

Comments on the Draft Public Information Policy of the Asian Development Bank

Prepared for the Tokyo Consultation on
ADB's Draft Public Communications Policy

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1. What is disclosure all about?

The policy should aim to ensure people's right to know what operations the ADB is undertaking and the right to access ADB's information. From this viewpoint, the disclosure policy should be comprised from two essential parts.

(1) Disclosure of requested documents. This part should include the following components.

- a. The clear statement that all ADB documents are subject to disclosure.
- b. A clear definition of information that may be kept confidential.
- c. Rigid procedures to respond to information requests with a clear time frame.
- d. Independent recourse mechanism that reviews the original decisions by the ADB when information requesters are denied access to documents.

(2) List of documents automatically disclosed to the public regardless of above-mentioned procedures.

The draft policy is not designed to meet these criteria. The structure of the policy is confusing. The policy allows a wide range of documents to be categorized as confidential at ADB's discretion. No explanation is made on what kind of independent mechanism is available to the people whose information requests are denied by the ADB. The draft policy falls far short of accountability standards of modern democratic institutions.

Recommendation 1: **Structure of the Policy**

Structure of the policy should be reorganized. Documents that are automatically made available to the public (paras. 77-128) should be listed after the procedures for information requests (paras. 140-148, 150-151).

Recommendation 2: **Constraints**

Constraints should be clearly defined. In particular, confidentiality of information regarding deliberative and decision-making processes (para. 133) is too widely defined. Only information that will or is likely to harm the fairness of decision-making processes should be kept confidential. Confidentiality should be determined based on the content of documents, not the type of documents.

Recommendation 3: **Independent Recourse Mechanism**

The ADB should establish an independent recourse mechanism to review original decisions not to disclose certain documents. Information requesters should be allowed to file complaints to such mechanism when they are denied access to the documents they requested.

2. Procedures to deal with information requests

Recommendation 4: **Information Unit**

Information Unit (para. 141) should be under the Office of the General Council, not under the Office of External Relations (OER). OER is mandated to make the ADB look better, and it has conflicts of interest when it is requested to release certain documents that could damage the reputation of the ADB.

Recommendation 5: **Procedural Issues**

Language of requests: The requests should be allowed to be filed in English or any of the official or national languages of ADB's DMCs. When the requests are filed in languages other than English, the Unit and relevant RMs should be responsible for translation.

Partial confidentiality: If documents contain both classified and unclassified information, such documents should be disclosed after blackening out the confidential information.

Cost Sharing: The draft proposes that the ADB may impose cost-based fee to fulfill document and other information requests. To ensure people's right to access ADB's documents, the ADB should not impose any cost to information requesters.

3. Documents Subject to Disclosure

Recommendation 6: **Board Related Documents**

The policy proposes that the minutes of the Board of Directors' regular meetings are made publicly available. Such minutes should include summaries of the discussion and a record of each country's vote. The transcripts of the Board meetings should also be released to the public.

Recommendation 7: **Project Implementation Documents**

At the implementation stage, very limited information is available from the ADB. At least, Back-to-Office Reports and Aid Memoirs produced in the course of project implementation should be disclosed for public scrutiny.

Recommendation 8: **Incorporating Recommendations of Extractive Industries Review**

As suggested by the Final Report of the Extractive Industries Review, disclosure of key documents related to the economic performance of projects in oil, coal and mining sectors are essential to achieve sustainable development.

Documents regarding Private Sector Operations: In all private sector operations funded by the ADB, production-sharing agreements, host-country agreements, power purchase agreements, economic and financial assessments, information on accident prevention and emergency response and company annual monitoring reports to government agencies should be made public.

4. Translation

To ensure informed participation of affected people in ADB-funded projects, the following documents should be translated into the languages understandable to affected people.

Recommendation 9: **Translation**

Project Profiles: All Project Profiles should be translated into languages understandable to affected people.

Environment-related Documents: Important documents regarding environmental and social considerations in projects, including EIA/IEE reports and their summaries, environmental monitoring reports, resettlement plans and indigenous development plans, should be translated into languages understandable to affected people. These documents should be translated both in draft and final forms to guarantee informed consultations with stakeholders. The cost for the translation and provision of these documents should be included in the project cost. The lists of original and translated documents should be included in the Project Profiles.

Safeguard and accountability policies: To facilitate affected people's understanding of their rights under the ADB's policy framework, all safeguard policies and accountability policies (including disclosure policy, anticorruption policy and accountability mechanism) should be translated into languages understandable to affected people.