About the Asian Development Bank

ADB’s vision is an Asia and Pacific region free of poverty. Its mission is to help its developing member countries reduce poverty and improve the quality of life of their people. Despite the region’s many successes, it remains home to two-thirds of the world’s poor: 1.8 billion people who live on less than $2 a day, with 903 million struggling on less than $1.25 a day. ADB is committed to reducing poverty through inclusive economic growth, environmentally sustainable growth, and regional integration.

Based in Manila, ADB is owned by 67 members, including 48 from the region. Its main instruments for helping its developing member countries are policy dialogue, loans, equity investments, guarantees, grants, and technical assistance.
2011 Annual Report

COMPLIANCE REVIEW PANEL
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The year 2011 was a productive year for the Compliance Review Panel (CRP). We concluded the fifth and final annual monitoring of remedial actions for the Southern Transport Development Project in Sri Lanka—the first compliance review request to complete the full compliance review phase under the 2003 Accountability Mechanism of the Asian Development Bank (ADB). The involvement of the CRP in this monitoring phase of the compliance review has (i) made ADB staff more aware of the safeguards policy and the need for better coordination with the government in its implementation; (ii) made ADB pay more attention to land-use planning and urban development; (iii) sparked improvements in the grievance redress mechanism within the project; and (iv) produced ideas for new, ongoing, and future road development projects in Sri Lanka.

The CRP also received two eligible compliance review requests. The first involved a privately operated 200-megawatt coal-fired power plant in the Philippine province of Cebu. The CRP received the authorization for the compliance review from ADB Board of Directors on 11 July 2011 and is expected to issue the final report to the Board in March 2012.

The second request pertained to a portion of the Bishkek–Torugart Road in the Kyrgyz Republic. The Board authorized the compliance review on 20 July 2011 and the CRP’s draft report is expected in April 2012.

I thank my fellow CRP members Anne Deruyttere and Antonio La Viña for their active participation and support in all the activities stated above, as well as others mentioned in this report.

We in the CRP express our sincere appreciation to the Office of the Compliance Review Panel (OCRP), in particular former Secretary Bruce Purdue, who retired from the service on 16 July 2011, and Executive Assistant Zoraida Opana, who left on 15 March 2011. Their contribution to the CRP and OCRP will always be remembered. We also welcome Associate Secretary Geoffrey Crooks, and OCRP administrative staff Daisy Isidro-Mendoza and Julie Anne Villanueva-Mapilisan.

Rusdian Lubis
Chair
Compliance Review Panel
Chapter 1

Compliance Reviews in 2011

Philippines: Visayas Base-Load Power Development Project

The Office of the Compliance Review Panel (OCRP) received a request for a compliance review of the Visayas Base-Load Power Development Project (Loan 2612-PHI) on 23 May 2011. This was the first compliance review request it had received for a private sector project. Private sector operations came under the aegis of the Accountability Mechanism Policy in 2003.

The Asian Development Bank (ADB) is supporting the construction of a 200-megawatt power plant in Naga City, Cebu, a project of the joint venture company KEPCO-SPC Power Corporation (KSPC). Sixty percent of KSPC is owned by KPHI Philippines (a wholly owned subsidiary of the Korea Electric Power Corporation) and 40% by SPC Power Corporation of the Philippines. At the time of the site visit of the Compliance Review Panel (CRP) and the OCRP, construction had been substantially completed. The first unit of the plant was commissioned on 31 May 2011 and has since begun commercial operations.

The request claimed that the project would cause skin and respiratory and other illnesses among residents of the area and nearby communities. According to the request, ADB had failed to follow the policies and procedures under its Safeguard Policy Statement, Public Communications Policy, and policy on clean energy, as well as the required public consultation and disclosure of the environmental impact assessment, with details about coal ash disposal.
To determine the eligibility of the request for compliance review, the CRP and the OCRP consulted with the Special Project Facilitator (SPF) and obtained materials relating to the consultation phase, including the SPF’s determination on the eligibility criteria. The CRP met with the Alternative Executive Director representing the Philippines and with Management and senior staff from the Private Sector Operations Department and the Regional and Sustainable Development Department. The CRP and the OCRP also talked with officials of the Korean joint venture partner based in Manila. In a mission to Cebu on 16 June, the CRP and the OCRP met with requesters from Naga City and their authorized representatives, Jose Aaron Pedrosa of the Freedom from Debt Coalition, Cebu chapter, and Vicente Obando, an engineer, and with officials of the Cebu Provincial Administration.

