

ENGAGING WITH ASIAN DEVELOPMENT BANK FOR WORKERS RIGHTS

A Trade Unions Guide to Understanding ADB

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II. Credits

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This Guide was completed under the oversight and overall direction of the Jt. GUFs/FNV project committee comprising of Ms. Lakshmi Vaidyanathan, Secretary, Asia Pacific Region (PSI), Mr. Kannan Raman, Sub-Regional Secretary, South Asia (PSI); Mr. Sangam Tripathy, Assistant secretary, Asia Pacific (ITF), Dr. Rajeev Sarma, Regional Policy Officer, Asia Pacific (BWI), Mr. Sudharshan Rao Sarde, Regional Secretary, South Asia (IndustriALL), Mr. J.S.R Prasadd, Director, UNIDOC India; Mr. Milind Nadkarni, President, UNI-Liaison, India; Mr. P. Chennaih, Secretary, National Coordination (APVVU) and Mr. Prabhu Rajendran, Consultant (FNV).

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Sincerely
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Plain Page

III. Foreword

The Asian Development Bank (ADB) today offers billions of Dollars as aid in the form of loans to developing countries in the Asia-pacific Region. India-the fourth largest shareholder in the Bank had alone received an amount of - \$26.9 billion since 1986 till the end of December 31st, 2011, through a total number of 178 projects. This kind of substantial aid to any developing country enables –the bank to ‘interfere’ in the economic policies - and dictate the progress goals of these countries. Thus there is an increasing need to monitor the operations of the ADB.

The Asian Development Bank, in its Strategy 2020, highlights that it will follow three complementary strategic agendas of inclusive growth, environmentally sustainable growth and regional integration. It further mentions that, to bring forth inclusive growth, the ADB shall give prime importance to participation of Civil Society Organizations, Trade Unions and other key stakeholders in ADB operations. Participation, according to the ADB is essential for building strong relationships between a state and its citizens for mutual accountability, responsive public service delivery, and social and economic inclusion of disadvantaged groups. While the NGOs through the NGO center has been engaging with ADB, the trade unions remain inadequately represented.

There are two reasons for the lack of adequate trade union representation in the ADB; the first being lack of space for trade unions to actively engage the ADB. The trade unions are classified under the Civil Society organizations, which creates very few opportunities for them to engage with the Bank as the issues of the NGOs and Trade Unions are not always common. Thus, the Global Unions have been negotiating for a creation of Labor Desk or a similar structure at the ADB, so that there can be more responsive two way engagements in the implementation of Core Labor standards in all loan operations.

Further it has been found that trade unions lack up-to-date overall information of the Asian Development Bank specially the policies which have impacts on the workers. This guide is an initiative towards filling this information gap especially for those who are active in these matters and the core areas of –the bank’s operations where the loans are received or are in the pipeline.

It also traces the advocacy measures the global union federations have undertaken so far. We are sure that the trade union members will find the guide useful in their engagement with the ADB.



Mr. Mahendra Sharma
Regional Secretary
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ABBREVIATIONS

ADB	Asian Development Bank
APVVU	Andhra Pradesh Vyavasaya Vruthidarula Union
BPSIP	Bihar Power System Improvement project
BUDP	Bihar Urban Development Project
BSEB	Bihar State Electricity Board
BWI	Building and Wood Workers' International
CBO	Community Based Organization
CLS	Core Labour Standards
CPA	Country Poverty Analysis
CSP	Country Strategy Programme
DMC	Developing Member Country
EIA	Environmental Impact Assessment
EMP	Environmental Management Plan
FFA	Framework Financing Agreement
GAP	Gender Action Plan
GOI	Government of India
GUFs	Global Union Federations
ILO	International Labour Organization
IPSA	Initial Poverty and Social Analysis
IRM	India Resident Mission
ITF	International Transport Workers Federation
MFF	Multi-Tranche Financing Facility
MoU	Memorandum of Understanding
NGOs	Non-government Organizations
PCP	Public Communication Policy
PMU	Project Management Unit
PPP	Public Private Partnership
PPTA	Project Preparatory Technical Assistance
PSI	Public Service International
RETA	Regional Technical Assistance
RP	Resettlement Plan
RRP	Report and Recommendation of the President to the Board
RSDD	Regional Sustainable development Department
SAPE	Sectoral Assistance Programme for Energy Sector
SARD	South Asia Regional Department
SPS	Social Protection Strategy
SPRSS	summary poverty reduction and social strategy
TA	Technical Assistance
TVET	Technical and Vocational Education and Training
UNI	Union Network International

IV. Introduction

Why this toolkit?

The Asian Development Bank (ADB) published its Handbook on Core Labour Standards in 2005, wherein it committed to comply with the internationally recognized core labour standards (CLS) and related labour laws in the design, formulation and operation of its loans. The Handbook was an output of a formal collaboration between ADB and the International Labour Organization (ILO), and stems from the Bank's 2001 Social Protection Strategy. But it has been found that even after the formal commitment, there are many cases of CLS violations, in the form of union busting, harassment or physical violence against unions and discrimination and dismissals and other work-related anti-union/worker actions etc. in their projects.

However, the GUFs in the series of research findings found that the workers' rights were not protected in the ADB projects, even after the Bank's formal commitment to do so during the adoption of Handbook on Core Labour Standards in 2006. Thus, there is an increased need to monitor the Bank and ensure that the ADB respects its commitment towards worker rights. The Jt. GUFs/FNV Project on Adherence to CLS in ADB funded projects in India sought to develop resources and improve the capacities amongst participating GUFs/Unions and its affiliates, so that they can take up issues of observance of CLS in ADB projects in India. This tool kit seeks to fulfill that objective and is designed to serve as a guide for trade unionists to understand the ADB better.

Structure of the Toolkit

The Toolkit is divided into six core sections. The first section introduces the ADB and its basic financing operations to the reader. Moreover, it also gives a broad overview of the various policies of ADB in a very simplistic manner. The second section dedicates itself in orienting the reader on Core Labor Standards and the advocacy of the GUFs with regard to creation of a labor desk in the ADB. The third includes a critique of ADB's energy policy. It also includes various case studies from India to highlight the impacts of the ADB projects. The fourth section focuses extensively on the water sector and not only includes briefers on ADB's water policy but also give examples for Philippines and India to underscore the impacts like privatization, and other structural adjustments propagated by ADB. GUFs like Public Services International (PSI) and Building and Woodworkers International (BWI) has been very actively involved with ADB and has engaged with the Bank in ensuring workers friendly development in the Asia pacific Region. The fifth Section gives an overview of the dialogues between ADB and PSI over the years. The final section of the Toolkit includes some of the important statements issued by the GUFs on the policies and the various frameworks, plan of work etc. adopted by the ADB.

Who shall the toolkit benefit?

The ADB underlines stakeholder participation in its operations and planning process as one of the key components that guide its Strategy 2020. It works with civil society organizations (CSOs) which include NGOs, trade unions, faith-based groups, and professional organizations on three levels; on the policy and strategy level: soliciting CSO views on ADB policy formulation; on the country level: consultation on country strategies and in the project level: collaborating on project identification, design, implementation, and monitoring of ADB-financed projects. This toolkit will enable trade union members to participate in the processes of ADB.

Moreover, the toolkit is being tailored to serve as a resource book for Organizations and Unions monitoring the ADB. It gives a simplistic understanding of the structure, Policies and core sectors of the ADB. It shall also benefit the GUFs/Unions who are engaged in monitoring the projects. Moreover, the toolkit can also be used to orient and capacitate the grassroots level activists.

Why should ADB be monitored?

Monitoring in general sense means supervising the ongoing activities of a certain project or program to ensure that they are on-course towards meeting the objectives and performance targets. Monitoring, from a trade union perspective means, engaging with the ADB in every stage; designing, planning and implementation of the project. It needs to be done to ensure that the workers' rights are respected and an all inclusive development is being brought forth by ADB. Listed below are a few very important reasons explaining the need to monitor the activities of ADB:-

- i. India being the fourth largest shareholder in ADB receives a substantial amount of Aid from ADB which are directly invested in various projects. These projects directly impact the workers and trade unions, as many of it has emerged as the reason for increased lay-offs, contractualisation and union busting etc.
- ii. Various studies conducted by the GUFs have highlighted that the ADB, through its projects and loan conditionalities advocate for increased privatization, which directly impact the workers and trade unions.
- iii. The ADB has committed to respect workers rights in all its projects. Formulation of labor market policies and programs designed to generate employment, improve working conditions and promote the efficient operation of labor markets forms a very important component of the Social Protection Strategy of ADB. Thus there is a need for increased advocacy and make the ADB 'Walk the Talk'.

**INTRODUCTION TO ASIAN DEVELOPMENT BANK
AND ITS VARIOUS POLICIES**

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1. Basic Facts about ADB

The Asian Development Bank (ADB) is an international development finance institution whose mission is to help its developing member countries (DMCs) reduce poverty and improve the quality of life of their people. ADB was established in 1966 amid postwar rehabilitation and reconstruction with a vision of a financial institution that would be Asian in character and foster economic growth and cooperation in the region. In 1999, the Bank adopted poverty reduction as its "overarching goal." With headquarters in Manila (Philippines), ADB is now owned and financed by 67 member countries, of which 48 are from the region and 19 from other parts of the globe. ADB's main instruments are loans, technical assistance, grants, advice and knowledge. Although most of the Bank's lending is to the public sector, it also provides direct assistance to private enterprises through equity investments, guarantees and loans. From being mainly a project financier, ADB has increasingly provided policy-based loans that attach certain conditions to its assistance. Carrying its triple-A credit rating, ADB mobilizes funds for development through bond issues on the world's capital markets; the Bank also relies on member contributions, retained earnings from its lending operations and loan repayments. In April 2009, ADB tripled its capital base from \$55 billion to \$165 billion, which is its largest and the first since the Bank increased its capital by 100% in 1994. The new resources will be used by ADB to respond to the global economic crisis and to the longer term development needs of the Asia and the Pacific region.

Shareholders: Japan and the United States are the largest shareholders, each with 15.57% of ADB's total subscribed capital. Other top shareholders are People's Republic of China or PRC (6.4%), India (6.3%), Australia (5.7%), Indonesia (5.4%), Canada (5.2%), Korea (5.0%), Germany (4.3%) and Malaysia (2.7%). Indonesia is the biggest cumulative borrower, with loans totaling \$23.52 billion by 2008, followed by PRC at \$21 billion.

Governance: ADB's highest decision-making body is its Board of Governors (BOG) which meets annually in May; Governors usually hold high-level positions in their country's Ministry of Finance or central bank. The Governors' day to day responsibilities are largely delegated to a 12-person Board of Directors (BOD), which performs its duties full-time at ADB headquarters in Manila. The BOD is responsible for the direction of the general operations of ADB, including the approval of policies and project loans. The US, Japan and China are represented by their own Executive Directors.

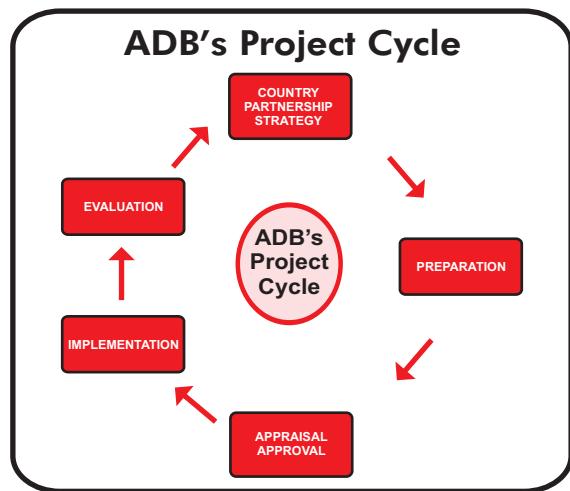
Management: The ADB President has always been a Japanese national and is elected by the BOG for a term of five years and may be reelected; he is also BOD Chair. The President heads a

management team comprising four Vice-Presidents and the Managing Director General, and supervises the work of ADB's operational, administrative, and knowledge departments. The Bank's headquarters has some 2,500 staff from over 50 countries. ADB also has 27 field offices, a country office, a liaison office, and representative offices.

Strategy 2020: Adopted in 2008, Strategy 2020 sets a clearer focus on poverty reduction through inclusive growth, environmentally sustainable growth and regional integration. ADB will focus on five core areas of operation – Infrastructure; Environment, including climate change; Regional Cooperation and Integration; Finance Sector Development; and Education – and on five drivers of change in the region: private sector development and private sector operations, good governance and capacity development, gender equity, knowledge solutions, and partnerships. By 2020, half of ADB's assistance will support private sector development in the region. ADB will also streamline and realign its policies and strategies consistent with Strategy 2020.

Lending portfolio: In 2008, ADB approved \$10.5 billion in loans for 86 projects, the highest in the Bank's 42-year history which reflects the region's

ever-increasing demand for development finance and the Bank's quick response to the global financial crisis. ADB also approved \$811 million in grants and \$1.5 billion in 'nonsovereign' lending, including 13 loans to the private sector, an increase of 107% on the past year. The largest borrower countries were India, PRC, Pakistan, Indonesia, Philippines, Vietnam and Bangladesh. The transport and communications sector received the bulk of ADB lending operations (26%), while energy is a close second (23%). Social services (education, health, nutrition, social protection, water and sanitation) received the least allocation at a total 7%.



The various stages from country programming to project completion and evaluation are known collectively as ADB's project cycle. The documents produced are disclosed to the public according to specific disclosure requirements.

Country Partnership Strategy: ADB works with each DMC to define a 5-year medium-term development strategy and operational program, called a Country Partnership Strategy (CPS). The CPS is developed in close consultation with other stakeholders including civil society, private sector and other development partners.

Preparation: With the support of ADB staff, the borrowing DMC conducts technical preparations and has to evaluate the environmental and social impacts of the project. A flagging exercise, called

an Initial Poverty and Social Assessment (IPSA), is conducted to identify those people who may be beneficially or adversely affected. If the project requires resettlement of people or might adversely impact the environment, certain safeguard assessments are prepared during this stage – e.g., an Environmental Impact Assessment (EIA) which presents the environmental risks are and how they will be addressed.

Appraisal/Approval: ADB staff examines project feasibility – technical, financial and economic aspects, social and environmental impacts – through fact-finding missions and an appraisal mission. The Bank is responsible for reviewing all aspects of the project to ensure that it is consistent with ADB policies and guidelines. ADB then prepares a draft Report and Recommendation of the President (RRP) and a draft Loan Agreement. After negotiations with the government, the final RRP is submitted to ADB's Board of Directors for approval. Following approval, the Loan Agreement is signed; this is a legal contract between the borrowing government and ADB. The loan takes effect once certain conditions are met.

Implementation: The ADB-assisted project is implemented by the country's executing agency according to the agreed schedule and procedures. This generally ranges from two to five years and depends on the type and nature of the project; consultants are recruited as needed. ADB is responsible for monitoring the project to ensure that the borrower is complying with the terms of the Loan Agreement and ADB policies and guidelines. ADB's review missions assess the progress of project implementation by visiting it at least twice a year throughout the implementation period. If a project has significant environmental or social issues, ADB will often require the borrower to submit regular monitoring reports, in addition to progress reports. ADB usually disburses periodic tranches of the loan subject to certain conditionalities, e.g., an 'enabling' policy framework which requires legislative measures.

Evaluation: After the project is completed, ADB prepares a completion report within 12 - 24 months. Evaluation studies are also prepared by ADB which focus priority attention to relevance, efficiency, effectiveness, and sustainability of its assistance programs.

2. Basic Facts about ADB's Financing Operations

The Asian Development Bank (ADB) was established in 1966 by 31 founding member governments; it now has 67 shareholding members, 48 from Asia and the Pacific. ADB's vision is an Asia and Pacific region free of poverty; its mission is to help its developing member countries (DMCs) substantially reduce poverty and improve the quality of life of their people. Its main instruments for helping its DMCs are policy dialogue, loans, equity investments, guarantees, grants, and technical assistance. ADB's headquarters is based in the Philippines; it has 26 field offices and more than 2,900 employees.

Top shareholders: ADB's capital structure is backed by its 67 sovereign members. As of 31 December 2011, ADB's five largest shareholders are Japan (15.7% of total shares), United States (15.7%), People's Republic of China/PRC (6.5%), India (6.4%) and Australia (5.8%). Twenty-three ADB members are also OECD members, holding 64.6% of ADB's total subscribed capital.

Top 10 shareholders of ADB

COUNTRY	SUBSCRIBED CAPITAL (%)
JAPAN	15.65
U.S.A	15.65
CHINA	6.46
INDIA	6.35
AUSTRALIA	5.80
CANADA	5.25
INDONESIA	5.17
SOUTH KOREA	5.05
GERMANY	4.34
MALAYSIA	2.73

[Source: 2011 ADB Annual Report]

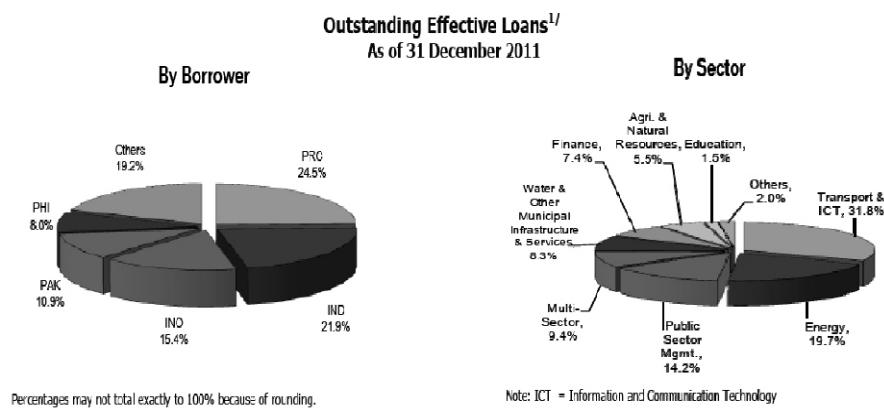
Top borrowers: As of end-2011, ADB's largest cumulative borrowers are PRC (24.5% of total), India (21.9%), Indonesia (15.4%), Pakistan (10.9%) and Philippines (8.0%).

ADB resources: ADB relies on shareholder members' contributions (Ordinary Capital Resources/OCR), retained earnings from its lending operations, and the repayment of loans. There are also several Special Funds the largest of which is the Asian Development Fund (ADF) which offers grants and loans at very low interest rates. The Bank also raises funds through bond issues on the world's capital markets.

ADB's capital base has now tripled to \$165 billion with a fifth general capital increase in 2009. Subscribed shareholder capital consists of paid-in capital and callable capital; the paid-in portion is currently 5%.

Asian Dams and Bridges: At one time, ADB was called 'Asian Dams and Bridges' since infrastructure sectors dominated its lending program. The 1980s saw ADB move from being a projects bank to a sector bank; a new lending instrument called the 'program loan' was also introduced where ADB would hand over large amounts of money in exchange for policy reforms in a sector. In the 1990s, ADB shifted to a country and a regional focus. Country strategies became key documents, and ADB began to promote regional cooperation starting with the Mekong region. In 1999, poverty reduction became ADB's 'overarching' goal and its development agenda more broad based. More recently, ADB's long term strategic plan, Strategy 2020, will shift half of Bank's lending towards private sector development and private sector operations by 2020.

In 2011, ADB lending operations totaled \$21.72 billion, of which \$14.02 billion was financed by ADB and \$7.69 billion by co-financing partners — official (\$3.5 billion) and commercial (\$4.2 billion). ADB raised \$14 billion in medium- and long-term funds through public bond issues and private placements.



Financing operations in 2011: The top recipients of ADB financing in 2011 were India, PRC, Vietnam, Pakistan, Uzbekistan and Bangladesh. By sector, energy (31%), transport and ICT (29%), 'multisector' (14%), and 'water supply and municipal infrastructure' (9%) continued to dominate ADB's lending operations. Health and social protection received a minuscule 0.2% of total financing, while education received 4.3%. On a cumulative basis, transport and ICT, energy and 'public sector management' are the leading sectors as of end-2011 (see figure).

Of the total \$21.72 billion operations in 2011, \$14.02 billion was financed by ADB through OCR and Special Funds. The \$14.02 billion consists of \$12.61 billion in loans, \$239 million in equity investments, \$614 million in grants, \$417 million in guarantees, and \$148 million in technical assistance.

By modality (including co-financing), 94% (\$20.4 billion) of ADB's operations was for 'investment support,' 4% (\$955 million) for 'policy-based support', and 2% (\$359 million) for technical assistance.

Sovereign approvals and 'nonsovereign' approvals in 2011 amounted to \$15.40 billion and \$6.32 billion, respectively. Of the total nonsovereign approvals, 89% (\$5.62 billion) went to the private sector in the form of loans, guarantees, equity investments, B loans, technical assistance, parallel loans, and co-financing for Trade Finance Program

(TFP) transactions; the remaining 11% (\$700 million) went to 'nonsovereign public sector' in the form of loans.

Roughly a quarter (or 26%), therefore, of ADB's total financing in 2011 went to the private sector, up from 12% in 2008, and a mere 3% in 1999. When ADB was founded in 1966, all of its lending went to shareholder DMC governments.

Thirteen multitranche financing facilities (MFFs) totaling \$6.24 billion and 33 tranches totaling \$4.53 billion were approved in 2011, an increase of 41% (\$1.8 billion) for MFFs and an increase of 12% (\$483 million) for tranches. Overall net transfer from ADB to DMCs in 2011 is \$3.2 billion, up from \$2.9 billion in 2010.

By country of origin, the top 5 recipients of ADB contracts (goods and civil works) in were: PRC (24%), India (24%), Korea (17%), Pakistan (7%) and Vietnam (6%).

ADB as a borrower: ADB is a leading 'Triple A' borrower in international and domestic capital markets having issued bonds across various markets in 31 currencies. ADB is Triple A-rated by Standard & Poor's, Moody's and Fitch based on strong fundamentals: strong shareholder support, solid financial profile, and conservative financial policies. "Callable" capital (\$154.3 billion as of end-2011) is available for debt service payments and provides the ultimate backing for ADB's borrowings and guarantees; ADB has never made a call on its callable capital

3. ADB's Strategy 2020

In June 2006, the Asian Development Bank (ADB) convened a panel of eminent persons to assess the future of the Asia-Pacific region and how it will affect the Bank's role to 2020. By April 2008, ADB had adopted a new long-term strategic framework known as Strategy 2020. Under the new strategy, ADB's corporate vision continues to be "An Asia and Pacific Free of Poverty", and its' mission to help developing member countries (DMCs) reduce poverty and improve living conditions and quality of life. Strategy 2020 sets a clearer focus on poverty reduction through inclusive growth, environmentally sustainable growth, and regional integration. ADB will focus on five drivers of change: (a) private sector development and private sector operations; (b) good governance and capacity development; (c) gender equity; (d) knowledge solutions; and (e) partnerships. ADB will refocus its operations into five core specializations: (i) infrastructure; (ii) environment, including climate change; (iii) regional cooperation and integration; (iv) financial sector development; and (v) education. In April 2009, ADB tripled its capital base from \$55 billion to \$165 billion, providing the Bank with substantial resources to implement its long-term strategy.

Private sector development and private sector operations: ADB will expand its work with the private sector to generate greater economic growth in the region. The Bank will assume greater risks and act as a catalyst for investments that the private sector might not otherwise be willing to make. ADB will invest in infrastructure and advise governments on the basics of a business-friendly environment, including reliable rules, regulations and policies that do not disadvantage private sector enterprise. ADB's tools to catalyze greater private investments will include direct financing, credit enhancements, risk mitigation guarantees and innovative financial instruments. The Bank will promote public-private partnerships in all of its core operational areas. ADB will scale up private sector development and private sector operations, reaching 50% of annual operations by 2020.

Good governance and capacity development: ADB will bring four elements of good governance (accountability, participation, predictability, and transparency) deeper into the mainstream of its operations and activities. ADB will work to ensure that the poor participate in decision-making processes that affect the management of resources on which they depend for subsistence. The Bank's anticorruption efforts will be linked to broader support for governance and improvement in the quality and capacities of the public sector as a whole.

Gender equity: ADB will promote gender equity through operations that deliver specific gender outcomes, such as improved access for females to education and health services, clean water and better sanitation.

Knowledge solutions: ADB will play a bigger part in putting the potential of knowledge solutions to work in the region. ADB's knowledge services will address its clients' knowledge needs and identifying and sharing best practices. The Bank will distribute knowledge that will result in an immediate impact and catalytic force – e.g., the knowledge of how a DMC can approach public-private partnerships to provide social services and to achieve benefits for the poor.

Partnerships: ADB will engage in partnerships with a more diverse group of institutions – international development agencies, multilateral and bilateral institutions, the private sector, nongovernment organizations, community-based organizations, and foundations. Furthermore, the Bank will foster closer collaboration with the private sector in project co-financing and use of market-based investment instruments.

Infrastructure: ADB will invest in infrastructure to improve transport and communication connectivity within and between DMCs. To sustainably meet growing energy demands, ADB will (i) help expand the supply of energy; (ii) promote energy efficiency through supply-side and demand-side measures; (iii) support clean energy; and (iv) facilitate the removal of policy, institutional, regulatory, technological, and legal constraints on promoting efficient energy use. ADB will continue to invest in rural infrastructure, e.g., irrigation and water management, rural roads, and rural electrification – services that particularly benefit women. In urban infrastructure, the Bank will focus on water supply, sanitation, waste management, and urban transport. ADB's operations will also include a larger role for the private sector in financing infrastructure, either as a project sponsor or an institutional bond or equity investor.

Environment: ADB will focus on: (a) Climate change – ADB will help DMCs mitigate and adapt to climate change by improving energy efficiency; expanding the use of clean energy sources; reducing fugitive greenhouse gas emissions; modernizing public transport systems; and arresting deforestation.

(b) Livable cities – ADB will assist DMCs and their municipalities in addressing environmental problems that result from rapid urbanization, e.g., reducing air and water pollution, supporting cleaner modes of transport, improving systems for solid waste management, and reducing urban waste.

Regional cooperation and integration (RCI): RCI can improve a poor country's possibilities for growth by expanding trade and joint investment with its neighbors, strengthening transport and information connections, and improving its information and communication technology. ADB sees RCI as a key building block in developing regional markets for goods and services and ensure they remain unobstructed through close cooperation in policy formulation and regulatory design. Asia also needs to pursue "open regionalism," keeping trade and investment links open with the rest of the world to deter protectionism. ADB will scale up its support for RCI; increasing both its volume and share in total operations.

Finance sector development: ADB will help develop financial infrastructure, institutions, and products and services. Asia's financial systems are not intermediating the region's pool of savings efficiently to meet its growing needs, with most still dominated by banks. The underdeveloped capital market limits investment for projects with long gestation periods, such as infrastructure. Financial systems in many DMCs still require stronger financial risk management, credit standards and internal control procedures. Large segments of the region's population still have limited or no access to formal financial services, especially in rural areas and the informal sector. ADB will seek to create an enabling environment for micro finance, rural

finance institutions, and small and medium enterprises (SMEs). At the regional level, ADB will continue to support cross-border bond transactions. For the emerging regional bond market, ADB will facilitate the creation of a harmonized regulatory framework, a common credit guarantee mechanism, and a regional clearing and settlement system. The Bank will continue to assist in channeling the region's savings into the most productive investments, in particular, development of the capital market. ADB will continue to help build the capacity of financial institutions and of their regulators.

Education: ADB will continue to support expanded, higher-quality, more accessible basic and secondary education, and will increasingly direct its attention to raising the quality of technical and vocational education and training (TVET), and of selected fields in tertiary education. It will also support the expansion of these post-secondary education subsectors. ADB will explore opportunities for new approaches and instruments involving public-private partnerships.

Health, Agriculture, Disaster and emergency assistance: In other areas, ADB will continue operations only selectively in close partnership with other agencies: (a) Health – ADB will contribute to improvements in health mainly through infrastructure projects such as water management and sanitation, and through governance work that focuses on public expenditure management for cost-effective delivery of health programs and services to all population groups. (b) Agriculture – ADB will support agriculture and rural development mainly through infrastructure for rural transport, irrigation and water systems, and microfinance. These will be complemented by natural resources management and RCI activities. (c) Disaster and emergency assistance –

ADB will continue to mainstream disaster risk management and provide early and medium-term disaster response and assistance in partnership with specialized aid agencies.

4. ADB's 2011 Information Policy

In October 2011, the Asian Development Bank (ADB) revised its 2005 Public Communications Policy (PCP) to expand and speed up the release of information about ADB-assisted projects and policies to the public. The policy acknowledges that "ensuring the public's right to know" about ADB's work is critical for ADB to be an effective and trustworthy organization – "ADB recognizes the right of people to seek, receive and impart information and ideas about ADB-assisted activities." The presumption in favor of disclosure, unless included in exceptions, remains a basic tenet, as well as different treatment for sovereign and nonsovereign projects. The new PCP takes effect in April 2012.

Key changes: The new PCP provides for more, expanded and earlier disclosure of information, clarifies exceptions to disclosure, and creates an independent appeals process. The ADB website will be the primary vehicle for proactive disclosure. There should be earlier disclosure of core ADB documents, such as proposals for country partnership strategies and sovereign project loans, subject to country consent. Additional information will be released, e.g., financial statements of borrowers for sovereign projects. Board documents will be disclosed to the public at the time they are circulated to the Board, e.g. ADB loan projects for Board approval. In-country communications will be strengthened especially to affected people. The exceptions list is clarified, with a "harm test" added to the exceptions. An independent appeals process with three international experts has been established to review requests denied by ADB.

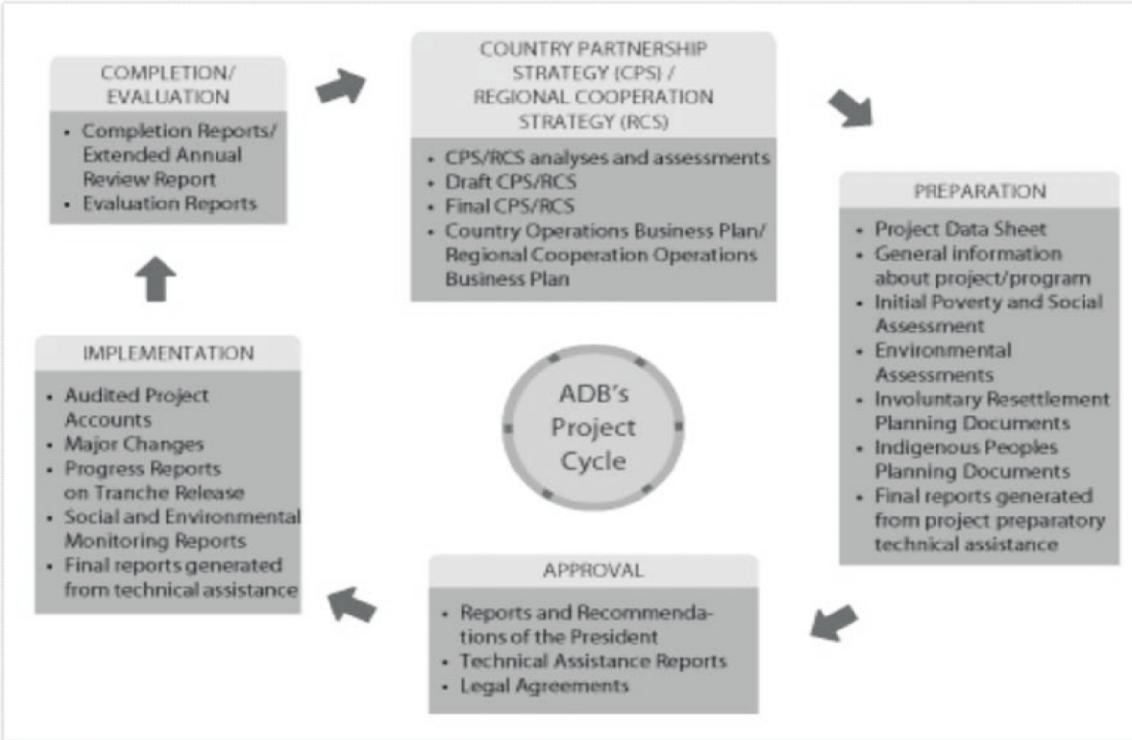
Negative override: Under exceptional circumstances ADB has the right not to disclose information that it would normally disclose if it determines that such disclosure would likely cause harm that outweighs the benefit of disclosure. This prerogative may be exercised only by the Board.

