

2009
ANNUAL REPORT
Compliance Review Panel





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Asian Development Bank

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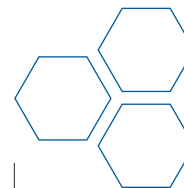
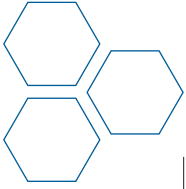


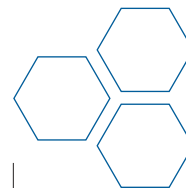
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Abbreviations

ADB	–	Asian Development Bank
BPMSD	–	Budget, Personnel, and Management Systems Department
CRP	–	Compliance Review Panel
IAM	–	independent accountability mechanism
IFI	–	international financial institution
JBIC	–	Japan Bank for International Cooperation
MIRA	–	management’s implementation of remedial actions
NEXI	–	Nippon Export and Investment Insurance
NGO	–	nongovernment organization
OCR	–	Office of the Compliance Review Panel
OSPF	–	Office of the Special Project Facilitator
PRC	–	People’s Republic of China
PSOD	–	Private Sector Operations Department
SPF	–	Special Project Facilitator



Chair's Message

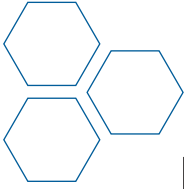
2009 was significant for the Compliance Review Panel (CRP) for a number of reasons. The first new compliance review case in 5 years was filed, the first full 5-year cycle of compliance monitoring was completed (Chashma project in Pakistan), and the full membership of the CRP was restored with my appointment as chair. At the same time, the Asian Development Bank (ADB) itself is rolling out its Strategy 2020 and has adopted a new safeguard policy statement. Both of these developments will affect the future work of the CRP.

The CRP has identified three factors that will have a bearing on compliance review in the future and will likely increase compliance requests: an increase in ADB lending for infrastructure and to the private sector, the use of country safeguard systems, and greater pressure for transparency and governance reforms at financial institutions in the aftermath of the global financial crisis. The CRP will support the Board of Directors and work with Management to send clear messages about the need for greater accountability to ensure policy compliance and secure the trust and support of internal and external stakeholders.

During 2009, the CRP became concerned that the refusal of a site visit to verify the requesting parties' claim of harm suffered as the result of ADB's non-compliance with its policies would affect its ability to carry out its mandate. In conducting compliance reviews, site visits must be part of the CRP's routine procedures to ensure fairness, objectivity, and transparency.

On a final note, the other four international multilateral development banks either launched or completed reviews of their accountability mechanisms in 2009, and at some point, ADB will do so as well. The CRP welcomes this review and will participate with a view to further strengthening accountability within ADB.

Rusdian Lubis
Chair
Compliance Review Panel



Introduction

*The Compliance Review Panel will issue annual reports that contain a description of the claims considered, a summary of the activities, monitoring information, budgetary information, and policy advice based on lessons learned from previous requests for compliance review.*¹

This annual report of the Compliance Review Panel (CRP) summarizes requests for compliance review in 2009, the monitoring of ongoing compliance review cases, the activities of the Office of the Compliance Review Panel (OCRP) in convening outreach and consultations with stakeholders and international financial institutions (IFIs), and the strengthening of the Accountability Mechanism at the Asian Development Bank (ADB). The report also cites lessons learned, particularly at the conclusion of the 5-year monitoring of the Chashma project and budgetary information.

After a hiatus of 5 years, a request for compliance review was filed with the CRP for the Fuzhou Environmental Improvement Project in the People's Republic of China (PRC) in 2009.² This is the third case that has been filed with the CRP since the establishment of the Accountability Mechanism in 2003. The CRP determined that the request was eligible, and the CRP initiated a compliance review in June 2009 upon the approval of the Board. The CRP

also continued to monitor remedial actions in two other projects. On 11 February 2009, the panel submitted to the Board its fourth annual monitoring report for the Chashma Right Bank Irrigation Project (Stage III) in Pakistan.³ Due to security concerns in the project area, the report was based on a desk study, a review of documents, and consultations with ADB staff. On 15 May 2009, the CRP submitted to the Board the third annual monitoring report for the Southern Transport Development Project in Sri Lanka.⁴

The OCRP conducted outreach and consultations with stakeholders, networked with IFIs in Australia, Indonesia, Japan, and the Philippines and worked to strengthen collaboration among IFIs on accountability and compliance, including through participation at the Sixth Annual Meeting of Principals of Independent Accountability Mechanisms (IAMs) in June 2009 in Washington, DC.⁵ The OCRP has also sought to improve communication among IAMs by establishing a virtual community

¹ ADB. 2003. *Review of the Inspection Function: Establishment of a New ADB Accountability Mechanism* (R79-03, dated 8 May 2003), paragraph 131. Manila.

² Loan 2176–PRC: Fuzhou Environmental Improvement Project.

³ Loan 1146–PAK(SF): Chashma Right Bank Irrigation Project (Stage III).

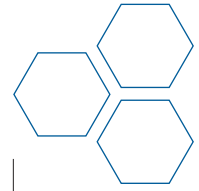
⁴ Loan 1711–SRI(SF): Southern Transport Development Project.

