

To,
Board of Directors
Asian Development Bank
Manila, Philippines

Date: 20 March, 2008

Re: ADB Safeguard Policy Update: Comments on Involuntary Resettlement (October 2007 draft SPS)

Dear Board Members:

1. We have invested two productive, professional lifetimes working on development-induced involuntary resettlement policy and practice. As members of expert panels, consultants and academics, we have worked every facet of involuntary resettlements – preparation, design, appraisals, supervisions, evaluation, research, compliance review, fact finding, and policy analysis. Our clients include the full breadth of stakeholders, including the regional development banks, the WBG, the IFC, many developing member countries (DMC) and civil societies. We founded the only international professional association of involuntary resettlement specialists.¹ And, our writings have helped to define the global scientific knowledge.
2. Drawing on this experience, we are deeply concerned that adoption of the proposed safeguard policy update (SPU draft of Oct 2007 draft)² will increase impoverishment among displaced persons, isolate the ADB from the mainstream of involuntary resettlement policy, and decrease Management accountability to the Board and DMCs. We ask the Board to ensure a significantly improved 2nd draft paper, with substantive revisions, is circulated by Management for public comment prior to issuing a Working Paper. We believe the revision exercise requires careful deliberation of recommendations adopted and those discarded, and feel a Working Paper will not provide the time that is needed for such thorough examination. Thus an intermediate draft is essential.
3. The goal, objectives and operations of any revision of ADB Involuntary Resettlement policy should be consistent with the Bank's overarching objective of sustainably reducing poverty in Asia and the Pacific.³ Any revision should also build on institutional experience and scientific knowledge which has shown that, unless proper steps are taken, infrastructure and other development investments may impoverish peoples who are physically or economically displaced.

¹ The International Network on Displacement and Resettlement www.displacement.net

² Consultation Draft of Safeguard Policy Statement (October 2007). Page 40.

³ Goals statement from Message to the Board. Haruhiko Kuroda, President and Chairman of the Board of Directors. 2006, Annual Report.

Flawed Economics

4. The involuntary resettlement section of the draft SPU rests on flawed economic analysis - known as a “restoration of livelihoods” objective. The seemingly innocuous policy in the SPU aims to “enhance or at least restore the livelihoods of all affected peoples in real terms relative to pre-project levels and improve standards of living of the affected poor and other vulnerable groups.”⁴ Following this pathway will create, not reduce, poverty among those unfortunate peoples who find themselves in the way of ADB investments.
5. The economics of this approach are rejected by all research as inadequate to mitigate impoverishment risks of involuntary displacement for at least seven reasons.
6. First, innumerable case studies carried out by the World Bank and independent researchers have found time and again that allowing this proposed ‘restore living standards’ approach causes development-induced *new* poverty. What happens is that living standards of a majority of resettlers tend to fall following physical removal. This decline occurs for a variety of reasons including the multi-dimensional stress associated with involuntary resettlement; the need to cope with a new habitat, new (host) neighbors and new government policies; and increased expenses associated with the resettlement process. This finding is especially true with large dams – a shocking situation since they tend to be a country’s largest development project at the time of their construction (take, for example, India and the World Bank’s Sardar Sarovar Project and Laos and ADB’s Theun Hinboun Project). Such decline in living standards is not only recognized by the Government of China but is also addressed in their policies. And China is currently responsible for more development-induced involuntary resettlement than any other country. How can the Asia and the Pacific’s leading regional development bank adopt a lower standard?
7. Second, guidelines that follow the lower, narrower standard proposed by the draft SPU also tend to make resettlers worse off because they ignore negative cultural effects reported in study after study that relate to loss of home, burial grounds, religious sites and ideological and political control over a known habitat. Furthermore they do not cover the public health implications of such psychological impacts as ‘grieving for a lost home’ and ‘anxiety for the future.’⁵
8. Third, the “restoration of livelihoods” objective also contradicts other parts of the proposed SPU. The proposed policy directs that involuntary resettlement should be conceived and executed as part of a development program.⁶ A development program that only restores people to a pre-project status is, by definition, failed development.

⁴ SPU, page 15.

⁵ Theodore E. Downing and Garcia-Downing. “Routine and Dissonant Cultures: A theory about the psycho-socio-cultural disruptions of involuntary displacement and ways to mitigate them without inflicting even more damage.” Available at www.ted-downing.com under writings.

