

23 September 2010

To

Ann Quon
Principal Director
Department of External Relation
Asian Development Bank (ADB)

Dear Ms. Quon,

We are writing to convey our observations on the country consultations as the ADB Review Team prepares its second draft of the Public Communications Policy (PCP) as part of the PCP review process, as well as to reiterate in summary our key positions and demands.

We sent you a letter previously expressing serious concerns about the willingness of the ADB to respond to people's concerns over the PCP. We note that no substantial changes were introduced in the first draft of the new PCP released in June, despite the fact that the NGO Forum on ADB (NGO Forum) and the Global Transparency Initiative (GTI) had made substantive comments and recommendations in their joint submission "**Bold Measures Towards a Responsive PCP**", along with their respective individual submissions. Your response, conveyed through a meeting with Ms. Delphine Roch, was that you were waiting for other comments in the country consultations. In addition, during at least one of the consultations, you described the existing draft as a "zero draft" which had been written without utilizing the substantive input made to date and provided assurances that the next draft would reflect the significant amount of input provided by civil society.

We thus welcome the website posting of the summaries of results of the in-country consultations. We note, however, that the in-country consultations summaries fail to give any indication of negative comments on the consultation process. Members of the NGO Forum who attended the consultations in Cambodia, Tajikistan, Bangladesh, Indonesia and the United States reported issues in the preparation and running of the consultations. For example, the Khmer translation of the consultation document was posted on the website only one working day prior to the consultation. Most participants in the consultation in Jakarta received the Bahasa Indonesia version only two days before the consultation. The Resident Missions invited representatives of organizations that were not familiar with ADB and the PCP itself. Furthermore, interventions by the members of the Resident Mission and representatives of respective government, and the method of asking participants one-by-one instead of allowing group discussion, discouraged affected communities from freely speaking out. In the United States, Forum members well known to the ADB who had engaged for years in the Safeguard Policy Statement (SPS) review process were not placed on the initial invitation list circulated by the ADB. It was only a few days prior to the US consultation that one NGO, which had been invited sent notice to other groups involved in ADB campaigns who then invited themselves to the consultation.

Still, as you will observe, the results reported in the summaries largely confirm the key concerns raised in the Joint Submission, particularly regarding serious problems of access to information by people and communities directly affected by ADB projects, exceptions to the right of access, and the appeals mechanism.

We call on you to make good your commitment to respond positively to concerns raised not just by affected communities and public interest organizations, but also by other stakeholders represented in the consultations. Substantive changes will need to be introduced in the second draft for the PCP review process to be considered an earnest and good faith reform effort.

The most critical change needed is the correction of the PCP's bias against access to information by affected people. You have repeatedly told us that this is merely an implementation issue. We strongly

disagree. The consultations themselves vindicate our assertion that the problem lies in the soft commitment of the PCP to providing effective, adequate and timely information to affected people.

The second draft PCP should set out a clear commitment on the part of the ADB to provide information to communities affected by ADB projects in a manner and format accessible to them. The onus of disclosure should fall on the ADB and not on borrowing countries that often lack the capacity to disseminate information.

Information about projects, such as facts, data and statistics, should be made available to affected communities at the very first stages of project planning and not just during the implementation phase. Information for affected people should not only be provided through the ADB website. Other communication tools which are suitable for use in affected communities that do not have access to electricity, let alone the Internet, should be developed.

Public information centers for the project or program should be located within the community, such as at a public school or local government office. These should be gender sensitive and responsive. They should have complete copies of draft and final documents in a language and format accessible to project-affected people. It is not enough to provide short “summaries” of important environmental and social assessments.

There should be simultaneous disclosure of documents, whereby affected people and the public in general should have access to documents at the same time as the Board (in addition to those already made public prior to Board hearings).

We have made the specific recommendation, and this has been affirmed in the consultations, that the joint development of communication plans should be made an express and mandatory requirement for all ADB assisted projects and programs. The communication plan should form an integral part of publicly available preparatory project documents. The PCP should specify the minimum information that communication plans must contain, specifically: (a) the communication strategy appropriate for the project or program; (b) the mechanism for effective public notice; (c) the designation of information centers; (d) the complete and timely information to be made available; (e) the key information that should be produced or translated in accessible language and form; and (f) the reporting and monitoring of implementation of the communication plan. These elements should be made legally binding through contracts, partnership agreements and other legal documents between the ADB and implementing agencies.

