



July 29, 2005

President Haruhiko Kuroda
Asian Development Bank
P.O. Box 789
0980 Manila, Philippines

Dear President Kuroda,

Re: ADB water policy implementation review June –November 2005

The NGO Forum on ADB is a network of non-governmental organizations (NGOs) and civil society organizations (CSOs) operating in the Asia-Pacific region and some organizations in Europe. Our network has been monitoring the Asian Development Bank's (ADB) policies, programs and projects for the past fifteen years. In particular, we have continuing concerns with ADB's water policy and have raised these in various occasions over the past several years of its implementation.

Presently, we engage in monitoring the on-going implementation review of the ADB's 2001 Water Policy. We would like to clarify some issues surrounding the on-going implementation review:

1. We are uncertain with what this implementation review means. We would like to know whether this implementation review will lead to a review of the policy itself.
2. We would also like to know the criteria and processes the Bank used in selecting the panel of experts tasked to review the implementation of its water policy. Can we have access to the Terms of Reference (TOR) between the Bank and the members of the review panel?
3. We would like to know the criteria and processes that the ADB followed in choosing a country for the in-country consultations.
4. In addition, we would like to know the criteria and processes the ADB used in selecting ADB-funded water projects for case studies. We learned that the WaterAid is conducting case studies of ADB-funded water projects in three countries, namely Bangladesh, India, and Nepal. We would like to know why Sri Lanka, Indonesia, and the Philippines were not selected for the case studies considering that in these countries, the Bank was heavily questioned for its interventions and for pushing for private sector participation and full cost recovery through policy conditionalities attached in the WSS loans.

We would like to bring to your attention some water projects which have altered water governance structures and processes in the following countries:

Sri Lanka With ADB support, a National Water Resources Policy was approved in March 2000. Earlier in 1993, ADB formulated a national water sector profile and reform action plan for Sri Lanka; a 2001 loan supported the drafting of a new water policy. Greater Colombo has long been eyed by financial institutions as the "prime candidate to lead South Asia into PSP in water supplies." A National Policy on PSP in Water Supply and Sanitation was approved in 2001. With World Bank support, the government identified several urban

water supply schemes for PSP in Greater Negambo and the Kalutara to Galle Coastal Strip as pilot projects; the lease-concession hybrid model to be used; capital investment fund and an operational investment fund are proposed to cushion the effect of higher tariffs. In December 2004, the Cabinet approved a new water policy that promotes commercialization of the water sector.

Nepal The Nepal Water Supply Corporation (NWSC) is a government corporation set up in 1990 and is responsible for water supply and sewerage for Greater Kathmandu and 11 other towns. In 1997, the Government decided to privatize management of the water supply in the Kathmandu Valley under a management lease contract. In 1998, a National Water Supply and Sanitation Sector Policy was crafted which supports PSP in the operation and management of water supply and sanitation services in Kathmandu Valley towns. Similarly, the Kathmandu Valley Water Supply and Sanitation Strategy was drawn which includes full cost recovery for urban water supplies and integration of sanitation with water supply. A regulatory commission is being prepared as a precursor to the introduction of PSP in water supply management. Back in 1997, the World Bank agreed to provide financial support to the PSP process but pulled out in mid-2002 after two unsuccessful attempts to prequalify contractors for a 10-year management lease contract, with only one contractor prequalifying each time. ADB then requested that joint ventures of water utilities from developed countries and international consultants with experience in developing countries be allowed to bid. ADB is now helping prepare a 5-year management contract. PSP is also a precondition for the Bank's support to the controversial US\$464-million Melamchi Water Supply Project, approved in December 2000 with co-financing from JBIC and other donors. Due for completion in September 2006, the Melamchi project involves the construction of a 26-kilometer tunnel primarily to divert 170 million liters of water daily from the Melamchi River. The NWSC would gradually escalate the price to at least five times more by the time Melamchi water starts flowing in the pipe-networks of Kathmandu.

