December 18, 2020

Nederlandse Financierings-Maatschappij voor Ontwikkelingslanden N.V. (FMO)
Anna van Saksenlaan 71
2593 HW, The Hague
The Netherlands

via electronic mail

Recommendations to Strengthen Disclosure at FMO to Fulfill Communities' Right to Information

We, the undersigned organizations, are writing to highlight serious shortcomings in FMO's current disclosure practices, and to share recommendations for strengthening the institution's access to information system to better prioritize communities, the intended beneficiaries of development.

As organizations that support communities worldwide to participate in the development decisions that impact them, we know firsthand that meaningful access to information and stakeholder engagement are vital to ensuring rights-respecting and truly sustainable development. We have also witnessed the devastating impacts that can occur when these fundamental building blocks for transparency and accountability are absent.

With these high stakes in mind, we draw your attention to the findings and recommendations shared by the International Accountability Project (IAP) and the Foundation for the Development of Sustainable Policies (FUNDEPS) in an analysis of the information disclosure practices of your institution, attached as an annex to this letter. This analysis was conducted through the *Early Warning System*, a global initiative that aims to provide communities, and the organisations that support them, with the necessary information about investments proposed by development finance institutions, in order to enable their timely and meaningful participation in project design and implementation. In our collective experiences, when communities' rights to information and participation are fulfilled, their local expertise and legitimacy can better the design of potential projects, anticipating and mitigating adverse impacts, to ensure that projects achieve positive outcomes that also further community development priorities.

Given FMO's profound impact on communities worldwide, we note with concern that FMO's current disclosure practices fall far short of international best practice, including that of its bilateral peers. Out of the dataset of 241 projects disclosed from January 1, 2019 through May 31, 2020 on FMO's website, some key findings include:

- Only 24% of projects were disclosed with a summary of their potential impacts, and only 9% presented details on how harms could be prevented;
- Despite investing heavily in non-English speaking contexts, 0% of projects disclosed included translations of basic or technical project information; and
- 0% of projects disclosed technical documents, including environmental and social impact assessments (ESIAs), non-technical summaries, or stakeholder engagement plans.

FMO's approach compels the question, *what is the purpose of disclosing this information, and for whom is it intended?* Potentially affected communities should be the primary target for this information, with the aim of fulfilling their right to access information, and equipping them with the necessary information to meaningfully engage in the development process. A commitment to transparency and access to information must ensure those who need the information most are able to receive and understand it. Additionally, our experiences show that reliance on project companies to fully disclose and communicate information to communities in a clear and understandable format, with opportunity for meaningful engagement, is more often than not, deeply insufficient. This information needs to be openly available through FMO's disclosure system to ensure that once communities and the civil society networks to which they are connected learn of FMO's involvement, they have access to a reliable and consolidated source of information.

The weaknesses illustrated in the attached analysis point to serious shortcomings in FMO's current *Disclosure Policy*. We urge FMO to substantively revise and strengthen its policies and practices by creating an access to information system and adopting an *Access to Information Policy*, through a robust and open consultation process. This policy should adopt and embed the internationally endorsed principles on access to information, including the principle of maximum disclosure, which dictates that all information held by FMO be subject to disclosure unless falling under a narrow list of clearly defined exceptions, and create an information request mechanism. [1]

[1] The list of principles, endorsed by the UN Special Rapporteur on Freedom of Opinion and Expression and the Organization of the American States (OAS) Special Rapporteur on Freedom of Expression, include:

1. The Right of Access
2. Automatic Disclosure
3. Access to Decision-Making
4. The Right to Request Information
5. Limited Exceptions
6. Appeals
7. Whistleblower Protection
8. Promotion of Freedom of Information
9. Regular Review

Article 19, "The Public's Right to Know: Principles on Freedom of Information Legislation", at https://www.article19.org/data/files/RTI_Principles_Updated_EN.pdf

In the context of today's development climate, space is already often restricted for communities to voice their concerns about projects, or even request access to information, particularly in the regions where the FMO currently operates and hopes to increase investment. This makes the need to safeguard transparency and the right to access information more urgent, and accordingly, the institution's information disclosure practices and policies are even more critical. We strongly encourage FMO to use all measures at its disposal to overcome the enormous barriers communities face in seeking access to information. This includes modeling best practice for disclosure, providing avenues of access through its own website, obliging its clients to fully disclose project documentation and utilizing all avenues to ensure that information reaches communities so that they meaningfully participate in the project process.

