



October 25, 2007

Mr. Nessim Ahmad  
Director, Environment and Social Safeguards Division  
Regional Sustainable Development Department  
Asian Development Bank

**Subject: Civil Society Concerns Regarding the Process of the Planned SPU consultations**

Dear Mr. Ahmad:

The NGO Forum on ADB is writing to you with regard to the process and structure of the up-coming consultations on the safeguard policy statement (SPS) draft. We have received the English version of that draft, and look forward to receiving additional regional languages to enable us to provide substantial and significant input as you work to finalize the draft.

You have already received our letter under separate cover regarding the timing of the consultations planned for late November and early December. We sincerely hope that the postponement requested is provided, as we continue to hold significant concerns about the process and structure of the consultation that need to be addressed prior to the consultation process beginning, and providing additional time to address these concerns can only assist.

As we have been provided with little information regarding the process or structure of the consultations we would like to take this opportunity to provide you with the minimum requirements that we view as essential if these consultations are to be effective and open forums of debate, discussion and negotiation.

Given the very tight deadline prior to these consultations starting we would appreciate a response that we can share with our colleagues throughout the region within 5 days of receipt of this letter, to enable us to be sufficiently prepared as to be of effective use in these consultations.

**Concern 1 - (Consultation) Transparency and inclusiveness of the consultation process**

We feel it would be useful to provide for you upfront a description of our understanding of the term 'consultation' to ensure that we are talking about the same process. Put simply, we see consultation as a reiterative process of discussion and debate, between parties of equal standing in the discussion, with no established or set detail of the proposed outcome that is not up for discussion, and with an open and inclusive approach enabling all interested persons to participate, and to do so fully informed of the issues to be discussed. As the host of such a process, the ADB is clearly beholden to ensure that the key principles listed here are respected in the letter and intent of these consultations.

To date, we have been provided with very little information about the content and participants for the regional consultations, and certainly have not been provided the information in sufficient time to affect the outcome. This has been particularly troublesome with the timing of the Southeast Asia, Mekong and East Asia consultations all of which will suffer greatly from their ill-judged dates if they are not moved.

We acknowledge the difficulty that the ADB faces with organizing consultations in host countries, including the requirement for resident mission approval and host government approval. However if the ADB SPU team had consulted openly with the NGO Forum on ADB regarding dates and schedules of consultations, then it would have been possible to ensure that consultations were initially planned at appropriate times to ensure the greatest possible participation and inputs from all sectors.

As this has not been done, we would like to recommend strongly that the ADB commits to adapting those decisions taken in a non-consultative manner, in particular the timing of consultations in late November and early December. Further more, the ADB must commit to providing information to the NGO Forum on ADB and any other person who registers their interest with the NGO Centre of the ADB, well in advance of decisions being made. This includes information such as the participant lists, the total number of participants allowed, and all other requests for information contained in our earlier letter of the 24<sup>th</sup> of October 2007.

We provide below further details of our recommendations to ensure that the consultations are open, inclusive, effective and beneficial to all involved.

## Concern 2: Participation in the consultations

There are two key areas in which we have concerns about who will attend the consultations, the selection process and transparency with the names of selected participants.

### a) Selection Process

In order to have a truly participatory process of consultation that adequately reflects the concerns of all interest groups the consultations must be open to all interested parties. Slots for funded participation should be allocated according to the principle of self-nomination among stakeholder groups (civil society, industry, government). You will be provided with lists from the NGO Forum on ADB for this purpose, representing our sector of civil society.

We understand the constraint of allocated funding and limited seat numbers at the consultations, and suggest to overcome this that there be a **policy of self-nomination for the funded slots available**, and that self-funded interested organizations and individuals be provided with space to attend. Should you wish to place a time frame on our notification of intent to participate, we would be willing to ensure that all participant names for self-funded participants are with you at least ten (10) days prior to the consultations. **There should be no bar on participation by a nominated attendee able to self-fund participation, particularly for representatives of civil society.** We all recognize that civil society represents the more marginalized voices in national decision making, and our presence in regional fora is thus essential for a fair and balanced process.