⁵ Special Project Facilitator Dr. Robert May attended the outreach programs in Indonesia and the Philippines, and joined the Sixth Annual Meeting of Principals of Independent Accountability Mechanisms in Washington, DC.

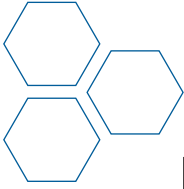
of practice called IAMnet, upgrading the CRP website and publications, and initiating a plan to electronically track ADB's performance on compliance recommendations.

As one of the consequences of the global financial crisis, all financial institutions including multilateral development banks

such as ADB, face demands from their shareholders and other stakeholders to improve internal governance with an emphasis on accountability and compliance. The CRP believes that these issues transcend mechanisms, systems, and procedures and challenge any organization to strengthen its culture of accountability and compliance.



Introduction



Compliance Issues in 2009

Strategy 2020, ADB's long-term strategy approved in April 2008, will expand ADB's private sector operations, diversify investments and clients in the financial sector and capital markets, and increase the number of ADB-financed large-scale infrastructure projects, many of which can be expected to entail complex and sensitive environmental and social impacts. In July 2009, ADB approved its Safeguard Policy Statement to update and improve the clarity, coherence, and consistency of the Involuntary Resettlement Policy (1995), the Policy on Indigenous People (1998), and the Environment Policy (2002). These updates were also designed to help facilitate the implementation of Strategy 2020.

These developments point to three major challenges that may have a bearing on compliance review at ADB.

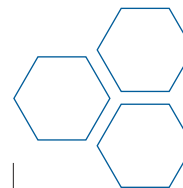
First, ADB is expected to strengthen and increase its use of country safeguard systems and to decentralize to resident missions the responsibilities for carrying out due diligence in this regard while still remaining accountable for compliance with operational policies and procedures even if country systems apply. Therefore, if the Board approves the eligibility of a request for compliance review, the CRP will focus on the responsibilities assumed by ADB for country safeguard systems and/or delegated to resident missions or, crucially in the CRP's view, ADB responsibilities for implementing, financing, and administering a project that is using country systems. A compliance review will take into account ADB equivalency requirements and the implications of country safeguard systems, especially regarding grievances and complaint resolutions.

Second, Strategy 2020 anticipates a significant increase in ADB's assistance for private sector operations, with a target for such operations at 50% of the number of ADB-financed projects and of the share of ADB's annual operations. Private sector projects in energy, infrastructure, manufacturing, or tourism usually have shorter project cycles than public sector projects and often require sharing responsibilities with the public sector to ensure that environmental and social standards are met. An increase in the volume of private sector operations at ADB may well trigger an increase in complaints about harm directly caused by ADB-financed projects and thus a corresponding increase in requests for compliance review.

Third, ADB has been increasing its efforts to harmonize with other IFIs; the CRP may have to adapt its approach to compliance reviews in projects that are cofinanced or if complaints involve more than one institution. There may be similar challenges if ADB cofinances projects with bilateral funding agencies.

Accountability mechanisms have been established by most IFIs to strengthen project accountability and compliance and provide a venue for affected persons, including those represented by civil society, by providing an avenue for complaints about harm they have suffered or may suffer as a result of a failure to comply with policies or procedures. While access to, and the administrative procedures for these various accountability mechanisms, are still being debated, there is widespread recognition that they have contributed a number of benefits, including the following:

- redress for affected persons harmed by IFI-funded projects;



- improved accountability and compliance of IFI staff;
- emphasis on the importance of timely and meaningful communication with affected persons;
- the need for timely and effective grievance and complaint resolution mechanisms, particularly during project implementation; and
- increased accountability, transparency, and trust of IFIs.

Nevertheless, challenges remain in making these mechanisms more efficient and effective, including

- improving communication and outreach to affected persons, nongovernment organizations (NGOs), and civil society organizations to enhance awareness of the right to complain about IFI-funded projects;
- ensuring government support for compliance review and reducing affected persons' fears of retaliation;
- facilitating compliance review requests by providing compensation for costs for filing legitimate complaints and requests as necessary; and
- raising the awareness, commitment, and support of IFI management and staff.

While the mechanisms in IFIs have different characteristics, in general they must be independent in order to conduct a credible compliance review. The roles of complaint resolution and compliance review are different though they may stem from a common set of facts. They should therefore not necessarily be addressed in sequence

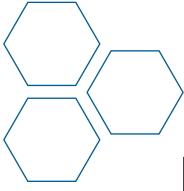
(as is currently the case at ADB) but should be seen as part of a broader strategy to increase the culture of accountability and compliance within an institution. Every accountability mechanism must also observe its mandate and perform properly; its role, efficiency, effectiveness, and impact must be evaluated periodically; and it must improve the dialogue with management and staff, including at resident missions, by demonstrating the value added by stronger accountability and compliance.

International coordination among IAMs also needs to be improved. While annual meetings provide a good venue for increasing information exchange and cooperation, more can be done such as joint outreach efforts, effective coordination in joint compliance reviews to reduce inefficiencies and to facilitate interaction with affected persons and other stakeholders, open dialogues to address complex or emerging issues, and the establishment of strong communities of practice such as IAMnet.