Regarding exceptions, the policy should follow through on its stated promise of maximum public disclosure. All exceptions should adhere to strict specifications of harm, and allow for an override upon a showing of greater public interest in disclosure. We reiterate our comments, again affirmed by various stakeholders, that exceptions that do not embody any harm test, such as those referring to private legal agreements, contractual confidentialities, and co-financing, should be revised or deleted. In revising its exceptions, the ADB should look to progressive national laws and standards.

The ADB’s commitment to provide reasons when information in a document is removed on grounds of confidentiality, and to provide the reasons why a request has been denied, should be made more definite by requiring a clear statement of the legitimate aim or interest sought to be protected, and the facts and circumstances that demonstrate the substantial harm to, or the frustration of, the legitimate aim or interest that will result from the disclosure of the information.

ADB should look to advanced national laws and standards for exceptions and harm determinations for disclosure decisions

Information on each sub-project for financial intermediaries should be made public and the disclosure requirements for the private and public sectors should be the same. Operation manuals and handbooks should be made public in draft form and circulated for public comment.

Regarding appeals, we reiterate *our* demand, affirmed *repeatedly* in the country consultations, for an independent mechanism/body.

Finally, we also note other comments/recommendations that have surfaced in the consultations:

- The proposed change of terminology from public and private sector to sovereign and non-sovereign in the first draft PCP only creates confusion.
- Transcripts of Board meetings should be made available and Board meetings should be open. Furthermore, all Executive Director statements to the Board of Directors should be made public and should include the name and country of the Executive Director
- Where redactions are necessary, the ADB should black out omitted text so that readers are aware of the redaction, rather than create a shortened version of the document. Private sector documents should be redacted in the same manner as public documents, to allow the public to see how much material has been cut and from which sections of the documents.

To conclude, we signatories call on the ADB to make the necessary amendments to the PCP to bring it into line with the right to information. This is necessary to demonstrate good faith engagement with the various stakeholders who have participated in the PCP review process and to respect fundamental human rights. It is also necessary to enable effective, participatory projects by the ADB, in line with its mandate as a development bank.

Name of Civil Society Organization, Peoples Organization, NGOs and Individuals

1. Hemantha Withanage, Centre for Environmental Justice, Sri Lanka
2. Princes Nemenzo, Woman Health Philippines, Philippines
3. Joanna Levitt, International Accountability Project, USA
4. Risma Umar, Solidaritas Perempuan, Indonesia
5. Bakhadur Khabibov, Consumers Union of Tajikistan
6. Norman Jiwan, Sawit Watch, Indonesia
7. Nila Ardhanie, Armta Institute for Water Literacy, Indonesia
8. Urantsooj Gombosuren, CHRD, Mongolia
9. Urantukhuur Gombosuren, National Forum on Development Effectiveness and Food Coalition, Mongolia
10. Jelson Garcia, Bank Information Center (BIC), USA
11. Ravindrantah, River Volunteer Center, India
12. Wilfred Decosta, Indian Social Action Forum (INSAF), India
13. Yuki Tanabe, JACSES, Japan
14. Lan Anh Phan, Vietnam River Network, Viet Nam
15. Water and Energy Users' Federation-Nepal (WAFED), Nepal
16. Bridges Across Borders Cambodia- Cambodia
17. Gautam Bandyopadhyay, Nadi Ghati Morcha, Chhattigarh, India
18. Ranjan Panda, Water Initiative Orissa, India.
19. Rosalyn Hoppe, ADB-Project, Asia Foundation, Essen, Germany
20. Diana Galtom, debtWATCH Indonesia, Indonesia
21. Arimbi, Environmental Law Alliance Worldwide (ELAW) Indonesia, Indonesia.
22. Silva Vardanyan, NGO “Zartonk - 89”, Armenia
23. Makenbaeva Burul, NGO “Mental Health and Society”, Kyrgyzstan
24. Kalicha Umuralieva, NGO "Our Rights" Kyrgyzstan
25. Sergey Vorsin, NGO “Tarrakiet”, Tajikistan
26. Janaka Withanage, Greens Movement, Sri Lanka
27. Kazi Zaved Khalid Pasha Joy, Initiative for Right View (IRV), Bangladesh
28. Sreedhar Ramamurthy, Environics Trust, India
29. Kay Leak, CDCam, Cambodia
30. Sok Sokhom, CNRO, Cambodia
31. Chinara Aitbaeva, Youth movement “Nash Vek”, Kyrgyzstan.
32. Ulan Naamatbekov, NGO “Bugu Maral”, Kyrgyzstan
33. KABANI, Kerala, India
34. Nizam Baloch, Center For Peace and Civil Society, Karachi, Pakistan
35. Guman Singh, Himalayan Neeti Abhiyan, India
36. Gururaja Budhya, Urban Research Centre, Bangalore, India.

