

# **SPF Procedures**

**ASIAN DEVELOPMENT BANK ACCOUNTABILITY MECHANISM**

**SPECIAL PROJECT FACILITATOR  
OPERATING PROCEDURES**

**20 February 2004**

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## I. INTRODUCTION

### A. ADB Accountability Mechanism and Special Project Facilitator

1. The Office of Special Project Facilitator (OSPF) is an independent office established by the Board of Directors (Board) of the Asian Development Bank (ADB) on 29 May 2003. SPF is part of the ADB accountability mechanism that has two separate, but interlinked, phases consisting of a consultation phase and a compliance review phase. SPF implements the consultation phase by assisting project-affected people with specific problems caused by ADB-assisted projects. The Compliance Review Panel (CRP) implements the compliance review phase by investigating specific allegations by project-affected people of non-compliance in ADB-assisted projects. These are SPF's operating procedures (procedures).

2. These procedures clarify and add detail to the operational provisions reflected in the Board paper that established the Accountability Mechanism: "Review of the Inspection Function: Establishment of a New Accountability Mechanism (R79-03, 8 May, 2003)." The procedures also take into account the corresponding provisions of the Operations Manual Section [49 (OP and BP)/L1 (OP and BP)] on the ADB Accountability Mechanism. Comments have been invited from inside and outside ADB, and as appropriate have been, incorporated. The procedures have been approved by the President.

3. The Office of the Special Project Facilitator (OSPF) is guided by the following principles underlying ADB's accountability mechanism. OSPF will:

- (i) enhance ADB's accountability in development assistance;
- (ii) be responsive to the concerns of project-affected people and be fair to all stakeholders;
- (iii) reflect the highest professional and technical standards in its staffing and operations;
- (iv) be independent and transparent; and
- (v) be cost-effective, efficient, and complementary to the other supervision, audit, quality control, and evaluation systems already existing at ADB.

### B. Composition, Basic Features and Appointment

4. OSPF consists of SPF, one professional staff member, and two administrative staff/national officers, and any other staff as may be required.

5. SPF is responsible for the consultation phase. SPF is a special appointee at the equivalent level of director general appointed by the President, after consultation with the Board. SPF reports directly to the President.

6. The term of SPF is 3 years, renewable. SPF must not have worked in any operations department for at least 5 years prior to the appointment. SPF must disclose to all stakeholders immediately upon learning that he/she has a personal interest or has significant prior involvement in the matter.

### **C. Purpose and Scope**

7. The purpose of the consultation phase is for SPF to assist project-affected people with specific problems caused by ADB-assisted projects through consensus-based cost-effective methods with the consent and participation of the parties concerned. The consultation phase is outcome-driven focused on finding ways to address the problems of the project-affected people in ADB-assisted projects.<sup>1</sup>

### **D. Functions**

8. SPF will seek consensus and agreement among the stakeholders (includes ADB staff, the complainant, the executing agency and DMC government or the private project sponsor) to identify the matters in dispute, the problem-solving method, and its timeframe. SPF may use a flexible problem-solving approach including convening meetings with various stakeholders, organizing and facilitating consultation processes, or engaging in a fact-finding review of the situation.

9. The activities of SPF will include, but not be limited to, the following:

- (i) collating and integrating internal and external experiences of problem-solving to be fed back into ADB's operations, including the formulation, processing, or implementation of projects;
- (ii) providing generic support and advice to the operations departments in their problem-solving activities;
- (iii) conducting outreach activities within and outside ADB on how SPF operates;
- (iv) reviewing and assessing complaints;
- (v) obtaining from the operations departments all materials and analyses relating to the complaints;
- (vi) facilitating a consultative dialogue, using its good offices, and/or facilitating the establishment of a mediation mechanism;
- (vii) informing the Board and other stakeholders about the results of specific consultation activities; and
- (viii) reporting at least annually to the President on the progress of activities, with a copy to the Board, through the publication of an annual report, which will be issued separately from CRP's annual report.
- (ix) monitoring implementation of any agreement or decision of the President made in response to the consultation process.

