



Evaluation Study

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Involuntary Resettlement Safeguards

Operations Evaluation Department

Asian Development Bank

ABBREVIATIONS

ADB	–	Asian Development Bank
AP	–	affected person
BME	–	benefit monitoring and evaluation
BP	–	Bank Policy
CCO	–	chief compliance officer
DEC	–	Development Effectiveness Committee
DMC	–	developing member country
EA	–	executing agency
EIA	–	environmental impact assessment
ha	–	hectare
IADB	–	Inter-American Development Bank
IFC	–	International Finance Corporation
IP	–	indigenous peoples
IR	–	involuntary resettlement
Lao PDR	–	Lao People's Democratic Republic
MFF	–	multitranches financing facility
MRM	–	Management Review Meeting
MTS II	–	Medium-Term Strategy II
NGO	–	nongovernment organization
OCR	–	ordinary capital resources
OD	–	operations department
OED	–	Operations Evaluation Department
OESD	–	Office of Environmental and Social Development
OM	–	Operations Manual
OP	–	Operational Procedure
PCR	–	project completion report
PPER	–	project performance evaluation report
PPR	–	project performance report
PRC	–	People's Republic of China
RETA	–	regional technical assistance
RF	–	resettlement framework
RM	–	resident mission
RP	–	resettlement plan
RRP	–	report and recommendation of the President
RSDD	–	Regional and Sustainable Development Department
RSES	–	Environment and Social Safeguards Division, RSDD
SES	–	special evaluation study
SOCDD	–	Social Development Division, OESD
SPCM	–	Safeguard Policy Compliance Memorandum
TA	–	technical assistance
TBD	–	to be determined
US	–	United States

NOTE

- (i) In this report, "\$" refers to US dollars.

Key Words

asian development bank, development effectiveness, development-induced displacement, india, involuntary resettlement evaluation, people's republic of china, philippines, social safeguards policy evaluation, viet nam

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This evaluation is based in part on case studies of projects in People's Republic of China (PRC), India, and Philippines. The Director General of the Operations Evaluation Department (OED) managed the Asian Development Bank's (ADB) operations in the PRC from 1993 to 2004. OED has adopted guidelines to avoid conflict of interest in its independent evaluations. Although the Director General of OED reviewed the report, made comments for inclusion, and approved the report, it is considered that potential conflicts of interest were adequately managed. The study relied on consultants, some of whom had no prior involvement in ADB-supported resettlement operations (Samuel Thangaraj and Jose Antonio League), while others did have some prior involvement, either in technical assistance activities (Ping Li and Keliang Zhu) or in project resettlement operations (Guoqing Shi, Shaojun Chen, Aqueel Khan, Arup Khan)—however, not in the case study projects that they were asked to review. The consultants may not necessarily agree with all of the study's views. Mary Grace Alindogan and Grace Agnes Sevilla did background research and administered the questionnaire surveys. The team leader of the study and his director had no prior involvement in resettlement operations in ADB. To the knowledge of the management of OED, there were no conflicts of interest among the persons preparing this report.

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Note: This revised document was posted on the ADB website in October 2006, one month after the original version was posted in September 2006. It includes corrections regarding (i) earlier ADB reviews of resettlement offered to the Board (executive summary; para. 25), and (ii) the influence of the Director, SOCD (para. 30).

EXECUTIVE SUMMARY

This report presents the findings of a special evaluation study (SES) of the Asian Development Bank's (ADB) 1995 Policy on Involuntary Resettlement (IR). The evaluation was one among three included in the work program of the Operations Evaluation Department (OED) at the end of 2005 upon the special request of the Development Effectiveness Committee (DEC) of ADB's Board of Directors. The other two studies concerned (i) the 1998 Indigenous Peoples Policy, and (ii) the Environmental Safeguards. The studies were intended to provide DEC with an independent assessment and also to contribute to ADB's ongoing safeguard policy review, which will lead to a proposal by Management to the Board for consideration of a policy update in 2007.

The scope of this SES was to provide an overview of the scale and nature of IR in ADB operations; examine the extent of application of the IR policy;¹ review trends; make pertinent comparisons with other systems; and give OED's assessment of the IR policy's relevance, effectiveness, efficiency, and sustainability on the basis of evidence gathered within a tight time frame to fit the safeguard policy update schedule. The study has also identified some issues for consideration in the safeguard policy update, and offers recommendations.

The nature of the Involuntary Resettlement Policy. The IR Policy of 1995 required that a series of safeguard principles be upheld in the preparation and implementation of projects funded by ADB: (i) avoid involuntary resettlement where feasible; (ii) minimize resettlement where population displacement is unavoidable; and (iii) ensure that displaced people receive assistance, preferably under the project, so that they will be at least as well off as they would have been in the absence of the project. The Policy specified three types of assistance for IR: (i) compensation for lost assets and loss of livelihood and income; (ii) assistance for relocation, including provision of relocation sites with appropriate facilities and services; and (iii) assistance for rehabilitation to achieve at least the same level of well-being with the project as without it. Fixed procedures were to be applied, which included early public disclosure of intentions, consultation processes, the preparation of resettlement plans (RPs) before loan appraisal, and the setup of grievance redress mechanisms and of monitoring and evaluation systems during project implementation. The procedures were to be set in motion when a mandatory initial social assessment identified people who might be displaced by the project. One useful aspect of the Policy has been that it deals with land acquisition and resettlement in a systematic way and prior to the start of the project, which facilitates project implementation. OED agrees with the basic philosophy and general principles of the IR Policy—as a general principle people should not be adversely affected by ADB-financed projects.

ADB has expanded the scope of the Policy. This SES argues that the scope of the original IR Policy has expanded since the issuance of the Handbook on Resettlement in 1998, and especially since ADB's reorganization in 2002, which brought with it a new Safeguard Compliance Mechanism and, in December 2003, a new Operations Manual (OM) section F2 on IR. This consolidated the emerging practices on IR planning, which had put the emphasis on addressing all adverse impacts that infrastructure projects could have on people. Through the

¹ The term policy is used in a generic way, reflecting current consensus in ADB as to what this comprises, approximating the latest Operations Manual version of the Policy and the connected operational procedures, which may include elements not expressed in the original 1995 Policy statement. When this study refers to the IR Policy of 1995, the capital P is used.

new de facto policy, laid down in OM F2/BP, and the new procedures in OM F2/OP, ADB practice is now much more inclusive than the title of “IR policy” suggests, as it no longer centers on addressing only significant displacement, but on addressing as well all kinds of losses sustained by affected persons (APs). The procedures have also become more elaborate and prescriptive over the years. Formal compliance with this expanded IR policy has been stressed as a result of a new safeguard policy compliance memorandum, which requires a sign-off by the chief compliance officer on the quality of resettlement planning before loan appraisal. A fear among ADB staff of being “out of compliance,” generated by two inspections since 2002 and a compliance review in 2005, has further raised the profile of IR within project planning. Experiences with these inspections and review have caused staff to be much more demanding of executing agencies (EAs), although, in the face of occasional stiff developing member country (DMC) and EA resistance, compromises have often been made, which raises questions regarding how rigidly and consistently the new policy and procedures are being applied, and how much the 1995 Policy still applies (it was not drafted taking into account the new requirements for compliance).

The IR policy is now controversial. The IR policy is highly controversial among various borrowers and EAs, including APs and civil society organizations concerned with ADB delivering on its stated intents. Most nongovernment organizations (NGOs) hold ADB accountable for not only the spirit but also the letter of the policy. Some have criticized ADB saying it does not pay sufficient attention to implementation, and that this leads to unacceptable problems for APs. Some organizations are now concerned that ADB might revise the IR policy to align more with country safeguard systems, in which they have less faith.

The policy is also contentious among many of ADB's client DMCs, but for different reasons. These DMCs question the IR policy itself, and particularly its present greater inclusiveness, because of its variance with their country systems for dealing with socially adverse project impacts. ADB's requirement for compensating land and physical structure owners for losses at replacement cost or market value may be enshrined in law in most DMCs, but valuation systems to determine these are at odds with those that ADB promotes. ADB also requires that the removal of structures illegally built by affected squatters is compensated for, and that squatters who are affected are assisted to fully regain their previous levels of livelihood. This is not a mandatory requirement in most DMCs. Most countries do not wholeheartedly accept the need to provide special assistance to the vulnerable or, more precisely, to assure that such people are assisted through project-based resettlement operations and budgets, separately from more general assistance that they may get.

Among ADB project mission leaders, the policy is contentious because it is labor intensive and sometimes perceived to take resources away from other necessary and equally important project preparation tasks. The current procedures require much planning to be completed at an early stage (i.e., long before detailed design of projects, which is often completed after loan approval). This sometimes leads to duplication of work later, and can engender opportunistic behavior (e.g., people moving into the project area in the hope of receiving compensation). Another reason is that the goalposts have been changing over the years, which has required staff to attempt to reverse earlier agreements on IR with their clients at a late stage of implementation.

It may not be possible to develop a consensus among the many widely divergent and strongly held views on the policy and its impact.

Findings

The SES developed an overview of resettlement planning and operations within ADB and relied on ADB databases and documents; questionnaire surveys of ADB staff and EA staff; country visits to People's Republic of China (PRC), India, Philippines, and Viet Nam; and 16 case studies of ongoing and completed projects with resettlement conducted by consultants in the first three of these countries. There were several limitations to the study. Further work will need to be undertaken during the update of the IR policy to test the robustness of the conclusions of the study, particularly regarding the effectiveness of outcomes for APs. The limitations are explained in Chapter I, but the most important include the limited number of country and project case studies chosen, the small samples of questionnaires administered to APs, and lack of details on IR in project completion reports (PCRs). With these provisos, the key findings are summarized below.

Many projects now plan for resettlement. Since 2002, half of all ADB-supported projects have included resettlement planning; the corresponding figure was about 20% in the period 1994–2001. The proportion has grown because of increasing requirements and more due diligence on ADB's part, rather than a change in the nature of the projects supported.

Many people affected by ADB-supported projects. In terms of APs identified, the differences have not been similarly large, implying that the increase in attention to IR has led ADB to include RPs and resettlement frameworks (RFs) for many projects with relatively small resettlement impacts, and which earlier did not generate such treatment. ADB's reports and recommendations of the President (RRPs) issued between 1994 and 2005 anticipated that the projects would have an impact on at least 1.77 million APs. Projects approved in the last 5 years were expected to affect between 100,000 and 150,000 people every year.

Transport projects have affected the most people by far (76% of all APs; one quarter of the APs requiring actual resettlement); other sectors in which considerable resettlement was involved included urban and water (8%), energy (7%), agriculture and natural resource projects relying on infrastructure creation (6%), and multisector projects (3%). In the last 4 years, almost all infrastructure projects approved have included resettlement planning. Because of the large transport portfolio, dense population, and small landholdings, the majority (61%) of all APs of projects supported by ADB from 1994 to 2005 were in the PRC.

Weak estimation of the number of APs in the past. A review of all 62 PCRs that ADB issued until 2005 for infrastructure projects approved since 1994, shows that the performance of ADB and the EAs in estimating the number of APs was weak in that period. The actual number of APs recorded was 65% higher than estimated in the RRP. The estimation problem was less serious for people who were actually resettled: 10% more people were resettled than anticipated. The underestimation was much more pronounced for the categories of APs that lost access to land or assets but did not need to move: over 150% more people were affected than anticipated. Overall, 40% of APs identified actually needed to be resettled; the other 60% lost a part of their land or their structures but did not need to be resettled. Some of the APs in the latter group were affected by loss of economic opportunities that were not land related, such as shopkeepers, water vendors, and scavengers at dump sites.

Costs difficult to estimate. Costs of land acquisition and resettlement proved similarly difficult to estimate and were in practice often underestimated as well. The budgets for these items ranged from \$0.02 million (for only six households) to \$214.50 million, with an average of \$24 million, or 6% of the average project budget. The actual expenditure in one case increased

to \$333.7 million, and the average project expenditure was almost double the estimate at \$41 million (11%). In the four case study countries, almost half of the projects studied had land acquisition and resettlement estimates that proved to be at least 50% off; but only 7% of the projects had total cost estimates that were off by that much, implying that the cost of land acquisition and resettlement operations are less precisely estimated than other items of total project cost. This finding has some important operational implications, as policy changes adopted in 2005 allow ADB to finance land acquisition costs.

Forty percent of the PCRs for infrastructure projects studied reported on resettlement issues. Eight suggested the need for follow up actions, such as identification of APs that had not fully restored their livelihoods, preparation of plans to restore incomes, and continued monitoring. This SES recommends that the follow-up actions be pursued.

ADB staff views mixed. The small sample of ADB staff that responded to a call for filling out a questionnaire believed that ADB does not spend enough resources on EA training, the investigation of project alternatives, resettlement preparation, or resettlement implementation. Most respondents, however, believed that ADB added value through the implementation of its IR policy.

EA views mixed. The EA project directors who responded to a questionnaire survey (49% of EAs responded) were generally appreciative of the implementation of the policy, and saw benefits such as capacity development and better outcomes for APs. Almost two thirds reported to have had one or more differences with ADB staff on IR, and noted incremental costs and delays. Some representatives of borrowers in the four case study countries and EA officers interviewed during field missions pointed out that an important “transaction cost” for them was that the IR policy forced EAs to go considerably beyond their normal practice. This was believed to sometimes have a good demonstration value, but also larger, more questionable consequences such as setting double standards for foreign-funded and other projects, and diminishing respect for the law and government policy.

Convergence between country and ADB systems growing. An examination of the country systems for the management of IR studied in PRC, India, Philippines, and Viet Nam found some evidence of a trend towards convergence with the ADB standards, especially in PRC, India, and Viet Nam. In these countries, various new land acquisition and resettlement policies have been issued or new laws enacted, often with support from ADB. Good resettlement implementation capacity has been built up in some organizations in India and in many local governments in the PRC. However, divergence remains in all four countries, given that ADB is simultaneously raising its standards and due diligence. The divergence requires close involvement to ensure that the EAs continue to meet ADB’s higher expectations. Interviews with ADB staff and other sources confirmed that in all DMCs there are discrepancies between the DMCs’ resettlement regulations and the ADB policy, even in such countries as Sri Lanka, whose policy comes close to ADB’s. Although many countries allow the award of compensation for land at replacement cost under some circumstances, for instance, they do not prescribe this, leaving it to the project to negotiate this with the land authorities. Full alignment with country systems seems difficult to achieve without ADB relaxing its policy and procedures and curbing the trend to ever greater inclusiveness. Such relaxation may not be opportune, although a case can be made, from a broader capacity development perspective, to establish the principles of the policy as targets to be achieved over a period of time. Close involvement of ADB in the preparation of RPs and resettlement operations remains necessary for many agencies in DMCs with low capacity to implement government and ADB policies.

ADB's TA valuable. The SES assessed that the value of ADB's technical assistance (TA) in helping countries with IR policy development or capacity development was almost invariably high. ADB has approved TA worth \$7.6 million for this since 1994, a modest amount, and perhaps too modest.

Procedural compliance variable in project case studies. Sixteen case studies conducted by consultants in PRC, India, and Philippines showed that compliance with the IR policy has been variable, when measured against presently applied standards. All APs were compensated, and most were assisted in some way. Many APs in the PRC and to a lesser extent in the Philippines were compensated or assisted at levels much higher than seen in other DMCs. In many cases, however, compliance with one or more of the many procedures or special loan covenants was late, partial or questionable, given the lack of clear guidelines on how to interpret the compatibility of the country's procedures with ADB procedures. In some cases, RPs were not updated when they should have been; compensation was not provided in a timely manner, or was not provided based on the best method for determining replacement cost of lost assets or according to the RP procedure; APs were not consulted sufficiently about the resettlement sites; external monitoring arrangements were made late; and/or grievance redress mechanisms were not well organized. Assistance to the vulnerable and for rehabilitation of APs was mostly provided, but was of variable quality. In the PRC, the compensation for land loss went through the rural collectives that owned the land, and in the older cases was not distributed in cash to individual APs in accordance with the spirit of the ADB policy.

Efficiency and procedural compliance is improving. Overall, efficiency and procedural compliance have improved over the years—early resettlement operations were planned and implemented less systematically than those approved more recently. In so far as the issue of replacement cost is concerned, a rigorous application could not always be negotiated with the countries concerned (authorities other than the EAs are often responsible for awarding compensation), and the lower compensation rates achieved were in practice complemented in part by special assistance packages. This applied also to some other aspects of the policy and procedures, such as (i) the cost of housing in new resettlement sites for squatter households, which was in practice often shared with these households; and (ii) the timing of award of compensation and resettlement, sometimes set more practically than the procedures required.

While the policy seems to require total compliance, in practice its application was often a compromise. This SES in principle supports such a flexible approach, but wonders whether the policy allows this, and whether ADB's Compliance and Accountability Mechanism would endorse it when put to the test. This should be clarified as part of the safeguard policy review.