37. Baurjan Issaliev, National Analytical Informational Resource, Kazakhstan
38. Benny D. Setianto, MAREM (Masyarakat Reksa Bumi-Society for Caring the Earth), Indonesia.
39. Isagani Serrano, Philippine Rural Reconstruction Movement, Philippines
40. Stephanie Fried, Ulu Foundation, Hawaii, USA
41. Ms. Arze Glipo, Integrated Rural Development Foundation, Philippines.
42. M Raghava, NGO Task Force on ADB, Mangalore, India.
43. Vidya Dinkar, Citizens Forum for Mangalore Development, Mangalore, India.
44. Prabin Man Singh, Collective Initiative for Research and Action, Nepal,
45. Saodat Saidnazarova, Civil Society Support Center Kalam, Tajikistan.
46. Shaktiman Ghosh, National Hawker Federation, India.
47. Souparna Lahiri, National Forum of Forest People & Forest Workers, India.
48. Asel Kuttubaeva, Center “Interbilim”, Kyrgyzstan
49. Dang Ngoc Quang, Rural Development Services Centre, Viet Nam.
50. Zohra Andi Baso, Yayasan lembaga Konsumen Sulawesi Selatan, Indonesia.
51. Yusuf Tallama, Yayasan Pengembangan Studi Hukum dan Kebijakan, Kendari, Indonesia
52. Aflina Mustafainah, Koalisi Perempuan Indonesia Wil Sulsel, Makassar Indonesia
53. Mierna Lukman S.Sos, Yayasan Pemberdayaan Perempuan & Masyarakat Adat, Sulawesi Tengah (YPPMA-ST), Indonesia
54. M. Nizar Abdurrani, Walhi Aceh, Indonesia
55. Donna Swita, Solidaritas Perempuan Bungoeng Jeumpa Aceh, Indonesia
56. Nurul Hidayah, Solidaritas Perempuan Bojonegoro, Indonesia
57. Hikmah Diniah, Solidaritas Perempuan Kinasih-Yogyakarta, Indonesia
58. Solidaritas Perempuan Kendari, Indonesia
59. Solidaritas Perempuan Sumbawa, Indonesia
60. Yuni Riawati, Solidaritas Perempuan Mataram, Indonesia
61. Forum Pemerhati Masalah Perempuan Sulawesi Selatan, Indonesia
62. Yayasan Masagena, Makassar, Indonesia
63. Yayasan Bontolangkasn, Makassar, Indonesia
64. FIK ORNOP, Makassar, Indonesia
65. Jari Celebes Raya, Makassar, Indonesia
66. LPKM Sulawesi Selatan Barat, Indonesia
67. LBH APIK Sulawesi Selatan, Makassar, Indonesia
68. YKPM SAP Sulawesi Selatan, Makassar, Indonesia
69. Yayasan Lembaga Bantuan Hukum Sulsel, Indonesia
70. YASMIB Sulawesi Selatan Barat, Indonesia
71. Lembaga Bantuan Hukum Makassar, Indonesia
72. Yayasan Lembaga Bantuan Hukum Makassar , Indonesia
73. Jari Borneo, Makassar, Indonesia
74. Perkumpulan Bumi Sawerigading Luwu, Sulsel, Indonesia
75. Hijrah Lahaling, Ijho, Makassar, Indonesia
76. Koesnadi Wirasapoetra, Serekat Hijau Indonesia, Indonesia
77. Hariansyah Usman, Walhi Riau, Indonesia
78. Zainuri Hasyim, Yayasan Mitra Insani, Riau, Indonesia
79. Daud Pateda, LSM Sahabat Alam, Gorontalo, Indonesia
80. Dilorom Atabaeva, NGO “Consortium of Initiatives”, Tajikistan
81. Rustam Murzakhanov, NGO Environmental Law Center “Armon” , Uzbekistan
82. Svetlana Koshelekova, NGO “Taraz Press Club”, Kazakhstan
83. Jessica Rosien, Oxfam Australia, Australia
84. Pol Vandevoort, 11.11.11- Coalition of the Flemish North-South Movement Belgium
85. Olexi Pasyuk, CEE Bankwatch Network, Ukraine.
86. Dr. Andreas Missbach, Berne Declaration, Switzerland
87. Omi Royandoyan, Centro Saka, Inc, Philippines
88. Regine Richter, Urgewald, Germany.
89. Damien Ase, Center for Environmental Law & Community Rights Inc. (CELCOR)/FOE, Papua New Guinea
90. Dayamnai Barla, Adivasi Moolvasi Asista Raksha Manch, Jharkhand, India.
91. Jameela Nishat, Shaheen – Women's Voice, Hyderabad, Andhra Pradesh, India.
92. Shiamala Baby, Forum for Women’s Rights & Development, Chennai, Tamil Nadu

