

**Consultation on ADB's Draft Public Communications Policy**  
**New Delhi, India**  
**14-15 July 2004**  
**Summary of Participant Recommendations**

ADB held a consultation workshop with representatives of civil society organizations on 14 July and with government officials on 15 July. Following are the recommendations of participants at both workshops. A list of attendees is attached to this summary.

**Evaluation by Civil Society Representatives**

**A. Strengths of the Draft Policy**

- Combining two policies is a good idea, but the title communicates a passive process. It should be more firmly grounded in the right to information; rename it the "Public Communications and Disclosure Policy."
- Involvement of civil society organizations and affected peoples in the consultation and the policy itself is positive, but this could be enhanced further (see below).
- The policy is a step in the right direction – ADB is trying to be transparent and effective -- but more can be done.
- The policy proposes an increase in the amount of draft documents being released, but still more should be mandated.

**B. Recommendations for Improving the PCP**

**1. General Comments**

- The overall purpose of the PCP is not very clear. It appears as if ADB is attempting to gain a competitive edge over other international finance institutions, with many paragraphs in the introductory sections addressing the rationale for keeping up with the other international finance institutions and citing "risks of losing external support."
- The policy section is very short; paragraphs 59-61 set out the purpose and objectives, while paragraphs 62-63 indicate the information that cannot be shared with the public.
- The PCP should be more oriented toward affected people, as project beneficiaries, rather than ADB and the government.
- The draft is narrative rather than directive; it should be specific and conclusive.
- The policy dwells at greater length on constraints than on disclosure; it often speaks about openness and confidentiality at the same time, i.e., paragraph 33.
- Right to information laws at both national and state levels include features more aggressive than the PCP. South Africa requires that private sector information be made public. Four Indian states have clear procedures for what to do when information is refused, or when someone is given wrong information. If the delay in meeting a request is unreasonable, individuals can be fined Rs50/day. There are also penalties for the willful destruction of records or noncompliance. Independent appeals are heard. ADB should look at the freedom of information laws in the Indian State of Maharashtra, Mexico, South Africa, and Queensland (Australia).
- Although the PCP is not a participation policy, ADB should develop one. Particularly at the early concept stage, ADB should ensure that consultations are held with affected people and their views are meaningfully incorporated into project design and implementation. ADB should state its definition of, and procedure for, obtaining free

and prior informed consent. Today, people are not conceiving projects; they are being told what will happen in their area.

- The PCP should be more directive, i.e., eliminate the use of “may” and make clear what every party must do and can do (the government, ADB headquarters and Resident Mission staff, and the public). As it stands, too much detail is left to be determined when the policy is under implementation.
- While the right to information has been clearly acknowledged, the interrelatedness of this with other human rights should be addressed as well, e.g., the SPHERE standard.

## **2. Operational Information (General)**

- The PCP should require the disclosure of draft Poverty Reduction Partnership Agreements.
- Communication plans (paragraph 70) should be mandatory for all projects in some form, not just the controversial ones.
- ADB’s social and environmental obligations have not been conclusively addressed. All such reports relating to social and environmental issues should be publicly available.
- BTORs and Aide Memoire should be released after excising sensitive or problematic (in terms of national security) sections.
- Rehabilitation and Replacement (resettlement and indigenous peoples planning) documents must be disclosed.
- Draft RRP’s need to be made available at least 30 days before they go to the Board.
- Whatever information is disclosed should be easy to understand, simple, and accurate. Data and statistics are often not useful. The public wants to know the impact of the project on people’s lives, and the qualitative changes that have been achieved. Financial information should include concise breakdowns of how much money is proposed and expensed on the government, infrastructure, entertainment and local communities. It should state the progress toward achieving the objectives.
- The PCP should ensure an increased role of civil society at all levels of decision-making.
- Project audit reports should be made public, with a complete budget breakdown. The level of budget detail proposed for disclosure in the Project Information Document (PID) is unclear. Citizens must have complete financial information to ensure proper management.

## **3. Project Information during Implementation**

- The information the PCP proposes to release is insufficient.
- Reports submitted by the borrower on project progress should be made publicly available. Rather than transferring information from project progress reports into the PID – and thus requiring more work for staff – the reports themselves should be disclosed. Some participants are concerned that imposing a new document which is not integral to staff work, such as the PID, will result in that new document not being updated regularly. Disclosing the borrower’s report is a way to ensure that they submit quality reports and their work is monitored.
- Disclosure of ADB review and monitoring reports during project implementation should be mandated.
- If there is a problem with a project, the actions that ADB plans to take should be made public. Mid-term monitoring and evaluation assessments and mitigation plans should be made public.

