

August 15, 2016

WALHI West Java - Friends of the Earth Indonesia
Jl. Piit No.5, Bandung
West Java, Indonesia

China Development Bank
No. 18 Fuxingmennei Street, Xicheng District
Beijing, P.R.China 100031
TEL: 86-10-6830 6789/ FAX: 86-10-6830 6699

ATTN: Credit Risk Management Department, Policy Research Department, International Finance Department, Project Appraisal I and II Department

Re: Environmental and Social Impacts of Proposed Jakarta-Bandung High Speed Rail

Dear Chairman Hu Huaibang:

We send our regards from Indonesia. This is WALHI's¹ second letter regarding China Development Bank's (CDB) investment in our country, the first being in regards to the Morowali nickel mine in Sulawesi².

Today, we are writing to raise our concern again regarding the environmental and social impact of CDB's investment in our country. In addition to the Morowali nickel mine, we would like to share our concerns regarding the proposed Jakarta-Bandung High Speed Rail. Based on our analysis, the Jakarta-Bandung HSR is not cost effective, nor will it generate sufficient income to justify its US\$5.5 billion price tag³. We believe it is an unnecessary infrastructure project that will only overburden our government and cause a host of environmental, social, and resettlement problems to local communities residing along the rail network's route.

Because of these negative impacts, WALHI and local communities completely reject the project. We have relayed these concerns to the Indonesian government numerous times, the first on January 19, 2016 at the EIA discussion hosted by the Ministry of Environment and Forestry in Halim Perdanakusumah, and a second time at via a legal notice from WALHI to President Joko Widodo and the Minister of Environment and Forestry.

We kindly ask for CDB's response in confirming whether the bank is aware of the project's lack of compliance with local law, and how your staff plans to address these issues. We understand that the Jakarta-Bandung HSR project is supported by our president, but we hope that CDB also understands that based on our extensive interviews, communities residing along the rail route categorically oppose the project as it will dispossess them of their livelihoods and homes.

¹ WALHI is the largest environmental NGO in Indonesia with 479 member organizations and offices in 28 provinces.

² You may recall our last letter to China Development Bank in April 2015, where we kindly requested the bank to conduct a formal investigation regarding the environmental and social problems directly caused by the Morowali nickel mine in Central Sulawesi, which does not comply with Indonesian law. It is regrettable that CDB has yet to address our concern that the Morowali project is impoverishing, rather than improving the lives of local communities. We would be happy to resend the letter, upon the bank's request.

³ Rieka Rahadiana, "China to Build \$5 Billion High-Speed Rail Line in Indonesia", *Bloomberg*, October 15, 2015. <http://www.bloomberg.com/news/articles/2015-10-16/china-to-build-high-speed-rail-line-in-indonesia-joint-venture>

Contrary to the view of the Indonesian government, we do not believe that this mega-infrastructure project will bring economic development to our country, nor will it improve the livelihood of the majority of local communities. Based on our analysis, the project will cause significant environmental and social impacts.

Environmental and Social Impacts

- *Loss of Livelihood and Homes*: Based on our analysis and field study, the project will create significant changes in the function and use of land. There are 727 farming households, and 113 non farming households along the planned rail route. All of these families will lose their livelihood and homes should the project move forward.
- *Water Supply*: The proposed rail route will negatively impact the region's water catchment, thus affecting irrigation to rice paddies in West Java.
- *Risk of Earthquakes and Landslides*: The rail line will cut through Purwakarta, an area riddled with geological faults and thus prone to earthquakes and landslides⁴
- *Land Use*: The rail route will profoundly alter the geographic and ecological functions of the region. Currently, the route cuts through areas which are primarily being used as community farms and rice fields. However, the project calls for the creation of a large rubber plantation which currently functions as an important water catchment area. This change in land use from community farms to a monoculture based plantation will likely lead to overexploitation of local water resources. The concurrent development of new cities, residential housing, and industries along the rail route will in turn further drive up demand for local water resources, while simultaneously leading to increased water or air pollution caused by the construction of the four proposed transit stations.