APs often satisfied with housing. Most APs interviewed in PRC and Philippines responded that they were by and large satisfied with housing improvements, and many with compensation and economic rehabilitation. Satisfaction levels were lower in most projects studied in India, but even there, there was usually appreciation for some aspects of the resettlement process. This was due mainly to the APs' awareness that they had been compensated and treated better than would have been the case if an institution like ADB had not been involved. Even in the PRC this seemed to be the case more recently, where EAs are now doing more in terms of addressing adverse impacts and assisting APs than previously.

Incremental and transaction costs high. The study asked the question whether the outcomes had been sufficiently positive to justify the incremental costs and the transaction costs associated with ADB's involvement. This study believes efficiency in policy implementation is a

valid criterion. Circumstantial evidence suggests that some of the more identifiable transaction costs have been too high in at least a few of the project case studies. In one case, an EA that had been a partner of ADB for decades decided not to go for another loan, due to ADB's perceived intransigence and insensitivity in that particular case, and because of the changing goal posts in the area of resettlement. In another case, a loan was cancelled when a government decided to turn a two-lane highway improvement project into a dual carriageway. ADB was not requested to provide funding for the new project, partly because of onerous new resettlement planning required as part of the appraisal process, which the government thought did not fit its schedule. Overall, OED believes that the bar is sometimes set at a too high level for countries and EAs, thereby either lowering their interest in requesting assistance from ADB or, when the loan is already signed by borrowers and EAs, creating resistance and delays at the level of the implementing agencies.

Assessment of the Policy and Its Implementation

The study assesses the policy as relevant to project implementation and to ADB's aim to reduce poverty. ADB's policy has been practical in many cases, as it promotes early planning and appropriate compensation to APs to get the land required to implement infrastructure projects. Treating APs in the manner prescribed in the policy helps to reduce social turmoil and resistance to the project, and facilitates land acquisition and project implementation. The study, however, also notes that formal compliance with procedures, especially those promoted since 2002, has been somewhat at the expense of the goal of capacity building, which presupposes that the procedural targets need to be seen as performance standards, to be aspired to by EAs that need to work to improve their IR policies and procedures. The level of compliance with the procedures needed could have been worked out better and earlier. The IR policy itself has become a misnomer, as policy implementation increasingly deals with adverse impacts other than those related to significant displacement of people. About 60% of the affected people did not require resettlement; rather, livelihood restoration was their key concern.

The study tentatively assesses the IR policy as effective in terms of outcomes for APs, because of the limited number of countries visited and projects examined, although on the borderline of a "less effective" rating due to the variations encountered among projects and countries. This assessment is based on the available information about the coverage of compensation provided to APs and the satisfaction levels often registered with housing provided, and in spite of the variable compliance with ADB procedures and variable achievement of economic rehabilitation of APs across projects and countries. The assessment takes into account the fact that later resettlement operations appeared to be better planned and implemented than earlier ones. The study expects most ongoing resettlement operations to achieve a higher level of effectiveness (except perhaps for sector projects). Outcomes for capacity development in EAs have also been by and large effective. Half of the EA project directors saw the increase in experience with resettlement safeguards as one of the main benefits of ADB involvement. ADB TA for IR often had high value in terms of policy development and capacity building.

The study assesses inputs, processes, and systems for IR policy implementation as having been less efficient. Applying the policy has been singularly painful in many cases. ADB's IR policy, through its changing procedures and the organizational arrangements made to enforce it, has been gradually setting the bar higher. This tendency was not questioned by Management in the progress reports on policy implementation submitted to the Board; a formal review with recommended policy modifications, required after 2 years of Policy implementation,

was never submitted to the Board. In an area as contentious as resettlement, Management should not have allowed the significant extension of the scope and application of the IR Policy without drafting another policy paper for consideration by the Board to ensure that these extensions were consistent with the wishes of ADB's shareholders. In a number of cases ADB staff have reinterpreted original agreements made (or not made) with clients. Variable interpretations and attention given to the policy have caused much confusion and upheaval on the side of ADB's clients over an extended period. A larger effort has gone into resettlement preparation than into implementation and loan administration. The lack of supervision by ADB during project implementation has sometimes contributed to less than satisfactory outcomes and adverse impacts on APs. Many APs have experienced uncertainty, fear of uprooting and wrong information for short or long periods. In sector projects, where potentially many dozens of RPs may need to be prepared after loan preparation and with less consultant support, more challenging subprojects are sometimes excluded because of the time and resource requirements. These projects in time will most likely go ahead with domestic funding, but without the benefit of ADB's standards for IR. On a more positive note, in spite of overall lack of IR specialists in ADB due to the now higher demands, the number has increased compared with 5 years ago, and experience in ADB with resettlement operations has also increased greatly. ADB's Environment and Social Safeguard Division (RSES) of the Regional and Sustainable Development Department (RSDD) and the Safeguard Policy Compliance Memorandum have helped raise the profile of resettlement in ADB's operations, but RSES lacks staff to be fully efficient in ensuring quality assurance within the context of the current IR policy and procedures. More resources allocated to capacity development rather than short-term compliance within ADB-supported projects may yield better long-term results.

The study assesses ADB's IR policy approach as less likely to be sustainable, given the high costs for ADB and clients and the widely diverging views held by various stakeholders. Sustainability is defined here as replicability, and is shown by a growing acceptance of ADB's approach by clients. Both incremental and transaction costs weigh against maintaining and expanding relations with clients, even though a survey of EAs also registered many positive reactions; but many of these EAs did not have to pay all the associated costs. What is more, those that declined or would decline ADB loans when offered were not included in the coverage of the survey. Incremental costs can be summarized as high consultant costs, costs of the socioeconomic surveys to determine levels of vulnerability and need for rehabilitation, additional costs borne by some governments due to award of replacement value for land and structures when their system for establishing a property's value is different from ADB's preferred method in principle or practice, compensation for structures and income lost of nontitleholders (if this was not mandatory in the DMC), and assistance to the poor and vulnerable when DMC law gives them no rights to this. Transaction costs are apparent in delays due to preparation of intricate RPs, which lead to longer involvement of government staff than otherwise normal, extra costs due to contract extensions, and higher commitment charges for ordinary capital resources loans when there are delays due to differences between ADB and the EA. Ultimately these translate into lower economic and financial returns of projects. They are also apparent in risk avoidance behavior by ADB staff, or clients losing interest in ADB, leading to ADB having less influence on IR processes. A policy that will not be adopted for locally financed projects cannot be called replicable and is therefore not sustainable in a wider sense. While there are transaction costs associated with the policy, there are also transaction costs associated with not adequately addressing resettlement and livelihood restoration issues (e.g., social unrest, reputational issues for ADB and the DMC, delays in acquiring land, unacceptable adverse impacts on APs).

Recommendations Considered During the Safeguard Policy Update

The team in RSDD working on the policy update should consider the following recommendations and expand the evidence base as deemed needed, in order to arrive at a strengthened assessment of past experience, and a well justified proposal for policy update.

- (i) **Management and the Board need to reconcile the differences between the 1995 Policy and the currently applied policy**, as laid down in the OM F2 section. In OED's view, the three key principles of the policy remain valid, but ADB needs to decide whether to endorse the greater inclusiveness of the IR policy and procedures, or return the current OM and IR practice back to greater focus on displacement of APs.
- (ii) Whatever the nature of the policy adopted, **it should have a results-based framework—distinguishing desired impact, outcomes, outputs, activities, and inputs both at macro (country) and micro (project) level**. At the macro level the impact should be a good country system of safeguards, at the micro level of individual projects the restoration of livelihoods of APs. At the micro level of an individual project, ADB and EAs and related local organizations can only contribute to the achievement of the desired impact and outcomes; the EA would be fully responsible for outputs, and ADB and EA for an agreed set of activities and inputs.
- (iii) **The updated policy should highlight a set of performance standards**. It should set standards for both ADB and EA in terms of vulnerability assessment, public consultation, disclosure of information, reporting, monitoring, and grievance redress.
- (iv) **The updated policy should elaborate on the objective of greater reliance on country EA systems for land acquisition and resettlement safeguards**. The common objective should be for ADB's operations to rely more on country systems for IR. This would need to be accompanied by certifications, preferably by ADB working jointly with other aid agencies, of sufficient convergence with the IR policy and effective implementation capacity.
- (v) **There should be clearer guidelines and procedures regarding the identification of resettlement operations needed**, such as those for (i) the consideration of project alternatives, (ii) retroactive compliance with the policy, (iii) different types of operations and lending modalities, (iv) the minimum number of APs, and (v) RFs.
- (vi) **There should be clearer guidelines and procedures regarding compensation and assistance within resettlement operations**. The issues and recommendations concern (i) procedures for ADB-financed acquisition of land, (ii) use of the replacement cost method for the determination of compensation and assistance, (iii) ADB approaches in squatter situations, (iv) definition of the period after which economic rehabilitation should be achieved, (v) public consultation and disclosure requirements, and (vi) external monitoring. The detailed recommendations regarding resettlement planning, compensation and assistance are presented in Section B of Chapter VI, Boxes 3 and 4.

Recommendations for Involuntary Resettlement Implementation

ADB is facing a dilemma. The IR bar has been continuously raised. Staff dedicated to IR have increased but not sufficiently. The policy is equivalent to that of the World Bank, but staff resources available for its enforcement are not. The record shows that ADB is giving insufficient attention to supervising the administration of RPs and monitoring their implementation. However, ADB shareholders have also made it clear that ADB staff numbers should not grow significantly. Management must find ways to balance the staff resources and the IR policy. Options include some combination of the following: (i) allocating more resettlement specialists, either through reallocation of existing positions or creating more positions; (ii) identifying ways to focus ADB's scarce resettlement expertise in areas of greatest value added; and/or (iii) changing the policy in ways that will be less staff intensive for ADB. This may involve making greater use of country systems.

The study made three major recommendations regarding IR implementation issues:

- (i) **Formulate a time-sequenced implementation plan** to complement the IR safeguard policy update. This should fully identify the required resource requirements, staffing and organizational implications, and perhaps benchmark staffing against that of the World Bank for the implementation of its policy.
- (ii) **Improve IR monitoring.** Loan covenants regarding IR need to be more consistent across loan agreements. ADB monitoring of resettlement implementation, including post-resettlement rehabilitation, needs to improve, particularly during review missions, and reporting needs to be updated more regularly and made more detailed in project performance reports. Partnerships with NGOs and civil society organizations should be strengthened with a greater involvement in project monitoring arrangements. ADB should develop a better system to follow up on actions recommended in PCRs.
- (iii) **Deepen the involvement in building country systems and capacity for IR.** ADB should accord a higher priority to training programs for EA staff, as the payoff may be high in terms of improved resettlement operations. A country review on safeguards should be undertaken as part of country planning, to assess which aspects of the procedures should be instituted over and above the country's own safeguard systems. ADB TA on country systems, led by RSES, could feed into this. Other than this, policy dialogue with countries needs to continue, as does the harmonization dialogue with other aid agencies. Under the IR policy, ADB is required to build capacity for resettlement, but only modest resources have been directed towards this area. A greater effort can be justified.

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I. INTRODUCTION

A. Need for the Study

1. This study concerns an evaluation of the Asian Development Bank (ADB) 1995 Policy on Involuntary Resettlement (IR).¹ The IR Policy is one of ADB's three safeguard policies,² the other two being the 1998 Policy on Indigenous Peoples (IP),³ and the 2002 Environment Policy.⁴ Other safeguard issues are embodied in various sector policies.

2. ADB's Regional and Sustainable Development Department (RSDD) announced a simultaneous review of all three safeguard policies in a concept paper issued on 22 October 2004.⁵ This was to be carried out to determine appropriate revisions to the three policies, to be approved by ADB's Board of Directors. Significant consultation with a broad range of stakeholders was planned as part of that process. In November 2005, RSDD posted a discussion note on the ADB website.⁶ In late 2005, the Development Effectiveness Committee (DEC) of ADB's Board of Directors requested that the Operations Evaluation Department (OED) contribute to the review process by providing independent assessments of the three safeguard policies. It was recognized that the special evaluation studies (SEs) would have to be carried out under a tight time constraint so that they could be completed in a timely manner and feed into the process leading to the revision of the safeguard policies. DEC also requested that RSDD postpone its review so that it could take into account the findings of the studies and the views of DEC. The tight timeframe limited the depth, coverage and amount of field work undertaken for the evaluations. The OED evaluations were not designed to duplicate the broad country and civil society consultation processes initiated by RSDD. Rather, they were designed to concentrate on reviewing compliance with the policies during implementation and assessing results on the ground, within the timeframe and budget available. RSDD will submit a draft paper for consideration by the Board in April–May 2007, incorporating the review.

B. Background

3. The IR policy⁷ mandates that a series of principles be upheld, and that fixed procedures should be followed to safeguard the interests of affected persons (APs): (i) IR is to be avoided wherever feasible; (ii) if resettlement is unavoidable, population displacement is to be minimized by choosing alternative viable project options; and (iii) APs need to receive assistance, preferably under the project, so that after IR they will be at least as well off as they would have been in the absence of the project. Key procedures include early public disclosure of intentions,

¹ ADB. 1995. *Involuntary Resettlement*. Manila.

² The ADB website on safeguards (<http://www.adb.org/Safeguards/default.asp>) states: "Safeguard policies prescribe "do no harm" requirements that must be met for all ADB projects." ADB has not elsewhere defined the use of the term "safeguards", but has grouped the three policies under this heading in the table of contents of its Operations Manual. The Operations Evaluation Department takes it to mean "those principles, procedures, and guidelines that make sure 'no harm is done' through the projects ADB supports."

³ ADB. 1998. *The Bank's Policy on Indigenous Peoples*. Manila.

⁴ ADB. 2002. *Environment Policy*. Manila.

⁵ ADB. 2004. *ADB Policy Statement on Environment and Social Safeguards*. Manila.

⁶ ADB. 2005. *Safeguard Policy Update. A Discussion Note*. Manila. Available: <http://www.adb.org/Documents/Policies/Safeguards/discussion-note.pdf>

⁷ The term policy is used in a generic way, reflecting current consensus in ADB as to what this comprises, and which usually approximates the latest Operations Manual version of the Policy and the connected operational procedures, sometimes also including policy elements not expressed in the original 1995 Policy statement. When this study refers to the IR Policy of 1995, the capital P is used.

consultation processes, and preparation of full or short resettlement plans (RPs) or frameworks (RFs) in case the scope of resettlement cannot be defined before loan approval. The procedures also prescribe grievance redress mechanisms and monitoring and evaluation systems for the implementation period. The procedures are set in motion when a mandatory initial poverty and social analysis has identified one or more persons who might be adversely affected by the use of land by the project.

4. ADB has historically supported IR activities in the context of its projects, but much of this was not systematic until the mid-1990s. Before 1994, resettlement was addressed as part of social impact guidelines applied in the preparation of projects. In February 1994, ADB's President decided that World Bank IR guidelines were to be followed in the preparation and implementation of ADB supported projects. In September 1995, ADB approved its IR Policy, and a Handbook on good practices was issued in 1998.⁸

5. The IR Policy called for a review after 2 years of implementation (i.e., around 1998), but this did not take place. OED, however, carried out two evaluations, one on safeguards for hydropower projects in 1999,⁹ and one on the impact of the policy in 2000.¹⁰ The former studied four hydro projects and concluded that, despite the controversies widely associated with dam projects, they had not resulted in disastrous social or environmental impacts. However, several shortcomings had occurred, particularly in the older projects, most of which could have been avoided or mitigated with more diligence on the part of ADB and executing agencies (EAs). Based on a desk study of eight and a field study of another eight transport and water projects, OED's 2000 study on IR corroborated that there had been improvements in the preparation and implementation of resettlement operations since approval of the 1995 Policy. It also noted that there were many problems that needed to be addressed to achieve satisfactory resettlement results (Appendix 1 summarizes the findings of the two studies).

6. Much has happened since 2000. In line with suggestions in OED's 1999 study, ADB's reorganization in 2002 led to new business processes, new procedures for safeguard compliance, and changes in the location of safeguard specialists within ADB. In mid-2005, new lending rules, lending modalities, and business processes changed the context in which RPs will be designed and implemented.¹¹ In developing member countries (DMCs), and sometimes with the support of ADB technical assistance (TA), national policies, laws, and regulations on IR were introduced or strengthened over the period.

C. Scope and Methodology of the Evaluation

7. The scope of this SES is to provide an overview of the scale and nature of IR in ADB operations; examine the extent of application of the IR policy; review trends; make pertinent comparisons with other systems; and provide OED's assessment of the policy's relevance, effectiveness, efficiency, and sustainability—all on the basis of evidence gathered within a tight

⁸ ADB. 1998. *Handbook on Resettlement. A Guide to Good Practice*. Manila.