⁶ SPU, ¶ 7 page 15 deletes “as far as possible” the current policy focus on being a development project or program.

9. Fourth, the draft language tilts Borrowers and Management towards cash compensation, undermining sustainable development. It proposes that “if resettlement impacts extend to loss of income or livelihood sources, regardless of whether or not the affected people are physically displaced, the borrower/client will promptly compensate loss of assets or access to assets at full replacement cost.”⁷ As global safeguard policies evolve, their focus is shifting away from compensation and toward benefit sharing.
10. Fifth, the proposed policy entitles displaced persons to receive full replacement costs for lost income or livelihoods, regardless of whether or not they are physically displaced. The borrower/client will promptly compensate for loss of assets or access to assets at full replacement costs.⁸ Resettlement economics have established that the full costs of involuntary resettlement are not covered by paying only for lost assets – even at full replacement value. Excluded are the costs of transition and reestablishment (T&R) of lost livelihoods.
11. The reestablishment and transition cost entitlements for commercial businesses should be extended to all displaced peoples. The draft draws a distinction between who is entitled to T&R based on the scale of their economic enterprise. In addition to the full replacement costs for assets, relocated commercial business are entitled compensation for lost net income during the transition period, and the costs of the transfer and reinstallation of the plant, machinery or other equipment.⁹ The T&R cost calculations are not extended to non-commercial business owners. Tenants and sharecroppers are compensated for crops and improvements made to the land, but not the transition. Small scale farmers, fishermen, artisans, or home-based businesses are not considered. Thereby, the proposed SPU creates an unsound economic distinction that will make it more difficult for non-commercial displacees to restore their livelihoods.
12. Sixth, the SPU proposes to remove development issues from the safeguard policies, calling them “aspirational elements” as opposed to “do no harm” elements.¹⁰ This novel, if not a cynical position, is a rationale for abandoning the option of displaced peoples improving their livelihood and becoming project beneficiaries. It is completely out of step with involuntary resettlement findings and research. Imagine a proposal to change the name of the Bank to the “Asian Aspirational Bank”?
13. And seventh, the “enhance or at least restore livelihoods to pre-project levels and improve standards of living of the affected poor and other vulnerable peoples” wording of the policy gives Management/Clients the option to take actions that may improve the standard of living without assuring sustainable productive livelihoods for displaced. A new house, for example, might improve a displaced persons standard of living at the same time that their

⁷ SPU Attachment B, page 13, number 7.

⁸ SPU Attachment B, page 13-14, number 7.

⁹ SPU, Attachment B, page 14, number 7.

¹⁰ SPU page 7, ¶22,

productive livelihoods have been lost. This solution would comply with the proposed SPU and leave the displaced without a sustainable economic base. As we have heard in such projects, “You can’t eat the walls.”

Resettlers must be made better-off and made project beneficiaries

14. Any SPU revision must nail shut the back door of rehabilitation of the displaced to their former conditions and open the front door to development and benefit sharing. In place of the restoration objective, the overwhelming consensus of involuntary resettlement specialists and World Bank Group reviews is that **the correct objective must be that involuntary resettlement be planned and implemented to make resettlers *better-off* and project beneficiaries**. The World Bank OED’s 1998 analysis of dam-induced involuntary resettlement wrote that “the emphasis should shift from restoring income levels, which suggest stagnation in pre-dam life styles, to improving income levels, which brings the displacees into the development process along with the project’s primary beneficiaries.”¹¹
15. We recommend the Board ask Management to redraft the SPU consistent with this position – focusing on livelihood improvement (including improved health), attention to cultural prerequisites, and (not “or”) benefit-sharing. For example, household expenses for rural resettlers tend to increase following removal because of lack of access to equivalent arable land and to common property resources. For urban resettlers, living expenses raise due to increased travel time for workers to previous places of employment and competition difficulties for those with businesses in host areas with already established commercial operations.

Meaningful harmonization not achieved

16. We support the ADB objective of harmonizing its involuntary resettlement safeguard policy with *other* IFI policies and international agreements such as the Equator Principles. Accelerating growth and demand for infrastructure investments unnecessarily put the livelihoods and living standards at risk of those who just happen to be in the way of development. For over two decades, the IFIs have been crafting safeguard policies refinements, driven by new scientific findings and practical institutional experience. These policies are now part of the routine reports to their IFI boards and incorporated into loan agreements. Most useful has been the emergence of common terms and procedures.

