Asian Development Bank Accountability Mechanism
Compliance Review Panel

REPORT ON ELIGIBILITY

To the Board of Directors
On
Compliance Review Panel Request No. 2012/1
On the Integrated Citarum Water Resources Management Investment Program Project 1
In the Republic of Indonesia
[Asian Development Bank Loans 2500 & 2501 (SF) – INO]

29 February 2012
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>ADB</td>
<td>Asian Development Bank</td>
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<tr>
<td>ARUM</td>
<td>Aliansi Rakyat Untuk Citarum (People’s Alliance for Citarum)</td>
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<tr>
<td>BAPPENAS</td>
<td>National Development Planning Agency</td>
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<tr>
<td>BBWSC</td>
<td>Balai Besar Wilayah Sungai Citarum</td>
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<td>CRP</td>
<td>Compliance Review Panel</td>
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<tr>
<td>DGWR</td>
<td>Directorate General of Water Resources</td>
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<tr>
<td>EA</td>
<td>executing agency</td>
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<tr>
<td>ICWRMIP</td>
<td>Integrated Citarum Water Resources Management Investment Program</td>
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<tr>
<td>KRUHA</td>
<td>Koalisi Rakyat Untuk Hak Atas Air (People’s Coalition for the Rights to Water)</td>
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<td>MFF</td>
<td>multitranche financing facility</td>
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<td>NGO</td>
<td>non-government organization</td>
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<td>OCRP</td>
<td>Office of the Compliance Review Panel</td>
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<tr>
<td>OSPF</td>
<td>Office of the Special Project Facilitator</td>
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<tr>
<td>PCMU</td>
<td>project coordination and management unit</td>
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<tr>
<td>RAR</td>
<td>Review and Assessment Report</td>
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<td>SPF</td>
<td>Special Project Facilitator</td>
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<tr>
<td>WTC</td>
<td>West Tarum Canal</td>
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I. BACKGROUND

1. The Compliance Review Panel (CRP) received a request for a compliance review of the Integrated Citarum Water Resources Management Investment Program (ICWRMIP) Project 1 on 30 January 2012. In accordance with the Operating Procedures for the Compliance Review Panel (CRP), the CRP obtained certain materials relating to the consultation phase from the Special Project Facilitator (SPF), including the SPF’s determination on its eligibility criteria. The CRP and OCRP contacted the authorized representative of the affected persons. The Office of the Compliance Review Panel (OCRP) registered the request on 14 February 2012. CRP has advised the Executive Director representing Indonesia and informed the Management and senior staff from the Southeast Asia Department and the Regional and Sustainable Development Department regarding the registration of the compliance review request. On 20-22 February 2012, CRP, through the assistance of the Resident Mission in Indonesia conducted an eligibility mission to Indonesia and met with the affected persons, their Representative, the executing agency (EA) and the Government of Indonesia.

II. DESCRIPTION OF THE ADB-ASSISTED PROJECT

2. The Integrated Citarum Water Resources Management Investment Program funds a range of interventions across the water sector that relate to water and land management necessary to pursue the introductions of integrated water resources management (IWRM) in the Citarum River basin. The Asian Development Bank (ADB) and the Government of Indonesia are using the Multitranche Financing Facility (MFF). ICWRMIP – Project 1 aims to undertake priority interventions including the rehabilitation of the West Tarum Canal (WTC) to improve the flow and quality of water. The WTC provides about 80% of the surface water supply to Indonesia’s capital city, Jakarta. The National Development Planning Agency (BAPPENAS) has established a road map coordination and management unit (RCMU) to ensure overall planning and financial management. A road map sets out the agreed interventions that will address IWRM key issues under the Investment Program. The estimated cost of implementing the projects of the road map is $3.5 billion over 15 years, of which the investment program accounts for $921 million. The Directorate General of Water Resources (DGWR) of the Ministry of Public Works is the EA. DGWR has established a project coordination and management unit (PCMU) in its Citarum river basin organization, Balai Besar Wilayah Sungai Citarum (BBWSC), which is responsible for the overall management and coordination of investment program activities.

III. EFFORTS TO ADDRESS THE COMPLAINT THROUGH OSPF

3. The requesters filed a complaint to Office of the Special Project Facilitator (OSPF) on 4 January 2011 which was duly acknowledged on 10 January 2011 and declared eligible on 2 February 2011. The SPF submitted a Review and Assessment Report (RAR) to parties on 23 March 2011 recommending several course of action which included workshops for the complainants, their representative and other community members; dialogues among government agencies and other stakeholders; and multi-stakeholders consultation. The consultation process discontinued, however, after the complainants, through their authorized representative, had terminated their participation in the consultation process, as confirmed by OSPF on 14 February 2012. This satisfies the requirements of the Accountability Mechanism (AM) Policy [OM Section L1/OP para. 45(viii)].
IV. CONFIDENTIALITY

4. The request letter explicitly asks for the requesters’ identities to be kept confidential and this was confirmed by the requesters to the CRP mission to Indonesia.