Project Data Sheets (PDS): Project teams will post on the ADB website PDSs with summary information on each project (or program). PDSs for sovereign and nonsovereign projects will include: the project name; type or modality of assistance; project description and rationale, including linkage to the country or regional strategy; impact, outcome, and outputs; safeguard categories; summary of environmental and social aspects; stakeholder communication, participation, and consultation; responsible ADB department, division, and officer; status of loan covenants (for sovereign projects); and a timetable for the project, including design, processing, approval, and implementation. The initial PDS for a sovereign project, including multitranche financing facility (MFF) and Technical Assistance (TA) projects will be

posted on the ADB website upon approval of the concept paper for the project or program. For a nonsovereign project, the initial PDS will be posted after ADB has determined that the project is likely to be presented to the Board, but no later than 30 calendar days before the date of Board consideration. The PDS for projects classified as 'category A' for environmental safeguard purposes will be posted on the ADB website at least 120 calendar days before Board consideration.

Information to affected people and other interested stakeholders: To facilitate dialogue, the ADB project team will work closely with the borrower government or private sector client to ensure that (i) information about sovereign and nonsovereign projects and programs is disseminated to them in a manner, form, and language(s) understandable to them and in an accessible place; and (ii) feedback on the proposed project design is actively sought and responded to, and a project focal point is designated for regular contact.

Communications strategy: The ADB project team will assist governments and private sector clients in developing a project or program communications strategy for the project cycle. The communications strategy will not be a separate document, but will be reflected in the project administration manual and other project documents, e.g., consultation and participation plans that form part of the project safeguard documents. At a minimum, relevant project documents will specify; (i) the types of information to be disclosed; (ii) the mechanisms for public notice, including language and timing; and (iii) who is responsible for implementing and monitoring of information disclosure and dissemination.



Project safeguards documents: Government borrowers and private sector clients are required to engage with affected people and other stakeholders through information disclosure, consultation, and informed participation. ADB is required to disclose environmental and social safeguard documents in accordance with the Bank's Safeguard Policy Statement. For instance, a draft environmental impact assessment (EIA) report for an environment 'category A' project, or a project with severe environmental impacts, should be posted at least 120 days before Board consideration. Disclosure requirements are the same for sovereign and nonsovereign projects.

Legal agreements: All legal agreements for sovereign projects, including all tranches of MFFs, entered into on or after the effective date of the PCP will be posted on the ADB website upon their signing, after removing any confidential information identified as falling within the exceptions to disclosure at the time of negotiations. ADB may disclose on request draft legal agreements if the borrower consents.

List of exceptions: (i) Deliberative and decision-making process information, e.g. internal documents, memoranda. (ii) Information provided in confidence to ADB. (iii) Personal information, e.g. terms of employment, performance evaluations, and medical reports. (iv) Financial information, e.g. estimates of ADB future borrowings; credit assessments; risk assessments of ADB borrowers and clients. (v) Security and safety information, where disclosure could endanger the life, health, safety, or security of any individual. (vi) Legal or investigative matters. (vii) Internal audit reports of ADB's Office of the Auditor General and certain trust fund audit reports of ADB's external auditors

FOR MORE INFORMATION:
<http://www.adb.org/documents/pcp-2011>

5. ADB's Safeguards Policy

In July 2009, the Asian Development Bank (ADB) approved a Safeguard Policy Statement (SPS) that strengthens existing protections for three key safeguard areas – environment, involuntary resettlement and Indigenous Peoples – already in place since 2002, 1995 and 1998, respectively. The objectives of ADB's safeguards are to: (i) avoid adverse impacts of projects on the environment and affected people, where possible; (ii) minimize, mitigate, and/or compensate for adverse project impacts on the environment and affected people when avoidance is not possible; and (iii) help borrowers/clients to strengthen their safeguard systems and develop the capacity to manage environmental and social risks. The new policy aims to set out in a coherent and integral manner the policy objectives, scope and triggers, and principles for the three safeguard areas. It also aims to strengthen developing member countries' (DMCs) own safeguard systems and capacity to manage environmental and social risks of development projects. It applies to all ADB-financed and ADB-administered sovereign and non-sovereign projects, and their components regardless of the source of financing, including those funded by a loan, grant, equity or guarantees. A consolidated Operations Manual section specifies ADB's internal review procedures for due diligence and for supervision throughout the Bank's project cycle. The policy becomes effective on 20 January 2010; over time ADB may adopt additional safeguard requirements or update existing requirements to enhance effectiveness, respond to changing needs and reflect evolving best practices.

Harmonizing IFI safeguards: International financial institutions (IFIs) have been updating their safeguard policies to ensure the relevance of these policies to changing needs. The World Bank revised its policies on Indigenous Peoples in 2005 and on physical cultural resources in 2006. In 2006, the International Finance Corporation (IFC) adopted its Policy and Performance Standards on Social and Environmental Sustainability and introduced results-based requirements and good practices for the private sector. Also in 2006, the Inter-American Development Bank issued its Environment and Safeguards Compliance Policy which provides for selective use of country systems. In 2008, the European Bank for Reconstruction and Development adopted its Environmental and Social Policy with safeguards similar to those of IFC.

Environmental safeguards: These cover (i) environmental assessment, (ii) pollution prevention and abatement, (iii) biodiversity and natural resource management, (iv) occupational and community health and safety, and (v) physical cultural resources. ADB should give particular attention to workers vis safe and healthy working conditions so that accidents, injuries, and disease may be prevented; where avoidance is not possible, adverse impacts and risks to the health and safety of local communities must be minimized.

Occupational health and safety: ADB's borrower/client should provide workers with a safe and healthy

working environment, taking into account risks inherent to the particular sector and specific classes of hazards in the borrower's/client's work areas, including physical, chemical, biological, and radiological hazards. The borrower/client will take steps to prevent accidents, injury, and disease arising from, associated with, or occurring during the course of work by (i) identifying and minimizing, so far as reasonably practicable, the causes of potential hazards to workers; (ii) providing preventive and protective measures, including modification, substitution, or elimination of hazardous conditions or substances; (iii) providing appropriate equipment to minimize risks and requiring and enforcing its use; (iv) training workers and providing them with appropriate incentives to use and comply with health and safety procedures and protective equipment; (v) documenting and reporting occupational accidents, diseases, and incidents; and (vi) having emergency prevention, preparedness, and response arrangements in place. The borrower/client will apply preventive and protective measures consistent with international good practice, as reflected in internationally recognized standards such as the World Bank Group's Environment, Health and Safety Guidelines.

Involuntary resettlement safeguards: These cover physical displacement (relocation, loss of residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources,

or means of livelihoods) as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.

Indigenous Peoples safeguards: These are triggered if a project directly or indirectly affects the dignity, human rights, livelihood systems, or culture of Indigenous Peoples, or affects the territories or natural or cultural resources that Indigenous Peoples own, use, occupy, or claim as an ancestral domain or asset. Projects must be designed and implemented so that Indigenous Peoples (i) receive culturally appropriate social and economic benefits, (ii) do not suffer adverse impacts as a result of projects, and (iii) can participate actively in projects that affect them.

Meaningful consultation and participation: This is a process that (i) begins early in the project preparation stage and is carried out on an ongoing basis throughout the project cycle; (ii) provides timely disclosure of relevant, adequate, understandable information readily accessible to affected people; (iii) is undertaken in an atmosphere free of intimidation or coercion; (iv) is gender inclusive and responsive; and (v) enables the incorporation of all relevant views of affected people and other stakeholders into decision making. ADB will require borrowers/clients to engage with communities, groups, or people affected by proposed projects and with civil society through information disclosure, consultation and informed participation in a manner commensurate with the risks to and impacts on affected communities.

Local grievance redress mechanism: ADB requires that the borrower/client establish and maintain a grievance redress mechanism to receive and facilitate resolution of affected peoples' concerns and grievances about the borrower's/clients social and environmental performance at project level.

Special requirements: The SPS specifies additional requirements for program lending, sector lending, multitranche financing facilities, emergency assistance loans, existing facilities, financial intermediaries, and general corporate finance.

Country safeguards systems (CSS): ADB needs to ensure that application of CSS in Bank projects does not undermine the achievement of its policy objectives and principles. ADB's overall strategy for strengthening and using CSS emphasizes a phased

approach.

Incorporation of core labor standards and gender: Trade union stakeholders, including Public Services International (PSI), have called for the introduction of policy provisions on core labor standards and gender issues as part of the SPS. Core labor standards and broader social protection issues are already included in ADB's Social Protection Strategy (2001). Social dimensions are also handled through Operations Manual section on incorporation of social dimensions into ADB operations. Gender issues already receive specific and focused attention through the implementation of ADB's Policy on Gender and Development (1998).

Roles and responsibilities: ADB's borrower/client is responsible for assessing projects and their environmental and social impacts, preparing safeguard plans, and engaging with affected communities through information disclosure, consultation and informed participation following all policy principles and safeguard requirements. The borrower/client will submit all required information, including assessment reports, safeguard plans/frameworks, and monitoring reports, to ADB for review. The borrower/client must comply with host country laws, regulations, and standards, including host country obligations under international law. Furthermore, the borrower/client must implement safeguard measures agreed with ADB. ADB staff, through their due diligence, review, and supervision, will ensure that borrowers/clients comply with safeguard requirements during project preparation and implementation. ADB discloses safeguard plans and frameworks, including social and environmental assessments and monitoring reports, on its website.

Non-compliance: ADB will not finance projects that do not comply with its safeguard policy statement, nor will it finance projects that do not comply with the host country's social and environmental laws and regulations, including those laws implementing host country obligations under international law. In addition, ADB will not finance activities on its prohibited investment activities list.

6. ADB's Accountability Mechanism

In February 2012, the Asian Development Bank (ADB) approved a new policy on Accountability Mechanism (AM) which simplified procedures in two earlier versions – the “Inspection Function” (1995) and Accountability Mechanism (2003). The AM is an independent forum where people adversely affected by ADB-assisted projects can voice and hopefully resolve their problems and report alleged violations of the Bank’s operational policies and procedures. Workers’ unions can use the AM to seek redress for harm, present or future, done them an ADB-funded project. The new policy took effect in May 2012.

Consultation (OSPF) and compliance review (CRP): The AM’s “consultation” phase is led by the Office of Special Project Facilitator (OSPF), who responds to problems of affected people through a range of informal and flexible methods. The “compliance review” phase is led by the Compliance Review Panel (CRP) and investigates any alleged failure of ADB to follow its operational policies and procedures that has caused, or is likely to cause, direct and material harm. OSPF reports to the ADB President, while CRP reports to the ADB Board.

Who can file a complaint? A complaint may be filed by 2 or more directly affected people or their authorized representative(s). The identity of the complainant will be kept confidential if requested, but anonymous complaints will not be accepted.

What can people complain about? These include direct harm, present or future, due to an act or omission of ADB. The AM applies to both public and private sector projects of ADB. Excluded, however, are complaints about fraud and corruption, procurement, ADB policies and internal matters, as these are handled by other Bank mechanisms

What to include in a complaint: It should include: (a) names, addresses and contact information of the complainants and their representative(s); (b) whether the complainants choose to undergo problem solving with the SPF or compliance review with the CRP; (c) a brief description of ADB project; (d) a description of the direct and material harm that has been, or is likely to be, caused to complainants; (e) a description of the complainants’ good faith efforts to address the problems first with the concerned ADB operations department, and results of these efforts.

A complaint may also include a description of the operational policies and procedures that have not been complied with by ADB, or the desired outcome or remedies sought from the ADB. It may be submitted in English or in any of the official or national languages of the Bank’s borrower governments.

How long does it take and what remedies are in place? The SPF takes about 180 days from the registration of the complaint to an agreement on remedial actions, e.g., facilitate a consultative dialogue, promote information sharing, undertake joint fact-finding, facilitate the establishment of a mediation mechanism, and/or use other approaches to problem solving. The CRP is expected to take about 200 days from the registration of the complaint to the ADB Board’s consideration of the CRP final report. If the CRP concludes that ADB’s non-compliance caused direct and material harm, ADB Management proposes remedial actions, which may include an action plan “to bring the project into compliance” with ADB policies and address related findings of harm. Management must also obtain the agreement of the borrower on the remedial actions.

Common complaints filed: Only a few have been filed at the AM; the most common are – lack of information about ADB project; lack of consultation and participation of affected communities; non-compliance with ADB’s ‘safeguard’ policies (environment, involuntary resettlement, indigenous peoples). Many were deemed ineligible because no prior “good faith” efforts were made with ADB’s operations departments, or a Project Completion Report had been issued, complainants went straight to CRP without first going through OSPF. To date, no complaint has been filed by workers or on matters related to non-compliance with Bank policy on social protection and core labor standards (CLS).

Simplified procedures: The new AM is aimed at addressing bottlenecks through simplified procedures – a single entry point for the receipt of all complaints; direct access to the compliance review function; a clearer and longer cut-off date for filing complaints, i.e., two years after the loan or grant closing date; stepped-up tracking and monitoring of complaints; a “partnership approach” to reduce impediments to project site visits.

Limitations of the Accountability Mechanism: For ADB, the AM is a “last resort” mechanism for dealing with problems and non compliance that were not prevented or solved at the project and operational levels. When problems occur, operations departments are its first point of entry in addressing them; the ADB Safeguard Policy Statement (2009) also requires the creation of project level grievance redress mechanisms.

The problem solving function does not focus on the identification and allocation of blame, but on finding ways to address the problems of the project affected people.

The compliance review is about ADB’s compliance with its own policies and procedures, not about a borrower’s breach of any obligations, which are dealt with separately. A compliance review does not investigate the borrowing country, the executing agency, or the private sector client.

The AM does not cover such matters as procurement of goods and services, corruption, “frivolous, malicious, trivial, or generated to gain competitive advantage,” adequacy or suitability of ADB’s existing policies and procedures, and other exclusions.

The filing of a complaint does not suspend the formulation, processing, or implementation of the project unless agreed to by the borrower concerned and ADB.

Cambodia railway project: With thumbprints in lieu of signatures, poor villagers displaced by an ADB-funded railway project in Cambodia filed a complaint in April 2012, seeking compensation from the Royal Railway to buy land where they can rebuild their houses and “do their business to support their daily living.” The AM found their complaint ineligible, citing “the complainants have yet to address the problem with the concerned (ADB) operations department.” An NGO earlier filed a similar complaint on the same project in behalf of affected people. It provided a description of the direct and material harm and supporting documents, as well as the acts and omissions of ADB during the project cycle. The complaint also described good faith efforts to address the problems with relevant government authorities and ADB’s operations department and senior management, and outcomes and remedies being sought. The AM found the complaint eligible

and the process is ongoing.

Power sector reforms in Philippines: In 2010, an electricity consumers group filed a complaint about their “present and future situation of being directly, materially, and adversely affected” by two ADB power sector policy-based loans to government. They alleged that the loans pushed for the privatization policy in the power sector through the 2001 electricity law. Nine years hence, the consumers are “agonizing from the drastic steep rounds of increases” in electricity rates, contrary to the promised lowering of rates because of privatization. At least 25% of the family income is now allotted to paying electric bills, reducing the quantity and quality of food on the table. Children had stopped school and “sending children to college is out of the question.” Women are further burdened to support their families and need to resort to loan sharks to make ends meet, worsening their poverty situation. The complaint was ineligible because Program Completion Reports had been issued.

What unions can do: The ADB’s Social Protection Strategy (2001) commits the Bank to comply with core labor standards and related labor laws. Harmful impacts on workers, and their right to organize and bargain collectively, have been documented in several infrastructure projects and sector reforms financed by ADB. The direct and material harm to workers and unions include – job losses and displacement, job insecurity, lower working conditions and pay, contractualisation, neglected OSH issues, unfunded pensions, gender discrimination, bonded labor, union-busting, non-recognition of unions, harassment of trade union leaders. Moreover, workers’ right to information and participation are curtailed when ADB fails to disclose relevant project documents or consult with unions in the design and implementation of ADB projects. Unions can use the Accountability Mechanism to seek redress while also ensuring that the ADB commits to its obligation to ensure respect for workers’ rights and core labor standards in the projects that they finance in Asia and the Pacific.

7. ADB's Health Sector Policy

The Asian Development Bank (ADB) recognizes that health is vital to development, productivity, social inclusion and gender equity. Its health sector operations aim to improve the health of the poor, women, children, and indigenous peoples in the Asia-Pacific region. Health, however, is not among the Bank's core operational areas under its new Strategy 2020, the long-term strategic framework adopted in 2008. Instead, ADB sees itself playing a well-defined role in improving health mainly through its core areas in infrastructure, governance, "knowledge solutions" and partnerships. A minor player in the health sector; the Bank allocated a mere 2% of loan and grant operations to its "Health, Nutrition and Social Protection" portfolio in 2008. In 1999, ADB adopted a Policy for Health Sector in which the Bank played a significant role in health policy reform by encouraging its Developing Member Country (DMC) governments to take an activist role in the health sector to increase public investment in primary health care (PHC), facilitate private sector involvement in health, and increase the focus on public goods.

Current strategic focus: ADB's Operational Plan for Improving Health Access and Outcomes under Strategy 2020 identifies areas where ADB has distinct comparative advantage and can improve health outcomes through its – (a) large infrastructure portfolio, especially water and sanitation; (b) economic governance work, e.g., public expenditure management for cost-effective delivery of health programs and services; (c) regional public goods, e.g., cross border infectious diseases and pandemic issues such as SARS, avian influenza, pandemic influenza and HIV/AIDS, smoke haze, contaminated water and spread of dengue fever. The Operational Plan also puts emphasis on "knowledge solutions" – including analysis and policy dialogue – and partnerships, where ADB can complement the acknowledged technical leadership role of international agencies such as World Health Organization, UNICEF and UNAIDS, including public private partnerships.

Health outcomes in water and sanitation: At present, ADB has no evidence-based knowledge in the undoubtedly large potential of water and sanitation in improving public health. A quick assessment of 12 ADB-supported water and sanitation projects found that only one project specifically tracked infant mortality as an indicator; only one had women's access to water as a specific indicator; and none appeared to specifically track the access to water and sanitation by the poorer populations. ADB must more systematically collect relevant health and social indicators in all such projects, including water quality; incidence of severe diarrhea and dysentery; and the access of the poorest quintiles, and women, to improved water and

sanitation facilities

"Do no harm" in infrastructure: To mitigate the effects of HIV/AIDS in large ADB funded-transport activities, four actions are recommended: (a) identify HIV risks and implementation issues at a much earlier stage in the project cycle; (b) support ADB Resident Missions in their role as on the ground monitors of infrastructure projects, including better monitoring of contractual obligations on HIV prevention by construction contractors; (c) strengthen the knowledge sharing inside and beyond the ADB on good practices; and (d) secure more funding for HIV prevention in ADB. To "do no harm" through infrastructure projects extends beyond just HIV and AIDS and other communicable diseases. Road traffic deaths, for instance, have increased significantly in the region, incurring large financial and economic costs. Innovation into ADB road and other transport designs would, at relatively little cost, avert death, injury and medical costs.

Health financing in governance: ADB's expertise in public expenditure management and longer term development financing can help strengthen health systems in the region, where health spending is inadequate, inefficient, inequitable and incomplete. The Bank's engagement in governance work also opens the door for public private partnerships, particularly because the private sector plays a dominant role in health delivery in much of Asia, especially South Asia. Several countries have already specifically sought ADB advice and input on managing public private partnerships in social sectors, including health and education.

Regional public goods: ADB will continue to be actively engaged in supporting regional public goods as they relate to health outcomes, including in such challenges as pandemic preparedness, responses to environmental health and climate change, and global health security issues in the region.

Partnerships and contracting-out to NGOs and private Sector: The international community has launched about 70 global health partnerships over the past 10 years which provide opportunities for ADB. Opportunities are also opened as the public health debate has shifted to strengthening health systems where ADB plays a key role in support of public financing and resource allocation. ADB's growing private sector operations also creates new opportunities for public-private partnerships. Since 1996, the Bank has supported contracting-out primary health care services to the private sector and NGOs in Bangladesh and Cambodia.

BANGLADESH: Urban Public and Environmental Health Sector Development Program. In September 2009, ADB approved a total \$130 million loan that aims to help reduce child mortality and morbidity by decreasing the prevalence of waterborne and food-related diseases in six large cities in Bangladesh. Measurable health outcomes are expected by 2016 – Carbon emission from unsanitary disposal of solid wastes reduced; Municipal solid waste collection, transportation, and treatment improved; Scientific disposal of medical wastes increased; Hygienic slaughtering of animals increased; Contaminated food reduced; Testing of food and water samples increased. An urban public and environmental health unit (UPEHU) is to be established and core civil servants supported from revenue budget.

PHILIPPINES: Credit for Better Health Care. In March 2009, ADB approved a \$50 million loan to finance the construction of new public health facilities and provide state-of-the-art equipment to existing facilities, with focus on providers of maternal and child care health services and partnerships with the private sector. The project will also provide financial support to small private health providers – such as midwifery clinics, diagnostic facilities, and community drug stores – to allow them to move closer to rural communities. It will support a more efficient health care delivery system through outsourcing services, and establishing private insurance schemes. In 2004, ADB supported the "Health Sector Reform Agenda" – focus on health care

financing, local health systems, public health programs, hospital systems and health regulations – though a US\$213 million loan.

MONGOLIA: Social Sectors Support Program. In June 2009, ADB approved a \$43.1 million loan to help mitigate the effects of the economic crisis on the poor by ensuring pro-poor funding of priority programs for basic services in the short term, and by initiating reforms to increase the efficiency of social welfare assistance and improve living conditions of the poor in the long-term. Health-related outputs include – Hospital admissions through an expanded drug discount system for outpatients reduced; Targeting of government subsidies for health insurance contributions improved; Emergency mechanism for purchases of medicines and vaccines established; Coverage of micronutrients fortification for children 6-23 months and pregnant and lactating women expanded; Medicard program for the poor at primary health care and hospital levels created. A \$19 million grant is also in the pipeline for 2010 for the Fourth Health Sector Development Project that aims to provide safe water and sanitation, proper waste disposal and efficient heating systems for health facilities in Mongolia.

PAPUA NEW GUINEA: Health Sector Support. In 2011, ADB is set to approve a \$20 million loan to gradually replace a non-performing but costly rural health services network of mostly closed "aid posts" with a network of up-skilled independent health practitioners operating in a market environment. ADB has been the major partner of Government in health since 1985.

Private healthcare fund: In 2006, ADB invested US\$20 million in East West Capital Partners - Asia Healthcare Fund which aims to achieve superior returns for its investors through investments in health care companies in India and other emerging Asian markets. ADB cites the current dynamics of health care industry in Asia which are creating great opportunities for a private equity fund focused on health care, including: (a) rapidly escalating demand for health care services within Asia and abroad, (b) comparative advantage for production and delivery of health care services in Asia, (c) increasing supply of companies meeting health care needs, (iv) significant requirements for health care financing, and (d) lack of appropriate financing modalities for the health care industry.

8. ADB's Education Sector Policy

The Asian Development Bank (ADB) approved its Education Policy in August 2002 to complement the objectives of the Millennium Development Goals (MDGs) which target universal access in the social sectors by 2015. Under the Bank's new long-term strategic framework – Strategy 2020 – education is identified as one of five core areas with the aim to adequately meet labor market needs and support inclusive, sustainable social and economic development. ADB will help its developing member countries (DMCs) develop and implement (a) an expanded, high-quality, and more accessible basic and secondary education that links with member country national Education for All plans and MDGs; (b) relevant technical and vocational education and training (TVET) and skills development, and appropriate diversification in higher education; (c) innovation and public-private partnerships in education and its delivery; and (d) appropriate policies and comprehensive education sector-wide reforms to help improve flexibility, cost-efficiency, equity and quality at all education levels. In June 2008, ADB published a sector strategy study – Education and Skills: Strategies for Accelerated Development in Asia and the Pacific – to guide its operations in the education sector. In 2008, ADB allocated 1% and 3% of its loan and grant operations, respectively, to the education sector.

Basic education: Four trends are expected to characterize ADB's assistance to basic education in future: (i) widening the scope to include secondary education and better meet the demands of the workforce and other levels of education; (ii) greater use of information and communication technology (ICT) for administrative purposes, teacher training, classroom instruction, and other delivery mechanisms; (iii) more articulation with TVET, higher education, and the world of work; and (iv) innovations in alternative financing, private sector participation, and partnerships.

TVET: ADB has been a traditional supporter of TVET. Globalization requires more and better human capital and the demand for skills is increasing due to a combination of technological, structural and organizational changes. Emphasis in the Bank's assistance to TVET has shifted from support for the construction of facilities to support for curriculum and instructor development. Future ADB assistance may likely be in four areas: (i) improvement of organizational and management structures, with support to apex organizations and national training authorities; (ii) development of occupational standards through the design of efficient vocational qualification frameworks and the setting of minimum training standards; (iii) establishment of financial incentives by setting performance standards, devolving responsibility with accountability for results, and establishing competitive training funds; and (iv) expansion of private training provision and establishment of more efficient regulatory frameworks. Greater attention should be devoted to

continuous in-service training of adults and to enterprise-based training.

Higher education: ADB can play three important roles in support of higher education development in the region: (i) lending for infrastructure and policy development aimed at expanding access to postsecondary education, both public and private; (ii) serving as a source of knowledge creation, synthesis, and sharing with regard to the management and operation of higher education systems and institutions; and (iii) serving as a source of technical assistance in support of capacity development of system and institutional administrators and instructional staff.

Knowledge management: ADB must be seen as having a core of expertise in the priority areas of basic education, TVET and higher education. The knowledge management and sharing roles might take the form of funding national and regional hubs devoted to information sharing, brokering international and regional twinning arrangements, and operating as a clearinghouse for technical and managerial expertise.

RETA: Higher Education in Dynamic Asia. Approved in September 2009, this regional technical assistance (RETA) aims to bring about comprehensive higher education policies and reforms addressing the demand for improved quality, equitable access, quantitative expansion, and sustainable financing in higher education in Asia and the Pacific region.

CAMBODIA: Strengthening TVET. In November

2009, ADB approved a \$24.5 million grant to improve the government's TVET system towards an expanded and more integrated training system endorsed by industry and better aligned with the skills requirements of the formal and informal economies. Initially, the project will focus on three industry sectors to develop models for formal and non-formal training programs – mechanics, construction, and business services and information and communication technology. Similar training models will later be rolled out for other industries.

NEPAL: Education Sector Program (ESP) III. In September 2009, ADB approved a financing package of \$70 million grant and \$25 million loan to contribute to the restructuring of the school system by extending the current five-year primary education into eight years of basic education. ADB's support will initiate pilot projects to improve secondary education and TVET. Under the government's School Sector Reform program, a range of affirmative action's to support education for girls and vulnerable groups has been defined, including financial incentives and teaching support for the schools as well as financial and non-cash support for the children and their families.

MONGOLIA: Early Childhood Education for Rural, Nomadic, and Migrant Children: In August 2009, ADB approved grant funding of \$2.9 million for a pilot project that is the first to systematically address the provision of early childhood education to some of Mongolia's most vulnerable communities. For rural and nomadic children, the project will develop financially sustainable programs in four provinces, with training given to caregivers and preschool teachers, and support provided for mobile learning. For migrant children, the focus will be on selected traditional tent settlements around the capital city of Ulaanbaatar.

INDIA: Mizoram Public Resource Management Program: As part of a \$100 million loan for public sector financial reforms in Mizoram approved in August 2009, funds will be allocated for a voluntary retirement scheme for under-qualified teachers in primary and secondary schools as part of ongoing efforts to improve the education sector.

SAMOA: Using ICT to Improve Access to Education and Training: In December 2007, ADB extended a

\$5.9 million grant to the School Net and Community Access Project which aims to improve the quality of teaching and learning in secondary schools, create better access to education through ICT and strengthen education management and coordination.

SRI LANKA: Education for Knowledge Society Project: In November 2007, ADB approved \$65 million loan and \$15 million grant financing to improve secondary and tertiary education and equip the young workforce with the skills necessary to meet expanding and evolving labor market needs. The project will upgrade one public secondary school in each of the 150 poorest administrative divisions in Sri Lanka, and support curriculum and assessment reform in secondary education, English language education, and expand the use of ICT for learning. It will upgrade tertiary education institutions into more market-responsive education providers.

INDONESIA: Madrasah Education Development: Approved in December 2006, the \$50 million loan aims to improve Madrasah education at primary, junior secondary, and senior secondary levels, and result in better student learning outcomes in core subject areas, raised Madrasah accreditation levels, and enhanced perceptions of Madrasah education quality by parents and the community. In 2000, ADB provided support in developing a decentralized basic education project that was successful in redistributing control to local level education authorities; decentralization had been tried in the hopes of building local commitment and accountability.

BANGLADESH: Second Primary Education Sector Loan: As lead donor, ADB provided a \$100 million loan in 2001 which would serve as the foundation for future ADB efforts to strengthen the secondary education system to build the country's human resource base.

9. ADB & EDUCATION: Producing Skilled Workers in a Knowledge-Based Global Economy

In 2002, the Asian Development Bank (ADB) approved an Education Policy to complement Millennium Development Goal (MDG) targets of universal access in the social sectors by 2015. In 2008, ADB approved its Strategy 2020 – Working for an Asia-Pacific Free of Poverty – which identifies the education sector as one of five core areas that support “inclusive, sustainable social and economic development” as well as meet labor market needs and skills needed in the rapidly changing workplace. The Bank's loan, grant and technical assistance (TA) operations will finance: (a) an expanded, high-quality, and more accessible basic and secondary education; (b) relevant technical and vocational education and training (TVET) and skills development, and appropriate diversification in higher education; (c) innovation and public-private partnerships (PPPs) in education and its delivery; (d) appropriate policies and comprehensive education sector-wide reforms to ensure flexibility, cost-efficiency, equity and quality at all education levels. In 2010, ADB's Education by 2020: A Sector Operations Plan was approved.

