

**Consultation on ADB's Draft Public Communications Policy
Kathmandu, Nepal (via videoconference)
Summary of Participant Recommendations
22 July 2004**

Although ADB did not plan to hold a workshop in Nepal, a group of civil society organizations requested a videoconference to critique the draft Public Communications Policy (PCP). The Water and Energy Users' Federation, at its own expense, organized a pre-consultation workshop of civil society representatives on 21 July, and, on the following day, a subgroup of those stakeholders convened at ADB's Nepal Resident Mission in Kathmandu to meet via video-link with the PCP Working Group, based at ADB's Manila headquarters. The recommendations are summarized below, and the list of participants at the videoconference in Kathmandu is attached to this summary.

1. Private Sector Information

- ADB is financing projects to benefit the public, even if the loan is taken from a private sector sponsor, so the disclosure requirements for public and private sector operations should be the same. The PCP should include justification for withholding any information about projects; if private sector operations must have different disclosure requirements, valid reasons must be provided.
- ADB should look out for the public's interest, and not that of its private sector clients.
- Even if private sector projects are processed differently than public sector projects, ADB should ensure that its private sector sponsors comply with its policies. For example, ADB should ensure that its private sector clients provide project information to affected persons while they are preparing/planning the project and throughout the project cycle (including post-construction).

2. Constraints to Presumed Disclosure

- The constraints section lacks clear criteria for treating documents and information as "confidential." The PCP should provide such criteria, and indicate who will determine whether the criteria have been met.
- Any exceptions to presumed disclosure should be measured against clear criteria. The PCP should include confidentiality criteria that considers the needs of all stakeholders, not just that of ADB and its member governments.

3. Information to Affected Persons

- All project documents should be available at all stages (including draft form) of the project cycle to ensure full participation of affected stakeholders.
- The PCP should clearly state that affected individuals have a right to know about decisions affecting their lives; giving information to "groups" is not enough. Individuals should be able to decide what information they want. To ensure this access, information centers should be established in project areas, providing equal access to all. The primary stakeholders for the information centers should be affected persons or families, not NGOs.
- Information should proactively be made available in places where people regularly convene. Personnel in local information centers should relay concerns expressed by affected people. Local people should be able to express their requests or concerns in any format or language.

4. Draft Documents

- The Poverty Reduction Partnership Agreement and other assessments that provide background to the CSP (paragraphs 80 and 81) should be provided in draft form. Opportunity should be provided for comment on such reports. These documents should more fully address community concerns.
- The CSP must be available in draft form to support the consultation process. Today, ADB consults on the CSP but refuses to provide those consulted a draft of the CSP; the CSP is not released until it has been endorsed by the Board.
- All operational documents should be publicly available at least 3 months before a final decision has been made.

5. Costs of Disclosure

- Any costs associated with information dissemination or disclosure (including public information centers) should be incorporated into the project budget.
- Project affected persons and local NGOs should be provided information about the project in their area free of charge.

6. Monitoring Mechanism

- Besides the Public Communications Advisory Committee, ADB should form a committee to monitor, analyze, and decide upon which information should be publicly disclosed, rather than making ADB and its member governments the final arbiter in such decisions. Civil society representatives should comprise 25% of the committee. Affected communities should select persons to represent them.

7. Government Consent

- The PCP calls for government consent before release of some documents; all documents should be released to the public without government approval. The criteria for determining the release of information should be clear, and all borrowers need to comply with the agreed-upon policy. The policy should not leave room for documents to be withheld.
- The government has no role to play in sharing ADB documents and information.

8. Target Audiences

- “Interested individuals” and “affected individuals” should be included in the list of target audiences (paragraph 67).

9. Translation

- Project-related documents should be translated in the local language (as understood by the majority) and preferably in all local languages and dialects.
- At minimum, all operational documents should be translated in the national language.

10. Completed Projects

- All documents deemed confidential during project preparation and implementation should be made publicly available within one month of the project’s completion.

11. Domestic laws versus International laws

- If a member government requires, by its own laws, greater disclosure than ADB’s PCP, that policy should prevail. In countries where right to information laws are weak, ADB’s policy should be followed. Today, some ADB staff say that ADB’s

policies regarding environment and resettlement must be followed even if the country's own law provides for greater information sharing than ADB's policy.

12. Implementation Arrangements

- More depository libraries should be established in Nepal. Documents translated into Nepali should be sent to those libraries.
- The Public Communications Advisory Committee should be empowered to ensure execution of its "advice."
- ADB should provide incentives for persons or groups to report violations of the PCP to ADB, and protect the sources of such reports. Reports on violations should be coursed through ADB's Resident Missions.

13. Other Issues

- There should be the provision for compensation to individuals or households who are affected by the untimely information dissemination or because of wrong information dissemination by the project or ADB.
- ADB should make publicly available the names of firms blacklisted for fraud or corruption.

**Review of the ADB's Draft Public Communications Policy (PCP)
Kathmandu, Nepal Videoconference, 22 July 2004**

List of Participants

1	Tek Tamrakar	Pro Public
2	Bhaskar Gautam	Martin Chautari
3	Suman Barakoti	BDevs Society
4	Bal S. Limbu	BDevs Society
5	Niraj Tamrakar	BDevs Society
6	Bhoj Raj Bhatta	Nepal Bar
7	Om Prakash Aryal	CHRHL
8	Laxman Archarya	CPWF
9	Dil Raj Khanal	Fecofun
10	RamLakhan Harijan	NFIWUAN
11	Ram Bahadur Khadka	WAFED – Melamchi
12	Hasta Pandit	Melamchi Local Concern Group
13	Raju Pandit Chettri	Melamchi Local Concern Group
14	Krishana Bdr. Gurung	Abhiyan Sewa Kendra
15	Shiva Bisangahe	Nepal Water Conservation Foundation
16	Gopal Siwakoti 'Chintan'	Water and Energy Users' Federation-Nepal (WAFED)
17	Prabin Man Singh	Water and Energy Users' Federation-Nepal (WAFED)
18	Indra Bdr. Tamang	Melamchi Resident
19	Thangalay Tamang	Melamchi Resident
20	Rabin Subedi	Nepal Policy Institute
21	Bhim Prd. Oli	ANNFSU

22	Shizu Upadhaya	Action Aid
23	Ratan Bhandari	Water and Energy Users' Federation-Nepal (WAFED)
24	Anil Giri	The Annapurna Post