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Accountability Mechanism — Headline

UN Forum on Business and Human Rights, Geneva, 27-29 November. Mr. Dingding Tang, Compliance Review Panel (CRP) Chair, concurrently Head of the Office of Compliance Review Panel (OCRCP), participated as a speaker at the session [“The Road to Remedy: Challenges and Opportunities for Communities Accessing Remedy in International Development Projects”](#) during the 2017 United Nations Forum on Business and Human Rights, held on 27 to 29 November at Geneva, Switzerland.

The session was organized by the Independent Accountability Mechanisms Network (IAMnet), Centre for Research on Multinational Corporations (SOMO), Accountability Counsel, Bank Information Center (BIC), and Center for International Environmental Law (CIEL). Panelists discussed challenges, lessons learned, and best practices throughout various stages of the Independent Accountability Mechanism (IAM) process, with a focus on matters before and after the filing of complaints, and remedies.

Office of the Special Project Facilitator (OSPF) — Problem Solving Function

Update on Eligible Complaints

Loan Nos. 2892-3, Grant No. 0303, and TA No. 8167-SRI: Clean Energy and Network Efficiency Improvement Project. Mr. Warren Evans, Special Project Facilitator (SPF), led a review and assessment mission on 23 to 30 October 2017 to discuss issues on lack of environmental study and use of complainant’s property without legal permission on a newly proposed transmission alignment passing through complainant’s community. The Office of the Special Project Facilitator (OSPF) conducted in-depth assessment of the issues with relevant stakeholders of the complaint to find facts on the ground.

Building on the work initiated by the South Asia Department’s Office of the Director General (SAOD) earlier, the mission facilitated an agreement between the complainant and the Ceylon Electricity Board (CEB) on a series of sequential initiatives commencing with new technical and safeguards studies of alternate routes including the three existing alignments between November 2017 and early 2018. Results of these studies will be presented in a multi-stakeholder consultation in the first quarter of 2018. The OSPF has engaged a communication and consultation consultant to ensure that complainants are well-informed and adequately consulted at every step of the way of this process.



Left and middle photos: OSPF team meeting the complainants for the first time and discussing in detail the issues of the complaint

Complainants showing OSPF the towers constructed in the community along with markers of structures that will be affected by the transmission line



AM Links

- [Accountability Mechanism Website](#)
- [Complaint Receiving Officer Registry](#)
- [OCRCP Complaints Registry](#)
- [OSPF Complaints Registry](#)



ADB’s Accountability Mechanism (AM) provides a forum where people adversely affected by ADB-assisted projects can voice and seek solutions to their problems and report alleged noncompliance with ADB’s operational policies and procedures. It consists of two separate but complementary functions: problem solving function and compliance review function. The AM’s objective is to be accountable to people for ADB-assisted projects as a last resort mechanism.

Office of the Special Project Facilitator (OSPF) — Problem Solving Function

Update on Eligible Complaints (continuation)

The OSPF mission also visited one of the project locations and the office of the Divisional Secretary at Yatiyantota to understand how project-related complaints are being managed through the Project Grievance Redress Mechanism (GRM). From the site visit and subsequent discussions, it is apparent that the Project GRM is based on an already well-placed system established by the Public Utility Commission of Sri Lanka Act, which outlines procedures for grievance redressal. Grievances addressed in the system are not limited to project-related complaints but also cover other social and economic development issues in the villages. While the CEB Board and the Divisional Secretary expressed the need to establish an online complaint tracking system and training to strengthen GRM implementers' skills on communication and participation, the OSPF will discuss further with Sri Lanka Resident Mission and SAOD on possible collaboration if any problem-solving capacity building interventions are needed on ground.

Loan 2752-ARM: Sustainable Urban Development Investment Program-Tranche 1. The OSPF deemed the complaint eligible for problem-solving on 29 September 2017, and during its 16-18 October 2017 review and assessment mission, held discussions with the Armenia Resident Mission (ARRM), representatives of the Municipality of Yerevan - the Project implementing agency, and the complainant who is the head of the family (including their lawyer). With the findings of an independent engineering study confirming substantial damages to the complainant's property, the OSPF facilitated a mutually satisfactory agreement between the complainant and the Municipality of Yerevan.



