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An Impact Assessment Study of the
Major Changes Introduced in the
Asian Development Bank Accountability Mechanism
Policy 2012

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Abbreviations and Usage

ADB	–	Asian Development Bank
AM	–	Accountability Mechanism
BCRC	–	Board Compliance Review Committee
CRO	–	Complaint Receiving Officer
CRP	–	Compliance Review Panel
CSO	–	civil society organization
DMC	–	developing member country
GRM	–	grievance redress mechanism
GRC	–	Grievance Redress Committee
IAM	–	independent accountability mechanism
IED	–	Independent Evaluation Department
JLR	–	joint learning report
MDB	–	multilateral development bank
NGO	–	nongovernmental organization
OCR	–	Office of the Compliance Review Panel
OGC	–	Office of the General Counsel
OSPF	–	Office of the Special Project Facilitator
PRC	–	People’s Republic of China
PSO	–	private sector operations
PSOD	–	Private Sector Operations Department
RAP	–	remediation action plan
SDCD	–	Sustainable Development and Climate Change Department (now Climate Change and Sustainable Development Department)
SPF	–	Special Project Facilitator
SPS	–	Safeguard Policy Statement 2009

“Complaints” means complaints filed by affected people with the AM.

“2003 AM Policy” refers to the Review of the Inspection Function: Establishment of a New Accountability Mechanism. Asian Development Bank, 2003.

“2012 AM Policy” refers to the Accountability Mechanism Policy 2012. Asian Development Bank, as approved on 24 February 2012.

Quotes from interlocutors are presented in the study without attribution.

NOTE

In this report, "\$" refers to United States dollars.

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I. INTRODUCTION

A. The Impact Assessment Study

1. This study¹ is a prelude to a review of the Accountability Mechanism (AM) of the Asian Development Bank (ADB) and has two objectives:

- (i) **To analyze** the incremental impacts of the major changes introduced by the 2012 AM Policy,² including the impact of the 2012 AM Policy, if any, on ADB's decision-making and project selection.
- (ii) **To review** the experiences of 3 ADB developing member countries (DMC) in dealing with complaints made under the 2012 AM Policy.

B. Methodology

2. In accordance with the terms of reference for the study, the assessment of each of the seven major changes introduced by the 2012 AM Policy and the impact of these changes on ADB's decision-making and project selection were informed by (i) a structured questionnaire completed by AM staff; (ii) interviews with relevant ADB staff; and (iii) a focus group discussion with ADB staff. The study also considered certain observations from Compliance Review Panel (CRP) members.³

3. The experiences of each of the three DMCs, namely Georgia, Mongolia, and Sri Lanka, were derived from (i) questionnaires completed by representatives of project executing agencies and implementing agencies; and (ii) a focus group discussion with the executing agency and implementing agency representatives, local facilitators of the Office of Special Project Facilitator (OSPF), and ADB staff in each DMC.

C. Data on Accountability Mechanism Complaints

4. During 2012 to December 2022, ADB approved around 2,000 projects⁴ while the AM received a total of 113 complaints, thus only around 5% of ADB-assisted projects received complaints over a decade, of which many were ineligible for problem-solving or compliance investigation.⁵

5. Of the total AM complaints under the 2012 AM Policy, the CRP received 19 requests for compliance review, of which only six requests (31%) were determined to be eligible; and the

¹ There is a companion study on the benefits and costs of the 2012 AM Policy, which is being done in tandem with this study.

² ADB. 2012. *Asian Development Bank Accountability Mechanism Policy 2012*, hereinafter the "the 2012 Policy"

³ The study did not conduct any questionnaires, briefings, interviews, or discussions with other stakeholders such as complainants, affected persons ("affected people"), nongovernment organizations (NGOs), civil society organizations (CSOs), ADB shareholders, Board Members, ADB Management or other independent accountability mechanisms (IAMs)

⁴ The total number of projects approved by ADB during 2012 to 2022 was calculated by reference to the [Statement of ADB's Sovereign Loans 1968 to 2017](#), plus the approximate number of ADB sovereign loans approved during 2017 to 2022.

⁵ The data on AM complaints presented in this report has been compiled from the annual AM reports, AM complaint registry, and interactions with the AM offices. The analysis presented in this report on the complaints has been based on the information provided during the period of the assignment and may not be consistent with the consolidated annual number of complaints presented in the annual AM reports. [ADB Accountability Mechanism Annual Reports | Asian Development Bank](#) present consolidated information and analysis of the complaints received by AM offices. Some ADB-assisted projects generated several separate complaints.

Special Project Facilitator (SPF) received 94 complaints requesting problem-solving, of which only 17 (18%) were determined to be eligible over a 10-year period.⁶

6. A summary of the AM complaints data is shown in Appendix 1.

II. BACKGROUND TO THE ACCOUNTABILITY MECHANISM

7. Since 1995, ADB's approach to accountability has been based on a set of consistent objectives to:

- provide a mechanism by which people affected by ADB-assisted projects, can have their complaints resolved;
- establish an independent body designed to hold ADB accountable by investigating whether ADB has complied with its operational policies and procedures;
- administer an accountability system to improve the quality of ADB-assisted projects and enhance ADB's development effectiveness;
- improve the way ADB manages complaints in ADB-assisted projects or responds when ADB has failed to comply with its own operational policies and procedures by learning lessons and providing capacity development and training;
- focus on operational accountability and transparency to complement ADB's existing project supervision, reporting, audit, and independent evaluation;
- foster public access to ADB, particularly through beneficiary participation; and
- continue to improve good governance at ADB and thereby foster confidence in ADB and its operations.

8. ADB established an Inspection Function in 1995 as the first independent body designed to investigate ADB's compliance with its own operational policies and procedures. In 2002, following a review, ADB replaced the Inspection Function with the AM, which was established by the 2003 AM Policy.⁷ In May 2010, ADB initiated a review of the 2003 AM Policy, commencing with an independent review,⁸ followed by a policy paper⁹ and culminating in the 2012 AM Policy.

III. THE SEVEN MAJOR CHANGES INTRODUCED IN THE ACCOUNTABILITY MECHANISM POLICY 2012

9. Analytical framework. In 2010, when ADB reviewed the 2003 AM Policy, it used an analytical framework consisting of four key attributes that should underpin any mature accountability system.¹⁰ ADB intended that the 2012 AM Policy should be (or become) more accessible, credible, efficient, and effective. The assessment in this study is organized around the same analytical framework.

10. In the pursuit of these attributes, and with the benefit of the 2010 Independent Review and the 2011 AM Policy Paper, the 2012 AM Policy identified some weaknesses in the 2003 AM

⁶ This data is consistent with the findings in previous AM studies, reports, and reviews.

⁷ ADB. 2003. *Review of the Inspection Function: Establishment of a New ADB Accountability Mechanism.*, hereinafter, "the 2003 Policy."

⁸ M. van Putten. and H. Ishrat. 2010. *Independent Review of the ADB Accountability Mechanism.* ADB, hereinafter "the 2010 Independent Review."

⁹ ADB. 2011. *Further Strengthening the Accountability Mechanism*, hereinafter "the 2011 AM Policy Paper."

¹⁰ 2012 Policy, para. 69; footnote 25: E.B. Weiss. Note on Criteria for Evaluating Accountability Institutions in MDBs. Address to the 4th Meeting of the Accountability Mechanisms. London. 21 June 2007 (World Bank. 2009. *Accountability at the World Bank: The Inspection Panel at 15 Years.* Washington. DC. Pp. 109-113). See the 2012 Policy, Appendix 7: *Summary Assessment of the ADB Accountability Mechanism*

Policy¹¹ and introduced seven major policy changes designed to respond to those weaknesses.¹² This study focuses on the impact of each of the major policy changes.

A. Enabling Direct Access to the Compliance Review Function

11. The 2003 AM Policy required the sequential filing of complaints, first to the SPF then to the CRP.¹³ Even though problem-solving and compliance review are fundamentally different processes, the 2003 AM Policy conflated the interests of affected people in the AM: only they could lodge complaints. (A Board Member may also initiate a compliance review.)

12. The 2012 AM Policy identified two issues associated with the sequential approach to the AM under the 2003 AM Policy:¹⁴ namely (i) *“the OSPF has blocked the access of complainants to the compliance review”*; and (ii) the sequencing requirement may have *“... prolonged the process for people who wanted access to compliance review in the first place.”*

13. Therefore, the 2012 AM Policy eliminated sequential processing and allowed affected people direct access to the compliance review function; they have the option to pursue either compliance review or problem-solving at the outset. Affected people also have some other options: namely, they may exit consultations *“at any time”*; seek access to the CRP upon reaching an agreement on problem-solving or if the SPF concludes that no such agreement could be reached; or seek access to the CRP during the monitoring of a consultation agreement.

14. If the CRP finds that a request for compliance review is ineligible, affected people can switch to the problem-solving process with OSPF; however, if the CRP makes a determination on noncompliance or exonerates ADB, affected people cannot then seek problem-solving with the OSPF because, according to the 2012 AM Policy, operations departments (OD) can take corrective action: *“... operations departments can still address problems as part of project implementation.”*¹⁵

B. Establishing a Single Entry Point

15. As a consequence of permitting affected people to access directly either the problem-solving function or the compliance review function, the 2012 AM Policy recognized the need for a “single entry point” to access the AM.¹⁶ A new AM functionary, the Complaint Receiving Officer (CRO), was created as a “focal point” to receive all AM complaints and to act as a clearing house for the initial processing of each complaint.¹⁷ The CRO is to be jointly engaged by OSPF and OCRP and, to preserve independence, the CRO could not be an ADB staff member.¹⁸ The 2012 AM Policy also invests the CRO with critical indicia:¹⁹ they should provide “easy access,” a “credible” entry point, the “first contact” for affected people wanting to access the AM, and be efficient, impartial, capable, objective, and neutral.

¹¹ 2012 AM Policy, paras. 43–69; Appendix 7.

¹² *Ibid.*, paras. 70–101.

¹³ 2003 AM Policy, para. 113(iv).

¹⁴ 2012 AM Policy, para. 45

¹⁵ *Ibid.* Para. 73.

¹⁶ *Ibid.* Para. 47.

¹⁷ *Ibid.* Para. 74.

¹⁸ *Ibid.* Para. 75.

¹⁹ 2012 AM Policy, paras. 47, 74–75, 125.

C. Addressing Site Visit Issues

16. Most accountability stakeholders, such as ADB shareholders, Board Members, international nongovernment organizations (NGOs) and civil society organizations (CSOs), and other Independent Accountability Mechanisms (IAMs) tend to regard site visits as essential for independent, credible compliance reviews.²⁰

17. Under the 2003 AM Policy, ADB had assumed “*the good faith cooperation of all parties in the compliance review process.*” Moreover, it was expected that consent for site visits would be “*routinely given.*”²¹ This approach was consistent with the approach to site visits at the IAMs at other multilateral development banks (MDBs).

18. The 2012 AM Policy review, however, identified two main “weaknesses” in the 2003 AM Policy: (i) the fact that the 2003 AM Policy was silent on the process and responsibility to obtain consents; and (ii) the lack of guidance on what should happen if a host DMC refuses consent for a site visit.

19. The 2012 AM Policy²² recommends that ADB should adopt a “*partnership approach on site visits*” and stated that ADB would use its “*good offices and established international mechanisms*” to assist the CRP to obtain country access. There is no guidance on what this means. The 2012 AM Policy also states that managing country relations “*is a core dimension of ADB’s engagement with borrowing countries*” with proactive involvement of ADB resident missions and the DMC’s representative on the Board. The 2012 AM Policy argues that this “new” approach would (i) minimize the risk of a DMC refusal for a site visit because “*(i)intensive communications are required...*” and (ii) ensure that “*the borrower implements the remedial actions at the end of the compliance review.*”

20. The 2012 AM Policy also argued that if a DMC refuses permission for a site visit, the CRP should, nevertheless, “*complete its work and deliver its final report without a site visit*”²³ and then stipulated that if the site visit is “declined” then “*... the CRP will complete the compliance review and deliver its findings and final views without a site visit.*”²⁴

21. The 2012 AM Policy added an important caveat: although Management and staff will “manage” the process of securing approvals for CRP site visits, this is “*not designed to influence the outcome of a compliance review*” nor to “*compromise the CRP’s independence.*”

D. Enhancing the Independence and Clarifying the Roles of Compliance Review

22. The 2012 AM Policy argued that there were three areas where the CRP’s independence could be improved: (i) the CRP members should be appointed by Board on recommendation of the President; (ii) as the (then) secretary to the CRP was appointed by the President as head of the OCRP, this may be seen as a conflict of interest and adversely affect the appearance of independence; and (iii) the CRP’s lack of any formal “*work programming and budgeting*” may

²⁰ Indeed, some commentators have suggested that ADB loan agreements should bind DMCs to permit site visits in any case where affected people complain about ADB’s noncompliance. Equally, DMCs contend that “compliance” is about ADB’s compliance with its own policies and procedures, not a breach of loan covenants and, therefore, site visits should not be addressed in loan documents.

²¹ 2003 AM Policy, para. 56, footnote 2.

²² 2012 AM Policy, paras. 76–82.

²³ 2012 AM Policy, para. 82.

²⁴ Ibid. Para. 201.

deprive the CRP of features that are important for its independence. These were valid observations on the nature of an independent compliance review function.

23. The “improvements” in the 2012 AM Policy to enhance the independence of the compliance review function included the following provisions:²⁵ (i) CRP members are to be “... *appointed by the Board based on the recommendation of the Board Compliance Review Committee (BCRC) in consultation with the President*”; (ii) The CRP Chair should also be the head of OCRP (thus dispensing with the President-appointed OCRP secretary); and (iii) CRP work program and budget process should “be strengthened” by the Chair, CRP should prepare an annual work program and budget for CRP and OCRP; and the BCRC should “endorse” the work program and budget, which would be reviewed by the Budget Review Committee and approved by the Board. The 2012 AM Policy would also seek to improve Board oversight with the BCRC acting as the focal point for CRP’s interactions with the Board, promoting “*regular dialogue on the AM*” and providing written “annual performance feedback” on each CRP member (with the CRP Chair providing feedback on the other two CRP members).²⁶ Indeed, these changes enhance the appearance of CRP’s independence.

