

## Complaint on lack of transparency concerning the Gilgel Gibe 3 operation

Plaintiff: Campagna per la Riforma della Banca Mondiale

Contacts: [REDACTED]

### Background

CRBM is monitoring the development of the Gilgel Gibe III dam since 2007, due to its negative social and environmental impacts as well as the weak institutional framework and violations of international standards and best practices. In this context CRBM had engaged the EIB in a continuous flow of information. CRBM and Counter Balance, within this period, had feeded the bank with independent reports and information trying to engage in a constructive dialogue that the banks had constantly refused. The reason of this refusal is that the bank "has not yet decided whether to undertake an appraisal of the project". While using this statement to refuse us meetings with officers and access to information, the bank financed through the Technical Assistance provisions the following studies:

- 1) An Economical, Financial and Technical Assessment (EFTA) in cooperation with AfDB and EEPCo contributing with of EUR 200.000
- 2) An Independent review of ESIA's carried out by the project's promoter for a total cost of EUR 283.200

These studies have been financed in form of grant to support project related technical assistance for Gibe III. As enabled for under the Cotonou Agreement (Annex 2, Chapter 1, Article 2.9) this grant is drawn from an endowment for technical assistance managed by the EIB under the Investment Facility as part of the European Development Fund (EDF).

In Addition the EU-Africa Infrastructure Trust Fund allocated (ITF) EUR 1,3 million for two additional studies

- 1) Comprehensive Environmental and Social Impact Assessment study (EASIA) for Lake Turkana 2) the Cumulative Impact Assessment (CIA) for the Omo River hydroelectric cascade.

<http://www.eu-africa-infrastructure-tf.net/activities/grants/gibe-iii-hydroower-project.htm>

In March the EIB opened a pre-qualification notice for the two studies published on the EU official Journal. The notice was cancelled the 24th of March 2010.

### Allegations

The bank is dealing with the Gilgel Gibe 3 project in a un-transparent way, undertaking a "shadow appraisal" which not allow the stakeholders engagement. The bank refuses to disclose documents which need to be made available to the public domain.

### Facts

The plaintiff's engagement with the bank started in November 2007 when the Counter Balance coalition wrote to President Maystadt to warn about the violations surrounding Gilgel Gibe III project.

The communication office replied on behalf of the president (27th of January 2008) saying that the bank was waiting for additional documents from the project promoters including "*relevant documentation confirming that the recommendations of the World Commission on Dams have been take into account*" and concluding that "*the Bank's decision on whether to accede to the Ethiopian authorities' request to participate in the finance of Gilgel Gibe III and to undertake an appraisal of the project will be taken in the light of a thorough analysis of the background documentation*".

In order to know how the bank was assessing the project against the WCD recommendations the CB coalition requested a meeting with relevant officers which took place in Luxembourg in May 2008 at the presence of [REDACTED]. The staff was not able to give any information about how the WCD recommendations were taken on board by the evaluators. Miss [REDACTED] said that this was the task of the engineers that were not in Luxembourg on that day. Two additional requests of meetings, with the appointed engineers, were requested respectively in June and October 2008. The response of the Communication office was again that the engineers were never in Luxembourg and the message of Mr. [REDACTED] dated October 14th 2008 was concluding "*we believe a new meeting would be premature at this stage*".

In February 2009 CRBM was informed by the AfDB, that the EIB was co-financing the EFTA study. Despite the long correspondences and the previous contacts undertaken, the bank explicitly omitted to inform the plaintiff about the planed study.

On March 10, 2009 the plaintiff requested to have access to the ToR of the study. The request was refused on April 2nd, 2009.

On April 27, 2009 the plaintiff requested to know if the consultant was appointed, what was the firm chosen and when the study was going to be delivered. The request was rejected on May 5, 2009.

On April 1, 2010 the plaintiff requested to have information about the pre-qualification notice's cancellation. The request was declined on April 8.

On April 23, 2010 the plaintiff requested to have access on Non-Technical Summary of the ESIA review study. The request was rejected on May 7, 2010.

On May 27, 2010 following the news that a Chinese company, financially backed by the private bank ICBC, took over the project's component which the EIB was supposed to finance, the plaintiff request to know if the pre-appraisal procedure was still ongoing.

No answer has been given from the bank to this specific question.

### **Violations**

**While pre-appraising the Gilgel Gibe III project the bank is committing the following violations of its Transparency policy:**

#### **- Article 1.1**

" As an EU body, the EIB is committed to achieving the **highest possible level of transparency in all its activities towards external and internal stakeholders**, which it considers to be part of its mission to further the objectives of the European Union. It is firmly convinced that, as a publicly owned instrument for furthering and supporting EU development, **it should maintain exemplary standards in all areas** where EU policies have a bearing on its business and governance."4

#### **- Article 1.2.1**

Therefore, more than simply disclose standardised information and more than just a one-way flow of information, the **EIB aims to provide stakeholders with the information they require to make positive contributions towards enhancing the quality of the Bank's activities. Such transparency requires an ongoing dialogue between organisation and stakeholders over information provision**

#### **- Article 1.3.1**

The Transparency Policy is guided by openness with the underlying presumption that, whenever possible, **information concerning the Bank's operational and institutional activities will be made available to third parties (the public) in the absence of a compelling reason for confidentiality**, in line with EU legislation, those of the EU Member States and countries of operation and internationally accepted principles.

#### **- Article 1.4.2**

**The EIB is committed to giving stakeholders access to the information that will enable them to understand its governance, strategy, policies, activities, practices, performance, impacts and outcomes with a view to allow stakeholders to take their actions and decisions on an informed basis.**

#### **- Article 1.5.1**

**The EIB is committed to actively encourage stakeholder input.** Through its commitment to open communication, the Bank demonstrates its willingness to listen to third parties so as to benefit from their contributions to its work in fulfilling its mission.

#### **- Article 1.7.1**

In its financing operations, the Bank recognises the rights, interests and responsibilities of stakeholders to achieve sustainable outcomes. **In this context, the EIB actively promotes transparency with its counterparts, including with the development and operations of financed projects.**

#### **- Article 5.1.1**

Presumption of disclosure: **All information held by the Bank is subject to disclosure upon request, unless there is a compelling reason for non-disclosure.**

### **Plaintiff's request**

The plaintiff request to the bank to comply with the provisions of the transparency policy committing itself to make Gilgel Gibe III pre-appraisal procedure a transparent process by undertaking a stakeholder's engagement and making public the timing and the steps of the decision making process.

#### **Particularly the plaintiff requests:**

- 1) To know why the pre-qualification notice the "Comprehensive Environmental and Social Impact Assessment study (EASIA) for Lake Turkana" and the "Cumulative Impact Assessment (CIA) for the Omo River hydroelectric cascade", for which EUR 1,3 million have been allocated under ITF, has been cancelled.
- 2) what are the next institutional steps foreseen for pre-appraising the project and when a definitive bank decision, whether to undertake the appraisal or not, is expected to be taken.

- 3) To disclose the NTS of the ESIA review study (financed with the TA allocations), once finalized, in compliance with the provisions of the Aarhus Convention.
- 4) To know how the project is screened and evaluated against the WCD recommendations and access to the relevant documents of this evaluation.
- 5) To know at what stage is the due diligence and what are the potential project's component the bank may finance taking into account the latest project's developments.

**Annexes**

1) *The Correspondences index is annexed to the complaint.*

The correspondences should be available in the bank's own record. In case something is missing the plaintiff is available to re-send e-mails and letters upon request.