Showing the distance between outside curb of access road and the complainant's house

A legal agreement was signed between the two parties and the compensation was paid on 7 December 2017. The agreement provides for sufficient funding to repair all damages directly or indirectly caused by or worsened by the project's road construction. The complainant will complete the rehabilitation work of his property in a year's time from receiving his compensation. ARRM will validate the completion of the rehabilitation works and will keep the OSPF informed.

This case is a good example of how the AM problem-solving function should work, that is, with appropriate and timely interventions by the SPF/OSPF to secure an agreement among key stakeholders and with subsequent implementation of actions led by the operational department, in this case Central and West Asia Department (CWRD)/ARRM. The SPF submitted the final report to the President on 15 December 2017. The complainant is satisfied with the result of the ADB intervention and OSPF considers this complaint closed.



This wall used to be an internal wall and is now an external wall

TA Nos. 8481 and 7387-SAM: Promoting Economic Use of Customary Land, and Grant No. 0392-SAM: Samoa Agribusiness Support Project. Based on the reports received on 14 December 2017 from South Pacific Sub-Regional Office, the Samoan Customary Land Advisory Committee completed 14 community consultations covering a total of 254 villages with about 1,600 participants. Prior to the consultations, three radio talk shows and three television programs were aired to draw attention to the issues discussed during the consultations. Report on the consultations are finalized and will be made publicly available once it has been reviewed by the Samoan Cabinet. The Government of Samoa has also introduced legislative reforms to Parliament in December 2017 to reiterate Constitutional protection against the alienation of customary land. The OSPF is reviewing the consultation report to assess whether an independent review of the problem-solving process of this complaint is necessary.

Loan No. 3063-GEO: MFF-Sustainable Urban Transport Investment Program-Tranche 3 (Section 2, Part B of the Tbilisi-Rustavi Urban Road Link). The complaint from residents of apartment building number 6 along the Rustavi Highway in Ponichala District raised issues similar to those of the two compliance review complaints for building 12 v/g and 16 a/b in the 12-33 Block, Rustavi Highway, Tbilisi, Georgia. Remedial actions to bring the project into compliance are being prepared by ADB Management, and will cover all the neighboring buildings in the Ponichala area including building number 6. For this reason, the SPF, in consultation with CWRD and the CRP Chair, determined that no further action from the OSPF is necessary and considers this complaint closed.

Office of the Special Project Facilitator (OSPF) — Problem Solving Function

Knowledge Product

Joint Case Study on Loan 3013-VIE: Central Mekong Delta Region Connectivity Project. This project aims to improve the connectivity in the Mekong Delta Region and provide efficient access from Ho Chi Minh City to the Southern Coastal Region through construction of two cable stayed bridges across the Mekong River and associated roads. With 224 hectares of land acquired, the project has a direct impact on nearly 7,700 people. The Project GRM was established to address grievances, and was strengthened during the project implementation, due to a large influx of complaints from almost 30% of the affected households.

Ms. Sushma Kotagiri, Senior Facilitation Specialist, is leading this study. Together with Mr. Wilfredo Agliam, Associate Facilitation Coordinator, and Mr. Nitish Jha, OSPF consultant, a mission was fielded on 13 to 25 November 2017 to Viet Nam to analyze and document the various approaches adopted by the project and the lessons learned from complaint handling and problem-solving processes. The results will be documented as a joint knowledge product by the OSPF and Viet Nam Resident Mission, South East Asia Department.



The Cao Lanh bridge, a cable-stayed bridge, under construction over the Tien River at Cao Lanh, Dong Thap Province, Viet Nam. It is one of three components of the project.



OSPF Mission Team in a meeting with project implementation units



Middle and right photos: OSPF team interviewing affected households

OSPF In-reach

Independent Appeals Panel Presentation, 24 November 2017. Mr. Warren Evans and Ms. Sushma Kotagiri presented ADB's AM including the mandate of the OSPF, key reasons for complaints, and lessons learned through the years in handling complaints to the three members of ADB's Independent Appeals Panel. Complaints regarding matters within the jurisdiction of the Independent Appeals Panel are excluded from the AM.