⁹ ADB. 1999. *Special Evaluation Study on Social and Environmental Impacts of Hydropower Projects*. Manila.

¹⁰ ADB. 2000. *Special Evaluation Study on the Policy Impact of Involuntary Resettlement*. Manila. Available: <http://www.adb.org/Evaluation/reports.asp?s=1&wp=2&ps=25&type=4>

¹¹ For instance, land acquisition costs incurred for projects are now reimbursable under ADB loans. The piloting of the new multitranchise financing facility, introduced in 2005, may allow the preparation of RPs to become part of the first loan tranche for the project so that these RPs can be finalized less hurriedly and draw on the results of detailed project design. Implementation of RPs could be linked to the approval of subsequent loan tranches.

time frame to fit the schedule of the safeguard policy update. The study presents OED's best approximation of what has happened and how the Policy worked out. The level of compliance of projects with the policy is assessed, as is its probable impact on APs and on institutional development. Attention is paid to incremental costs and transaction costs for ADB and its clients. OED furthermore provides some options for consideration during the safeguard policy update, and recommendations on implementation issues. The study is intended to provide DEC with an independent assessment and also to contribute to the safeguard policy review, which is currently planned to lead to a proposal by Management to the Board for consideration of a policy update in November 2007.

8. Information Sources for the Study. The study drew on (i) information in ADB databases and project documents, (ii) interviews with ADB staff, (iii) questionnaire surveys, (iv) country and project case studies, and (v) interviews with APs and other key stakeholders. The databases and project documents were used to generate aggregate data on projects with APs, and to analyze trends over the period 1994–2005 (1994 being the year when the IR policy was informally first applied, and the first year for which categorized data are readily available). The questionnaire surveys covered ADB staff, and EA staff involved in ongoing projects categorized as having impacts on APs. The surveys had 61 and 67 responses respectively, reflecting 10% of concerned ADB operational staff and 49% of EAs contacted. The case studies involved visits to four countries: Peoples Republic of China (PRC), India, Philippines, and Viet Nam. ADB-supported projects in these countries had significant resettlement activities: they covered over 50% of all ADB projects with resettlement planning, and 80% of all APs. PRC and India received only ordinary capital resources (OCR) loans, whereas Philippines and Viet Nam received both OCR loans and loans from the Asian Development Fund. In PRC, India, and Philippines, from two to eight projects were studied in more depth; all of these projects had some IR activities, and covered one of four main sectors in terms of IR: (i) transport; (ii) energy; (iii) urban (i.e., water supply and sanitation, and multisector projects); and (iv) agriculture and natural resources. Eighteen completed and ongoing projects were visited, and consultants prepared 16 project case studies in all.¹² Information regarding this study and case studies selected was disclosed on the OED website for the first time, and a request for communication of experiences of stakeholders was made.¹³

9. Limitations of the Study. Due to time limitations, the study does not constitute a full impact evaluation of the IR policy. Significant resources and time are needed for a rigorous evaluation covering hundreds of ongoing and completed projects in many sectors. The sample of 16 project case studies chosen was far too small for this. File studies were relied on, and rapid field assessments by consultants, aided by limited surveys of APs, mostly consisting of 30–60 questionnaires per project (around 600 in all). The assessments were sometimes used as validations of earlier studies and surveys done for project completion reports (PCRs). The project case studies were conducted in 3 of ADB's 42 DMCs and do not represent the level of compliance with the policy in other countries, or the policy's overall impact. Capacity in the case study countries with respect to resettlement operations is perhaps higher than the average across all DMCs. Smaller DMCs were not included in the field missions, and regions such as the Pacific and Central Asia were not represented, except through study of secondary sources. The case study projects were selected irrespective of their performance, and without prior

¹² In Viet Nam, two projects were studied that included IR, but no detailed IR case studies were prepared; the focus was on IPs. The field visits contributed to both the IR and IP Policy evaluation studies.

¹³ This, however, did not generate a large number of responses.

knowledge of the projects' performance. Ongoing projects were included to look at the effects of the newer procedures and practices, although the full impact had not always materialized at the time of the fieldwork. The study analyzed the breadth of IR issues rather than focusing on any issue in great depth. An attempt was made to address the shortcomings of any single research instrument through the use of triangulation. Aggregated findings of PCRs, project performance reports (PPRs), and project performance evaluation reports (PPERs) were compared with those of the project case studies and other sources. The study did not address all issues raised in RSDD's discussion note (footnote 6)—particularly those regarding lending for the private sector, credit lines, and program loans. The study could not take into account the findings of a parallel evaluation by the NGO Forum on ADB, as these were not yet published at the time of finalizing this evaluation.¹⁴ Given time constraints, civil society views were not systematically canvassed, although the ADB and OED websites included requests for feedback. Upon OED's approval, this study will be sent for comments to the concerned DMCs and the NGOs tracking the safeguard studies, and the comments will be posted on the OED web site, together with Management's response and the summary of the DEC chairperson. More information on the methodology is in Supplementary Appendix A.

D. Organization of the Report

10. Chapter II discusses the nature of IR and its relative occurrence in various sectors like dams, transport, and township development, to indicate the large variation in circumstances under which the policy has to be applied. The chapter also analyzes ADB's IR Policy and changes made in the procedures over the years, examines ADB's organizational setup for the implementation and control of IR, and compares policy and organization with that of some other institutions. Chapter III analyzes the importance of resettlement within ADB's loan and TA portfolio, the number and nature of people affected, and their distribution across sectors and countries. The chapter also analyzes ADB's performance in resettlement planning and operations by studying a variety of sources, such as progress reports and PCRs. Chapter IV analyzes the country contexts and country systems in the four case study countries selected. An important question is the level of convergence with ADB IR policy. ADB's TA portfolio on IR, which focuses on both policy and capacity development, is also assessed. Chapter V evaluates the findings of the case study projects in terms of procedural and substantive compliance with aspects of IR policy, and assesses the impact on APs, the added value of ADB support to IR, and the associated transaction costs. Chapter VI assesses the policy in terms of relevance of the policy and procedures; effectiveness of outcomes on APs and on EA capacity; efficiency of inputs, processes, and systems; and sustainability of the policy's approach. It also discusses a number of options for ADB to consider and provides recommendations.

II. ADB AND INVOLUNTARY RESETTLEMENT SAFEGUARDS

A. Affected Persons and Infrastructure Projects

11. ADB's Handbook on Resettlement (footnote 8) includes a comprehensive table showing that most types of infrastructure projects that ADB helps finance can require land acquisition and resettlement of people. However, it is widely acknowledged that the most severe dislocation

¹⁴ Unlike the present study, the NGO Forum on ADB study is focusing on controversial projects. Its terms of reference indicate the following objectives: (i) to expose the gaps/failures of ADB policies, and (ii) to exemplify impacts if ADB policies were not used and to show the costs of no strong ADB safeguard policies.

events are caused by the creation of new dams with large reservoirs. Such dams are generally created for purposes of irrigation of agricultural land, storage for drinking water supply, flood protection, and hydropower generation. PRC and India are among the countries with the most dams in the world. By their very nature, dams can cause the IR of remote mountainous peoples that, in accordance with ADB's definitions, are often classified as IP and are poor. Resettlement in the context of dams generally needs to be conducted across longer distances, and whole communities can be uprooted, losing not only homesteads and villages, but also all natural resources (communal lands), cultural resources (places of burial or religious worship or symbols, ancestral lands or domains), and income and employment resources (land, water, proximity to employment centers). Dams usually also have important upstream and downstream effects that need to be taken into consideration.

12. A second type of public sector infrastructure investment that often causes large-scale displacement and uprooting of communities is the development of large tracts of land around urban areas for government-supported industrial, commercial, or housing sites. In these cases, resettlement impacts are similarly severe but can be somewhat mitigated by providing housing for the displaced in new townships, and by providing employment to APs on the new estates. Given the frequency with which township development and sites and services projects are supported by governments through compulsory land acquisition operations in rural areas around towns, urban development is likely to be among the most important causes of IR.¹⁵ A third type of public investment with large impacts on the need for IR is also related to urban development but deals with slum clearance and urban renewal, often in the centers of cities. Due to the density of urban populations in Asia, even the clearance of small areas can cause displacement of large groups of people from one area of the city to another, or out of the city altogether.

13. Most other types of projects do not usually require the resettlement of communities across longer distances out of their usual environment, so that they can be preserved better, and their proximity to places of worship, work, communal lands, and employment nodes retained. Although railway and highway construction projects can require significant land acquisition and can dislocate many people, good planning can mitigate most of the negative impact on APs and their communities. The same is true for other linear projects such as canal alignments, embankments, and reticulation systems. These may lead to a relatively large number of people losing part but not all of their land and moving either to another location on their own land or to other land nearby. More compact nonlinear projects requiring land involve the construction of airports and ports; water and wastewater treatment plants; pumping, power, and transmission stations; and sites for schools, hospitals, and offices. These usually lead to loss of houses and land for a number of APs but generally have less severe impacts on communities and do not result in long-distance relocation away from sources of income.

¹⁵ Examples of this are provided by a study of the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) regarding municipal land management in Asia, which drew on case studies in Bandung, Dhaka, Hué, and Kandy. It found that large tracts of land had been expropriated within a short period of time. In Hué, Viet Nam, as much as 8% of the total municipal land area had been expropriated during the latest 3-year period (560 hectares [ha]). The equivalent figure for Kandy, Sri Lanka, was 3% (90 ha), and it was 1.5% (252 ha) in much larger Bandung, Indonesia. All municipalities had instruments to expropriate private land owners in the public interest, subject to approval by the national government. The study observed that the urban population in Asia increases daily by the equivalent of one city of 140,000 people. UNESCAP. 1995. *Municipal Land Management in Asia: A Comparative Study*. Available: http://www.unescap.org/huset/m_land/index.htm

B. Informal Dwellers and Squatters in Asian Cities

14. In many Asian countries, the combination of unequal distribution of land and wealth, and lack of proper land registration and administration in both rural and urban areas creates special problems. Large populations live on unregistered land without formal titles, or have occupied public or private land illegally. Most governments do not fully recognize claims of squatters (i.e., nonlegalizable nontitleholders as they are called in ADB's Operations Manual [OM]), and the implementation of the IR Policy, which states that title to land is not a bar to compensation, is often a matter of dispute with DMCs.¹⁶ The DMCs where land is mainly a public good have had fewer problems of this nature, but illegal occupation of land is on the increase in these countries as well. Implementation of ADB's IR policy requires that vulnerable people be identified and given special assistance; the determination of their land rights and their actual vulnerability in the context of squatter syndicates, essentially criminal syndicates, can severely complicate the needed surveys and can delay projects. ADB's policy requires the payment of compensation for squatter housing and livelihood restoration, but most of the livelihoods are in the informal sector. This can provide incentives for organized crime in the form of squatter syndicates to target ADB projects, such as has happened in the Philippines.¹⁷ ADB's policy and handbook lack clear guidance under what circumstances ADB would support or not support forcible eviction of squatters that arrive after the census has taken place for people living in the project area. Areas of informal dwellers not infected by criminal organizations can also engender social discontent when ADB's policy requires payment of compensation in accordance with the highly variable replacement costs of big and small illegal structures and the level of vulnerability of such usually highly mobile people. In countries where special rights are not granted to squatters, courts often rule against precedents created through projects, as this interferes with the principles of the rule of law and the sanctity of property rights, on which the investment climate in a country is often based. It is clear that the application of the IR policy in the context of squatters and squatter areas needs extreme care and highly situation-specific approaches. Supplementary Appendix B elaborates on the squatter problem in the Philippines to illustrate some dimensions of this complex issue.

C. ADB's Policy Framework: A Summary and Some Observations

1. Assessment of Need for Social Development Action in Projects

15. ADB's concern for social impacts of the projects it helps fund and implement has set it apart from many local and commercial funding sources in the region. ADB's operational policies have mandated the conduct of initial social assessments during preparation of projects since 1991; earlier these were considered good practices but were not mandatory for all projects. In 1993 and 1994, guidelines were issued. Since 1999, specific poverty analysis was added to the required assessments, and a mandatory initial poverty and social assessment was instituted, applicable to all kinds of lending including policy-based lending. The report and recommendation of the President (RRP) routinely contains a number of appendixes on social assessments such as poverty impact analysis and social and poverty assessments, apart from those on IR and IP. Addressing impacts on vulnerable people is the key aspect of all these

¹⁶ There are exceptions, such as in Pakistan, Philippines, and Thailand. Under Thai law, squatters can apply for legal title to a plot of land after 10 years of continuous occupation. In practice, few succeed, and millions of people in the country continue to live on what is technically public land without papers and clear rights.

¹⁷ The problem was so serious that a National Police Task Force on Squatting Syndicates and Professional Squatters was created under Executive Order 178 in 1999.

analyses. In addition to APs and IPs, they can include people affected by projects economically, female-headed households, households of elderly people without family support, orphaned children and street children, disabled people without supporting families, landless and casual laborers, as well as immigrants and international refugees. In some cases where land issues play no role in the potentially adverse impacts of projects, and where a need for enhancement of certain groups is established, social development action plans are prepared.

16. A related measure of importance to IR is the mandatory inclusion since 1992 of ADB's Benefit Monitoring and Evaluation (BME) System in the project implementation process, which had an explicit focus on baseline and follow-up socioeconomic surveys. The Project Performance Management System, which succeeded it in 2003, requires projects to be monitored at all stages with a focus on its results and socioeconomic outcomes.

17. The IR Policy gained in prominence when ADB issued its Poverty Reduction Strategy in 1999 as its new overarching objective. The implication was that ADB was required more than before to ensure that it would not impoverish the lives of any in the name of larger development goals sought for the majority. The approval of the Inspection Policy in December 1995, and subsequently revised as the Accountability Mechanism in May 2003 led to most of ADB's operational policies being subjected to the possibility of special compliance reviews.¹⁸ The result of the measures taken since 2002 has been an emphasis on poverty reduction and accountability, and with these two the attention to IR has increased greatly within ADB.

2. ADB's Involuntary Resettlement Policy

18. ADB's IR Policy principles are sensible. The Policy requires projects to avoid or mitigate adverse impacts on people and to pay special attention to the problems of vulnerable people. A practical aspect of the Policy for ADB operations has been that it deals with land acquisition and resettlement in a systematic way and tries to handle the associated planning as much as possible prior to the start of the project, which facilitates project implementation.

19. Any evaluation of the 1995 IR Policy as a social safeguard policy must, however, compare it with the successive OM Bank Policy (BP) sections of 1997 and 2003 on IR, and the evolution of resettlement practice. Although the principles and broad goals of the 1995 Policy may arguably have been retained in the OMs (approved by ADB Management), there have been shifts in emphasis, up to the point that some specialists in ADB consider that the latest OM has increased the requirements to be met by more than a third. In essence, the argument is that the focus of the 1995 Policy document and the 7 January 1997 OM was on significant displacement and resettlement, especially in the context of large infrastructure works, while the focus of the OM Sections BP/F2 and Operational Procedure (OP)/F2, issued on 29 October 2003 (as a result of a review of the inspection function), is on recognizing and addressing all kinds of losses that people affected by projects can sustain, including those that do not generate involuntary displacement and do not require actual resettlement, or even loss of part of the land. Box 1 highlights some shifts in the guidelines regarding the need for a RP from the IR Policy to the Handbook, and later to OM/F2. Appendix 2 elaborates on the differences and also includes Figure A2.1 showing the steps to be taken sequentially first to obtain approval for IR planning in

¹⁸ At the time of writing this evaluation, the revision of the old Operations Manual section on the incorporation of social dimensions in ADB operations, covering social screening through initial poverty and social assessments, had yet to be completed.

a project, and then to implement IR after loan approval. The diagram illustrates that much attention is paid to the formulation of plans and approval procedures, but less to implementation. Obviously, APs benefit only if resettlement plans and other mitigation measures are actually implemented.

Box 1: Shifts in Guidance Regarding the Need for a Resettlement Plan

Involuntary Resettlement Policy, 1995

Where population displacement is unavoidable, a detailed resettlement plan with time-bound actions specified and a budget are required. The contents and detail of resettlement plans will vary with circumstances, especially the magnitude of resettlement. To assist staff and project sponsors, a set of guidelines and an annotated outline of a resettlement plan will be prepared and issued after the resettlement policy is approved by ADB (pages 11–12).

Handbook on Resettlement, 1998

A full RP is required when resettlement effects are significant. “Significant” is defined as meaning that 200 people or more will experience resettlement effects; 100 people or more who are experiencing resettlement effects are indigenous people or vulnerable as defined in the policy (for example, female-headed households, the poorest, isolated communities, including those without legal title to assets, and pastoralists); or more than 50 people experiencing resettlement effects are particularly vulnerable, for example, hunter-gatherers. The projects department concerned decides, in consultation with Social Development Division, if a full RP is required.

