

**Comment on ADB'S
2nd Draft Public Communications Policy (version 25 October 2004)**

TO: disclosure@adb.org
FROM: Organizations and Movements in South Asian Region
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Disclosure Review
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Greetings from South Asia, attached and pasted at the end of the message is **South Asian Statement on ADB 2nd draft PCP**, jointly prepared by organizations and movements in South Asian region. We look forward to seeing our comments and demands reflected in the forthcoming Public Communication and Information Disclosure Policy.

Any comments and responses to the statement can be directed to Zakir Kibria at BanglaPraxis, banglapraxis@yahoo.com

Best,

Zakir Kibria
BanglaPraxis

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South Asian Statement on the ADB 2nd draft PCP

November 24, 2004

We, the undersigned civil society organizations and movements in South Asian region, call upon the Asian Development Bank to adopt the following demands to be incorporated in its Public Communication and Information Disclosure Policy.

We believe that the communities and citizens have a right to timely, full and accurate information about projects and policies that shape and affect their lives. As an institution that claims commitment towards public good, the ADB has a responsibility and obligation to operate in a transparent and accountable manner. We believe that the ADB has failed in its duty to consistently provide timely, complete, accurate and accessible information to the public. Reading the 2nd draft PCP, we recognize that changes have been made, but are inclined to comment that the changes are few and cosmetic to say the least, and where changes have been made, they serve to mainly boost the ADB's image rather than deepen its commitment to transparency and accountability. Further, contentious issues raised in past civil society comments and statements have not yet been resolved.

The second draft of the PCP still falls far short of the demands of citizens and civil society organizations in the South Asia region.

Following are our comments on the 2nd draft PCP and our demands on what we expect to see in the final Public Communication and Information Disclosure Policy.

- The current draft is silent on how certain decisions and the changes made to the draft arrived at; the policy should disclose the process and rationale behind the changes.
- We demand that the PCP be renamed as **Public Communication and Information Disclosure Policy**, by which the duties and responsibilities of the ADB are geared towards disclosure.
- The disclosure should be more orientated towards project-affected people, communities and citizens, not towards industry, private sector and government.
- The policy should be more specific and conclusive, rather than narrative. The policy should be unambiguously in favour of full disclosure and not allow for selective interpretation by ADB management and project staff.
- The policy is still geared towards *constraints* than disclosure, there is change in the 2nd draft but the tone remains the same.
- The ADB should not only disclose information, but also, it must recognize that its disclosure policy should come out as a result of demands and aspirations of the people.
- The policy should not make any distinction between public and private sector lending and projects. The ADB is a public institution and should act as such, and not favour private sector interests.

- The draft is extremely weak on private sector projects. Given that all development projects are (directly or indirectly) publicly financed, information pertaining to all private sector operations in ADB supported development projects must be on the public domain. This is particularly important in light of increasing private sector involvement in ADB financed projects and programmes. The business and competitive interests of project sponsors cannot take precedence over the public's right to know about the details of these projects, especially if the public will eventually shoulder the financial burden of these projects.
- In all private sector projects, the ADB must disclose full and accurate information about financing arrangements including, details of concession and actual financing agreements, risk and profit distribution, contingent and other liabilities, details of guarantee and counter-guarantee agreements, expenditure patterns, audit reports and anti-corruption reports.
- There should clearly articulated methodology on how the policy will be evaluated.
- We believe the policy must include recourse to an independent appeals body. Such a body will interpret ADB's stated presumption in favor of disclosure and provide an independent review of the regime of exceptions. The policy must be under the review of CRP (Compliance Review Panel). We demand that any individual citizen or interested party, regardless of whether they are harmed by ADB's non-disclosure, should be eligible to lodge a disclosure related appeal with the CRP.
- The policy still does not meet the standards in place in many national information laws. We demand that at a minimum, the policy reflects national and local Right to Information laws and regulations.
- ADB should also be bound by member countries international human rights obligations related to freedom of information such as article 19 of UN International Covenant on Civil and Political Rights which many Asia Pacific countries have ratified.
- ADB enjoys immunity to national laws (for example as in Bangladesh). We demand that there should be no such immunity to the disclosure policy or to ADB as an institution.
- We demand a shift from document-based disclosure to recognition of a general obligation of the ADB to disclose all information held.
- We demand that there should be clear mechanism to take recourse to CRP (Compliance Review Panel) if ADB provides wrong and delayed information. ADB must provide adequate compensation if it provides any wrong information and if there is any damage because of delay in providing information.
- We demand that the obligation to disclosure information, for ADB financed and supported public and private sector projects be on the ADB. The ADB cannot transfer its obligation to full disclosure on to governments.
- The draft policy is still not specific on how the ADB intends to disseminate information beyond the Internet. The cost of providing information in national and local languages should be borne by the ADB.
- The ADB's policy on information disclosure must be linked to its institutional decision-making processes, particularly those on inspection and anti-corruption.

Information disclosure in and of itself does not satisfy the expected standards of transparency, accountability and good governance.

We look forward to the ADB's response to these comments and demands.

Signed by:

South Asian Solidarity for Rivers and Peoples (SARP), Nepal
Brahmaputra Barak Rivers Watch (BBW), India
Delhi Forum, India
BanglaPraxis, Bangladesh
Sri Lankan Working Group on Trade and IFIs, Sri Lanka
Advancing Public Interest Trust (APIT), Bangladesh
AOSED, Bangladesh
Focus on the Global South, India
Water and Energy Users' Federation-Nepal
Nepal Policy Institute, Nepal
Melamchi Local Concerns Group, Nepal
South Asia Network on Dams Rivers and People, India
The Innovators, Bangladesh

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