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About the cover: Photo was taken in one of the resettlement sites of the ADB funded Royal Cambodian Railway Rehabilitation project in Cambodia.

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NOTES FROM THE EXECUTIVE DIRECTOR

Dear Readers,

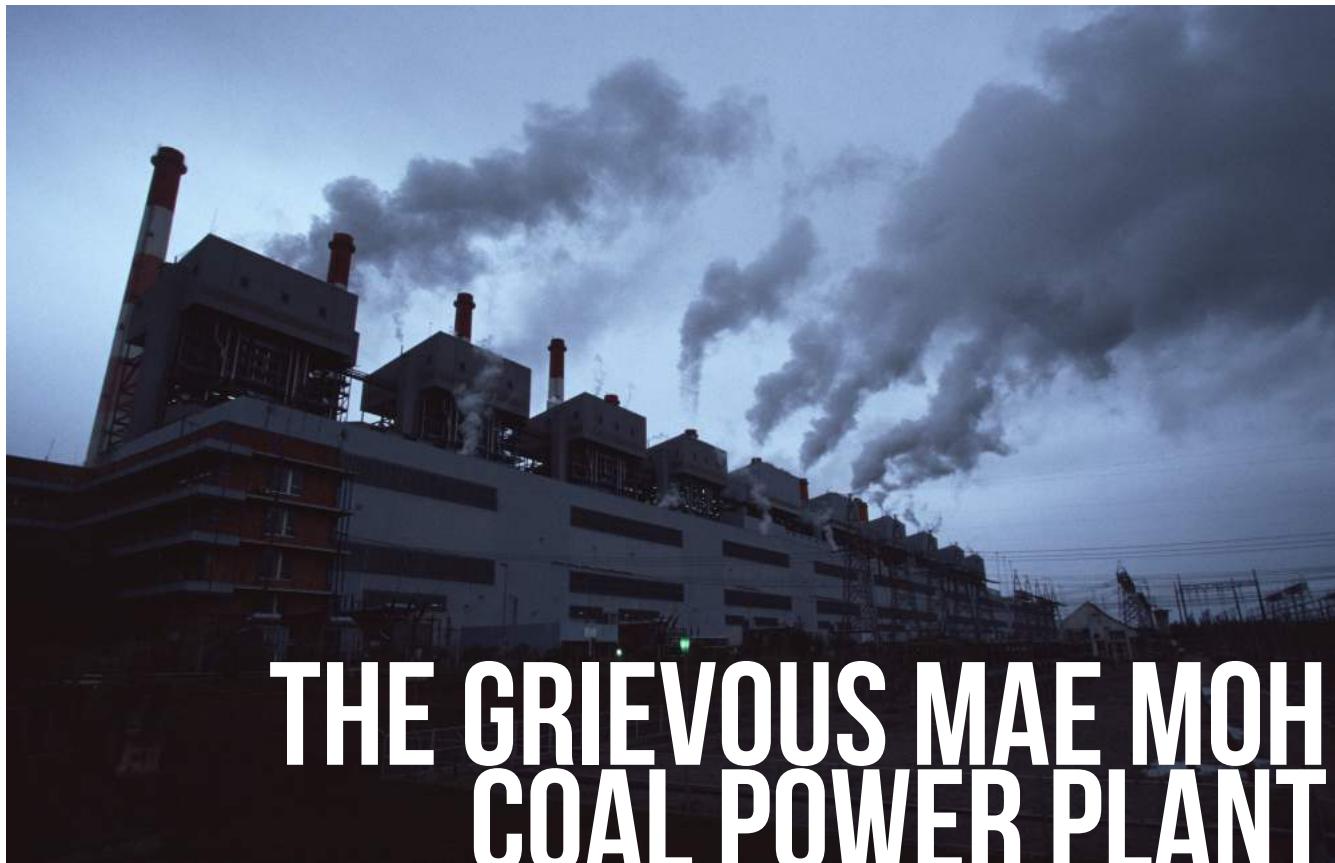
Please find the 2017 July Issue of Bankwatch. The articles are submissions and think pieces from the membership dating back 2003. The Forum have decided to have a ‘throwback’ edition of the bankwatch in lieu of the Asian People’s Call in Challenging ADB’s 50 Years of Immunity.

We look back on the Mae Moh Power Plant & Tonle Sap Initiative in Thailand, the resettlement problems in Cambodia, and the forced labor issues in Uzbekistan. Lastly a comparison between the ADB and the World Bank was done by NGO Forum on ADB’s very own policy coordinator.

We hope that you will find the pieces useful in your ongoing campaigns for economic and environmental justice.



Rayyan Hassan
Executive Director
NGO Forum on ADB



THE GRIEVOUS MAE MOH COAL POWER PLANT

The Mae Moh Coal Power Plant has 13 generating units with a total capacity of 2,625 megawatt (MW). It is located in the mountains of Lampang province in northern Thailand. According to the Asian Development Bank (ADB), it has been involved in Mae Moh mine for financing several units. It approved a series of loans amounting to more than US\$352 million for the past twenty years.

The Electricity Generating Authority of Thailand (EGAT) constructed the plants in four phases from 1978 to 1996. It owns and operates the Mae Moh Power Plant which is fueled by an open pit lignite mine which produces 40,000 tons per day. With an area of 135 square kilometers, it is considered the largest coal-fired power plant in Southeast Asia.

The project aims to answer the growing electricity demand in Metropolitan Bangkok

and rural areas. According to the ADB and EGAT, the project is highly successful since the project objectives involving least-cost nature, system loss reduction, and system stability and reliability have been met.

However in reality, taking into consideration the social and environment impacts, the project is far from being successful.

ENVIRONMENTAL AND SOCIAL IMPACTS

According to Greenpeace, the Mae Moh power plant approximately contributes more than four million tons of carbon dioxide emission in the atmosphere, annually. In addition, around 1.6 million tons of sulfur gas is released from the power plant into the air everyday. Such have caused severe health problems for the people near the site and have led to the deterioration of the environment. More than

200 people have died due to respiratory diseases and lung cancer ever since Mae Moh power plant was operated. (Jessica Rosien, 2004)

Greenpeace further said that from the time of the implementation of the Mae Moh coal power plant, more than 30,000 people have been displaced and thousands acquired severe respiratory problems. This was due to the inhalation and exposure to sulfur dioxide emitted from the mine.

The fly ash has also affected the crops of the villagers. According to one villager, her planted vegetables and fruits died because of the toxic that the coal power plant emitted. Another villager recounted that her pineapple plantation wilt over the years. Farmlands have been negatively affected by acid rain which is attributed to the sulfuric dioxide released by the coal power plant.

In October 1992, when EGAT operated the 11 units at Mae Moh, people residing within the seven-kilometer radius of the plant fell ill with

breathing difficulties, nausea, dizziness and inflammation of eyes and nasal cavities. After two months of operation, 50 percent of the rice fields were damaged by acid rain and around 42,000 people were found to have breathing ailment.

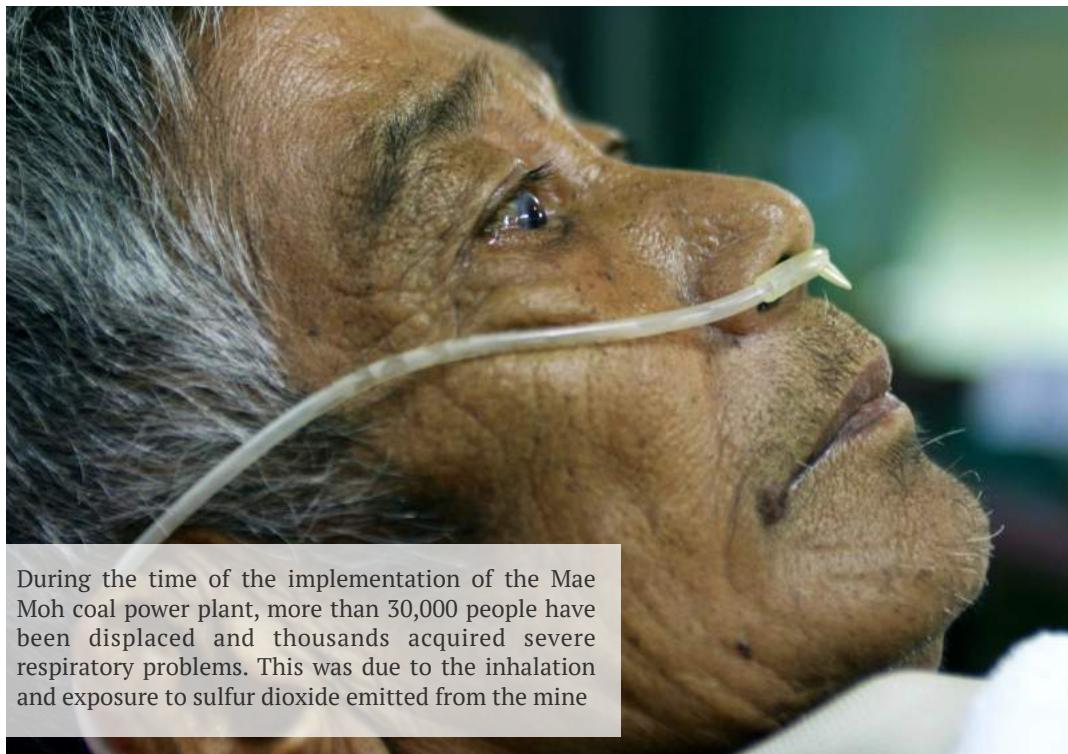
In April and May 1996, six people in Mae Moh died of blood poisoning. Greenpeace further said that in 1999, more than 600 people suffered from respiratory problems caused by sulfur dioxide emissions. (Saksit Meesubkwang, 2006)

In October 2003, the State Natural Resources and Environmental Policy and Planning Office found high levels of arsenic, chromium and manganese in almost all water sources within the vicinity of the plant.

