

ICB/SR1-00
6 July 2000

ANNUAL REPORT

OF THE

INSPECTION COMMITTEE OF THE BOARD

1999-2000

CONTENTS

	Page
INTRODUCTION	1
COMPOSITION OF THE ROSTER OF EXPERTS	1
ACTIVITIES OF THE INSPECTION COMMITTEE	1
BUDGET	2
APPENDIXES	
Appendix 1 – Terms of Reference of the Inspection Committee	
Appendix 2 – Roster of Experts	
Appendix 3 – Inspection Procedures	
Appendix 4 – Feedback Received from NGOs on the Inspection Policy	
Appendix 5 – Action Plan for Strengthening the Inspection Function in 2000	

Introduction

1. The Board of Directors approved the Establishment of an Inspection Function on 5 December 1995 (Doc. R225-95, dated 10 November 1995). The Board paper sets out the inspection policy of the ADB which establishes a formal channel through which local communities, organizations and other groups—and, in special circumstances, members of the ADB's Board of Directors—can also make a request for inspection.
2. The Board paper provided for the appointment by the President, in consultation with the Board, of a six-member standing Committee of the Board, the Inspection Committee (BIC). The terms of three members of the BIC expired on 30 June 1999. In consultation with the Board, the President appointed three new members—Mr. Rafiq Akhund, who was replaced by Mr. Kh. Zaheer Ahmed in September 1999; Mr. Barry Holloway; and Mr. Prasit Ujjin. The new members joined Mr. John Austin, Mr. Julian Payne and Mr. Francesco Pittore (Chairman) on the BIC. In September 1999, upon the resignation of Mr. Pittore from the BIC, Mr. John Millett was appointed Chairman of the BIC.
3. The terms of reference of the Committee, which were derived from the Board paper on *Establishment of an Inspection Function*, are attached as Appendix 1.

Composition of the Roster of Independent Experts

4. The roster of 17 independent experts continues unchanged (attached as Appendix 2). The experts have been appointed for a five-year, nonrenewable term. Their terms will expire in June 2001.

Activities of the Inspection Committee

5. The Inspection Committee had one informal meeting and two formal meetings during 1999/2000, the period under review, to discuss one inspection request and the status of the *Review of the Inspection Function*.
6. The request for inspection was received in December 1999 from the Urban Resource Center (URC) on behalf of residents in the area of the Korangi-Landhi Wastewater Management Project (Loan 1539-PAK) (Project). This was the second request for an inspection of the Korangi Project, but since it was submitted by a different party, presenting new information, the BIC decided to treat it as a new request. The BIC considered the request at a formal meeting on 19 January 2000 and concluded that the request was not eligible for a review as it did not meet the criteria for eligibility for an inspection (under paragraph 15 of the Inspection Procedures – attached as Appendix 3). First, no evidence had been presented to indicate that any ADB operational policy or procedure had been violated in the preparation of the Project. Second, the request did not show that any such failure of ADB to follow its policies has had or was likely to have a direct and material adverse effect on the requester's rights and interests. The loan was terminated in September 1999, before the Project had even commenced. No disbursements had been made and none would be made under the Project. The BIC concluded that the Project had had no adverse impact on the people in the Project area. In accordance with paragraph 42 of the Inspection Procedures, the BIC recommended to

the Board that no further action be taken on this request. The Board paper was approved on a no-objection basis on 22 February 2000.

7. On 23 September 1999, the Working Paper on the *Review of the Inspection Function* (DOC.Working Paper 6-99) was considered by the Board. The Board supported the proposal to actively disseminate information on the Inspection Function and to translate relevant documents into regional languages, as required. However, on the issue of coverage of private sector operations by the Inspection Policy, the Board requested staff to reconsider the proposal made in the Working Paper to establish a "Stakeholder Recourse Mechanism" under a Vice-President to review complaints about private sector projects, and instead to consider full coverage of private sector operations by the Inspection Policy. In the third quarter 2000, an informal Board meeting will be held to discuss the coverage of private sector operations and other aspects of the Review. Thereafter, the final proposal on the *Review of the Inspection Function* will go to the Board for consideration.

8. The Board was given a briefing on the Inspection Function on 26 May 2000. The BIC Secretary provided an overview of ADB's Inspection Function and a comparison of the inspection/investigation and ombudsman mechanisms of the International Bank for Reconstruction and Development, the Inter-American Development Bank and the International Finance Corporation. She also presented a summary of feedback received from nongovernmental organizations on the *Review of the Inspection Function* (see Appendix 4), and the draft *Action Plan for Strengthening the Inspection Function*. (The final version of the Action Plan is attached in Appendix 5.)

Budget

9. In addition to the usual allocation of \$250,000 budgeted for both 1999 and 2000 to cover the cost of an inspection, an amount of \$73,000 to cover the cost of workshops and translation of inspection policy and procedures in 2000 was included in the budget. Since no inspections were approved during the period under review and the workshops and translation of inspection policy and procedures have not yet commenced, no expenditure was incurred in 1999 or during the first six months of 2000 for these purposes. Future budgetary allocations will be determined in the light of the *Review of the Inspection Function*.

INSPECTION COMMITTEE OF THE BOARD OF DIRECTORS

The Board paper on Establishment of an Inspection Function (R225-95, dated 10 November 1995), approved by the Board of Directors on 5 December 1995, provides for the establishment of an Inspection Committee of the Board to assume certain duties relating to the Bank's inspection function.

Composition

As provided in Board paper R225-95, the Committee shall consist of six members of the Board of Directors, including four regional members (at least three of whom must be from borrowing member countries) and two non-regional members. The President shall appoint the members of the Committee, in consultation with the Board, and shall designate the Chairman of the Committee.

Each member of the Committee shall be appointed for a term of two years, except that three members of the initial Committee shall serve for one-year terms. Their names were chosen by lot by the President shortly after the initial appointments were made.

