

Indonesia: Mandalika Urban and Tourism Infrastructure Project

Response to Joint Communication from the Special Procedures Branch of the United Nations Office of the High Commissioner for Human Rights, dated September 6, 2023

November 3, 2023

1. This letter is in response to a joint communication received on September 6, 2023 (referred to as the Communication) from the Special Procedures Branch of the United Nations Office of the High Commissioner for Human Rights (OHCHR) and addressed to the Asian Infrastructure Investment Bank (AIIB or Bank) in relation to the Mandalika Urban and Tourism Infrastructure Project (Project).
2. The Communication seeks additional clarification on the Bank's response dated April 14, 2023 to the earlier communication received from OHCHR dated February 14, 2023. The Bank's April 2023 response can be found on its [website](#). As with the April 2023 communication, AIIB has given the concerns raised in this Communication serious consideration.
3. AIIB, like other Multilateral Development Banks (MDBs), is governed by its charter, the Articles of Agreement and the policies adopted by its Board of Directors, such as the Environmental and Social Policy (ESP) and related Environmental and Social Standards (ESSs) and Environmental and Social Exclusion List (ESEL), all of which are included in AIIB's Environmental and Social Framework (ESF). The ESF applies to the Project and AIIB's actions must be measured against it.
4. We wish to reiterate that the Project only involves select core urban and tourism infrastructure. On several earlier occasions, AIIB clarified that most of the complaints raised were not related to the Project but rather to the nearby MotoGP Circuit, which is a separate development not covered by the Project and not financed by AIIB. Therefore, AIIB has no legal leverage over environmental and social concerns relating to activities beyond the Project scope, such as the MotoGP Circuit. However, AIIB has been using its good offices to facilitate dialogue and resolution of the environmental and social concerns of households affected by the MotoGP Circuit. To this end, AIIB has been regularly collaborating with ITDC and the Government of Indonesia to facilitate the resolution of concerns through ITDC's Action Plan, which ITDC is implementing and AIIB is monitoring.
5. We are pleased to update you that the Independent Facilitators have been engaged in carrying out activities in nearby villages affected by the overall Mandalika development, in particular the MotoGP Circuit. They have interacted with relevant stakeholders, such as local communities, affected households, community-based organizations, small businesses, and local NGO/CSO groups. The Independent Facilitators will capture stakeholders' perceptions, issues and concerns, and expectations related to ITDC's activities, and their findings will be presented during the planned upcoming Focus Group Discussion (FGD). The FGD is expected to be attended by representatives of local communities and ITDC. The Independent Facilitators have scheduled the FGD for November 2023, based on the availability of stakeholders.

6. Given the complex nature of the Project and the difficulties that have occurred with respect to other nearby investments undertaken by ITDC, such as the MotoGP Circuit, the AIIB Project team has been carrying out frequent implementation support and monitoring. In addition to regular Project monitoring missions, the Project team conducted more targeted technical visits/meetings to review progress and address specific issues. The Bank has also engaged national environmental and social experts (AIIB Consultants) to monitor the Project's implementation and provide necessary support to ITDC, focusing on stakeholder engagement and resettlement. The AIIB Consultants have traveled several times to Lombok to visit the Project area and speak with Project-affected people; local communities and Village Chiefs; representatives from ITDC and local government; and local NGO/CSO groups.

7. The AIIB Project team continues to conduct weekly Project-level meetings with ITDC on environmental and social aspects, in addition to the AIIB Consultants' regular site visits. As part of its enhanced approach to Project monitoring, the AIIB Project team continues to monitor implementation of ITDC's Action Plan, which is regularly updated based on progress achieved in carrying out the measures specified and will continue to be updated to cover any new issues that may be identified involving environmental and social aspects of the Project.

8. The AIIB Project team carried out its last regular Project monitoring mission in May-June 2023. AIIB's next full regular monitoring field visit is planned for November-December 2023, at which time AIIB's Project team will continue to conduct field-based Project monitoring and oversight, including following up on the Independent Facilitators' work. AIIB has proposed that ITDC plan a stakeholder workshop facilitated by the Independent Facilitators during this field visit and will follow up with ITDC once the facilitation plan has been developed.