In May 2004, the Thai Provincial court awarded US\$142,500 to the villagers for crop damages caused by the coal power plant. Greenpeace believes that this compensation is the government's way of recognizing the plant's disastrous effect to the lives of the people.



Farmlands have been negatively affected by acid rain which is attributed to the sulfuric dioxide released by the coal power plant.



During the time of the implementation of the Mae Moh coal power plant, more than 30,000 people have been displaced and thousands acquired severe respiratory problems. This was due to the inhalation and exposure to sulfur dioxide emitted from the mine

SAFEGUARD POLICY VIOLATIONS ENVIRONMENT POLICY

In its technical assistance completion report, the ADB admitted that “the Mae Moh power station, including the Mae Moh mine, has caused environmental and social problems, in particular, local air pollution causing public health problems.” (ADB, TA-CR, 2002)

In 2002, Greenpeace Research Laboratories conducted a study on the Mae Moh coal power plant. Results of the study showed that Mae Moh power plant releases around 4.3 million tons (MT) of fly ash along with 39 tons of neurotoxin mercury annually. Fine powders of fly ash sample were collected which contained elements that are highly toxic to the environment, animals, humans and plants.

Greenpeace said that sample from Mae Moh coal power plant contained very high concentrations of arsenic, mercury, lead and chromium. Arsenic is known to be carcinogenic

to humans. It could easily enter groundwater and waterways. Mercury is a well-known neurotoxin. Lead is highly toxic and could damage the environment. It has a long residence time compared with most pollutants. Chromium is also a known carcinogen.

To mitigate the negative impacts of the plant, pollution control devices, such as flue gas desulfurization (FGD) and ionizing wet scrubbers, were installed by the government. However, Greenpeace Research Laboratories stated that the sample ashes still contained very fine particulates, called respirable particles. These elements include arsenic, cadmium, chromium, cobalt, lead, mercury and zinc. Pollution control devices fail to contain these respirable particles. In the case of Mae Moh, mercury was not completely removed and still reflected high concentration in the sample collected.

Greenpeace stated that end-of-pipe technologies cannot destroy toxic elements that were released to the atmosphere in gaseous form. Treatment of these hazardous elements will only result in the production of additional contaminated waste streams.

INVOLUNTARY RESETTLEMENT POLICY

Due to the implementation of the project, more than 30,000 people have been displaced. According to reports, Thailand's cabinet previously offered to build houses for those who were affected. However, there has been no progress about this plan until now.

This clearly shows that the ADB and EGAT have no concrete plan and program to address the issue of resettlement of affected villagers. Compensation for the income loss due to farmland degradation was not even included in the implementation of the project. The villagers have to go through the process of filing law suits against the government just to receive just compensation.

LESSONS LEARNED

The case of the Mae Moh Coal Power Plant is another proof that burning fossil fuel to generate electricity is detrimental to the environment and human health. This has been proven by the many people who acquired respiratory diseases and numerous individuals who died due to toxic elements that were produced by the plant. In the long run, the use of coal power plants does not promote sustainable development.

In spite of pollution control devices, hazardous particles are still present at high levels in the environment. This only means that the only way to end the social and environmental disasters that a coal power plant brings is through a complete stop of its operation. This leaves the ADB and the government to resort to sustainable, renewable and environment-friendly sources of energy such as solar and wind-generation power.

According to Greenpeace, there is a need for the ADB and the host governments of coal power plants to conduct an environmental audit. Based on the Mae Moh experience, there is a need to institutionalize resettlement programs. Just compensation and medical treatment should be provided to the victims of the coal power plant releases.

The ADB should begin accepting responsibility for the social and environmental disaster that the coal power plant has caused the people of Mae Moh. The story of Mae Moh points out that the demand fo

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SAFEGUARDING YOUR RIGHTS: ADB & WORLD BANK SAFEGUARD POLICIES

ANNABEL PERRERAS

The NGO Forum on ADB recognizes the changing development financing and the role that multilateral development banks (MDBs) are playing in an attempt to address the infrastructure gaps in Asia. However this also presupposes on the need to have strong safeguards both in language and implementation to protect local communities and the environment from the potential harmful impacts of these investments. Safeguard policies should remain as a priority for established lenders such as World Bank and the Asian Development Bank (ADB) particularly as new player namely the Asian Infrastructure Investment Bank (AIIB) and New Development Bank (NDB) are coming in.

The objective of this paper is to assess the similarities and differences of World Bank's 2nd Draft Environmental and Social Framework released in June 2015 and that of ADB's 2009 Safeguard Policy Statement. The methodology employed is a desk – based analysis drawing from the two (2) main policy documents and reference materials from various civil society inputs into the process of consultation.

The glaring risks posed by the current draft ESF as compared to the SPS are as follows. First, it appears that safeguards are driven by the objective to approve loans faster as there is a competition with other lenders on the "business" of development financing. It also offers flexibility on the application of

safeguards even after Board approval. In essence the ESF is more aspirational rather than a binding document between the bank and borrower. This radical shift in the enforcement of safeguard policies undermines the environmental and social protection which is the cornerstone of why safeguards are established in the first place.

Relative to this, the draft policy also follows a "phased approach" with respect to compliance on the Environmental and Social Standards (ESS) as the projects are expected to meet the said standards at "a timeframe acceptable to the bank." This also suggests a heavy on responsibility on the bank on monitoring and supervision throughout the implementation period. However as in the case also of ADB, this aspect of project implementation and due diligence required of these banks are often characterized by budget constraints, lack of safeguard specialists and limited time for field visits among others.

Lastly, there should be a need to revisit the new project classification being proposed by making the policy language clear and provide guidance in determining the risks and impacts of the project. Due diligence requirements in the identification and categorization of projects should not be viewed as "burdensome". By striking the balance between project preparation and implementation both World Bank and the ADB will be in a better position to

ensure that projects will neither cause and/or mitigate environmental and social harm it might cause.

There is no question on the need to fulfill the infrastructure gaps to increase accessibility for social services, provide employment opportunities or to improve the quality of life particularly for the poor. However increased infrastructure investments should not be at the expense of destruction of the environment or to project affected communities left to further impoverishment. MDBs have the moral responsibility to ensure that safeguards are enforced and strengthened in any project investment.

OVERVIEW OF THE POLICY

Structure

WORLD BANK BANK'S 2ND DRAFT ESF

World Bank Environmental and Social Policy

A Vision for Sustainable Development

World Bank Environmental and Social Policy for Investment

Project Financing

Purpose

Objectives and Principles

Scope of Application

Bank Requirements

A. Environmental and Social Risk Classification

B. Use and Strengthening of Borrower's Environmental and Social Framework

C. Environmental and Social Due Diligence

D. Special Project Types

E. Environmental and Social Commitment Plan (ESCP)

F. Information Disclosure

G. Consultation and Participation

H. Monitoring and Implementation Support

I. Grievance Mechanism and Accountability

Institutional and Implementation Arrangements

Borrower Requirements – Environmental and Social Standards (ESS) 1 – 10

1. Assessment and Management of Environmental and Social Risks and Impacts

2. Labor and Working Conditions

3. Resource Efficiency and Pollution Prevention and Management

4. Community Health and Safety

5. Land Acquisition, Restrictions on Land Use and Involuntary Resettlement

6. Biodiversity Conservation and Sustainable Management of Living Natural Resources

7. Indigenous Peoples

8. Cultural Heritage

9. Financial Intermediaries

10. Stakeholder Engagement and Information Disclosure
Environmental and Social Procedures

ADB'S 2009 SPS

ADB SAFEGUARD POLICY STATEMENT

- A. Overarching Statement on ADB's Commitment and Policy Principles
- B. Policy Delivery Process
- C. Roles and Responsibilities

APPENDIXES

- 1. Safeguard Requirements 1: Environment
- 2. Safeguard Requirements 2: Involuntary Resettlement
- 3. Safeguard Requirements 3: Indigenous Peoples
- 4. Safeguard Requirements 4: Special Requirements for Different Finance Modalities
- 5. ADB Prohibited Investment Activities List
- 6. Strengthening and Use of Country Safeguard Systems to Address Environmental and Social Safeguard Issues

Operations Manual





1. Both the ESF and SPS follows an “integrated framework” which systematically connects and includes substantial and procedural rules as well as specific guidance notes in a hierarchically structured normative architecture. However, detailed discussions will be presented in the succeeding sections to illustrate the similarities and extent of differences in the clarity and coherence of the language in the policy. Such an integrated framework provides an easily understandable and well structured pyramid of norms consisting of three layers: 1) an umbrella policy which formulates the general principles; 2) applicable to a set of issue – specific policies in the 2nd layer; and complemented by an accompanying guidance note.

