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A Handbook on the Asian Development Bank
The ADB and Its Operations in Asia and the Pacific Region

Dorothy Guerrero (Editor)

Asienhaus

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Table of Contents

I. Introduction: The Asian Development Bank and Its Role in Asia's Development: Between Honesty and Hope

Dorothy Guerrero, Asienhaus

Multilateral Development Banks (MDBs), like the World Bank and the Asian Development Bank, are publicly financed institutions that are responsible for setting the development agenda of their member countries. Almost all countries in the world, except for a very few countries like Cuba and North Korea, have membership status with the MDBs.

The MDBs' involvement in the economy of their member countries could go beyond the formal scope of their programs and projects. Every year the MDBs (the World Bank groups and regional development banks) extend a total amount of $35 billion to their member countries as loans altogether[1]. This makes them the largest public source of finance for development projects. This also gives them the power to shape the domestic priorities and policies as well as legislative preferences of the countries that receive loans and technical assistance from them.

All countries with membership to MDBs contribute to the funds of the institution that they are affiliated with, as well as avail loans from it. As loan recipients they become subjected to the principles and policies that MDBs promote, since approval of loans are supposedly tied to the fulfilment of requirements set by the Bank's policies. However, the effects of the MDBs economic involvement to the respective economies of each member country differ. This is because the voting rights in these institutions are determined by the amount of subscribed capital shares that each member-country owns. Meaning to say, countries "buy" their vote and voice, those who own more shares or donate more have more power to shape the rules and benefit more from them.

MDBs and Development

MDBs insist that large-scale development projects like hydroelectric dams, irrigation projects, transportation development, oil and gas projects, etc., could reduce poverty and help increase economic activities for development. On the contrary, those who are badly affected by such projects claim that the terrible consequences done to their lives and their environment totally negates the Banks' claim. They argue that the harm done by bad projects are not just a misdeed against their welfare, there are negative social, economic, and environmental results too that are irreversible. Local NGOs and transnational campaign networks maintain that due to the current culture of lending by MDBs, the projects actually create more poverty and leave the poor worse off than before such projects visited their lives.

The adverse results of many MDB-financed development projects to their host communities were already proven by well-documented cases in which the community residents, supported by networks of transnational activist groups and campaign organisations, protested against the projects. Examples of such cases include the World Bank-financed Kedung Ombo Dam in Indonesia, the Mt. Apo Geothermal Power Plant in the Philippines, the Narmada Dam in India and the Three-Gorges Dam in China.

The ADB has largely kept a low profile in the region in the past, it was only after 21 years of operation that activists realised that it is an irresponsible financing institution[2]. It's own trail of destructive projects like the recent cases of the Samut Prakan Wastewater Project in Thailand and the Chasma Right Bank Irrigation Project in

[1] Bank Information Centre USA, About the Multilateral Development Banks, August 2002, www.bicusa.org

[2] I. Serrano and H.Withanage, History of the NGO FORUM on the ADB, a presentation made during the 2003 FORUM Annual Meeting, July 24-26, Manila, Philippines

Pakistan have shown the world recently that it is merely disbursing money for programs and projects that has no regard for environmental and social implications. The inspection done to the Samut Prakarn project conducted by an independent panel of experts organised by the ADB itself resulted with a conclusion that the Bank violated at least seven of its own policies in implementing the said project[3].

Disposing taxpayers' money to finance problematic and questionable projects is just one side of the coin. The other half is the reality that more often than not, the indebted government ended up being merely addicted to loans. The whole history of lending by MDBs shows that debtor countries never managed to get out of debt. The issue associated with repayment of foreign debts by poor countries also raises a gamut of ethical issues. This is related to the reality that because of past structural adjustment programmes imposed on indebted countries, their ability to develop was affected. The effects of such to the economy and the people's lives have more than paid the amount of actual money lent to poor, indebted countries[4].

Public loans are incurred for the purpose of developing the borrowing country and payments for which are made by the citizens directly through the taxes they pay or from the other earnings made by their governments. When a development project do not meet the purpose of development or when loans do not bring about development and instead create more problems, the citizens have the political responsibility to challenge the rationale behind the project and the Bank's existence as well.

The ADB and Its Development Responsibility to Asia and the Pacific Region

There is an Asian proverb that says, fire could cook food but it could also burn a house. If compared in terms of the loans for development projects that the ADB lent to its Developing Member Countries (DMCs) in Asia and the Pacific, the 37 years of ADB operations will overwhelmingly show far more charred houses than cooked food.

The Asian Development Bank regards itself as a multilateral finance institution that is dedicated to the realisation of development and reduction of poverty in Asia and the Pacific. From its establishment in December, 1966 the Bank is now owned by 62 members, majority of which are mostly from the region. According to its web page it is also maintaining 22 other offices around the world, beside its main headquarters in Manila. These offices include: 14 Resident Missions in Asia; a Regional Mission Office for the Pacific in Vanuatu; Representative Offices in Frankfurt for Europe, in Tokyo for Japan, and in Washington D.C. for North America; a Special Office in East Timor; and, Extension Offices in Gujarat, India as well as in Papua New Guinea. All in all, the Bank employs 2,300 people from 50 countries[5].

The ADB is the largest institution operating in the field of development in Asia and the Pacific, and its role in recent years became bigger than that of the World Bank. Since the region accounts for more than half of the population of the world and 900 million of the world's poor, such institution should not be neglected by change makers in the government, the private sector and civil society.

The ADB has an equity capital of US$44 billion and reserves of US$7.9 billion. Since 1966 to the end of 2002, it has approved public and private sector loans that total US$98.831 billion[6] to its DMCs. In the name of poverty reduction and regional development, it annually disburses $5 billion in loans and projects across the region and earns from it an annual net of $500

[3] W. Wiertsema, „The Asian Development Bank Inspection of the Samut Prakarn Wastewater Management Project, Thailand", conference paper from Public Accessibility to International Financial Institutions: A Review of Existing Mechanisms and Interim Experiences, April 11, 2003, American University Washington College of Law, Washington D.C.

[4] Erlassjahr Deutschland, Strukturanpassung: Eine Einführung, www.erlassjahr.de

[5] www.adb.org - About the Asian Development Bank

[6] ADB, Asian Development Bank Annual Report 2002

million[7], which it uses to finance its operations and its bureaucracy.

The ADB claim that it adheres to all the principles adopted by the United Nations Summits. After a process of adopting new policies and initiatives to revise old policies, the Bank had its reorganisation in 2001. According to the Bank's document, the reorganisation was done in order to "enhance ADB's development impact by strengthening its capacity to deliver a carefully planned, selective, country-focused, and technically excellent program of assistance to its DMCs and sub regions[8].

The ADB's Poverty Reduction Strategy (PRS) is the central component of the Bank's Long Term Strategic Framework (LTSF 2001-2015), which maps its 15-year agenda. This 15-year Bank strategy, which will end in 2015 expressed subscription to the United Nations' Millennium Development Agenda target to halve the number of people living in poverty worldwide. According to the Bank its development work is aimed at improving the welfare of the people of Asia and the Pacific, especially of the 900 million poor Asians who are living on less than a dollar a day[9].

ADB documents emphasise that its projects and programs pursue the following priorities: economic growth, human development, gender and development, good governance, environmental protection, private sector development, and regional co-operation[10]. It is now operating through five geographically contiguous areas, which addresses country and sector themes. The groupings are: East and Central Asia, the Mekong, the Pacific, South Asia and Southeast Asia[11]. Regional departments undertake country planning, programming and delivery of sub-regional and country specific assistance. A country division or unit within each regional departments co-ordinates the country strategy and programming work.

Similar to any other bank, the ADB get resources from its shareholders. Japan and the United States have the largest shares among the 62 country-members, both countries respectively own 15.9 percent of the shares[12]. Together, they account for one third of all the voting shares. Over the past 36 years, the ADB President has always been a Japanese, similar to the manner that the World Bank has always been headed by an American and the IMF by a European. This is the unspoken, non-written but operating global rule on power sharing.

Why Engage the ADB?

The ADB, like our government, is a public institution that we are supposed to own. It was created by public funds allocated by member-governments. It operates both as a public entity as well as multilateral, public business enterprise. This raises the importance of NGO engagement with the institution and the co-operation between peoples of donor countries and the DMCs.

The major issue here is whether our tax money is being used wisely and in a just manner by the ADB. As mentioned earlier, it is about how taxpayers' money is used by the donor countries. However for the affected peoples of the South, the concerns are much bigger since their very lives and future are at stake. Affected people live the consequences of a bad project and the whole population of the borrowing country will have to live with the effects of indebtedness.

What made the debt problem and the forced repayment of the debt by poor countries questionable is the fact that many external debts for development projects were incurred without the free, open and informed participation of the affected people. The same people who are directly affected by the project and the whole population of the indebted country in the

[7] ADB, Annual Report 2002: Operational and Financial Overview

[8] ADB, Review of the Organisation of the Asian Development Bank, 2001

[9] Asian Development Outlook 2002, Asian Development Bank, 2002

[10] www.adb.org - About the Asian Development Bank: Objectives

[11] www.adb.org - ADB at a Glance

[12] www.adb.org - About the ADB: Members and Shareholders

long run will have to shoulder the payment for debts, regardless whether the projects were beneficial to them or not.

Citizens indirectly execute the repayment of debts through cutbacks on public services in the national budget and privatisation of government assets in order for the government to raise funds needed for debt servicing. A huge chunk of the national budgets of developing countries were automatically allocated for debt servicing yearly by their governments without regard to the conditions of the country's economy and its capacity.

From the papers included in this volume, you - the reader will have an idea about the extent of ADB's operations. The papers do not represent all of the Bank's concerns, but at the least the intention is to gather together a representative sample of the important themes and issues that must be known and understood by readers who are not very familiar with issues connected with the operations of the ADB. Engaging the ADB had been a challenging task for people who started it in the early 1990s and to those who are still doing it until now. There are still a lot to be wished for that concerns that task, both in terms of what had been achieved and the gargantuan issues that are still in sore need to be addressed.

For some, the ADB is already beyond reform. NGOs and lobbyists could attend and participate in all policy consultations organised by the Bank and fight for words and phrases that could hopefully influence the way that it operates. But they also think now that after all the fighting that were done, the implementation side of the projects, policies and programmes shows so little of the beautiful words and phrases that made their way in ADB's policy documents.

For others, the work is still in progress. What was achieved might not yet be substantial but could be groundbreaking enough to provide ammunitions for the future directions of the campaigns. The involvement of German NGOs is a favourable and positive development and could contribute to the efforts worldwide. As an important donor country, the German government in partnership with its civil society could use the available instruments to influence the Bank's operations.

There is still that raging debate whether the campaigners addressing MDBs and IFIs should call for Bank reforms or call for the abolishment of multilateral development banks. These two positions are not mutually exclusive of each other. Campaigners to reform the ADB are following various strategies that correspond to the positions of the two factions.

The German NGO Working Group on the ADB, at this early point of establishment are getting aware of the validity of the points of each camp. In doing this volume we hope to contribute in the furtherance of that debate. At the same time we wish to address the sore need for information and address the issues affecting the "here and now" for affected people.

II. The Role of Germany and Donor Countries within the ADB

By Dorothy Guerrero, Asienhaus

It is not known to many Germans that when the Asian Development Bank was established in 1966, Germany was one of the original 31 founding member countries of the Bank. Furthermore, Germany remained as an important donor country of the ADB and is the third largest shareholder among the nonregional (outside Asia) members after almost four decades of operation, Of the 62 current members, Germany is the ninth largest shareholder, and owns 4.39 percent of the total shares in the Bank. In terms of votes, the German government have a 3.8 percent vote among the total membership and 11.03 percent from the total nonregional membership. It has an overall capital subscription of US$2.07 billion and a paid-in capital subscription of US$145.21 million[13].

The German government's policy for its involvement in regional development banks is an integral part of German development policy. At the same time, the development policy is a crucial part of Germany's international policy[14]. As a signatory to the United Nations' Millennium Declaration, Germany is committed to the Programme of Action 2015, which recognises poverty reduction as a pre-requisite for the achievement of sustainable development. Germany's development policy identify as its aim the fostering of sustainable development world wide and to help the developing and transition countries to improve their political, social, economic and ecological structures.

The German development policy also acknowledges that the realisation of poverty reduction includes the right frame conditions for development, which includes the security of global public goods and the respect for human rights in the broader sense. These tasks form the principles, which the German government follow in its operations that concern regional development banks.

Germany's Role in the Asian Development Bank

The Asian member countries hold a total of 65.5 percent of the voting power at the Asian Development Bank. The United States and Japan each own 15.9 percent of the shares. Although majority of the shares within the ADB are owned by member countries from the Asian region, nonregional donor members like the US and the EU member countries are important actors that also influence the Bank's operations. There are twelve Executive Directors that oversee and decide about the Bank's operations in behalf of all the 62 member countries. Japan, the US and China have one seats each, while the other countries are clustered together in shared constituencies.

Germany is the largest shareholder among the 14 European shareholders. Similar to the World Bank, the voting power in the ADB is based on the number of shares owned by a member country. All the European Union members in the ADB have a combined voting power of 16.8 percent. The EU countries have three constituencies, which is equivalent to three seats in the 12-strong Board of Directors.

Germany, together with Austria, Luxembourg, Turkey and the United Kingdom form one constituency and is represented in the Board of Directors by one Executive Director. The combined voting power of this five-country constituency is 7.2 percent. As agreed upon under a rotational procedure, the Executive Director comes from Germany for three consecutive years then followed by a one-year term directorship by the other countries within the bloc. During this one year, Germany will have the position of the Alternate Executive Director[15].

[13] Figures based from the ADB „*Fact Sheet on Germany and ADB*", December 2002

[14] BMZ, „Combating Poverty – Our Goals in the Regional Development Banks", April 2003, www.bmz.de

[15] BMZ, ibid, p.20

The Federal Ministry for Economic Co-operation and Development (BMZ) is the lead ministry within the German Federal Government in matters related with the regional development banks and the World Bank. The Federal Ministry of Finance (BMF) and the Federal Foreign Office (AA) also participate in specific decision-making that concerns their scope of responsibilities. According to the BMZ goals, Germany's involvement in the decision making and supervisory bodies of regional development banks and the World Bank is an instrument for influencing these development institutions towards the realisation of sustainable development[16].

In 1999, the ADB adopted poverty reduction as its overarching goal with the key elements of sustainable economic growth, social development and governance for effective policies and institutions. These elements complement the crosscutting priorities of environmental sustainability, private sector development and regional co-operation and integration[17]. The BMZ endorses this strategy and gave commitments toward its implementation.

To complement its Asian Strategy[18], the BMZ supported key reform strategies within the ADB during the process of the Bank's reorganisation in 2000 and 2001. Among the strategies for reforms that the German government supported include: a) Orientation of Country Programmes with the Millennium Declaration Goals and the use of the Poverty Partnership Agreements in Country Programmes, b) Integration of the private sector and civil society organisations in program promotion, c) Capacity building for the expansion of the ADB as a "knowledge bank", d) Expansion of field structures in the member countries, and e) Improvement in the co-ordination between the ADB and the World Bank[19].

[16] BMZ, ibid.p.7

[17] ADB, „Fighting Poverty in Asia and the Pacific: The Poverty Reduction Strategy", Manila, November 1999, p.23

[18] See BMZ Basic principles of German development policy in Asia, www.bmz.de

[19] BMZ, Combating Poverty – Our Goals in the Asian Development Bank, www.bmz.de

Contribution to Special Funds and Resources

Germany is a donor to the Asian Development Fund (ADF) and to the Technical Assistance Special Fund (TASF). The ADF, established in 1973, is the Asian Development Bank's window for concessional lending to its borrowing member-countries. It is the oldest and largest of the ADB's funds. This fund comes from the contributions from ADB members and is subject to a periodic replenishment of every four years. The ADF carry a 1% to 1.5% interest charge and could be availed by the developing member countries with 24 to 32 years of maturity, including an 8-year grace period[20]. The Technical Assistance Special Fund provides grants to borrowing members to help prepare projects and undertake technical or policy studies.

For the ADF VIII, Germany committed a contribution of US$1.37 billion, the over all committed contribution from multilateral sources amounted to US$18.18 billion. The ADF VIII covers the period 2001-2004[21]. At the end of 2002, loans from the ADF accounted for around 28% of cumulative ADB lending. There are now 25 ADF borrowers (not necessarily equivalent to number of countries) in the ADF VIII. In the first half of the ADF VIII (2001-2002) the major borrowers were Pakistan, Viet Nam, Bangladesh, Sri Lanka, and Afghanistan.

According to the ADF VIII Donor's Report, donors endorsed ADB's plans to strengthen its development impact and realise its overarching goal of poverty reduction through a closer linkage between country performance (effective development management) and the allocation of scarce ADF resources among recipient countries. Donors expect as well that the good governance principles of transparency, accountability, participation and predictability be applied as well to ADB's own internal governance[22]

[20] ADB, About the ADB: Members and Shareholders, www.adb.org

[21] ADB, Asian Development Fund, October 2003, www.adb.org

[22] ADB, Asian Development Fund VIII Donor's Report, www.adb.org

For the Technical Assistance and Special Fund, Germany committed US$18.56 million in 2002[23]. In 2001, the ADB extended a total of 257 technical assistance amounting to US$146.4 million. Although most of this money is intended for the public sector and to governments, private enterprises from developing member countries can also apply direct assistance through equity investments and loans.

Cofinancing

The ADB define Cofinancing as financing mobilised from sources other than the borrower or project sponsors to augment its own assistance funds. As additional resources for project financing, the ADB arranges Cofinancing from commercial financial institutions, official funding agencies and export credit agencies.

According to the 2002 Factsheet: Germany and the ADB, Cofinancing arrangements from German sources reached US$2.85 billion covering 38 loan projects and US$157.85 million in untied grant financing for 73 technical assistance projects and grant components of loan projects last year. From 1970 to the end of 2002, Germany granted a cumulative Cofinancing arrangements totalling US$38.33 billion covering 609 loan projects and US$ 583.13 million in grants for 501 technical assistance projects and grant components of loan projects.

Cofinancing operations mobilises and encourage the participation of the public sector as well as expand the impact of each dollar of development assistance extended in developing member countries. The ADB estimates that an additional 50 cents was mobilised through Cofinancing for every dollar that was given for a development project[24].

Cofinancing also increases the attractiveness of an otherwise unbankable project because a *Political Risk Guarantee* will be provided by the ADB and the government. A Political Risk Guarantee (PRG) covers payment of all or part of the project's debt service against specific political or sovereign risks. Since the political risks covered by a PRG relate to events under the direct or indirect control of the host government, the government also provide (in most instances) a counter-guarantee or indemnity to ADB. This provides further assurance to cofinanciers and ADB of the host government's commitment to the project.

The Corporate Connection

The issues on privatisation are "hot issues" in Germany as well as in Asia. It is also the central theme in many current NGO campaigns directed at the ADB, beside the damaging effects to people and environment of the projects that it funded. When the ADB approved its Poverty Reduction Strategy in 1999, ADB President Tadao Chino hailed it as the new "heart" of the Bank. One of the major principles of the PRS is the development of the private sector as the engine of growth to reduce poverty in Asia. To follow Chino's analogy, the function of the Bank's heart will be supported by a strengthened private sector that will now serve as the new blood vessels.

This new thrust goes in line with the Public-Private-Partnership strategies, which is being aggressively promoted everywhere in the world now. This development mantra rationalises that the delivery of the poor from poverty could be done through public-private partnerships that will provide services, which are otherwise not possible for the government to provide to its poor.

Since the establishment of the ADB in 1966, corporations from donor countries have benefited enormously through the share that they get in the procurement contracts, which were facilitated through their country's influence within the ADB. Each year, the ADB provide loans that fund projects and activities in the developing member countries in Asia and the Pacific region where billions of US dollars worth of contracts are involved for the procurement of goods, related services, and civil works (GRSCW). Private companies, large engineering firms, consulting and construction companies in donor countries, especially in

[23] ADB, Fact sheet on Germany 2002, www.adb.org
[24] ADB, Co financing Opportunities, www.adb.org

Japan, US, Germany and the UK are the immediate beneficiaries of projects funded by ADB loans.

ADB Procurement Contracts are awarded through internationally competitive bidding where only companies from the ADB member countries could participate.

Cofinancing with Germany from 1 January 1998 to 31 December 2002 Comprised the Following.

Loans:	11	loan projects, Cofinancing of US$308.46 million
Official:	7	loan projects, Cofinancing of US$191.35 million
Commercial:	4	loan projects, Cofinancing of US$117.11 million

Source: ADB Fact Sheet on Germany, 2002

Loan Projects Cofinanced with Germany, 1 Jan. 1998–31 Dec. 2002.

[a] C = commercial Cofinancing, O = official Cofinancing

Country	Project	ADB Loan Amount (US$ million)	Cofinancing Amount (US$ million)	Type of Cofinancing[a]
Bangladesh	Rural Infrastructure Improvement	60.00	16.90	O
China, People's Rep. of	Water Infrastructure Development	35.00	30.00	O
Philippines	North Luzon Expressway Rehabilitation and Expansion	45.00	7.14	C
Bhutan	Basic Skills Development	7.00	2.50	O
Papua New Guinea	Employment-Oriented Skills Development	20.00	2.45	O
Sri Lanka	Credit Enhancement Facility for Private Enterprises	5.00	7.00	C
Sri Lanka	North East Community Restoration and Development	25.00	2.50	O
India	Private Sector Infrastructure Facility at State Level	200.00	107.00	O
Bangladesh	West Zone Power System Development	198.90	30.00	O
Thailand	Export Financing Facility	50.00	80.00	C
China	Fujian Pacific Electric Co. Ltd.	40.00	22.97	C

Source: ADB Fact Sheet on Germany, 2002

Top Five Companies from Top Four Donor Countries with the most GRSCW Contracts (1995-1999)

Japan ($342 million)	US ($209 million)	Germany ($166 million)	UK ($43 million)
Mitsui and Co	Cooper Rolls	Siemens AG	NVPSKG
Mitsubishi	Westinghouse International	Man B&W Diesel AG	Balfour Beatty
Mitsui Engineering and Shipbuilding	AT&T	KGH Schulze	Acme Maris (China) Ltd
Itochu	Raytheon Co Electronic System	Dyckerhoff & Widmann	Siemens PLC
Marubeni	Cargill Fertilizer	UNICO	British Steel

Source: NGO Guidebook on ADB Series Vol. 1, Nr.2

Comparison between Contribution to ADB Resources and Cumulative Procurements of Donor Countries in GRSCW and Consulting Services under Project Loans and Technical Assistance Operations from January 1967 to 30 June 2003

Donor Member Countries	**Total Contribution to ADB Resources** (in million US$)		**Total Procurement** (in million US$ equivalent)	
	Amount	Percent	Amount	Percent
1. Japan	13481.292	45.63%	5334.193	9.92%
2. USA	3502.521	11.85%	2889.115	5.39%
3. Germany	1660.218	05.62%	2183.672	4.06%

Source: ADB Quarterly Procurement Statistics June 2003

This process is stated in the Article 14 of the ADB Charter, which states that „...Proceeds of a loan can be used only for procurement of goods and works supplied from, and produced in member countries of ADB“. Between 1966-1999, the ADB awarded contracts worth US$54.3 billion for goods and services; and thirty seven percent (US$20.1 billion) of which went to companies from donor countries, particularly Japan, US and Germany[25].

