

REGULATORY SYSTEMS AND NETWORKING OF WATER UTILITIES AND REGULATORY BODIES

Proceedings of the Regional Forum
Manila, 26 - 28 March 2001

ASIAN DEVELOPMENT BANK

© 2001 by the Asian Development Bank
November 2001

This publication was prepared under the Asian Development Bank's Regional Technical Assistance No. 5922: Regulatory Systems and Networking of Water Utilities and Regulatory Bodies implemented by its Water Supply, Urban Development and Housing Division (West) of the Agriculture and Social Sectors Department (West). The findings, interpretations, and conclusions expressed do not necessarily represent the views of ADB or those of its member countries.

In this publication, the term 'country' does not imply on the part of the Asian Development Bank any judgement as to the legal or other status of any territorial entity.

Published by the Asian Development Bank

Publication Stock No. 010302
ISBN 971-561-416-7

TABLE OF CONTENTS

	Page
Foreword	v
Preface	vii
Abbreviations	ix
Part I – Proceedings Summary	1
Opening Addresses	3
Regulatory Bodies, Public Awareness, and Transparency	15
Proceedings of the Regional Forum	21
Summary of Findings	35
Part II – RETA Reports	39
Review of Regulatory Frameworks	41
Case Studies	61
South Australia	63
Bulgaria	71
Chile	79
England and Wales	87
Germany	97
Indonesia	105
Italy	113
Poland	123
South Africa	133
USA (New Jersey)	141
Asian Country Report Summaries	149
Bangladesh	151
People’s Republic of China	155
India	159
Nepal	163
Philippines	167
Sri Lanka	171
Thailand	175
Viet Nam	179
Summary of Stakeholders Survey	183
Appendixes	
Appendix 1: Forum Program	187
Appendix 2: List of Participants and Observers	191

FOREWORD

The water supply and sanitation sector in many of Asian Development Bank's (ADB) member countries (DMCs) is characterized by inefficient delivery of services (including high unaccounted for water and intermittent water supplies) and inadequate coverage with piped water supply, especially for the urban poor. One of the main reasons is that water utilities are not operated independently, run according to principles of accountability and transparency, and are loosely regulated. An equally important factor is that the price of water, the water tariff, is determined by local and national governments. As a result, water tariffs are frequently based on political considerations and vested interests instead of the costs that are involved in producing and delivering water. Tariffs are inadequate to contribute to new capital investment, and the urban poor remain unconnected to piped water.

In line with its recently articulated water policy, ADB recognizes that a regulatory body overseeing the implementation of a transparent government policy is desirable for both public and privately operated water supply and sewerage systems. In July 2000, ADB approved a regional technical assistance, RETA 5922: Regulatory Systems and Networking of Water Utilities and Regulatory Bodies. The long-term objectives are to facilitate the recognition of water as an economic rather than social good and promote autonomous and efficient water supply and sewerage utilities. The specific objectives are to help DMC governments establish regulatory bodies and promote knowledge management and networking on water supply reforms. The scope of the technical assistance included a review of regulatory frameworks for water supply and sewerage around the world, the preparation of case studies and country reports on regulation in the sector, and a three-day regional forum in Manila.

The regional forum noted that the main issues in the sector were low tariffs, a shortage of development funds, ineffective management, institutional deficiencies, and weak regulatory systems. Policy approaches advocated included the separation of policy, regulatory, and operating functions; undertaking economic regulation as a first priority; granting operators incentives to provide good service; and promoting private sector participation. The forum agreed that regulators should ensure good governance, promote benchmarking of performance, protect consumers against monopoly power, implement the tariff policy, and enforce policy on coverage and service levels, especially for the poor. In establishing a regulatory body it was necessary to consider that there is no universal model and that regulation is an ever-changing process. It was agreed that customers are the ultimate regulators, and that the most powerful regulatory tool is the availability of information.

These Proceedings of the Regional Forum held in Manila from 26 to 28 March, 2001 on Regulatory Systems and Networking of Water Utilities and Regulatory Bodies will be useful not only to the participants, but to the many consultants, funding agencies, government ministries, and water utilities grappling with the new concept of regulatory bodies as a means of achieving more autonomous and efficient water utilities in Asia.

In many respects this publication will complement the earlier ADB publication on Water Utility Data Books for the Asian and Pacific Region (1993, 1997), as it will help to formalize the process of benchmarking water utility performance. The networking aspect of the technical assistance, although just beginning, is supporting, through the Water

Utility Partnership – South Asia, the sharing of water utility performance data and other information.