24. The 2012 AM Policy went further by suggesting a need to “*clarify the roles*” of the CRP and introduced two major changes to the compliance review function.²⁷

25. The first change rendered the CRP a fact-finding body rather than an independent investigative body.

26. In the second change, the 2012 AM Policy removed the CRP from the design of remediation: as Management is considered competent in project design and implementation, Management would now propose the remedial actions (in consultation with the borrower) and submit such actions to the Board. (Notwithstanding that the CRP would no longer be involved in remediation design, the 2012 Policy intended that the CRP would still be able to comment on and monitor the implementation of the Management-designed remedial plans.)

27. The 2012 AM Policy recommendations also sought to make the compliance review process more collegial and less adversarial: for example, the 2012 AM Policy proposed that the CRP “... *should seek to engage all stakeholders concerned throughout the review process*”; borrowers would be informed before and after eligibility is determined and given “*an opportunity to respond to the draft CRP compliance review reports*”; and the CRP would provide Management with “the opportunity ... to respond before eligibility of a request is determined.”

28. The 2012 AM Policy does, however, stipulate that “... *the CRP alone is responsible for all stages and outcomes of the compliance review process.*”

E. Clarifying the Cutoff Date

29. There is general agreement that the cutoff date for the submission of a complaint should be certain and known in advance.²⁸

²⁵ Ibid. Paras. 83–84. This approach was based on similar procedures designed to ensure the independence of ADB’s Independent Evaluation Department (IED).

²⁶ Although this part of the policy response refers to the BCRC engaging in regular dialogue with the AM, this may be confined to the CRP, as it is unlikely that this was also designed to be a forum for the Board to engage with the SPF.

²⁷ 2012 AM Policy, paras. 85–86.

²⁸ Ibid. Para. 87.

30. Under the 2003 AM Policy,²⁹ the cutoff date for submitting a complaint was the date when a project completion report was issued; but the 2012 review determined that this deadline was problematic as the actual date could be “*uncertain*”: the exact date is “*difficult to know in advance*” and the time frame for issuance of project completion reports “*varies significantly*.” Therefore, the 2012 review observed that the cutoff dates “*need to be more predictable*.” Extending the date by a period beyond the (uncertain) date of the project completion report does not improve predictability.

31. On the other hand, the 2012 AM Policy recognized that a loan (or grant) closing date³⁰ is “*predictable*” and “*disclosed throughout the project cycle*.” Therefore, stipulating the loan/grant closing date plus, say, 2 years would deliver “*more clarity and certainty*” and probably offer a more appropriate period within which to file a complaint.

F. Improving Efficiency

32. The 2012 AM Policy sought to improve both the process efficiency and cost efficiency of the AM.

1. Process Efficiency

33. The 2012 analysis examined the average processing times that emerged from the problem-solving function and the compliance review function³¹ and concluded that the long duration of AM matters was because: (i) the complex processes and procedures present procedural challenges for affected people and complainants; and (ii) the AM processes often require mediators, experts, and periodic field visits, and frequently limit the involvement of resident missions.³²

34. The 2012 analysis also addressed the then prevailing 5-year period for the CRP to monitor progress on the remedial actions to bring a project back into compliance. As there did not appear to be a specific basis for this standard monitoring period, the 2012 AM Policy suggested “... (A) *more flexible time frame tailored to each project would be more efficient*.”³³

35. To improve processing, the 2012 AM Policy adopted several sensible improvements. These included: complainants providing inputs in writing or via meetings, discussions, or telephone; dispensing with consultations with the President on procedural steps; encouraging the SPF to engage more with operational departments and project-level GRMs for problem-solving; enabling flexible monitoring of AM outcomes (e.g., SPF monitoring could be 2 years and CRP monitoring could be 3 years); allowing ADB to insist on only the minimum information required to initiate a complaint with additional material being optional; and allowing complainants to provide additional relevant information at any time, either for problem-solving or compliance review.

2. Cost Efficiency

36. Regarding the expenses associated with AM matters, the 2012 AM Policy observed that these consist of direct operating costs; indirect costs, such as staff time; increased

²⁹ Ibid. Para. 55.

³⁰ The last date for a borrower to withdraw funds from the ADB loan/grant account.

³¹ Complaints: Time to determine eligibility = 47 days; time from complaint to action = 170 days.

Compliance: Time to determine eligibility = 20 days; time for compliance review = 367 days.

³² 2012 AM Policy, paras. 55–61.

³³ 2012 AM Policy, paras. 58 and 91.

implementation costs; and costs to affected people;³⁴ but, as much of the AM work is demand driven, it is difficult to predict costs accurately in advance.

37. The 2012 AM Policy also recognized DMC concerns regarding cost increases during AM complaint handling: (i) delays leading to cost escalation, cost overruns, increased commitment charges and so on; (ii) changes in scope that require more funding; (iii) increased compensation payments under ADB's Safeguard Policy Statement 2009 (SPS); (iv) higher administrative costs; and (v) nonfinancial costs due to risk aversion (or focusing on compliance rather than development results):

"DMCs expressed their uneasiness in bearing the costs resulting from ADB's noncompliance with ADB's operational policies and procedures."³⁵

38. Therefore, the 2012 AM Policy identified several issues that attend cost management:

AM costs must be balanced against benefits such as solving affected people's problems; ensuring ADB compliance; and contributing to development effectiveness.³⁶

ADB needs to be aware of AM costs as a component of managing the policy "... to ensure its credibility and ownership by DMCs. Better understanding of (AM costs/benefits) will also help in designing and implementing an effective policy."³⁷

Any AM case will impose costs on affected people, so their "transaction costs" must be minimized and ADB should focus on early complaint management "as quickly as possible."³⁸

39. In an attempt to improve cost effectiveness, the AM would identify fixed costs to manage the AM plus variable costs that would be based on demand; the staffing of OCRP and OSPF would be similar (with just one professional staff in each office) and the Chair of CRP would be full-time, supported by two part-time CRP members.

G. Improving Awareness and Enhancing Learning

40. The 2012 analysis focused on **awareness** and **learning** as two key elements of the quest to strengthen the stature and effectiveness of accountability at ADB.

41. The 2012 AM Policy analysis observed that there was a need to raise awareness of ADB's ongoing accountability efforts among (i) local communities; and (ii) ADB staff. This would not only involve awareness-raising but also training.³⁹

42. The 2012 AM Policy identified at least seven areas to improve both AM awareness and learning, namely a greater commitment to outreach and dissemination; comprehensive tracking of ineligible complaints; common AM reporting instruments, such as the AM Annual Report and joint web sites; production of the trimester Joint Learning Reports (JLR); greater engagement by

³⁴ The 2012 analysis estimated that the 2009 operating costs were approximately \$2.1 million, though the details are somewhat unclear.

³⁵ 2012 AM Policy, para. 60.

³⁶ Ibid. Paras. 28–37.

³⁷ Ibid. Para. 61.

³⁸ Ibid. Para. 62.

³⁹ Ibid. Para. 63.

the BCRC; and upgraded staff training and capacity building.⁴⁰ (The 2012 Policy also proposed a number of semantic changes in the AM lexicon, namely, “*complaints*” would be lodged by “*complainants*” with either the “*problem-solving function*” or the “*compliance review function*” thus dispensing with the idea of different “*phases*” in AM processing.) See **Appendix 2** for more information on the Awareness and Learning Programs of the AM from 2012 to 2022.

IV. AN ASSESSMENT OF THE SEVEN MAJOR CHANGES IN THE ACCOUNTABILITY MECHANISM POLICY 2012

43. This assessment has been carried out with reference to four desirable AM attributes: accessibility; credibility; efficiency; and effectiveness.⁴¹

B. Accessibility

44. ADB could anticipate that the AM would become more accessible through the combined impact of (i) direct access to the CRP, (ii) the effectiveness of the AM with the establishment of the CRO as the single entry point and (iii) the greater clarity on eligibility afforded by the more specific deadline for filing AM complaints (the cutoff date).

1. Enabling Direct Access to the Compliance Review Function. *Has direct access to the compliance review function made the Accountability Mechanism more accessible?*

45. This major change was one of the most visible of the 2012 AM Policy changes and was designed to make the CRP more accessible.⁴²

46. It was claimed that, before 2012, access was being “*blocked*” by having to go through the problem-solving phase first and that this also exacerbated processing by prolonging CRP complaints. These assertions appear to have been based anecdotal observations in the 2010 Independent Review that preceded the 2012 AM Policy.⁴³ There was no evidence that OSPF had actually “*blocked access*” to the CRP, nor was it obvious that complainants may have preferred compliance review but were unreasonably delayed by having to go first to the SPF. Nevertheless, the 2012 AM Policy seemed to recognize the different functions of the SPF and CRP, respectively, and eliminated the sequencing to permit affected people direct access to pursue a compliance review with the CRP.⁴⁴

47. ADB staff are unaware that there was ever a perception that the OSPF “*blocked access*” to the compliance review function. AM personnel, ADB staff and DMC representatives all consider that direct access to the compliance review function contributes to improved AM accessibility and eliminating sequencing has “*definitely decreased barriers to access*” because choice offers some “*control over their complaint.*” For their part, CRP members feel that the AM is “*logically more efficient*” because cases that are not suitable for problem-solving do not have to go through the process; and that “*the AM is not skewed toward problem-solving at the expense of the institutional accountability for ADB that can only come with compliance review.*”

⁴⁰ Ibid. Paras. 96–101.

⁴¹ See footnote 10. For ease of presentation, the major changes are clustered around the four attributes; however, several of those revisions contribute to more than one of the four attributes.

⁴² The 2012 Policy changed “*problem-solving phase*” to “*problem-solving function*” and “*compliance review phase*” to “*compliance review function*” (See para.101).

⁴³ 2010 Independent Review. paras. 53–57.

⁴⁴ 2012 AM Policy, paras. 71–73.

48. However, the introduction of the option to choose between problem-solving and compliance review has raised a number of issues.

49. It is important to note that the two functions have fundamentally different purposes, objectives, procedures, and outcomes, and these differences have a bearing on the issues that affect direct access to the CRP.

50. The problem-solving function deals with specific problems identified by affected people, with the President-appointed SPF aiming to develop a solution acceptable to all parties. Problem-solving deploys various techniques, including negotiation, arbitration, and mediation, to facilitate swift, responsive, effective solutions for affected people. Problem-solving is less focused on ADB's accountability and is reasonably expeditious.

51. The compliance review function, on the other hand, is (now) a fact-finding investigation conducted by the independent CRP to determine whether ADB has complied with its own policies and procedures. The objective is to hold ADB accountable by ensuring that allegations of noncompliance are examined and, if demonstrated, to implement remedial measures to bring a project into compliance. The process focuses on ADB's accountability for performance and governance and can be complex and lengthy.

52. Key issues that attend direct access to the CRP:

a. Affected People May Not Appreciate the Differences between the AM Functions.

53. While the 2012 AM Policy changes introduced a threshold choice between problem-solving function and the compliance review function, most affected people may not fully appreciate their options. How can affected people know about ADB's "operational policies and procedures" and whether ADB has violated them? If they are unable to distinguish between the two functions, some ADB staff, particularly at resident missions, questioned whether it is sensible to have an option that can be so confusing for affected people.

54. Therefore, in terms of accessibility, it is critical that affected people have better information to appreciate the differences, consequences, and outcomes offered by the two functions. Direct access to the CRP assumes that affected people understand the differences between the two functions. Most commentators agree that this aspect will need to be improved to manage expectations and to ensure that affected people (or an NGO who represents them) are properly guided in making decisions.

55. Common themes that emerged were the initial challenge by the CRO to determine whether complainants were most appropriately directed to the SPF or the CRP; the information provided to complainants by the CRO to address the reality; the timelines and possible consequences for each process; and the threshold question of eligibility.

b. Most Complaints are Ineligible or Inchoate.

56. The data suggests that most complaints that are lodged with the AM are found to be ineligible or are withdrawn (Appendix 1). During 2012 to 2022, 13 out of 19 requests for compliance review (69%) and 77 out of 94 complaints for problem-solving (82%) were either found to be

ineligible or were withdrawn.⁴⁵ Very often a complaint is determined to be ineligible due to a failure by affected people to pursue “*prior good faith efforts*” to resolve a problem before it is lodged with the AM. Affected people must know at the outset that they are required to attempt to solve a problem at the project level and with the operations department first before approaching the AM. The AM is the so-called last resort.⁴⁶

57. In addition, it appears that many of the complaints have simply not proceeded due to a failure on the part of the affected people to provide sufficient supporting documentation.

58. In both cases—ineligibility or incompleteness—the failure to access the AM properly may well be due to the lack of information available to affected people (or an NGO who represents them) as they seek to initiate a complaint.⁴⁷

c. The Nature of the Relief Sought by Complainants

59. Most complainants still seek problem-solving with the SPF, despite direct access to the CRP.

60. People affected by ADB projects are predominantly concerned about an asset or livelihood that has been or may be affected by an ADB-assisted project. In some respects, the issue is straightforward: they need answers to what is happening, how they will be affected or compensated and when will their problem be solved? They are less likely to be interested in ADB’s accountability, reputation, or governance (which is the primary consideration under the compliance review function). Affected people want to resolve complaints and efficient problem-solving usually offers the best avenue to find a solution.

d. The Incentives to Seek a Compliance Review May not Favor Direct Access to the CRP.

61. ADB conflates affected people’s interests in both problem-solving and compliance review (even though they are fundamentally different functions): only affected people can petition the AM and they must now choose between seeking relief from the SPF or the CRP.⁴⁸ However, although they now have that option to go directly to the CRP, the incentives to do so remain unclear.

62. First, as stated, affected people are probably less concerned to ask the CRP to investigate ADB’s compliance and are more interested to engage the SPF to seek a speedy resolution to their problems: they seek solutions rather than “systemic changes.” (International NGOs/CSOs, Board Members, and other ADB stakeholders probably have a greater interest in prosecuting ADB’s reputation, accountability, and governance.)