OSPF and Independent Appeals Panel

Office of the Compliance Review Panel — Compliance Review Function

New Complaint Received

GEO: Nenskra Hydropower Project (Project No. 49223-001). Certain individuals from Nakra and Chuberi in Georgia complained about ADB's noncompliance with the above project and submitted a [request](#) for compliance review to CRP. The complaint was forwarded to the CRP on 7 December 2017 by the Complaint Receiving Officer. In accordance with paragraph 178 of the AM Policy, the CRP carried out an initial assessment and confirmed that the complaint falls within the mandate of the compliance review function.

The CRP forwarded the complaint to Management on 12 December 2017 and requested a response within 21 working days. Within 21 working days from the CRP's receipt of Management's response, the CRP will determine the eligibility of the complaint and will inform the ADB Board of Directors (Board) of its findings accordingly.

Monitoring of Implementation of Board Decisions on Eligible Complaints

Loan No. 3063-GEO: MFF-Sustainable Urban Transport Investment Program-Tranche 3. CWRD has been closely coordinating with the CRP in the preparation of specific studies relating to the remedial actions for the project. The CRP reviewed and commented on the (i) Modeling of Road and Noise Barrier Construction-Related Vibration Impact on Residential Buildings in Ponichala, Tbilisi and (ii) Noise Modeling of Tbilisi-Rustavi Highway (Section 2). The review of the studies confirmed the methodology used and the soundness of conclusions for each. The CRP reiterated the need to share the results of the studies to the affected persons, and emphasized the need for meaningful consultation on actions that would impact them particularly the disabled and socio-economically disadvantaged affected persons in the project site.

Loan Nos. 2288 and 2602 and Grant No. 0187-CAM: Greater Mekong Subregion (GMS) Rehabilitation of the Railway in Cambodia Project. The CRP had its 3rd annual monitoring mission to the project on 24 to 29 September 2017. It met with about 100 affected persons including the complainants; NGOs; government officials; and ADB staff at the Cambodia Resident Mission. Resettlement sites in Phnom Penh, Poipet, and Battambang were visited to ascertain whether the issues raised in the CRP's 2nd monitoring report have already been addressed. The [3rd CRP annual monitoring report](#) was submitted to the Board on 6 December.

Loan No. 2419-IND: Mundra Ultra Mega Power Project. On 2 October 2017, the CRP received the 9th quarterly report for the project from the Private Sector Operations Department (PSOD), the contents of which were mostly in the CRP's 2nd annual monitoring report on the implementation of remedial actions for the project. The CRP also commented on the Assessment of Impact of Thermal Discharge from Coastal Gujarat Thermal Power Plant (CGPL) Using Satellite Imageries, which was conducted by PSOD as a substitute to the additional thermal measurement and ecological impact monitoring. It should be recalled that PSOD proposed an additional study to be conducted by CGPL to monitor and ascertain actual impacts by the hot water coming from the power plant on marine ecology, particularly at the Modhwa creek where livelihood of foot fishers is alleged to be significantly affected.

Loan No. 2612-PHI: Visayas Base-Load Power Development Project. The Board Compliance Review Committee (BCRC) reviewed the draft CRP [5th monitoring report](#) for the project, which was issued to the Board on 13 November 2017. As the last CRP annual monitoring report to be submitted to the Board on the project, the report summarized the status of compliance of the project; the project's progress in implementing the remedial actions; and the lessons learned during the 5-year monitoring by the CRP of the implementation of remedial actions. Since Capacity Development Technical Assistance No. 8338 has not yet been completed, Recommendations 1 and 4 remain partially complied with. As such, the CRP will continue to monitor and report the progress of the remaining activities to BCRC, based on report studies and quarterly progress reports, which will also be continuously submitted by PSOD until all the recommendations are brought into full compliance.

