

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

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Please find attached comments drafted by ActionAid USA on the draft Public Communications Policy currently under review. Thank you for this opportunity to comment.

Sincerely,

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# Comments on the Asian Development Bank's Proposed Information Disclosure Policy

*A Critical Assessment*

by  
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According to a recent article in the US edition of the *Financial Times*, “transparency is the new management watchword of Tadao Chino, president of the Asian Development Bank.”<sup>2</sup> In the article, President Chino cites the Bank’s ongoing process to develop a new information disclosure and communications policy – a policy that he hopes “will be much more forthcoming and open than any other partner institutions.”

The Asian Development Bank (ADB) released a draft of its new Public Communications Policy (PCP) for public comment on March 1, 2004. The proposed policy makes important improvements on the Bank’s existing disclosure policies,<sup>3</sup> and sets some transparency and disclosure standards that are higher than those in place at the other multilateral development banks (MDBs), such as the World Bank or the Inter-American Development Bank. For example, the new draft policy, dated February 28, 2004, is the first of its kind to specifically recommend the disclosure of social and environmental monitoring reports and other types of information during the implementation phase of the project. Also, the new draft policy makes highly laudable statements regarding “proactive disclosure of information” and how transparency increases development effectiveness.

However, despite these improvements on the ADB’s current disclosure requirements, the draft PCP does not represent a commitment to organizational change away from secrecy and towards transparency. This paper analyzes leaked copies of two previous versions of the policy. Through this analysis we can ascertain that staff and management within the Bank have already made decisions to block the disclosure of key documents and drafts of documents, thereby drastically reducing opportunities for project affected people and other external stakeholders from providing inputs which could improve operations and lead to enhanced development effectiveness. The comparison of all three versions of the draft PCP (dated November ’03, January ’04 and February ’04) not only exposes how disclosure requirements in the draft PCP have been watered-

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<sup>1</sup> ActionAid USA is the Washington DC office for ActionAid International.

<sup>2</sup> “Reformists flex their muscles.” *Financial Times*, February 27, 2004.

<sup>3</sup> Current ADB policies related to transparency and disclosure include: (1) ADB Policy on Confidentiality and Disclosure of Information, August 1994 and (2) ADB Information Policy and Strategy, 1994.

down over the course of several months, but also indicates that the Bank has yet to make a full commitment to participatory development.

### **Moving from Bad to Worse**

Prior to the public release of a draft PCP on March 1, 2004, the ADB developed two other confidential iterations of the policy, both of which were obtained by the interested public. In November 2003, the ADB circulated the first version of the new PCP to staff and management within the Bank. This first draft was debated internally, modified and re-circulated as draft number two in January 2004. There are striking differences between the November and January drafts of the policy (and ultimately the most recent publicly released draft dated February 28). While the degree of transparency offered to citizens in the first internal draft was far from adequate for enabling meaningful public participation in policy or project design and implementation, it was substantially better than the two later drafts. Four examples are listed below that show how the first draft offered much more in the way of transparency than the subsequent drafts.

#### *1) Report and Recommendation of the President*

The Report and Recommendation of the President (RRP) is a document that provides the most detailed information on a project. Despite the importance of this document, ADB staff and management withdrew from the initially high disclosure standards proposed for the RRP.

The November '03 draft PCP had proposed that “draft RRs” for public sector projects be disclosed shortly after the project appraisal mission, which takes place at the earliest stage of project development, well before project approval. Additionally, the November draft PCP had proposed that final draft RRs (the most final version of the RRP that goes to the Board of Directors for approval) would be disclosed upon circulation to the Board of Directors but prior to project approval. Lastly, the November '04 draft had called for final RRs to be publicly released and the Chairman’s summary of the Board discussion of the RRP to be disclosed “upon endorsement of the summary by the Board” (para. 72).

However, the disclosure standards for the RRP outlined in the January and February '04 drafts take several steps backwards. In these later versions, draft and final draft RRs are no longer required to be publicly released nor are the Chairman’s summaries of the discussions of the Board. Instead, the language in the public February '04 draft PCP is ambiguous and hard to decipher. It states that RRs for public sector projects “are made publicly available no later than upon approval by the Board of Directors” (para. 97). This implies that drafts and final drafts may be released earlier, but doing so ahead of board approval is not required. Such a policy is insufficient because truly participatory development requires public access to draft RRs before they are approved and finalized.

#### *2) Bank Policies*

The November '03 draft of the PCP had articulated good requirements regarding the development of new policies at the ADB and for the review of existing policies. In addition to disclosing a list of policies that will be developed or reviewed in the next year, the November '03 draft had committed to disclosing: a) drafts of policies translated into the official languages of

the Bank's developing member countries (DMCs); b) final draft policies 21 days prior to Board consideration; and c) final policy papers after they have been approved by the Bank's Board (para. 58).