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<sup>1</sup> "ADB-assisted project" refers to a project financed or to be financed, administered or to be administered, by ADB and covers both public sector operations (loan, guarantee, or technical assistance grant) and private sector operations (loan, guarantee, equity investment, to the extent ADB's policies and operational procedures are covered by it or a technical assistance grant).

## **E. Relationship to the Office of the Compliance Review Panel**

10. Although OSPF and CRP are physically and functionally separate from each other, they are linked for the purposes of responding to the complaints of project-affected people, and enhancing ADB's accountability in development effectiveness. SPF and CRP work closely together, consistent with their respective functions.

11. Complaints relating to an ADB-assisted project under the ADB accountability mechanism must first go to SPF under the consultation phase. After filing a complaint with SPF, a request for compliance review can be filed with CRP:

- (i) if and when the complaint is found ineligible by SPF (step 3 of the consultation process); or
- (ii) after the complainant receives SPF's findings on his/her review and assessment of the complaint, and decides not to proceed with the consultation phase (at the end of step 4 of the consultation process); or
- (iii) if the complainant finds the consultation process not useful or unsatisfactory (at step 5, 6 or 7 of the consultation process); or
- (iv) if the consultation phase is terminated by SPF or because other stakeholders abandon the consultation process.

These steps are explained in detail in para. 23 of these operating procedures and in the flow chart provided in Appendix 2.

12. In most instances, filing a request for compliance review indicates that the consultation phase has been abandoned or has otherwise ended. In certain instances, however, where the complainant has serious concerns regarding compliance issues, the requester may also file a request while simultaneously continuing with the course of action (step 7 of the consultation process).

13. In cases where the complainant files a request for compliance review, SPF will share documents and information relating to eligibility and fact-finding gathered under the consultation phase with OCRP.

## **II. COMPLAINTS**

### **A. Who Can File a Complaint?**

14. SPF will accept complaints from the following parties:

- (i) any group of two or more people (such as an organization, association, society, or other grouping of individuals) in a developing member country (DMC) where the ADB-assisted project is located or in a member country adjacent to the DMC;
- (ii) a local representative of the affected group; or
- (iii) a non-local representative, in exceptional cases where local representation cannot be found. If a complaint is made through a representative, it must clearly

identify the people on whose behalf it is made and provide evidence of authority to represent the complainant.

15. The filing of a complaint does not suspend or otherwise affect the formulation, processing, or implementation of the project unless agreed to by the DMC or the private project sponsor concerned and by ADB.

#### **B. Identity of the Complainant**

16. The identity of the complainant shall be kept confidential, if requested, but anonymous complaints will not be accepted.

#### **C. How to File a Complaint**

17. Complaints must be in writing and be addressed specifically to the "Special Project Facilitator". Complaints will be accepted by mail, facsimile, electronic mail, and by hand delivery to SPF at ADB headquarters:

Special Project Facilitator  
Asian Development Bank  
6 ADB Avenue  
Mandaluyong City  
0401 Metro Manila, Philippines

Tel: (63-2) 632-4825  
Fax: (63-2) 636-2490  
Email: [spf@adb.org](mailto:spf@adb.org)

18. Complaints will also be accepted by any ADB office such as a resident mission or representative office, which will forward them to SPF.

#### **D. Format**

19. No specific format for a complaint is required. The complainant may wish to use the sample form provided in Appendix 1.

#### **E. Language**

20. The working language of the ADB accountability mechanism is English. Complaints will be accepted in any of the official or national languages of ADB's DMCs if the complainant is unable to provide an English translation. If a complaint is filed in a language other than English, additional time will be required for translation.