For the year 2001 and 2002, Germany's share of procurement contracts totalled US$2.70 billion and US$4.46 billion respectively. The cumulative procurement from 1967 to 31 December 2002 was US$67.29 billion. The following graph would also show that the top three donor member countries of the ADB , which are also among those with high voting rights within the Bank, are also enjoying the top ranks in terms of cumulative procurements of goods, related services, civil works and consulting services under project loans and technical assistance operations.

Between the periods January 1, 1998 to December 31, 2002, the following German companies benefited from ADB Projects as

[25] V.Corral, ADB's Private Sector Development Strategy: Private Sector as the Engine of Growth, FORUM, Quezon City, 2001

Contractors and Suppliers and the corresponding sectors[26]:

1. Siemens – Transport and Communication/ Industry and Nonfuel Minerals/Energy
2. Voith Hydro GmbH – Energy
3. KG Helmut Schulze & Co, GmbH – Social Infrastructures
4. ABB Utilities GmbH – Energy
5. Unico – Transport and Communications
6. Alcatel Contracting GmbH – Energy
7. Wabag-Waseenco JV – Social Infrastructure
8. Minmetals Germany GmbH – Energy/Industry and Nonfuel Minerals
9. Passavant Maschinentechnik – Multisector
10. Passavant Rödiger Anlagenhaus – Multisector

In terms of Consulting projects, German consultants had been involved in 74 out of the total of 3.696 contracts for ADB loan projects between January 1985 to December 2002. The 74 projects are worth US$90.62 million from the US$2.03 billion total amount. This top consultants include the following[27]:

1. Fichtner GmbH & Company
2. Lahmeyer International GmbH
3. GTZ-Acil
4. Bankakademie IMCC
5. Weidleplan Consulting GmbH
6. GTZ GmbH
7. GOPA Consultant
8. Epos Health Consultant
9. Abu Consult GmbH
10. Dorsch Consult

What can German Civil Society Do to Reform the ADB?

Those who are already being mobilised for issues that concerns International Financial Institutions and Multilateral Development Banks are aware that such institutions uses a range of instruments to influence the economic and political decisions in developing countries in order to rationalise the IFIs and MDBs operations. Such instruments include policy dialogue and advice, program lending and technical assistance. IFI and MDB operations are not all neutral activities and in most cases project affectees from poor countries are left in worst conditions than before Bank-funded development projects changed their lives.

We have to be reminded and we need to inform others that IFIs and MDBs like the World Bank and the ADB are public institutions. They are using our money as taxpayers in order to operate but they act like corporations when they decide and operate. For German taxpayers, it is a matter of the government's accountability how taxpayer's money is used. For developing member countries in Asia, it is beyond that. They too are owners of the ADB, they also pay taxes directly and indirectly and their money are also used to finance the existence of the institution. However as citizens of the borrowing countries they shoulder the burden of paying the loans used for the projects. As affected people, the consequences of the projects produce lasting impacts in their lives and future.

As honest taxpayers of an important shareholder and donor country of the ADB, we have to know and we must be convinced how our money is valued and not wasted by the ADB in the name of poverty reduction in Asia and the Pacific. The ADB have the responsibility to satisfy us that the governance and internal working mechanism within the institution is good. The officials of the ADB, including those coming from Germany, are being paid well. Most of the poor people in Asia will not even earn as much as the equivalent of their one-year salary in a whole lifetime, not even in their dreams. It is only decent then that the Bank must solve first its institutional and ethical poverty to be really effective in addressing the problems of the poor.

One of the reasons why projects, policies and programmes of institutions like the ADB create massive problems in the lives and other life-forms in Asia and the Pacific region is the fact that there is a lack of

[26] ADB Fact sheet on Germany and the ADB 2002
[27] ibid, p.5

democracy within the institution. The structures and formal procedures may look perfect if one would read the voluminous documents produced by the Bank. However, in terms of decision-making, operations and project implementation, there is a big discrepancy between the written conceptual outputs of the Bank and its actions.

The problems associated with ADB operations are not just products of malicious intent from the side of the NGOs and the affected people who are protesting and struggling against the Bank and its projects in Asia, some officials within the Bank are also cognisant of the problems within the ADB. Most recently, a former Executive Director of the ADB came out publicly and identified the flaws in the way that the ADB operates. He mentioned the lack of clear vision and direction of the ADB and its ineffectiveness in being a regional mimic of the World Bank[28]. Some critical staff within the Bank are also admitting the fact that there is still a prevalent culture of loan–pushing within the Bank.

As outside stakeholders coming from a donor country, NGOs in Germany must engage the German government and support the initiatives meant to reform the bank through donor-government interventions. We have to ensure that the positive developments in German politics and the well-meaning international policies of the German government is being reflected in its co-operation activities with the Bank. It is already an advantage that Germany is assured of a voice in the ADB Board of Directors. It would be useful to maintain relations with the German Executive Director, the Alternate Executive Director and the appropriate officials within the German Federal Ministry. We have to engage the government who represents us within the ADB in every policy, programme and projects where we have capacity and expertise.

Such effort of developing a critical and committed engagement with the ADB must be supported by collaboration with other European NGOs. The ADB lend an average of US$5 billion a year, the contribution of the EU countries form a significant amount of that money but unfortunately the EU member states are not yet formulating a single coherent policy and co-ordinated agenda within the ADB. If counted together, a solid EU vote is bigger than each of the US and Japan vote within the Bank. However each country is protecting its own agenda and interests. We also have to make our presence felt at the ADB European Representative Office in Frankfurt am Main and participate in the regional consultations that they organise.

The Bank must also be challenged based on the perspective of the affected communities and the poor population of its developing member countries who should be the main beneficiaries of development and improved delivery of services. In this aspect, Asia-focused civil society organisations within Germany in particular and individuals with interest on development issues in general should see the connection between ADB issues and their respective advocacy/ies. It is an additional angle in the One World dialogue and North – South partnerships.

Civil society groups should also monitor the private sector or the German companies that are involved in Germany's co-financed projects with the ADB and those who are getting those lucrative procurement contracts. Private sector participation and the preference now in the part of decision makers for public-private-partnership is definitely on the rise and it will not easily wane or become unfashionable. Since it is more difficult and tricky to subject the private sector to social and environmental conditionalities and monitoring than governments, we have to come up with effective strategies to engage them and we need such strategies quickly.

A recent development in the civil society scene in Germany is the formation of the German NGO Working Group on the ADB. It is facing big tasks and big challenges. Its members need to make it known to German citizens that their government is a member and donor country to the ADB. It has to convince fellow advocacy groups that the

[28] S.Donnan, „Ex-Director attacks ADB's lack of direction", Financial Times, Sept.17,2003

ADB must not be spared from the strong criticism that German NGOs are throwing against the World Bank. ADB issues are not just Asian issues, the ADB is a co-promoter of the kind of development that is marginalising people in the North and the South and is shaping the current economic trends towards globality.

III. Marketing the Mekong: The ADB and the Greater Mekong Sub Region - Economic Cooperation Programme

Shalmali Guttal, Focus on the Global South[*]

I. The Mekong Region

The Mekong river is the world's 12th longest river in the world (about 4,200 km long) and 10th largest in terms of annual water yield (about 475,000 million cubic meters). From its origins in the snow-fed plateau of Tibet, the Mekong flows through six countries: Yunnan province in the Peoples' Republic of China (PRC), Burma (at its eastern-most border with the Lao PDR), the Lao PDR, Thailand (through its north and north-eastern regions), Cambodia and Vietnam (in its southern-most region). These countries and areas constitute what is commonly known as the Mekong region.

It is a region of immense environmental, social, cultural and economic wealth and diversity. From water, timber, forest products and medicinal plants to gemstones and minerals, the natural wealth of the region provides a strong base for diverse domestic and local economies. More than 250 million people inhabit the region, of which more than 50 million live in the basin itself. About eighty percent of the population in the region depends on agriculture (farming and fisheries) as the main source of livelihood, much of it at the subsistence level.

The countries of the region are not economically and socially comparable. Burma, the Lao PDR, Cambodia and Vietnam are significantly less developed and less economically powerful than China and Thailand. But in terms of natural resources and environmental wealth, these countries surpass their larger neighbors, who have aggressively depleted and degraded their natural reserves through ill-considered development strategies. The PRC--and even Yunnan—is further characterized by tremendous unevenness across its sub-regions in economic potential and standards of living. Cambodia, the Lao PDR and Burma are the smallest economies and in per capita income terms, the poorest. Vietnam and Yunnan are mid range economies. Thailand is the most prosperous in terms of income and consumption, and is the hub for much of the post-cold war economic activity in the region.

Into this complex scenario entered the Asian Development Bank (ADB) with its scheme for regional development and economic cooperation.

II. The GMS: A Regional Fantasy

The Greater Mekong Sub region Economic Cooperation (GMS) Programme was initiated in 1992 by the ADB to transform the rich human and natural endowments of the Mekong region into a new frontier of Asian economic growth. The GMS groups together parts, or the entirety of the PRC, Burma, Lao PDR, Thailand, Cambodia and Vietnam in the ADB's most ambitious master plan to promote regional economic cooperation, and mobilise public and private resources towards region-wide private investment.

The ADB's vision for the Mekong region is concisely summarised in its first brochure on the GMS. Titled "A Wealth of Opportunity: Development Challenges in the Mekong Region," its very first chapter sets the scene for the Bank's vision:

> "The economic potential of the river and that of the land and peoples its passage defines is huge, although until now it has been largely undeveloped…. Water from the Mekong

[*] This briefing paper was prepared for the Oxfam Mekong Initiative Partners Meeting in Phnom Penh, October, 2002.

> River supports agriculture, and its fish yields are a source of both protein and income. It can also be used to generate electricity and as transport corridors. Forests in the Mekong region protect hydropower projects and agriculture from siltation and erosion, contribute to tourism potential, and provide subsistence to rural communities…"[29]

The GMS is the ADB's regional economic fantasy. It is not a trading or economic bloc. But it purportedly supports economic growth and development in the Mekong region by:

- Facilitating free trade and investment among the six participating countries;
- Facilitating sub-regional infrastructure development, particularly in energy, transportation, tourism, telecommunications, and product development;
- Resolving or mitigating cross border problems, particularly those that serve as barriers to trade and investment liberalisation;
- Meeting common resource or policy needs, whereby the region is treated as a whole to create economies of scale for training, data gathering, feasibility studies, etc;

The Mekong region, according to the ADB, has the natural resources, a growing and trainable labour force, abundance of land and the strategic location to become a fast growth area. What it lacks is capital, technology and common political will to effect the transformation from subsistence to supermarket.

Here is how the mechanics of the GMS model work: first the ADB takes the lead in surveying, identifying and assessing the best opportunities for trade and investment. Next, it brings together governments, donors and private investors to prioritise the identified opportunities for project-programme formulation. Then it commissions further feasibility studies and project preparation reports (usually with the involvement of private companies who are either interested in undertaking actual implementation themselves, or linked with implementing counterparts). The next step is to raise finances for the projects-programmes and develop agreements between host governments, investors, financiers and implementers. And finally comes actual implementation of the projects, which too require the ADB's involvement in supervision, monitoring, disbursement of funds, resolution of disputes, etc.

In the ADB's words, countries in the Mekong region are undergoing a "double transition,"[30] from subsistence agriculture to more diversified economies, and from centrally planned to market-based economies. The prospects of economic success for countries in the region—particularly Burma, the Lao PDR, Cambodia, Vietnam and PRC--hinge on domestic policy, regulatory, administrative and institutional reforms (especially in the sectors of trade and finance), and good governance, all of which are crucial for markets to function:

> "For these transition economies, competitiveness entails creating and maintaining a business climate conducive to private sector enterprise."[31]

In addition, points out the ADB, these countries must build the connections and infrastructure to trade effectively with international markets. In today's world of globalisation, inter-dependence and trade liberalisation (as reflected by agreements in the World Trade Organisation and the ASEAN Free Trade Area), countries and firms must respond rapidly in order to maintain their competitiveness and market position, or they risk falling behind.[32]

Regional cooperation is thus a stepping-stone to full-blown economic globalisation. The GMS Programme promotes the creation of special sub-regional economic

[29] *A Wealth of Opportunity, Development Challenges in the Mekong Region.* Asian Development Bank, 2000.

[30] *The Rationale for the GMS Programme.* http://www.adb.org/Documents/Brochures/GMS/gms2.asp

[31] *Present Thrusts and Future Challenges.* http://www.adb.org/GMS/thrust.asp

[32] *Building on Success: A Strategic Framework for the next 10 years of the GMS Program.* Asian Development Bank.

zones across contiguous parts of countries where participating governments agree to put in place policies that are more liberal than national policies in order to attract capital, and to use natural resources for regional imperatives rather than national self-sufficiency.[33] Accordingly, the ADB notes with approval that economic integration in the region is marked by growing cross-border trade, investment and labour mobility, and that increasingly, natural resources such as agriculture land, hydropower and petroleum resources are being developed on a sub regional basis.

As with all its programmes, the GMS programme too is now linked with the ADB's strategic goal of poverty reduction. And as before, privatisation plays a central role in realising the ADB's vision of sustainable economic growth, improved living standards and poverty reduction:

> "The primary strategy for realising these goals is to let the market forces of demand and supply function more freely, and to reduce government intervention and state ownership in the allocation and use of human, natural and capital resources. Market liberalisation has led to industrialisation and modernisation, and greatly expanded trade and investment. To be competitive, the six Mekong countries must develop their natural resources and employ their human resources efficiently."[34]

The ADB claims that its own role in the GMS has been catalytic, to provide technical expertise and facilitate development initiatives, while participating governments take the lead in setting the development agenda. However, its strategy for regional cooperation disproportionately emphasises the role of the private sector in national development:

> "…the private sector must fuel the process by providing capital, technology, training and markets. ADB thus deliberately supports private sector development as a matter of policy…As such, ADB acts as an 'honest broker' for mitigating perceived risks for private investments in the region."[35]

The ADB's love for the private sector is no secret. Over the past fifteen years it has expanded its support for private sector operations through new forms of project financing—such as co-financing and the Complementary Financing Scheme—and ensuring that business opportunities for the private sector are generated in all its public sector projects. The sub regional cooperation model of the GMS provides the perfect opportunity for defining and entrenching the private sector's presence in key sectors such as energy, water, transportation and human development.

III. A Region Wide Plan for Private Investment

The GMS Programme is clearly a master plan for region-wide privatisation, and trade and investment liberalisation, whether in energy, water, transportation, labour or agriculture. Although the ADB does attempt to broker dialogue among the participating countries, these attempts are aimed at facilitating private investment in one sector or the other.

Key elements of the GMS strategy include policies and other measures to make the region attractive to private investors. These include: lowering risks and costs to investors; removing discrimination against sources of capital (i.e., foreign firms get national treatment); removing cumbersome laws and regulations (such as environment, health and labour standards) that might hamper investment opportunities; easing financial measures related to taxation, customs duties and the mobility of foreign capital that might inhibit foreign investors, and; guaranteeing supply of both, raw

[33] *Shape Up or Ship Out Program* in Creating Poverty: The ADB in Asia. Shalmali Guttal. Focus on the Global South, 2000.

[34] *The Rationale for the GMS Programme.* http://www.adb.org/Documents/Brochures/GMS/gms2.asp

[35] *Present Thrusts and Future Challenges.* http://www.adb.org/GMS/thrust.asp

materials and other resources required for production, as well as markets for the output produced.

The success of sub-regional economic co-operation models is said to be contingent on three factors: a well developed area that has run out of land, natural resources and labour; a surrounding area that has all three in abundance, and; political will to remove the visible and non-visible barriers that separate the well developed area from the resource abundant ones.[36] The argument goes that the markets of the well-developed area and the resources of the surrounding areas will attract investors from outside the region, and the well-developed area will act as a hub of regional economic activity. In the GMS, Thailand is clearly the "hub," although the Asian financial crisis has reduced the attraction of its markets considerably.

To date, the areas that have been identified for project development in the GMS are: Energy, Environment, Human Resource Development, Investment, Telecommunications, Tourism, Trade and Transport. A final area called Multi-sector brings up the rear, picking up what is left out of other categories, as well as linking the various sectors through regional inter-governmental agreements.

Of the above, energy and transport have been the most prominent in the allocation of ADB's own financial support. Between 1994 and 1999, the ADB provided a total of US $ 772 million in loans to the PRC, Lao PDR, Cambodia and Vietnam under the GMS Program, all of them for transportation and hydropower infrastructure. It also mobilised about US $ 230 million in co-financing from bilateral and private sources. In the same period, the ADB provided US $ 28,875 million in technical assistance grants for GMS projects, of which, at least US $ 11 million was directed towards feasibility studies and project preparation in the transport and hydropower sectors.[37]

Most initiatives in the GMS programme are still in the feasibility study, project preparation and negotiation stages. The most significant progress in actual implementation has – again – been in the areas of energy and transportation.

Projects in the energy sector include the Theun Hinboun, Nam Leuk and Nam Ngum 3 hydropower projects in the Lao PDR; the Nam Ngum (Lao PDR)-Udon Thani (Thailand) transmission line; preparation of a Master Plan on sub regional power interconnection and transmission grid; and preparation of the Inter-Governmental Agreement on Power Trade, which is being developed with the support of the World Bank. River basin studies for Sekong, Sesan and Nam Theun river basins have been completed, identifying additional possibilities for hydropower development. The ADB also assisted in setting up the GMS Power Forum, which has undertaken the responsibilities of developing the sub regional power transmission and market systems.

Almost all the hydropower projects were undertaken with Thailand as the final destination. The entire hydropower strategy of the Lao PDR was based on exporting 5000 MW of power to Thailand. However, the financial crisis, falling domestic demand for electricity in Thailand and increasing monitoring by Thai society of Thailand's economic role in the region, have compelled the Thai power sector to adopt a more cautious approach to entering new commercial agreements regarding power and energy.

GMS projects in the area of transportation are focussed on a variety of roads linking major cities and ports across the region, as well as rural "farm-to-market" feeder roads in rural areas. Investments have also been facilitated (for actual implementation and/or feasibility studies) in airports, bridges, ports, waterways and railways

[36] *Co-opting Cooperation: The Asian Development Bank and Sub-regional Economic Zones* in Creating Poverty: The ADB in Asia. Jenina Joy Chavez-Malaluan. Focus on the Global South, 2000.

[37] Source: *A Wealth of Opportunity, Development Challenges in the Mekong Region.* Asian Development Bank, 2000.

The jewel in the GMS crown is the concept of "economic corridors," where infrastructure improvements are linked with simultaneous investments in production, trade, tourism and other economic opportunities across contiguous sub-regions to provide "a range of benefits, from better access to raw materials to attracting foreign direct investment."[38] According to the ADB, by linking infrastructure development with the expansion of production and investments, economic corridors will increase employment, generate income and reduce poverty.

The East-West transport corridor has been taken as a pilot case, which spans approximately 1,500 km, from Mawlamyine (Burma) in the west to Da Nang (Vietnam) in the east, passing through southern Laos and Thailand. It is hardly a coincidence that the Lao PDR may soon boast its first export-processing zone through the very region that the corridor passes.

With regard to current investment trends, the ADB advises Mekong region countries to take advantage of the "intensification of networking by Trans National Corporations (TNCs) as part of global supply, production and distribution chains."[39]

Simply put, these chains are what are commonly referred to as the globalisation of production, where TNCs can move production to whichever country offers them the cheapest and most problem-free environment for operations. As the ADB rightly points out, through such chains, foreign firms benefit from reduced production costs and enhanced access to human and other resources. Well, labour is certainly cheaper in Cambodia, Lao PDR and even Thailand as compared with Japan, the US or France, especially since governments are advised to keep wages to a minimum and do away with labour laws that mandate workplace protection and benefits for workers. Overall operational costs are cheaper too, since services such as water and electricity are provided at special tariffs to investors, and they need not worry about environmental or health standards.

The ADB is also correct in its observation that domestic firms can acquire better knowledge, upgraded skills, advanced technology and financing through these chains. However it forgets that countries where such chains have resulted in safe and dignified employment for domestic labour are those with well-developed infrastructure for higher education and modern technology. Such infrastructure is still far in the future for Burma, Lao PDR, Cambodia and even Vietnam, where national attempts to bolster domestic capacity are negated by deteriorating terms of trade, and rapid trade and investment liberalisation.

IV. The Challenge of Cash Flows

An extremely important dimension of the GMS Programme is its financing. Most GMS projects are extremely large in scale and require financial outlays that cannot be sourced from a single financier. The ADB has been aggressive in mobilising finance for the Programme, which raises a number of problematic issues.

Co-financing

The ADB's solution to the cash flow challenge is co-financing.[40] While it has channelled significant financial resources from its own pot towards feasibility studies, project preparation and actual implementation, it has played a crucial role in mobilising capital from other sources – bilateral and private – through its co-financing mechanism. To date, about US $ 247 million has been mobilised from sources outside the ADB for the GMS.

Co-financing, however, is not as benign or genial as the term might suggest. It involves a legally binding set of financial agreements and obligations towards the project financiers that host governments must adhere to in order to realise the development dream.

[38] Ibid.

[39] *Building on Success: A Strategic Framework for the next 10 years of the GMS Programme.* Asian Development Bank.

[40] For a concise critique of the ADB's co-financing schemes, *see Co financing, Debt and Dependant Development* in Creating Poverty: The ADB in Asia. Chris Adams. Focus on the Global South, 2000.

Much of the co-financing for GMS projects has come from the ADB's rich members countries, particularly in the North (this is also called official co-financing), which include Japan, Australia, Canada, Finland, Norway, France, Singapore, Sweden, Switzerland and the United Kingdom. It is important to bear in mind that co-financing is tied money: Japan or Norway are not likely to put up finance for projects in which lucrative contracts go to companies in a third country.

During the 1990s, over 60 percent of official co-financing in the GMS went to energy projects. The continued emphasis on hardware projects in the GMS indicate "project pushing," whereby, countries and/or financiers will deliberately develop and promote projects of interest to their own domestic companies. Co-financing, thus, serves as an important avenue for subsidising the domestic industries of contributing countries.

Privatisation

In general, financing arrangements for GMS initiatives favour private sector participation. And given that most countries in the region do not have well-developed and well-endowed private sectors, companies involved in the GMS are likely to be from outside the region. China and Thailand are exceptions, although many Thai companies either went out of business, or had to scale back their investments in the aftermath of the financial crisis.

Given the general scarcity of physical infrastructure, capital, and technical and institutional capacity in most GMS countries, host governments themselves woo private investors under the ADB's watchful eye. In fact, privatisation is the watermark of GMS projects. The role of host government is to "create an enabling environment" to attract private sector investors, both domestic and foreign.

The different modes of private sector involvement in the GMS include: joint ventures (foreign and domestic public and private companies partner with each other), public-private partnerships (public sector companies partner with private investors, foreign or domestic), Build-Own-Operate (BOO), Build-Own-Operate-Transfer (BOOT), Build-Operate-Sell (BOS) and Build-Operate-Transfer (BOT). In all of these, whether or not the government contributes to direct financing, it nonetheless plays an extremely important role by making the terms of investment attractive to the investors. These terms include tax holidays, exemptions from customs duties, full repatriation of revenues and profits and purchase agreements (such as power purchase agreements in the case of energy projects).