Bangladesh. A \$50 million loan and grant package approved in 2008 (Skills Development Project) aims to make the country's TVET programs market-oriented, short-term and relevant, especially targeting poor students. A grant in 2011 (PPP in Higher Education) will raise awareness on the role of higher education in leading Bangladesh to face the global competition in the “knowledge economy.” A proposed \$100 million loan project (Skills for Employment) will increase employment and income of graduates of the skills development system, and support policy, institutional and operational reforms.

Nepal. In 2009, a \$70 million grant and \$25 million loan package (Education Sector Program III) will support the restructuring of the school system and initiate pilot projects to improve secondary education and TVET. In 2011, the (School Sector Program), a \$65 million policy-based grant finance, will support the education reform initiatives with a stronger focus on gender, social inclusion, and quality. A proposed \$50 million loan (Skills Development Project) aims to support the implementation of policy, institutional and operational reforms, delivery of demand-oriented skills training, short-term market oriented skills training that focus on excluded groups.

Mongolia. A TA approved in 2010 (Reforming Higher Education for a Knowledge Society) will provide key policy recommendations on financing, governance and management, and rationalization of the higher education sector. A \$20 million loan approved in 2011 (Higher Education Reform Project) will improve the quality of higher education and increase enrollment by youth from poor, remote communities. A TA on Strengthening TVET in Priority Sectors is now being proposed.

India. A \$100 million loan is being proposed (Enhancing Human Capital Development in Meghalaya) to enhance the employability of Meghalaya's youth by improving the quality and delivery of its skill development and secondary education programs. A \$100 million loan approved in 2009 (Mizoram Public Resource Management Program) will partly finance a voluntary retirement scheme for under-qualified teachers in primary and secondary schools. A TA is being proposed (Skills Gap Analysis and Capacity Development) that will focus on TVET.

Philippines. A \$400 million loan in 2010 (Support for Conditional Cash Transfer Program) will support the expansion of the conditional cash transfer (CCT) program to provide direct financial support to poorest families who keep their children in school in the wake of the global economic crisis. In 2010, a TA (Computer Access Mentorship Program-a PPP for Enhancing Education Quality) will design a replicable and sustainable ICT-based in-service training program that enhances elementary teacher competencies. A \$1.5 million grant in 2012 (Enhancing Access to Quality Early Childhood Education Services for Children in Poor Communities) will support a PPP to put children in new preschool classrooms in impoverished rural communities.

Indonesia. A \$80 million loan in 2008 (Vocational Education Strengthening Project) aims to increase competitiveness and employment opportunities for vocational school graduates. A \$50 million TA in 2010 (Analytical and Capacity Development Partnership) aim to modernize the education system and enable better regional and international competitiveness. A \$75 million loan in 2012 (Polytechnics Development) will bring together

Indonesian industries and polytechnic institutions to update vocational training and better align graduates' skills with employers' needs.

People's Republic of China: Two \$50 million "demonstration" loan projects are in the pipeline to help improve the quality and relevance of TVET in Hunan and Nanning provinces.

Vietnam. A \$70 million loan approved in 2010 (Skills Enhancement Project) will offer quality training programs in priority industries in partnership with the private sector. In 2011, a \$190 million loan (Higher Education Sector Development Project) aims to help establish the University of Science and Technology of Ha Noi – a state-of-the-art institution on research, technical innovation, and skills development.

Laos. In 2011, a \$40 million loan and grant package (Secondary Education Sector Development Program) will support policy reforms to improve the quality and relevance of the curriculum, and to make access to secondary schooling more equitable.

Cambodia. A \$24.5 million grant in 2009 (Strengthening TVET) will improve the TVET system to make it more responsive to the growing need for a skilled and educated workforce.

Timor-Leste. A \$12 million grant approved in 2011 (Mid-Levels Skills Training Project) will introduce and implement mid-level skills training in the construction and automotive trades.

Burma/Myanmar: A \$200,000 TA approved in 2012 (Support for Education Sector Planning) will finance the Comprehensive Education Sector Review, the first rigorous and comprehensive assessment of the education sector in two decades, and to strengthen planning and reforms in post-primary education, secondary education, TVET, and higher education.

Bhutan, Maldives. Two TAs (Supporting Skills for Employment Development, Preparing the Skills Development Project) are being proposed with focus on TVET.

Multi-tranche Financing Facility (MFF): The ADB is increasingly using its MFF to finance education projects in the region. In India, a proposed \$300 million MFF loan (Supporting PPP in Skill Development) will create skills systems with a 'high degree of inclusiveness' in terms of gender, rural versus urban, organized versus unorganized, and

traditional versus contemporary jobs, in line with India's National Skills Policy, 2009. In Sri Lanka, a proposed \$200 million MFF loan (Technical Education and Vocational Training Sector Development Project) targets a more effective management and coordination of the TEVT system to respond to emerging labor market needs and improve collaboration between public and private providers. Also proposed is a \$200 million MFF loan (Human Capital Development Investment Program) to ensure that school graduates in Sri Lanka are better prepared to meet labor market requirements. In 2012, ADB approved a \$19 million MFF loan (Higher Education in the Pacific Investment Program) to support the University of South Pacific in expanding access to higher education in 12 Pacific island countries.

Regional Technical Assistance (RETA): Three RETAs approved in 2011 focus on various aspects of green jobs, gender, skills and labor markets. In India, Indonesia, Sri Lanka, Vietnam and Uzbekistan, Education and Skills for Inclusive Growth and Green Jobs will help address the skills needs for competitiveness in industries with potential for high employment, growth and greening (eg, building and construction, transport, waste management, energy and hospitality). Support for ASEAN Leaders Forum on Human Resource Development Towards an Integrated ASEAN Community will finance education, science, and technology policies that are aligned to build capable human resources contributing to an integrated ASEAN. Improving Employment Outcomes will focus on the flow of information between and among employers, jobseekers, youth entering post-basic education, labor market policy planners in government, and the education system in Cambodia, Vietnam and two other countries.

Knowledge management: ADB must be seen as having a core of expertise in the priority areas of basic education, TVET and higher education. A 'knowledge product' released in June 2012 is its report on Improving Transitions: From School to University to Workplace which urges Asian universities and secondary schools to better align with labor market needs to ensure that graduates have the skills and knowledge required by employers. The report also encourages partnerships with other institutions and the private sector to better prepare students for future employment.

ADB AND CORE LABOR STANDARDS

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10. ADB & Core Labor Standards

In 2006, the Asian Development Bank (ADB) published its Handbook on Core Labor Standards which commits ADB to comply with the internationally recognized core labor standards (CLS) and related labor laws in the design and formulation of its loans. The Handbook is an output of a formal collaboration between ADB and the International Labor Organization (ILO), and stems from the Bank's 2001 Social Protection Strategy. CLS are a set of eight ILO Conventions fundamental to the rights of human beings at work: (a) Freedom of association and the effective recognition of the right to collective bargaining, (b) Elimination of all forms of forced or compulsory labor, (c) Effective abolition of child labor, and (d) Elimination of discrimination in respect of employment and occupation. ILO members must comply with CLS even without ratification; since ADB's developing member countries (DMCs) are also ILO members, DMCs need to comply with CLS in ADB-assisted projects.

The Handbook on Core Labor Standards is divided into three parts – an introduction of CLS; a presentation of all eight ILO Conventions; ideas how ADB staff could integrate and comply with CLS in ADB operations. There are also other ADB handbooks which address specific labor issues in Bank's operations – e.g., labor retrenchment in Handbook for Poverty and Social Analysis; Guidance Note on Labor Issues in Enterprise Restructuring.

Many cases of CLS violations take the form of union-busting and harassment or physical violence against union organizers and officials, apart from discrimination and dismissals and other work-related anti-union/worker actions. Workers in the informal sector are largely unorganized and among the most exploited and neglected, with working conditions characterized by low wages, long working hours, lack of social protection, lack of job security, absence of occupational health and safety measures, and exempt from labor laws. Slave labor and bonded labor affect the most vulnerable, i.e., children and women.

As a result of trade unions' engagement with international financial institutions (IFIs) like ADB, CLS are being increasingly mainstreamed into their operational procedures and loan obligations. The most progressive provisions on CLS to date had been adopted by the International Finance Corporation (IFC), the World Bank's private sector arm.

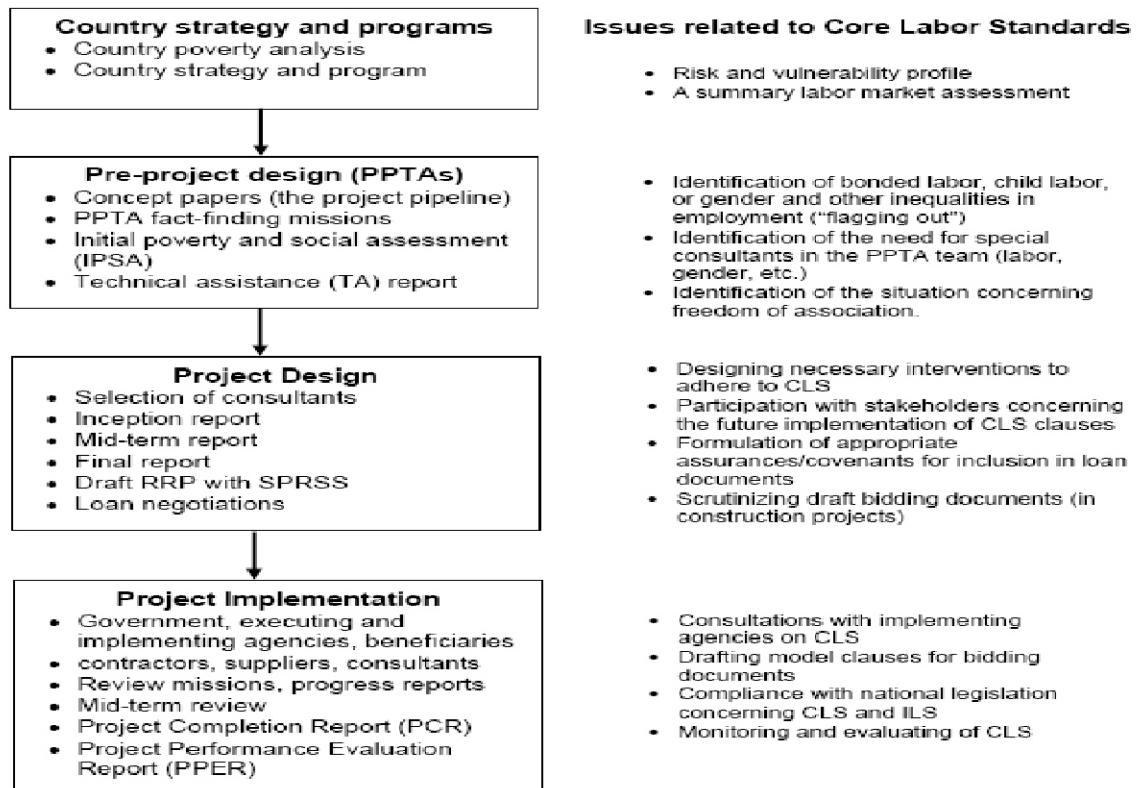
In February 2006, IFC approved its Policy and Performance Standards on Social & Environmental Sustainability which includes a chapter on "Labor and Working Conditions" that requires all companies that borrow from IFC to comply with CLS and observe some other basic conditions – such as health and safety standards, protection for contract workers, and a policy for managing reductions in employment.

IFC's policy further states that clients should respect workers' freedom of association and right to collective bargaining and should not discriminate or retaliate against workers who participate or seek to participate in the organizations of their choice, regardless of whether national law fully protects those rights. The policy requires all proposed projects to include an assessment of its labor, health and safety impacts and risks, as well as adopt measures to respond to any negative impacts commensurate with the level of impact and risk. Non-compliance with CLS could lead to cancellation of the IFC loan.

In 2005, ADB amended its Procurement of Works Standard Bidding Document to include 22 labor-related clauses covering certain CLS areas. In April 2007, the World Bank adopted CLS clauses in contracts for public-sector infrastructure which for the first time included requirements referring to all four CLS.

Trade unions, however, need to push for further inclusion of CLS requirements with various operational units of IFIs and pilot new initiatives outside of the current focus on procurement. Public Services International (PSI) has engaged ADB since 2005 to ensure stronger CLS compliance in Bank projects. Since 2007, PSI and ADB have jointly organized forums on CLS at ADB Annual Meetings on "Supporting Core Labor Standards" (2007, Japan) and "Mainstreaming CLS in ADB Operations" (2008, Spain). At the 2009 Annual Meeting (Indonesia), PSI with other global unions – organized a forum on "Addressing the Impact on Workers of the Global Financial and Economic Crisis." These forums highlighting CLS issues in ADB projects marked the first time that workers' protection and trade union rights are being raised and given prominence at ADB Annual Meetings.

Box 9: Core Labor Standards in ADB Operational Cycle



ADB = Asian Development Bank; CLS = core labor standards; ILS = international labor standards; PPTA = project preparatory technical assistance; IPSA = initial poverty and social assessment; RRP = report and recommendation of the President; SPRSS = summary poverty reduction and social strategy

Freedom of Association and Collective Bargaining: ADB's CLS Handbook identifies the following discussion points – Are there mechanisms for voluntary collective bargaining? How many trade unions are registered? Are there trade unions active in the sector of the economy concerned by the ADB activity? Does the government or employer put obstacles in the way of organization and collective bargaining? What type of union is it (general, sectoral, etc.)? Is there any type of affiliation (ITUC, etc.)? How many disputes are there relating to freedom of association and collective bargaining? Have any complaints been made to ILO? Are these disputes mainly with national or foreign enterprises? Do collective agreements cover aspects of core labor standards and, if so, which aspects? Are there free and independent workers' and employers' organizations at the national level?

Are there tripartite bodies at the national level with representatives from the social partners? If so, are the workers' and employers' representatives selected by their own organizations or appointed by a government body? At the enterprise level are there bipartite arrangements, such as joint worker-management committees, to deal with disputes? Does the disputes procedure follow conventional stages? Are any such joint structures balanced so that neither management nor workers dominate in terms of a majority? Are worker and employer representatives appointed without outside interference? Have any worker or employer representatives been penalized for carrying out their activities related to freedom of association and collective bargaining?

11. ADB's Social Protection Strategy

Approved in August 2001, the Asian Development Bank's (ADB) Social Protection Strategy defines a set of policies and programs designed to reduce poverty and vulnerability by promoting efficient labor markets, diminishing people's exposure to risks, enhancing their capacity to protect themselves against hazards and interruption or loss of income. The strategy recognizes the vital role of the International Labor Organization's (ILO) charters and labor standards in supporting workers conditions of employment, occupation health and safety, community standards, and more so with globalization. The strategy also obliges ADB to ensure workers' protection in its loan operations in developing member countries (DMCs): (a) Vulnerable groups that may be negatively affected by an ADB intervention must be adequately compensated and mitigation measures put in place – e.g., labor retrenchments, safety nets – to avoid creating further poverty; (b) ADB will comply with the core labor standards (CLS) in the design and formulation of its loans; and (c) ADB shall take all necessary and appropriate steps to ensure that Bank-financed procurement of goods and services, contractors, subcontractors and consultants will comply with the country's labor legislation – e.g., minimum wages, safe working conditions, and social security contributions, etc – and CLS. The term "social protection" is rarely used in Asian countries; the terms more commonly used are social security, social welfare and social safety nets.

ADB's Social Protection Strategy has five main pillars: (1) Labor market policies and programs designed to generate employment, improve working conditions and promote the efficient operation of labor markets; (2) Social insurance programs to cushion the risks associated with unemployment, ill health, disability, work-related injury and old age; (3) Social assistance and welfare service programs for the most vulnerable groups, including single mothers, the homeless, or physically or mentally challenged people; (4) Micro and area-based schemes at the community level, including micro insurance, agricultural insurance and programs to manage natural disasters; and (5) Child protection to ensure the healthy and productive development of children. In 2008, ADB allocated 2% of its loan and grant operations to the "Health, Nutrition and Social Protection" sector.

Labor markets. According to ADB, Asia's most pressing problems today are unemployment and underemployment. While the forces of globalization, intense competition, and fast technological progress have brought immense benefits to Asia's workers during the last two decades, at least 500 million of them are still either unemployed or underemployed. Policies which promote growth will do most to create incomes and alleviate poverty.

ADB's social protection strategy aims at improving labor markets to reduce poverty, ensure inclusive labor absorption, develop human capital, address gender discrimination, and enhance welfare and

productivity. There are two types of labor market interventions: (a) Active labor markets programs which include direct employment generation (e.g., public works), labor exchanges or employment services, and skills development programs, e.g., training and retraining of labor; and (b) Passive labor market policies which include unemployment insurance, income support (e.g., severance pay, early retirements), and appropriate labor legislation and labor standards that provide adequate worker protection without creating barriers to labor mobility and economic development. This will include provisions on minimum age, maximum hours and overtime, labor contracts, industrial relations, special protection appropriate for new mothers, and antidiscrimination provisions to protect women and minorities.

Promoting good working conditions – Enhances welfare; Develops workers' skills; Promotes equal opportunities, including gender equity; Promotes transparency and good governance; Reduces labor disputes and conflict; Reduces child labor; Increases productivity balancing goals of growth and protection; Redounds to more equitable and sustainable economic growth.

Core Labor Standards: Internationally recognized labor standards, when ratified, are also part of the legislative framework of DMCs. With regard to the CLS, no explicit ratification is needed for them to be part of the legislative framework of a country. The Core Labor Standards consist of (a) freedom of

association and the effective recognition of the right to collective bargaining, (b) the abolition of all forms of forced or compulsory labor, (c) effective abolition of child labor, and (d) elimination of discrimination in respect of employment and occupation.

Mass lay-offs: ADB identifies three major causes of mass lay-offs – market shifts, privatization/deregulation; and technological/organizational change, including enterprise restructuring – and recommends three policy options to avoid or mitigate the negative impacts: (1) prevention of lay-offs, (2) compensation to laid-off workers, and (3) redeployment of laid-off workers. Aspects such as the age and skills of the labor force, financial solvency of companies, fiscal impacts, the local labor market situation, income levels of employees, the existence of adequate social protection institutions (e.g., unemployment insurance, vocational and technical training centers, and labor exchanges) are critical elements when assessing a retrenchment plan.

Migration: Cross-border labor migration is an increasingly important labor market issue for Asian countries. It is important to make sure that sufficient legal frameworks exist for protecting rights of migrant workers while reducing irregular migration. ADB addresses 'safe migration' by reducing vulnerability to human trafficking risks among migrating population.

Pension reforms: As a social insurance scheme, ADB shall provide assistance to rethink pension reform programs and ensure that they are designed with equity considerations. The strategy notes that pension reform projects often involve development of privately funded mechanisms to encourage the development of sophisticated financial market institutions which can function effectively only with a vibrant domestic capital market; where the preconditions for advance funding are absent, provident funds or basic pay-as-you-go approaches may be important transition measures to ensure that the objectives of a social protection system are accomplished. Different institutional options are also provided in the strategy.

Initial Poverty and Social Analysis (IPSA): An IPSA is mandatory for all ADB project and program loans. It is conducted as early as possible in project preparation to flag key issues for in-depth analysis during the design phase of a loan. ADB recognizes that labor issues are likely to be significant when –(a)

Workers may lose their employment as a result of public or private sector restructuring; (b) The project may develop labor market policies or investments; and (c) The project is not in compliance with national labor legislation and any of the CLS. If adverse impacts are identified, adequate mitigation measures or safety nets should be developed.

ADB-ILO MOU: In May 2002, ADB and ILO signed a Memorandum of Understanding whereby the Bank has agreed to incorporate compliance with CLS in all aspects of its operations. ILO provided inputs to ADB-supported projects through studies, capacity strengthening and technical advice. ILO also acted as executing agency for some projects dealing with improving labor standards. A number of ADB publications benefited from ILO's technical expertise – Guidelines on HIV/AIDS and Infrastructure; Primer on Interacting with Workers' Organizations; Handbook on Core Labor Standards; and Social Protection Index. In 2009-2010, ILO and ADB will work together on a social protection plan for Asia and the Pacific and the use of conditional cash transfers as a social assistance tool.

Trade union interlocutor: A key recommendation in ADB's Social Protection Strategy Action Plan is for trade unions to have an official interlocutor at ADB. Currently, ADB has an "NGO and Civil Society Center" that is responsible for addressing concerns raised by civil society groups which include trade unions. A "Social Protection Network" is also in place which brings together ADB staff to: Exchange experiences and good practices, theoretical approaches, information on international events, conferences, training, and professional opportunities; Assist in implementation of the ADB Social Protection Strategy; Serve as link to outside organizations working on social protection; Ensure that a social protection knowledge management system is established within ADB. At the World Bank, a "Social Protection and Labor Unit" is responsible for working closely with trade unions. Public Services International (PSI) and other global unions have urged ADB to create a separate "Labor Desk" to serve as an "interlocutor" for labor concerns inside the Bank.

12. Create Labor Desk at ADB

ADB's 2001 Social Protection Strategy recognizes the vital role of the International Labour Organization's (ILO) charters and labor standards in supporting workers' freedom of association and collective bargaining, conditions of employment, occupation health and safety, and community standards. In cooperation with ILO, ADB published a Handbook on Core Labor Standards (CLS) in 2006. However, labor unions are concerned at the slow pace of CLS integration into ADB's operational procedures and lending requirements. Clearly, there is a need to accelerate this process by instituting concrete measures such as the creation of a Labor Desk at ADB. This is particularly urgent with the harmful consequences and impacts of the global economic crisis on workers and their families.

For several years now global unions have engaged international financial institutions (IFIs) such as ADB in dialogue to ensure that ILO's fundamental rights and principles at work are implemented in their loan portfolio. PSI, in particular, has urged ADB to create a Labor Desk with a specific mandate to focus on labor-related issues arising from the Bank's projects and programs.

In June 2006, ADB's management advised PSI that the Bank's current set-up provides for a labor focal point and that, rather than create a separate labor desk, it believed its efforts should be focused on concrete dialogue with PSI in the context of specific projects and countries, involving the Bank's operations departments. PSI, however, believes that ADB's current organizational structure is inadequate to address labor issues and that a Labor Desk, created with the support and cooperation of global unions, will ensure that the Bank's policies on CLS are translated into concrete action.

PSI continues to lobby for a labor desk at ADB and seeks the support of donor-based affiliates, notably from Japan, Australia and Europe, to encourage the Bank to work towards the creation of a labor desk, starting with the establishment of a working group comprised of representatives from ADB, PSI and other GUFs to explore how a labor desk may be developed. This action can go a long way towards the progressive promotion of the ILO labor standards and decent work agenda in the Bank's operations. The recent tripling of ADB's capital base from \$55 billion to \$165 billion and current review of the Bank's human resources strategy should also bode well towards allocating adequate resources and staffing to a Labor Desk at ADB.

Current institutional framework: ADB has an existing NGO and Civil Society Center (NGOC) which

acts as an official interlocutor within the Bank for a broad range of civil society organizations, including labor unions. At the same time, ADB has a Social Protection Network which brings together ADB staff to assist in the adequate implementation of ADB's Social Protection Strategy, including preparation of country strategies, design of projects, and monitoring implementation and progress. It is unclear, however, where the responsibility of one unit begins and spills over to the other.

Current staff capacity: ADB's staff capacity in social protection is largely related to social insurance, social safety nets, pension issues and labor markets, but not so much on CLS issues. A typical ADB power sector loan, for instance, is premised on 'unbundling' the sector and creating 'successor entities.' In the process, workers face the threat of termination, retrenchment or subcontracting arrangements. ADB should undertake full consultations with workers and their unions to ensure that its projects are in full compliance with CLS. The Bank should strengthen its own capacity to ensure workers' right to freedom of association and collective bargaining, the most fundamental of ILO's charters.

Staff skills mix: ADB should recruit CLS specialists with technical competence to conduct labor impact assessments and integrate CLS issues into the Bank's operations. Staff should be equipped with the following skills and knowledge: (a) Knowledge on national trade unions and employers' organizations; international trade unions and employers' organizations; labor research institutes; and other civil society organizations concerned with labor issues; (b) Competence on ILO's international labor standards, particularly the four CLS, legal frameworks (e.g., labor laws and implementing regulations), and other legislation that may affect conditions of work,

such as penal and civil codes and education laws. This competence should also cover (i) specific laws on women, equality, child labor, safety and health, industrial relations, etc; (ii) health and accident insurance schemes and provision for casual or informal sector workers; (iii) existence and contents of collective bargaining provisions applicable to the sector or activity, and of collective bargaining as a tool for dispute resolution; (iv) information on occupational accidents and injuries; (v) information on informal economy activities and levels of legal protection; (vi) labor force participation patterns (disaggregated); and (vii) demographic and other social data.

World Bank model: At the World Bank (WB), a Social Protection and Labor Unit is responsible for working closely with trade unions. WB-Trade Union focal points were created to provide a more structured exchange of information between various World Bank departments and trade union representatives. Some focal points are sector-based, covering such sectors as education, transportation and health. A new focal point on gender was established in 2009. The World Bank engages with trade unions in numerous ways – consultations with union members who are stakeholders in Bank projects; national consultation with unions as members of civil society; international policy dialogue on economic and social issues; research on the economic effects of collective bargaining, and training programs for both Bank staff and trade unions. Since 2002, a regular structured dialogue has been ongoing between the World Bank, International Monetary Fund (IMF) and the global unions.

TUAC -OECD model: Another potential model is the Trade Union Advisory Committee at the Organization for Economic Co-operation and Development (TUAC-OECD). TUAC is an interface for trade unions with the OECD. TUAC's role is to help ensure that global markets are balanced by an effective social dimension. TUAC coordinates and represents the views of the trade union movement in the industrialized countries. It is also responsible for coordinating the trade union input to the annual G8 economic summits and employment conferences.

Trade union secondments: A Labor Desk at ADB may seek advice and guidance from global unions through mechanisms of trade union 'secondments' which at the World Bank had been deemed useful with positive tangible results. Trade union officials had been "seconded" to work for short periods within specific departments on themes agreed between WB and the global unions. The Bank provided limited financing to facilitate the pilots.

Five trade union secondments to the World Bank took place between 2003 and 2005. The PSI secondee came to work for three months in 2003 at WB's Public Sector Governance Department to advise on improving consultation with trade unions during Bank-sponsored public service restructuring programs. On a two-month secondment in 2004, the BWI seconded formulated recommendations to the Bank's procurement team for improving the labor clauses in the Bank's Standard Bidding Document for Procurement of Works (SBDW). The SBDW is used to establish legal obligations for contractors who carry out Bank-financed works, most often for infrastructure projects. The BWI report was used by WB and regional development banks; new labor clauses were incorporated. Since May 2007, WB's SBDW includes a requirement that contractors observe all four of the ILO's core labor standards.

ADB-ILO MOU: In May 2002, ADB and ILO signed a Memorandum of Understanding to ensure compliance with core labor standards in all aspects of its operations in ADB's member countries. ILO provided inputs to ADB-supported projects through studies, capacity strengthening and technical advice. ILO also acted as executing agency for some projects dealing with improving labor standards. A number of ADB publications benefited from ILO's technical expertise, such as: the Guidelines on HIV/AIDS and Infrastructure; Primer on Interacting with Workers' Organizations; Handbook on Core Labor Standards; and the Social Protection Index. In May 2009, ADB and ILO renewed its cooperation to focus on the Bank's response to the global financial crisis, social protection work and green jobs.

**ASIAN DEVELOPMENT BANK AND
THE ENERGY SECTOR**

Plain Page

13. ADB'S NEW ENERGY POLICY: Securing Adequate Energy Supplies in a Low-Carbon Economy

In June 2009, the Asian Development Bank (ADB) approved a new Energy Policy to guide its operations in the energy sector and meet energy security needs, facilitate a transition to a low-carbon economy, and achieve ADB's vision of a region free of poverty. The policy aims to secure adequate energy supplies while cutting levels of greenhouse gas emissions and help Developing Member Countries (DMCs) provide reliable, adequate, and affordable energy. It has three pillars: (a) promoting energy efficiency and renewable energy; (b) maximizing access to energy for all; and (c) promoting energy sector reform, capacity building, and governance. According to ADB, 700 million people in Asia have no access to modern electricity. Starting in 2013, the Bank will increase its target of clean energy investments to \$2 billion a year to accelerate low-carbon growth and reduce greenhouse gas emissions in the Asia and Pacific region.

Key principles in ADB's new Energy Policy –

- ❖ Support for energy efficiency improvements and renewable energy projects will be prioritized and broadened to reach as many sectors in as many ways as possible.
- ❖ Efforts to provide energy services for inclusive economic growth will be wide ranging, and programs to extend energy services to communities and groups will be accelerated.
- ❖ Effective regional cooperation in the energy sector will be promoted to strengthen energy security.
- ❖ Energy sector reforms, capacity building, and governance will be emphasized to increase investment and efficient use of resources. Private sector participation (and public-private partnerships) will be encouraged to enhance energy sector efficiency through competition, and to increase investable resources, but not as the end objective of reforms.
- ❖ All energy sector investments will comply with ADB safeguards policies regarding the environment, involuntary resettlement, and indigenous peoples to ensure that affected persons are protected.
- ❖ ADB will not be involved in financing nuclear power generation.
- ❖ Since coal and oil are internationally traded commodities with established commercial interests, ADB will not finance coal mine development except for captive use by thermal power plants, and oil field development except for marginal and already proven oil fields.
- ❖ As a regional knowledge bank, ADB will promote superior knowledge management and dissemination of good practices and lessons learned. ADB will also support advocacy and assistance to DMCs in technology transfer and deployment.
- ❖ ADB will collaborate with a range of development partners, including international development agencies, multilateral and bilateral institutions, the private sector, nongovernment organizations, community-based organizations, and philanthropic foundations.
- ❖ Specific situations will be identified in each DMC for planning and designing interventions, especially for the Pacific DMCs, given their limited energy resources and unique vulnerability.
- ❖ Policy implementation will be monitored by a results framework.

On 'Promoting Energy Sector Reforms, Capacity Building and Governance '(pp 8-9): "ADB will align its energy operations on reforms, capacity building, and governance by continuing to help DMCs restructure and reform their energy sectors through technical assistance and project support for regulating natural monopolies and introducing competition where feasible.... Private sector participation will be encouraged, particularly public-private partnerships. However, privatization will not be the target or the end objective of ADB's sector reform activities; instead, it will be one of the options available to enhance energy sector efficiency and increase investable resources. Sector reforms, including privatization or corporatization, will be designed and sequenced carefully on a country-by-

country basis in a transparent manner.

In addition to supporting reforms and restructuring, ADB will assist DMCs that are establishing competitive electricity markets and adopting market pricing mechanisms for the benefit of consumers. These markets need a certain level of sector maturity before they can be successfully launched. ADB will provide support for research, legislation, technology development, and regulatory frameworks.