63. Second, the 2012 AM Policy makes it clear that although a noncompliance issue may be resolved, the affected people’s underlying problems might remain unsolved—a successful compliance review may not necessarily solve a complainant’s underlying problem. There may be

⁴⁵ For 2003 to 2012: i) CRP: 1 out of 7 cases ineligible (14%); ii) OSPF: 26 out of 40 cases ineligible (65%). See Appendix 1.

⁴⁶ This is one of the problems in conflating affected people’s interests in problem-solving and compliance review: in view of the fundamental differences between the two functions, approaching the CRP after seeking problem-solving cannot be regarded as an appeal to higher level adjudication—the issues and outcomes are quite different.

⁴⁷ The reasons for low numbers of AM complaints prior to 2012 was canvassed in 2012 (See 2012 Policy. paras. 66–67).

⁴⁸ Since the inception of ADB’s accountability agenda in 1995, Board Members have also had a right to seek a compliance review (para.69).

no incentive to go to the CRP for an affected person seeking a solution to a specific problem. It is not surprising there are relatively larger numbers of complaints seeking problem-solving: an affected person probably cares more about the resolution of their problem than whether ADB is “compliant.”

e. The Accountability Mechanism as the “Last Resort”: Improved Project-Level Problem-Solving Initiatives may Obviate the Need to Approach the Accountability Mechanism.

64. The 2012 AM Policy recognizes that the AM is a “last resort” mechanism.⁴⁹ As such, one of ADB’s tenets is to have problems solved at the project level: if the project GRM is handling complaints well, there may no value for affected people to resort to the AM. In many instances, affected people’s complaints (probably most) are being resolved at the project level, resident mission level, or operations department level, often using an effective GRM. Certainly, there has been a more vigorous emphasis on problem-solving and mediation since 2012, particularly with encouragement from OSPF staff who have been active in trying to improve GRM design.⁵⁰

65. Some operations department staff suggest that the AM is effective because there have not been many compliance cases: Affected people may be persuaded to focus on GRMs or grievance resolution at the project level, which can work to solve a problem quickly rather than consuming time, money, effort, and resources by initiating a case with the CRP.

f. Compliance Review is Still Perceived to be “Fault Finding.”

66. Despite the 2012 AM Policy commitment to be more collegial and less adversarial, there remains a strong sentiment among ADB staff that the CRP still focuses too much on finding fault rather than trying to solve an affected person’s problems. Internally, many still consider the AM as a tool for ‘naming and blaming’ as opposed to an ally in the quest for development effectiveness. The possibility of direct access to the CRP, without prior problem-solving, may exacerbate this sentiment.

g. The Roles of Nongovernment Organizations and Civil Society Organizations

67. For affected people who have genuine grievances but who may not understand the AM there is a role for a responsible, ethical NGO/CSO to represent affected people to bring their cases forward. If an NGO or CSO represents affected people, ADB expects that NGO or CSO to be knowledgeable and equipped to understand the 2012 AM Policy and, therefore, to assist the process.

68. On the other hand, there are concerns that the involvement of some NGOs/CSOs in AM cases may also mask leverage against ADB. There appear to be widespread concerns among ADB staff over the behavior of NGOs and CSOs in the processing of AM complaints. In fact, there is a sense of distrust that some groups may regard the AM as a high-profile vehicle simply to criticize ADB: it may be more about the NGO/CSO agenda and less about grievance resolution for the benefit of affected people.⁵¹

⁴⁹ 2012 AM Policy, paras. 67 and 105.

⁵⁰ For example, in the 2018 JLR, OSPF offered two templates for effective GRM design.

⁵¹ The study team was not briefed to approach nor interview any NGOs or CSOs that have been involved in any AM complaints, therefore, this issue has not been explored in detail.

h. Board Member Requests for Compliance Review.

69. Since 1995, Board Members have been able to request compliance reviews. It would appear that in 27 years, no Board Member has ever made such a request. Although, in principle, compliance is linked to accountability, reputation, responsibility, and ADB's behavior, as a mature MDB, the fact that not a single Board Member has ever directly requested the CRP to conduct a compliance review suggests that this right is moribund (footnote 53).

i. Sequencing versus Direct Access

70. The 2012 AM Policy change was understandable: if an affected person has a genuine compliance issue, then mandatory problem-solving with OSPF could be regarded as cumbersome. But some ADB staff point to the benefits of the 2003 AM Policy that required affected people to take advantage of the SPF's practical problem-solving before they sought CRP's more formal compliance review.⁵²

71. There is a caveat here: advocates of the sequential approach under the 2003 AM Policy often assume that the CRP is a "higher authority"—a form of appeal from problem-solving; but the functions look at different issues, causes, effects, and consequences. The 2012 AM Policy eliminated the concept of "phases" and made it clear that the CRP is not an appellate body: "*Relative to a request for problem-solving with the SPF, request for compliance review is not an appeal to a higher authority.*"⁵³

2. Establishing a Single Entry Point: The Complaint Receiving Officer. *Has the establishment of the Compliance Review Officer made the Accountability Mechanism more accessible?*

72. The creation of the position of the CRO was a consequence of allowing direct access to the CRP.

73. Accessibility was improved with the establishment of the position of CRO, which is seen as efficient, impartial, and capable of dealing with the delicate issue of confidentiality for affected people.

74. The CRO can clarify issues at the initial stage of processing a complaint and help direct complainants to the most appropriate function. Apparently, there have been occasions where a complainant may initially seek a compliance review but then learns through the CRO that there is a problem-solving function that may be better suited to the affected people's needs and the complaint is lodged with the SPF.

75. Also, by liaising with the CRO, an operations department has the opportunity to investigate the facts when eligibility is being assessed and, if eligible, whether the complaint should be lodged for problem-solving or compliance review. The role of the CRO functions well, adds value, and is helpful.

⁵² Moreover, perhaps conflating the affected people's interests under both functions in the one accountability body has caused confusion. Since each function performs a different role, there may be a good argument for the problem-solving function (which is less concerned about accountability) to be embedded with Management, while compliance reviews would continue to be managed by the CRP in the AM as an adjunct to the Board.

⁵³ 2012 AM Policy, para. 130. As noted earlier, ADB's approach to accountability suggests that the compliance review function may not necessarily solve the affected people's underlying problems.

76. Administrative arrangements for the CRO. The CRO is a consultant who receives guidance from both the SPF and the Chair of the CRP, as necessary. However, the present arrangements for the appointment, retention, and management of the role of CRO have been criticized. There are several challenges for the CRO as a short-term consultant—the recruitment process; contract administration; access to ADB systems; day-to-day operations requiring AM staff sign-off; and so on. The administration of the CRO's contract has raised challenging technicalities that should not attend such a key appointment. Given the importance of the CRO's responsibilities, AM and other ADB staff have suggested that the administrative arrangements for the CRO could be improved. Perhaps the CRO should be on a fixed term appointment similar to the SPF and CRP Chair.⁵⁴

3. Clarifying the Cutoff Date. *Are affected people aware of the time limits to access the Accountability Mechanism?*

77. The change in the cutoff date that determines the period within which an AM complaint may be lodged was designed to introduce greater certainty into the eligibility calculus. A complainant must lodge a complaint with the AM before the loan closing date plus 2 years.⁵⁵

78. This change has enhanced the certainty of the AM process. Operational departments consider that a period linked to the loan closing date, unlike the previous milestone linked to the project completion report, offers a more precise limit because it is disclosed publicly and may be found in the published project information documents. This has been seen as a positive change. (There is some caution here related to affected people's awareness: there may only be few affected people who understand the time limits and can respond quickly. So, once again, it is still important to explain deadlines clearly to ensure the efficacy of the AM process.)

79. For the most part, the additional 2 years' "sunset" is regarded as sufficient. The practical reality is that most, if not all complaints will probably arise during the formulation, preparation, and immediate implementation of the project and they are likely to be about design, safeguards, resettlement, environment, and compensation for loss of land and loss of livelihood. This change in the cutoff date has not unreasonably restricted the period when complaints can be lodged.

80. Having said this, ADB should regularly reflect on just how much time should be open to affected people to bring a complaint and whether this deadline is appropriate in all circumstances. While there is now greater clarity, it may be that there are some emerging issues, in both sovereign and nonsovereign operations, where even after the loan closing date a legitimate complaint may justify a longer period: does the time limit risk the elimination of some complaints that should be permitted? Is there a risk of damage flowing from noncompliance (say, pollution or water quality deterioration) that may emerge beyond the current deadline?

81. This may be particularly relevant in private sector operations (PSO) where ADB still has a nonsovereign loan outstanding, or perhaps equity funds otherwise invested in a project. Having a financial "stake" in a project could mean that ADB also has ongoing legal responsibilities and should be responsive to legitimate complaints by affected people.

⁵⁴ 2012 AM Policy, paras. 109 and 112. It seems that staff of other independent ADB offices such as IED hold regular appointments yet remain "independent".

⁵⁵ There does not appear to be any rationale or "science" behind the 2-year sunset period.

Issue #1

Institutional Responses to Improve Access to the Accountability Mechanism

Given the comments by the operational departments and PSOD on this issue, it may be appropriate to re-evaluate how affected people access the AM. Better administrative arrangements for the CRO's institutional role and support for it can significantly improve AM access. Improving access to the AM also requires clarity on the implications of the 2012 change permitting direct access to the CRP.

Those who prefer the 2003 Policy cite several merits of sequencing problem-solving before compliance review:

- Compliance review is perceived to be a challenging, time-consuming assessment to determine whether ADB has violated a policy or procedure, which is usually pursued at the urging of an NGO. But as affected people want problems solved, many staff prefer the clarity of a policy that relies on automatic problem-solving, assisted by OSPF, at the outset.
- Operational departments consider that prior engagement with OSPF had always been beneficial, reasonably swift, and may obviate complaints that are simply "*intent on hurting the institution.*" There seem to be cases seeking compliance review, with the backing of an NGO/CSO "agenda" that may or may not coincide with the interests of affected people.
- Problem-solving need not be mandatory; but as most AM cases pursue problem-solving, managed by the SPF, perhaps direct access should be reevaluated to look at the decision-making process and affected people's information awareness.
- ADB staff consider that sequencing may afford better opportunities for learning lessons about project implementation, capacity building, and the smooth administration of grievance redress.

ADB = Asian Development Bank; AM = accountability mechanism; CRO = Complaint Receiving Officer; CRP = Compliance Review Panel; CSO = civil society organization; NGO = nongovernment organization; OSPF = Office of the Special Project Facilitator; PSOD = Private Sector Operations Department; SPF = Special Project Facilitator.

C. Credibility

82. The credibility of the AM is the most important of the four desirable attributes of an accountability body. Assessing the credibility of the AM encompasses several features of the 2012 Policy, including the competence and skill of ADB's accountability professionals; effective accountability outcomes; transparency; information; visibility; and quality interactions with the Board, Management, staff, DMCs, affected people, and other stakeholders. But, above all, independence is essential for credible accountability, particularly as it applies to the compliance review function.

1. Enhancing the Independence of the Compliance Review and Clarifying its Roles. *Is the Compliance Review Panel still credible if its independence and mandate are perceived to have been attenuated?*

83. The 2012 AM Policy stated that there was a need to enhance the independence of the CRP and to clarify the roles of compliance review.⁵⁶

a. The Compliance Review Panel's Independence

84. The 2012 structural changes to the CRP included provisions dealing with the appointment of CRP members, the CRP Chair's leadership of the OCRP and responsibility for the preparation of the CRP's work program and budget, and supervision by the BCRC. These major changes were designed to enhance the CRP's independence and, therefore, to reinforce its credibility. Certainly, CRP members consider that the 2012 AM Policy has seen more "constant engagement" between the BCRC and the CRP.

85. These procedural changes have been unremarkable. Since its creation in 2003, the CRP was perceived to be independent and this is still the case. In 2012, most informed stakeholders already regarded the CRP as being substantially independent and capable of delivering independent reviews, observations, conclusions, and recommendations. The 2012 changes were not controversial and have not led to any significant reassessments of the CRP.

86. During the course of this study, some ADB staff even indicated that they had not realized that the CRP's independence had been (theoretically) strengthened in 2012. In fact, particularly with a CRO facilitating direct access to the CRP, staff simply assumed that the CRP was, and remains, independent. These were seen as functional changes that did not have any real impact on the ground.

"And looking at the impact of these various changes ... (the 2012 Policy) didn't make the CRP any more independent because people already figured that they are independent anyway."

b. The Nature of the Compliance Review Panel's Independence

87. The CRP, with the BCRC and ADB's Office of the General Counsel (OGC), felt obliged to release a clarification note to ensure a consistent approach on various issues, including the nature of its independence.⁵⁷ CRP's clarification seeks to draw a distinction between "functional independence" and "professional independence":

*"...Under the (2012) Policy, the CRP is independent from Management, ... **But the CRP is not independent from the Board.** Instead, the CRP is the fact-finding arm of the Board.⁵⁸ ...the AM Policy (has) the cumulative effect of constituting the BCRC as the manager, supervisor, and overseer of the CRP. As such, ... **the CRP is not functionally independent** because its function within the AM Policy depends on a work program, budget, TOR, and reports that are reviewed by the BCRC and the Board. The CRP ... should be construed as having **professional independence** from the BCRC*

⁵⁶ 2012 AM Policy, paras. 52–54 (SPF's independence vis-a-vis operational departments and project staff has not emerged as an issue).

⁵⁷ ADB. 2020. Compliance Review Panel: Clarifications on the Application of Certain Provisions of the Accountability Mechanism Policy 2012, hereinafter "CRP's Clarification."

and the Board. Accordingly, ...the CRP's analyses and conclusions are derived through its independent (professional) judgment, and neither the BCRC nor the Board can require that the CRP change or alter the analyses or conclusions in its reports." (emphasis added)

88. According to the CRP, since 2012, the BCRC has become more involved in the CRP and OCRP's work: the BCRC discusses quarterly updates on CRP/OCRP work, reviews the CRP/OCRP work plan and budget, comments on the draft Annual Report and monitors OCRP outreach, and requests for feedback on progress. This CRP has welcomed this.

c. The Compliance Review Panel's Mandate

89. The major changes relating to clarifying the CRP's mandate appear to be fundamental and could be regarded as more controversial.