#### **4. Information for Affected Persons**

- Information should be given from the concept paper stage through project completion. An active communication strategy should be published in newspapers and widely publicized from the very beginning, allowing people the opportunity to comment. Every project should have this to some degree.
- The types of information that should be provided include:
  - detailed project report
  - environmental assessment and management plan (in full)
  - consultants' biographical data
  - project benefits
  - review reports during implementation
  - information on the implementing and executing agencies, including their track records from past projects
  - post-project information: repayment details, any defaults, how much paid
- Paragraph 87 should provide clear direction, and emphasize the need to disseminate information in a form that will be understood.

#### **5. "Two-Way" Communication/Feedback Mechanism**

- Whatever information is provided to affected persons should be in the context of a two-way process where feedback mechanisms are well established. This is an ongoing process of open dialogue. It is imperative in order to ensure the free and prior informed consent of the stakeholders.
- The policy should also call for a mechanism for disclosing and handling critical feedback on a project or proposed project with ADB operational staff, before the Accountability Mechanism.

#### **6. Approaches to Delivery**

- The main mechanism of information dissemination is the Internet. It is also highly Manila-centric. The proactive role of ADB Resident Missions, and their means of dissemination, should be enhanced in the draft.
- The Resident Missions should be responsible for addressing information requests in local languages. Language should not be an impediment to requesting information.
- ADB should revise its web site to make information regarding consultation and participation easier to find.

#### **7. Translation**

- The PCP allows for translation at ADB's discretion; it should provide clear direction for when and if it must be done. The PCP should more adequately address the means of communicating with affected people in languages they understand, e.g., on radio. Costs should not be a factor in ensuring this.
- Consider how paragraphs 87, 73 and 149 may be contradictory; these paragraphs should be reworked and realigned.

#### **8. Exceptions to Presumed Disclosure**

- The policy should allow no secrecy regarding operational information, even as it pertains to private sector financial information and anticorruption information. Public finances are involved in funding ADB projects, so they should be open. Transparency should form the basis of the PCP.

- Paragraphs 62 and 63 are against a presumption in favor of disclosure. ADB must clearly define “business proprietary” and “privileged” information. ADB should only withhold such information if it meets set confidentiality criteria.
- Some participants indicated that the following types of information may be confidential and withheld on an exceptional basis:
  - Information related to national security
  - Information affecting relationships between countries, e.g., topographical maps for border disputes (possibly)
  - Information related to law enforcement and fair trial
  - Information related to a country’s ability to manage the economy
- The constraints section is much too broad. Any exceptions should be subject to a harm test and not based on the type of document (e.g., aide memoire). Inserting into a policy a list of what the public can and cannot access contradicts a presumption in favor of disclosure.
- All exemptions should be explained and guidelines provided. All exemptions should be subject to a public interest override.
- At minimum, “harm to interests” should be explained.
- Paragraph 133 includes items for which only ADB’s consent is required; the policy should be able to say clearly if these items can be provided. ADB explained that these documents pertaining to the internal deliberative process will generally not be made available, but could be in some circumstances. Participants suggested the narrative be changed to make this clear. Also, decision-making is an important part of ADB, and the public has an interest in knowing how decisions have been reached. Disclosing information about decision-making should be encouraged, even if ADB may want to keep much of the information confidential.
- The policy should specifically call for partial disclosure of documents after the exemptions have been addressed.

## **9. Appeals or Recourse Mechanism**

- The redress mechanism for those who believe their requests have been unreasonably denied has not been clearly delineated. Such a mechanism is only mentioned in paragraph 140.
- The PCP does not provide for an independent appeals mechanism; the Public Communications Advisory Committee (PCAC) provides a means for ADB to judge itself. If the PCAC is to function as a redress mechanism, it should be more objective, e.g., include non-ADB subject-matter experts to examine complaints. ADB should participate in it but not dominate it. The members could review complaints via the Internet.
- Complaints addressed to the PCAC must be reviewed in a timely manner and through a certain procedure, with criteria.
- ADB should consider broadening the mandate of the Compliance Review Panel to review denied information requests.
- ADB needs to include a grievance procedure throughout the project cycle, i.e., through the Regional Department (before exercising the Accountability Mechanism). Any complaints received from project affected persons about the project must be dealt with through a clear procedure. There must be criteria by which the complaint letters are judged.