9. AIIB reiterates its wish to have a direct dialogue with all concerned parties, including Project stakeholders and civil society groups, to continuously improve its Project monitoring. At the same time, it must also be reiterated that AIIB does not have legal leverage over ITDC on environmental and social concerns relating to activities beyond the Project's scope, such as the MotoGP Circuit.

10. AIIB also wishes to reiterate that it takes allegations of human rights violations related to AIIB's operations extremely seriously. In this regard, AIIB always remains open to constructive dialogue and continuous improvement of its operational practices.

11. Detailed responses to the requests for information made in the Communication are set out in the Annex 1.

ANNEX 1
TABLE OF RESPONSES TO REQUESTS FOR INFORMATION MADE IN THE 2023
SEPTEMBER COMMUNICATION

No.	Comments/Request for information	Response
Scope of the Project		
1.	<p>The MotoGP Circuit is considered an integral part of the Indonesia: Mandalika Urban and Tourism Infrastructure Project (AIIB-financed Project or Project).</p>	<p>The MotoGP Circuit is not part of the AIIB-financed Project. The scope of this Project and AIIB's rights and responsibilities in relation to the Project are defined in the financing agreement between AIIB and ITDC. Pursuant to this agreement, the MotoGP Circuit is not covered under the Project and AIIB does not have legal leverage over ITDC on any activities (including environmental and social aspects) beyond the Project's scope, such as the MotoGP Circuit.</p> <p>However, this does not diminish AIIB's interest in facilitating dialogue and resolution of the environmental and social concerns of households affected by the MotoGP Circuit. To this end, AIIB has been working with ITDC and the Government of Indonesia (GoI) to resolve these concerns through ITDC's Action Plan, which ITDC is implementing and AIIB is monitoring. ITDC has also engaged two independent stakeholder facilitators to develop a better understanding of the expectations and concerns of stakeholders, including local communities, relating to the Project as well as nearby investments, such as the MotoGP Circuit in order to seek common ground and develop mutual understanding so as to enable resolution of outstanding issues</p>
Transparency and procedure of consultations		
2.	<p>It is incumbent on AIIB to obtain the free, prior and informed consent of the Sasak Peoples. AIIB's safeguards only include "free" and "prior" consent.</p> <p>AIIB is strongly encouraged to strengthen its existing standards, include 'informed consent' and incorporate the requirement to obtain 'free, prior and informed consent' in its ESF.</p>	<p>AIIB's Environmental and Social Policy (ESP) provides for the use of Free, Prior and Informed Consultation (FPICon) with Indigenous Peoples communities if activities under the Project would: (a) have impacts on land and natural resources subject to traditional ownership or under customary occupation or use; (b) cause relocation of Indigenous Peoples from land and natural resources subject to traditional ownership or under customary occupation or use; or (c) have significant impacts on Indigenous Peoples' cultural resources.</p> <p>Consultations under the Project built on years of consultations conducted prior to AIIB's involvement</p>