90. The alleged lack of clarity led to three problems: (i) some CRP recommendations had been too "*specific and detailed*," which impinged on operations department remits; (ii) other CRP recommendations had been "*too broad*," which impinged on ADB policies and procedures outside the CRP's mandate; and (iii) the CRP should be able to comment on any remedial actions proposed by Management.

91. Due to these perceived "problems," the 2012 AM Policy changed the CRP to become a "fact-finding body" and removed its mandate to make recommendations to the Board.⁵⁹ The CRP is no longer formally involved in that process.⁶⁰ ADB shifted the responsibility to make remedial recommendations to Management, ADB staff, the host DMC, and the Board.⁶¹

92. In other words, following the 2012 AM Policy, where the CRP finds, as a matter of fact, that Management and staff have violated ADB's operational policies or procedures in a manner that has harmed, or is likely to harm, affected people (and reports these facts to the Board), the responsibility to craft recommendations has been removed from the CRP and handed to, among others, Management and staff—who have just been found to have violated ADB operational policies and procedures.

93. The 2012 AM Policy explicitly sought to "clarify" a different mandate for the CRP. So, this must be taken to mean that there is a difference between an "independent investigatory body" with a mandate to recommend remedial action and a "fact-finding body" with no such mandate. While the CRP is not autonomous, these changes must raise questions.

94. How are these roles different? Could these "major changes" be seen to affect the integrity of the CRP and, therefore, its credibility?

95. Without addressing the differences introduced by the 2012 Policy, the CRP and ADB staff rightly emphasize the CRP's independence from Management but not necessarily the wider issue of credibility, including the perception of credibility after the 2012 changes. CRP says:

⁵⁹ 2012 AM Policy, para. 114 states that "*The CRP will be a fact-finding body that reports to the Board through the BCRC...*", and para. 130 states that "*The CRP will be a fact-finding body on behalf of the Board.*"

⁶⁰ The CRP continues to be involved in monitoring the implementation of remedial actions approved by the Board: 2012 AM Policy, para. 192.

⁶¹ 2012 AM Policy, para. 85.

“CRP’s independence largely refers to its independence from Management. This way its actions and decisions will not be perceived to be influenced by the same ADB Management whose actions the CRP is investigating ... There is no role for ADB Management...”

96. But if the CRP formerly had the mandate to recommend remediation after finding Management and staff are noncompliant and ADB removed that mandate, is there a risk now that the compliance review process may then be *“influenced by the same ADB Management whose actions the CRP is investigating”*? If so, could that be perceived to be a problem?

97. ADB staff tend to regard these questions as theoretical. The CRP considers that, while it would have been *“good”* for the CRP to have retained the mandate to recommend remediation, the CRP still has the opportunity to review and submit comments on the draft Remedial Action Plan (RAP), though the CRP members consider that the 5-day comment period is *“too short”*; and, in any case, both the draft RAP and CRP’s comments are submitted to the Board for consideration. (CRP members have noted that if the Management and the Board ignore the CRP’s comments *“...then it can be argued that the CRP’s independent views are being undermined”*)

98. Moreover, the OGC considers that the CRP is *“very independent,”* doubts whether there has been any *“shift”* in the CRP model, and questions whether the presence or absence of a role in making recommendations should be regarded as a *“defining feature”* of the CRP. In short, the 2012 Policy *“does not tend to diminish the credibility of the CRP,”* although this seems to apply to the CRP’s new fact-finding role rather than by comparison with its former investigative role with the mandate to recommend remediation.

99. There are, of course, practical arguments that favor the 2012 AM Policy:

100. It may make sense that Management, operational departments, the host DMC, and the Board should craft the remediation recommendations. Since ADB and the DMC will undertake remediation, their early involvement in that process is more likely to contribute to bringing the project back into compliance efficiently. This is more likely to result in effective recommendations which can actually be implemented.⁶² *“The recommendations may be stranded if nobody buys into them”*

101. CRP may not appreciate the nuances of operations in the DMC concerned: even if the CRP carries out fact-finding for one project, sometimes the recommendations or solutions will affect not only the project itself, but also may become a precedent for a DMC or sector. Operational departments are likely to be aware of a *“bigger picture”* in the DMC.

102. The CRP was never intended to be autonomous and although it reports to the Board, as a practical matter it can still be regarded as *“professionally independent.”* ADB staff are unaware of any instance where Management or staff have sought to influence CRP reports to the BCRC or the Board.

⁶² ADB staff cited one pre-2012 example where the CRP recommendations could not be implemented effectively because the CRP members were not safeguards experts and lacked the expertise or country knowledge in some instances. So, there is a preference to invite Management to explain how ADB will rectify the noncompliance rather than simply telling ADB to take actions that may turn out to be unachievable.

103. In short, the 2012 AM Policy seems to be based on the idea that it is better to err on the side of having pragmatic recommendations rather than embracing a theoretical notion of complete independence.

104. Still, in the context of a fairly consistent international agenda to ensure that MDBs are accountable as custodians of taxpayer funds, the credibility of ADB's compliance review function is vital for ADB's governance and reputation. There may be a risk that the change in the CRP's mandate is perceived to diminish its integrity and, ultimately, its credibility. Given the CRP's changed mandate, including the abbreviation of its role, ADB may need to clarify how the CRP's pivotal role remains intact.

105. For example, OGC indicated that Management is still concerned over the "professionally independent" CRP and suggested that *"...there may be scope for further refinement or clarification with respect to the CRP's role, ... Further clarity to guide the CRP in working within its Board-defined role may be useful in this regard."*⁶³

106. And, indeed, this issue is not free from contention: the CRP has commented on the risks of a restrictive interpretation of the CRP's mandate and has observed that an *"independent fact-finding body"* must be able to interpret the policies and procedures against which it is 'finding facts'. Moreover, *"the recent practice regarding seeking OGC opinions has on occasion reflected a very limited view of 'fact-finding' which risks substantially undercutting the CRP's independence."*

2. Addressing Site Visit Issues. *Is the Compliance Review Panel credible if the host developing member country has refused permission for a site visit?*

107. The 2012 AM Policy introduced major changes that addressed (i) how the CRP's site visits should be arranged; and (ii) the consequential arrangements where a DMC refuses to grant permission to the CRP to conduct a site visit.

108. Site visits are generally regarded as essential, particularly to allow complainants and other affected people the valuable opportunity to meet face-to-face with the independent CRP and to ensure that the CRP develops a complete understanding of the compliance review complaints. Therefore, site visits play an important part in reinforcing the credibility of the CRP in the eyes of affected people.

109. Still, compliance review site visits are not free from challenges.⁶⁴ (The 2012 AM Policy is not as concerned with site visits for the problem-solving function, as the SPF has not been refused permission to conduct site visits for problem-solving consultations.)

110. Even though the CRP only reviews ADB's compliance with its own policies and procedures and is proscribed from considering complaints that do not involve ADB's noncompliance with its own operational policies and procedures,⁶⁵ host DMCs have expressed concerns over site visits by the CRP. Since the responsibilities for project identification, preparation, appraisal, and

⁶³ OGC referred to the need to refine or clarify the CRP's role as it relates to "applying aspirational standards that exceed the requirements of ADB policies/procedures" or "recommending remedial actions notwithstanding the absence of a finding of harm". OGC states that *"Management has noted that the CRP's activities in both of these two areas extend beyond its role as stipulated in the AM Policy."*

⁶⁴ For ADB, the so-called controversy over compliance review site visits seems to have been triggered by a few cases: e.g., THA: Samut Prakharn Wastewater Management Project (Loan No. 1410, approved on 7 December 1995), prior to the 2003 AM Policy.

⁶⁵ 2012 AM Policy, para. 148.

implementation are usually shared between ADB and the DMC, it may be that some DMCs imagine that a compliance site visit could impinge on the DMC's sovereignty or reflect on the DMC's culpability. If there is a finding of noncompliance, the borrower is also expected to finance the remedial measures.

111. In addition, the 2003 AM Policy was being reviewed against the background of the unwillingness of some member countries to allow the CRP to undertake site visits for the purposes of compliance review and the CRP decision to decline to complete the compliance review. It was inevitable that DMC refusals of compliance review site visits would be an issue for the 2010 Independent Review and the 2011 AM Policy Paper that contributed to the development of the 2012 AM Policy.

112. While the 2012 Policy on site visits did not really represent a "major change" to the CRP's approach to securing site visits under the 2003 Policy, the changes went further to address the consequences where a DMC refuses a site visit: first, Management and the DMC will discuss the reasons for the refusal and Management will convey the reasons to the Board via an information paper (the CRP is notably absent from this discussion and communication to the Board); and second, "*(T)he CRP will complete its work and deliver a final report without a site visit*" (with some statements about doing a compliance review by using other available evidence).

a. Arrangements for Site Visits by the Compliance Review Panel

113. ADB has worked with executing and implementing agencies to explain better the compliance review function and to reassure host countries.⁶⁶ On the limited data available, DMCs now seem to appreciate that if the CRP has to conduct a compliance review, there will need to be a visit to the project site.⁶⁷

114. Experience had always suggested that it would be difficult for CRP to arrange site visits independently. Therefore, since 2003, the CRP typically arranged site visits in cooperation with the operations department and resident mission and relying on ADB staff contacts with the executing and implementing agencies. The 2003 AM Policy stipulated that visits would be done in "collaboration" with the host government, the DMC's Board representative, and Management.

115. The 2012 AM Policy adopted a so-called major change designed to improve the way the CRP seeks, arranges, and secures permission for a site visit. The 2012 AM Policy stipulates that site visits should be arranged in "partnership" with Management and coordinated with the resident mission, the operational department, and the host DMC, including the Board representative. Management was expected to play a role in organizing site visits because of ADB's relationship with the DMC.

116. For the most part, these so-called changes reiterated the practical, common-sense approach to site visits that the CRP had followed since 2003. Therefore, since 2012 there has been no significant change in the way in which the CRP sets about securing host country permissions for site visits, including visits undertaken to monitor the implementation of Board-approved RAPs.

⁶⁶ For example, ADB staff commented on the example of Sri Lanka. After some initial difficulties, the government eventually became supportive of the CRP and spent time and money to improve the safeguards system in country and when the CRP visited Sri Lanka, they assigned government officials to dedicated accompany CRP members.

⁶⁷ PSOD highlighted a perception problem: while PSOD teams often accomplish due diligence meetings for complex projects, including community consultations, in "less than a week", the CRP may take 3 to 4 weeks to accomplish similar tasks. If so, the reasons for such a lengthy process should be explained (See Chapter IV, C: Efficiency).

117. This is continuing to work well. Indeed, AM staff consider that access to sites has not been a problem under the 2012 AM Policy, with the only substantive comment to the effect that “governments have been supportive of the Accountability Mechanism.”

b. Developing Member Countries’ Refusal of Permission for a Site Visit by the Compliance Review Panel

118. ADB concluded in 2012 that site visits had become “controversial” and that there were reasons to deal specifically with the issue of a DMC’s refusal to grant permission for a CRP site visit.

119. While site visits had occasionally been challenging, prior to 2012 most were not particularly controversial and, as stated, DMCs came to understand that the CRP is focused on ADB’s compliance with its own policies and procedures and eventually permissions would be granted. And, as noted earlier, in the history of the AM and its predecessor, the Inspection Function, since 1995, there had only been two instances where a DMC refused to grant permission for a site visit.

120. Since 2012, no DMC has refused permission for the CRP to conduct a site visit for a compliance review.⁶⁸

c. Completing the Compliance Report when a Developing Member Country Refuses Permission for a Site Visit,

121. One 2012 Policy change, however, does deserve some reflection: namely, the stipulation that if the host DMC refuses permission, the CRP must still “complete the compliance review” and report to the Board.⁶⁹ Previously, the AM Policy did not include any express provisions to address the consequences of a denial of a site visit. Although somewhat academic at this stage, this policy change seems extraordinary.

122. Certainly, if a DMC refuses permission for a site visit, depending on the circumstances, the CRP may be able to complete a credible compliance review. From a practical point of view, the CRP could endeavor to reach a conclusion by gathering evidence and obtaining data through different methods. The CRP may seek to focus on an outcome rather than the site visit per se, and, in response to the COVID pandemic, ADB has demonstrated contemporary techniques of working remotely. (Obviously, this would also depend on the affected people’s access to, and familiarity with, reliable technology). The CRP has, however, expressed some concern that the absence of a site visit may well “affect the quality of the investigation.”

123. On the other hand, if experienced, competent CRP members determine that, in their professional judgment, a site visit is essential to produce a credible, independent, compliance review, and the host DMC refuses permission for that visit, there must be a question of whether it is appropriate that the CRP should still be expected to complete the compliance review in any event. (If this is the case, why should a CRP mount a site visit for any compliance review?)

124. Although the CRP has expressed confidence in its own ability to complete a sound compliance review using “*secondary data*,” some commentators may ask how is this possible and

⁶⁸ We understand that Cambodia did not agree to a site visit during the CRP’s fourth monitoring mission for the GMS: Rehabilitation of Railways project, which proceeded without any direct or indirect engagement with any affected people or complainants. We also understand that no site visit took place for the fifth monitoring period.

⁶⁹ 2012 AM Policy, paras. 131(ix) and 201.

whether this affects credibility. ADB promulgated a compliance review function to assure affected people that their complaints will be heard and investigated by an independent CRP, which is also designed to give credibility to ADB's commitment to investigating its own performance and governance. If the CRP is unable to undertake a site visit that it judges to be essential, surely this will diminish affected people's confidence in the CRP and threaten the credibility of the CRP as a genuine instrument of good governance?

