



Asian Development Bank

**Board of Directors**

Board Compliance Review Committee

BCRC/2006-1  
23 August 2006

**ASIAN DEVELOPMENT BANK ACCOUNTABILITY MECHANISM**

**ANNUAL REPORT**

**OF THE**

**BOARD COMPLIANCE REVIEW COMMITTEE**

**2005-2006**

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## I. INTRODUCTION

### A. Coverage of the Annual Report

1. This is the third Annual Report<sup>1</sup> of the Board Compliance Review Committee (BCRC), a committee of the Asian Development Bank (ADB)'s Board of Directors (Board). It covers the period from 1 July 2005 to 30 June 2006.

### B. Compliance Review Phase of the ADB Accountability Mechanism

2. The Board approved the ADB Accountability Mechanism<sup>2</sup> (Mechanism) on 29 May 2003 to replace the Inspection Function.<sup>3</sup> The Mechanism became effective on 12 December 2003. The Mechanism provides opportunities for persons affected by ADB-assisted projects to address any concerns about the impact of projects on them. The Mechanism consists of two separate but related functions: consultation phase<sup>4</sup> and compliance review phase. The compliance review phase provides a forum in which project-affected people who have first raised the matter under the consultation phase (and in special circumstances, any Board member) can file requests for compliance review of possible violations by ADB of its operational policies and procedures. The Compliance Review Panel (CRP) carries out the compliance review phase.

## II. BOARD COMPLIANCE REVIEW COMMITTEE

### A. Functions and Terms of Reference

3. BCRC<sup>5</sup> has the following functions: (i) clear CRP's proposed terms of reference (TOR) and the time frame for conducting each compliance review authorized by the Board before they are released by CRP; and (ii) review, before CRP finalizes them, CRP's draft reports on monitoring implementation by ADB of any remedial actions approved by the Board as a result of a compliance review. BCRC carries out its work pursuant to the policy laid down in the Mechanism and its associated Operational Procedures.<sup>6</sup>

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

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<sup>1</sup> The first BCRC Annual Report is at [http://www.compliance.adb.org/dir0035p.nsf/attachments/BCRC-AnnualReport-03-04.pdf/\\$FILE/BCRC-AnnualReport-03-04.pdf](http://www.compliance.adb.org/dir0035p.nsf/attachments/BCRC-AnnualReport-03-04.pdf/$FILE/BCRC-AnnualReport-03-04.pdf) and the second is at [http://www.compliance.adb.org/dir0035p.nsf/attachments/BCRC-AR2004-2005.pdf/\\$FILE/BCRC-AR2004-2005.pdf](http://www.compliance.adb.org/dir0035p.nsf/attachments/BCRC-AR2004-2005.pdf/$FILE/BCRC-AR2004-2005.pdf).

<sup>2</sup> ADB. 2003. *Review of the Inspection Function: Establishment of a New ADB Accountability Mechanism*. Manila. The Board paper is at [http://www.adb.org/Documents/Policies/ADB\\_Accountability\\_Mechanism/ADB\\_accountability\\_mechanism.pdf](http://www.adb.org/Documents/Policies/ADB_Accountability_Mechanism/ADB_accountability_mechanism.pdf).

<sup>3</sup> ADB. 1995. *Establishment of an Inspection Function*. Manila. The Board paper is at [http://www.adb.org/Documents/Policies/Inspection/inspection\\_policy.pdf](http://www.adb.org/Documents/Policies/Inspection/inspection_policy.pdf).

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

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

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

## B. Members

5. BCRC consists of 6 Board members, including 4 regional members and 2 nonregional members. The BCRC membership as of 30 June 2006 is provided in the Table below. In accordance with the Board's Rules of Procedure, the ADB President appoints the BCRC members, in consultation with the Board, and designates the BCRC Chair.<sup>7</sup>

**Table: BCRC membership as of 30 June 2006**

	<b>Country</b>
<b>Chair:</b>	
Stephen Sedgwick	Australia
<b>Members:</b>	
Volker Ducklau	Germany
Marita Magpili-Jimenez	Philippines
Choi-Hwi Lee	Republic of Korea
Sein Tin	Myanmar
Niklaus Zingg	Switzerland

## III. ACTIVITIES OF THE BOARD COMPLIANCE REVIEW COMMITTEE

### A. Meetings

6. BCRC had 3 formal meetings during the period covered by this Report. They were held on 26 August 2005, 9 December 2005, and 28 June 2006. Members of the BCRC also held an informal meeting with Management (Vice President Operations 1) and staff on 24 March 2006.

