



one world trust

One World Trust submission to the European Investment Bank to contribute to the second round of public consultation on the review of EIB's Public Disclosure Policy.

18th November 2005.

Process

The One World Trust welcomes the review of the EIB's Public Disclosure Policy, and the important contribution that this policy makes to the accountability of the EIB. The importance of the Public Disclosure Policy lies in its recognition of the public as a stakeholder with a right to understand the workings of the EIB and to be able to hold it to account where appropriate. For any organisation transparency is a crucial element of ensuring accountability, and information disclosure a crucial component of transparency. Though traditionally less powerful than other stakeholders, the public is an important stakeholder of the EIB and hence to strengthen the accountability relationship with the public the development and implementation of an effective Public Disclosure Policy is essential.

The One World Trust also welcomes the fact that the EIB has provided the opportunity for stakeholders to comment on the draft Public Disclosure Policy, through two rounds of consultation. A policy that aims to improve accountability will only succeed if it meets the needs of the stakeholders for whom it is designed. Consultation of those stakeholders is therefore a requirement during the development of the policy. To capitalise on the consultation process that has been carried out the EIB must ensure that it assesses and takes into account the information gathered from the consultation process. Ideally the EIB should report on how this information was used, where it was and wasn't taken into account, and the reasons for these decisions. In order to ensure that, once implemented, the Public Disclosure Policy does meet the needs of those it is intended for, the EIB must commit to evaluate it with input from stakeholders on a regular basis, and to revise it as necessary.

The Wider Picture

Public disclosure is not sufficient to ensure accountability to the public. It must be supported by other effective policies in three main ways.

1. Throughout the Public Disclosure Policy a number of other policies are referred to in relation to accessing information, for instance the Code of Good Administrative Behaviour and the Rules on Public Access to Documents. This consultation does not deal with these, but suffice to point out that the quality of these policies will have a significant impact on the effectiveness of the Public Disclosure Policy.
2. The role that disclosure plays in increasing accountability to the public is chiefly through the provision of information about decisions or activities which may affect them, thus enabling the public to respond. It is therefore necessary that information that will be required by the public is produced. The production of this information will arise from policies requiring, for instance, social and environmental assessments to be undertaken

for projects prior to approval, or evaluation to be undertaken upon completion of an activity. EIB must therefore ensure that its policies require the production of such information which is necessary for the public interest. Disclosure of information to the public does not add value if it is not the information that the public seek.

3. Public disclosure must be supported by other mechanisms which contribute to accountability. An organisation that provides information then offers no way for stakeholders to interact with the organisation, for instance to query, dispute, or hold to account, is not enhancing its accountability. The EIB must ensure that its Public Disclosure Policy is supported by other mechanisms which enable the public to make use of the information disclosed where necessary. Supporting policies must highlight the need for complaints mechanisms, consultations, whistleblowing, and so on.

Comments on the Policy Content

It is important that the basis of the EIB's Public Disclosure Policy is presumption of disclosure of information (point 4). However, in parts of the policy it is not clear enough what constitutes a reason for non-disclosure. A transparency or public information policy must provide clear criteria to ensure that objective decisions are made on the release of information, therefore when a decision is made not to disclose information it is clear why this decision was made, and how this relates to the policy. The risk of not proceeding in this manner is that decisions are made objectively, or with no clear reasoning, resulting in inconsistency between decisions made, and, quite possibly, a negative impact on the credibility of the policy and its role in meeting the public interest. The EIB must therefore thoroughly review the policy and, in areas where there is room for interpretation, must clarify the criteria that EIB will use in deciding upon information disclosure or responding to information requests. This applies for instance in relation to point 38 '...the Bank's Management Committee may, **in exceptional circumstances**, decide on non-disclosure...'; and in relation to point 42, '...the Bank will consider providing further information, **where possible**...' [formatting added].

In relation to specific parts of the policy, the following are important aspects of a public disclosure policy which, while reflected in the current document, must be maintained and moreover the effectiveness of their implementation must be evaluated on an ongoing basis, and modifications made where necessary.