The Handbook defines effects as “Insignificant” if they are below the AP thresholds mentioned. Projects with insignificant resettlement effects, as determined by the Projects Departments concerned and SOCD, will have a short RP. In the case of minor resettlement matters, this plan needs to be from half a page to two pages in length. ADB may assist in the preparation of the RP (pages 11–13).

OM Section OP/F2 Issued on 29 October 2003

Projects are assigned an IR category depending on the significance of the probable IR impacts.

a. Involuntary Resettlement Category A: Significant. “Significant” means 200 or more people will experience major impacts, which are defined as (i) being physically displaced from housing, or (ii) losing 10% or more of their productive assets (income generating). Category A projects require a full RP. Some of these projects may require a RF prior to the full RP.

b. Involuntary Resettlement Category B: Not Significant. Category B projects include IR impacts that are not deemed significant and require a short RP. Some of these projects may require a RF prior to the short RP.

c. Involuntary Resettlement Category C. No IR effects are foreseen in category C projects. They neither require an RP nor an RF (paras. 18–21).

20. Some specialists consulted justify the “Policy Plus” elements over the years as being in line with evolving best international practice, notably World Bank practice, and increasingly less passive reactions by persons adversely affected by large projects. The growing realization of practitioners that displacement has consequences above and beyond loss of house or land, affecting livelihoods and social networks has led to greater rigor in examining the social dimensions of projects, and an urge to treat displacement processes as development projects in their own right. Certainly, if the gradually increasing inclusiveness of the IR procedures had not

been endorsed within the realm of resettlement operations, the indirect adverse impacts that almost every project may have on certain individuals or groups would have had to be considered under another cover, i.e., the Guidelines for Incorporation of Social Dimensions in Bank Operations,¹⁹ and perhaps since August 2001, ADB's Social Protection Strategy.²⁰ Certainly also, the OM F2/OP section has provided many useful clarifications that are in line with the spirit of the original Policy, such as on nonlegalizable nontitleholders and on land donation. However, others are more debatable, such as the rules that (i) the policy applies to the entire project as handled by the EA, including components not financed by ADB; (ii) the policy requires due diligence investigations to be conducted on actions performed by the EA in anticipation of ADB operations; (iii) all eligible affected people are covered, including tenants and employees of affected businesses who stand to lose their jobs, incomes, or livelihoods because of project impacts; and (iv) loss of community and public resources is also eligible for compensation.²¹ All of these expanded the inclusiveness of the policy.

21. However, in some cases, the new policy is more restrictive than the old. The 1995 Policy stated that “the absence of formal legal title to land by some affected groups should not be a bar to compensation,” implying that their loss of access to land should be compensated. The OM of 2003 changed this to: “Where land and assets are lost, titled and legalizable affected people are entitled to compensation, in the form of cash at replacement cost or replacement land,” meaning that nonlegalizable nontitleholders (squatters) would not have right to compensation for loss of access to land—only to assistance.²² The new rule contradicts the approved Policy and could lead to confusion with stakeholders regarding what applies, and to request ADB to practice what it preaches in the 1995 Policy.

22. A consequence of the increasing coverage of the policy through its procedures has been that the census and socioeconomic survey of APs required for RP have had to become more and more elaborate in order to register not only the losses of each AP at the level of below or beyond 10%, but also the level of vulnerability and whether this is above or below a predetermined level. Such people are now regularly targeted for special assistance, including cash lump sums. Particularly as a result of these latter additions to the OM, a larger number of RPs has become necessary since 2003 to deal with all the cases where people are affected but would not need to move, a reality that has led to much misunderstanding by EAs, which take ADB's IR Policy to apply principally to APs in need of actual resettlement.

23. The increased rigor in application of the policy and its OM sections has contributed to a practice whereby RPs have expanded in size and detail, and the distinction between full and short RPs has largely disappeared, with many “short RPs” now much longer than the two pages anticipated originally by the Handbook on Resettlement (footnote 8). “Short RPs” of considerable length are prepared for sometimes a handful of APs who experience only small losses. Another consequence has been the introduction of the RF in case the adverse impact of the project was still in doubt at the stage of loan approval and in the case of sector projects.

¹⁹ ADB. 1993. *Guidelines for Incorporation of Social Dimensions in Bank Operations*. Manila.

²⁰ ADB. 2001. *Social Protection Strategy*. Manila.

²¹ OM F2/OP para. 15 mentions: (i) water bodies, forest, woodland, pasture, and community recreation, and cultural sites; (ii) public structures such as markets, health and educational facilities, water and washing points, and meeting houses; and (iii) infrastructure such as roads, bridges, and other transport lines; power facilities; telecommunication lines; and water sanitation and drainage facilities.

²² OM F2/OP para. 11 states: “Resettlement assistance to nontitled affected people may also include replacement land, although there is no entitlement to this for such affected people.”

24. The effects of the expansion of the original policy have drawn opposition from borrowers, implementing agencies, and ADB project officers. Current resettlement planning has evolved into full assessments of all possible losses that people in the direct influence of projects could sustain as a result of the project. RPs are now required for projects that do not displace people, such as rural roads projects that follow existing alignments but that may require a small slice of private land along a road to be expropriated. RPs are prepared for projects that do not have resettlement but have other socioeconomic impacts. For example, RPs have been prepared for projects providing piped water supply to households, not because people are relocated but because of diminished business for water vendors. These people are now assisted. Another example includes assisting scavengers of waste dumps through RPs when a landfill project is financed to replace the dumps. For ADB project officers, the work load has increased, and there is a perception among some ADB staff that a “disproportionate” amount of the limited resources available for project preparation goes to safeguard issues.

25. A question that must be raised is whether it was appropriate for ADB staff and Management to significantly expand the requirements of the implementation of the 1995 Policy without asking for formal approval by the Board. In OED’s view, such expansion was not appropriate, although some elaboration of guidelines in a handbook was announced in the original policy document. The IR Policy document required annual progress reports for the Board and a policy review including recommended modifications after 2 years. Management submitted two progress reports,²³ one in 1997 and one in 1999, but these saw the expansions as good practice. No review with recommended policy modifications was offered to the Board, even when ADB reorganized its business processes in 2002. During a Board seminar on the policy in July 2003, some Board members suggested that a new policy paper should be drafted because of discrepancies between the IR policy and the new procedures.

26. Some of the friction that the policy and procedures cause within ADB is due to their wording. The IR Policy, the OM, and the Handbook on Resettlement do not seem to allow for compromises with national laws, policies, capacities and budget constraints. Neither the Policy nor the OM sets out how to deal with the existing country or borrower/EA laws, systems, and practices. The implication is that these are superseded by the ADB policy and project agreements that are built on it. However, this is at odds with the commitment ADB has recently made to align its system with country systems in the context of the 2005 Paris Declaration.²⁴ The procedures or Handbook do not address what level of violations will have to trigger what kind of response by ADB staff, implying that every violation is equally serious. The level of noncompliance with various principles and procedures that is still acceptable or excusable in terms of the policy is not spelled out. Indeed, the tone of the operational procedures leaves little room for anything other than a somewhat confrontational approach during implementation. For instance, para. 55 of OM Section F2/OP expresses as rule 1 regarding the preparation and review of resettlement planning documents: “All ADB requirements must be met.” The irony is that ADB is generally expected to develop capacity in the DMCs, which would imply that variable targets need to be set based on the existing capacity, and that a certain amount of noncompliance would be condoned as part of the learning process. The apparent non-negotiable nature of the policy, however, implicitly works against such capacity development, and instead encourages more punitive behavior towards EAs by ADB staff who are fearful of a

²³ ADB. 1997. *Policy on Involuntary Resettlement: First Annual Report to the Board of Directors*. Manila; ADB. 1999. *Policy on Involuntary Resettlement: Second Report to the Board of Directors*. Manila.

²⁴ OECD. 2005. *Paris Declaration on Aid Effectiveness*. Paris.

compliance review. This is especially the case when missions are scarce and there is no day-to-day collaborative relationship. The Policy is for the EAs, but the OM is for ADB staff. However, ADB staff find themselves enforcing OM requirements that go well beyond the explicit level of detail of the Policy of 1995 approved by ADB's Board, representing all ADB shareholders. RP preparation is the direct responsibility of the DMC, not ADB. This is reinforced by the fact that the documents placed on the website must contain the statement on the front page: "This is not an ADB document."

27. The policy, procedures, or Handbook give no indication over what period rehabilitation of APs is expected to take place, making it difficult to assess how much in fact needs to be done over what period. No clear guidance is given about the level of public consultation required.

28. Interviews with ADB staff found that the changing goal posts and increasingly strict application of the policy were in part due to evolving experience with project induced loss of land, assets, and displacement, and the uncertainty with respect to the extent of compliance needed and the fear of noncompliance, triggering the application of the accountability mechanism. RPs have become longer due to the need felt by operations departments (ODs) to protect against the negative fallout of vagueness and ambivalence in the guiding documentation on the IR policy, which, if interpreted too loosely, may trigger compliance reviews. OM F2/OP reinforces this: "However, in case of doubt in the early stages of project preparation, a resettlement-planning document must be prepared."

29. ADB's diligence continues to increase, witnessed most lately by the approval of ADB's new Public Communications Policy.²⁵ As per the new Policy, a covenant in a recent loan agreement now reads that not only do RPs need to be disclosed to APs but also draft RPs: "Draft RPs and draft updated RPs shall be disclosed to affected people prior to submission to ADB for review and approval." The text in the Public Communications Policy pertaining to social safeguards is reflected in Box 3 of Appendix 2, as it sets the bar higher than before. There are also new requirements to make social and environmental monitoring reports publicly available upon their submission to ADB, which requires more quality control by ADB, and that EAs and private sector sponsors are required to make such reports available directly to APs.

D. Institutional Arrangements for IR Policy Implementation

30. Before ADB's reorganization effective 1 January 2002, safeguards were part of the broader responsibilities of the Office of Environmental and Social Development (OESD). That office had two divisions, the Environment Division and the Social Development Division (SOCD). All ADB's social development specialists, except one, were integrated in SOCD. In 2000, SOCD had 11 social development specialists, a director, and 2 analysts. The SOCD specialists performed many tasks, for some of them including assisting project team leaders in the ODs with initial poverty and social assessments and subsequent RPs. The institutional arrangement mixed operational and compliance tasks, which were later separated as part of the 2002 reorganization. However, the old arrangement also had its advantages. The Director, SOCD had significant influence on the preparation of RPs for projects of ODs as many were prepared by SOCD specialists. The reorganization moved most of the social development specialists to five new ODs where they were distributed mainly among the infrastructure divisions—not all divisions were assigned a social development specialist. They thereby

²⁵ ADB. 2005. *The Public Communications Policy of the Asian Development Bank: Disclosure and Exchange of Information*. Manila.

became responsible to the heads of the ODs. The Environment and Social Safeguards Division (RSES) was created within RSDD. The shift of many social development specialists to the ODs was designed to ensure the buildup of greater sector and regional specializations, and enabled provision of more direct assistance to the project mission leaders in their divisions. This had some clear advantages. Regional departments had dedicated staff who could take the lead in addressing resettlement issues. However, in practice, the independence of the specialists became somewhat compromised by their subordinate position in the project teams, where formal and informal pressures exist to meet loan approval schedules. Some ADB staff interviewed for this evaluation thought this affected the due diligence for RPs, as they needed to be submitted by the government by the time of ADB's Management Review Meeting (MRM).

31. ADB's reorganization also led to the introduction of a chief compliance officer (CCO) within the new RSDD and the subsequent issuance of an Instruction on the Safeguard Policy Compliance Memorandum (SPCM) and Related Procedures on 27 February 2002. The SPCM requires a sign-off on the existence in the project proposal of a satisfactory (i) environmental assessment, (ii) initial poverty and social analysis, (iii) IR planning, and (iv) IP planning. All project and program proposals have to receive RSDD's SPCM certification before the MRM, which is held within ADB before appraisal of a project. A categorization of the project in terms of high (A), low (B), or no (C) impacts in terms of IR, environment, and IP was also introduced, as well as a category of "impacts to be determined" (TBD). Category A projects need full RPs, Bs need short RPs, and TBDs need RFs. The requirements increased the attention of the ODs for safeguard policies during project preparation.²⁶

32. Apart from safeguard compliance functions, RSES is mandated to support the development of capacity within ADB and within EAs on safeguards. RSES helps ODs to interpret the policy requirements for specific projects, provides operational support to ODs, and monitors compliance with the policy. RSES is also responsible for overall policy development, training and capacity building, and dissemination of best practices in the form of guidelines and handbooks. To avoid a conflict of interest, RSDD staff are not normally involved in the design of individual projects or in operational work. Within RSDD, another division was created to handle more general crosscutting social issues within ADB: the Gender, Social Development, and Civil Society Division. This division had five of the social development specialist positions after the reorganization, three more than RSES, which in 2006 only had two social development specialists and a consultant to ensure and monitor compliance with ADB's IR and IP policies in hundreds of projects. The changes in numbers of specialists are reflected in Table 1. It has to be cautioned that not all specialists deal full-time or even part-time with resettlement issues.

Table 1: Social Development and Poverty Reduction Specialists in 2000 and 2006

Specialists	2000	2006
Social development/resettlement specialists outside operations	11	7
Social development/resettlement specialists inside operations	1	12
Poverty reduction specialists outside ODs	3	3
Poverty reduction specialists inside ODs	9	1
Total	24	23

OD = operations department.

Source: Data assembled from Asian Development Bank human resources database for this evaluation.

²⁶ By mid-2003, the then-CCO in RSDD was appointed Secretary of the Office of the Compliance Review Panel, a function with the much wider mandate to ensure the compliance of ODs with all Board approved policies and decisions. The responsibility of the CCO to sign the memo was transferred to the DG, RSDD.

33. The 12 social development specialists in 2000 had become 19 in (June) 2006, some of their designations combining the term with resettlement or poverty reduction. This would indicate growth, but in 2000 there were 12 poverty reduction specialists in ADB ODs (including 1 in OESD); in 2006 there remained only 4.²⁷ If the average project needs the equivalent of 1 month of mandatory attention from resettlement specialists per year, and if there are perhaps 200 such projects ongoing and under preparation at any time, this would require the equivalent of 20 specialists for IR alone. The overall number of specialists in poverty and social development has not grown over the years, although much more time of these specialists is now dedicated to IR, and the overall experience has grown.²⁸

34. Some staff interviewed have criticized ADB's institutional arrangements. The criticism is that RSES is performing the role of a clearinghouse but has to rely completely on ODs, with no serious opportunity to countercheck the RP documentation provided by them through site visits. The SPCM includes the following proviso, added to qualify RSDD's responsibility for certifying compliance with the policies: "This Memorandum was prepared based on information provided in the first draft RRP for MRM, and discussions between the project team leader and RSES environment and social safeguard specialists." With only two social safeguard specialists and two national officer staff responsible for reviewing the compliance of all documents in ADB with the IR and IP policies, RSES finds itself unable to devote time to check the veracity of the information submitted.

E. Involuntary Resettlement by Other Organizations

35. Organizations such as the World Bank, the International Finance Corporation (IFC), and the Inter-American Development Bank (IADB) all have similar IR policies. This is not surprising since ADB modeled its policy on that of the World Bank, and others have done the same.

36. **World Bank.** A principal difference with the World Bank is its considerably larger pool of social (and environmental) safeguard specialists who are available to help with project administration, both at headquarters and at the regional and national levels. They are seen as a separate team, unlike in ADB, where they are integrated in the ODs. The World Bank India Country Office, with a portfolio of projects about double that of ADB, has 12 social safeguard specialists (most of whom are national officers, some on contract); the ADB India resident mission has only 1 person, hired on a temporary basis. The World Bank office in the PRC has four (plus a full-time consultant); the ADB PRC resident mission (RM) has one. The World Bank Viet Nam Office has at least three; ADB's RM has none. The World Bank also has a different system for employing its safeguard specialists, which ensures in a more organic way that their work load is commensurate with the demand. All World Bank projects require the involvement of

²⁷ Some ODs in ADB still do not have a social development and/or resettlement specialist in each infrastructure division. Central and West Asia regional department has one specialist, while there are two in East Asia regional department, one in Pacific regional department, four in South Asia regional department and six in Southeast Asia regional department. Most, but not all of these 14 specialists cover resettlement, as they can also be responsible for other aspects of social development, such as IP, gender, and social protection.

