

## External Consultations to Review the Inspection Function

Kathmandu Consultation  
16 August 2002

### PRESENTATION OF GROUP FINDINGS

#### GROUP 1

##### Members:

- |                               |                                     |
|-------------------------------|-------------------------------------|
| 1. Mr. Abdul-Muyeed Chowdhury | 9. Mr. Sarath Arachchige Athukorale |
| 2. Ms. Karma Tshomo           | 10. Mr. Madan Shankar Shrestha      |
| 3. Ms. Snehlata Shrivastava*  | 11. Mr. Ishwort Prasad Aryal*       |
| 4. Mr. Leo Saldanha           | 12. Mr. Prakash Mani Sharma Bhusal  |
| 5. Mr. Muhammad Ashraf Khan   | 13. Ms. Kabita Pandey               |
| 6. Mr. Asim Nawaz Khan        | 14. Mr. Upasena Senanayake*         |
| 7. Ms. Udayanthi Seneviratne  | 15. Mr. Sarba Raj Khadka            |
| 8. Ms. Kathie Julian          | 16. Ms. Shizu Upadhaya              |

\* Joined Group 2, Subgroup B for presentation.

##### Presenters:

**Mr. Abdul-Muyeed Chowdhury**, Executive Director of BRAC (Bangladesh)

**Mr. Leo Saldanha**, Executive Director, Environment Support Group (India)

**Ms. Udayanthi Seneviratne**, Public Interest Law Foundation (Sri Lanka)

**The majority in this group expressed preference for Option D with some modifications.**

##### Prevention of Claims and Information

- Share information at the grass root level.
- There should be mandatory provisions to consult people and NGOs before finalization of the project from the beginning of the project.
- Draft RRP should be circulated in local languages for public comments.
- Use of media and leaflets in local language to disseminate project information.
- ADB may participate in local hearings.
- Problem-solving and compliance review should be built into loan agreements.
- Executing Agency should produce a report, comparing compliance with local laws and ADB policies, and make it available to the public to minimize the conflicts at the early stages.
- Transparency: Executing Agency should prepare periodic reports to ADB which should disseminate them to the public.
- As a preventive measure, 10% of projects should be monitored by the panel even without claims.

##### Governance

- Loan agreement should bind DMC on problem-solving and compliance review.
- Problem-solving and compliance review should be an indicator of the country's rating.

- Problem-solving and compliance review should be allowed at any stage even after completion.
- Principles of natural justice: If eligibility is denied, claimant must get second chance to submit the claim.
- Problem-solving and compliance review should be independent of ADB Management.
- The panel should publish an annual report and make it public.

## **Procedures**

- Currently, only the project-affected people can file a claim. It is recommended that interested parties (NGOs, civil society and community-based organizations) should have the right to file a claim on behalf of project-affected people.
- Board authorization should not be required for the Compliance Review Panel to proceed. The Panel should independently decide whether the claim merits processing and inspection.
- The ADB Resident Mission should assist the independent panel to speed up the work (for example, by submitting documents).
- Problem-solving and compliance review to start review of complaint and report options through an independent panel to claimant.
- An option should be available to the complainant to further proceed with the compliance review or the problem-solving route.
- Monitoring should not be limited to one year after the Board decision on the outcome of the decision but subject to longer review on a case-by-case basis.
- Public involvement should be facilitated to assess the remedy or solution.
- Private sector also should be included.

## GROUP 2

### Members:

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|--------------------------------|-------------------------------|
| 1. Mr. Mohammad Shahid Ullah   | 9. Mr. Ananda P. Khanal*      |
| 2. Mr. Tshewang Norbu          | 10. Mr. Sundar Shyam Shrestha |
| 3. Mr. Subash Chandra*         | 11. Mr. Gyan Krishna Shrestha |
| 4. Mr. Azma Ahmed Didi         | 12. Mr. Santosh Khatiwada     |
| 5. Mr. Sa'ad Fazil Abbasi*     | 13. Ms. Kalyanee Shah         |
| 6. Mr. J.H.J Jayamaha*         | 14. Dr. Mohan Man Sainju      |
| 7. Ms. Rathnawalee Neththipola | 15. Ms. Ruchi Lohani          |
| 8. Mrs. Heather Mundy          | 16. Mr. Nogendra Sapkota      |

\* Joined Group 2, Subgroup B for presentation.