Perhaps the most problematic aspect of private sector involvement is the allocation or distribution of risks. Governments commonly provide investors with protection against a range of risks such as: demand risks (they agree to purchase specified amounts of the produced output); foreign exchange convertibility risk (in the event of devaluation of the national currency, the investor can claim a significant portion or the entire amount of revenues in hard currency; the price of the output can also be guaranteed in part or full in hard currency); risks associated with operation (for example, the investor is not liable for changing labour conditions); etc.

The ADB participates in providing risk protection to private investors by brokering the guarantee process and by providing financial and legal advice to host governments. Risk protection is operationalised through a system of guarantees and counter-guarantees in which, the investors usually bear the most minimum of commercial risks. Majority of the immediate financial and longer-term economic risks are assumed by governments and borne by the people of the country.

The ADB recently signed a Memorandum of Understanding (MoU) with the Multilateral Investment Guarantee Association (MIGA) of the World Bank group. MIGA provides private investors with protection against sovereign risk, that is, against the rights of governments to reconsider investment decisions. If a government is compelled to change the terms of a contract that it has guaranteed (for whatever reasons), the terms of the guarantee and counter-guarantee kick in. MIGA pays the investor an agreed amount, which it can then claim from the errant government.

The involvement of multilateral banks such as the ADB and the World Bank in providing or facilitating risk protection to private investors in public-private partnerships seriously obstructs efforts by governments to protect public interest. Since the abilities of the two banks to leverage development financing go well beyond their portfolios in borrowing countries, host governments are reluctant to disregard their advice for fear that they will be cut off from future aid, trade and credits.

Private sector involvement in critical sectors such as energy, water and transportation has implications for access by local populations to these services, and also to the manner in which public finances are used. Key sticking points here are the determination of tariffs and the provision of subsidies. Private companies want profit – fair enough – while people want affordable, good quality services – also fair. Determining tariffs in favour of private companies, as is often the case, means a higher market price for the service or product, which in turn has impacts on the cost of living.

Having more electricity, water, hotels, phones or roadways is not much use if people cannot afford to use them. And in the transition countries of the region, domestic reform packages prohibit the use of direct or even cross subsidies to the public, since in keeping with market principles, the price of services must reflect their "true costs." The private sector, on the other hand, is subsidised quite directly through tax breaks, financial guarantees and other facilities paid for from public coffers.

Official Development Assistance (ODA)

The GMS programme is located in a broader interplay of externally driven and often competing economic agendas. Private investors do not come to the negotiating table alone. Their home governments usually back them. In fact, securing business contracts for their own domestic companies is a key objective of bilateral ODA and investment. As already discussed above, official co-financing is an important avenue for this.

Take for example Japan, which is an important actor in the GMS as donor, investor and market. Japan is the single largest contributor to official development finance in the Mekong region, from the PRC to Cambodia to Thailand. It is also expected to be the largest official and private investor in GMS projects and is an important actor in inter-governmental regional dialogue through the Forum for the Comprehensive Development of Indochina, and the Working Group on Economic Cooperation in Cambodia, Lao PDR and Burma. The massive amounts of capital pumped into the Southeast Asia region through its Miyazawa Initiative is as important to kick-start investment in the Mekong region as it is to revive its own economy by ensuring that its firms are gainfully employed.[41]

In general, ODA remains an important source of development finance in the Mekong region, particularly for the Lao PDR, Cambodia, Vietnam and the PRC. Japan and France account for the largest bilateral pledges to the Lao PDR and Cambodia, while the ADB and the World Bank combined account for more than 60 percent of multilateral pledges to these countries.

ODA – whether grant or loan – has practically taken the place of internal resource generation in the smaller countries of the Mekong region. In these countries, much of the public investment in education, health, transportation, energy, water, agriculture and telecommunications is financed through ODA.

But ODA does not come free, nor does it come cheap. Bilateral donors bring their own policy and economic demands, which are conditioned on enhancing the economic edge of their domestic industries. Norway is eager to provide technical assistance for hydropower potential assessment in order

[41] *Development and Dilemma in the Mekong: A Discussion Paper.* Jenina Joy Chavez-Malaluan. Focus on the Global South. 1998

to win hydropower contracts for its private companies. Japan is more than willing to finance feasibility studies for export processing zones in the Lao PDR and Cambodia, since Japanese companies can get first dibs on the most promising projects.

The ADB has been engaged in its own efforts to manipulate national policies, albeit at a smaller scale than the World Bank. The ADB has moved from project lending to policy lending, although project financing still makes up the majority of its loan portfolios. According to the ADB, its influence over domestic policies and reforms are more effective when a loan is being processed since when a loan is given, policy and institutional reforms can be included as substantive components of the loan.[42] This is certainly evident if we consider the national level policy reforms pushed by the ADB in relation with the demands of the GMS Programme. Quite clearly, national policy regimes are being altered to facilitate the levels of trade and investment liberalisation on which the success of the GMS depends.

V. What is Wrong With this Picture?

The GMS is not a plan for regional development. It is a plan for investment and trade liberalisation. Nor do the GMS offer any potential for the emergence of a progressive regionalism.

However, in the contemporary paradigm of economic-globalisation-equals-development, the ADB argues that development must by necessity be market-based, and that the GMS offers a good opportunity for using regional economies of scale to develop national development infrastructure.

To date, the only challenge to GMS projects have come from communities negatively affected by projects and policies, and civil society activists, all of whom are systematically excluded from GMS negotiations. Outlined below are the main problems with the GMS Programme and approach.

[42] *Co-opting Cooperation: The Asian Development Bank and Sub-regional Economic Zones* in Creating Poverty: The ADB in Asia. Jenina Joy Chavez-Malaluan. Focus on the Global South, 2000.

1. There are serious shortcomings in the design of the sub regional economic zones (SREZ) model that the GMS is based on:[43]

- The centrality of a hub country is problematic since it practically determines project formulation; the priorities of the hub influence the nature of projects to be developed, since hubs are the main markets for goods and services produced in the SREZ.
- Economic gains in less developed participants of the SREZ hinge on the hub country; fluctuations in the hub's economy, or domestic political and social changes in the hub affect the viability of projects even if the hub is not directly involved in the projects.
- The centrality of natural resource exploitation (water, land, forests, energy, minerals, fisheries, etc.) results in the large scale expropriation of resources crucial to daily sustenance. The primary attractions of the GMS for investors are opportunities to exploit the immense and varied natural resources in the region. This endangers long term development potential in participating countries where natural resources are crucial for food security and local livelihoods.
- The distribution of benefits is uneven since participating countries have differing levels of development and capacity; what does the Lao PDR gain from the East-West Corridor?
- Internal disparities within participating countries are widened because of pockets of high capital and infrastructure investment in specific parts of countries, while other parts are ignored; this can result in tensions and conflicts between national and local government, and between the government and the people.
- The entry of cheap goods from neighbouring countries threatens the incomes of domestic farmers and pro-

[43] Ibid.

ducers (for e.g., Thai and Chinese goods in other Mekong region countries).

2. The vision of development promoted through the GMS serves regional investment and resource transformation, and not national or local development priorities. Projects are formulated and pursued based on their potential for profits for investors rather than on their potential to respond to social, economic, ecological or institutional needs among local and national communities in the region.

3. GMS projects have already resulted in negative impacts on local communities through road and hydropower projects (e.g., Road 1 in Cambodia and the Theun Hinboun hydropower project in the Lao PDR); impacts include displacement of families, loss of livelihood sources, loss of lands, etc. Future GMS projects will likely result in:

- Competing claims on the use and stewardship of land, water, forest and other natural resources.
- Conflicting ideas of how natural resources should be used and for whose benefit.
- Governments in favour of privatised ownership override conflicts among local communities, and between communities and governments, as customary resource tenure systems.
- Increased displacement of local communities because of energy, transportation, mining, plantation, industry, agriculture and tourism projects (this includes physical displacement, as well as dislocation from traditional sources of employment and livelihood).
- Increased impoverishment of rural and urban communities as they are displaced from traditional livelihoods and are unable to develop new ones; replacing lost livelihoods and developing alternative livelihoods are extremely difficult tasks, the complexities of which are generally unrecognised by project planners.
- Specific negative impacts on women and youth from displacement, tourism, changes in farming and fishing systems, etc.

4. In the GMS framework, the rights of investors are protected, but the rights of local people and communities are not; the issue here is not simply compensation of violated rights, but a larger issue of the development vision promoted in the GMS programme.

5. Local-national communities outside of governments and private sector have not been involved in drawing up GMS plans. Also, for such a large and expensive investment programme, there is an alarming lack of independent oversight.

- There is no room in GMS structures for public monitoring, especially by those directly impacted by GMS projects.
- There is no public discussion or debate about how national wealth will be used in the GMS programme, or abut the financing of GMS projects; the ADB as the GMS' chief sponsor has made no attempt to bring the discussion about the GMS to public fora.
- There is no systematic process of redress for those who are negatively affected by projects; problems of negative impacts raised by NGOs and local groups are dealt with case by case, but no room is made for systematic checks and balances within the GMS structure.

6. The financing of GMS projects has tremendous debt implications for participating countries: new forms of project financing are creating new forms of debt and financial liabilities. Surprisingly, little attention seems to have been paid to long term debt issues by GMS planners.

7. Participation in GMS fora and meetings is exclusive; decisions about GMS plans are made by a small group of national, regional and international elites.

- It is interesting to note who attends GMS meetings: government officials, consulting companies (many of who are from outside the region), expert panels/committees (that usually comprise of government officials, consultants and ADB staff), private sector representatives, business groupings and consortia, international organisations (UN agency and selected international NGO staff), representatives from the ADB, bilateral donors and possibly, the World Bank.

- Local people are not present at these meetings: in meetings on economic corridors, farmers who will ostensibly gain from feeder roads and access to markets are not invited; in meetings on tourism, sex workers and those who might be employed in local nightclubs, hotels and restaurants are not invited; in meetings on human resource development (where labour upgrading is always an important issue) workers and labour unions are not present.
- The ADB set up a GMS Business Forum, but it did not set up a GMS Workers' Forum, or Small Farmers' Forum, or Indigenous Peoples' Forum, or Street Vendors' Forum (although they are technically private sector, street vendors are not likely to be allowed to join the Business Forum).

8. Governments play conflicting roles as owners, investors and regulators in public-private partnerships in infrastructure projects. In the Theun Hinboun hydropower project in the Lao PDR, the government has 60 % equity in the project; similarly, in the Road 1 project in Cambodia, the government is an equity holder, as well as responsible for providing compensation for affected families. These multiple and contradictory roles render governments unable--and unwilling--to fulfil their obligations of protecting the public interest over recouping their investments.

9. GMS projects facilitate the transfer of local-national wealth to private actors external to the Mekong region: the exploitation of natural resources form the basis of GMS projects; bulk of the funds for studies, capacity building and implementation go to consultants and firms outside the region, and profits from most investments are also repatriated to countries outside the region.

10. The governance frameworks in the GMS Programme are as alien to the interests of the majority of the region's people as the model of development that the GMS programme promotes:

- The governance framework requires that countries develop legal, administrative and regulatory systems that facilitate the creation of wealth for a minority, both within and outside the region. It is extremely important to examine who benefits from the entire gamut of activities in the GMS Programme, from feasibility studies to turnkey construction contracts.
- Countries with varying economic and social conditions, and whose interests in the development of particular resources might differ, must still put in place the same types of governance regimes to create a favourable climate for open investment across the region.
- The GMS Programme provides no forum for fair and equitable resolution of conflicts among countries in the region regarding project/investment decisions. The Upper Mekong Navigation Channel is a case in point, in which the PRC has decided to blast rapids in the upper Mekong despite serious concerns among downstream riparian countries. Although the ADB is not financing the blasting of the rapids, it has supported past studies to develop the navigation channel as part of the GMS Programme. There is, however, no space in the Programme to discuss the concerns of the smaller participating countries regarding the channel.
- ADB (and World Bank) governance regimes do not favour the development of domestic/local private sectors since they generally discourage preferential support for domestic firms; the investors who benefit are usually external to the countries in the Mekong region (Thailand and China are exceptions, and many of their companies benefit as investors in other parts of the region).

11. Participation and national interest are conflicting concepts in the GMS framework:

- National interest is a tricky issue; governments use it as a powerful rhetorical tool to urge local residents (who are often already economically and politically marginalized) to make sacrifices for the wider good of society and nation. However, it is important to examine which groups of people determine the national interest, and the criteria by which they arrive at these definitions. To what extent does the general public participate in determining/defining what constitutes national interest?

- National interest often collides with the interests and priorities of communities who are cash poor, live in rural and/or remote areas, and who receive few benefits in exchange of displacement, the loss of land and the loss of access rights to natural resources. Large dams are excellent examples of how purported national interest deepens inequalities, impoverishment and political marginalization; those who are expected to sacrifice the maximum for national interest have the fewest opportunities to participating in planning and decision making.
- Even if we accept that governments have sovereign rights to determine national interest, the issue is problematised by the range of international influences and pressures on national decision making about projects and policies. For countries such as the Lao PDR, Cambodia and Vietnam, national interest becomes difficult turf to defend when negotiating with business consortia whose annual turnovers exceed the national budgets of the countries. Protecting national interest is particularly difficult for smaller countries when they face bilateral donors, the ADB and the World Bank, on whom these countries depend for future access to financing and international linkages.
- More often than not, national interest simply becomes whatever keeps the money coming into national coffers, even if it requires trade-offs in crucial domestic priorities to keep foreign investors, donors and creditors happy.

12. The GMS programme deepens competition between different types of "environmentalisms" in the region:

- Local communities practice an environmentalism based on local livelihoods, intra and inter-community exchanges, and very real interests of survival, sustenance and protecting food and economic sovereignty.
- While this type of environmentalism is not yet acknowledged by national decision-makers in Burma, the Lao PDR, Cambodia, Vietnam and Yunnan as a significant force to negotiate with, it is only a matter of time before hundreds of rural communities in these countries may have no option left but to fight aggressively for their rights to sheer survival.
- Environmental and development experts and professionals bring an environmentalism based on the notion that global interest in the "global commons" directly translates to local and subregional interests in a healthy and diverse natural resource base.
- Such environmentalism has been the source of frameworks and programmes to protect forests, biodiversity, wetlands, estuaries and other special micro-environments and eco-systems through conservation projects and protected areas. But such initiatives also threaten to alienate local communities from their natural resource base, much in the same vein as conventional development projects.

VI. The GMS Out of the Mekong Region

By putting the GMS "frame" around the vast and diverse Mekong region, the ADB is attempting to shape the development paradigm in the region. The narrow lens of the GMS reduces social, cultural, economic, ecological and geographic specificities to a homogenous lot of economic "challenges and opportunities." It also renders invisible people, communities, local social relations and structures, ecologies, cultures and geographic areas that are not of "investment interest" to the GMS Programme promoters.

If a regional plan for cooperation and development is to be formulated for the Mekong region, it is the vision of the peoples and communities of the region that must prevail, not that of the ADB, bilateral donors and foreign investors.

IV. The Asian Development Bank's Environment Policy and What It Leaves to Be Desired

Jessica Rosien, NGO FORUM on the ADB

The Drafting of the ADB's First Environment Policy

In November 2002, it happened. The Asian Development Bank (ADB) approved its first ever Environment Policy. Instructions for project staff on environmental considerations in project design and implementation had been in place until then, but comprehensive provisions only came into existence with the new Policy last November. In ADB language this means that the Operations Manual section on environmental considerations, which contains the instructions for project staff, is now complemented by the actual Policy.

The new Policy sounds impressive. The ADB promises that it will take an active and strategic stance towards the environment and will help developing member countries to identify and solve environmental problems. Further, the Bank recognizes that ignoring environmental issues will in the long run have a negative effect on economic growth and sustainability. This insight was already recognized with the beginnings of the concept of sustainability, coined with the World Commission on Environment and Development (WCED) in 1987, but it is encouraging to see that it finally found its way into the thinking of international economic institutions, although 15 years later.

This seems like a good beginning. However, it quickly becomes apparent that the new Environment Policy consists more of big words rather than substance. The seemingly impressive rhetoric did not deceive a group of NGOs, which had attempted to influence and strengthen the Environment Policy during the drafting process.[44] Whether or not one likes the result, it has to be admitted, that the ADB finally followed the call of international activists for an open drafting process, and made an effort to consider varied stakeholder opinions. At the end of 2001, the ADB solicited comments on the first working paper of the draft. The Bank then published the second draft under consideration of the submissions and repeated this process, until the final working paper was put before the Board of Directors for approval.

But it is worth taking a closer look at this participatory process. Did the ADB only conduct the exercise to silence its numerous critics, or did it really mean to listen and learn from external perspectives for a change? The Asian and European NGOs that sent detailed comments on the various working drafts think that their efforts have been mostly been in vain.

Ideal and Reality

One of the NGOs' main concerns was that the new Policy protect so called affected people, that is to say individuals and groups whose subsistence and environment is negatively affected by ADB projects and programs. The NGOs urged that the Environment Policy include concrete provisions that give these affected persons a clear say in decision-making. Further, the NGOs advocated for timely information disclosure on planned ADB activities.

On first sight, these demands may not be necessarily related to environmental protection, but in reality environmental issues and implications for humans are inseparable. If the ADB builds a national highway in Sri Lanka, trees are logged and ecosystems are destroyed. On a human dimension this means that those people who rely on these trees and ecosystems for their subsistence are equally damaged. The NGOs thought affected people should have a say in such matters of their existence. The leaders of the ADB realize that they cannot afford to ignore these demands, particu-

[44] Joint NGO recommendations *"What Constitutes an Enforceable Environemnt Policy?"* can be found on the website of the Bank Information Center in Washington: http://www.bicusa.org/policy/adbenvpo.htm

larly not if the Bank's pro-poor rhetoric is to remain in any way credible.

The new Policy therefore refers to consultations with affected people saying that they „should be carried out as early as possible in the project cycle so that the views of the groups to be affected by the project are taken into account adequately in the design of the project". [45] But as is often the case with ADB jargon, the nature of consultations remains open to interpretation. The NGO interpretation of consultation is based on the concept of free informed prior consent defined by the World Commission on Dams (WCD). [46] This concept implies that affected people must give their consent freely and fully informed, before a decision is made. If one continues this argumentation logically, this also means that affected people have the right to withhold their consent, and a planned project has to be aborted if no agreement can be reached.

Aware of this, the ADB declares elsewhere, with unusual frankness, that it rejects the WCD's demands including the concept of free informed prior consent. However, without this basis, little remains in terms of meaningful consultations. An affected community can express their disapproval of a project to the ADB project staff in charge. The ADB staff, though, can tell themselves that they have been in communication with the community and thus have complied with the requirement of consultations. Regardless of the community's objections, they can still pull through with their project. The new Environment Policy includes no provisions that will prevent such scenarios in the future.

Another major NGO criticism referred to the form and language of the policy. When reading any of ADB's technocratic policies, one soon begins to wonder whether one is reading the right document or has mistakenly picked up some public relations materials. Where are the provisions that are to be bindingly followed?

[45] *Environment Policy of the Asian Development Bank,* November 2002, Paragraph 63
[46] www.dams.org

The approved Environment Policy still consists to a major part of vague phrases, indicating that the ADB „intends to", „will assist", and „will promote". Honourable intentions, but their implementation is in no way measurable. The joint NGO recommendations urged the ADB to remove the vague expressions from the document and to clearly define key words, such as „sustainability", „environmental due diligence", and categories such as „significant" versus „serious" environmental impacts. The new Environment Policy, still contains little clarity. In addition to the vague expressions, only 20 out of 84 paragraphs are binding, which paragraph 84 expressively states. The questions arise why the other paragraphs are included in a policy document in the first place.

Practicing What You Preach

So for one, the NGOs involved would like to have seen a stronger Environment Policy approved, but then they are also concerned with the implementation of the Policy now in effect, and this is often one of ADB's biggest weaknesses. The ADB has numerous guidelines, policies, best practices, and handbooks. They are all professing commitment to poverty reduction. Even if many of these documents were not binding, Asia's poor would be in a lot better condition, if the institution only delivered on a percentage of its promises. In reality, the poor are often worse off, thanks to the ADB.

The ADB's Regional Sustainable Development Department (RSDD) is in charge of overseeing the compliance with and implementation of the institution's safeguard policies. The Environment Policy is one of these safeguard policies. An internal evaluation of RSDD, however, concluded that the department is failing at its supervisory task.

The NGOs who participated in the drafting process of the Environment Policy have come to realize with these sobering results that their efforts are far from complete. It is frustrating to see that the work that should be done by the ADB, now once again goes to outsiders. But there is no way around it. Turning the ADB into an institution that acts responsibly and is guided by clear policies is an uphill battle, but the involved NGOs and affected people are fighting it step by step.

A recent NGO monitoring project is taking one of the steps in this direction. Coordinated by the *NGO Forum on the ADB* and the *Philippines Rural Reconstruction Movement* (PRRM) in Manila, groups in six Asian countries are monitoring whether ADB's respective environmental guidelines were complied with at the time of project design and implementation of already existing projects. The results from the case studies will then be applied to the new Environment Policy with the final outcome of a monitoring system, that affected groups can apply at any time and remind the ADB of the fact that a purpose of a policy is its implementation. As we have already seen, others once again have to do the job, because the ADB is not doing it.

If you would like to know more about the case studies and the monitoring project, please contact Jessica Rosien, jrosien@pacific.net.ph, or Sameer Dossani, sdossani@pacific.net.ph at the *NGO Forum on the ADB* in Manila.

V. Critical Analysis of the New Accountability Mechanism of the Asian Development Bank

Kenji Fukuda, Mekong Watch - Japan

Introduction

The Board of Directors of the Asian Development Bank (ADB) approved its New Accountability Mechanism on May 29, 2003. This was the result of a long process to review the ADB's Inspection Function, which aimed to enhance the ADB's accountability by addressing the concerns of the people negatively affected by ADB-funded projects. The new mechanism was also established to address demands for accountability and transparency in ADB funded projects from civil society organisations.

This paper examines the background and the process of the review of the Inspection Function, and analyses the new mechanism in the context of the struggles of affected people and efforts of civil society who are fighting against the ADB's problematic projects.

Origin of Inspection Mechanism

The Inspection mechanism was started by the controversial Narmada Dam project in India. As a response to the global campaign against the Narmada project around the beginning of 1990, the World Bank, which was the main financier of this destructive project, decided to conduct an independent investigation of the project. An independent investigation team was tasked by the World Bank's to check the Bank's compliance with its own policies on environmental assessment and involuntary resettlement. The result showed that the dam would adversely impact the lives of the local communities and that the World Bank shared responsibility for such harm. This report led to the Board of Directors of the World Bank to pressure the Indian government, and as a result, India finally declared in 1993 that it would not ask for the outstanding disbursement of the loan for the Narmada project from the World Bank.