- The policy as an 'evolving and flexible instrument', subject to evaluation and 'responsive to public comment' (points 12 & 14).
- Clarity around protection of confidentiality (point 30).
- Embeddedness of the policy, through awareness raising and dialogue with staff and other stakeholders (point 32).
- The release of information on projects prior to decisions being made (point 36).
- The publication of evaluation reports on operations (point 48).
- The presence of an appeal process for those refused access to information (point 56).

However, there are a number of issues or questions which arise from the policy:

- The EIB must provide information on its decision-making process, at operational, policy and strategic levels, to ensure that the public understands how they can act on information to input into these.
- It is not clear from point 37 whether the release of Project Summaries prior to consideration by the Board of Directors allows sufficient time for input from stakeholders reacting to the information, and for the consideration of this input by the EIB. The EIB should both clarify the timing involved, and ensure that there is sufficient time for the public to input into the decision-making process. The impact of information disclosure is severely reduced if the opportunity to respond to the information does not exist.
- In cases of private projects which the Management Committee decide should not be disclosed prior to approval (point 38) the policy should also state when information on the project will be disclosed and what will be disclosed, along with the reasons why information was not disclosed prior to approval (to enable public scrutiny of this decision). The policy should also clarify whether the EIB takes into consideration any public interest criteria when making the decision not to disclose – for instance balancing possible public interest factors with possible adverse affects on the promoter's operations.
- The policy should state who (an individual) has responsibility for the quality and effective implementation of the Public Disclosure Policy. The EIB should provide a named contact in relation to the Public Disclosure Policy.
- The EIB should provide a named contact point for each project within the Project Summary (point 40).

The EIB must ensure that its use of the internet as the predominant method for providing information and opportunities for consultation does not inhibit certain stakeholder groups from accessing the information or engaging in the consultations (points 14, 17, 37, 33, 34, 36, 40, 41). The EIB should conduct a review of key public stakeholder groups to understand if this is the case, and if so work to develop alternative means of accessing the information in those cases where it is necessary.

The One World Trust Transparency Guidelines

The One World Trust’s Global Accountability Framework provides a baseline for what is important if international organisations are to improve their accountability to stakeholders. The framework presents a set of guidelines to enable organisations to start to explore and operationalise their accountability. The guidelines are presented under four core dimensions of accountability: transparency, participation, evaluation, and complaints and response mechanisms. The guidelines for the transparency dimension are presented below.

Organisational Policy and Capacity	T1. Policy Development	T1.1. The organisational policy on transparency is developed in consultation with stakeholders and relevant experts, and reflects the needs of stakeholders.
	T2. Policy Content	<p>T2.1. The organisation has a disclosure policy that outlines the rules related to access to information.</p> <p>T2.2. The policy provides a clear statement committing the organisation to the release of information in the absence of a compelling reason not to disclose, and a clear statement on what constitutes a compelling reason.</p> <p>T2.3. The policy provides a clear statement on issues of confidentiality. It states what information it regards as confidential, and why (this might relate to third party confidentiality, commercial confidentiality, staff confidentiality, etc).</p> <p>T2.4. The policy provides a clear description of the information disclosure process and the process guarantees to which the organisation can be held to account. This should include:</p> <ul style="list-style-type: none"> • How to make an information request • Timeframes for dealing with information requests • Details of how the response will be made • Details of the rules governing decisions • Costs of obtaining information (if any are incurring).
	T3. Governance	<p>T3.1. Responsibility for oversight and implementation of the transparency policy is assigned to a member of the Board, and responsibilities are cascaded throughout the organisation as appropriate, to ensure the policy objectives are reflected in goals and activities at all levels of the organisation.</p> <p>T3.2. A system of incentives and sanctions for employees is operated to ensure compliance with the organisation’s policy on transparency.</p> <p>T3.3. Evaluation of the transparency policy and process occurs on a regular basis in consultation with stakeholders.</p> <p>T3.4. An appeal process exists, which allows stakeholders to appeal when they feel they have wrongly been denied access to information. This process conforms to the guidelines set out in the Complaint and Response Mechanisms section.</p>