#### **F. Contents of the Complaint to SPF**

21. SPF and staff will provide guidance on how to file a complaint. If the initial complaint does not have sufficient information, SPF may seek further documentation from the complainant before determining eligibility of the complaint. Complaints must specify the following:

- (i) that the complainant is, or is likely to be, directly affected materially and adversely by an ADB-assisted project;

- (ii) that the complainant claims that the direct and material harm is, or will be, the result of an act or omission of ADB in the course of the formulation, processing, or implementation of the ADB-assisted project;
- (iii) a description of the rights and interests that have been, or are likely to be, directly affected materially and adversely by the ADB-assisted project;
- (iv) the identification of the complainant (and any representatives) and contact information, and if there is a request that the complainant's identity be kept confidential;
- (v) if a complaint is made through a representative, identification of the project-affected people on whose behalf the complaint is made and evidence of authority to represent them;
- (vi) a brief description of the ADB-assisted project, including the name and location if available;
- (vii) the desired outcome or remedies that the complainant believes ADB should provide or help obtain through the consultation phase;
- (viii) a description of the complainant's good faith efforts made to address the problems first to the operations department concerned;
- (ix) an explanation of why any of the above information cannot be provided; and
- (x) any other relevant matters or facts with supporting documents.

## **G. Exclusions**

22. SPF cannot accept complaints if they are:

- (i) not related to ADB's actions or omissions in the course of the formulation, processing, or implementation of ADB-assisted projects;
- (ii) about decisions made by ADB, the borrower, the executing agency, or the private project sponsor on procurement of goods and services, including consulting services;
- (iii) about allegations of fraud or corruption in ADB-assisted projects and by ADB staff;
- (iv) about an ADB-assisted project for which a project completion report<sup>2</sup> has been issued;

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<sup>2</sup> A Project Completion Report (PCR) is issued by ADB within 1-2 years after the project is physically completed and in operation. In the case of private sector projects for which a PCR is not issued, the cut-off date is 2 years after the project is physically completed and in operation; or, where physical completion is waived or is not relevant (e.g., financial intermediation projects), 1 year after the date of the final disbursement or termination of ADB's involvement in the project, whichever occurs earlier.

- (v) relating to matters already considered under the former Inspection Function or by CRP, unless there is new evidence presented that was not known at the time of the original complaint;
- (vi) about the adequacy or suitability of ADB's existing policies and procedures;
- (vii) frivolous, malicious, trivial, or generated to gain competitive advantage;
- (viii) within the jurisdiction of ADB's Appeals Committee or ADB's Administrative Tribunal or relate to ADB personnel matters; and/or
- (ix) about ADB's non-operational housekeeping matters, such as finance and administration.

### III. THE CONSULTATION PROCESS

23. The following are the procedural steps and suggested timeframes for the consultation process (see the flow chart in Appendix 2). All "days" referred to in these procedures are calendar days.

24. **Step 1: Filing of the Complaint.** The affected party, or its representative, files a complaint with SPF. If a complaint is received by ADB Management or another department at ADB headquarters, or by an ADB office such as a resident mission or a representative office, it will be forwarded to SPF.

25. **Step 2: Registration and Acknowledgement of the Complaint.** Within 7 days of receipt of the complaint, SPF will register the complaint and will send an acknowledgement to the complainant, with a copy to Management. If SPF determines that the complaint cannot be accepted because it is not within ADB's mandate or he/she cannot assist with the problem, he/she will notify the complainant, with a copy to Management.

26. **Step 3: Determination of Eligibility of the Complaint.** Within 21 days of receipt of the complaint, SPF will screen the complaint to determine eligibility.

27. To determine that a complaint is eligible, SPF must be satisfied that:

- (i) the complaint satisfies the requirements provided in para. 21 of these procedures;
- (ii) the complaint is genuine and does not fall within any of the exclusions specified in para. 22 of these procedures; and
- (iii) SPF believes that his/her involvement could be useful.

28. During the eligibility phase, SPF may consult stakeholders and the Board member representing the country concerned ("stakeholders"). The determination of eligibility includes a desk-based review, and/or a site visit. SPF will exercise discretion, maintain a low profile in the DMC concerned, and will not give media interviews while making site visits.

29. If SPF rejects the complaint, he/she will inform the complainant of the reason why the complaint is ineligible. SPF will also inform the complainant that the complainant may file a

request for compliance review with CRP and that CRP will determine independently whether the request meets CRP's eligibility criteria.