The Narmada case made clear that the Bank Management tended to avoid responsibility in ensuring that the Bank funded-projects met the international standards set forth in the Bank's safeguard policies. Because of NGO lobbies the World Bank proposed the establishment of a permanent independent body to receive complaints from affected people. The U.S. Congress was also a strong proponent of this independent mechanism. In September 1993, the World Bank's Board approved the establishment of the Inspection Panel, which is an independent body to investigate the compliance of the World Bank to its policies based on requests from affected people.

The ADB became the third organization to establish an inspection mechanism called the 'Inspection Function' in 1995, after the Inter-American Development Bank (IDB) in 1994. However, both the ADB and the IDB adopted less independent systems compared to the World Bank. The stated objective of the current Inspection Function of the ADB is to enhance the transparency and accountability of the ADB by conducting investigations by independent experts on whether or not the ADB has complied with its operational policies and procedures.

Why Are Inspection Mechanisms Important?

The importance of inspection mechanisms can be summarized as follows. First, inspection provides one of the few quasi-judicial mechanisms by which independent experts can check management staff of Multilateral Development Banks (MDBs). MDBs enjoy immunity from any legal jurisdiction under international law, which means that they are free from any legal action against them. However, most of the inspection bodies of MDBs report to the respective Boards of Directors and are thus not totally independent from the decision-making bodies of the institutions.

Secondly, inspection mechanisms are the only institutional ways for affected people to raise their concerns to MDBs. Before this mechanism, affected people had to rely on informal ways to influence decision-making in MDBs, including public campaigns and lobbying to MDBs, donor governments and the media. It provides avenues for affected people to access independent investigation bodies that are expected to give impartial assessments on MDB's performances on policy compliance. They also provide ways for affected people to attract attention from decision-makers within MDBs.

Whether or not the inspection mechanisms provide solutions to the grievances of affected people is a difficult question. The experiences of the World Bank's Inspection Panel shows that only two out of 27 inspected projects were cancelled as a result of investigations by the Panel. Only several cases produced partial solutions or compensation to the people affected by the problematic projects. The Management of the World Bank has continuously tried to avoid such investigation and built coalitions with board members from developing countries. This tactic has been a big obstacle for the operation of the mechanism. In the case of the ADB, while 8 claims were filed, only 2 have been approved for inspection. Of these 2 cases, requesters' grievances have yet to be adequately addressed.

How Does the ADB's Inspection Function Work?

The primary actors in the inspection process include the Requesters of the Inspection (affected people), Panel of Experts, the Board Inspection Committee and the ADB Board of Directors.

Requesters initiate the inspection process by filing a claim. They are required to satisfy the eligibility criteria set by the ADB. Requesters have to be 2 or more persons affected by an ADB-funded project, or their representatives. The Inspection Policy requires requesters to show that (1) the ADB has failed to comply with its own operational policies and procedures, (2) this failure led to material harm upon the requesters, and (3) requesters have already contacted ADB Management to ask for remedies to the problems. These legalistic requirements make the mechanism difficult for affected people to access.

The ***Board Inspection Committee (BIC)*** is a sub-committee of the ADB Board of Directors, and oversees the whole inspection process and makes recommendations to the Board. The BIC has a critical role in the inspection process, including (1) making recommendations to the Board on whether or not an inspection should be conducted, (2) selecting Panel members from the Roster of Experts after the Board authorizes an inspection, (3) preparing the Terms of Reference and timeframe for the inspection, and (4) making recommendations to the Board on any remedial measures based on the Panel's report and the Management response to the report. The Board of Directors approves the recommendations thus making it the final decision-making body to decide what actions should be taken on the project concerned.

The ***Panel of Experts*** is a team of 3 persons that conducts the actual investigation of the project concerned and reviews Bank Management's compliance to its own policies and procedures. The members of the Panel are selected by the BIC from the Roster of Experts, and the Panel's activities are determined according to the Terms of Reference (TOR) also prepared by the BIC. The Panel prepares a report of their findings and recommendations regarding remedial measures, and submits it to the Board.

The existence and importance of the BIC is one of the major differences between the ADB's Inspection Function and the World Bank's Inspection Panel. The BIC undermines the independence of the Panel by recommending another set of remedial measures after the Panel's report. Furthermore, members of the BIC may have conflicts of interest when the BIC receives claims regarding countries they represent as Board members.

The inspection process is lengthy. After requesters filed a request to inspect a project, 110 days are consumed just to decide whether or not the ADB will conduct the inspection. The length of the actual inspection depends on the panel members' designated timeframe. Upon completion of the investigation on policy compliance and submission of the findings, the ADB Board and Management will again use up around 65 days to decide what to do with the results of the inspection the recommendations.

Accountability Down the Drain: the First Inspection Case of Samut Prakarn Wastewater Management Project

Because of the complex process and uncertain consequences, relatively few requests have been filed to the ADB Inspection Function. So far, the Samut Prakarn Wastewater Management Project in Thailand is the only case that has gone through the entire Inspection Function process. All other requests for inspection have been dismissed as 'ineligible' except for the request on Chashma Right Bank Irrigation Project-Stage III, for which the Board of Directors decided to conduct inspection in April 2003.

The ADB Board authorized the inspection of the Samut Prakarn project on July 20, 2001. It has been the most controversial ADB-funded project for the past 3 years, and the target of local villagers' protests and international campaigns calling for the ADB's accountability. The project was criticised for environmental and social impacts, corruption, lack of public participation and lack of environmental impact assessment. Local people especially fear that the wastewater from the treatment facility will damage the fisheries, especially the mussel farming, upon which the livelihoods of most people living in adjacent areas depend.

Local people have protested against it late 1998, half a year since the beginning of the construction of the project. In 2000 civil society organizations in Thailand jointly organized a large protest at the ADB annual meeting held in Chiang Mai. The protest mobilised 3,000 people, including two hundred from Klong Dan, where the Samut Prakarn project is located. International NGOs joined the campaign and addressed both the ADB and the Japan Bank for International Cooperation.

Despite earlier scepticism about the effectiveness of the Inspection Function mechanism, the local people decided to use it as a way to press for ADB's accountability, and to demand suspension of the loan for the project. The inspection process of the Samut Prakarn project was filled with disappointments. First of all, the Panel was not able to enter Thailand to visit the project site because of the conditions imposed by the Thai government for such visit. It is a prerequisite of the policy that the host government must allow site visit. As a result, the requesters lost the opportunity to present their views to the Panel. The Panel also complained that they had no way to communicate with outside stakeholders, and they had difficulties in accessing relevant documents and to interview ADB staff.

Despite these obstacles, the Panel report revealed that the ADB had violated seven policies in the course of approving the Samut Prakarn Project. The violated policies included policies on supplemental financing for cost overrun, operational missions, environmental considerations, involuntary resettlement, social dimensions, governance, and benefit monitoring and evaluation. The Panel recommended that the ADB should admit these violations and that the ADB should negotiate with the Klong Dan community regarding the damages, remedies and the local community's participation in the management and operation of the plant. The Panel denied, however, the requesters' demand to suspend disbursement for the project.

The Board approved the BIC's recommendations on March 25, 2002, without admitting to policy violations, and instructed Management to make semi-annual reports regarding the implementation of the BIC's recommendations. The ADB, however, has not taken any proactive action to build trust with the Klong Dan community to this day. The ADB continued to disburse the loan for the project while substantially ignoring the major issues the local people raised.

The fact that ADB had violated its own policies on environmental and social impacts may have somehow affected the Thai government's decision-making. One month after the final decision of the Board, Prime Minister Thaksin Shinawatra visited Klong Dan and met with the community, which led to a series of the studies by the Thai Environment Ministry. As a result of strong the Thai Government announced the suspension of the project's construction in February 2003. This was a remarkable event in the histories of both civil society's struggle in Thailand and of international campaigns against the ADB.

Review Process of the Inspection Function

During the inspection of the Samut Prakarn project, many stakeholders recognized the serious need for revising the inspection policy. The review of the policy began in December 2001, and took almost one and a half years to complete. It is worth noting that the review of the Inspection Function was the most transparent and participatory policy-making process in the ADB's history. At the same time, it involved political conflicts among the stakeholders, none of whom were satisfied with the results of the review.

In the beginning of the review, international NGOs played a leading role. The ADB employed two environmental lawyers from NGOs who had extensive experience working on the World Bank Inspection Panel. The ADB disclosed a total of 3 drafts of the new policy, and organized 10 public consultations in both developing countries and donor countries. The first and second drafts were extensively discussed in this consultations. The NGO's proposals for the need for a permanent and independent panel and accessible procedures gained broad support at these consultations.

After initial success of the NGO campaign calling for an independent and strong accountability mechanism, ADB staff and governments of developing countries started to resist such a mechanism. At the Phnom Penh consultation in August, the Management attempted to influence the views of developing countries by passing a memo written by an ADB senior staff. This incident became a scandal and infuriated the donor government and NGOs.

After a round of external consultations, the debate internalised within the ADB, and civil society had to wait for the result of these secret negotiations until February 2003, half a year after the second draft was disclosed. The subsequent 'working paper' (the third draft) proposed to establish both a problem-solving body and an independent panel to review policy compliance. NGOs again submitted comments on the working paper claiming that the sequential model proposed in the working paper, which requires a case to first go through part of the problem-solving phase before reaching the compliance review process, would undermine the effectiveness of the mechanism and the requesters' right to demand the ADB's accountability.

Finally, the Board of Directors approved the new policy called the 'ADB Accountability Mechanism' at the end of May 2003. The new policy is a compromise between NGOs and donor governments on the one hand, and ADB senior staff and governments of developing countries on the other. Although there are a number of improvements in the new policy, several severe shortcomings also exist. Both positive and negative aspects of the policy are described below.

Stakeholders of the Accountability Mechanism

Various stakeholders' have different perspectives on the new Accountability Mechanism:

The ***ADB Management and Staff:*** are the major obstacles in the inspection process. ADB staffs have a strong incentive to lend more money to their clients, the developing member countries, and do not want to admit the problems caused by their funding. ADB staffs consistently derail the inspection process. In the Samut Prakarn case, the *Management Response* to the inspection request denied every policy violation allegation, and claimed that there was no need for the inspection. The Thai government's 'objection' to the site visit was allegedly suggested by ADB staff. After the Panel's report came out, the Management continued with their denial about policy violations despite the concurrence between the BIC's report to the Board and the Panel's conclusion.

In the case of the Chashma Right Bank Irrigation Project, Management claimed that an Inspection should not be conducted because it would undermine the on-going efforts to solve the problems through the 'Grievance Redress and Settlement Committee.' The ADB staffs have tried to avoid inspection by pressuring the Pakistani government to establish this committee, though the process of its establishment, including the TOR and selection of members, was far from satisfactory for the requesters. These are some of the examples of how ADB Management has tried to avoid taking responsibility for the harm caused by its projects.

Developing Member Countries' Governments and their EDs: In many cases, Developing Member Countries' (DMCs) governments are the owners of the projects and naturally they do not want protesters to be heard by the ADB. They also think that inspections are meant to investigate their faults. It is said that the Thai government opposed the site visit by the Panel in the Samut Prakarn inspection because it feared that the Panel would investigate the Thai government instead of the ADB's conduct. The DMCs also strongly opposed the introduction of a problem-solving mechanism, claiming that it undermines their sovereignty. They also maintain that site visits should be conducted only with their consent.

Donor Governments and their EDs: Donor governments were the major proponents of the independent inspection panel. They are concerned that their contributions to the ADB should be used in effective ways, without causing local and international protest.

NGOs and People's Organizations: There are different perspectives on the ADB's inspection mechanism among civil society organizations. International NGOs working on the ADB's accountability believe that it is the only institutional mechanism within the ADB where affected people can have their grievances addressed. NGOs in developing countries are more sceptical of the effectiveness of the mechanism because there is no assurance of actual solutions. Other local NGOs and people's organizations see it as one strategy to gain the attention of decision-makers in the ADB and donor governments. Although the degree of expectation varies, there is a consensus among NGOs that an effective and accessible inspection mechanism will be a useful tool to demand the ADB's accountability.

Whose Problems to be Solved? – the Function of the 'Consultation Phase'

The ADB introduced a 'problem-solving' function in the new Accountability Mechanism, which will be performed by the 'Special Project Facilitator (SPF)' during the 'consultation phase.' The SPF is separated from the Panel, and the position is for one person with a small secretariat. The role of the SPF is to conduct the consultation phase of the Accountability Mechanism "to respond to specific problems of locally affected people in ADB-assisted projects through a range of informal and flexible methods." The SPF is appointed by and reports to the President of the ADB. Thus, the SPF is fundamentally the tool of Management, and the Board does not have significant influence on the process during the consultation phase.

It is welcomed that the ADB recognizes its own role in problem solving for ADB-funded projects. Although it may be useful for affected people to a certain extent, there are many concerns regarding the consultation phase:

Independence of the SPF: NGOs have demanded that the SPF should be independent from the Management and should report to the Board instead of the ADB President. Such independence is essential so as to build trust between the borrower and affected people. The SPF should not have been appointed by the Bank's President and that current ADB staff should not be eligible to be the SPF. Someone from within could not be seen as independent and trustworthy by project-affected people.

Relationship between the SPF and the Panel: It is regrettable that the new Accountability Mechanism requires the requesters to file their complaints first to the SPF and not directly to the Panel. They also have to wait for at least 84 days before filing a request for compliance review. This step is redundant and a waste of time and energy for both the requesters and the SPF. Most importantly, the sequential model overlooks the affected people's rights to demand the accountability of the ADB.

ADB's ability to solve problems: The fundamental question of the new consultation phase is the ADB's ability to solve the problems of affected people in a fair and impartial manner. Experiences of engagement with ADB Management showed, however that the ADB always took the side of the governments of borrowing countries, and is reluctant to take responsibility for problems produced by the projects.

Major Improvements

Although some issues remain to be addressed, there are a number of improvements in the policy that made it far more accessible to affected people. Compared to the World Bank Inspection Panel, the advantage of the mechanisms are:

a). Independent and Permanent Panel: A permanent Panel called the Compliance Review Panel will be established. This allows the requesters to consult with the Panel and to be given necessary assistance for filing claims. This is also to build institutional learning regarding policies and institutional problems of the ADB.

b). Citation of Policy Violations: The new policy does not require requesters for the compliance review to cite the policy violations that led to material harm. Citing ADB policies was a major burden and obstacle to the affected people before due to the language used in the policies. Under the new policy, requesters will be asked to explain (1) how they are, or are likely to be, affected materially and adversely, and (2) that this material harm is, or will be, caused by the ADB-assisted project.

c). Reduced Management Response: Under the new policy, Management will be allowed to submit their response only once when the Panel delivers a draft report, and it will save the time and energy of the Panel and Management.

d). Language: The new policy will allow both the claim to the SPF and the request for compliance review to be submitted in any official or national language of the ADB's developing member countries.

e). Anonymity: Requesters can ask to keep their identity confidential.

f). Requesters' will be given the opportunity to comment on the draft report of the Panel.

g). Monitoring of the Remedies: The Panel will monitor the implementation of any remedial actions approved by the Board as a result of compliance review. In many inspection cases of the World Bank, implementation of the Board decisions have been left to the Management, and the effectiveness of these decisions were severely undermined by the reluctance of Management and borrowing governments to follow the decisions.

h). Private Sector Operations: The private sector operations of the ADB are covered by the new mechanism, which were not included in the Inspection Function.

Toothless New Policy

Compared to what NGOs were advocating, the new policy lacks measures to ensure the impartial investigation and adequate solutions to problems.

Site Visit: Despite the Samut Prakarn experience, the new policy maintained the requirement that borrowing government must not object to a site visit. NGOs proposed that this condition be eliminated, and that there should be a clause in every loan agreement between the ADB and borrowing governments to allow the Panel to conduct site visits. The new policy did not change this condition for the site visit since “the policy should assume the good faith cooperation of all parties in the compliance review,” which leaves room for governments to resist site visits.

Suspension of Loan Disbursement: The requesters of the Samut Prakarn case seriously questioned why the ADB did not suspend the loan disbursement when it became obvious that the ADB violated its own policies during the project. NGOs demanded that the Panel should be empowered to recommend the suspension of loans even when the inspection is in progress. In the Samut Prakarn case, more than 90% of the project construction was completed when the inspection was over; it became too late to change the project design thus undermining the effectiveness of the Panel’s recommendations.

Further Steps to Prevent the Negative Impacts of ADB Projects

Though there are a number of improvements in the new Accountability Mechanism, the mechanism itself will not be enough to prevent negative impacts caused by the ADB-funded projects. Further steps must be taken to enhance the social and environmental performance of the ADB, including the transparent implementation of the mechanism, addressing the shortcomings of the mechanism, institutional reforms of the ADB, and strong and effective monitoring from civil society.

Transparent Implementation of the new mechanism: While the review of the Inspection Policy was conducted in a transparent manner, the effectiveness and reliability of the mechanism rest on how the Accountability Mechanism will be implemented. NGOs have suggested for a committee or a forum consisting of representatives of each sector to enhance communication with external stakeholders, but this proposal was not incorporated into the new policy. There is still room, however, for NGOs and peoples organizations to influence the implementation of the policy, including the selection of the Panel/SPF and establishment of the operating procedures for both phases. In particular, the SPF should be selected by and work in consultation with civil society organizations, the current arrangement of the SPF will not ensure the independence and credibility of the SPF.

Leadership of the President: the leadership of the President is one of the keys for the successful implementation of the mechanism. Traditionally ADB Presidents have been reluctant to strongly lead the institution, and have seen their role as a mediator in the culture of consensus-based decision-making in this ‘Asian’ organization. In the Samut Prakarn inspection case, the president failed to exercise his leadership when the Thai government objected to the Panel’s site visit and Board opinion split between the South and the North.

The ADB president is playing a key role as the chief executive of ADB Management and the chair of the Board of Directors. The newly introduced consultation phase requires a more active role of the president, as it is the president who makes decisions on the remedial measures recommended by the SPF. Lack of means of enforcement in the new mechanism, i.e., suspension of loan disbursement, can also be addressed if the President exercises his leadership in making decisions to suspend loans in cases which require urgent actions to be taken.

Educating ADB Staff: It is the ADB staff that actually designs, appraise and implement the ADB loan projects. Educating and training ADB staff regarding the negative impacts caused by ADB loans and the importance of accountability will help make operations of the Accountability Mechanism more effective. The staff should also be given incentives to avoid negative impacts from the projects they fund.

Strengthening Civil Society: the inspection mechanism was established as a result of civil society’s struggles against destructive projects funded by international financial institutions. NGOs and people’s organizations have made tremendous efforts in both inspection cases and in the review of the inspection policy. The new mechanism is the result of this strong effort to establish the accountability of the ADB and bring justice to affected communities. The case of Samut Prakarn showed that local people, local NGOs and international NGOs can work together against giant organizations like the ADB.

Critical flaws remain in the Accountability Mechanism that carry the potential to undermine the entire process, i.e. the right of governments to reject site visits and the lack of measures to stop loan disbursements. Without persistent and active monitoring, both of projects in the pipeline and those already under way, we will continue to see disasters caused by the ADB. While civil society has had some success in bringing about this new Accountability Mechanism, it may also be up to civil society to make sure that it works.

VI. Banking on the Forests: The Politics of the ADB's Involvement in Asia's Forests

Chris Lang

Tadao Chino, the Asian Development Bank's president, cannot pretend that he does not know what NGOs want from the Bank. During the Bank's 2001 Annual General Meeting in Hawai'i, he left the convention centre to accept a petition from NGOs. No doubt he hoped to accept the petition, smile for the cameras and return to his lunch as quickly as possible. But, when he shook hands with Dawan Chantarahassadi, a villager from Klongdan in Thailand where a notorious ADB-funded wastewater plant was under construction, she kept hold of Chino's arm, and did not let him go until Walden Bello had finished reading out the entire statement.[47]

The statement, titled "People's Challenge to the ADB", included a series of demands to the Bank, the final one of which stated that "Directions for future policies and practices must emerge from public debates and discussions, and not through closed-door negotiations among elite groups of ADB management, national and government elites and technical 'experts'."

In Hawai'i, President Chino promised that the NGOs´ views "would be taken into account". Unfortunately, in its preparation of its proposed new forest policy, which started in July 2000, the Bank seems to have forgotten ADB President Chino's promise.

The Bank points out that more than 500 people participated in workshops in Bangladesh, Pakistan, Philippines and Sri Lanka. In February 2002, when the Bank produced a draft of its new forest policy, 140 people attended a workshop at the Bank headquarters in Manila. However, once the Bank's draft forest policy appeared, any public debate disappeared. According to Jan P.M. van Heeswijk, Director General of the Regional and Sustainable Development Department at the ADB, "formal external consultation process was concluded with the February 2002 Regional Consultation." "The internal review process is still underway," he added.

This internal review process is precisely the type of elite, closed-door negotiations that the NGOs in Hawai'i were keen to avoid.

Perhaps not surprisingly, given the flawed process behind the preparation of the Bank's new forest policy, the latest draft - dated June 2003 - has some serious failings and in many ways is a step backwards from the Bank's existing 1995 Policy on Forestry.

Dr. Uschi Eid, state parliamentary secretary at Germany's Federal Ministry of Economic Cooperation and Development (BMZ), described the Bank's latest draft as "unfortunately behind our principles and minimum standards for this sector; it does not reach the quality of the 'Operational Standards' of the World Bank."[48]

In preparing its new forest policy, the Bank commissioned no independent analysis of the overall impact of its lending on the forests of Asia. Without such an analysis how can anyone, including the ADB, know what is required from a forest policy?

As a bank, the ADB naturally demands that governments repay its loans. Even if loans to the forest sector are low interest, concessional loans, the money has to come from somewhere to pay all those expensive international experts. In order to pay the Bank back, governments must make a profit out of the Bank's forestry projects. While this sounds like straightforward economics, it means that the forests must make a profit. The simplest way of con-

[47] Bello, W. and Shalmali Guttal (2001) "Honolulu Face-Off: Civil Society 1, Asian Development Bank 0", Focus on Trade #63 Number 63, May 2001.
"ADB Shanghaied in Honolulu," Honolulu Magazine, July 2001.

[48] Letter from Uschi Eid to Chris Lang, 6 August 2003: „Der im Juli vorgelegte Entwurf bleibt leider hinter unseren Grundsätzen und Mindeststandards für diesen Sektor zurück; er erreicht nicht die Qualität der ‚Operational Standards' der Weltbank."

verting forests to profits is to cut down the trees. The social and environmental impacts of doing this are often devastating. Projects which guarantee the rights of communities to access, use, protection and tenure within or near the forests are likely to be less popular with governments as they are unlikely to contribute large sums of money to government coffers.

Jan van Heeswijk disagrees with this allegation and wrote: "ADB's forest sector lending aims at optimising development impact and not on profit maximization. Debt burden and repayment capacities of the borrowing country is part of the project appraisal and decision making process." However, the unavoidable fact remains that loans must be repaid. Unless Bank projects make money, governments will be unable to repay the loans.

Given this reality, the ADB's forest policy should provide safeguards to protect the forests and people of the region, by preventing ADB funding of projects that might damage forests. Instead, the June 2003 draft of the policy states that "where environmental assessment indicates that the proposed investment will contribute significantly to natural forest degradation or conversion to nonforest land use, and change in forest land use becomes inevitable, the ADB will require rehabilitating or reforesting an equal area as appropriate in consultation with affected communities."

