

# INTERNATIONAL ACCOUNTABILITY PROJECT

## In Practice: Information Disclosure at the New Development Bank *International Accountability Project* April 2019

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The [Early Warning System](#) team strives to ensure the accuracy of the data. This analysis is being shared with the New Development Bank in advance of publication to allow opportunity for comment. While the Early Warning System team has made every attempt to research and present data accurately, it is often difficult to guarantee the complete accuracy of certain projects due to the lack of regularity and transparency in how various development institutions record and publish information. Where there is a lack of clarity in the information, the team has represented the information cautiously. The Early Warning System team is committed to correcting any identified errors at the earliest opportunity.

The [International Accountability Project \(IAP\)](#) and our partners monitor the online disclosure practices of several development institutions through the [Early Warning System](#) to better understand what project information is being disclosed, when it is being shared, and ultimately, how accessible the information is for communities - the intended beneficiaries of projects, who are often excluded from the decision-making process.

Previously, we analyzed the disclosure practices of [IDB Invest](#) (the private-sector lending arm of the Inter-American Development Bank), and the [European Bank for Reconstruction and Development](#) (EBRD). With these banks, we took advantage of open processes of consultation, where civil society was invited to provide feedback on current institutional policy and practice, and shared our assessments in the spirit of contributing to more robust and people-centered access to information policies and practices. [IDB Invest](#), for example, organised in-person meetings throughout the American continent to discuss a revised draft *Access to Information Policy*, as did the [EBRD](#) in Europe, Central Asia and North Africa. These consultations provide a valuable opportunity for project-affected community members and civil society to share their lived experiences and expertise with the Banks, so that information disclosure policies and practice can be strengthened to fulfill the right to access information, in-line with best standards and practices.

However, the New Development Bank (NDB or the Bank) has to date not followed the example of its peers in its practices of information disclosure and in holding public consultations on its policy revisions.

The results of our assessment of the NDB's disclosure practices demonstrates the real need for an open and participatory process with civil society for the creation and revision of its policies, including, but not limited to, its *Information Disclosure Policy*. The fact is that the NDB did not start an open and participatory process so communities and civil society organisations could have their say on how a Bank that is financed by public money should conduct itself. It stands to reason that

institutions operating with public money should be transparent and accountable to the very people that finance its operations. Unfortunately this is not the first time that the Bank has acted in this manner, as its current *Information Disclosure Policy* was also constructed without an open and participatory process.

This lack of democratic intake is reflected in the poor information disclosure practices of the Bank, elaborated below.

## **Methodology**

In conducting this analysis, IAP has assessed the information disclosure practices of the NDB in relation to international best standards and norms on access to information, including those enumerated in Article 19 of the United Nations Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the United Nations Declaration on the Right to Development, Convention 169 of the International Labour Organisation, Principle 10 of the Rio Declaration on Environment and Development, and other conventions resulting from these foundational documents. Moreover, the [Principles on Freedom of Information](#), endorsed by United Nations' and Organisation of the American States' Special Rapporteurs, and the [Transparency Charter for International Financial Institutions](#), created by world renowned experts in the field, are also embedded at the core of our analysis.

With these norms in mind, we use the [Early Warning System](#) initiative to track project information that is disclosed on the NDB's webpage. It is worth noting that our analysis does not evaluate compliance with Bank policies. Rather, our research seeks to assess current Bank disclosure practices against criteria, which if met, would establish the foundation for the meaningful fulfillment of communities' right to access information. These criteria are derived from our experiences working directly with communities affected by development bank projects, and our work to make information accessible through the *Early Warning System*. The parameters of our criteria are based on the understanding that, as an institution utilizing public funds, the NDB has a responsibility to ensure transparency of both its own activities and those of its clients. As such, in our analysis, any deferral of this responsibility on the Bank's part will not be considered as meeting our criteria, as it does not fulfill the right to access information.

We have analyzed information on projects disclosed by the NDB since the inception of its operations. In total, we reviewed information on 34 projects the NDB has made available on its webpage, as of March 2019.