We thank FMO in advance for its close attention to our above comments and detailed recommendations outlined in the attached letter. We look forward to engaging further to strengthen FMO's policies and practices to better prioritize communities as the ultimate stakeholders in development.

Sincerely,

1. Abibinsroma Foundation, Ghana
2. Accountability Counsel, United States
3. Alliance for Empowering Rural Communities, Ghana
4. ARTICLE 19, Global
5. Asociación Unión de Talleres 11 de Septiembre, Bolivia
6. BankTrack, Netherlands
7. BothEnds, Netherlands
8. Center for International Environmental Law (CIEL), United States / Global
9. Foundation for the Development of Sustainable Policies (Fundeps), Argentina
10. Gender Action, United States
11. Global Witness, United Kingdom
12. Green Advocates International, Liberia
13. International Accountability Project (IAP), Global
14. Jamaa Resource Initiative, Kenya
15. Otros Mundos AC/Chiapas, Mexico
16. Oxfam Novib, Netherlands
17. Oyu Tolgoi Watch, Mongolia
18. Phenix Center for Economics and Informatics Studies, Jordan
19. Plataforma Internacional contra la Impunidad, Switzerland and Central America

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See also Global Transparency Initiative, "Transparency Charter for International Financial Institutions: Claiming our Right to Know", at https://www.access-info.org/wp-content/uploads/charter_en.pdf

20. Project HEARD, Netherlands
21. Protection International Mesoamerica, Mesoamerica and Central America
22. Re-course, Netherlands
23. Rivers without Boundaries, Mongolia
24. SOMO, Netherlands
25. The Oakland Institute, United States
26. Witness Radio - Uganda, Uganda
27. Youth for Environment Education and Development Foundation (YFEED Foundation), Nepal
28. Uzbek Forum for Human Rights, Germany / Uzbekistan

In Practice: Information Disclosure at FMO

November 2020

The Early Warning System team strives to ensure the accuracy of the data. This analysis is being shared with FMO 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 consistency 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.

FMO, the Dutch entrepreneurial development bank, was founded in 1970 as a public-private partnership with a mission to "empower entrepreneurs to build a better world". With investments spanning over 85 countries, the footprint and impacts of its investments are experienced by communities worldwide.

As Fundeps, the International Accountability Project (IAP), and our partners have repeatedly witnessed, the profound impact of development projects warrants that the policies and operations of development banks be robust and reflect international best practice and international human rights standards.

We welcome the mandate set out in FMO's *Disclosure Policy*, which states that

> *"FMO believes that transparency on our financing and investments are fundamental to fulfilling our development mandate."*[1]

However, **this commitment must begin with a strong foundation in communities' right to seek, receive and impart information, as equal partners in development.** Having early access to information can mean the difference between a community learning about a project when the bulldozers arrive, and a community engaging with investors to co-design a project that avoids harm and creates real benefits. In practice, **the right to information goes far beyond simple information disclosure - it ensures that communities are equipped with the necessary information to substantively engage and participate in the development processes that will ultimately affect their lives and environment.**

To this end, we monitor the online disclosure practices of several development finance institutions through the *Early Warning System* initiative, to better understand what project information is being disclosed, when it is being shared, and ultimately, how accessible the information is for communities - the purported beneficiaries of development projects. Most recently, we engaged with the newly formed US International Development Finance Corporation, European Bank for Reconstruction and Development and the private sector lending arm of the Inter-American Development Bank, IDB Invest, to share comments and recommendations on their disclosure practices, as part of their public consultations on their respective access to information policies.

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[1] FMO, "Disclosure Policy", p.1 at https://www.fmo.nl/l/library/download/urn:uuid:f75e4ebb-f48f-41a4-a779-c0c7f63a3a17/disclosure+policy.pdf?format=save_to_disk&ext=.pdf

In light of the profound impact of FMO's investments on communities worldwide, we have analyzed the bank's disclosure practices with the objective of assessing the information made available online for potentially-affected communities to access. We share our assessment in the spirit of encouraging a comprehensive review of FMO's access to information system, so that it fosters robust and people-centered information disclosure policies and practices that reflect leading international standards and best practice.

Our Methodology

Our analysis tracks the information disclosed on FMO's website for **241 projects disclosed from January 1, 2019 through May 31, 2020**.[2] We monitored FMO's disclosure practices by reviewing and assessing the information available on each project's webpage, as of August 2020, based on the following criteria, which is aimed at maximizing community access to information.