The Bank does not explain what the word "inevitable" means in this context, neither does it explain who is to decide when damage to forests is inevitable and when it might be avoided. The statement amounts to a green light for all forest-destroying projects.

Neither does the Bank's June 2003 draft provide adequate protection of forests from conversion to monoculture industrial tree plantations. One of the objectives of the Bank's new policy is to "increase the extent and productivity of plantations".

In its June 2003, draft, the Bank defines a forest as "an ecosystem with a minimum of 10% crown cover of trees and/or other wooded land/bamboos generally associated with wild flora, fauna, and natural soil conditions and not subject to agriculture." Yet, when it comes to protecting forests from conversion to plantations, the draft states, "ADB will not provide assistance for plantations in natural forest areas with more than 40% crown density." No explanation is given for the sudden increase in the minimum crown cover from 10% to 40%, although clearly this is a significant weakening of the protection afforded by the policy.

The Bank's definition of "forest" indicates the gulf in thinking between the way the Bank's "experts" see forests and the way that people who live in the forests, for example swidden farmers, see forests. The exclusion of agriculture from the Bank's definition of forests illustrates this problem well. When a swidden field is fallowed it becomes a forest. After a few years the land may again be cleared to plant crops. It returns to forest after being fallowed.

Because of the particular importance of forest to Indigenous Peoples it is of crucial importance that ADB's forest policy addresses and secures Indigenous Peoples' Rights.

The Bank's draft forest policy states that Indigenous Peoples' "poverty is linked to lack of access to resources, and limited development opportunities." However, rather than ensuring that Indigenous Peoples' Rights are explicitly recognised in the forest policy, the draft policy states that assistance to the forestry sector "will comply with ADB safeguard policies on environment, indigenous people, and involuntary resettlement, as well as other applicable ADB policies."

For example, the Bank's 1995 forest policy explicitly stated that an environmental impact assessment must be carried out for any Bank project that might affect forests. When asked whether an EIA will be mandatory for all ADB projects that affect forests, Jan van Heeswijk, replied, "Yes, it is required under our Environmental policy." If this is so, the Bank needs to explain why the explicit requirement for an EIA been removed from the forest policy. The danger is that this approach weakens rather than strengthens the rights of forest-dwelling peoples in the forest policy.

While the draft forest policy mentions "stakeholders", "participation" and "consultation", it fails to discuss how such consultation might take place in countries where the government does not tolerate dissent, where there is no free media, or where the rights of forest dwelling communities and Indigenous Peoples are not recognised. This is unfortunately the case in several of the countries to which the ADB lends money.

ADB's Jan van Heeswijk explains, "ADB cannot unilaterally recognise 'rights' that may not be accepted by DMC governments or that are subject to dispute." This is almost, but not quite, an admission that the decisions that the ADB and its consultants make about forests, how they are used and by whom, are *political* decisions.

The ADB's charter prohibits the Bank from getting involved in any political activity. Article 36 of the charter states: "The Bank, its President, Vice-President(s), officers and staff shall not interfere in the political affairs of any member, nor shall they be influenced in their decisions by the political character of the member concerned."

But every time the Bank is involved in decisions about how forests are to be used, and by whom, it is involved in political decisions.

When Frank Black left his post as Executive Director for Austria, Germany, Turkey and the UK at the ADB, he clearly acknowledged the political role of the Bank.[49] "The ADB's almost instinctive, institutional response would be to point to its Charter and assert that it has no political role. This is, of course, not the case. The Bank's advice and lending have political ramifications," he wrote.

In designing its forestry projects, the ADB makes decisions about who will benefit from either using or conserving forests. Although the Bank talks about participation and consultation with local communities and Indigenous Peoples, the Bank lends money to, and reinforces the power of, the state.

The decision, for example, to replace villagers' commons, swiddens or community forests with monoculture eucalyptus plantations to produce wood chips for export is not only an economic, technocratic decision. In supporting industrial tree plantations, the Bank makes a political decision to support the pulp and paper industry – often at the expense of local communities, who as a result lose access to their land and forests.

The Bank's plantations projects in Laos provide a good example of the political nature of Bank lending to the forest sector. Starting in July 1994, the ADB's US$11.2 million "Industrial Tree Plantation Project" aimed to plant 9,600 hectares with commercial fast-growing tree plantations. 7,000 hectares of this area was to be established by private companies.

Throughout Laos, government officials are carrying out a land and forest allocation programme. However, in several villages in the central provinces of Bolikhamxai and Khammouane provinces, a private company, which benefits from the ADB's loans is allocating land and forest. The company, BGA Lao Plantation Forestry, has used aerial photographs, satellite images, maps and geographic positioning systems to locate the best land for plantations. Company documents describe between 39,000 and 48,000 hectares of the land leased to BGA as "shifting cultivation / grazing land / degraded forest". In other words, this is land that villagers are already using.

In November 2000, a representative of BGA explained that "BGA does the land allocation. So far 10 villages have been mapped." When asked whether any villagers were reluctant to allow plantations on their land, he laughed and said, "No. We did the presentation, so no one said no."

[49] F. Black (2003) "The Asian Development Bank (ADB): A Unique Contribution? The Effectiveness Of The Financing and Political Role Of The ADB In Reducing Poverty In The Asia/Pacific Region", June 2003. Black was Executive Director for Austria, Germany, Turkey and the United Kingdom. The paper is Black's own position and not the position of any of the governments he represented at the ADB.

In 2001, independent researchers reported that at Ban Nao Neua, in Xaibouli district, 100 hectares of dry dipterocarp forest was destroyed to make way for ADB-funded eucalyptus plantations. Instead of addressing villagers' concerns about the plantations, however, the ADB's consultants attempted to convince villagers that the plantations would not cause any problems and that a further 100 hectares should be planted.[50]

To foresters and the ADB's "experts", dry dipterocarp forest has less value than eucalyptus plantations, but to villagers dry dipterocarp forest is very valuable, for example for mushroom collection or as grazing land for village livestock. In some communities in Central Laos, wild mushroom collecting in these forests constitutes the main source of cash income for local people. Villagers in Ban Nao Neua have not allowed any more eucalyptus to be planted on their common land.

Documents produced under the Industrial Tree Plantations project include suggestions for changes to Lao forestry law and could therefore affect people's livelihoods throughout rural Laos. For example, in 1999, ADB commissioned Australian forestry consulting firm Fortech to produce a report titled "Current Constraints Affecting State and Private Investments in Industrial Tree Plantations in the Lao PDR." In the Executive Summary of the report Fortech claims that plantation development in Laos "provides opportunities to generate economic growth and development" and recommends that the Lao government should approve "at least one large scale plantation project" by the end of January 1999. Without such a project, "international investors will decide not to proceed in Lao PDR", according to Fortech.

The report recommends the Lao government should provide a series of measures to make it easier for international investors to invest in plantations in Laos. These include: rewriting the Plantation Regulations under the Forestry Law; appointing a "plantation investment coordinator"; preparing guidelines for plantation assessment proposals and a step-by-step guide for investors; collecting and publishing market information on domestic and international forest product markets; and building new roads in "key plantation development regions".

Fortech's recommendations have major implications for people in Laos. Changes to the Forestry Law should be a matter for public discussion. Local communities in what Fortech calls "key plantation development regions" have a right to know what ADB-funded consultants are recommending for their land, forests and livelihoods. Similarly they have a right to know that new roads are to be built through or near their villages to serve the interests of international investors.

Yet Fortech's report is not available to the public.

In June 2001, in response to a request for the report, Snimer Sahni, the ADB's project officer for the Industrial Tree Plantations Project, replied:

> "The document you have requested is an official document. Nevertheless, we had sent you a copy of the executive summary. Since you still wanted the full document, we had sought the concurrence of the Lao PDR Government to release this to you. We have not so far received a response from them."

Six months later, Sahni wrote to inform me that "this study was done on behalf of the Lao PDR Government, and we had sought their concurrence to release the report. We have not so far had a response from them, and will again send a reminder." Since then, I have heard nothing more on the subject from either the ADB or the Lao government.

Another document produced by consultants for the ADB is entitled "National Strategy for Sustainable Plantation Forestry". The

[50] Shoemaker, B., I. Baird and M. Baird (2001) "The People and Their River: A Survey of River-Based Livelihoods in the Xe Bang Fai River Basin in Central Lao PDR", Vientiane: Lao PDR/Canada Fund for Local Initiatives, pages 53-54.

Bank has so far declined to answer my repeated requests for this document.

For Bank staff who are preparing or managing a project there are few incentives for them to review carefully the Bank's policies on forests, information disclosure, indigenous peoples or the environment to ensure that their project complies. Ambitious career Bankers are unlikely to publicise problems that a proposed, or ongoing, project may cause for indigenous peoples or local communities. Rather, they are likely to play down any problems that a project might pose and aim to get large loans out of the Bank as quickly and with as little controversy as possible.

Frank Black, an ex-Executive Director at the ADB, confirms that this problem is well known within the Bank. There is a "widespread view that the Bank's appointments, promotion, appraisal and incentive systems are in need of a thorough overhaul," he wrote in June 2003.

When asked about the incentives that the Bank will put in place to encourage staff to implement the new forest policy, Jan van Heeswijk replied "When approved by the Board the new policy will become subject to ADB's business and safeguard compliance review, and will be integrated into ADB's business processes and procedures." In other words, it is business as usual.

At a consultation in 1994 on the World Bank's Forest Policy Implementation Review, Larry Lohmann, of the UK-based NGO the Cornerhouse, commented that

> "No private company in the world would expect its policy statements to be taken seriously unless it were prepared to demonstrate that it had initiated staff and consultant incentives up to the Vice-Presidential and Presidential level which were capable of motivating its staff to follow that policy."

Similarly, why should anyone take seriously the ADB's proposed forest policy? All the incentives are for ADB staff to keep the money flowing out of the Bank. In doing so, they fail to address the problems of current or past projects and the impacts these projects have had on the people and forests of Asia.

VII. The Asian Development Bank: In Its Own Words - An Analysis of Project Audit Reports for Indonesia, Pakistan, and Sri Lanka*

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Executive Summary

Between 1966 and 2002, the Asian Development Bank (ADB or Bank) provided approximately $99 billion dollars in loans for 1,752 projects in 38 countries throughout the Asia-Pacific region.[51] This report examines the ADB's track record – *in the Bank's own words, based entirely on the Bank's own documents* – in Indonesia, Pakistan, and Sri Lanka.

Indonesia and Pakistan are, respectively, the ADB's first and second biggest cumulative borrowers. Together, they have received more than one-third of total ADB funds disbursed during the Bank's thirty-six year history. During the 1990s, Sri Lanka was one of the top borrowers from the Bank's concessionary lending window, the Asian Development Fund (ADF) and is currently among the "reconstructing nations" targeted by the ADB for post-conflict loans.[52] ADB loans to Sri Lanka, although relatively small compared to those made to Indonesia and Pakistan, currently comprise approximately 20 percent of the country's public external debt.[53]

In its 2000 assessment of multilateral development finance, the bi-partisan U.S. Congressional International Financial Institution Advisory Commission (the Meltzer Commission) found project sustainability – whether or not a project provides lasting, long-term economic and social benefits – to be the key indicator for judging the performance of multilateral development banks such as the ADB. The Meltzer Commission considered a lack of project sustainability to be synonymous with project failure.

If we utilize the standard of project sustainability as an indicator of project success, the shocking conclusion of this report – based on data presented in the ADB's own audit documents – is that over 70 percent of ADB projects in these countries are unlikely to provide long-term social and economic benefits.

Indonesia

Indonesia is, by far, the Asian Development Bank's biggest borrower. In 1969, the ADB made its first loans to Indonesia for an irrigation project and an oil palm plantation project.[54] By 2002, the ADB had approved 268 loans to Indonesia, totalling $18.3 billion, including a $2.8 billion "crisis management intervention" loan package made in 1998-1999. This report examines the ADB's record in Indonesia, including assessments and summaries from the ADB evaluations department's Project Performance Audit Reports (PPARs) of $1.6 billion worth of loans – over 10 percent by value, of all ADB loans to Indonesia made prior to the crisis intervention package. **These audit reports indicate that at least 70 percent of Indonesia's ADB projects**

*This report represents an update and expansion of S.G. Fried. "Evaluating the ADB in Indonesia: The Operation was a Success, but the Patient Died,' Environmental Defense, May 8, 2001.

[51] Asian Development Bank. *2002 Annual Report.*

[52] Asian Development Bank. "Board of Directors' Report: Reconstructing Nations," *2002 Annual Report.*

[53] International Monetary Fund. "Sri Lanka: Selected Issues and Statistical Appendix." September 26, 2002.

[54] Asian Development Bank Post-Evaluation Office. " Country Synthesis of Post-Evaluation Findings in Indonesia." December 1993, p. 39, 42, 43. Note that auditors associated the ADB's first Indonesian project, an oil plantation project, with a decline in "security, diet, health and (probably) income" of already impoverished plantation laborers. Cattle owning and a "payment in kind" system were forbidden under the project, leading to "quite a lot of child illness [which] is directly or indirectly attributable to malnourishment…since the ending of payment in kind and cattle-owning."

are not likely to produce lasting economic or social benefits for the country – a disaster for heavily indebted Indonesia.

In 2000, ADB's Operations Evaluation Department (OED)[55] found that half of all audited projects rated "successful" by the Bank in the preceding year (see Appendix B) were of questionable sustainability. In the case of Indonesia, for example, "successful" projects included those with massive unmonitored resettlement components, were (according to OED auditors) patently unsustainable, included projects where "record keeping also seems to have been abandoned" and could be (according to the OED) so poorly structured that rapid deterioration of project infrastructure was inevitable.[56]

For example, the ADB's $137.4 million "successful" Nusa Tenggara Agricultural Development Project featured the resettlement of close to 5,000 people, at the height of the Suharto dictatorship, by Indonesian officials who could not communicate with them due to "language difficulties" and "cultural issues." Auditors noted that there was "no organized monitoring of the extent and the manner in which the resettlement plan was implemented."[57] The project was rated "successful" despite the fact that it was unlikely to be sustainable due to a lack of budgetary support for operations and maintenance and the provision of support services.

The ADB's "partly successful" project category appears to be a euphemism for "largely unsuccessful" or "troubled." In the case of Indonesia, this category includes projects such as a $250 million Food Crop Sector loan where auditors found that the Bank had failed to carry out the most basic analyses of the implications or impacts of its policy recommendations, and had failed to identify "intended beneficiaries" of the policy changes. Auditors noted that "the overall impact of the Program Loan is not clear" because "there were no performance indicators against which Program impact could be assessed."[58]

The "partly successful" category also includes a $38 million health project where OED found that "user demand, actual needs, and operating capacities of the hospitals" funded by the project had never been analysed by the Bank or by the Indonesian implementing agencies, leading to a failure to supply badly need medical equipment to the hospitals.[59] Auditors discovered that it wasn't until six years into the project that the establishment of a system for "benefit monitoring and evaluation," including the collection of baseline data, was discussed.[60]"

An examination of publicly available ADB evaluation documents indicates that the ADB's "unsuccessful" project category appears to mean "abysmal failure" and often indicates project-related damage to the environment, the economic structure, and/or human health.[61] In the case of Indonesia, unsuccessful projects include the $29.5 million Agro-Industries Credit Project, which provided capital to an Indonesian agricultural bank, Bank Bumi Daya, to enable it to make loans for "agro-industry" subprojects. This project bankrolled environmentally destructive shrimp farms ("all discharges from the shrimp ponds were directly diverted to the sea without any treatment") and an "environmentally unsound" animal feed factory.[62] In

[55] In this report, "OED, " "ADB auditors" and "auditors" are used interchangeably.

[56] Asian Development Bank Operations Evaluation Office. "Report of the President to the Board of Directors on 1998 Evaluation Activities and the Twenty-First Annual Review of Evaluation Reports." March 2000, p. 27.

[57] Asian Development Bank Operations Evaluation Office. "Project Performance Audit Report on the Nusa Tenggara Agricultural Development Project in Indonesia." December 1999, Appendix 4, p. 1.

[58] Asian Development Bank Post-Evaluation Office. "Project Performance Audit Report on the Food Crop Sector Program in Indonesia." December 1997, p. 6.

[59] Asian Development Bank Post-Evaluation Office. "Project Performance Audit Report on the Health and Population Project in Indonesia." June 1997, p. 6.

[60] Ibid, p. 4.

[61] Note that projects linked to socioeconomic or environmental damage are not, however, confined to the "unsuccessful" category.

[62] Asian Development Bank Post-Evaluation Office. "Project Performance Audit Report on the Agro-Industries Credit Project in Indonesia." January 1996, p. 16.

addition, according to auditors, three-fifths of the subprojects failed and 90 percent of the projects with outstanding loans defaulted.[63] The project also significantly and negatively affected the "creditworthiness," such as it was, of Bank Bumi Daya itself.

Pakistan

Since 1968, Pakistan has received more than $12.6 billion in loans from the ADB, making it the second largest cumulative borrower, after Indonesia. At the end of 2001 – to manage the repercussions of September 11 terrorist attacks and in recognition of Pakistan's key role in the global "war on terror"– ADB funding for Pakistan increased by 148 percent (from the 1997-2000 average) to $957 million.[64] In 2002, Pakistan received more than $1 billion from ADB and was the top client of ADB's concessional lending window.[65] According to ADB's Pakistan Country Strategy and Program released in May 2002, $2.4 billion in assistance is planned for Pakistan from 2003 through 2005.[66]

This report evaluates over $900 million of ADB loans to Pakistan made over a thirty-four year period. **Our analysis of OED reviews – utilizing "sustainability" as the standard of project success – indicates that perhaps as much as 70 percent of ADB projects in Pakistan are unlikely to produce lasting economic or social benefits.**

An examination of OED evaluation documents for Pakistan reveals a disturbing pattern of systematic failure on the part of the Bank. A striking number of ADB-financed projects in Pakistan suffer from design flaws and lack of attention to thorough project preparation. The absence of Benefit Monitoring and Evaluation (BME) systems and baseline data necessary for measuring success is repeatedly noted. A number of audit reports reveal a persistent lack of consultation with prospective beneficiaries and user groups, as well as a lack of community participation throughout project preparation and implementation. Perhaps most alarmingly, according to OED audits, adverse impacts on social equity and income equality that have fostered ethnic instability were reported in certain ADB projects in Pakistan.

Surprisingly, these deficiencies did not necessarily lead to a rating of "unsuccessful" or even "partly successful" from auditors at OED. In fact, projects considered to be "successful" have benefited large landholders at the expense of small farmers and terminated five years behind schedule (South Rohri Fresh Groundwater Irrigation Project);[67] ignored local customs and preferences in project design while failing to account for obvious environmental impacts (Balochistan Fisheries Development Project);[68] and failed to assess the impact of the project or ensure that benefit monitoring and evaluation systems were implemented as required by loan covenants (Third Health and Population Project).[69]

Some of the most egregious examples of failures can be found in "partly successful" projects, such as the Chashma Command Area Development Project and Chashma Right Bank Irrigation Project (CRBIP). The OED audit report laments ADB's failure to conduct any comprehensive analysis of socio-economic and sociocultural conditions in the nearly thirty-year implementation of

[63] Ibid, p. 18.

[64] Asian Development Bank. "Annual Report on Loan and Technical Assistance Portfolio Performance for the Period Ending December 2001." April 2002. The excerpt from the 2001 Annual Report provided on ADB's website under Pakistan and the ADB notes: "ADB's 2001 loan program for Pakistan was a record $957 million in the aftermath of the 11 September attacks. ADB's commitment to help mitigate the impact of the post-11 September events on the Pakistan was reiterated by ADB President Tadao Chino."

[65] Asian Development Bank. *2002 Annual Report.*

[66] Asian Development Bank. "ADB Plans to Provide Pakistan with US$2.4 Billion Over Three-Year Period," press release, 31 May 2002.

[67] Asian Development Bank Operations Evaluation Office. "Project Performance Audit Report on the South Rohri Groundwater Irrigation Project in Pakistan." March 2000.

[68] Asian Development Bank Post-Evaluation Office. "Project Performance Audit Report on the Balochistan Fisheries Development Project in Pakistan." November 1995.

[69] Asian Development Bank Post-Evaluation Office. "Project Performance Audit Report on the Second Health and Population Project in Pakistan." December 1998.

various stages of the project.[70] According to recent estimates from organizations working with communities in the project area, more than 50,000 people have been or will be negatively impacted by this extensive irrigation project.[71] While more than 20 villages are expected to be involuntarily resettled, no participatory resettlement plan has been prepared as required by ADB policies.[72] Traditional irrigation systems were destroyed[73] and "there was no explicit consideration of the resources, needs, and objectives of the farmers, whose financial status and objectives decide which crops they will plant and which cultural practices they will apply."[74] While the ADB appraisal report noted the project's contribution to "a Pashtun tribal migration of possibly historic proportions," no references were made to the impacts of this migration and no measures were incorporated to address the situation.[75] ADB auditors cited "possible ethnic tensions as a result of the project."[76] As predicted, minority Siraiki-speaking people are now facing in-migration of majority Pashtun, threatening the "politically sensitive" demographic balance.[77]

Projects rated "unsuccessful" include economic, social and environmental debacles, such as the Faisalabad Water Supply, Sewerage and Drainage Project in Pakistan. The sewerage facilities under this ADB-supported project were never completed, so sewers dumped untreated wastewater into drains and irrigation canals that rural people used for bathing and for drinking water. Polluted irrigation water was used to cultivate vegetables around Faisalabad, leading to a high incidence of diseases in the city. [78] Sixteen years after the loan became effective, customers in Faisalabad were receiving little or no water and extensive pollution from overflowing sewers was "commonplace."[79] At the time of the OED audit, nearly two decades after its scheduled termination, the project still had not been completed.[80]

Sri Lanka

Sri Lanka has been an ADB client since 1968, borrowing nearly $3 billion from the Bank in the past three decades. During the 1990s, Sri Lanka was one of the top borrowers from ADB's concessional lending window, along with Pakistan, Bangladesh and Vietnam. In 2002, the ADB provided $236.5 million in new loan commitments to Sri Lanka.[81] For 2003 through 2005, $600 million is proposed for twelve loan projects in Sri Lanka.[82] With new hope for peace after nearly two decades of civil war, Sri Lanka is likely to receive more loans from the ADB and other international financial institutions in the coming years.

As of December 2002, the ADB had provided 112 loans to Sri Lanka to support projects in sectors such as agriculture and natural resources, social infrastructure, finance, and transport. The ADB's record in Sri Lanka is apparently even more dismal

[70] Asian Development Bank Post-Evaluation Office. "Project Performance Audit Report on the Chashma Command Area Development Project in Pakistan." December 1998, p. 1.

[71] Japan Center for a Sustainable Environment and Society (JACSES). "Report on Facts and Concerns Regarding Chashma Right Bank Irrigation Project- Stage III (CRBIP-III) and Grievance Redress and Settlement Committee (GRSC)." 7 May 2003, p. 13.