30. **Step 4: Review and Assessment of the Complaint.** If the complaint is accepted, within 49 days of the receipt of the complaint, SPF will undertake a review to determine how best to address the issues. The review will normally include site visits, interviews, and meetings with all stakeholders, as well as any other people SPF believes would be useful. SPF will obtain information from the operations departments, and if necessary, will request advice and support. SPF will review relevant documents, and will field a fact-finding mission on his/her own initiative or participate, in consultation with the operations department, in a special project administration mission of the operations department.

31. After the review is completed, SPF will make an assessment and determine the following:

- (i) the nature of the problems;
- (ii) the parties involved;
- (iii) the remedies sought by the complainant; and
- (iv) the actions proposed for the resolution of the problem.

32. Upon completion of the review and assessment, SPF will report his/her findings to the President, with a copy to the Vice-President concerned. SPF will also refer the findings to the operations department and the complainant.

33. SPF will inform the complainant of the following two options:

- (i) the complainant can carry on with the consultation process and provide comments on SPF's findings (as provided for in step 5); or
- (ii) if the complainant finds the process unsatisfactory, the complainant can abandon the consultation process and file a request for compliance review with OCRP.

34. SPF will explain to the complainant the different remedies available under the two phases. SPF will give the complainant 7 days from receipt of SPF's findings to respond to SPF with the complainant's decision.

35. **Step 5: Decision by the Complainant to Carry on with the Consultation Process or to File a Request for Compliance Review.** If the complainant decides to carry on with the consultation process and provide comments on SPF's findings, SPF will inform the operations department and the complainant that they have 14 days from the date of SPF's notification to provide their comments on SPF's findings.

36. If the complainant decides to file a request for compliance review, SPF will close the consultation process. SPF will submit a report to the President, with a copy to the operations department concerned, the Board, and the chair of CRP, summarizing the complaint, the steps taken to address the problem, and the decision of the complainant.

37. **Step 6: Recommendation by SPF.** Upon receipt of comments on SPF's findings from both the operations department and the complainant, SPF will take into account their comments, make a recommendation, and seek the President's approval for either of the following actions:

- (i) determine that no further review will be useful and conclude the consultation process; or
- (ii) work out the proposed course of action in consultation with all stakeholders.

38. After the course of action is proposed, if the complainant finds the consultation process not useful, the complainant may file a request for compliance review with CRP.

39. **Step 7: Implementation of the Course of Action.** SPF will implement the course of action in the consultation process in consultation with all stakeholders. Each course of action will be tailored to the individual complaint, depending on various factors including:

- (i) the type and seriousness of the problem;
- (ii) the remedies being sought by the complainant;
- (iii) the urgency required to implement appropriate mitigation measures; and
- (iv) the likelihood that the consultation process could have positive outcomes.

40. In line with the objectives of the consultation phase as outlined in para. 7, SPF may choose one or more of several approaches including, but not limited to:

- (i) continuing the consultative dialogue in seeking to find a mutually acceptable solution to the complaint;
- (ii) facilitating the consultation process by creating a forum through SPF's good offices between the complainant and the executing agency/DMC government or the private project sponsor; and
- (iii) facilitating the establishment of a mediation mechanism.

41. Implementing the consultation process requires the consent of every party involved, including stakeholders. If consent does not exist, then the options available for dialogue and consultation will be necessarily reduced. If the consultation process is working, all parties will continue with the process until an agreement is reached.

42. **Remedial Actions.** Any remedial actions that are adopted as a result of the consultation process will reflect an agreement among the relevant parties, subject to ADB's procedures. Such actions, if any, will be specified in a written agreement or series of agreements made by the relevant stakeholders. Actions involving a major change in the project will require approval by the Management or the Board according to ADB's procedures.

43. **Reporting.** When the consultation process using such methods such as the consultative dialogue or good offices is complete, SPF will submit a report, including the settlement agreement (if any), subject to ADB's procedures, to the President with a recommendation

agreed to by the stakeholders. SPF will issue a report incorporating the President's decision on the recommendation and furnish it to stakeholders. When the consultation process using the mediation mode is complete, the mediator will be required to furnish his/her report to SPF. SPF will submit the report to the President for information, with a copy to the Board.