Violations to Indonesian Law

In light of the environmental and social impacts, the following legal violations do not inspire our confidence, nor local communities, that the high speed rail project can be developed in an environmentally and socially responsible manner. Even before its construction, the project violated numerous Indonesian environmental, spatial, transportation, and business law.

Violations of Environmental Law

1. Country Law No. 32/2009 regarding Environment Management and Control.

- The process for developing the EIA was not conducted according to proper procedure to the environmental law. Typically, an EIA of a project this size is expected to take at least 1-1.5 years. However, the EIA was conducted in just seven days. As a result, the EIA contains inaccurate and flawed data analysis regarding the project's actual environmental impacts. For instance, the EIA did not even include analysis on cross province/district impacts. The project will cut across four provinces. The EIA also does not appropriately take into account cumulative, long term impacts that the project will have on the region.
- University faculty were tasked to conduct the EIA. For specific details on the staff, please see Appendix 1.
- Typically, feasibility studies for a project of this size take about 18-19 months. However, the feasibility study for the project was completed in just 3 months, instead of the usual 18-19 months.⁵

⁴ Amy Chew, "Discontent in Indonesia over high-speed rail project jointly developed with China may turn the current impasse into a more protracted one", South China Morning Post, February 19, 2016.

<http://www.scmp.com/news/asia/southeast-asia/article/1913995/discontent-indonesia-over-high-speed-rail-project-jointly>

⁵ Ibid.

- Given the inappropriate speed at which both the EIA and feasibility study were conducted and approved, the public safety of this project should be called into question. For instance, the EIA does not contain analysis on potential natural disasters, which is extremely troubling since the area is prone to earthquake activity and landslides.

2. Government Regulation No. 27/2012 regarding environment permit

- This regulation requires public participation in the making of EIA document; however, public participation and concerns were not involved in the making of HSRT EIA document .
- The EIA Document Reference framework requires that EIA documents be completed in no less than 75 days. However, the EIA for the Bandung HSR project was completed within ten days. For good reason, this has become one of the most controversial aspects of the project.
- The environment permit was approved in only one day. This regulation requires that the process should take at least 100 days.

Violations of Spatial Law

1. Country Law No. 26/2007 regarding Spatial Arrangement.

- According to this law, all project activities must be done according to correct procedures in spatial planning. The law is set that spatial plan can only be changed every 5 to 20 years, or only if an extraordinary condition arises, such as a natural disaster . However, the central government coerced provincial and regional governments to alter their local spatial plans solely for the HSRT project. The HSTR project should not have been deemed as an extraordinary situation as a means to override the authority of provincial and regional governments. As a result, the project's rushed approval by local governments, at the coercion of the central government, fundamentally violated the Spatial Law.

2. Government Regulation No.15/2010 about Spatial Planning Management

- According to this law, provinces, districts, and municipalities bear the authority to arrange, control, and manage local spatial planning. However, due to the need to accelerate approvals for the project, the central government violated this regulation by ordering and strongly urging the provincial, district, and municipal areas to change their spatial plans in order to accommodate for the project. At the same time, most of the districts and municipalities had already confirmed their own spatial plan, which did not account for the HSR project at the time due to the extremely rushed circumstances of the project.

Violation of Transportation Law

1. Transportation Ministerial regulation No. 43/2011 about Masterplan of National Railways System

- According to this regulation, the high speed train should begin development in the year of 2030. However, central government has accelerated train development to begin this year.
- Importantly, this regulation also defined and planned for the development of high speed rail to begin from the city of Jakarta with proposed stops at Cirebon, Semarang, and Surabaya. Although the project claims to reach Bandung, there is no reference to Bandung as a stop or end destination in this regulation.

Violation of Business Law

1. Country Law No.5/1999 about Monopoly Practical and Unfair Business Dispute.

- The HSRT project consortium has demanded exclusive rail rights⁶, which would create a rail monopoly. Allowing the project consortium exclusive rail rights would contradict the non-exclusive rights in business activity law.

