

The logo for the Asian Development Bank (ADB), consisting of the letters 'ADB' in a white serif font on a black square background.

BCRC/2005-1
26 August 2005

ASIAN DEVELOPMENT BANK ACCOUNTABILITY MECHANISM

ANNUAL REPORT

OF THE

BOARD COMPLIANCE REVIEW COMMITTEE

2004-2005

TABLE OF CONTENTS

I.	INTRODUCTION	1
	A. Coverage of the Annual Report	1
	B. Compliance Review Phase of the ADB Accountability Mechanism	1
II.	BOARD COMPLIANCE REVIEW COMMITTEE	1
	A. Functions and Terms of Reference	1
	B. Members	1
III.	ACTIVITIES OF THE BOARD COMPLIANCE REVIEW COMMITTEE	2
	A. Meetings	2
	B. Requests for Compliance Review	2
	C. Extension of CRP Chair's Initial Full-Time Appointment	3
	D. Monitoring Mandate in respect of the Chashma Project	3
IV.	BUDGET	3

I. INTRODUCTION

A. Coverage of the Annual Report

1. This is the second Annual Report¹ of the Board Compliance Review Committee (BCRC), a committee of the Asian Development Bank (ADB)'s Board of Directors (Board). It covers the period from 1 July 2004 to 30 June 2005.

B. Compliance Review Phase of the ADB Accountability Mechanism

2. The Board approved the ADB Accountability Mechanism² (Mechanism) on 29 May 2003 to replace the Inspection Function.³ The Mechanism became effective on 12 December 2003. The Mechanism provides opportunities for persons affected by ADB-assisted projects to address any concerns about the impact of projects on them. The Mechanism consists of two separate but related functions: consultation phase⁴ and compliance review phase. The compliance review phase provides a forum in which project-affected people who have first raised the matter under the consultation phase (and in special circumstances, any Board member) can file requests for compliance review of possible violations by ADB of its operational policies and procedures. The Compliance Review Panel (CRP) carries out the compliance review phase.

II. BOARD COMPLIANCE REVIEW COMMITTEE

A. Functions and Terms of Reference

3. BCRC⁵ has the following functions: (i) clear CRP's proposed terms of reference (TOR) and the time frame for conducting each compliance review authorized by the Board before they are released by CRP; and (ii) review, before CRP finalizes them, CRP's draft reports on monitoring implementation by ADB of any remedial actions approved by the Board as a result of a compliance review. BCRC carries out its work pursuant to the policy laid down in the Mechanism and its associated Operational Procedures.⁶

4. The Office of the Compliance Review Panel (OCRCP) provides secretariat support to BCRC. OCRCP performs various functions including (i) assisting BCRC in carrying out its activities; and (ii) administering BCRC's yearly operating expenses (if any).

B. Members

5. BCRC consists of 6 Board members, including 4 regional members and 2 nonregional members. The BCRC membership as of 30 June 2005 is provided in the Table below. In

¹ The first BCRC Annual Report is at [http://www.compliance.adb.org/dir0035p.nsf/attachments/BCRC-AnnualReport-03-04.pdf/\\$FILE/BCRC-AnnualReport-03-04.pdf](http://www.compliance.adb.org/dir0035p.nsf/attachments/BCRC-AnnualReport-03-04.pdf/$FILE/BCRC-AnnualReport-03-04.pdf)

² ADB. 2003. *Review of the Inspection Function: Establishment of a New ADB Accountability Mechanism*. Manila. The Board paper is at http://adb.org/Documents/Policies/ADB_Accountability_Mechanism/ADB_accountability_mechanism.pdf.

³ ADB. 1995. *Establishment of an Inspection Function*. Manila. The Board paper is at http://www.adb.org/Documents/Policies/Inspection/inspection_policy.pdf.

⁴ The consultation phase assists project-affected people with specific problems caused by ADB-assisted projects through informal consensus-based methods with the consent and participation of all parties concerned.

⁵ CRP reports directly to the Board on all activities, except for the two specific activities listed in para. 3 above, where it reports to BCRC.

