

**Comments on the Revision of ADB Public Communication Policy (PCP)**  
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**1. Revision Process**

Topics	Suggestions	Rationales
<b>List of Documents</b>	List of documents produced and possessed by ADB under the current PCP should be made available to the public before disclosure of the 1 <sup>st</sup> draft.	<ul style="list-style-type: none"> <li>➤ ADB made a list of “Operational Documents produced by ADB and their disclosure under the draft Public Communication Policy.” (See Page 61, Appendix 4, Working Paper, PCP) However, this appendix has not been updated and disclosed in the final paper.</li> <li>➤ It is difficult for external stakeholders to provide meaningful comments in the consultation, since they are not informed of what kind of documents ADB produced and possessed in its operation.</li> </ul>
<b>ADB’s Responses to Stakeholders’ Comments</b>	ADB should disclose a matrix on its responses to stakeholders’ comments. The requirement should be included in the new PCP.	<ul style="list-style-type: none"> <li>➤ PCP Review Timeline does not provide a clear plan whether ADB will disclose a matrix on ADB’s responses to stakeholders’ comments.</li> <li>➤ ADB disclosed matrixes on its responses during the revisions of Disclosure Policy and Safeguard Policies.</li> <li>➤ In order to avoid any confusion in the future revisions of policies and strategies, it is important to include the requirement in the new PCP.</li> </ul>
<b>W-Paper and R-Paper</b>	W-Paper and R-Paper should be made available to the public at the same time as they are distributed to the Board of	<ul style="list-style-type: none"> <li>➤ PCP Review Timeline does not provide a clear plan whether ADB will disclose the W-Paper and R-Paper to the public at the same time as they are distributed to the Board of Directors.</li> </ul>

	<p>Directors. The requirement should be included in the new PCP.</p>	<ul style="list-style-type: none"> <li>➤ ADB should provide opportunities for stakeholders to review how their comments are considered before the Board approval.</li> <li>➤ World Bank's Disclosure Policy requires the Bank to disclose operational policy papers and sector strategy papers at the same time as they are distributed to the Board, and they are prepared following a public consultation process, if a draft version of the paper has already been revised by the Executive Directors. (See para. 13)</li> <li>➤ In order to avoid any confusion in the future revisions of policies and strategies, it is important to include the requirement in the new PCP.</li> </ul>
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## 2. Proactive Disclosure

<b>Topics</b>	<b>Suggestions</b>	<b>Rationales</b>
<b>Board Transcripts</b>	<p>Board transcripts should be made available to the public.</p>	<ul style="list-style-type: none"> <li>➤ Information on decision making process should be fully transparent, since ADB is an international finance institution using public money.</li> <li>➤ If there is any sensitive information in a Board transcript, the transcript should be made available after the elimination of the sensitive part.</li> </ul>
<b>Voting Behavior Information</b>	<p>Voting behaviors at Board of Directors' meetings should be made available to the public.</p>	<ul style="list-style-type: none"> <li>➤ Information on decision should be fully transparent, since ADB is an international finance institution using public money.</li> </ul>

<p><b>Modality of Project Information Document (PID) for Category FI</b></p>	<p>For category FI projects, names of subprojects and companies, location and description of subprojects, safeguard categorizations of subprojects, impacts and mitigation measures of subprojects, results of safeguard reviews of subprojects should be included in PID.</p>	<ul style="list-style-type: none"> <li>➤ Safeguard Policy Statement (SPS) requires financial intermediaries to meet the ADB requirements in its subprojects financing. However, safeguard information of subprojects have not been made public.</li> <li>➤ OED special evaluation on Private Equity Fund Operations recommends strengthening the risk-management systems for PEFs by putting in place capacity to independently monitor projects post-approval from a financial, social and environmental perspective.</li> </ul>
<p><b>Safeguard Information on Financial Intermediaries (FIs)</b></p>	<p>For Category FI projects, periodic reports on the implementation status of Environmental and Social Management System (ESMS) and FI's corrective action plans should be made available.</p>	<ul style="list-style-type: none"> <li>➤ The current PCP requires ADB to disclose Social and Environmental Monitoring Reports for both public and private sector projects. However, there is no requirement of information disclosure on implementation status under Category FI.</li> <li>➤ OED special evaluation on Private Equity Fund Operations recommends strengthening the risk-management systems for PEFs by putting in place capacity to independently monitor projects post-approval from a financial, social and environmental perspective.</li> </ul>
<p><b>Draft Resettlement Plans and Draft Indigenous Peoples Plans</b></p>	<p>Draft resettlement plans and draft Indigenous Peoples plans have to be also made available to the public by borrower/client as well as ADB. The document "Public Communication Policy's</p>	<ul style="list-style-type: none"> <li>➤ ADB issued the Public Communication Policy's (PCP) Safeguard Disclosure - Requirements Superseded by the Safeguard Policy Statement (SPS), and the paper states that "The borrower/client is no longer required to make full draft resettlement plans and indigenous peoples development plans available to affected</li> </ul>