If a member of the Committee ceases to be a member of the Board of Directors before the completion of the member's term on the Committee, the President, in consultation with the Board, shall appoint a replacement.¹

Terms of Reference

In accordance with Board paper R225-95, the terms of reference of the Committee shall be:

A. Preliminary Review of Inspection Requests

- (i) to receive and consider inspection requests (Requests) submitted by or on behalf of communities, organizations or other groups in the Bank's developing member countries (DMCs), or by one or more Directors;
- (ii) to refer Requests to Management for a written response, if appropriate or necessary;
- (iii) to obtain additional information relating to a Request from the applicant and/or Management, if appropriate or necessary;
- (iv) to consult with a member of the standing roster (Roster) of independent experts concerning the Request, if appropriate or necessary;

¹ The general principles to be followed in making future appointments to the Committee were confirmed by the President to the Board at its meeting on 14 March 1996.

- (v) on the basis of its review of the Request, Management's response and/or any supplemental information or materials, to make a written recommendation to the Board of Directors as to whether an inspection of the relevant project is warranted;
- (vi) upon the Board's consideration of the matter, to notify the applicant in writing of the Board's decision to authorize (or not authorize) an inspection based on the Request.

B. Inspections

- (vii) if the Board authorizes the inspection (Inspection) of a project, to select a panel (Panel) of three or more independent experts from the Roster to carry out the Inspection;
- (viii) to provide the Panel with appropriate terms of reference and a suggested time period within which to conduct the Inspection;
- (ix) to request the consent of the relevant DMC government to the Panel's conduct of Inspection activities in the DMC; and to consult on an ongoing basis with the Director representing the DMC concerning the Inspection;
- (x) to review the Panel's workplan; to respond to the Panel's requests for clarification of its terms of reference and other matters; to make appropriate arrangements for the hiring of one or more consultants to assist the Panel, if necessary; and to generally supervise and facilitate the work of the Panel;
- (xi) to review the Panel's report on the Inspection and Management's written response, and to consult as appropriate with the Panel, Management, the applicant and/or the Director representing the relevant DMC concerning the Panel's findings and Management's response;
- (xii) to submit the Panel's report and Management's response to the Board of Directors together with a written recommendation on the matter;
- (xiii) upon the Board's consideration of the matter, to provide the applicant with copies of the Panel's report, Management's response and any Board decision thereon, and to make these materials publicly available;

C. General

- (xiv) to prepare an annual report concerning Requests received, Inspections undertaken and their results; and
- (xv) to take such other actions as may be necessary or appropriate to perform the duties outlined above.

Meetings

The quorum for meetings of the Committee shall be three of its members. If the Chairman of the Committee is unable to be present in person at a meeting, the Committee shall select another member to preside.

The Committee shall meet as often as it considers necessary.

Administrative Arrangements

As provided in Board paper R225-95, the Office of the Secretary shall provide the necessary administrative services for the function of the Committee and such other assistance as the Committee may require.

11/11/98

July 1998

**Inspection Policy
Roster of Independent Experts**

The following individuals have been appointed by the Board of Directors of the Asian Development Bank to serve on a roster of independent experts in connection with the Bank's inspection policy. Experts from the roster may be called on from time to time to review or "inspect" the Bank's role in particular development projects, if so authorized by the Board of Directors. Appointments to the roster are for five years. Roster members may not be employed or engaged by the Bank for a period of five years after completion of their service on the roster.

Name	Nationality	Current/Past Positions	Area(s) of Expertise
Jose V. Abueva	Philippines	Professor (and former President) of University of the Philippines; former Ford Foundation advisor in Nepal and Thailand; Secretary and Director of Planning/Evaluation of UN University; and Secretary of Philippine Constitutional Convention (1971-73)	Law; public administration
Robert M. Ainscow	UK	Retired; former Deputy Permanent Secretary, Overseas Development Administration (ODA); member of the Development Committee Task Force on MDBs; and Chairman, OECD Working Party on Financial Aspects of Development Assistance	Economics
Heinz Bühler	Germany	Director General, German Foundation for International Development (DSE); former Executive Director of ADB and external expert to the ADB Task Force on Improving Project Quality	Law; development cooperation
Earl G. Drake	Canada	Adjunct Professor, Simon Fraser University; former Ambassador to China and Indonesia; Executive Director of World Bank; Assistant Deputy Minister, Asia Pacific Branch, Department of External Affairs and International Trade; and Vice President for Multilateral Programmes, Canada International Development Agency (CIDA)	History; international cooperation

Name	Nationality	Current/Past Positions	Area(s) of Expertise
Yuichi Ezawa	Japan	Group Senior Advisor in Japan for J.P. Morgan Guaranty Trust Co. of New York; former Director General of International Finance Bureau, Ministry of Finance; and Senior Executive Director, Export-Import Bank of Japan	Law; public administration
Damodar P. Gautam	Nepal	Retired; former Chief Secretary, Tourism Secretary, Commerce Secretary and technical advisor to UNIDO and UNDP on public management and policy issues	Law; public administration; economic development and trade
Sayuti Hasibuan	Indonesia	President-Director, Institute for National Development Studies (LPNN-INDES); former Deputy Chairman for Economic Affairs, for Human and Natural Resources Development, for Manpower and Population, and for Regional Affairs, BAPPENAS	Economics; business administration
Kong Fannong	PRC	Retired; former Director of Technical Cooperation Policy Division, UN Secretariat; Member of the ADB Board of Directors; and Deputy Director General, International Department, People's Bank of China	Economics; foreign studies
Parandur Bhashyam Krishnaswamy	India	Retired; former Secretary of National Planning Commission; Coordinator of UN Interagency Programme on Integrated Rural Development; and Executive Director of National Foundation for India	Economics
Olavi Luukkanen	Finland	Professor, Department of Forest Ecology, University of Helsinki; former advisor to Thai Ministry of Agriculture and Royal Forest Department; Finnish representative to FAO Committee on Forest Development in the Tropics	Tropical silviculture; tropical ecology; forest management
Tunku Abdul Malek	Malaysia	Retired; former CEO of Kewangan Usahasama Bersatu Berhad (finance company); Chairman of Association of Finance Companies of Malaysia; Member of the ADB Board of Directors; and Secretary, Finance Division, Malaysian Treasury	Economics; economic development
Donald Mentz	Australia	Managing Director, Mentz International Trading and Investment Limited; former Director-General of Commonwealth Agricultural Bureaux/ CAB International and Country Department Director of ADB	Agronomy; economics

