
Conclusion

Synthesis of Case Studies

This framework has been based on four case studies of ADB projects that exemplify process of monitoring ADB's environmental provisions. Each of the projects monitored represents a different sector of ADB lending. The Sri Lankan Southern Transport Development Project is an infrastructure project, the Sundarbans Biodiversity Conservation Project in Bangladesh falls in the environment sector itself, the Papua New Guinean Nucleus Agro-Industries Project is an agriculture project and the Philippines Marcopper Mining Corporation falls in the extractive industries sector. Each of the sectors has its own specific challenges in terms of implementing environmental safeguards. Despite the specific unique characteristics of the four projects, the case studies illustrate the ADB's failure in implementing its environmental provisions in all four projects.

Southern Transport Development Project – Sri Lanka

The environmental problems in the Southern Transport Development Project in Sri Lanka were largely caused by the fact that the road trace for the four-lane expressway was changed several times before finalization. As a result of this, the EIA

that was originally conducted did not cover the whole stretch of the finalized road trace but only parts of it. When the EIA was opened for public comments, the affected communities and involved NGOs recommended alternative options for the projects. However, none of these recommendations were integrated in the EIA. During project construction it became evident that the EIA did not include mitigation measures for direct environmental impacts such as damage to aquatic fauna due to changes of flow patterns and siltation of waterways. The lack of the alternative options assessment, the lack of an environmental monitoring program and appropriate mitigation measures violate the required components of an EIA according to the relevant OM Section 20 dated January 1997 on Environmental Considerations in Bank Operations.

The use of the inaccurate data for the EIA also caused severe adverse social impacts as the original EIA under-valuated the number of houses that would be affected by involuntary resettlement. While the EIA stated that 622 houses would be demolished along the road trace, the Resettlement Plan which was drafted for the altered trace puts this num-

ber at 5,683 – an adjustment of 913 percent.

Sundarban Biodiversity Conservation Project - Bangladesh

In the Sundarban Biodiversity Conservation Project in Bangladesh, the environmental problems related to design failures, lack of capacity of the executing agency, i.e. the Forest Department, and implementation of the design. According the ADB's relevant environmental provisions for this project, Environmental Consideration in Bank Operations, OM Section 20, January 1997, Category B projects, such as SBCP require an Initial Environmental Evaluation (IEE). The Summary IEE is to be submitted to ADB's Board of Directors 120 days before approval and upon request to be made available to the project affected people and involved NGOs. However, in the case of Sundarbans, the IEE and other project documents were not even made available to the project affected people at the time of the initial consultations. Due to this lack of crucial information, it was impossible for the affected people and other stakeholders to influence the design of the project in a meaningful way.

Regarding the lack of capacity of the executing agency, several preceding forest projects, funded by

ADB and other donors had demonstrated the Forest Department's incapability of implementing conservation projects. By the time of the approval of SBCP it had become evident that the Forest Department itself contributed to environmental degradation through corrupt officials who would turn a blind eye or even participate in illegal logging activities. The design of SBCP did not take any preventive measures to address these systemic problems but rather exacerbated the situation by transferring prime responsibility for the project to the Forest Department.

Those components of the project that were intended to ensure a participatory design involving key stakeholders, such as making NGOs responsible for project implementation and creating the Sundarban Stewardship Commission and the user group committee, the Stakeholder Advisory Council, were not implementable in practice. Even with the current suspension of disbursements, the new conditions again place the responsibility for improving the project in the hands of the Forest Department. As the inherent problems within the department have still not been addressed, it remains doubtful whether there will be any improvement the second time round.

Nucleus-Agro Enterprise – Papua New Guinea

The monitoring of the Nucleus-Agro Enterprise Project in Papua New Guinea differs slightly from the other case studies in that the NAE project is only in its planning stages and project implementation has not yet begun. However, since many of the important environmental requirements refer to the planning and design stage of a project, this case study effectively demonstrates the challenges to implementing environmental safeguards early on in the project cycle. In addition, the NAE project illustrates how the ADB's underlying model of development, based on macro-economic growth and private sector involvement, threatens both the environment and social cohesion of traditional societies such as those in Papua New Guinea.

The likelihood of oil palm estates being developed as nucleus-agro enterprises in this and future projects and the accompanying expansion of oil palm plantations pose a serious threat to the environment of Papua New Guinea. In order to clear land for the plantations, primary forests will continue to be logged, and the growing of the oil palms will con-

tinue to deplete soils and prevent farmers from switching back to their traditional crops or even planting new alternate crops.