For each project, we tracked the following information:

- The number of days available for communities to access information before an investment decision is made (also known as the Board date);\*
- Whether a summary or overview of potential environmental and social harms that might result from the proposed project was disclosed;

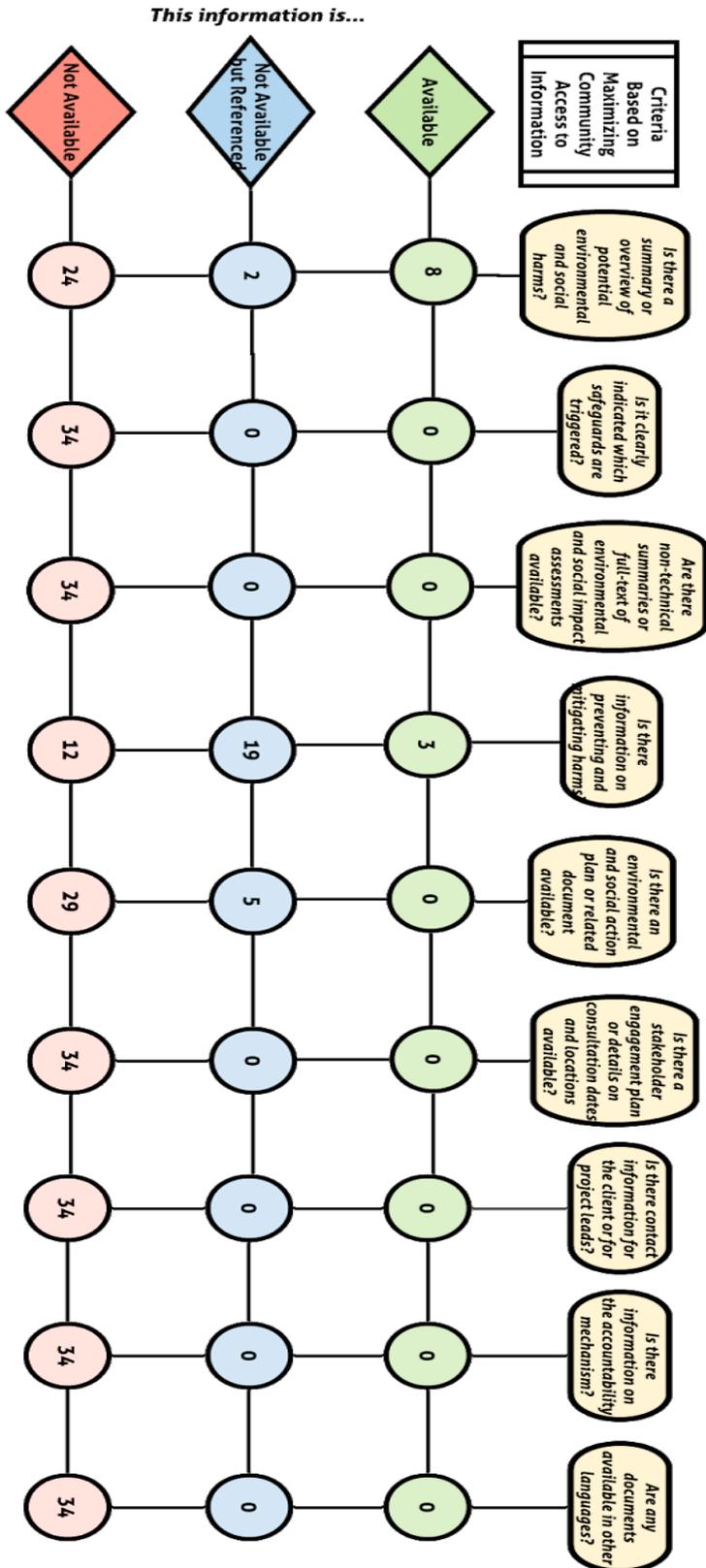
- Whether it was clearly specified which environmental and social safeguards were triggered for a project;
- Whether non-technical summaries of environmental and social impact assessments were available;
- Whether the full text of environmental and social impact assessments were available;
- Whether details were given on how potential harms would be mitigated and prevented;
- Whether documents such as environmental and social action plans, and stakeholder engagement plans were available;
- Whether information on consultation dates and locations was disclosed;
- Whether contact information for the client was provided;
- Whether contact information for the NDB's project leads was provided;
- Whether information on an accountability mechanism was provided;\*\*
- Whether project summaries were available in languages other than English; and
- Whether any technical documents (not including the project summaries) were available in languages other than English.

We evaluated this criteria based on the principle of early access to information. Communities possess legitimacy and local expertise that can better the design of potential projects, anticipating and mitigating adverse impacts, and ensuring projects achieve positive impacts that further their development priorities. Communities have the right to know and to be meaningfully consulted before any investment decision is made, a guarantee made clear in the Declaration on the Right to Development that "[\[t\]he human person is the central subject of development and should be the active participant and beneficiary of the right to development](#)". Communities also have the right to remedy, should they suffer harms from projects.

