



The Secretary,  
Compliance Review Panel,  
Asian Development Bank,  
Manila,  
Philippines

Date of this request: 14<sup>th</sup> November 2004

Dear Secretary,

**Submission of Request for Compliance Review:**  
**Southern Transport Development Project Sri Lanka, Loan SRI 1711**

The Joint Organization of the Affected Communities on Colombo Matara Highway request the Compliance Review Panel to help us by examining ADB's compliance with its own policies and procedures with regard to the project mentioned above.

The Special Project Facilitator and the Office of the Special Project Facilitator should continue to handle and process the [Complaint](#) received on 9<sup>th</sup> June 2004, declared eligible on 5<sup>th</sup> July 2004 and for which there is a Course of Action approved by the ADB President. We do not wish the submission of this Request to be seen or acted upon as a request to stop the OSPF from following up on the Complaint.

The Joint Organization members include Unified Society for the Protection of Akmeemana (USPA), Gama Surakeema Sanvidhaniya (GSS), and many individuals along the Colombo Matara Highway. The President who is also an Affected Person is a signatory to this Request together with Officials of USPA and GSS. In support of the Requesters a few members of the Societies have also signed to confirm their agreement.

USPA and GSS are groups of people who are complaining about the Highway and seeking resolution of the problems caused by the Highway. The Requesters are the members of the Organisations and Societies.

We are familiar with the Operating Procedures of the CRP, and understand that the CRP will first examine whether this request meets its eligibility requirements.

We are aware that the ADB has failed to follow its policies/procedures, especially with regard to Environmental Impact, Involuntary Resettlement, Social Impact, Economic Analysis and Environmental Monitoring, and that in doing so; we have suffered and are suffering significant damage that we can describe.

We have prepared the attached list of the Policies and Guidelines that we consider to be breached. We believe there are many more and the CRP process will investigate all the breaches and not just those we have listed.

**President S.A. Adinaratne**

**Treasurer Samila Dehanayake**

**Secretary H.T. Mandy**

The specific damage related to these policy violations is described in the attached document headed "[Harm to Requesters](#)".

## **Remedies**

We would like ADB to help to remedy the harm in the following way.

The first step would be the suspension of disbursements of the loan by ADB.

*This suspension is important as the GoSL is likely to dispossess many of the requesters and their neighbours of their Homes and Lands within the next few weeks. Human Rights are being breached at the request and the direction of ADB. Some of these Rights are incorporated in ADB Policies, others are the subject of International Law for example the "Right to a Healthy Environment" and "Right to Equality". The material in this request indicates that ADB should not be lending until the Project is brought into compliance.*

With the project disbursements suspended, the CRP should recommend that ADB require a full investigation of the Expressway by an Independent Committee with suitable technical skills with Representatives of the Requesters as members of the Committee. This Committee should recommend a trace which ensures that the project meets the criteria which were applied in selecting the Combined Trace (CT) as well as the guidelines and policies of ADB and JBIC and the laws of Sri Lanka. We recommend that the trace be the Combined Trace, as the CT would meet all the Social, Environmental and Economic policies and guidelines of the ADB. However if the Committee can find a trace equal to or better than the CT this would be acceptable.

The Committee having recommended a trace the following would be necessary.

1. Scoping is done and Terms of Reference for an EIA be established in cooperation with the Requesters.
2. An EIA Report. This should compare the Recommended Trace with the Combined Trace in all aspects covered by the EIA.
3. An SIA on the Recommended Trace.
4. An economic analysis of the Recommended Trace to check if it is viable in line with ADB guidelines.
5. A full EIA process as required by the laws of Sri Lanka which would include an opportunity for all the Affected Persons and relevant experts to be heard.
6. Compliance of all ADB Guidelines for project formulation and approval including public participation.

**Should the Committee recommend the Combined Trace then the above tasks have already been completed.**

**The Project is rife with Corruption a fact that has been reported to the ADB Auditor General's department, but who failed to do a proper investigation.**

**Our request is that ADB should suspend disbursements for the Project until the Project Proponent and the Government of Sri Lanka ensure that:-**

The Project complies with all ADB Policies and Operations Manuals especially those pertaining to Resettlement, Environment, Indigenous People, Benefit Monitoring & Evaluation, Incorporation of Social Dimensions, Governance, Economic Analysis, Processing of Loan Proposals, Procurement of Goods & Services and Anti-corruption.