Specifically, our methodology tracks for each project:

- The number of days available for communities to access information before an investment decision is made;[3]
- Whether a summary or overview of potential adverse environmental and social impacts was disclosed;
- Whether project-specific adverse environmental and social impacts were disclosed;
- Whether it was clearly specified which environmental and social safeguards were triggered for a project;
- Whether details were given on how potential harms would be mitigated and prevented;
- Whether documents outlining plans or systems for addressing risk and identified adverse impacts were available;
- 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 documents outlining stakeholder engagement plans and consultation plans were available;
- Whether information on consultations, including opportunities for ongoing consultation after project approval, was disclosed;
- Whether contact information for the borrower or client was provided;
- Whether contact information for FMO's project leads was provided;
- Whether information on submitting a request for access to information was provided;

[2] For the relevant period of this analysis, there were 18 projects in our dataset for which the project links provided did not function. We understand this to be a product of FMO's practice of removing information on projects disclosed *ex ante* (before an investment decision is made), and re-uploading once the project has been approved. These projects are included in the analysis as this practice contributes to barriers in accessibility for communities seeking to access information about a project, throughout its lifecycle.

[3] As noted in the text below, FMO did not provide the disclosure date for the projects in this dataset and did not consistently provide the investment decision date. Without this information, it was impossible to assess the number of days communities have to access information before the bank's consideration on whether to invest in a project or not.

- Whether information on the Borrower's grievance mechanism was provided;
- Whether information on FMO's accountability mechanism was provided;
- Whether project information summaries were available in languages other than English; and
- Whether any technical documents (not including project summaries) were available in languages other than English.

Before delving into our findings, we acknowledge two limitations with regard to this criteria:

First, recognizing that most disclosure practices and policies could be strengthened to prioritize communities' right to access information, our criteria is not based on or solely limited to the parameters of existing policy requirements; accordingly, this analysis does not evaluate compliance with FMO policies. Instead, our analysis seeks to assess FMO's disclosure practices against criteria which, if met, would establish the foundation for the meaningful fulfillment of communities' right to information. The specific criteria is derived from our experiences working directly with communities affected by development bank projects, and the work of IAP and our partners to make project information accessible through the *Early Warning System.*

Second, we evaluated this criteria based on **the principle of early access to information.** Communities have the right to know and to be meaningfully consulted before any investment decision is made, and the right to remedy, should they suffer harm from projects. As the *United Nations Declaration on the Right to Development* provides, an essential element to the realization of the right to development is the recognition that *"[t]he human person is the central subject of development and should be the active participant and beneficiary of the right to development."*

Our experiences have demonstrated that communities' legitimacy and local expertise can better the design of potential projects, anticipating and mitigating adverse impacts, to ensure that projects achieve positive impacts that also further community development priorities. Correspondingly, our methodology 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 conceptualizing, designing, and contributing to projects that are explicitly aimed at fulfilling their development priorities, in harmony with larger societal goals. [4]

As a final note on methodology, our findings only address information disclosed through FMO's webpage, its primary medium of communication. While outside the scope of our analysis, it bears noting that reliance on a website as the primary means of disclosure in and of itself sets a significant limitation on the accessibility of the information disclosed for many communities without ready access to the internet. Moreover, it would be unrealistic to consider that communities that do have access to the internet are constantly monitoring projects in the pipeline of various development finance institutions. In order to meaningfully fulfill the right to information, FMO should take steps to ensure that information reaches communities potentially impacted by its projects through means accessible to them, before a project is considered for investment.

[4] Based on the available information on FMO's website, the 241 projects in the dataset were all approved at the time of analysis and writing.

Our Findings & Recommendations on FMO's Disclosure Practices

Risk Category	**A**	**B+**	**B**	**C**	**FI-B**	**FI-C**	**Unknown**
# of Projects	23	54	65	52	3	1	43

Breakdown of projects analyzed in dataset by risk category

Unfortunately, our analysis of FMO's disclosure practices demonstrates that the institution has few strong disclosure practices of note.

The overall quality of information disclosed by FMO is inadequate, and falls considerably short of fulfilling communities' right to information, thereby erecting substantial barriers to access and meaningful participation for project-affected communities. As a development finance institution, FMO can and should do much more to ensure that communities have safe, timely and accessible information early in the lifecycle of a project, in order to facilitate meaningful participation and ensure positive, sustainable development outcomes that fulfill local priorities.