[72] Hirak Development Center, Damaan Development Organization, Action Aid-Pakistan, Creed Alliance, Chashma Affectees Committee, SUNGI. "Chashma Inspection Request Filed with the Board Inspection Committee Under the Inspection Procedures of the Asian Development Bank." 19 November 2002.

[73] Ibid.

[74] Asian Development Bank Post-Evaluation Office. "Project Performance Audit Report on the Chashma Command Area Development Project in Pakistan." December 1998, p. 2.

[75] As quoted in "Chashma Inspection Request Filed with the Board Inspection Committee Under the Inspection Procedures of the Asian Development Bank." 19 November 2002, p. 27-28.

[76] Asian Development Bank Post-Evaluation Office. "Project Performance Audit Report on the Chashma Command Area Development Project in Pakistan." December 1998, p. 13.

[77] Hirak Development Center, Damaan Development Organization, Action Aid-Pakistan, Creed Alliance, Chashma Affectees Committee, SUNGI, "Chashma Inspection Request Filed with the Board Inspection Committee Under the Inspection Procedures of the Asian Development Bank," November 19, 2002, p. 28.

[78] Asian Development Bank Post-Evaluation Office. "Project Performance Audit Report on the Faisalabad Water Supply and Sewerage Project in Pakistan." April 1996, p. 12.

[79] Ibid., p. 1.

[80] Ibid., p. 15.

[81] Asian Development Bank. *2002 Annual Report.*

[82] Asian Development Bank, "Country Strategy and Program Update (2003-2005), Sri Lanka," July 2002.

than its performance in Indonesia or Pakistan. **It appears that as much as 78 percent of ADB projects in Sri Lanka may be considered unsustainable or failures – the equivalent of $1.2 billion of Sri Lanka's debt to the ADB.**

OED Project Performance Audit Reports for completed ADB projects in Sri Lanka reveal disturbingly consistent failures, such as inappropriate project design; cost overruns and time overruns of more than 100 percent; the absence of Benefit Monitoring and Evaluation systems and baseline data necessary for measuring success; policies and projects that exacerbate poverty and increase social inequity and ethnic tension; lack of consultation with prospective beneficiaries and local communities; severe operation and maintenance deficiencies and substandard construction; project preparation based on assumptions instead of facts, analysis, and an understanding of local realities; and a failure to mitigate severe environmental and social impacts.

Some of the most alarming failures are found in ADB-supported irrigation projects in Sri Lanka. For example, the "successful" Walawe Irrigation Improvement Project was supposed to rehabilitate a deteriorating ADB project, but the OED evaluation determined that the benefits under the second project would also be lost within a decade.[83] The "partly successful" Kirindi Oya Irrigation and Settlement Project benefited only a small number of people, despite its high cost, and actually increased income inequality and social tensions in the project area. Local communities were not adequately consulted and more cost-effective alternatives were not considered. [84]

However, ADB-supported disasters were not limited to the irrigation sector in Sri Lanka. The "unsuccessful" Sevanagala Sugar Development Project left 500 resettled families without land allotment at the time of the OED review – including settlers who were moved some 10 years previously on the promise of future allocations. In its audit report, OED dryly noted that the security of these families was "uncertain." [85] Construction projects for Sevanagala that were initiated a decade earlier had still not been completed, and many required overhaul due to poor construction quality.[86] The project caused air, soil, and groundwater pollution and project design led to significant water wastage. According to OED, if the opportunity cost of this wasted water was considered, "all project benefits would [have been] wiped out."[87]

Given the ADB's shockingly poor performance as detailed in this report, it should come as no surprise that recent ADB Annual General Meetings (AGM) have been the site of massive public protests. At the Bank's meeting in Thailand in 2000, over 5,000 villagers, fishers, farmers, teachers and health workers affected by ADB projects surrounded the meeting site, held demonstrations, and built a shanty-town outside of the upscale hotel where the AGM was being held. Tadao Chino, the President of the ADB, refused to leave the hotel to meet with the protestors.

In an effort to avoid protestors at its 2001 meeting, the ADB changed its planned U.S. venue from Seattle to isolated Hawai`i where, despite the state's dismal economic situation, they "bullied local officials for all the financial concessions they could possibly get," "stoking fears of mass unrest and prompting the largest law-enforcement operation in Hawai`i's history."[88]

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[83] Asian Development Bank Operations Evaluation Office. "Project Performance Audit Report on the Walawe Irrigation Improvement Project in Sri Lanka." December 1999, section III, p. 10-11.

[84] Asian Development Bank Operations Evaluation Office. "Project Performance Audit Report on the Kirindi Oya Irrigation and Settlement Project in Sri Lanka." December 2000, p. 3, 11-12, 13.

[85] Asian Development Bank Post-Evaluation Office. "Project Performance Audit Report on the Sevanagala Sugar Development Project in Sri Lanka." August 1995, p. 12-13.

[86] Ibid., p. 6.

[87] Ibid., p. 12, 14.

[88] "Protests, economic pain cloud Asian financial meet," Reuters Press. 5/7/01; "ADB: Shanghaied in Honolulu," Honolulu Magazine; "U.S. to pay half of ADB security tab," Honolulu Advertiser, 11/3/01. At the time, the state of Hawai`i had the highest debt levels in the United States (with 13 percent of general fund resources consumed by debt service). According to Honolulu Magazine, the ADB forced the state to waive its hotel tax for the duration of the meeting, had all fees waived for use of the gigantic Honolulu Convention Center, "got more than a million dollars in

On May 9, 2001, the Honolulu ADB meeting sparked one of the largest mass demonstrations seen in Hawai`i in close to 30 years.[89] As protestors surrounded the Honolulu Convention Centre, ADB President Chino, apparently fearing that the Honolulu police would attack them with "clouds of tear gas, creating sizzling, pay-of-the day video clips for the evening news" came out to meet the protestors.[90] A Thai villager affected by an ADB project held President Chino firmly by the arm as a non-governmental organization (NGO) leader read a detailed list of demands, titled "The People's Challenge to the Asian Development Bank," signed by 68 NGOs (Appendix A).[91]

In "The People's Challenge to the Asian Development Bank," groups asserted that the ADB has, "in the name of development, …destroyed the livelihoods of people, brought about the disintegration of local and indigenous communities, violated ancestral domains, undermined sovereign self-determination, promoted a sharp rise in inequality, deepened poverty, and destabilized the environment." They deplored "the inconsistency with which the ADB requires good governance, transparency, and accountability from borrowing governments while at the same time, fails to impose the same strict standards upon itself." Seeking "genuine dialogue with the ADB," the groups insisted that "development must not be a process that creates refugees" and called upon the Bank to:

- halt controversial/disputed projects and conduct an independent review of projects "that directly threaten people's livelihoods and economic and social security";
- acknowledge that ADB-financed projects have displaced peoples and created a new class of "development refugees";;
- "assess the compensation needs of all those people whose livelihoods have been negatively affected, particularly those displaced as a result of past ADB projects, using open, transparent, and participatory processes" and implement adequate compensation measures;
- set up a "rigorous mechanism for reparation for the negative impacts of past and existing projects";
- implement "appropriate mechanisms to monitor the environmental, social, and economic impacts and costs of all projects";
- implement "transparent and universally accessible grievance procedures through which the ADB can be held accountable for the violation of its own guidelines";
- ensure that "review panels for projects, programs, operations and governance" are "equally balanced in their composition among affected peoples, civil society and independent experts" and to ensure that "affected peoples and civil society" have "the right to select their own representatives on these panels";
- agree to halt, pending independent review, all "sectoral reform processes" and

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communications, limos, food, 'gratuities' and greeting services donated by local corporations," "got [the head of the Hawai`i Tourism Authority] to give the Honolulu Police Department $500,000 for riot toys out of his tourism budget," and hired an intelligence consultant to "report on 'the agenda of the locals.'" Hawai`i's state and local police departments spent at least $3.3 million on security for the ADB meeting, only half of which was refunded by the federal government. Prior to the AGM, a series of "ADB laws" were introduced at the Hawai`i state legislature and Honolulu City Council, designed to severely curtail civil liberties. The ACLU brought a lawsuit alleging an "unlawful conspiracy" to violate First Amendment Constitutional rights of ADBwatch members by the state of Hawai`i, the city of Honolulu, the Tourism Authority, and the Honolulu Police Department in the context of the ADB AGM.

[89] The "ADB AGM story" was voted one of the top ten news stories of the year in Hawai`i by the daily papers. The heavy-handed nature of the ADB's financial demands and security needs for their Honolulu meeting galvanized a wide range of ordinary citizens into taking part in the demonstration at Honolulu Convention Center during the ADB meeting. The public mobilization against the ADB trained a new generation of activists and set the stage for significant anti-war demonstrations in the years to follow.

[90] "ADB: Shanghaied in Honolulu," Honolulu Magazine, July, 2001.

[91] The ADB held its next Annual General Meeting in Shanghai in 2002, a location perhaps more "secure" than Thailand or Honolulu. In 2003, ADB cancelled the week-long AGM scheduled for Turkey citing security concerns related to the Iraq war. The AGM was moved to a one-day meeting at Bank headquarters in Manila from which villagers and NGOs were excluded.

the Bank's “Private Sector Development strategy”;

- “take into consideration political, social and economic realities” such as “distributional disparities that render markets uncompetitive and exclude the poor” and “weak governance structures that render regulation ineffective and incapable of upholding consumer and worker rights”;
- ensure that future ADB policies and practices “emerge from public debates and discussions, and not through closed-door negotiations among elite groups of ADB management, national and government elites and technical ‘experts’”;
- "open to public scrutiny decision making and agreements between the ADB and host governments about programs and projects";
- agree to the “full and unconditional cancellation of the illegitimate debts of ADB’s borrowing countries, given that “close to 70 percent of its loans to the developing countries will fail to produce lasting economic or social benefits.”

These demands are outstanding while protests against the ADB continue. Given the ADB’s record in countries such as Indonesia, Pakistan, and Sri Lanka, urgent and far-reaching reforms are needed, in accordance with the NGO demands cited above. Otherwise, it is clear that the ADB will increasingly be an engine for economic failure, environmental destruction, indebtedness, and growing social and political instability throughout the Asia-Pacific region.

VIII. The ADB's Water Policy

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In January 2001, the Asian Development Bank (ADB) adopted a new Water Policy to respond to the perceived lack of effective water policies and institutional arrangements that govern water use and allocation in its Developing Member Countries (DMCs) in the region. To avail of future Bank loans, governments must adopt and implement national water laws and policies, institutional reforms and a national water action agenda.

ADB's cumulative financing in the water sector since 1966 exceeds US$16 billion, or an average of 18 percent of the Bank's total lending. These include projects in water supply and sanitation (28%), irrigation and drainage (18%), hydropower (17%), flood control (4%) and 'multisector' (33%).[92]

ADB's private sector lending in the water sector started in 1999, with Bank loan approvals for three water supply projects in Chengdu (People's Republic of China), Manila (Philippines), and in Ho Chi Minh City (Vietnam).

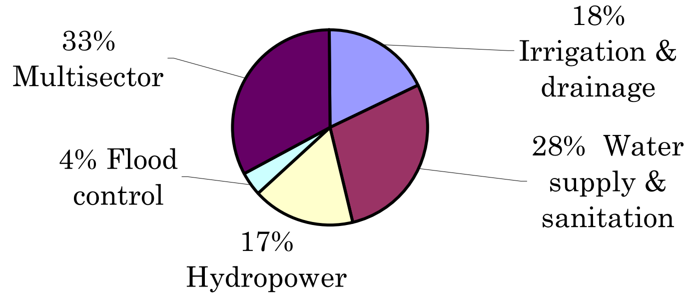
At the recent Third World Water Forum (WWF3) held in Kyoto in March 2003, ADB showcased its new water policy by organizing a series of workshops not only in Kyoto but also around the region preparatory to WWF3. These events revolved around the themes: 'Water & poverty'; 'Water in cities'; 'Water in small island countries'; and 'Regional cooperation for shared water resources management.'

A contentious water policy

The Bank's new policy[93] promotes the concept of water as a "socially vital economic good" which needs integrated management in a participatory manner to sustain equitable economic growth and poverty reduction. ADB's water policy aims to: (a) promote focus on water sector reforms across the Bank's DMCs; (b) foster integrated management of water resources; and (c) improve and expand delivery of water services through autonomous & accountable service providers, private sector participation in 'public-private partnerships'. The policy also promotes regional cooperation for the mutually beneficial use of shared waters. Integrated water resource management (IWRM) is a universally recognized aspiration and is no cause for debate.

What is highly contentious, however, is the policy's thrust to treat water as an economic good just like any other tradable commodity, with its use and allocation determined by market principles. This will foster the emergence of water markets and a regime of 'tradable water rights' that is anathema to long-held notions of water as a social good and a resource freely available in nature upon which are based livelihoods and whole cultures of rural and indigenous communities. Water is vital to life itself and access to water for basic needs are a fundamental human right that should not compromised by profit motives.

Bank lending in water sector (1966-2000)



[92] Figures from: ADB, *Water in 21st Century*, 2000.

[93] ADB, *Water for All*, January 2001.

The push to commodify water comes at a time when the social, political and economic impacts of water scarcity are rapidly becoming a destabilizing force, with water-related conflicts springing up around the region and the whole globe. This policy thrust, coupled with current centralized, mega-engineering-oriented, supply-driven and capital-intensive orthodoxies, spell-continuing marginalization for poor communities at the periphery who almost always bear the brunt of policies crafted at the centre.

Experience increasingly shows that selling water on the open market does not address the needs of poor, thirsty people. On the contrary, privatised water is delivered to those who can pay for it, oftentimes at great social and environmental costs. Large agribusiness interests, high-tech industries and water supply multinationals are not engaged in the business of philanthropy to the poor, as institutions like ADB and the World Bank would have us believe. The private sector is in the water business for profit and, when push comes to shove, neither corporate goodwill nor good governance can displace hefty bottom lines.

Particularly contentious provisions of the ADB water policy are reflected in the following:

- Water will be reallocated through "*markets of transferable water rights"* and to "*high-value uses of water";* in the same breath, mention is made of the agriculture sector's steadily decreasing contribution to growth, implying that agriculture is not a "high-value" use for water. This reinforces current shift of limited water resources from agriculture to industry and cities, thereby making poor farmers poorer and exacerbating food insecurity.
- On 'public-private partnerships', the policy pronounces, *"global experience indicates that public responsibility and ownership are often best blended with private management.*"
- On improving water services (for irrigation & urban water supply), the policy states that "p*rivate sector initiatives and market-oriented behaviour are expected to improve performance and efficiency."* ADB will "*provide innovative financial packages to enable commercial lenders and promoters to manage the risks involved"*. Moreover, "*where utilities are privatised, ADB's various financing and guarantee modalities (will) help obtain access to credit with longer maturities and provide debt relief from the debt burden in the early years of operation."*
- On improving water governance, the Bank will "*dialogue with governments to modify their roles and increasingly adopt functions of a regulatory nature.*"
- On full-cost recovery and water charges, the policy states that "governments are well advised to adopt the principle of full cost recovery in their national water policies, and to develop appropriate programs to phase it in as soon as possible, as part of the recommended three-pronged strategy for demand management. The Bank will therefore vigorously promote full cost recovery for all water projects, including the capital investment and operation and maintenance costs, environmental externalities, and resource management costs." "The costs of improving resource management can be levied to bulk water users and suppliers and passed onto consumers through a resource management component of the service fees in water supply and sanitation, irrigation and drainage, and electricity services, the latter in countries with hydropower projects."
- On irrigation and water conservation, the Bank will promote financial incentives for optimising water use through "*water use rights*, *licenses and charges, tradable permits*". Water will be conserved and system efficiencies increase through cost recovery. The policy goes on to say that "g*overnments have been consistently mistaken in their assertions that charging farmers for irrigation services is not possible because of their inability to pay."* The Bank will "*promote*

the phased elimination of direct subsidies to the poor for accessing basic water services in line with an increase in affordability levels."

- The policy cautions that "*in the long term, governments and regulatory agencies will be persuaded to phase out subsidies."* ADB will only support subsidies (e.g., in urban water supply, irrigation services) under the following circumstances – to prevent health problems; where transaction costs of measuring usage are very high; or where "*a limited quantity of treated water for the poor is regarded as a basic human need*".
- On "*large water resource projects*" (e.g., dams and irrigation projects), the Bank will adopt a *"cautious approach",* but "*where risks are acceptable & ADB's involvement necessary, ADB will ensure that its environmental and social impact assessment procedures are rigorously applied."*
- On dams specifically, ADB says it will "continue to extend its support for technically and economically feasible hydropower projects that form part of a country's least-cost energy development plan, provided their environmental and social effects can be satisfactorily managed in accordance with ADB policies."
- On alternatives to large-scale infrastructure projects, the policy is largely silent on promoting and investing in much cheaper, more culturally appropriate and demand-side management technologies, such as water conservation measures, rainwater harvesting in India, alternative sewage disposal schemes as implemented by local NGOs and communities in Orangi (Karachi, Pakistan).

A 'new generation' of water projects

The new ADB policy ushers in a 'new generation' of water projects, which builds on country-specific analyses of water resource needs, constraints, and potential. Four new water projects are illustrated and critiqued in the succeeding sections – national water policy reforms in Sri Lanka; irrigation management agreements in Indonesia; private sector participation (PSP) in urban water supply in People's Republic of China (PRC) and Philippines.

National water policy in Sri Lanka[94]

ADB's first country-specific analyses of water resource needs, constraints, and potential was in Sri Lanka in 1993; this later led to the formulation of a national water sector profile and reform action plan. An ADB loan to the Ministry of Water Resources and Irrigation -- "Water Resources Management Project" -- became effective in October 2001 and supported the development of a new water policy. The loan also aimed to establish the National Water Resource Authority (NWRA), the new apex body responsible for water resource management in Sri Lanka. The Sri Lanka Water Policy was approved by the Cabinet in March 2002. Due to adverse public reaction to some aspects of the policy, the Sri Lanka water policy is being reviewed. Enactment of the Water Act - scheduled in June 2003 – intends to provide more time for public consultations.[95]

Critics of the Sri Lanka water policy contend that it is not a genuine national water policy that is neither a creation of bureaucracy nor the people of Sri Lanka, but simply an application of ADB water policy under the government logo. The new water policy vests all water rights in the state and allows the government to trade and sell water resources, a concept that is alien especially to rural communities not only in Sri Lanka but to most countries in the region. NGOs contend that government should act only as the custodian of the nation's water resources and its powers in this regard will be exercised as public trust. All water should be treated as part of the common resource. Moreover, with 'tradable water rights', entitlement holders are protected but not others who do not have such water entitlements. There is no guaranteed security mechanism to protect the poor in this new water entitlement business. The

[94] Critique provided by Hemantha Withanage/Environmental Foundation Ltd (EFL), Sri Lanka, June 2002.
[95] ADB President Chino response to NGO Forum critique on MWSS privatization (provided EFL, June 2002.

loss of the common people's rights over water will create serious impacts in society and the environment.

Peasants groups also allege that the new policy is but part of a continuing trend promoted by the multilateral banks (ADB and WB), which earlier in 1996 supported a proposal to charge irrigation user fees to the country's 1.8 million farming families. This move was also intended to wean farmers away from growing non-export food crops, the rationale being that as long as government continues to supply free water to farmers, farmers will continue to cultivate what they wish.

Aside from Sri Lanka, ADB is also a major supporter of water policy reforms in Lao People's Democratic Republic, Pakistan, and Vietnam.

Irrigation management agreements in Indonesia[96]

Water services involve two major areas: (a) rural and urban water supply; and (b) irrigation and drainage. There is far less experience in PSP in irrigation/drainage as in water supply & sanitation.

In Indonesia, a major water policy reform is being undertaken under loans provided by the World Bank, ADB, Netherlands Government and other donors. The Irrigation Management Policy reform and a related government regulation issued in 2001 redefine the roles of government, water user associations (WUAs) and other stakeholders in irrigation management. Irrigation systems will be transferred to WUA through an irrigation management agreement; operation and maintenance (O&M) will now be the primary responsibility of WUAs. The old practice of irrigation service fee has been abolished, with WUAs now authorized to levy and collect irrigation management fees.

A water resources bill is currently being discussed in the Indonesian Parliament; Parliament is expected to pass a modified version of the law in late October 2003. Several NGOs and people's organizations cry foul over, among others, issues on water allocation amidst conflicting uses of water and privatisation of the water resource.

PSP in urban water supply

In water supply and sanitation (WSS) projects, 90 percent of ADB lending had been for urban areas, and only 10 percent directed to investments in rural areas where most of the poor live. In a 2002 evaluation of WSS projects,[97] the ADB concludes that its projects in the sector have been "successful in physical terms and have significantly benefited women and assisted gender equality." Women and children are largely tasked with the burden of carrying water over long distances from water sources to home. However, two key problems are identified: (a) the low prices typically charged for water, and (b) the lack of private participation and competition in the industry.

According ADB's Principal Water Supply Specialist, fundamental issues in Asian urban water supply include the low coverage of piped water common in Southeast Asia, and intermittent water supply that is more prevalent in South Asia. In both cases, the root causes are poor governance and inadequate tariffs. Good water governance should start with an effective water policy and continues with independent regulation whether on public or private operators. Operators should be given incentives to perform against carefully selected criteria or benchmarks. Meanwhile, unconnected urban poor are doubly disadvantaged in the present situation: (a) they have to pay a higher price – sometimes as much as ten times more – for vended water that is of dubious quality; and (b) insufficient tariffs means there is no money for public investments in expansion of the water service.[98]

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[96] This section drawn largely from: M. Jamilur Rahman's (Principal Project Specialist, Southeast Asia Department/ADB) *"Improving water services in irrigation and drainage"*, presented at ADB Water Week, 9-13 December 2002, Manila, Philippines.

[97] ADB, *Impact evaluation studies on water supply and sanitation projects in selected Developing Member Countries*, December 2002.

[98] Arthur McIntosh, *"Water in Asian cities – the Challenge"*, presented at the Regional Consultation on Water in Asian

In the Bank's experience, regulation by contract is often a "less than satisfactory arrangement". ADB hence supports the establishment and capacity building of regulatory bodies to: (a) help achieve agreed service and performance standards; (b) protect consumers from excessive tariffs; (c) assure investors that contracts are enforced; and (d) to control corruption. ADB also argues that there is no universal regulatory model suitable for all conditions, and that regulation is an evolving process.

BOT in Chengdu (PRC).[99] The ADB-funded Chengdu Water Supply Project is a BOT arrangement under which a foreign consortium builds and operates a facility for several years before transferring it to the local government. Chengdu is the capital of Sichuan province and was chosen by the central government to host the BOT project partly because the city forecast a significant increase in its need for piped water. This is the first water supply BOT project in the PRC and the ADB's first private sector project in the water sector.

Water will be diverted from the Xuyan and Botiao Rivers to a new water treatment plant; a 27-kilometre pipeline will transfer the purified water to Chengdu's pre-existing distribution pipes, which remain under government control. Construction of the first stage was completed in February 2002.

The joint venture company, Chengdu Generale des Eaux-Marubeni Waterworks Company (CGEM), is owned 60% by France's Vivendi Water and 40% by Marubeni Corporation of Japan. Of the project's total cost of US$106 million, 30% is being funded by the French and Japanese partners and 70% by a group comprising ADB, European Investment Bank, and five commercial banks led by Credit Lyonnais. ADB has provided a total US$48 million loan to the project.