Office of the Compliance Review Panel — Compliance Review Function

OCRP In-reach and Outreach — Information Dissemination

Outreach in Uzbekistan. An OCRP outreach was conducted in Tashkent, Uzbekistan on 19 and 20 October 2017, back-to-back with TA workshops on the development of guidebooks for compliance review process in Georgia and Azerbaijan. The Country Director of Uzbekistan Resident Mission (URM) welcomed the briefing, as their partners in project implementation among government agencies were relatively new and not acquainted with ADB's AM.



OCRP outreach to participants from the government, Tashkent



OCRP outreach to URM staff, Tashkent

Outreach in Berlin. The CRP Chair and the OCRP Advisor presented and discussed ADB's AM on 30 November 2017 with several NGOs in Berlin. CRP part-time member Arntraud Hartmann facilitated the organization of this outreach in partnership with the German Institute for Human Rights. On 1 December 2017, the mission presented the AM process and particular lessons related to the compliance review to the officials from the Federal Ministry for Economic Cooperation & Development, Germany, including representation of the Human Rights Division from Bonn office, in a meeting.



OCRP Outreach to German government officials in Berlin



OCRP Outreach to several NGOs in Berlin

Collaboration with Other Institutions on Accountability Mechanisms

Discussion with Green Climate Fund, Incheon, 17 November. The CRP Chair and the OCRP Advisor visited the Headquarters of the Green Climate Fund (GCF) in Incheon on 17 November to meet with its Independent Redress Mechanism (IRM) and safeguards staff on its draft procedures and guidelines for the IRM.

The proposed Memorandum of Cooperation between ADB's AM and the GCF's IRM will be undertaken once the IRM has finalized its procedures and guidelines. Potential joint outreach or cooperative activities in the region in 2018 was also discussed.



CRP Chair and OCRP Advisor with Green Climate Fund Officials and Staff, GCF Headquarters, Incheon

Office of the Compliance Review Panel — Compliance Review Function

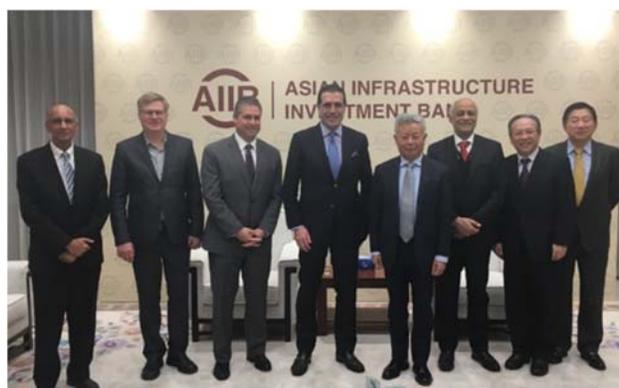
Collaboration with Other Institutions on Accountability Mechanisms (continuation)

Discussions with PRC’s Ministry of Finance (MOF), Asian Infrastructure Investment Bank, and China Banking Regulatory Commission and China Banking Association, Beijing. On 20 November 2017, the OCRP mission met with officials of MOF, PRC, along with representatives of the redress mechanisms of AIIB, the World Bank, and IFC, to introduce their respective practices and the lessons learned as well as to discuss future collaboration among the agencies on accountability mechanisms. All the representatives shared the view that proper implementation of safeguards is essential not only to prevent financial and reputational risks, but also to improve development effectiveness of the projects and to avoid stranded assets, in case of a project getting stopped due to complaints related to non-adherence to its policies.

The mission also met with AIIB President, Liqun Jin, and had a brainstorming session with the AIIB staff who are formulating their guidelines and procedures of its accountability mechanism. The mission also presented the lessons learned on AM and the draft AM guidebooks for ADB to PRCM staff.



Outreach to government officials from MOF of PRC in Beijing



AIIB President Liqun Jin with representatives and officials from ADB, World Bank, and IFC, Beijing

On 21 November 2017, the CRP Chair Dingding Tang also participated as the key speaker, in a brainstorming workshop on “Overseas Environmental and Social Risks Management by Chinese Financial Institutions—Establishing Independent Compliance Mechanism”. The CRP Chair provided updates on compliance supervision and the accountability for officials of Chinese financial institutions together with representatives of World Bank, IFC, and AIIB. Officials of the China Banking Regulatory Commission (CBRC), the Ministry of Environmental Protection (MOEP), and China Banking Association (CBA) in Beijing, along with a few NGOs, were present.



