

## Comment on ADB's 1994 Disclosure and Information Policies

TO: disclosure@adb.org

FROM: S. Parasuraman  
ActionAid  
Asia Regional Office  
Thailand

DATE: 14 November 2003

---

### **ActionAid's comments and perspective on Asian Development Bank's Confidentiality and Disclosure of Information Policy.**

ActionAid, in Asia, has been actively working with citizen's groups, NGOs, people's movements as well as governments to ensure the protection of rights of poor, marginalized people and vulnerable communities. ActionAid's current work in Asia is spread across Afghanistan, Bangladesh, China, Pakistan, India, Nepal, Myanmar, Laos, Thailand, Cambodia, and Vietnam.

We are committed to working towards peoples' right to information. This right is not only guaranteed in various international human rights declarations but also in national Constitutions and policies. While we welcome the decision of the ADB to review its disclosure policy, we feel that the present review should be extended to all facets of transparency of the institution and not just be restricted to what documents need to be supplied at what time. ADB, as a public institution dedicated to 'fighting poverty in Asia and the Pacific', has a responsibility to work in a fully transparent manner.

Disclosure of information should be seen a part of broader context of rights and that of governance. Right to information is seen as a fundamental aspect of democracy as it is only through this right that there can be any meaningful participation of the civil society in critical issues that shape the development of the country, especially for the poor and marginalized. Organisations like ADB have a strong impact through their knowledge and funding operations. They also have an influence on the policy environment of the developing countries through their various policies and strategies. These policy environments and funding have significant economic, social, cultural as well as political fallouts. The vulnerable, poor and marginalized groups, who usually end up at the wrong side of these decisions, have to be integral part of processes in articulating their positions through informed discussion and debate, whether at the local, national or international sphere.

This, we feel, is the basic premise which should go in informing the review of the disclosure policy as well as all other related policies of the ADB. *Disclosure of information does not only pertain to the way in which ADB shares its documents and the internal memos but also the process by which these documents are constructed.* Participatory Poverty Assessments and public consultations now been initiated by the ADB will not have any value unless it is informed by and reflects the aspirations of the poor, marginalized and vulnerable groups.

The views expressed in this paper are the views of the authors and do not necessarily reflect the views or policies of the Asian Development Bank (ADB), or its Board of Directors or the governments they represent. ADB makes no representation concerning and does not guarantee the source, originality, accuracy, completeness or reliability of any statement, information, data, finding, interpretation, advice, opinion, or view presented.

We would also like to focus on a few other dimensions of the ADB policies of enhancing transparency:

#### **Governance of the institution:**

The Board of Directors has full and final authority over ADB. Present policies say that documents of major significance (Country Reviews, Strategies, Loan agreements etc) are made public only after approval from the Board. This seems to be in contravention to the open governance system that ADB projects and makes the entire consultative process superficial. The draft documents that are put forward for scrutiny and approval to the Board of Directors should also be made available to the civil society. While the drafts have been made through consultative processes in best-case scenarios, the people also have a right to know the reasons for approval, disapproval, amendments and review of the document. Present practice does not disclose the minutes of the Boards' meeting. Making these documents available as a mandatory procedure should be incorporated in the policy document.

#### **Review /Creation of ADB policies**

While ADB seeking the participation of the civil society in the construction /review of policies is welcome, the process by which this is undertaken needs to be clearly geared towards capturing the concerns of the poor and the marginalized. While CSOs like us can and do articulate the concerns of the poor, vulnerable and marginalized, processes of proactive engagement of the poor people's organizations should be facilitated by the ADB. It is not enough to engage in passive element of participation and disclosure by making information available but it should also make this information relevant, decipherable and significant.