## **10. Implementation Arrangements**

- The draft lacks a definite commitment toward implementation of the policy. It is too timid regarding the necessary resources and whether ADB will commit to funding the policy.
- The time limits for responding to requests are too long in the draft PCP, and the draft is silent regarding time limits for the appeals process.
- Fees, if any, may be imposed to fulfill information requests, but such fees should not be prohibitive or include charges for staff time to research requests. The PCP should include a statement to this effect.

## **11. Monitoring and Evaluation of the Policy**

- The current draft PCP lacks criteria for determining the policy's success or failure. How will the PCP be evaluated? On what criteria?

## **12. Board of Directors' Information**

- ADB should release the voting records of the Executive Directors.

## **13. ADB's Budget**

- ADB's budget should be disclosed; this should be a line item budget rather than a summary budget.

## **14. Anticorruption Information**

- The PCP should provide for broader disclosure of anticorruption information, e.g., blacklisted private companies, corruption in governments, and internal corruption reviews.

## **15. Private Sector Information**

- The PCP should mandate more disclosure regarding private bodies and private sector projects. See the freedom of information laws of Mexico and South Africa.

## **C. Policy Consultation Process**

- The consultation process for the draft PCP is not inclusive enough. People affected by projects have not been included. They should decide what kind of information they need, rather than NGOs.
- More advance notice should have been given for the Delhi consultation.
- The Delhi workshops should have been combined into one multi-stakeholder dialogue. It would have been beneficial for NGOs to meet with government representatives, and each stakeholder group to hear what the other has said. International finance organizations in India do not encourage dialogue between the government and civil society.
- While private sector representatives were invited, they also should have been present, especially since the policy deals with disclosing information on private sector projects.
- Consultations should be held in project areas. That type of feedback would have been far more beneficial to ADB than meeting with NGOs. Choose a representative sample of communities to give input to the policy. ADB should seriously consider holding a series of field visits on the next draft.

#### **D. NGO-ADB Cooperation**

- ADB and NGOs should improve their cooperation through knowledge sharing and talking about lessons learned on a regular basis. This would help to overcome the tension felt between the two groups.

#### **E. Good Practices or Models**

- The process for the World Bank's Swajal Project (<http://www.swajal.org>) was transparent at all levels and with all stakeholders (community, bank, government, and NGOs). All documents were translated. Information was released proactively, starting with the concept stage. People were provided information about how they could meaningfully participate.
- Mexico's and South Africa's Freedom of Information laws.
- Queensland, Australia uses an Information Commissioner as an appeals body.
- The names of blacklisted firms are disclosed by the African Development Bank, which also keeps its profiles of private sector projects up-to-date.
- The World Bank web site lists all documents related to a project, sometimes including aide memoire.
- The World Bank intends to create a recourse mechanism to manage complaints about information disclosure.

A parallel set of comments was submitted at the workshop by a group of 15 NGOs. While these have been integrated into the recommendations above, they have been posted in their original form at [http://adb.org/Disclosure/first\\_draft/Delhi-Forum.pdf](http://adb.org/Disclosure/first_draft/Delhi-Forum.pdf)

### **Evaluation by Government Officials**

#### **A. Strengths of the Draft Policy**

- The PCP indicates that people from beneficiary communities can provide inputs for the betterment of the project.

#### **B. Recommendations for Improving the PCP**

##### **1. General Comments**

- Many agencies are working toward poverty alleviation. ADB should indicate in the PCP how it coordinates with other donors.
- ADB should more clearly articulate the link between ADB's mandate of poverty reduction and disclosure of information; a more specific reference to the Poverty Reduction Strategy would help.
- The document should integrate disclosure and communications with the Millennium Development Goals.
- ADB should be a useful storehouse for information; information about projects and initiatives in other Asian countries (including country status) is useful to those in India. ADB should focus efforts on knowledge dissemination.

## **2. Operational Information (General)**

- ADB's commitment to a project begins when the CSP is finalized. Disclosure should continue through the entire project cycle. Project coordinators must go to the actual people affected.
- During project implementation, community awareness is essential. ADB should support the use of project officers to communicate with the public.
- NGOs can play an active role in information dissemination.
- Project financial reports could be disclosed in compliance with corporate governance practices.
- CSPs should be released in draft and stakeholders given a reasonable time to respond (8 weeks may not be sufficient; it takes the government longer than that to respond). The draft can be released to the public at the same time it is disclosed to the various government offices. It is important for the government to obtain public feedback. General comments should be encouraged.
- Affected persons do not need RRP, which are final documents that do not interest people.
- Disclosing an executive summary of a feasibility study should suffice. Some participants questioned whether the public can react to such type of document.
- The project progress reports prepared by the government are not sensitive and should be disclosed.