In 2010, the OCRP will be pursuing more systematic outreach to and consultation with affected persons, civil society, and NGOs, increasing accountability and compliance awareness both internally and externally, and improving communications with resident missions. The OCRP and the Office of the Special Project Facilitator (OSPF) are already working with the Budget, Personnel, and Management Systems Department (BPMSD) to improve ADB learning and development programs on accountability and compliance.



Chashma Right Bank Irrigation Project (Stage III) in Pakistan



Compliance Reviews

Fuzhou Environmental Improvement Project

On 3 June 2009, Mr. Wang Jie Quan and Mr. Xu Qi Long (the requesting parties) filed a request for compliance review of the Fuzhou Environmental Improvement Project (the Project) in the PRC.⁶ The Special Project Facilitator (SPF) had previously dealt with a complaint from seven affected households, including these two individuals, under the Project.

This is the third case that has been filed with the CRP since the establishment of the Accountability Mechanism in 2003.

The Project is a key urban infrastructure initiative of the Fuzhou Municipal Government to improve environmental quality and living conditions by reducing water pollution and protecting water resources. It has three infrastructure components:

- expansion of the Yangli sewer networks serving the eastern part of Fuzhou;
- construction of the Lianban sewer network on Nantai Island in the southern part of Fuzhou; and
- rehabilitation of 13 inland creeks for pollution control and flood protection on Nantai Island. The Project also has capacity building components to provide training for project management, wastewater management, and private sector participation in municipal services.

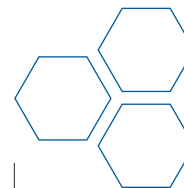
The executing agency is the Fuzhou Municipal Government, while the Fuzhou Urban Visual Construction and Development Company is responsible for implementing the inland creek rehabilitation component. The Project was approved on 29 July 2005 and became effective on 14 September 2006. The ADB loan is scheduled to be closed on 30 June 2012. ADB claims that the resettlement plan for the Project, and its processing and implementation, are in line with PRC policy on resettlement and comply with ADB's operational policies and procedures.

The requesting parties claimed that ADB failed to observe its operational policies and procedures, and that this non-compliance caused them to suffer

- loss of housing;
- loss of livelihood;
- harm due to the fear of being homeless; and
- unfair compensation for resettlement as they are affected persons without legal property rights, especially as compared to affected persons who have legal property rights.

On 3 July 2009, ADB approved a redesign of the Project that included realignment in relation to the Yuejin River insofar as it affected the requesting parties. In effect, the Fuzhou Municipal Government redesigned the Project, including a rerouting of the river, to avoid the necessity of involuntarily resettling the affected people, including the requesting parties.

⁶ Information on this request for compliance review is in www.compliance.adb.org/dir0035p.nsf/alldocs/BDAO-7XVBN9?OpenDocument



The CRP recognizes the efforts made by ADB, the Fuzhou municipal government, the affected persons and the SPF to formulate a solution that was acceptable to some of the original complainants, though not the requesting parties. The CRP also acknowledges the decision by the Fuzhou municipal government to redesign the Project in a manner that will reroute the river to avoid the involuntary resettlement of some affected persons. Nevertheless, the CRP is firmly of the view that the change in project design, made after it received the request for compliance review, does not obviate the need for that review to determine whether ADB had previously complied with its operational policies and procedures in the planning, design, processing, and implementation of the Project. The CRP explained this issue when the ADB Board of Directors (Board) considered the CRP's recommendation that the compliance review be authorized.

After conducting an eligibility assessment based on a desk review of relevant project documents and documents received from the OSPF, and consultations with the Executive Director representing the PRC, ADB Management and staff, including the General Counsel, and the requesting parties (by telephone), the CRP considered that the request raised issues of compliance with the ADB's Involuntary Resettlement Policy and that it was eligible for compliance review, and recommended to the Board to authorize the compliance review.

On 24 June 2009, the CRP sent its eligibility report and recommendation to the Board, and on 15 July 2009 the Board authorized the compliance review.

On 29 July 2009, the Board Compliance Review Committee (BCRC) cleared the terms of reference for the compliance review.

Under the compliance review terms of reference, the CRP is investigating four allegations of noncompliance with the Involuntary Resettlement Policy and associated operational procedures in effect at the time the Project was planned, designed, processed, and approved. These are

- compensation to replace lost housing;
- the treatment of unregistered (illegal) residents, as compared with the treatment of registered (legal) residents in terms of compensation;
- rehabilitation for loss of income; and
- information dissemination and consultation.

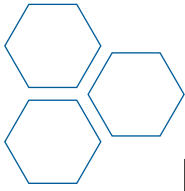
The CRP is determining whether ADB complied with its operational policies and procedures at the relevant times and, if not, whether the requesting parties suffered, or may suffer in the future, material adverse harm as a result of such noncompliance, notwithstanding the redesign of the Project.

From July to October 2009, the CRP conducted the compliance review by examining the project files and interviewing ADB staff, including the SPF, the Chief Compliance Officer and the director general of the East Asia Department, and the requesting parties, through an interpreter, by telephone.

