

**ADB'S ONGOING AND PLANNED RESPONSES TO THE WORLD COMMISSION ON DAMS'
STRATEGIC PRIORITIES, BEST PRACTICES, AND INSTITUTIONAL RESPONSES
ADB DRAFT JULY 2001**

STRATEGIC PRIORITIES (p.213)

Strategic Priority 1: Gaining Public Acceptance

Decision-making processes and mechanisms are used that enable informed participation by all groups of people, and result in the demonstrable acceptance of key decisions. Where projects affect indigenous and tribal peoples, such processes are guided by their free, prior and informed consent.

Policy Principles

Recognition of rights and assessment of risks are the basis for the identification and inclusion of stakeholders in decision-making on energy and water resources development.

- ADB's Response: Rights and risks are determined through initial social assessments (ISA) that are done for all projects, and stakeholders are identified. Detailed social assessments are done if the need is indicated by the ISA. Poverty assessments also assist in identification of stakeholders and their rights and risks. The recognition of rights varies from country to country. ADB abides by national policy and law in its assistance to DMCs as long as these are not in contravention of ADB's own policies.

Access to information, legal and other support is available to all stakeholders, particularly indigenous and tribal peoples, women and other vulnerable groups, to enable their informed participation in decision-making processes.

- ADB's Response: Public information centers have been established for major hydropower projects. Summary environmental impact assessments, and in some cases other important project documents, are normally translated into the national language, though rarely if ever to tribal languages. Indigenous peoples development plans (IPDPs) may include specific support provisions. Gender considerations are being mainstreamed.

Demonstrable public acceptance of all key decisions is achieved through agreements negotiated in an open and transparent process conducted in good faith and with informed participation of all stakeholders.

- ADB's Response: Formal agreements are entered into with individuals or communities only in terms of resettlement and compensation, not in overall agreement to the project itself.

Decisions on projects affecting indigenous and tribal peoples are guided by their free, prior and informed consent achieved through formal and informal representative bodies.

- ADB's Response: All projects affecting indigenous peoples must have an IPDP, which includes formal and informal processes. The IDPD rarely involves substantive involvement in deciding whether a project is to proceed; this is seen as a matter of national sovereignty and thus the government's responsibility.

Strategic Priority 2: Comprehensive Options Assessment

To explore alternatives to dams, needs for water, food and energy are assessed and objectives clearly defined. The appropriate development response is identified from a range of possible options. The selection is based on a comprehensive and participatory assessment of the full range of policy, institutional, and technical options. In the assessment process social and environmental aspects have the same significance as economic and financial factors. The

options assessment process continues through all stages of project planning, development and operations.

Policy Principles

Development needs and objectives are clearly formulated through an open and participatory process before the identification and assessment of options for water and energy resource development.

- ADB's Response: Normally this is considered the government's responsibility. However, ADB assists its developing member countries (DMCs) through such measures as policy dialogue, preparation of poverty reduction strategies, and targeted assistance such as in the development of integrated river basin planning, studies of energy alternatives, and capacity building, ADB is assisting its DMCs to explore development options.

Planning approaches that take into account the full range of development objectives are used to assess all policy, institutional, management, and technical options before the decision is made to proceed with any program or project.

- ADB's Response: Same as above.

Social and environmental aspects are given the same significance as technical, economic and financial factors in assessing options.

- ADB's Response: All hydropower projects as well as other major infrastructure projects are required under ADB's EIA guidelines to explore social and environmental alternatives. ADB's new environmental guidelines include provision for testing and applying strategic environmental assessment.

Increasing the effectiveness and sustainability of existing water, irrigation and energy systems are given priority in the options assessment process.

- ADB's Response: Demand-side management of the irrigation and energy sectors has been supported by ADB for several years, and these issues are considered in the design and approval process of ADB-supported projects.

If a dam is selected through such a comprehensive options assessment process, social and environmental principles are applied in the review and selection of options throughout the detailed planning, design, construction, and operation phases.

- ADB's Response: Social and environmental principles are applied through social and environmental assessments and through the implementation of environmental management plans and social development strategies throughout the project cycle.

Strategic Priority 3: Addressing Existing Dams

Management and operation practices must adapt continuously to changing circumstances over the project's life and must address outstanding social issues.

Policy Principles

A comprehensive post project monitoring and evaluation process, and a system of longer-term periodic reviews of the performance, benefits and impacts for all existing large dams are introduced.

