

PHILIPPINES IN-COUNTRY WORKSHOP

**“DAMS AND DEVELOPMENT”
(30 August 2001)**

OPENING REMARKS

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Good morning, Ladies and Gentlemen. I am pleased to welcome you to the first in-country workshop, which ADB is hosting here in the Philippines.

The Dams Debate

I believe that some of you may not be familiar with recent developments in the debate on large dams, although I'm sure that you are aware of the controversy caused by any announcement of a proposed new construction. In 1997, a new Commission was formed comprising 12 eminent people representing all aspects of the dams debate, and including on the one hand Ms. Joji Cariño of the Tebtebba Foundation here in the Philippines, and on the other hand, Mr. Jan Veltrop, President of the International Committee on Large Dams. The Commission produced their final Report in November last year and then “de-commissioned” themselves. The Commission's work, which is the most comprehensive of its type, consisted of an evaluation of the benefits and negative impacts of 12 dams worldwide; a check survey of 125 dams to see how representative the 12 case studies were; four regional consultations at which a wide variety of first-hand experiences and point-of-view were expressed, and seven thematic reviews of factors that are common to most dam projects. Much of this information is on the CDs which many of you have, and which are available outside this auditorium.

The WCD study concluded that considerable benefits have been derived from large dams, and that in response to growing development needs, dams remain as one important option. However, the Report also concluded that dams have too often fallen short of what is desirable or acceptable in the areas of economic efficiency, social

equity, and environmental sustainability. The Report presents 26 guidelines grouped under seven strategic priorities that the commissioners regard as being best practice for planning, designing, implementing, and monitoring large dams.

ADB's Participation

ADB has also been participating in the dams debate. We funded one of the Regional Consultations held in Hanoi in February last year and have undertaken four case studies under a Regional Technical Assistance of dams that we partially funded, including Magat Dam in N. Luzon. Mr. Casinader will present a short paper on the findings of this study later in the day. Shortly, after the launch of the WCD Report in November last year, the President of ADB made three commitments (i) to help disseminate the Report's findings, (ii) that ADB would re-examine its own procedures, including our environmental and social policies, and determine the extent to which the report's recommendations may necessitate changes in these procedures, and (iii) that ADB would encourage its developing member countries to review their own policies.

The purpose of this Workshop is therefore to review in what areas ADB and Philippines policies differ from those in the WCD Report, and to try to formulate a strategy for closing those gaps that we, collectively, believe would lead to better projects in the future.

Reason for Improvement

The WCD Report found that dam safety was no longer a controversial issue. The main areas of deficiency in the past have been unmitigated environmental impacts and a lowering of living standards of many project affected people. Of course, the expectations of society have changed significantly over the past decades, and what was acceptable 50 years ago is no longer acceptable to a majority of citizens today. Many of us have been involved in water resource projects where environmental impacts and the consequences on the lives of resettlers were given consideration, only in the final

stages of project design, without any consultation with the affected people. In large part due to pressure from NGOs, there is now an awareness that these aspects can, and should, be handled better.

Sometimes, a reversal of roles is illustrative, for example, let us put ourselves in the position of being about to lose our home due to construction of a development project. Wouldn't we demand a say in our future? Wouldn't we expect to have alternative employment opportunities? Wouldn't we regard all these as our rights?

I suggest that the subsistence farmer in a remote valley has similar rights and also suggest that the proposed project owner has an obligation to determine the extent to which that person's rights are affected and to agree with the affected person how they should be addressed. This is the essence of the WCD's "rights at risk" approach. Anyone whose rights may be at risk is a legitimate stakeholder in the project and should have a say in the process.

Options Assessment

Strategic Priority No. 2 recommends a comprehensive options assessment. Before starting a major project like a dam, it is common sense to ensure that the dam is needed, that alternative ways to provide the service have been evaluated, and that the "best" option has been selected. When thinking about alternatives, we usually focus on alternative investment options: coal or gas-fired thermal power plants, or alternative dam locations or configurations. An equally important option might be better demand-side management, including leveling peak load, which can be up to double the off-peak load in our Developing Member Countries.

All infrastructure projects have an impact on the environment (they flood or drain land, remove or change vegetation, emit or discharge waste products, etc.) Therefore, a comprehensive environmental database is key to comparing dams with other options. But often, adequate data on the natural environment, particularly aquatic species, is

absent so that for example, the impact of changed flow regimes on fish species has not been assessed. So people whose livelihoods depended on fishing are at risk of being deprived of either food, or their income.

When data is absent, past experience suggests that the risk of unforeseen impacts is less when dams are sited on the upper reaches of tributaries than when they are lower in the basin. Nonetheless, cumulative impacts of multiple upstream dams can be important when evaluating various options.

Gaining Public Acceptance

Let me say a little about the concepts embodied in Strategic Priority No. 1 “Gaining Public Acceptance,” “Negotiated Decision Making” and “Free, Prior and Informed Consent.” In the previous example, if my land was required in order to construct a project and no compensation was offered, I would surely oppose the project. Through a process of negotiation, I, as a recognized stakeholder could be offered a compensation package, or the project could be modified in a way that I found acceptable, and for which I would withdraw my objection. In other words, I would consent to the “new” project which now included some mitigation measures.

If the government, as owner of the project considered my final demand unreasonable, it would retain its sovereign right to award what it regarded as reasonable compensation, and for that project to proceed. However, since the objective is to reach a negotiated settlement, without discussion with all the stakeholders, what they regard as acceptable will not be known.

This concept of negotiated consent is closely linked with Strategic Priority No. 5 “Recognizing Entitlements and Sharing Benefits.” If the person who loses access to fish, which formed a substantial part of his diet is offered an electricity supply from the project, which can be used productively, then his opposition may also be converted into consent.

