

Asian Development Bank



ADB Accountability Mechanism

Compliance Review Panel

2006 Annual Report

March 2007

The ADB Accountability Mechanism

In May 2003, the ADB Board of Directors (Board) approved a new accountability mechanism to replace the ADB Inspection Function. The Accountability Mechanism aims to enhance ADB's development effectiveness by providing better access for people adversely affected by ADB-assisted projects to express their concerns and seek solutions to their problems and also report alleged violations of ADB's operational policies and procedures. The Mechanism has 2 separate but related components: a problem-solving role (the Consultation Phase) handled by the Special Project Facilitator (SPF) and an investigative role (the Compliance Review Phase) carried out by the Compliance Review Panel (CRP).

Under the Compliance Review Phase, people who are directly, materially and adversely affected by an ADB-assisted project in the course of its formulation, processing, or implementation can file a request for compliance review with the CRP. The Panel investigates whether the harm suffered by project-affected people is caused by ADB's non-compliance of its operational policies and procedures; and recommends to the Board remedial actions. The Panel is a 3-member independent body appointed by, and reporting to, the Board on all activities and specifically reports to the Board Compliance Review Committee, a standing Board committee of 6 members, to clear its terms of reference for a compliance review and to review its draft monitoring reports.

Compliance Review Panel Members and Secretariat

The CRP consists of a current full-time Chair and 2 part-time members. The Chair and the part-time members are serving 5, 4, and 3 years from 12 December 2003, respectively.

The Chair, **Augustinus Rumansara**, is an Indonesian national. Before joining the CRP, he worked with the private sector in Indonesia at BP (formerly British Petroleum) as Vice-President for Integrated Social Strategies. Prior to that, he worked for many years with civil society organizations from grassroots community groups to regional and international NGO advocacy networks. His work included facilitating advocacy activities of Indonesian NGOs with national and foreign governments, and multilateral development banks in promoting concerns for human rights, equity and justice, people's participation, good governance, sustainable development, and environment conservation.

Richard Bissell, a United States national, is an international economist currently serving as a senior executive with the National Academy of Sciences, Washington, DC. He has worked extensively in the past on enhancing community participation in development with the World Commission on Dams, the World Bank Inspection Panel, and the United States Agency for International Development.

Vitus Fernando, a Sri Lankan national, is currently working on a series of policy and institutional issues related to international development cooperation. He has held senior positions with a variety of multilateral and bilateral agencies, and at national level, with the Ministries of Planning and Economic Affairs; Fisheries; and Environment and Forests in Sri Lanka. He was the director of the Asia/Pacific Program of the International Union for Conservation of Nature. He completed his term in December 2006, and a new Panel member will be appointed in early 2007.

The members of the CRP secretariat, the Office of the Compliance Review Panel (OCR), are:

Suresh Nanwani	Associate Secretary, CRP and Officer-in-Charge, OCR
Marie Antoinette Virtucio	Compliance Coordination Officer
Josefina Miranda	Senior Compliance Program Assistant
Josephine Vargas	Executive Assistant.

For more information on the ADB Accountability Mechanism and the CRP, visit www.compliance.adb.org.

I. Introduction

This is the Annual Report of the Compliance Review Panel (CRP) prepared in accordance with paragraph 65 of the CRP's Operating Procedures for the period from 1 January to 31 December 2006.

II. Summary of Activities of the CRP and its Secretariat

In 2006, the CRP continued to monitor the implementation of the Board-approved remedial actions on the Southern Transport Development Project (STDP) in Sri Lanka and the Chashma Right Bank Irrigation Project (Stage III) [Chashma Project] in Pakistan, and issued annual monitoring reports in July and August, respectively.

Six new claims were received under the Mechanism in 2006. These were on the following projects: Chashma Right Bank Irrigation Project Stage III in Pakistan; Khulna-Jessore Drainage Rehabilitation Project in Bangladesh; Rural Electrification, Distribution and Transmission Project in Nepal; National Highway Development Sector Investment Program in Pakistan; Assam Power Sector Development Project in India; and Greater Mekong Subregion: Mekong Tourism Development Project in Viet Nam. No new request was received by the CRP in 2006.

The CRP met to discuss its 2005 Annual Report, its budget and workplan, and the schedule for its monitoring activities. Other activities of the CRP and its secretariat, the Office of the Compliance Review Panel (OCRCP), were outreach to civil society including local and international non-government organizations (NGOs); government officials from member countries; academe; and ADB personnel and interns at ADB's Headquarters and country offices. The Panel also had informational meetings with NGOs and civil society on updates on claims under the compliance review phase and to discuss potential requests. The Accountability Mechanism brochure was translated in 4 additional official/national languages of developing member countries (DMCs).