While this project was being worked out by ADB's private sector arm, the Bank's public sector department had been assisting PRC to come out with groundbreaking national guidelines on water tariffs. An Urban Water Tariff was crafted in October 1998, and a tariff increase policy has been in place for the past five years.

Project enthusiasts claim two major benefits of the Chengdu BOT project – innovative financing modality and syndication, and technological and managerial skills transfer. Closer scrutiny of the Chengdu BOT project, however, reveals major downsides – expensive 'take or pay' water, and household consumers still treating water!

- *Innovative financing modality and syndication.* The Chengdu project demonstrates that the BOT modality can be implemented at municipal level and can be funded without central government guarantee. The project won several awards for excellence in project financing by major financial publications. Success of this pilot project is important to the PRC, as it encourages foreign firms to participate in constructing and managing its urban infrastructure, including water facilities.

- More than a year into operation, however, Vivendi says that although the Chengdu project is an "exemplary financing success," it should only be considered as a "pilot project not to be duplicated in its present form," nor should it be considered as "the panacea for water (and wastewater) projects in China." What Vivendi now prefers is a "mixed BOT/lease contract formula" based on the economic life of the assets to be financed; a return on investments in BOT is usually longer to reach than in a lease concession project.

ADB also concedes that BOT in water tends to be limited to supply and treatment facilities. "Cherry picking" by private operators select only the profitable components; BOT does not help to reduce the high levels of non-revenue water that are caused by inefficient distribution systems.

Cities – the Role of Civil Society, 14-16 October 2002, Asian Development Bank, Manila, Philippines.

[99] This section taken from: Ian Gill, *Water: Pioneering Project*, ADB Media Center (2002); Bernard Poignant, International Finance Project Director/Vivendi Environment, *Improving water supply and sanitation with private sector involvement*, presented at ADB Water Week, 12 December 2002, Manila; Staff reporter in Chengdu, *Western Development - Water plant litmus test for 'Go West' scheme*, South China Morning Post, 31 October 2001;

• *Technological and managerial skills transfer.* The Vivendi Water plant was built according to "rigorous international standards using advanced technologies to treat water cost-efficiently". The treatment plant is fully automated and employs half the number of staff employed in a nearby Chinese plant that has 1.5 times more capacity. After 18 years, the water plant will be transferred to government. During the 2-year construction phase, expatriate managers also claim that the Chinese have benefited from modern management techniques – detailed programming, continuous cost/budget monitoring and control, and close project coordination.

• *Expensive 'take or pay' water.* Local residents and the local press report that the "French water" is more expensive than locally produced water. Vivendi, however, argues that their water is still affordable as water budget represents only 1% of the average household budget.

The BOT contract stipulates that the Chengdu government shall take or pay a minimum of 400,000 m^3 per day based on an undisclosed amount specified by CGEM in its original bid. When the project was awarded in 1998, the authorities estimated that demand for water would continue to increase at nearly 7% annually. A slowdown in growth, however, has meant a shortfall in demand, which means that Chengdu has been paying Vivendi for treated water that is not being used, or may have no need to be produced at all!

• *Consumers still treat water!* Although the new "French water" is of potable quality, most Chengdu consumers still boil tap water or run it through a purifying machine before drinking it. Although purifying piped water or buying bottled water is inconvenient and costly, residents worry about possible contamination from the distribution system's aging pipelines. Vivendi officials concede they could not guarantee the water that reached the public would be pure, since they were not in control of pipe quality, which had a 40 per cent leakage rate. Hence, the $106-million water treatment facility is fast becoming a white elephant as long as aging distribution pipelines remain in place in Chengdu!!

ADB has significantly increased its portfolio for WSS projects in PRC; in 2002-2004, several projects are being proposed in medium-sized cities that will involve private sector participation. Moreover, the Bank will provide technical assistance to prepare a rural water supply strategy in 2003 and a long-term national water sector framework in 2004.

Concession in Manila (Philippines)[100]
The concession model of PSP involves the franchising of the rights to provide water, sewerage, and drainage services through a government-owned concession. In Manila, services were awarded in 1997 in two concession contracts for 25 years. In April 2002, ADB President Tadao Chino only had glowing remarks about the MWSS privatisation, one of the largest in the region – "more people have access to piped water, especially among the poor; service quality has improved markedly with regular hours of supply, fewer interruptions, and an improvement in water quality; in general, water concessions improve service coverage and quality, and efficiency of operation."[101]

In December 2002, one of the concessionaires (and ADB's private sector client) – Maynilad Water Services (with French partner Ondeo/Suez) – terminated its contract with government, blaming government for its own failure to deliver water services, and seeking the return of at least US$303 million it supposedly invested in the privatised water utility. In January 2003, Maynilad threatened not to return its concession unless paid the early termination amount provided for in the 1997 contract. Government, on the other hand, says it is prepared to take-over the concession should there be no interested third party

[100] Critique excerpted from: Violeta Corral, *The failed water privatization in Manila,* In "Truth Behind Water Privatization," Japan Center for a Sustainable Environment and Society, March 2003.
[101] Tadao Chino, *"ADB's Water Financing Policies and Experience,"* Opening remarks at the Second Meeting of the World Panel on Water Infrastructure Financing, 18 April 2002, ADB Headquarters, Manila, Philippines.

takers. The case is currently under closed-door international arbitration.

Under the Bank's Private Sector operations, ADB provides loans without government guarantee, such as the US$170 million loan approved for Maynilad in 1999. This amount was roughly 50% of the total $350 million debt package being raised by Maynilad to meet its capital investment requirements. According to ADB, what the Philippine government had provided Maynilad as part of the privatisation design was a "performance undertaking" to support the obligations of MWSS under the 1997 Concession Agreement. ADB approved the loan despite Maynilad already experiencing severe financial problems brought about, among others, by its assumption of MWSS' foreign loans worth US$800 million prior to the Asian financial crisis.

- *Rising water prices.* When the government approved a Foreign Currency Differential Adjustment in the water rate in October 2001 – and thereby amending the terms of the original concession agreement – water prices immediately went up. By January 2003, basic water rate for Maynilad has increased four-fold; for the other water company (Manila Water), the rate has increased almost 500%.

- *Non-revenue water (NRW) also went up!* What ADB does not readily advertise is that, contrary to claims of necessarily better management practices by the private sector, NRW (or water losses due to water leaks, pilferages, etc) did not go down but even went up from 56% in 1997 to about 62% by end-2001. The benchmark for NRW reduction set in 1997 was 37% in 2001. A 62% NRW means that both water companies collect only on a third of every cubic meter of water they produce.

- *No (felt) improvement in service coverage.* MWSS regulators dispute both private companies' claims of improved coverage, citing exaggerated figures because of how the companies define a 'water connection' and how they calculate number of persons in an average household. In a 2000 MWSS survey of residents of 100 communities in Metro Manila, 55% thought there had been no change in the water service while 12% claimed the service was worse; only 33% noticed an improvement. Moreover, 'Mickey mouse' targets in sanitation and sewerage had no hope to be attained in the near future as major investments in sanitation/sewerage have yet to be undertaken by both companies.

- *Urban poor coverage.* The two private water companies claim service coverage to the urban poor, with a total of over 100,000 households installed to date. Urban poor households who are now connected pay much less for water than in the past when they buy water from vendors. Women and children no longer need to line up two to three hours a day, or even more, just to save water for the day's consumption. The greater challenge to servicing urban poor areas, however, is sustainability of the service given the following: (a) higher financial investments involved in laying down pipes in urban poor settlements; (b) the high cost of connection fees; and (c) the lack of security of tenure of informal settlements.

ADB says that it will be preparing "Project Completion Reports" on each of the ADB loans to MWSS, with the first one commencing in early 2003. ADB staff have expressed their interest in closely consulting with 'knowledgeable' NGOs during the preparation of these reports; to date, none of the more critical NGOs have been contacted by ADB for these assessments. Despite current dubious experience with the private sector in urban water supply, ADB says it "remains interested in ensuring the success of privatisation in the water supply sector in Metro Manila."[102]

[102] ADB President Chino response to NGO Forum critique on MWSS privatization (provided by Freedom from Debt Coalition), June 2002.

IX. ADB and Privatisation of Power Services

Fabby Tumiwa, Indonesian NGO Working Group on Power Sector Restructuring (WG-PSR)

Introduction

Electricity or Power sector in many developing countries are undergoing fundamental changes that are enormous in their scope and depth. Across the world the vertically integrated government owned utilities, responsible for generating, transmitting and distributing electricity to the public, are being unbundled into separate entities or subsidiaries of generation, transmission, distribution and retailers. While electricity is an essential basic service for people all over the world, however, governments in developing countries are being pushed to privatise the power industry and transfer the ownership to the private sector.

The reform has been driven by the widespread problems experienced under public monopolistic ownership. For example, crippling capital shortages, perverse subsidies and, inefficient and unreliable plant technology, system operations, service delivery and, business administration. In addressing these problems, many developing countries implemented power sector reform or power sector-restructuring program.

Power sector reforms are backed by economic and political agenda of the governments, as well as multilateral and bilateral institutions. The reforms are not always set or designed to solve problems in the power sector in developing countries. In some cases, power sector reform is taken simply to meet conditionality set by development aid agencies and multilateral development banks and/or to comply with regional or global trade arrangements. Furthermore, they are legitimised by the captivating rhetoric supported by the neo-classical theoretical discourse, which have enthralled the elite in these countries. The enormous human resources at the disposal of the multilateral and bilateral institutions allow evolution of this mainstream rhetoric, the theoretical propositions that support it, and complimenting policy prescriptions.

In Asia, the Asian Development Bank (ADB) plays a major role in proposing and supporting the power sector-restructuring program, together with the World Bank and development aid agencies such as the USAID. These institutions argue that power sector reform is needed by developing countries, because it will attract private investment for building power infrastructures, improving efficiency, and provide access and better service for the poor.

ADB's Role on Privatisation of Power Services

ADB's role in power sector development in its developing member countries (DMCs) started in early 80s. The ADB released its first Energy Policy Paper in March 1981. This paper emphasises on the development of energy infrastructure, including power infrastructure, creation of incentives to bring foreign investment to the country and prioritised social and environmental impacts on new energy projects. The Bank believe that economies of scale make it more attractive for large producers, such as government owned utilities, to monopolise the supply of power since this would ensure that the consumers would receive electricity at the lowest cost.

In 1995, the ADB released its second Energy Policy Paper. In this paper the ADB mentioned that the energy sector in developing countries is getting bigger, unmanageable, and inefficient. The monopoly and the role of governments as owners of state-owned companies and policy-maker at the same time are the reasons why the performance of the energy sector is worsening. Governments were therefore blamed for distorting the market.

Addressing this problem, The Bank pushed power sector restructuring in the medium-term involving unbundling the mix of generation, transmission and distribution, and introduced elements of market competition to minimize monopolistic segments of the power sector by the state in order to enable greater private sector participation. In the short term, it promoted corporatization and commercialisation of government-owned utilities as a prelude to their privatisation and the entry of private sector through BOO/BOOT (Build-Own-Operate/Build-Own-Operate-Transfer) options. It also encouraged tariff setting through independent and transparent regulations, increasing tariff towards its economic level and removing cross subsidy in tariff structure by focusing sharply on demand side management.

One important issue is the role of the private sector in the power sector reform. The ADB sees the private sector as the main engine of structural reforms and believes that private sector participation plus market-oriented mechanisms are crucial in order to improve performance and efficiency. ADB pushed its DMCs with very weak institutional bases to introduce private sector participation through contracting out operations and maintenance of power plants and commercial functions such as billing and collection. For DMCs with stronger institutional, operational and financial capabilities, the private sector could be attracted to independent power generation and transmission activities. In DMCs with a mature energy sector, the private sector could be interested in investing in its own or jointly with the public sector, or in making equity investment in energy sector entities that have been successfully restructured into corporations and listed on the stock exchange (Tellam, 2001).

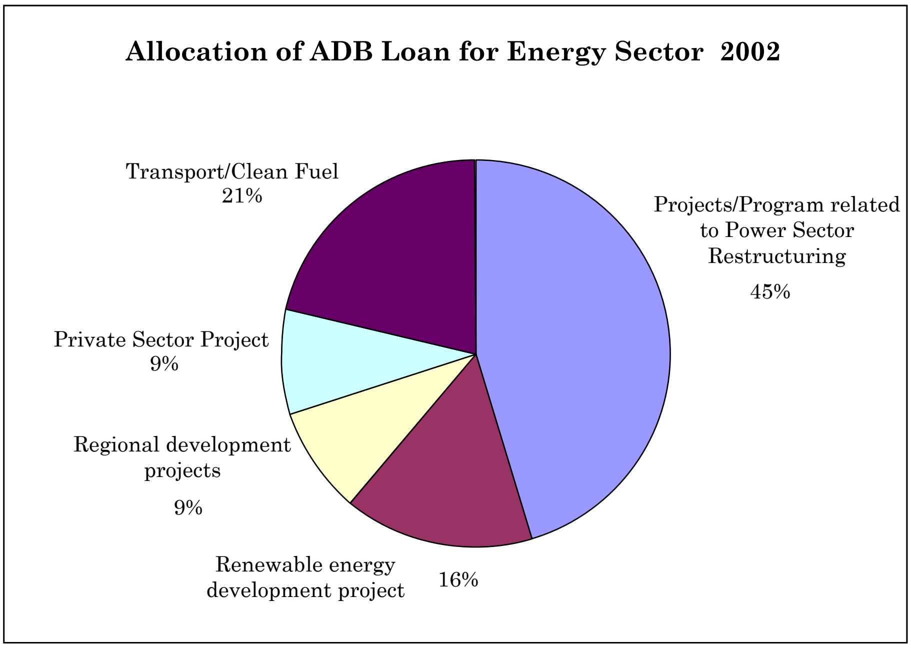
In November 2000, the ADB released the paper "Energy 2000: Review of the Energy Policy of the ADB", which superseded the 1995 Energy Policy. Energy 2000 listed four operational priorities for the ADB, namely:

1. Poverty reduction by creating energy infrastructure for sustainable energy growth;
2. Increasing private sector involvement by restructuring energy sector and creating enabling environment for private sector;
3. Addressing the regional and global environmental impact by use of clean energy, and Kyoto Protocol Mechanism for GHG abatement and financing renewable energy projects and;
4. Promoting regional cooperation by identifying and implementing export-oriented hydropower and natural gas-based generation and transmission projects.

The review was in line with the changing context of the ADB's goal, which was set in 1999 to be that of poverty reduction. Therefore the energy sector operation was supposedly designed to support ADB's approaches to poverty reduction. ADB argues that access to modern energy services (such as power service) has close link to poverty indicators. Access to modern forms of energy makes it possible to get greater gains in productivity, education, agriculture and private investment. Such access is necessary for income generation among the poor people in DMCs (ADB, 2000).

The review affirmed the soundness of the policy and highlighted the following: a) continuous support for private sector participation in the energy sector; b) allocation of funds to DMCs that are willing to restructure their energy sub sector (oil, gas, coal and power) for purposes of attracting private investment; c) support for the build-operate-transfer project types and the Bank's partnership with utilities and private investor to encourage private investment; and d) use of market prices to increase private sector participation.

The importance of power sector can be seen from the allocation of ADB's loan approval and technical assistance for energy sector for fiscal year 2002, which can be seen in the chart.



Source: ADB Annual Report 2002

ADB has taken significant advisory role in restructuring power sector in Asian countries since early 90s. In Bangladesh, ADB has funded power sector restructuring program through 3 loans totalling $ 340 millions, six technical assistance grants and one private sector involvement, since the reform started in 1994. Its interventions led to rationalization of power distribution boundaries, creation of rural power company, Bangladesh Power Grid Company and Dhaka Electricity Supply Company. In regulatory aspect, ADB has supported the Bangladesh Government in drafting of the electricity reform bill. In 2002, ADB awarded $ 850,000 Technical Assistance grant for project preparation activities regarding with corporatization of the Dhaka Electric Supply Authority.

ADB supported power sector reform program in the two Indian states of Gujarat and Madhya Pradesh (MP) in 2000. In the Madhya Pradesh state, the ADB supported the unbundling of the Madhya Pradesh Electricity Board (MPEB) into one-generation company consisting of previous generation plants. It would be run as the profit centre with one transmission and a dispatch company and several distributions companies. To achieve financial viability, ADB required MPEB to apply tariff increase. Since January 1, 2001, the state government and the MPEB reduced free supply power to agricultural consumers and single light point consumers. Both Gujarat and MP state have introduced corporatization and commercialisation principles in their power sector. Private sector is encouraged to participate in building generation and distribution infrastructure. In 2002 ADB awarded the Indian Government with $ 150 million for state power sector reform program. The total cost for this program is about $ 392.7 million, the rest of the fund are coming from Export Credit Agencies, governments, borrowers and co-financing from other institutions.

In the Philippines the ADB loaned $ 300 million for power sector restructuring program in 1999. The World Bank and Japan Bank for International Cooperation provided additional funding for $ 400 million. USAID also provided millions of dollars for technical assistance. To support this reform, the agencies urged the Philippine government to make new power act. In response, the government drafted an Electric Power Industry Restructuring Act (EPIRA). With the other funding agencies the ADB made big efforts to recommend changes in the Power Restructuring Bill (Bohun, 2001).

Under the program, the Philippine government privatised its National Power Company (Napocor) through unbundling process. Napocor's power plants are grouped into several new private power companies. Napocor's transmission asset would be separated and new independent transmission company will be established. The distribution side was also fully unbundled, and after the restructuring, distribution companies may contract power purchase directly with independent power producers (IPPs).

One of the controversies that emerged was about the stranded debt of Napocor. During 1995-1997, Napocor's long-term debt has increased to 170 percents. Most of this increase was caused by obligation to purchase power from IPPs. The Philippine government imposed a universal charge to electricity consumers. The Power Purchase Agreement (PPA) was transferred to buyers of Napocor's generating assets but the government covered the cost differential between the price to be paid under PPAs and the market price of power. This burden was also transferred to electricity consumers in proposed levy (Seymour, 2002). Regarding competition in power sector, the EPIRA is filled with error. The assumption that electricity price will equate with the long run marginal cost is deceitful. Opponents of the reform believed that it would be naive to think that competition in power sector will bring about advantages in the context of the Philippines.

In 2002, ADB awarded the Philippine government with $ 40 millions of $ 106 millions total project cost for Electricity Market and Transmission Development. ADB further extended its support for the power sector-restructuring program by guaranteeing a 61.8 billion Japanese yen Eurobond issued by the project-executing agency, Philippine Power Sector Asset and Liabilities Management Corporation (PSALM). The bond's proceeds will supposedly help in the initial stages of power sector privatisation. This increased the total financial assistance to the vital power sector reform to more than $ 1 billion (ADB, 2003).

In Indonesia, ADB approved a $ 400 million power sector restructuring program; consisting of $ 380 million program loan and another $ 20 million for Technical Assistance (TA) loan in March 1999. Japan Bank for International Cooperation (JBIC) provided a co-financing for $ 400 million and other donor agencies such as USAID and World Bank provided technical assistance grants to government and government owned electric power companies. It is estimated that Indonesia's power sector reform program will cost about $ 1.5 to 2 billion until the competitive market is established.

The objective of this restructuring program is to establish a competitive market for the electricity in Java-Bali to increase the economic efficiency of the power sector in that region. The Java-Bali is the most densely populated region in Indonesia wherein more than 75 percents of electricity are produced and consumed. According to Government and ADB, Java-Bali system is mature enough for competition in electricity.

To attain the first objective, five activities that have to be carried out were identified: (i) restructuring the power sector and creating an environment for a competitive electricity market, (ii) establishing competition in bulk for the electricity supply in Java-Bali, initially with single buyer and multi buyer and multi sellers by 2003 (the target was reviewed with multi buyer and multi sellers competition in 2007), (iii) adjusting tariffs to ensure the financial viability of PT PLN and the newly created subsidiaries during the transition period, (iv) increasing the participation of the private sector, and (v) strengthening regulatory environment, including protecting the interest of the end consumer.

Restructuring includes changing the legal framework that will become the basis for the structural changes in the future and the privatisation of PLN. Adjusting electricity tariffs will be conducted by gradually increasing the rate of electricity, starting from the year 2000 up to the year 2005. In the framework of increasing the participation of the private sector, ADB strongly urged the Indonesian government to renegotiate and rationalize the contracts of IPP's. The problem is, 27 of the power purchase agreement (PPA) contracts made between 1994-1997 was already reviewed and cancelled by the government in 1998 although the decision to continue these contracts were retracted by the government in March 2002. According to ADB official, the Bank will not support any cancellation of the contract with IPP and government must honour the contracts they have made. These situations, however, put the government at risk since most PPA contracts are tainted with corruption and were not eligible for renegotiation.

Previous PPA burdened PLN hardly and it contributes to PLN's financial crisis after 1998. IPPs have sold the electricity to PLN for up to 8 cents per kilowatt hour (KWh) while electricity tariff before 1997 was about 7 cents per kWh. Due to depreciation of Indonesian currency in 1998, electricity tariff become about 3 cents per kWh. The Government has finished the renegotiation with IPPs last June with result of continuation of PPA contracts with 15 IPPs, acquisition will be made for 4 IPPs and closing out 7 IPPs, with total power capacity is about 5,500 MW. The average tariff of new PPA is 5 - 5.5 cents per kWh, far above the average electricity production of PLN, which is 4 to 4.5 cents per kWh. WGPSR has estimated that new deal with IPPs would cost PLN at least $ 2 – 2.5 billions dollar per year for 30-40 years long and the costly PPA will transfer to consumers through highly electricity price.

ADB is also actively pushing for reform in power sector in other DMCs through loans and or technical assistance. During 2002, ADB provided several TA grants for various countries for preparation and or activities related to power sector reform. In China ADB has made a technical assistance grant amounting $ 500,000, for advisory and operations in order to establish a National Electricity Commission. Indian government was awarded with 5 technical assistance grants for project preparation and advisory and operational related to power sector reform in Indian states with total amount $ 2.1 millions. ADB provided $ 800,000 for advisory and operation to Indonesian government for Power Welfare Scheme. Philippine government was also awarded with $ 800,000 for Transition to Competitive Electricity Market program. For Sri Lanka, the ADB provided $ 1,050,000 for Restructuring Power Sector Program phase II. This program aims to establish an independent regulatory and tariff-setting mechanism, and to encourage private sector participation. Efforts are also ongoing in Maldives and some Pacific countries and countries in central Asia.

Critique to Power Privatisation

Privatisation of power sector has failed to ensure public benefits as promised. Experience from countries in the Latin America region and other countries in Asia, New Zealand, Europe and US, who took similar reforms shows this. In many cases, the reform programs have created more problems to the sector and communities. During the past five years the world has seen a series of disastrous blackouts, skyrocketing power tariffs, raising corruption and growing financial problem in the sector. Serious blackouts in the US over the past three years are believed to be a result of deregulation and privatisation of US power sector[103].