Violation of Chinese Policies

- **Green Credit Guidelines:** In providing \$4.06 billion⁷ in loans to the Chinese-Indonesian consortium developing the rail project⁸, CDB is subject to Article 21⁹ of the Green Credit Guidelines, which obligates Chinese banks to comply with host country law and international norms and best practices when investing overseas. However, due to repeated violations of host country law, in addition to the international standards (such as international practices regarding the proper process for conducting environmental impact assessments¹⁰, such as identifying cumulative impacts or alternatives to the project, and ensuring free, prior, informed consent¹¹, which is recognized by the UN Global Compact), this project clearly violates Article 21 of the guidelines.
- **Guidelines for Environmental Protection in Foreign Investment and Cooperation:** The involvement of China Railway International requires that the Guidelines for Environmental Protection in Foreign Investment and Cooperation¹² be applied. Under this policy, Chinese companies are required to abide by host country law, per Article 5 and 8. According to Articles 9 and 10, the policy obligates companies to “take full into account of the impacts of their development and construction as well as production and operation activities on the social environment”, and to “prior to the construction of the project, conduct environmental monitoring and evaluation for the proposed construction site”. In order to ensure good relationships between Chinese companies and local communities, Article 20 also advocates that enterprises to “establish a way of communication and dialogue mechanism for enterprises’ environmental social responsibilities...and take opinions and suggestions with respect to environmental impacts of their construction projects”. Given the deeply flawed EIA and the lack of free, prior, informed consent from local communities to the project, the China Railway International does not appear to be fulfilling these obligations.
- **Based on our research and observation of the project’s record of environmental and legal compliance, however, the Green Credit Guidelines are not being fully implemented.** We believe that the consistent implementation of Chinese policies, like the Green Credit Guidelines, would be a positive sign of China’s willingness and ability to acknowledge and address the environmental and social impacts of its overseas investments. However, neither the Green Credit Guidelines nor the Guidelines for Environmental Protection are being fully implemented.
- We strongly support the China Banking Regulatory Commission’s publication of the Green Credit Guidelines key performance indicators, which measures the extent which banks have

⁶ Farid Susanty, “Tug of war in China-led rail project”, Jakarta Post, February 5, 2016.

<http://www.thejakartapost.com/news/2016/02/05/tug-war-china-led-rail-project.html>

⁷ Khoirul Amin, “State firms get \$20b loan commitment from China bank”, The Jakarta Post, June 18, 2015.

<http://www.thejakartapost.com/news/2015/06/18/state-firms-get-20b-loan-commitment-china-bank.html>

⁸ This consortium, PT Kereta Cepat Indonesia China, was formed in October 2015. It consists of China Railway International, PT Wijaya Karya, PT Kereta Api Indonesia, PT Jasa Marga, and PT Perkebunan Nusantara VIII.

⁹ “Green Credit Guidelines”, China Banking Regulatory Commission, February 2012.

<http://www.cbrc.gov.cn/EngdocView.do?docID=3CE646AB629B46B9B533B1D8D9FF8C4A>

¹⁰ “EIA Best Practice”, http://www.unep.ch/etu/publications/EIA_2ed/EIA_E_top1_hd.PDF

¹¹ “United Nations Declaration on the Rights of Indigenous Peoples”, UNDRIP, March 2008.

http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

¹² “Guidelines for Environmental Protection in Foreign Investment and Cooperation”, Ministry of Commerce and Ministry of Environmental Protection, February 2013.

<http://english.mofcom.gov.cn/article/policyrelease/bbb/201303/20130300043226.shtml>

implemented the guidelines. We include our assessment of CDB's loan to the Jakarta-Bandung HSR based on these KPIs and welcome any bank feedback or comments. Please note that we only addressed KPIs which involve the procedural management of the loan and your clients. As you may recall, procedural management for environmental and social risks, as outlined in the GCG KPIs, also apply to overseas investments (4.21.2). **We hope that the application of the Green Credit Guidelines KPIs to the project can help clarify to CDB staff why the Jakarta-Bandung HSR loan should be cancelled, or at the least, suspended.**

