



# Final Report of the Special Project Facilitator

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## **PUBLIC**

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August 2023

## **Sri Lanka: Clean Energy and Network Efficiency Improvement Project** (Complaint Received: 16 August 2017)

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**Asian Development Bank**

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## **ABBREVIATIONS**

ADB	Asian Development Bank
AM	Accountability Mechanism
CEA	Central Environmental Authority
CEB	Ceylon Electricity Board
ha	hectare
OSPF	Office of the Special Project Facilitator
SARD	South Asia Department
SPF	Special Project Facilitator

## **NOTE**

In this report, "\$" refers to United States dollars.

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## Project Fact Sheet

**Project:** Clean Energy and Network Efficiency Improvement Project

**Approved:** 18 September 2012

**Description:** The project includes three components: (i) transmission infrastructure; (ii) network efficiency improvements; and (iii) pilot solar rooftop power generation investments in the Eastern, North–Central, Central, Northern, Southern, and Western provinces of the country.

**Objective:** The project was designed to strengthen the transmission network to enable future planned power supply increases, meet growing demand in the regions, and integrate renewable energy sources into the grid.

**Outcome:** The project outputs were (i) improvement in transmission infrastructure in the Northern province, (ii) improvement in transmission and distribution network efficiency, (iii) development of solar rooftop power generation, and (iv) capacity and advisory support for the development of wind and solar power generation.

**Affected households and impact:** The project involved the construction of new substations, upgrading and augmentation of existing substations, construction of transmission lines, construction of distribution gantries and its associated lines, and rooftop solar power generation investments in Sri Lanka. Land acquisition was required only for the construction of the new transmission grid substations and distribution gantries.

Approximately 7.70 hectares (ha) of land was required for grid substations and gantry, of which 5.63 ha was private land and 2.07 ha would be government land. Private land included land from individual farmers and land from rubber estate owners. A total of six households were affected, including two female-headed households, due to the loss of a small piece of land, and two rubber estate owners, due to the land acquisition/purchase.

### Safeguard Categories:

Environment: B

Involuntary Resettlement: B

Indigenous Peoples: C

### Financing Plan:

Grant 0303-SRI: Clean Energy and Network Efficiency Improvement Project	Clean Energy Fund under the Clean Energy Financing Partnership Facility	\$1.50 million
Loan 2892-SRI: Clean Energy and Network Efficiency Improvement Project	Ordinary capital resources	\$100 million
Loan 2893-SRI: Clean Energy and Network Efficiency Improvement Project	Concessional ordinary capital resources lending/Asian Development Fund	\$30 million
TA 8167-SRI: Capacity Building for Clean Power Development	Technical Assistance Special Fund	\$900,000

## I. BACKGROUND

### A. The Project

1. Sri Lanka requires a sustained focus on infrastructure development to remove disparities in the economic and social status of the poorer Eastern and Northern provinces. The focus of the Asian Development Bank (ADB) on the development of the power sector infrastructure, in partnership with other development partners, contributes to the provision of reliable, adequate, and affordable power supply for sustainable economic growth and poverty reduction in Sri Lanka. The Clean Energy and Network Efficiency Improvement Project will focus on strengthening the transmission system, improving the distribution system, reducing technical loss, and developing renewable energy.

2. The project included three components: (i) transmission infrastructure in the Northern province; (ii) transmission and distribution network efficiency improvements; and (iii) pilot solar rooftop power generation investments in the Eastern, North–Central, Central, Northern, Southern, and Western provinces of the country. The construction of the new Polpitiya power transmission development was the subject of the complaint received by the Special Project Facilitator (SPF).

### B. The Complaint

3. On 16 August 2017, the SPF received a [complaint](#) from eight residents affected by the project, filed through their representative, who requested that the complainants' identities be kept confidential. The SPF acknowledged receipt and registered the complaint on 17 August 2017. The complainants had reached out to Ceylon Electricity Board (CEB), the project's implementing agency, and to the ADB Sri Lanka Resident Mission prior to filing their complaint with the Accountability Mechanism (AM):

(i) In May 2015, complainants filed their initial complaint with the project management unit of CEB and the Divisional Secretary of Homagama. They proposed alternative routes that they believed would avoid adverse impact on people's houses and land.