	<p>(PCP) Safeguard Disclosure - Requirements Superseded by the Safeguard Policy Statement (SPS)" should be revised.</p>	<p>people; the SPS states that the borrower/client shall provide relevant information from these documents in a timely manner, in an accessible place and in form and language(s) understandable to affected people, indigenous peoples and other stakeholders." However, Policy Principle 9 (Involuntary Resettlement Safeguard) of the SPS states that "Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders." Policy Principle 7 (Indigenous Peoples Safeguard) states that "Disclose a draft IPP, including documentation of the consultation process and the result of the social impact assessment in a timely manner, before project appraisal, in an accessible place and in a form and language(s) understandable to affected Indigenous Peoples communities and other stakeholders." Furthermore, para. 73 states that "The borrower/client is responsible for assessing projects and their environmental and social impacts, preparing safeguard plans, and engaging with affected communities through information disclosure, consultation, and informed participation following all policy principles and safeguard requirements."</p>
<p><b>Mission Aide Memoire and MOU</b></p>	<p>Mission Aide Memoire and MOU should be made available to the public.</p>	<p>➤ World Bank's Disclosure Policy states that "full mission aide-memoires may be released if the Bank and borrower so</p>

		<p>agree.” (See Page 6, Box 1)</p> <ul style="list-style-type: none"> <li>➤ If it is necessary to confirm borrowers’ opinion, ADB should set an objection period for borrowers. Such provision is also included in the section on “documents produced under technical assistance” in the current PCP. (See para. 89)</li> </ul>
<b>Back to Office Report</b>	Back to Office Report should be made available to the public.	<ul style="list-style-type: none"> <li>➤ Meetings and interviews with affected people have been held during ADB missions. It is important to disclose the ADB-obtained information during such public meetings and interviews, and an opportunity to comment and express objections to the ADB should be given to affected people.</li> <li>➤ If it is necessary to confirm borrowers’ opinion, ADB should set an objection period for borrowers. Such provision is also included in the section on “documents produced under technical assistance” in the current PCP. (See para. 89)</li> </ul>
<b>Legal Agreements for Private Sector Projects</b>	Para. 104 “ADB shall not make private sector legal agreements enter into by ADB, or amendments to such agreements, publicly available” should be deleted.	<ul style="list-style-type: none"> <li>➤ ADB adopts the principle of “presumption in favor of disclosure,” and the section is a part of proactive disclosure, so called “positive list.” Para. 104 violates against both the principle and the composition of the policy.</li> <li>➤ Private sector legal agreements should be made available after the elimination of the information listed in para. 126.</li> </ul>
<b>Economic Information on Extractive Industries</b>	Production sharing agreements, host country agreements, power purchase agreements and intergovernmental	<ul style="list-style-type: none"> <li>➤ The final report of Extractive Industries Review proposed the World Bank Group to promote disclosure of production sharing agreements, host country agreements, power purchase</li> </ul>

	<p>agreements should be made available to the public in ADB-financed extractive industry projects.</p>	<p>agreements, etc. (See page 47)</p> <ul style="list-style-type: none"> <li>➤ International Finance Corporation (IFC) requires clients to disclose material project payments, Host Country Agreements and Intergovernmental Agreements, if the expected benefit accounts 10% and more of government revenues. (See para. 22 of the Policy on Social and Environmental Sustainability)</li> </ul>
<p><b>Economic Information on Essential Services</b></p>	<p>When ADB invests in projects involving the final delivery of essential services to the general public, information relating to household tariffs and tariff adjustment mechanisms, service standards, investment obligations, and the form and extent of any ongoing government support should be made available. If ADB is financing the privatization of such distribution services, the information on concession fees and privatization proceeds should be made available.</p>	<ul style="list-style-type: none"> <li>➤ Tariff hikes in essential services have caused significant impacts especially for poor people in many projects.</li> <li>➤ IFC's Policy on Social and Environmental Sustainability states that "When IFC invests in projects involving the final delivery of essential services, such as the retail distribution of water, electricity, piped gas, and telecommunications, to the general public under monopoly conditions, IFC encourages the public disclosure of information relating to household tariffs and tariff adjustment mechanisms, service standards, investment obligations, and the form and extent of any ongoing government support. If IFC is financing the privatization of such distribution services, IFC also encourages the public disclosure of concession fees or privatization proceeds. Such disclosures may be made by the responsible government entity (such as the relevant regulatory authority) or by the client."</li> </ul>