A number of persons contributed to the success of this technical assistance in general, and the Regional Forum and Proceedings in particular. The concept, design, and overall supervision of implementation was principally undertaken by Mr. Arthur C. McIntosh of ADB. Mr. William Stanley prepared the case studies and provided the overview report. However, the bulk of the day-to-day work was handled by Mr. Cesar E. Yñiguez. I wish to thank these gentlemen, as well as the many supporting staff of ADB who helped in the Forum, for contributing to something which I am sure will be a solid building block for water supply reform in Asia in the years to come.

Akira Seki

Director

Agriculture and Social Sectors (West) Department
Asian Development Bank

PREFACE

The move to privatize water utilities in many parts of the world in the last decade has brought into focus the need to regulate service providers, to protect consumers from excessive tariffs and to enforce agreed service and performance standards. Experience in regulation of privatized water utilities shows that there are difficulties that are being encountered which can negate the objectives of improving efficiencies and securing funds for expansion for these utilities. The regional technical assistance, RETA 5922: Regulatory Systems and Networking of Water Utilities and Regulatory Bodies, was approved in July 2000 to find ways of addressing these issues. The specific objectives of the RETA are to (i) help DMC governments establish independent regulatory bodies for the water supply and sewerage sector, and (ii) support a South Asia water utility partnership to promote knowledge management and networking on water supply and sanitation reforms.

The technical assistance involved a review by an international consultant of existing regulatory frameworks for water supply and sewerage in both developed and developing countries. The review included the preparation of case studies of regulation in South Australia, Bulgaria, Chile, England and Wales, Germany, Indonesia, Italy, Poland, South Africa, and New Jersey in the United States. Domestic consultants from eight DMCs (Bangladesh, People's Republic of China, India, Nepal, Philippines, Sri Lanka, Thailand, and Viet Nam) prepared country reports on regulatory systems based on the views of stakeholders (governments, water utilities, local authorities, private sector, nongovernment organizations, politicians, and consumers) on the nature and scope of regulation needed, and how it may be implemented. This was accomplished through a survey questionnaire and a one-day stakeholders' workshop conducted in each of these DMCs.

The overview of regulatory frameworks, case studies, and the country reports were presented and discussed in the Regional Forum on Regulatory Systems and Networking of Water Utilities and Regulatory Bodies held at the ADB Auditorium in Manila from 26 to 28 March 2001. About 75 participants from 18 countries representing governments, water utilities, consultants, private operators, external support agencies, international and regional organizations shared their experiences and lessons learned that could guide governments in establishing independent regulatory bodies. The Forum Program and the List of Participants and Observers are given in Appendix 1 and Appendix 2, respectively.

This Proceedings report is presented in two parts. Part I is the Proceedings Summary composed of the Opening Addresses, the paper on Regulatory Bodies, Proceedings of the Regional Forum, and the Summary of Findings. The Proceedings of the Forum summarized the presentations, which were all made with PowerPoint slides, and the outputs from the three group discussion sessions. The Summary of Findings presents in bullets format the views of the participants on the major issues, policy approaches, regulator's role and characteristics, and considerations to be taken in establishing a regulatory body. Neither conclusions nor recommendations were made as it was agreed that there are no universal models for regulatory bodies and that governments will have to establish these bodies according to the conditions prevailing in their countries. Part II are the RETA Reports composed of the international consultant's overview, the case studies, the summaries of the eight country reports, and the summary result of the stakeholders' survey.

The Forum followed a format of presentations from similar stakeholder groups followed by open plenary discussions. The paper on Regulatory Bodies, Public Awareness and Transparency and the Overview of Regulatory Frameworks set the tone for the Forum by analyzing the need for regulatory bodies and what is happening in some countries around the world. The presentation of the country report summaries by the representatives of the DMCs highlighted the state of affairs in the water supply and sanitation sector in eight countries in

the region and how they look at regulation as part of the needed institutional and financial reforms to improve the delivery of services. The consultants and international private operators contributed immensely to the presentations and the discussions by sharing specific examples of regulatory and privatization experiences and suggesting ways how these lessons can be used by DMCs. Representatives of the external support agencies and international organizations collaborated many of the findings of the DMCs, consultants, and operators and they suggested ways of how they can support the efforts of governments in instituting reforms in the sector in general, and in establishing independent regulatory bodies in particular. The Summary of Findings puts these concerns and suggestions in a nutshell.