²⁸ The 1995 IR Policy expected that 8–10 professional expert years might need to be devoted annually to adequately address IR aspects in projects under processing, and another 4–6 expert years annually for monitoring and administration of ongoing ADB-financed projects. It was stated that some of the expert years required in project preparation could be incorporated in project preparatory technical assistance grants, and some needed for project processing and administration could be provided by consultants. "However, in-house expertise in this area needs to be expanded by recruiting 3–4 additional staff with requisite expertise. These requirements could be met through reallocation of staff positions." These modest targets can safely said to have been met.

social and environmental specialists; project task managers have to book the services of these specialists for specific periods in annual work plans for project administration; nonperforming specialists automatically get booked less. In practice, these arrangements mean that the World Bank can devote appropriate amounts of time to capacity building of the EAs, and that differences can be resolved in close collaboration through regular contact with country offices, rather than becoming confrontations, partly because of infrequent ADB missions, which then take on a more punitive character. The availability of appropriately qualified staff in RMs also makes it possible to interact more frequently with NGOs and to react more appropriately when NGOs raise resettlement issues during implementation. At World Bank headquarters, the organization of the work is also different. Compliance certification remains within the operational vice presidencies. Country office staff would normally be relied on for the certification. RPs are continuously updated at the country office level, and not every RP needs to be submitted to headquarters for approval. Only for contentious cases do headquarters staff become involved more frequently. The Quality Assurance and Compliance Unit in the Environmentally and Socially Sustainable Development Network checks and clears RPs. Due to more staff being available, there is more opportunity for teamwork and less reliance of headquarter staff on written documents about situations with which they are unfamiliar. In spite of all this, the World Bank also experiences similar problems concerning its safeguard policies, which are perceived as inclusive and more strictly enforced, and therefore reinforcing tendencies among clients to avoid financing from the World Bank for certain types of projects.²⁹ This is perhaps one of the reasons why the World Bank has decided in 2005 to pilot test the use of country safeguard systems in some of its projects, although little progress with this has been made so far. Appendix 3 provides further information on the IR policy of the World Bank.

37. International Finance Corporation. The experience of IFC is instructive, and not only for ADB's practices towards private sector projects. IFC has thoroughly reassessed its procedures for the 10 safeguard policies it has and converted them into one set of "policy and performance standards on social and environmental sustainability." On 30 April 2006, IFC's new Environmental and Social Standards came into force. Some commentators³⁰ have said that the novelty of the IFC Performance Standards³¹ is not that the 'bar' might or might not be lower in places than it was—rather, the standards represent a new mechanism for deciding, investment-by-investment, where the "bar" on environmental and social performance should lie. The approach works by exploiting the "moment of maximum leverage." Closing a project financing deal is made conditional on the applicant committing to a series of environmental and social risk management measures. These measures might include a particular level of compensation for families relocated due to land acquisition. Performance Standard 5 on "Land Acquisition and Involuntary Resettlement" has four objectives, of which the characteristics relevant to ADB are that (i) a link is retained with the "impact from land acquisition or restrictions on affected parties' use of land" (i.e., other impacts do not fall under this standard), and (ii) the standard does not state that APs are entitled to economic rehabilitation but rather that the objective is "to provide opportunities to displaced persons to improve or at least restore their livelihoods and standards of living" (i.e., a focus on opportunities, on displaced persons, and furthermore, next to

²⁹ World Bank. 2002. *Safeguard Policies: Framework for Improving Development Effectiveness*. A discussion note: Environmentally and Socially Sustainable Development and Operations Policy and Country Services.

³⁰ Warner, Michael. 2006. *The New International Benchmark Standard for Environmental and Social Performance of the Private Sector in Developing Countries: Will It Raise or Lower the Bar?* Overseas Development Institute. Available: http://www.odi.org.uk/publications/opinions/66_standard_Feb06.pdf.

³¹ This defines clients' roles and responsibilities for managing their projects and the requirements for receiving and retaining IFC support. The standards include requirements to disclose information.

livelihood, on standards of living). IFC has a specific focus on mechanisms of public disclosure, consultation (free prior informed consultation), and the gaining of well documented “broad community support.” Adoption of the latter principle in ADB would clarify somewhat the issue of what constitutes adequate consultation with APs. IFC, however, does not give guidance on thresholds for broad community support, and how to prove such support. For squatters, perhaps the most important aspect of displacement is adequate housing with security of tenure. In these cases, legal resettlement of displaced persons is required in areas where they do not face the risk of eviction, as part of IFC’s effort to improve their living conditions.³²

38. **Inter-American Development Bank.** IADB also has an IR policy,³³ but it is worded less prescriptively than ADB’s policy, and especially the OM. Thresholds in terms of numbers of APs triggering short or full RPs are absent. IADB’s policy objective is to minimize the disruption of livelihood of people living in the project’s area of influence, by avoiding or minimizing the need for physical displacement, ensuring that when people must be displaced they are treated equally and, where feasible, can share in the benefits of the project that requires their resettlement. The Policy does not have the same focus on full restoration or improvement of livelihood as the IR policies of ADB and the World Bank.

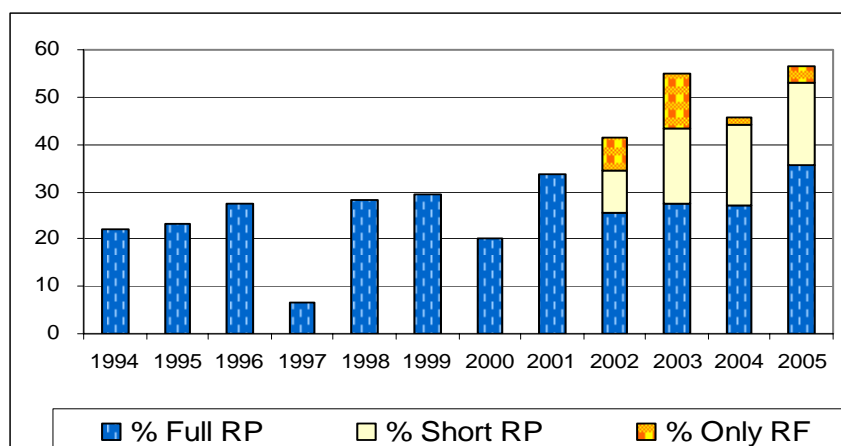
III. IMPLEMENTATION OF THE INVOLUNTARY RESETTLEMENT POLICY

A. Resettlement Plans

39. Safeguards against adverse effects of involuntary resettlement are often invoked for projects that ADB supports. Of the 923 public and private sector loans approved since 1994, 23% had full RPs; 4% had short RPs; and for 2% the need was to be established after project approval, as they were sector projects or credit lines (Appendix 4, Table A4.1). This means that one third of all loan projects or programs approved by ADB involved the risk of adverse impacts on livelihoods of at least some people, including their involuntary resettlement. However, the number has increased over the years, particularly since 2002; since then it has fluctuated between 41% and 56%% of all public sector projects approved in a calendar year. Before this time, it was between 7% and 34% per year (Figure 1).

³² International Finance Corporation. 2006. *Progress Report on International Finance Corporation’s Policy and Performance Standards on Social and Environmental Sustainability and Disclosure Policy*. Washington D.C.

³³ Inter-American Development Bank. October 1998. *Involuntary Resettlement Operational Policy and Background Paper*. OP-710 (July). Washington D.C.

Figure 1: Percentage of Public Sector Projects with Resettlement Plan (RP)

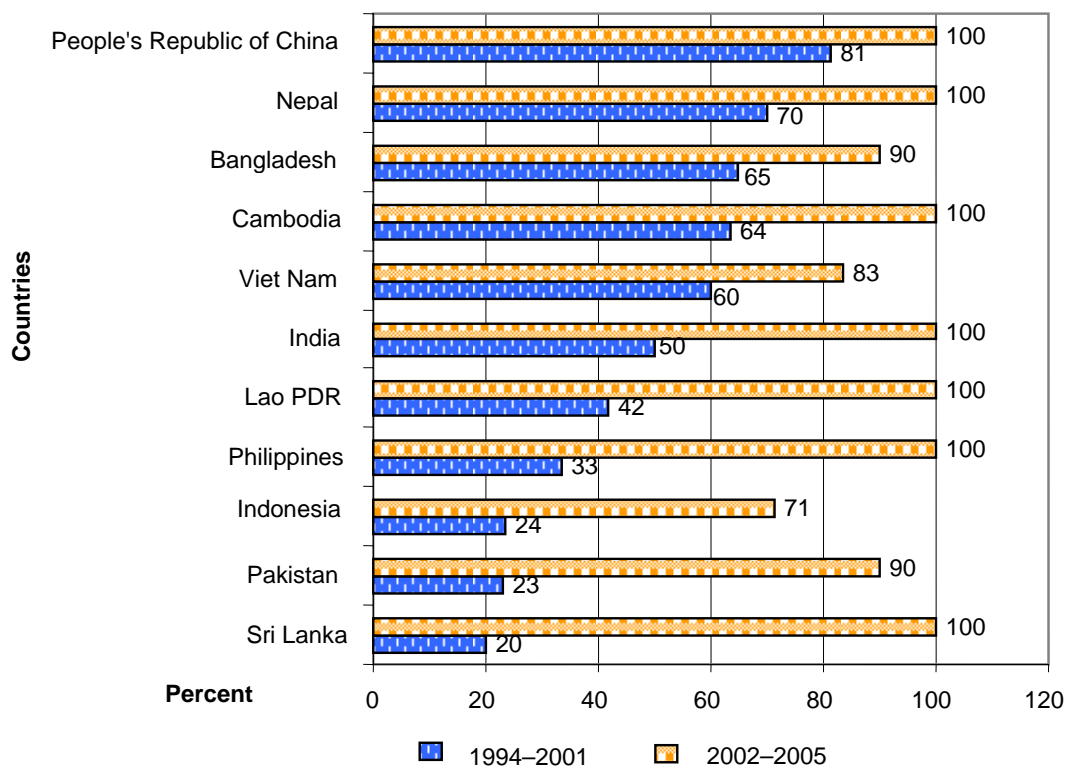
RF = resettlement framework.

Sources: (i) 2002–2005 approved public and private sector projects (IR categorization A, B, C, and TBD); and (ii) 1994–2001 public sector projects (IR categorization "with full RP" = A, "with short RP" = B).

40. Most RPs and RFs covered projects in the public sector. Few were prepared for private sector projects. Only 4% of the private sector projects approved between 1994 and 2005 had either a full or a short RP, although for another 8% the need for an RP was to be determined after loan approval (mostly sector projects and hybrid projects) (Appendix 4, Table A4.1). One reason for RSDD's initiative to update the policy has been to improve the consistency of resettlement planning in the context of private sector loans. It may be that the number of RPs should have been higher. However, a significant proportion of private sector operations are in the financial sector, where RPs are usually not needed. Some infrastructure projects involving private sector financing are likely to involve negotiation on land acquisition and resettlement.

41. **Distribution of RPs Across Countries.** There are some indications of differences between countries in the rigor of resettlement categorization of projects, although these are smaller compared with those found for environmental categorizations by the SES on Environmental Safeguards, and have become smaller over time (Appendix 4, Tables A4.3 and A4.4; Supplementary Appendix C). Indonesia, Philippines and to some extent Pakistan had relatively fewer RPs and RFs in their infrastructure projects than other countries, particularly Bangladesh, Cambodia, PRC, India, Lao People's Democratic Republic (PDR), and Viet Nam. The nature of the portfolio, focusing on either rehabilitation or completely new infrastructure, may play a role; the number of rehabilitation projects may have been somewhat larger in the three countries mentioned. The difference has persisted over many years, as there are significant differences in both earlier and later periods. Standards may have been applied with more rigor in certain countries than in others. Varying IR capacity in DMCs may be one of the reasons. However, the exact nature of the differences was not fully examined. When looking at the case study countries, it can be observed that in India, rural road projects rely significantly on land donation procedures, which, if agreement with the APs is well documented, obviate the need for provision of compensation. In PRC and Viet Nam, all land taken for a project is compensated for. As is shown by Figure 2, country performance has become more even over time as measured by the proportion of infrastructure projects for which there was resettlement planning.

Figure 2: Percent of Infrastructure Projects with Resettlement Planning^a in Selected Countries, by Period of Approval



Note: (i) Percent of projects for all infrastructure sectors except agriculture and natural resources (i.e., energy, multisector, transport and communications, and water supply and sanitation sectors); (ii) Thailand has only one project for the period 2000–2005; (iii) 2000–2005 projects were filtered to remove those without significant civil works component.

^a Projects with resettlement plans/frameworks/land acquisition and resettlement plans, as per project's report and recommendation of the President.

Sources: Regional and Sustainable Development Department Database, Project Coordination and Procurement Division List of Loans, and reports and recommendations of the President.

B. Affected Persons Registered by ADB Project Proposals

42. Projects approved between 1994 and 2005 were expected to affect at least 1.77 million persons in terms of their access to, or use of, land and often also in terms of loss of house or other structure. Tables specifying numbers of APs by country, year, and sector are in Appendix 5. However, it must be cautioned that the estimates were often wide of the mark, particularly in the older RRP. According to the available PCRs for these projects, the total number of people actually affected was 65% higher than the estimates of APs in the RRP.³⁴

³⁴ One project was excluded from this calculation: Loan 1305-PRC: Jing-Jiu Railway Technical Enhancement, approved 14 July 1994 for \$200 million, where ADB provided only railway equipment, and the project was actually not directly involved in resettling APs. However, due to ADB's definition of due diligence on resettlement activity, it was included in other tables on APs. As against an estimate of 212,000 people affected, the PCR recorded 211,174. This resettlement was undertaken in conjunction with the construction of the permanent way for the route. ADB financing was not used for those parts of the project.

This calls into question the rigor of RPs in the past and the quality of information on which they were based. This could lead to situations where the resettlement costs included in the project estimates are insufficient to mitigate the actual impact of the project on resettlement and livelihood restoration.

43. **Trend in Numbers of APs.** As per RRP figures presented, there seems no clear trend towards more APs over the years. The overall yearly average of APs reported in ADB projects seems to be around 150,000, with fairly large variations between years. However, it may well be that the type of infrastructure projects financed by ADB in the 1990s affected more people than did the projects approved in the period 2001–2005, as there is likely to have been more underestimation of the more minor impacts on APs. The number of people actually displaced may have gone down in the last decade. If such a finding is correct, the trend may be reversed by ADB's recent decision in favor of more focused support to infrastructure development in Asia, as reflected in the support by the Medium-Term Strategy (2006–2008)³⁵ (MTS II) for core infrastructure such as transport, energy, water supply, and urban and rural infrastructure.

44. **Skewed Distribution of APs Across Projects.** Seventy-five percent of all APs were affected by only 30 of the 174 project resettlement operations approved since 1994 (Appendix 6). Numbers of APs in this range varied between 210,000 and 13,000. This means that the 80–20 rule can apply to resettlement planning (i.e., giving 80% of resources to the 20% of projects with higher resettlement impact). Applying a threshold to the detail required of resettlement planning could give a good efficiency dividend in terms of focusing ADB's limited staff resources on projects with significant resettlement. This finding raises questions as to whether the rule that requires a full RP for all projects that affect 200 people or more leads to the most efficient use of ADB's limited human resources.

45. **Transport Sector.** Over 75% of all APs counted in the PCRs were affected by road and railway projects. Securing the right-of-way for expressways, construction of new roads, and upgrading and improvement of existing roads all cause population displacement. However, only a minority of APs needed to resettle far from their old location (in fact, three quarters of the APs in the transport sector did not need to move). APs in rural road or road rehabilitation projects generally only lose part of their land, and do not need to relocate. They can rebuild their house on their own plot or in the vicinity. The MTS II has specified transport as one of the core sectors in which ADB operations are expected to grow.

46. **Other Sectors.** Next to transport projects, projects involving agriculture and natural resources (3% of all APs), energy (7%), urban development and water supply and sanitation (8%) were most affected by the need for resettlement of people. Some special attention needs to be paid to dam reservoir projects and to sites and service development projects. These types of projects are the most invasive types of resettlement operations.

47. **Dam Reservoirs.** ADB's involvement in dam reservoirs from 1970 to mid-2005 comprised around 4% of its portfolio, and the proportion decreased over time (Appendix 7, Table A7.1). In the late 1990s and early 2000s, when the IR policy was operational, ADB financed fewer dams than before. Only seven projects involving large dams were approved between 2000 and 2005, against 11 in the period 1990–1995. In 2006, however, there is a surge in the number of dam reservoir financing proposals under consideration: ADB is

³⁵ ADB. 2006. *Medium-Term Strategy II (2006–2008)*. Manila.

considering financing eight new dams over the period 2006–2007 (Appendix 7, Table A7.2). Some 27,000 people may be affected by these projects. There are two dam projects in the lending pipelines for PRC and India (Appendix 7, Table A7.3).

48. **Sites and Services Developments.** ADB's involvement in township expansions was limited in the past and had almost been abandoned in the new millennium, due in part to a lack of success.³⁶ Housing and housing finance was deemphasized in the MTS II.