Some Concerns

One area of concern for us at ADB is the WCD recommendation for remedying outstanding social impacts of existing projects – projects that were completed long ago (and that we may have financed long ago) and are now operated by government power utilities or the sponsors.

Societies' attitudes to resettlement and environmental issues have changed a lot in the past 30 years. If the WCD recommendations mean retroactively applying today's standards to past projects, then this raises important conceptual and practical questions. We could call this the "moving goal-posts scenario." Some questions in this area, which I hope will be addressed during the Workshop include:

- (i) Who is responsible for the retrofit required to meet new standards?
- (ii) Who should benefit? The original PAPs or some increased population who were originally not affected?
- (iii) Most importantly, who pays?
- (iv) Who oversees compliance?
- (v) And for dams that are still works-in-progress, is there a cut-off time, after which no additional changes to meet current standards are required? Perhaps, it is when legally binding contracts with PAPs are in place? Or when all construction contracts have been awarded?

The next obvious question is, "Would retrofit again be needed, say after another 20 years to meet the social and environmental standards at that time?" And, who should pay then? These are important questions that I hope you will discuss.

The WCD report recommends "re-licensing dams after 30 years, but is silent on whether re-licensing is for safety (which one would expect), or also relates to PAPs, as defined under new later-prevailing resettlement and environment standards. Such ex-post

recompense would amount to giving the earlier-affected people an unexpected “windfall.”

Of course, we would agree that redress is always needed when the standards prevailing, or commitments made during project implementation, have not been met.

Another controversial WCD proposal is that project sponsors should conclude legally binding agreements with the affected people before construction starts. This follows logically from the “rights at risk” approach. This process is perceived by some to be lengthy and expensive and above all, risky, since an alternative project may eventually be selected, and sponsors’ sunk costs would be totally lost.

To make this proposal for upfront agreements with affected people workable, the sponsor would want to have a full “options assessment report” and the relevant feasibility studies, which included these binding agreements. Only then would the total cost of the alternatives be known. This would be expensive work. While the chance of construction delays would be reduced by this approach, the sponsor would still be at risk. What if “agreements” are flawed?”

A Role for ADB?

So here is another question for our Workshop deliberations, “Is there a need for some organization” to fund such “options assessments” and the feasibility studies deriving from them?” A study incorporating all social and environmental costs, with obligations and responsibilities to PAPs clearly defined and identified, would be very attractive to private developers. It would also provide a level playing field on which to seek competitive bids. The greater certainty that such studies offer, might even lower projects costs sufficiently to cover the studies.

ADB and other Multilateral Development Banks could be called on to play such a role by preparing projects, with a “good housekeeping seal of approval.” ready for sponsors to finance, at low risk.

With the WCD’s emphasis on “rights at risk” and having agreements prior to construction, the question of “approval” or “certification” must, I believe, be addressed. Alternatively, perhaps, is it better to build the capacity of existing national institutions for this certification work? Reactions from the participants would be welcome.

Summary

Let me summarize some of the questions on which I hope the working groups will develop a view:

- (i) Do you support the “rights at risk” approach i.e., that all project-affected people are legitimate stakeholders and should have a say in the project development process.
- (ii) That thorough needs and options assessments are required and that several viable options should be studied until the best project is identified, including all negotiated costs required to achieve public consent.
- (iii) How do the working groups see “retroactive application of standards?” Is this legitimate? Or is it akin to applying “first world” standards and “gold-plating?” And, who should pay, when the country is poor, and perhaps already indebted? Should there be a cut-off point?
- (iv) What about recurring retroactive refits? Is the right analogy Ukraine’s nuclear plants that have been twice upgraded for safety reasons, or is it something different?

- (v) Would you welcome assistance by the MDBs to fund feasibility studies including the negotiation of agreements with project-affected people? Competitive bids from project developers could be based on these comprehensive Feasibility Studies.

And what about, perhaps, the most difficult question of all, what we could call the “without us or with us” question? Would ADB’s influence result in “better” environmentally and socially sustainable projects. The WCD’s excellent work notwithstanding, MDBs, including ourselves, are almost “gun-shy” of dams now. The risks are great, the visibility is high, and the vulnerability is a constant concern.

But while we, the ADB, are doing fewer dams than before, some countries are now doing projects without our involvement, which they might have done with our involvement earlier. An example from another region and subsector – Czech nuclear plant retrofits are now being done with Russian technology and know-how, since no “Western” bilateral or MDB wants involvement. Is this the right outcome? Are we satisfied with these standards and with these “incentives.”

Today’s Program

As you can see from the Agenda in your binders, we have a busy day ahead. We will commence with three papers which will summarize ADB’s response to the WCD guidelines, followed by the Government’s response and then a third paper on the findings and recommendations of ADB’s own Case Studies. Then, with these papers as a background, we will divide into three smaller working groups and relocate into the room on my left. Each group will discuss the same topic at the same time under the guidance of a facilitator. After about 30 minutes discussion, I suggest that the facilitators write on the white board a Summary of the group discussions. We shall then all return to this room and one by one, the facilitators will report the findings of each group.

There will be two similar breakout groups in the afternoon session, and then the NGO representatives are welcome to take the floor. We will conclude with a general discussion which I hope will culminate in an agreed workshop resolution on the next step toward better practices in line with the WCD guidelines.

So, let me conclude by thanking you for listening, and for the opportunity to provoke your thinking. This is surely a long-term partnership between us, as we bring our different skills and perspectives to bear on an important common goal.

Thank you.