⁶ At [http://www.compliance.adb.org/dir0035p.nsf/attachments/BCRC%20Final%20Operating%20Procedures.pdf/\\$FILE/BCRC%20Final%20Operating%20Procedures.pdf](http://www.compliance.adb.org/dir0035p.nsf/attachments/BCRC%20Final%20Operating%20Procedures.pdf/$FILE/BCRC%20Final%20Operating%20Procedures.pdf).

accordance with the Board's Rules of Procedure, the ADB President appoints the BCRC members, in consultation with the Board, and designates the BCRC Chair.⁷

Table: BCRC membership as of 30 June 2005

	Country
Chair: Stephen Sedgwick	Australia
Members: Geert Jan Engelsman ^a Marita Magpili-Jimenez ^b Xiaolong Mo ^c Sein Tin Niklaus Zingg ^d	The Netherlands Philippines People's Republic of China Myanmar Switzerland

^a Replaced Alternate Executive Director Tryggve Gjesdal on 1 September 2004

^b Replaced Executive Director Dante Canlas on 16 September 2004

^c Replaced Executive Director Ju Kuilin on 1 February 2005

^d Replaced Alternate Executive Director Pascal Gregoire on 1 August 2004

III. ACTIVITIES OF THE BOARD COMPLIANCE REVIEW COMMITTEE

A. Meetings

6. BCRC had 4 formal meetings during the period covered by this Report. They were held on 6 July 2004, 14 January 2005, 25 February 2005, and 11 March 2005.

B. Requests for Compliance Review

7. In the year ended 30 June 2005, 4 claims were filed with the Special Project Facilitator (SPF) under the consultation phase of the Mechanism. Two claims – in respect of the Melamchi Water Supply Project (MWSP) in Nepal and the Southern Transport Development Road Project in Sri Lanka (STDP) – also subsequently requested compliance review. The CRP determined the MWSP request ineligible⁸ and the STDP request eligible.

8. In January 2005, the Board authorized the CRP to investigate the STDP request. BCRC met on 14 January 2005 to consider the CRP's draft TOR and the time frame for the STDP request. The TOR, as cleared by BCRC on a no-objection basis on 21 January 2005, were posted on the CRP website on the same day. The CRP Final Report was circulated to the Board on 22 June 2005 and was considered by the Board on 12 July 2005.

⁷ The term of these BCRC members expired on 30 June 2005. In June 2005, the President approved the appointment of the following members for a period of two years commencing 1 July 2005: Stephen Sedgwick (Australia), as Chair; Volker Ducklau (Germany); Chol-Hwi Lee (Korea, Republic of); Marita Magpili-Jimenez (Philippines); Sein Tin (Myanmar); and Niklaus Zingg (Switzerland).

⁸ The CRP found that based on the Request and the onsite evidence presented by the Requesters, the allegations of direct and material harm suffered or to be suffered were difficult to link to the Requesters and to ADB's alleged failure to adhere to its operational policies and procedures in formulating, processing, or implementing the project. The CRP Eligibility Report on the MWSP is at [http://www.compliance.adb.org/dir0035p.nsf/attachments/MWSP-EligibilityReport.pdf/\\$FILE/MWSP-EligibilityReport.pdf](http://www.compliance.adb.org/dir0035p.nsf/attachments/MWSP-EligibilityReport.pdf/$FILE/MWSP-EligibilityReport.pdf).

C. Extension of CRP Chair's Initial Full-Time Appointment

9. Under the arrangements agreed by the Board as set out in the Mechanism, the CRP Chair, Mr. Augustinus Rumansara, was appointed by the Board for a term of 5 years from 12 December 2003. His initial appointment was on a full-time basis for at least 1 year. There was to be a review within 1 year of his commencement to determine whether Mr. Rumansara should continue on a full-time basis. Consistent with the arrangements leading to the original appointment, the ADB President made a recommendation to the Board on this matter, having received a report from an Ad Hoc Committee (Committee) with similar composition to the Selection Committee which considered candidates for the appointment of CRP Chair. The BCRC Chair was a member of the Committee. The Committee met twice, in February 2005 and in June 2005. On each occasion, the Committee recommended that Mr. Rumansara continue his term on a full-time basis, in the first instance until 31 August 2005 and in the second instance until the end of 2007. The ADB President made his recommendations to the Board in similar terms, which were approved by the Board on a no-objection basis.

D. Monitoring Mandate in respect of the Chashma Project

10. In August 2004, the Board considered and approved the recommendations of the Report of the former Board Inspection Committee in respect of the Inspection of the Chashma Right Bank Irrigation Project (Stage III) in Pakistan (Chashma Project). Among other things, the Board mandated that CRP monitor implementation of remedial actions by Management to bring the project into compliance and to report its findings to the Board.

11. On 25 February and 11 March 2005, BCRC met to review a draft CRP Progress Monitoring Report on the Chashma Project before the CRP finalized and issued it to the Board on 18 March 2005. The next CRP Monitoring Report on this project is expected to be reviewed by BCRC in August 2005 before it is finalized by the CRP.

IV. BUDGET

12. No budget for 2004 was allocated to cover BCRC's operating expenses. No expenses have been incurred in the period covered by this Report.