93. Vijay Kumar, Himalaya Swarj Abhiya, Almora, Uttarakhand
94. Ram Arya, Bheel Khand Rajya Morcha, Udaipur, Rajasthan, India
95. Tej Kumar, ashtriya Kisan Morcha, Sriganganagar, Rajasthan, India
96. Ingraj Azad, Ma Mati Mahila Manch, Nayagarh, Orissa, India.
97. Prashant Paikray, POSCO Pratirodh Sangram Samiti, Bhubaneswar, Orissa, India
98. Dharendra Panda, Centre for Sustainable-use of Natural and Social Resources, Orissa, India
99. Roy David, COORG Organisation for Rural Development, Karnataka, India
100. Raghu Tiwari, Uttarakhand Nadi Ghati Bacho Abhiyan, Almora, Uttarakhand, India
101. Dr. Saroop Dhruv, Samvedan, Ahmedabad, India
102. Vijaya Kumari, Dalit Women Forum, Secunderabad, Andhra Pradesh, India
103. Shubangi Meshram, Ghar Rojgar Bachao Sangharsh Samiti, Nagpur, Maharashtra, India
104. Irfan Ahmed, LOK MANCH, Aurangabad, Bihar, India
105. Hiren Gandhi, DARSHAN, Ahmedabad, Gujarat, India
106. Nurhidayat Moenir, JKPP, Indonesia
107. Tandiono Bawor Purbaya, PHR HuMA, Indonesia
108. Sujarni Alloy, Pengurus Wilayah AMAN Kalimantan Barat, Indonesia
109. Iwan Nurdin- KPA, Indonesia
110. KELOPAK, Bengkulu, Indonesia
111. Dadang Sudardja, Aliansi Rakyat untuk Citarum, Indonesia
112. Sapei Rusin, PERGERAKAN, Indonesia
113. Ichwanto M. Nuch, TPP Lampung, Indonesia
114. Herry Naif, WALHI Nusa Tenggara Timur, Indonesia
115. Muhammad Juaini, WALHI Nusa Tenggara Barat, Indonesia
116. Taufiqul Mujib, IHCS, Indonesia
117. Jes Putra Kluet, Yayasan Peduli Nanggroe Atjeh, Indonesia
118. Yasir Al Fatah, PW AMAN Kalimantan Selatan, Indonesia
119. Fatra Budiyanto, Aliansi Masyarakat Adat Riau, Indonesia
120. Hamong Santono, KRuHA, Indonesia
121. Fabby Tumiwa, IESR, Indonesia
122. Ranti, WALHI, Indonesia
123. Erasmus Cahyadi, Pengurus Besar AMAN Jakarta, Indonesia
124. Itan, Mitra LH, Kalimantan Tengah, Indonesia
125. Y. L. Franky, Yayasan PUSAKA, Jakarta, Indonesia
126. Firdaus Cahyadi, Yayasan Satudunia, Indonesia
127. Red Constantino, iCSC, Philippines.
128. Dana Yermolyonok, Center for Introduction of New Environmentally Safe Technologies (CINEST), Karaganda, Kazakhstan.
129. Adema Iliysova, NGO "Otandastar", Kazakhstan
130. Mairam Tilebalieva, NGO "Darshaiym", Kyrgyzstan
131. Kamo Safrayyan, Eco-Sis NGO, Syunik Region, Armenia
132. Mary Ann Manahan, Focus on the Global South, Thailand, Philippines and India.
133. Ouch Leng, ADHOC, Cambodia
134. A Sisah, NGO Forum on Cambodia, Cambodia
135. Khatri, CMDP, Cambodia
136. Am Sokha, CLEC, Cambodia
137. Phun Siphon, DPA, Cambodia
138. Iv Bonnaka, HFHI-C, Cambodia
139. Say Sokheng, LICADHO, Cambodia
140. Kong Kosal, RUFA, Cambodia
141. Ean Karona Lumning, UNCOHR, Cambodia
142. Bin Saroeung, Vigilance, Cambodia
143. Men Monisothe, World Vision Cambodia (WVC), Cambodia
144. Try Chhoun, ADHOC (Kampot), Cambodia
145. Phum Phavat, CACA Network, Cambodia
146. Noun Ry, KKR/ CHRAC, Cambodia
147. Saeed Baloch, Pakistan Fisherfolk Forum, Karachi, Pakistan
148. Arifsyah, M. Nasution, Jaringan KUALA, Banda Aceh, Indonesia
149. Yayasan Pemantau Hak Anak, Indonesia