(ii) In November 2016, they submitted a complaint to the ADB Sri Lanka Resident Mission. The complaint claimed (i) that objections to the transmission line route, and the alternative routes to be considered were reported to the Divisional Secretary and the Project Management Unit since May 2015. They alleged that they were completely disregarded and that the construction plans were being implemented against the consent of the people. They further claimed that there had been no response to the complaints reported to the CEB, (ii) that the project would adversely affect the lives, properties, houses, and health and safety of the people. The proposed line via Magamma traversed narrow strips of paddy fields and would affect more than 45 households, and (iii) that a protest campaign was held by the Magamma people in June 2015, and they alerted the political authorities at the highest level. They claimed that they were not listened to.

(iii) Claiming that they were not satisfied with the way their grievances were being dealt with by CEB and the ADB operations department, the complainants submitted a complaint to the Complaint Receiving Officer of ADB AM.

4. The complainants alleged that more than 50 houses with about 189 residents would be affected by the Polpitiya Pannipiyiya 220-kilovolt transmission line being implemented by the CEB, and would pass through their village, Magamma. According to the complainants, the

transmission line was initially planned to go through the Niyadagala Katuwana and Mawatagama route, based on which an environmental impact study was conducted in 2014.

5. The complainants further alleged that an alternative route was proposed that went beyond Uduwana junction and did not go through Magamma, and according to them, this was the approved alignment by the CEB. However, the Central Environmental Authority (CEA) did not adopt this alternative route. Thus, the complainants claimed that in the final alignment, the transmission line traversed Magamma where the 50 houses are located.

6. The complainants alleged that they were not consulted nor informed of the new alignment and had to file a petition based on the Information Act to get information regarding the new alignment and to gain access to the CEA's report. A case was also filed at the Homagama District Court regarding the legality of the construction works.

7. The complainants also alleged that CEB project officers entered the complainants' land and tried to build towers by force in two locations. This incident was said to have prompted complainants to file a case against CEB at the Appeals Court to request the court to stop the project from implementing the transmission line through Magamma.

### **C. Determination of Eligibility**

8. To determine the eligibility of the complaint, the Office of the Special Project Facilitator (OSPF) reviewed the documents received and conducted interviews with complainants and concerned ADB project staff.

9. After examining the complaint based on the 2012 AM Policy eligibility criteria and the documents and information from the complainants and the operations department, the SPF deemed it eligible for the problem-solving process on 13 September 2017.

## **II. REVIEW AND ASSESSMENT AND PROBLEM-SOLVING**

### **A. Review and Assessment**

10. The OSPF fielded a review and assessment mission to Sri Lanka from 23–30 October 2017. The mission (i) explored the history of the complaint, (ii) confirmed the key stakeholders, (iii) identified the main issues of the complaint, (iv) explored the stakeholders' readiness for joint problem-solving and possible options for resolution, and (v) recommended a course of action. The review and assessment included discussions with the ADB South Asia Department (SARD), Sri Lanka Resident Mission, CEB, CEA, and the complainants.

### **B. Identification of Stakeholders**

11. The stakeholders included (i) the complainants who are the eight signatories of the complaint letter, residents of Magamma, and affected by the project, and (ii) the executing agency, the Ministry of Power and Energy, the implementing agencies, the CEB, and the CEA.

12. Other stakeholders identified included the ADB staff involved in the project, both from SARD and resident mission.

### C. Problem-Solving

13. During the OSPF's 23–30 October 2017 mission, it was agreed with both parties (CEB and the complainants) to undertake an independent alternative assessment of all feasible alignments. The following course of actions were mutually agreed upon by the OSPF, SARD, and the resident mission:

- (i) The CEB, together with ADB's project team, would commission technical studies (engineering feasibility) along the alternative alignments.
- (ii) SARD, with the support of consultants, would undertake environmental and social safeguards assessments of alternative alignments and would ensure meaningful consultations with stakeholders to ensure compliance with ADB's safeguard policy and national regulations.
- (iii) The OSPF would engage an independent expert to act as its representative to support the entire process and monitor the consultations.
- (iv) A multistakeholder consultation would be arranged in the first quarter of 2018 to discuss alternative alignments and mitigating actions, to achieve a mutual understanding of the most technically, environmentally, and socially sound alignment option.

