

Asian Development Bank (ADB), Accountability Mechanism, Complaint Form
(Add rows or pages, if needed)

A. Choice of function - problem solving or compliance review (Choose one below)


Special Project Facilitator for problem solving (Assists people who are directly and materially harmed by specific problems caused, or is likely to be caused, by ADB-assisted projects through informal, flexible, and consensus-based methods with the consent and participation of all parties concerned)

Compliance Review Panel for compliance review (Investigates alleged noncompliance by ADB with its operational policies and procedures in any ADB-assisted project in the course of the formulation, processing, or implementation of the project that directly, materially, and adversely affects, or is likely to affect, local people, as well as monitors the implementation of remedial action relates to the harm or likely harm caused by noncompliance)

B. Confidentiality

Do you want your identities to be kept confidential? Yes No

C. Complainants (Anonymous complaints will not be accepted. There must be at least two project-affected complainants.)

Name and designation (Mr., Ms., Mrs.)	Signature	Position/ Organization (If any)	Mailing Address	Telephone number (landline/mobile)	E-mail address
1. Mr. Narciso L. Rodriguez		President, El Paril Resorts, Inc.	Km. 9, 1181 Sasa, Davao City	(082) 233-0251/234-1229	paradiseislanddavao@gmail.com
2. Ms. Pilar E. Rodriguez		Proprietor, Costa Marine Beach Resort	Km. 9, Rodriguez Road Sasa, Davao City	09177958372	costamarinabeachresort@yahoo.com

Authorized Representative or Assistant (if any). (Information regarding the representatives, or persons assisting complainants in filing the complaint, will be disclosed, except when they are also complainants and they request confidentiality.)

Complainant represented	Name and designation (Mr., Ms., Mrs.)	Signature	Position/ Organization (If any)	Mailing Address	Telephone number (landline/mobile)	E-mail address

Marcelino C. Rongo	Mr.		Junior Partner, Batacan Montejo & Vicencio Law Firm	7 th Floor Abreeza Corporate Center, J. P. Laurel Avenue, Davao City	mcrongo@bmvlawfirm.com ; mcr.bmvlaw@gmail.com
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D. Project

Name	Feasibility Study for the Samal Island-Davao City Connector ("SIDC") Project through ADB's USD\$100 million technical assistance loan to the Philippine Government for the Infrastructure Preparation and Innovation Facility ("IPIF")
Location	Brgy. Limao, Island Garden City of Samal ("IGaCoS"), Davao del Norte and Brgys. Vicente Hizon, Sr., Angliongto, and R. Castillo, Davao City, Philippines
Brief description	Ove Arup & Partners Hong Kong Ltd. ("Arup") was engaged by the Philippine Department of Public Works and Highways ("DPWH") for an ADB-funded feasibility study on the SIDC Project—a proposed 2.85-kilometer bridge connecting Davao City and IGaCoS, Philippines. The study includes an Environmental Impact Assessment ("EIA") to support DPWH's application for an Environmental Compliance Certificate ("ECC"), which is on its final stage and is pending approval by the Environmental Management Bureau ("EMB") of the Philippine Department of Environment and Natural Resources ("DENR").

E. Complaint:

<p>What direct and material harm has the ADB-assisted project caused, or will likely cause, to the complainants?</p> <p>While complainants are fully supportive of the SIDC Project and desire its realization, they strongly oppose the bridge's current alignment. Complainants were not consulted regarding the subject alignment and were informed only after it had been selected in an ADB-sponsored option selection workshop.</p> <p>Arup's ill-conceived alignment and misleading, incomplete, and deceptive baseline study and impact assessment as part of EIA for the SIDC Project will result in the following:</p> <p>a) the permanent loss of the white sand beaches and natural amenities of Paradise Island Park and Beach Resort ("Paradise Island") operated by El Paril Resorts, Inc. ("El Paril") and the Costa Marina Beach Resort ("Costa Marina")—famous tourism landmarks easily accessible from Davao City and enjoyed by generations of Samaleños, Davaoeños, Mindanaoans, and Filipinos from all walks of life, whereas the SIDC Project ironically aims to promote tourism in Samal Island;</p> <p>b) the irreversible and irreparable damage of the Paradise Reef—a sprawling and biologically productive coral garden and <i>de facto</i> marine sanctuary in front of Paradise Island and Costa Marina—whereas the Japan Ministry of Economy, Trade and Industry ("METI")-recommended alignment that lands on the old shipyard, Brideport Damosa in Samal Island is the least environmentally destructive due to the area's insignificant marine life, and also the cheapest</p>

(Php15.6 billion vs. the current alignment's Php23 billion) and shortest (only 2.62 kilometers) alignment;

c) the serious disruption and destruction of the business operations of Paradise Island and Costa Marina, as a consequence of activities during site preparation, construction, and operation, threatening to drive Paradise Island's 380 employees and Costa Marina's 80 employees to unemployment;

d) the destruction of the few remaining healthy coral reefs of the Davao Gulf—a Marine Key Biodiversity Area—where only less than 20 percent of coral reefs are in good condition as of 2006 (Isip, 2006), thereby threatening fish supply and food security as well as biodiversity; and

e) the unwarranted environmental, economic, and social loss, which can be avoided by simply realigning the SIDC, adopting the appropriate project design, and implementing the necessary engineering measures.

