

## Comments on the 1<sup>st</sup> W-Paper of ADB's Accountability Mechanism

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### Comment 1:

**The former SPF should be barred from employment at ADB.**

Rationale:

- While the former CRP members are barred from employment at ADB, there is no regulation for the former SPF, in order to ensure the independence of SPF. (Para. 124)

### Comment 2:

**Request on indirect harm should not be excluded.**

Rationale:

- The W-Paper proposes that two or more people, who are directly, materially and adversely affected, can file a request. (Para. 149)
- However, the Safeguard Policy Statement (SPS) requires clients/borrowers to identify, avoid, minimize, mitigate, and/or offset direct, indirect, cumulative, and induced impacts. (Page 16 of SPS)

### Comment 3:

**Good faith efforts with a project-specific grievance mechanism should not be a requirement of filing.**

Rationale:

- The W-Paper requires complainants to make good faith efforts with a project-specific grievance mechanism, in addition to the ADB operations department. (Para. 153)
- However, project-specific grievance mechanisms are under borrowers and implementation agencies, and these are no mechanisms under ADB. It is inconsistent with the objectives and guiding principles of the Accountability Mechanism described in Para. 119 and 120.
- Out of 27 complaints have received by SPF since 2003, 10 complaints were determined as "non-eligible" since "complainants have yet to address the problem with concerned operations department." The additional requirement could be a significant constraint for complainants, and a significant dilution from the current policy.

**Comment 4:**

**Cut off date for requests should be longer than the current one, at least, it should be the same period of project evaluation timing.**

Rationale:

- The W-Paper proposes that “cut off date for filling requests can be one year after the loan closing date.” (Para. 153)
- However, subsequent social and environmental impacts (e.g. unpredictable sediment deposition) can be caused after the project completion. In fact, project evaluations by IED have been conducted several years after the project completion.
- In Khulna-Jessore Drainage Rehabilitation Project (Bangladesh), the complaint was rejected by SPF, since the Project Completion Report had already been made. Such unreasonable rejection should be avoided in the future.
- Even if ADB’s leverage is low after the project completion, direct harm should be addressed appropriately, and ADB’s non-compliance should be cleared and remediated.

**Comment 5:**

**Switching from compliance review to problem solving and requesting for problem solving upon the completion of compliance review should be allowed.**

Rationale:

- The W-Paper states that “complainants cannot switch from compliance review to problem solving, or request for problem solving upon the completion of compliance review” (Para. 162)
- However, social and environmental harms could be caused, if there is no violation of ADB policies. Problem solving should also be provided after the CRP process.

**Comment 6:**

**If a site visit by CRP is rejected by a borrowing country, an alternative option of joint site visits by CRP, BCRC and Borrowing Country Board Members should be conducted.**

Rationale:

- In the Fuzhou Environmental Improvement Project (China), the proposal of site visit by CRP was rejected by Chinese Government, as well as the case of Samut Parakarn Wastewater Management Project under the old Inspection function. Such case should be avoided in the future.
- The W-Paper proposes to adopt a partnership approach on site visit by CRP. (Para.

195) However, there is no significant change from the current situation of site visit.

- Therefore, Option IV: Site Visits by BCRC, CRP, and Borrowing Country Board Members (Para 98 of the Consultation Paper, February 2011) should be adopted as a alternative option, if a site visit by CRP is rejected by a borrowing country.

**Comment 7:**

**The Accountability Mechanism should apply to all ADB assisted projects including all components of FI projects.**

Rationale:

- The W-Paper states that “The Accountability Mechanism applies ADB assisted projects in both the public and private sectors.” (Para. 124) However, it is unclear whether all components of FI projects are included.