Name	Nationality	Current/Past Positions	Area(s) of Expertise
Michel Rougé	France	Executive Director, Common Fund for Commodities (international organization involved in stabilizing world commodity prices); former Financial Counselor for East Asia, French Treasury; Member of the ADB Board of Directors; and Minister-Counselor, French Mission to the UN	International financial relations; development cooperation; public administration
Fritz R. Staehelin	Switzerland	President, Swiss Peace Foundation; former Director of Swiss Development Cooperation and Humanitarian Aid and Ambassador to Japan	Foreign affairs; international development
Alexandra Stephens	New Zealand	Independent consultant and lecturer; former Senior Sociologist, FAO Regional Office for Asia and the Pacific	Rural sociology (specializing in social impact and gender analysis, participatory monitoring and evaluation, and human settlements)
Chang-Lin Tien	US	Former Chancellor, University of California at Berkeley; Trustee of Asia Foundation and U.S. Committee on Economic Development	Mechanical engineering (specializing in heat transfer technology; related energy and environmental issues)
Ilho Yoo	Korea	Vice President, Korea Institute of Public Finance	Economics (specializing in welfare economics and social insurance)

INSPECTION PROCEDURES

(as approved by the Inspection Committee on 9 October 1996)

A. Introduction

1. The inspection policy (the Policy) of the Asian Development Bank (the Bank) establishes a formal channel through which local communities, organizations and other groups – and, in special circumstances, members of the Bank's Board of Directors – can request independent review or "inspection" of the Bank's role in certain Bank-financed projects. The Policy is contained in Board paper R225-95, dated 10 November 1995, which was approved by the Bank's Board of Directors (the Board) on 5 December 1995. Copies of the Board paper are available to the public, and may be obtained from the Bank's Information Office.

2. These Procedures have been prepared to provide detailed guidance on the operation of the Policy. The Procedures may be amended from time to time to provide further clarification or to address additional matters that may arise in the course of implementing the Policy.

B. Scope of the Policy

3. The Policy is intended to ensure that the Bank's operational policies and procedures are followed in the formulation, processing and implementation of Bank-financed projects.

4. For purposes of the Policy, "operational policies and procedures" are defined as the Bank Policies and Operational Procedures set forth in the Bank's Operations Manual (the OM) and, to the extent applicable, corresponding sections in earlier editions of the OM (see para. 17 below). They also include Staff Instructions that relate to the formulation, processing or implementation of Bank projects (but that have not yet been incorporated in the OM).

5. For purposes of the Policy, a "Bank-financed project" or "project" is defined as any public sector loan, guarantee or technical assistance grant financed or to be financed in whole or in part from Bank resources, or administered or to be administered by the Bank; private sector loans and investments are excluded from the scope of the Policy.

6. Both proposed and ongoing projects are within the scope of the Policy. A "proposed" project refers to a project under preparation that has not yet been approved by the Board (or a technical assistance project to be approved by the President within the President's delegated authority); an "ongoing" project refers to a project that has been approved and is not yet substantially completed. A project is considered "substantially completed" when 95 percent or more of the relevant Bank financing has been disbursed and/or canceled or when the closing date for withdrawals or disbursements under the relevant legal documents has passed.

C. Structure of the Policy

7. Under the Policy, a new standing committee of the Board, the Inspection Committee (the Committee), has been established to review requests for inspection and recommend to the Board whether an inspection is warranted. If the Board authorizes an inspection, the Committee will select a panel of independent experts from an approved roster to

conduct the inspection and to report its findings to the Committee. Based on the panel's report and Management's response to that report, the Committee will make recommendations to the Board.

1. Inspection Committee

8. The Committee comprises six members of the Board, including four regional members (at least three of whom must be from borrowing member countries) and two nonregional members. The President appoints the members of the Committee, in consultation with the Board, and designates the Chairman of the Committee. Each member of the Committee is appointed for a term of two years, except that three members of the initial Committee were appointed for one-year terms. If a member of the Committee ceases to be a member of the Board of Directors before the completion of the member's term on the Committee, the President, in consultation with the Board, will appoint a replacement.

2. Roster of Independent Experts

9. A roster of independent outside experts (the Roster), nominated by the President and approved by the Board, assists the Committee and the Board in implementing the Policy. The Roster is composed of individuals from diverse backgrounds and disciplines. Members of the Roster, who must be nationals of the Bank's member countries, are selected for their integrity and judgment, as well as their expertise and experience in areas related to the Bank's development activities. These experts remain on the Roster for five-year, nonrenewable terms. Roster members must not have been employed by the Bank within two years preceding their appointment, and will be precluded from employment by the Bank for five years following the completion of their term. (Employment by the Bank, for these purposes, includes service on a full- or part-time basis as a Bank employee, consultant, Director, Alternate Director or Director's Assistant.)

10. Roster members are compensated for their participation on inspection panels or other assistance to the Committee. They are not paid a retainer fee. The level of compensation of Roster members is determined by the Board upon recommendation of the President, and may be adjusted from time to time.

11. Members of the Roster can be removed for cause by the Board, or may resign by written notice to the Board. If a Roster member is removed or resigns before the end of the member's term of appointment, the President may nominate a replacement for approval by the Board, subject to the criteria stated in paragraph 9 above. The replacement will serve on the Roster for five years on a nonrenewable basis beginning on the date of appointment.