125. CRP members have complained that the management of site visits and procedures following any refusal will suffer from the absence of any "*standard operating procedures*" that are binding on the CRP en banc. The consequence, they say, is that the question of whether "... *the CRP's independence and credibility is compromised depends on the approach taken on a case-by-case basis.*"

Issue #2
Addressing Credibility in the Compliance Review Function

The 2012 AM Policy introduced measures to enhance the appearance of the CRP's independence, but ADB also changed the CRP's role and removed its mandate to recommend remediation. The 2012 AM Policy also stipulates that, even though the CRP may form a professional judgment that a site visit is required for a compliance review, the host DMC may refuse permission for a site visit and the CRP must still complete the compliance review. These types of issues may bear on the integrity and credibility of the compliance review function.

Therefore, ADB may need to consider the implications and possible consequences of these 2012 changes.

ADB = Asian Development Bank; AM = Accountability Mechanism; CRP = Compliance Review Panel.

D. Efficiency

126. The 2012 Policy introduced some changes that were designed to improve efficiency in processing and cost effectiveness, respectively.⁷⁰

127. As stated previously, the 2012 AM Policy canvassed several process measures, including encouragement for the SPF to engage with the operational departments and GRMs to help expand the scope for project and country level problem-solving.⁷¹

128. Most commentators consider that the AM has always been reasonably efficient⁷²; however, they demurred on the extent to which the 2012 efficiency measures have actually improved the AM's overall efficiency.

1. Grievance Management

129. The 2012 AM Policy seeks to ensure that the operational departments and GRMs develop more scope for problem-solving at the project level and the SPF was specifically invited to

⁷⁰ The benefits–cost analysis is addressed in the tandem study.

⁷¹ For example, OSPF has designed and produced at least two GRM templates.

⁷² There may be a perception that a complaints process will delay processing. Part of the 2012 Policy was to streamline AM processes. This policy intent may be impeded in future projects by the caution triggered by past compliance reviews. (See Part V: Decision Making and Project Selection.)

contribute to this process. Since 2012, but particularly in recent years, OSPF has embarked on a significant body work to foster grievance management at the project level, local level, resident mission level, and operations department level. Many participants consider that the success of OSPF's initiatives in local level complaint management has been driven by the SPF's personal leadership.⁷³

130. There is certainly a sense that grievance redress systems are better understood and more accessible now and that executing agencies and implementing agencies are more familiar with complaint handling opportunities and techniques. Issues are more likely to be resolved at the executing agency/initiating agency level. The GRM work is continuing to grow and OSPF has initiated GRM training.⁷⁴ OSPF has also been effective by engaging with operational departments, resident missions, and project-level GRMs and enhancing its training and e-learning modules on GRMs and problem-solving tools, including informal consensus-based techniques. This tends to increase efficiency.⁷⁵

131. While it is apparent that since 2012, the AM has been contributing to efficient local problem-solving, it was interesting to learn that operational departments and local officials consider that improving efficiency also stems from the creative ways that OSPF now approaches issues: *"if the mindset is aimed at bringing people together to solve the problem, not allocating blame, it can be efficient."*

2. An Efficiency Gain: the Deployment of Local Facilitators

132. The 2012 AM Policy did not emphasize the use of local facilitators to help to solve complaints lodged with the SPF; but this technique has demonstrated efficiency gains.

133. An expanding role for competent local facilitators has become an important innovation over the last 10 years, particularly in OSPF's recent problem-solving efforts. If the local facilitator approaches local communities, listens, and manages grievance redress to a solution, then the process is likely to be efficient and such an engagement usually ensures a successful outcome. Naturally, the engagement of a local facilitator involves commitments of time, energy, and resources.

3. Threats to Efficiency

134. There are three issues that will impede efficiency.

a. Lengthy Processing Times

135. Although the 2012 AM Policy specifically identified processing delays as a major threat to efficiency and indicated that this needed to be improved,⁷⁶ the lengthy time taken to process complaints, particularly compliance reviews, must remain a major concern for the AM. Concerns

⁷³ Personality is seen as crucial: *"... where the SPF personally wants to engage, understand and solve problems, knows problem-solving, and has operations experience, the OSPF will be more visible and effective. It is not just the system but the individuals who run it."*

⁷⁴ For example, in Sri Lanka, there is an efficient GRM system deployed in a road project. The project would receive about 3,000 or so complaints; but only one or two have actually come up to the OSPF. This seems to demonstrate that if there is an effective GRM, most complaints can be resolved locally at the outset.

⁷⁵ In Nepal, for example, OSPF invited operations department staff to joint meetings with stakeholders as observers and SPS experts. Their presence was extremely useful. And they also saw what is needed from ADB staff and how they need to encourage the executing agency towards the resolution of a complaint.

⁷⁶ 2012 AM Policy, paras. 56–57.

were also expressed over the length and voluminous nature of many AM reports. For example, ADB staff commented on the additional studies, investigation processes, meetings, procedural steps, and experts conducting surveys and assessments in connection with compliance reviews:

“All these processes took a lot of time. It became a serious reputational problem for everyone, both ADB and (the DMC)”

136. Naturally, the problem-solving function involves a dynamic, efficient process, whereas the compliance review function is more structured, and rules based. Some ADB staff also consider that while the SPF is administratively “closer” to operations department and resident mission staff, the CRP is “*professionally independent*” from ADB operations. As the CRP has external members, it may simply be more challenging to adopt the same approaches to efficiency.

137. In fairness, however, while there are time limits built into the compliance review function, it does not appear that time limits apply to the BCRC. As a result, the BCRC has no time limit to clear compliance reports for submission to the Board.

b. The Eligibility Hurdle

138. To date, it seems that around 80% of all complaints are found to be ineligible or are withdrawn. As canvassed earlier, the main reasons for ineligible complaints appear to be the complainants’ failure to provide necessary supporting documents; or to pursue “*prior good faith efforts*” to try to resolve their issues at the project, country, or operations department levels.⁷⁷ Complaints that are clearly ineligible have consumed time, effort, and resources, and have delayed the resolution of the issues raised by affected people. It appears that affected people still face several challenges in preparing eligible complaints and this is affecting the AM’s efficiency.

139. Obviously, the OSPF and OCRP have been pursuing techniques to improve knowledge about the objectives, processes, documentary requirements, eligibility requirements, and conditions precedent for filing complaints. They have targeted affected people, complainants, executing agencies, implementing agencies, NGOs, CSOs, regional missions, and other ADB staff.⁷⁸ But this will remain a challenge.

140. CRP members have stated that “*the eligibility bar is currently set too high*”: it is not credible “*that the CRP has only had one eligible case that has proceeded to compliance review over a five-year period.*”

c. A Surge in Complaints Involving Safeguards

141. With the updating of the SPS, the AM Policy will have to respond to ADB’s changing endeavors. For example, the expected increase in the scope of the SPS (e.g., labor; sexual exploitation, abuse, and harassment; climate change; human rights; zero tolerance for reprisals; and so on) and more clarity on some aspects of the environmental safeguards such as cultural heritage, climate change, and biodiversity, will surely have an impact on the numbers and types of complaints lodged with the AM in future. Again, this may be an imperative to enhance the AM organization.

⁷⁷ The AM is referred to as a “last resort” solution due to the requirement that complainants must have exhausted good faith efforts to resolve their problems before approaching the AM: 2012 Policy. para. 105.

⁷⁸ For example, AM, with the former Sustainable Development and Social Safeguards Division, conducted joint outreach for ADB staff, executing agencies, implementing agencies, and CSOs in India and the Philippines.

E. Effectiveness

1. **Improving Awareness and Enhancing Learning.** *Has awareness improved and learning been enhanced and, if so, have these innovations made the AM more accessible and credible and, therefore, more effective?*

142. Given the history of the AM and its importance as part of ADB's "vertical complementarity"⁷⁹ and "horizontal complementarity,"⁸⁰ the awareness and learning features are perhaps the most challenging major policy changes introduced in the 2012 AM Policy.

143. The AM aspires to be an effective accountability instrument. The content of Appendix 2, presenting the AM, OSPF, and OCRP awareness and learning initiatives from 2012 to date, testifies to the depth and range of the commitment of AM leaders and staff to making the AM effective.

144. Pursuant to the 2012 AM Policy, the AM has produced substantial resources that are available to address awareness and learning including publications, materials, outreach activities from both OCRP and OSPF, briefings, internal and external training sessions, knowledge events, and AM sessions during ADB Annual Meetings. The AM web pages also highlight some of the AM's accomplishments in this field, particularly over recent years.⁸¹

145. Initiatives include:

- The **JLRs** are good examples of contributions to awareness and learning. The JLRs are a collaboration among AM, the Sustainable Development and Climate Change Department (now Climate Change and Sustainable Development Department (SDCD), and the Independent Evaluation Department (IED), and synthesize learning from the experience of the AM. JLRs identify action that needs to be taken in the following 3-year period. They are interesting, well-prepared, and contain voluminous material on the actions to be initiated. They are distributed in ADB, especially to operational departments. The next **JLR** ("**2022 JLR**") will be digitized.
- In 2019, the AM requested Management to establish **one tracking system** for all ineligible complaints that the AM sends to the operational departments.⁸²
- The AM's **Annual Report** utilizes technology to improve its accessibility. The AM digitized annual reports and prepared an Annual Report microsite.
- "**A report on 25 years of the AM**" and the CRP's report on Common Threads (of lessons learned from the full compliance reviews) were presented in an improved multimedia format.
- The **AM orientation program** is part of the orientation for all incoming ADB staff.

⁷⁹ 2012 AM Policy, paras. 22–27.

⁸⁰ Ibid. Paras. 28–33.

⁸¹ ADB. The Accountability Mechanism. <https://www.adb.org/who-we-are/accountability-mechanism/main>

⁸² Action on this has been delayed by the coronavirus disease (COVID-19) pandemic and the priority required for the SPS update. The need for an ADB-wide system is mentioned in the 2012 Policy, the 2016 JLR, and the 2018 JLR.

- OSPF has conducted **GRM training** for ADB staff as well as for executing agency/implementing agency staff responsible for dealing with complaints from affected people.
- Some resident missions have identified a need to capture institutional knowledge, both in the resident mission and among executing agencies and implementing agencies so that new project officers and government representatives can better understand the grievance management system for future projects ("**knowledge sessions**").
- AM provides **staff training** through outreach programs and in-house seminars.

2. Facing Challenges

146. While the awareness and learning agenda has been impressive and comprehensive, several important challenges have emerged since 2012.

a. Mainstreaming the Joint Learning Report Initiatives

147. Each 3-year JLR presents a huge agenda and, therefore, a mainstreaming challenge.

148. There is a sense among ADB staff that as the JLR is issued with best intentions to operational departments which have their own significant work and resource challenges, there are questions as to whether a JLR will gain traction and serve the purpose for which it is designed.

149. Some staff question the practical usefulness of the JLRs.

"... this must happen at the grassroots level. There are high-level ambitions, but you have to deliver them at the grassroots... If we want to see outcomes and results then GRM really has to be strengthened at the grassroots level, which means the provincial level and the village level."

"... there's that sense that it's a really interesting report, but we've been too busy actually doing stuff to turn our minds to that sort of an issue."

"... I don't know where to go next... What is then expected from us? What are the next steps for us? What's the action plan after that?"

"We know about the JLRs... But we are inundated by so many materials. This is about information dissemination and awareness. ... I am not sure the JLR is clear on what things the operations department could take on."

150. This type of candid commentary offers an insight into a challenge for this important AM publication.

b. Institutional Change: Translating Theory into Practice

151. ADB staff acknowledge the importance of raising awareness and enhancing learning and they say that the AM resources seem to be good and are generally accessible. On the other hand, staff seem to be concerned about a lacuna between the articulation of good practices and an institutional means to convert them into action. In addition, many actions are considered rather general and individual operational departments may or may not be able to implement them. In

short, there still seems to be a challenge to translate good ideas into practical guidance and specific action.

c. Cascading Project-Level Initiatives to the Most Vulnerable Affected People

152. While much has been produced to improve awareness and enhance learning, some operational departments also questioned whether the learning on, say, problem-solving is actually cascading to the village and project levels; of course, there is always a need to simplify information and make it even more accessible to affected people.

153. The AM staff are very much aware that many affected people are poor and vulnerable and perhaps less inclined to challenge a project; many may be unsure and shy or hesitant to approach ADB's AM system; and some affected people can be vulnerable to being exploited. The AM is well aware that dissemination directly to affected people and affected communities is indispensable if affected people are to access either problem-solving or compliance review.⁸³ Local case studies led by experienced local practitioners may help. The AM is certainly committed to do more to ensure that the system can work efficiently for this segment of affected people, though with resource and staff constraints, the solutions are not obvious.

d. Enhanced Collaboration on Awareness and Learning

154. The 2012 AM Policy recognizes the importance of collaboration to improve the effectiveness of the AM. SDCD and IED are already collaborators, but there may well be further scope to intensify this collaboration on awareness and learning initiatives.

155. As the custodian of ADB's policies and procedures on safeguards, SDCD a natural partner for the AM.

156. The 2012 AM Policy placed a priority on distilling lessons from its operations to shed light on project design and implementation. Indeed, the 2012 Policy indicated that the Chief Compliance Officer could provide insights into awareness and the lessons learned and specifically mandates that the AM, SDCD, and IED together must produce of the triennial JLRs.⁸⁴

157. The AM should consider the possibilities for enhanced systematic cooperation with SDCD.

158. **Dialogue with the Chief Compliance Officer.** The Chief Compliance Officer is grounded in the SPS⁸⁵ and is regarded as a "final arbiter" of SPS compliance on behalf of Management and operational departments. This raises a question of the Chief Compliance Officer's role in ADB's accountability framework.

159. Many staff have pointed out the risk that the Chief Compliance Officer may consider that a project is compliant with the SPS, but the CRP may come to a different conclusion. This has caused some confusion, even on the part of the BCRC in supervising the CRP reports.⁸⁶

⁸³ This may be easier in some of ADB's smaller DMCs, such as the Pacific island countries, as compared with other, larger DMCs with much greater numbers of affected people.

⁸⁴ For AM collaboration with IED, see below.

⁸⁵ See ADB. Operations Manual. F1. <https://www.adb.org/documents/operations-manual>

⁸⁶ At a recent compliance review considered at the BCRC, the Chief Compliance Officer asserted that the project was compliant; but the CRP took a different view.