Ms. Rodora Galvez-Argente, Executive Assistant, and Mr. Rolf Zelius, Secretary, CRP and Head, OCRP, left OCRP in February and October. Mr. Vitus Fernando, part-time Panel member, completed his 3-year term in December. The search for his successor was launched in January 2007.

III. Monitoring of Board-Approved Remedial Actions

A. Chashma Right Bank Irrigation Project (Stage III) in Pakistan

In August 2004, the Board of Directors (Board) mandated the CRP to monitor the implementation by ADB of the Board's decision on the Chashma Project inspection, applying the relevant procedures of the Accountability Mechanism. In 2006, the CRP prepared its 2nd annual monitoring report on the implementation of the Board-approved remedial actions on the project.

The Chashma Project (Loan No. 1146-PAK [SF]), approved by the Board in December 1991, is the third phase of a scheme to irrigate 230,000 hectares (ha) of semiarid barren land in the North-West



Chashma main canal used by residents for washing clothes and bathing

Frontier Province and Punjab province by diverting water from the Indus river at the Chashma Barrage. The project is intended to provide irrigation and drainage facilities to about 135,000 ha of cultivable command area, increasing both crop and livestock production. A request for inspection on the project was received in November 2002 under the previous Inspection Function. The requesters claimed that ADB breached its operational policies and procedures resulting in material harm to project affectees which included project-induced flooding and involuntary resettlement; inadequate compensation for loss of land, other assets and livelihoods; adverse impacts on traditional *rod kohi* (spate irrigation system from hill torrent flood waters) farmers; design-related social and environmental problems; and lack of information sharing, consultation and participation of affected people.



Tail-end of a distributary with two lined watercourses and a third watercourse to be constructed in the Chashma project area

In August 2004, the Board considered the Board Inspection Committee's Report and Recommendation on the Request for Inspection and approved the recommendations of the Inspection Panel. *Box 1* summarizes the actions agreed to by the Government of Pakistan and ADB to implement the

Box 1: Summary of actions agreed to by the Government of Pakistan (GOP) and ADB to implement the Board-approved remedial actions on the Chashma Project in Pakistan

- Extend the loan closing date up to 30 June 2009 in order to utilize the remaining loan proceeds for the remedial actions.
- Implement the Grievance Redress and Settlement Committee (GRSC) recommendations according to actions agreed by GOP and ADB. The GRSC recommendations address concerns of project-affected people covering various matters including cash, land and other compensation; ensuring equity and reliability in canal irrigation; measures for protected villages prone to flooding; connecting to the Indus river the incomplete flood carrier channels which cause damage to the river belt communities; construction of incomplete tail watercourses; and institution of registered water rotation systems.
- The Environmental Management Plan will be implemented and the scope will be expanded to address issues of forest degradation, restricted access to grazing in previously unirrigated land and possible development of agro-industries.
- The loan will finance the Hill Torrent Management Plan (HTMP) which will be implemented by Punjab province, subject to approval of the plan by GOP and ADB. The HTMP, which involves the construction of flood dispersion and diversion structures, intends to reduce flood incidents in the alluvial fan areas and the Indus riverine area located in the upper and lower slope of the Chashma Project; and increase agricultural production in the alluvial fan area.
- All new construction works for the project will be carried out with adequate consultations and assessment of social and environmental impacts.
- Address project monitoring and evaluation by establishing an independent cell within Water and Power Development Authority and the Board of Revenue offices.
- Establish a complaint center under Chashma Right Bank Canal Office to address other complaints that may be raised by the people in the project area.

The detailed action plan with status of implementation is in the CRP's 2nd annual monitoring report of August 2006, available at www.compliance.adb.org.

Board-approved remedial actions. The CRP continued its monitoring and fielded a mission in June-July to check the progress on the implementation of remedial actions. The CRP submitted its 2nd annual monitoring report to the Board in August, after consultation with the Board Compliance Review Committee (BCRC). Box 2 summarizes the Panel's findings.

**Box 2: CRP's Findings in its 2nd Annual Monitoring Report of August 2006
on the Chashma Project in Pakistan**

The CRP finds that the momentum has picked up especially in the first half of 2006 on Management's efforts to achieve compliance with the project-specific recommendations. The CRP finds that little progress has been made by ADB in achieving compliance with the general recommendations. Overall, the CRP concludes that ADB's implementation of the remedial actions has resulted in limited progress in complying with the Board-approved remedial actions and bringing the project into compliance.