2. In the case of the ADB, the said integrated framework is illustrated as follows:

- overview of the ADB SPS which describes the common objectives of the safeguards, policy principles and outlines the delivery process for each of the safeguard policy;
- a set of specific safeguard requirements (for environment, involuntary resettlement, indigenous peoples and special requirements for different finance modalities) that borrowers/ clients are

expected to address in light of social and environmental risks and impacts; and

- Operations Manual that specifies ADB’s internal review procedures accordingly for due diligence and supervision throughout the project cycle.

3. On the other hand, the World Bank’s ESF main components are

as follows:

- overview of the World Bank ESF which outlines its vision for sustainable development; purpose, objectives and principles and scope of the Environmental and Social Policy;
- Borrower Requirements for the Environmental and Social Standards 1 – 10;
- Environmental and Social Procedures. While it would appear that the ESF is broader in scope, some of these ESS like biodiversity conservation are categorized under ADB SPS’ safeguards requirement on the environment.

4. While following a similar structure, the current draft ESF offers more flexibility in its application of safeguards even after Board approval of projects. This main difference with the ADB in essence makes the ESF more aspirational, as articulated in the ESF’s vision for sustainable development, rather than a binding document between the bank and the borrower. This radical shift in the enforcement of safeguard policies undermines the environmental and social protection which is the cornerstone of why safeguards are established in the first place.

Project Classification

WORLD BANK BANK'S 2ND DRAFT ESF

Page 12, par. 20:

The Bank will classify all projects (including intermediated financing projects) into one of four classifications: **High Risk, Substantial Risk, Moderate Risk or Low Risk.**

In determining the appropriate risk classification, the Bank will take into account relevant issues, such as:

- 1) the type, location, sensitivity and scale of the project;
- 2) the nature and magnitude of the potential environmental and social risks and impacts and;
- 3) the capacity and commitment of the Borrower (including any other entity responsible for the implementation of the project) to manage the environmental and social risks and impacts in a manner consistent with the ESS.



ADB'S 2009 SPS

Page 19, par. 49 – 50:

Screening and Categorization. ADB will carry out project screening and categorization **at the earliest stage of project preparation** when sufficient information is available for this purpose. It is undertaken to:

- 1) reflect the **significance of potential impacts or risks** that a project might present;
- 2) identify the level of assessment and institutional resources required for the safeguard measures;
- 3) determine disclosure requirements.

Environment Categorization. A project's category is determined by the category of its most environmentally sensitive component, including **direct, indirect, cumulative and induced impact in the project's area of influence** (emphasis supplied).

Category A – if it is likely to have significant adverse environmental impacts that are irreversible, diverse, or unprecedented. These impacts may affect an area larger than the sites or facilities subject to physical works. An environmental impact assessment is required.

Category B – if its potential adverse environmental impacts are less adverse than those of Category A. These impacts are site – specific, few if any of them are irreversible, and in most cases mitigation measures can be designed more readily than for category A projects. An initial environmental examination is required.

Category C – a proposed project is classified as category C if it is likely to have minimal or no adverse environmental impacts. No environmental assessment is required although environmental implications need to be reviewed.

Category FI – category FI if it involves investment of ADB funds to or through a FI

Involuntary Resettlement. For a project involving involuntary resettlement, a **resettlement plan** will be prepared that is commensurate with the extent and

WORLD BANK BANK'S 2ND DRAFT ESF



5. The current ESF follows a “risk” classification as compared with the SPS screening/ project categorization which looks both into the significant potential impacts or risks. While a number of factors were identified in determining the risk classification, it fails to provide a general differentiation of what constitute such risk. In addition, it appears that the current draft apply primarily to projects with “high risks” and are quite vague on projects generating “substantial risk.”
6. In contrast, since the main focus of the project categorization of the SPS is on the likely significant potential impacts of the project, it provides a description of the kind of impacts e.g. reversibility, direct, indirect, cumulative and induced impact to be determined correspondingly by the document (environment impact assessment or initial environment examination) that is required to be prepared.
7. Secondly, the ESF is only limited to the project. However in the case of ADB, the environment categorization clearly identifies that depending on the scope of

ADB'S 2009 SPS

degree of the impacts. The degree of impacts shall be determined by (i) **scope of physical and economic displacement**, and (ii) **the vulnerability of the affected persons** (FI projects are discussed in section xxx).

Indigenous Peoples. For projects with impacts on Indigenous Peoples, an **Indigenous Peoples plan will be prepared**. The degree of impacts is determined by evaluating (i) **the magnitude of the impact on Indigenous Peoples'** customary rights of use and access to land natural resources; socioeconomic status; cultural and community integrity; health, education, livelihood systems and social security status; or indigenous knowledge; and (ii) **the vulnerability of the affected IPs** (FI projects are discussed in the next section).

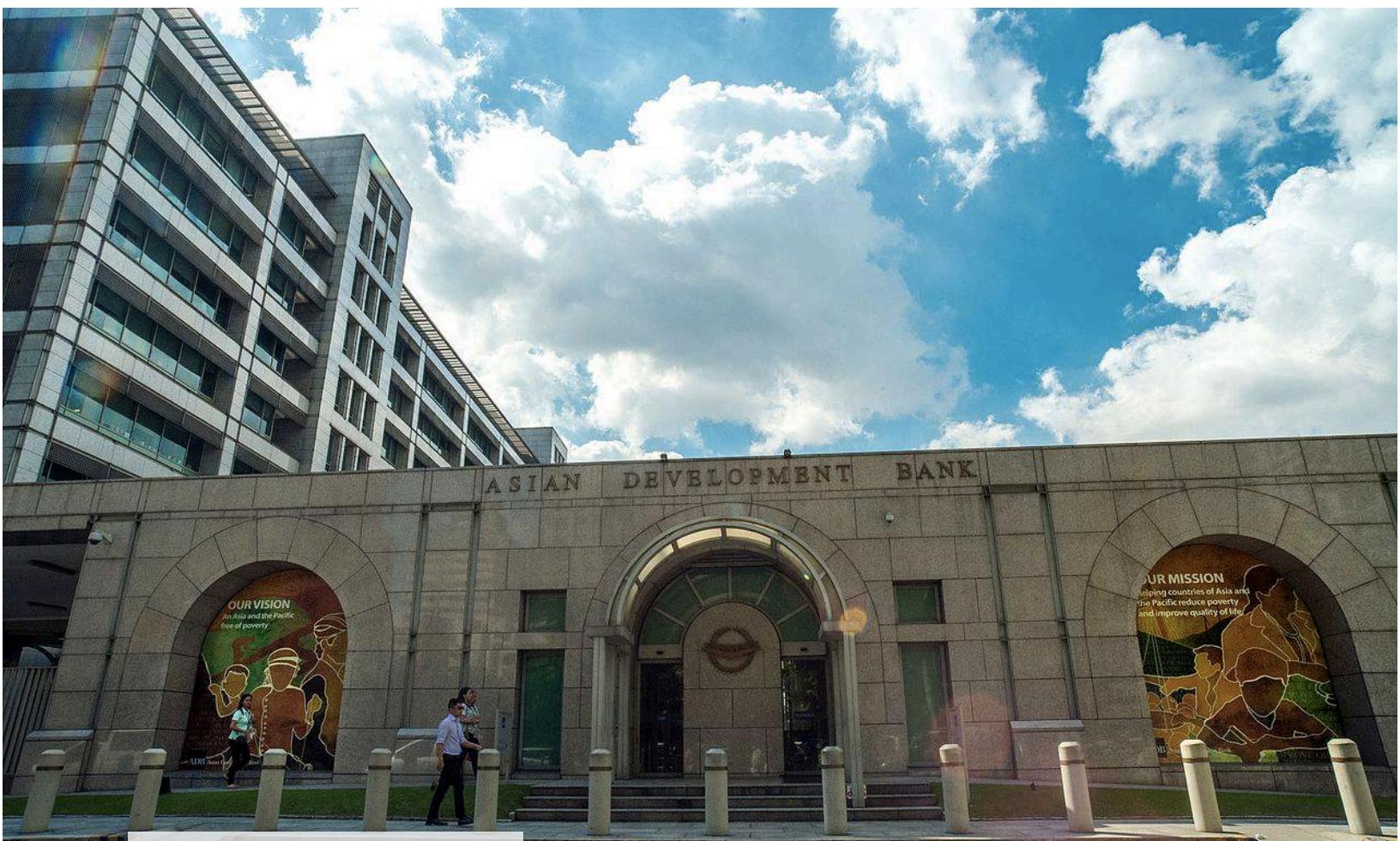
the environmental impacts it would either identify and include the project's area of influence or impacts that are site – specific.