In accordance with the CRP's Administrative Procedures,⁷ on 1 October 2009, the CRP, through the Executive Director representing the PRC, requested permission from the PRC authorities to conduct a visit to the project site.

On 4 November 2009, the PRC authorities indicated that after deliberation they determined that a site visit was no longer necessary given the fact that the Project

⁷ The Administrative Procedures for the Compliance Review Panel and the Office of the Compliance Review Panel (dated 26 March 2004), paragraph 47.



Compliance Reviews



CRP website (left) and e-newsletter (right)

had been redesigned on July 2009 and, as a result, it would no longer be necessary to resettle the requesting parties.

On 17 November 2009, the CRP expressed its serious concerns over the refusal of permission for the site visit.⁸

ADB's accountability mechanism policy contemplates that site visits should be "a routine and non-controversial aspect of the accountability mechanism" and that cooperation from host countries on this issue will enhance the effectiveness of the compliance review process. The Panel supports this to achieve a fair, objective, and transparent review in this case.

The CRP also considers that the decision will prevent it from conducting a comprehensive and balanced review, bearing in mind that it is investigating ADB's compliance with its policies and not the behavior or actions of PRC authorities. As previously explained, the redesign of the Project has no bearing on the inquiry into allegations of ADB's prior noncompliance. Under the Accountability

Mechanism policy, the CRP, not the host country, is required to form an independent judgment as to ADB's compliance or noncompliance and any resulting harm. Finally, it is inappropriate for the CRP to be expected to rely on the findings of the SPF, who reports to Management and does not investigate ADB's compliance. The CRP continues to hold the view that a site visit is essential in order to complete the compliance review and discharge its mandate in this case.

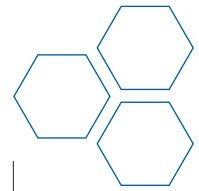
As of 31 December 2009, the CRP continued to make representations to PRC authorities concerning permission to conduct a site visit.

Southern Transport Development Project

The third annual monitoring report on the Southern Transport Development Project was submitted to the Board on 15 May 2009.⁹ The CRP has been coordinating with the South Asia Department to

⁸ Subsequently, on 2 June 2010, the PRC authorities also stated two additional reasons for not granting permission for a site visit: namely, that in the opinion of the PRC, "the resettlement plan of the Project conforms to relevant policies and procedures of both ADB and PRC authorities;" and that as site visits are not mandatory, the CRP should be obliged to conduct "desk studies and interviews with concerned staff" and "take full advantage of the information available from OSPF and other relevant channels." PRC authorities have previously permitted the SPF and his staff to conduct three visits to the Project site.

⁹ Information on the monitoring of Board-approved remedial actions is in www.compliance.adb.org/dir0035p.nsf/alldocs/BDAO-7XVBSH?OpenDocument



Central and West Asia Department

Chashma Right Bank Irrigation Project (Stage III) in Pakistan

monitor the annual progress on the implementation of the remedial actions approved by the Board. In October 2009, the South Asia Department submitted a progress report up to 30 September 2009. The remedial actions that are still subject to monitoring to achieve compliance are the following:

- additional guidance for ADB's *Handbook on Resettlement: A Guide to Good Practice* (1998);
- assisting with the Income Restoration Plan and the establishment of household benchmarks through the Management Information System for affected persons as called for in the Resettlement Implementation Plan; and
- establishing a monitoring system of resettlement activities by a well-staffed, independent institution.

The CRP is preparing to conduct its fourth annual monitoring of the recommendations of its compliance review report, including a planned site visit in early 2010. It is expected that the resulting report will be completed by the end of the second quarter of 2010.



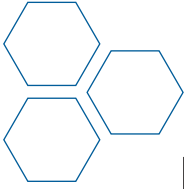
T. Capati

Flood mitigation measure at the northern part of the Southern Transport Development Project in Sri Lanka

Chashma Right Bank Irrigation Project (Stage III)

The CRP's fourth annual monitoring report on remedial actions on the Chashma Right Bank Irrigation Project (Stage III) was submitted to the Board on 11 February 2009. The unstable security situation in the project area has prevented the CRP from visiting the site, so the panel had to rely on a desk review of documents and consultations with ADB staff to prepare the fifth annual report during the latter part of 2009.¹⁰ In 2008, considerable

¹⁰ Information on the monitoring of Board-approved remedial actions is in www.compliance.adb.org/dir0035p.nsf/alldocs/BDAO-7XW4XE?OpenDocument



Compliance Reviews

Box 1: Lessons Learned from the Chashma Compliance Review

Early compliance: The most effective approach to compliance is to address fully the implementation of ADB environmental and social safeguards in the earliest stages of project development and implementation. In monitoring, the CRP emphasizes the importance of implementing corrective measures such as the implementation of the necessary environmental plans to ensure policy compliance and to engage fully with affected persons.

General recommendations: The CRP should avoid general recommendations that are properly the responsibility of project management and administration in favor of those that are directly relevant to compliance.