44. In some circumstances, the consultation process may end with no resolution. SPF may, for example, determine that no further consultation will be purposeful. In such cases, SPF will submit a report to the President summarizing the complaint, giving the steps taken to try to resolve the issues raised in the complaint, and making a recommendation. The final report incorporating the President's decision on the recommendation will be furnished to the stakeholders, and the Board for information. Upon submission to the Board, the final report will be provided to the public.

45. **Complainant May File Request for Compliance Review.** At any time after the course of action is identified, if the complainant finds the consultation process not useful, the complainant may file a request for compliance review with CRP. If the complainant finds the consultation process useful but also has serious concerns about compliance issues, the complainant may, after informing SPF, file a request for compliance review while carrying on with the implementation of the course of action.

46. **Step 8: Termination of the Consultation Process.** All parties to the consultation can "walk away" from the process if there is no consensus on the course of action or if its implementation is not working in SPF's opinion. Termination of mediation is subject to the procedural rules of mediation. These actions are a formal closure to the consultation process.

#### IV. MONITORING

47. SPF is authorized to monitor implementation of any agreement or decision of the President made in response to the consultation process. Unless the President specifies a different timetable, SPF will report annually for a period of 3 years to the President, with a copy to the Board, regarding the status of implementation.

48. As part of the monitoring activity, SPF will consult with the stakeholders. All stakeholders, and the public, may submit information regarding the status of implementation to SPF.

49. Monitoring reports will include the following:

- (i) a summary of the consultation phase agreement and the President's decision;
- (ii) a summary of information provided by the complainant, ADB staff, or any other stakeholder regarding implementation of the agreement or President's decision;
- (iii) SPF's findings regarding the current status of implementation of the agreement and President's decision; and
- (iv) any further recommendations that SPF views as necessary to meet the terms of the agreement and President's decision.

50. SPF's monitoring reports will be sent to the complainant and posted on the OSPF web site within 7 days after submission of the report to the President, with a copy to the Board for information.

## **V. PUBLIC RELEASE OF INFORMATION**

### **A. Transparency and Confidentiality**

51. SPF's operations at all stages of the consultation phase will be as transparent as possible, and consistent with relevant ADB policies and procedures and the need to ensure that the consultation process is given the maximum opportunity for success. General descriptions about the process can be made public, but substantive details about the discussions will be kept confidential until a solution is reached. The final agreement and resolution will also be kept confidential at the parties' request.

52. SPF and staff are subject to ADB's confidentiality and disclosure of information policy, including those provisions aimed at ensuring that confidential business information is not disclosed. Communications with SPF in the course of the consultation process will be regarded as privileged.

53. Any material or information submitted to SPF on a confidential basis from any party to the consultation phase will not be released to any other parties without the consent of the submitting party.

54. The complainant may submit confidential information in support of the complaint, but complainants will be apprised that SPF will inform other stakeholders in the consultation phase about the substance of the complaint.

### **B. Public Outreach**

55. SPF and staff welcome opportunities to meet with the public to discuss the ADB accountability mechanism, SPF's activities, and any potential complaints. They are available to provide advice and guidance to any potential complainants or their representatives considering filing a complaint. SPF will also prepare outreach materials describing the activities of SPF and providing advice to prospective complainants.

### **C. Press Releases and Public Communications**

56. SPF will issue its own press releases and public communications. Prior to releasing any press releases or other media communications, SPF will inform the Office of External Relations. SPF does not give any media interviews at any stage of the consultation or monitoring process.

### **D. Web Site**

57. OSPF maintains its own web site at <http://www.adb.org/spf> which includes a registry of complaints filed with SPF.

### **E. Public Registry**

58. SPF will maintain a public registry updated to reflect the current status of each complaint going through the consultation phase. At a minimum, SPF will place the following specific milestones in the registry:

- (i) registration of the complaint, identifying the ADB-assisted project and the general nature of the complaint;
- (ii) SPF's decision on eligibility of the complaint;
- (iii) completion of the review and assessment;
- (iv) termination of the consultation process;
- (v) final reports from the consultation process furnished to the Board for information;
- (vi) an announcement that SPF is commencing to monitor the status of implementation of any agreement;
- (vii) decisions of the President made in response to the consultation process; and
- (viii) SPF's monitoring reports.