No.	Comments/Request for information	Response
	<p>We urge AIIB to provide Information on steps taken to verify that the ITDC has engaged in genuine, meaningful and inclusive consultations, with affected peoples and communities to obtain their free, prior and informed consent ahead of any resettlement or relocation taking place.</p> <p>In your response dated 14 April 2023, it has been stated that the ITDC has been conducting years of consultations dating back to 2012, including consultations with the Indigenous Peoples in the Project-affected region. Further, the response indicates that consultations are ongoing as the Project is being implemented.</p> <p>According to information that we have received however, the majority of the affected people have complained about not having been consulted and/or not having been informed of any meetings. While we appreciate that in the same response, AIIB has mentioned some site visits and consultations conducted by AIIB and ITDC, there still is a lack of clarity about how many people and groups participated in the consultations, the formats of said consultations, whether the meetings were translated into Sasak to foster dialogue among relevant stakeholders, and the detailed outcomes of the same. Hence, concerns remain that the participation of affected Indigenous Peoples in the Mandalika Project have been insufficient.</p> <p>While appreciating information provided by the Government</p>	<p>by ITDC with respect to development of the Mandalika SEZ in the context of the legally mandated environmental impact assessment process – known as AMDAL – as well as under its Corporate Social Responsibility Program.</p> <p>These early consultations, dating back to 2012, are described in the ESIA that was prepared for the Project. They included consultations with Indigenous Peoples communities.</p> <p>During the preparation of the Project’s environmental and social instruments, many consultations with stakeholders were conducted, including 28 consultations during the preparation of the IPDP (see chapter 7 of the IPDP, which includes a table of consultations including participants, venues, and key issues discussed). These consultations led to the actions included in the environmental and social instruments, including the IPDP.</p> <p>Consultations are ongoing as the Project is implemented, with specific measures to improve stakeholder engagement included in the ITDC Action Plan. These measures include the development of an ITDC Implementation Strategy for Communication, which specifies: (a) that ITDC and its contractors should hold meetings with Village Chiefs, Sub-Village Chiefs, Project-affected people, and other stakeholders once every two weeks; and (b) how ITDC will disseminate information about the progress of the Project and employment opportunities. Information on the Implementation Strategy for Communication has been disseminated both during meetings and via the “Mandalika Post,” a local newspaper.</p> <p>ITDC is holding regular meetings with heads of village/sub-village, Central Lombok Regency, and community-based organizations including NGOs, as well as providing Project-related information using various media platforms such as conventional and online media through press releases, publications, and social media.</p> <p>Project progress and key results of the regular stakeholder meetings are shared with the Bank on a weekly basis.</p> <p>The Bank team is helping ITDC as it continues to improve Project stakeholder engagement by</p>

No.	Comments/Request for information	Response
	<p>and the AIB that numerous consultations with the local communities were carried out, we note that the consultations appear to have largely targeted local village chiefs, local government officials or the broader public.</p> <p>It is critical for the relevant stakeholders and affected communities to be notified regarding the specific outcome of each consultation and subsequent actions taken. We urge AIB to provide evidence that consultations with affected populations were carried out and indicate when and where the consultations were held, who participated in them, and the conclusions of the consultations.</p>	<p>preparing stakeholder engagement programs for specified periods. The detailed programs include planned activities that target stakeholders, including date/venue, topics to be discussed and/or information to be shared, etc.</p> <p>ITDC provides AIB a regular stakeholder engagement activities completion report including minutes, a list of attendees, photos, and other information through powerpoint presentations and progress reports on the Stakeholder Engagement Plan.</p> <p>We wish to note that without specific information, it is not possible for AIB to respond to the statement made in the Communication that “according to information that we have received however, the majority of the affected people have complained about not having been consulted and/or not having been informed of any meetings.”</p>
3.	<p>We request further information on the conduct of the weekly project-level meetings with ITDC.</p>	<p>The AIB Project team has been conducting weekly Project-level meetings with the Client on environmental and social aspects in addition to the AIB Local Consultant’s regular site visits.</p> <p>These weekly meetings focus on: (i) grievance management; (ii) resettlement-related issues such as compensation, progress in developing the permanent resettlement site, and conditions of the temporary resettlement site; (iii) reports by the AIB Local Consultant and ITDC of meetings held with local stakeholders; and (iv) employment generation for Project-affected people.</p> <p>The activities of the Independent Facilitators are ongoing. Their findings are anticipated to be presented at an upcoming focus group discussion. This discussion is expected to be attended by representatives of local communities and ITDC. ITDC provides AIB with a weekly progress update on the activities of the Independent Facilitators and plans to disclose further information on its website regarding these activities.</p>
<p>Disclosure of information</p>		