D. Parties Who Can Request an Inspection

12. A request for inspection of a Bank-financed project can be made by a community, organization or other group residing (a) in the borrowing member country where the project is being implemented or is proposed to be implemented, or (b) in another member country adjacent to that country, if the group is affected or likely to be affected by the project. Requesters need not have independent legal status. Requesters must present reasonable evidence that their rights or interests have been or are likely to be directly, materially and adversely affected by an action or omission of the Bank as a result of the Bank's failure to follow its operational policies and procedures in connection with a proposed or ongoing project.

13. A request for inspection may also be made on behalf of such a community, organization or other group by (a) a representative of the group residing in the same country, or (b) in exceptional cases when no appropriate local representative is available, and the Board so agrees at the time it considers the request for inspection, by a nonlocal representative. In either such case, the request for inspection must include reasonable evidence that the representative has been authorized to act on behalf of the group.

14. To discharge their responsibilities under the Articles of Agreement Establishing the Bank, in special cases involving allegations of particularly serious violations of the Bank's operational policies and procedures in connection with an ongoing project, as perceived by one or more members of the Board, such Board member(s) may also make a request for inspection. In this case, the Board member(s) making the request must follow the same procedures as other requesters, except that a Board member need not demonstrate that he/she is the authorized representative of a particular community or other group. (Concerns that Board members may have regarding proposed projects can be addressed in the usual manner at the time the projects are submitted to the Board for approval.)

E. Requests That Can Be Entertained

15. A request for inspection must assert that:

- (a) the Bank has failed, in formulating, processing or implementing a project, to follow its operational policies or procedures;
- (b) this failure has had or is likely to have a direct and material adverse effect on the requester's rights and interests; and
- (c) this failure was brought to the attention of the Bank's Management, which failed within a period of 45 days to demonstrate that the Bank had followed, or was taking adequate steps to follow, its operational policies and procedures.

16. Other requirements relating to requests for inspection are outlined in Part F.4 (paras. 28-34) below.

17. The operational policies and procedures that apply to a project for purposes of the Policy are those that were in effect on the date the project was approved (or, in the case of a proposed project, those that were in effect on the date the inspection request was submitted to the Committee).

18. Requests regarding the following are beyond the scope of the Policy and will not be considered by the Committee or the Board:

- (a) complaints relating to actions that are the responsibility of other parties, such as the borrower or potential borrower, or that otherwise do not involve an act or omission by the Bank in violation of its operational policies and procedures;
- (b) complaints against decisions made by the Bank, a borrower or executing agency concerning the procurement of goods or services, including consulting services;
- (c) complaints relating to completed or substantially completed projects;

- (d) complaints relating to matters that have already been considered under the Policy and these Procedures, unless the requester presents new evidence not known at the time of the original request;
- (e) complaints about the adequacy or suitability of the Bank's existing policies and procedures; and
- (f) complaints that relate to Bank personnel or other nonoperational matters.

F. Processing of a Request for Inspection

1. Overview

19. The inspection process includes the following steps: (a) a party makes a written complaint to the President about a Bank-financed project; (b) Management responds to the complaint; (c) if the complaining party is unsatisfied with this response, it can make a written request to the Committee for an inspection of the project; (d) the Committee will ask Management to respond in writing to the request (except in cases considered clearly frivolous or clearly ineligible by the Committee); (e) the Committee will recommend to the Board whether an inspection is warranted, and the Board will take a decision on this recommendation; (f) if the Board authorizes an inspection, the Committee will select a panel of experts from the Roster to inspect the project and make a report to the Committee; (g) Management will respond in writing to the panel's report; and (h) the Committee will make a recommendation to the Board on the panel's report, and the Board will take a decision on this recommendation. Each of these steps is discussed in more detail below. A diagram illustrating these steps is also attached.

2. Initial Complaint to Management

20. A request for inspection of a Bank-financed project will not be considered by the Committee unless the underlying grievance was first raised with the Bank's Management and Management was given an opportunity to respond.

21. To satisfy this requirement, a written complaint (the Complaint) must be made to the President. No specific form is required; a letter will suffice. The Complaint must be dated and signed, and include the sender's name and contact address. The Complaint must be addressed to the President, and may be sent either to the Bank's Headquarters or in care of the Bank's Resident Mission or Representative Office in the country where the sender is located (if the Bank has a Mission or Office in that country). The Complaint should be sent by registered or certified mail or delivered by hand in a sealed envelope against receipt. If the Complaint is sent to the President in care of a Resident Mission or Representative Office, the Mission or Office will give the sender a receipt (if the Complaint was delivered by hand), keep a record of the receipt, and forward the Complaint to the President through the next pouch.

22. Since the working language of the Bank is English, a Complaint must be in English. Documents prepared in the local language of the sender may be included with the Complaint, but should be identified briefly and summarized in English.

23. The Complaint should contain the following information:

- (a) a brief description or identification of the project (a map or diagram may also be provided, if relevant);

- (b) an identification of the sender (or the group the sender represents);
- (c) a brief description or identification of the Bank's operational policies and/or procedures that the sender believes have been violated;
- (d) a description of the act or omission by the Bank that the sender believes have led or may lead to this violation;
- (e) an explanation of how the sender (or the group the sender represents) has been or is likely to be directly and materially harmed by the Bank's act or omission, and what rights or interests of the group have been or are likely to be adversely affected; and
- (f) if some of this information cannot be provided, an explanation of why this is so.

3. Management's Response to an Initial Complaint

24. Upon receipt of the Complaint, the President's Office will date-stamp the Complaint and forward it to the relevant Departments and Offices.

25. The Policy requires Management to provide the sender with a formal response. The response must indicate what actions, if any, Management has already taken and/or intends to take with respect to the Complaint, and must inform the sender of the right to submit a request for inspection to the Committee if the sender is not satisfied with Management's response.

26. Management's response must be sent within 45 days after the receipt of the Complaint by the President, unless an extension has been obtained from the Chairman of the Committee (see Part G.2, para. 66 below). Copies of the response will be provided to concerned Departments and Offices and to the Committee.

