



15 January 2018

**Michael Strauss**

Alternate Executive Director  
United States  
Asian Development Bank (ADB)

**Re: NGO Forum on ADB Summary Comments on the PCP Review**

Dear AED Strauss,

This letter is in reference to our meeting with the Public Communications Policy (PCP) Review Team last 21 November 2017 and concerns raised earlier by members of the NGO Forum on ADB (Forum). The Forum acknowledged the revised timeline on the PCP review process, which includes releasing the draft from 4<sup>th</sup> quarter of 2017 to 1<sup>st</sup> quarter of 2018. We have expressed that this would allow for another opportunity to meaningfully engage and consider CSO comments throughout the consultation process.

During the said meeting we were informed that while the revised draft is not yet completely finished, **there is hardly any difference** (except on the inclusion of the Staff Instructions to the Operations Manual) **from the existing draft policy**. We have learned only of this structural issue recently as this was not cited neither raised in the year – long consultation process. Under this framework what does this mean relative to subjecting any proposed changes on the Staff Instructions to public consultation and which solely relies on the prerogative of the management alone?

We were also informed that these likely changes on the Staff Instructions would simply be about disclosure requirements for the latest financing modalities e.g. Faster Approach to Small Non - sovereign Transactions (FAST), and other new modalities that might likely come up in the future. Accordingly, it has been stated that these kinds of changes do not need a robust consultation process. As such, the Forum is posting its apprehension on this structural issue i.e. what are the clear and unambiguous safety nets in place that any perceived “changes” in the Staff Instructions by the management will not be detrimental to project affected households.

In view of the foregoing and prior to the disclosure of the revised draft for Board consideration and simultaneous posting on the ADB website for comments in 2018, the Forum would like to bring to your attention the critical issues we hope that the ADB will still reconsider.

**1. Mandatory requirement that any change both in the new Access to Information Policy (AIP) and Staff Instructions should be subjected to public consultation.**

- We reiterate our demand to delete the provision, which states “Amendments to the policy will be made from time to time as needed (para.42, draft AIP).”
  - ADB’s response that the AIP is not the vehicle to mandate consultations is unacceptable. This also contravenes the stated commitment on transparency, accountability and recognition of people’s rights to seek access (to information).
- Similarly this line should also be removed, “This list (of documents for disclosure) will be updated from time to time, as necessary (para. 3, Staff Instructions).”
  - Accordingly, ADB’s response is that **“any major changes to the policy or Operational Procedures (OP) will be subject to appropriate**

**consultation.** We will define in the Operational Procedures what we mean by a major change.” The Forum will closely monitor this inclusion into the revised draft and for a reasonable definition of what constitutes a “major change” both in the policy and in the OP.

2. **Explicitly cite** in the policy ADB’s response that the **Staff Instructions are mandatory to be followed by staff and both will be subject to compliance review.**
3. **Reinstate in paras. 47 and 48 of the current 2011 PCP,** Information to Affected People and Other Stakeholders. We reiterate that a strategic, affirmative and context – specific action for project – affected communities cannot be subsumed or reduced in significance. By deviating from the existing provision in the 2011 PCP, ADB is putting itself in a precarious position to act upon the findings of ADB’s own 2016 Learning Report on the Implementation of the Accountability Mechanism which already cited that “information, consultation and participation contributing 33% of the complaints.”
  - The closest section reflecting these are also entitled the same under the Staff Instructions (pp. 4 – 5). However as compared to the current PCP, an identification of the vulnerable groups e.g. women, poor, those without title to land and other vulnerable groups are missing in the Staff Instructions.
  - The current PCP also identifies that a project focal point is designated for regular contact with affected people and other interested stakeholders. This is also omitted in the Staff Instructions.
4. **Clear disclosure requirements for Category B projects (resettlement and indigenous peoples) be explicitly compliant to ADB Safeguard Policy Statement (SPS) 2009.**
5. **Clear time bound disclosure requirements for all *draft* assessment documents, including 120 - day public disclosure for all projects with significant impacts.** The language of the draft PCP does not provide clear guidance for these disclosures, which are mandatory under the SPS.
6. **Clear requirements for public disclosure of reports of safeguard violations to ensure disclosure at the earliest possible point of safeguard violation.** This includes disclosure of Internal Audit Reports and Trust Fund Audit Reports.
7. **No distinction should be made between disclosing public and private sector project documents, including those pertaining to the use of borrower systems.** The timing and modalities for disclosure of all project documents for non – sovereign projects should also follow the same requirements for sovereign loans.

In case the revised draft fails to include the key points made in the consultations undertaken and written submissions, the NGO Forum on ADB strongly urges the ADB Board of Directors to retain the current PCP 2011 and ensure its due diligent implementation.

Thank you.

Sincerely,

Signatories:

**Regional**  
Asia Indigenous Peoples Pact  
EarthRights International

Focus on the Global South  
Forest Peoples Programme  
International Work Group for Indigenous Affairs  
NGO Forum on ADB

### **Central and East Asia**

Japan Center for a Sustainable Environment and Society (JACSES)  
OT Watch (Mongolia)  
Rivers without Boundaries (Mongolia)

### **South Asia**

Christian Development Alternative (Bangladesh)  
Community Empowerment and Social Justice Foundation (Nepal)  
Sri Lanka Nature Group  
Youth for Environment, Education and Development Foundation (Nepal)

### **Southeast Asia**

Alyansa Tigil Mina (Philippines)  
Equitable Cambodia  
Freedom from Debt Coalition (Philippines)  
WomanHealth Philippines

### **Africa**

African Law Foundation  
Buliisa Initiative for Rural Development Organisation (Uganda)  
Economic and Social Rights Centre (Kenya)  
Global Rights (Nigeria)

### **US and Europe**

Bank Information Center  
Both ENDS  
CEE Bankwatch  
Center for International Environmental Law  
Crude Accountability  
Gender Action  
Ulu Foundation