The spectrum of compliance status is as follows:

- Management has complied with the remedial actions on
 - most of the issues on payment of compensation
 - establishment of the complaint center to handle new complaints.
- Management has partially complied with the remedial actions on
 - Environmental Management Plan
 - Hill Torrent Management Plan
 - Remedial measures including those to address reduced transportation access due to canals
 - Monitoring and evaluation
 - Recommendations of the Grievance Redress and Settlement Committee (GRSC) on land and other non-cash compensation, improvement of irrigation water management, provision of land for landless in unprotected villages, land for landowners in flood impact zone, and incomplete watercourses
 - ADB ensuring that for ongoing and future large-scale irrigation projects, appropriate, reliable, transparent, and participatory mechanisms are in place, so that requirements under ADB's policy on involuntary resettlement and anticorruption policy can be carried out effectively.
- Management has not complied with the remedial actions on
 - Use of market value to determine amount of compensation in North West Frontier Province and payment of supplementary awards
 - Incomplete flood carrier channels
 - ADB ensuring that sufficient human resources are available to ensure a satisfactory level of support for implementation and monitoring of measures required under ADB's safeguard policies.

On Management's implementation of, and compliance with, the action plan agreed between the Government of Pakistan and ADB, the CRP finds that ADB has made significant efforts to meet the GRSC recommendations and other related measures but that circumstances have made it difficult or impossible to comply with all of these recommendations. The CRP finds that there is scope for ensuring compliance with a number of project-specific remedial actions and the Action Plan with the approval of the 7 PC-1s that have been prepared to implement the Action Plan and urges Management to follow up on these to expedite implementation. (PC-1 is Proforma 1 of the Planning Commission. The CRP understands that this planning document PC-1 is required for "development investment" such as an investment loan or grant funds leading to an investment loan project and that Pakistan's Executive Committee of the National Economic Council is the final approving authority for the PC-1.)

The CRP views Management's implementation of, and compliance with, the general remedial actions as unsatisfactory on the whole. Management's efforts in ensuring compliance with the general remedial actions have been carried out with a "business as usual" approach and are spartan in terms of providing concrete steps taken to address these matters.

B. Southern Transport Development Project in Sri Lanka

The STDP (Loan No. 1711-SRI [SF]) consists of a 128-km highway component, linking Colombo with Matara, the district capital of the south and a road safety component. The primary objectives of the project are to further the economic development of the southern region and to help reduce the high rate of road accidents.

The ADB loan was approved by the Board in November 1999 with a scheduled completion date of 31 December 2005. However, the loan was not declared effective until 30 October 2002 due to delays in complying with the conditions of loan effectiveness, in particular the submission of a satisfactory resettlement plan for the whole project. The STDP is currently under construction by the Road Development Authority (RDA) as the executing agency for the highway component. ADB and the Japan Bank for International Cooperation (JBIC) are funding separate sections of the highway and the JBIC-financed highway is also subject to ADB policy requirements, in particular land acquisition and resettlement, and environmental impact mitigation.



Ongoing construction in the ADB section of the STDP highway

RDA studied a trace called the "Original Trace" prior to ADB's involvement. Under an ADB-financed feasibility study, a so-called "Combined Trace" was suggested. At the time of Board approval, the "Combined Trace" was to be considered for preliminary and final design based on more detailed mapping. Since loan approval, the trace was changed to what is now called the "Final Trace", inter alia, to accommodate comments of the Central Environmental Agency of Sri Lanka. This change is one of the main reasons for the request.

In December 2004, the CRP received a request for compliance review from the Joint Organization of the Affected Communities on the Colombo-Matara Highway representing 25 requesters living in the project area.

The requesters claimed that the ADB President's Report and Recommendation to the Board and its attached documentation were for a trace known as the Combined Trace (CT). The requesters claimed that at least 40% of the CT has been altered by RDA to a trace known as the Final Trace (FT) for which the required studies and consultations have not been done according to ADB policies. The requesters claimed to be suffering from harm as a result of non-compliance by ADB of its operational policies and



CRP mission discussing with STDP project affectees in Akmeemana

procedures under the Project as follows: loss of homes; loss of livelihoods; damage to the environment; degradation to wetlands; dispersion of integrated communities; damage to 5 temples; negative effects of resettlement; and human rights violations. The CRP found the request eligible and the Board authorized investigation. CRP investigated the request and recommended remedial actions in its Final Report of July 2005, which the Board accepted and approved in August 2005.

