

ASIAN DEVELOPMENT BANK

SAMUT PRAKARN WASTEWATER MANAGEMENT PROJECT

THIRD SEMIANNUAL

REPORT

TO THE BOARD OF DIRECTORS

ON

IMPLEMENTATION OF THE RECOMMENDATIONS

OF THE BOARD INSPECTION COMMITTEE

AS ADOPTED ON 25 MARCH 2002

October 2003

ABBREVIATIONS

B	–	baht
MKRD	–	Mekong Department
NVPSKG	–	turnkey contractors
PCD	–	Pollution Control Department
TA	–	technical assistance

I. INTRODUCTION AND BACKGROUND

1. On 25 March 2002, the Board of Directors of the Asian Development Bank (ADB) met to consider the recommendations of the Board Inspection Committee pursuant to the inspection of the ADB-funded Samut Prakarn Wastewater Management Project (the Project) in Thailand.¹ At that meeting, the Board noted the report of the inspection committee and, after due deliberation, approved its recommendations as quoted in paragraph 1 of Board document IN.251-02 dated 3 October 2002.²

2. This is the third semiannual report to the Board and covers 26 March 2003 to 25 September 2003. In the second semiannual report (March 2003), staff advised the Board that they were aware of ongoing investigations into the Project by the Government, which had resulted in the main turnkey contract being declared null and void. It is now confirmed that, as a result of the Government's declaration that the turnkey contract is null and void, work on all project-related activities has ceased. A detailed explanation is provided in this report.

II. RECENT HISTORY AND STATUS OF PROJECT

3. In January 2003, the minister for Natural Resources and Environment in the Government of Thailand, established three committees to investigate (i) the feasibility and viability of the Project, (ii) allegations of collusion in corrupt activities, and (iii) contractual irregularities. The committee investigating contractual irregularities subsequently declared the turnkey contract null and void, and the executing agency, the Pollution Control Department (PCD), officially advised the turnkey contractor on 28 February 2003 and ADB on 18 March 2003 of this development. The turnkey contractor has contested the grounds for PCD's action and, reportedly, both PCD and the turnkey contractor are preparing to take their dispute to court.³

4. After declaring the turnkey contract null and void, PCD has brought to an end all consulting contracts for the Project. Two contracts have been allowed to expire, and a third has been terminated. A further contract for a community facilitator, engaged under ADB technical assistance, was canceled by ADB in July 2003, following cessation of all project-related activities.

5. The committee investigating allegations of collusion in corrupt activities believes there are irregularities in the original land title deeds, and is pursuing a case against several individuals. The committee investigating the feasibility and viability of the Project has requested PCD to review the Project further, with the possible assistance of consultants.

6. In terms of project status, the physical works are about 95% complete. Loan disbursement is about 91% complete (approximately \$210 million of the \$230 million approved).⁴ However, in accordance with a recent request of the Government, about \$17 million

¹ ADB. 1995. *Report and Recommendation of the President to the Board of Directors on a Proposed Loan to the Kingdom of Thailand for the Samut Prakarn Wastewater Management Project*. Manila.

² ADB. 2002. *Samut Prakarn Wastewater Management Project - First Semiannual Report on Implementation of the Recommendations of the Board Inspection Committee*. Manila.

³ The turnkey contractor comprises a consortium of Vichitbhan Construction Co. Ltd., Prayoonvisava Engineering Co. Ltd., See Sang Karn Yotah (1979) Co. Ltd., Krung Thon Engineering Co. Ltd., and Gateway Development Co., Ltd.

⁴ ADB. 1995. *Report and Recommendation of the President to the Board of Directors on a Proposed Loan to the Kingdom of Thailand for the Samut Prakarn Wastewater Management Project*. Manila. Of the \$150 million approved, \$130 million has been disbursed. ADB. 1998. *Report and Recommendation of the President to the Board of Directors on a Proposed Loan to the Kingdom of Thailand for the Samut Prakarn Wastewater Management Project (Supplementary Loan)*. Manila. The \$80 million approved has been fully disbursed.

has been canceled from the original loan. The balance is approximately \$3 million, and the revised total amount of both loans is \$213 million. Disbursement on the main turnkey contract is about B20 billion, out of a total contract value of about B23 billion (87%). No further progress has occurred on approving the regulatory framework (para. 17, ADB. 2003. *Samut Prakarn Wastewater Management Project – Second Semiannual Report on Implementation of the Recommendations of the Board Inspection Committee*. Manila). Similarly, no further progress has been made on establishing the institutional and cost recovery frameworks.

7. In May 2003, the minister for Natural Resources and Environment, together with the director general of PCD and some members of the investigating committees, visited Manila to meet with ADB's President and senior staff of the Mekong Regional Department to advise them of the ongoing investigations. As a result of the visit, agreement was reached on an extension of the loan closing date from the end of June 2003 to the end of November 2003. ADB will reassess the situation again at the end of November 2003, by which time the Government may be in a position to decide on the future of the Project.

8. The Japan Bank for International Cooperation, a cofinancier of the Project, has sought prepayment on a voluntary basis from the Government, which was effected in July 2003. JBIC's decision to do so was based on the General Terms and Conditions applicable to its loan. These terms and conditions are in some respect different from the Loan Regulations applicable to ADB loans.

III. COMPENSATION PLAN

9. The Board required Management to provide semiannual reports on the status of implementation of the resettlement plan including payment of compensation. Although a draft compensation plan has been prepared, it has not been submitted for ADB to review for compliance with its involuntary resettlement policy. The community facilitator under ADB TA⁵ who had a key role in negotiating the draft compensation plan, had maintained contact with the two affected fishing licensees following cessation of project activities. However, pursuant to the cancellation of his contract (para. 4), there has been no further consultation or progress in finalizing the plan. Should the Project proceed at some time in the future, and in its current form, the plan will need to be updated and implemented.

IV. MONITORING SYSTEMS

10. The Board required Management to provide semiannual reports on the system for monitoring of socioeconomic impacts, based on baseline data. However, no further monitoring has taken place since February 2003, when the turnkey contract was declared null and void.

V. COMMUNITY INVOLVEMENT

11. The Board required Management to provide semiannual reports on the progress in community involvement. However, following the decision to declare the turnkey contract null and void, and the subsequent cessation of project activities, there has been no further progress on community involvement initiatives. The community facilitator under the TA⁶ maintained informal contact with some members of the Khlong Dan community for a short time. However, several

⁵ ADB. 2000. *Community Assessment and Development for the Samut Prakarn Wastewater Management Project*. Manila.

⁶ ADB. 2000. *Community Assessment and Development for the Samut Prakarn Wastewater Management Project*. Manila.

months after the cessation of project activities, it became clear that there was no further role for the community facilitator, and ADB canceled his contract at the end of July 2003.

VI. ODOR AND EFFLUENT MANAGEMENT

12. The Board required Management to provide semiannual reports on problems associated with odor and effluent (if any), together with a description of measures taken. However, all activities associated with odor and effluent management ceased when the turnkey contract was declared null and void.

VII. SUMMARY

13. Since submission of the second semiannual report, all project-related activities have ceased, as a result of the turnkey contract being declared null and void. Accordingly, no actions or decisions have been taken on (i) approval of the compensation plan, (ii) monitoring of project impacts, (iii) community involvement initiatives, or (iv) odor and effluent management. There is much uncertainty in Thailand about the future form of the Project, as well as the timing of any further developments. Investigations by the Government are ongoing, and a further project review is planned, which is expected to be completed by late-2003/early-2004. ADB will reassess the situation at the time of the loan closing date of 30 November 2003.