Monitoring project-specific recommendations: When the CRP makes project-specific recommendations, it will distinguish between those that are directly related to compliance and those that are essentially about project administration. The panel might identify administrative actions, but it will not necessarily monitor them.

Disengagement of requesters: Monitoring compliance in the Chashma project did not benefit from interaction with the requesting parties as they disengaged early in the proceedings. In addition, because of security risks in 2008 and 2009 in Pakistan, the CRP did not visit the project sites and did not meet with affected persons. Instead, the panel had to rely on information provided by ADB and by the government. In the future, the CRP should adopt a strategy to deal with problems of access similar to those encountered in this project.

Government support for the compliance process: Since remedial works that may be required to correct any issues of a project's non-compliance will entail additional time, and may well entail additional cost, including costs to be borne on the part of the borrower, government support is critical to the success of the compliance process.

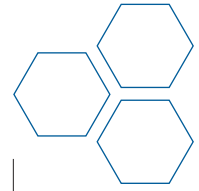
Management's role in monitoring: The CRP had the benefit of excellent cooperation with the ADB Central and West Asia Department in monitoring the Chashma project. The CRP recommends systematic meetings with departments at the beginning and end of each monitoring period to address expectations and priorities and to agree on the information and reports to be provided by ADB during the monitoring period.

Completing monitoring: In the fifth annual report on the Chashma project, the CRP concluded that ADB had substantially complied with the recommendations and that monitoring should end. Future monitoring should also be designed to terminate after a project is compliant.

progress was made in complying with the recommendations, and, in 2009, even more progress was achieved. In fact, with the exception of one recommendation that in the judgment of the CRP can no longer achieve compliance and four recommendations that are only "partially satisfied" but in which sufficient progress has been made, all other recommendations can now be considered as having been

met, thus bringing the project into substantial compliance. Therefore the CRP recommended that no further benefit would accrue to the affected persons, the project, or the stakeholders by continuing monitoring beyond 2009. This 5-year experience has generated lessons for compliance review and monitoring that in the panel's view are valuable for the CRP, for Management, and for the Board (Box 1).

Outreach



In the second half of 2009, the OCRP, in line with ADB policy, conducted outreach programs, held consultations, and disseminated information on the Accountability Mechanism to a wide cross-section of stakeholders, including affected persons and private sector sponsors of ADB-financed projects. In June, the SPF, OCRP, and CRP met with United States NGOs in Washington, DC and in October, the CRP Chair and Secretary met with government officials, NGOs, researchers, university staff, and governance and compliance experts in Japan. In November, the CRP Chair, OCRP, and the SPF met with NGOs, academics, and the private sector in the Philippines. Programs were also conducted in Indonesia in November with NGOs and the private sector and in Australia in November and December with a focus on future outreach for Pacific developing member countries in 2010.

In most instances, outreach was conducted with the assistance of the ADB regional departments concerned and with the support of the Indonesia Resident Mission, the North American Representative Office, the Japanese Representative Office, and the Pacific Liaison and Coordination Office. The OCRP also received assistance and

support from the Private Sector Operations Department (PSOD) and the NGO and Civil Society Center of the Regional and Sustainable Development Department.

United States

The North American Representative Office arranged for the CRP and the OCRP to meet with nongovernment and civil society organizations in Washington, DC, including Oxfam America, the Asia Society, the National Bureau of Asian Research, the Eurasia Foundation, the Government Accountability Project, Resolve, and Brookings Institute. The OCRP briefed participants on current activities and discussed the upcoming review of the Accountability Mechanism.

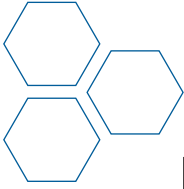
Japan

The CRP Chair and Secretary met with officials from the Ministry of Finance and representatives from the Japan Bank for International Cooperation (JBIC), the Nippon Export and Investment Insurance (NEXI), the Japan International Cooperation



T. Capati/J. Miranda

Outreach activities in Japan and the Philippines



Outreach

Agency, and NGOs. They also met with senior staff at the Asian Development Bank Institute. The OCRP outlined plans for outreach in 2010 including convening a roundtable discussion with NGOs and other stakeholders and undertaking preparatory work with JBIC and NEXI for the proposed Seventh Annual Meeting of Principals of the IAMs in Tokyo in mid-2010.

Philippines

In coordination with the NGO and Civil Society Center and PSOD, the OCRP organized two outreach sessions in Manila: one for NGOs and academics and the other for private sector sponsors of ADB-financed projects. A total of 16 representatives from 15 Manila-based NGOs and academic institutions attended the first session along with the CRP Chair, CRP member Antonio La Viña, and a representative from the NGO and Civil Society Center. The issues raised included

- difficulties in getting information on ADB-financed projects, particularly at the processing stage, and in obtaining draft project documents;
- how affected persons benefit from filing a request for compliance review;
- sanctions for ADB staff involved in noncompliant projects; and
- concerns over the time frames in the Accountability Mechanism.