Violations to China Development Bank Policy

- We note that as a participant of the Global Compact, CDB is expected to carry out the Ten Principles safeguarding environmental, social, and labor rights¹³. However, given the lack of compliance with required Indonesian law, the project clearly does not exemplify CDB's commitment towards the UN Global Compact.
- Lastly, we would like to point out that the failure to comply with Indonesian law appears to violate CDB's own environmental review process, as CDB requires that all loans for project should be completed in line with the relevant regulations¹⁴. Furthermore, environmental costs and standards can be written into loan covenants to ensure strong environmental compliance. It remains unclear to us if CDB has incorporated any environmental loan covenants in PT Kereta Cepat Indonesia China's contract. If so, we would be grateful to learn more about how CDB is ensuring strong environmental, social and legal compliance from its client.

A Bad Deal for the Indonesian People

We hope the above information can help CDB re-evaluate the environmental, social, and legal risks of lending to this increasingly controversial project. As quoted in the South China Morning Post¹⁵, the project has come under fire from Indonesian politicians.

Given the discontent, the current impasse over the project could turn into a protracted one as opposition has also been growing from civil society as well as from Widodo's own Indonesian Democratic Party of Struggle (PDI-P).

"I am critical of this high speed train as it does not bring any benefits to the poor people. This project will swallow huge sums of money. The train ticket is estimated to cost 250,000 rupiah (HK\$143) one-way, which is beyond the reach of ordinary people. It will only be used by the elites," said Masinton Pasaribu, a PDI-P Member of Parliament.

"We already have toll roads and train service that goes to Bandung at the cost of 100,000 rupiah for executive class. We don't need this high speed train."

In light of these issues, we ask that CDB reconsider and suspend financing to the project. As China continues to invest in our country, we hope that Chinese investment can in fact be on mutually

¹³ "Communication on Progress: China Development Bank", UN Global Compact, December 28, 2015. <https://www.unglobalcompact.org/participation/report/cop/create-and-submit/advanced/201161>

¹⁴ 'New reports: Emerging sustainability frameworks at Chinese and Brazilian national development banks', Friends of the Earth US, January 2016. <http://www.foe.org/projects/economics-for-the-earth/international-finance/emerging-sustainability-frameworks>

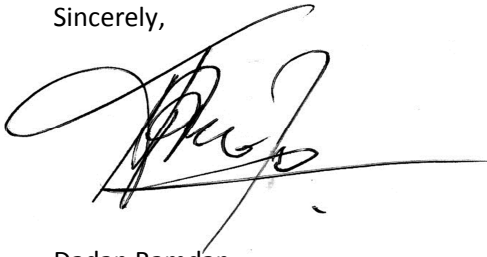
¹⁵ Amy Chew, "Discontent in Indonesia over high-speed rail project jointly developed with China may turn the current impasse into a more protracted one", South China Morning Post, February 19, 2016. <http://www.scmp.com/news/asia/southeast-asia/article/1913995/discontent-indonesia-over-high-speed-rail-project-jointly>

favorable terms, and suspending or cancelling financing to this project would demonstrate China's ability to truly cultivate a "win win" relationship with the Indonesian people.

The HSR project will cause environmental and social problems for the people of Indonesia, and will in turn cause Indonesians to question the "win win" relationship the Chinese government so often seeks to cultivate in foreign countries.

We kindly request a reply from China Development Bank regarding our concerns. Should you have any questions or would like further information, please contact Meiki.W. Paendong at walhijabar@gmail.com or meikipaendong@gmail.com.

Sincerely,

A handwritten signature in black ink, appearing to be 'Dadan Ramdan', with a long horizontal line extending to the right.

Dadan Ramdan

Executive Director

WALHI West Java - Friends of the Earth Indonesia

Photo Appendix 1

Photo of the EIA authors: The following photo contains the name and titles of the EIA Drafting team. The photo was taken from one of the front pages of EIA document.