Accordingly, our analysis primarily focuses on the minimum information communities should expect to access when a project is still in its proposed stage, given that the ideal would have communities participate in proposing, designing and contributing to projects that are aimed at fulfilling their development priorities.

## ***Findings***

Our analysis of the NDB's current disclosure practices shows that the NDB discloses very little information, well below what international norms would require, and falls considerably short of the practice of peer development finance institutions and in fulfilling communities' right to access information.



Disclosure of Environmental Social Risks, Applicable

and

## **Safeguards, and Mitigation Measures**

- The number of days available for communities to access information before an investment decision is made (also known as the Board date);\*
  - N/A
- *Whether a summary or overview of potential environmental and social harms that might result from the proposed project was disclosed*
  - Yes - 8
  - No, but referenced in project summary - 2
  - No - 24
- *Whether it was clearly specified which environmental and social safeguards were triggered for a project;*
  - Yes - 0
  - No, but referenced in project summary - 0
  - No - 34
- *Whether non-technical summaries of environmental and social impact assessments were available;*
  - Yes - 0
  - No, but referenced in project summary - 0
  - No - 34
- *Whether the full text of environmental and social impact assessments were available;*
  - Yes - 0
  - No, but referenced in project summary - 0
  - No - 34
- *Whether details were given on how potential harms would be mitigated and prevented;*
  - Yes - 3
  - No, but referenced in project summary - 19
  - No - 12
- *Whether documents such as environmental and social action plans (ESAPs), and stakeholder engagement plans, or others were available;*
  - Yes - 0
  - No, but referenced in project summary - 5
  - No - 29

**The most immediately alarming finding from our analysis is that the NDB does not disclose any documents, including key environmental and social documents, for any of its projects.**

According to our analysis, NDB does not disclose non-technical summaries, full Environmental and Social Impact Assessments, Environmental and Social Action Plans, Stakeholder Engagement plans or Consultation Plans for any project, regardless of risk category. More specifically, **for the 34 projects tracked in this analysis, not one project had any of these documents publicly available.** It is worth noting that 5 of the 34 projects analysed (or 15%) mentioned that a document was produced in order to address adverse impacts - such as silt disposal or general environmental plans. However, these documents were not publicly disclosed.

The only two criteria where information was provided by the Bank were regarding whether or not there was a summary or overview of potential environmental and social harms available, and whether or not there was information on preventing and mitigating harms. Yet, out of the 34 projects, 24 (or 70%) did not contain a summary or overview of environmental and social risks. While 8 (24%) of project web-pages contained a short paragraph going through the project's potential impacts, 2 (6%) simply referenced potential harms without clarifying what they were.

That means that less than a third of the projects provided communities with a hint in relation to where they might face adverse impacts, in accordance with the Bank's perspective. These hints were substantially less comprehensive when compared to the information the Bank provides on the perceived benefits that could result from the project.

This cannot be considered sufficient to fulfill communities' right to access information. In fact, this approach appears to purposefully de-emphasize and obfuscate anticipated adverse environmental and social impacts. Communities have the right to know and understand about the complete picture of a project - including both perceived benefits and risks - before a project is approved, so that they can meaningfully contribute alternatives and solutions to adverse impacts, and ensure that intended benefits align with their development priorities.

This trend is particularly problematic when taking into account that more than half of the Bank's projects are of potential high impact (9 projects are Category A and 14 projects are Category B), and almost a third of them are of an unknown risk category (9 projects).

**Details on mitigation of adverse environmental and social impacts was provided for just 3 projects (less than 10% of the dataset), while 19 (55%) only referenced that mitigation measures were in place to deal with harms, without further details.** Particularly troubling is the fact that none of the projects that were still pending approval had any information on potential harms or mitigation measures.

Also absent in the Bank's project webpages is information about potential safeguards triggered by the projects. **Not one out of the 34 projects analyzed provided information about which environmental and social safeguards were triggered by a project.** Even though some projects note that the Bank will rely on country systems in the management of environmental and social risks, no further information is disclosed, precluding affected communities from understanding what standards and entitlements apply to the project. The NDB should make it clear which of its three *Environmental and Social Standards* could be triggered when appropriate. By not disclosing this information, the Bank undermines the importance of its environmental and social system, and leaves communities without a common framework to discuss project impacts with the financial institution.

At the time of writing, 30 out of the 34 projects reviewed as part of this analysis were approved, meaning that even after approval by the Board, the NDB is still not disclosing the necessary project information for communities to be informed about a project. This is an important observation, as for the right to information and consultation to be duly fulfilled, communities should have early access to all necessary documents, certainly before the Board decision-making process.