- ADB's Response: Projects are post-evaluated as a matter of routine. More emphasis has been given in recent years to monitoring of projects after construction, especially projects that are encountering social or environmental problems. The Theun-Hinboun Hydropower Project is an example where ADB monitoring, including fielding of ADB missions, has continued well past the actual closure of the loan. A review of ADB's support for hydropower

projects was recently done, evaluating selected projects begun in the 1980s to the mid-1990s.

Programs to restore, improve and optimize benefits from existing large dams are identified and implemented. Options to consider include rehabilitation, modernize and upgrade equipment and facilities, optimize reservoir operations and introduce non-structural measures to improve the efficiency of delivery and use of services.

- ADB's Response: These issues are assessed on occasions when support is provided to a DMC to strengthen its energy or irrigation sector development. Management and operation of completed projects, though, is normally considered to be the responsibility of the project owner/operator.

Outstanding social issues associated with existing large dams are identified and assessed; processes and mechanisms are developed with affected communities to remedy them.

- ADB's Response: This has been done for Theun-Hinboun Hydropower Project in Lao PDR.

The effectiveness of existing environmental mitigation measures is assessed and unanticipated impacts identified; opportunities for mitigation, restoration and enhancement are recognized, identified and acted on.

- ADB's Response: This is done systematically during post-project appraisal, normally a year after completion of construction. Such assessments and recommendations may be contained in environmental management plans that are prepared for the operational stage of the project, though this has not been systemized.

All large dams have formalized operating agreements with time-bound license periods; where re-planning or relicensing processes indicate that major physical changes to facilities or decommissioning may be advantageous, a full feasibility study and environmental and social impact assessment is undertaken.

- ADB's Response: Operating agreements with time-bound concession periods are finalized at commissioning or even earlier but re-licensing processes are rarely applied. The private sector investor would look for early financial closure to minimize risk.

Strategic Priority 4: Sustaining Rivers and Livelihoods

Options assessment and decision-making around river development prioritizes the avoidance of impacts, followed by the minimization and mitigation of harm to the health and integrity of the river system. Avoiding impacts through good site selection and project design is a priority. Releasing tailor-made environmental flows can help maintain downstream ecosystems and the communities that depend on them.

Policy Principles

A basin-wide understanding of the ecosystem's functions, values and requirements, and how community livelihoods depend on and influence them, is required before decisions on development options are made.

- ADB's Response: Although not a formal requirement, basin-wide studies have been done for recent projects proposed to be supported by ADB (for example, the Se Kong – Se San – Nam Theun River Basins Hydropower Study [RETA 5697-REG], and the Nam Ngum River Basin Development Study [TA 3544-LAO]. ADB is introducing or strengthening national capacity in river basin management in countries such as Peoples' Republic of China, Lao PDR, Sri Lanka, and Viet Nam.

Decisions value ecosystems, social and health issues as in integral part of project and river basin development and prioritize avoidance of impacts in accordance with a precautionary approach.

- ADB's Response: The integrity of ecosystems and protection of or improvement in social and health conditions are integral parts of project design for ADB-supported projects.

A national policy is developed for maintaining selected rivers with high ecosystem functions and values in their natural state. When reviewing alternative locations for dams on undeveloped rivers, priority is given to locations on tributaries.

- ADB's Response: ADB is yet to provide such assistance to its DMCs. However, under a proposed environmental management loan to Lao PDR, one potential component will be an evaluation of the national energy sector development plan for the adequacy of its attention to social and environmental concerns and revision of the plan based on the evaluation. It is possible that rivers or portions of rivers may be identified for reservation from development.

Project options are selected that avoid significant impacts on threatened and endangered species. When impacts cannot be avoided, viable compensation measures are put in place that will result in a net gain for the species within the region.

- ADB's Response: Serious consideration is given to impacts on threatened and endangered species, including special studies where these are needed prior to making a decision on project support. In Nepal and Lao PDR, for example, this has included provisions for strengthening existing protection capacity (Nam Leuk) or for establishing new protected areas (Kali Gandaki "A"). Compensation measures are enacted that will at minimum ensure that the project does not add to a net loss of fish populations, such as in the case of endangered fish species in the Peoples' Republic of China.

Large dams provide for releasing environmental flows to help maintain downstream ecosystem integrity and community livelihoods and are designed, modified and operated accordingly.