Penanggungjawab : Hanggoro Budi Wiryawan
Jabatan : Direktur Utama

Fax. (021) 8191235, 8199713

b. Identitas Penyusun Studi Amdal

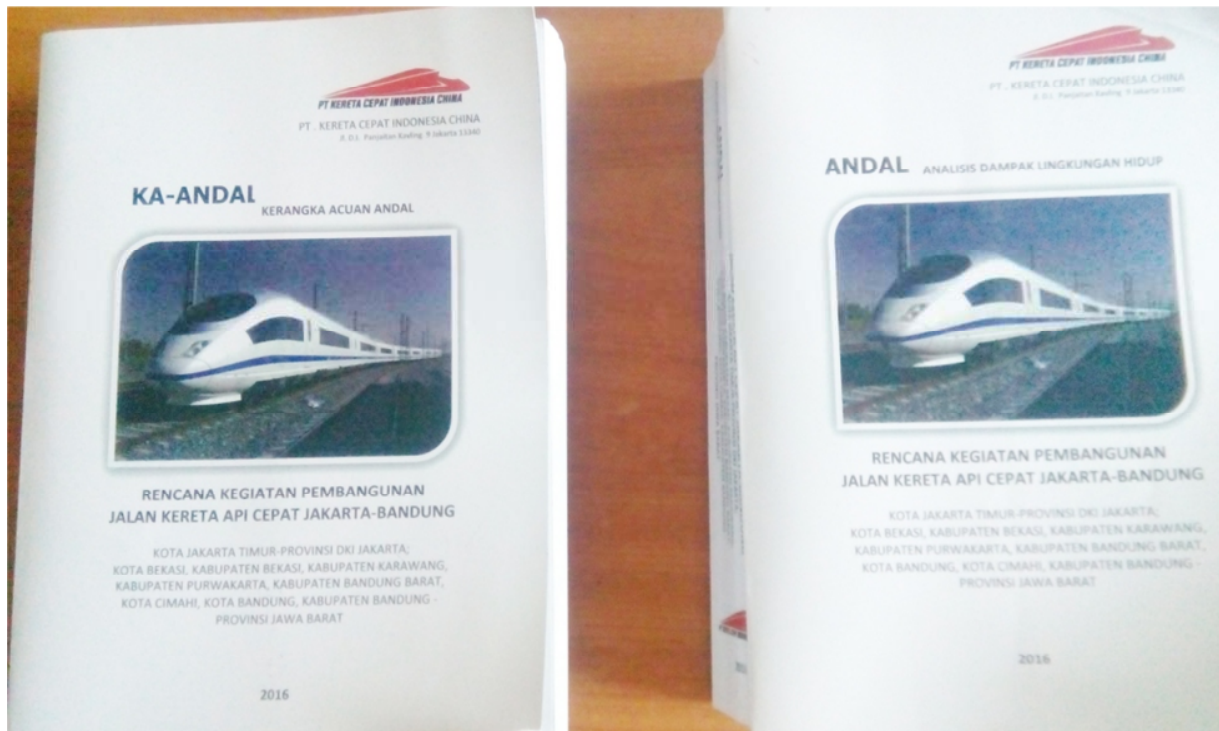
Penyusunan dokumen Amdal ini dilakukan oleh pemrakarsa dibantu oleh pihak lain secara perorangan yang dinyatakan melalui surat keputusan Pembentukan Tim Penyusun Dokumen Amdal oleh Direksi PT KCIC sebagaimana tercantum pada *Lampiran 7*. Tim penyusun sebagaimana diputuskan dalam surat keputusan di atas dapat dilihat pada *Tabel 4* berikut.