Let's dive into the findings.

Strengthen Overall Accessibility of Information Disclosed and Timing of Disclosure to Prioritize Community Access

Despite disclosing project information summaries for all projects, **the overall accessibility of information disclosed by FMO is poor**. Specifically, while project information summaries are published for all projects, the substance of disclosure is inadequate and inconsistent, and should be strengthened.

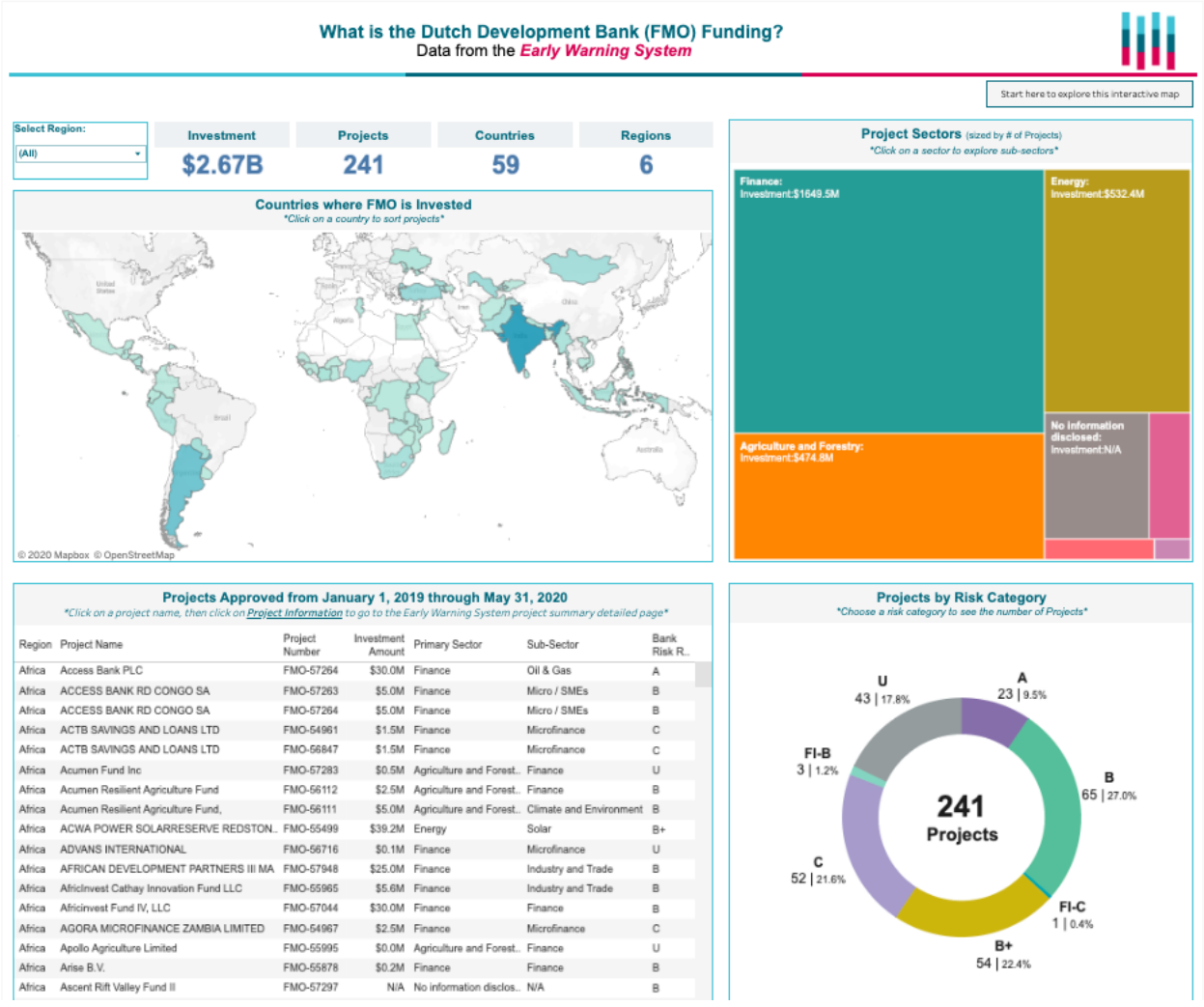
To begin, for proposed projects, the date the project will be approved (investment decision date or signing date) is not disclosed, although the date of disclosure or publication date is available.[5] On the other hand, for projects that have been approved, the date of disclosure or publication date is not disclosed, while the signing date is available. Both the signing date and publication date should be available for all projects, regardless of status in the project cycle.