Brainstorming workshop on “Overseas Environmental and Social Risks Management by Chinese Financial Institutions—Establishing Independent Compliance Mechanism”, Beijing to government officials from MOF of PRC in Beijing

Office of the Compliance Review Panel — Compliance Review Function

Other OCRP Activities (continuation)

Small-Scale Technical Assistance (SSTA) on Strengthening Policy Compliance Awareness for Good Governance and Development Effectiveness. The second workshop under this [TA](#) was held on 5 October at the ADB Headquarters. Around 30 ADB staff participated in enriching the guidebook for ADB staff. Similarly, the third and fourth workshops were held in Georgia and Azerbaijan on 24 and 26 October, respectively; participants from government implementing agencies and ADB resident mission staff participated and they commented on the guidebooks for government borrowers and ADB staff. A fifth workshop, which will target NGOs, is planned in Bangkok in February 2018. Should there still be enough funds under the TA, a sixth workshop may be held in the Pacific in March 2018.



SSTA Workshop at the ADB Headquarters



SSTA Workshop in Tbilisi



Left and right photos: SSTA Workshop in Baku

Funding Approval of SSTA on Strengthening Compliance Review and Accountability to Project Affected Persons of Financial Intermediaries, Financed by the PRC: Poverty Reduction and Regional Cooperation Fund. The OCRP prepared a TA paper entitled Strengthening Compliance Review and Accountability to Project Affected Persons of Financial Intermediaries and was approved on 13 December 2017 for funding from the PRC Poverty Reduction and Regional Cooperation Fund. The two outputs are: (i) Output 1: Compliance review, supervision and accountability knowledge events conducted; and (ii) Output 2: ADB publication of good practice on compliance and accountability published. Under the TA, it is planned to host 3 regional workshops, i.e. in PRC, India and a southeast country, respectively, in 2018.

The OCRP Advisor undertook a mission to Delhi, India to (i) attend the 2017 International Conference on Environment organized by the National Green Tribunal (NGT) on 3 and 4 November 2017; (ii) discuss the cooperation with the Central Pollution Control Board (CPCB) and Ministry of Environment and Forest (MOEF) on co-hosting the workshop in India under the proposed TA being processed for accessing the PRC Fund.

Intern Presentation. On 2 October 2017, OCRP Intern Kahhow Lee reported his findings on his study of compliance review, which consists of two components: (i) an evaluation of the costs and benefits of remedial actions proposed by the CRP for the Sri Lanka Southern Transport Development Project, Cambodia Railway, and India Mundra Ultra Mega Power project; and (ii) an evaluation of compliance review as a neutral arbiter and its capacity to deter noncompliance.

Office of the Compliance Review Panel — Compliance Review Function

New Composition of the Board Compliance Review Committee (BCRC)

The Board Compliance Review Committee (BCRC) is a standing committee consisting of 6 Board members: 4 regional members (at least 3 of whom must be from borrowing countries) and 2 non-regional members.

CHAIR



Helmut Fischer is Executive Director for Austria, Germany, Luxembourg, Turkey, and United Kingdom, effective 1 July 2017.

MEMBERS



Anuar bin Ariffin is Executive Director for Brunei Darussalam, Malaysia, Myanmar, Nepal, Singapore, and Thailand, effective 1 November 2017.



Paul Dominguez is Alternate Executive Director representing Kazakhstan, Maldives, Marshall Islands, Mongolia, Pakistan, Philippines, and Timor-Leste, effective 8 June 2017.



Joar Strand is Alternate Executive Director for Canada, Denmark, Finland, Ireland, The Netherlands, Norway, and Sweden, effective 1 September 2016.



Mahbub Ahmed is Alternate Executive Director for Afghanistan, Bangladesh, Bhutan, India, Lao People's Democratic Republic, Tajikistan, and Turkmenistan, effective 9 March 2017.



Bobur Khodjaev is Alternate Executive Director for Republic of Korea, Papua New Guinea, Sri Lanka, Taipei, China, Uzbekistan, Vanuatu, and Viet Nam, effective 25 September 2017.