ADB will encourage DMCs to adopt tariff structures that promote energy conservation.... Cross-subsidies from one class of consumers to another should be minimized; lifeline rates to consumers with very low monthly consumption could be an acceptable compromise. Subsidies, if any, should be made transparent, quantifiable, targeted, and capable of being phased out in the medium term by designing appropriate social safety nets. ADB will similarly assist in the establishment of independent regulatory mechanisms to address transparency in the management of the heating sector, including tariff setting and targeted or direct subsidies...

ADB will provide technical assistance to regulators as well as utilities to bring into operation the regulatory authority, tariff and subsidy analysis, licensing procedures, demand analysis, and all other activities needed for regulators to perform effectively...

ADB will be an advocate for and assist DMCs in technology transfer in energy efficiency, renewable energy, and cleaner technologies through demonstration projects for deployment.

ADB will help DMCs prepare and implement energy projects, emphasizing accountability, participation, predictability, and transparency—the basic elements of good governance. ADB endorsed the Extractive Industry Transparency Initiative in 2008 and became a supporting organization to enhance revenue transparency in ADB-assisted energy extractive projects. ADB will promote greater transparency in procurement and improvements in corporate and financial management...

If requested by a DMC, ADB will support the privatization of public enterprises and assist with the transparent transition of such enterprises from government to private ownership."

Earlier energy policies: Prior to 2009, ADB's energy sector operations were guided by its first energy policy

in 1891, second energy policy in 1995 and a 2000 review.

The first energy policy in 1981 sought to overcome the crisis caused by the oil price shocks of the 1970s. It emphasized (i) developing energy infrastructure and indigenous energy sources, (ii) promoting efficiency, and (iii) creating markets conducive to foreign investment in DMCs.

The 1995 Energy Policy noted that power sectors were becoming unmanageable and inefficient as more investments poured into the sector, largely attributed to the role of governments as both policy maker and 'monopoly owner.' It sought the establishment of independent regulators to adjust electricity tariffs in a transparent manner. It promoted full cost recovery and removal of subsidies and cross-subsidies. The policy also promoted corporatization and commercialization of government-owned utilities as a prelude to their privatization, and the entry of the private sector through build-own-operate/build-own-operate-transfer (BOO/BOOT) options. Also recommended was the development of interregional trading in energy. During this period, ADB started to finance power sector restructuring loans to Bangladesh (1996, \$134M), Philippines (1998, \$300M) and Indonesia (1999, \$400M), among others.

The 2000 energy policy review further recommended the development of independently regulated and privatized energy markets that was expected to lead to more efficient uses of energy, lower costs, and more private investments. In addition to sector restructuring and private sector participation, it promoted specific actions, e.g., removal of subsidies, efficiency improvements, and energy conservation. The review noted a very large increase in private sector lending to the power sector, with a corresponding drop in the funding of generation projects in the public sector. ADB continued to finance transmission and distribution projects and power sector development. Regional cooperation in energy transmission and sales have commenced but only with limited success. ADB continued to finance power sector reforms through loans to Gujarat, India (2000, \$350M), Madhya Pradesh, India (2001, \$350M), Pakistan (2000, \$350M) and Sri Lanka (2002, \$130M), among others.

14. Key Union Issues in Madhya Pradesh (India) Power Sector

In 2003, the India Electricity Act was enacted into law and became the cornerstone for power sector reforms in India. The 2003 Act provides for unbundling of state electricity boards (SEBs), open access and competition, full metering for all consumer classes, multiyear tariff determinations, tariffs set within 20% of deemed cost of supply, and 100% rural electrification. Power sector reforms in Madya Pradesh (MP) were initiated through the Madhya Pradesh Vidyut Sudhar Vidheyak, 2000 (the Reform Act) brought into force in July 2001. The Reform Act was the most advanced in India at the time and provided for, among others: Restructuring of the Madya Pradesh State Electricity Board (MPSEB); Mandatory metering of all consumers; and Corporatization and commercialization of the generation, transmission and distribution functions of MPSEB. After almost ten years of reforms, key issues raised by trade unions on participation and consultation, and compliance with internationally-recognized core labor standards (CLS) and related labor laws, as well as on the unbundling policy, have yet to be resolved.

ADB's assistance to MP power sector: In January 1997, the Asian Development Bank (ADB) provided a technical assistance (TA) to the Government of MP (GOMP) to facilitate introduction of reforms in the power sector, including necessary reforms in legislation and associated regulations. In December 2001, ADB approved the US\$350M Madhya Pradesh Power Sector Development Program (SDP) to assist in restructuring the power sector; Madhya Pradesh was the second state in India to receive such an assistance. The SDP includes the approval and implementation of a Financial Restructuring Plan (FRP) that includes employee-related financial issues.

In June 2002, ADB approved a US\$400,000 TA (Development of a Transfer Scheme for Madhya Pradesh Power Sector Reform) which aimed to develop an overall strategy for personnel transfer and various options for MPSEB employees. A draft transfer scheme would be developed, including an overall strategy for personnel transfer and various options for MPSEB employees, new service contracts, a compensation package, a post-retirement plan, and a voluntary separation plan. Two TAs were also provided: Strengthening Consumer and Stakeholder Communication for Madhya Pradesh Power Sector Reform and Legal Support for Madhya Pradesh Power Sector Reform.

In March 2007, ADB approved a US\$620M loan (Madhya Pradesh Power Sector Investment Program) that aimed to: (i) meet part of the transmission utility capital requirements and meet the projected peak demand of more than 10,192 MW in 2012; and (ii) improve operating efficiencies, with focus on the reduction of distribution losses in distribution companies. The new ADB loan is a 'multitranche finance facility' (MFF) – i.e., in five tranches over 8

years – and provides for the undertaking of a 'full consultation and participation process' (C & P), including (i) stakeholder analysis, (ii) provision and disclosure of documents to the stakeholders, (iii) announcement of the date for consultation on specific issues, and (iv) adequate monitoring of the C & P process.

Moreover, the 2007 financing framework agreement (FFA) between ADB and Government of India (GOI) includes a so-called "full set of warranties and representations of ADB operating policies and procedures on all crosscutting themes, covering safeguards, governance, anticorruption, financial management, procurement, and disbursement and subproject selection criteria." ADB staff will inform GOI, and report to (ADB) Management, and the (ADB) Board on the status of individual loans, including the performance on warranties and representations. Failure to comply with any of these automatically will hold back additional financing under the MFF."

'Unbundling' of MPSEB: In June 2005, MPSEB was unbundled into a generation company, transmission company, and three distribution companies (discoms); MPSEB, however, remains the principal employer of the 58,000 employees. Operation and Maintenance contracts were entered into between MPSEB and the new successor companies, which henceforth makes them agents of MPSEB. In 2006, a power trading company (TradeCo) was also established.

PSI research mission: A five-person delegation from Public Services International (PSI) visited Jabalpur, Madhya Pradesh in September 2008 produce a report on trade union issues in ADB-funded power

sector reforms. PSI met with the MP State Electricity Employees & Engineers Coordination Committee (MPSEECC), an umbrella body of 17 MPSEB unions/workers bodies (e.g., Diploma Engineers Association, Engineers Association) to discuss urgent issues grappling the power sector. The unions took strong exception to a 2008 Project Completion Report of ADB which alleges that are no unresolved issues related to employees; in the contrary, no employees issues had been resolved to date. Moreover, the unions were firm that no consultations took place with the unions at any point; there was no disclosure of information about the ADB-assisted power reform project, and letters from unions were not even responded. PSI submitted an initial report to ADB (December 2008) and a fuller report in August 2009.

Compliance with CLS and related labor laws: Some of the major issues include: Right of collective bargaining not respected - Electricity out of purview of Madya Pradesh Industrial Relations Act (MPIR); Industrial Dispute Act provisions are not implemented; Harassment of trade union activists. Bonded labor - Since 2006, the right to opt for Voluntary Retirement, under fundamental rules, has been banned, making MPSEB largest organization of bonded labour. [This ban had recently been lifted.]

No recruitment for about 15 years - More pressure on existing work force; Increasing average age; Increasing dependence on outsourcing; Threat of 'pocket privatization'; Estimated total additional manpower requirement in next 10 years at about 10 lack a big challenge for future. Degradation of Hierarchy - Leading to increased political intervention; Immature decisions; Lack of ability to coordinate. Inhuman conditions - Excessive workloads; No norms for work assignment; Continued status of fear and uncertainty. Health and Safety have been the most neglected issue - Doctors are on daily wages and life-saving drugs are not available; No proper care in case of accidents; Compassionate appointments are banned.

Unresolved financial issues: The Financial Restructuring Plan (FRP) under the 2001 ADB loan is still unapproved. As of now, MPSEB technically has no asset, no source of income, and financial liabilities to employees are part of MPSEB. These liabilities, however, do not appear in the MPSEB balance sheet, but only in footnotes. It is unclear, however, how

unresolved employees' financial issues are being addressed in the FRP, and how ADB is monitoring its approval and implementation. Of employees' financial issues, legally binding periodic wage revision is one of the biggest casualty, although this issue has been settled very recently. Terminal benefits including pension are also under severe risk.

A number of facilities were withdrawn, e.g. Earned Leave (EL) encashment, Leave Travel Concession (LTC), House Rent Allowance (HRA), etc, with no relief till date.

Unresolved policy issues: The MPSEB unions have called for a thorough review of the unbundling philosophy of power sector reforms, especially in light of a July 2009 decision of the Appellate tribunal on Electricity which opined that unbundling SEBs is not mandatory under the provisions of Electricity Act 2003. Noting that unbundling need not necessarily be the solution, the unions have raised the following problems that continue to plague the power sector – Unfunded generation sector; Over-reliance on expensive private power; Increased expenditures under the unbundled set-up; More bureaucracy and inefficiencies; Tax apprehensions; Improvement in Transmission & Distribution (T&D) due to continued state subsidy thru ADB loans; High tariffs cause conflicts, public ire & workers bear the brunt. As the workers have lamented: Who will beat the brunt? If high electricity prices as a result of the reforms are passed on to consumers, who will face consumer's annoyance?

Key recommendations: (a) Re- Unification – Start with unification of the three Discoms & Tradeco, and ultimately a united entity, as electricity has to be a united service; (b) Recruitment – Start at all levels without delay; (c) Employee Participation – Should be mandatory; (d) Retirement Benefits – Must be guaranteed by GOMP (e) Proper Employee Compensation; (f) No Privatization & a Level Playing Field.

PSI continues to engage the ADB in addressing these unresolved issues in the ADB-assisted Madya Pradesh power sector reforms, urging the Bank to ensure implementation of mandatory provisions on compliance with CLS and related labor laws, as well as their own policies on information disclosure and consultation and participation of unions.

15. Critique of ADB's Energy Policy: India Context

The Asian Development Bank (ADB) has been providing assistance to its developing member countries (DMCs) in the energy sector for the last 40 years, focusing on electricity sector expansion programs; interventions in the oil and gas sectors; institutional capacity building; and power sector reforms, governance, and efficiency improvements. ADB introduced its first Energy Policy in 1981 aimed at developing infrastructure, promoting efficiency and creating markets for foreign investment. ADB's second Energy Policy in 1995 provided for reduction in subsidies, establishment of a regulatory mechanism, corporatization of government-owned utilities and private sector participation. The new ADB Energy Policy (2009) has three pillars – (a) promoting energy efficiency and renewable energy; (b) maximizing access to energy for all; (c) promoting energy sector reforms, capacity-building and governance. The policy is also aligned with ADB's Strategy 2020 which will scale up the Bank's support to the private sector to 50% of its total operations by 2020. Experience around the globe has shown that power sector privatization or restructuring results in higher power rates, job losses and inferior working conditions.

With aid from World Bank, Orissa was the first state to implement power reforms in India; a Reform Act was enacted in 1995. The India Electricity Act of 2003 provides strong impetus to reforms, and replaced all the earlier Acts (1910, 1948, 1998). Independent power producers (IPPs) were allowed entry. Reforms were expected to result in – reliable and uninterrupted power supply to all; low tariffs; efficient power supply; increase in investments; reduction of transmission and Distribution (T&D) loss. Expectations have not been achieved.

Private is not necessarily more efficient: In all three ADB energy policies, the basic myth and common underlying presumption is in order to increase efficiency, private sector participation needs to be increased. The 2009 policy (para 41) says: "Privatization will not be target or end objective of ADB's sector reform activities. Instead it will be one of the options available... Sector reforms including privatization or corporatization, will be designed & sequenced carefully."

The policy rests on the pre-conceived notion that to bring in efficiency, privatization is needed, yet there is no evidence that ownership has a necessary bearing on efficiency. Success in reforms in Ontario (Canada) is cited but not the efficient performance of the public Electricite du France which is ten times the size of Ontario. The policy limits government's role to governance, and let business take the lead, and yet the global economic recession has debunked this myth.

Unbundling will not address access and sustainability: The principles of economics and recent experience both conclusively show that

integrated entities are more capable to meet challenges of "Access to All" and "Sustainable Development." Mergers and acquisitions have shown that the bigger you are, the safer you are. ADB's Energy Policy, however, insists on continuing with the prevailing model of reform which compels unbundling.

Meager funding for renewable energy, indigenous research: Para 26 states: "ADB's target to increase its clean energy investments to \$1 Bn a year starting from 2008 was achieved, establishing platform to increase target to \$2 Bn a year from 2013." The proposed funding is meager and shows lack of will; it is only sufficient to fund a solar project of roughly 500MW, which in turn is equivalent to a 100MW thermal station. Para 33 talks about specific technologies; this is fallacious as some of them may not be relevant for many DMCs. There is nothing specific about funding development of indigenous research, and without new technological innovation and research, not much will happen. Imported technology have profit margins of 200-300%. Any increased funding for clean energy without support for indigenous research will only benefit the big players in renewable technology.

Maximum access to energy for all: The policy's intention on whether 'all' or 'maximum' is not clear. Commercialization and 'access to all' are contradictory terms; either treat electricity as a commodity for profit or as a service or social obligation. Consumer interests, poverty reduction, access to all – the focus should be on who is providing cheap power? The Chattisgarh State Electricity Board which is said to be corrupt sells power at Rs 1.40/kw,

while private companies sell at Rs 3.60/kw; tariff rate of the private is 250% more than the public.

What should be the policy – 'capacity to pay' or 'cost of supply'? How can a school or hospital compete with a mall or shopping complex? Cost to supply a farmer is more than the cost to supply an industrialist. Industries are exempted in power cuts, the first to be cut off is agriculture. A high level of commercial consumers are given more supply. ADB should come out more loud and clear about its policy.

The real problem is lack of generation: Even after pursuing a policy of "LPG" – liberalization, privatization, globalization – for 20 years, the share of private players in India, as of September 2010, is only 13.5%, most of which is merchant power that sells at unaffordable prices. Public generation is regulated at 15.5% profit, while merchant plants are allowed to profit excessively, sometimes up to 300%. Ironically, ADB was spending just 4% on generation in 1990-95; this has been further reduced to less than 2%.

Regional cooperation will not ensure energy security: Para 29 states that "regional cooperation can play a vital role in ensuring energy security." In the electricity sector at least, this is not true both technically and economically, except for big hydro projects. Transferring energy to a thousand miles is not economically feasible. There is very limited experience in the region on electricity cross-border trading. Regional cooperation will not ensure energy security as energy planning and development is driven by national concerns. Ensuring energy security and relying on your neighbor is contradictory, especially in South Asia context.

Policy is ambiguous on its (non) support for coal. Para 39 says that ADB will not support coal projects which intend to sell coal in open market, yet it ironically commits to support coal mining for captive power plants, which in turn will sell electricity at higher prices in open market.

Promoting energy sector reforms have failed: The document admits failure, though in refined manner – evaluating ADB energy operations, para 31 admit "Progress is sometimes slow and punctured by setbacks;" elaborating World Bank experience, para 37 states. "The World Bank analysis found that results have been mixed." In India, the failures have been staggering – Enron in Maharashtra, BSES in Mumbai,

Reliance in Delhi; AES management in Orissa ran away in a chartered plane! Yet, ADB has refused to learn lessons and correct the basic flaws in policy. Things have failed but cannot be acknowledged as this will send 'wrong' signals. Reforms have become a question of faith, and not of logic. ADB refuses to listen to the logic flowing in its own document.

ADB's own contribution: The thrust on policy reforms states that the sector should be distant from government as government does not have resources. [Energy sector investments is so high, so goes ADB's tale, but how ADB manipulates figures is another story.] ADB's own contribution in development of the power sector, however, is meager – it is sufficient to fund a mere 1500MW generation project, or less than 0.5% of what is needed for the Indian power sector. How then can ADB claim the moral authority to control and direct the energy policies of India and other DMCs?

Conclusions and recommendations –

- ❖ ADB must undertake the actual impact assessment of power reforms; trade unions should be a compulsory party in such assessments.
- ❖ ADB should shelve the policy of unbundling of integrated utilities; this has caused more problems than solutions, as the document itself admits: "Restructuring and competition have shown mixed results internationally. Transformation from a government-run organization to a completely private sector operation is a difficult transition and not always the most efficient path." (para 81)
- ❖ ADB must accept the classical economic theory that the market mechanism only helps when supply is more than demand. In Asia, the situation is just the reverse. Government control is a must. Public-private partnership (PPP) is in fact privatization of profits and nationalization of losses.
- ❖ ADB must distance itself from the ownership issue. Efficiency is not a fiefdom of the private sector.
- ❖ ADB should earmark at least 10% of its profit for research on affordable renewable energy technologies without any copyright.

16. PSI Energy Unions Harmed by ADB Projects

The Asian Development Bank (ADB) provides financing to power sector reforms in the Asia-Pacific region through its loan projects. These reforms include restructuring and "unbundling" the power sector to introduce competition, the creation of so-called 'successor entities', the establishment or strengthening of regulatory bodies, the elimination of cross-subsidies, including to poor consumers and farmers, and the promotion of electricity trading. PSI energy unions are being harmed and threatened and their rights to organize and form unions seriously undermined as a result of the ADB-assisted reforms. Cases from the Philippines, Indonesia, Bangladesh and Pakistan are highlighted here.

PHILIPPINES: In 1998, ADB and the Japan aid agency (JBIC) provided a total \$600M program loan to restructure the power industry and privatize state-owned Napocor. The ADB loan also financed the 'adjustment costs' that include absorption of Napocor's debt by the National Government and separation payments to employees. In 2006, ADB approved another loan (US\$450-million Power Sector Development Program) to finance Napocor's financial obligations and further support its privatization; JBIC co-financed another US\$300-million. An enabling law (EPIRA) was passed in 2001 which unbundled Napocor, created a new agency to sell its power plants, and spun-off a new transmission company (Transco).

EPIRA also provided the legal basis for the termination of all 8,530 Napocor employees in 2003. Of those terminated, only 3,800 were rehired by Napocor, and 3,400 rehired by Transco, at lower position grade levels and 25-30% reduction of salaries and benefits. Some 1,300 employees were no longer rehired; contractualization and service agreements have increased. Unions' rights to representation and collective bargaining have been undermined, with no full recognition of unions. Union dues have not been remitted since 2005. The unions were never consulted in any of the reorganization plans nor in the sale of power plants; buyers are not obligated to retain the workforce. In 2006, the Philippine's Supreme Court ruled that the 2003 termination of Napocor employees was void, and ordered in 2008 the immediate reinstatement of employees and payment of backwages; the high court's ruling has yet to be enforced.

Ten years after EPIRA, power rates have remained among the highest in Asia. Napocor's share in power generation is down to 10% of the national grid, and only a few private companies dominate the sector which now have integrated generation and

distribution interests – what had been unbundled in the public sector was re-bundled in the private sector!. Transco was privatized to a joint venture of domestic and Chinese investors. Napocor's role has been reduced to missionary

electrification, and the gates now opened for electricity trading. In October 2007, PSI affiliate (NECU) wrote the ADB President to complain about violations of their trade union rights, but their concerns have fallen on deaf ears.

INDONESIA: With support from ADB and other International Financial Institutions (IFIs) like World Bank, the government initiated the privatization of the power industry by allowing the entry of IPPs, or independent power producers. The state-owned electricity utility (PLN) was corporatized in 1994, and two subsidiaries (PJB, IndoPower) were created. The 1997 Asian financial crisis made PLN bankrupt due to collapse of the rupiah and highly disadvantageous 'take-or-pay' contracts with IPPs. In 1999, ADB approved a US\$400-million power sector restructuring program loan; JBIC provided US\$400 million co-financing. An electricity law unbundling PLN was passed in 2002, which energy unions and NGOs challenged in Indonesia's Constitutional Court; the Court cancelled the law in 2004, citing it violates the 1945 Indonesian Constitution.

A new electricity law was enacted in 2009, and again challenged by the unions. The unions fear that, although not explicitly stated, the new law may lead to unbundling of PLN. The law also provides for regionalization, different tariff rates for different consumers; regulation of electricity per province and district; electricity trading with other countries, as well as gives priority to private players in power generation. The government now has a fast-track power generation program, with new Chinese players coming in. The unions are organizing trainings on ADB/IFI power policies and projects and linking the

ADB campaign to increased public investments in Quality Electricity Services.

BANGLADESH: ADB plays a vital role in the development of the energy sector in Bangladesh, with loans that include US\$268-million Power Sector Development Program in 2003. Due to various pressures, the power sector was forced to disintegrate. Two new entities were unbundled from the Bangladesh Power Development Board (BPDB) – Dhaka Electric Supply Authority (DESA) in 1991, and Power Grid Company of Bangladesh (PGCB) in 1996. More unbundling has since taken place, and a similar situation is prevailing in other energy subsectors.

The electricity union had been opposed to the unbundling from the beginning, but their resistance failed. In 1996, the union signed a three-point agreement with Government and BPDB – (a) No one will lose jobs due to the reforms; (b) No financial benefits will be reduced in the new entities; and (c) Union will be consulted during further reforms.

Unfunded pension obligations and gratuities in PGCB amounted to US\$8 million, affecting 1,270 employees. After prolonged and difficult negotiations, PSI union PGCBSKU succeeded in reaching agreement for the absorption of all employees and organizing the union in 2003. From the onset, the union faced hostile attitude from management; other challenges include – regularize casual/daily basis workers; rationalize manpower set-up; implement ILO standards properly; and raise members' awareness and efficiency through various education and capacity-building programs.

The unions of the new entities are now forming a federation to boost the trade union movement in electricity sector. They are pushing that the impacts of power reforms be evaluated – e.g., Lack of coordination among the new entities; Increase of overhead expenditure in every entity; Increase of corruption; Creating moral and social difference among the workers and executives resulting in an unfriendly working environment; Financial indiscipline; Weak trade union / No trade union; No job security; Workers rights denied; Workers compelled to perform jobs they are not appointed for; Number of workers decreasing; Existing workers over-burdened; Demoralized workers. More generally, people are not getting adequate and quality electricity. Tariff is increasing, and electricity

getting out of reach of poor people. BPDB is losing financially, and generation is not increasing to meet the demand, increasing unemployment and social unrest. An emerging issue is ADB's recent US\$100 million loan for a cross-border electricity project between India and Bangladesh to increase power trading. For self-dependency, self-development and dignity, unions believe that Bangladesh should concentrate on its own infrastructure development in the sector.

PAKISTAN: Over the past 15 years, Pakistan has followed a strategy of deregulation, privatization and transformation of its public utilities. In 2000, ADB's Energy Sector Restructuring Program Loan (US\$350M) financed the privatization of the Karachi Electric Supply Corporation (KESC), and restructuring of the Water and Power Development Authority (WAPDA). The reforms will address overstaffing and redundancy issues; ADB has estimated that an initial 12,000 WAPDA and KESC workers would be retrenched, and gratuity packages to cost US\$98 million. The ADB loan includes an employees' retrenchment plan and skills development program, estimated at US\$12.5 million. PSI union (WAPDA Hydro Electric Central Labour Union) is at the forefront in resisting the privatization of electricity services.

NEPAL: The public Nepal Electricity Authority (NEA) is responsible for electricity generation, transmission and distribution throughout Nepal. Only 5% of rural population has access to electricity; a policy on community participation in rural electrification is in place. In the 1990s, the power sector was opened up to domestic and foreign private sector as IPPs. Internal unbundling within NEA started in 2003; five 'business groups' were formed to operate along commercial principles. Five years ago, NEA floated a 'Power Bond' to raise funds from the domestic capital market for hydropower projects. Cross-border transmission projects between Nepal and India are already in progress. There is need for unions to be watchdogs to ensure proper implementation of projects. The electricity union is the collective bargaining agent; it is also running a coop bank and own small power plants.

17. ADB's Power Sector Operations in India

India is a founding member of the Asian Development Bank (ADB) and is a top shareholder as well as borrower. ADB has been lending to India since 1986 and has now approved 159 loans that total roughly \$24 billion. The Bank's support for the power sector focuses on reforms to make the sector financially viable, operationally efficient and conducive to private sector investments. Power reforms are now instituted in Electricity Act, 2003 (EA 2003) and National Electricity Policy, 2005. More recently, 'investment' loans from ADB have focused on transmission and distribution, private sector operations are taking a larger role in financing generation. ADB has continued to support power restructuring by 'deepening' its efforts in 'reform' states like Gujarat, Assam, Madhya Pradesh, Uttaranchal, Bihar, Himachal, Assam and Chattisgarh. ADB is also supporting nationwide reforms through loans to central-level power agencies for onlending only to states that undertake or will implement power sector reforms.

Evaluation of ADB's energy sector lending in India: In 2007, ADB's evaluation concluded that it has been successful in targeting state electricity sectors that were "thoroughly committed to change." The Bank said that electricity reforms have increased competitiveness in the sector and led to a "demonstration effect" among the states' electricity sectors and their regulators, as well as "added momentum" to the central government's impetus for reform. ADB's support towards restructuring state electricity boards (SEBs) in Assam, Gujarat and Madhya Pradesh which resulted in unbundling into new generation, transmission and distribution corporate entities with "clean" balance sheets; all three states cited ADB's assistance as catalytic to implement reforms.

Pre-EA 2003: Prior to the passage of EA 2003, ADB supported state-level power sector reforms and 'stand-alone' investments which facilitated the entry of private sector companies in generation facilities.

Tamil Nadu: ADB's first loan to India was the \$150 million North Madras Thermal Power Plant in 1986. Through the loan, initial steps were taken to rationalize the tariff structure of the Tamil Nadu Electricity Board (TNEB) and reduce the "heavy cross-subsidization" of agricultural and residential consumption.

Gujarat: In 1996, ADB provided a Technical Assistance (TA) for a Reorganization Plan for Gujarat Electricity Board. In 2000, ADB approved Gujarat Power Sector Development Program, a \$350 million "policy" and project (infrastructure) loan to promote sweeping power reforms in Gujarat.

Madhya Pradesh: In 2001, ADB approved the \$350 million Madhya Pradesh Power Sector Development

Program loan to assist the restructuring of Madhya Pradesh State Electricity Board (MPSEB). Other TAs include Legal Support for Madhya Pradesh Power Sector Reform, Development of (Employee) Transfer Scheme for Madhya Pradesh Power Sector Reform.

Assam: In 2002-03, ADB approved two TAs to help restructure Assam State Electricity Board (ASEB) and boost the capacity of the regulatory commission to promote power sector reforms. In 2003, ADB approved \$250 million Assam Power Sector Development Program loan to further assist power reforms; ASEB has since unbundled into new companies.

ADB lending post-2003: When EA 2003 was enacted into law, ADB's focus shifted toward strengthening system expansion and promoting commercial operations through 'sector' and 'investment' loans.

Gujarat: In 2004-2008, ADB approved three loans to private sector companies to construct and operate new power plants: (a) \$54 million for Torrent Power Generation Ltd, later cancelled; (b) \$105 million to Gujarat Paguthan Energy Corporation Private Limited (GPEC) for wind projects; (c) \$450 million to Tata Power's Mundra Ultra Mega Power Project. In 2011, ADB approved \$100 million for Gujarat Solar Power Transmission Project to develop a public-private partnership (PPP) model.

Uttaranchal: In 2006, ADB approved up to \$300 million 'multitranche financing facility' (MFF) loan for Uttaranchal Power Sector Investment Program to raise output and efficiency and ensure inclusive power services for all type of consumers in Uttaranchal.

Madhya Pradesh: In 2007, ADB approved \$620 million MFF loan for Madhya Pradesh Power Sector II

Investment Program to build new transmission lines and continue assisting reforms by financing other costs of adjustments, e.g., financial restructuring plan, improving legal and regulatory compliance. In 2011, ADB approved \$400 million MFF loan for Madhya Pradesh Energy Efficiency Improvement Investment Program to install high voltage distribution systems; the executing agencies are the new distribution companies (discoms).

Himachal Pradesh: In 2008, ADB approved \$800 million MFF loan for Himachal Clean Power Development to build hydropower generation facilities. In 2011, ADB approved \$350 million loan for Himachal Pradesh Clean Energy Transmission to increase transmission system capacity internally and for export to the national grid; a capacity development component will assist the state to achieve its power sector reform objectives. Executing agency is Himachal Pradesh Power Transmission Company Ltd (HPPTCL), created in 2009 through unbundling Himachal Pradesh State Electricity Board (HPSEB).

Assam: In 2009, ADB approved up to \$200 million MFF loan for Assam Power Sector Enhancement Investment Program to partially fund Assam's \$764 million power sector investment plan to 2014.

Bihar: In 2010, ADB approved \$132 million loan for Bihar Power Sector Improvement Program to develop hydropower projects and expand transmission and distribution lines; the loan is premised on "fundamental restructuring" of distribution operations in Bihar.

ADB loans to central-level power agencies:

Power Finance Corporation (PFC): In 1992, ADB provided \$250 million loan for Power Sector Efficiency Project which recommended that future lending to SEBs through PFC should be extended "only if borrowing states have embarked on a reform agenda." A \$150 million loan in 2002 (State Power Reform Project) was intended for onlending to SEBs "that make firm commitment to institute reforms."

Power Grid Corporation of India: In 2000, ADB provided \$250 million loan for Power Grid Transmission II to build transmission projects that would "leverage sector reform at state level" and "switch power supply from delinquent or non-reforming states to states that have good payment

records and have implemented or will implement sector reform." It was designed to "differentiate between states undertaking sector reform from those that are not." Moreover, "transmission services to delinquent states will be suspended but states that have implemented power sector reform programs will receive preference for investment." In 2004, ADB approved a \$400 million loan for Power Grid Transmission III. In 2011, a \$500 million loan for National Grid Improvement Project aims to strengthen transmission connection between Chhattisgarh and Haryana to "support bulk power supply from private generation companies of 14 independent power producers (IPPs)."

National Thermal Power Corporation Ltd: In 2006, ADB approved \$300 million for NTPC Capacity Expansion Financing Facility I to build two thermal power plants in Chhattisgarh and Bihar.