49. **Distribution of APs Across DMCs.** Country distribution of resettlement planning demonstrates a large bias toward certain countries. The PRC accounted for 37% of projects and 61% of APs. The densely populated areas in which many ADB-supported projects are planned, in combination with the infrastructure (particularly road and railway) focus of the projects in the PRC, explain this result in part. Another part of the reason may be that resettlement planning is better integrated into the domestic PRC project approval procedures and must be done for water reservoirs and urban development projects, whether or not ADB funding is involved.

50. In countries like India, with density of population and sector focus similar to the PRC, ADB anticipated far smaller impacts on people (6% of all APs were in India). Two explanations can be thought of here: (i) lower ADB lending program in India in the 1990s; and (ii) the nature of the road projects in India in the past, which has focused more on rehabilitation of roads than on construction of highways along new alignments. Other countries with significant numbers of APs were Bangladesh (9%), Viet Nam (9%), Nepal (4%), and Philippines (4%).

51. In summary, ADB projects affect many people but the largest groups comprise people living around planned road and railway works. These APs often lose only part of their land, are involved with businesses that are affected by the project during its implementation, can often be moved a few meters back from the alignment but then have to rebuild their houses or shops, and in some cases need to be moved to resettlement sites in the vicinity. So far, a large part of the overall impact has been on rural areas and village collectives in the PRC, where until very recently the method of land consolidation was employed to spread the effects of a loss of land among all members of the collective. This method can have the advantage of spreading adverse impacts and retaining farmers within the rural collective, with slightly less land for everybody. But the method has also been criticized as, in some cases, the leaders of the collective decided on the method of redistribution of the cash compensation and not those actually affected. Some APs would like the compensation paid directly to them. In the last years, APs in rural collectives seem to have been able to exercise more choice regarding how they will receive the compensation.

C. Resettlement Performance Assessments Made by ADB

52. This section discusses various perspectives on resettlement implementation based on a review of the PPRs for ongoing projects, RSDD's safeguard compliance reporting, PCRs, PPERs, and a desk study report prepared recently for RSDD.

³⁶ An example is the Karnataka Urban Infrastructure Development Project, which created a number of sites and services areas around Mysore and Channapatna, but progress was slow, and the speed of their occupation modest. ADB. 2006. *Project Completion Report for the Karnataka Urban Infrastructure Development Project in India*. Manila.

1. Project Performance Reports

53. ADB staff check progress of ongoing projects in a variety of ways, the most important of which are annual or semiannual review missions, and quarterly or semiannual progress reporting by EAs and consultants. Day-to-day loan administration, including providing ADB concurrence for procurement and consultant recruitment, is another source of information, as are email and other types of correspondence with EAs and consultants. Pertinent information reported through all these sources is to be entered in ADB's online PPRs, so that operational staff can keep track of progress, and portfolio reviews held. This study surveyed the information contained in all 68 PPRs for ongoing infrastructure projects in PRC, India, Philippines, and Viet Nam and drew the following conclusions (see also Supplementary Appendix D):

- (i) Sixteen of the 68 PPRs (24%) for projects with resettlement planning did not mention resettlement progress in any way, either under implementation progress, as part of the monitoring of social covenants, or elsewhere.
- (ii) All of the PPRs of projects reviewed reflected compliance with the social covenants in the loan agreements. The range was 1 to 10 covenants per project, with an average of 5. These covenants, as culled from the loan agreements, were of a widely differing nature. Some stated only that the ADB policy (and sometimes the Handbook on Resettlement) needed to be followed; others had many covenants regarding specific requirements to be taken into account, for instance regarding the type and level of compensation to be offered, and the external monitoring to be organized. The rationale for the wording of social covenants was not fully clear: Some projects with serious IR impacts did not have explicit covenants, while others had very detailed covenants. Consistency would be desirable.
- (iii) The PPRs reported that 21% of all social covenants were complied with; only 2% of the social covenants were partly complied with; 58% of the covenants were simply reported as "ongoing" or "being complied with". Another 16% were not yet due. The PPRs also rated compliance with social covenants: 91% of the 345 social covenants reported by the PPRs were deemed satisfactorily complied with, while only 4% were judged as partly satisfactory. The remainder were "not yet due," so no rating was provided.
- (iv) Thirty-one percent of the PPRs reviewed reported changes to the RPs. These were due mainly to detailed measurement surveys conducted during project implementation. Nineteen percent of the PPRs indicated that no changes were needed to the RPs. The remaining 51% gave no information on the need for updating of the RP.
- (v) Only 12% of the PPRs provided quantitative information on land acquired for the project, structures demolished, or APs compensated or assisted.
- (vi) Issues related to resettlement operations were indicated only for seven projects (10%). These concerned delays in land acquisition and resettlement of the APs, the lack of counterpart funds to finance land acquisition and resettlement, difficulties encountered in negotiating for the compensation rates related to land acquisition, alleged discrepancies between the compensation paid by the project implementation agency to local governments and the amount received by the affected villages/persons (one project), the need to fast track the implementing agency's compliance in providing the needed social services facilities, and other services in the resettlement sites.

54. The conclusion from this review of PPRs is that ADB does not monitor resettlement in much detail, and does not systematically report on it. The PPRs lack information regarding procedural and substantive compliance and, most importantly, on the impact of the implementation of the RPs on the APs. The related finding of this study that few internal and external EA monitoring reports are available regarding resettlement was corroborated by the experience of RSES, which reports receiving only a few for review. OED's annual reports on loan and TA portfolio performance have registered a decreasing number of days of ADB's professional staff spent per project on project administration missions since 1995, despite the fact that the ratio of the number of professional staff to projects increased by 30% from 1.6 in 1995 to 2.1 in 2004.³⁷ Time is spent on project processing including preparation of RFs and RPs, but less so on project administration. In 2005, 13 social development/resettlement specialists working on resettlement spent 244 days on mission to help prepare perhaps 25 new loans, but only 187 mission-days to administer the ongoing 193 loans with resettlement.³⁸ There are some benefits associated with the procedural compliance efforts at the time of project approval (e.g., integrating resettlement planning in the early phases of the project cycle; more consultation with APs; greater disclosure of information). However, the conclusion is that ADB does not monitor resettlement implementation intensively, compared with the energy it invests in resettlement preparation before loan approval. In effect, ADB delegates implementation of the RPs to the EAs without significant supervision. ADB has failed to implement the measures needed to confidently say that mitigation measures related to resettlement are being effectively implemented, that APs are not disadvantaged, or that problems can be identified so that remedial measures can be taken. More mission information is in Supplementary Appendix E.

2. CCO's Safeguard Compliance Control

55. With the creation of the safeguard compliance mechanism in 2002, it was agreed that CCO would report annually to the President on the achievement and maintenance of social and environmental safeguard compliance. Internal reports issued from 2002 to 2005 show that the safeguard compliance mechanism has been successful in achieving procedural compliance³⁹ between the stages of MRM and Board approval. The CCO reported that it had succeeded in this in all 3 years, although at the stage of the MRM, procedural compliance with resettlement documents varied between 70% and 75% over the 3 years, figures that did not improve over the years. RSES could field only three missions per year for independent resettlement supervision. The reports called for greater attention to substantive issues to ensure that safeguards contributed positively to achieving development impacts. Key challenges identified in these reports were to (i) ensure an appropriate complement of safeguard specialists across ODs, (ii) enhance awareness of safeguards among project teams, (iii) increase the emphasis on ensuring implementation of safeguards after Board approval, (iv) address rigidity in existing safeguard procedures that do not allow flexibility in application, and (v) clarify policy and procedural provisions.

³⁷ ADB. 2005. *Annual Report on Loan and Technical Assistance Portfolio Performance for the Year Ending 31 December 2004*. Manila.

³⁸ Three hundred ninety-two mission days were spent for other purposes, mainly TA administration; a portion of this could have been related also to TAs preparing resettlement operations in new projects. All of these data exclude private sector loans.

³⁹ Procedural requirements of OM F2 are defined as (i) correct and timely project classification, (ii) submission of draft RPs or RFs, (iii) borrower endorsement of RPs or RFs, (iv) confirmation of disclosure of resettlement information to APs, (v) submission of satisfactory resettlement planning documents before appraisal, (vi) inclusion of loan covenants on resettlement, and (vii) public disclosure of resettlement planning documents on ADB website upon Board approval.

56. It was clear from discussions with staff that RSES finds itself sometimes in a conflict of interest position with the ODs that have insufficient social safeguard staff. The Pacific Department and the Private Sector Operations Department do not have designated specialists; consequently RSES staff have become involved in managing consultants and preparing RPs and then certifying that they meet ADB requirements.

3. Findings from a Review of All Completed Projects Approved Since 1994 with PCRs

57. ADB's performance in IR can also be gauged from a review of the PCRs for projects with resettlement impacts. There have been improvements over the last 5 years, in terms of both resettlement operations and information on this in PCRs. Many PCRs now include separate appendixes in which an account is given of the implementation of the RP(s).

58. This SES reviewed all 62 PCRs issued for completed projects that had anticipated land acquisition and/or resettlement impacts and were approved in 1994 or later. The PCRs had a large bias towards the PRC: 33 were for projects in the PRC, but only 2 were for India, 4 for the Philippines, 4 for Viet Nam, and 19 for other countries. Fifty-one enabled comparison of estimated and actual numbers of APs. The bias reinforces the overall predominance of ADB involvement in resettlement work in the PRC and the speed of project implementation in the PRC. Because of the large sample of PCRs for projects in the PRC, there was also a bias towards road and railway projects (47% of all PCRs). The following conclusions can be drawn with respect to the resettlement performance of the projects approved and completed over 1994–2005.

59. **APs and Land Acquisition.** The number of people affected that required resettlement was 10% higher than the initial estimates before the projects started.⁴⁰ The number of APs that were affected by land losses but did not require resettlement was over 150% more than originally estimated (Appendix 5). In part, the underestimate was due to less attention for impacts that would not lead to displacement in the past, and in part to past estimation practices in road and railway projects in PRC, where land acquisition estimates were routinely divided by the average land holding to get the number of APs—in reality many more APs were affected than the number obtained from this division, as there were many cases where only part of the land was affected by the project, and land loss was often shared among all members of a rural collective. The underestimation of APs in RPs and RPs was, however, not reflected in a similar underestimation of land acquisition requirements. Overall, 25% less land was required than anticipated. Opportunities were taken during detailed design to make minor changes in the route alignment to reduce the amount of resettlement in local areas for many road projects in the PRC. This also indicates that ADB's second policy principle (minimizing resettlement) often needed little reinforcement during implementation, as land acquisition and resettlement are expensive and time consuming.

60. The error in estimating number of APs is large. Of the 43 PCRs reviewed for the four case study countries, 21 recorded numbers that show that, on the average, the estimate at appraisal was off by more than 50%: 16 found that the actual number of APs was over 50% larger than anticipated, and 5 that the actual number was smaller by 50% or more.

⁴⁰ Actual and appraised number of APs used in the comparison was based on 51 cases as the other 11 did not provide enough figures to allow such a comparison.

61. **Budget and Expenditure.** In most cases, ADB has not included allocations for resettlement costs in its loans, but has left the financing to DMC governments. This has been partly because the expenses of resettlement generally have to be paid in local currency, and many governments prefer to borrow for foreign currency expenditure. Until 2005, ADB's policy stipulated that land acquisition costs could not be financed by loan funds, but since the approval of a pilot phase for new lending modalities, such costs can now in principle be financed by ADB loans. PCR data show that land acquisition and resettlement budgets varied greatly between projects, with an average of 6% of estimated total project cost. The average actual expenditure was 60% higher, at 10% of project cost. The average land acquisition and resettlement budget was \$24 million per project, with a range of \$0.02 million for an Emergency Restoration Project⁴¹ to \$214.5 million for the Suzhou Creek Rehabilitation Project⁴² in a densely populated part of Shanghai. The average relocation expenditure recorded was \$46.3 million, with a range of \$0.47 million to \$333.7 million (for, again, the Suzhou Creek Rehabilitation Project).⁴³

62. In the PRC, for which more PCRs were available, resettlement costs for the eight completed projects used as case studies increased by 35%, whereas total project cost went down by 6% (Supplementary Appendix F). The average cost of compensation went up from an estimate of \$6,646 per AP to an actual expenditure of \$9,882 per AP. The resettlement cost in the two dam projects, both involving the relocation of nearly 40,000 people, was fairly close to the original estimate and was relatively low, as it was based on different legislation. The compensation in the transport projects in the sample increased considerably. The compensation for the two urban projects in the sample was particularly high and increased sharply, from an anticipated \$12,000 to \$19,000 per AP for the Suzhou Creek Project in Shanghai and from \$21,790 to \$31,031 per AP for the Fuzhou Water Supply Project. Relocation in urban areas is expensive because of the high cost of land and housing. For a family of four, compensation ranged from \$15,000 to \$124,000 in the eight projects. However, the land compensation was not distributed to the APs in all cases,⁴⁴ as sometimes a portion was invested in the rural collectives in the PRC (but see para. 51).

63. **Resettlement Package Provided.** Almost half of the PCRs reported that compensation had been paid in cash to APs for losses in agricultural land, house plots, crops and/or trees; 12% reported that APs were provided a combination of cash and in-kind assistance (i.e., replacement land, training for new livelihood sources, housing materials, etc.). Twenty-four percent of the PCRs did not elaborate on the kind of compensation provided. Whether compensation met with the requirements as provided in the RP (replacement value or actual amounts) was also often not indicated. As the case study countries (with the exception of the Philippines) generally did not base compensation on the replacement value of land or structures, it is unlikely that this aspect of the ADB policy was applied rigorously by the projects. A quarter of the PCRs mentioned that APs were provided some form of rehabilitation assistance

⁴¹ Loan 1852-TAJ, for \$3.6 million, approved 30 October 2001. The resettlement budget was meant only for the six households to be moved from the site.

⁴² Loan 1692-PRC, for \$300.0 million, approved 29 June 1999. The budget was to resettle an estimated 17,552 APs, and comprised about 24.5% of the total project cost of \$875.8 million.

⁴³ This included \$32.9 million for land acquisition and \$300.8 million for resettlement, or 39.6% of total project cost at completion (\$841.3 million). The actual resettlement expenditure was equivalent to \$19,012 per AP, most of which was related to the construction of new apartment blocks.

⁴⁴ This was mainly the case in the two urban projects, although APs obtained the compensation for the house structures on an individual basis, and this was sufficient for them to acquire good apartments elsewhere.

to restore their income to their preresettlement levels. However, two thirds of the PCRs which reported on resettlement did not indicate this.⁴⁵

64. Relocation of APs to New Sites. Many PCRs were not exact about the nature of relocation, for instance registering the number of APs who stayed on their site but had to rebuild their houses, the number of APs that moved to a site selected by themselves, and how many moved to a resettlement site prepared by the EA. Seventy-four percent of the PCRs indicated that some form of resettlement was occurring for APs away from their old location, but distances between the relocation sites and the APs old villages were indicated by only 30 PCRs. Two thirds of these indicated that APs had moved within 1 kilometer from their old locations. Only one third indicated that APs were relocated beyond 1 kilometer from their original location.

65. Public Consultations, Disclosure, Grievance Redress, and Benefit Monitoring. More than half of the PCRs reported that public consultations had been held; the rest did not report on this policy requirement. Disclosure of information regarding resettlement implementation was often combined with public consultation. Less than half of all PCRs reported that some kind of grievance redress mechanism was in place in the projects; the other half did not report on this aspect. Fifty-five percent reported on the existence of BME, while 16% reported that this was not established. The remaining 29% did not report on this aspect. Sixty-eight percent of the PCRs indicated that resettlement activities were carried out by specific resettlement units that had been established by either the government or the EA.

66. Status of APs After Resettlement. More than half of the PCRs did not assess APs' satisfaction with their new lives after resettlement, but 37% reported that APs felt better off after resettlement. For instance, the PCR for the Changchun-Harbin Expressway⁴⁶ indicated that the APs were able to restore their preproject incomes. Among the PCRs completed for the four case study countries, two indicated some serious concerns about the postresettlement situation.⁴⁷ APs in the Hunan Lingjintan Hydropower Project⁴⁸ indicated that they were generally satisfied with their new houses, but were dissatisfied with the halving of their agricultural land as a result of the project, which reduced their income. In the Fujian Mianhuatan Hydropower Project,⁴⁹ an external assessment of IR implementation in April 2002 reported that most of the APs had not restored their preproject income levels.⁵⁰

⁴⁵ Eight percent of the PCRs had no information on resettlement at all, although the RRP had indicated the need for it.

⁴⁶ ADB. 1998. *Report and Recommendation of the President to the Board of Directors on a Proposed Loan to the People's Republic of China for the Changchun-Harbin Expressway: Changyu Expressway*. Manila (Loan 1642-PRC, for \$220 million, approved 27 November 1998).