- ADB's Response: The release of environmental flows has been a topic of investigation in more recent ADB-supported projects, though this is far from a precise science. Studies are being undertaken in an ADB-supported project in Lao PDR to more precisely determine appropriate environmental flows for a dam currently under operation.

Strategic Priority 5: Recognizing Entitlements and Sharing Benefits

Accountability of responsible parties to agreed mitigation, resettlement and development provisions is ensured through legal means, such as contract, and through accessible legal recourse at national and international level.

Policy Principles

Recognition of rights and assessment of risks is the basis for identification and inclusion of adversely affected stakeholders in joint negotiations on mitigation, resettlement and development related decision-making.

- ADB's Response: The recognition of rights varies from country to country. ADB abides by national policy and law in its assistance to DMCs as long as these are not in contravention of ADB's own policies. Formal risk assessment in terms of mitigation and resettlement is not yet strongly defined in ADB operations, but it has been included in the revised environmental guidelines, which are under preparation.

Impact assessment includes all people in the reservoir, upstream, downstream and in catchment areas whose properties, livelihoods and non-material resources are affected. It also includes those affected by dam related infrastructure such as canals, transmission lines and resettlement developments.

- ADB's Response: ADB's environmental impact assessment procedures require that all people, whether affected by the project directly or indirectly, be accounted for during the environmental/resettlement assessment.

All recognized adversely affected people negotiate mutually agreed, formal and legally enforceable mitigation, resettlement and development entitlements.

- ADB's Response: ADB's resettlement policy and guidelines explicitly require agreed, formal monitorable, and binding compensation measures.

Adversely affected people are recognized as first among the beneficiaries of the projects. Mutually agreed and legally protected benefit sharing mechanisms are negotiated to ensure implementation.

- ADB's Response: In the case of dams, ADB-supported projects include provision for special consideration of adversely affected people. This often includes provisions for new social services (such as medical clinics, schools, rural electrification), vocational training that beneficiaries can use both in relation to project-related employment and in relation to the general labor market once project construction is completed, and preferential hiring during project construction. ADB has included a surcharge on project revenues in Lao PDR to support protection of biological resources in a protected area on which local people depend for subsistence. Shared benefits to adversely affected people have to be clearly defined at the outset to minimize risks viewed from the part of the investor.

Strategic Priority 6: Ensuring Compliance

Ensuring public trust and confidence requires that governments, developers, regulators and operators meet all commitments made for the planning, implementation and operations of dams. Compliance with applicable regulations, criteria and guidelines, and project-specific negotiated agreements is secured at all critical stages in project planning and implementation. A set of mutually reinforcing incentives and mechanisms is required for social, environmental and technical measures. These should involve an appropriate mix of regulatory and non-regulatory measures, incorporating incentives and sanctions. Regulatory and compliance frameworks use incentives and sanctions to ensure effectiveness where flexibility is needed to accommodate changing circumstances.

Policy Principles

A clear, consistent and common set of criteria and guidelines to ensure compliance is adopted by sponsoring, contracting and financing institutions and compliance is subject to independent and transparent review.

- ADB's Response: Third-party monitoring during design and construction has become a regular feature of major infrastructure projects supported by ADB. Compliance measures are monitored throughout the construction period. This would normally include at least two annual review missions by ADB staff.

A Compliance Plan is prepared for each project prior to commencement, spelling out how compliance will be achieved with relevant criteria and guidelines and specifying binding arrangements for project-specific technical, social and environmental commitments.

- ADB's Response: A plan for achieving compliance is built into resettlement and environmental management plans. ADB has strict technical criteria and guidelines for compliance with technical aspects. More attention is being placed on incorporating specific social and environmental compliance requirements as clauses in contract documents.

Costs for establishing compliance mechanisms and related institutional capacity, and their effective applications, are built into the project budget.

- ADB's Response: In terms of social and environmental aspects, costs are built into the project budget for institutional mechanisms such as resettlement committees, environmental units, and third-party monitoring. An assessment of institutional capacity for implementing environmental management programs is a part of ADB's environmental impact assessment process. The use of performance bonds and other mechanisms are currently being explored by ADB as possible means for improving compliance.

Corrupt practices are avoided through enforcement of legislation, voluntary integrity pacts, debarment and other instruments.

- ADB's Response: ADB seeks to implement its Governance Policy, which covers corrupt practices.

Incentives that reward project proponents for abiding by criteria and guidelines are developed by public and financial institutions.

- ADB's Response: Such incentives are not offered by ADB because project proponents are expected to abide by criteria and guidelines as identified in project documents.