8. Procedurally, the ADB SPS also clearly states that the said project categorization and other safeguard assessments are undertaken at the earliest stage of project preparation in the project cycle. Whereas, the current draft ESF states that the “Bank will review the risk classification assigned to the project on a regular basis, including during project implementation and will change the classification where necessary, to ensure that it continues to be appropriate (par. 21).
9. In the case of ADB, there is also a growing concern on the volume of category B projects and the appropriate safeguard measures applied for such. Accordingly, the projects approved starting 2010 are slightly lower in proportion of category A projects as compared before the adoption of the SPS. However category B projects indicate an increased share of projects classified as

9. carrying some level of environmental risks with significant quality at entry gaps. This is substantiated by the finding that the lending volume for category B increased from 29% to 48% after SPS adoption.
10. Specifically these gaps include lack of sufficient detail on specific project activities and components and to an even greater extent the baseline for environmental conditions. These gaps pose risk on the increase of category B projects without fully assessing the potential adverse impacts and consequently identifying the appropriate mitigation measures to address such.
11. Hence it is integral for World Bank to reassess its project classification by making the policy language clear and provide guidance in determining the risks and impacts of the project. In the same vein, the due diligence required in identification and

categorization of projects should not be viewed as “burdensome” requirements. By striking the balance between project preparation and implementation both banks will be in a better position to ensure that projects will neither cause and/or mitigate environmental and social harm it might cause.

12. Lastly, the project categorization in the case of the SPS also requires that if it will involve involuntary resettlement, a resettlement plan will be prepared. Similarly if it will have an impact on indigenous peoples, an indigenous peoples plan will likewise be prepared. It also provides the basis by which the degree of impacts shall be determined both for the involuntary resettlement and indigenous peoples. The said similar time bound, mandatory requirements and criteria are lacking in the project categorization in the case of ESF.



ADB Headquarters, Manila Philippines

Information Disclosure

WORLD BANK BANK'S 2ND DRAFT ESF

Environment and Social Standard 10: Stakeholder Engagement and Information Disclosure (par. 19 - 20)

The Borrower will provide stakeholders with access to the following information, as early as possible:

- i. Purpose, nature and scale of project;
- ii. Duration of proposed project activities;
- iii. Potential risks and impacts of the project on local communities and the proposals for mitigating these, highlighting potential risks and impacts that might disproportionately affect vulnerable and disadvantaged groups and describing the differentiated measures taken to avoid and minimize these;
- iv. The proposed stakeholder engagement process highlighting the ways in which stakeholders can participate;
- v. The time and venue of any proposed public consultation meetings, and the process by which meetings will be notified, summarized and reported; and
- vi. The process and means by which grievances can be raised and will be addressed.

In addition, the “information will be disclosed in relevant local languages and in a manner that is accessible and culturally appropriate, taking into account any specific needs of groups that may be differentially or disproportionately affected by the project or groups of the population with specific information needs (such as disability, literacy, gender, mobility, differences in language or accessibility).”

13. Base from these policy stipulations it is a clear dilution in the case of ESF as it merely refers to the type of “information” that will be disclosed rather than pertaining to specific documents e.g. environmental and social assessments, resettlement and IP plans itself. Secondly due to the lack of a clear provision on the time frame by which these “information and/or assessments” to be disclosed e.g. 120 days for category A projects for ADB for public comments, in essence the World Bank inadvertently deprive potential project affected communities on their right to elevate their concerns prior board approval.

ADB'S 2009 SPS

Page 19, par. 53

For environment category A projects, **draft EIA reports to be posted on the website at least 120 days before Board consideration**. In addition:

- i. The draft environmental assessment and review framework, draft resettlement frameworks and/or plans and draft IP planning frameworks and/or plans before project appraisal.
- ii. Final or updated EIA and/or IEE, resettlement plans and IP plans upon receipt by ADB; and
- iii. Environmental, involuntary resettlement and IP monitoring reports submitted by borrowers/ clients during project implementation upon receipt by the ADB.



14. Nonetheless, the ADB could still improve further improve their disclosure requirements e.g. IEE specifically for the category B as the SPS is silent in this regard. Similarly there is also no specific disclosure time frame for draft and final resettlement, indigenous peoples plans and/or frameworks.

Financial Intermediaries

WORLD BANK BANK'S 2ND DRAFT ESF

Page 17 - 18, par. 39 - 44

Where the Borrower is an FI, the Bank will review the adequacy of national environmental and social requirements relevant to the project and to the proposed FI subprojects and the capacity of the FI to manage environmental and social risks and impacts.

... The Bank will classify a project involving an FI into one of the four risk classifications set out in par. 20.

Where the FI is classified by the Bank as High Risk or Substantial Risk and the Bank is not satisfied that adequate capacity exists... it will be subject to prior review and approval by the Bank.

If the risk profile of a FI subproject increases significantly, the FI will notify the Bank and will apply relevant requirements of the ESSs in a manner agreed with the Bank. The measures and actions agreed will be included in the ESCP and in the legal agreement between the FI and the subborrower and will be monitored by the bank.

ADB'S 2009 SPS

Page 23, par. 65 - 66

ADB conducts safeguard due diligence to assess the potential environmental and social impacts and risks associated with the FI's existing and likely future portfolio and its commitment and capacity in social and environmental management. All FIs will ensure that their investments are in compliance with applicable national laws and regulations and will apply the prohibited investment activities list to subprojects financed by ADB. Where the FI's investments have minimal or no adverse environmental or social risks, the FI project will be treated as Category C project and need not apply any other specific requirements. All other FI's will be required to have in place or establish an appropriate environmental and social management system (ESMS) commensurate with the nature and risks of the FI's likely future portfolio to be maintained as part of the FI's overall management system.

Where the FI's subprojects to be funded by ADB, have potential significant environmental or social impacts, the FI will be required to ensure that such projects meet ADB's safeguard policy requirements... ADB will monitor FI's performance on the basis of its ESMS.

15. The ESF should have a stronger policy stipulation as in the case of SPS wherein the ADB ensures its conduct of safeguard due diligence for FI projects. Furthermore, the ADB requires ADB assessment and approval of any Category An FI subprojects. The SPS also clearly indicates that the prohibited investment activities list is extended to subprojects supported by the ADB. The ESCP is not a binding document and will pose risks in the manner by which the bank will ensure the compliance of FI projects into the bank's policies.

CON'T on page 21









16. On the other hand according to ADB's IED, while the bank's quality of entry due diligence has improved after SPS approval, there are still gaps that remain. The review concluded that the depth of ADB's due diligence was not clear as it was at times not well summarized with respect to (i) assessing potential environmental and social impacts of the FI's portfolio and (ii) the FI's safeguard implementation capacity.
17. Furthermore, based on a study of ESMSSs, the IED concluded that FIs were generally appropriately committed to assessing whether subprojects adhered to SPS requirements as well as national laws and rules and whether the subproject would pursue activities prohibited as per an ADB list. However, improvements can be further be undertaken on monitoring; screening, categorization and review among others.

Country Systems

WORLD BANK'S USE AND STRENGTHENING OF BORROWER'S ENVIRONMENTAL AND SOCIAL FRAMEWORK (ESF)

Page 15, par. 25:

The Borrower's ES Framework will include those aspects of the country's policy, legal and institutional framework, including its national, subnational, or sectoral implementing institutions and applicable laws, regulations, rules and procedures, and implementing capacity, which are relevant to the environmental and social risks and impacts of the project.

18. The scope of the definition of the borrower's ESF and CSS is relatively similar for both banks. The outright difference between the two can be assimilated from how World Bank views it i.e. use and strengthening of borrower's ESF as opposed to ADB's which highlights a phased approach of strengthening and eventual use of CS. As further articulated in the policy stipulations of this section, the World Bank intends to overly rely on the use of borrower's country systems.

19. In order to ensure that the ADB safeguard principles are not compromised with risks

ADB'S STRENGTHENING AND USE OF COUNTRY SAFEGUARD SYSTEMS (CSS)

Page 24, par. 68:

CSS refers to a country's legal and institutional framework, consisting of its national, subnational, or sectoral implementing institutions and relevant laws, regulations, rules, and procedures that pertain to the safeguard policy areas.

and challenges posed by using CSS, the ADB's approach is gradual and taking into account the following considerations:

- Conditions for applying CSS;
- Methodology of CSS assessments;
- Consultation and validation processes;
- ADB's and borrower's roles and responsibilities;
- Procedures and other related requirements e.g. gap filling; and
- Resource implications (par. 37, SPS).