#### **Treating the private sector at par with public sector operations**

The ADB has also, in the recent years, decided to increase allocation of resources for the private sector. Funding of private enterprises directly or through public-private partnerships are increasing throughout the world and Asia is no exception. As the ADB policy mentions, the citizens are in a position of demanding information from the governments for public sector projects. They can seek information about the project from the government and seek redressal, suggesting alternatives and claim adequate compensation, among others. However, these avenues are not so easily available in the case of private sector operations. The private entity does not feel obliged to deal with the social and environmental consequences of its actions. ADB, as a public institution, is thus the obligation holder to provide all relevant information and has to reflect this in their disclosure policy. In the now infamous Klong Don (Samut Prakarn) Waste Water treatment project in Thailand, the local communities did have an avenue to articulating their issues and struggle with the ADB and the Thai government. Despite the flaws, non-implementation and violations of various ADB policies, and in spite of ADB's Inspection Panel recommending review of the project, ADB let the project continue. It was finally the pressure that the civil society organizations and local communities bore on the Thai government that the project has finally been shelved. This opportunity to seek redressal might have been lost if Klong Don was purely a private sector operation. While ADB has to substantially modify its accountability mechanisms, it must bring private sector subject to inspection and disclosure policies.

#### **Project Cycle Issues**

ADB's has in the past faced most of the criticism from NGOs and people's movements on the way it conceives and executes projects. While the nature of most of these project themselves is destructive to the interests of the local people, poor and marginalized communities, the way in which information is shared may permit some relief to the local communities. While the ADB says that it has a predisposition

to disclose, it cannot hide behind the excuse of the local government not wanting to share information or that it would be against the interest of the private sector party which implements the project. This is not consistent with ADB as a public institution. In Pakistan's Chashma Right Bank Irrigation project, relevant information was repeatedly denied or released in bits (please see ActionAid Pakistan's posting of their comments on the Disclosure Policy for details). And people endure unending suffering because of the way ADB makes decisions and discloses information.

ADB as a public institution supporting (financially and technically) development projects impacting the lives and livelihoods of people and communities is liable for its actions and disclosure of all relevant information should be mandatory. The ADB has to disclose the contents and information in a timely manner making it fully available in the public domain. This means that the ADB has to do more than making information available at its website, the depository libraries and the resident missions. It has to be made available in the local project areas through local governance institutions, bulletin posting in prominent areas and in the affected villages common meeting areas.

### **Third Parties**

As already mentioned, ADB cannot hide behind the governments or private partners. Similarly, the support that ADB provides to any agency needs to be clearly marked for its financial and material flows as well as development impact. It is not enough to lend resources to a third party intermediary but also to trace and report the manner in which these resources have been utilized.

### **Verification and Audit:**

ADB has to create systems of accountability where it is open to independent audit and verification of its projects. While the Accountability policy has been reviewed and amended, it makes CRP members and ADBs Office for Compliance Review staff subject to the ADB disclosure policy –("CRP members and OCRP staff are subject to ADB's confidentiality and disclosure of information policy, including those provisions aimed at ensuring confidential business information is not disclosed"(clause 70, OM Section L1/OP)). The Steering Committee for the current policy review should ensure that it is possible for the full and effective functioning of the newly adopted Accountability Mechanism for redressing the concerns of the poor and affected communities by removing such clauses of secrecy.

### **Language and Translation issues:**

We recognize that the working language of the ADB is English. However, it is the direct responsibility of the ADB to provide information in at least one of the official languages of each member state.

### **Sharing of information:**

While the use of internet to share information by the ADB is a welcome move, we would like a more proactive, through the distribution of information in a more accessible manner. Most of the people's groups working in location of ADB project operations are not computer literate or have access to communications enabled hardware. It is for the ADB to seek proactive means of reaching them, rather than hope that concerned civil society organizations will act to ensure that the ADBs message reaches people who suffer from the consequences of its actions. Issues of cost, location of materials, and quality are relevant. What we seek is relevant and timely information, not a glossy dossier. As already mentioned, low cost means of sharing information at the project level need to be institutionalized by the bank directly as well as with the implementing agencies, public or private.

**Conclusion**

ActionAid calls upon the ADB to work towards becoming a more directly accountable institution, open and transparent to the people. We look forward to it truly working towards fighting poverty in Asia and the Pacific and being socially relevant and responsible and committed to democracy and good governance. ADB must use this review as an opportunity to truly become a public institution discharging its obligation to respect rights of people to information.

S. Parasuraman  
ActionAid  
Asia Regional Office  
13th Floor Regent House  
183 Rajdamri Road  
Lumpini, Pathumwan  
10330 Bangkok, Thailand  
[www.actionaidasia.org](http://www.actionaidasia.org)  
tel: +66 2 6519067  
fax: +66 2 6519070