14. On the advice of OSPF, CEB reaffirmed the suspension of construction in the section through Magamma until an agreement was reached. OSPF, with the help of the resident mission, then recruited consultants to carry out an independent analysis and developed a detailed plan for the assessment of alternatives and a consultative strategy.

15. At this stage, CEB raised an issue with OSPF regarding the perception of the study on alternative alignments. CEB was concerned that if this course of action was taken, it would seem to appear that ADB had decided to conduct a detailed assessment because CEB's prior assessment had not been done properly. Thus, CEB advised OSPF that it would not support the alternative assessment unless OSPF confirmed that undertaking such an assessment would not undermine CEB's position in the pending matters before the courts.

16. As neither of the parties has explicitly disengaged from the problem-solving process, OSPF, in accordance with its rules, kept the complaint open in the hope of a resolution.

17. However, in July 2019, OSPF informed the chairperson of the Magamma community-based organization that OSPF would have to close the complaint and conclude the process based on the following:<sup>1</sup>

- a. The Supreme Court decision had been delayed at the request of the complainants' legal counsel.

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<sup>1</sup> E-mail letter from the SPF dated on 3 July 2019 on the subject of Complaint on Loan Nos. 2892 and 2893, Grant No. 0303, and TA No. 8167 SRI: Clean Energy and Network Efficiency Improvement Project—Eligibility of Complaint and OSPF's Review and Assessment Mission, 23–30 October 2017.



- b. CEB was not willing to proceed with the agreed process for evaluating alternatives without the closure of the pending court cases.
- c. The Magamma community was not agreeable to a facilitated discussion with CEB as recommended by OSPF, until the evaluation of alternatives was completed.
- d. ADB's loan for this project was closed on 30 June 2019, and ADB would not be financing the portions of the transmission line that had not been completed by 30 June 2019.

### III. LESSONS LEARNED

18. **Timelines for problem-solving.** The complainants had clear grounds for frustration and disappointment with the lack of predictable timelines for the resolution of their grievances in the grievance redress mechanism process.

19. **Consultation and information disclosure.** Consultation and communication with project-affected people need to be meaningful, respectful, adequate, and timely. While the transmission line alignment was changed by CEB in response to the grievances raised by households along the original alignment route, consultations with the communities along the new alignment were not adequate nor was the dissemination of information to the new set of affected persons carried out in a timely manner. Government approval processes, including why sections or segments of lines were deviated, were not communicated adequately to the complainants. Changes of route by the CEB without adequate local consultation led to serious objections and legal actions.

20. **Updating of safeguards documentation.** At the time of filing of complaints, the safeguard documents (initial environmental examination and the resettlement plan) had not been updated to reflect the revised alignment passing through Magamma. These documents were uploaded to the ADB website after the complainants had filed their complaint to OSPF. Timely updating of safeguard documents could have ensured adequate consultations with the newly affected persons and could have avoided the escalation of grievances.

21. **Capacities of implementing agencies and ADB operations department to manage complaints.** The delays in reaching an agreement with the complainants on an alternative alignment or on mitigation actions point to the need for building capacities of the staff of the implementing agencies and ADB project teams in complaint handling.

### IV. CONCLUSION

22. The OSPF was unable to resolve this matter through a facilitated resolution, mainly because of the inflexible positions maintained by the complainants on the one hand, and the restraints imposed by the CEB to make decisions dependent on the pending Supreme Court decision on the other hand. In the meantime, the project reached the closure date on 30 June 2019 and the ADB loans were closed. Given that ADB financing cannot be used for any activities by CEB after the project closure date, the transmission line alignment that is the subject of this complaint was no longer financed by ADB. The [project completion report](#) was issued in March 2021.

23. Since the complaint no longer involves any ADB-assisted project, it is therefore not eligible for consideration under the ADB AM. The SPF informed the borrower, the ADB project team, and the complainants of the SPF's conclusion.