20. In contrast with the ESF, it lacks clarity and sufficient guidance how will the World Bank carry out the review of borrower's existing ESF and ensure that it is "materially consistent" with the ESS.
21. The application of CSS in ADB – financed projects are demand driven from the borrower and neither it is mandatory. In contrast with the World Bank's ESF, it is ambiguous on the circumstances by which the bank will facilitate the review of the borrower's ESF. Similarly, the ESF also lacks guidance on the basis by which the bank will agree to use all or partly of the borrower's ESF.
22. The ADB also supports the strengthening of the borrower's CSS and emphasize on the capacity development of the borrowers hence the gradual approach. As cited also in this section of the policy, it provides a two test (equivalence and acceptability) to ensure that the borrower has an "equal" or better standard than that of the ADB. The current draft ESF omitted the similar requirement on equivalence and acceptability between the bank and the borrower from its old policy, World Bank OP/ BP 4.00 on the use of country systems.
23. Furthermore, in the case of ADB it is also clear that the "CSS will not be applied to highly complex and sensitive projects financed by ADB." The same provision on exclusion as added safeguard is not present in the current ESF. Without an explicit exclusion, it poses the risk that as long as there is an overt agreement between the bank and the borrower, regardless of the nature of the project, then the borrower's own ESF will be applied.
24. In addition, in line with ADB's focus on strengthening the capacity of the borrower the equivalence and acceptability assessments also include gap – filling measures if required. The said assessments will also similarly be open for public comments including the government, NGOs and other stakeholders. The final reports will be disclosed on ADB's website in accordance with ADB's Public Communications Policy.
25. The World Bank also introduced the Environment and Social Commitment Plan (ESCP) which "will set out the material measures and actions required for the project to meet the ESSs over a specified timeframe." The same does not have an equivalence with the SPS. The ESCP while it appears to be aligned with the general tone of the ESF to use borrower's national systems to encourage county ownership is also problematic as it is not binding. While the use of the borrower's environmental and social frameworks provides opportunities it also posed serious risks and challenges as evidenced during the "use of country systems" pilot where all the pilot projects experienced problems. The level of capacities of borrowers varies and the ESF is silent on how does it intend to first address such gaps. An outline of the said ESCP would have been better also to be included in the draft ESF. It will shed more light on the contents of the plan, the roles and responsibilities of the bank and borrower including the accountability, monitoring and evaluation checks in place.
- ### I. Environment
26. In terms of the scope of the policy, the ADB has a better standard in the applicability of the environmental safeguards. The SPS provides that the

- requirements apply to all ADB – financed and/or ADB administered sovereign and non – sovereign projects, and their components regardless of the source of financing (p.30 par.3). On the other hand, the ESF merely provides that the “borrowers will structure their projects so that they meet the requirements of the ESSs in a manner and timeframe acceptable to the Bank, as set out in the ESCP.” As mentioned in the par.25 of this paper, the ESCP in itself is not binding and is ambiguous on the roles and responsibilities of the Bank and the borrower.
27. It is a positive development that the ESF particularly ESS 1 states that it also applies to all associated facilities. However, it is subject to interpretation as the applicability of the standards to associated facilities is subject to the “extent that the Borrower has control and influence over such facility” (p. 12 par. 10). Again no guidance was provided by which the Borrower will be required to demonstrate its control and influence and neither the parameters by which it is deemed “satisfactory” to the Bank.
28. For comments on the environmental assessment, please go to the discussion on project classification. Both the ESF and SPS also provided a basis in determining their respective assessment processes. However in the case of ADB, a “no project” alternative will also be considered is part of the assessment (p. 30 par. 4).
29. Both the SPS and ESF provides that environmental assessment will also identify political transboundary effects e.g. air pollution and increased use or contamination of international waterways, and global impacts e.g. emission of greenhouse gases and impacts on endangered species and habitats. The ESF even included the climate change mitigation and adaptation issues as part of the assessment.
30. However the ESF also fails to identify the vulnerable groups e.g. women, children, elderly, indigenous peoples, persons with disabilities and others that will likely to be affected by a project. While the term “vulnerable groups” is generally accepted and flexibility is understandable, the failure of such tends to undermine the peculiarities in each group and consequently fall short in addressing their concerns. Nonetheless ADB on the other hand, have better policy pronouncements on gender considerations and protection of women from the adverse impacts of development projects. The ADB could fair better if it will also include persons with disabilities and lesbian, gay, bisexual and transgender (LGBT) as part of the vulnerable groups.
31. The SPS also provided the major elements of the EIA report. As mentioned in the section on project categorization it is clear when will EIA be prepared accordingly. However in the case of the ESF it merely states that “the borrower will carry out environmental and social assessment of the project.” It encompasses methods and tools such as EIA, environmental audit, environmental and social management framework (ESMF). It lacks clarity when will the EIA, the audit or the ESMF will be prepared as part of the environmental and social assessment.
32. On the other hand, both the ESF and SPS requires that a regional or sectoral strategic environmental assessment will also prepared if its significant environmental impacts will have an impact regionally. In addition, both policies also states that the assessment of environmental impacts and risks will be undertaken for relevant stages of the project which includes pre – construction, construction, operations, decommissioning and post – closure activities e.g. rehabilitation or restoration. Although the language in the ESF on the applicability in the project stages can be

risks will be undertaken for relevant stages of the project which includes pre - construction, construction, operations, decommissioning and post - closure activities e.g. rehabilitation or restoration. Although the language in the ESF on the applicability in the project stages can be more forthright by replacing “may include” with “will include”.

33. As mentioned in par. 25, the ESCP will also take into account the findings of the environmental and social assessment and will also include the measures and actions required to address the environmental and social risks and impacts of the project. Furthermore the ESCP lacks clarity on its scope and a general statement on “specific measures and actions over a specified timeframe” to address the impacts appears to be inadequate. On the other hand while not an “exact equivalence” of ESCP, the SPS requires an Environment Management Plan (EMP) to address the potential risks and impacts identified in the environmental assessment.
34. As opposed to the ESF, the EMP accordingly will include proposed mitigation measures, environmental monitoring and reporting requirements, related institutional or organizational arrangements, capacity development and training measures, implementation schedule, cost estimates and performance indicators (p. 32 par. 12). The last 3 components of the EMP is lacking as integral part of the ESCP. Furthermore the EMP will define expected outcomes and will be responsive to the changes in project design.
35. Both policies recognize residual impacts and will be addressed through appropriate measures to compensate or offset such risks and impacts. The SPS however further

provides that such measures “aim to ensure that the project does not cause significant net degradation to the environment (p. 32 par. 13).” The ADB nonetheless could improve its language on residual impacts by providing parameter/ guidance in determining “significant net degradation.” Monetary compensation in lieu of offset is also deemed acceptable in exceptional circumstance.

36. As mentioned in par. 4 of this paper, the ESF is structured in a flexible manner. It provides that “if the project comprises or includes facilities/ activities that do not meet the requirements of the ESSs at the time of the Board approval, the Borrower will be required to adopt and implement measures satisfactory to the Bank to meet the requirements of the ESSs within a timeframe acceptable to the Bank.” In essence, the project need not to be “project ready” during the board approval and such a policy stipulation is a major dilution in the safeguards.
37. The SPS also provides that where unanticipated environmental impacts become apparent during project implementation, the borrower/ client will either update the environmental assessment and EMP or prepare a new one (p. 34 par. 23). The ESF does not provide additional safeguard for unanticipated impacts.

Involuntary Resettlement

38. Both ADB’s Safeguard Policy Statement of 2009 and World Bank’s 2nd Draft Environmental and Social Framework recognize the “avoid, minimize and mitigate” approach when involuntary resettlement inevitably arise in the course

- of the project implementation.
39. It is a positive note that the ESS clearly aims to avoid forced eviction (as opposed to the SPS) and the definition of which is adopted from UN Committee on Economic, Social and Cultural Rights (ICESCR) General Comment No. 7: The Right to Adequate Housing (Article 11.1): Forced Evictions. Nonetheless a closer scrutiny of the definition of forced eviction as per the ESS further entails that “the exercise of eminent domain, compulsory acquisition or similar powers by a Borrower will not be considered to be forced eviction providing it complies with the requirements of national law and the provisions of ESS 5 (ESS 5, par. 31). In essence if such acts that would constitute forced eviction are permissible within the national laws of the Borrower then it follows suit that there will be no violation of ESS 5. While legally acceptable, this poses the question on situations wherein national laws have weak protection from the ill effects of forced evictions and what will be the accountability of the World Bank in this regard.
40. There are instances wherein forced evictions are fashioned to be justifiable to pave way for development and infrastructure projects such as construction of dams, road rehabilitation or other large scale energy projects. However it is the women, children, elderly, indigenous peoples, persons with disabilities and other vulnerable groups who bear the cost disproportionately from practices of forced eviction.
41. Both the ESF and SPS recognize to improve the standard of living of the displaced households or at least restore their livelihoods. By articulating the “pre - project/ pre - displacement level”, it ensures that project affected persons and/or communities protection that their condition should not be worse off upon the implementation of the project.
42. On the other side it is noteworthy for World Bank to specify also the means by which the improvement in the standard of living is carried out i.e. “through provision of adequate housing, access to services and facilities, and security of tenure”.
43. However, both the ESF and SPS fails to identify the vulnerable groups e.g. women, children, elderly, indigenous peoples, persons with disabilities and others that will likely to be affected by a project. While the term “vulnerable groups” is generally accepted and flexibility is understandable, the failure of such tends to undermine the peculiarities in each group and consequently fall short in addressing their concerns. Nonetheless ADB on the other hand, have better policy pronouncements on gender considerations and protection of women from the adverse impacts of development projects.

Indigenous Peoples

44. Some of the strengths of the ADB policy is its commitment not finance projects in the absence of a broad community support (par. 55). It also referred to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), “ADB’s safeguard policy should ascertain the consent of affected of affected Indigenous Peoples communities which refers to a collective expression by the affected IPs communities through individuals and/or their recognized representatives, of broad community support for the project activities (par. 33).”
45. However notwithstanding the policy’s reference to UNDRP, the SPS still fails to

fully integrate the principle of Free, Prior, Informed Consent (FPIC). The “redefinition” of FPIC into “broad community support” is merely an interpretation of the result of what transpired in the consultation process where IPs can express their views and concerns. While consent is a matter of collective decision – making that is reflective of the process and negotiation with the IPs.