FMO's practice of removing information on proposed projects from the website, and re-uploading once approved at a later date is also problematic, adding an additional barrier for communities who, seeking to access information, are instead met with a broken link. In addition, the status of each project in its lifecycle is not indicated beyond proposed or approved, making it difficult to clearly differentiate between projects that are in the earlier stages and those that have reached the end of their lifecycle.

[5] This assessment is based on a review of FMO projects at large; as noted above, all projects in our dataset were approved at the time of analysis.

There are crucial distinctions lost between projects that are only approved or pending, in relation to those that are already disbursing funds or those that are considered closed. For communities seeking to understand opportunities for engagement with individual projects, these distinctions are integral to ensuring their complete comprehension of a project, and fulfilling their right to information throughout the project lifecycle. For example, projects in a proposed stage offer communities the opportunity to participate in the design, while those that are nearing completion should ensure communities are informed and able to engage in monitoring and contributing feedback on implementation and impact.

We recommend FMO **to publicly disclose all projects in the pipeline, regardless of perceived risk category.** We further recommend that communities be given as much time as possible, ideally at least 120 days in line with international best practice, in order to meaningfully engage in the proposal stage of a project. **FMO should also ensure that the status for individual projects is clearly disclosed and kept updated throughout the life of a project.** Dates relating to disclosure, updates to project information, and the date of project approval should also be clearly disclosed for all projects.



Explore an interactive visualization of the portfolio of FMO projects analyzed in this dataset: https://bit.ly/FMOA2I

Availability of Project Information and Documents in Languages other than English

- *Whether project information summaries were available in languages other than English*
  - Yes - 0
  - No - 241

- *Whether any technical documents (not including project summaries) were available in languages other than English*
  - Yes - 0
  - No - 241

Our findings show that **no project summaries were available in languages other than English, and not a single technical document was disclosed for any project, let alone in languages other than English**.

This finding raises significant concern. Considering the quality of the information being disclosed in the project information summaries (as elaborated below), the lack of access to technical information providing details on the project itself, its components, and potential environmental and social impacts completely fails to meet communities' right to information and falls significantly short of international best practice.

As a development finance institution that regularly invests in non-English speaking contexts, FMO must increase the linguistic and technical accessibility of the information it discloses by ensuring that its project information summaries are available in the relevant national language, at a bare minimum. Likewise, it should provide access to the original and translated technical documents to ensure the meaningful fulfillment of the right to information.[6]

Disclosure of Environmental and Social Risks and Mitigation Measures

- *Whether a summary or overview of potential adverse environmental and social impacts was disclosed*
  - Total Yes - 59
  - No - 182
- *Whether project-specific adverse environmental and social impacts were disclosed*
  - Yes - 23
  - No - 218
- *Whether details were given on how potential harms would be mitigated and prevented*
  - Yes - 17
  - No - 224

Our analysis showed that 59 of the 241 projects (24%) provided an overview of the adverse environmental and social impacts likely to result from a proposed project. However, **project-specific**

[6] Ideally, these documents would also be translated and available into the local languages and dialects of potentially affected communities.

impacts were disclosed in only 23 projects (9%), with the remaining 36 using broad language covering the general risks associated with the relevant sector. A very small number of projects (17 out of 241 or 7%) had at least minimal information regarding how risks would be mitigated.

For situations where FMO has determined that a project may not generate an adverse impact, even on the right to consultation and participation, the bank should clearly state so on the project webpage. This would allow the public to evaluate the bank's opinion and consult with those nearest to the projects' results, offering the opportunity to advise the bank of diverging opinions so as to try and prevent or mitigate unforeseen adverse impacts. This is not a practice FMO has consistently adopted.

As a whole, this level of disclosure for information on environmental and social risks and mitigation is insufficient to fulfill communities' right to information. Communities have the right to know and understand the complete picture of a project - including both the perceived benefits and risks - before a project is approved so that they can contribute alternatives and solutions to mitigate or avoid potential adverse impacts, and ensure that any intended benefits align with their development priorities. While general language provides a broad understanding, project-specific impacts and mitigation measures are essential to enable meaningful community engagement in the design and implementation of projects, regardless of risk category.