### B. Requests for Compliance Review

7. In the year ended 30 June 2006, 6 claims were filed with the Special Project Facilitator (SPF) under the consultation phase of the Mechanism.<sup>8</sup> Two of the 6 claims – in respect of the Melamchi Water Supply Project (MWSP) in Nepal and the Southern Transport Development Project (STDP) in Sri Lanka – also subsequently resulted in a request for compliance review. The CRP determined the MWSP request ineligible and the STDP request eligible. Of the 4 remaining claims, the SPF determined 3 claims ineligible, and the SPF, as of 30 June 2006, was assessing the eligibility of the 6th claim.

8. The Board authorized a compliance review of the STDP request in January 2005. The BCRC cleared the CRP's draft terms of reference and the time frame for the review in the same month. The CRP investigated the request and its Final Report was circulated to the Board on 22 June 2005 for its consideration in July 2005.

9. During the period covered by this Report, no requests for compliance review have been filed with the CRP.

<sup>7</sup> In June 2005, the President approved the appointment of the following Board members for a period of 2 years commencing 1 July 2005: Stephen Sedgwick (Australia), as Chair; Volker Ducklau (Germany); Choi-Hwi Lee (Korea, Republic of); Marita Magpili-Jimenez (Philippines); Sein Tin (Myanmar); and Niklaus Zingg (Switzerland).

<sup>8</sup> The 6 claims are (1) Melamchi Water Supply Project in Nepal; (2) Southern Transport Development Project in Sri Lanka; (3) Sixth Road Project in the Philippines; (4) Community Empowerment for Rural Development Project in Indonesia; (5) Khulna-Jessore Drainage Rehabilitation Project in Bangladesh; and (6) Rural Electrification, Distribution and Transmission Project in Nepal.

### **C. Monitoring Mandate in respect of the Chashma Project**

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

11. On 26 August 2005, BCRC met to review a draft CRP Annual Monitoring Report on the Chashma Project before the CRP finalized and issued it to the Board on 12 September 2005. On 9 December 2005, BCRC met to review a draft Supplementary Report to the CRP's Annual Monitoring Report before the CRP finalized and issued it to the Board on 21 December 2005. The next CRP Annual Monitoring Report on this project is expected to be reviewed by BCRC in July 2006.

### **D. Monitoring of the Board decision in respect of the STDP request**

12. In July 2005, the Board approved the CRP's general and STDP-specific recommendations in its Final Report,<sup>9</sup> including that Management provide the CRP and the Board a time-bound course of action to implement these measures. Provision of the course of action was intended, among other things, to facilitate the CRP's monitoring and reporting to the Board. The course of action was provided in August 2005. Management subsequently revised the document in the light of comments made by the CRP.

13. At BCRC's meeting on 9 December 2005, the BCRC asked the Chair, BCRC to request an informal meeting with Management in early 2006 to enable the BCRC to be better informed of the revised course of action on the remedial actions in the STDP request. This meeting, which occurred on 24 March 2006, was attended by members of the BCRC, Management (Vice President Operations 1), and staff. Updates were provided at the meeting on both the STDP and the Chashma Project. On 28 June 2006, BCRC met to review a draft CRP Annual Monitoring Report before the CRP finalized and issued it to the Board on 11 July 2006.

14. In its reviews of the draft monitoring reports prepared by the CRP, the Committee has sought greater clarity from the CRP about the criteria it applies in determining whether there has been full, partial, or non-compliance with Board-approved remedial actions. The Committee encouraged the CRP to consider further this issue and, in assessing the extent of compliance to have regard to the intention behind the substance of the recommendation and not simply a literal reading of it.

## **IV. BUDGET**

15. No budget for 2005 was allocated to cover BCRC's operating expenses. No expenses have been incurred in the period covered by this Report.

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<sup>9</sup> At [http://www.compliance.adb.org/dir0035p.nsf/attachments/STDP-CRPFinalReport-12Jul05.pdf/\\$FILE/STDP-CRP-FinalReport-12Jul05.pdf](http://www.compliance.adb.org/dir0035p.nsf/attachments/STDP-CRPFinalReport-12Jul05.pdf/$FILE/STDP-CRP-FinalReport-12Jul05.pdf).