The power sector reform, promoted by the ADB and the World Bank, are based from wrong diagnosis that public ownership and government monopoly led to poor performance of public utilities and financial crises of the sector. Therefore, wrong prescriptions, which focus on changing the ownership from public to private sector, ensued. This is entirely a mistake since changing ownership will abandon social contract of the state and its citizen in providing electricity infrastructure but leaving its obligation to private hands. Power sector reform

[103] See Paul Krugman's Opinion Article in New York Times in 19/08/2003: The Road to Ruins.

leaves the public vulnerable to high electricity rates, high probability of private market power, and loss of control over environment regulation, lesser consumer protection and transfer of corporate debt into public hands.

ADB and other international financial institutions made a serious mistake when they made power sector reform scheme as loan conditionality for further Bank assistance and support to the energy sector. However, loan conditionality is a one-size-fits-all-model, applicable to countries everywhere. Those institutions are advancing power sector reform as panacea that will improve technical, financial and managerial performance of power utilities, adding electricity supply and attract private investment in the power sector. This is regardless of the economic level of the country, the level of power sector development, the number of people connected to the grid, the root of crisis faced by different public or state-owned utilities, and the energy sector situation in general of the country. Indonesia and Philippines have different levels of power sector development, different models of electricity market structure and different conditions of energy sources. However, the model and steps introduced by the ADB to be taken by the two governments in power sector reform program are very similar.

ADB has made intervention deeply in the process of the reforms in many countries. ADB has not only limited itself as loan provider but has significantly influenced the contents of the reforms. This made the reform models copycats of ADB's framework and has failed to address public needs. ADB has made significant efforts in regulatory changes. In Bangladesh, ADB drafted the Electricity Reform Bill. ADB (and the World Bank) drafted the Power Sector Restructuring Policy of Indonesia in 1998. This paper was a basis and justification to conduct the restructuring program then funded by ADB. Both institutions were also involved in providing the draft of Indonesian Electricity Bill[104]. However, the issuance of the Bill becoming an Act came with pressures from the ADB. The ADB clearly stated that the second disbursement of power sector restructuring loan of US$ 200 million plus the additional US$200 million co financing from JBIC, will not be possible if the Bill has not passed soon. In the Philippines, ADB recommended changes to the draft of EPIRA during its discussion in the parliament. The passing of the EPIRA to privatise Napocor, was followed by a payoff scandal. This scandal was not simply another case of corrupt politics in the south. It exemplifies the tremendous pressure from external donor to privatise state-owned enterprise (TNI, 2002)[105].

The reform also failed to address public needs. This is because the processes through which electricity reforms have been designed and implemented in many countries were flawed. The ADB and other donor institutions have supported governments to design reforms through a close political process and with inadequate genuine public participation into the reform's goals. This could result to hampered development goals, which include poverty alleviation.

The coherence between the power sector reforms and the ADB's overarching goal of poverty reduction is questionable. The ADB argue that the reform will help governments to cut subsidies for electricity. Therefore the government can allocate the fund to other public expenditure priorities such as health and education. This is not entirely true because the removal of government subsidy as well as removal of cross subsidy among tariff segments will in fact increase electricity tariff for all consumers. Small or poor consumers then have to spend more portion of their income for power. The government does not always shift the subsidy for public expenditure;

[104] The Electricity Reform Bill was approved by the parliament as The Electricity Act No. 20/2002 in September 2002.

[105] For more details about this scandal, please read: Bello, W (2000): Payoff scandal hits ADB-backed power privatization in the Philippines. This article can be retrieved at: www.focusweb.org/publication/2000/

instead, they use it for external and internal debt payment because there is a shift of stranded debt of privatised public utilities to public account and or government obligation to guarantee the level of revenue of private investors.

Reforms are intended to increase access to modern energy services of poor people, as main component to reduce poverty, by improving and expanding electricity services. However, maintaining and extending supply of electricity to poor people and unprofitable groups is less attractive for private sector because this social objective will hamper their effort to achieve commercial return or maximization of profit. The private companies will be very selective in the type of consumer they served. They prefer to supply big consumer such as industry or big company but this has implications to residential consumers due to the increasing cost of service and lower reliability. The private power companies are unwilling to invest in rural or underdeveloped areas to increase electrification ratio since it is less profitable and costly. The electric tariff in a competitive market is also volatile therefore posing the low income consumers in high risk. Lastly, reform will result in the lay-off of privatised public utility employees, hence increasing unemployment. In developing countries, unemployment is a big hindrance to economic development and poverty reduction.

Conclusion

Power sector reform in Asia (and other countries) tend to increase poverty instead of alleviate poverty itself. The ADB, other multilateral development banks and donor agencies must evaluate their policies on deregulation, privatisation and liberalization as prescription to power sector crisis in developing countries. Institutions have to move away from their fundamentalism of private sector orientation and "market-locked thinking".

People in developing countries then must have alternative to the power sector reform in order to handle the problem and finding appropriate solution driving by public interest.

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X. Current International Campaigns on the Asian Development Bank

by Sameer Dossani, NGO FORUM on the ADB

In 2002, the Asian Development Bank had a total of USD 32.3 billion in loan commitments to governments in Asia and the Pacific. Although the ADB has since 1999 portrayed itself as an institution committed to poverty reduction, 46% of loans go to the transportation/communications and energy sectors.[106] The extent to which this lending meets the criterion of reducing poverty is largely unknown, though the topic warrants serious academic study.[107]

From 1966 to 2002, the institution has lent nearly USD 100 billion to 38 countries in the Asia/Pacific region, seriously affecting the policies of those countries. In addition to the political significance of the money that it lends, the ADB can leverage other forms of bilateral and multilateral aid, thereby making it an extremely influential institution.

In the late 1980s and early 1990s, a group of NGOs, people's movements, and Citizen Organizations examined this situation and saw the need for greater coordination between groups examining ADB policies and projects. Hence, the **NGO Forum on the ADB** (Originally the NGO Working Group on ADB) was created in 1993.

United by a critical stance toward the ADB and by a refusal to take monies from the ADB, Forum members coordinate advocacy campaigns and research projects among themselves to maximize pressure on the institution.

The Forum is based in Manila, Philippines where the ADB has its headquarters. Since it's inception in 1993, the network has engaged the ADB through the following focus:

Annual Asian Development Bank Governors Meetings

The movement against the ADB has for many years targeted the Annual General Meeting (AGM) of the ADB. This is the highest decision-making body of the ADB, where government officials from member countries meet to approve ADB decisions.

Together with other NGO's/PO's, FORUM organizes parallel events aimed to provide a venue for bringing the voice of affected peoples and nations to the AGM and to draw public attention to international social and environmental rights campaigns targeting the ADB.

Notable past campaigns on annual ADB AGM Meetings were those in Hong Kong in 1992 during the 25th Annual Board Meeting, which saw for the first time, some 30 people from different NGOs from 10 member countries participate in the parallel activities.

The anti-ADB demonstrations which took place during the Bank's 33rd annual conference in May 2000 in Chiang Mai , Thailand, was considered a watershed event in the ADB campaign. One thousand delegates participated in the parallel international campaign conference! It was also a milestone in the democratisation process in Thailand, as it was the first time that there was a protest action against a multilateral agency. The same protest action was also the biggest ever-held in North Thailand.

Massive protests also welcomed the delegates of the 34th Annual General Meeting of ADB in Honolulu in May 2001. The parallel event was an 11-day series on "alternative

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106 Annual Report On Loan And Technical Assistance Portfolio Performance For The Period Ending 31 December 2002, www.adb.org

107 The one institution that does careful monitoring of the ADB is the ADB itself, through its Operations Evaluations Department (OED). Environmental Defense recently undertook a major study of OED reviews of three countries: Sri Lanka, Indonesia and Pakistan. The study concludes that "based on data presented in the ADB's own audit documents… over 70 percent of ADB projects in these countries are unlikely to provide long-term social and economic benefits." Were evaluations to be carried out by third parties, the conclusion would likely be significantly worse. (Fried, Lawrence and Gregory, "THE ASIAN DEVELOPMENT BANK IN ITS OWN WORDS: An Analysis of Project Audit Reports for Indonesia, Pakistan, and Sri Lanka", July 2003, Environmental Defense.)

events on globalisation and the ADB", which was capped by a protest march-rally.

Some ADB Sectoral Policies Monitored by the FORUM

Environment: In November 2002, ADB approved its first Environment Policy ever. Together with several NGOs from Northern and Southern Countries, the Forum submitted recommendations to the ADB during the consultation phase. The policy that was approved includes some of the NGO recommendations, but is still seen to be largely flawed.

Based on the new policy, ADB redrafted the Operations Manual section 20 for considerations of environmental guidelines in February 2003. In June 2003, ADB finally put the revised Environmental Assessment Guidelines on its web page

Together with its partners, Forum has just launched a project for monitoring the implementation of ADB's environment policy. The results, which will include at least five case studies on ADB projects in different sub-regions, will be published by May 2004.

Inspection Policy: Together with Bank Information Centre in Washington, D.C., Forum members successfully advocated for a dramatic change in the Bank's inspection policy, after the first failure of the previous policy in the case of Samut Prakarn Wastewater Management Project in Thailand. Though far from perfect, the new policy includes many improvements, and many of these improvements were demanded by NGOs. At the time of this publication, the new Inspection Mechanism has yet to be completely set up, but is expected to be functioning by November 2003. Whether this new policy will be an improvement on the ground or only at the level of policy will only be known after an inspection case is brought forward.[108]

Operations Manual revisions: During the inspection function review, it became clear that many sections in the Operation's Manual (OM) were outdated. The OM serves as a translation of policies into instructions for operational staff. However, in many instances, the OM is not consistent with the Board-approved policy. This realization triggered a review of the OM in its entirety.

In Oct 2002, the ADB's "Policy and Strategy Department" published a "draft Compendium" of the revised Operations Manual. This document consisted of random excerpts of the existing Operations Manual that the ADB management had deemed relevant for the inspection policy. The lack of transparency and top-down method of this step created an uproar among NGOs monitoring the Inspection Function Review. Together with European, Japanese and Asian NGOs, Forum pressured the ADB into withdrawing the Compendium. The Bank had no option but to withdraw. The review is now under the responsibility of Eisuke Suzuki, Special advisor to the President. An update of the OM review has been posted on the ADB's Website.

Information Disclosure: Perhaps the most common complaint among NGOs doing advocacy work on the ADB is that it is very difficult to access information, especially project-specific information, such as feasibility studies and other technical reports. One of the Forum Secretariat's primary tasks is to try and meet information requests as they come in, and this often proves very difficult, as many important documents are not in the public domain.

The ADB has recently begun a review of their information disclosure policy, which will likely improve the situation. How much improvement will depend significantly on the ability of NGOs and others to make their views known.[109]

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[108] For more information, see ADB's website on the new policy at http://www.adb.org/Documents/Policies/ADB_Accountability_Mechanism/default.asp. For information on Samut Prakarn inspection case, see BIC's website on the Samut Prakarn case at http://www.bicusa.org/asia/samut.htm . And for a comparison between the old and new inspection functions, see Forum's July 2003 newsletter at http://www.forum-adb.org/Bankwatch_July_03.pdf

[109] For more information contact the Forum secretariat or visit the ADB's disclosure review website at http://www.adb.org/Disclosure/default.asp . Also see BIC's

Project Based Campaigns

Forum has been active in the following campaigns of network members in the past year. Support to these campaigns include helping out in getting information on the projects form the ADB headquarters in Manila, information dissemination through the Forum's list serve, and helping out in the sign on campaign particularly in the Chasma Inspection case. Below are brief summaries of two ADB projects Forum has been monitoring.

Chasma Right Bank Irrigation Project (CRBIP) in Pakistan

The ADB announced on April 2 that an independent panel of experts as per the Bank's Inspection Policy will inspect the Chasma Right Bank Irrigation Project in Pakistan. The affected community through six representatives filed the request for inspection with the Bank in November 2002.

The CRBIP, a US$454 M project, which started in 1978, comprises three stages. At present in Stage III which started in September 1993 and was targeted to be completed in December 2002 (since extended to December 2003). The project involves construction of a 274 Km canal along the Indus River, beginning at the existing Chasma Barrage. It also involves the building of 72 distribution canals, 64 cross drainage structures, 118 bridges, on farm facilities and agricultural and livestock extension activities. The ADB is the main financier of the project, providing 66% of the funds.

It is in the view of the local community and NGOs that the project is highly problematic on several grounds including that of environment, resettlement, and project management and information disclosure. According to Mushtaq Gadi of the People's Rights Movement (PRM) in Pakistan, "22 villages are likely to be displaced by flooding and thousands more are already facing direct threat to their livelihood as a result of the Chasma Project".

After the glaring failure of the inspection process of the ADB in the Samut Prakarn case and the resultant change in the inspection policy, one can only hope that the next inspection case of the ADB under the old inspection policy will produce better results.

The Sundurbans Biodiversity Conservation Project in Bangladesh

In 1996, the ADB approved its Sundurbans Biodiversity Conservation Project (SBCP) as a major investment in what is perceived to be the "underdeveloped portion of the Southwest part of Bangladesh. The ADB is the major backer of the SBCP, funding USD37 million of the total project cost of USD82.2 million.

However, the project caused a lot of uproar among the affected local communities and People's Organizations, who formed the SBCP Watch Group. They claim that the ADB went ahead with the project without sufficient consultation and incorporation of Civil Society views.

Though the SBCP is touted as an environment project, the NGO's and affected communities believe that the real intention is to carve out an area in the Sundurbans as a protected area, leaving the remainder open to oil and gas exploration.

There are also fears that the project will be tainted by corruption, as the government agency in charge of the project is perceived to be highly corrupt.

The Sundurbans are the largest mangrove forest in the world, and home to the Royal Bengal Tiger.

In September 2003, after being put under a lot of pressure by citizens' groups both in Bangladesh and elsewhere, the ADB decided to suspend the SBCP loan. The SBCP Watch Group has yet to make a public announcement stating their reaction to the project's suspension.

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web page on transparency at the MDB's http://www.bicusa.org/policy/InfoDisclosure/index.htm

The German NGO Working Group on the ADB

Mission Statement

The German NGO Working Group on the Asian Development Bank is a network of individuals and members or staff of German civil society organisations (non-government development organisation, university - including students, social movement, trade union, community-based organisation, foundation, and religious organisation), that agreed to work together to engage and intervene in the policies, programs, and projects of the Asian Development Bank (ADB) that affect life, life forms, ecosystems, as well as the welfare and livelihood of peoples and communities in the Asia and Pacific region.

Thrusts

The Working Group aims to: (a) Inform the German public about the problems generated by the activities and operations of the ADB in Asia and the Pacific region and consequently sharpen their understanding and debate on programmes and projects of the ADB as these relate to the policies of the German government; (b) Influence the policy of the German government concerning its co-operation with the ADB; c) Support campaigns of Asian organisations; and, (d) Develop close working relations with other public interest groups on issues related to the ADB.

The Working Group monitors the programs and policies as well as selected projects of the ADB, to ensure ADB's accountability to its constituents. At the same time it will undertake appraisal and review of projects, programs and policies to determine that they are in accordance with the development co-operation principles of the German government. In this sense the intended "public" or audience comprises German civil society organisations, Development Groups, Asia-focused Institutions, Asia-oriented University Departments, and the Media;

The Working Group is a venue for sharing and exchange of resources, information, knowledge, and lobbying experiences. It is also a venue for solidarity with the struggles of peoples and indigenous communities in Asia and the Pacific region. The Working Group is an independent entity and is not a recipient of funds or any grants from the ADB - collectively or individually.

Activities

Our main activities are to provide information, launch and sustain campaigns and advocacy through:

a. Organisation of seminars, workshops and publications to inform the public about the ADB and its operations;
b. Engagement with the Asian Development Bank in a committed and critical manner;
c. Facilitation of information between Asian partners, German and other European groups;
d. Partnership building with other German organisations to identify common concerns and advocacy related to ADB issues/projects;
e. Sharing of information to the media;
f. Press for the accountability of the German government as a donor country concerning the operations of the ADB in developing member countries (DMCs);
g. Press for corporate responsibility of German companies involved in ADB projects, as well as Export Credit Agencies;
h. Co-operation with European partner organisations, particularly those working on similar concerns with ours;

Structure and Terms of Membership

The Working Group welcomes individuals and members of German civil society organisations who are committed to share time for meetings, contribute skills and resources, and join activities of the Working Group. The activities of the Working Group will be co-ordinated and facilitated by Asienhaus, which is serving as the Working Group's Node for communication and secretariat functions, until such time (and when it decided) that the group has the capacity to establish itself as a formal, separate entity in the future.

The members of the Working Group are organised into subgroups, representing themes, region/country of expertise or issues known as Hubs.

There are long-term Hubs (concerning Bank policies and programmes) and Project-Specific Hubs.

The Working Group at large will decide the organisation of new Hubs for specific concerns or interests during its regular meetings. A Hub may be formed by a minimum of two individuals, and disbanded by rendering a terminal report. The Hubs are the members' vehicles for active participation in the Working Group. The level of activity of a specific Hub is subject to the decision of the Hub members.

Each Hub is tasked to gather and share information, initiate discussions, skill-sharing or capacity-building activities that are related to their concerns. Each Hub could pursue fund-raising activities on their own or in partnership with Asienhaus, to finance their operations as the need arises. Each Hub may decide further, and when the Working Group gets bigger, to choose their Hub leader for better co-ordination with the Node.

Process for Membership: Each member of the Working Group could invite a new/prospective member to join the Working Group. The formal inclusion to the Working Group of the invited/prospective member must be vouched by the person who invited him/her and must be supported by a minimum of two other members.

Likewise, any member could also move for the expulsion of another member by submitting a written account, which rationalises such case. The process for expulsion will only commence after the written proposal for such was received by the Coordinator. The decision for excluding a member can only be discussed in any of the scheduled Working Group meeting.

Mechanics for Decision Making

Important decisions pertaining to organisational and campaign matters will only be made during the Working Group's meetings. For a meeting to reach a quorum, there should be a presence of at least 50% of all members. The exact number to comprise this 50% depends on the actual membership of the Working Group. For a decision to be valid, it should be agreed by 75% of the participants in the meeting. There must be a quorum in the meeting when important decisions are on the Agenda.

The Working Group will organise a General Assembly to be held in Frankfurt am Main once a year. Amendments and changes to this Guideline will only be discussed during the General Assembly. The General Assembly will be held prior to the ADB - Annual Governors' Meeting so that there will be enough time to meet and discuss the Working Group's campaigns for the Annual Governors Meeting

Current Focus

The existing Thematic Hubs are:

a. Internal Governance and Accountability of the ADB
b. Poverty Reduction and Asian Development Fund;
c. Food Security and Agriculture
d. Water and Privatisation of Public Services

The Project-Specific Hubs are:

a. Chasma Irrigation Project
b. Sundarban Biodiversity Conservation Project
c. Greater Mekong Subregion(with focus on Nam Theun II and Burma)

Member's Guideline

Approved in Bonn, Germany

12 September, 2003

The Authors

Violeta Corral - is from the Philippines. She is currently working as a Research Associate at the UK-based Public Services International Research Unit (PSIRU). Before joining the PSIRU, she served as Co-ordinator of the Manila-based NGO Forum on ADB.

Sameer Dossani – is the current Executive Director of the NGO Forum on the ADB. Prior to working on ADB issues, he lived in Washington, D.C., where he was involved in the movement against corporate globalisation. He has also been active in the women's rights movement, having received his MA in Women's Studies from La Trobe University, Australia, and also in solidarity movements for political prisoners as well as indigenous peoples.

Stephanie Gorson Fried, PhD – Stephanie Fried is a Senior Scientist in the Hawai`i/Pacific Project Office of Environmental Defense. She focuses on the environmental and social dimensions of international financial institutions in Asia and the Pacific Islands, including indigenous peoples and their rights to natural resources. Fluent in Indonesian and French, and a recipient of two Fulbright Fellowships, Dr. Fried received her Ph.D. from Cornell University in Development Sociology, an M.S. from Cornell in Agronomy, and a B.S. in Biology from Bryn Mawr College.

Kenji FUKUDA - is Advocacy Co-ordinator of Mekong Watch, an environmental NGO based in Japan. He has supported local people in Mekong region who are affected by projects funded by ADB or the Japanese government. He is also involved in a number of policy advocacy initiatives addressing International Financial Institutions, including the review of the ADB's Inspection Function.

Regina Gregory – works at the ADB Watch/Asia-Pacific Island Alert, which is a broad coalition of people working for economic justice in Hawaii.

Dorothy Guerrero – is originally from the Philippines and now working as Project Co-ordinator for Sustainable Development/Agenda 21 in Asienhaus. She is also co-ordinating the German NGO Working Group on the ADB. At the same time she is finishing her PhD at the Social Science Department of the University of Duisburg. Her theme for her PhD thesis is on the role of civil society in international development processes with focus on transnational activist networks in Asia as her case studies.

Shalmali Guttal - is a senior associate at Focus on the Global South (Focus) and Co-ordinator of the Macro-Micro Issues Linking Programme. She does research and policy advocacy on themes related with privatisation, trade and finance, natural resources, debt and poverty reduction. She is based in Bangalore, Karnataka.

Chris Lang - is an environmental researcher living in Frankfurt, Germany. He is currently working as a freelance researcher and policy analyst on themes concerning forest. His book "Pulp Invasion – The International Pulp and Paper Industry in the Mekong Region" is now available from World Rainforest Movement www.wrm.org.uy.

Shannon Lawrence – works as an International Policy Analyst for the Environmental Defense. She made numerous visits and extensive research about the ADB operations in Sri Lanka and Pakistan, especially the Chasma Development Projects.

Jessica Rosien – Jessica Rosien, works as Campaign Co-ordinator for the Manila-based network NGO Forum on the ADB.

She received her Masters of Art degree in Anthropology with specialisation on Sustainable Development and NGOs from the Oregon State University, USA. Her main interest is on the interaction between NGOs und Multilateral Development Banks.

Fabby Tumiwa - is co-ordinator of the Indonesian NGO Working Group on Power Sector Restructuring (WG-PSR). The working group is a coalition of 8 NGOs, which are monitoring the Indonesian Power Sector Reform Program. He is involved in research, policy advocacy and public education to address Multilateral Development Banks, in particular the ADB and The World Bank Group.

Notes

Asienhaus is a centre for people interested in Asia.
Under the roof of the former administration-building of the coal mine *Zollverein* in Essen, four independent German NGOs co-operate: *The German Asia Foundation, the Korea Association with its Communication and Research Centre, the philippinenbuero and the Southeast Asia Information Centre.*
Together they organise conventions, conferences and seminars. They publish scientific journals and monographs, host delegates of Asian partner-organisations and representatives from political organisations, trade unions and NGOs, including those from the fine arts and the media. The house provides a venue for arts exhibitions and readings. A well equipped library is open for all.
The work of *Asienhaus* aims at a political and economic world order driven by the idea of solidarity and justice, at comprehensive democratisation and self-determination. It supports the eradication of discrimination against women and marginalised groups. *Asienhaus* supports and engages in the discourse of Civil Society Organisations in Europe and Asia on topics such as social and sustainable development as well as equity and equality.
The recognition that unjust global structures mirror deficits of German society shape all programmes and projects of *Asienhaus*.
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