Disclosure of Applicable Environmental and Social Safeguards

- *Whether it was clearly specified which environmental and social safeguards were triggered for a project*
  - Yes - 63
  - No - 178

Within FMO's accountability framework, safeguard policies dictate community entitlements under a project and the standards by which they can reasonably hold the institution to account. Knowing which standards and policies are considered applicable to a project is essential for communities to meaningfully engage, in addition to the rationale for triggering certain safeguards and deeming others inapplicable.

With respect to this criteria, only 63 out of 241 projects (26%) clearly specified which environmental and social safeguards (Performance Standards) were triggered for a project, mostly covering projects designated by FMO as high and substantial risk (Category A and B+). However, this means that **more than 70% of FMO's portfolio did not clearly disclose which safeguards were triggered.**

For projects categorized as high risk (Category A), only 9 of the 23 projects in the dataset clearly list the applicable safeguards (representing 3% of total projects, 39% out of all Category A projects, and 14% of projects with safeguards referenced). For those categorized as B+, 40 of the 54 projects listed the applicable safeguards (representing 16% of the total, 74% of Category B+ projects, and 63% of all projects with safeguards referenced). **For the 117 projects that fall under Category B and C only 12 or 10% have references to safeguards**. For projects with an FI or unknown risk category, no projects clearly identified the applicable safeguards.

Disclosure of Environmental and Social Documents

- *Whether documents outlining plans or systems for addressing risk and identified adverse impacts were available*
  - Yes - 0
  - No - 190
  - No, but referenced - 41
  - No, future - 8
  - No, not required - 2

- *Whether non-technical summaries of environmental and social impact assessments were available*
  - Yes - 0
  - No - 240
  - No, future - 1

- *Whether the full text of environmental and social impact assessments were available*
  - Yes - 0
  - No - 230
  - No, but referenced - 10
  - No, future - 1

Communities should have the opportunity to fully understand the environmental and social impacts of a project, analyze the technical assessments produced within their own rubric of local expertise, provide recommendations that often highlight overlooked complexities, and suggest alternatives that better the overall project design. This optimal scenario is made more likely when key environmental and social documents, including assessments, are disclosed in full, ideally also with non-technical summaries to enhance accessibility.

Unfortunately, FMO's disclosure practices are alarmingly inadequate in this regard. **Not a single project disclosed plans or systems for addressing and mitigating adverse impacts,** although 49 of the 241 project summaries (20%) referenced an existing or future document. Similarly, **non-technical summaries or the full text of environmental and social impact assessments are not available for a single project in the dataset,** with only 10 projects (4%) referencing their existence. Apart from FMO's obligation as a development finance institution to meet the minimum requirements of the right to information, it is in the institution's best interest to ensure that it is limiting barriers to access whenever possible, by ensuring these documents are available on both its website as well as that of the client.

In order to begin fulfilling communities' right to information and begin to align with best practice of its peers, including bilateral development institutions, FMO must disclose technical environmental and social documents.

Disclosure of Information on Engaging During Project Design and Implementation

- *Whether documents outlining stakeholder engagement plans were available*
  - Yes - 0
  - No - 177
  - No, but referenced - 3

- *Whether a full consultation plan was disclosed*
  - Yes - *0*
  - No - 241

FMO's disclosure practice is also extremely weak in providing access to information on stakeholder engagement and consultation - the details of how and when a community member can engage with a project. In our dataset, **not a single project disclosed the actual plans for stakeholder engagement. Only 3 out of the 241 (1%) referenced the existence of stakeholder engagement plans, without actually disclosing the documents themselves**. Further, no full consultation plan was disclosed for the evaluated projects, and none of them referenced an existing or future plan.

Fulfilling the right to information goes hand-in-hand with meaningful consultation and stakeholder engagement to ensure projects actually better the lives of those they affect. From our experiences, inadequate consultation can result in or exacerbate existing environmental and human rights risks, resulting in social conflict and grievances. Without access to documents on the environmental and social impacts, action plans and policies, can communities truly be informed participants in consultations? Simply put, without access to the above information, communities are not enabled to meaningfully participate.

Based on the information available, we are deeply concerned about whether FMO is providing the necessary foundation for meaningful consultation and stakeholder engagement.