160. The AM-SDCD collaboration should be embellished to feature more regular dialogue among the Chief Compliance Officer, the SPF, and the CRP Chair on the issues and lessons learned from cases involving compliance with safeguards policies and procedures.

161. **JLRs and learning lessons.** The 2012 AM Policy refers to the “*collaborative efforts*” to “*distill lessons and insights*” and “... *to enhance learning and guide staff in improving project design and implementation.*” The JLR aims to help ADB “*to avoid the recurrence of common problems and to facilitate a culture change so that the AM is going to be viewed as a possible tool for learning.*” There are also high-level statements about “*learning lessons*” and “*changing culture.*” But, as noted earlier, there are some questions as to whether practical action is being filtered to the project level.

162. AM/SDCD collaboration is already prominent: SDCD has already considered the role of the AM as part of the SPS update process.⁸⁷ SDCD has looked at the JLRs, including the lessons learned, and reports from the AM. SDCD has also had a number of sessions with OSPF and OCRP on lessons learned and prepared a short background paper. And the AM joined some of SDCD’s online consultations on lessons from the process to feed into the new SPS update.

163. However, given the challenges outlined above, particularly the issue of following up action on the JLRs, the AM, SDCD, and IED should continue to expand this collaboration in future.

164. **Further collaboration between the AM and SDCD.** There seems to be a sense among ADB staff that there may be other opportunities for the AM to consider interacting further with SDCD, including more regular meetings; joining a safeguards community of practice; more joint learning events; the proposed safeguards knowledge management action plan; and perhaps grounding problem-solving functions more firmly with Management (as seen in other MDBs).

165. IED should have an important role to play in the AM. The 2012 Policy refers to the “*horizontal complementarity*” whereby ADB has several functions related to good governance, namely, accountability and compliance, audit, IED, and so on. The AM and IED are viewed as part of the rubric to improve ADB’s performance. The 2012 Policy refers to “*a collaborative effort between these departments in order to guide staff, ... to design projects.*” But, apart from the JLRs, there do not appear to have been many opportunities for AM and IED to collaborate. It is unclear, for example, whether IED has been routinely approached to provide substantive inputs or insights for, say, the AM Annual Report.

166. IED follows a 2008 ADB Evaluation Policy that currently does not canvass the 2012 Policy. On the other hand, given the 2012 Policy emphasis on collaboration on lessons to guide staff and to inform decision-making and new projects, it seems that there should still be opportunities for increased cooperation between the AM and IED in future. For example, the AM should explore the following: IED contributions to the improved effectiveness of the 2012 Policy; IED could “*join forces with the AM to integrate with the awareness and learning initiatives at the (AM)*”; AM recommendations and action plans could be logged and tracked in IED’s Management Action Record System or a similar system; and IED/AM could explore avenues for institution-wide learning that can help promote a “culture change” in complaint management.⁸⁸

⁸⁷ SDCD has assigned a social safeguards development specialist to work with the AM issues, including the actions to be derived from the 2018 JLR, which focused on developing good practice guidance for GRMs. The staff member is also assigned to the preparation of the planned JLR 2022 and the likely impact of the SPS update on AM complaints.

⁸⁸ IED agreed that where commitments were made, say, in the JLRs and now in 2023 the AM is trying to assess progress, it would be very helpful if there was some type of results framework or balanced scorecard that could be

Issue #3
Translating Good Ideas into Practical Action

In view of the considerable agenda to promote awareness and learning and thereby contribute to the greater effectiveness of the AM, ADB must consider the most efficient way to ensure that the good ideas coming from the AM and collaboration with SDCD and IED may be translated into practical actions, particularly for affected communities at the project, district levels.

ADB = Asian Development Bank; AM = accountability mechanism; IED = Independent Evaluation Department; SDCD = Sustainable Development and Climate Change Department (now Climate Change and Sustainable Development Department).

V. DECISION-MAKING AND PROJECT SELECTION

167. In view of the major changes introduced by the 2012 Policy, it is appropriate to examine whether any of these changes, individually or collectively, has had any impact on the way ADB makes decisions or selects projects. Although this study is limited, some observations are warranted.

168. With compliance and complaint management institutionalized in the AM, could ADB become risk averse? When the Inspection Function was introduced in 1995 and the AM introduced in 2003, and revised in 2012, ADB expressed concerns that the prospect of accountability complaints may mean that ADB would avoid certain projects in certain sectors in DMCs.

169. Most ADB staff say that this is not the case: staff will not use the risk of, say, a compliance review as a reason not to do a project; but awareness of compliance risks may well be a reason to prepare and implement a project more effectively. In other words, AM lessons seem to be more important for decision making rather than bearing on project selection.

170. Some ADB staff reacted emphatically that risk aversion is “wrong” and consider that it is important to bring better efficiency and better transparency; problem-solving can be pursued to improve projects. Staff say that this should be the learning component of the AM:

“No, if you're not going to do a project simply because you're worried about a complaint, that's the wrong approach. What it does is to encourage us to be better at that process ... We have to learn from mistakes and ‘do better’ rather than being risk averse ...”

171. On the other hand, this is nuanced: the existence of an organized complaint process under the 2012 AM Policy should mean that ADB is vigilant and careful when making decisions and selecting projects.

172. Certainly, decision-making, and project selection will also be affected by greater awareness and learning the lessons of experience from processing or implementation that have

used as a real-time tool to help managers monitor progress and make changes, if necessary; rather than “set and forget.” (See Part VIII: Managing the Accountability Mechanism for Results).

triggered complaints. An ADB-wide tracking system to follow ineligible complaints may well be a fertile area to contribute to decision-making.⁸⁹ But ADB staff assert that while the AM must function effectively, ADB must also ensure that its decision-making remains defensible and based on professional judgments, not second-guessing what might or might not happen in a compliance review.

173. At a general level, ADB staff have been aware of managing issues properly, partly due to the risk that complaints can end up with the CRP. This engenders an element of “sensitivity.” But the future prospect of a larger number of different types of complaints looms large. For example, with the proposed SPS update, there is a concern over the higher risk of compliance review: ADB must proceed in a way that is not going to trigger the attention of the CRP; but project teams have expressed concerns that expanded safeguards will mean an increased risk of AM complaints, described as a “*chilling effect*.” In PSOs there may be a heightened risk that “*project sponsors eventually declare that they won't touch the project, because it might be too risky from an accountability perspective.*”

174. Some operational departments now include AM issues as part of project screening to check whether there is an actual or pending legacy issue that may have the potential to be escalated. In this regard, there is greater awareness in ADB about accountability issues and operations staff say that they are “*risk wary*” in that the risk of triggering the AM becomes a part of project filters. Indeed, operational departments have pointed to their project readiness filters. They appear to be country-specific filters in DMCs where there are requirements that stem from experiences in handling safeguards issues in OSPF cases and compliance generally. The filters are not used to select projects but are regarded as part of a better planning process. Some say that these filters have made a difference, even promoted higher project and resettlement planning readiness at the project preparation stage, which was not previously in place.⁹⁰

175. The type of projects and the country context also matter.⁹¹ For example, in projects dealing with land, the safeguards issues—land acquisition, customary land ownership, compensation—are mostly handled and funded by the government, not from the project. Governments value and compensate for land acquisition. Every ADB-assisted project administration manual is expected to have an AM section which clearly stipulates the project GRM, the options available to affected people to complain, and details and contacts for the AM.

176. Some ADB staff even referred to the 2012 Policy as a “bible” on project-level complaint management. GRMs appear to work, depending sometimes on the DMC’s cultural and traditional approaches to dispute resolution. The AM techniques can reinforce those systems. Affected people generally perceive ADB as being accountable and, as such, this can contribute to ADB’s “*very good reputation*” for complaint management in DMCs.

⁸⁹ SDCD is considering an integrated complaint monitoring system to be paired with the SPS update.

⁹⁰ The Central and West Asia Department has done a presentation on its project readiness filters as part of its knowledge sharing.

⁹¹ The AM and the 2018 JLR indicate that ADB must respect the “cultural context” in which the projects are taking place. Thus, in some places, affected people may well be discouraged from pursuing complaints or compliance reviews.

VI. THE IMPACT OF THE ACCOUNTABILITY MECHANISM POLICY 2012 IN SELECTED DEVELOPING MEMBER COUNTRIES

177. Some DMC governments seem to be increasingly aware that if a project is planned or implemented without proper regard for policies and procedures, there is a risk of triggering an ADB compliance review.⁹²

178. It also seems clear that in some DMCs, especially those where there have been multiple complaints, affected people are now better informed than they may have been previously—not only about the existence of the AM but also about how ADB works, the basics of each AM function, and how affected people can apply for relief.⁹³

179. The AM cases in Georgia, Mongolia, and Sri Lanka is shown in Appendix 3.

A. Georgia

180. The strong view is that the AM became more **accessible** to affected people in Georgia after 2012. Affected people already have information regarding the AM during the project design and development stages. Executing and implementing agency representatives consider that access to the AM has been increased since affected people have the opportunity to contact the CRO and are afforded the choice of direct access via the CRO. There is appreciation that the 2012 Policy now adopts the loan closing date as the basis to determine an exact cutoff date for complaints. Generally speaking, the **credibility** of the AM has also been enhanced since 2012 and particularly as affected people have had the opportunity to submit complaints and have experienced the AM's transparent complaint management process.

181. There is concern that some AM complaint processes are already complex and may take an excessive amount of time for resolution. Therefore, in the view of the government representatives, increasing **awareness** of the AM will give affected people an opportunity to clarify and protect their rights at an early stage. Affected people in Georgia are informed about the AM and its processes from project preparation stage up to the end of the project. The AM and the GRM should be distinguished, with the AM regarded as the “last resort” in the complaint management process. In fact, the AM process should not weaken the role and effectiveness of the established local GRM. Often DMC officials have not had experience with the AM prior to 2012; but the local view is that the project-level GRMs do give local affected people the opportunity to express their ideas and provide feedback more actively, including the lodging of formal complaints.

182. Government representatives consider that **cooperation with the AM** has been fruitful. The implementing agencies and the affected people regard the AM's credibility quite highly. AM-improved GRMs, have benefited from AM training, and refined compliance review processes offer an efficient avenue for resolution of affected people's complaints. At all stages of project development and implementation, ADB provides recommendations and monitors information regarding the AM. This is made available to all affected people and stakeholders. Resource optimization and simplified processes ensure that the grievance redress process is effective, reliable, and accessible to the affected people. This helps prompt complaint resolution. The executing agency/implementing agency representatives also regard the AM as being reasonably

⁹² This section is based on questionnaire responses and one online focus group discussion in each DMC. There were no site visits nor case studies. Therefore, it is anecdotal.

⁹³ For example, this seems to be the case in certain DMCs. There are several instances of multiple similar complaints emerging from the same project.

effective. From the OSPF “lessons learned” cases, the resolution of most grievances has generally been successful. In CRP cases, the RAPs have led to the restoration of a project.

183. Significant concerns remain, however, over the timeframes for resolution of complaints. It is fundamentally important to minimize delays in the project works and to avoid reputational and financial risks. Therefore, the AM must be committed to the idea that any investigation process or compliance review must be carried out within the shortest possible timeframe. Failure to observe reasonable timelines will adversely affect the reputation and effectiveness of the AM. The main plea is that the AM process should be expedited to reduce costs and ensure the timely implementation of ADB projects.

B. Mongolia

184. The executing agencies and implementing agencies do not have any experience of the AM prior to 2012, so it is difficult to compare the AM under the 2012 AM Policy with the 2003 AM Policy; but the overall view is that “*the AM is readily accessible to affected people.*” AM solutions are accessible and increasingly clear for all stakeholders. In addition, following experiences with the AM, GRMs are now always introduced during public consultations and affected people informed of their options to seek a compliance review with the CRP or to pursue a complaint for problem-solving with the SPF.

185. The government established formal project management in 2014 so that affected people and stakeholders are aware of problem-solving. Moreover, project staff “*were empowered during the problem-solving process*” and now follow similar measures for the GRMs.

186. The current arrangement “*is enough for the accessibility (to the AM)*”; but projects need to be clear about the internal GRMs and “*prepare well such as the ways to solve problems*” and to “*do well documentation, establishing committee, etc.*”

187. Affected people much prefer to solve problems rather than to pursue ADB’s compliance: “*There is a problem and affected people just want(ed) to settle them.*” As such, OSPF has proven to be the “*right choice*” for both the affected people and the implementing agencies and virtually all stakeholders would choose problem-solving rather than compliance review. This is because (i) every project has a GRM—if it works well, “*the issue will not spread until compliance*”; (ii) all projects have risk management plans regarding “*major potential risks*” and, therefore, risk mitigation measures can be adopted on time; and (iii) following good experiences with OSPF, most projects are now quite familiar with effective problem-solving techniques.

188. It appears that the affected people were satisfied with problem-solving. The executing agency found it to be a “*transparent and fair process*” that supported the project management office to reach an understanding both among affected people and government organizations.

189. The AM’s credibility was assured because OSPF’s local facilitator was professional and worked well, quickly, and independently; this meant that the problem-solving function was quite effective.

190. The process was credible and dealt with the complaints efficiently. All ADB staff involved in the process were also credible and supported the project management office to solve the complaints.

“Yes, we see that OSPF is very credible in dealing with complaints based on our experience with four complaints through the problem-solving process. They are

confidential, neutral, pragmatic, listen well, and try to find solutions in a participatory manner. Affected people believe in them and the facilitator. There have been no negative comments.”

191. The government representatives offered no specific suggestions for improvement.

192. The executing agencies and implementing agencies regard the AM as being efficient. Their experiences in complaint management have been positive and improving. They consider that the AM is working efficiently, serving its purpose, and solving problems raised by complainants.

193. The timeframes were reasonable. But sometimes the costs have become higher than expected; this is especially so for higher amounts of compensation required at the end of the process.