46. On the other hand, the new draft ESF improved as it no longer provides an “alternative approach” clause which in essence would have allowed borrowers to opt out of applying the requirements related to protect the Indigenous Peoples.

47. The revised ESF also still lacks detail on the disclosure and substantive requirements of an Indigenous Peoples Plan and/or Framework. The said disclosure requirement should also be in a manner and language appropriate for the affected IP communities to be understood.
48. Furthermore, ESS 7 should make reference to ILO Convention 169 and international human rights standards regarding the proper implementation of the right to free, prior and informed consent in requiring that FPIC be obtained from indigenous project stakeholders before any aspects of the project can proceed further.

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- Bernstorff and Dann. Reforming the World Bank’s Safeguards: A Comparative Legal Analysis. GIZ. 2013.
 - Ibid.
 - Thomas, V. ADBs safeguards policy could be a benchmark. February 2015. Fried, S. Lessons Learned: The Implication of the ADB’s Review of Safeguard Policy Implementation for the World Bank and the Asian Infrastructure Investment Bank. February 2015.
 - As per the ESF, Project refers to the activities for which Bank support through Investment Project Financing is sought by the Borrower and as defined in the project’s legal agreement between the Borrower and the Bank. The World Bank Environmental and Social Policy for Investment Project Financing does not cover operations supported by Development Policy Lending or those supported by Program – for – Results Financing.
 - Accordingly, the project’s area of influence encompasses: i) primary project sites(s) and related facilities e.g. power transmission corridors, pipelines, canals, tunnels, access roads, borrow pits and disposal areas and construction camps; ii) associated facilities that not funded as part of the project; iii) areas and communities potentially affected by cumulative impacts; and iv) areas and communities potentially affected by impacts from unplanned but predictable developments caused by the project that may occur later (Appendix 1, para. 6).
 - Project Cycle: 1) Country Partnership Strategy; 2) Preparation; 3) Approval; 4) Implementation; and 5) Completion and Evaluation.
 - Independent Evaluation ADB. Safeguards Operational Review: ADB Processes, Portfolio, Country Systems and Financial Intermediaries. October 2014.
 - “Stakeholder” refers to individuals or groups who a) are affected or likely to be affected by the project (project – affected parties); and b) may have an interest in the project (other interested parties) (ESS 10, par. 5).
 - If no further mission for appraisal is required, the document will accordingly be posted before the management review meeting or first staff review meeting for sovereign projects or before the final investment committee meeting for non – sovereign projects as applicable (ADB Public Communications Policy). The review will include an assessment of the procedures the FI will use to: a) conduct environmental and social screening and categorization of FI subprojects; b) ensure sub – borrowers’ capacity to conduct appropriate environmental and social assessment of proposed FI subprojects, and c) review the result of environmental and social assessments.
 - The ESMS will incorporate the following elements: i) environmental and social policies; ii) screening, categorization and review procedure; iii) organizational structure and staffing including skills and competencies in environmental and social areas; iv) training requirements ; and v) monitoring and reporting. Accordingly, the system will be documented.
 - Independent Evaluation ADB. Safeguards Operational Review: ADB Processes, Portfolio, Country Systems and Financial Intermediaries. October 2014.
 - Prerequisites for the use of CSS – equivalence and acceptability assessments: 1) Equivalence assessments – the CSS is equivalent to ADB, that is the CSS is designed to achieve the objectives and adhere to the policy scope, triggers and applicable principles set out in the SPS; 2) Acceptability assessment – Borrower has the acceptable implementation practice, track record, capacity and commitment to implement applicable laws, regulations, rules and procedures in the country, specific sector, or agency concerned.
 - United States Comments on World Bank Safeguards Review Phase 2. 26 March 2015.
 - Provided that the compensation is used to provide environmental benefits of the same nature and is commensurate with the project’s residual impact.
 - Asian Indigenous Peoples’ Pact Foundation (AIPP), Aliansi Masyarakat Adat Nusantara (AMAN), Aliansi Masyarakat Adat Nusantara (AMAN), Aliansi Masyarakat Adat Nusantara (AMAN), Chin Human Rights Organization, Secretary-Foreign Affairs, Nepal Federation of Indigenous Nationalities (NEFIN), Tebtebba Foundation (Indigenous Peoples’ International Centre for Policy Research and Education) – Philippines, Forum for Indigenous Perspectives and Action, Center for Development Programs in the Cordillera – Cordillera Peoples Alliance, North East Peoples’ Alliance on Trade, Finance and Development. Submission to ADB on Safeguard Policy Statement Wpaper, 3 February 2009.
 - ILO Convention 169 deals specifically with the rights of tribal and indigenous peoples.
 - Bank on Information Center’s (BIC) Guide to a First Look at the World Bank’s Revised Environmental and Social Framework.

The Tonle Sap River Basin is important to some two million Cambodians. Livelihoods of communities living around the Tonle Sap Lake depend on its rich natural resources. Further, the seasonal flooding provides spawning grounds for fish in the flooded forests. During rainy season, communities are able to fish and cultivate rice at the same time in the flooded areas. With its diverse natural resources, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the government of Cambodia identified the Tonle Sap region as a biosphere region in 1997 and was subsequently designated by a Royal Decree in 2001.

The Asian Development Bank (ADB) has established itself as the leading funding agency in the Tonle Sap Basin. (Jessica Rosien, April 2006) The Bank's involvement in Tonle Sap Basin started in 1998 as part of a technical assistance (TA) for the Mekong Region amounting to US\$1.65 million. It has the objective of identifying investment projects

related to community-based natural resources management.

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With the goal of pro-poor sustainable growth and equitable access to natural resources, the ADB launched the Tonle Sap initiative in 2002. The initiative has four major projects: Tonle Sap Environmental Management Project (TSEMP) with a total cost of US\$19.4 million; Tonle Sap Sustainable Livelihoods Project (TSSL), US\$19.7 million; Lowland stabilization Project, US\$1 million; and Watershed Management Project, which is still in the pipeline.



THE QUESTIONABLE TONLE SAP INITIATIVE

The holistic approach applied by the ADB to the Tonle Sap is commendable. It uses a basin-wide integrated approach in managing the Tonle Sap River Basin. Tonle Sap is part of the Bank's Regional Cooperation Strategy and Program (RCSP) for the Greater Mekong Subregion (GMS). The GMS-RCSP aims to facilitate growth and development in the region. However, there are projects under the GMS that hinder the attainment of the goals of the Tonle Sap Initiative. Specifically, the development of hydropower infrastructure in the upstream Mekong River will eventually have significant negative environmental and social impacts on the Tonle Sap Basin.

Environmental and Social Impacts

According to the ADB, built structures such as dams, weirs, and flood control works could alter water quantity, quality, and timing. (ADB TA Report, October 2005) Said infrastructures have negative environmental and social impacts on the downstream communities, in particular the Tonle Sap Basin.

The Tonle Sap Lake is a tributary of the Mekong River. Built infrastructures in the upstream Mekong River could modify flooding patterns. In the case of Tonle Sap, the disruption of the natural flooding could lead to the decline of fish supply due to the blocking of fish migration. The forests in the Tonle Sap, which serve as rich spawning grounds, will also be significantly affected and become inaccessible to fish.

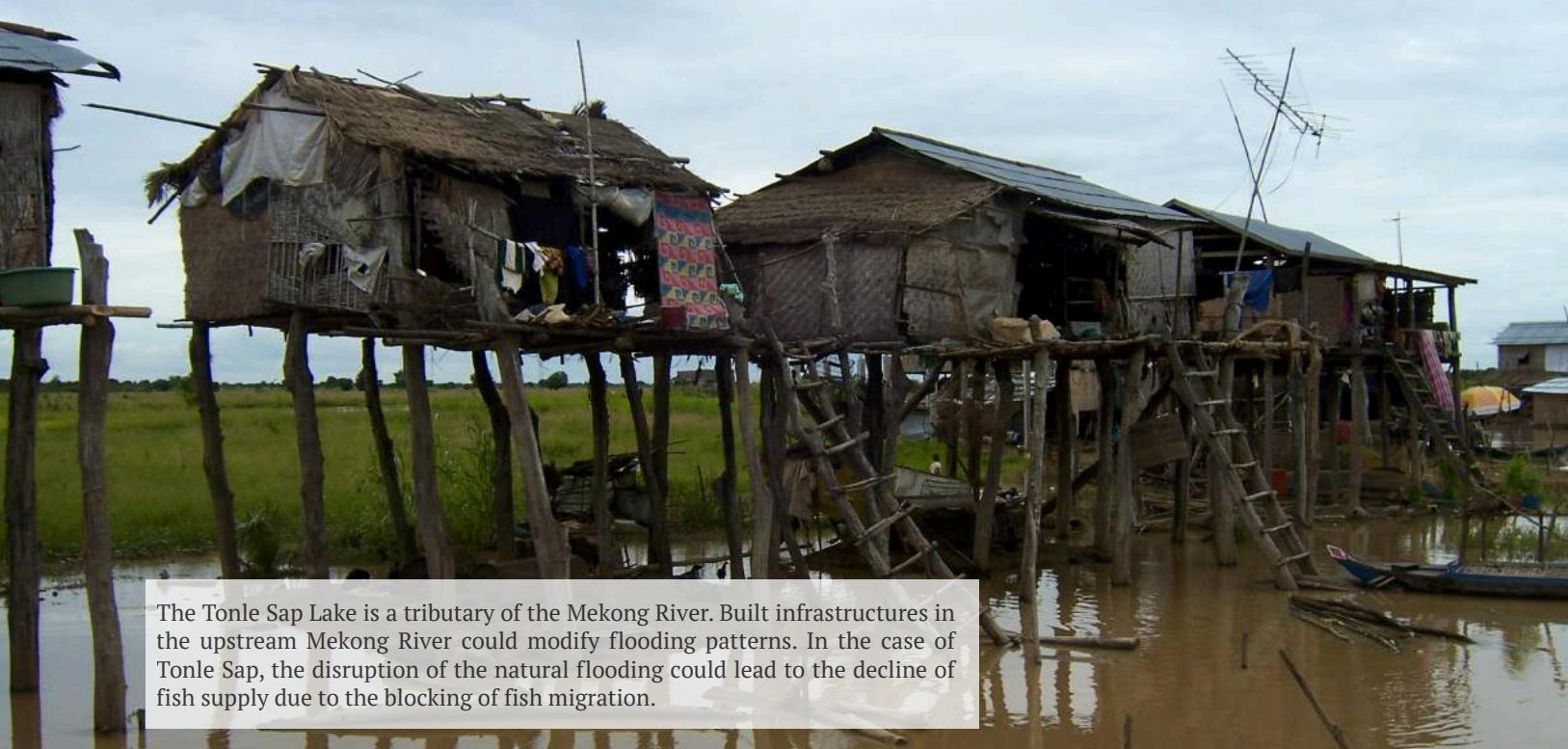
The disruption of flooding patterns in the Tonle Sap will lead to loss of habitat and will affect the fishery resources. (ADB, October 2005) This in turn will have major impact to the