## **3. Information for Affected Persons**

- Basic project aims and expected benefits should be discussed with affected people.
- Concerns about the project should be solicited and addressed during project design through adequate consultation.
- The disclosure process must be two-way: one must wait for feedback after information dissemination, e.g., through a public hearing.
- While discussion with affected stakeholders is important to conceptualize a good project, it should be seen in the broader system and not affect timing or the project cost. At times, procedures become more important than the end result. The government must pay commitment charges to ADB if the project is delayed. It is not easy to assimilate public feedback; it should be done but this must be planned from the beginning. The local project office should have 1-2 persons who focus solely on disclosure/communications. ADB staff cannot perform this function. It should be built into the project design.
- Any information provided should be concise in order to be effective.
- The public should be confident that the government is working with them; better communication is needed to build this trust.
- Placing documents on a web site does not constitute proactive disclosure.

## **4. Borrower Responsibility**

- The policy is not clear regarding the borrower's responsibility.
- Some expressed concern about additional loan conditionalities being placed on governments. What will happen when a "controversy" results from releasing impact reports? How will ADB and the government handle it? Such events should be anticipated and planned for. All these aspects have to be built into design and preparation stage.
- ADB should ensure disclosure by the borrower rather than disclosing information itself. If information is disclosed by the borrower, ADB does not need to disclose it as well.

## **5. Exceptions to Presumed Disclosure**

- Selected information could be withheld, but the policy should address who will decide what constitutes “sensitive” information, and provide guidelines. One participant thought the project executing agency should decide. The criteria should be project-specific.

## **6. Implementation Arrangements**

- It is unclear how the PCP will be implemented at the field level.
- Government executing and implementing agencies need tools for communicating with the public regarding development initiatives, e.g., questionnaires for obtaining feedback, guidelines for dialoguing with different stakeholders, etc. Public communication should be standardized and consistent.
- Each project should have at least one officer in the field who is responsible for disclosure.
- Practical aspects have to be considered in finalizing the policy, e.g., time for translation. Suggest ADB finalize a draft of the PCP and have some pilot projects, and then adopt the policy after a year or so. ADB clarified that translation of project-related documents is on a case-by-case basis.

## **7. Board of Directors’ Information**

- Board minutes and discussion summaries should be made publicly available (as noted in the draft PCP). The voting records of Board members should be disclosed in the minutes. A Board member should be able to withhold some information stated in a Board meeting.
- The opinions stated by Executive Directors in Board meetings should not be disclosed because that would restrict their freedom of expression; they could be disclosed after 5-6 years.
- Board meeting transcripts could be disclosed after a period of time, e.g. 10 years.

## **8. Archived Operational Information**

- ADB could release information previously deemed confidential within a reasonable period of time after project completion. The default time period should be country-specific. The decision whether to release should be left to the government; when a project is closed, the government can decide (and usually release, unless court cases are pending).

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14 July 2004, New Delhi, India**

**List of Participants**

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4	Kalyan Paul (Mr) Executive Director	Pan Himalayan Grassroots Development Foundation, Uttaranchal
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8	A K Goyal (Mr) Secretary	UNESCO Chronicle, Delhi
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9	Rakesh K Jaiswal (Mr) Executive Secretary	Eco-Friends, Kanpur
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10	Ramananda Wangkheirakpam (Mr) Executive Member and Joseph R Hmar (Mr) Secretary	Citizens Concern For Dams & Development, Manipur
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11	Charmaine Rodrigues (Ms) Programme In-Charge, Right to Information Programme	Commonwealth Human Rights Initiative, New Delhi
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13	Davy K Manavalan (Mr) Executive Director	Action For Food Production, New Delhi
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14	Souparna Lahiri (Mr) Coordinator	Delhi Forum

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15	Dhruba Das Gupta (Ms)	National Fishworkers Forum, West Bengal
16	Sharmistha Mohapatra (Ms) Deputy CEO	Sewa Trade Facilitation Centre, Gujarat
17	Dilip Surkar (Mr) Programme Coordinator	Centre For Environment Development, Gujarat
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19	Chandra Shekhar (Mr) Dy. Chief of Bureau	The Financial Express, New Delhi
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15 July 2004, New Delhi, India**

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2	Y Bala Krishna (Mr) General Manager	National Highway Authority of India
3	R P Khare (Mr) Director	Inland Waterways Authority of India
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5	G L Aggarwal (Mr) Project Officer	Rajasthan Urban Information Development Project
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