Disclosure of Project Contacts and Information on Mechanisms to Access Information and the Independent Accountability Mechanism

- *Whether contact information for the borrower or client was provided*
  - Yes, direct contact information - 0
  - Yes, client website - 93
  - No - 147

- *Whether contact information for FMO's project leads was provided*
  - Yes - 0
  - No - 241

Communities affected by development projects should also have access to contact details in case they would like to obtain additional information about a project or further engage. Unfortunately, for the majority of the projects in our dataset, 147 out of 241 (61%), contact information for the borrower or client was not disclosed. Contact information was only provided in the form of a reference to the client's website for 94

projects (39%). Likewise, **not a single project in the dataset disclosed corresponding contact information for FMO project leads**.

- *Whether information on submitting a request for access to information was provided*
  - Yes - 0
  - No - 241

- *Whether information on FMO's accountability mechanism was provided*
  - Yes - 0
  - No - 241

N**one of the 241 project summaries disclosed information on avenues to request additional project information,** including any reference to FMO's Disclosure Policy. **Similarly, none of the 241 projects provided information on FMO's independent accountability mechanism.** This disclosure practice is insufficient and falls far short of international best practice. Communities must know that they have access to remedy should they be adversely impacted by a FMO project, and that the institution itself has a mechanism they can access, independent from the Borrower.

Looking Forward: Ensuring the FMO Adopts Robust Information Disclosure Practices and Policies

FMO's current disclosure practices fall far short of international best practice, including that of its bilateral peers. As discussed in this practice analysis, FMO's approach compels the question, *what is the purpose of disclosing this information, and for whom is it intended?* Potentially affected communities should be the primary target for this information, with the aim of fulfilling their right to access information, and equipping them with the necessary information to meaningfully engage in the development process.

In the context of today's development climate, space is already often restricted for communities to voice their concerns about projects, or even request access to information, particularly in the regions where the FMO currently operates and hopes to increase investment. This makes the need to safeguard transparency and the right to access information more urgent, and accordingly, the institution's information disclosure practices and policies are even more critical.

A commitment to transparency and access to information must also ensure those who need the information most are able to receive and understand it. Given the obstacles present in any method of disclosure, this commitment requires ensuring several avenues of disclosure are available to communities.

Recognizing that it is unrealistic for local communities to visit the FMO website each day to see if any proposed project may affect them, the *Early Warning System* (EWS) team is closing this gap by summarizing and distributing projects proposed by FMO and other development institutions to partners, a responsibility that should be borne by FMO itself. The goal of this initiative is to attempt to ensure this information reaches potentially impacted communities as early as possible, and in a culturally appropriate manner - an aim that can only be fulfilled by a corresponding high level of transparency and disclosure by FMO. We also underscore that this civil society effort does not take away the obligation of FMO, as an

organization operating with public resources, to make this information proactively and reactively available to communities by itself. The responsibility to protect and fulfill human rights - such as the right to information - lies with States and their institutions, and is non-transferable.

Our experiences further show that reliance on project companies to fully disclose and communicate information to communities in a clear and understandable format, with opportunity for meaningful engagement, is more often than not, deeply insufficient. This information needs to be openly available through FMO's disclosure system to ensure that once communities and the civil society networks to which they are connected learn of FMO's involvement, they have access to a reliable and consolidated source of information.

The weaknesses illustrated in this analysis point to serious shortcomings in FMO's current *Disclosure Policy*. We urge FMO to substantively revise and strengthen its policies and practices by creating an access to information system and adopting an *Access to Information Policy*, through a robust and open review process. This policy should adopt and embed the internationally endorsed principles on access to information, including the principle of maximum disclosure, which dictates that all information held by FMO be subject to disclosure unless falling under a narrow list of clearly defined exceptions, and create an information request mechanism. [7]

We strongly encourage FMO to use all measures at its disposal to overcome the enormous barriers communities face in seeking access to information. This includes modeling best practice for disclosure, providing avenues of access through its own website, and obliging its clients to fully disclose project documentation. In adopting these and the above recommendations, FMO can better prioritize communities as the intended beneficiaries of and key stakeholders in development.

Please contact Ishita Petkar (ishita@accountabilityproject.org) and Gonzalo Roza (gon.roza@fundeps.org) with any comments or questions.

[7] The list of principles, endorsed by the UN Special Rapporteur on Freedom of Opinion and Expression and the Organization of the American States (OAS) Special Rapporteur on Freedom of Expression, include:

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See also Global Transparency Initiative, "Transparency Charter for International Financial Institutions: Claiming our Right to Know", at https://www.access-info.org/wp-content/uploads/charter_en.pdf