On 20 June 2011, the CRP determined the request eligible and recommended that the ADB Board of Directors authorize a compliance review. The Board issued the authorization on 11 July 2011, and the CRP began its investigation soon after.

Following a desk review of project information and related materials, the CRP had interviews with Management and staff, and made a site visit on 15–16 September 2011. On 12 March 2012, the CRP submitted its final report to the Board, and on 11 April 2012, the Board approved the findings and recommendations contained in the report. Management is currently working out remedial actions to be monitored by the CRP over the next 3 years.

Kyrgyz Republic: CAREC Transport Corridor 1 (Bishkek–Torugart Road) Project 1

On the same day the request for the Visayas case was received, the OCRP also received a request for a compliance review of the CAREC Transport Corridor 1 (Bishkek–Torugart Road) Project 1 (Grant No. 0123-KGZ). Five requesters had authorized Maya Eralieva, Central Asia and Caucasus coordinator of the ADB NGO Forum, to file the complaint on their behalf. The requesters
claimed that ADB had failed to implement its operating policies and procedures, in particular its Policy on Involuntary Resettlement and Public Communications Policy.

The complaint concerned the rehabilitation of a portion of the Bishkek–Torugart road, along a key transport corridor connecting Bishkek, the capital of the Kyrgyz Republic, to Kashi in the People’s Republic of China. The section of the road in question was the first of several road sections financed by ADB.

The CRP and the OCRP consulted with the SPF and obtained materials relating to the consultation phase, including the SPF’s determination on the eligibility criteria. The CRP and the OCRP also discussed the complaint with the Executive Director representing the Kyrgyz Republic, had telephone conversations with the representative of the affected persons, and held initial meetings with Management and senior staff from the Central and West Asia Department and the Regional and Sustainable Development Department. The information gathered during these meetings and an initial review led to the CRP’s decision to consider the request eligible.

On 29 June 2011, the CRP submitted its eligibility report to the Board, and on 20 July 2011, the Board authorized the CRP to conduct a compliance review. The CRP started the investigation process with a desk review of all relevant project information and related materials and conducted interviews with staff and Management in September 2011. The Ministry of Finance, on 29 November, approved a site visit, which occurred on 6–8 February 2012. The CRP’s final report is scheduled to be circulated to the Board on 3 July 2012.
The fifth and final monitoring mission for the Southern Transport Development Project (STDP) in Sri Lanka took place in May 2011 and found that all recommendations had been complied with.

Lessons Learned

Following completion of the compliance process for this project, a number of lessons were identified by the CRP/OCRP.

The CRP is committed to learning from this experience and to applying the lessons learned to future cases, both in the conduct of compliance reviews and in the performance of its monitoring mandate. It intends to use the lessons to improve the compliance review process in ADB, including the way the CRP carries out its duties. ADB Management is involved in compliance reviews and addresses recommendations, and the developing member countries (DMCs) respond to compliance requests, review, and monitoring.
The lessons have been grouped into five broad categories: (i) overall impact of compliance review and monitoring, (ii) CRP impact on STDP implementation, (iii) CRP report and recommendations, (iv) relationship with ADB and government, and (v) relationship with affected people and nongovernment organizations (NGOs).

Overall Impact of Compliance Review and Monitoring

**Stakeholders perceive the compliance review process differently.** It is clear from all the interviews (with the requesters, ADB Management, and government) that the compliance review process has had an impact on both the project and its implementation by government. However, stakeholders have different perceptions of the value of the review process and reports, including the annual monitoring exercise. ADB Management and the Japan International Cooperation Agency (JICA) are appreciative of the process and the consequent report. Requesters and the government have been moderately critical, while admitting that the report and the process have had positive results. This is a good outcome, consistent with the design and intent of the compliance review process. The subject of the compliance review is ADB Management and its compliance or noncompliance with ADB policies and procedures. The objective of the CRP recommendations is to bring a project into compliance.