The participants also raised concerns that should be taken into account in the review of the Accountability Mechanism:

- technical hurdles in lodging a complaint or request for compliance review;
- concerns over harm that may be caused by an ADB-assisted project even when ADB has complied with all its operational policies and procedures;
- refusal by a host country of a site visit;
- ever-increasing findings by NGOs on the inadequacy of ADB's consultations during project processing;
- the need to strengthen host government awareness about the Accountability Mechanism; and
- harm or damage that is manifested only after the project completion report is submitted.

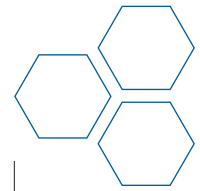
The outreach program for the private sector was attended by private project sponsors and representatives from PSOD. Experiences with handling complaints and avoiding conflict and the implications of ADB's approach to accountability were discussed, particularly as they could affect the financing and completion of private sector projects and the reputation of the organization involved.

Indonesia

Orientation programs were held separately for NGOs and for the private sector in Jakarta. The briefing for NGOs was attended by 16 representatives from 12 NGOs and 2 persons who claimed to be affected by an ADB-financed project. The resident mission country director attended the NGO program, and representatives of PSOD at



R. Diga/J. Miranda



the mission attended the program for the private sector.

The open forum clarified procedures for submitting complaints to the SPF and requests for compliance review to the CRP. The participants sought clarification on

- filing a case for a complaint previously submitted to Management and the Board for which no definitive response had been received,
- whether two persons affected by an ADB project was a sufficient number to file a case and if they could be represented by an NGO;
- quoting the safeguard policy if the case involves an ongoing ADB project; and
- treatment/consideration of intangible harm.

General observations on the expected review of the Accountability Mechanism included difficulties in access; its unresponsiveness to sudden, direct project impacts; the independence of the CRP; and

the inclusion of affected persons or their representatives in the review.

Australia

The visit of the CRP Chair and Secretary accomplished the following objectives:

- briefing the government, NGOs, experts, and other stakeholders on the Accountability Mechanism, including current issues;
- discussing its possible review;
- assessing interest in working with the OCRP to design and run regional meetings on accountability and compliance (Box 2); and
- contacting practitioners, experts, and other professionals in public sector governance, accountability, and compliance as such a network could provide access to expertise, training, education, and learning, and could be an important feature of the Accountability Mechanism.

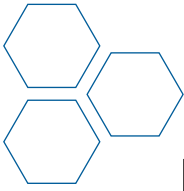
Box 2: Regional Discussions on Donor Accountability in Pacific Developing Member Countries

Most participants in the Office of the Compliance Review Panel outreach meetings in Australia in November and December 2009 agreed that discussions on accountability with Pacific developing member countries are overdue and agreed that some effort needs to be made in 2010 to reach affected persons. There was no consensus on whether a single forum would be the best way to tackle these issues.

There will be challenges in reaching affected persons and to a lesser extent nongovernment and civil society organizations. While continuing to disseminate information and lessons to host governments, the main efforts must target affected persons or their representatives. This may mean conducting outreach at various in-country sites.

Lessons that are relevant to outreach in the Pacific include the following:

- The cultural and social aspects of complaints and handling complaints in each country must be understood before outreach is attempted.
- It would be best to travel to some or all countries to disseminate the accountability message to affected persons.
- Papua New Guinea should be treated as a unique case, particularly if ADB aims to disseminate an accountability message to sponsors of private sector projects.
- Outreach should not overlook the accountability of other donors including bilateral donors.
- The Office of the Compliance Review Panel may need to consider a study on accountability and compliance in Pacific developing member countries as a prelude to further consultations.



Sixth Annual Meeting of Independent Accountability Mechanisms

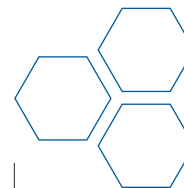
The Sixth Annual Meeting of Principals of the Independent Accountability Mechanisms was hosted by the Office of the Compliance Advisor/Ombudsman of International Finance Corporation/Multilateral Investment Guaranty Agency and took place in Washington, DC on 24 and 25 June 2009. Principals from the independent

accountability mechanisms of 10 institutions participated: African Development Bank, European Bank for Reconstruction and Development, European Investment Bank, Inter-American Development Bank, World Bank, JBIC, NEXI, Overseas Private Investment Corporation, International Finance Corporation, and ADB.



Office of the Compliance Advisor/Ombudsman

Sixth Annual Meeting of the Principals of Independent Accountability Mechanisms in Washington, DC hosted by the Office of the Compliance Advisor/Ombudsman in June 2009 participated in by eight international financial institutions including the Asian Development Bank



**Sixth Annual Meeting
of Independent
Accountability
Mechanisms**

ADB was represented by the members of the CRP, the OCRP Secretary and Associate Secretary, and the SPF. As in previous years, the meeting provided a unique opportunity for the principals of IAMs to share experiences, discuss common challenges, and explore opportunities for strengthening effectiveness and interagency collaboration.

The major topics addressed in this meeting included:

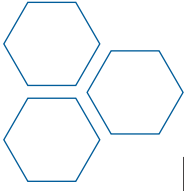
- governance and the critical importance for IAMs to maintain independence from management;
- challenges in balancing the roles of compliance and dispute resolution; and
- increasing awareness and engagement of staff on accountability issues; and
- accessibility and outreach. In addition, the meeting included a session of the evaluation of the effectiveness of IAMs.