AM In-Reach

ADB Staff Induction Program. On 13 October and 8 December 2017 during the Induction Program: Beginning Life at ADB attended by about 80 new ADB staff from the ADB Headquarters and resident missions, the briefing on the AM on was conducted by the Consultation Officer of OSPF and the Compliance Review Officer of OCRP.

Updates from the Complaint Receiving Officer (CRO)

In 2017, the CRO forwarded 16 AM complaints:

- Twelve complaints regarding the following were forwarded to the SPF:
 - **Georgia: Sustainable Urban Transport Investment Program-Tranche 3**, Project No. 42414-043 (three complaints) (Apr 10, Jul 10, and Aug 14)
 - **Sri Lanka: Clean Energy and Network Efficiency Improvement Project**, Project No. 43576-013 (two complaints) (Aug 16 and Oct 5)
 - **Sri Lanka: Green Power Development and Energy Efficiency Improvement Investment Program MFF and Tranche 1**, Project Nos. 47037-003 to -004 (Jan 31)
 - **Sri Lanka: Greater Colombo Water and Wastewater Management Improvement Investment Program-Tranche 3**, Project No. 45148-008 (Mar 24)
 - **Sri Lanka: Greater Colombo Wastewater Management Project**, Project No. 36173-013 (Apr 19)
 - **Nepal: Decentralized Rural Infrastructure and Livelihood Project-Additional Financing**, Project No. 38426-023 (Aug 22)
 - **Georgia: Batumi Bypass Road Project**, Project No. 50064-001 (Aug 24)
 - **Armenia: Sustainable Urban Development Investment Program-Tranche 1**, Project No. 42417-023 (Sept 5)
 - **Bangladesh: Third Urban Governance and Infrastructure Improvement (Sector) Project - Additional Financing**, Project No.39295-038 (Oct 25)

- Four complaints regarding the following were forwarded to the CRP Chair:
 - **China, People’s Republic of: Guangxi Southwestern Cities Development Project**, Project No. 42010-013 (Feb 16)
 - **India: Rajasthan Renewable Energy Transmission Investment Program-Tranche 2**, Project No. 45224-004 (Jun 27)
 - **Pakistan: Power Distribution Enhancement Investment Program-Tranche 3**, Project No. 38456-034 (Aug 15)
 - **Georgia: Nenskra Hydropower Project**, Project No. 49223-001 (Dec 8).

The 12 problem solving complaints were filed by 264 individuals, while the 4 compliance review complaints were filed by 15 individuals. Only one complaint, which was for compliance review, was filed by a local civil society organization (CSO) representing the complainants, as the 14 others were filed by the complainants themselves (13) or their organizations (2). Twelve complaints requested confidentiality, including all complaints for compliance review. In terms of sector, seven are in transport, six in energy, and three in water and other urban infrastructure services. In terms of location, eight are from South Asia (primarily in Sri Lanka), seven are from Central and West Asia (primarily in Georgia), and one from East Asia; only one was a private sector project. Below is a summary of the statistics:

16 complaints: 12 problem solving 4 compliance review	12 confidential including all for compliance review	1 with representation (local CSO)	279 individuals: 264 problem solving 15 compliance review
1 project under non-sovereign financing	7 in transport sector 6 in energy sector 3 in water sector	8 South Asia 7 Central and West Asia 1 East Asia	5 from Georgia 5 from Sri Lanka 6 from Others

Note: The other 43 complaints processed this year include 11 incomplete complaints alleging project harm; 3 incomplete complaints alleging harm caused by **Georgia: Adjariatsqali Hydropower Project**, Project No. 47919-014, that were sent to the operations department and copied to the AM, as clarified by the CSO staff who delivered the complaints to the resident mission; and 29 clearly excluded complaints — procurement (14), corruption (8), non-ADB projects (2), and others, i.e. scholarship, start of proposed ADB project, salary claim of an employee of consulting firm of the borrower, payment by contractor to subcontractor, and payment of fees to consultant, (5). See [CRO’s Complaints Registry](#).