Strategic Priority 7: Sharing Rivers for Peace, Development and Security

External financing agencies support the principles of good faith negotiations between riparian States.

Policy Principles

National water policies make specific provision for basin agreements in shared river basins. Agreements are negotiated on the basis of good faith among riparian States. They are based on principles of equitable and reasonable utilization, no significant harm, prior informant and the Commission's strategic priorities.

- ADB's Response: ADB follows and supports initiatives by subregional organizations, such as the Mekong River Commission, in matters relating to cross-border management of water resources.

Riparian States go beyond looking at water as a finite commodity to be divided and embrace an approach that equitably allocates not the water, but the benefits that can be derived from it. Where appropriate, negotiations include benefits outside the river basin and other sectors of mutual interest.

- ADB's Response: ADB's new Water Policy incorporates the principle of equity and recognizes the need to look at a wide range of potential benefits.

Dams on shared rivers are not built in cases where riparian States raise an objection that is upheld by an independent panel. Intractable disputes between countries are resolved through various means of dispute resolution, including, in the last instance, the International Court of Justice.

- ADB's Response: ADB follows and supports initiatives by subregional organizations, such as the Mekong River Commission, in matters relating to cross-border management of water resources. These principles are also contained in ADB's Water Policy.

For the development of projects on rivers shared between political units within countries, the necessary legislative provision is made at national and subnational levels to embody the Commission's strategic priorities of "gaining public acceptance", "recognizing entitlements", and "sustaining rivers and livelihoods".

- ADB's Response: ADB has not supported dams where objections are raised by subnational entities.

Where a government agency plans or facilitates the construction of a dam on a shared river in contravention of the principle of good faith negotiations between riparians, external financing bodies withdraw their support for projects and programs promoted by that agency.

- ADB's Response: ADB has not faced such cases but if they would appear in the future, ADB would seek assistance of riparian river commissions to resolve disputes before taking action.

INSTITUTIONAL RESPONSES – BILATERAL AID AGENCIES AND MULTILATERAL DEVELOPMENT BANKS (p.315)

Develop programs to help countries, especially those with a significant existing or potential dam population, formulate a response to the Commission's report and find ways to implement its recommendations.

- ADB's Response: ADB has already assisted the Commission in distributing copies of the Commission's report to selected national agencies. ADB has supported two regional dissemination meetings in the Asia Region to discuss the report and its implementation. It also is holding internal discussions of other ways and means for ADB to support the Commission's findings.

Ensure that any dam options for which financing is approved emerge from an agreed process of ranking alternatives and respect the Commission's guidelines.

- ADB's Response: ADB ranks alternatives on a least-cost basis. More attention to the social and environmental considerations in least-cost solutions is a task, which ADB is attempting to address. ADB supports the Commission's guidelines and intends to consider them in all future projects.

Accelerate the shift from project-to sector-based finance, especially through increasing financial and technical support for effective, transparent, and participatory needs and options assessment, and the financing of non-structural alternatives.

- ADB's Response: ADB has long provided sector financing. It is providing assistance in several countries to strengthen participatory processes and has strengthened its own capacities in this field over the past several years. ADB has also emphasized non-structural alternatives in its lending programs. ADB plans to continue these efforts in the future.

Review the portfolio of past projects to identify those that may have under-performed or present unresolved issues and share in addressing the financial burden of such projects for borrower countries. This may include, for example, canceling the outstanding debt related to them, converting debt repayment into development assistance targeting affected areas, or providing new support to help borrower countries address unresolved economic, social and environmental problems.

ADB' Response: ADB has no current policy to deal with such cases.

Review internal processes and operational policies in relation to the Commission's recommendations to determine changes needed in the selection of projects for lending portfolios; the appraisal process; and implementation, monitoring, and evaluation.

- ADB's Response: The Commission's recommendations have been reviewed in relation to their application to the ADB's revised environmental guidelines and social policies. A similar review has been carried out for ADB's Infrastructure and Agriculture Departments, which are

responsible for the energy, water supply, flood control, and irrigation sectors. Further review will await consultation with developing member countries through ADB-organized workshops in these countries. Subject to government concurrence, NGOs will be invited to these workshops.

GUIDELINES FOR GOOD PRACTICES (p.278) (For reference only. No “ADB response” is provided. A broad indication of whether ADB is undertaking these good practices is provided for reference. Underlining means those which we are not doing at the moment).