¹¹ World Bank (1998) *Recent Experiences with Involuntary Resettlement*.” OED. Washington, D.C., World Bank. Page 7. An updated version of that report, published as a book in 2001, makes the same point more emphatically: “Above all, displacees must be beneficiaries of the project. Merely aiming to restore standards of living and lifestyles common to isolated river valleys can be a dead-end development strategy. The opportunity must be taken to establish new and dynamic sources of sustainable growth.” Picciotto, R., Van Wicklin, W. and Rice, eds (2001). *Involuntary Resettlement: Comparative Perspectives*. World Bank Series on Evaluation and Development, Vol 2. New Brunswick, Transaction Publishers. Page 140

17. The architecture of the proposed SPU is simplistic and undermines harmonization in that it deviates and dilutes from the international standards. Harmonization does not mean reducing the number of policies. The WB and IFC have 10 and 9 safeguard policies. So why is the ADB trying to merge mangos and plantains? If harmonization was the objective then the Physical Cultural Resources would not have been folded into the Safeguard Requirements for Borrowers/Clients - Environmental, but would have been set forth as a stand alone policy with language matching, as nearly as possible the WBG OP 4.11 and other IFIs. The desired decrease in bureaucratic workload is illusory, since more effort will be needed to articulate safeguard policies on syndicated investments.
18. We are very concerned that the proposed SPU language undercuts healthy harmonization, leading the Board and its portfolio into uncharted waters. The SPU fails to incorporate many of the evolving policy enhancements found in its sister institutions.
19. Meaningful harmonization would align the ADB with these global trends. Globally, policy harmonization is converging toward a) ensuring that displaced persons not only receive restitution for losses, but are project beneficiaries, b) restitution of lost livelihoods and living standards, rather than compensation, as the benchmark for mitigating losses, c) altering a project to avoid or minimize resettlement altogether, d) expanding, tightening and strengthening the involuntary resettlement safety net to protect the more vulnerable, e) improving participation with project-affected-peoples through disclosure, informed-consent, and grievance policies, f) attending to social risks, and g) adjusting policy to accommodate private sector lending, and h) providing provisions for losses to common property.
20. In its attempt to harmonize policy with its sister IFIs, Management omitted informing the Board of the 2005 harmonization work of its sister regional Bank, the African Development Bank. In contrast to the draft SPU, the AfDB adheres to WBG language and adjusts its policy to regional safeguard risks (health, cultural differences, and equity concerns).
21. The African Development Bank sets an unambiguously higher overall goal than the proposed Asian Development Bank's SPU to ensure that when people must be displaced they are treated equitably, and that they share in the benefits of the project that involves their resettlement.¹² The AfDB policy objective is to ensure that displaced people receive resettlement assistance, preferably under the project, so that their standards of living, income earning capacity, and production levels are improved. Under their policy, the total cost of the project as a result should include **the full cost of all resettlement** activities, factoring in the loss of livelihood and earning potential among affected peoples.¹³

¹² African Development Bank, Involuntary Resettlement Policy, November 2003, especially pages 9-11.

¹³ African Development Bank's Involuntary Resettlement Policy, 2005.

