

Friday, 20 May 2004

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Cc Bart W. Edes
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The Asian Development Bank

Dear Sir.

Comments on the draft public Communication Policy of the Asian Development Bank on draft dated February 2004

First we want to record our dissatisfaction for not having a consultation in Sri Lanka to obtain comments on the draft Public Communication Policy (PCP). As you are aware that we had serious concerns on the information disclosure of the Bank with regard to recent ADB financed projects in SRI LANKA such as Southern Transport Development Project (STDP), Protected area management and Wildlife Conservation Project, Upper watershed Management project, Kirindi Oya Irrigation and Resettlement Project (KOISP) etc. **We believe that in those projects even the current Information and Disclosure policies are not adhered by the Bank in the past.**

The present policy paper seems to be much better approach compare to the old policies. However "Public Communication Policy" which is the name of the policy itself UNDERMINING THE VALUE OF INFORMATION DISCLOSURE and it gives more neutral meaning to the ADB to DISRESPECT THE RIGHT TO INFORMATION. **We believe that it should be remain as the Information Disclosure Policy.** Further we need more than communication, an access to information. The title is contrary to what it explains in section 4 in the page1. As it rightly described we believe that WE HAVE A RIGHT TO KNOW ABOUT AND TO INFLUENCE DECISION THAT AFFECT OUR

LIVES. Therefore we demand that ADB decisions affect the public especially in the Asia and Pacific and those entire documents should be a public domain.

Based on that we believe that section 62 should consider transparency in all levels including DMCs actions & private sector and other third parties such as INTERNATIONAL AND NATIONAL NGOS, who engage in implementation of BANK funded operations. Whether it is the BANK, DMC, Private Sector or NGOs who handle the projects, the negative and positive impacts are on the people and their livelihood. **The access to information related to people's livelihood should not put under the business proprietary information and should not be privileged.**

Section 69 state that Bank will “rely primarily on its internet site to deliver information” BUT the bank should understand 99 percent of the people in developing countries and most affected people have NO ACCESS TO INTERNET. Further ADB current website is cumbersome to navigate and information is scattered and thus not easily found.

Therefore while this is a good approach with including the other tools suggested in the section 69, the **Bank should have a BETTER MECHANISM in the RESIDENT MISSIONS and PROJECT IMPLEMENTING AGENCIES to deliver such information.** We also stress the need of re-designing the website user friendly. The “Project Profiles” currently provided by the ADB via its website are not useful as they do not contain updated project status, and the information contained in them does not comprehensively convey the description of the project and its perceived environmental and social costs/benefits. **Therefore we believe that ADB should take measures to deliver better information through the website too.**

Section 74 only encourages the governments to provide documents to the public in local languages. **We believe that ADB should ENSURE that those documents go to the public in local language, if the ADB respect to the rights of the people to have such information.**

Section 88 only refers to the SUMMERY of project information for Private Sector Projects. However the summery of this information is not sufficient for the people and **we demand that ADB should open full information of the Private Sector Projects too, considering that private sector can misuse this clause to deny information which are very significant to the people and their livelihood.**

Section 92 which related to Technical Assistant report state that” in consultation with the concerned government, ADB may exercise selected portions of any such report that are considered confidential or too sensitive for public disclosure” **WE TOTALLY DISAGREE WITH THIS PROVISION as we believe that affected people have a right to know ALL INFORMATION related to their life and livelihood.**

We believe that this is a violation of the principle 10 of The Rio Declaration on Environment and development, 1992 which state:-

Environmental issues are best handled with the participation of all concerned citizens... At the National level, each individual shall have appropriate access to information concerning the environment...and the opportunity to participate in decision making process... Effective access to judicial and administrative proceedings...shall be provided.

We also believe that this is against the Universal Bill of Human Rights, especially its Article 19 which states:-

*Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to **seek, receive and impart information** and ideas through any media and regardless of frontiers.*

We believe that this POLICY should mention **list of documents which are available at the Resident Mission and in the Headquarters** as we have a dilemma which can be obtained from the RESIDENT MISSION. **We also demand that all Resident Missions should have functional PICs no later than one year after the approval of the draft PCP. We also demand that there should be a functioning PIC in every borrowing member country two years after approval of the draft PCP.**

The section 95 referred to the Resettlement plan. But our experience is that although Resettlement Plan is already a public document, the general public have no access to it. Southern Transport development project is a very clear example for this situation. **We believe that this should be a condition to put on the borrower for the effectiveness of the project loan.**

We disagree with the section 97 which state “RRPs for private sector project are made available.....after removal of any business-sensitive information. **This is very unfair from the public point of view that ADB is denying the information that would affect the people and their livelihood.** Currently, the draft PCP does not clearly state when RRP will be disclosed and whether they will be disclosed in draft form before project approval. (It states that RRP are disclosed “no later than upon Board approval”, Page 23). **We demand that RRP should be DISCLOSED IN DRAFT FORM PRIOR TO PROJECT APPRAISAL** so that project affected communities have a clear idea of what the Project entails much before the Project is finalized by management and a final draft RRP is submitted to the Board for approval

With reference to the Section 98 we believe that Aide Memoirs and Back-to-Office Reports (BTORs) should be made available throughout the project cycle, and further a list of all documents prepared by the ADB during project implementation (regardless of whether these are disclosed or not) be made publicly available on the project/program web page. Currently this it is not easy to obtain those reports.

Under section 125 on historical information, **we demand that historical information be made publicly available as soon as a program/project loan is closed.** It is unfair to ask wait 5 years for such information.

Section 130 state that” ADB will not make publicly available information that, in its considered judgment, will harm the interests of ADB, its members, its private sector sponsors and/or ADB staff when such harm would be greater than the public interest in making information publicly available. **HOWEVER THERE IS NO STATEMENT ABOUT WHO DECIDE WHETHER THE “HARM IS GREATER THAN PUBLIC INTEREST” It is not clear a) what guidelines will guide them b) whether the ADB Board of a Special Committee will be decide on this. Therefore we request to clarify this section further and obtain comments on this matter again.**

Under section 148 we believe that the ADB must ensure requesters can appeal to an independent, effective and responsive body if they feel their requests to management for information have been unfairly refused. Such a body must respond to requesters within a short timeframe. **We proposed that the ADB Compliance Review Panel be given the additional responsibility of dealing with such appeals from requesters.** The CRP should develop a procedure for responding to such appeals, one which allows it to submit its findings to the Board and requesters no later than within 30 days of having received an appeal. **The ADB Board must then ensure that Management immediately complies with the findings of the CRP.**

I hope that you will consider these comments positively in making the final document. **I also hope that you will give an opportunity for us to make ORAL REPRESENTATION on the same.**

Yours truly,



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