lives of the communities that depend on the natural resources of the Tonle Sap for their livelihoods. With the disruption of the flooding pattern in the Tonle Sap, the villagers' practice of simultaneous fishing and rice cultivation in the flooded areas will be severely affected. This will in turn lead to possible loss of income and change in the way of life of the people living around the Tonle Sap Lake.

One example of the negative impact of large-scale infrastructure is the controversial Nam Theun 2 hydropower project. The cumulative environmental impact assessment conducted by the Nam Theun 2 Power Company (NTCP) admits that "Water levels at Phnom Penh will be lower during floods and increased during the dry season. Annual maximum level of the lake will also be reduced. Changes in flow patterns will have a small negative impact on the floodplain and Tonle Sap lake fisheries as these are favored by high wet season water levels."

Even if the EIA for Nam Theun 2 stated that the





The Tonle Sap Lake is a tributary of the Mekong River. Built infrastructures in the upstream Mekong River could modify flooding patterns. In the case of Tonle Sap, the disruption of the natural flooding could lead to the decline of fish supply due to the blocking of fish migration.

impacts will be “small,” if one considers the total number of existing and planned hydropower projects in ADB’s Mekong Power grid, it is not hard to deduct that many small impacts could add up to very significant impacts.

The Tonle Sap Initiative paved the way for the establishment of community fisheries (CF) to promote participatory natural resources management. However, CF members complain about the absence of authority for CFs to enforce regulations. The bureaucracy in reporting illegal activities provides a wide space for the illegal fishers to escape captivity.

CF members also complain about the non-exclusiveness of CFs. Outsiders are allowed open access to CFs and since they have less incentive to abide by the CF regulations, they often engage in illegal, unsustainable fishing practices. This means that CF efforts on the sustainable natural resources management will be undermined lessening the incentive for CF members to adhere to the regulations.

Safeguard Policy Violations

Environment Policy

Based on the Report and Recommendations (RRP) of the ADB President on the Proposed Asian Development Fund Grant for the Kingdom of Cambodia on the Tonle Sap Sustainable Livelihoods Project, the cumulative impact of built structures on the Mekong is a main concern of the Bank among the external factors affecting the Tonle Sap.(RRP, November 2005) However, Rosien pointed out that ADB’s view on the impacts of hydropower development on the upstream Mekong on the Tonle Sap is not consistent with the RRP statement. The Final TA Report for the Tonle Sap Sustainable Livelihoods The Project shows that the ADB is merely operating on the assumption that there will be no significant environmental impacts, without having undertaken scientific testing to back this assumption. This violates the precautionary approach, to which ADB subscribes in its Water Policy. If the ADB were following this approach,



it could not use the lack of scientific evidence to justify its decisions on infrastructure projects that affect the Mekong River and the Tonle Sap.

This also shows that the Bank has not undertaken cumulative environmental impact assessment to determine the effects of upstream development on the Tonle Sap Basin. The Bank failed to holistically assess the impacts of the transboundary issues of ADB's project plans. (Rosien, 2006)

Further, the implementation of the Mekong Power Grid will have substantial negative impacts on the Tonle Sap Basin and the lives of the millions of Cambodians who depend on it. According to Rosien, if the ADB is truly adopting an integrated approach to the Tonle Sap River Basin, it should not push through with hydropower developments that are not carefully planned. The project should also have meaningful participation from project affected people.

The failure of the Bank to conduct a cumulative and integrated environmental impact

assessment (EIA) for the entire GMS shows the shortcoming of the Bank in factoring the environmental, social and economic impacts of large-scale infrastructures, such as dams, to the Tonle Sap River Basin and surrounding communities.

Based on the independent analysis conducted

by the Mekong Watch on the EIA of the Chong Kneas Environmental Improvement Project (CKEIP), the EIA was lacking and significant environmental impacts were omitted. (Rosien, 2006)

Involuntary Resettlement Policy

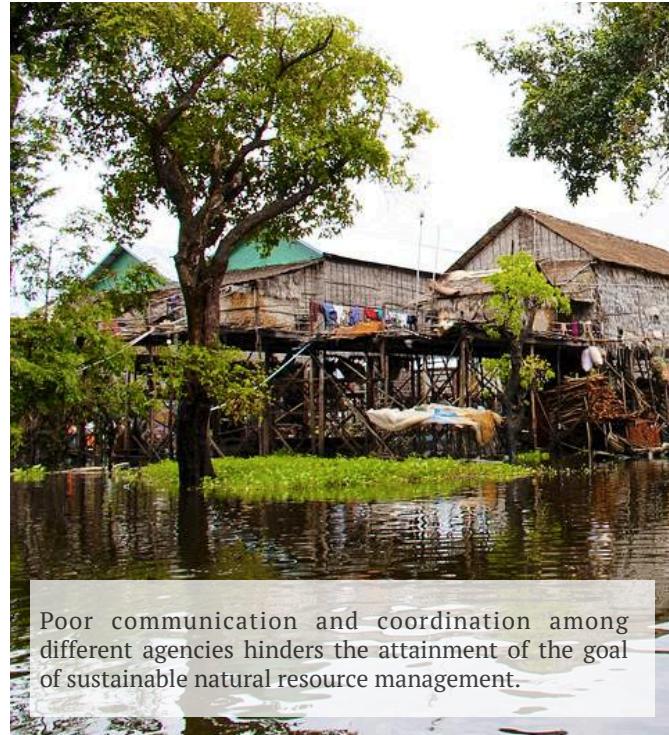
The ADB came up with a Land Acquisition and Resettlement Framework (LARF) to safeguard communities against negative resettlement impacts caused by infrastructure projects. However, there are certain provisions which are ambiguous. (Rosien, 2006) The ADB conducted consultations only on some of its projects at a very limited extent. Majority of the villagers have little knowledge about the Bank's projects. Villagers are unlikely to agree with their relocation if the compensation given them will improve their previous situation. Therefore, the Bank should consult with the communities to identify subprojects that will be implemented in a participatory manner.

Other Issues and Concerns

With the present hierarchical and political setup in the communities, there is a great risk that women will not be heard during discussions.

There is a risk of organizational congestion due to the overlaps among the different line agencies/bodies of the government. Poor communication and coordination among these line agencies could hinder the attainment of the goal of sustainable natural resource management.

There is also a lack of participation in the project design. It is not even sure if the recommendations from the different communities on some of the Bank's projects were even incorporated and adopted.



ASIAN DEVELOPMENT BANK'S MONEY VS. ITS MOUTH

JESSICA EVANS, HUMAN RIGHTS WATCH

At last week's Asian Development Bank (ADB) annual meeting in Frankfurt, Germany, high level officials highlighted key human rights messages. The Bank's president, Takehiko Nakao, emphasized the importance of free speech for sustainable development in response to concerns about the bank financing governments engaged in broad and brutal crackdowns. German Chancellor Angela Merkel, the ADB's host, said supply chains should be free from labor abuses and welcomed the bank's new commitment to International Labour Organization standards on supply chains. But the bank has a long way to go to turn rhetoric into reality.

Azerbaijan's government has been waging a repressive campaign against critics, a dramatic deterioration in an already poor rights record. It has arrested or imprisoned dozens of human rights defenders, journalists, and bloggers on politically motivated charges, prompting others to flee the country or go into hiding. The government has frozen bank accounts of independent civic groups and their leaders, in some cases forcing them to shut down.