Accountability and Ambiguity

22. Management has an inherent conflict of interest in preparing the SPU, a policy with which it will have to then comply. This conflict of interest is somewhat mitigated to the extent Management is responsive to external suggestions. The overruling, resignation and/or re-assignment of ADB technical staff with the most detailed on-the-ground experience with involuntary resettlement are prime examples of the failure of Management responsiveness. Likewise, the “restoration of livelihoods” option leaves open a back door for Management to claim project success even though people are being harmed.
23. In our own advisory, consulting and research activities we have observed in recent years an increasing unwillingness of some in Management to adhere to the corporate wisdom and guidance embodied in safeguard policies. This is not the opportune time to reward the unwillingness of Management to adhere to past policy guidelines with increased Management discretion.
24. We are disappointed that the draft SPU shifts from a proactive to reactive approach to dealing with involuntary resettlement, increasing Management discretion. For example, the upgrade makes monitoring more discretionary by Management by changing the policy to “periodic” from midterm and annual in the existing policy.¹⁴ Nor should the Board permit broad Management discretion on fundamental policy issues by injecting “where feasible” language into the safeguard principles and objectives.¹⁵ This is particularly true when adding the feasibility option to the safeguard objectives. Management needs clear guidance in an SPU that implements programs until goals are achieved, ensuring due diligence and review, and requiring monitoring and supervising.
25. This draft SPU also confuses involuntary resettlement policy by introducing false dichotomies. Current IFI safeguard policies (including ADBs’) emphasize project planning over plan implementation. A better balance between planning and implementation requires significantly improved ADB supervision throughout the resettlement process, starting with adequate pre-project benchmark surveys, independent monitoring, and an adaptive management approach based on monitoring that document when livelihood improvement and benefit sharing have occurred.
26. We are pleased that some DMCs are developing their own SP frameworks, a development that we feel would not have happened without the influence of IFI safeguard policies. But it is premature for ADB to defer to a country safeguard standard (CSS) framework without first strengthening and solidifying its own safeguard policies and their associated frameworks and ensuring through a transparent, public test that a country has reached a standard equal to or higher than ADB policies.

¹⁴ The problem appears in the involuntary resettlement policy and elsewhere in the SPU, ¶ 49, 50 (iv), Annex A ¶17, Annex B ¶26, Annex C ¶24.

¹⁵ SPU, page 15, Attachment B, Annex 2, ¶B(iii); page 13, ¶37 (i) and (ii).

27. Current ADB policy and the proposed SPU do not address the realities of the resettlement experience. The proposed draft of the SPU risks harming the institution's reputation, disrupting the effectiveness of its development financing, and impoverishing peoples who are in the way of development projects. The proposed SPU falls far short of a quality involuntary resettlement policy document. It takes a step backward, opting to simplify the policy – increasing the likelihood of institutional conflict, legal challenges, and uncertainty as to project performance.



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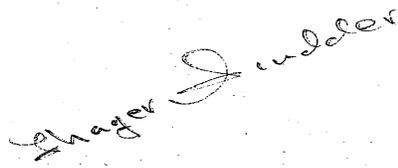
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Theodore E. Downing, Research Professor of Social Development at the University of Arizona, earned his PhD from Stanford in Social Anthropology. Specializing in international social policy development, he has extensive research, project management, and policy-making experience in Latin America, Africa, and the Middle East. His understanding of capacities and limits of government was enhanced by being elected for two terms to the Arizona House of Representatives. Beginning as a short-term consultant to The World Bank in 1987, he has worked on involuntary resettlement and indigenous peoples safeguard issues through most phases of the project cycle - preparation through supervision and across the energy, agricultural, and the extractive industry sectors. He also consulted for the Inter-American Development Bank and the African Development Bank. His involuntary resettlement work on infrastructure projects includes the Zimapan, Aguamilpas, Pangué, Yacyreta, and Bujagali dams and the West African Gas Pipeline. He directed Mexico's anti-coffee rust research team for the Mexican National Science Foundation and co-designed the environmental science college at King Abdul Aziz University. He has taught at policy science at Ritsumeikan University in Kyoto. He was elected President of the international Society for Applied Anthropology and is currently President of the International Network on Displacement and Resettlement (www.displacement.net). Samples of his writings and project experience are available at www.ted-downing.com.

Thayer Scudder is Professor of Anthropology, Emeritus, at the California Institute of Technology. For the past 50 years his primary research and policy work has dealt with the impacts of river basin development projects on local communities in Africa, Asia, and the Middle East, including involuntary resettlement associated with the Kariba Dam Project (Zambia-Zimbabwe), the High Dam at Aswan (Egypt and the Sudan), the Southern Okavango Integrated Water Development Project (Botswana), the Accelerated Mahaweli Project (Sri Lanka), the Sardar Sarovar Project (India), and the Three Gorges Project (China). A commissioner on the World Commission on Dams during the Commission's life time, he is currently a member of the International Environmental and Social Panel of Experts for the Nam Theun 2 Project in Laos. His latest book is *The Future of Large Dams: Dealing with Social, Environmental, Institutional and Political Costs*.