

16 March 2006

Open Letter to ADB on Safeguard Policy Update

**NO to Weakened Standards
YES to Accountability**

Dear Mr. Kuroda,

As you are aware, the Asian Development Bank initiated a review of its Involuntary Resettlement Policy, Environment Policy and Indigenous Peoples Policy, collectively known as the Safeguard Policies, in July 2005. As civil society organizations concerned with ADB operations, we'd like to offer this letter as our comment on the Safeguard Policy Update.

ADB's Safeguard Policies are essential to its stated mission of poverty reduction and were developed to guarantee certain standards of social and environmental protection in ADB funded projects. As a public institution with a development mandate, ADB should strengthen its environmental and social standards and hold ADB management accountable for policy implementation. In particular, ADB should:

- Uphold and ensure **compliance with international human rights, labor and environmental laws, conventions, and norms**. The policies should reference relevant international laws and standards and ensure that projects are designed and implemented in accordance with member countries' applicable international commitments.
- Develop **clear and comprehensive social and environmental policy frameworks** that demonstrate a commitment to sustainable development and poverty reduction. In ADB-supported projects, the ADB and clients should continue to be required to meet ADB safeguard policy requirements.
- Establish **mechanisms for compliance and ensure accountability for results on the ground**. The updated policies should state the intended objective or outcome of the policy and ensure that borrower and ADB compliance with that objective will be monitored, evaluated, and reported on a project-by-project basis. The policies should also outline the specific procedures to be followed by ADB and its borrowers to achieve these objectives.
- **Protect the rights of all affected communities and ensure respect for indigenous peoples' internationally guaranteed rights**, including their rights of ownership over lands and resources traditionally owned or otherwise occupied and used, and only support projects that have the free, prior and informed consent of indigenous peoples arrived at through their customary decision-making processes.

We welcomed ADB's leadership in establishing a strong Public Communications Policy and Accountability Mechanism. However, based on the ADB's October 2005 Safeguard Policy Update Discussion Note, experience with ADB projects, and past initiatives at other multilateral development banks (MDBs), we fear that unless clear statements are made to the contrary at the

outset, the Safeguard Update at the ADB will provide an opening to weaken social and environmental standards in substance, spirit and scope. By way of context, we also note that this “update” is being initiated at a time when we perceive the following perverse trends, which threaten to move ADB farther away from its development mandate:

- **Flexible Principles and No Accountability.** Instead of increasing minimum standards in order to better protect the rights of people in ADB member countries, the Discussion Note indicates the ADB is planning to move towards a discretionary system of weakened social and environmental “principles.” ADB is laying the groundwork for a shift to emphasize Country Systems and move away from international standards, to which ADB should be held accountable.

ADB’s Borrowers: “Money with No Safeguard Strings Attached”. Large OCR borrowers have made it known that they see safeguard policies as an obstacle to speedy project processing and headache-free project implementation. Some borrowers disagree with the protections afforded vulnerable groups and the environment under ADB’s current policies.

The ADB is not in Demand: The ADB is concerned about its stagnating lending and its “relevance” to its clients. This concern confirms the schizophrenia that the ADB suffers from: does ADB want to be a bank or a development agency? ADB cannot lower its standards to entice borrowers to take its loans. ADB should measure its success by the number of developing countries that no longer require its services, or by cultivating borrowers that welcome the highest social and environmental safeguards to promote poverty reduction and sustainable development.

There is a fundamental lack of accountability for safeguard compliance and achievement of safeguard policy objectives at the ADB. Although the ADB’s accountability mechanisms have documented safeguard policy violations in many projects in different countries, areas of non-compliance — and the harm they caused local communities — have still not been satisfactorily addressed at either the project or systemic level. We urge the ADB to consider the potential of this review process to learn from the challenges of the past, and design systems for addressing and remedying problems in the future.

Staff at the MDBs consistently tell us that once the Bank approves a loan or guarantee, its leverage over borrowers is limited. ADB has rarely, if ever, sanctioned clients for failure to comply with safeguard policies during project implementation, even if the project’s objectives are undermined by policy violations. Additionally, there are no sanctions for ADB management or staff who violate safeguard policy requirements and/or fail to ensure borrowers’ compliance. It is also a problem that the ADB provides little or no incentives for management or staff to ensure safeguard policy compliance. Faced with this accountability deficit, there is no justification for ADB’s proposed move to a more “flexible” or discretionary safeguard framework.

We hope that you will provide leadership to ensure the rights of the weakest and most marginalized citizens of ADB DMCs are not violated by ADB operations. We urge you to communicate the importance of strong social and environmental standards to ADB’s management, staff and its borrowers and ensure accountability for policy implementation.

Endorsed by

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