
**CRP REQUEST NO. 2004/1 – REQUEST ON THE SOUTHERN TRANSPORT
 DEVELOPMENT PROJECT (LOAN NO. 1711 SRI)**

Terms of Reference for Compliance Review

Introduction

1. On 17 December 2004, the Compliance Review Panel (CRP) determined that the request for compliance review (Request) on the Southern Transport Development Project (Project) was eligible and recommended to the ADB Board of Directors (Board) to authorize a compliance review.
2. Under paragraph 122 of the accountability policy and paragraph 37 of the CRP Operating Procedures, the CRP provides its proposed Terms of Reference (TOR), including its scope of review, methodology and timeframe, for clearance by the Board Compliance Review Committee (BCRC). After clearance by BCRC, the CRP will provide the TOR to the Board and to all stakeholders, and post it on the CRP website, within 14 days from receipt of Board authorization of a compliance review. The CRP received the Board authorization on a no objection basis 10 January 2005.
3. The filing of a request does not suspend or otherwise affect the formulation, processing, or implementation of the Project unless agreed to by the borrowing country and by ADB.

Particulars of the Request for Compliance Review

4. Brief particulars of the Request are summarized below:

Project Name:	Southern Transport Development Project (Loan No. 1711-SRI)
Country:	Democratic Socialist Republic of Sri Lanka
Requesters:	Sarath Athukorale, L.D.L. Pathmasiri and A.A.D. Sunil Ranjith Dayaratne and 25 other identified project-affected people who have asked that their identity be kept confidential
ADB operations department involved in designing and implementing the Project:	South Asia Department (SARD), with delegated responsibility to ADB's Sri Lanka Resident Mission (SLRM)
Project Status:	The ADB loan for the Project was approved by the Board in November 1999. As of 15 December 2004, about 27.4% of the loan has been disbursed and about 80% of the contract awards under the loan have been made. The loan closing date is scheduled on 31 December 2006.
Borrower of the loan:	Democratic Socialist Republic of Sri Lanka
Executing Agency for the highway component of the	Road Development Authority

Project:	
Other Cofinanciers:	Japan Bank for International Cooperation (JBIC), Nordic Development Fund (NDF), and Swedish International Development Cooperation Agency (Sida)
CRP:	Mr. Augustinus Rumansara, Chair, CRP is the Lead Reviewer taking primary responsibility for compliance review, with assistance from the part-time CRP members. The CRP will be supported by the Office of the Compliance Review Panel.
CRP contact person:	Mr. Rolf Zelius Secretary, CRP Email: crp@adb.org Tel: +632 632 4149

Purpose and Scope of Compliance Review

5. The purpose of the CRP is to investigate alleged violations by ADB of its operational policies and procedures in the Project that directly, materially, and adversely affects local people in the course of the formulation, processing, or implementation of the Project. The purpose of the compliance review is to focus on ADB's accountability in determining whether ADB has or has not complied with its operational policies and procedures in connection with the Project, and not to investigate the borrower or the executing agency. The conduct of these other parties will be considered only to the extent directly relevant to an assessment of ADB's compliance with its operational policies and procedures. After carrying out a compliance review, CRP will issue to the Board its findings and recommendations, including recommendations, if appropriate, for any remedial changes in the scope or implementation of the Project.

6. Based on the CRP's findings in its eligibility review of the Request, the CRP will consider ADB's operational policies and procedures, that were in effect at the time of Board approval with respect to the formulation or processing of the Project and those that were in effect when ADB's alleged act or omission took place with respect to the implementation of the Project. These policies are:

- (i) environmental considerations in ADB operations, Operations Manual (OM) Section 20, issued 7 January 1997;
- (ii) involuntary resettlement, OM Section 50, issued 7 January 1997;
- (iii) governance, OM Section 54, issued 13 January 1997;
- (iv) economic analysis of projects, OM Section 36, issued 12 November 1997;
- (v) incorporation of social dimensions in ADB operations, OM Section 47, issued 7 January 1997;
- (vi) processing of loan proposals, OM Section 34, issued 13 January 1997; and
- (vii) formulation and implementation of loan covenants, OM Section 40, issued 12 December 1995.