#### **F. Public Release of Reports**

59. SPF will make the following reports available on the OSPF web site and to any person that requests a copy:

- (i) SPF's report on eligibility, if any;
- (ii) final reports from the consultation process, if all parties agree;
- (iii) SPF's monitoring reports; and
- (iv) SPF's annual report.

## **VI. GENERAL**

#### **A. Policy under the Consultation Phase**

60. The consultation phase does not supplant the existing project administration and problem-solving functions inherent in each operations department.

61. SPF's role is limited to ADB-related issues on ADB-assisted projects. SPF does not interfere in the internal matters of any DMC and does not mediate between the complainant and local authorities.

#### **B. Conflict of Interest**

62. In the event that SPF has a potential conflict of interest related to a complaint that is brought before SPF, SPF will disclose this fact to the President immediately. If the President determines that the potential or perceived conflict of interest is such that it would interfere with SPF's ability to implement the consultation phase; the President will appoint, at his discretion, an independent officer to implement the consultation phase in the specified complaint.

63. A potential conflict of interest may exist when the complaint involves an ADB-assisted project where SPF or a close relative:

- (i) was involved in the planning or implementation of the ADB-assisted project,
- (ii) worked for or had a financial interest in any company or firm that is likely to benefit from the project,
- (iii) has an informal or formal relationship with the requester, and
- (iv) might otherwise appear to have a conflict of interest in the matter.

**C. Access to ADB: Staff and Information**

64. SPF has access to all ADB staff and Management, and all ADB records he/she deems relevant.

**D. Private Sector Operations**

65. The consultation process phase applies to ADB private sector operations.<sup>3</sup>

**E. Consultants**

66. SPF may select and engage technical experts as consultants, in accordance with ADB's *Guidelines on the Use of Consultants*, to assist him/her in the work.

**F. Administrative Procedures**

67. OSPF has adopted separate Administrative Procedures that detail matters related to the internal functioning of the office. The Administrative Procedures are available upon request.

**G. Annual Report**

68. SPF will issue an annual report that will include a summary of activities, a description of complaints received, information on monitoring activities, budgetary information, and lessons learned.

**H. Legal Advice**

69. OSPF will seek the advice of the Office of the General Counsel on any matters relating to ADB's rights and obligations with respect to any complaint, including the issuance and implementation of any course of action taken under the consultation process.

**I. Review of Operating Procedures**

70. A review of the ADB accountability mechanism, including the consultation phase, will be carried out by ADB Management after 3 years from the effective date of the mechanism, and

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<sup>3</sup> Private sector operations include loans, guarantees, equity investments (to the extent that ADB's operational policies and procedures apply), and technical assistance grants. The mechanism is only applicable to ongoing private sector projects that have concept clearance by Management after 29 May 2003.

the results will be submitted to the Board. The review will cover the operation of the mechanism, including these operating procedures.

71. If deemed necessary, OSPF may adopt additional different procedures for processing and monitoring private sector operations.

**J. Contacting Compliance Review Panel and SPF**

72. Questions regarding SPF, OSPF or these operating procedures should be directed to:

Special Project Facilitator  
Asian Development Bank  
6 ADB Avenue  
Mandaluyong City  
0401 Metro Manila, Philippines

Tel: (63-2) 632-4825  
Fax: (63-2) 636-2490  
Email: [spf@adb.org](mailto:spf@adb.org)

73. SPF works closely with the CRP. Any questions regarding the CRP's operations or its operating procedures should be directed to:

Secretary, Compliance Review Panel  
Asian Development Bank  
6 ADB Avenue  
Mandaluyong City  
0401 Metro Manila, Philippines

Tel: (63-2) 632-4149  
Fax: (63-2) 636-2088  
Email: [secretary.crp@adb.org](mailto:secretary.crp@adb.org)

## SAMPLE COMPLAINT LETTER

Date:

To: Special Project Facilitator  
Asian Development Bank  
6 ADB Avenue  
Mandaluyong City  
0401 Metro Manila, Philippines

Tel: (63-2) 632-4825

Fax: (63-2) 636-2490

Email: spf@adb.org

Dear Special Project Facilitator,

We, *[(name of group) or name of representative representing the affected group]*, whose names and addresses are attached, live in *[name of area and country]* present this complaint to the Special Project Facilitator. [If the complaint is filed through a representative, please provide the names of the project-affected people with their addresses and evidence of authority to represent them.]