China The Chengdu water project is the first BOT water supply project in China and ADB's first private sector project in the water sector. ADB financed US\$48 million out of the total project investment of US\$106.5 million. The French multinational Veolia started operations in Chengdu in 2002, and problems soon ensued. The contract requires the municipal water operator, which has supplies of its own for 900,000 cubic metres per day, to buy 400,000 m³ per day from Veolia on a "take or pay" basis. However, present daily requirement is only about 1 million m³ per day, so the water is unnecessary as well as too expensive. As a result, the municipal water agency had to close some of its own facilities, and is under severe financial pressure unless it raises water prices. Water demand has been overestimated. The city is forced under the "take or pay" contract to buy 400,000 m³ per day. The ADB had earlier assisted China in drafting an Urban Water Tariff guideline, approved in October 1998.

Indonesia In February 2004, the Indonesian Parliament approved a new Water Resources Law. Critics of the law argue that it could result to higher prices, thereby limiting people's access to water. In June 2004, a people's coalition on water filed a case in the newly-formed Constitutional Court for a Judicial Review of the law. They argued that handing over government's role of providing water services to the private sector is against the Indonesian Constitution. Barely three months after the controversial water law was approved, the government was set to privatize state-run regional water companies and "revive over 300 ailing regional water companies across the country". The ADB, WB and other donors pledged to fund the program. The new water law is a conditionality of the US\$300-million program loan from the WB known as WATSAL, or Water Resources Sector Adjustment Loan, which aims to promote PSP in Indonesia's water sector. Aside from the

WB, the ADB has also been working directly with several regional water municipal companies in Indonesia to prepare a policy framework for PSP.

Cambodia Recent ADB publications cite the Phnom Penh Water Supply Authority (PPWSA) as "one of the better run utilities in the Asian region". Since the early 1990s, the public utility has improved performance in terms of number of connections, financial efficiency, ending of corrupt practices and leakage. The problem of connecting peri-urban settlements, however, still persists. Despite this demonstrably successful public utility in the capital, the World Bank, through the PPIAF, is still actively promoting private sector-based solutions in Cambodia. Interestingly, the ADB awarded its 2004 Water Prize to the publicly-managed Phnom Penh Water Supply Authority, citing improved performance of the water utility over the past 12 years.¹ Clearly, certain dynamics still exist within the Bank regarding the merits/demerits of privatization/PSP and public sector reforms/governance.

ADB policy played a major role in all these countries. Therefore, we would like you to consider including these projects in the Bank's case studies.

5. Furthermore, we would like to inquire if dams and hydropower projects are covered in the review. It is our impression that the covered water sector projects are limited to water supply & sanitation and irrigation & drainage.

6. Finally, we would like to know the bases and premises of the ADB and the experts in formulating the key questions for the in-country consultations. Clearly, the key questions are not meant to confront the possible social and environmental impacts brought by the ADB-funded water projects to communities, individuals and countries.

Key questions asked by the ADB in the water policy review include the following:

- *On national water policies and water sector reforms:*

- What key improvements have resulted from the implementation of national water policy, legal, and institutional reforms in your country?
- What progress has been made to strengthen the coordination, institutional capacities, and participatory practices of the agencies and institutions charged with governance of the water sector in your country? What challenges remain to improve water governance at the national level?
- What water sector reforms are still necessary to build capacities, address constraints, and improve governance in your country? What should ADB do to help?

- *On water supply delivery (water supply and sanitation):*

- What progress has been made to increase coverage and improve efficiencies in water service delivery in your country?
- What reforms have been implemented to improve the quality and sustainability of water service delivery in your country?
- What actions must be taken by the ADB in the next five years to expand and improve water service delivery your country and what should the ADB do to help?

¹ ADB, 27 Jan 2004, <http://www.adb.org/Documents/News/2004/nr2004012.asp>

In the Cambodia consultation (through Client Stakeholder Survey), the participants were asked to respond to the following questions:

- What progress has been made to address the 7 key areas outlined in ADB's water policy?
- In what areas should ADB prioritize its investments in the next 5 years? (2005-2010)
- What partnerships should ADB focus in the next 5 years?

In our view, the approach of the policy implementation review does not look into the social, economic and environmental impacts of the present ADB water policy. We reiterate that these impacts be included in the policy implementation review.

We anticipate your action on these concerns.

Thank you very much.

Sincerely,

Zakir Kibria,
BanglaPraxis,
Bangladesh

Ravindranath Dabare,
Centre for Environmental Justice,
Sri Lanka

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