On this topic, it is important to note that the Bank does not provide the disclosure date of any of its projects or the future Board date of projects in its pipeline. Without this information, **it was impossible to assess the number of days communities have to access information before Board consideration of each project.** This is very problematic as it is impossible to determine whether or not the average number of days that information is made available for communities to access before a financing decision is adequate to facilitate their meaningful participation and engagement. Even without this information, IAP considers it appropriate to advise the NDB to provide at least 120 days for communities to access information and engage with the Bank, regardless of project risk category or sector.

For a community seeking to understand the potentially life-altering impacts of a project, early and complete access to this information is critical, regardless of risk category. Communities should have the opportunity to fully understand the impacts of a project, analyze the assessments produced within their own rubric of local expertise, understand which safeguards are considered applicable by the Bank, provide recommendations that often highlight overlooked complexities, and suggest alternatives that better the overall project design. Disclosing this information after an investment has already been approved does not afford communities meaningful access to information, thereby precluding many of these opportunities.

### ***Disclosure of Information on Engaging During Project Design and Implementation***

- *Whether information on consultation dates and locations was disclosed;*
  - Yes - 0
  - No, but referenced in project summary - 0
  - No - 34
- *Whether contact information for the client was provided;*
  - Yes - 0
  - No, but referenced in project summary - 0
  - No - 34
- *Whether contact information for the NDB's project leads was provided;*
  - Yes - 0
  - No, but referenced in project summary - 0
  - No - 34
- *Whether information on an accountability mechanism was provided;\*\**
  - N/A

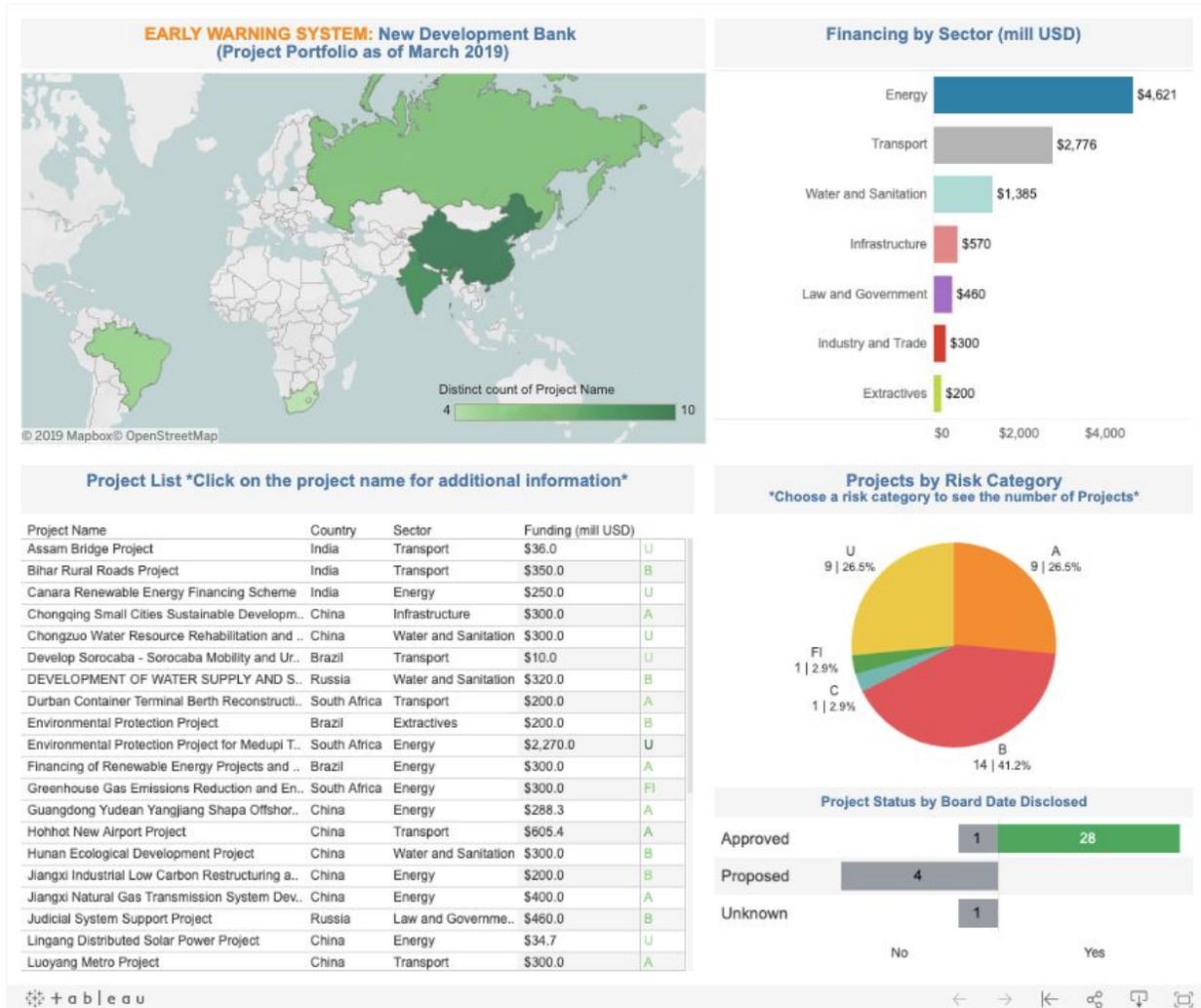
- Whether [project summary documents] were available in languages other than English;
  - Yes - 0
  - No, but referenced in project summary - 0
  - No - 34
  