ADB Management prepared the course of action (CA) to implement the remedial actions on the project in consultation with the Government of Sri Lanka, and sought the views of the requesters on the recommendations applicable to them. The CA was finalized by ADB Management when it presented its February 2006 progress report to the Panel. The CRP commenced monitoring of ADB Management's implementation of the Board-approved recommendations and carried out its first monitoring mission to Sri Lanka in May-June 2006. The mission included visits to resettlement sites and along the highway, as well as meetings and interviews with ADB staff and consultants, government, JBIC, requesters, project affectees, and an NGO. *Box 3* summarizes the Panel's findings.

**Box 3: Findings of the CRP's 1st Annual Monitoring Report of July 2006
on the Southern Transport Development Project in Sri Lanka**

The CRP finds that ADB's implementation of the Board-approved general and project-specific recommendations has resulted in some progress and in bringing the project into compliance. The spectrum of compliance status is as follows:

- Management has complied with developing a course of action for the general and specific recommendations, and with the specific recommendation on updating the project information document on the ADB website.
- Management has partially complied with the specific recommendations on environmental impact assessment, gender, provision of full information on resettlement implementation plan to affected households, and resettlement activities.
- Management has not complied with the specific recommendations relating to the environmental management plan, cofinancing arrangements, full compensation by actual payment to affected persons before they are moved, change of project scope, income restoration, and benefit monitoring and evaluation; and the general recommendations covering a review of selected road projects on whether changes of scope make application of environmental and resettlement policies more difficult, a review of selected projects on whether cofinancing arrangements have a damaging effect on policy compliance for the whole project, and the development of additional staff guidance in ADB's *Resettlement Handbook* of 1998.

The Panel notes that on the specific recommendation requiring full compensation by actual payment to affected persons before they are moved, the possibility of compliance has been overtaken by events, but there has been an impressive reorientation of the Government of Sri Lanka and the Road Development Authority in particular in how to deal with the issues of compensation and resettlement. Clearly, progress was achieved and lessons have hopefully been learned by ADB for future projects in Sri Lanka and other borrowing countries.

At the same time, some of the affected people remain dissatisfied with specific impacts of the project. There are many potential reasons for these objections, ranging from highly specific issues such as construction-related cracks in buildings to broad anxieties related to the disruption of cultural norms such as the integrity of extended families in landholdings of historical significance.

The Panel is concerned about allegations of discrimination to affected people for having filed claims with the Accountability Mechanism. The Panel cannot confirm these allegations, but the Panel hopes that all stakeholders in the project are equally committed to transparency and participation, with full redress of valid complaints. It has been important, in the monitoring process, to ensure that as many different views of affected people have been represented. The CRP will continue to be inclusive in engaging all parties, including affected people, whether requesters or not, in carrying out its activities.

IV. Outreach

Outreach activities (*Box 4*) were conducted to disseminate information on the Accountability Mechanism and the compliance review phase; provide information on the Panel's monitoring of Management's implementation of the remedial actions on the Chashma Project and the STDP; and respond to queries on the Accountability Mechanism, and Panel operations and activities.

The CRP and Secretariat conducted briefing sessions for government officials; NGOs; and staff in the ADB's Resident Mission in Papua New Guinea, Japanese Representative Office in Tokyo, and Pacific

Box 4: Highlights of Outreach Activities in 2006

9 February	ADB Papua New Guinea Resident Mission - Briefing for government officials, NGOs and ADB staff
23 March	Presentation on "Trends and Challenges in Accountability Mechanisms of Multilateral Development Banks" at the College of Law, University of the Philippines
29 May	Briefing for members of ADB External Forum on Gender and Development
25 August	Briefing for ADB interns
29 August and 7 November	Briefings for staff and interns from NGO Forum on ADB
7 September	Presentation on "Trends and Challenges in Accountability Mechanisms of Multilateral Development Banks" at the University of Melbourne
8 September	Presentation on "Trends and Challenges in Accountability Mechanisms of Multilateral Development Banks" for Oxfam personnel and other civil society members in Melbourne, Australia
11 September	Presentation on "Trends and Challenges in Accountability Mechanisms of Multilateral Development Banks" for the Australian Council for International Development and other NGOs in Sydney, Australia
12 September	Presentation on "Listening to People and Fixing Problem Projects in MDBs" for faculty and students at the University of Sydney
21 September	Presentation during ADB's orientation program for government officials from developing member countries
19 October	Presentation on "ADB Accountability – Overview and Cases Handled by the CRP" at the University of Tokyo
19 October	Briefing at ADB Japanese Representative Office, Tokyo for NGOs and ADB personnel
21 November	Presentations on "ADB Accountability Mechanism: Overview and Cases Handled by the Panel" and "Why Compliance Review Mechanisms" at the African Development Bank to its Board of Directors, Management and staff