**The CRP could communicate better with stakeholders.** The CRP could have given the government more assurance of its impartiality and neutrality. Although the CRP repeatedly informed the government that the focus of the investigation was ADB and not the government, the CRP must give priority to transparency and communications at all levels (government, affected people, consultants, NGOs, ADB Management, and the resident mission) and develop a communication strategy and protocol for its interactions with different stakeholders. The need for clarity in the CRP’s mandate and procedures, to prevent misinformation and
avoid false expectations, should be emphasized. The CRP’s independence should not affect communication with ADB staff. Its approach should be transparent, communicative, and constructive, while at the same time avoiding the perception that the CRP is a “watchdog” or an appeal mechanism. It should listen closely to the government during the fact-finding process, engage with it constantly, and conduct a briefing at the end of each mission. Field visits done as part of the eligibility process should also be helpful in information dissemination and communication with all stakeholders.

The complex roles and relationships between government agencies, consultants, ADB, the SPF, the CRP, and other actors make it important to provide basic information and summaries of CRP reports in a language and form accessible to the affected people, NGOs, and local agencies. This will also facilitate their broad dissemination. Fact finding, while focusing on Management and requesters, should also include government, project consultants, and other affected people.

Compliance costs can be a substantial burden on government. Currently, government bears the costs of bringing a project into compliance. As the need for a compliance review may arise from mistakes made by ADB, it has been argued that ADB, and not the government, should bear these costs. This issue merits further investigation.

CRP Impact on Project Implementation

The compliance process can help improve livelihoods. CRP involvement was beneficial to affected people as it improved compensation and rehabilitated livelihoods. The CRP also highlighted project design flaws and was instrumental in their correction and in the implementation of the project by the government and the resident mission. The CRP raised awareness at headquarters and the resident mission of the importance of safeguard compliance as a tool for improving the project and making it work. The successful resolution of these issues ultimately contributed to the success of the project as a whole.

The compliance process can drive improvements in the institutional framework. The compliance review and monitoring done by the CRP contributed to the creation of new legislation and procedures for land acquisition and compensation, and the institution of local grievance and conflict resolution mechanisms. Improvements in the project resulted in a more methodical and rational response to resettlement and compensation.
issues. These issues included the decentralization of executing agency offices, the strengthening of local grievance and conflict resolution mechanisms, and an emphasis on community development and the role of the housing societies. The executing agency has gained substantial expertise in dealing with resettlement and compensation.

The CRP’s focus on capacity building helped promote the institutional strengthening of government agencies and project consultants. The executing agency gained in-house capacity to handle compensation and resettlement; a management information system was created; coordination between the executing agency, the resident mission, and the project consultants improved; and the executing agency acquired an enhanced role. The CRP helped create awareness of the importance of income rehabilitation, the specific needs of households headed by women and vulnerable groups, the multidimensional and integrated nature of a highway project, and the importance of concurrent land-use planning and urban development.

Compliance can increase project costs. Project costs increased because of price escalation, court cases, delayed delivery, fines to contractors, and other factors, which were perceived to arise from the compliance review process. ADB is responsible for noncompliance with its policies and procedures, but the government must bear the costs of remedial action. Also, imperfect grievance mechanisms may have inflated compensation and may thus have adversely affected the economic viability of the project. Changes in the legal and regulatory framework in Sri Lanka should help address these issues in future projects.

Compliance may cause an overfocus on some issues. The CRP’s involvement caused the executing agency and the resident mission to prioritize social issues, raising concern that environment, engineering, and construction issues may have received less attention.
CRP Report and Recommendations

Compliance reports are not adequately shared with stakeholders. The resident mission and government officials expressed concern about not being able to give feedback on the draft compliance review report and the monitoring reports. This is an important area for improvement in the future. One possible option would be for the CRP to give the government a chance to comment on draft findings and recommendations. The monitoring process would become more constructive if the government felt it was being listened to and its concerns and views were taken into account by the CRP.

Accountabilities and responsibilities for compliance review and subsequent recommendations are not always explained clearly. The government felt that the compliance review process was initially unclear about who would do what and how. It resisted some recommendations, arguing that, during the CRP investigation and first monitoring, the government lacked the capacity and institutional means to implement and monitor the CRP recommendations. For example, a grievance redress mechanism is a new concept in Sri Lanka, and the compensation process (according to ADB policy) and the restoration of the livelihood of affected people are also new to the country. There were criticisms that some recommendations were too general and not specific enough for ADB or government to take action. The resident mission initially voiced similar concerns about the CRP recommendations and their implied timelines; additional costs; and the need for supplementary loan, contract, and financial processes, as well as the number of meetings required with government. After the second and third years of monitoring, both government and the resident mission increasingly worked with the CRP to comply with the recommendations. Internal processes within the resident mission improved as a result, staff became more aware of safeguards compliance, and capacity within government and its consultants was developed. However, the CRP should refrain from making recommendations that are up to the Management to decide, while ensuring that recommendations are framed in such a way that they allow room for adaptation to changing circumstances.