- Whether any technical documents (not including the project summary documents above) were available in languages other than English
  - Yes - 0
  - No, but referenced in project summary - 0
  - No - 34

Similarly, the NDB also does not release project contact information, either for its clients or for the Bank staff responsible for a given project. **Not one of the 34 projects analyzed provided information on how to contact clients or the Bank staff team.** This means that communities cannot possibly know who to directly contact to discuss concerns about a given project, and are then left with a general inquiries email address and an online form for requesting information.

If those who are to be most impacted by a project want to directly contact the Bank about potential impacts, alternative proposals, complaints, or other concerns, they should not be directed at a general email that will not distinguish their concerns from those of other members of the public, as a general access to information system is not designed for this type of interaction. Moreover, both of these means of communication with the Bank presuppose linguistic and technological access that is hardly the reality of the countries where NDB operates.

Mounting another barrier to access, **not one of the projects analyzed had project summaries or technical documents available in languages other than English.** Key project information, including in technical documents should be made available in national or regional languages,, so that communities and those supporting them can have a chance to interact with the Bank and its clients. Of course, national or regional languages and internet-based communication systems should not be regarded as effective means of providing information when those potentially impacted by NDB projects do not have access to them.

At present, the NDB does not have an independent accountability mechanism, which would allow communities harmed by NDB projects to file a complaint. Accordingly, the project webpages did not provide any information on the existence or procedures for accessing an accountability mechanism. [Several civil Society organisations already called attention to the importance of the existence of such a mechanism.](#) Instead, according to its *Environmental and Social Framework*, the Bank relies on client grievance redress systems, which could hardly be considered impartial due to their vested interests in the subject matter. The NDB's website currently provides a general email for information requests and a whistleblower mechanism for complaints related to corruption, fraudulent practices and money laundering. These do not appear to be directed at receiving complaints related to social and environmental harms resulting from projects. It is also important to note that even this information, which is related to mechanisms that are inappropriate for social and environmental complaints, is not available on each project's webpage, but only in a separate section of the Bank's website.



Explore the NDB's projects by country, sector, risk category, and project status using this interactive map, available [here](#).

### Conclusion and Looking Ahead

It bears emphasis that communities and civil society have found very little space, if any, to assess the NDB's proposed pathway to the betterment of people's lives. An institution aiming for real development should embrace the views of potentially impacted communities and those supporting them at the inception of any project and policy. It is difficult to understand the Bank's refusal to trace this path in partnership with those who stand to be most impacted by its projects, which could sustain the Bank's claim of being directed towards development.

With so few projects on its horizon, there is no reasonable excuse to justify poor disclosure practices. Moreover, given this short list of projects, it is puzzling why the Bank cannot prioritise translating project information - both in terms of language and technical accessibility - to make it

more accessible to communities and the general population of the countries in which these projects will take place.

We sincerely hope that by giving proper attention to this analysis, the NDB sees the benefit of working closely with communities and civil society from now on, not only to improve its information disclosure practice, but to fulfill communities' right to real development. In order to advance this right, communities -- those who will be affected by the Bank's activities- must lead and to do so, they must be equipped with accessible and timely information that facilitates their informed decision-making.

*A note on the methodology criteria:*

*\* As noted in the text above, NDB did not provide the disclosure date for any of the projects in this dataset, nor of the expected Board dates. Without this information, it was impossible to assess the number of days communities have to access information before board consideration of a project.*

*\*\* As noted in the text above, NDB does not presently have an independent accountability mechanism*

The dataset used for this analysis is [available for download](#). An interactive graphic representation of the data [can be found here](#).