While the ADB will not directly finance the SIDC Project, Arup's feasibility study has significant environmental implications as it also covers the EIA of the SIDC Project. Needless to state, a misleading, incomplete, and deceptive Environmental Impact Statement ("EIS") Report jeopardizes the environment and places the local community at risk. A poor quality and substandard EIA that disregards environment safeguards will fail to prevent or mitigate significant environmental impacts. ADB would thereby be indirectly responsible for any resulting environmental damage and injury to the local community. Thus, the significance of ADB's role cannot be discounted even if it only consists of extending a technical assistance loan for the feasibility study.

Have the complainants made prior efforts to solve the problem(s) and issue(s) with the ADB operations department including Resident Mission concerned?
X Yes. If YES, please provide the following: when, how, by whom, and with whom the efforts were made. Please describe any response the complainants may have received from or any actions taken by ADB.

In a letter dated 18 October 2019 addressed to Mr. Tekhiko Nakao, President and Chairman of the ADB Board of Directors, El Paril and Costa Marina registered their opposition to the location of the SIDC supported by a Position Paper.

In a letter dated 28 November 2019 addressed to Mr. Narciso Rodriguez, President of El Paril, the ADB through Mr. Ramesh Subramaniam, Director General, Southeast Asia Department, advised that the 18 October 2019 letter was referred to the DPWH.

Despite the complainants' opposition, DPWH kept the current alignment, calling it 'final'. Hence, in a letter dated 8 June 2020 addressed to Mr. Kelly Bird, ADB Country Director, El Paril and Costa Marina submitted the results of a scientific study carried out by renowned marine biology experts showing how the current alignment of the SIDC threatens to destroy the Paradise Reef and the white sand beach resorts, and how the old shipyard, Bridgeport, is the best option.

To date, ADB has not replied to the complainants' 8 June 2020 letter. In the meantime, the ECC application for the SIDC Project is already pending approval by the EMB-DENR. Project implementation will proceed in earnest as soon as an ECC is granted by the EMB-DENR.

No

F. Optional Information

1. What is the complainants' desired outcome or remedy for the complaint?

The remedy is a realignment to the old shipyard, Bridgeport as landing site on the IGaCoS side pursuant to the METI's recommendation, being the least environmentally burdensome, cheapest, and shortest alignment. The fact that the abandoned shipyard, Bridgeport is the least biologically productive is confirmed by a scientific study carried out by renowned marine biology experts commissioned by complainants. As an act of goodwill, complainants have likewise offered to **donate** a portion of their family-owned El Paril Beach Resort adjacent to Bridgeport as alternative landing site. The same scientific study showed that El Paril is a good compromise between Bridgeport and Paradise Reef—the most biologically productive. Moreover, the Philippine Government will save hundreds of millions of pesos by accepting the complainants' offer.

2. Anything else you would like to add?

Complainants feel that their current predicament resulted from ADB's failure to conform to its own environment safeguards embodied in, among others, the ADB Environmental Assessment Guidelines and Environment Safeguards Good Practice Workbook. Specifically, the ADB was aware that the options as well as the criteria for selection did not undergo a public consultation process when it conducted an option selection workshop on 19 February 2019. The alignment option selected in the ADB workshop was declared as the 'final' alignment, which limited the alternatives (only the with and without project options) considered during the EIA and subsequent public consultations. The failure to subject the different alternative alignments to impact assessment precluded the selection of the option with the least adverse environmental impacts. Complainants understand that these concerns are covered by the Accountability Mechanism's Compliance Review Function, which complainants intend to avail of following resolution of the problems stated above.

Name of the person who completed this form: **Atty. Marcelino C. Rongio**

Signature: 

Date: **3 November 2020**

Please send the complaint, by mail, fax, e-mail, or hand delivery, or through any ADB Resident Mission, to the following:

Complaint Receiving Officer (CRO), Accountability Mechanism
ADB Headquarters, 6 ADB Avenue, Mandaluyong City 1550, Philippines,
Telephone number: +63-2-6324444 local 70309, Fax: +63-2-6362086,
E-mail: amcro@adb.org