Tabel 4. Susunan Tim Penyusun AMDAL

No	Nama	Jabatan dalam Tim
A. Tim Penyusun		
1	Ir. Ilan R. Suriadi	Ketua Tim KTPA: No. Reg. K.1.11.09.013.000090
2	Ir. Nugroho Widhi Santosa	Anggota Tim Tenaga Ahli Sipil Jalan Transportasi KTPA: No. Reg. K.32.03.11.09.000429
3	Ir. Syafrizal Amsyar	Anggota Tim Tenaga Ahli Kualitas Air dan Pengelolaan Limbah B3 KTPA: No.Reg.K.039.08.11.001.000471
4	Drs. Jeremiah R. Tjamin, MSI	Anggota Tim Tenaga Ahli Kualitas Udara KTPA: No. Reg. K.019.09.10.23.000268
5	Ir. Yessie Nurcahyani	Anggota Tim Tenaga Ahli Biologi Terestrial No. Reg. K.019.09.10.23.000268
6	Ir. Dahyar Mohammad	Anggota Tim Tenaga Ahli Sosial Ekonomi dan Kesehatan Masyarakat KTPA: No. Reg. K.1.04.10.021.000450
7	Ir. Zulkifli Ali, M.Si	Anggota Tim Tenaga Ahli Sosial Ekonomi dan Kesehatan Masyarakat KTPA: No. Reg. K.067.08.13.10.000735
8	Arifien Sutrisno, M. Hum	Anggota Tim (KTPA) Tenaga Ahli Sosial/Humaniora KTPA: No.Reg.K.067.08.13.10.000735
B. Tenaga Ahli Pendukung		
1	Ir. M. Riadi	Ahli Deskripsi Proyek dan Biologi Terestrial
2	Ir. Nyimas Mastura	Ahli Teknik Kimia
3	Al Mudzni, S.Pi, M.Si	Ahli Kualitas Air
4	Tim Geologi PT KCIC	Ahli Geologi
4	Baharuddin, S.Pi, M.Si	Ahli Perpetaan
5	Encu Sudrajat	Ahli Perpetaan

Photo Appendix 2

Photo of EIA Document – Reference Framework (Left) and Final EIA Document (Right).



Appendix 3

The following is transcribed from Photo Appendix 1, which contains the name and titles of the EIA Drafting team.

The Project Initiator Identity

Company Name : PT Kereta Api Cepat Indonesia China.
Office Address : Gedung WIKA Lantai 5
Jl. D.I.Panjaitan Kav.9 Jakarta 13340
Telepon : 021 – 8192808, 8508640
Fax : 021 – 8191235, 8199713.
Person in Charge : Hanggoro Budi Wiryawan.
Position : Main Director.

EIA Document Maker Team Identity

No	Name	Position in The Team
A. The Drafting Team		
1	Ir. Ilan.R. Suriadi	Team Leader KTPA : No. Reg. K.1.11.09.013.00090
2	Ir. Nugroho Widhi Santosa	Team Member Civil and Road Transportation Expert KTPA : No.Reg. K.32.03.11.09.000429
3	Ir. Syafrizal Amsyar	Team Member Water Quality and Toxic Waste Management Expert KTPA : No.Reg.K.039.08.11.001.000471
4	Drs.Jeremiah.R.Tjamin,Msi	Team Member Air Quality Expert KTPA : No.reg.K. 019.09.10.23.000268
5	Ir.Yessie Nurcahyani	Team Member Terrestrial Biology Expert KTPA : No.Reg.K.019.09.10.23.000268
6	Ir. Dahyar Muhammad	Team Member Social Economy and Public Health Expert KTPA : No.Reg. K.1.04.10.021.000450
7	Ir.Zulkifli Ali, M.si	Team Member Social Economy and Public Health Expert KTPA : No.Reg.K.067.08.13.10.000735
8	Arifin Sutrisno, M.Hum	Team Member Social/Humaniora Expert KTPA : No.Reg.K.067.08.13.10.000735
B. The Supporting Expert Team		
1	Ir.M .Riadi	Project Description and Terrestrial Biology Expert
2	Ir. Nyimas Mastura	Chemical Expert
3	Al Mudzni,S.Pi, M.Si	Water Quality Expert
4	Geological Team of PT KCIC	Geology Expert
5	Baharudin, S.Pi, M.Si	Mapping Expert
6.	Encu Sudrajat	Mapping Expert

Source : Translate from Jakarta-Bandung High Speed Train EIA Document of PT.Kereta Cepat Indonesia China (PT.KCIC), 2016