194. While the AM is generally regarded as being effective, the executing agencies and implementing agencies observed that more information workshops could be organized for them to be better informed of how the AM may help: how and when it works; options available and their consequences; the importance of documentation and negotiation meeting minutes; how to avoid complaints to the AM; and so on.

195. In short, the AM has proven to be an effective manager of complaints.

“It would have been very difficult to solve problems if not for the support and participation of SPF. It has been very effective.”

C. Sri Lanka

196. According to the government representatives, the AM has become more effective since 2012: for ongoing processes the AM is now “far more accessible to affected people.” Executing agencies and implementing agencies consider that the AM is regarded as a very effective mechanism that can effectively address affected people’s complaints in ADB-funded projects.

197. Having emerged with this favorable reputation, the AM must be aware that affected people still face considerable language barriers and usually have to contend with limited technology and a lack of access to computer literacy skills when preparing and submitting their grievances to the AM. And there are some concerns that affected people still have very limited knowledge about the AM and are unsure as to how to comply with AM processes.

198. The government recognizes that it was a good initiative to stipulate the cutoff date for eligible complaints based on the loan closing date as this is more precise and definite.

199. Executing agencies and implementing agencies stated that “*the AM has excellent credibility in Sri Lanka.*” Implementing and executing agency staff are unaware of any negative comments in relation to the AM. There have been several instances where cooperation with the AM produced effective and acceptable results.⁹⁴

⁹⁴ (i) In the case of a dam project an agreement was reached on the modification of a lower-level outlet to mitigate downstream habitat impacts; and (ii) an affected person complained directly to ADB about land compensation, so the implementing agency team convened a consultation session and negotiated tangible solutions to redress the grievance quickly.

200. Some concerns were noted that it seems that sometimes safeguard officers involved in ADB projects do not have a clear picture of the AM's operational protocols (though they know of the AM). Therefore, it continues to be very important for the AM to continue to conduct comprehensive technical training sessions for implementing agency officers on AM procedures prior to the commencement of a project. At present, there seems to be a concern that AM messaging and signaling is not properly conveyed to affected people. Therefore, it would be beneficial to formulate a defined consultation process in Sri Lanka on the AM directly between the affected people and ADB officials.

201. One representative commented that during 7 years' involvement in complaint management, no complaints were escalated to the OCRP or the OSPF. Almost all problems were resolved at the project-level Grievance Redress Committee (GRC). On the other hand, there is a particular issue in relation to GRCs: they are a good initiative to address affected people's problems directly but the GRC's authority is limited. The GRC should be empowered in each project by the participation of more stakeholder organizations. After all, the GRC is the primary point of contact for the AM where affected people initially convey their concerns. It would enhance the credibility of the AM in the eyes of the affected people if the GRC can be strengthened.

202. Even though the AM is efficient, there remain some concerns about delays due to the inability to implement ADB policy that are contrary to laws and regulations of Sri Lanka. This could become a local legal constraint. The government officials suggested that project documents should be "*comprehensively reviewed at the outset*" to ensure that aspects of the AM are included in the project documents themselves. With such legal provisions covering dispute resolution, the implementing agencies can then participate in resolving complaints from affected people without legal constraints or "*rigorous approval processes*."

203. Again, perhaps the efficiency of the AM process could be improved (processing times; transparency) if ADB could formulate a specific Sri Lanka guideline, which could be used in ADB-assisted projects, and which would consider the Sri Lankan legal constraints, cultural aspects, socioeconomic conditions, and approval processes. Such a guideline could be used for every ADB-assisted project to administer affected people's entitlements in a consistent manner.

VII. ADDITIONAL REFLECTIONS ON THE IMPLEMENTATION OF THE ACCOUNTABILITY MECHANISM POLICY 2012

A. Private Sector Operations

204. The 2012 AM Policy applies to ADB's PSO, though there have been few private sector-related complaints to date;⁹⁵ however, as the volume of ADB's PSO continues to grow in future and become a more significant part of ADB's operations, the number of private sector complaints is also likely to increase. Therefore, it is useful to reflect briefly on some of the issues that attend private sector complaints.

205. ADB's PSO is distinguished by two specific features.

206. First, PSO is highly risk sensitive: risk identification, allocation, mitigation, and management are factored into all nonsovereign transactions. As such, the Private Sector Operations Department (PSOD) seeks to manage any risks emerging under the AM, particularly the risk of compliance reviews. (PSOD is less concerned with OSPF's problem-solving that offers quick, practical methods to resolve a complaint.)

⁹⁵ From PSOs, there have been: five complaints to the SPF and three complaints to the CRP.

207. Second, unlike sovereign lending, PSOD deploys specialized finance and investment instruments covering transactions such as project financing, trade finance, equity investments, and investment funds, which may give rise to unique issues for the AM.

1. Due Diligence and Accountability

208. PSOD has always had a rigorous approach to due diligence. But PSOD explained how its “*bruising and tortuous experiences with the AM*” in dealing with compliance reviews under the 2012 Policy have led to sensitivity over the risk of noncompliance. PSOD is committing more resources to due diligence, particularly for “challenging” PSO projects involving, say, internal politics, vociferous NGOs, and issues relating to, say, labor disputes and indigenous peoples, to ensure that each project is processed and implemented in accordance with ADB’s operational policies and procedures.

209. PSOD is pursuing several initiatives to address accountability.

210. In 2019, PSOD launched a new operational plan that places greater emphasis on PSO development impact and how PSOD plans to deliver in frontier economies, fragile and conflict-affected situations, and Asia and the Pacific. PSOD now pursues a wider analysis of risk and assesses projects against an ex ante development impact framework, including alignment with ADB’s policies and procedures. Moreover, PSOD is committed to improving its due diligence under the new operational plan because of the consequences of noncompliance, remedy, and responsible exits. Faced with an allegation of ADB’s failure to comply with its own policies and procedures, private sector sponsors may resort to early prepayment. PSOD works to avoid this risk.

211. PSOD staff consider that ADB policies and procedures “*don’t always easily fit with private sector projects.*”⁹⁶ However, in light of the SPS, and in line with other international financial institutions, PSOD has established a number of precedents and approaches on “*good practices,*” “*best practices,*” how to interpret “*performance standards,*” and the implications of particular policies for private sector projects.⁹⁷

212. Complaint management is also an important consideration in PSO. PSOD encourages project sponsors to have effective project-level GRMs to manage local complaints efficiently.⁹⁸ For its part, PSOD also seeks to ensure effective complaint management in PSO projects using a system to solve complaints at an early stage, to log and track complaints in a database, and to report to PSOD senior management.

⁹⁶PSOD gave an example from a compliance review where, apparently, there is a suggestion that actual environmental and social management plans for an engineering, procurement, and construction contract must be in place prior to project approval by ADB. PSOD consider this to be “*fundamentally wrong.*” Private sector financiers review the structure of engineering, procurement, and construction contracts to be satisfied about how risk is shared and allocated, how costs are apportioned between sponsor and contractor, and the responsibilities of each party.

⁹⁷ PSOD responded well: there are now a director and 24 environment and social specialists handling safeguards in PSOD.

⁹⁸ If a project involves multiple IFIs, there will be different IAMs. Clearly, there will be challenges if the same complaint issue is lodged with the multiple IAMs. Therefore, it will be helpful if PSOD can explain the AM effectively during due diligence.

2. Dealing with the Private Sector Operations Department

213. There are some initiatives that the AM and PSOD could pursue to deal more effectively with private sector operations. For example:

- Most PSO complaints could be resolved efficiently if they are brought to the SPF rather than directly to the CRP: OSPF's help can add value quickly and the outcome is likely to be productive.⁹⁹ PSOD's primary focus in dealing with a complaint is to provide an independent avenue to resolve affected people's issues swiftly.
- PSOD staff have raised concerns about PSO compliance reviews, which involve private sector sponsors, financing plans, commercial instruments, risk allocation techniques, and PSO policies and procedures. PSOD considers that a compliance review in a nonsovereign project requires private sector expertise and experience and, ideally, one or more CRP members should possess that expertise and experience. Perhaps ADB could consider appointing an ex officio CRP member specifically to work on PSO complaints.¹⁰⁰
- PSOD also observed that, upon completion of a PSO compliance review, PSOD (and project sponsors) have the opportunity to comment and provide inputs on the CRP's findings and any proposed remedial recommendations considered by the BCRC before submission to the Board.
- Private sector project sponsors require a clear understanding of the AM. Therefore, there is scope for the AM and PSOD to design specific information and explanatory materials for private sector sponsors.
- The 2012 AM Policy aims to ensure that ADB learns lessons for future projects. As very few PSO problems have been elevated to the AM, PSOD should be encouraged to share the lessons learned from its complaint management. Indeed, there may be much to be gained from enhanced cooperation between the AM and PSOD in awareness and learning.

B. Legal Services for the Accountability Mechanism

214. Since 2012, OGC's legal work in relation to AM matters has expanded significantly. The nature, range, and volume of legal work associated with complaints management in ADB has grown and this has imposed considerable resource demands on OGC. Indeed, OGC has faced, and will continue to face, additional demands in AM-related work.

1. Legal Services under the 2012 Accountability Mechanism Policy

215. When the AM was established in 2003, the policy provided for OGC to advise the OCRP, BCRC, and the Board in relation to any matters relating to ADB's rights and obligations in connection with compliance reviews.¹⁰¹ The 2012 Policy revised the provision of "legal advice" in relation to the AM.¹⁰² The "client" list was expanded to include OSPF, SPF, OCRP, CRP, BCRC,

⁹⁹ "I think we have had a good case where affected people were more concerned about solving a problem."

¹⁰⁰ The CRP is already obliged to develop a "roster of independent technical experts" for specific compliance reviews. This could include PSO specialists who could assist with a PSO Complaint: 2012 Policy, para. 131(xiv).

¹⁰¹ 2003 AM Policy, para. 101.

¹⁰² 2012 AM Policy, paras. 122–123.

and the Board. OGC's brief also expanded to include "*any complaint requesting problem-solving*" and OGC would assist the CRP with access to specialist legal advice for borrowing countries.¹⁰³

2. Conflicts of Interest

216. Since 2012 OGC has managed conflicts of interest pursuant to a guidance memorandum issued by the General Counsel and recently updated ("OGC Guidelines").¹⁰⁴ Under the OGC Guidelines, the potential for conflicts of interest arising from OGC advising Management and staff, on the one hand, and the CRP, on the other, has been addressed by assigning separate counsel in OGC.

217. The OGC Guidelines are a comprehensive and appropriate response to the increased demands arising from AM cases.

3. Legal Advice to the Asian Development Bank

218. OGC provides legal services to Management and staff in AM matters. The provision of these services is led by an Assistant General Counsel; usually an Assistant General Counsel for sovereign operations (not including the DMC where the complaint originated) and a counsel (not the Counsel assigned to the project).

219. OGC's involvement in AM cases has been extensive and is growing. OGC's services have included working closely with the relevant ADB departments to collate documents and information; primary drafting responsibility for Management responses; ensuring factual accuracy; addressing policy compliance; and advising on local law issues. OGC helps to prepare for CRP interviews and, in some cases, attends such interviews, when requested. OGC also helps to prepare a time-bound, measurable, and achievable RAP, if required, and assists in the monitoring and reporting of the RAP.

4. Legal Advice to the Accountability Mechanism

220. On the AM side, OGC provides legal services to the Board, BCRC, CRP, and OCRP.¹⁰⁵ The General Counsel advises the Board. The Deputy General Counsel leads the provision of legal services to the AM, supported by Counsel dedicated to AM matters.

In this area, the legal work is not confined to specific compliance reviews. There seems to be an increasing volume of legal work on related institutional governance issues. For example, the AM Counsel may also advise the SPF, the CRO, the Secretary's Office qua the Secretary of the BCRC, the BCRC Chair, and individual BCRC members. OGC also cooperates with legal departments in counterpart MDBs and international financial institutions in the handling of legal work associated with any CRP investigation involving cofinancing.

221. The CRP is required to develop a "*roster of independent technical experts*" who can assist from time to time;¹⁰⁶ however, OGC has also advised that, generally, they do not see the need for, say, independent counsel outside of OGC.

¹⁰³ The revised provision did not cover the possible need for legal advice in relation to compliance reviews in ADB's PSO involving nonsovereign borrowers and sponsors.

¹⁰⁴ ADB. 2017. OGC Guidelines on the Provision of Legal Advice Relating to the Accountability Mechanism Policy.

¹⁰⁵ It appears that OGC provides legal advice to the SPF and OSPF less frequently

¹⁰⁶ 2012 AM Policy, para. 131(xiv).

VIII. MANAGING THE ACCOUNTABILITY MECHANISM FOR RESULTS OR HOW SHOULD ADB ASSESS THE EFFECTIVENESS OF THE ACCOUNTABILITY MECHANISM POLICY 2012?

222. ADB's approach to the assessment and management of its accountability policy could be improved.

223. Since 2012 two JLRs, with extensive recommendations, were published in 2016 and 2018, respectively. This study now seeks to assess the impact of the 2012 AM Policy and this will be a prelude to a formal review during the course of 2023.

224. ADB's experience in development effectiveness and managing for development results suggests that this kind of approach does not provide any contemporaneous guidance for managers to determine whether a policy is actually working as intended. ADB and AM managers need tools to understand whether the 2012 Policy is effective and achieving its objectives.

A. Managing the Accountability Mechanism for Results

225. The AM should have the advantage of a better system of assessing the effectiveness of the AM Policy with greater frequency than every 10 years.

226. Managing the AM for results would provide valuable intelligence for the Board, the BCRC, and the CRP on the effectiveness of the compliance review function, and for the President and the SPF on the effectiveness of the problem-solving function.

227. It would be helpful to ask ADB's results management specialists to help design a dedicated AM Policy results framework with a suitable set of indicators. The results framework, and the indicators, could be depicted in a balanced scorecard, which would enable the AM to manage the implementation of the policy for results.

228. This is not without its challenges; but it should be considered.

B. Evaluation

229. A periodic evaluation of a policy can also be effective.¹⁰⁷

230. The prospect of an evaluation of the AM Policy has been raised previously with IED. In this regard, it considers that because IED and AM, respectively, are somewhat independent at the same level in ADB and since IED also has a role in the AM Policy, it would be inappropriate for IED to evaluate the AM. It appears that other MDBs have evaluated accountability functions by way of Board-commissioned reviews or evaluations.

