

Consultation on ADB's Draft Public Communications Policy
ADB Institute, Tokyo, Japan
Summary of Participant Recommendations
25 June 2004

ADB organized a consultation workshop with representatives of civil society organizations, academe, the private sector, and government from Japan. Participants critiqued the draft Public Communications Policy (PCP). Following is a synthesis of the participants' recommendations. A list of workshop attendees is attached.

A. Strengths of the Draft Policy

- ADB is trying to be more transparent.
- The following disclosure provisions were welcomed:
 - Board of Directors' meeting minutes and schedule
 - Environmental and social monitoring reports produced during implementation
 - Summary of discussion of the Board of Directors on CSPs
 - List of policies to be reviewed
- A presumption in favor of disclosure is maintained.
- The current Project Profiles have been expanded into Project Information Documents.
- CSPs/RCSPs are translated.
- The final draft of policy papers (R-papers) will hopefully be released before Board approval.
- The public will gain a better understanding of projects and the organization.
- The draft provides for easy access to information and the creation of more Public Information Centers.

B. Recommendations for Improvement

1. Operational Information

- Indicate clear procedures to obtain feedback from affected people.
- The PCP should require the release of draft CSPs and RCSPs.
- The PCP should require the release of aide memoires and back-to-office reports.
- ADB should incorporate Extractive Industries Review (EIR) disclosure recommendations; lead other international finance institutions.
- In the case of a wrong decision about a project, there may be negative issues raised. ADB should present/disclose negative issues as well as positive aspects.
- Disclose economic assessments and related documents. In the private sector, especially the power sector, independent power producers are on the rise. Contracts may be concluded that are not proper and may not lead to poverty reduction. (This is one of the EIR recommendations.)

2. Translation

- ADB should produce more documents in local languages, especially resettlement planning documents. (Note that paragraph 95 requires resettlement information to be provided in the language of affected people, but does not require that the plan be translated).
- Translation should be mandatory, not optional (excerpt from written submission).
- The Project Information Document should be translated into the national language and the languages of affected peoples.

- Language should not be a barrier to dealing with ADB.
- Some participants suggested that environment documents be translated. Paragraph 94 requires the disclosure of information about environmental issues of proposed projects in a form and language(s) accessible to interested parties, as well as to the general public.
- Others agreed that the full Environmental Impact Assessment need not be translated, but said that a translated summary should be provided to affected peoples.
- The PCP should require the translation of safeguard policies and the Accountability Mechanism.

3. Board of Directors Information

- The Board schedule should be released 2 months in advance of meetings, rather than 3 weeks as required in the draft. Earlier release of the schedule would give the public sufficient time to raise project-related concerns with Board members. The schedule should include all Board meetings, including committees. ADB should make public the schedule as it is made available to staff now, rather than creating a new, more curtailed schedule for public consumption. This will save staff time.
- ADB should release Board transcripts *and* summaries of discussions. ADB is a public organization, and ADB's Board is the highest-level decision body. Citizens are paying taxes to their governments (which fund or borrow from ADB), and they have a right to know what their government officials are saying in Board meetings. In addition, citizens should be able to see the reason why ADB decides certain things, and why certain projects and policy papers are approved. Accountability means that ADB needs to explain how it came to its conclusion. Full transcripts should be released. (Note: participants asked how long it takes to prepare and approve transcripts. ADB's Office of the Secretary currently prepares a transcript within 2-3 weeks of a Board meeting; the transcript is not approved by the Board.)

4. Implementation Arrangements

- The InfoUnit should be under the Office of the General Counsel, not the Office of External Relations (OER). OER is mandated to improve the profile of ADB to stakeholders. Every organization should have such a function, but this mandate may hinder the disclosure of information that is not flattering to ADB.

5. Processing Information Requests

- ADB should not charge any fee to people requesting information. ADB's current practice of waiving fees for information provided to NGOs should be maintained – a practice which contrasts with the World Bank practice of charging NGOs from developed countries for publications. The PCP should explicitly state that NGOs are not charged.
- The PCP should also be clear that requesters may request documents in their own language.