It is hoped that these Proceedings and Reports will be useful to government agencies embarking on establishing independent regulatory bodies to improve the delivery of water supply and sanitation services whether in the public or private sector.

We would like to express our thanks to the following: to the international and domestic consultants who prepared the reports that were presented and discussed in the Forum; to the consultants, private operators, and the international and regional organizations who willingly shared their experiences with the DMC participants; and, to the DMC participants who shared their concerns and participated actively in their quest to learn more on how to improve the delivery of services to their consumers.

Arthur C. McIntosh
Senior Project Engineer (Water Supply)
Asian Development Bank

ABBREVIATIONS

Abbreviations and Acronyms

ACT	Australian Capital Territory
ADB	Asian Development Bank
ATO	Italian water catchment area
BAPEDAL	Badan Pengendalian Dampak Lingkungan (Environmental Impact Management Agency)
BOO	build-operate-own
BOOT	build-own-operate-transfer
BOT	build-operate-transfer
BPU	Board of Public Utilities
CMC	Colombo Municipal Council
CONAMA	National Commission of the Environment
COREMAS	Regional Commissions of the Environment
CRI	Centre for Regulated Industry
CSC	Customer Service Committee
DGA	General Direction of Waters
DMC	developing member country
DPHE	Department of Public Health Engineering
DPLG	Department of Provincial and Local Government
DWAF	Department of Water Affairs and Forestry
DWI	Drinking Water Directorate
EA	Environment Agency
EPA	Environmental Protection Authority
ESA	external support agency
EU	European Union
GDP	gross domestic product
GJMC	Greater Johannesburg Metropolitan Council
IMF	International Monetary Fund
IPART	Independent Pricing and Regulatory Tribunal
IWA	International Water Association
JV	joint venture
LAWA	Joint Water Commission of the Federal States
LGU	Local Government Unit
LWUA	Local Water Utilities Administration
MLD	Ministry of Local Government
MLGRDC	Ministry of Local Government, Rural Development and Cooperatives
MOC	Ministry of Construction
MOP	Ministry of Public Works
MOU	Memorandum of Understanding
MPLG	Ministry of Provincial and Local Government
MPPW	Ministry of Physical Planning and Works
MRDPW	Ministry of Regional Development and Public Works
MUDCPU	Ministry of Urban Development, Construction and Public Utilities
MWA	Metropolitan Waterworks Authority
MWSA	Maldives Water and Sanitation Authority
MWSC	Malé Water and Sewerage Company Pvt. Ltd.

MWSS	Metropolitan Waterworks and Sewerage System
MWSS-RO	Metropolitan Waterworks and Sewerage System Regulatory Office
NCC	National Competition Council
NCP	National Competition Policy
NGO	non government organization
NSW	New South Wales
NWSC	Nepal Water Supply Committee
NWSDB	National Water Supply and Drainage Board
O&M	operation and maintenance
Ofwat	Office of Water Services
ONCC	Ofwat National Customer Council
ONWM	Office of National Water Management
PC	People's Committee
PDAM	Perusahaan Daerah Air Minum (district water authority)
PERPAMSI	Persatuan Perusahaan Air Minum Seluruh Indonesia (Indonesian Water Supply Association)
PLC	public limited company
PPA	Public Performance Assessment
PPP	public-private partnership
PRC	People's Republic of China
PSP	Private Sector Participation
PUB	Public Utilities Board
PUC	Public Utility Commission
PWA	Pacific Water Association
PWA	Provincial Waterworks Authority
RDP	Reconstruction and Development Program
RETA	regional technical assistance
RWA	Regional Water Authority
SA Water	South Australia Water Corporation
SAFIR	South Asia Forum for Infrastructure Regulation
SISS	Superintendence of Sanitary Services
UK	United Kingdom
UMiRM	Office of Housing and Urban Development
UNICEF	United Nations Children's Fund
US	United States
ViK	water and sewage company
WASA	Water Supply and Sewerage Authority
WHO	World Health Organization
WMA	Wastewater Management Authority
WSA	Water Service Authority
WSC	Water Supply Company
WSD	Water Supplies Department
WSP	Water Service Provider
WSS	water supply and sanitation
WSSCC	Water Supply and Sanitation Collaborative Council
WUPSA	Water Utilities Partnership - South Asia

Measurement Units and Symbols

cu m	cubic meter
km	kilometer
m ³	cubic meter
mm	millimeter
sq km	square kilometer
%	percent
£	United Kingdom pounds sterling
DM	German deutsche mark
EUR	European Monetary Union euro
US\$	United States dollar