Relationship with Government

Mutual trust should be built with government and government staff early in the compliance review process. At the start of the compliance review process, stakeholders mentioned the divergent views of the resident mission and government and the distrust of the CRP that had sprung from the CRP investigation. Both ADB staff and the government felt that their performance was being questioned and that the CRP should have been more selective in receiving complaints and screened out those that were not genuine. They also thought that the CRP should balance the time it spends with affected people, the resident mission, and government. Perceptions of the CRP compliance review report and the overall compliance review process have improved over time. ADB staff (and some development partners, e.g., JICA) appreciated the report and process; government still had concerns but confirmed that the report and the process had positive results. This outcome may indicate the need to improve communication with government at all stages of the compliance review process, without attempting to solve specific requester problems or investigate government actions. The subject of the compliance review is ADB’s noncompliance with its policies, and the objective of CRP recommendations is to bring the project into compliance.

Relationship with Affected People and Nongovernment Organizations

Building relationships with requesters and affected people is difficult. Communication and mutual understanding are critical. Some requesters and some affected people wanted ADB to stop the project. The affected people and NGOs had the impression that the CRP is an “appellate body” or negotiator between affected people and government. Affected people expected the CRP to solve or correct problems in project
implementation and to have the power to change the process, stop construction, or change the road trace. From the start, therefore, there was a mismatch of expectations, and the CRP, no matter how well it did its work, could never deliver what the requesters expected. This explains the way the relationship between the CRP and requesters evolved from a relatively close, even supportive, relationship (up to the second monitoring mission) to a more distant one. By the third monitoring mission, the CRP sensed the requesters beginning to distance themselves from the process. This finding reinforces the need for the CRP to continuously engage with, and provide feedback to requesters.

Conclusion

Overall, the compliance review and monitoring added value to the project. The CRP’s experience in the STDP showed that compliance review and monitoring ultimately improved project implementation. Stakeholders recognized this, no matter how they felt initially about the compliance process. The recommendations suggested by the CRP not only brought the project into compliance but also produced a more effective project. Their implementation moreover seemed to provoke fundamental and long-term positive changes in the government’s approach to infrastructure projects.
Chapter 3

Outreach and Information Dissemination

Seminars and Workshops

The OCRP, along with the Office of the Special Project Facilitator (OSPF), held a number of outreach activities in 2011 in Viet Nam (December), the Lao People’s Democratic Republic (November), and the Pacific DMCs (April and May). The OCRP also cohosted a Market Place with the Inspection Panel and the American University during the IAM Symposium in Washington, DC, in June 2011. In addition, during the 44th ADB annual meeting in Ha Noi, Viet Nam, in May 2011, the CRP Chair (together with the SPF) met with civil society organizations and NGOs from various developing countries and had the opportunity at one of those meetings to talk about the ADB Accountability Mechanism and the CRP’s contribution to the review of the Accountability Mechanism Policy. The CRP Chair also addressed central and local government representatives, academics, consultants, and private sector participants at the 10th Biannual Meeting of the Social Environment Impacts Assessment Forum in Bandung, Indonesia, in March 2011. He gave an account of ADB’s Accountability Mechanism Policy and the assessment of social–environmental impact, including public consultation and grievance redress mechanisms.
Outreach and Information Dissemination

The Associate Secretary, invited to participate as a panel member in a conference on land reform in Nepal in September 2011, presented some key lessons to be learned from ADB’s experience with resettlement issues.

Outreach Technical Assistance

In recognition of the importance of outreach under the Accountability Mechanism, the OCRP, in August 2010, mobilized technical assistance resources to support the outreach efforts of the OCRP and the OSPF. Such resources, for the first time, facilitated preparatory work for outreach sessions, provided funding to identify and invite targeted audiences to ADB’s outreach sessions, and provided a means to check on the effectiveness of the outreach under the mechanism. Besides identifying a number of process-related issues, the consultants suggested ways of increasing outreach, including using local media to advertise the existence of the outreach support in-country and working more closely with other development agencies to promote accountability.

Publication

The OCRP issued a new brochure in January 2011—The Accountability Mechanism and ADB’s Private Sector Operations. This brochure explains the application of the Accountability Mechanism to ADB’s private sector operations, the consultation and compliance review phases, and the activities in private sector operations.