V. ELIGIBILITY

A. Filing of the request

5. Mr. Hamong Santono of Aliansi Rakyat untuk Citarum (ARUM) or People’s Alliance for Citarum, signed the request letter with attachments which was sent to CRP under the letterhead of Koalisi Rakyat untuk Hak Atas Air (KRUHA) or People’s Coalition for the Rights to Water which is part of ARUM. The request letter includes a power of attorney signed by three requesters (as the authorizing parties) authorizing Mr. Hamong Santono of ARUM to act on the requesters’ behalf. The eligibility mission confirmed that Mr. Santono of ARUM is the representative appointed by the requesters. On 14 February 2012, OCRP acknowledged receipt and registered the request.

B. Content of the request

6. The letter request together with the additional information and clarifications provided during the CRP/OCRP mission to Indonesia, adequately covers the information required for the CRP to determine the eligibility of the request for compliance review.

C. Eligibility criteria

7. Specific eligibility criteria are evaluated below together with a reference to the relevant paragraphs of the Operations Manual (OM) L1: ADB Accountability Mechanism.

8. Requester likely to be affected materially and adversely [OM Section L1/OP para. 45(i) and 45(iii)]. The request claims that damages and losses were encountered by the requesters, including the demolition of their respective houses, electrical connection, livestock stable and some crops.

9. Harm will result from an alleged failure of ADB to follow its operational policies and procedures [OM Section L1/OP para. 45(ii)]. The request claims that ADB failed to follow its operational policies and procedures with regards to the Involuntary Resettlement Policy, Public Communications Policy, and Environment Policy. As clarified by the requesters’ Representative in his email to the CRP dated 24 February 2012, the reference to the Environment Policy pertains to the consultation process during environmental assessment.

10. Identification and contact information of requesters and representative [OM Section L1/OP para. 45(iv and v)]. In their letter, the requesters provided the address, phone number and email address of Mr. Hamong Santono (KRUHA), an authorized Representative. During the mission to Indonesia, the CRP established the identities of Mr. Santono together with the three requesters who have requested their identities to be confidential. The CRP is satisfied that the requesting parties are the affected persons and Mr. Santono is their authorized representative.

11. Brief project description [OM Section L1/OP para. 45(vi)]. The request letter contains the name and location of the project.
12. **Desired outcomes or remedies [OM Section L1/OP para. 45(vii)].** The request letter sets out five desired outcomes or remedies. These are (i) provide guarantee regarding the just compensation in accordance with ADB policy on involuntary resettlement and job opportunities for the evicted persons; (ii) provide funds to the affected persons for their relocation; (iii) provide guarantee for a definite location where the victims can live decently; (iv) provide capital to the victims to start their businesses again, which were affected by the arbitrary eviction; (v) ensure that the impact is mitigated and that compensation is given and that all processes related to the ICWRMIP are followed, specifically the information process, consultation process and the eviction planning process in the entire project area, for accountability purposes.

D. **Exclusions**

13. In accordance with OM Section L1/OP para. 51, the request was examined based on the following exclusions under the compliance review phase:

<table>
<thead>
<tr>
<th>Exclusions</th>
<th>No</th>
</tr>
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<tbody>
<tr>
<td>Not related to ADB’s actions or omissions?</td>
<td>No</td>
</tr>
<tr>
<td>Procurement of goods and services, including consulting services?</td>
<td>No</td>
</tr>
<tr>
<td>Allegations of fraud and corruption?</td>
<td>No</td>
</tr>
<tr>
<td>PCR issued?</td>
<td>No</td>
</tr>
<tr>
<td>Complaint related to adequacy or suitability of an ADB policy?</td>
<td>No</td>
</tr>
<tr>
<td>Frivolous, malicious, trivial or generated to gain competitive advantage?</td>
<td>No</td>
</tr>
<tr>
<td>Within jurisdiction of ADB’s Appeals Committee or ADB’s Administrative</td>
<td>No</td>
</tr>
<tr>
<td>Tribunal or related to ADB personnel matters?</td>
<td>No</td>
</tr>
<tr>
<td>About ADB’s non-operational housekeeping matters, such as finance and</td>
<td>No</td>
</tr>
<tr>
<td>administration?</td>
<td></td>
</tr>
<tr>
<td>Related to responsibilities of other parties?</td>
<td>No</td>
</tr>
<tr>
<td>Not involving ADB’s failure to follow its operational procedures and</td>
<td>No</td>
</tr>
<tr>
<td>guidelines?</td>
<td></td>
</tr>
<tr>
<td>Relating to government laws, policies and regulations?</td>
<td>No</td>
</tr>
<tr>
<td>Not been first filed with SPF?</td>
<td>No</td>
</tr>
</tbody>
</table>