231. Unsurprisingly, IED considers that the Board should convene any planned evaluation of the AM.

¹⁰⁷ Evaluation is somewhat academic. The SPS is already being reviewed and the 2012 AM Policy will be formally reviewed this year. ADB will be disinclined to evaluate the 2012 AM Policy at this time. During IED's annual consultations on its work program, we understand that a Board Member raised the question of whether IED had evaluated the AM or planned to do so.

Issue #4**How Can ADB Better Manage the Accountability Mechanism for Results?**

By most assessments, the AM offers a sound approach to problem-solving and compliance review. A complete overhaul of the AM seems unnecessary. However, the future review will provide an opportunity to identify any specific shortcomings and to recommend pragmatic revisions to make a good policy even better.

For example, among other things, the AM was intended to contribute to enhanced development effectiveness and project quality. Have such expectations been realized?

How can the CRP and SPF better manage the implementation of ADB's accountability policies?

The AM should be managed for results.

ADB = Asian Development Bank; AM = Accountability Mechanism; CRP = Compliance Review Panel; SPF = Special Project Facilitator.

APPENDIXES

Appendix 1: Data on Accountability Mechanism Complaints

Accountability Mechanism Caseload 2004–2022			
Office/Function		2004–2011	2011–2022
Compliance Review Panel	Total number of complaints	7	19
	Eligible	6	6
	Ineligible	1	11
	Withdrawn		2
Special Project Facilitator	Total number of complaints	40	94
	Eligible	14	17
	Ineligible	26	75
	Withdrawn		2

Source: Complaints Statistics (Office of the Special Project Facilitator and the Office of the Compliance Review Panel) as of 8 November 2022.

Summary of Complaints by Department (2021–2022)

Nature of Complaints	Central and West Asia	East Asia	Southeast Asia	South Asia	Pacific	Private Sector	Total
Resettlement, compensation, and land acquisition	30	4	3	26	1	5	69
Information, consultation, and participation	10	6	2	14	3	8	43
Environment	12	2	3	11	1	2	31
Community and social issues	9	0	2	13	3	3	30
Village infrastructure	4	0	0	3	1	1	9
Others	9	2	0	7	0	4	22
Livelihood	7	1	0	2	0	1	11
Total	81	15	10	76	9	24	215

Note: Several project cases involved multiple complaints.

Source: Complaints Statistics (Office of the Special Project Facilitator and the Office of the Compliance Review Panel) as of 8 November 2022.

Appendix 2: Accountability Mechanism Awareness and Learning Programs, 2012–2022

ACCOUNTABILITY MECHANISM

Accountability Mechanism Annual Reports

- 2013 – Improving Outcomes
- 2014 – Strengthening Partnerships
- 2015 – Building Skills and Capacity
- 2016 – Improving Lives through the Accountability Mechanism
- 2017 – ADB Accountability Mechanism Annual Report, 2017
- 2018 – ADB Accountability Mechanism Annual Report 2018
- 2019 – Enhancing Accountability and Project-Level Grievance Mechanisms
- 2020 – Responding to Affected People during the Pandemic
- 2021– Facilitating ADB in Operationalizing Its Core Values
- 2022 – Searching for Solutions, Finding the Lessons

2016 Joint Learning Report

2018 Joint Learning Report: The report highlighted areas where challenges were faced:

- improvements in ADB’s consultation with affected people and the participation of affected people in the field;
- more analytical work on capacity development for local staff and executing agencies;
- capacity building in complaint risk management, including greater interaction between the AM and operational departments;
- the use of technology;
- collaboration with operational departments, including a series of challenges that dealt with the accessibility of the AM, lessons learned, and effectiveness of addressing complaints;
- a better focus on GRMs (ADB wants to become “*a leader among peer organizations*” in the implementation of GRMs);
- greater attention paid to the reasons for the increase in the numbers of complaints that are being made to the AM, which may include problems with GRM complaint handling by operational departments; and
- the ADB-wide system to track progress on managing ineligible complaints.

The JLR concluded with ADB’s need to invest in additional work in the most effective way to promote participation and consultation, and the need to put more resources into capacity development. Collaboration between the AM and the operational departments, including resources, were regarded as key ingredients.

[October 2014: 10 Years of Accountability Mechanism video](#)

[October 2014: 10 Years of Accountability Mechanism](#)

[November 2014: ADB’s Accountability Mechanism: Strengthening Partnerships](#)

Celebrating 25 Years at ADB’s Accountability Mechanism

[\(https://www.adb.org/multimedia/accountability-mechanism-25-years/index.php\)](https://www.adb.org/multimedia/accountability-mechanism-25-years/index.php)

[Guidelines for the Protection of Key Stakeholders during the Accountability Mechanism Process \(September 2018\)](#)

[Accountability Mechanism: A 25 year story](#)

[Background Note for the Safeguard Policy Review and Update: Lessons from ADB's Accountability Mechanism \(February 2022\)](#)

OFFICE OF THE SPECIAL PROJECT FACILITATOR

December 2014 – Tracking Impact: The Cambodian Railway Rehabilitation Journey of the OSPF (internal circulation only)

[February 2016 – Problem Solving Guidebook for ADB-Assisted Projects](#)

27 May 2018 – Building Bridges: Lessons from Problem-Solving in Viet Nam

June 2017 – Problem-Solving on the Road: A Case Study on Nepal (internal circulation only)

20 March 2020 - [OSPF's video documentation of the Viet Nam case study](#)

1 October 2020 – Office of the Special Project Facilitator's Lessons Learned: Batumi Bypass Road Project in Georgia (English & Georgian)

8 October 2020 – Office of the Special Project Facilitator's Lessons Learned: Sustainable Urban Transport Project Investment Program, Tranche 3 in Georgia (in English and Georgian)

3 November 2020 – Office of the Special Project Facilitator's Lessons Learned: Ulaanbaatar Urban Services and Ger Areas Development Investment Program, Tranche 1 (English and Mongolian)

20 March 2022 - [OPSF's video documentation of the Mongolia case study](#)

29 December 2020 – Office of the Special Project Facilitator's Lessons Learned: Sri Lanka Integrated Road Investment Program

9 March 2021 – Office of the Special Project Facilitator's Lessons Learned: Sri Lanka Clean Energy and Network Efficiency Investment Project

e-Learning Module: *Introduction to Problem-Solving* (undated)

e-Learning Module: *Foundational Course on Grievance Redress Mechanisms* (undated)

TA9598: Capacity Building for Grievance Redress and Dispute Resolution During Project Implementation (2018)

This technical assistance recognizes the importance of improving the effectiveness of project-level grievance redress mechanisms based on the OSPF problem-solving casework. The technical assistance provided for the preparation of GRM training sessions. Since inception, OSPF has conducted 21 training sessions across regions, attended by more than 500 participants from various sectors.¹⁰⁸

¹⁰⁸ Prior to this TA, OSPF had already conducted and facilitated several training sessions on GRMs and problem-solving as part of its operational support and advisory services.

2019

Dhaka, Bangladesh
Thimphu, Bhutan
Nadi, Fiji
Tbilisi, Georgia (two batches)
Bali, Indonesia
Ulaanbaatar, Mongolia
Manila, Philippines
Tashkent, Uzbekistan
Hanoi, Viet Nam
Ho Chi Minh City, Viet Nam

2021

Thimphu, Bhutan (virtual)
Kathmandu, Nepal (hybrid)
Colombo, Sri Lanka (virtual)

2022

New Delhi, India (two batches)
Ulaanbaatar, Mongolia (two batches)
Pokhara, Nepal
Islamabad, Pakistan
Lahore, Pakistan

OFFICE OF THE COMPLIANCE REVIEW PANEL

A Guidebook on the Compliance Review Function of ADB's Accountability Mechanism

- ADB Management and Staff
- Government Borrower
- Private Sector/Contractor
- NGOs/CSOs and affected People

Knowledge Note: Strengthening Accountability Mechanisms in Financial Intermediaries to Support Environmental and Social Sustainability of Subprojects

A Sourcebook on the Compliance Review Function of ADB's Accountability Mechanism

[Compliance Review Panel: Clarifications on the Application of Certain Provisions of the Accountability Mechanism Policy 2012 \(August 2020\)](#)

Regional Accountability Mechanism Framework & National Accountability Mechanism Framework of PRC

Lessons Learned from Compliance Reviews of the Asian Development Bank (2004–2020)

- Rehabilitation of the Railway Project in the Kingdom of Cambodia
- Fuzhou Environmental Improvement Project in the People's Republic of China
- CAREC Transport Corridor 1 (Bishkek–Torugart Road) Project 1 in the Kyrgyz Republic
- Sri Lanka Southern Transport Development Project
- Mundra Ultra Mega Power Project in India
- Integrated Citarum Water Resources Management Investment Program–Project 1 in Indonesia

- Visayas Base-Load Power Development Project in the Philippines
- Sustainable Urban Transport Investment Program—Tranche 3 in Georgia
- Common Threads: Lessons from Compliance Reviews—Strengthening the Fabric of Development Effectiveness

“Deep Dive into Compliance Review”—OCRP Briefing for PSOD (June 2022)

Appendix 3: Accountability Mechanism Cases: Georgia, Mongolia, and Sri Lanka, 2012–2022

I. Summary of Complaints in Georgia (2012–2022)

Date	Project	Eligible	Ineligible	Sector
Compliance Review Panel–Compliance Review Function (7)				
14 Mar 2016	Sustainable Urban Transport Investment Program (Tranche 3)	X		Transport
10 Nov 2016	Sustainable Urban Transport Investment Program (Tranche 3)		X	Transport
07 Dec 2017	Nenskra Hydropower Project	X		Energy
21 Jun 2018	Sustainable Urban Transport Investment Program (Tranche 3)	X		Transport
11 Oct 2018	Sustainable Urban Transport Investment Program (Tranche 3)		X	Transport
02 Nov 2019	North–South Corridor (Kyesheti-Kobi) Road Project		X	Transport
06 Jan 2021	North–South Corridor (Kyesheti-Kobi) Road Project	X		Transport
Special Project Facilitator–Problem-Solving Function (12)				
28 Apr 2016	MFF–Sustainable Urban Transport Investment (Tranche 3)	X		Transport
27 May 2016	MFF–Sustainable Urban Transport Investment (Tranche 3)		X	Transport
09 Nov 2016	MFF–Sustainable Urban Transport Investment (Tranche 2)		X	Transport
17 Nov 2016	MFF–Sustainable Urban Transport Investment (Tranche 2)		X	Transport
10 Apr 2017	MFF–Sustainable Urban Transport Investment—Tranche 3		X	Transport
10 Jul 2017	MFF–Sustainable Urban Transport Investment (Tranche 3)		X	Transport
14 Aug 2017	MFF–Sustainable Urban Transport Investment (Tranche 3)		X	Transport
24 Aug 2017	Batumi Bypass Road Project		X	Transport
08 Mar 2018	Adjaristsqali Hydropower Project	X		Energy
02 Oct 2018	Batumi Bypass Road Project	X		Transport
08 Oct 2020	Natakhtari-Jinvali Road Project		X	Transport
25 Aug 2022	Batumi Bypass Road Project		X	Transport

MFF = multitranche financing facility.

Source: Complaints Statistics (Office of the Special Project Facilitator and the Office of the Compliance Review Panel) as of 8 November 2022.

II. Summary of Complaints in Mongolia (2012–2022)

Date	Project	Eligible	Ineligible	Sector
Compliance Review Panel–Compliance Review Function (0)				
Special Project Facilitator–Problem-Solving Function (5)				
28 Mar 2018	Ulaanbaatar Urban Services and Ger Areas Development Program (Tranche 1)	X		Water and other urban infrastructure and services
29 Mar 2019	Ulaanbaatar Urban Services and Ger Areas Development Program (Tranche 1)	X		Water and other urban infrastructure and services
28 Dec 2020	Ulaanbaatar Urban Services and Ger Areas Development Program (Tranche 1)	X		Water and other urban infrastructure and services
28 Dec 2020	Ulaanbaatar Urban Services and Ger Areas Development Program (Tranche 2)	X		Water and other urban infrastructure and services
27 May 2022	Regional Road Development and Maintenance Project		X	Transport

Source: Complaints Statistics (Office of the Special Project Facilitator and the Office of the Compliance Review Panel) as of 8 November 2022.

III. Summary of Complaints in Sri Lanka (2012–2022)

Date	Project	Eligible	Ineligible	Sector	Remarks
Compliance Review Panel–Compliance Review Function (1)					
18 Oct 2022	Integrated Road Investment Program (Tranche 4)			Transport	Withdrawn
Special Project Facilitator–Problem-Solving Function (11)					
31 Jan 2017	Green Power Development and Energy Efficiency Program		X	Energy	
24 Mar 2017	Greater Colombo Water & Wastewater Management Program		X	Water and other urban infrastructure and services	
19 Apr 2017	Greater Colombo Water & Wastewater		X	Water and other urban infrastructure and services	

	Management Program				
16 Aug 2017	Clean Energy and Network Efficiency Improvement Project	X		Energy	
05 Oct 2017	Clean Energy and Network Efficiency Improvement Project		X	Energy	
11 Sept 2018	Greater Colombo Water & Wastewater Management Program		X	Water and other urban infrastructure and services	
04 Apr 2019	Northern Province Sustainable Fisheries Project		X	Agriculture and Natural resources and rural development	
22 Nov 2019	Greater Colombo Water and Wastewater Management Program	X		Water and other urban infrastructure and services	
25 Feb 2022	Second Integrated Road Investment Project		X	Transport	
19 May 2022	Mahaweli Water Security Investment Program		X	Agriculture and Natural Resources and Rural Development	
07 Nov 2022	Green Power Development and Energy Efficiency Program (Tranche 1)			Energy	No entry

Source: Complaints Statistics (Office of the Special Project Facilitator and the Office of the Compliance Review Panel) as of 8 November 2022.