses should be immediate.

Corrective remedies should be the results of meaningful, documented consultations with affected peoples; that consider the direct, indirect, long term, cumulative and induced impacts of the projects on communities in the project area, with a special attention to impacts on women, vulnerable groups and indigenous peoples.

SUMMARY OF KEY ASKS FROM THE AIIB ACCOUNTABILITY MECHANISM:

- o NGO Forum on ADB requests that AIIB first conduct a robust consultation process with civil society groups across Asia before crafting its Accountability Mechanisms (AM) with clear defined steps and disclosed information outlining these steps.
- o AIIB's AM should be independent from the Management; with no bias and ensures integrity allowing for the capacity and means to conduct objective investigations at the project level on all AIIB Operations.

- The AIIB AM should have built-in learning processes and capacity within its COMPLIANCE EFFECTIVENESS and INTEGRITY UNIT(CEIU) to spot systemic problems arising from the cases and to draw lessons from them in order to change policies and adopt more inclusive strategies (which will be publicly consulted before adoption). This should be core to the function of the CEIU that is equivalent to the CAO's advisory function.
- The AM should, on the onset suite the needs and concerns and easy access of the Affected Communities and complainants, their welfare and well-being should be at the forefront of any guiding policies and implementing mechanisms that will be put in place.
- There should be local access to AM; information should be disclosed with clear communications based on local cultural, lingual and social contexts.
- AIIB should have a dedicated site on its website where information related to the Accountability Mechanism (AM) (including complaints, investigation results, reports, etc.) are posted and publicly made accessible.
- AM findings should be directly presented to the President and then to the Board after investigations have been completed.
- AIIB's AM must operate in the context of AIIBs Information Disclosure policy so that project affected people are able to access the documents required in order to make a complaint with the AM (this includes all project related information, policy and operational guidelines, contracts, reports etc.)
- AM should ensure the anonymity and safety of the complainants and provide measures to ensure there will be no backlash on those who will use the mechanism.
- There should be immediate response at the project level and that preceding responses should be time bound.
- There should be ease in filing complaints and grievances; with no coercion.
- If and when country systems (or borrowers' systems) are invoked, the accountability mechanism should conduct rigorous due diligence in its own capacity to ensure that grievances are investigated, addressed and mitigated. AIIB projects using country systems and corporate systems should have a comprehensive operation policy and guideline that is crafted and shared for public commenting.
- The AM should have the power to facilitate mediation and other problem-solving functions in addition to investigations and policy compliance reviews and the authority to implement such remedial action plans; where hosting country Board representatives should have NO right to vote or sit on AM cases presented to the President and Board.
- Implementation of the remedial action plan by management should be supervised by the AM. The AM should have the authority to critically monitor the remedial action plan and its implementation with power to sanction management over non-compliance. And the President should be fully responsible for the successful implementation of the remedial action plan.
- FIs as well as private sector companies, implementing agencies, contractors and subcontractors; public and private should be held accountable with provisions for strict sanctions and penalties.
- And lastly but vital, we propose that AIIB embed within all its loan agreements a percentage of the loan to cover the costs to remedy and serve as the "Remedy Fund".