As the NAE project was approved in 2001, it should have fallen under the ADB Environmental Considerations in Bank Operations, OM Section 20, January 1997 and the Environmental Assessment Requirements of March 1998. However, the ADB project team for NAE stipulated to the implementing agency, TASMU, that the newly approved Environmental Assessment Guidelines were to be applied to this project. The Project MoU (Memorandum of Understanding) likewise included the requirement of applying the newly approved Environment Policy and EA Guidelines. This decision in itself is laudable, particularly if it sets a precedent to already apply the new Environment Policy, OM and Guidelines to projects that are still in the planning stage, even though their approval date was before the actual approval of the new policy in November 2002. However, the project documents that have been disclosed so far, i.e. the Inception Report of January 2004, and the March 2004 First Quarter Interim Report do not show that the new requirements are being followed.

Marcopper Mining Corporation – Philippines

The violation of environmental safeguards in the case of the Marcopper Mining Corporation in the Philippines is glaringly obvious. The toxic mine tailings from the copper mine were disposed without any consideration of serious environmental consequences. The construction of a dam as disposal site for toxic mining waste was environmentally irresponsible in the first place, and secondly, despite this environmental hazard, no mitigation measures were set in place.

The fact that the Marcopper mine was only co-financed by ADB allowed the Bank to shed responsibility for what can only be considered recklessness. Even though a UNDP mission report concluded that the spillage of the mining waste constituted an environmental disaster causing wide-spread environmental

damage to rivers and coastal areas of the island of Marinduque, ADB declared the spillage an accident and absolved Marcopper of negligence and non-compliance with environmental requirements.

At the time of ADB's involvement in Marcopper, the Bank's relevant environmental requirements included the Operations Manual Section 21 of February 1988. This OM Section states that mining projects fall under Category C¹ projects which require detailed environmental assessment and analysis which by implication requires the necessary mitigation measures, a provision that was grossly violated.

¹ Note: In contrast to all other OMs the Environment Categories in OM 21, February 1988 are reversed, with Category A having the lowest significant environmental impact, and category C with the highest environmental impacts.

Challenges of the Monitoring Process

Lack of Access to Information

The case study writers of all these four projects experienced several challenges in the monitoring and writing process. The first challenge was the unfamiliarity with ADB provisions and policies. Even the three case study writers who have been engaged in ADB advocacy and monitoring for a long time did not have sufficient information regarding ADB's requirements. This shows a serious failure on behalf of ADB to disclose its safeguard provisions in a proactive and transparent manner.

The preparation stage of the monitoring process therefore consisted of educating the case study writers about ADB's different environmental requirements starting from 1988. As a first step, the PRRM and NGO Forum project team had to locate the ADB's old environmental requirements, since at the time of the begin of this project, the newly approved Environment Policy, OM and EA guidelines had already replaced the preceding OM sections on ADB's webpage. When the project team approached the ADB's Strategy and Policy Department (SPD) for the old requirements, it received the response that these provisions were confidential. A few days later SPD

contacted the project team, saying that the department had changed its mind and these provisions could be obtained.

This incident reveals two weaknesses of ADB: first, it is inconceivable that documents that determine instructions and requirements for ADB operations could even be considered confidential. These guidelines are the only benchmarks to which ADB can be held accountable. If they are confidential, the ADB can proceed in its operations without any oversight whatsoever. Secondly, the fact that the ADB's Strategy and Policy Department did not know the disclosure status of these provisions is evidence of the confusion within the ADB as to its own disclosure requirements and status of its documents.

Effective monitoring depends on the availability of information. In addition to the ignorance within the ADB as to the disclosure of certain documents, the existing environmental provisions in themselves hamper access to information. Most of the requirements in the old OM Sections pertain to steps that cannot be monitored by outsiders. For instance, the old OM Sections require different reports and documents to be completed at different stages for the

project, for instance, an Appraisal Report at the appraisal stage, Back to Office Reports (BTORs) during implementation and supervision stage and Project Performance Audit Reports at completion and evaluation stage. However, apart from the Summary EIA or Summary IEE, none of these documents are made available to the public. Not even the Loan Agreement, which is supposed to include agreements between ADB and the borrowing government on environmental protection measures, is available to external stakeholders.

Given this obscurity it is obvious that outside monitoring is only possible to a very limited extent as all of the case study writers experienced.

Lack of Capacity of NGOs and Affected Communities

The preparation for this monitoring framework began in January 2003 and the actual monitoring and writing began after PRRM and NGO Forum held a preparatory workshop in July 2003. The case study writing was completed in June 2004. This duration is not due to lack of effort on behalf of the case study writers, but rather shows the lack of capacity of NGOs for such exercises. The three case study writers from an advocacy and environmental NGO background work full-time as NGO activists and their job descriptions include

work on several urgent environmental and social matters on the ground. To engage in an extensive monitoring exercise as required for this project puts a huge burden on already over-stretched NGOs in terms of time allocation and financial resources. If this is true for the more policy-oriented NGOs, such as those the case study writers come from, one can easily see that it would be even more difficult for community-based organizations (CBOs) or project affected communities to conduct such an exercise.