Financing the private sector: ADB approved loans and equity investments to several private companies: Tata Power, India's largest private power utility (total \$891 million) for Tala-Delhi transmission project, wind power projects in Maharashtra and 4,000 MW coal-fired Mundra Ultra Mega Power Project in Gujarat; Calcutta Electricity Supply Co (CESC, \$40 million) to "support expansion of private sector in an area traditionally dominated by public sector;" Balagarh Power Co. Ltd (\$180 million) to build, own and operate power plant for 30 years and sell the power to CESC; Torrent Power Generation Ltd (\$75 million) to construct and operate 1,095-MW gas-fired combined-cycle power plant in Gujarat (later cancelled); GPEC (\$105 million) to construct 132MW wind power projects in Gujarat; Kyushu Electric Power (\$40 million equity) in joint venture company (JVC) to develop and operate 500MW of renewable energy projects, with ADB having 25% stake, NTPC 50%, and Kyushu Electric 25% – as "honest broker," ADB provides "direct comfort" to both local and foreign investors through its equity participation in the JVC; Dahanu Solar Power Private Ltd (\$48 million) to construct and operate 40MW solar power plant in Rajasthan.

18. Harmful Impacts of Uttarakhand Power Project in India

The Asian Development Bank's (ADB) energy policy promotes the corporatization and commercialization of government-owned utilities to make them attractive for privatization and the entry of private sector participation. With the enactment of Electricity Act 2003 (EA 2003), ADB has focused its lending operations on "reform states" such as Uttarakhand. In March 2006, ADB approved a \$300 million multitranche financing facility (MFF) loan for Uttarakhand Power Sector Investment Program to raise output and efficiency of the Uttarakhand power sector and ensure inclusive power services for all type of consumers. In July-December 2010, the Sarva Shikshayan Sansthan (SSS), an NGO based in Lucknow (Uttar Pradesh), carried out a research among trade unions, employees, public officials, media and consumers in Uttarakhand to determine the impacts of the Uttarakhand power sector reform program; the research was facilitated by the Vidhut Karmchari Morcha Sangh (VKMS) union.

Power sector reforms: In June 2005, the Uttarakhand State Electricity Board (SEB) was unbundled into three state-owned utility companies: Uttarakhand Power Corporation Limited (UPCL); Power Transmission Corporation of Uttarakhand Limited (PTCUL); and Uttarakhand Jal Vidyut Nigam Limited (UJVNL). The Uttarakhand SEB remains the principal employer of the 7,000 employees. Operation and Maintenance contracts were entered into between UPSEB and Companies, the Companies became agents. Uttaranchal was part of Uttar Pradesh before it became a separate state. The process of implementing EA 2003 triggered much agitation and mistrust among SEB trade unions and workers and the whole power sector.

Lack of transparency, consultation and participation: Initial project documents such as the Summary Poverty Reduction and Social Strategy (SPRSS) glossed over core labor standards (CLS) and other workers issues, and excluded Uttarakhand SEB unions and Uttarakhand Electricity Department (UED) workers as a distinct set of stakeholders. The workers were not provided with relevant project documents and claimed they only came to know about the reforms when orders directly affecting them had been issued; even service conditions were not disclosed or discussed with them. A majority of the larger public had no proper knowledge about the project, unbundling or the Electricity Act. These are all contrary to ADB's existing policies on public communications, consultation and participation.

Non-compliance with CLS and related labor laws: ADB loan documents repeatedly mention that UED (earlier Uttarakhand SEB) shall ensure that contracts follow all applicable labor laws to the effect that contractors: (i) do not use children as labor; and (ii) follow legally mandated provisions of labor,

including equal pay for equal work, health, safety, sanitation, welfare and working conditions. Such contracts shall also include clauses for termination of the ADB project in case of any breach of these provisions by contractors. ADB project documents, however, do not provide any information on the structure and method to address labor issues before, during or post project implementation.

Non-recognition of trade unions: The UED has 3 registered unions and four associations but they do not get due recognition in Uttarakhand. Electricity has been transferred out of purview of Uttarakhand Industrial Relations Act (the State Act) yet Industrial Dispute Act (or Central Act) provisions are also not implemented. IR Act 1960 provides that representative and recognized unions have power to enter into collective bargaining. Over the past three years, no Act had been followed; no union had legal power to enter into negotiations with the companies. There is no existing tripartite agreement in Uttarakhand SEB, unlike in Gujarat and Andhra Pradesh states.

Harassment of workers and unions: Harassment continues till date. Uttarakhand SEB unions say workers are now living in an atmosphere of fear. They get harassed by 'transfer charge sheets' where workers get assigned to another place as an indirect form of punishment. Simple transfer is already a punishment, but when a whole family gets displaced – children need to go to another school, spouses need to relocate or change jobs, etc – this is tantamount to economic punishment. If a worker gets a job suspension and this goes to media, this is a source of big social stigma.

No grievance handling mechanism. Post unbundling, as the existence of all the trade unions continues to be jeopardized, the workers do not have an adept mechanism to raise their issues or make their

problems heard. Issues on transfers, grade promotion, delayed promotion, compensation etc remain unaddressed for years. Many employee disputes are still pending in the courts; simply filing a case is cumbersome, and appeals are very costly. Employees are also afraid to go to the court for fear of punishment for going against management.

No workers' representation: Earlier, proportional representation was used at the Joint Management Council (JMC) which meets at regular intervals; once a decision is taken, these should be respected by all. After unbundling, the JMC and other formal and informal systems are no longer in place.

Excessive workloads, mounting pressure: Under the state power reforms, no recruitment should take place and workforce strength be reduced. The UED also reduced the retirement age from 60 to 58 years. All this resulted in adverse impacts on employees – increasing pressure and excessive workloads on the existing workforce; increasing average age of workers; understaffing; lower quality of electricity service; increasing dependence on outsourcing; and looming threat of 'pocket privatization'. The reduced workforce has also resulted in shrinking trade unions and thus the lack of formal representation of workers' issues. Private players are entering into Uttarakhand's power sector and recruiting trained and technical workforce, thereby supporting privatization of otherwise state-owned power sector.

No OSH committee, hazardous work for women: Power sector workers are risking lives every day, working with live lines, and just one mistake may lead to disability or can be fatal. With unbundling, nobody has been paying attention to the health and safety of employees. Situation in the field has not improved. After reforms mortality rate has gone up. These are the common complaints of workers – Work overload; Inhuman conditions, Workers in a state of continued uncertainty; Substandard materials posing risks to life and limbs; Inadequate treatment and compensation in work-related accidents. Women are asked to take meter reading, door-to-door revenue collections in unsafe areas, posing risky work for women. Additional work hazards is brought about by public anger due to increasing tariffs and disconnections; employees have to bear the brunt of public anger, with increasing incidence of manhandling and physical beatings. Caught between Government declarations of providing power as a social responsibility and

fixing responsibility on field staff for commercial recovery, workers are facing threat to life and property.

Outsourcing and contractualisation: Post unbundling, the newly formed companies have become contractors and employ contractual laborers instead of full-time employees. These contractual workers (mostly on 11 months renewable contract) work under unacceptable service conditions, as they, according to the contract are not entitled to any facilities and service conditions applicable to full time employees. The contract can be called off by the employer or the employee anytime during the said tenure, without any legal implication. The contractual employees are subject to exorbitant exploitation, e.g. the amount of work which was being performed by 4 linemen earlier has been assigned to one contractual labor post unbundling, also raising occupational safety. Contractual laborers are not entitled to any medical reimbursements, leave encashment, perks, increments etc. There are no guidelines in place (e.g., hometowns, number of years, service period in transmission, competency) regarding the recruitment of employees for the new companies. The new companies are indulging into underemployment and exploitation of labor.

Unresolved financial issues: Post unbundling, terminal benefits including pension are under severe risk. A number of facilities were also withdrawn or curtailed, e.g. Earned Leave (EL) encashment, Leave Travel Concession (LTC), Overtime allowance; there has been no relief till date.

Unresolved policy issues: On 15 July 2009, the Appellate tribunal on Electricity, the highest judicial bodies under EA 2003 appeal against which lies only before Supreme Court, opined that the unbundling of SEBs is not mandatory under the provisions of EA 2003. Any one person can continue the business of Generation, Transmission and Distribution simultaneously. This decision has shattered the myth created and propagated by the Central Government and many state governments that formation of multiple companies is mandatory and unless the same is done no reform is possible. Not many people are aware that the Electricity Act does not make the unbundling of SEBs compulsory. This Appellate decision is of far reaching importance and deserves a closer look.

19. ADB Project in India: Bihar Power Sector Improvement Program

The Asian Development Bank (ADB) is financing power reforms and restructuring of electricity sectors in many countries in Asia, including in the Philippines, Indonesia, and several states in India, notably Assam, Gujarat and Madhya Pradesh. The Bank's assistance to the power sector in India is targeted at states committed to implement reforms. One such project is the Bihar Power Sector Improvement Program (BPSIP), a US\$132.2 million loan approved by ADB in October 2010 to expand and rehabilitate transmission and distribution lines and substations in Bihar. The loan agreement was signed between the Government of India and ADB on 15 June 15 2011, with the Bihar State Electricity Board (BSEB) as the executing agency. Project documents point out that the loan was provided with the express condition that BSEB will undertake restructuring and unbundling activities; a road map to this effect has to be drawn up within one year of the loan signing. ADB recognizes that restructuring is likely to result in massive displacement of workers, hence unions need to be consulted prior to any restructuring. The Bank does not recognize, however, the increasing evidence that restructuring only succeeded in raising power rates without any substantial improvement in electricity services nor improving access by the poor. The Bihar project is yet another example of the ADBs bad practices with regards to non-inclusion of core labour standards in its lending operations and project cycle, as provided in the Bank's own Social Protection Strategy (2001) and Handbook on Core Labour Standards (2006).

Non inclusion of CLS in ADB's current Country Strategy Programme (CSP), India (2009 2012)

- ❖ A detailed labour market assessment has not been done.
- ❖ The risk and vulnerability profile does not include the core labour standards and decent work issues.
- ❖ The Sector Assessment on Bihar Power Sector identifies "insufficient number of well-trained staff in BSEB" as a problem and recommends "manpower assessment and contractual employment" without designing any relevant safeguards measure and/or labour standards for contractual employees.
- ❖ The CSP does not provide for any dedicated staff in the ADB India Resident Mission for implementation of CLS-related work in India.
- ❖ There is no indication in the CSP that ILO specialists have been engaged or there has been any discussion with the ILO regarding CLS issues in ADB projects in India.

Non inclusion of CLS in Pre Project Design

- ❖ An Initial Poverty and Social Assessment (IPSA), which is mandatory for all ADB projects, was not undertaken. An IPSA would have "flagged out" CLS and other labour issues during project preparation including establishing a participatory process amongst all stakeholders

- ❖ The Technical Assistance (TA) – Bihar Power Sector Capacity Development and Implementation Support – does not include any labour standards specialist as consultant and has no specific capacity-building component for the BSEB workers and employees unions.

Non inclusion of CLS in Project Design

- ❖ The Summary Poverty Reduction and Social Strategy (SPRSS) does not have a gender action plan, flags off (i) temporary employment opportunities for 2-3 years and (ii) core labour standards included as standard assurance in civil works contract, but does not flag any labor retrenchment.
- ❖ The project design does not recognise the BSEB unions as stakeholders and are not included in any consultation and/or communication strategy.
- ❖ Environment and mitigation costs are estimated at US\$1.5 million which is only 1% of the base cost; no specific mention is made on CLS.
- ❖ Although the loan agreement includes standard "assurances" or clauses related to CLS for contractors – e.g. equal pay for equal type of work, an awareness program on HIV and sexually transmitted diseases and human trafficking, termination in case of any breach – and that the executing agency shall ensure

that civil works contracts follow all applicable labour laws, no clear monitoring mechanism has been identified.

- ❖ The Project Management Unit (PMU) of BPSIP in the BSEB does not have an understanding of the inclusion of CLS in the project and how CLS could be implemented and monitored.

Absence of a mitigation plan in event of BSEB restructuring

- ❖ The BPSIP project design does not include mitigation measures on the impact of such restructuring on the employees and workers of BSEB. IPSA and other ADB guidelines recognize that labour issues are likely to be 'significant' when workers lose their employment as a result of public sector restructuring, in which case ADB should – prepare a retrenchment plan; focus on work consultation; prepare a gender plan; quarantine social services such as housing, healthcare and educational facilities from divestiture; and prepare summary labour market assessment.

KEY RECOMMENDATIONS:

Recognize trade unions as legitimate and significant stakeholders

- ❖ Consult with unions in key aspects of program/project preparation, implementation, monitoring and evaluation.
- ❖ Regular consultations and capacity-building programmes for trade unions is instrumental in ushering in sustainable growth and tackling poverty.
- ❖ ADB should immediately establish trade union focal points both in the ADB Headquarters in Manila and the India Resident Mission (IRM).

Incorporate CLS issues at earliest phase

- ❖ IPSA/SPRSS should address risks and impacts of ongoing restructuring of public utilities, privatization and outsourcing of its services, and incorporate mitigation measures.
- ❖ Project team should include a labour standard specialist.
- ❖ Mandatory allocation of cost towards designing, implementation of CLS and capacity and awareness building of

stakeholders, including trade unions.

- ❖ Include a Joint Implementing and Monitoring mechanism with trade unions.

Training on CLS

- ❖ ADB operational staff and executing agencies, including PMU, and contractors should be trained on their obligations in complying with core labour standards and related labor laws.

Strengthen ADB ILO cooperation

- ❖ Labour market assessment, country poverty analysis, risk and vulnerability profile
- ❖ Organize joint technical workshops for the trade unions in India.
- ❖ Mitigation measures should consider the differentiated impacts on various types of employees and workers in BSEB to wit –
- ❖ There are currently 21,000 pensioners with huge pension liability; 4,000 contract workers and 5,000-6,000 casual labourers are being engaged by the BSEB at a daily minimum wage with no other benefits.
- ❖ There are 3,000 workers appointed by BSEB in the transmission sector as junior linemen and switchboard operators at Rs.600 per month;
- ❖ 7,000-10,000 private workers operating in the transmission and distribution sectors of BSEB who basically attend to day to day fault and repair workers and who survive only on tips provided by customers.
- ❖ Problems may arise in the implementation stage considering the current employee situation in BSEB where the numbers of employees, including officers, have come down to only 10,000 from 44,400 in 1973.
- ❖ BSEB employees are also agitating on the issues of lack of fresh recruitment, regularization of contract employees, overtime wages, security of pensioners and service benefits and allowances.
- ❖ The unions are further concerned with any dilution in service conditions in the mass transfer of employees to new entities; as of June 15th 2011, around 7,000 employees out of a total strength of 9,000 have been issued with transfer orders.

ASIAN DEVELOPMENT BANK AND THE WATER SECTOR

Plain Page

20. ADB's "Water for All" Policy

In January 2001, the Asian Development Bank (ADB) adopted a Water Policy that regards water as a 'socially vital economic good' needing careful management and a participatory approach to conserve and protect it. The key elements are: (a) national focus on water sector reforms; (b) integrated water resources management in river basins; (c) improved and expanded delivery of water services; (d) water conservation and increased system efficiencies; (e) regional cooperation for mutually beneficial use of shared waters; f) exchange of water sector information and experience; and (g) improved governance and capacity building. Under Strategy 2020, the Bank's new long-term strategic framework adopted in 2008, water infrastructure projects will focus on water supply, sanitation and waste management in urban areas, and irrigation and water management services in rural areas. ADB's Water Financing Program 2006-2010 seeks to double water investments in the Asia-Pacific region to over \$2 billion annually, making water a core area of the Bank's operations. As of end- 2009, ADB had lent \$25.0 billion for water-related projects; the pipeline for 2010-2012 is now estimated at \$8.7 billion. In February 2010, ADB announced a planned issuance of its inaugural Water Bond to finance its work in the water sector.

New solutions: Some 650 million people in the region lack access to clean water and 2 billion are without adequate sanitation. About 70% of available water is used for irrigation and food production, while there are big irrigation water losses. Economic development, rural-to-urban migration and urbanization have increased competition for clean water, while pollution and climate change pose further threats to the precious resource. At the World Water Week in Stockholm (Sweden) in August 2009, ADB called for new solutions that include an aggressive business outlook, extensive use of new and emerging technologies, large-scale reuse of wastewater, going small-scale to plug gaps and better matching irrigation systems with food security.

Water sector reforms: ADB advises developing member countries (DMCs) to create a national apex body to adopt water policies, laws, carry out institutional reforms and formulate a national water action agenda. ADB pilot-tested water reforms in countries such as Sri Lanka, Lao PDR, People's Republic of China (PRC) and Vietnam. Sri Lanka has long been eyed as the prime candidate to lead South Asia into private sector participation (PSP) in water supplies; in 1997, ADB provided assistance to change Sri Lanka's legislation and policy on water. In 1999, ADB financed PRC's first water supply build-operate-transfer (BOT) project in Chengdu, making it the Bank's first private sector project in the water sector. In 2000, ADB helped prepare a PSP management contract as a precondition for its loan to the controversial Melamchi water supply project in Nepal. In 2005, ADB organized a workshop to draw up PSP action plans in urban water supply for the Indian

states of Kerala, Karnataka, Madya Pradesh, Uttaranchal and Jammu-Kashmir.

Integrated water resources management (IWRM): IWRM is a process to improve the planning, conservation, development, and management of water, forest, land and aquatic resources in a river basin context. ADB assists DMCs to introduce IWRM and undertake comprehensive water resource assessments. In December 2008, for instance, ADB approved a \$500 million loan package for Indonesia's Integrated Citarum Water Resources Management Investment Program. The Citarum river basin provides 80% of the surface water supply to the capital city of Jakarta. ADB's loan aims to – provide safe water supply and sanitation facilities for poor families who utilize water from the polluted canal for bathing, laundry and other uses; support the cultivation of 25,000 hectares of paddy; and support community sanitation solutions and the construction of solid waste facilities and wastewater treatment plants to enhance environmental protection.

Improved water services: New and pipeline ADB projects aim to improve and expand the delivery of water services. In Sri Lanka, for instance, ADB recently approved a \$100 million loan package for a large-scale wastewater management project involving the upgrading of sewerage infrastructure in Colombo and capacity-strengthening of the service provider (Colombo Municipal Council). In Nepal, ADB provided a \$45 million grant assistance to improve access to water and sanitation services in 20 small towns. In North East India, a \$200 million loan will go towards improving basic infrastructure such as water supply and sanitation in five cities. In Sindh (Pakistan),

a \$300 million loan will support urban sector reforms and priority investments in water supply, wastewater and solid waste management infrastructure for secondary cities. In Bangladesh, ADB approved a \$55 million loan to finance 230 subprojects in the areas of flood management, drainage, water conservation and irrigation. In the Philippines, a \$50 million loan is in the pipeline for Water District Development Sector Project that aims to promote a bankable sector investment program and capacity development for water districts.

Water conservation and full-cost recovery: To promote the conservation and sustainable use of water, ADB advises its DMCs to include cost recovery principles in national water policies and strategies. In water supply, ADB will promote tariff reforms to reward conservation and penalize waste. Consumers should expect to meet the full operating and maintenance costs of water facilities and service provision in urban and rural water supply and sanitation schemes. In irrigated agriculture, ADB will promote the inclusion of environmental externalities and resource management costs. ADB will support subsidies for water services only in certain circumstances that justify a limited "lifeline" tariff; in the long-term, however, governments and regulatory agencies will be persuaded to phase out subsidies.

Regional cooperation on shared waters: As a priority area in Strategy 2020, ADB acts as a catalyst for regional cooperation and integration, linking national and regional priorities. For instance, a recent \$1 million technical assistance grant aims to address the lack of cooperation among Central Asian countries (Afghanistan, Kazakhstan, the Kyrgyz Republic, Tajikistan, Turkmenistan and Uzbekistan) on vital shared waterways whose management and protection are crucial to the region's economic growth and social well-being.

Public-private partnership: ADB's water policy is in line with the Bank's strategic framework which puts premium on private sector participation. According to the Bank, private sector initiatives and market-oriented behavior will improve performance and efficiency. ADB will develop innovative financial packages to enable commercial lenders and promoters to manage the risks involved with investing in water-related projects; promote BOT and build-own-operate (BOO) projects; assist DMCs to identify suitable projects for private sector financing and to

engage concessionaires; promote contracting out specific operations to the private sector; and develop modalities for public-private partnership. ADB believes that several management functions will attract private investments and others may be contracted out.

Knowledge Hub: ADB is engaged in the water sector not just as a financier but also as a knowledge source – advising on policy, advocating and facilitating reform, helping with capacity development and fostering regional cooperation. In its role as a knowledge bank, ADB maintains a Water Knowledge Center that serves as the reservoir of its knowledge products on water and related issues across the Asia-Pacific. In June 2008, ADB launched a new network known as Knowledge Hubs, with support from Singapore's Public Utilities Board (PUB) and UNESCO.

Water champions: ADB has a roster of leaders in government, private sector and civil society who champion water reforms, mobilize resources, involve communities and serve as role models in helping inspire improvements in management. Among them is the head of Cambodia's Phnom Penh Water Supply Authority (PPWSA) who made unpopular but necessary decisions to turnaround the utility which was losing 70 percent of the city's water when he took over in 1993. Others include the founder of a non-government group that since 1970 has installed low cost and ecologically sustainable toilets in over 1.2 million houses across India, and a restaurant owner who chairs the Bang Pakong River Basin Committee in Thailand that has helped overcome community conflicts over water use.

Sanitation agenda: In March 2009, ADB organized a regional Sanitation Dialogue and called on governments and the private sector to help address the lack of access to adequate sanitation. ADB's annual average lending pipeline for sanitation has increased from \$300 million in 2003-2007 to \$710 million in 2008-2010. To plug service gap in sanitation, ADB highlights the activities of a private sector champion – Manila Water Co (Philippines) – which plans to spend \$1 billion to extend sanitation coverage to its entire concession area by 2030. Studies have shown that for each \$1 of investment made in sanitation there is the potential to yield returns from \$3 to \$34.

21. ADB's Water Policy: Impacts on Workers and Consumers

The Asian Development Bank (ADB) plays a lead role in water sector reforms in the Asia-Pacific region. The Bank's 2001 Water for All policy views water as a "socially vital economic good" and promotes private sector participation (PSP) and public-private partnerships (PPPs) in the water sector. Sri Lanka was among the first to receive ADB loans and technical assistance to draft new water policies and lead South Asia into PSP in water supplies. In Nepal, the ADB helped prepare a PSP management contract in 2000 as a precondition for its support to the controversial project US\$464-million Melamchi Water Supply Project. In India, ADB organized a forum in Bangalore in 2005 to draw up PSP action plans for urban water supply in Kerala, Karnataka, Madhya Pradesh, Uttaranchal and Jammu-Kashmir. In the Philippines, a US\$50 million loan for Water District Development Sector Project is proposed to promote a 'bankable' sector investment program and capacity development for public water utilities; ADB is also providing various grant support to the two private water concessionaires in Manila.

In May 2007, the Public Services International (PSI) organized a parallel peoples' forum on the ADB's Water Policy during the Bank's 40th Annual Governors Meeting in Kyoto, Japan. PSI unions highlighted the failures of water privatization in securing workers' jobs and improving water services, and argued for public sector solutions.

Philippines. The Alliance of Government Workers in the Water Sector (AGWWAS) argues that access to safe and affordable water is a basic human right, and that workers are key stakeholders in building quality water services. Governments must invest in water and sanitation services and promote public-public partnerships (PUPs). Water management must remain public, effective and responsive to public interests, with workers' unions being consulted. This is not an easy task when public utilities are given very small budgets that could barely afford to pay living wages to workers, ensure proper training, supply needed safety equipments, let alone invest in expanding the network to those not served. Recently, AGWWAS has forged a pilot PUP with a local state university and the association of public water managers to organize capability-building program on performance benchmarking for water workers.

When Manila's water and sewerage services (MWSS) was privatized in 1997 to two private concessionaires, roughly half of the workers were retrenched. To the Maynilad Water Supervisors Association (MWSA), the 'evils' of privatization continue ten years hence thru: massive lay-offs and outsourcing; diminution of local staff salaries, exorbitant expat consultants' fees; unwise, imprudent, negotiated procurements; union-busting; gradual erosion of union membership due to the

management strategy of job re-titling or reclassification; contractualisation of union jobs (e.g., leak repairs, sewer maintenance, general services, pipe-laying and water services installation). Contractual workers are among the most exploited – they have no benefits, no overtime, no security of tenure. There is inadequate monitoring of compliance for compliance with core labor standards, minimum wage and other benefits. Collective bargaining provisions are not implemented. Despite their poor performance in meeting service targets, the private concessionaires were allowed to raise water rates by 550-750%.

Indonesia: When PDAM Jakarta (PAM JAYA) was privatized in 1998, 2,800 of total 3,000 employees were seconded, without any agreement or contract, to Suez and RWE-Thames Water. They received different treatment than the new workers recruited directly by the two private companies. Their status was not clear as the companies still considered them civil servants under the PDAM. Their working conditions worsened in terms of salaries and allowances, benefits, skills improvement and safety. Some examples – even if workers shared the same workload and worked in the same room, there were huge differences in pay; a seconded employee working for nine years never received a raise in allowance with excuse that the private companies were losing. The companies neither had not increased workers allowances nor paid to the retirement fund since 1998. Workers formed the PDAM JAYA Worker's Union to negotiate with management and organize protests. At one time, hundreds of members were fired but were found not guilty of anything illegal in court so the private companies were forced to take them back. However, the workers were not allowed to go out on field as

management feared they would influence other workers to fight for their rights. Aside from worsening working conditions, the privatization spawned other problems, such as the investment and loss claims made by Suez and Thames Water. They also increased water tariff six times; currently, Jakarta has automatic tariff increase every six months. Yet, there had been almost no improvement in the water service, e.g., leakage rate is still a high 45.3%. The companies claim to have made new connections where in fact they just put new pipes above the old pipes. Further troubling is that PAM JAYA's debt kept on increasing. Nine years of experience have crystallized into the union's fight for contract termination and return water delivery service to PDAM JAYA, a company owned by the municipal government.

Nepal: The Nepal Water Supply Employees Union (NWSEU) reports that ADB is financing various schemes to privatize the Nepal Water Supply Corporation (NWSC). This will pose several threats on consumers and workers. Revenue generation outside of Kathmandu valley is very much less and will not meet the running cost, and hence consumers may be deprived of the services provided by NWSC. Due to business and profit motives, the consumers will have to pay more. Peoples' right of access to natural resources and water may be curtailed. Ultimately, the corporation may collapse. Some 700 employees may be forced to retire, and trade union activities may come to an end. It is NWSEU's vision that water management must be public, effective and responsive, and the union is strongly against PSP or the privatization of water supply services in Nepal. Its position is to maintain NWSC's national structure and is proposing several measures to resolve the problem of chronic water supply shortage in Kathmandu valley

Korea: With 90,000 government employees in central and local governments, the Korean Government Employees' Union (KGEU) exposes the modes and problems of water privatization in Korea. Water is increasingly viewed as a commodity and transnational water companies are now aiming for Korea. In 2006, the government proposed a Plan to Foster the Water Industry, a 5-year roadmap toward structural reforms of waterworks management. It will foster a new 'niche market' that will double the size of the water industry to US\$20 billion, and propel two water corporations into the global 'top ten'. Moreover,

Korea is poised to sign international agreements such as ISO international standards and Korea-EU Free Trade Agreement which will introduce PPPs in domestic corporations. The ultimate goal is to commercialize drinking water and privatize water corporations. KGEU is in the forefront of stopping PPPs at the local level and has succeeded in several municipalities. In 2006, the union initiated the Joint Action against Water Privatization, a coalition of 26 trade unions, social movement organizations and NGOs, which focuses on raising public awareness and exposing the problems of the water privatization policy. The coalition organizes workshops and mass struggles across the country, participates in exchanges with anti-privatization organizations abroad, and prepares research in alternative water supply policies that will strengthen the public character and environmental sustainability of the water service.

Japan: ZENSUIDO is fighting against water privatization in Japan and is promoting Quality Public Services, PUPs and international solidarity. The Koizumi and Abe administrations introduced market reforms in the water sector. Consultants have proposed water privatization schemes in defiance of the existing Water Supply Law. Governors and mayors also promote administrative and financial reforms that only aim at economic efficiency. An increasing number of water managers lack an understanding of their proper roles, and there are stronger trends toward avoiding negotiations with trade unions. Increased personnel transfers are also taking place. Privatization, subcontracting and 'designated management systems' are becoming more common and technical bases are being lost in public water supply entities. In 2005, ZENSUIDO fought successfully against the de facto privatization in Saga City. The unions must continue to stop the privatization of the water supply in Japan, and strengthen the technical and financial bases for its supply under public management. ZENSUIDO is carrying out the "Water Action Program 2007" with JICHIRO and PSI-Japan Council to defend the public nature of the water supply. ZENSUIDO believes that trade unions need to present alternative ideas. Japan should also promote PUPs on a global scale, provide other countries not only with technology transfers but with excellent systems for public water supply.

22. ADB's Water Operators Partnerships

As part of a larger plan to attain the Millennium Development Goals, the Asian Development Bank (ADB) initiated a program on Water Operators Partnerships (WOPs) to enable water utilities in the Asia-Pacific region to improve service coverage and delivery, financial sustainability and other aspects of their performance. WOPs is a collaboration between ADB and the Global Water Partnership as a response to the Hashimoto Action Plan (HAP) announced by the United Nations Secretary General's Advisory Board on Water and Sanitation (UNSGAB) in early 2006. The HAP called for breakthroughs in six key areas: water operators' partnerships, financing, sanitation, monitoring and reports, integrated water resources management and water disaster. WOPs adopted key strategies in four core activities: (a) Formation of water utilities networks; (b) Continuous Improvement and Benchmarking; (c) Twinning of water utilities; and (d) Training workshops.

Water utilities networks: Three networks in the region – Southeast Water Utilities Network (SEAWUN), South Asian Water Utilities Network (SAWUN), and Central Asia and South Caucasus Water Utilities Association (CASCWUA) – were created with ADB support.

Set up in 2002, SEAWUN currently has 78 member utilities. It launched a Performance Benchmarking Program in 2004 which involved the participation of 47 utilities from 7 countries, namely Thailand, Laos, Cambodia, Malaysia, Indonesia, Philippines and Vietnam. With ADB's support, SEAWUN also produced the 2005 Data Book for Southeast Asian Water Utilities, a comprehensive compilation of information on the performance of 40 water utilities in Southeast Asia.

Launched in April 2007, SAWUN aims to measurably improve its members' performance in the delivery of water supply and sanitation services. Its business plan has focus on three themes – nonrevenue water, tariff setting and connecting the urban poor. SAWUN also has its own benchmarking and continuous improvement program. It has 23 members from Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. An earlier partnership between ADB and India's Ministry of Urban Development resulted in the publication of the 2007 Benchmarking and Data Book of Water Utilities in India.

Set up in November 2007, CASCWUA now has 13 members from Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyz Republic, Tajikistan and Uzbekistan. It is committed to tackle the widespread problems with inadequate drinking water and

sanitation. CASCWUA will initially embark on a benchmarking program that aims to improve the key performance indicators of its member utilities.