Although, since March, the authorities have pardoned or conditionally released over a dozen activists and journalists imprisoned on politically motivated charges, many others remain behind bars. The authorities have unfrozen the bank accounts of some



The government of Uzbekistan harasses, detains, and exiles Uzbek citizens who call for recognition of human rights, violating their human rights and denying freedoms of speech and the press.

nongovernmental groups and their leaders. But existing legislative restrictions make it effectively impossible for these groups both to use the funds in their accounts and to receive foreign funding.

In this climate, people face a risk of reprisal for commenting on development projects or exposing the misuse of funds or harmful projects. Some multilateral bodies are starting to respond. The Extractive Industries Transparency Initiative (EITI), which promotes good governance of resource-rich countries, downgraded Azerbaijan's status last year because of its flagrant disregard for fundamental freedoms. The Open Government Partnership (OGP), which works to make

governments more open, accountable, and responsive to citizens, followed suit last week.

But the ADB is looking to provide Azerbaijan with significant budget support and increase funding for a lucrative gas field with little regard for its own commitments to participation and accountability, its endorsement of EITI, and its partnership with OGP.

In Uzbekistan, the government uses forced labor in its cotton industry, but the bank continues to fund irrigation and agricultural modernization projects that support it. The government imposes strict production quotas on farmers and forces more than a million people annually to work in cotton fields.

Instead of ensuring there's no forced labor in areas benefiting from the bank's project, the bank has only tried to prevent labor abuses in the irrigation project while ignoring forced labor in the fields they water.

Corruption is rife in both Azerbaijan and Uzbekistan. The Panama Papers have exposed evidence indicating that the family of Azerbaijan President Ilham Aliyev has extensive secret offshore accounts, with various business interests, including in gold mining. The government has wasted huge sums of hydrocarbon revenues on prestige projects that don't produce the kind of inclusive growth the ADB's strategy says it wants to promote. Similarly, in Uzbekistan, income from cotton sales disappears into the Selkhozfond, an opaque fund to which only the highest-level

officials have access. Transparency International's corruption perceptions index ranked Uzbekistan 153 out of 168 countries.

The ADB needs to put its money where its mouth is. In Azerbaijan, it should only provide budget support to the government once the country has stopped attacking independent voices. It also shouldn't finance extractive industries projects until the government is again compliant with EITI. In Uzbekistan the ADB should stop funding projects that support an industry riven with forced labor. It should instead invest in projects that address the urgent social and economic needs of the people while pressing the government to end forced labor.



Uzbek farmers are forced to meet state-established cotton quotas, purchase inputs from one state-owned enterprise, and sell the cotton to a state-owned enterprise at artificially low prices. The system traps farmers in poverty, and the state profits from sales to global buyers.



CAMBODIAN COMMUNITIES' STRUGGLES TO HOLD THE ADB ACCOUNTABLE FOR A FAILED RESETTLEMENT PROGRAM

MEKONG WATCH

In December 1998, the Asian Development Bank's (ADB's) Board of Directors approved a 40 million USD loan to support the Cambodian government's plan to rehabilitate a section of a national road that runs from Phnom Penh to the Cambodia-Vietnam border, known as "the Highway One (HW1)". However, the ADB's lack of proper supervision over the Project's resettlement program caused serious impacts to approximately 6,000 Cambodian villagers living along the road. Many of them were not fairly compensated for the relocation and became landless, houseless, and jobless.

More than two years after becoming aware of the resettlement program's failure, the ADB finally set out to conduct the Project's audit in November 2004. As results, the ADB admitted the problems with the resettlement for the entire project area and agreed with the

Cambodian government in May 2005 that the government should repay to eligible families. The repayment was subsequently made in 2006. However, more than 300 families continued to complain that they had still not been properly compensated.

On 28 July 2007, 63 families in the Kraing Kaok and Steung Slot Communities living in Prey Veng Province, filed a grievance at the ADB's Office of Special Project Facilitator (SPF). Most of these families were re-compensated in 2006. However, they claimed that they still could not restore their life and livelihood mainly due to the considerable delay for the compensation. They requested, among other things, that the ADB should help them improve their livelihood and solve their debt problems and that the ADB should provide them with a land title for a resettled land. SPF met two community leaders

in Cambodia and declared the case as eligible on 19 September 2007. The two communities expected to speak directly with SPF for review and assessment over their complaints. However, SPF never came back to Cambodia. The reason, according to SPF, was that the Cambodian government had not agreed with his visit to the project site for further investigation.

Being pressured by SPF's acceptance of the 63 families' grievance, the ADB's Cambodia Resident Mission (CARM) proposed to conduct a new socio-economic survey in the Kraing Kaok and Steung Slot Communities. Earlier, CARM had not been very supportive in addressing some of the HW1 Project's unsolved problems, the debt and land titling issues in particular, despite repeated complaints voiced by affected villagers through NGOs. In November 2007, two ADB officials visited the two communities and interviewed the 63 families in person.

Now that CARM had completed its own survey, the 63 families had to work simultaneously with two ADB Management offices, SPF and CARM. This was very confusing to the villagers. SPF could directly report to the ADB President and thus might be more effective. But SPF was not able to come and visit them in Cambodia to learn more about their problems. CARM interviewed each member of the two communities face-to-face and recorded their problems in detail. However, it was still very unclear if the CARM survey would actually lead to effective redressing measures. In January 2008, after some discussions with NGOs, the 63 families proposed to SPF that SPF should temporarily postpone the grievance processes until they would learn more about the outcomes of CARM's survey. In February 2008, SPF agreed with the families and decided to put the case on hold.



ADB failed to prevent the Cambodian government from relocating around 1,500 households living along Highway 1. According to reports, the government devalued structures owned by villagers and did not pay them sufficient compensation to enable them to rebuild their homes and restore their livelihoods.

On 5 August 2008, CARM disclosed to the general public a proposal for a 1.8 million grant to launch the Livelihood Stabilization Program (LSP). The proposed amount of the LSP was rather huge. This was because the LSP was designed to support not only the 63 families, but also all the other eligible villagers living along the HW1, as well as those to be resettled by a different section of the same road, which is currently under renovation through the Japanese government's bilateral grant aid to the Cambodian government. The main purposes of the LSP were to improve project-affected families' livelihood means and to increase their cash income by micro-finance operations and job skills trainings. The LSP was to be financed by the ADB's Japan Poverty Reduction Fund. However, the 63 families were not entirely convinced that the LSP would solve their problems, especially the heavy indebtedness. They requested in response a grant, either from the ADB or the Cambodian government, to pay off all their debt, because the problem had been created by the failure of the Project's

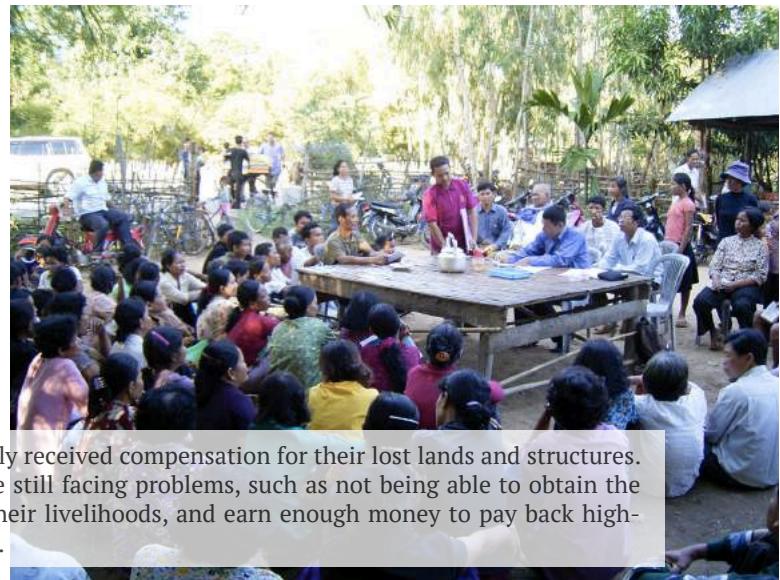
resettlement program, which had resulted from the ADB's lack of adequate supervision.

The 63 families' situations are not getting better and will not significantly improve without effective external interventions, which the ADB is most responsible for, because the families' hardships have started from the ADB's lack of sufficient supervision over the HW1 Project's resettlement procedures. The ADB should work with the Cambodian government to provide the families with a grant to pay back all the debt, as opposed to merely setting up a micro-credit to continue to tie them with new loans, so that the families can restore their life and livelihood to the pre-project levels. Otherwise, the ADB could not claim that the HW1 Project was implemented in compliance with its Policy on Involuntary Resettlement.

The LSP's Project Information Document (PID) originally indicated that the ADB's Board of Directors would approve the LSP in October 2008. Subsequently, the approval date was delayed to 26 January 2009. As of now, the LSP has not yet been approved.



In 2006, six years after the relocation, many households finally received compensation for their lost lands and structures. But according to reports, as of April 2007, many villagers are still facing problems, such as not being able to obtain the land title for the security of tenure, raise funds to restore their livelihoods, and earn enough money to pay back high-interest loan resulting from delays in compensation payment.





85-A Masikap Extension, Diliman, Quezon City, Philippines
+632 436-1858 | +632 921-4412
secretariat@forum-adb.org
www.forum-adb.org