Again, however, the January and February '04 drafts of the PCP significantly watered-down these recommendations. The Feb. '04 draft states that "consultation drafts" of policies under review or development are only disclosed when "consultations are envisioned, as deemed appropriate by ADB staff" (para. 82). Also, the previously stated requirement for the disclosure of final drafts 21 days before Board approval was completely removed. The February '04 draft states that, "policy papers that require approval by the Board of Directors are made publicly available no later than upon Board approval" (para. 82). Again, the use of the ambiguous term, "no later than", makes no firm commitment to the disclosure of final draft policies before board approval, when they would be of most use to the public for comments.

Finally, any mention of translation of policies or information during the public consultation period was completely removed from the February '04 draft of the PCP. Commitments to translate draft policies were successively watered-down in each of the three draft versions of the draft PCP. The commitment was strongest in the November '03 draft, which had proposed that draft policies be translated into the "principle languages" of the Bank's borrowing countries in order to "facilitate the consultations process" (para. 58). But this was diluted in the January '04 draft, which had proposed that information about the policy under review or development only be translated into "at least one official language" (para. 73). This commitment had been completely eliminated by the public February '04 draft, which makes no mention of any commitment to translate information regarding policies that the Bank reviews or develops.

### *3) Country Strategy Papers and Regional Country Strategy Papers*

The Country Strategy Papers (CSPs) and the new Regional Country Strategy Papers (RCSPs) define the Bank's objectives in each of its developing member countries. Although the transparency recommendations in the November '03 draft PCP regarding CSPs and RCSPs was still deficient in many ways, it had stated that these documents would be disclosed "upon submission to the Board of Directors" in order to "promote awareness and invite the involvement of external parties" (para. 55). This language, although ambiguous, implies that final draft CSPs and RCSPs would be disclosed prior to Board approval when the documents are circulated to Board members.

In contrast, the January and February '04 drafts of the PCP state that CSPs and RCSPs are only disclosed "upon endorsement of the Board" (para. 70 and para. 79 respectively). Again, this language is ambiguous and makes no clear commitment to when country and regional strategies will be disclosed. It also implies a weaker disclosure standard from the November '03 draft in that strategy papers are only disclosed after they are approved by the Board rather than immediately prior to approval.

Furthermore, the November '03 draft PCP had stated that CSPs and RCSPs would be translated into the "official national language or languages" of the country concerned (para. 54). However, as was the case for Bank Policies, the translation requirements for country programming documents were diluted in the February '04 draft PCP. This most recent version of the

communications policy states that only the CSPs will be translated and only translated into “at least one official language of the country concerned” (para. 79).

The failure to make clear commitments regarding disclosure of the CSPs and RCSPs in draft form and the failure to provide these documents in a language that all citizens of a country can understand, contradicts one of the stated purposes of the Bank’s new communications policy which is to support participatory development (February ’04, para. 59).

#### *4) Aide Memoire*

In the November ’03 draft PCP, the Bank had proposed that aide memoire would be made available to the public “upon request, as deemed appropriate by the ADB” (para. 69). This proposal was completely removed from both the January ’04 and February ’04 draft policies. Instead, aide memoire are now only mentioned in the policy’s section on constraints to disclosure. That is, the aide memoire went from being disclosed in the November ’03 draft PCP (upon approval of the ADB) to explicitly *not* disclosed (except with the consent of the ADB and relevant government) in the February ’04 draft policy (para. 133).

### **Why the Draft PCP is Insufficient for Participatory Development**

In its current form, the draft PCP offers a degree of transparency that is insufficient for enabling the public to engage in a process of participatory development with the ADB. The primary deficiency is a lack of clarity by the ADB about the purpose and intention of the policy: Is the policy merely promoting transparency for the sake of transparency, or is the goal of the new PCP to offer citizens whom are impacted by ADB policies and projects sufficient information to enable them to stop harmful projects in mid-stream, during project design or project implementation, and have these halted or corrected? If the ADB’s goal is the latter, then the draft PCP is not adequate. Unless the ADB clearly articulates its intention for and purpose of the PCP and supports this commitment with clearly defined disclosure requirements, we are left unable to assess whether or not the proposed draft PCP can adequately meet those goals.

Furthermore, the PCP offers citizens no mechanisms for public accountability. If information that is supposed to be disclosed according to the PCP is not disclosed, or not disclosed in the correct time period, to whom can citizens turn for political recourse in the matter? What is the proper channel in which citizens and/or local government officials can have such errors redressed in a timely fashion that does not require them to go through the Special Project Facilitator? Will the proposed Public Communications Advisory Committee, PCAC (February ’04, para. 140) respond to complaints that the policy has been misinterpreted? Without a specific method through which citizens can contest the non-disclosure of information, the PCP remains ineffective.

We therefore call on the ADB to clarify its goals, intentions and purposes of a PCP and to commit to the establishment of clear and transparent procedures for timely redress of complaints or policy compliance failures. Only with these up-front clarifications and articulation of specific disclosure requirements, can we then assess whether any draft PCP will contribute to true participatory and sustainable development.