In addition, to monitor whether ADB is implementing its environmental or any other provisions, it is necessary to extensively study the lengthy and legalistic ADB policy documents. Again, the case study writers for this exercise were probably better positioned than many small CBOs or affected communities would be to access and understand the relevant ADB documents. This publication and the included monitoring tool attempt to facilitate the process of policy monitoring so it can be used on the ground by project affected communities. However, the nature of ADB operations and even its newly approved Environment Policy is such that much time and effort is still required to monitor ADB projects against the Bank's requirements, even if the monitoring process is simplified.

Lessons Learnt

Project-specific

The case studies show that in terms of monitoring specific projects it is essential to begin the monitoring in the earliest stages of the project cycle. In order to be able to do this it is necessary to identify ADB pipeline projects. NGOs and affected communities can only monitor a project effectively, if they know about the project before the planning stage. The 120-day rule that requires the Summary EIA in case of Category A projects or the Summary IEE in case of Category B projects to be submitted to the Board 120 days before project approval and to be made available to NGOs and affected communities implies in terms of monitoring that information about the up-coming project must already be available. In the future the NGO Forum hopes to provide an early warning system that will alert communities and involved NGOs ahead of time of potential problem projects in the pipe-line. Combined with this early warning system, the monitoring tool included in this framework should enable more effective monitoring and thus provide opportunities to better influence pipeline projects in design and implementation.¹

The case studies point to the EIA/IEE as one of ADB's weaknesses in implementation. When monitoring

other projects with environmental impacts, it will be important to pay attention to the timely disclosure of the EIA/IEE, to review whether the data used is current and site-specific, and whether essential components such as alternative options assessment, monitoring plan, and mitigation measures are conducted and included.

The case studies also indicate that even if ADB's environmental policy requirements are complied with, weaknesses and lack of capacity of both executing and implementing agencies can lead to serious adverse environmental impacts. Therefore the monitoring process of ADB's provisions must go hand in hand with monitoring the performance of implementing and executing agencies.

Policy-specific

Projects that were approved before the new Environment Policy have low standards to fulfill. Even though still not perfect, the new Environment Policy and the accompanying documents such as the OM and the Environmental Assessment Guidelines are an improvement over the old provisions. However, the crucial factor is the actual implementation and the monitoring of the implementation of the new requirements. In

that regard, monitoring and advocacy efforts on the new policy should focus foremost on implementation.

The newly approved documents are still very lengthy and legalistic. In order to improve and facilitate monitoring through third parties and stakeholders, ADB should develop user-friendly checklists for the new environmental requirements. The Bank has already developed this method for its Gender Policy, and should apply the same method to the Environment Policy and other safeguard policies, such as the Involuntary Resettlement Policy and the Indigenous People's Policy.

The case studies also demonstrate the close link between project monitoring and information disclosure. The various environmental provisions only contain limited requirements on information disclosure. Therefore it is important to focus ad-

vocacy efforts on ADB's Information Disclosure Policy as an improvement for all other operational policies.

In 2003, the ADB began drafting a revised policy on information disclosure, now renamed as Public Communications Policy. As of June 2004, the review is still on-going. Currently in-country consultations are being conducted in different countries in Asia and also donor countries and a second working paper for the revised policy is anticipated for early fall of 2004.

The lessons from these case studies should be fed into the policy review as they make a convincing case for improved information disclosure in regard to documents related to ADB's Environment Policy and other safeguard policies.

1 See NGO Forum's website www.forum-adb.org for forth-coming updates.

Outlook: Use of the Monitoring Tool

The monitoring tool, together with a better developed early warning system for potential problem projects, should provide NGOs and affected communities with avenues for influencing the design and implementation of projects that are likely to affect their lives and environments. The process for using the monitoring tool or guidelines can occur in two ways.

One possibility is that the early warning system will help flag upcoming projects with potential adverse environmental impacts, such as large infrastructure projects, extractive industries projects, or agricultural reform projects. This step includes raising awareness among the communities likely to be affected by such projects. The affected groups can then use the monitoring tool to review ADB's compliance with its environmental provisions from the inception of the specific project.

The second possibility is that communities already affected by an ongoing project with environmental problems can use this monitoring tool

to review ADB's compliance to its environmental provisions. If the ADB has violated any of its provisions, and this violation has resulted in damage to people and then environment, affected communities can put pressure on the ADB to rectify the damage and implement mitigation and/or compensation measures. In this regard, the monitoring tool can also be of help for communities and NGOs that intend to seek redress with the ADB through its Inspection Mechanism.

Feedback on this publication and its methodology would be very welcome. If communities and NGOs start using this tool for specific projects, the NGO Forum would be very interested learning about the experiences and outcomes of monitoring. We therefore encourage NGOs and affected communities who are interested in applying monitoring in practice to get in touch with the NGO Forum and/or PRRM. The contact addresses for the two organizations are listed on the back page of this publication.