	T4. Resources	<p>T4.1. Resources are assigned for the implementation of the transparency policy throughout the organisation, which cover staff and operational costs.</p> <p>T4.2. Relevant staff at all levels of the organisation are trained in how to respond to and/or refer an information request.</p> <p>T4.3. Within the organisation expert resources are available to advise on transparency and information disclosure.</p>
	T5. Accessibility: Information Availability	<p>T5.1. Information on the organisation's transparency policy and the process of filing a request is actively disseminated in a clear and easily understandable manner to key stakeholders in appropriate forms and through appropriate media. Appropriate form may include catering for different languages, visual impairment, deafness, etc; appropriate media may include print, the World Wide Web, video, audio, public meetings, etc.</p> <p>T5.2. Information on the organisation's transparency policy and the process for filing a request is easily available to stakeholders in appropriate forms and through appropriate media.</p> <p>T5.3. Contact details for a relevant person in the organisation are provided.</p>
	T6. Accessibility: User Friendliness	<p>T6.1. The process for filing an information request is easily understandable by stakeholders.</p> <p>T6.2. Requirements for filing an information request take into account the likely capacities of stakeholders.</p> <p>T6.3. Stakeholders are not prevented from accessing information due to financial constraints.</p> <p>T6.4. Ideally, the organisation facilitates stakeholders' access to independent support when necessary.</p> <p>T6.5. The process of filing a request uses appropriate media.</p>

Specific Information Requirements	T7. General institutional information.	<p>The following must be made available in appropriate forms and through appropriate media:</p> <p>T7.1. Details of the organisation's operations. For each activity this includes a description of the activity, where it is taking place, when it is taking place, what the objectives are, what the assigned budget is and who has responsibility for it.</p> <p>T7.2. All policies relating to an organisation's commitment to accountability (such as policies on transparency, participation, evaluation, complaints, conflict of interests, ethical conduct, etc).</p> <p>T7.3. Policy and activity evaluations, and annual reports.</p> <p>T7.4. A clear description of the organisational structure. This should include details of any subsidiaries, holdings in other organisations, and partners.</p> <p>T7.5. A comprehensive list of key staff specifying their contact details and the scope of their responsibilities.</p> <p>T7.6. Annual budgets and financial statements that provide information on the organisation's income, sources of income and expenditure broken down to department level, balance sheets, and interests in subsidiaries.</p> <p>T7.7. Reports detailing the organisation's impact (environmental, social).</p> <p>T7.8. Political and charitable contributions.</p> <p>T7.9. Any codes, partnerships or coalitions to which the organisation is a signatory.</p> <p>T7.10. Details of third party advisors to the organisation.</p>
	T8. Governance structures and decision-making processes	<p>T8.1. Members on the executive and governing bodies are identified and there is clarity about how they can be contacted. Their interests in other organisations are declared in relation to the conflict of interest policy, to make it clear how the organisation deals with actual and potential conflicts of interest.</p> <p>T8.2. The number of votes held by each member in the executive and governing bodies is disclosed.</p> <p>T8.3. A clear and meaningful description of how decisions are made at the operational, policy and strategic levels of the organisation is provided.</p> <p>T8.4. The outputs from, records of, and information that informed the, decision-making processes are made available. This may include transcripts, summaries, minutes and agendas of meetings and background documentation.</p> <p>T8.5. There is openness on how stakeholders can input into the different levels of decision-making.</p>

About Us

The One World Trust promotes education and research into the changes required within global organisations in order to achieve the eradication of poverty, injustice and war. It conducts research on practical ways to make global organisations more responsive to the people they affect, and on how the rule of law can be applied equally to all. It educates political leaders and opinion-formers about the findings of its research.

The One World Trust's Accountability Programme:

- Enhances the accountability of global organisations to their stakeholders, thus leading to increased legitimacy, learning, and performance.
- Strengthens the capacity of stakeholder groups, such as civil society organisations and Parliamentarians, to engage in global decision-making processes.
- Generates wider commitment to the principles and values of accountability and democracy, making global governance structures more effective in addressing the pressing needs of today's world.

Through the innovative Global Accountability Project (GAP) launched in 2001, the One World Trust pioneered the cross-sectoral approach to accountability. Looking at intergovernmental organisations (IGOs), transnational corporations (TNCs), and international non-governmental organisations (INGOs), we promote learning and facilitate knowledge sharing across the three sectors. The GAP Framework offers a comprehensive understanding of accountability and gives guidance to organisations on how to operationalise it.

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