Website

The OCRP continued to maintain the CRP website (http://compliance.adb.org), which is the CRP’s main vehicle for disseminating the results of its work. The website contains all the information about the compliance review phase of the Accountability Mechanism, e.g., the status of ongoing and past compliance review cases, steps and procedures in filing a request for compliance review, sample request letters in different languages, CRP operating and administrative procedures, monitoring and annual reports (including those of the Board Compliance Review Committee [BCRC]), brochures, outreach events, and, most importantly, the registry of requests for compliance review.

Accountability Mechanism Outreach held in Vientiane, the Lao People’s Democratic Republic.
Chapter 4

Independent Accountability Mechanisms


Eighth Annual Meeting of the Independent Accountability Mechanisms

This year’s annual meeting of the independent accountability mechanisms (IAMs) of various international financing institutions was held at the Washington, DC, headquarters of the Inter-American Development Bank (IDB) on 22–23 June 2011. ADB Accountability Mechanism was represented by the CRP, the OCRP, and the OSPF. IDB’s Independent Consultation and Investigation Mechanism hosted the event, which was attended by principals and practitioners from the various IAMs and by the Extractive Sector Corporate Social Responsibility Counselor of Canada as a special guest.

Independent Accountability Mechanisms Symposium and Market Place

The annual meeting was followed by a 1-day symposium titled “Challenges of International Accountability: Lessons from Independent Accountability Mechanisms” at the American University College of Law (AUCL) on 24 June 2011. IAM members were among the participants; the financial, development, civil society, NGO, and academic communities were also represented. As part of the symposium, the OCRP cosponsored
Independent Accountability Mechanisms

(with the World Bank’s Inspection Panel and AUCL) a Market Place, an informal gathering during which the different IAMs showcased and provided information about their respective mechanisms to the symposium participants.

Piloting a Community of Practice for the Independent Accountability Mechanisms

As part of its collaboration efforts with the other accountability mechanisms, the OCRP launched in May–June 2011 another online discussion on IAMnet, a virtual learning network established under TA 7349-REG: Piloting a Community of Practice (CoP) for the IAMs. The topics included key challenges facing accountability mechanisms, advantages and disadvantages of sequencing the problem-solving and compliance review functions, and challenges for effective compliance review site visits. The OCRP hired the services of an accountability mechanism expert, who acted as resource person and facilitated the online forum. The OCRP has been hosting the CoP and maintaining the IAMnet since 2009. At the end of 2011, the OCRP closed the technical assistance but continues to maintain IAMnet as a collaboration tool among the IAMs.
Chapter 5

Resources

Office of the Compliance Review Panel

The OCRP serves as secretariat of both the CRP and the BCRC. In 2011, the OCRP had major turnover of its staff. The CRP Secretary retired in July 2011, and a new Associate Secretary and new administrative assistant have been hired. The OCRP staff composition and movements in 2011 were as follows:

- Secretary, CRP and BCRC/Head, OCRP (Bruce Purdue, left in July 2011)
- Associate Secretary, CRP/Officer-in-Charge, OCRP (Geoffrey Crooks, joined in March 2011)
- Compliance Review Officer, OCRP (Teresita S. Capati)
- Executive Assistant, OCRP (Zorayda Opana, left in March 2011; Daisy Mendoza, joined in June 2011)
- Senior Compliance Review Assistant, OCRP (Julie Anne Mapilisan-Villanueva)

Consulting Services

A number of consultants have been hired by the OCRP to assist it in carrying out the two new requests for compliance review that were received on the same day in May 2011. Among these consultants are an environmental expert, two document examiners, and a compliance review researcher. The OCRP also extended the services of an editor and two information technology experts to maintain the CRP and
IAMnet websites and the compliance review monitoring system.

Budget

In 2011, the expenditures of the CRP amounted to $589,527 and those of the OCRP to $936,556, for a total of $1,526,083. This total amount covered the compliance review of two new cases, final monitoring of one case, outreach activities, consulting services, translation and editorial works, communications, and administrative expenses.
Appendix

The Compliance Review Panel

Appointment

The Compliance Review Panel (CRP) is an independent body appointed by the ADB Board of Directors upon the recommendation of the President. It consists of three persons: one full-time chair and two part-time members. Two CRP members are from ADB regional countries, with at least one from a developing member country (DMC). The third member is from a nonregional country.

