

ADB's weak Safeguard Policy Statement Draft will cause not only social and environmental harms but also human rights violations: An Open Letter From Burma People and Civil Society Organizations to the ADB

March, 2008

Mr. Nessim Ahmad

Director of Environmental and Social Safeguard Division
Asian Development Bank

Dear Mr. Ahmad,

We are Burmese civil society organizations engaged in a movement towards the genuine national democratization of Burma. We are writing to inform the ADB that we have reviewed the Bank's ongoing Safeguard Policy Update and believe that the Safeguard Policy Statement (SPS) Consultation Draft is weak, regressive and damaging. It will have adverse implications on the human rights, environment, health, women, farmers, indigenous peoples, peace, and other issues and sectors in Burma.

The Consultation Draft is a matter of concern not only for countries with active loans from the ADB but also for Burmese people who will stand to lose if the powerless and regressive provisions of the Consultation Draft were to be applied to Burma. After all, the ADB, along with the other multilateral development banks (MDBs), has not totally disengaged from the country. The Bank continues its dealing with the Burmese military junta through its Greater Mekong Sub-region (GMS) Program and other non-direct lending services. For this reason, we would like to suggest that the ADB improves and expands its accountability by strengthening – not weakening – its safeguard policies. We urge the ADB to address the following legitimate concerns and incorporate the recommendations from Burmese civil society organizations outlined below.

Our analysis seriously considered the rigorous critiques, informed comments, proposals and recent actions undertaken by Asia-Pacific civil society organizations to the draft SPS. In addition, we also took into account the consequences of the ADB's current failures for not applying its Safeguard Policies to other non-lending services in countries under civil conflict such as Burma. Our main comments on the SPS document are as follows:

1. The SPS Consultation Draft is seriously weak because it fails to provide safeguards to the environment and communities affected by its non-lending services including regional technical assistance (RETA) grants, national technical assistance, and support to the private sector whose operations implicate countries under repressive governments such as Burma.

Although the ADB has not given any new loans to Burma since 1986, Burma does receive support from the ADB through its range of GMS-related technical assistance grants¹ that are part of the GMS program. Since the ADB has significant involvement in pushing controversial infrastructure projects in the country, such as the Asian Highway of the "East-West Economic

¹ For a full list of ADB funded RETAs that include Burma, please visit the following link:
http://www.earthrights.org/images/stories/adb_legitimization-4.30.07.pdf

Corridor” and the Ta Sang Dam of the “Mekong Power Grid,” it is critical that the ADB uphold environmental and social standards for these projects.

Unfortunately, the current Safeguard Policies and SPS Consultation Draft by the ADB have failed to cover RETAs, some of which are provided to Burma. Also, the ADB’s current safeguard policies and draft SPS have no clear guidelines for the comprehensive disclosure of information about the formulation, management, and impact evaluation of RETAs as well as the government agencies, consultants and other actors involved in its implementation.

For the Burma section of the Asian Highway, no social or environmental impact assessments have been completed or made publicly available simply because the ADB’s current Safeguard Policies make no mention or have unclear guidelines on the application of its indigenous peoples’, involuntary resettlement and environment policies for RETAs. Moreover local communities living in the project area in Burma have not been consulted about the project. Additionally, we have received reports concerning forced labor resulting from the Highway construction.² In addition, over 300,000 people have already been forcibly relocated from the Ta Sang dam area in Southern Shan State.³ If built, the Ta Sang Dam would drive thousands more from their homes and could involve more forced relocations by the Burmese military. Increased militarization has already led to an increase in reports of torture, extrajudicial killing, and other human rights abuses in the Ta Sang Dam construction area.⁴ The ADB specifically identified the Ta Sang Dam project to be a part of the Mekong Power Grid published in 2002 in an ADB funded RETA, the Regional Indicative Master Plan on Power Interconnection in GMS Countries approved in 2000, in which the ADB as the executing agency was responsible for formulating an indicative transmission master plan to promote subregional power trade.⁵

Presently, we cannot hold the ADB accountable for their part in the human rights abuses and environmental destruction that are occurring in Burma because the Banks’ safeguard policies and accountability mechanisms do not cover regional technical assistance and resources (such as equity, risk guarantees, technical advice, joint financing) used to mobilize private financing and private sector operations that implicate Burma.

2. We are deeply troubled knowing that the SPS draft undermines the existing safeguard policies of the ADB. The Bank has become regressive, fundamentally diluting its safeguards and accountability mechanisms.