27. If the Complaint relates to a project that has not yet been approved, any remedial steps proposed in Management's response to the Complaint will be taken into account in the Report and Recommendation of the President (or the Technical Assistance Report, in the case of a stand-alone technical assistance grant). If the legal documents for the Bank financing of the project have already been finalized, but the project has not yet been approved, the Bank will obtain consent from the borrower and/or other parties to make any necessary changes in these documents. If the Complaint relates to a project that has already been approved, any remedial steps proposed in Management's response to the Complaint will be treated as either changes in scope or changes in implementation arrangements, as the case may be, and will be processed in accordance with standard Bank procedures and the relevant legal documents.

4. Request for Inspection

28. If the group affected or potentially affected by a Bank-financed project is not satisfied with Management's response to its initial Complaint, it may request an independent review or inspection of the Bank's role in the project.

29. The request for inspection (the Request) must be in writing. No specific form is required; a letter is sufficient. The Request must be dated and signed, and include the requester's name and contact address. The Request must be addressed to the Inspection

Committee of the Board of Directors, and may be sent to the Committee either in care of the Office of the Secretary (SEC) at the Bank's Headquarters or in care of the Bank's Resident Mission or Representative Office in the country where the sender is located (if the Bank has a Mission or Office in that country). The Request should be sent by registered or certified mail or delivered by hand in a sealed envelope against receipt. If the Request is sent to the Committee in care of a Resident Mission or Representative Office, the Mission or Office will give the requester a receipt (if the Request was delivered by hand), keep a record of the receipt, and forward the Request to the Secretary through the next pouch.

30. Since the working language of the Bank is English, a Request must be in English. Documents prepared in the local language of the requester may be included with the Request, but should be identified briefly and summarized in English.

31. The Request should contain the following information:

- (a) the information listed in paragraph 23 above (relating to initial Complaints);
- (b) a description of the steps taken by the requester (or the group the requester represents) to bring his/her grievance to the Bank's attention, the Bank's response and a statement of why the Bank's response was inadequate; and
- (c) if the Request relates to a matter previously raised with the Committee, a description of the new evidence or changed circumstances that justify revisiting the matter.

32. If the requester is the representative of a group affected by the project in question, the Request must include proof that the group has authorized the requester to act on its behalf. This proof should ordinarily be in the form of an original signed copy of instructions or authorization from the group to submit the Request. If the requester is a nonlocal representative entitled to make a Request under paragraph 13(b) above, the requester must include in the Request a statement that there is no appropriate representation in the country where the affected group is located. If the requester is a Board member, the Request must also refer to particularly serious violations of the Bank's operational policies and procedures.

33. The following documents should be attached to the Request:

- (a) copies of all correspondence with Bank staff and Management (including copies of the initial Complaint and Management's response);
- (b) a record of meetings with Bank staff;
- (c) a map or diagram, if relevant, showing the location of the group or area affected by the project; and
- (d) any other evidence supporting the Request.

34. If any of the information listed above cannot be provided, an explanation should be given.

5. Preliminary Review of the Request

35. Upon receipt of a Request, SEC will date-stamp and file the original Request, send an acknowledgment to the requester and circulate copies of the Request to the members of the Committee. As soon as practicable thereafter, the Committee will meet to review the Request.

36. If the Request relates to a matter in which any member of the Committee has a personal or financial interest, which may be related to the country of which he/she is a citizen, or as to which he/she might otherwise appear to have a conflict of interest, the member of the Committee shall promptly advise the Chairman of the conflict, and thereafter shall not participate in any deliberations relating to the Request.

37. If it appears that the underlying grievance has not been raised previously with Management, the Committee will forward the Request to the President for handling in the same manner as an initial Complaint (see Part F.3, paras. 24-27 above). SEC will then notify the requester that the Request has been forwarded to the President for consideration as an initial Complaint. If the Committee determines that the Request is clearly frivolous or clearly ineligible, the Committee will send a copy of the Request to the President with the advice that no response to the Request is required from Management. If the Committee determines that additional information is needed from the requester and/or Management to decide whether the Request is clearly frivolous or clearly ineligible, the Committee will request this information, and will defer further action on the Request until the information is received. In all other cases, the Committee will send a copy of the Request to the President, together with a request that Management provide a written response within 30 days thereafter.

38. Management's response must be submitted to the Committee within 30 days after Management's receipt of the Request, unless an extension has been obtained from the Chairman of the Committee (see Part G.2, para. 66 below). SEC will file the original response and circulate copies to the members of the Committee. As promptly as practicable thereafter, the Committee will meet to consider the Request and Management's response.

39. If, based on its review of the Request and Management's response, the Committee determines that it needs additional information from the requester and/or Management, the Committee will request this information, and will defer further action on the Request until the information is received. In all other cases, the Committee will determine, based on the information presented in the Request and Management's response, (a) whether the Request satisfies the requirements of the Policy and these Procedures and, if so, (b) whether an inspection should be recommended to the Board.

40. In its deliberations, the Committee may consult with a member of the Roster designated for this purpose by the Chairman of the Committee. If the Committee is of the view that an inspection should not be authorized, the Committee must consult with the designated member of the Roster before making this recommendation to the Board, and the recommendation must confirm that this consultation has taken place. (However, consultation with a Roster member is not necessary if the Committee has concluded that the Request is clearly frivolous or clearly ineligible; see para. 37 above.) A copy of any written advice provided by the expert will be attached to the Committee's recommendation.

41. The Committee will make a recommendation to the Board as to whether an inspection should be authorized within 14 days after receiving Management's response to the Request. However, if the Committee has requested additional information from the requester or Management, the 14-day period will start on the date of receipt of such information or the date of Management's response, whichever is later. If the Committee has concluded that the

Request is clearly frivolous or clearly ineligible (see para. 37 above), and therefore no response from Management is required, the 14-day period will start on the date the Committee so informed Management.