Each CRP member has a 5-year, nonrenewable term. After serving on the CRP, members are barred from employment at ADB. A CRP member may be removed from office for cause only by a majority decision of the ADB Board.

Members of the CRP

Currently, the CRP is composed of Chair Mr. Rusdian Lubis and part-time members Mr. Antonio La Viña and Ms. Anne Deruyttere.

Rusdian Lubis, Chair, 2009–2014

Mr. Lubis is an Indonesian national who has more than 30 years’ experience in environmental management. He has worked with government, university, and private firms in Indonesia and with the World Bank as a senior executive. He has also been chair of the Board of Dana Mitra Lingkungan (Environmental Funds) since 2008 and founded Yayasan Waetasi, a nongovernment organization for coastal conservation in Sulawesi, Indonesia, in 1986. He has a bachelor of science in agricultural economics and a master of science in natural resource management and environmental sciences from Bogor Agricultural University and a doctor of philosophy in agricultural and resource economics from Oregon State University in the United States.

Antonio La Viña, Member, 2007–2012

Mr. La Viña is a Philippine national. He is presently the dean of the Ateneo School of Government in the Philippines. Prior to this, he was a senior fellow and program director at the World Resources Institute in the United States, the undersecretary for legal and legislative affairs and attached agencies at the Department of Environment and Natural Resources in the Philippines, and a law professor at the University of the Philippines. He was a cofounder, trustee, researcher, and policy director for the Legal Rights and Natural Resources Center and Kasama sa Kalikasan—Friends of the Earth—in the Philippines.

Anne Deruyttere, Member, 2008–2013

Ms. Deruyttere is a citizen of Belgium with over 30 years of experience with social safeguard issues, indigenous peoples, community participation, and culture and development. Until 2007, she was the chief of the Indigenous Peoples and Community Development Unit at the Inter-American Development Bank where she coordinated the preparation of policies on involuntary resettlement and on indigenous issues. She holds graduate degrees in economics from the University of Louvain (Belgium) and in anthropology from Edinburgh University (United Kingdom). She is currently consulting with the World Bank Group, other international organizations, and the private sector.
The Role of the CRP

The CRP investigates whether harm alleged to have been suffered by project-affected people was caused by noncompliance with ADB operational policies and procedures and, if so, recommends remedial actions to the Board. CRP activities include receiving and registering requests for compliance review, assessing the eligibility of requests, preparing a plan to undertake a review of a particular request, undertaking the review, preparing reports that include recommendations and remedial measures to bring projects back into compliance, and monitoring the implementation of Board-approved remedial actions.

CRP activities are guided by five principles: (i) enhance ADB’s development effectiveness and project quality; (ii) be responsive to the concerns of project-affected people and be fair to all stakeholders; (iii) reflect the highest professional and technical standards in staff and operations; (iv) be independent and as transparent as possible; and (v) be cost effective, efficient, and complementary to other supervision, audit, quality control, and evaluation systems in ADB.

Requests for Compliance Review

Affected persons who have pursued solutions through the consultation phase may request that the CRP investigate ADB compliance. Such requests are based on allegations of direct, material harm caused by an ADB failure to comply with its own operational policies and procedures. If a request is eligible, the CRP will conduct an investigation as to whether any harm has been or may be caused by noncompliance and, if so, will recommend remedial actions to the Board of Directors.

Affected persons may request a compliance review in respect of both public sector projects and

The Office of the Compliance Review Panel (OCRP) provides secretariat support to the CRP and to the Board Compliance Review Committee. In addition, the OCRP has a mandate to carry out public outreach and information dissemination on the Accountability Mechanism in collaboration and partnership with the Office of the Special Project Facilitator.
private sector operations. The filing of a request for a compliance review does not suspend or otherwise affect the formulation, processing, or implementation of the project unless agreed to by the DMC government or private project sponsor and ADB.

Eligibility

A request for compliance review may be filed by any group of two or more persons in a borrowing country where the ADB-assisted project is located or in a member country adjacent to the borrowing country; by a local representative of the persons affected; by a nonlocal representative in exceptional cases where local representation cannot be found and the CRP agrees; or by any one or more members of the Board of Directors.