Liaison Coordination Office in Sydney. Two orientation sessions were also held for interns of the NGO Forum on ADB from Azerbaijan, Kyrgyz Republic, and Uzbekistan. Orientation sessions were also held in ADB Headquarters for members of ADB External Forum on Gender and Development, DMC officials, and ADB interns. The Secretary, CRP attended the ADB's 39th Annual Meeting in Hyderabad, India and met with participants including government officials and civil society. Meetings were also held in ADB's Headquarters and country offices with civil society on matters relating to the Mechanism and potential requests. The CRP also had meetings with Board members, and ADB Management and staff on various matters relating to CRP's mandate and activities during the year.



CRP presentation at University of Tokyo attended by faculty and students from several universities; and officials from JBIC and Japan International Cooperation Agency

CRP members and its secretariat attended the 3rd Meeting of Accountability Mechanisms hosted by the North American Commission for Environmental Cooperation in Montreal, Canada. Mr. Nanwani, together with Mr. Rumansara in several events, made presentations on trends and challenges of accountability mechanisms at multilateral development banks to civil society, government officials, academe, and organizations in the Philippines, Australia, and Japan.

The Accountability Mechanism information brochure was translated into 4 additional DMC languages – Dari, Mongolian, Tok Pisin, and Uzbek. Draft translations of the information brochure were provided to members of NGOs and civil society, as well as ADB personnel, for comments to improve their quality and readability to the general public. Translations of the information brochure to other official or national languages of DMCs are available in Bahasa Indonesia, Bangla, Chinese, Hindi, Khmer, Lao, Nepali, Pilipino, Russian, Sinhala, Tamil, Urdu, and Vietnamese. The CRP Operating Procedures is also translated in 12 languages – Bahasa Indonesia, Bangla, Chinese, Hindi, Khmer, Lao, Nepali, Russian, Sinhala, Tamil, Urdu, and Vietnamese. The translations are available at ADB's Headquarters and country offices, and can be downloaded from the Panel website.



CRP Chair A. Rumansara (left) discussing with Oxfam Australia personnel

The CRP website is the Panel's primary information dissemination tool. The website was enhanced and re-launched in April, and registered more than 29,000 visits in 2006.

V. Lessons Learned

The Panel considers an important part of its function to distill useful lessons from the overall flow of activities at the CRP for use by ADB in reducing the causes of future complaints and improving the effectiveness of the Accountability Mechanism. In 2006, with much of the Panel's time devoted to monitoring the implementation of remedial actions approved by the Board, the Panel finds it useful to consider the following issues:

1. The value of monitoring the implementation of remedial actions appears to be greater in the earlier stages of overall project execution. The Panel finds that some actions approved by the Board, while appropriate in bringing a project into compliance with the stated policies of ADB, are in fact overtaken by completion of major elements of the project. For instance, baseline surveys of family income and welfare, if not obtained in advance of the project implementation, simply cannot be undertaken with any rigor after the project has been physically completed. In such cases, the value of reviewing such specific actions lies more with regard to tightening up design criteria in subsequent projects.
2. The distinctive roles of Management and the CRP are sometimes muddled in the process of monitoring, and it remains important to emphasize their differences. The CRP is focused simply on assessing the implementation of remedial actions determined by the Board to bring the project into compliance with ADB policies. The supervision of the project has been, and continues to be, the focus for Management. This distinction needs to be communicated clearly to borrowers and executing agencies, so they do not see the CRP as simply an additional layer of supervision. If anything, experience to date shows that Management's active supervisory role increases as a result of the Board's decision on remedial actions following the outcome of the Panel's recommendations.