6. Recourse Mechanism

- ADB should provide an independent recourse mechanism to review disclosure requests that have been denied. There should be a way to demand reconsideration of rejected requests. Participants asked why this was not adopted in the draft PCP, when participants called for it in November 2003. ADB considered this suggestion, but opted to create the Public Communications Advisory Committee (PCAC) to

provide advice, both internally and externally, and to review requests denied by Regional Departments.

- Participants recommended the PCAC be independent.
- The PCAC may need to meet very frequently, and high-level staff members such as the General Counsel, Secretary and Principal Director of the Office of External Relations may not be able to handle all of the requests. ADB staff indicated that those officers can send a designee if they are unavailable.
- The PCP should state the working procedures of the PCAC, e.g., how and when a requester will be notified that the PCAC is reconsidering the request, and the public availability of PCAC decisions. For example, the policy does not indicate who makes the final decision when it is unclear whether or not a document falls under a constraint? These specific procedures need to be stated in the policy, not the guidelines or staff handbook. As the draft is written now, no detailed mechanism is described, and no principles of compliance are cited.
- Any complaints from requesters should be shared widely at ADB headquarters, in its Resident Missions, and among the general public.

7. Constraints/Exceptions to Presumed Disclosure

- The draft is unclear on what happens with documents that are partially confidential. Nonconfidential information from these documents should be disclosed.
- “Business confidential” should be defined. It may be inappropriate to obtain the approval of the private sector sponsor to disclose other non-confidential information about projects. Who makes the judgment regarding business confidentiality? Information sensitive *before* the project commences may not be sensitive *after*.
- Paragraph 133 defines the decision-making process too broadly. The information addressed in this paragraph should be subject to the “harm” test of paragraph 130. If releasing the information truly harms the deliberative process, it should not be released.
- In several parts of the PCP, certain documents are listed as not being disclosed. These should be deleted, e.g., aide memoire and back-to-office reports listed in paragraph 133. Rather than defining documents as exceptions, documents should be dealt with on a case-by-case basis. If the information pertains to human health, the environment, or danger, the information must be disclosed. On an exceptional basis, confidential information needs to be disclosed if such harm occurs.
- Reasons for confidentiality should be reasonable and fair to requesters.

8. Structure and Format of the Policy Paper

- Structure of the policy should be reorganized. Documents that are automatically made available to the public (paragraphs 77-128) should be listed after the procedures for information requests (paragraphs 140-148, 150-151).
- The connection between the PCP and the goal of poverty reduction is not clear.

9. Monitoring and Evaluation

- The PCP should be flexible and change over time. Rather than being locked into reviewing the policy every five years, make it such that the Board can amend the policy before five years has passed if; technologies and documents change.
- How will ADB evaluate the policy? Any evaluation reports should be publicly available.

10. PCP Consultation and Review Process

- Participants requested a list of all the documents produced in the project cycle in November 2003 but did not receive it. ADB indicated its commitment to produce a list of operational documents by the time the second draft of the PCP is made available for public comment.
- Participants called for a matrix of comments that clearly explains how their comments have been taken into account. If a comment was not addressed in the PCP, the reason why should be clearly articulated.
- Based on his experience at the PCP consultation in Hanoi, held in May, one participant recommended that Resident Missions be better represented at the consultations so that country-based staff can hear stakeholder views on this important topic. The participant noted with approval the presence of representatives of ADB's Japan Representative Office at the Tokyo consultation. (ADB headquarters staff pointed out that country-based ADB personnel have attended all PCP consultations in borrowing countries, and staff briefings are being provided to Resident Missions where workshops are held).
- The "What's New" slides in the PowerPoint overview of the policy were abstract. The major changes proposed by the policy should be articulated more clearly.
- The draft PCP should include an executive summary to make the document easier to read and understand.

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