



## ● Consultations on Draft Environmental and Social Framework of the ● Asian Infrastructure Investment Bank – Written Comment

Vienna, 23 October 2015

Dear Madam or Sir,

The Austrian Platform for Development and Humanitarian Aid and the Coordination office of the Austrian Episcopal Conference for Development and Mission (KOO) represent Austrian NGOs active in the fields of development cooperation, development education and policy work as well as humanitarian aid and sustainable global economic, social and ecological development. Together we represent more than 60 member organisations. Many of them are active in cooperation with partners in Asia.

As Austria is one of the funding members of the Asian Infrastructure Investment Bank (AIIB), we appreciate to be able to comment on the draft of the Environmental and Social Framework as well as the consultation process.

According to the Articles of Agreement, the AIIB has a strong focus on regional integration and economic development and will invest in infrastructure development for this purpose. The Articles of Agreement do not refer to poverty, human rights, a gender approach or ecological sustainability. Since infrastructure projects often have negative impacts on local communities, the environment and the climate as well as corruption risks we consider it especially important to have a strong Environmental and Social Framework (ESF). High standards are a prerequisite for investments to contribute to a broad based inclusive sustainable development in the interest of the people and to support the achievement of the Sustainable Development Goals (SDGs).

### **Environmental and Social Framework**

We appreciate that the draft framework includes an **ambitious vision** which aims to “*assure integration of environmental and social sustainability as core element in AIIB’s policies and Operations it finances*”. The draft ESF addresses several important aspects regarding environmental and social impacts, standards for Indigenous Peoples including references to free prior and informed consent, resettlement policies, consultation and participation, disclosure and grievance redress. It provides for an examination of alternatives including a no operation alternative.

However, at the same time the proposed flexibility leads to several **loopholes which can counteract these ambitions**: According to the draft, operations can be approved on the basis of planning frameworks. In our view, operations should not be approved at this stage due to the lack of details of operations. Such details are needed for environmental assessments, resettlement plans or Indigenous Peoples plans. If such assessments and plans are developed later harmful consequences for people and environment might have

occurred already and may be irreversible. Financial support might have been already transferred and therefore it might be difficult to still influence the operations.

In our view, the draft **relies too much on the self-regulation of its clients** through their own standards. While strengthening of country systems is an important goal, a premature use without clearly defined standards is very risky. It remains unclear how the AIIB checks if the clients' standards are equivalent to the ESF and if the clients are able to properly implement them. Strong procedures to determine equivalence of clients' systems with the AIIB's own ESF should be established. Clear responsibilities of AIIB and clients in the oversight and accountability mechanisms are required.

Human rights are only mentioned in relation to Indigenous Peoples' rights. Generally, there is a **lack of reference to internationally agreed standards** for example regarding labour rights. While forced labour is excluded and some criteria are mentioned, child labour seems acceptable under certain conditions. Unlike the IFC, EBRD and the African Development Bank, the draft does not require compliance with the ILO core labour standards.

We are concerned about the **Environmental and Social Exclusion List** which in our view is missing important points: It does not exclude the support of nuclear power plants, the support of production of or trade in radioactive materials, the financing of coal projects or the production or activities involving child labour. These examples show that the current draft is setting the standards below those of other development banks like the World Bank or the Asian Development Bank.

The Environmental and Social Exclusion List leaves loopholes on excluded operations by stating "*AIIB does not knowingly finance*" operations involving listed areas (including illegal activities, trade with weapons, hazardous chemicals, commercial logging in primary tropical forests, activities prohibited by certain international conventions).

The draft remains **vague regarding operations in protected areas and natural habitats** relying on mitigation measures or (un)sustainable land use (including phrases such as "*where feasible*", "*as appropriate*").

The AIIB should follow the example of other IFIs such as World Bank, IFC or ADB and clearly state that it does not finance activities on the exclusion list and should include all areas.

We welcome the inclusion of a standard on **involuntary resettlement** in the ESF 2. However, in our view the draft contains **loopholes** which could weaken the standard. In addition, the framework should – apart from avoiding negative impacts of resettlements – also aim at proactively supporting and improving the tenure security of poor and marginalised groups. Therefore the ESF should expand objective 2 respectively. The ESF covers physical and economic displacement as a result of a) „*involuntary acquisition of land*“ or b) „*involuntary restrictions on land use or on access to legally designated parks and protected areas*“. Limitations reduced to only these results would exclude millions of persons who possibly could be physically or economically displaced due to projects and programmes supported by the AIIB. Therefore, the application of ESS2 should be expanded to all these persons.

We welcome that the current draft requires **meaningful consultations of Indigenous Peoples** (ESS 3). However, it seems that the Free, Prior and Informed Consent (FPIC) does

not have to be established in all cases. The ESF should **clarify** that FPIC always takes place and it should use the definition of FPIC enshrined in the UN Declaration of the Rights of Indigenous Peoples.

### **Consultation, participation, accountability**

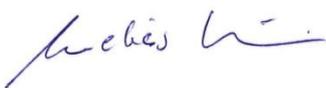
In the ESF **consultation and participation measures as well as transparency and information disclosure** are broadly addressed but at the same time credibility is undermined with the current consultation lagging far behind the measures announced. For example, **grievance and redress mechanisms** are mentioned but not established and seem to rely much on existing national systems which often are not adequate. Plans for the AIIB Grievance Mechanism have to be released for public comment before the draft ESF is finalised and approved.

We welcome the opportunity to take part in the consultation process on the ESF. As the ESF emphasizes the importance of consultations, good practices established in the context of International Financial Institutions should be upheld. However, civil society from Europe and Asia was struggling with the arrangements of the current process. Generally **time tables** should be clear from the start and provide for **adequate time periods** to prepare comments.

We believe that the **consultation of civil society and communities in Asia** who will be affected by the operations of the AIIB is absolutely crucial. The NGO Forum on ADB<sup>1</sup> criticises that there was no adequate information about the consultation publicly available, that the timeframe for collecting input was much too short. It further points out that video conferences and consultations only in English language hinder the broad participation of Asian communities. The commitment to stakeholder participation in the draft ESF should also be applied in the current consultations. Shortcomings of the current consultations should not be repeated in future consultations. Therefore we support the **recommendations of the NGO Forum on ADB** for structuring the current and future consultation processes<sup>2</sup>.

We hope to be able to contribute with our comments to the elaboration of a strong Environmental and Social Framework for the AIIB.

Sincerely yours,



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<sup>1</sup> NGO Forum on ADB: Letter to AIIB, 5.9.2015, <http://forum-adb.org/main/global-call-for-aiib-to-make-safeguards-consultation-open-inclusive/>.

<sup>2</sup> NGO Forum on ADB: Global Call for AIIB to Make Safeguards Consultation Open, Inclusive, 9.9.2015, <http://forum-adb.org/main/global-call-for-aiib-to-make-safeguards-consultation-open-inclusive/>.