Continuous Improvement and Benchmarking (CIB): CIB involves collecting, analyzing and comparing key performance data of water and sanitation utilities and, on the basis of analysis, developing a strategy and work program to improve specific aspects of a utility's performance. The CIB program seeks to help utilities establish internal processes and build skilled teams to collect, analyze and measure their services and then compare their performance and service practices against those of other utilities. The inherent change processes and skills to achieve change is the continuous improvement part, while benchmarking provides comparative information that can be used to prepare change proposals.

Twinning of water utilities: ADB is tapping exemplary water utilities to help the region's developing utilities enhance their operational efficiency. WOPs matches a stronger water and sanitation utility (expert) with a developing utility (recipient) to enable the latter to improve service coverage and delivery, financial sustainability and other aspects of performance. There is no commercial motive in WOPs' twinning; it is essentially a case of one utility helping out another. Activities include a diagnostic study of the recipient twin by the expert twin and ADB, exchange visits and on-site demonstrations. To date, ADB has supported 11 twinning programs. In February 2009, ADB organized the first Twinning Regional Forum to share lessons being learned and best practices. Overall, ADB's assessment is that the

twinning approach has delivered encouraging results. Nonrevenue water (NRW) has been reduced, better customer service is in place, and training methods and other operating practices have improved. Twinning has also produced many spinoffs; the network of twins enables any twin to contact others to resolve a problem or obtain some information.

Twinning, however, is not a 100% success activity. There have been some disappointments as twinning is only one activity within a utility and often other priorities may edge it out. Several recipient twins were unable to capitalize on their access to an expert partly due to other priorities, changing key staff members and operating culture. In other cases, workloads and access to funding has caused delays in completing the agreed work program.

The twinning program between Metro Cebu Water District (Philippines) and City West Water (Australia) is instructive. The agreed target, i.e., NRW reduction in a pilot District Metered Area (DMA) was achieved – the recipient twin's NRW was reduced to 12% in January 2009 from 39% in September 2008. Significant resources, however, were used on the NRW project such that it was no longer feasible to duplicate the methodology used across the remaining DMAs. Alternately, it was recommended that MCWD review and improve its leak detection equipment. Moreover, MCWD had been considering to outsource some functions; the expert twin offered advice to first assess the benefits and risks involved, what functions could be outsourced, and what needs to be in place before outsourcing occurs. The twinning also resulted in a very good working relationship between MCWD and CWW such that it has moved beyond the original work program to include the transfer of knowledge on a broad range of water utility matters (e.g., business planning, organizational structure, training and development).

Training workshops: To improve the technical capacity of water utilities, WOPs designs and implements training programs focused on specific aspects of utility operations. These include such areas as NRW management; Tariff setting and regulation; Asset management; Cost recovery; and Improved metering, billing and collection. The first set of training workshops on NRW management involved sessions on how to establish a standardized water balance, calculate water losses, reduce commercial and physical water losses and formulate an NRW Assessment and Management Plan. Participants were shown how to design a DMA and set up their trial DMAs and were then given take-home assignments and carry out the lessons learned on their own facilities. WOPs also organizes leadership forums to explore the different factors contributing to the success of some Asian utilities, e.g., Phnom Penh Water Supply Authority (Cambodia), Manila Water Company (Philippines) and Public Utilities Board (Singapore).

23. Philippines: Water District Development Sector Project

The proposed Water District Development Sector Project (WDDSP), a US\$50-million loan for approval by Asian Development Bank (ADB) in November 2010, aims to assist the Philippine Government in its effort to improve water supply and sanitation services for the urban population outside Metro Manila, and to achieve the related Millennium Development Goal (MDG) targets. The project will support the institutional development of Local Water Utilities Administration (LWUA) and contribute to water sector reform. The project will also provide assistance to LWUA to implement pilot projects for sanitation and support capacity-building for water districts. ADB approved a US\$1.2 million project preparatory technical assistance (PTA) in September 2008; the PTA report has yet to be posted on the ADB website. Since 1975, ADB has supported the Philippine water sector by approving five loan projects for LWUA for a total amount of US\$178 million.

Background. Water districts are local government-owned and -controlled corporate entities that provide water supply and sanitation services within their areas of responsibility, which may include one or more cities and municipalities. The majority (about 67%) of a total 500 water districts are classified as "small," while only about 3% are categorized as "large," and about 1% as "very large." LWUA provides water districts with financial and technical assistance, and serves as their regulator. LWUA has established itself as the dominant lender to the sector, focusing primarily on the larger and more viable water districts. As a result, smaller water districts serving poorer areas of the country have had much less access to LWUA funding and have not been able to enhance service coverage and quality. In 2004, Executive Order (EO) 279 was approved to provide for comprehensive reform of the financing policies of the water supply sector and to streamline LWUA's organizational structure. EO 279 mandates that LWUA focus its lending operations and assistance on less creditworthy water districts, with the aim of graduating them to creditworthy status. Creditworthy water districts are expected to access the commercial financial market for funding.

Main issues for water districts: Issues identified are:

(i) the high number of small utilities with low efficiency, (ii) lack of capacity for project development and implementation, (iii) low service quality (e.g., interrupted supply, uncertain water quality, high level of nonrevenue water, low pressure, low coverage), (iv) need to enhance financial performance, and (v) major investment needed for infrastructure expansion and rehabilitation. While water districts are also mandated to provide sanitation in their

service areas, there are only a few examples where this is practiced; this is mainly due to (i) lack of cost recovery for sanitation, (ii) institutional fragmentation, and (iii) lack of public awareness and willingness to pay for sanitation.

WDDSP pilot water districts: These include: (i) Metro La Union Water District; (ii) Quezon Metro Water District; (iii) Legazpi City Water District; (iv) Leyte Metro Water District; (v) Koronadal City Water District. Criteria for water district selection was based on (i) demand for improved water supply and sanitation; (ii) fiscal capacity, financial management, commitment to reform, and governance; (iii) focus on serving low-income communities; (iv) well-defined investment needs; and (v) project preparedness.

TOR of PTA consultants: The objective of the PTA is to design the WDDSP following a consultative process. The consultants are tasked with the following:

- ❖ Develop and recommend mechanisms for public consultation and community participation in project planning; operation and maintenance; project implementation and management, particularly in relation to levels of service performance; tariffs; and environmental protection.
- ❖ Assess whether there is a role for NGOs in project activities.
- ❖ Carry out public consultations that include NGOs.
- ❖ Hold discussions with LWUA, water districts, related government agencies, consumer groups, and other stakeholders to identify key issues and obtain their views on

- ❖ capacity building needs.
- ❖ Develop a capacity building program, outline training programs and recommended interventions, and estimate related costs.
- ❖ Need for more consultation with workers' unions on WDDSP, including on capacity-building programs.
- ❖ AGWWAS' project on "Capacity Building of Water District Workers through Performance Benchmarking.

Initial Poverty and Social Assessment (IPSA). An IPSA, also prepared during project preparation, contains the following:

- ❖ The main stakeholders are the water users, water districts, local governments and LWUA.
- ❖ There will be several public consultation meetings over the course of the project preparation (e.g., workshops, seminars).
- ❖ A participation plan needs to be prepared.
- ❖ Employment opportunities will result from construction activities financed by the project and from economic growth facilitated by improved water supply.
- ❖ Clauses on core labor standards will be included into all the bidding documents.
- ❖ Labor retrenchment was not flagged as an issue.

AGWWAS-ADB dialogue on WDDSP: PSI affiliate AGWWAS (Alliance of Government Workers in the Water Sector) initiated discussions on WDDSP with Project Team Leader Rudolf Frauendorfer in September 2009. Two of the pilot water districts (La Union, Koronadal) have existing unions which are affiliates of AGWWAS. Follow-up meetings were held at ADB Headquarters in Manila in December 2009 and March 2010. AGWWAS plans to organize a consultation forum on WDDSP in mid-2010, in cooperation with ADB. In its dialogue with ADB, AGWWAS presented their concerns on, among others:

- ❖ PSI/AGWWAS' program on building Quality Water Services through Public-Public Partnership (PUPs).
- ❖ Privatization of water services does not ensure safe, clean, reliable, affordable water-for-all nor achieve MDG targets.

PSI/AGWWAS engagement on ADB's water policy: Aside from WDDSP, PSI/AGWWAS have engaged ADB on several fronts on the Bank's 2001 Water for All policy:

Nov 2005: Submitted comments on ADB's Water Policy Review and raised issues on the human right to water, failure of private sector participation in water service delivery, and the need to promote PUPs to meet MDG targets in water and sanitation services.

May 2007: Organized a forum on "ADB's Water Policy" at ADB Annual Meeting in Kyoto (Japan), and at a parallel "People's Forum on ADB"; in these public forums, PSI/AGWWAS presented the role of workers as major stakeholders in the water sector and harmful impacts of water privatization on workers.

Dec 2007: Organized a forum on "World Water Challenges: Japanese Standpoints" at the 1st Asia-Pacific Water Summit organized by ADB and Asia-Pacific Water Forum in Oita (Japan) in which ongoing campaigns on water privatization, strengthening public water systems and PUPs were highlighted. PSI water affiliates also contributed to an NGO publication released in Oita by the 'Reclaiming Public Water' network on different public management models in water in Asia-Pacific region.

24. ADB Project in India: Bihar Urban Water Supply Project

Water supply and sanitation development and improvement are components of urban development projects financed by the Asian Development Bank (ADB) in India. The Bank promotes private sector participation (PSP) and public- private partnerships (PPPs) in the water sector through its loans and technical assistance. The *Bihar Urban Infrastructure Development Programme (BUIDP)* is a US\$200 million loan project of ADB that aims to improve and expand the water and sewerage infrastructure in four towns in Bihar state, and help urban local bodies (ULBs) ensure sustainable operations and maintenance (O&M) by outsourcing through design-build-operate (DBO) contractual arrangements. The ADB loan will also support ongoing efforts to address user charges, subsidies, and accounting specific to water supply and sewerage operations. Bihar's Urban Development and Housing Department is executing agency of the project. The BUIDP will utilize the ADB's Multi-Tranche Financing Facility (MFF) and is due for approval by the ADB Board. A series of project loans through an MFF is deemed as the most suitable lending modality to finance the long-term engagement of consultants and DBO contractors through multiple loans.

Non-inclusion of CLS issues in project design: An analysis of project documents available before the BUIDP loan approval, however, shows that the pre-project and project design did not adequately cover core labor standards and decent work dimensions –

- ❖ Mitigation measures related to public sector restructuring were not identified. Development of water supply infrastructure and improvement under Bihar Urban Development Project (BUDP), a component of the BUIDP, involves restructuring of existing agencies and integrating them under concerned Urban Local Bodies (ULBs) and outsourcing operations.
- ❖ Project Preparatory TAs (PPTAs) discuss in detail the issues of stakeholder consultation and capacity-building but there is no space for unions to be consulted or a need for their capacity-building.
- ❖ BUDP project implementation components, including performance monitoring and evaluation, do not include CLS issues.
- ❖ The draft Summary Poverty Reduction and Social Strategy (SPRSS) provides for only a gender action plan and other action for employment opportunities. Interventions related to labour retrenchment, core labour standards, affordability, HIV/AIDS have been left out of SPRSS. It is only stated that 'Contracts shall specify that child labour – common in Bihar - shall not be used in

project implementation.'

- ❖ The gender analysis and action plan recognizes women as stakeholders but is not linked to CLS issues. Trade unions and workers have not been recognized as stakeholders.
- ❖ The proposed project costs for BUDP does not indicate any separate expenses for design and implementation of CLS. Consultancy and professional fee for social development specialist and NGO are, however, included.
- ❖ The project cycle of an MFF lending facility has a marked difference from that of a conventional ADB project. The consequent ramifications and impacts related to social protection and CLS are still to be studied in detail and dovetailed into relevant strategies and policies, especially when the scope of the project can change depending upon the availability of finance and source of the finance.

User charges: Inadequate investments in the water sector are attributed to no user charges which does not allow ULBs to recover O&M cost. In the event of proposed user charges for water supply and installation of water meters, the issue of affordability for urban poor communities assumes significance. The issue has been glossed over in this project in lieu of a proposed subsidy for those not being able to afford the increased user charges.

Key recommendations:**Recognize trade unions as legitimate and significant stakeholders:**

- ❖ Consult with unions in key aspects of program/project preparation, implementation, monitoring and evaluation. Regular consultations and capacity-building programmes for trade unions is instrumental in ushering in sustainable growth and tackling poverty.
- ❖ ADB should immediately establish trade union focal points both in the ADB Headquarters in Manila and the India Resident Mission (IRM).

Incorporate CLS issues at earliest phase

- ❖ IPSA/SPRSS should address risks and impacts of ongoing restructuring of public utilities, privatization and outsourcing of its services, and incorporate mitigation measures.
- ❖ Project team should include a labour standard specialist.
- ❖ Mandatory allocation of cost towards designing, implementation of CLS and capacity and awareness building of stakeholders, including trade unions.
- ❖ Include a Joint Implementing and Monitoring mechanism with trade unions.

Training on CLS

- ❖ ADB operational staff and executing agencies, including PMU, and contractors should be trained on their obligations in complying with core labour standards and related labor laws..

Strengthen ADB-ILO cooperation

- ❖ Labour market assessment, country poverty analysis, risk and vulnerability profile.
- Organize joint technical workshops for the trade unions in India.

Clearer CLS guidelines for MFF modality

- ❖ MFF being a relatively new concept within the framework of ADB's development finance, fresh understanding of the MFF concept, its framework, financial modalities, policy mainstreaming and impacts on workers and core labour standards need to be developed jointly by ADB and ILO.
- ❖ Accordingly, ADB's Handbook on CLS needs to be upgraded to include MFF, new ADB operational cycles related to private sector operations and other "non-sovereign" financial operations to comprehensively address ILO's internationally recognized core labour standards and related labor laws.

PSI-ADB DIALOGUE

Plain Page

25. PSI APREC Resolution on Asian Development Bank

SYDNEY, April 2006 – The Public Services International Asia Pacific Regional Executive Committee (PSI APREC) Meeting held on 20-21 April 2006, Sydney, Australia, adopted the following resolution.

PSI APREC notes that PSI and the Asian Development Bank (ADB) have some goals in common, including poverty reduction and achievement of Millennium Development Goals (MDGs). The ADB's poverty reduction strategy has three key elements: (a) pro-poor economic growth (including environmental sustainability); (b) social development; and (c) good governance. However, PSI APREC believes that economic growth does not automatically create employment, and that various strategies are required to create employment, including in the public sector.

PSI APREC is committed to global action to "Make Poverty History" with a strong call for Quality Public Services to tackle poverty. History shows the importance of quality public services and their contribution to economic growth. Strong economies and societies have largely been built on public services.

PSI APREC believes that there is a need to release resources used by governments in debt servicing or loan repayments to international financial institutions like the ADB and World Bank, so that there can be more public investments in education, health, clean water, and other basic needs. PSI APREC believes that the ADB can play an important role in the development of health and social services, and urges the ADB to increase its priority on the social sectors.

PSI APREC urges the ADB to support a strong public sector, particularly in vital services areas, and recognize the interests of workers adversely affected by privatization and other forms of restructuring. The ADB should give the same attention to funding of improvement and modernization of services under public control as under private control, and explore other modes like "Public-Public Partnerships" with workers participation.

ADB's sectoral policies: PSI APREC notes the following sectoral policies at ADB:

- ❖ Health Sector Policy which aims to "assist Developing Member Country (DMC) governments in ensuring their citizens have broad access to basic preventive, promotive, and curative services that are efficacious, cost-effective, and affordable";
- ❖ Education Sector Policy with its objective of 'Education for All'; Water Sector Policy which promotes private sector participation. APREC also notes that PSI affiliates submitted position papers to ADB's 2005 review of the water policy, that stressed the following: (a) Water is a basic human right; (b) Privatization or private sector participation will not ensure universal access to safe, affordable and reliable water.
- ❖ Energy/Power Sector which ties ADB loans to conditionalities that promote private sector participation and other power sector reforms, including: 'unbundling' the power sector; introducing competition; strengthening

regulatory bodies; eliminating cross-subsidies; and promoting electricity trading.

Privatization or public sector restructuring

PSI APREC believes that:

- ❖ Privatization in such crucial services as education, healthcare, water, power (electricity) and social security has led to – increased cost and diminished access, especially for low-income people, and with a particular impact on women, a deterioration of employment and in working conditions (e.g. subcontracting).
- ❖ ADB should not use privatization as a means to respond to the problem of corruption and mismanagement, but should place more emphasis on other strategies such as good governance.
- ❖ ADB should not include conditionalities of privatization and restructuring in its loans and other operations.
- ❖ ADB should undertake labor impact assessments in all its loan projects, and

should undertake proper consultation of workers affected by privatization and public sector restructuring.

Core Labor Standards (CLS)

PSI APREC believes that protection of fundamental workers rights, as defined in the Core Labor Standards of the International Labor Organization (ILO), is an essential requirement to meet MDG targets. APREC views the recent ADB-ILO collaborative work on 'ADB's CLS Handbook' as a positive development. APREC, however, calls upon the ADB to introduce strong enforcement mechanisms, as with the International Finance Corporation's (IFC) – the World Bank's private sector arm -- recently-adopted CLS compliance policy that requires all companies that borrow from IFC to comply with CLS, and that non-compliance can lead to cancellation of IFC loan. PSI-APREC, in conjunction with local affiliates, will hold the ADB accountable should the Bank not enforce compliance with Core Labor Standards in its loans and other operations.

Workers' knowledge and skills

PSI APREC notes that ADB is claiming to be a "knowledge institution" and therefore calls upon ADB to harness workers' competencies, knowledge and skills in ADB-funded projects to help in poverty reduction efforts and deliver Quality Public Services.

Engagement with ADB

PSI APREC recognizes the need to develop and implement a strategy on engagement with the following elements:

- ❖ Regular PSI-ADB dialogue on matters related to poverty reduction, QPS and CLS;
- ❖ Create a Labor Desk at ADB;
- ❖ Build union capacities to engage in meaningful social dialogue with ADB;
- ❖ Joint PSI-ADB research studies that assess impact of ADB's projects on labor, QPS;
- ❖ Work with other labor networks and groups already engaging the ADB.

ADB's recognition of PSI

PSI APREC believes that PSI should be recognized in its own right by the ADB. PSI is a global union federation made up of more than 600 trade unions. PSI represents more than 20 million workers who deliver public services

in 160 countries around the world. PSI is an officially recognized non-government organization for the public sector within the International Labour Organization and has accreditation with UNESCO, ECOSOC, UNCTAD, and OECD, and is also recognized by World Bank-IMF and other international institutions. The PSI must have direct negotiations with the ADB that are not conditional upon the endorsement by a third party government.

In Hyderabad, India, PSI submitted the PSI-APREC Resolution to ADB President Haruhiko Kuroda at the 39th ADB Annual Governor's Meeting on 3-6 May 2006.

ADB's RESPONSE

In a letter dated 7 June 2006, the ADB's Director on Gender, Social Development and Civil Society Division of the Regional Sustainable Development Department (RSDD) responded in behalf of President Kuroda –

- ❖ ADB will 'continue to support a strong, stable accountable public sector'.
- ❖ On protection of fundamental workers' rights: "where alleged violations in ADB-assisted activities are brought to ADB's attention, we will raise these with the responsible authorities", and ADB will "monitor the application of the WB- IFC's compliance policy with interest".
- ❖ On creation of a labor desk: Labor unions have been provided with an official interlocutor within ADB's NGO/Civil Society Center; "rather than create another entity, we believe that efforts should be focused on concrete dialogue in the context of specific projects and countries, involving ADB's operations departments."
- ❖ On joint ADB-PSI studies: "ADB is open to the possibility of joint research with PSI, which could include research on the impact of ADB projects on workers and quality public services. We can also explore the possibility of soliciting PSI comments on selected draft ADB publications that involve labor issues."
- ❖ In October 2006, PSI met with ADB officials to discuss core labor standards, the creation of a labor desk, joint PSI-ADB research, and PSI secondment at ADB. This is the second meeting at the ADB's Regional Headquarters in Manila, Philippines, following a similar meeting initiated by PSI in September 2005.

26. PSI-ADB Dialogue 2010

Public Services International (PSI) has been engaged in a dialogue process with the Asian Development Bank (ADB) since September 2005 to ensure respect for workers and trade union rights and promote quality public services in ADB-assisted projects in the Asia-Pacific region. ADB provides loans, technical assistance and policy advice to governments in the region, with an “overarching goal” towards poverty reduction; ADB is also increasing its lending and other assistance to the private sector. PSI's dialogue with ADB focuses on: (a) putting more emphasis on quality public services (QPS) over privatization and profit; (b) stronger compliance with the internationally recognized Core Labor Standards (CLS) and related labor laws in the design and implementation of ADB projects; (c) consultation with workers and their unions in ADB projects; (d) gender equity; and (e) public-public partnerships (PUPPs) in services provision. In September 2009, the Global Unions' Pittsburgh Declaration at the G20 Summit called on international financial institutions like ADB to improve global governance and engage in dialogue with trade unions. Given the growing impact of globalization on working people and their families, this dialogue is more important than ever and enables the trade union movement to have access to intergovernmental policy debate and allows policy makers to have dialogue with the social partners.

In September 2005, a high-level PSI delegation met with ADB officials for the first time at the Bank's Headquarters in Manila (Philippines) to initiate discussions on trade union rights and quality public services. In April 2006, the PSI Asia-Pacific Regional Executive Committee (PSI-APREC) approved a resolution urging ADB to support a strong, stable accountable public sector, protect workers' rights, create a labor desk, and undertake joint studies. Since then, PSI has submitted concrete proposals to ensure greater participation of trade unions in Bank projects, review and institute stronger labor safeguards in its operations, undertake joint research on labor impact assessments, and create a labor desk at ADB.

PSI recognition: In May 2006, ADB accredited PSI to officially participate at the Bank's 39th Annual Governors' Meeting in Hyderabad (India). Hyderabad marked the first time that ADB accredited a global union federation (GUF) to participate at an annual meeting. The 11-person PSI delegation presented the PSI-APREC resolution to the ADB President, organized a Critical Literacy Workshop on ADB and joined activities of the People's Forum on ADB. The ADB Governors' meeting is an important event where policy-makers, media and civil society activists all gather in one place; it provides a good opportunity for lobbying and campaigns to highlight labor issues and QPS in ADB projects.

In 2007, a 50-person PSI delegation participated at the annual meeting in Kyoto (Japan); PSI Japan affiliates were key organizers of a parallel People's Forum on ADB (Dou oshiyasu? Asian Development Bank). In 2008, a 12-person PSI delegation

participated in Madrid (Spain). In 2009, an 80-person delegation from PSI and other GUFs – Building and Wood Workers International (BWI) and Union Global Union (UNI) – participated in Bali (Indonesia) and organized several forums and media events.

Regular PSI-ADB dialogue: PSI and ADB has agreed to formally meet on an annual basis in December at the Bank's Headquarters in Manila, and informally as often as needed in Manila or elsewhere in the region. PSI has also initiated meetings with country delegations at ADB annual meetings to pursue policy discussions. Recently, PSI supported a dialogue process between ADB, other GUFs and the International Trade Union Confederation (ITUC). In May 2009, the first ADB-ITUC-GUFs dialogue was held in Manila on the global financial and economic crisis and impact on workers; flexible labor market policies and decent work; and policies and practices of donor-funded projects on labor.

Since 2002, a regular structured dialogue has been ongoing between the World Bank, International Monetary Fund and the global unions.

CLS forums in ADB annual meetings: PSI has raised greater awareness on CLS issues by organizing forums at annual meetings. In 2007, PSI held a forum on Supporting Core Labor Standards which marked the first time that a labor union organized a forum on CLS at an annual meeting. In 2008, PSI held a forum on Mainstreaming CLS in ADB Operations. In 2009, PSI – with BWI and UNI – sponsored a forum on Addressing Impact on Workers of the Global Economic and Financial Crisis.



PSI-ADB dialogue, ADB Headquarters, Manila, Philippines (Dec 2007)

Review of ADB's safeguards: ADB's recent review of its safeguard policies provided an opportunity for PSI to call for a separate review of ADB's existing labor safeguards and institute mandatory mechanisms for CLS compliance. Although ADB was the first regional development bank to officially adopt a policy requiring observance of CLS in Bank operations – with the release of its Social Protection Strategy in 2001 – important challenges remain in ensuring that labor standards with a strong enforcement mechanism are effectively applied in all Bank projects.

Gender equity: PSI and ADB are exchanging information on their respective gender programs. Gender equality requires an enabling and empowering environment where women are not discriminated based on sex and are guaranteed conditions of work not inferior to those of men – Fair and just remuneration and benefits; Equal pay for work of equal value; Equality of treatment in evaluation of quality of work; Equality in promotion, education and training opportunities; Safe and healthy working conditions free from harassment of any kind and form; Provides rest and leisure; Where work responsibilities is harmonized with family responsibilities.

Joint PSI-ADB research: In June 2006, ADB informed PSI that it was open to the possibility of a joint research, including on impacts of ADB projects on workers and quality public services. An initial PSI survey had shown that at least 40 affiliates in the region have been harmed or are threatened by ongoing and proposed ADB projects in the power, water and health sectors. In February 2008, ADB's

NGO unit agreed to facilitate a joint research with PSI on 'good practice' in labor impact assessment. A pilot research on a power project in Madhya Pradesh (India) was agreed, on condition that ADB obtains necessary permission on the joint research mission from the Indian government. This permit was not given; hence PSI proceeded with the research on its own in September 2008, and is continuing discussions with ADB on the results of its research.

Labor desk at ADB: In June 2006, ADB's management informed PSI that the Bank's current set-up provides for a labor focal point and that, rather than create a separate labor desk, ADB believed its efforts should be focused on concrete dialogue in the context of specific projects and countries, involving the Bank's operations departments. PSI, however, continues to lobby for a labor desk at ADB and has sought the support of donor-based affiliates, notably from Australia and Japan, to put more pressure on the Bank to allocate resources towards a labor desk.

Pilot ADB cases: PSI has identified at least four ADB projects for project-level dialogue and campaigns work in 2010. These include: a public sector enterprise reform project in Tonga; power projects in India and Indonesia and implications on ADB's Energy Policy; water project in the Philippines; and public sector reforms in Mongolia. Affected PSI affiliates will be given trainings to capacitate them to pursue in-country and project-level dialogues with ADB. At the regional level, more concerted actions shall support in-country dialogue efforts of PSI affiliates.

27. International Solidarity Levy

An International Solidarity Levy (ISL) is a global tax that aims to realize a fair global society. A global tax is a cutting-edge instrument to democratize global governance and help address the root causes of current global problems. It is a system of taxation that globally imposes taxes on global goods and activities, with the intent to reduce the negative impacts of the global activities. A global tax raises a certain amount of revenue, redistributes the revenue for the purpose of both providing and realizing global public goods. An ISL aims to re-distribute worldwide wealth, regulate financial speculation and democratize international organizations.

Types of global tax: There are various kinds of global tax. An economic-related global tax including: a currency transaction tax (CTT), a tax on multinational corporations, on off-shore centers, on tax havens, and on foreign direct investment. An environment-related global tax includes: global carbon tax, natural resource tax, and a tax on the use of straits and airspace. A peace-related global tax includes a tax on arms sales.

Currency transaction tax (CTT): In terms of tackling the huge influence and power of global financial capital, a CTT is the most critical amongst these global taxes. The CTT concept originated from the Tobin tax devised by the Nobel Prize winner James Tobin in the 1970s. He proposed to impose a tax on all transactions in the foreign exchange market to regulate foreign currency speculation and maintain the autonomy of domestic economic policy.

Currency Transaction Development Levy (CTDL): A CTT can realize more easily by focusing its purpose on financing development with much lower tax rate than CTT. A CTDL is proposed for all foreign exchange transactions in a particular currency wherever they take place in the world to be subject to a development levy of 0.005%. A CTDL can be levied unilaterally on all foreign exchange transactions in a particular currency, and there is no need that all countries implement it at the same time. A CTDL is technically feasible, does not cause any market distortion due to its low tax rate, and can raise revenues of \$5.59 billion/year for yen transaction alone, and \$33.41 billion/year for major currencies.

Global carbon tax: To arrest climate change and reduce CO₂ emissions on a global scale, it is imperative to provide an incentive for using less fossil fuels by imposing a heavy tax on the usage of fossil fuels. Climate change could threaten survival of all species on earth, including human beings.

Why is a global tax necessary? There are at least four reasons. First, a global tax is required as a policy measure to reduce negative impacts caused by global activities. For example, introducing the floating exchange rate system has contributed to currency and banking crises which heavily damaged economy of affected countries, raising unemployment rate that directly hit the livelihoods of the poor.

Second, a global tax can raise revenues to finance global public goods. If a CTT of 0.1% on all transactions of foreign exchange market is implemented, the annual revenue will amount to roughly \$80-125 billion in 2001-2004. In case of global carbon tax, it is calculated that the annual revenue will be more than \$125 billion.

Third, a global tax is necessary for attaining two facets of justice, i.e., "justice as fairness" and "justice as commitment." The world's richest 1% own more than 40% of global wealth. A few rich people, for instance, who play the money game make huge profits in financial market; when the market does not work properly due to huge speculation that often leads to financial crisis, it is the general public, especially the poor who have nothing to do with the money game, who are affected the most. From a viewpoint of justice, it is critical to empower communities and individuals to transform unjust structure of institutions.

Fourth, a global tax is needed to democratize global governance, particularly global financial markets that have become an essential element in the established structure of global power relations.

Airline-ticket solidarity tax: An actual case of global governance for global tax is the air-ticket solidarity levy initiated by France in July 2006; Chile, South Korea, and African countries followed the model. The airline-ticket levy imposes a tax on those who benefit from globalization, redistributing revenue to those who benefit the least from

globalization, levying a tax of 10-40 euros and 1-4 euros on business and economy class passenger fares, respectively. The revenue is used for improving access of the poor to the treatment of HIV, malaria and tuberculosis through its governing mechanism, UNITAID. Formerly the International Drug Purchase Facility (IDPF), UNITAID aims to lower the price of quality drugs and diagnostics and accelerate the pace at which they are made available. Although still very new, UNITAID demonstrates a workable and more transparent, democratic and accountable system than existing global governance mechanisms.

'Leading Group' on Solidarity Levies: In January 2004, the Presidents of Brazil, France and Chile (the 'Lula group'), supported by the Secretary General of the United Nations, Kofi Annan, published a declaration announcing that their governments were going to form an international working group to set up innovative development financing mechanisms, especially international taxes. In January 2005, then French President Jacques Chirac proposed an ISL for MDG targets at the World Economic Forum in Switzerland. In March 2006, the Paris Conference on Innovative Development Financing Mechanisms organized by France was the first international conference devoted to the theme of innovative mechanisms in general, and to global tax in particular. The airline-ticket solidarity levy was discussed at this forum.