No.	Comments/Request for information	Response
4.	<p>We would appreciate information on whether proposed agendas and schedules were publicly released prior to these missions and visits in a language the Indigenous Peoples understand and through channels ensuring the information effectively reaches them.</p>	<p>The mission agenda and detailed meeting schedule were prepared by the Bank team, and included target groups, meeting agendas and potential questions for each meeting. The agenda was then discussed with ITDC before an official mission announcement was made.</p> <p>The Bank normally interacts directly with the Client, in this case, ITDC, who announces the mission to the broader Project stakeholders.</p> <p>To confirm requested meetings, ITDC coordinated with stakeholders including selected local communities. Most of the meetings with local communities were arranged and confirmed in advance prior to the mission.</p> <p>In addition, in accordance with normal practice, these meetings were supplemented by several ad-hoc site visits/meetings with local communities during the mission.</p> <p>The meetings were conducted in English and Bahasa. Interpretation in Bahasa was provided by the Bank's local consultants. Anticipating that some local community members only speak the local language used by Sasak people, the Bank also mobilized an interpreter for their needs. The Bank's meeting with local CSOs was conducted in English based on the CSOs' preference.</p>
5.	<p>We understand from the information received that in the site visit conducted by AIIB representatives/consultants in February 2023, the representatives did not meet or engage with indigenous community members and civil society organizations that have been publicly advocating for the rights of project-affected people. We therefore would be grateful for information concerning any conditions of participation imposed on the stakeholders in the ensuing interactions with AIIB as well as for any information concerning how the</p>	<p>During the May-June 2023 mission, Project-related meetings (37 in total) were held with key Project stakeholders including ITDC, Project contractors/workers/ consultants, the Ministry of Finance, the provincial and regency-level Governments, local communities, affected people, and local CSO/NGO groups. It was logistically infeasible for the AIIB Project team to speak to all local community members during its field visit. Instead, the Project team adopted a targeted approach, whereby it met with the local communities deemed most affected by the Project, as well as local communities nearest to the Project area and those mentioned in articles and the previous communication with the Special Rapporteur.</p> <p>Out of the total 37 meetings, 15 meetings were held directly with local communities, Project-affected people, and local CSO/NGO groups, in formal and informal settings. More than 100 people attended,</p>

No.	Comments/Request for information	Response
	interlocutors were identified or chosen.	<p>consisting of village heads, sub-village heads, local inhabitants including women, children, farmers, fisher-folk, local vendors/hawkers, academia and representatives from CSO/NGO groups.</p> <p>The AIIB Project team wishes to note that inevitably more time is spent on communicating with village chiefs and sub-village heads as it followed the normal participatory and collective decision-making process practiced by the villagers themselves, which involves the village chief and sub-village heads, who are elected by the villagers. However, the AIIB Project team made efforts to communicate directly with individual community members. During its field visits, the Bank team engaged with villagers to the extent feasible, including Sasak (as they represent the majority of the islanders), as well as those in the traditional Ende and Sade Sasak villages beyond the Mandalika SEZ.</p>
6.	In addition, the information received suggests that results of these visits were not presented to the Board of Directors and the visit report was not disclosed to public. We would therefore welcome any information concerning whether the AIIB intends to publicly disclose the report, and if not, why not.	<p>The AIIB Management is providing regular updates to AIIB's Board of Directors on this Project in the form of full Board briefings as well as bilateral interactions with individual Board representatives via meetings and/or emails. The Project team presented the results of its most recent May-June 2023 site visit to the Board in September 2023.</p> <p>In principle, mission reports are internal and deliberative documents for Bank's internal use and decision-making. Management does not normally circulate mission reports to the Board or the general public.</p> <p>However, for this specific Project, critical mission findings and next steps have been included in the Bank's responses to the previous communications from CSO groups and Special Rapporteurs as well as regular Project Implementation Monitoring Reports (PIMRs) which are disclosed on the Bank's website.</p>
7.	We would like to express our disappointment in relation to the most recent site visit conducted by AIIB in June 2023 wherein, we have received reports of the Bank's delegation's refusal to visit a key eviction site and	The AIIB Project team and ITDC attempted to meet with the NGO WALHI NTB (which is part of the Indonesian Coalition for Monitoring Infrastructure Development) at the site mentioned in the Communication. This meeting did not take place due to last-minute scheduling changes by WALHI NTB. The Project team has communicated to WALHI NTB