VI. **CONCLUSION**

14. The request does not fall within any of the exclusions under the Accountability Mechanism policy for the Compliance Review Phase. It meets the requirements for eligibility stated in paragraph 45 of OM Section L1/OP. For these reasons, the CRP determines that the request is **eligible** for the Compliance Review Phase of the Accountability Mechanism.

VII. **RECOMMENDATION**

15. Based on the analysis outlined above, including the CRP’s finding that the request for compliance review is a valid request, the CRP recommends that the Board authorize the CRP to conduct a compliance review in respect of this project, pursuant to Terms of Reference and timeframe to be cleared by the Board Compliance Review Committee in accordance with the Accountability Mechanism policy.

/S/ Rusdian Lubis  
Chair  
Compliance Review Panel  
28 February 2012
APPENDIX 1: ORIGINAL REQUEST LETTER

In accordance with ADB’s policy on the Accountability Mechanism, the Compliance Review Panel will conduct the compliance review as transparently as possible, and in line with ADB’s public communications policy, including these provisions aimed at ensuring confidential business information is not disclosed. In the present case, a number of requesting parties have exercised their right under the policy on the Accountability Mechanism to request that their identities should remain confidential. Therefore, the Compliance Review Panel will not disclose the names of those parties, nor any material or information supplied on a confidential basis, without the consent of those requesting parties or the party that submitted the material or information.

KRUHA

Koalisi rakyat unyu hak atas air
people’s coalition for the rights to water
Jl. Mampang Prapatan VIII R-13, Jakarta Selatan-12790
www.kruha.org Email: kruha@kruha.org
Phone: (62-21) 7992545 (62-21) 7996160

Jakarta, 24 January 2012

To:
The Secretary, Compliance Review Panel
Asian Development Bank
6 ADB Avenue
Mandaluyong City 1550
Philippines
Tel: +632 632 4149
Fax: +632 636 2088
Email: crp@adb.org

To The Honorable Secretary:

Thru this letter, we, at ARUM (Aliansi Rakyat untuk Citarum-People’s Alliance for Citarum), a civil society group which is interested to see a sustainable and fair management of the Citarum river (majority of us are stakeholders from the Citarum river) are representing three (3) affected people, namely:

1. Name: [Redacted]
   Address: [Redacted]
   Remarks: This person was evicted from his place of residence and lost his source of livelihood-included in the Resettlement Plan Loan NO 37049.

2. Name: [Redacted]
   Address: [Redacted]
   Remarks: This person was evicted from his place of residence and lost his source of livelihood-included in the Resettlement Plan Loan NO 37049.

3. Name: [Redacted]
   Address: [Redacted]
   Remarks: This person was evicted from his place of residence and lost his source of livelihood-included in the Resettlement Plan Loan NO 37049.

We have attached the Power of Attorney of the people named above. We request that their names be kept confidential to protect them from threats and intimidations, as well as pressures that have arisen and probably will arise from this project.
We request the Compliance Review Panel (CRP) to help us investigate whether ADB followed the operational policy and procedure of the Integrated Citrum Water Resources Management Project (ICWRMP) –INO Loan 37049. We believe that ADB failed to follow the operational policy and procedure, especially with regards to the Resettlement, Public Communication and Environmental Policies.

Due to ADB’s failure to follow said operational policy and procedure, the victims suffered losses and damages, described as follows:

- **Affected Person (AP)**
  
  has lived in the sq. meters, with a semi-permanent structure, was evicted three (3) times, in October 2009, in March 2010, and in December 2010. He incurred material losses due to the eviction, such as a house with its electrical connection and several of his important documents. Today, still remains on his land by building an emergency sq. meters house that was demolished in 2009 and received the ICWRMP stamp. Every day, works as a. As a result of the eviction, cannot cultivate his landlord’s land. At present, he is jobless because the land he used to cultivate is now being tilled by another person and he does not have a place to stay.