At the same time, a "Leading Group on Solidarity Levies to Fund Development" (LG) was established, and member countries quickly grew from an initial 38 to 56 currently. The LG is a good example of partnership among governments, NGOs and the United Nations. A Task Force on Tax Havens and Capital Flight was created by France, Chile, Spain and Norway. A Working Group on Innovative Financing Mechanism related to Financial Transaction was established in September 2009 by France, Brazil, Norway, Chile and Spain. At a LG plenary meeting in May 2009 in Paris, the French foreign minister took the initiative to organize a task force on Financial Transaction Tax (FTT), and a feasibility proposal is to be prepared by June 2010.

The Leading Group will organize its next General Assembly in Japan this year. An All Japanese Parliamentary Group on International Solidarity Levy

was launched in February 2008 with three main purposes: Research and study international solidarity levy; Become a full-member of the Leading Group; Take a presidency for a CTDL task force. Moreover, a Japanese Commission for the Promotion of International Solidarity Levies (the "Terashima Commission") was created consisting of Members of Parliament, scholars, civil society, government and international organizations.

Global unions launch ISL campaign. In August 2009 and amidst one of the most severe economic crisis faced by workers and their families throughout the world – which started in the U.S. housing market, spread through the unregulated 'virtual' economy and which now resulted in the employment crisis – the Global Union Federations, including Public Services International (PSI), Building and Wood Workers International (BWI) and the UNI Global Union (UNI), launched an Asia-Pacific wide campaign to introduce an ISL in the region. Due to the crisis, it is unlikely that countries will be able to accomplish the UN Millennium Development Goals (MDGs) by 2015, as aid contributions have remained stagnant. The MDGs which cost governments approximately US\$50 billion a year is under-financed and the Global South is facing a food crisis which would require an injection of US\$15-20 billion a year. The pressing problem of climate change would need US\$150 billion a year. An International Solidarity Levy could serve as an effective financial regulatory mechanism in ensuring a democratic global governance of the international financial market, while at same time providing financing for public goods.

Global tax and global governance could be realized, and civil society organizations, their networks, and partnerships between civil society organizations, global social movements, like-minded countries and the United Nations are the key factors to make it happen.

28. PSI-ADB Dialogue in India

In 2005, Public Services International (PSI) initiated a dialogue with the Asian Development Bank (ADB) to ensure that the Bank's lending operations in the Asia-Pacific region respect fundamental workers' rights and promote Quality Public Services (QPS). Today, there is mutual agreement that the ongoing and future cooperation between PSI and ADB consists of the following – (a) Regular dialogue and consultation; (b) Joint research, subject to concurrence from ADB member government;

(c) Dissemination of PSI reports and information within ADB; (d) ADB's assistance to PSI in coordinating requests for meetings with resident missions and project officers; and (e) Sharing of views and information on a number of projects, e.g., Philippines, Mongolia, Indonesia, India and Tonga. In India, the first ever dialogue between PSI Indian affiliates and ADB India Resident Mission (ADB/INRM) took place in November 2010 in Delhi, with INRM's head of the Portfolio Management Unit joining as a resource person. A senior official from ILO-South Asia also made a presentation on ADB's lending requirements on core labor standards (CLS), integration of CLS issues into the Bank's operations, and ways to move forward. ADB conducts its own monitoring, and informed the unions that it welcomes participation of civil society, and for unions to report any CLS violations to ADB. The energy unions promoted PSI's campaign on publicly-funded quality electricity services. Both PSI and ADB agreed to continue the dialogue on policy and projects, with ILO as a cooperation partner.

RECENT ADB ENERGY PROJECTS IN INDIA

ADB PROJECT	AMOUNT/DATE APPROVED
Uttaranchal Power Sector Investment Program (Facility Concept)	\$300M loan (March 2006)
Madhya Pradesh Power Sector II	\$620M loan (March 2007)
Himachal Clean Power Development (Facility Concept)	\$800M loan (October 2008)
Bihar Power Sector Development Program	\$300M loan (Proposed)

ADB and India: India is a founding member of ADB and its fifth largest shareholder; by loan approval, India is one of the Bank's largest clients. Since the beginning of lending operations in 1986, ADB has approved loans (sovereign and nonsovereign) amounting to \$24,122.7 million. ADB's lending to India increased from an annual average of \$1.16 billion in 2000-2005 to \$2.0 billion in 2010-2011

Madhya Pradesh: Power sector reforms began in 2001 assisted by loans from ADB; its received additional impetus from the Electricity Act (EA) 2003. The Madhya Pradesh State Electricity Board (MPSEB) was unbundled into five successor companies; in 2006, a trading power company was created. MPSEB continues to exist and remains the employer of all the workers. The unions raised several issues due to unbundling – lowering of benefits and service conditions; non-recruitment of key staff over 10 years; outsourcing work of permanent nature; physical attacks on staff; no consultation, no transparency;

harassment and delisting of unions; politicization of MPSEB operations. The unions lobbied for the scrapping of EA 2003 and review of the reforms, organizing phased agitation, hunger strike, rallies, court complaints and media campaigns. The trade union rights of 58,000 MPSEB employees were violated during implementation of the Madhya Pradesh power project. In 2010, PSI gave the project failing scores based on: non-compliance with core labor standards and related labor laws, lack of transparency, and absence of consultation and participation of unions.

Delhi. The Delhi Electricity Act was enacted in 2001, and resulted in the unbundling of the Delhi Vidyut Board (DVB) into 6 new companies, including 3 private distribution companies (discoms); the employees were forcibly thrown into private sector. In 2009, the Supreme Court of India ruled that the status of all 16,000 DVB employees are "transferee employees," i.e., they remain government employees

transferred to the new companies. The restructuring process resulted in the voluntary retirement of 6,500 employees in the discoms and hiring of outsourced 'CTC' (cross to company) workers. The new discoms do not have employee databanks; they are making huge profits but working conditions have worsened from 2002-2010. Electricity tariffs have been raised. Government is now paving the way for private sector participation in generation, but the union (DSEWU) vowed not to allow plans to privatize generation. Privatization was not required in the discoms, only a change in management and operational procedures; the workforce remained the same.

Tamil Nadu: The Tamil Nadu unions remain successful in their campaign to resist privatization. Over the years, however, the number of employees decreased from 150,000 to 65,000. The Tamil Nadu Electricity Board (TNEB) is now undergoing restructuring, with the creation of a holding company (TNEB Ltd) and two subsidiaries (transco and gen-disco), all still 100% owned by government. A tripartite agreement was recently initiated among TNEB, State Government and all recognized unions to protect workers' rights and ensure no retrenchment of existing employees nor lowering of service conditions is done and that the staff made redundant be redeployed. No employees have been transferred to date, and all still remain with TNEB. Moreover, an agreement negotiated by the unions after a judicial process in 2008 provided for a certain number of contract laborers to become permanent every year; 21,600 contract laborers have now become permanent employees. Contract labor are all directly employed by TNEB at 300 rupees/day (or 9,000 rupees/month).

Himachal Pradesh: The power utility (SJVN Ltd) is a central public sector undertaking and joint venture between India and Himachal Pradesh. Unions encounter problems that include harassment and contractualization. The ratio of officers/executives to workers is 1,700: 400 (or more than four-fold), that is tantamount to union-busting. Himachal Pradesh Power Corp is not taking SEB employees but from other departments. All power workers are coming together, with the formation of a workers federation that include unions from private companies.

Bihar: The Bihar SEB does not generate power; the National Thermal Power Corp (NTPC) is providing power required by the state. ADB is providing loans to Bihar that supports power reforms. The new private companies are not willing to pick up the liabilities of the SEB. There has been no recruitment, and the number of employees has been decreasing from 44,000 to 12,000 currently; work load has increased. The status of employees is not clear. The development of Bihar is closely linked to developments in the electricity sector. A successful industrial action took place in 2007 with huge support from unions and media and major impacts on the state – the High Court directed that there be no change in service conditions and service rules are protected. In 2007, all unions were involved; now division has occurred, with some opting for negotiated settlement and others for industrial action. Based on the Delhi experience, Bihar unions will not allow privatization, and are interested in linking campaigns on quality electricity services.

Uttar Pradesh (UP): Reforms were initiated in the 1990s, causing much agitation to workers and other sectors of society. Workers have no job security and are not motivated to provide good service. Though the number of consumers have increased from 0.7 million to 10 million, the number of employees have been decreasing, with less than 30,000 regular employees currently. Contract workers are either appointed directly by the SEB or contracted by contractors, and are paid 40% less than regular workers. The union is organizing contract workers who are part of the workforce; contractors should refrain from continually changing contract workers. Unions should change the perception that electricity workers are corrupt and have no commitment to quality services. UP unions are supported by Indian unions in the campaign against power privatization.

Uttaranchal: Uttaranchal used to be part of UP, and have similar problems. Power reforms started in 2003, with ADB playing a key role in financing the reforms. Three (3) new companies were formed in June 2005. Since there was much opposition to large hydroelectric power projects, only smaller plants are being built. PSI commissioned a research on impacts of power reforms in Uttarakhand; the research findings will be presented to ADB at the proper forum.

29. PSI-ADB Dialogue in Indonesia

The Asian Development Bank (ADB) has made a commitment to poverty reduction and plays a key role in financing reforms in the utility and social sectors in the Asia-Pacific region, including the restructuring of state-owned enterprises. Public Services International (PSI) recognizes that its campaign on Quality Public Services (QPS) has similar objectives to ADB's goals of reducing poverty and reaching the MDG targets on core public services. In 2005, PSI initiated a dialogue with ADB to promote QPS and ensure that workers protection and core labor standards (CLS) are complied with in ADB-funded projects in the region. An initial PSI-APRO survey has shown that forty (40) affiliate unions in the power, water and health sectors are being harmed or would likely to be harmed by existing or proposed ADB loan projects and programs. Given the growing impact of globalisation on working people and their families, this engagement is more important than ever. In 2010, PSI energy unions – Enterprise Electricity Workers Union of PLN (SP.PLN); Generator Java-Bali Workers of PJB (SPPT.PJB); Persatuan Pegawai PT. Indonesia Power Tingkat Pusat (IP) – initiated a dialogue process with ADB's Indonesia Resident Mission (IRM) based in Jakarta.

ADB and Indonesia: Indonesia is a founding member of ADB and is categorized as a "middle-income country." Since 1966 till end-2009, the country had received 303 loans and 504 technical assistance (TA) projects amounting to US\$25.7 billion and US\$282.9 million, respectively. Measured by loan approvals, Indonesia is ADB's largest client, and its second largest recipient of TA support. Measured in cumulative ADB lending, 41% of overall lending supported agriculture and natural resources, energy, and transport and communications. Law, economic management, and public policy accounted for 16% of the total lending, reflecting the significance of policy-based lending since the 1997 Asian financial crisis. Indonesia's profile in the international arena rose with its membership in the Group of 20 (G20) nations and its prominent role in ASEAN and other regional and global initiatives.

Power Sector Restructuring Program (PSRP): In 1999, ADB approved the PSRP loan (US\$380 million) to Indonesia; the Japan Bank for International Cooperation (JBIC) co-financed PSRP with an additional \$US400 million loan. The ADB-JBIC loan is tied to 30 policy actions that Indonesia must undertake before tranches releases of the loan. According to ADB's Project Completion Report/PCR (July 2004), the program loan was instrumental in initiating important measures such as – tariff increases and the resultant lessening of PLN's financial burden, unbundling state-owned power utility PLN, renegotiating power purchase agreements (PPAs) to prevent further loss of investor confidence, and formulating the 2002 Electricity Law. The power restructuring loan was also expected to result in a competitive market in power generation in Java-Bali.

ADB PROJECT	DESCRIPTION OF THE PROJECT
Java-Bali 500 KV Power Transmission Crossing	\$100M loan, for approval May 2012, to construct 500 kV transmission line, submarine cables, and substations that will allow an import capacity of 1,500 MW from Java power grid to Bali power grid.
Loan to Indonesia Eximbank	\$200M loan, approved March 2011, to fund a pioneering financing mechanism forenergy efficiency improvements.
Java-Bali Electricity Distribution Performance Improvement Project	\$50M loan each from ADB and Agence Française de Développement, approved March 2010, to rehabilitate overburdened distribution network, introduce energy efficient compact fluorescent lamps and light emitting diodes, and support PLN' sefficiency investment plans, and save energy and cut greenhouse gas emissions.
Climate Investment Fund	\$400M investment plan, approved March 2010, to double geothermal power capacity and reduce greenhouse gas emissions, endorsed by the Clean Technology Fund (CTF).
RECENT ADB ENERGY PROJECTS IN INDONESIA	

PSI energy unions and civil society organizations had challenged the 2002 Electricity Law at Indonesia's Constitutional Court. The law aimed to unbundle and privatize the country's electricity system. In a deposition at the Court, PSI demonstrated the systematic weakening of electricity sectors around the world due to the policies of deregulation, unbundling and privatization that do not improve services to the average family; many countries are reversing or postponing these policies. In a landmark decision in December 2004, the Court cancelled the Electricity Law and stated that the law is against the Indonesian Constitution. The Court stressed the need for a state-owned electricity company to hold the state responsible for the provision of power services to all Indonesian citizens. The Court also referred to international experience with privatization in rejecting the law, which they said would harm the country. In 2009, a new electricity law was passed; the PLN union again challenged the new law citing it operates on the same principles of privatization and unbundling. In December 2010, however, the Constitutional Court rejected PLN union's petition for lack of legal ground; the Court argued that the law did not open PLN to unbundling or disintegration.

These issues underpin the first PSI-ADB/IRM dialogue in Jakarta on 20 October 2010 where PSI unions raised issues on ADB's energy projects and the adverse effects of deregulation and privatization policies. Below are excerpts of the PSI-ADB/IRM dialogue:

Feasibility of Java -Bali 500 -KV Power Transmission Crossing Project: On the Java side, transmission crossing tower needs to be more than 500 meters high so that ships can pass under. On the Bali side, however, buildings taller than the coconut tree are culturally unacceptable. There is very limited information on the project at ADB website; what technical feasibility studies had been undertaken? How can unions be involved in decision-making?

IRM RESPONSE: ADB will bring the matter to the attention of PLN, the executing agency. Local customs would have to be considered and agreed. ADB's project guidelines state that projects need to be designed adequately before the loan agreement is signed. ADB cannot contact the union directly since its counterpart is PLN; PLN should approach the unions. Anticipation of impacts before project implementation is being done, ADB always monitors

every project. We always welcome observations.

Need to create Labor Desk at ADB

IRM RESPONSE: The focal point for unions at ADB is the Regional Sustainable Development Department (RSDD); the contact person in ADB-Indonesia is the Senior External Relations Officer.

ADB's view on free trade and deregulation policies, including privatization or unbundling of PLN

IRM RESPONSE: Principally ADB provides development financing, but the projects being implemented in each country belong to governments. ADB supports a government in the direction it wants to go. ADB has a complaints mechanism, and it always responds to complaints; if there is violation of ADB policies, the unions can report it, and we can follow it up.

ADB's view of 2009 Electricity Law reviewed at Constitutional Court, given ADB's support for the 2002 law

IRM RESPONSE: ADB does not see itself interfering in judicial processes.

How can worker report corruption in ADB-funded projects and what protection is afforded

IRM RESPONSE: ADB has a whistleblower protection policy; cases of corruption can be reported to ADB's Integrity Office.

Breakdown of total US\$780M PSRP loan; ADB's PCR does not provide this information

IRM RESPONSE: ADB program loans go directly to the budget of the Government of Indonesia; monitoring is provided in the policy matrix.

PSI urges ADB to look into report by labor network on non-compliance with CLS in ADB-funded road project in Kalimantan

IRM RESPONSE: ADB fielded a special mission to review the allegations. The mission found that only part of the report is justified. Since then, ADB had established further communication with the labor network to discuss the road project.

Towards the end, PSI energy unions and ADB/IRM agreed to continue the dialogue. ADB/IRM invited PSI unions in two upcoming consultations in Indonesia – (a) review of ADB's Accountability Mechanism and (b) preparation of the Country Partnership Strategy 2011-2015.

30. PSI-ADB Dialogue in Philippines

The Asian Development Bank (ADB) has made a commitment to poverty reduction and plays a key role in financing reforms in the utility and social sectors in the Asia-Pacific region, including the restructuring of state-owned enterprises. Public Services International (PSI) recognizes that its campaign on Quality Public Services (QPS) has similar objectives to ADB's goals of reducing poverty and reaching the MDG targets on core public services. In 2005, PSI initiated a dialogue with ADB to promote QPS and ensure that workers protection and core labor standards (CLS) are complied with in ADB-funded projects in the region. An initial PSI-APRO survey has shown that forty (40) affiliate unions in the power, water and health sectors are being harmed or would likely to be harmed by existing or proposed ADB loan projects and programs. Given the growing impact of globalization on working people and their families, this engagement is more important than ever. In 2010, the Alliance of Government Workers in the Water Sector (AGWWAS) initiated a dialogue process with the Philippine-based ADB Headquarters to promote quality water services and public-public partnerships (PUPs) in Bank-funded water projects.

Human right to water and sanitation: The United Nations General Assembly Resolution 64/292 recognizes the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights. It also calls upon member States and international organizations to provide financial resources, capacity-building and technology transfer, and scale up efforts to provide safe, clean, accessible and affordable drinking water and sanitation for all. When ADB reviewed its Water Policy in 2005, AGWWAS submitted arguments that emphasized water as a human right and its provisioning should remain in public hands. Governments should allocate more resources towards quality water services.

PUPs, not PPPs: ADB is promoting public-private partnerships (PPPs) in its water projects; the possibility of public sector reform and improvement is largely ignored, and the private sector is seen as the only solution. PPPs have disrupted the historical tendency to operate water supply as a public service. However, PPPs have shown unsatisfactory results –

- ❖ Underinvestment: very little private investment in water or sanitation in developing countries 1990s-2007. National governments and public finance remains the main source;
- ❖ Unprofitable: multinational companies fail to make profit from PPPs in water (or other infrastructure), so they withdraw and thus affecting service delivery;
- ❖ Unpopular: widespread public opposition to private sector water operators, north and south;
- ❖ Selective: private companies choose or

cherry-pick only a few countries/cities.

A PUP is collaboration between two or more public authorities on a not-for-profit basis which aims to – improve services and overcome some limitations of the public sector, leading to improved access; build capacity in public agencies and skills of the workforce; and build stronger community support and accountability for services. Globally, only a small proportion, or roughly 5-7%, of water operators are private; the majority of service providers are still public.

PUPs have several advantages – Mutual understanding of public sector objectives and ethos; Non-commercial relationship: Low risk to municipality; Transparency and accountability; Many public partners to choose from, north and south; Low transaction costs, e.g., administration costs 2% of total; Long-term gain in capacity-building; Local control over objectives and methods; Can involve local civil society and the workforce.

AGWWAS has successfully implemented a pilot PUP project with a local water district (WD), a state university and the PSI Research Unit (PSIRU). The project involved capacity-building training of WD workers in performance benchmarking as a tool to improve water services. An online training course for water utility workers and managers is now being developed among the PUP partners and an India-based institution.

PUPs in ADB-WOPs: ADB has a Water Operator Partnerships (WOPs) program initiated in 2007; 12 'twinning' between public and private water operators have been implemented, with participants from two Philippine WDs. PSI has submitted several recommendations on the WOPs –

- ❖ Any private operator who participates in WOPs should be on a non-profit basis;
- ❖ WOPs should be 'ring-fenced' during and after twinnings to shield it from marketing or or-profit purposes;
- ❖ Monitoring should be done on any violation of the non-profit clause in WOPs;
- ❖ The disproportionate number of private partners in WOPs should be addressed;
- ❖ More resources should be allocated to PUPs;
- ❖ The WOPs process should be strengthened by public operators and civil society;
- ❖ Twinning of unions in water utilities should also be promoted;
- ❖ Create a Labor Desk at ADB-WOPs.

An EU-ACP funding mechanism of 40 million euros (US \$55million dollars) is now available for PUPs between European Union and African-Caribbean-Pacific water utilities or public authorities. A similar funding mechanism should also be created at ADB.

AGWWAS field research on ADB water project; A US\$50 million ADB loan – Water District Development Sector Project (WDDSP) – is being proposed to 5 pilot WDs, to be cours through the Local Water Utilities Administration (LWUA). The aims of the project are to – rehabilitate and expand existing water supply systems; improve coverage in service areas from 54% to 65%; support institutional development and capacity building; and conduct public health and hygiene campaigns.

With a team of researchers, AGWWAS conducted field visits to 4 pilot WDs to seek inputs from managers and workers regarding the WDDSP. The research focused on – validating the project's aim, capacity-building component, feasibility study, loan application, information disclosure, consultations with local communities and unions, tariff increase, social protection and labor issues. AGWWAS will present the following findings to ADB at the proper forum –

- ❖ WD management and unions agree with the proposed project aim to rehabilitate and expand existing water supplies.
- ❖ The capacity-building component should: (a) develop key personnel to improve and maintain the existing system; (b) provide formal training to enhance the capability of personnel and ensure reliability and sustainability; (c) improve record-keeping and database management; (d) Prioritize

- dissemination of water technology updates.
- ❖ The feasibility study was done not by the local WDs who are the recipients of the loan, but by LWUA and ADB consultants.
- ❖ LWUA 'padded' the loan applications of some WDs by more than 100%, in one case increasing the original PhP500 million loan applied for to PhP1.2 billion.
- ❖ Some WDs conducted consultations with local officials and communities on sanitation issues only, and not on the entirety of the ADB loan.
- ❖ No consultations with unions were undertaken during the project preparation stage; no labor participation strategy is in place.
- ❖ Project documents – e.g. Initial Poverty & Social Assessment (IPSA), socio-economic surveys – were disclosed to management and the Board of Directors, but not to the workers.
- ❖ The expected increase in water tariffs is a source of significant concern for the WDs; public hearings need to be conducted before ADB loan approval.
- ❖ WD managers strongly support a proposal to organize a forum on WDDSP where all stakeholders are invited.
- ❖ Unions in the WDs are recognized by management and afforded with the freedom of association and the right to collective negotiation.

Lessons learned: Through the field research, AGWWAS gained more knowledge about ADB loan procedures. The field visits brought together the unions and management in a dialogue to address a shared issue. Several avenues for enhanced dialogue and potential partnerships were also identified, e.g. with the Philippine Association of Water Districts (PAWD). Other areas for future cooperation include – addressing climate change issues through workers' capacity-building on Integrated Water Resources Management (IWRM), and the potential of green jobs creation in water and sanitation services.

AGWWAS believes that it does not matter how small the effort may be, or how little the pressure may seem; what matters most is that there is that effort to start with. Now that the dialogue process has been initiated, there is no other way but forward and onward to promote workers' rights and quality water services.

31. PSI-ADB Dialogue in Mongolia

The Asian Development Bank (ADB) has made a commitment to poverty reduction and plays a key role in financing reforms in the utility and social sectors in the Asia-Pacific region, including the restructuring of state-owned enterprises. Public Services International (PSI) recognizes that its campaign on Quality Public Services (QPS) has similar objectives to ADB's goals of reducing poverty and reaching the MDG targets on core public services. In 2005, PSI initiated a dialogue with ADB to promote QPS and ensure that workers protection and core labor standards (CLS) are complied with in ADB-funded projects in the region. An initial PSI-APRO survey has shown that forty (40) affiliate unions in the power, water and health sectors are being harmed or would likely to be harmed by existing or proposed ADB loan projects and programs. Given the growing impact of globalization on working people and their families, this engagement is more important than ever. In 2010, the Federation of Public Employees Trade Union of Mongolia (FPETU) initiated a dialogue with ADB's Mongolia Resident Mission (ADB/MNRM) to advance labor standards and promote quality health services in Mongolia.

ADB and Mongolia: Mongolia's transition to a market-oriented economy in the 1990s adversely affected the Government's ability to finance and deliver health services and provide social security services to cushion the social impacts of the transition. Following the transition, the Government initiated steps to change the social welfare system from provision of universal access to more targeted assistance. ADB has been financing these reform programs.

ADB is the largest external financier in Mongolia's health sector. The review and reforms in the sector was initiated with ADB, World Bank and WHO assistance in July 2002. ADB's aid to the Health Sector Development Program (HSDP 1) – US\$14 million grant, 2007 – changed the health sector policy as a whole. HSDP aims to move away from hospital centered and expensive health system, focus on provision of primary health care, and support decentralized health services; this includes the rationalization of hospitals and health personnel. Significant changes to Mongolia's health sector is largely due to HSDP 1. In December 2010, ADB approved a new US\$14 million grant for the Fourth Health Sector Development Project.

The Social Sectors Support Program (US\$60 million loan and grant, 2009) is a policy loan which includes reforming the social welfare law in improving targeting to the poor, and consolidation of benefits to reduce the high number of social benefits to a more manageable number of transfers. In 2006, the

Government adopted a social welfare package that increased benefits to all newborns, schoolchildren, newlyweds, pregnant mothers and mothers with five or more children. In 2010, the Parliament had tabled

an amended social welfare law for discussion.

An ADB evaluation on Mongolia's health and social protection sector in 2008 assessed the Bank's assistance in both sectors as "partly successful."

ADB Policy Collaboration Forum: In 2010, FPETU organized three activities in Ulaanbaatar and Orkhon to familiarize Mongolian trade unions on ADB and its projects. As well, the unions shared their proposals on pending legislation in Parliament on social protection and health insurance, and ADB's poverty reduction strategy.

- ❖ Ulaanbaatar (May) – This is the first dialogue between ADB/MNRM and Mongolian trade unions that explored areas for potential partnership. PSI union leaders from FPETU, Federation of Medical Employees Trade Union (FMETU) and Confederation of Mongolian Trade Unions (CMTU) joined the dialogue. The activity was covered by national media and the unions' publications.
- ❖ Orkhon (June) – Trade union leaders from four northwestern provinces of Mongolia (Orkhon, Darkhan Uul, Selenge, Bulgan) shared information on various ADB-funded projects in their areas, citing both positive and negative impacts of each project.
- ❖ Ulaanbaatar (November) – Organized by FPETU and Mongolian Medical Employees Trade Union (MMETU), the forum discussed ADB's involvement in health sector reforms in Mongolia, and the possibility for future cooperation on quality health services. A senior health sector specialist from ADB/MNRM joined the forum as resource person.



Ulaanbaatar, May 2010 (Photo c/o FPETU)

Proposals on ADB's poverty reduction strategy

- ❖ Project implementation must be transparent, professional, highly organized;
- ❖ Erase bureaucracy;
- ❖ Combat and avoid corruption;
- ❖ Establish better communication skills, high morality;
- ❖ Regular exchange of information, public billboard; Monitor and control the quality of equipment provided in the ADB project.

Proposals on Social Protection Law

- ❖ Allocate 12 months cash benefit for mothers after birth instead of previous 7 months;
- ❖ Modify current child care paid days (from 5 months to 1 year) for mothers as 1 year for every mother;
- ❖ Instead of cash benefits, provide additional facility for parents of 2 or 3 twins, or single mother/father, e.g. free infant food, medicine, clothes and baby goods, sanitary/hygiene articles;
- ❖ Renew the structure and organization of social care houses;
- ❖ Review and evaluate current poor condition of elders' houses and orphanages;
- ❖ Provide job opportunities for citizens receiving social benefits so that they can earn more;
- ❖ Promote stable system to support orphan children;
- ❖ Take urgent measures to address problem of street children.

Proposals on Health Insurance Law

- ❖ Award or provide cash bond for workers who did not take "sick days off";
- ❖ Establish health policy implementation units in all sub provinces;
- ❖ Prohibit government hospital doctors and nurses to work for private hospitals;
- ❖ Allow all public enterprises to establish health worker or doctor whose responsibility is in prevention of health causes or deceases related to occupation on the basis of self financing;
- ❖ Adopt separate law on mother and child.

Moving forward: Recognizing the importance of ADB's financing in health and other sector reforms in Mongolia, the PSI unions established a Mongolian Trade Union Working Group which is tasked to liaise with ADB/MNRM and formalize arrangements for continuous dialogue on policy formulation and joint research. Some researchable issues have been identified by the unions – e.g., concrete measures to avoid risks and negative impacts in ADB projects, e.g., reduction of salaries and benefits, workplace short cuts; research /survey on privatized hospitals and implications on health services. An independent monitoring group for ADB projects should also be created with labor representation. PSI's health sector unions will continue to engage in advocacy campaigns to: (a) improve labor standards in the health sector, particularly on wage increases, bonus system, and occupational health and safety issues; and (b) defend quality public health services, especially sub-provincial and district hospitals for mothers, children and those with special needs.

PSI-GUFS STATEMENTS

Plain Page

32. PSI to Asian Development Bank: Public Funds for Public Services and Poverty Reduction, Not Private Profit

MADRID, May 2008 – While welcoming some elements of the ADB's "Strategy 2020", the Long-Term Strategic Framework for the Asian Development Bank, leaders of Public Services International (PSI), the global federation of unions of public services employees, expressed deep concern about the Bank's growing emphasis on privatization and funding of private sector operations in Asia-Pacific.

At the ADB's 41st Annual Governor's Meeting in Madrid, Spain on 3-6 May 2012, PSI representatives ask: Why has the ADB been financing and continues to finance projects aimed at the privatization of public services? Why has the Bank decided to shift up to 50% of their funds to finance private sector operations in Asia-Pacific by the year 2020?

"When there are limited resources, shouldn't the priority be to use them to strengthen critical public services, especially when those funds, provided by donor countries, come from the public sector?" asked Annie Geron, Vice-President of PSI.

STRATEGY 2020 –ADB's Long-Term Strategic Framework (2008–2020)

ADB will pursue its vision and mission by focusing on three complementary strategic agendas: inclusive growth, environmentally sustainable growth, and regional integration. To better mobilize resources—including the region's savings and inbound capital flows—and to maximize returns on its unique regional experience and comparative strengths within the evolving aid architecture, ADB will focus on five drivers of change: (i) private sector development and private sector operations, (ii) good governance and capacity development, (iii) gender equity, (iv) knowledge solutions, and (v) partnerships. ADB will also refocus its operations into five core specializations that best support its agenda, reflect DMCs' needs and ADB's comparative strengths, and complement efforts by development partners: (i) infrastructure; (ii) environment, including climate change; (iii) regional cooperation and integration; (iv) financial sector development; and (v) education. In other areas, ADB will continue operations only selectively in close partnership with other agencies. ADB also plans to scale up private sector development and private sector operations in all operational areas, reaching 50% of annual operations by 2020.

At the ADB Governor's seminar on the ADB's Long Term Strategic Framework (LTSF), PSI representatives pointed out that those same concerns were raised by the ADB's Chief economist, Ifzal Ali. In an interview published by the "Business Times" on 29 December, Mr. Ali stated: "ultimately, economies will operate and function properly only if there is...justice and efficient delivery of public goods and services."

Yet, Ali warned, that there is "a complete breakdown on the delivery of public services in Asia." He emphasized that this has caused a "prolonged neglect of vast swathes of society in terms of the most elementary forms of schooling, the most elementary forms of public health, the issues of lack of sanitation."