Despite the minimum protection that the current Safeguard policies offer, such standards provide leverage, a tool, for communities to demand ADB’s accountability to the adverse environmental and social impacts of the projects it finances. However, the SPS draft provides no clear guidelines for the comprehensive disclosure on the management of its GMS-RETAs. It has no clear standards on the application of environment, involuntary and indigenous peoples’ policies

² For more information on human rights abuses associated with the Asia Highway, please read the field report, *Development by Decree*, published by Karen Human Rights Group in April 2007 at <http://www.khrg.org/khrg2007/khrg0701.pdf>

³ Warning Signs, published by SHAN SAPAWA in 2006 at <http://www.salweenwatch.org/downloads/warning%20sign.pdf>

⁴ For more information on human rights abuses associated with the Ta Sang dam, please read the field report, *Warning Signs*, published by SHAN SAPAWA in 2006 at <http://www.salweenwatch.org/downloads/warning%20sign.pdf>

⁵ Asia Development Bank, "Technical Assistance for Regional Indicative Master Plan on Power Interconnection in the Great Mekong Subregion," July 2000, http://www.adb.org/Documents/TARs/REG/tar_reg34092.pdf

to GMS-RETAs and all other non-lending services carried out countries that are under civil-military conflicts including Burma. In addition, it has no mechanisms to evaluate or allow independent monitoring on the cross-border impacts of GMS projects that implicate Burma such as the social costs (human trafficking, rise of HIV-AIDS incidence, wildlife and opium trade from Burma, and other hidden costs). We question how the ADB can continue to push for several GMS RETAs (that eventually turn into cross-border infrastructure projects) when they will be implemented in a country that is devoid of democratic governance, including the absence of transparency, accountability, participation and without respect to human rights?

By excluding RETAs from Safeguard Policies and by failing to enforce its 2005 Public Communication Policy to this form of assistance, the ADB circumvents its accountability to the adversities generated by such RETAs. We believe that the Bank helps perpetuate human rights violations in Burma and, by extension, legitimizes the repressive rule of the military junta through these non-direct lending services. In short, the Bank has drafted a deeply flawed policy whose disastrous effects we, our people and our environment, have to suffer. This is highly unacceptable. We call on the ADB to stop pushing this SPS draft for public consultations.

We believe that for the ADB to establish legitimacy, strengthen its environmental and social standards and hold the ADB management accountable, the Bank should:

- **Expand safeguard policies to apply to Regional Technical Assistance Grants** and non-project related assistance. If safeguard policy compliance is not met under these forms of assistance, the ADB should provide the option of filing a complaint under the accountability mechanism.
- **Include Burmese civil society organizations** engaged in the national democratization of the country in meaningful, inclusive and good faith consultations with NGO's from the Greater Mekong Sub-region.
- **Develop comprehensive social and environmental policy frameworks** that demonstrate a commitment to sustainable development and poverty reduction that protects the rights of all affected communities.
- **Not provide any direct loan to Burma** until there is a democratic political transition in Burma and until ADB guarantees that it does not weaken its Safeguard policies.
- **Seriously incorporate the rigorous analysis and informed comments and proposals by our civil society organizations** from Asia-Pacific represented by the NGO Forum on ADB.
- **Stop its remaining public consultations, revise the draft Safeguard Policy Statement (SPS) released in October 2007** because it is an “unacceptable and unsuitable basis for public review and consultation”, and **issue a 2nd draft (not a Working Paper), incorporating the above demands**, that should be the focus on the remaining public consultations.

We reiterate that if ADB significantly weakens its safeguard policies, not only will it avoid its accountability but also encourage military and repressive governments, such as the military regime in Burma, to commit more human rights abuses. However, if the Bank will provide leadership to ensure the rights of the weakest and most marginalized citizens of the ADB's Developing Member Countries are not violated by ADB operations, we will see it as a sign that the Bank is serious with its mandate of reducing poverty and promoting sustainable development. Strengthening your Safeguards and improving your accountability will signify that you are truly following your mission.

Sincerely,

Burma Civil Society Organizations:

1. Karen Environmental and Social Action Network (KESAN)
2. All Kachin Students and Youth Union. (AKSYU)
3. Network for Environment and Economic Development (NEED)
4. Karen River Watch (KRW)
5. Salween Watch Coalition
6. Burma River Network
7. Shwe Gas Campaign movement
8. Arakan Oil Watch
9. Shan SAPAWA Environmental Organization
10. Mon Youth Progressive Organization (MYPO)
11. Kachin Development Networking Group (KDNG)
12. Kachin Environmental Organization (KEO)
13. Karenni Development Research Group (KDRG)
14. Shan Women Action Network (SWAN)
15. Karen Women Organization (KWO)
16. Live Vision Foundation, Kachin
17. Rakhaing Environment and Human Rights Watch (REHRW)
18. Earthrights Student Union (ERSU)
19. Life Vision Foundation, Kachin
20. Zomi Student and Youth Organization
21. Lahu National Development Organization
22. Burma Partnership (BP)
23. Network for Democracy and Development (NDD)
24. Forum for Democracy Burma (FDB)
25. Karen Office for Relief and Development (KORD)
26. Palaung Youth Network Group (PYNG)
27. Palaung Women Organization (PWO)
28. Karenni Social Welfare and Development Center (KSWDC)
29. Karenni Student Union (KSU)
30. Karenni National People's Liberation Front (KNPLF)

Burma Movement Support Organizations:

31. Images Asia, Environmental Desk (E-Desk)
32. South East Asia River Network (SEARIN)
33. Earth Rights International (ERI)
34. National Forum of Forest People and Forest Workers, India (NFFPFW)
35. ALTSEAN-BURMA
36. BanglaPraxis, Bangladesh
37. People Forum against ADB (AFAADB)

CC: ADB Board of Executive Directors
ADB Board of Directors
ADB President Haruhiko Kuroda
ADB VP Ursula Schaefer-Preuss
SEA Department

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