- **Affected Person (AP) II**
  
  has lived on a piece of land measuring sq. meters in the since 1998. On this land, built a semi-permanent house measuring sq. meters. He was evicted three (3) times, in October 2009, in March 2010, and in December 2010. As a result, lost his house, his electrical connection, and he is now staying in the house of a friend in the. He also lost his job from the start as a.

- **Affected Person (AP) III**
  
  lives in a piece of land he cultivates, measuring sq. meters with a meter structure. He was evicted three (3) times, in October 2009. On this structure, he also had a livestock stable measuring sq. meters. He was evicted in December 2010 and before this, he was also evicted in March 2010 and October 2009. As a result of this eviction, he lost his house, electrical connection, and livestock stable, and some crops he planted in the remaining portion of the land. He lost his job as a. At present, he does not have a place to stay as a result of the last eviction.

We have to inform you also that previously, the victims asked for help from the OSPF-ADB, but in the end, they decided to discontinue the process together with OPSF because it is taking very long and the end of it is not evident. Below are some of the complaints of the victims:

1. The complainants’ questions as complainants have never been answered by the OSPF. OPSF often invites the complainants to a meeting (since January 2011), but the questions of the complainants have never been answered.

2. The complainants were requested by Mr. Frank, one of the facilitators, to process their KK ([Family IDs]) and KTP (Personal IDs) again, when as a matter of fact, the complainants have their KTP already even before the eviction. The complainants thought that because of this reapplication, the compensation process will soon begin. However, after obtaining the KK and the KTP, there was nothing said about the purpose of these KK and KTP.
3. At one time, the complainants requested for a clean water supply facility (well) but instead were given Hand Phones, although initially, the complainants refused. Since Mr. Anton repeatedly and continuously visited the victims, offering the Hand Phones (and being hospitable), the victims hesitated to refuse the offer. Finally, the victims reluctantly accepted the Hand Phones and Mr. Anton requested them to sign a contract, even if the victims do not clearly understand what the Hand Phone is for.

4. Oftentimes, the victims are asked to meet with OSPF directly or with the facilitator, causing discomfort to the complainants because of rumors going around the victims’ neighborhood. They look at the complainants with contempt, as if the complainants have already received a big amount of money from the compensation process.

5. At the time the complainants were given the HPs, OSPF promised them a phone load amounting to Rp50,000 per month. The truth is, the complainants got said load for the first 2 months only and were never informed when the load will stop. One of the complainants, at one time, requested for such load from one of the facilitators, and he was told by this facilitator to request from Mr. Hamong.

6. The process, said the complainants, was long and protracted for them, for each time they have to meet with the OSPF, they have to leave their work. When they meet with OSPF, they are forced to listen to the OSPF side only. OSPF does not want to hear their side. The complainants asked for process clarification and assurance but OSPF always gives this answer- “it is not us who decide”. Such that the complainants felt there was no need any more to meet with OSPF.

7. Several times, OSPF held meetings with the parties concerned, with the IRM ADB, with BBWS, but up to now there is no adequate solution and method yet to rectify the existing faults and failure. Now, management is regathering data, however, not one officer has given any information to the affected people (at least, the victims that we represent).

Other than these, several of the victims’ requests have not been granted by OSPF, namely:

1. Provide a guarantee regarding the just compensation in accordance with ADB policy on resettlement and job opportunities for the evicted persons.
2. Provide funds to OTD for their relocation.
3. Provide guarantee for a definite location where the victims can live decently.
4. Provide capital to the victims to start their businesses again, which were affected by the arbitrary eviction.
5. Ensure that the impact is mitigated and that compensation is given and that all processes related to the ICWRMIP are followed, specifically the information process, consultation process and the eviction planning process in the entire project area, for accountability purposes.

Thus we send you this letter and once again we ask the Compliance Review Panel to help us investigate this matter.

Respectfully,

(Sgd) Hamong Santono
Koalisi Rakyat untuk Hak Atas Air- Kruha
(People’s Coalition for the Rights to Water)
Anggota ARUM (Aliansi Rakyat untuk Citarum)
Appendix 2

Confidentiality

In accordance with ADB's policy on the Accountability Mechanism, the Compliance Review Panel will conduct the compliance review as transparently as possible, and in line with ADB’s public communications policy, including those provisions aimed at ensuring confidential business information is not disclosed. In the present case, a number of requesting parties have exercised their right under the policy on the Accountability Mechanism to request that their identities should remain confidential. Therefore, the Compliance Review Panel will not disclose the names of those parties, nor any material or information supplied on a confidential basis, without the consent of those requesting parties or the party that submitted the material or information.