⁴⁷ One PCR reported no resettlement (only land acquisition), and one PCR did not report anything on the resettlement process.

⁴⁸ ADB. 1994. *Report and Recommendation of the President to the Board of Directors on a Proposed Loan to the People's Republic of China for the Hunan Lingjintan Hydropower Project*. Manila (Loan 1318-PRC, for \$116 million, approved 27 September 1994).

⁴⁹ ADB. 1994. *Report and Recommendation of the President to the Board of Directors on a Proposed Loan to the People's Republic of China for the Fujian Mianhuatan Hydropower*. Manila (Loan 1417-PRC, for \$170 million, approved 14 December 1995).

⁵⁰ These findings are, however, disputed. The survey was done while rehabilitation was still under way. It only surveyed people around the reservoir and not the younger adults who had moved to cities for jobs. A government survey conducted in 2003 estimated that 25% had still not restored their incomes. This was the reason that ADB pressed the EA to provide further assistance, even though the loan had already been fully repaid.

67. **Compliance with Social Covenants.** All PCRs reviewed addressed the social covenants stipulated in the loan agreements. Similar to the observations made in the review of PPRs, these social covenants covered different requirements, i.e., some covered specific terms on compensation rates, while some discussed only general conditions (such as implementing a comprehensive RP). The PCRs reported that 73% of the 122 social covenants were complied with, 21% were partly complied with, and 2% were not complied with; 5% of PCRs did not specify the compliance status. In comparison with other covenants, this level of compliance is rather low.

68. **Issues.** Issues related to IR implementation were reported in 25 (40%) of the 62 projects. Among the more common were (i) slow disbursement of the funds for compensation of APs, (ii) budget shortfalls in resettlement funds, (iii) dissatisfaction with compensation provided, (iv) lack of income/livelihood opportunities in the resettlement sites, and (v) failure of APs to restore their preproject income levels. The issues are reflected in more detail in Appendix 8. The other PCRs either mentioned that there were no issues encountered or did not indicate whether there were any issues at all.

69. **Lessons.** Among the PCRs for the four case study countries, 18 provided lessons regarding resettlement implementation. These included the need for (i) closer supervision in the early stages of resettlement that would help enable timely actions to resolve funding problems and disbursements for livelihood rehabilitation; (ii) social safeguards to be clearly defined in the loan and project agreements; (iii) establishment of compensation rates that reflect replacement values, and obtaining early endorsement by the EA and local governments; (iv) getting compensation rates agreed to by APs before project implementation; (v) ADB to play a more effective role in resettlement supervision and monitoring; (vi) prioritizing resettlement monitoring and submission of monitoring reports; and (vii) considering the distance of the relocation sites from the original location of the APs to prevent or minimize livelihood problems. All of these lessons could also be drawn from the project case studies.

70. **Follow-up Actions.** Eight of the 62 PCRs suggested follow up actions to the resettlement implementation (Box 2). Some of the proposed actions included identification of APs that had not fully restored their incomes and livelihoods; preparation of a mitigation plan to restore incomes or, if needed, to provide additional postproject livelihood support; and continuous monitoring of the EA to ensure that the final settlements of the compensation packages were been paid. ADB does not have a system to track and follow up on the recommendations made in PCRs. Thus, it is not clear whether, or how, ADB followed up on these outstanding IR matters.

Box 2: Follow-up Resettlement Actions in Six Project Completion Reports

Loan 1318-PRC: Hunan Lingjintan Hydropower: Affected households should be investigated to determine the number that have not fully restored their incomes and livelihoods. Mitigation measures should be prepared and implemented, and a resettlement completion report submitted.

Loan 1417-PRC: Fujian Mianhuatan Hydropower: Households that are still facing difficulties should be identified, an implementation plan prepared and results monitored. A final external evaluation should be conducted to verify that all households have restored their livelihoods.

Loan 1544-PRC: Zhejiang-Shanxi Water Supply: The postrelocation support plan needs to include the households that have not achieved their previous income level. It needs to be implemented by the Wenzhou Resettlement Office with funding support from Shanxi Economic Development Company, which should contribute immediately to the fund.

Loan 1691-PRC: Southern Yunnan Road Development: Delays in land compensation payments should be investigated. Reimbursement to local governments should be speeded up. Local governments should make all remaining payments to collectives (mainly for forest land) and state-owned entities. Local residents should be considered for job opportunities.

Loan 1367-PHI: Regional Municipal Development: The local government of Iligan City must monitor the social and economic situation of the people relocated due to the drainage project, and, if needed, provide additional postproject livelihood support in 2006.

Loan 1398-PHI: Northern Luzon Transmission and Generation: The National Power Corporation should ensure that the compensation packages have been paid.

Loan 1306-THA: Regional Roads: An action plan on IR was to be implemented after project completion, but it was unclear whether this was done, as at the time of the PCR mission, the unit in charge had already been dissolved.

Loan 1852-TAJ: Emergency Restoration of Yavan Water Conveyance System: The EA was to conduct an impact assessment study in 2004 to determine the social and environmental impact of the project 1 year after completion.

71. **Overall Assessment Made by PCRs.** Most of the completed projects reviewed were broadly successful in achieving their overall development objectives. Almost all PCRs also rated both ADB and government/EA performance as successful or satisfactory. The predominance of PCRs for projects in the PRC may be part of the reason for the high success rates found, as PCRs and PPERs for this country have mostly rated project performance as successful.

72. Twenty-seven PCRs also reflected the results of independent assessments of the projects' resettlement implementation, usually as part of BME.⁵¹ They revealed that over half of the projects had rated the implementation of the projects' resettlement component as either successful or satisfactory. Notably, no resettlement operation was specifically rated as unsuccessful or even partly successful. However, a rating for the resettlement implementation, is not normally a requirement for the preparation of a PCR. Because of the domination of the

⁵¹ These independent assessments were often commissioned by EAs to validate their own assessments of the social and/or environmental impacts of the projects. The other 35 PCRs either had no rating for resettlement implementation or offered no information regarding the assessment of the resettlement implementation.

sample by projects in the PRC, and the generally adequate performance of the resettlement activities, it is not clear whether these generally positive findings are representative of ADB operations as a whole.

73. **Conclusion.** This SES concludes that many PCRs did not fully cover IR activities. In many cases, they do not have sufficient evidence to determine whether IR activities were implemented in a manner that was consistent with the IR policy or whether IPs are no worse off because of the project. This is an unsatisfactory state of affairs. The assessments available in the PCRs focused on overall impact and added value for APs,⁵² and less on transaction costs incurred (meaning all not directly budgeted and even quantifiable costs), procedural compliance during implementation, grievance redress, and public disclosure. The PCRs implicitly compared outcomes with the situation of no resettlement planning or no ADB involvement, and then mostly concluded that resettlement had improved the lives of APs compared with this alternative.

4. Findings of Project Performance Evaluation Reports Issued by OED

74. The findings of the PCRs were broadly validated by seven PPERs issued by OED,⁵³ generally 3 years after the end of the projects. Six were for projects in the PRC, and the other was for a project in the Philippines.⁵⁴ Six of the seven confirmed the resettlement findings of the PCRs; the other did not have comments on the resettlement process. However, only three PPERs⁵⁵ had an appendix on the assessment of the land acquisition and resettlement implementation. The Anhui Environment Improvement Project⁵⁶ was the only case where the findings of the PCR were not confirmed, but only because the PPER did not assess IR. The PPERs for the Hunan Lingjintan Hydropower Project (footnote 48) in the PRC and the Sixteenth Power Project in the Philippines (footnote 54) mentioned several issues encountered during resettlement implementation: (i) APs having lower incomes than people in neighboring villages not affected by resettlement, due to shortage of farmland and ineffective production rehabilitation; (ii) dissatisfaction with the livelihood restoration and compensation policies; (iii) strong sentiment that the APs should have been consulted, not just the village leaders; (iv) lack of awareness by APs of the standards used for compensation; and (v) delay in awarding the titles of property ownership. The PPER for the Hunan Lingjintan Hydropower Project recommended that the follow-up actions mentioned in the PCR needed to be implemented. The lessons identified in the PPER for the Sixteenth Power Project indicated that resettlement should be based on a time-bound action plan of documented measures, be founded on a sound legal basis and a cogent assessment of the pre-project socioeconomic

⁵² Defined here as the difference between outcomes for APs of IR operations with and without ADB involvement.

⁵³ ADB. 2003. *Project Performance Audit Report on the Dalian Water Supply Project in the People's Republic of China*. Manila; ADB. 2006. *Project Performance Audit Report on the Hunan Lingjintan Hydropower Project in the People's Republic of China*. Manila; ADB. 2001. *Project Performance Audit Report on the Heilongjiang Expressway Project in the People's Republic of China*. Manila; ADB. 2006. *Project Performance Audit Report on the Fangcheng Port Project in the People's Republic of China*. Manila; ADB. 2005. *Project Performance Audit Report on the Second Industrial Energy Efficiency and Environment Improvement Project in the People's Republic of China*. Manila; ADB. 2006. *Project Performance Audit Report on the Anhui Environment Improvement-Water Project in the People's Republic of China*. Manila; ADB. 2002. *Project Performance Audit Report on the Sixteenth Power (Masinloc Thermal Power) Project in the Philippines*. Manila.

⁵⁴ The Sixteenth Power (Masinloc Thermal Power) Project is the first stage of the Masinloc Power Project (Loan 1042- PHI, for \$200 million, approved 30 October 1990).

⁵⁵ Loan 1042-PHI (footnote 54); Loan 1313-PRC: *Dalian Water Supply Project*, for \$160 million, approved 20 September 1994; and Loan 1318-PRC (footnote 48).

⁵⁶ Loan 1490-PRC: *Anhui Environmental Improvement Project for Municipal Wastewater Treatment*, for \$28 million, approved 26 November 1996.

situation, and be fully communicated to all affected households to facilitate its acceptance. The four other PPERs mentioned that APs were satisfied with their relocation arrangements, and that these were consistent with ADB's policy.

75. **Dams.** OED's 1999 SES on dams has already been referred to (footnote 9). OED's project evaluation findings on Theun-Hinboun Hydropower Project⁵⁷ and the Nam Leuk Hydropower Project⁵⁸ in the Lao PDR reported on the very complex nature of resettlement and the underestimated indirect impacts on upstream and downstream areas in the context of dam construction. The conclusions were similar to those reached by the World Commission on Dams in 2000⁵⁹ and the NGO Forum on ADB in 2005.⁶⁰ More information on dams in relation to resettlement is in Appendix 9.

5. Findings of a Desk Study Conducted for the Safeguard Policy Update

76. In preparation of the safeguard policy update (footnote 6), an internal desk study was prepared for RSES.⁶¹ The study was based on a review of 15 ongoing and completed projects with significant resettlement. Six of the projects were selected for field study for this evaluation. The author's conclusions are of special interest, as he was the main consultant used for OED's earlier evaluation of the policy impact of IR in 2000 (footnote 10). The main finding of the desk review was that the resettlement processes and outcomes were mostly unsatisfactory. The assessment was more severe than that made in most PCRs and PPERs examined for this study and than that made based on the project case studies. For this reason the findings are summarized in Supplementary Appendix G.

77. The difference in the assessments is partly explained by the fact that half of the case studies concerned projects that were ongoing, so outcomes were not yet finally determined; and they could have concerned more contentious cases. Another reason for the difference seems to be that many PCRs look more at overall impact, and compare this with the counterfactual. The assessments thus concentrated on added value and often recorded AP satisfaction, as APs seemed to be aware that under conditions of no ADB support, less attention would have been given to resettlement. The RSES report compared outcomes with RP targets, and generally assessed procedural and substantive compliance with ADB's IR policy. Chapter V in this report looks extensively at procedural compliance and impact issues in the 16 project case studies.

D. Inspections, Compliance Review, and NGO Influence

78. The establishment of the ADB Inspection Function on 5 December 1995⁶² and its replacement on 29 May 2003 by the ADB Accountability Mechanism⁶³ have played a role in

⁵⁷ ADB. 2002. *Project Performance Audit Report on the Theun-Hinboun Hydropower Project in Lao People's Democratic Republic*. Manila.

⁵⁸ ADB. 2004. *Project Performance Audit Report on the Nam Leuk Hydropower Project in Lao People's Democratic Republic*. Manila.

⁵⁹ World Commission on Dams. 2000. *The Report of the World Commission on Dams. Dams and Development: A New Framework for Decision-Making*. Earthscan Publications Ltd, London and Sterling, VA.

⁶⁰ Nuera, Arturo. 2005. *The Asian Development Bank and Dams. NGO Forum on ADB*. Manila.

⁶¹ Zaman, Mohammed. 2006. *Taking Stock: Ten Years of Involuntary Resettlement Experience in ADB Operations*. Draft. Manila: ADB.

⁶² OC. R225-95: Establishment of an Inspection Function, 10 November 1995.

⁶³ OC. R79-03: Review of the Inspection Function: Establishment of a New ADB Accountability Mechanism, 8 May 2003. The mechanism became effective by 12 December 2003.

raising the bar for safeguard compliance. ADB's first inspection—of the Samut Prakarn Wastewater Treatment Project⁶⁴ from April 2001 to March 2002—involved environmental, land and resettlement issues. Since then, the inspection of the Chashma Right Bank Irrigation Project⁶⁵ in 2003 and 2004 and the compliance review of the Southern Transport Development Project in 2005 have reinforced the preoccupation of ADB staff and Management with procedural compliance (see Appendix 10 for a summary of these cases). As acknowledged by many staff interviewed, the perceived threat of the repercussions of compliance reviews to investigate noncompliance with ADB policies drives much of the current focus on safeguards and the concomitant interaction between ODs and RSDD, aside from the more general concerns of “getting things right”. The Accountability Mechanism is concerned not only with procedural but also with substantive compliance with all of ADB's policies and Board decisions; this means that aspects of the IR policy unpopular with EAs, such as the enforcement of awarding compensation at replacement value for land acquisition, the provision of compensation of structures to nontitleholders, and rehabilitation measures ensuring restoration of livelihoods of APs, can be subjected to compliance review. In the Samut Prakarn case, the Inspection Panel endorsed a very wide interpretation of adverse impacts of projects on the grounds of the IR Policy and ADB's guidelines on the incorporation of social dimensions. This led it to criticize the institution of an exclusion zone around a wastewater treatment plant, which led some mussel farmers to lose their business.

79. As is clear from the cases described, NGOs play a role in raising compliance issues, and many are keeping a close watch on some projects in ADB's program. NGO concerns are sometimes raised in letters to the President or communications to members of ADB's Board of Directors, and are given attention during ADB's Annual Meetings. Every year ADB receives letters from civil society parties as well as stakeholders directly affected by ADB-supported projects. Resettlement issues were raised for 14 projects in 2004 and 2005, and are summarized in Appendix 11. Eight of the projects were located in the Southeast Asia region (1 each in Cambodia, Greater Mekong Subregion, and Lao PDR; 2 in Indonesia, and 3 in the Philippines); 6 were in the South Asia region, including 2 in Pakistan, 2 in Nepal, 1 in India and 1 in Sri Lanka. Most of the concerns revolved around the adverse impact of projects on APs in terms of their livelihood. Many complaints are about ADB not checking resettlement progress and impacts on APs sufficiently during implementation. The evaluation findings summarized earlier support the contention that ADB devotes insufficient attention to monitoring resettlement during implementation.

80. ADB responded by pursuing dialogue with concerned NGOs and APs. In cooperation with other concerned government agencies, ADB took steps to address the concerns related to 12 out of the 14 projects. For instance with regard to the Pasig River Environmental and Rehabilitation Management Program, ADB and the Pasig River Rehabilitation Commission worked with NGOs and affected communities to develop and fund alternatives to off-site relocation. Sites were identified in the vicinity of some areas that required resettlement. ADB's

⁶⁴ ADB. 1995. *Report and Recommendation of the President to the Board of Directors on a Proposed Loan to the Kingdom of Thailand for the Samut Prakarn Wastewater Management Project*. Manila; ADB. 1998. *Report and Recommendation of the President to the Board of Directors on a Proposed Supplementary Loan to the Kingdom of Thailand for the Samut Prakarn Wastewater Management Project*. Manila.

⁶⁵ Loan 1146-PAK(SF) approved for \$185 million in December 1991; ADB additional financing for the Project in the amount of \$33.5 million was approved in June 1999. ADB. 1991. *Report and Recommendation of the President to the Board of Directors on a Proposed Loan and Technical Assistance to the Islamic Republic of Pakistan for the Chashma Right Bank Irrigation Project (Stage III)*. Manila.

NGO Center has provided a platform for communication between ADB and civil society. While much correspondence has taken place and many meetings have been held, many of the complaints were found not to be eligible for compliance review.