No.	Comments/Request for information	Response
	postponed related meetings without proposing a new date.	its interest and intention to have such a conversation during the next field visit.
Project-level Grievance Redress Mechanism		
8.	<p>The Joint Communication makes a number of comments relating to the adequacy of AIIB's Policy on the Project-Affected Peoples Mechanism (PPM) in connection with its remarks about the Project-level GRM. The PPM excludes matters related to judicial proceedings that project-affected people may have sought. Parallel filing of a complaint or claim should be considered under the PPM regardless of any legal relief sought by project-affected people.</p>	<p>We take note of the concerns raised regarding the Policy on the PPM.</p> <p>As provided in the Policy on the PPM, a request for Compliance Review is ineligible if it relates to matters concurrently under arbitral or judicial review, save when the Board of Directors authorizes the PPM to process such request. If the Board of Directors authorizes the PPM to process such requests, the exclusion does not apply.</p> <p>As stated in the Policy on the PPM, if the Compliance Review is already in progress and at any point during this review the PPM learns of arbitral or judicial proceedings involving substantive issues raised in the submission, the PPM shall assess the implications of such parallel processes and submit a recommendation to the Board of Directors on whether to continue with the Compliance Review. As an interim measure, the PPM may suspend the Compliance Review until the Board of Directors decides on the matter.</p>
9.	<p>It is unclear whether the Project-level GRM has an in-built escalation function to forward a complaint to the PPM.</p> <p>The lack of public reporting of complaints in a registry, bearing confidentiality of the complainants in mind, is a huge drawback in how the GRM operates.</p>	<p>There is no particular policy requirement that the GRM include such an escalation function. The approach provided for in the Policy on the PPM is that complainants directly bring to Management their complaints if they do not obtain the desired relief from the GRM.</p> <p>They can then seek to make a submission to the PPM if they are not satisfied with the Management's response. The Policy on the PPM includes provisions designed to maintain desired confidentiality.</p>
10.	Detailed information on all complaints that have been submitted to the GRM.	<p>AIIB receives weekly updates on the grievances logged and measures taken to address the complaints. ITDC advertises and provides information to Project-affected people on the GRM. The GRM was established by ITDC to address both Project and non-Project complaints in the Mandalika SEZ. As of September 8, 2023, a total of 185 complaints (for Project-related activities) have been received. Of these 150 have been resolved. The complaints related to a number of issues, but mostly to shortage of water (that was not Project induced),</p>

No.	Comments/Request for information	Response
		land issues, construction impacts and employment opportunities.
Security Personnel		
11.	Excessive presence of and use of force by security personnel during site visits and consultations create a fear of reprisals and result in an atmosphere of mistrust towards government and Bank officials among the affected communities.	The Bank's site visits have not been accompanied by ITDC's security personnel or police. The Project team wishes to note that most of ITDC's security personnel are locally hired. In an effort to improve behavior and practice of ITDC's security personnel, ITDC provides them with regular training.
12.	In relation to the security presence on the task force for the settlement of land disputes, we request further information as to how such personnel were selected to conduct this delicate task.	The Task Force for the Acceleration of Settlement of Land Disputes (known as the SATGAS) is established by the Regional Government of West Nusa Tenggara following the Government's existing institutional set-up. The Bank's understanding is that the composition of SATGAS includes representatives of: Mataram University (as an independent institution); Provincial offices responsible for: social, land, legal aid, public relations, and law in addition to the Provincial police and military.
13.	We would request an update regarding the public disclosure of the security protocols.	ITDC's security protocol (including those relating to the MotoGP Circuit) has been publicly disclosed on its website .
Resettlement, Compensation and loss of livelihood		
14.	Temporary relocation site and the permanent resettlement site, where conditions are still not in place to guarantee safe and adequate housing for all project affected persons, nor the replacement of lost livelihoods.	A Resettlement Action Plan (RAP) was prepared for households living informally on ITDC-owned land. The RAP provides a comprehensive set of packages for restoring and/or improving the livelihoods of those who have been resettled and is currently under implementation. A permanent relocation site was selected by the local government in the Ngolang sub-village which includes 120 new houses. The Bank team noted that the construction of 120 houses has been completed. Utility connections have been completed and relocation of households from the temporary resettlement site (known as HPL 94) to the Ngolang resettlement site started on November 28, 2022. 61 out of 120 affected households (AHs) have signed the permanent housing hand-over letter and received keys to their house.