Member (People’s Alliance for Citarum)

POWER OF ATTORNEY

The undersigned:

1. Name
   KTP No.
   Address
   Occupation

2. Name
   KTP No.
   Address
   Occupation

3. Name
   KTP No.
   Address
   Occupation

Herein referred to as Authorizing Parties, authorize:
ARUM (Aliansi Rakyat untuk Citarum-People’s Alliance for Citarum) as the recipient of this authority, to act on behalf of the Authorizing Parties to resolve the Authorizing Parties’ eviction case against the parties concerned. In this case, the Authorizing Parties chose the Parties’ address as domicile to carry out the functions including but not limited to:
1. Taking lawful action to settle the dispute.
2. Accept payment and sign documents pertinent to the eviction case.
3. Taking steps and exerting efforts to protect the interest of the Authorizing Parties.

24 January 2012

Authorized Party: (Sgd)

Authorizing Parties:
1. (Sgd)
2. (Sgd)
3. (Sgd)

(Sgd) Hamong Santono
APPENDIX 2: NOTICE OF REGISTRATION

Requesters
(names withheld)

Representative:
Hamong Santono
Koalisi Rakyat Unyuk Hak Alas Air (KRUHA)
People's Coalition for the Rights to Water
Jl. Mampang Prapatan VIII
Komplek Bappenas Blok R-13
Jakarta Selatan-12790

Subject: Notice of Registration
Request for Compliance Review (Request No. 2012/1)
Indonesia Integrated Citarum Water Resources Management Investment Program – Project 1

The Compliance Review Panel (CRP) refers to your request for compliance review (Request) filed by your representative, Mr. Hamong Santono and received by the Associate Secretary, CRP by email on 30 January 2012.

We have not revealed your identities as indicated in your Request.

On 14 February 2012, ADB's Special Project Facilitator confirmed to us that the Requesters had terminated their participation in the consultation phase of ADB Accountability Mechanism.

Therefore, in accordance with paragraph 30 of the Operating Procedures of the Compliance Review Panel (the CRP Procedures), the CRP registered today your Request in its Registry as Request No. 2012/1. The Registry of Requests is at: www.compliance.adb.org.

The CRP will inform the ADB Board of Directors of the registration of this Request and will also issue a press advisory to be published on its website at: www.compliance.adb.org.

The registration of this request does not address the eligibility or the merits of your request for compliance review but only acknowledges receipt and notifies you of the registration.

In accordance with paragraph 31 of the CRP Procedures, the CRP will determine the eligibility of this Request and inform you by 28 February 2012.

Please confirm that all communications in connection with this Request will be sent and made through your nominated representative with the following contact information:
Mr. Hamong Santono  
Koalisi Rakyat Unyuk Hak Atas Air (KRUHA)  
People’s Coalition for the Rights to Water  
Jl. Mampang Propatan VIII  
Komplek Bapenas Blok R-13  
Jakarta Selatan-12790  
Telephone No: (62-21) 7992945 / Fax No: (62-21) 7996160

In all your written communications to the CRP and its secretary, Office of the Compliance Review Panel, please indicate the registration number: Request No. 2012/1.

Yours sincerely,

Geoffrey R. Crooks  
Officer-in-Charge  
Office of the Compliance Review Panel

ADB President  
ADB Board of Directors  
Chair, CRP
APPENDIX 3: PRESS ADVISORY

ADB Compliance Review Panel Registers a Request for Compliance Review of Indonesia: Integrated Citarum Water Resources Management Investment Program-Project 1

Manila, 16 February 2012. On 14 February 2012, the Compliance Review Panel (CRP) registered a request for compliance review (Request) filed by certain affected persons from Indonesia on 30 January 2012. The Requesters are represented by Mr. Hamong Santono of the Koalisi Rakyat Untuk Hak Atas Air (KRUHA) or People’s Coalition for the Rights to Water. The Requesters are covered by the confidentiality protections afforded to requesting parties under the ADB Accountability Mechanism policy.

In accordance with the Operating Procedures of the Compliance Review Panel, by 28 February 2012, the CRP will determine the eligibility of the Request for compliance review and will inform the ADB Board of Directors and the Requesters, accordingly. If the CRP determines that the Request is eligible, it will recommend to the Board the authorization of a compliance review. If the CRP finds the Request as ineligible, it will so inform the Board of its decision.

The Notice of Registration and other information on this Request can be found in the CRP Registry at the CRP website: www.compliance.adb.org

Contact:
Geoffrey R. Crooks
Officer-in-Charge
Office of the Compliance Review Panel
Email: crp@adb.org
Telephone: +63 2 632 4184