42. The Committee will make its recommendation to the Board in the form of a short Board paper, attaching copies of the Request and Management's response. If the requester is a nonlocal representative, the Board paper will also include the Committee's view as to whether appropriate representation is available in the country where the affected group is located. In the absence of consensus, the Board paper will state the recommendation of the majority of the Committee together with the minority view(s). If the Committee recommends unanimously that an inspection is not warranted, the Board paper may be circulated for approval on a no-objection basis. In all other cases, the President will place the matter on the agenda for Board consideration as soon as practicable after circulation of the Board paper, and ordinarily within 21 days after circulation.

43. Within seven days after the Board's decision on the Committee's recommendation, SEC, on behalf of the Committee, will notify the requester in writing of the decision. If the Board's decision is that an inspection is not warranted, the notice will state the reason(s) therefor.

44. The receipt of a Request by the Committee, or the authorization of an inspection by the Board, will not suspend or otherwise affect the processing or implementation of a project unless Management (in the case of a proposed or ongoing project) or the Board (in the case of an ongoing project) expressly directs otherwise. In the case of an ongoing project, any suspension of disbursements by the Bank would be made only in accordance with the relevant legal documents and standard Bank procedures.

6. Inspection by a Panel of Independent Experts

45. If the Board authorizes the inspection of a project based on a Request, the Committee will meet promptly after the Board's decision to select a panel of experts (the Panel) from the Roster to carry out the inspection, and to develop terms of reference for the Panel. SEC will assist the Committee in confirming the availability of the experts selected, in providing them with terms of reference and background materials, and in making travel and other arrangements for the experts in connection with the inspection.

46. A Panel will ordinarily be composed of three experts from the Roster, who will be selected on the basis of their aptitude to deal with the matter and their availability. An expert from the Roster may not serve on a Panel if the inspection to be conducted relates to a matter in which the expert has a personal or financial interest, which may be related to the country of which he/she is a citizen, or as to which the expert might otherwise appear to have a conflict of interest. In confirming the availability of each expert selected by the Committee, SEC will request the expert to confirm in writing that he/she does not have a conflict. If any of the selected experts has a conflict, SEC will promptly inform the Committee, which will select a substitute expert from the Roster to serve on the Panel.

47. The terms of reference developed by the Committee for the Panel will be based on the Board's decision with respect to the Request, as well as the general scope of the Policy and these Procedures, and will ordinarily include a proposed budget and timetable. Among other things, the terms of reference will specify that:

- (a) the scope of the inspection extends only to the Bank's operational policies and procedures, and therefore the policies and procedures of other development finance institutions would be relevant only to the extent the Bank's own policies and procedures expressly refer to those of other institutions;
- (b) for similar reasons, the laws, policies and regulations of a borrowing member country or executing agency should be considered only to the extent directly relevant to the Bank's compliance with its operational policies and procedures;
- (c) the focus of the inspection is on the Bank's conduct, and therefore the conduct of parties other than the Bank should be considered only to the extent directly relevant to assessing the Bank's compliance with its operational policies and procedures; and
- (d) due consideration should be given to the exercise of professional judgment by the Bank's Management, staff and consultants in interpreting and applying the Bank's operational policies and procedures.

48. Subject to these terms of reference, the Panel members may select from among themselves a Chairperson, and may determine the internal procedures they wish to follow in carrying out the inspection. SEC will provide secretariat services to the Panel.

49. Ordinarily, a Panel will meet promptly after its selection to review its terms of reference and to develop an initial work plan for the inspection. The Panel will submit its proposed work plan to the Committee for review and comment. If the Panel determines that it does not possess all the technical expertise required to conduct the inspection, it may propose the engagement of one or more consultants to the Chairman of the Committee for approval, indicating the type of expertise required, the work to be done and the likely duration of the assignment. If necessary, the Committee will meet with the Panel to clarify aspects of the proposed work plan and discuss the need for consulting services or other special arrangements.

50. If the Committee approves a Panel's proposal to engage a consultant, the Panel will prepare and rank a short list of candidates in consultation with SEC and the Consulting Services Division. From the Panel's ranked short list, the consultant will be engaged in accordance with the Bank's standard procedures relating to staff consultants.

51. In conducting an inspection, a Panel will have access to all concerned Bank staff and pertinent Bank documents, and may consult as necessary with officers or staff from relevant Departments and Offices, as well as Management. The General Counsel will be responsible for providing, to the Committee or any Panel, advice concerning the Bank's legal status, rights and obligations under the Articles of Agreement Establishing the Bank and any agreement to which the Bank is a party.

52. As part of an inspection, a Panel may also visit the project area and meet with the requester, other local communities, organizations and groups, project managers and government officials in the country where the project is located (or in an adjacent member country, if relevant to the inspection). However, before the Panel or any of its consultants undertakes such activities, the Committee must confirm with the Director representing the relevant country that the government of the country has no objection. If the government objects to any such activities, the Panel will modify its work plan accordingly and carry out its review on the basis of reports and other information available to the Panel and the Bank.

53. In the performance of their functions, Panel members and their consultants will be entitled to enjoy the privileges and immunities accorded to experts performing missions for the Bank under the Articles of Agreement Establishing the Bank. In carrying out their activities, Panel members and their consultants will be required to adhere to the Bank's policy on confidentiality and disclosure of information.

54. During the course of its inspection, a Panel may request and/or accept additional information relevant to the inspection from the requester, Management or any other party.

55. A Panel will report periodically to the Committee on the progress of its inspection, and will advise the Committee promptly of any necessary changes in the Panel's work plan. If necessary, the Committee may also ask the Panel for interim reports.

56. At the conclusion of its inspection, a Panel will submit a written report to the Committee. The report will:

- (a) identify all relevant facts;
- (b) make a finding as to whether the Bank has complied with its operational policies and procedures in connection with the inspected project;
- (c) in the event of noncompliance, make a further finding as to whether this noncompliance has resulted or may result in direct and material harm to the requester (or the group the requester represents); and
- (d) make recommendations, if appropriate, for any remedial changes in the scope or implementation of the project.

57. A Panel should endeavor to arrive at its findings and recommendations by consensus. In the absence of consensus, its report will state the findings and recommendation(s), if any, of the majority together with the minority view.