### b) Transparency

In order that we may understand the level of these consultations, and to ensure that we are well prepared, we also request that you provide us with:

- a) the names, titles, offices, CVs of the ADB staff who will attend;
- b) the names, titles, offices of the corporate attendees;
- c) the names, titles, offices of the government attendees;
- d) the names, titles and CVs of the academics selected or nominated so far, identifying if they have served or do serve as consultants for the ADB; and
- e) the names, titles, organizations, countries of the Indigenous Peoples', civil society and labor and other representatives invited.

We acknowledge the lists earlier provided, and thank you. However we note that they are restricted to NGO participants, and thus request the full lists as detailed above.

## Concern 3: Facilitation and guidance of the consultations

Although we have yet to be provided with detailed information about how the consultations are to be organized, we would like to provide, for the record, our recommendations on facilitation and guidance within the consultations. We provide this advice based on our concern that the following steps have not been followed to date, and are currently not part of the planned process for the ADB.

We request that the ADB affirm and commit to the following actions to ensure that the basic principles of open consultation are adhered to:

- a) **Follow up plans provided.** We request a written explanation of the manner by which inputs from civil society will be utilized to shape the SPS draft and associated policy documents (including the operations manual) i.e. what is the process of "quality control" and feedback that will allow civil society to ensure the accuracy of the recording of its input and utilization of its input in policy making and Bank practice? What is the manner for tracking civil society input throughout the decision-making process; checks and balances, feedback mechanism for cross-checking the changes to the SPS draft with civil society input?

In particular, we request that ADB follow its previous process used during the redrafting of the Public Communications Policy for tracking of comments by providing a matrix on its website which lists the comments from all stakeholders (CSO, government, private sector, affected people, etc.) and provide an explanation with each comment as to why/why not it was integrated into the Working Paper.

- b) **Development of the agenda.** We would like to have timely and effective input into the agendas that will be followed in each of the consultations, in particular we would like to have a copy of each agenda provided to us for response no less than thirty (30) days prior to the commencement of a

given consultation. If you are still developing the agenda, please inform us of this, and we can provide in writing our recommendations for the agenda.

- c) **Agreed records of consultations.** We request that ADB circulate the official record of the consultations to all participants after the consultation for any comment, addition or correction, and provide a record that is agreed upon by all parties.
- d) **Agreed rules of procedure.** For the process of the consultations, we also request copies of your standard rules of procedure, as effective consultations are based on rules of procedure agreed well in advance of the consultations. In the event that the ADB does have, or is developing, rules of procedure for the consultations, these must be shared well in advance of the consultations (at least 30 days).

#### Concern 4: Freedom of speech within the consultations

We feel that the interlocking areas of environment, forced resettlement and indigenous peoples concerns are just that - inter-locking - and we firmly reject any restriction of our right to address each of these areas. We are concerned due to verbal information we have received that we may be divided in the consultations into work groups addressing perceived areas of expertise or interest - a prospect that highlights the importance of agreed rules of procedure for these consultations.

The agenda and rules of procedure must provide ample opportunity for participants to provide input into all sections of the policy, including clear guidance on when public input into the operational manuals for the same will be developed. **The ADB must provide us with such rules of procedure, agendas and other salient details as soon as possible, and no later than thirty days prior to each consultation.**

When responding to this letter, please address each of the points in order as we view each of these as equal in importance and vital to ensuring the credibility and effectiveness of this consultation process. Given the limited time remaining before these consultations begin, please respond to this letter and to our letter of the 24<sup>th</sup> of October 2007 as soon as possible.

Sincerely,

Titi Soentoro NADI, Indonesia  
Helen Leake, Forest Peoples Programme, UK  
Stephanie Fried, Environmental Defense, USA  
Jessica Rosien, Oxfam Australia  
Hemantha Withanage, NGO Forum on ADB  
Mishka Zaman, Bank Information Center, USA  
Ramananda Wangkheirakpam, North East Peoples Alliance on Trade, Finance and Development, NE India  
Joanna Levitte, International Accountability Project, USA  
Gururaja Budhya, Urban Research Centre, India  
Suranjan Kodithuwakku, Sri Lanka Green Movement, Sri Lanka  
Dilena Pathragoda, Centre for Environmental Justice, Sri Lanka  
Ashraf Al Alam Tutu, Coastal development Partnership, Khulna, Bangladesh  
Yuki Tanabe, Japan Center for a Sustainable Environment and Society (JACSES), Japan  
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