No.	Comments/Request for information	Response
		<p>As informed by a representative of the Housing Provisions Agency (at the Central Lombok Regency), of the 120 AHs that had previously been identified, 59 have not yet moved to the permanent relocation site. The Housing Provisions Agency confirmed that it intends to carry out another verification process to complete the resettlement of the remaining 59 AHs. The AHs who have relocated to the permanent relocation site are generally satisfied with their situation in the Ngolang permanent settlement including in light of the improved housing and land provided. During the meetings with community members, the following issues were also raised: (i) a potential security issue if the AHs move gradually to Ngolang; (ii) insufficient cattle pens provided by the Central Lombok Regency to accommodate the AH's cattle; (iii) the access road yet to be completed; (iv) ongoing construction of a community-level mosque (or Mushalla); (v) lack of transportation and general access to public facilities such as health clinics and schools; and (vi) limited space to hold community gatherings. The Bank team advised ITDC to closely follow up on the issues raised and continue to communicate with relevant local government agencies and local communities, and provide progress updates to the Bank.</p> <p>Once the resettlement is completed, ITDC will need to prepare a RAP completion report and include all supporting documents. ITDC has agreed to provide to the Bank regular reports on ongoing claims by individuals relating to ITDC-owned land.</p>
15.	<p>AIIB should conduct a critical review of its ESF, particularly related to land acquisition and involuntary resettlement, as well as Indigenous Peoples. This review should be conducted in a transparent manner and through consultations with an input from a wide range of external stakeholders such as civil society organizations, project affected communities, and their representatives, human rights bodies and others. In particular</p>	<p>AIIB has recently conducted a review of its ESF, which included extensive consultations with a variety of stakeholders, and following this review, AIIB's Board approved in 2021 an update of the overall ESF. (The 2021 update was subsequently followed by a technical amendment in 2022.)</p> <p>We note these comments, which may be considered in a future update of the ESF.</p>

No.	Comments/Request for information	Response
	<p>the ESF should be reviewed to ensure that:</p> <ul style="list-style-type: none"> - no project is approved by AIIB for financing before it has been clarified whether or not involuntary resettlement can be avoided, and in case not, before a resettlement plan has been prepared, through adequate consultations and with the agreement of project-affected persons, And that the plan has been assessed as being compliant with AIIB’s ESF; Free, Prior and Informed Consent should be required as a condition for financing in case the project involves resettlement of Indigenous Peoples. - The term “meaningful consultations” is clearly defined in the context of involuntary resettlement (not only in the more general section entitled “Environmental and Social Standard 1”) – genuine and inclusive consultation should be held to: explore alternatives to resettlement; determine how resettlement is to be carried (in case no viable alternatives can be found); collect an adequate resettlement site as close as possible to the project-affected persons’ original homes; determine the design of new adequate housing to be offered to project- 	

No.	Comments/Request for information	Response
	<p>affected people to replace the housing they would lose due to the resettlement; spatial planning of the new settlement; any other compensation for any property or livelihoods that would be lost as a result of the resettlement that is not recoverable. Project-affected persons should not only be consulted, but also have the opportunity to participate in the entire resettlement process – from the choice of relocation site, through the planning and management of resettlement and integration, to the designing of rehabilitation and development programs;</p> <ul style="list-style-type: none"> - Resettlement is not carried out until such a time as a comprehensive human rights compliant resettlement plan is in place; - All costs of the relocation and resettlement should be borne by the actor proposing and/or carrying out the resettlement. - all project affected persons subject to resettlement continue exercising their right to adequate housing, regardless of security of tenure and received adequate compensation for any property and 	

No.	Comments/Request for information	Response
	<p>livelihoods lost. The ESF, currently requiring “not [to] include compensation to such persons for the land that has been settled illegally” should thus be further improved, reflecting the fact that in reality in many countries communities thrive for decades or longer without formal title, often exercising customary rights or having even paid for the land but lacking formal recognition only due to states’ inaction or high administrative fees;</p> <ul style="list-style-type: none"> - Project affected communities share in the benefits from the project and as a minimum do not find themselves worse off than prior to the resettlement. <p>We would further emphasize that the ESF revised as suggested above, should apply to all AIIB-financed projects, including retroactively to projects approved earlier, such as Mandalika.</p>	
16.	<p>We take note of the project’s Resettlement Action Plan (RAP) currently under implementation. However, we find it deeply flawed. From the outset, RAP proposes first relocating project-affected people to a temporary relocation site until the construction of homes in a separate permanent relocation site. This is in contravention with international standards and also</p>	<p>Relocation of Project-affected people under a RAP to a temporary site pending completion of the permanent resettlement site is a practice that is used on selected projects by governments and permitted by MDBs provided that the livelihoods of all persons displaced by the Project are improved or at least restored as was the case with the temporary resettlement site under the Project.</p>