58. Any information required to be kept confidential under the Bank's policy on confidentiality and disclosure of information will be segregated and submitted by the Panel to the Committee as a separate, confidential supplement to the Panel's report.

7. Consideration of the Panel's Report

59. Upon receipt of the Panel's report, SEC will date-stamp and file the original report, circulate copies to the members of the Committee and notify the requester that the report has been submitted. The Committee will then send a copy of the report to the President, together with a request that Management provide a written response within 30 days thereafter.

60. Management's written response to the Panel's report must be submitted within 30 days after Management's receipt of the Panel's report, unless an extension has been obtained from the Chairman of the Committee (see Part G.2, para. 66 below). SEC will file the original response and circulate copies to the members of the Committee. As promptly as practicable thereafter, the Committee will meet to consider the Panel's report and Management's response.

61. The Committee will forward the Panel's report and Management's response to the Board, together with its recommendation, within 14 days after receiving Management's response. If the Committee finds that additional information or clarification is needed from any party, or that it is advisable to consult with one or more parties about any of the Panel's findings or recommendations, the Chairman of the Committee will promptly notify the Board and request the necessary extension on a no-objection basis. SEC will promptly inform the Panel, the requester and Management of any extension granted.

62. The Committee will make its recommendation to the Board in the form of a short Board paper, attaching copies of the Panel's report, Management's response and other relevant documents. In the absence of consensus, the Board paper will state the recommendation of the majority of the Committee together with the minority view(s). The President will place the matter on the agenda for Board consideration as soon as practicable after circulation of the Board paper, and ordinarily within 21 days after circulation.

63. Within seven days after the Board's consideration of the matter, SEC, on behalf of the Committee, will provide the requester with complete copies of the Panel's report (excluding any confidential supplement), Management's response, the Committee's recommendation and any Board decision thereon. At the same time, these documents will become publicly available.

64. If the Panel's report recommends changes in the formulation of a proposed project, Management will discuss the Panel's recommendations, and any actions taken during project preparation in response to those recommendations, in the Report and Recommendation of the President (or Technical Assistance Report, in the case of a stand-alone technical assistance grant). If the legal documents for the Bank financing of the project have been finalized, but the project has not yet been approved, the Bank will obtain consent from the borrower and/or other parties to make any necessary changes in these documents. If the Panel's report recommends changes in the scope or implementation of an approved project, and the Board accepts the Panel's recommendations, Management will implement the Board's decision within the period designated by the Board as appropriate to the circumstances. Any remedial changes in project scope or implementation (or, if warranted, the suspension or cancellation of the project) will be processed in accordance with standard Bank procedures and the relevant legal documents.

G. General

1. Days

65. "Days" under these Procedures means calendar days.

2. Extensions of Time

66. All time periods provided for action by the party making a Complaint or Request or for action by Management may be extended with the consent of the Chairman of the Committee. Requests for an extension of time should be made to the Chairman in writing through SEC. Any request made on behalf of Management must have the President's approval. All time periods provided for action by the Committee itself may be extended by the Board on a no-objection basis. SEC will notify the party making the Complaint or Request, as the case may

be, and Management promptly of any extension granted by the Chairman of the Committee or by the Board.

3. Role of the Office of the Secretary (SEC)

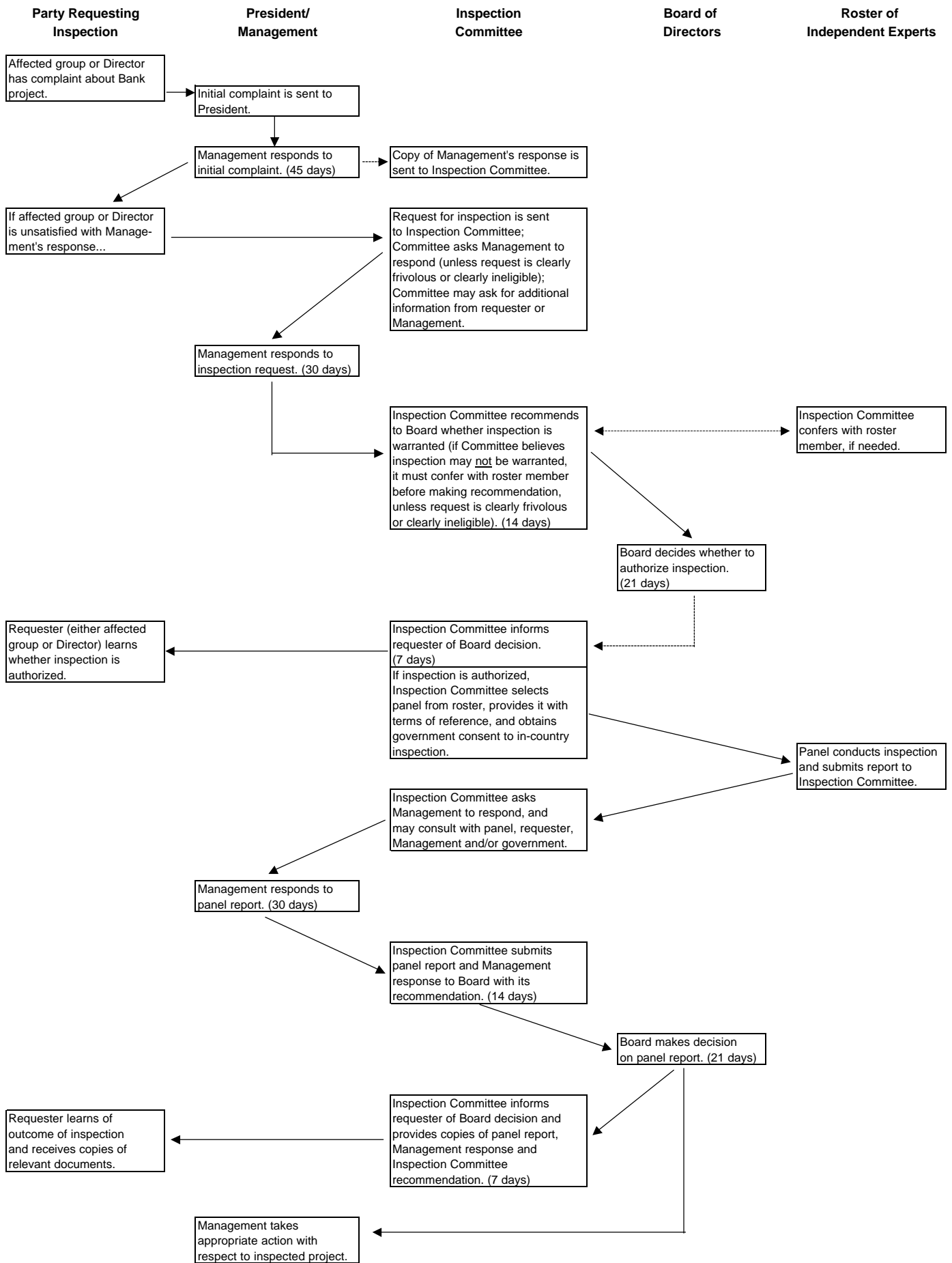
67. The primary function of SEC under these Procedures is to provide secretariat services to the Committee and any Panel. Consistent with this role, SEC will not assist outside parties in preparing Complaints or Requests, nor will it participate in any way in the preparation of Management's response to a Complaint or Request. However, SEC staff will be available to answer questions and provide clarification on these Procedures to interested parties outside the Bank, to Bank staff and to members of the Board. Inquiries concerning general Bank policies or the status of particular projects will be handled by the relevant Departments and Offices in accordance with existing practice.