The CRP considers that many of the topics covered during the Sixth Annual Meeting of Principals of the IAM were particularly relevant and timely as ADB plans a review of its Accountability Mechanism policy.

The meeting also included a presentation on the UN's Framework for Business and Human Rights which emphasizes access to remedies, both in and out of court. The discussion on adjudication versus dialogue in grievance redress was especially relevant given that the mandates of most IAMs encompass both conflict resolution and policy compliance review and that there are tensions in balancing both objectives.

In light of ADB's impending review of its Accountability Mechanism policy, the discussion on a basic code of conduct for all IAMs to increase transparency, independence, and public understanding of their nature and role was useful. Another topic of interest was the handling of complaints involving multiple lending institutions. The OCRP presented a proposal to launch IAMnet—a virtual network that would enable the IAMs to regularly contribute to an exchange of ideas and to collaborate on institutional capacity building (<http://iamnet.adb.org>).

The Seventh Annual Meeting of Principals of the IAMs will be held in June 2010 and will be hosted by JBIC and NEXI.



Compliance Initiatives at ADB

IAMnet: Establishing a Virtual Community of Practice

In September 2009, ADB approved a technical assistance grant¹¹ for piloting a virtual learning network (<http://iamnet.adb.org>) for IAMs to provide a forum for communication and collaboration on a regular basis. IAMnet's most important feature is an online discussion in which members can freely exchange ideas on a predetermined topic guided by an online facilitator. The initial members include ADB, the African Development Bank, the European Bank for Reconstruction and Development, the European Investment Bank, the Inter-American Development Bank, the International Finance Corporation, the Japan Bank for International Cooperation, the Multilateral Investment Guarantee Agency, Nippon Export and Investment Insurance, the Overseas Private Investment Corporation, the World Bank, and their designated practitioners. Depending on experience and subject to the views of these founding members, IAMnet may eventually include other stakeholders such as policy makers, academic institutions, think tanks, and NGOs.

The OCRP is hosting the 12-month pilot period, from November 2009 to October 2010. An individual consultant was recruited in November 2009 and is now serving as the website administrator. International experts will also be recruited

in 2010 to serve as facilitators for online debates. In the first half of 2010, IAMnet is expected to host its first online discussion and to publish a compendium of the discussions prior to the seventh annual meeting of the IAMs.

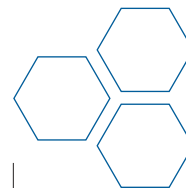
Monitoring System for Compliance Review

In December 2009, the OCRP began to develop an online monitoring system to track progress on remedial actions. Two national consultants were recruited, and the new system is expected to be operational in the second half of 2010. When the system is functional, the CRP will be able to monitor the implementation of its compliance recommendations online and can use the data in preparing its annual monitoring reports.

Compliance Review Panel Website

In December 2009, the OCRP successfully upgraded the CRP website (www.compliance.adb.org) with a new look and improved features. The website is an important tool for the CRP to provide information to all project stakeholders. The site's improvements are expected to facilitate a visitor's ability to navigate it and to access information to better understand and make use of the Accountability Mechanism.

¹¹ ADB. 2009. *Piloting of a Community of Practice for Independent Accountability Mechanisms* (Research and Development). Manila (approved for \$150,000).



The Electronic Newsletter “Compliance Review Quarterly”

The OCRP launched the “Compliance Review Quarterly” on the CRP website in October 2009. The newsletter highlights the major activities of the OCRP in supporting the work of the CRP.

Other Publications

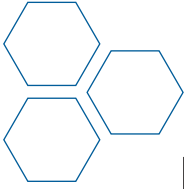
In 2009, the OCRP launched new editions of informative materials on compliance review and prepared a compliance review brochure in English that was translated into Armenian, Chinese, Georgian, Indonesian, Filipino, Russian, Thai, and Urdu to reach a wider audience. The OCRP and the OSPF also jointly updated the Accountability Mechanism brochure.

Learning and Development in Accountability and Compliance

Throughout 2009, the OCRP continued to pursue various learning and development opportunities at ADB. At the invitation of BPMSD, the OCRP worked closely with the SPF to plan and conduct joint presentations on the Accountability Mechanism for various staff audiences. This included induction programs for new staff in addition to programs for more senior staff and representatives from resident missions. The OCRP also initiated discussions with the learning and development experts in BPMSD to introduce the concept of e-learning in accountability and compliance for all ADB staff. This is expected to be developed further in 2010.



Chashma Right Bank Irrigation Project (Stage III) in Pakistan



Review of the Accountability Mechanism Policy

In May 2003, the Board approved the following recommendation:

The operation of the ADB accountability mechanism and related operating and administrative procedures to be reviewed by Management after 3 years from the effectiveness of the ADB accountability mechanism, and the results of this review to be submitted to the Board.¹²

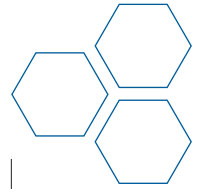
The Accountability Mechanism became effective on 12 December 2003, so a review was due after 12 December 2006. The Board, NGOs, and other external stakeholders have expressed concern over the timing and content of the review. The CRP supports the proposed for the Accountability Mechanism review to commence in 2010.¹³

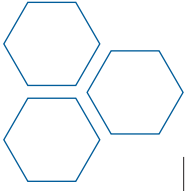
¹² ADB. 2003. *Review of the Inspection Function: Establishment of a New ADB Accountability Mechanism* (R79-03, dated 8 May 2003), paragraph 150(vii). Manila. The recommendation followed the underlying proposal for review found in paragraph 147 of that paper.