Requests for compliance review may be filed with the CRP only after concerns are first raised with ADB operations staff and after complaints are addressed to the Special Project Facilitator (SPF). If, however, the SPF finds the complaint ineligible, or if the complainants or requesters find the consultation not purposeful, or if the consultation is at an advanced stage and there are still concerns on compliance issues, a request for compliance review may be filed with the CRP. Any member of the Board may request the CRP to conduct a compliance review.

Exclusions

A request is eligible for compliance review provided it does not fall into any one of the following exclusions as stated in the CRP operating procedures (available at www.compliance.adb.org).

<table>
<thead>
<tr>
<th>List of Exclusions</th>
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<tbody>
<tr>
<td>Matters that are not related to ADB actions or omissions in the course of the formulation, processing, or implementation of ADB-assisted projects</td>
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<tr>
<td>Decisions made by ADB, the borrower, the executing agency, or the private project sponsor relating to procurement of goods and services, including consulting services</td>
</tr>
<tr>
<td>Allegations of fraud or corruption in ADB-assisted projects and by ADB staff</td>
</tr>
<tr>
<td>An ADB-assisted project for which a project completion report has been issued</td>
</tr>
<tr>
<td>Matters already considered under the previous inspection function or by the Compliance Review Panel unless there is significant new evidence presented that was not known at the time of the original complaint or unless the subsequent complaint can be readily consolidated with the earlier complaint</td>
</tr>
<tr>
<td>Matters about the adequacy or suitability of existing ADB policies and procedures</td>
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<tr>
<td>Matters considered to be frivolous, malicious, trivial, or generated to gain competitive advantage</td>
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<tr>
<td>Matters within the jurisdiction of the ADB Appeals Committee or the ADB Administrative Tribunal or relating to ADB personnel matters</td>
</tr>
<tr>
<td>ADB’s nonoperational housekeeping matters such as finance and administration</td>
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<tr>
<td>Actions that are the responsibility of other parties such as a borrower, executing agency, or potential borrower unless the conduct of these other parties is directly relevant to an assessment of ADB compliance with its operational policies and procedures</td>
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<tr>
<td>Matters that do not involve an action or omission by an ADB’s failure to follow its operational policies and procedures</td>
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<tr>
<td>Laws, policies, and regulations of the executing agency or the developing member country government concerned unless they directly relate to ADB compliance with its operational policies and procedures</td>
</tr>
<tr>
<td>Matters relating to a private sector project that received concept clearance before 29 May 2003</td>
</tr>
<tr>
<td>Complaints that have not first been filed with the Special Project Facilitator (this exclusion does not apply to a request from Board members)</td>
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Reporting Mandate

The CRP reports directly to the Board of Directors on all its activities except (i) clearing proposed terms of reference and time frames for conducting compliance reviews and (ii) reviewing draft reports on the annual monitoring of remedial actions approved by the Board as a result of a compliance review. In these two instances, the CRP reports to the Board Compliance Review Committee.

Monitoring Mandate

One of the most important activities of the CRP is to monitor the implementation of remedial actions to bring a project back into compliance as recommended by the CRP following a compliance review.

The CRP will report as frequently as required or at least annually for 5 years and discloses its monitoring reports to the public (on its website at www.compliance.adb.org).

Relationship with the Office of the Special Project Facilitator

Complaints relating to an ADB-assisted project under the Accountability Mechanism will first go through the consultation phase except those compliance requests filed by a Board member. Complaints handled by the OSPF do not address ADB accountability under the Accountability Mechanism. The reasons for this sequence appear to be as follows:

- the filing of complaints about a project is not necessarily contingent upon alleged noncompliance by ADB with its operational policies and procedures; and
- the objectives of the consultation phase are to deal with complaints from project-affected people and to facilitate the resolution of problems, whereas the objectives of the compliance review phase are to establish whether any direct and material harm is the result of an ADB failure to follow any of its operational policies and procedures in the formulation, processing, or implementation of the project.
About the Asian Development Bank

ADB’s vision is an Asia and Pacific region free of poverty. Its mission is to help its developing member countries reduce poverty and improve the quality of life of their people. Despite the region’s many successes, it remains home to two-thirds of the world’s poor: 1.8 billion people who live on less than $2 a day, with 903 million struggling on less than $1.25 a day. ADB is committed to reducing poverty through inclusive economic growth, environmentally sustainable growth, and regional integration.

Based in Manila, ADB is owned by 67 members, including 48 from the region. Its main instruments for helping its developing member countries are policy dialogue, loans, equity investments, guarantees, grants, and technical assistance.