VI. Budget

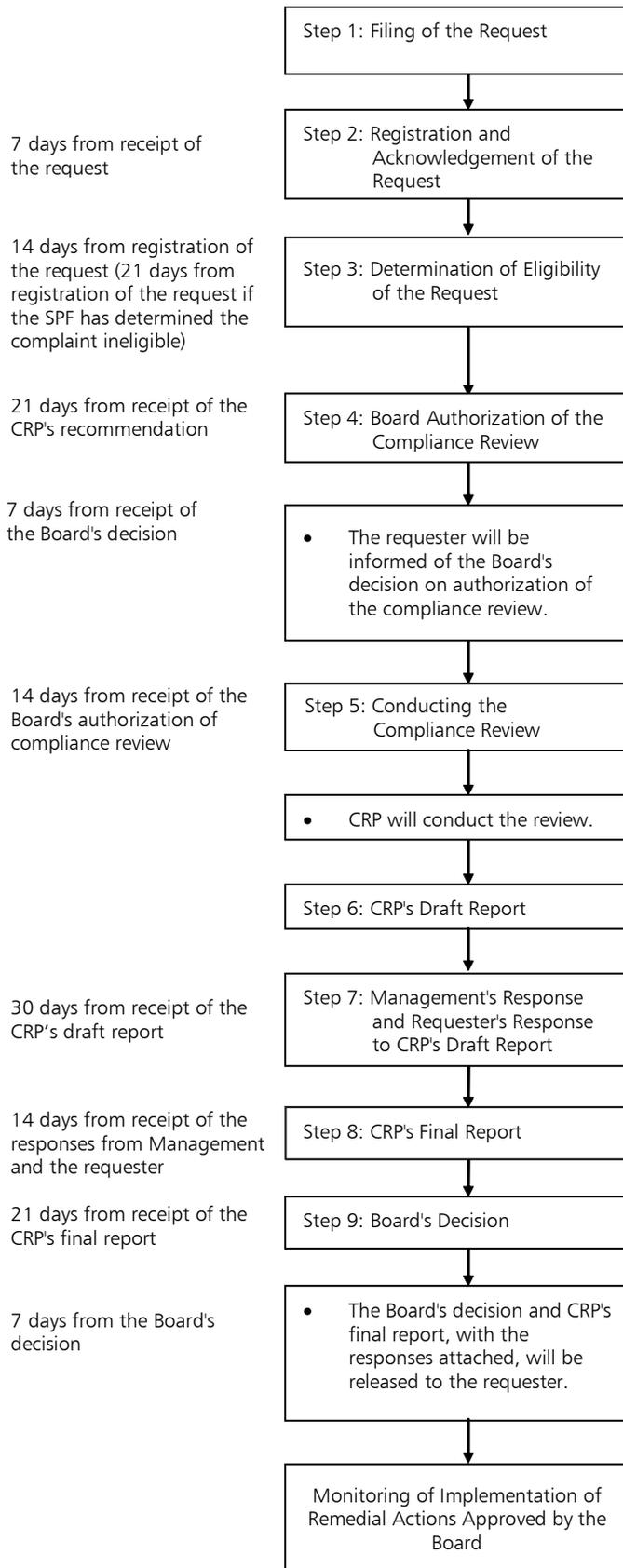
The CRP and its secretariat incurred a total of US\$813,940 for the following: the Chashma Project monitoring mandate; STDP monitoring; CRP meetings; outreach activities; and translation of information brochure and the CRP Operating Procedures.



A. Rumansara

Augustinus Rumansara
Chair, Compliance Review Panel
12 March 2007

The Compliance Review Process



When to file a request?

- Under the ADB Accountability Mechanism, claimants need to first file a complaint with the Special Project Facilitator.
- Claimants can then file a request if the complaint is found ineligible, if they are not satisfied with the consultation process, or if the consultation is at advanced stage and there are serious concerns on compliance issues.

Who can file a request?

- any group of two or more people (such as an organization, association, society, or other grouping of individuals) in a borrowing country where an ADB-assisted project is located or in a member country adjacent to the borrowing country
- a local representative of the affected group
- a nonlocal representative, in exceptional cases where local representation cannot be found and the CRP agrees
- any one or more members of the Board after raising their concerns first with ADB Management, in special cases involving allegations of serious violations of ADB's operational policies and procedures relating to an ongoing ADB-assisted project.

How to file a request?

- **In writing:** A request must be made in writing and sent to the Secretary, Compliance Review Panel by mail, facsimile, or electronic mail, or be hand delivered to the ADB Headquarters in Manila or to any ADB resident mission or representative office.
- **Language:** A request may be submitted in English or in any of the official or national languages of ADB's developing member countries, if the requester is unable to provide an English translation.
- **Identity:** The identity of the requester will be kept confidential if requested, but anonymous complaints will not be accepted.

Compliance Review Panel

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