Conduct of Compliance Review and Methodology

7. The CRP will strive to carry out its work expeditiously, be as transparent as possible and ensure that there is engagement with Management and staff, the Requesters, project affected people, the Government of Sri Lanka and the Road Development Authority of Sri Lanka (the EA) and the Board member representing Sri Lanka.

8. In the wake of the tsunami that tragically affected a number of ADB developing member countries, including Sri Lanka, the CRP will initially concentrate its work in ADB headquarters in Manila, and exercise high sensitivity in following up with needed consultations and studies in Sri Lanka.

9. The compliance review will include the following:

- (i) consultation with all concerned stakeholders, including interviews as deemed necessary, with ADB Management, staff and consultants, the Requesters, cofinanciers and project-affected people, the Government of Sri Lanka and the EA, and the Board member representing the borrowing country, all of whom will be given an opportunity to record their views;
- (ii) coordinate, to the extent appropriate, with those of compliance review mechanism of any cofinanciers that is conducting a separate compliance review of the Project;
- (iii) review of ADB files and other documents related to the Project;
- (iv) carrying out site visits with the prior consent of the Government of Sri Lanka obtained by CRP;
- (v) holding public hearings in the project area;
- (vi) using consultants to assist the CRP in carrying out its work; and
- (vii) using any other investigatory methods that the CRP considers appropriate to carry out its work.

10. CRP will exercise discretion and maintain a low profile in Sri Lanka. CRP will not give any media interviews at any stage of the compliance review. CRP members will be subject to ADB's confidentiality and disclosure of information policy, including those provisions aimed at ensuring that confidential business information is not disclosed. When requested, CRP will withhold the identify of the claimants from other stakeholders. Any material or information submitted to any CRP members or the Secretary, CRP on a confidential basis from any party will not be released to any other parties without the consent of the party that submitted it.

11. Compliance review is not intended to provide judicial-type remedies and the CRP's findings and recommendations are not adjudicative. After carrying out a compliance review, CRP will issue a draft report of its findings and recommendations to Management and the Requesters for comments; both Management and the Requesters will have 30 days for comments; within 14 days from receipt of the comments on the draft report, CRP will consider the comments, and finalize the report, as deemed necessary, and issue to the Board its final

report with its findings and recommendations, including recommendations, if appropriate, for any remedial changes in the project scope and implementation. The CRP notes that the Requesters have identified a number of potential remedial actions in their Request. These will be considered during CRP's compliance review.

Timeframe

12. The CRP will carry out the compliance review expeditiously. Based on the nature and complexity of the Project and the potential policy violations, CRP proposes the following timeframe, in accordance with the compliance review steps set out in the accountability policy and the CRP Operating Procedures.

Step	Event	Expected Date
6	CRP's Draft Report. CRP will issue its draft report of its findings and recommendations to Management and the Requesters for comments.	6 May 2005
7	Management's Response and Requester's Response to CRP's Draft Report. Each party has opportunity to give comments within 30 days from receipt of the draft report.	13 June 2005 ^{*)}
8	CRP's Final Report. Within 14 days from receipt of responses, CRP finalizes its Report, based on comments received, and issues CRP's final Report to the Board, with responses from Management and the Requesters as attachments.	27 June 2005
9	Board's Decision: Board consideration of the CRP's Final Report within 21 days from receipt of CRP's Final Report. Release of the Board Decision and CRP's Final Report	July 2005 July-August 2005 (within 7 days from Board Decision)

13. These timelines do not take into account time needed for translation and extensions requested for filing responses, where additional time may be required. If the CRP should experience problems in keeping with the timeframe presented above, the CRP will seek BCRC's clearance of any proposed revised time schedule.

Augustinus Rumansara
Chair, Compliance Review Panel
21 January 2005

^{*)} Allowing for mail delivery.