1. We are, or are likely to be, directly affected materially and adversely by the ADB-assisted project *[add name and description of project, and country where project is located]*.
2. The direct and material harm is, or will be, the result of an act or omission of ADB in the course of the formulation, processing or implementation of this project. The acts or omissions that we believe are the responsibility of ADB include the following: *[fill in acts or omissions]*
3. Our rights and interests that have been, or are likely to be, directly affected materially and adversely by this project include the following: *[fill in these rights and interests]*.
4. We seek the following outcome and remedies through the help of the Special Project Facilitator: *[fill in the outcome and remedies that are sought by the complainant]*.
5. We have previously made a good faith effort to address our problems with the ADB operations department concerned in the following manner: *[list and attach correspondence, details of meetings, emails, and other communications]*.
6. We cannot provide the above information *[specify which]* because *[please give an explanation of why any of the information above cannot be provided]*.
7. We submit the following facts with supporting documents: *[list these matters or facts and attach any other supporting evidence that the complainant deems relevant]*.

8. We authorize the Special Project Facilitator to publicly release the information in this complaint. *[Yes] [No] [indicate Yes or No]*
  
9. We do not request that our identities be kept confidential.  
*[or]*  
We request that our identities be kept confidential for the following reason: *[state reason]*.

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Signatures:

Names:

Addresses:

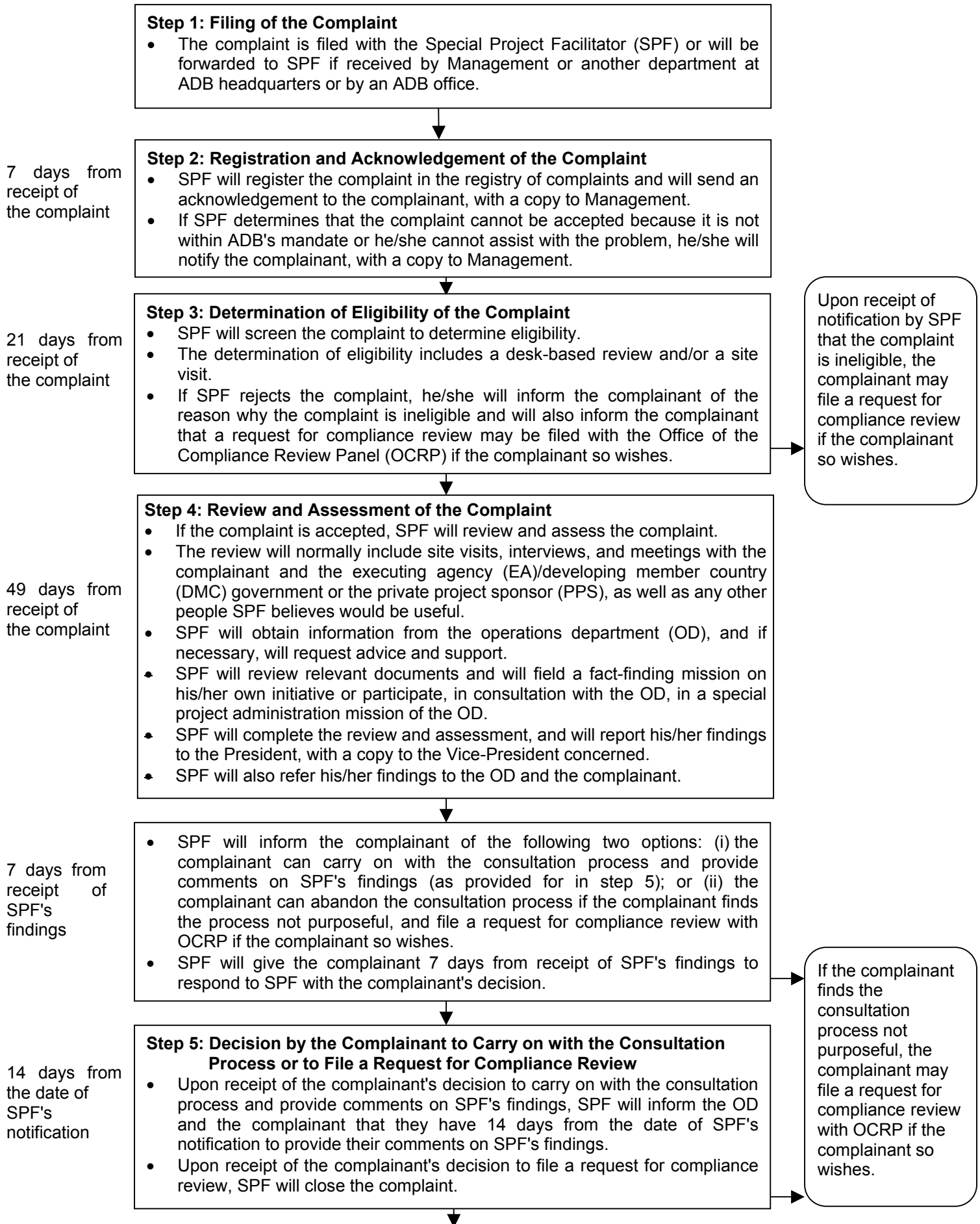
Other contact information:

Tel:

Fax:

Email:

## THE CONSULTATION PROCESS



7 days from receipt of comments from the OD and the complainant

**Step 6: Comments on SPF's Findings by the OD and the Complainant, and Recommendation by SPF**

- Upon receipt of comments on SPF's findings from both the OD and the complainant, SPF will take into account their comments, make a recommendation, and seek the President's approval for either of the following actions: (i) determine that no further review will be purposeful and conclude the consultation process; or (ii) work out the proposed course of action in consultation with the complainant, the OD concerned, and the EA/DMC government or the PPS, and obtain the concurrence of the complainant and the EA/DMC government or the PPS concerned with its issuance.

If the complainant finds the consultation process not purposeful, the complainant may file a request for compliance review with OCRP if the complainant so wishes.

**Step 7: Implementation of the Course of Action in the Consultation Process**

- SPF will implement the course of action in the consultation process in consultation with the complainant, the OD concerned, and the EA/DMC government or the PPS.
- SPF may choose one or more of several approaches including (i) continuing the consultative dialogue on the consultation process in seeking to find a mutually acceptable solution to the complaint, (ii) facilitating the consultation process by creating a forum through SPF's good offices between the complainant and the EA/DMC government or the PPS, and (iii) facilitating the establishment of a mediation mechanism.
- When the consultation process using the consultative dialogue and/or good offices modes is complete, SPF will submit a report, including the settlement agreement (if any), subject to ADB's procedures, to the President with a recommendation agreed to by the complainant, the OD concerned, and the EA/DMC government or the PPS. SPF will issue a report incorporating the President's decision on the recommendation and furnish it to the complainant, the EA/DMC government or the PPS, and the Board for information.
- When the consultation process using the mediation mode is complete, the mediator will be required to furnish his/her report to SPF. SPF will submit the report to the President for information, with a copy to the Board.
- If SPF determines that no further consultation will be purposeful, he/she will submit a report to the President summarizing the complaint, giving the steps taken to resolve the issues raised in the complaint, and making a recommendation. The final report incorporating the President's decision on the recommendation will be furnished to the complainant, the EA/DMC government or the PPS, and the Board for information. Upon submission to the Board, the final report will be provided to the public.

If the complainant finds the consultation process purposeful but has serious concerns on compliance issues, the complainant may also file a request for compliance review while carrying on with the implementation of the course of action.

If the complainant finds the consultation process not purposeful, the complainant may file a request for compliance review with OCRP if the complainant so wishes.

**Step 8: Termination of the Consultation Process**

- All parties to the consultation except SPF can "walk away" from the process if there is no consensus on the course of action or if its implementation is not working in SPF's reasonable opinion. Termination of mediation is subject to the procedural rules of mediation.