4. Public Documents

68. Upon completion of an inspection, the Panel's report (excluding any confidential supplement), Management's response, the Committee's recommendation and any Board decision thereon will become publicly available at the time those documents are provided to the requester.

69. The Committee will prepare an annual report addressed to the Board on the Requests received and their disposition, inspections undertaken and their results. The annual report will be publicly available.

ADB INSPECTION PROCESS



REVIEW OF INSPECTION PROCEDURES: FEEDBACK ON DRAFT FROM NGOs

The initial draft of the Review was circulated to 18 NGOs in November 1998. Feedback was received from five NGOs. A summary of the feedback is provided below.

Reasons for Few Requests

- ADB's inspection process has too many steps before an independent panel; not a workable approach.
- The inspection procedure is too complicated; claimants need to know ADB's procedures and policies.
- The use of Roster of Experts introduces too much uncertainty and precludes the opportunity for building trust; there is nobody to invite to meet NGOs.
- ADB should have a permanent panel.
- ADB needs to provide for anonymity of complainants.
- The ADB Roster is predominated by former ADB staff.

Private Sector

- It is important to extend the inspection function (IF) to the private sector.

Information Dissemination

- Translation of the inspection policy is essential. ADB's policies and procedures need to be translated into local languages.
- ADB should not expect inspection requests to be submitted in English.
- ADB should explain the inspection policy orally to beneficiaries at each stage of the project cycle.
- ADB's Resident Missions should play more active roles in implementing the IF.
- ADB should provide support to claimants in submitting requests.
- ADB should focus mainly on how to increase public understanding of the IF.
- ADB should regularly review the policy in close consultation with stakeholders such as NGOs, from their point of view – such as through workshops.

General feedback on the Inspection Policy was also gathered from the BIC Secretary's discussions with NGOs in Washington D.C. and in Chiang Mai at the Annual Meeting held in May 2000. A summary is provided below:

- Relevant ADB documents should be translated as required. An interpreter may be needed to explain the Inspection Policy to people in ADB-financed project areas.
- The Inspection Policy should cover ADB's private sector operations.
- NGOs should be involved in drawing up the next Roster of Experts, and if possible in creating a Panel, should an inspection be recommended by the Board.
- Complainants should have the right to remain anonymous.
- Information on the Inspection Policy should be disseminated as early as possible to people likely to be affected by ADB-financed projects.
- In the event of an inspection, ADB should encourage panel members to consult closely with the complainants in finalizing the Report.

**ADB'S INSPECTION FUNCTION
ACTION PLAN FOR STRENGTHENING THE INSPECTION FUNCTION IN 2000**

The Action Plan for June to December 2000 comprises three main elements: the Review, publicity, and workshops. They will be carried out according to the following schedule:

Review	Quarter
▪ Present overview of Inspection Policy and issues to BOD	2nd
▪ Prepare draft R-paper	3rd
▪ Discuss paper, especially coverage of PSOs, with BOD informally	3rd
▪ Finalize R-paper	3rd
▪ Board discusses R-paper	3rd
▪ Amend inspection procedures as nec. according to Review	3rd
Publicity	
▪ Prepare leaflet on Inspection Policy	2nd
▪ Translate brochure into regional languages as required	3rd
▪ Update and improve Inspection Policy website	3rd
• Make icon more easily accessible	
• Create feedback button	
• Include information on BIC members and staff	
• Post "what's new"	
• Update all BIC documents on website	
• Include link to ADB's operational policies and procedures	
• Distribute leaflet, Guidebook and selected policy papers at all workshops on Inspection Policy	3 rd and 4 th
Workshops and Briefings	
▪ Prepare Powerpoint presentation and briefing on Inspection Policy	3rd
▪ Design workshop on Inspection Policy	3rd
▪ Prepare RETA for Regional Seminar on Inspection Policy	3rd
▪ Conduct workshops in DMCs	3 rd and 4 th
▪ Conduct briefings on other occasions	
• For NGOs at Annual Meeting	2nd
• For NGOs in Washington D.C., Australia	2 nd and 4 th
• For Staff (especially projects and programs)	3rd
• For Resident Representatives at annual consultation meeting in HQ	4th
▪ Prepare list of all ADB's operational policies and ensure that they are easily accessible to the public	2nd

An operational plan of activities for subsequent years will be drawn up for consideration by the BIC by the end of 2000.