We have previously attempted to take care of our concerns with the Bank staff. We attached a list of Contacts with the Bank to the SPF Complaint ([Appendix 14](#)).

We had requested an Inspection previously and this was rejected. We have "new evidence" as attached in "[Inspection New Evidence](#)".

We also attempted to find a solution with the Special Project Facilitator. This is a brief record of what happened

We submitted our complaint by delivering it to the Sri Lankan Resident Office, and by email on 8<sup>th</sup> June 2004. SPF confirmed having received on the Complaint on 9<sup>th</sup> June 2004.

On 5<sup>th</sup> July we were advised that our complaint was eligible.

The process of Review and Findings was completed on 17<sup>th</sup> September 2004. This is 52 days **beyond** the 49 days permitted by the ADB Accountability Procedures. OSPF declared this extra time was because the Government of Sri Lanka was trying to find a solution through the Prime Minister's Committee. This Committee has nothing to do with the OSPF or its proceedings as has been clearly demonstrated by its report and actions. This delay is a breach of ADB Policies.

It should also be noted that through errors in ADB the report did not reach the Complainants till 28<sup>th</sup> September.

The OSPF Report and Recommendations confirms many of the [breaches of Policy](#) as specified in the attached list. The OSPF recognized that there is no EIA, there is no SIA, and there are none of the required studies for the trace. They have further gone on to confirm that there are breaches of the Loan Agreement which have existed for several years.

The OSPF has produced a Course of Action which has been approved by the President. It contained a trumped up charge by the RDA against the Complainants for which there is evidence showing the accusation to be completely false. Subject to the removal of that item and some minor adjustments requested by the Complainants the Course of Action was accepted.

The Complainants will continue to use the facilities of the OSPF to find a solution in line with the remedies requested.

The delay forced into the process by the OSPF is unacceptable as the RDA used the time to harass the Complainants and SARD to attempt to cover their policy breaches. Whilst the OSPF have been advised of some of these incidents they have not been able to halt the RDA's activities. The recommendation by OSPF to RDA was ignored underlining the RDA and SARD's unwillingness to follow the OSPF process. This delay is being used to make corrections more difficult.

The delay is also reminiscent of the delays on the Inspection Process requested by ADB Management and granted by the Inspection Committee. The RDA used these delays to enforce its wishes on the Affected Persons.

A letter has been sent to the SPF regarding delays, which was also copied to the CRP Office.

We are referring our complaint to the CRP because there are breaches of Policy and Procedure that should be investigated. Despite the Project breaching ADB Policy in many ways the ADB still continues to push for the project to be delivered.

We represent an organization and a large group of people, please contact us through the address and contact information as described below.

Contact can be made with:-

Mr Sarath Athukorale,  
President,  
Joint Organisation of the Affected Communities of the Colombo Matara Highway  
No 1 Baddegodahena Watte,  
Weedagama,  
Bandaragama,  
Sri Lanka

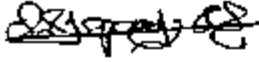
By email to [joacmh@sltnet.lk](mailto:joacmh@sltnet.lk)

Mr A.A.D Sunil Ranjith Dayaratne  
Secretary  
Gama Surakeema Sanvidhaniya,  
"Pasan Niwasa",  
Gelanigama,  
Bandaragama  
Sri Lanka

By email to [ggama@mail.ewisl.net](mailto:ggama@mail.ewisl.net)

**Accountability Mechanism Southern Expressway**

**Request to the Compliance Review Panel. ADB**



**Mr Sarath Athukorale,  
President,  
Joint Organization of the Affected Communities on Colombo-Matara Highway**



**L.D.L. Pathmasiri  
Committee Member  
United Society for the Protection of Akmeemana**



**A.A.D. Sunil Ranjith Dayaratne  
Secretary,  
Gama Surakeema Sanvidhaniya**