150. Sri Surani, Forum LSM Daerah Istimewa Yogyakarta, Indonesia
151. Hasan Mehedi, Humanitywatch, Bangladesh
152. Global Transparency Initiative
153. Institute for Freedom of Information, Philippines
154. Action for Economic Reforms, Philippines
155. Centre for Law and Democracy, Canada
156. M. Yulfan, Komunitas Masysrakat Bersatu Leupung-Lhok Nga, Indonesia
157. Abdillah Nasution, Karst Aceh, Indonesia
158. Ahmed Swapan Mahmud, VOICE, Bangladesh.
159. Sajjad Ansari, ISOL, Jamalpur, Bangladesh.
160. Mohiuddin Akbar Mithu, KORMI, Pabna, Bangladesh.
161. Sahadat Hossain, USS, Gaibandha, Bangladesh.
162. Kajal Korayeshy, Brammapurta Society, Mymensingh, Bangladesh
163. Sirajud Dahar Khan, INTERACTION, Dhaka, Bangladesh.
164. Brahamaputra Society, Bangladesh
165. Aid Accountability Group, Bangladesh
166. Antonio Tricarico, CRBM, Italy
167. Nuria Molina-Gallart, European Network on Debt and Development (Eurodad), the Netherlands

Individuals:

1. Tini Sastra, Yogyakarta, Indonesia
2. Wahida Rustam, Makassar, Indonesia
3. Irfan Zamzami, Semarang, Indonesia
4. Anna Marsiana, Yogyakarta, Indonesia
5. Rini Astuti, Manchester, United Kingdom
6. Agnes Ilagan, Manila, Philippines
7. Seting Beraan, Kalimantan Timur, Indonesia
8. Ade Herlina Haris, Jakarta, Indonesia,
9. Tutik Purwaningsih, Yogyakarta, Indonesia
10. Vernanda Hesti W, Yogyakarta, Indonesia
11. Anik Suswanti, Yogyakarta, Indonesia
12. Andi Susanto, Yogyakarta, Indonesia
13. Sagita Evi, Yogyakarta, Indonesia
14. Unnay Juangsih, Yogyakarta, Indonesia
15. Alamsyah Hutasuhut, Yogyakarta, Indonesia
16. Iwan Fathoni, Yogyakarta, Indonesia
17. Thaufiek Zulbahary, Jakarta, Indonesia
18. Sarifain, Kendari, Indonesia
19. Hariani, Banda Aceh, Indonesia
20. Murtiningsih, Bojonegoro, Indonesia
21. Nilna Maidah, Bojonegoro, Indonesia
22. Anis Khoirun'nisa, Bojonegoro, Indonesia
23. Sri Wahyuni, Bojonegoro, Indonesia
24. Indra Susetyaningih, Bojonegoro, Indonesia
25. Zumrotunnisa', Bojonegoro, Indonesia
26. Laely Mubarakah, Bojonegoro, Indonesia
27. Richard Mohapatra, Senior poverty and environment Writer, India
28. Jitendra Verma, Senior Correspondent, India
29. Siti Badriyah, Indonesia
30. Musfarayani, Indonesia
31. Midaria Novawanty, Indonesia
32. Saroj Kumar Pattnaik, Journalist, India.
33. Arum Rumiya Adzkar Ahsinin, Indonesia
34. Sutji Shinto, Indonesia
35. Laely Mubarakah, Bojonegoro, Indonesia
36. Rosnidar Puteh, Banda Aceh, Indonesia

37. Andriyeni, Padang, Indonesia
38. Beckie Malay, Manila, Philippines
39. Chong Ten Yeen, Singapore
40. Suraiya Kamaruzzaman, Banda Aceh, Indonesia
41. Tonggo Manurung, Banda Aceh, Indonesia
42. Aryos Nivada, Banda Aceh, Indonesia
43. Puspita, Yogyakarta, Indonesia
44. Heri, Yogyakarta, Indonesia
45. Iwan, Yogyakarta, Indonesia
46. Aji Prasetya, Yogyakarta, Indonesia
47. Salma Safitri Rahayaan, Batu-Malang, Indonesia
48. Della, Banda Aceh, Indonesia
49. Agus Halim Wardana, Banda Aceh, Indonesia

CC: Rajat Nag (Managing Director General), Delphine Roch (Public Information and Disclosure Unit)