### 3. Implementation Framework

Topics	Suggestions	Rationales
<b>Partial Disclosure</b>	If there is a part that cannot be disclosed in a document and such information can be eliminated, ADB should disclose the rest of the document, after excluding the confidential information. The partial disclosure rule should be adopted in the new PCP.	<ul style="list-style-type: none"> <li>➤ Many member countries, such as Australia, Canada, Denmark, Finland, Germany, Ireland, Japan, Korea, New Zealand, Norway, Sweden, Thailand and United States adopt the requirement on partial disclosure in laws.</li> </ul>
<b>Exception on Proceedings of the Board of Directors</b>	Para. 126.7 should be deleted.	<ul style="list-style-type: none"> <li>➤ Only para. 126.7 is an exception on procedural matter, and others are content-based exceptions. Exceptions should be based on content of information, not on procedural matter.</li> <li>➤ ADB should adopt the partial disclosure system as described above. It should cover the Board proceedings information.</li> </ul>
<b>Exception on Confidential Business Information</b>	Para. 126.9 should be deleted. Otherwise ADB should set a clear definition of “confidential business information.”	<ul style="list-style-type: none"> <li>➤ Para 126.8 states that “information provided to ADB by a party that, if disclosed, would or would be likely to materially prejudice the commercial interests, financial interests, and/or competitive position of such party” shall not be made available. In addition to that, para. 126.9 states “confidential business information” as an exception. It is unclear what the difference between the information indicated in those two paragraphs is.</li> </ul>
<b>Independent Recourse Mechanism on Information Disclosure</b>	ADB should establish an independent recourse mechanism on information disclosure composed of external experts.	<ul style="list-style-type: none"> <li>➤ Compliance of PCP should be reviewed by a third party, not only by the Bank itself.</li> <li>➤ World Bank will establish an independent recourse mechanism,</li> </ul>

		and complaints will be considered by three external experts in the second independent stage. (See para. 28 of the World Bank's Disclosure Policy)
<b>Notification of Concrete Rationale of Non-Disclosure</b>	When ADB provides a denial response to a requester, ADB should provide a concrete rationale of the denial decision. The requirement should be included in the new PCP.	<ul style="list-style-type: none"> <li>➤ Only related paragraphs in Exceptions to Presumed Disclosure have been provided in ADB's denial responses to requesters, and its concrete rationales have not been included in the responses.</li> <li>➤ Without any concrete rationales, requesters will not identify which certain contents is applicable with the Exceptions to Presumed Disclosure, as well as whether it is really complied with the PCP.</li> </ul>
<b>Rationale of Non-Disclosure of Delivered Information</b>	When ADB provides a denial response to a requester, and the reason of the non-disclosure stands on 126.2 (delivered information by outside entities), ADB should confirm with the related entity whether the delivered information can be disclosed. If the entity does not accept the disclosure of information, ADB should inform the requester about the denial. This requirement should be included in the new PCP.	<ul style="list-style-type: none"> <li>➤ The current PCP does not provide a clear requirement that ADB needs to confirm with a related entity whether the delivered information can be disclosed, when ADB provides a denial response that stands on 126.2.</li> <li>➤ If a related entity accepts the disclosure of delivered information, ADB can disclose the information.</li> </ul>
<b>Notification of Option to File a Complaint</b>	When ADB provides a denial response to a requester, ADB should inform him/her about an option to file a complaint to the	<ul style="list-style-type: none"> <li>➤ The current PCP does not require ADB staff to inform a requester about an option to file a complaint to PDAC.</li> <li>➤ Since September 2005, only three complaints have been</li> </ul>



	the Public Disclosure Advisory Committee (PDAC). The requirement should be included in the new PCP.	received and reviewed by PDAC, while many requests have been denied. There is a question whether all requesters know that they can send a complaint request to PDAC.
<b>Subject to Compliance Review</b>	Subject to compliance review should not be defined in the PCP.	➤ Para. 177 states “the policy set forth in paragraphs 28-38, the specific disclosure requirements set forth in paragraphs 55-130, and the implementation arrangements set forth in paragraphs 153-166 shall be subject to compliance review under the ADB accountability mechanism.” However, “Review of the Inspection Function and Establishment of a New ADB Accountability Mechanism” states that “it is for CRP to determine which part of the operational policies and procedures was or is not complied.” (See para. 143)