Strategic Priority 1: Gaining Public Acceptance

1. Stakeholder Analysis —Yes (as part of social assessments)
2. Negotiated Decision-Making Process —Projects are not “negotiated” with local people except through government. ADB’s policies do not explicitly require unanimous consent of those who may be required to be resettled or affected indigenous peoples. ADB would, however, ensure that our existing mechanisms are adequate to protect the important interests of even a few persons who may be adversely affected. This could be in the form of enhanced alternative livelihood mitigation and rural development projects.
3. Free, Prior and Informed Consent —This is left to government.

Strategic Priority 2: Comprehensive Options Assessment

4. Strategic Impact Assessment for Environmental, Social, Health and Cultural Heritage Issues – Yes (proposed in revised environmental guidelines)
5. Project-Level Impact Assessment for Environmental, Social, Health and Cultural Heritage Issues —Yes
6. Multi-Criteria Analysis — Yes/No (done for roads. Could be done for dams and other alternative energy solutions)
7. Life Cycle Assessment — No (not done through to decommissioning of dams)
8. Greenhouse Gas Emissions – Limited, but has been done in projects in People’s Republic of China
9. Distribution Analysis of Projects —Yes, intended to be done for future projects
10. Valuation of Social and Environmental Impacts – Yes
11. Improving Economic Risk Assessment —Yes, for future projects

Strategic Priority 3: Addressing Existing Dams

12. Ensuring Operating Rules Reflect Social and Environmental Concerns. Initially done as a part of the Loan Agreement through an assurance but not normally on a long-term basis (left to government).
13. Improving Reservoir Operations. Would be left to the operator after construction but in line with agreed operation guidelines (monitoring by government).

Strategic Priority 4: Sustaining Rivers and Livelihoods

14. Baseline Ecosystem Surveys —Yes
15. Environmental Flow Assessment — Yes, intended to be done through international research with ADB involvement.
16. Maintaining Productive Fisheries — Yes, in the form of fish cages/ponds/reservoir culture and possible fish transporters/bypasses or ladders, if attractive to the migration fish population.

Strategic Priority 5: Recognizing Entitlements and Sharing Benefits

17. Baseline Social Condition – Yes.
18. Impoverishment Risk Analysis — Yes, through social assessment and poverty assessment.
19. Implementation of the Mitigation, Resettlement and Development Action Plan —Yes
20. Project Benefit-Sharing Mechanisms —Not current policy. Could be attempted if project affected people's sharing could be determined and defined early in the project cycle, so the risk is known to the investor, if private sector is involved a public loan for this component could be contemplated.

Strategic Priority 6: Ensuring Compliance

21. Compliance Plans —Technical, yes; social and environmentally, limited
22. Independent Review Panels for Social and Environmental Matters —Yes
23. Performance Bonds —May be part of new proposed ADB environmental guidelines.
24. Trust Funds — Limited ADB experience but could be an option as for Nam Leuk Hydropower project in Lao PDR, where 1% of revenues is set aside for national park upkeep.
25. Integrity Pacts —Not yet tried, but could be done.

Strategic Priority 7: Sharing Rivers for Peace, Development and Security

26. Procedures for Shared Rivers — No direct ADB involvement but partnering with international riparian river bodies such as the Mekong River Commission.

Summary of guidelines, which ADB is not currently using or has not proposed to use in future:

- Negotiated decision-making process —ADB expects government, as owner, to do this with possible ADB advisory services (see above under guideline 2); the private sector would need definite financial closure in a fixed time span.

- Free, prior and informed consent —ADB expects government, as owner, to do this (see above under guideline 2).
- Multi-criteria analysis —could be done but not indefinitely.
- Life cycle assessment — ADB normally does not consider decommissioning aspects in its evaluation, because of the long time span involved and the minimal impact on economic and financial analyses when the discounting method is applied.
- Ensuring operating rules reflect social and environmental concerns — this is after loan completion, so ADB only look into this if it is stipulated in the loan agreement.
- Improving reservoir operation —this is after loan completion, so ADB rarely look into this, unless it is stipulated in the loan agreement.
- Performance bonds —this is suggested in the revised environmental guidelines, but is not currently being done.
- Trust funds —could be done such as the 1% surcharge on Nam Leuk Hydropower (Lao PDR) revenues.
- Integrity pacts —could be done but is not currently practiced.
- Procedures for shared rivers (see above under guideline 26).