No.	Comments/Request for information	Response
	appears to contradict AIIB's own ESF (ESF 2019: ESS 2, 4(p)). AIIB should suspend its support for the Mandalika Project pending the full review of the RAP, to avoid the situation of fait accompli.	
Selection of independent facilitators		
17.	We would be grateful for any information on actions taken to disclose the profiles, roles and objectives of independent facilitators.	Brief profiles of the independent facilitators, their roles and objectives, and a draft facilitation plan are publicly disclosed on ITDC's website . The AIIB Project team also requested ITDC to disclose, on its website, an Interim progress report of independent facilitators' activities.
18.	Concern about the way the independent facilitators were appointed as well as the independence of the process if the terms of reference are developed by ITDC.	AIIB reviewed the terms of reference drafted by ITDC to confirm that the Independent Facilitators will be truly independent in their work and are not subject to ITDC's instructions or supervision.
19.	Disclosure of AIIB's audit of ITDC's land survey.	<p>AIIB's earlier response of May 3, 2022 to the 2022 Communication from the Special Rapporteur on extreme poverty and human rights of the United Nations Office of the High Commissioner for Human Rights (OHCHR) discusses in detail the matter of ITDC's land survey. This response is reproduced below.</p> <p>"3.1. In 2018 when AIIB's Project team first became involved in the Project, it recognized that there had been long and complex history of land acquisition in the Project area. The Project team therefore asked ITDC to engage a consultant to conduct a land study so as to inform the preparation of the ESIA/ESMP and RPF/RAP for the Project.</p> <p>The study consisted of a legal analysis of the land acquisition process under Indonesian law and confirmed the stronger validity of ITDC's legal rights to the land it had acquired relative to the conflicting claims to some of this land.</p> <p>Nevertheless, recognizing that some households were occupying this land despite lack of legal title, the RPF and RAP were designed to address the needs of these households, including providing</p>

No.	Comments/Request for information	Response
		<p>alternative housing with title and livelihood restoration.</p> <p>3.2. Because ITDC acquired land throughout the Mandalika SEZ, the study covered the broader area acquired by ITDC and was not limited to the Project area.</p> <p>3.3. The consultant reviewed the land acquisition process, which involved acquisition first by Lombok Tourism Development Corporation (LTDC), then by Bali Tourism Development Corporation BTDC and finally by ITDC (AIIB's Client), sequentially between 1989 and 2018. The report's findings follow.</p> <p>3.4. LTDC was established in 1989 to run a tourism business in West Nusa Tenggara (WNT) Province, as stipulated in a Cooperation Agreement No.50 of 1989 between the WNT Provincial Government and PT Rajawali. The report found that LTDC acquired the land in accordance with relevant laws and regulations in effect at the time of acquisition, through purchase, land swaps and payment of compensation to the State. The report noted that in some cases there were negotiations, mediation over land disputed among local families, but all acquisitions were reflected in a documented consent between LTDC and land owners on price and the release of land rights, as evidenced by a Deed of Land Title Relinquishment (known as an APHAT).</p> <p>3.5. After a process of debt restructuring, BTDC obtained a capital injection from the state in the form of shares in what had been LTDC's plots of land under Indonesian law. BTDC then submitted an application for certificates granting it the right to develop and manage the land (known as HPL certificates). BTDC later became ITDC.</p> <p>3.6. On October 24, 2016, the WNT Provincial Government established a team to accelerate the settlement of continuing land claims in the Mandalika SEZ, pursuant to a Decree of the Provincial Governor. The acceleration team undertook the process required for ITDC to obtain HPL certificates in respect of 1,095,900 m² of State owned land that had been assigned to it as part of the Mandalika SEZ.</p> <p>3.7. The process involved the verification of documents, site visits, and coordination, following which a report was prepared proposing necessary</p>