"We acknowledge that the private sector generates most jobs" said Geron, who is also President of PSLINK in the Philippines, "but it is clear that to be

Philippines, "but it is clear that to be

effective, the private sector relies on public services and infrastructure whether it is water, electricity, public education, public health systems, and a justice system that ensures the existence of clear rules and prevents corruption. ADB's priority should be to ensure adequate funding for those public services," she stated.

"Let us remember that public money, taxpayer funds, is the source of ADB funds," added Mr Katsuhiko Sato, PSI Regional Secretary for Asia.

Referring to a statement by ADB's President Haruhiko Kuroda on 3 May 2008, that private sector involvement poses serious risks, Ms Geron asked "why should public institutions, funded by public money from donor countries, assume all the risks of financing private sector operations? Effective and reliable private companies can always obtain financing from private banks and institutions. Why

should public institutions shoulder the risks with our limited public funds?"

"We share the concerns expressed by the USA and the UK government that the ADB needs to improve its own governance and capacity. We are concerned that the LTSF, Strategy 2020, which will see up to 50% of the ADB's funds channeled to the private sector, does not reflect the needs of the Asian population, in particularly those in the grip of extreme poverty," said David Carey, member of the Executive Board of PSI and member of the Australian Council of Trade Unions executive.

PSI welcomed the adoption of Core Labour Standards (CLS) by the ADB as part of its Social Protection Strategy. Those standards consist of four internationally recognized basic principles that cover the abolition of child labour and compulsory labour, elimination of discrimination and recognition of the right of workers to organize and bargain collectively.

In 2006, the ADB released a handbook for Bank staff on how to incorporate core labor standards and related labor laws in its operations.

But when asked by PSI delegates to ensure their compliance by recipients of ADB loans by adding them to their safeguard policy, President Kuroda declined. PSI is not alone. On 7 April 2008, the International Trade Union Confederation (ITUC) which represents the international labour movement had made the same request to President Koruda.

"The ADB says it believes in the CLS, the ADB says they think they are important and the ADB says they will help reduce poverty, but it needs to take the steps to ensure compliance," said Mr. Sato.

Mr. Carey agreed. "The bank will check-up on the rights of indigenous people, they will check up on the environment, they will check up on involuntary resettlement, but will not check up on workers' rights."

"This is not good enough," said Carey. "ADB senior officials said they won't put important international workers rights protections (CLS) on the list of things they want to check up upon, when they give money to governments for development."

"Sure, they have written a labour standards handbook for ADB staff, and that's fine, but there is still a big hole in the ADB resources by leaving out those 'standards' on the deal for safeguards policy."

"You really need specialist staff to look after this, and you need to let the countries know you will be checking up on their contracts for projects," said Carey emphatically.

PSI leaders reiterated their commitment to continue to engage with the ADB to support all efforts to protect labour standards, deliver universal quality public services and reduce poverty.

"Our members are dedicated public sector workers committed to serving others and ending poverty. You cannot have quality services or reduce poverty without good labour standards," ended Carey.

33. Joint PSI-BWI Submission on ADB's Safeguard Policy (Excerpts only (Draft 'W-Paper', January 2009)

MANILA, 23 February 2009 – This submission is being made jointly by the Public Services International Asia-Pacific Regional Organization (PSI-APRO) and Building and Wood Workers' International Asia-Pacific Regional Office (BWI-APRO), to complement our earlier submissions and representations on the Safeguard Policy Update of the Asian Development Bank (ADB).

1. Make labor a core social policy at ADB, especially in light of global financial and economic crisis that threaten workers jobs and could very well result in impoverishing millions of workers and their families, as was the experience of the 1997 Asian financial crisis.

The role of fundamental rights and principles at work on freedom of association and the effective right to collective bargaining in achieving decent work for all is both crucial and critical. The numerous and appalling violations are occurring and stresses how good governance of the labor market based on respect for these principles and rights can contribute to stable economic, social and political development.

Ensuring that core labor standards form part of the core ADB policy will undoubtedly close the representational gap for workers and employers, will encourage agreed methods of bargaining and cooperation as facilitators and shapers of change and will most certainly reinforce the rest of the ADB safeguard policies and strategies. The contribution that workers' participation and strong labor market institutions make towards increasing productivity and added value is not always fully appreciated. There are many reported cases of violations of basic workers' rights, including in ADB-supported projects, and these had been repeatedly relayed to the Bank through both formal and informal channels.

These violations take the form of physical violence against union organizers and officials, apart from the usual discrimination and dismissals and other work-related anti-union/worker action. Slave labor and bonded labor are still found in the Asia-Pacific region, mainly affecting the most vulnerable, i.e., children and women.

About 60 percent of the workers in the region are in the informal economy; in some countries, informal economy accounts for over 90 percent. Informal economy workers or those engaged in 'atypical work' are the most exploited, most neglected and is

characterized by low wages, long working hours, lack of social protection, lack of job security, absence of occupational health and safety measures, and are largely unorganized and exempted from labor laws. Atypical work is commonly characterized by its contingency, transistorizes, different working conditions compared to regular workers in the same job, and precariousness of employment such as part-time job, dispatched workers, temporary or contractual workers, or outsourced workers.

A basic and urgent understanding of the plight of workers in the region will go a long way towards instituting appropriate and adequate safeguard measures at ADB. More importantly, pro-active mechanisms that improve the situation of workers will be an immense contribution to the Bank's agenda on poverty reduction.

2. We urge the Bank to embark on a new and separate review of its existing labor safeguards that will provide for mandatory and clear-cut operational guidelines vis compliance to all four core labor standards and decent work agenda of the ILO. As well, the review should aim to harmonize Bank policies with higher standards in other IFIs, notably IFC's Performance Standards 2 which global unions view as a key benchmark.

We have earlier viewed ADB's update of its 'safeguard policies' as an opportunity to strengthen and integrate in a more cohesive manner the Bank's current policies and guidelines on social protection, core labor standards, as well as mainstream ILO's decent work agenda into the Bank's policy framework. The existing policy and operational framework has resulted in compartmentalization and a less holistic understanding of impacts on labor of Bank operations.

3. The Bank's current review of its safeguard policy – Environment, Involuntary Resettlement, Indigenous Peoples — should in no way result in any weakening of existing standards.

Rather, any 'updated' safeguards version should incorporate in more than aspirational terms concrete language to strengthen social and environmental safeguards. Within this larger context, we thus welcome new 'labor clauses' in the January version, as well as exhort the Bank to further strengthen language where applicable, as in the following:

New paragraph on 'Incorporation of Social Dimensions such as Core Labor Standards and Gender Issues' (p 9): "Some stakeholders have called for the introduction of policy provisions on core labor standards and gender issues as part of the safeguard policy statement. Core labor standards and broader social protection issues are already included in ADB's Social Protection Strategy (2001)..."

ADB's 2006 CLS Handbook should be specifically mentioned.

Inclusion in 'Environment safeguard requirement' of no. 10 'Policy Principles' (p 19):

"10. Provide workers with safe and healthy working conditions and prevent accidents, injuries, and disease. Establish preventive and emergency preparedness and response measures to avoid, and where avoidance is not possible, to minimize, adverse impacts and risks to the health and safety of local communities."

New language on Occupational Health and Safety (pp 39-40): "40. The borrower/client will provide workers with a safe and healthy working environment, taking into account risks inherent to its particular sector and specific classes of hazards in the borrower's/client's work areas, including physical, chemical, biological, and radiological hazards. The borrower/client will take steps to prevent accidents, injury, and disease arising from, associated with, or occurring during the course of work by (i) identifying and minimizing, so far as reasonably practicable, the causes of potential hazards to workers; (ii) providing preventive and protective measures, including modification, substitution, or elimination of hazardous conditions or substances; (iii) providing appropriate equipment to minimize risks and requiring and enforcing its use; (iv) training workers and providing them with appropriate incentives to use and comply with health and safety procedures and protective equipment; (v) documenting and reporting occupational accidents, diseases, and incidents; and (vi) having emergency prevention, preparedness, and response arrangements in place."

New language on 'economically displaced Persons' under Involuntary Resettlement (p 46):

"In the case of economically displaced persons, regardless of whether or not the affected persons are physically displaced, the borrower/client will promptly compensate for the loss of income or livelihood sources at full replacement cost. The borrower/client will also provide assistance such as credit facilities, training, and employment opportunities so that they can improve, or at least restore, their income-earning capacity, production levels, and standard of living to pre-displacement levels. The borrower/client will compensate economically displaced people under paragraph 4(iii) for lost assets such as crops, irrigation infrastructure, and other improvements made to the land (but not for the land) at full replacement cost..."

'Outline of a resettlement framework' (p 71):

"Estimate the number of affected persons and the likely categories of physically and economically displaced persons."

- ❖ Include: "Workers should be ensured the same level of terms and working conditions whenever their enterprises are involuntarily resettled; the displacement of their enterprises from communities should not in any way be a basis for termination of services, or non-compliance with their basic rights as workers."
- ❖ ADB should undertake a Labor Impact Assessment (LIA), as part of a mandatory social impact assessment.

Appendix 5 (i) on 'Prohibited Investments List'

(p 75): "...production or activities involving harmful or exploitative forms of forced labor or child labor."

- ❖ This should include all four core labor standards.

4. We lament that global unions had not been consulted much earlier, or at the crucial direction setting phase of the SPU process (initiated in 2005), and hence deprived of our right to participate.

- ❖ We strongly urge ADB to create a Labor Desk staffed with competent personnel, as interlocutor for labor inside ADB.

34. Global Unions Joint Statement on ADB's Response to the Financial Crisis

BALI, May 2009 – The Global Union Federations Public Services International (PSI), Building and Wood Workers' International (BWI), and UNI Global Union (UNI) call on the Asian Development Bank (ADB) to use the opportunity of its 42nd Annual Governors Meeting on 2-5 May 2009 in Bali, Indonesia to accelerate efforts to stem the global collapse in employment and economic prospects. The International Labour Organization (ILO) estimates that the global economic slowdown will put more than 140 million people into poverty and that 20 million will lose their jobs in Asia. Among the first to be impacted and lose jobs will be women, young, informal and migrant workers.

The global financial and economic crisis has exposed the glaring ineffectiveness of the current system of global economic governance, and the policies that may have contributed to it. We call upon the international financial institutions (IFIs) such as the ADB to institute major reforms needed to contribute to mitigating the damage caused by the crisis, bring about a global economic recovery on a sustainable basis, and prevent such a devastating crisis from recurring. Any proposed solution or economic stimulus package should ensure decent work, living wages, and safe working and healthy living conditions for workers, our families, and our communities. Mainstreaming core labour standards in ADB programs and policies is a key prerequisite.

Towards this end, we call on the ADB to take urgent action on the following recommendations:

Ensure that public investment is an essential part of all economic recovery strategies: Increase in public investments should create and improve jobs, and (re)build public services and infrastructure to make quality public services available, accessible and affordable to all citizens, whether it is in water and sanitation, health, energy, education or public transport. These are among the core public services which provide the infrastructure that make our communities healthy and fair.

Create sustainable construction and forestry jobs that are important to economic recovery: The ADB should strengthen support for infrastructure projects to immediately create jobs and for longer-term development, especially in "green jobs" strategies that improve energy efficiency and reduce dependence on fossil fuels.

Act on a detailed action plan put forward by Global Unions for the international regulation of financial markets which include the following measures –

- ❖ Clamp down on the shadow financial economy;
- ❖ End tax and regulatory havens;
- ❖ Integrate asset and leverage risks in prudential rules for banks;
- ❖ Restrict shareholder dividends, share buyback programs and leveraged loans;

- ❖ Credit rating agencies must be strictly regulated;
- ❖ Protect working people against predatory lending
- ❖ Enhance the mandate and resources of supervisory authorities
- ❖ Recognize that trade unions in many countries in the region are against the partial or total dismantling of public pension schemes because of the risks such reforms represent to workers' retirement income, particularly for women workers, and are opposed to sacrificing their retirement incomes for the benefit of the financial services industry.

Revise ADB's Strategy 2020 which puts an over reliance on the private sector as engine of growth, and learn from the lessons now being unraveled by the global crisis: Support economic strategies with priority goals that aim to increase workers' wages and improve social protection, thus allowing developing member countries who are overly dependent on external markets to build a more stable domestic demand base as part of the sustainable development strategy.

Support appropriate labor market regulation, adequate social protection and respect of workers' fundamental rights as essential ingredients which ensure that the benefits of

economic growth are broadly shared and do not enrich a minority at the expense of most of the population. A special emphasis must be on social protection programs that respond to the needs of women, young, informal and migrant workers and on enforcement of anti-discrimination measures.

Work with the ILO to support the proposed Global Jobs Pact, and to cooperate in establishing a Global Charter for international governance that would include all the major international labor, financial, trade and development instruments.

To mainstream core labor standards in ADB's programs and policies, we reiterate our previous calls on the Asian Development Bank to –

- ❖ Make labor a core social policy at the ADB;
- ❖ Undertake a separate and urgent review of its existing labour safeguards that should provide for mandatory and clear-cut operational guidelines through the compliance of all four core labor standards and decent work agenda of the ILO. In particular, the review should aim to harmonize ADB policies with higher standards in other IFIs, notably IFC's Performance Standards 2 which global unions view as a key benchmark;

- ❖ Ensure genuine consultations with trade unions before concluding any new lending agreement;
- ❖ Create a Labour Desk at the ADB that is adequately staffed with competent personnel. Global unions are prepared to offer our services and expertise in assisting the Bank personnel and government officials to ensure full compliance with core labour standards in various levels of project implementation and monitoring.

FINALLY, in attaining the goal of poverty reduction in Asia, ensuring decent work has to be at the centre of ADB's agenda. Decent work can only be achieved with the full participation of workers and their communities. We also call for the construction of an architecture for protection of human and trade union rights, linked to development commitments, to underpin all migration policies. This is consistent with and supports the ADB's goal of poverty reduction in the Asia-Pacific region.

35. Global Unions Joint Statement: No 'Post-Crisis' Recovery Until People Get Decent Work

TASHKENT, May 2010 – "Developing Asia's strong recovery from the effects of the global economic crisis is expected to continue through the next two years," says the Asian Development Bank (ADB) in its flagship annual publication two weeks ahead of the Bank's 43rd Annual Meeting in Tashkent, Uzbekistan on 1-4 May 2010. The Global Union Federations – Public Services International (PSI), Building and Wood Workers' International (BWI) and UNI Global Union (UNI) – believe otherwise and urge ADB to collaborate with trade unions on workable solutions.

The economic crisis has thrown millions of people out of work, and destabilized working conditions for workers around the world. The International Labor Organisation (ILO) estimates that some 60 million more workers will become unemployed around the world this year, with another 240 million workers earning less than one euro a day. Women, young, older and migrant workers are particularly affected. The crisis is accelerating the shift from secure and permanent employment to that of precarious work. There can be no recovery, post-crisis or otherwise, unless concrete measures to end the jobs crisis are put in place. Any mantra of recovery and a 'receding' global crisis are all false premises until workers have decent, safe and sustainable jobs.

Towards this end, we call on the ADB to take urgent action on the following:

Put decent work and strict compliance with international labor standards at the heart of recovery. Any 'post-crisis' recovery plan should support decent work, help preserve employment, and prioritise job creation. The current crisis should not provide an excuse to disregard or weaken internationally-recognized labor standards. Policies consistent with ILO fundamental principles and rights at work should be implemented, rather than those which call for 'flexible' labor policies as part of governments' so-called 'exit strategies.'

Create a Labor Desk at ADB: Setting up a labor desk is a necessary first step to ensure that internationally-accepted core labor standards are complied with in ADB's operations in the Asia-Pacific region. The Labor Desk should have an effective mandate to mainstream workers' participation and consultative structures for trade unions within the ADB.

Quality Public Services and over-reliance on the private sector in ADB's Strategy 2020: Quality public services form the foundation for a just society and sustainable economy. Defending and building public services should be at the top of the agenda, supported by fair tax systems and an internationally-coordinated recovery plan that commits a further 1%

of GDP in public investment in the next three years. The excesses of the private sector, and especially the financial sector, caused the global economic collapse with catastrophic results. To insist that we again rely on the private sector for economic recovery, as contained in ADB's Strategy 2020, is foolhardy, to say the least. The ADB should effectively desist from pushing yet more deregulation and convincing governments to leave everything to the market.

International regulation of financial markets by introducing a Financial Transaction Tax (FTT): The economic justification for an FTT starts with the acknowledgement of the harmful effects of short-term speculation producing speculative bubbles over the long run. A measured and controlled increase in transaction costs implied by an FTT will slow down trading activities so as to align capital flows with economic fundamentals, while freeing up new sources of financing for governments. The FTT will provide governments with a powerful regulatory tool which will not depend on the ability of the supervisory authorities to price or assess risk.

Adopt an International Solidarity Levy (ISL): Already being implemented on a global scale, an ISL on, e.g., transportation, short-term portfolio flows

and arms dealings, is a tool to generate revenues to fund domestic needs and priorities identified in the Millennium Development Goals. ISL can contribute towards development financing in reducing poverty, social protection and protecting the environment.

FINALLY, workers and trade unions must have a say in economic solutions and financial regulations that are more transparent and accountable. Urgent action is needed on financial reforms and jobs. Budget deficits and debts should not be used as an excuse to cut public services. Public stimulus spending will be needed to create new, safe and sustainable jobs that will fuel the economy. Working people should not pay the price for an economic crisis they did not create. A more equitable society with broader sharing of benefits, including decent jobs and quality public services, should be the cornerstone of all 'post-crisis' recovery.

Public Services International (PSI) is a global union federation made up of more than 600 trade unions, representing more than 20 million workers in public services in 160 countries around the world. PSI and its affiliates are committed to build Quality Public Services (e.g., water, energy and health services) that meet the needs of workers and communities. Building and Wood Workers' International (BWI) represents over 300 trade unions with 12 million members in 130 countries in the Building, Building Materials, Wood, Forestry and Allied sectors.

UNI Global Union represents 20 million workers in 900 unions worldwide in such jobs ranging from the financial sector, to the night janitor in your office block and the big-time Hollywood director of your favorite movie.

36. International Trade Unions' Joint Communiqué: Decent Work in the Centre of Long Term, Sustainable and Inclusive Growth

HANOI, May 2011 – Representing over 33 million workers throughout the Asia Pacific region we, the Public Services International (PSI), Union Network International (UNI), Building and Wood Workers' International (BWI), International Transport Federation (ITF), Education International (EI), International Federation of Chemical, Energy, Mine, and General Workers' Union (ICEM) and the International Trade Union Confederation- Asia Pacific (ITUC-AP) have been lobbying the Asian Development Bank (ADB) to protect workers' rights and interests by mainstreaming decent work in ADB policies and activities.

The ADB's overarching mission commits it to help its developing member countries reduce poverty and improve the quality of life of the people. The three complementary strategic agendas of *inclusive growth*, *environmentally sustainable growth* and *regional integration* which guide ADB's operations in the region are equally important and fundamental goals of the global and regional trade union movement. Accordingly, we feel it is vital to engage in open and robust dialogue to promote the voices of workers in the planning, implementation and evaluation of ADB projects.

Without truly incorporating the voices and interests of the community of working people in Asia any interventions the ADB makes to promote inclusive growth, environmentally sustainable growth and regional integration will fall short, and fail to address the growing inequality in the region. The global trade unions believe we must engage with the ADB to truly influence decisions and planning at the highest level – workers must be given a voice and heard at all levels.

During the past three days, the international trade unions have met Mr. Kuroda, ADB President, to call the Bank's attention to rectify documented violations of basic workers' rights in certain ADB-funded projects in Nepal, Cambodia and India, to cite a few; need to review major policy and programme directly affecting working families and their communities and organized two panel discussions on Social Protection and Climate Change to promote sustainable development through creating adequate social protection for workers and greening jobs.

In the Opening Session of the 44th ADB Annual Board of Governors' Meeting, ADB leaders shared their key direction and vision responding to the regional challenges as following:

- ❖ Strong leadership and commitment to good governance;
- ❖ Infrastructure investment;

- ❖ Sound financial systems that is accessible to the poor, create jobs, increase employment and accelerate growth;
- ❖ Knowledge creation and sharing;
- ❖ Deeper and stronger regional cooperation and integration.

The international trade unions provide full support for ADB leaders to carry out this vision. Being responsible and committed to the development in the region, we have taken the initiative to research how core labour standards are implemented in ADB's operations and projects. We have documented many case studies in which violations of core labour standards are evident in ADB-funded project sites in public services and construction sectors.

In this regard, we reiterate our call on the ADB at the 44th Annual Board of Governors' Meeting, Hanoi, to take a firm commitment, to walk the talk and to take concrete actions to put jobs creation and decent work agenda at the centre of ADB operations and projects through the following:

- 1) Promoting and institutionalizing reforms that promote and protect human capital through decent work, living wages and social protection for workers, families and the communities. Decent work and a living wage spur an increase in purchasing power and in return increases demand for goods and services which feedback into an increased demand for labour at a living wage. Decent work provides the very basis for job creation and sustained productive employment and a powerful tool to fight against poverty.
- 2) Ensuring integration and compliance of international labour standards, as expressed in the 2006 ADB published *Handbook on Core Labour Standards*, into ADB's operational procedures, procurement and bidding documents; particularly in the light of

the Multilateral Development Banks' development of harmonised conditions of contract for the Construction sector. Global Unions' case studies in selected ADB-funded projects have pointed out specific violations of basic national legislations on workers' right to self-organisation, collective bargaining and provisions for social insurance. The ADB through its various windows of integrating ILO core labour standards such as in its Standard Bidding Documents and Social Accountability Mechanism is enjoined to institute corrective measures with the concerned country executing agencies and conduct joint field level monitoring and evaluation to rectify the violations and install mechanisms to contain the same in similar ADB-funded projects.

- 3) The ADB Strategy 2020 of preferring private sector investment in the provision of core public services such as water, electricity, education and healthcare at the expense of assisting countries to develop effective, sustainable and quality public services needs to be checked. Quality, affordable and accessible public services financed through a fair and redistributive tax system should be a top priority.
- 4) Supporting the promotion and adoption of the Financial Transaction Tax (FTT) as in the model voted by the EU Parliament for strengthening the international financial regulatory framework and to avoid capital flight would significantly curb speculation and limit banks' excessive reliance on unstable sources of funding. Both of these measures would ensure a fairer burden sharing for the cost of the crisis and raise additional resources that are particularly needed in times of global economic downturn and a source of funding for ADB and developing member states to achieve the MDGs by 2015 where only 5% of the region's population are covered by some forms of social protection. Financial development and financial markets therefore must serve the interests of citizens.
- 5) Facilitating trade and investment towards regional integration by supporting transport infrastructure development while maintaining an emphasis on the rights of the local workers and communities who will be working and

living alongside these highways and railways. In addition, we call on the ADB to monitor the impact of large-scale transport hubs on the migration of labour and communities and ensure that appropriate safeguards and facilities are put in place to monitor the impact of the infrastructure.

- 6) Enshrining workers' organisations and their duly elected representatives to participate in the designing, implementing, monitoring and reporting of ADB-funded country-level programme on climate change to ensure social and labour dimensions anchored on the Council of Global Unions policy stance on "just transition" towards the promotion of green jobs, investment and infrastructure through appropriate and sustainable financing to effectively response to climate change. Appropriate and adequate employment and lifestyle alternatives must be found for workers and communities impacted by responses to climate change for responses to be effective.
- 7) The setting up of a labour desk which has been a key recommendation by the global trade union movement since 2005 is a critical first step to this process into mainstreaming core labour standards and to undertake constructive, genuine consultations and dialogue with workers, unions and the community. ADB procurement guidelines for private sector agencies need to respect and recognize core labour and ensuring private partners compliance.

FINALLY, we look up to the ADB to lead by example for the other regional development banks in institutionalizing a regular channel of consultation and dialogue with workers and trade unions or risk being left behind. Already the World Bank and OECD have begun formalizing the involvement of organized labour in their structures through staff secondments, the appointment of trade union focal points (World Bank) and the establishment of the Trade Union Advisory Committee to the OECD and we challenge the ADB to begin the process of formalizing their engagement with workers and establish a Labour Desk. This means inclusiveness of trade unions and workers in growth strategy, inclusiveness in participation of project management cycle (planning, implementation and evaluation) and inclusiveness in the broader sharing of benefits for all.

37. GUFs to ADB: RESPECT WORKERS' RIGHTS!: 45th Annual Governors' Meeting of Asian Development Bank

MANILA, May 2012 – About 70 delegates of Global Union Federations (GUFs) took part at the 45th Annual Governors' Meeting of the Asian Development Bank (ADB) in Manila, Philippines on 2-5 May 2012. The delegates come from India, Indonesia, Singapore, Mongolia, Malaysia, New Zealand, Indonesia, Sri Lanka, Tonga, Nepal, Japan, Philippines and Cambodia. The GUFs – comprised of Public Services International (PSI), Building and Wood Workers International (BWI), Union Network International (UNI) and International Transport Federation (ITF) – are international trade union organizations representing about 70 million workers across the globe in the public services, building and construction, services, and transport sectors. Since 2006, the GUFs have been engaging the ADB at its annual meetings to: (a) Adopt and ensure compliance with the International Labour Organization (ILO) Core Labour Standards in its operations to protect workers' right to self-organization and collective bargaining; and (b) Establish institutional partnership with trade union organizations to review its inclusive growth policy to reflect workers' interest on public utilities based on principle of common good.

ADB should be liable for the power crisis in Visayas and Mindanao, promote workers' rights

May 1 – It is a great opportunity for us – leaders and members of the Global Union Federations to be one with you today in the commemoration of 109th Labor Day in the Philippines. We are here today on behalf of the BWI, PSI, UNI and ITF. We represent more than 15 million workers in Asia Pacific.

Our presence here demonstrate our common agenda to hold the ADB accountable to the current power crisis in the Visayas and Mindanao as it has provided loan to privatize the power sector way back in 2001 which paved way for the enactment of the Energy and Power Industry Reform Act (EPIRA). As if this not bad enough for Philippine experience, the ADB and the Indonesian government has collaborated to use the same model of power restructuring. When will they ever listen to us and learn from bankrupt policies anchored on neo-liberal globalization framework?

We are also here to express our strong support against the policy regulations of the rest of the Multilateral Development Banks which are encouraging the proliferation of contractualisation to the detriment not only of the workers' job securities but also the very existence of trade unions.

In solidarity with the Philippine working families, we will take this issue as we participate in the 45th Annual Governors' Meeting of the ADB.

Global unions to ADB: Formalize partnerships with us now

May 2 – Members of the GUFs urged the ADB to finally act on formalizing partnerships with trade

union organizations towards building workers' capacities and research on workers' conditions in ADB-assisted projects.

"It is high time that the ADB put into concrete action in recognizing the role of the organized labor sector in its technical assistance for research and capacity building," said Lakshmi Vaidhiyanathan, PSI Regional Secretary.

The GUF delegation urged the ADB at the Meeting with Civil Society Organisations (CSOs) and ADB Senior Officials headed by President Haruhiko Kuroda to push for "institutional arrangements for technical assistance on research and capacity building."

Mr. Kuroda responded that the proposal for ADB to enter into technical assistance agreements with GUFs is "quite relevant."

Vaidhiyanathan said the GUFs have been lobbying the ADB to act on this since 2005, but have not seen tangible action from the ADB.

"We are uncertain what keeps the ADB from acting on our demand," Vaidhiyanathan said. She also said that ADB formalized similar institutional arrangements with other CSOs and even private contractors, but not with unions.

The GUFs said that the formal partnerships would provide trade unions with quick mechanisms to ensure the observance of labor standards and respect for human rights in ADB-funded projects. The GUFs urged the ADB to pilot the partnerships in India and Indonesia because these countries have the most number of ADB-funded projects in Asia.

Global unions hold silent protests vs ADB's inaction to pro worker calls: Walk the talk. Be a responsible institution,' ADB told

May 4 – GUFs led a silent protest at the opening of the ADB Annual Meeting against the Bank's continued inaction to their calls to protect and promote workers' rights in all its projects.

Wearing head bands and carrying placards with messages such as "ADB: Respect workers' rights", "ADB, promote pro-poor, pro-worker growth" and "Fight poverty, protect our dignity", around 70 GUF delegates silently trooped in front of the Philippine International Convention Centre (PICC) just as the Governors' Annual Meeting was about to start. The GUF delegates said this is their peaceful way of urging the ADB to "walk the talk" when it comes to the interests of the organized labor sector.

"We dare the ADB to walk the talk. Be a responsible institution by putting forward pro-worker policies in its projects from design down to implementation," said Mahendra Sharma, Regional Secretary of ITF.

But tension grew when police security personnel deployed at the PICC barred the GUF delegation to participate in the opening ceremonies.

Apolinar Tolentino, BWI Regional Representative, said the ILO Core Labour Standards would help ensure full protection of workers in ADB-funded projects. "We tell ADB: Be a responsible organisation. Without the ILO Core Labour Standards, thousands of workers in ADB sites worldwide would remain vulnerable to work place abuse and exploitation."

The "institutional partnership" with trade union organizations meanwhile will ensure ADB's accountability in all its actions, said Lakshmi Vaidhiyanathan, PSI Regional Secretary.

On the GUFs' demand for ADB to review its loans and grants to member states, PSI Vice President Annie Geron said: "Many member states use ADB funds to privatize state utilities such as power and water. Workers and their families usually bear the brunt of high costs of utilities once privatized."

Global unions give ADB 'thumbs down' for its labor record:

"Much is left to be desired", ADB told

May 5 – Members of the GUFs gave the ADB a failing mark for falling short in promoting and protecting the

rights and welfare of workers in its projects worldwide.

"The ADB's performance on issues directly affecting workers is much left to be desired," said Apolinar Tolentino, BWI Regional Representative in a press conference at the Heritage Hotel in Pasay City.

The GUFs based its thumbs down ranking on four concerns: (1) promotion of the Core Labour Standards of the International Labour Organisation (ILO); (2) partnerships with trade unions; (3) privatization of basic utilities; and (4) the ADB's role in the current power crisis in the Philippines.

The ADB is yet to include the ILO Core Labour Standards, an internationally accepted series of rules and principles on minimum standards for treating workers humanely, as part of its official operational policy in all its projects, said Tolentino.

"Without the ILO Core Labour Standards, thousands of workers in ADB sites worldwide would remain vulnerable to work place abuse and exploitation," he said, adding that cases of violations of workers' rights in ADB project sites in India, Cambodia and Tonga have been documented.

The GUFs have also been demanding the ADB to enter into formal partnerships with trade unions as part of to ensure ADB's accountability in all its actions, Tolentino said. This is drawn from the bank's own experience in forging partnerships with groups like the World Wildlife Fund and constructors' federation. Partnerships with trade unions could be through research and building workers' capacities, he said.

The GUFs also scored the ADB for its continued provision of loans and grants to member developing countries including the Philippines to privatize basic utilities such as power and water.

"Privatization undermines the security of tenure of public servants and their unions, and deteriorates the quality of basic services to people," Tolentino said.

The GUFs vowed to continue lobbying ADB to adopt pro-worker policies in its projects.