**The majority in this group expressed a preference for Option D as Group 2, Subgroup A. 3 members from Group 1 and 4 members from Group 2 presented their views as Group 2, Subgroup B.**

### Presentation of Group 2, Subgroup A

#### Presenter:

**Ms. Kalyanee Shah**, President, SEWA-Nepal

The subgroup expressed its appreciation to ADB for having initiated this consultation process in such a transparent and inclusive manner. The subgroup hoped that the following suggestions would be given due consideration by ADB.

**The following concerns and issues were highlighted.**

#### Cost of Inspection

- Who is going to pay incurred expenses during inspection because of project delay?
- Reducing time will reduce cost.
- Cost to:
  - Affected Persons (livelihood, relocation, sentimental attachment)
  - ADB Management
  - Government

#### Addressing Problems of Affected People

- Consultation Phase/Compliance Phase: There should be better information/more communication before the project starts.
- 95% disbursement rule should no longer be applicable.
- ADB should promote strengthening participation with civil society.
- Rules of natural justice should be followed.
- Transparency from government, ADB Management and ADB Board of Directors.
- Requester should be informed throughout the process.
- Who can request? Because most of the affected people are illiterate and unaware of the

problems and the remedies, how would the affected people complain?

**Publication in Local Languages of the following:**

- Inspection Policy
- Operations Manual
- Basic project documents should also be made available to the public and published in summary form (i.e., environmental impact assessment, initial social assessment and involuntary resettlement policy).

**Role of Government**

- Government intervention should be formalized.
- Requesters should demonstrate that they attempted to solve problems before going to ADB.
- Need to institutionalize and strengthen government involvement.
- DMC governments should develop national policies on problem-solving, thereby saving time and enhancing ownership.
- In large projects affecting many areas or large numbers of people, complaints should not be restricted to a single complaint or consolidation.
- Liability of executing agencies should be included in inspection process and should be discussed.

## **Presentation of Group 2, Subgroup B**

### **Members:**

1. Ms. Snehlata Shrivastava
2. Mr. Ishwort Prasad Aryal
3. Mr. Upasena Senanayake
4. Mr. Subash Chandra
5. Mr. Sa'ad Fazil Abbasi
6. Mr. J.H.J Jayamaha
7. Mr. Ananda P. Khanal

### **Presenter:**

**Mr. Upasena Senanayake**, Secretary of Ministry of Highways (Sri Lanka)

### **Option E (Modification of Option A)**

#### **Concerns**

- Separation of compliance function from problem-solving.
- It will have to be limited to the project preparation period.
- There should be an independent inspection unit within ADB.
- It is a great concern for governments that the process should not result in time and cost overruns.
- Need for simple and short procedures.

#### **Option A with Improvements**

- Compliance should precede project approval by ADB.
- The constitution of the independent inspection panel should occur annually.
- Selection of projects for compliance by the panel.
- Suo moto [on one's own initiative] or complaint-driven or both.
- Assessment of projects in accordance with ADB's policies and procedures.
- Recommendations to both ADB and DMCs for better compliance and improvement.

#### **Role of ADB in problem-solving**

- Call for Expression of Interest from interested groups.
- Need for facilitator for remedial measures.
- This has to come as an inbuilt mechanism during project preparation.
- Should complement existing mechanisms of DMCs.
- Proper measurement of benefits to the people and country as a whole.
- Involvement of member countries and the complainant at all stages of procedures.
- This process should not to lead to time and cost overruns.
- Process to end with approval of project.