No.	Comments/Request for information	Response
		<p>next steps. Based on the acceleration team's assessment, it appeared that legal ownership of 938,022 m² of the land provided to ITDC was subject to conflicting claims. Many of the claims were based on an "acknowledgement letter" issued by the Village Head, confirming that the individual concerned was cultivating and owned the plot of land (referred to as a Statement Letter of Land Ownership). Under the land law concerned, such letters are apparently not recognized as sufficient evidentiary proof of ownership of a plot of land.</p> <p>3.8. In order to accelerate the settlement of the claims so that ITDC could obtain HPL certificates and start developing the 938,022 m² plots of land over which claims were ongoing, the Provincial Governor instructed ITDC to give the claimants "handshake money" (Uang Kerohiman) in the amount of Rp45,000/m² (approximately, USD3.21 per square meter). The Uang Kerohiman was paid to the local inhabitants. However, this did not mean that the Provincial Government recognized that their ownership of the land. The consultant's analysis noted that provision of Uang Kerohiman is a "social communal" matter rather than one that is legally recognized. The payment was made in 3 phases.</p> <p>3.9. The main conclusions of the legal analysis, based on the above findings, were summarized as follows:</p> <p>(i) There were some administrative errors (lack of spousal consent, inconsistency of values recorded) in the land acquisition process. However, given the statute of limitations, these errors could no longer be contested.</p> <p>(ii) Village Heads issued Statement Letters of Land Ownership, which serve as initial evidence of ownership of land and are required by the land office for registration and issuance of a land title certificate. In some cases, the Statement Letters of Land Ownership in the Project Area were issued after the land in the Mandalika SEZ had already been certified and registered under the name of ITDC, and were therefore not valid. In other cases, at the time of registration under ITDC's name, the original land owners of the plots within the Mandalika SEZ had not registered and certified their plots of land. As proof of ownership over the land, they relied on the Statement</p>

No.	Comments/Request for information	Response
		<p>Letter of Land Ownership issued by the respective Village Head, despite the issuance by the Ministry of Home Affairs of a 1986 regulation to the effect that such letters have no legal validity.</p> <p>(iii) At the time of the legal analysis, 19 HPL certificates held by ITDC covered land claimed by several local inhabitants. Indonesian Courts consider such HPLs as sufficient evidence of land ownership. Consequently, as the legal holder of these 19 HPL certificates, ITDC had no legal obligation to resolve disputes with the claimants.</p> <p>(iv) Several local inhabitants claimed that they never sold their plots of land, that they had not yet received compensation for the plots concerned and/or that parts of their plots were not paid for in full during the land purchase process. While ITDC could face litigation initiated by claimants, it is unlikely that the claims would be supported by sufficient legal evidence for the case to be decided in claimants' favor, given that the HPL certificates confirm ITDC as the lawful holder of rights to develop the land and Indonesian legal practice to the effect that any claim over a plot of certified land that is not supported by sufficient legal evidence will not be accepted by the court.</p> <p>3.10. The AIIB Project team is working with ITDC to review the land study conducted by ITDC's consultant, in order to make it available to interested parties in due course in a manner that does not compromise the confidentiality of information in the report, such as names of individuals mentioned."</p> <p>AIIB has, since the above response, communicated to ITDC several times its request regarding disclosure of ITDC's land survey.</p> <p>During the May-June 2023 site visit, the AIIB Project team followed up with ITDC again and sought its consent to share the study. ITDC has not so far agreed to share the land study with any party other than AIIB (with or without redaction of personal information) for the following reasons: (i) it contains confidential personal information – certain consents would be required; (ii) it focuses on land study purely from the legal/procedural angle; and (iii) key information is already available in ESMP, RPF/RAP,</p>

No.	Comments/Request for information	Response
		<p>which are publicly disclosed in accordance with the Bank's policy.</p> <p>ITDC told the AIIB Project team that it would be willing to consider providing specific information derived from the study if requested, in a manner that does not compromise confidentiality.</p>
20.	We request an update of the implementation and execution of the RAP with periodic update reports	As indicated, AIIB and ITDC plan to issue a completion report on the RAP process once it is complete. During the RAP implementation, as is standard practice, regular reports are communicated either orally or in writing by ITDC to the AIIB Project Team.