¹³ At ADB's 43rd Annual Meeting in Tashkent in 2010, President Kuroda announced the initiation of the Accountability Mechanism review.

Board Compliance Review Committee

The OCRP assisted the Board Compliance Review Committee in convening its meetings and in preparing the BCRC 2009 annual report and its outline of work for 2009–2010.

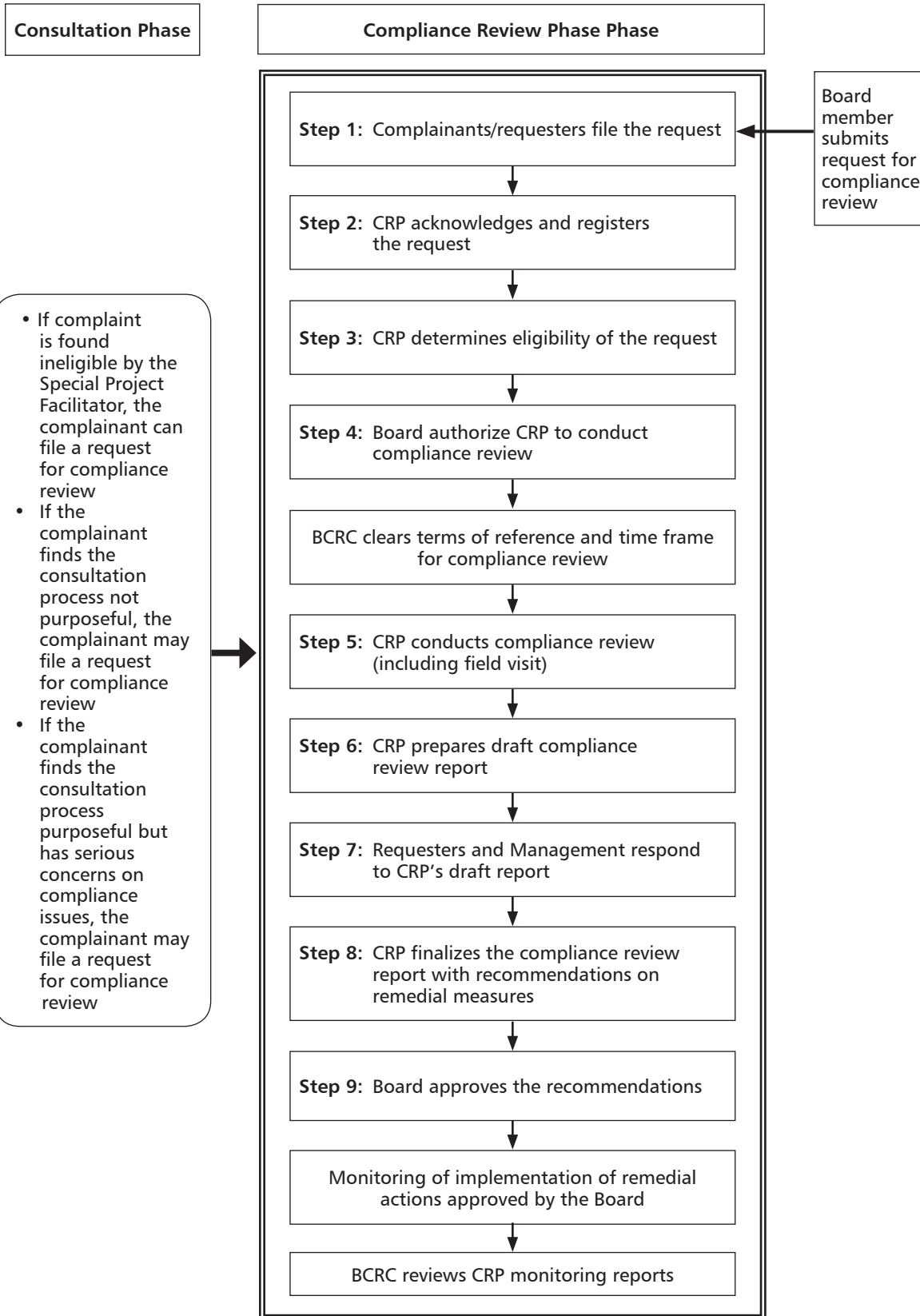




Budget

The CRP and its secretariat incurred total expenses for 2009 of \$1.198 million comprising \$469,436 in direct CRP costs and \$728,419 in costs associated with the OCRP.

Asian Development Bank Compliance Review Process



Note: CRP = Compliance Review Panel, BCRC = Board Compliance Review Committee.

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 substantially 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.

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