81. Serious resettlement cases raised were those that NGOs alleged were tainted by corruption, for instance related to land acquisition and major changes in the location and design of large infrastructure projects. Two such cases were the Samut Prakarn Wastewater Management Pollution Control Project in Thailand and the Southern Transport Development Project in Sri Lanka, earlier mentioned because they were subjected to inspections and compliance review. The Thai press printed numerous articles alleging that the costly site change was linked to a land fraud conspiracy among various Thai Government officials. A committee of the Thai Senate found corruption in the project, and the Thai Prime Minister stated that the project was riddled with corruption. With regard to the Sri Lanka project, press reports alleged that bribery was used to facilitate the winner's victory during the bidding process; this then led to the government dismissing the project director and a parliamentary committee confirming the allegations. ADB's auditor general, however, did not substantiate the claims. The NGO Forum on ADB has nevertheless criticized the lack of follow-up to the reports on corruption by the inspection of the Thai project and the compliance review of the Sri Lankan project, perhaps partly attributable to differences in terms of reference with that of ADB's then Anti-Corruption Unit. More information on the subject of corruption is in Appendix 12.

E. ADB Staff Views and Experience

82. The questionnaire to gauge staff views regarding safeguard and safeguard performance was posted in *ADB Today*, ADB's online daily magazine. A good portion of the questions focused on those answerable by project team leaders, which is perhaps one reason why there were only 61 responses out of the over 600 staff included in a response population consisting of (i) professional staff in ODs, RSES, and the Office of the General Counsel in headquarters, and (ii) all RM operational staff. In spite of the low response, a wide cross section of staff positions responded, and the findings correspond with those of many staff interviews held. The quantitative results are given for all three safeguard policies in Appendix 13, and summarized below for the IR policy.⁶⁶

83. About the **usefulness of ADB's systems and procedures**:

- (i) Only 11% of respondents thought the OMs usable to resolve all their issues.
- (ii) Twenty-one percent of respondents reported never to have attended any *training* on the application of the IR Policy.
- (iii) Although the project team leaders generally thought sufficient *consultant inputs* were planned for safeguard assessments and plans, most had variable experiences with their *quality*, particularly in the case of resettlement consultants.
- (iv) Most of the project team leaders thought ADB gave either always or sometimes *insufficient resources and time to properly consider project alternatives* with less adverse social impacts.
- (v) Most of the respondents thought ADB either occasionally or always gave insufficient *time and resources for IR planning*. Overall, both time and resources were seen as seriously in short supply for social safeguard planning.

⁶⁶ Some ADB staff did not fill out the questionnaire because of perceived methodological problems.

- (vi) Regarding the *stage at which social safeguard issues should receive more attention*, a majority thought (a) the project preparatory TA stage (over 60%), (b) review missions (30%–33%), and (c) processing missions (29%). Most thought the MRM and Board stages need no further focus on safeguards.

84. About the **effectiveness of the safeguards**:

- (i) Forty-five percent of the respondents answering the question whether they had experienced problems with *resettlement* during project administration stated that problems had occurred in some of their projects. A minority stated that problems had occurred in all projects (7%) or that no problems had been experienced so far (16%). (Thirty-two percent have no answer to this question.)
- (ii) From a preset list of *factors related to ADB*, respondents chose the following four as *contributing most to better IR outcomes*: (a) more time for preparation (52%), (b) ADB streamlining its policy (50%), (c) more time/staff for project administration (43%), and (d) more training provided to EAs by ADB (36%). Assigning more consultant input was deemed relatively less important.
- (iii) From a preset list of *factors related to the country or the EA*, ADB staff chose the following five as *contributing most to better resettlement policy outcomes*: (a) better enforcement of government policies/regulations (63%), (b) more political will and less political interference (41%), (c) combating corruption or other irregularities (41%), (d) more internally consistent government regulations, and (e) more time taken for project preparation.
- (iv) Almost three quarters of respondents thought ADB's resettlement safeguard procedures *added value* to all or at least some projects they had been associated with. Only 9% thought the resettlement procedures had added no value. The type of added value of the IR procedures was seen mainly as reducing the suffering of APs (50% mentioned this). Other factors ticked in the questionnaire were improved project design (23%), more due diligence (23%), more experience in the EA (20%), and the demonstration effect beyond the project (20%). Half of the respondents, however, did not answer this question.

85. About **other issues**:

- (i) The two main *factors responsible for delays associated with resettlement safeguard issues* were seen as (a) the country or EA system being different from that of the ADB system, and more time being needed as a result (34%); (b) consultation processes being difficult to manage; (c) misdiagnosis of safeguard issues at the preparation stage (18%); and (d) the EA not being really committed to implementing the RP (18%).
- (ii) A question was asked about the incremental/transaction costs incurred as a result of applying the ADB safeguards (beyond the requirements of the country system). The responses registered on the preset answer categories are given in Table 2. Among the three safeguard policies, staff recorded most types of 'costs' for the IR policy.

Table 2: Incremental Costs Marked by ADB Staff as a Result of Applying the ADB Safeguards Beyond the Requirements of Country or Agency
(% of responses)

Response	Environment	Involuntary Resettlement	Indigenous Peoples
Have not added to cost of project for country	7	5	6
Have added 1%–3% to cost of project for country	18	9	17
Have added 4%–10% to cost of project for country	11	16	11
Have added more than 10% to cost of project for country	7	14	4
Do not know what was added to cost for country	24	21	17
Usually add to project delays	33	54	24
Unusual amount of ADB time and mission cost	20	32	17
Unusual amount of consultant cost PPTA	11	14	11
Do not know about cost for ADB	7	5	9
Unharmonized donor safeguards are confusing	13	14	9
More inconsistent application of country system	5	7	6
No answer	16	18	15

ADB = Asian Development Bank, PPTA = project preparatory technical assistance.

Source: Questionnaire survey for ADB staff, 2006.

86. In summary, the questionnaire survey showed that ADB staff have mixed views and experiences with resettlement OMs, training, and resources made available for consultants and missions. Almost half had experienced problems during implementation. Yet almost three quarters also thought ADB support for resettlement operations added value for APs.

87. Narrative views provided by ADB staff surveyed regarding improvements in the resettlement policy and its application are given in Appendix 14. Twelve responses referred to the need for changes in the IR policy; 10 to the need for harmonizing country and ADB IR policies; 8 to greater emphasis on RFs at the preparation stage, rather than RP production; and 7 recommended increasing capacity building efforts.

F. EA Staff Views and Experience

88. **Government Views.** Although the SES did not hold systematic DMC consultations,⁶⁷ the study team sought the views of representatives of the borrowers regarding ADB's IR policy during its visits to three case study countries. The team met with government officers charged with ADB affairs in the ministries of finance in PRC, India, and Viet Nam. The officials of the Ministry of Finance in the PRC were appreciative of ADB's added value in the field of resettlement planning. A representative from the Ministry of Finance in India criticized the discrepancies between the ADB policy and the national laws, expressing the view that ADB policy cannot supersede national laws. Delays were stressed as caused by what was perceived as multiple checks by ADB staff in RMs and headquarters on resettlement planning, some of which were deemed redundant. The representative had less difficulty in accepting delays caused by slow national processes connected with land acquisition and award of compensation. It was suggested that resettlement safeguards should be managed through RMs, and requests were invariably made to strengthen RMs in resettlement preparation and administration. In Viet Nam, the representative mentioned that ADB's policy was more a deterrent than an attraction for the government to borrow from ADB, especially in the energy sector, where the safeguard

⁶⁷ RSDD will hold more official country consultations in the framework of the safeguard policy update.

issues were larger than those of IR only. These views coincided with views recorded in 2004/2005 by missions undertaken for the middle income country framework initiative.⁶⁸

89. **Executing Agency Views.** EA views and experiences were recorded through a questionnaire survey. Sixty-seven EAs (49%) of projects with either IR category A, B, or uncategorized (for which RF were prepared and for which the resettlement effects were to be determined after project approval) reached by the survey responded. The EA survey differed from the ADB staff survey in that some of the questions were specific to a project managed by the EA. Similar to the ADB staff survey, it was designed to enable comparison of the response for the IR policy with the environment and the IP policies. Some of the questions for the EAs were the same as those for ADB staff, allowing a comparison of the responses. The tables giving the results of the EA survey are in Appendix 15, and the main findings are summarized below.

90. **About NGO assistance, ADB training, guidelines, and missions:**

- (i) Only 26% of projects with resettlement had engaged an NGO for aspects of implementation or monitoring; consultants were engaged more frequently (60%).
- (ii) Almost half of the project offices included staff that had received training on ADB's IR policy; and around one-third of the project offices implementing IP plans had had some training in ADB's IP policy.
- (iii) Nineteen percent of project directors indicated that the ADB IR guidelines did not resolve all of their issues, with a majority (53%) saying they were somewhat usable. Only 19% said they were fully usable.
- (iv) Relatively few (9%) project directors indicated that there were insufficient missions from ADB project officers regarding safeguards, although around half did not answer this question. A larger proportion felt that they received sufficient assistance from the RMs.
- (v) The large majority (78%) of project directors thought ADB's IR requirements were not easy to meet, and either did not follow them, followed their own agency system (23%), or followed them with difficulty (55%).
- (vi) Thirty-one percent acknowledged there was something wrong with their reporting on safeguards to ADB. Either they were not reporting at all, not regularly, and/or not adequately.
- (vii) Coinciding with the perception of ADB staff, a large majority of the project directors (89%) listed more training as one of four factors related to ADB that would contribute most to better safeguard policy outcomes. This training factor was deemed relatively less important for environmental plans or IP plans. Half (51%) felt that ADB should fund land acquisition costs. The third most common response was for ADB to use the country system.
- (viii) Also coinciding with ADB staff perceptions, most project directors (74%) listed the creation of more capacity in their EA as the most widely mentioned country- or EA-related factor that could contribute to better resettlement policy outcomes. Better enforcement of existing government resettlement policies or better policies/regulations were mentioned by 49% and 43% respectively. Many project directors of projects requiring land are aware that a main reason for

⁶⁸ ADB. 2006. *Enhancing Asian Development Bank Support to Middle-Income Countries and Borrowers from Ordinary Capital Resources*. Manila.

implementation delays is not ADB procedures but the protracted national compulsory land acquisition processes; they are also aware that ADB procedures, which prescribe the award of market value or real replacement cost of land, can speed up implementation, if they are followed by local authorities. Fifty-five percent of project directors stated that their governments should make more funds available for resettlement.

91. About **delays and costs**:

- (i) Twenty-six percent of the project directors felt that ADB headquarters was responsible for short or long delays; 10% indicated that ADB's RMs were responsible for delays in resettlement planning or implementation. Twenty-one percent stated that ADB headquarters was responsible for extra consultant costs.
- (ii) Regarding non-ADB related delays: 20% of the project directors felt that their own agency was responsible for long or short delays, and another 25% that other agencies were responsible for (mainly long) delays.
- (iii) Most project directors, like ADB staff, mentioned the difference between the ADB and the country system as a reason for delays, and the fact that consultation processes were difficult to manage.
- (iv) Project directors were more moderate in their reaction to the incremental costs of the safeguard measures (Table 3)—23% stated the ADB IR policy did not add incremental costs to the RP; 19% stated it added 1%–3% to the cost of the project; and 20% stated it added more than this. Fewer project directors (17%) than ADB staff (54%) thought that the IR policy somehow added to project delays.

Table 3: Incremental Costs Marked by EA Project Directors as a Result of Applying the ADB Safeguards Beyond the Requirements of Country or Agency
(% of responses)

Response	Environment	Involuntary Resettlement	Indigenous Peoples
Have not added to cost of project for country	44	23	54
Have added 1%–3% to cost of project for country	13	19	8
Have added 4%–10% to cost of project for country	10	11	4
Have added more than 10% to cost of project for country	2	9	4
Do not know what was added to cost for country	5	15	4
Usually add to project delays	7	17	4
Unusual amount of ADB time and mission cost	2	6	0
Unusual amount of consultant cost PPTA	0	9	0
Do not know about cost for ADB	8	11	4
Unharmonized donor safeguards are confusing	3	4	0
More inconsistent application of country system	3	9	4
No answer	16	15	21
Total	100	100	100

ADB = Asian Development Bank, PPTA = project preparatory technical assistance.

Source: Questionnaire survey for executing agencies of projects with resettlement impacts, 2006.

92. About **the effectiveness of the safeguards**:

- (i) Project directors were generally positive about the way ADB's safeguard procedures had improved their projects or components of their projects. Only 6% saw no improvement. However, 15% gave no answer.

- (ii) A higher proportion of project directors (47%) than ADB staff (20%) saw as one of the main benefits the increase in experience with resettlement safeguards in their project. Less suffering by APs (40%), improved due diligence (43%), and more transparency (28%) were considered important benefits by the project directors. Fewer project directors (13%) felt that the demonstration effect of ADB's involvement in resettlement work was important.
- (iii) Almost a third of the project directors thought the resettlement procedures had been effective in mitigating unfavorable impacts of the project; more directors thought the environmental safeguards had been effective. Seventeen percent of the project directors thought the effectiveness had been limited.

93. About **disputes**:

94. There were greater differences between the project directors and ADB staff related to disputes (Table 4). ADB staff had the impression of more disputes. Most were about the definition of encroachers/squatters, and levels of compensation. However, 64% of project directors reported one or more disputes.

Table 4: Differences Between ADB and EAs, as Reported by EA Project Directors and ADB Staff in Two Questionnaire Surveys
(% of responses)

Response	EAs	ADB staff
Cost of RP preparation in sector projects	17	20
Cost of RP implementation	21	32
Definition of encroachers/squatters	30	34
Treatment of encroachers/squatters	15	45
Extent of consultation process	11	39
Definition/level of compensation	28	43
Determination of rehabilitation program	19	27
No answer	13	36

ADB = Asian Development Bank, EA = executing agency, RP = resettlement plan.

Source: Questionnaire surveys for (i) EAs of projects with resettlement impacts, and (ii) ADB staff, 2006.

95. Twenty-one percent of the project directors reported that ADB had declined to fund part of the project on account of the resettlement safeguards; 17% reported that the EA had decided not to borrow for projects or certain project components because of ADB's resettlement safeguards. ADB staff indicated that only a few countries were denied funding by ADB of either a project or a part of a project due to resettlement issues.⁶⁹ Similarly, few concrete cases were mentioned of DMCs declining to borrow for prepared projects or project components on account of ADB's IR policy (Question C6 in Appendix 13).⁷⁰

96. In summary, the survey showed that EA staff, like ADB staff, have mixed views and experiences with IR procedures and provision of missions and training. Many wanted more training from ADB, but some viewed missions as concerned with pushing the ADB agenda.

⁶⁹ Three respondents mentioned Indonesia and one respondent each mentioned Bhutan, India, Philippines, and Viet Nam.

⁷⁰ Two respondents each mentioned Bhutan, India, Indonesia, and Viet Nam, and one respondent each mentioned Kazakhstan, Malaysia, and Sri Lanka.

Almost half saw some potential in ADB funding land acquisition costs. Three quarters stated that ADB's policy requirements were difficult to meet. Nevertheless, many saw positive impacts for APs, and also saw more resettlement capacity in their organizations as a result of ADB involvement. Indicating difficulties for EA project directors to make up their minds, it should be noted that a smaller number of directors than ADB staff opined that the IR policy had mitigated adverse impacts for APs; EA directors were relatively more positive regarding the effects of the Environment Policy. Yet there had been many differences with ADB, and a minority reported either ADB declining to lend or EAs to borrow for project components involving IR. With respect to the latter point, it needs to be kept in mind that agencies that had fully declined ADB support were not in the sample, as they did not have ongoing loans with ADB.

97. EA project directors provided a number of suggestions, summarized in Box 1 of Appendix 15. Nine indicated a desire for a change in the nature of the policy, eight a usually related desire for harmonization with the country's system or the EA's system, and six a desire for more ADB effort in capacity building for resettlement.

IV. COUNTRY SYSTEMS AND ADB

98. This chapter addresses the current debate regarding alignment of ADB's safeguard systems with country systems. The debate on this issue has intensified with the release in 2004 of the World Bank's discussion paper⁷¹ on the use of country systems. In March 2005, the World Bank announced a program to pilot test 12 projects worldwide with respect to their use of country systems in financial management, procurement, and environmental and social safeguards (no case has yet been publicized on social safeguards, however). The international community stressed the need for greater use of country systems in the 2003 Rome Declaration. In the 2005 Paris Declaration, donors including ADB committed to "use country systems and procedures to the maximum extent possible. Where use of country systems is not feasible, establish additional safeguards and measures in ways that strengthen rather than undermine country systems and procedures." This chapter reviews (i) current country systems for IR, with emphasis on the four case study countries; (ii) ADB's capacity development program; and (iii) elements of safeguard systems in some developed countries. Due to its length, the substantive discussion of country systems in PRC, India, Philippines, and Viet Nam has been placed in Appendix 16. A summary and the main conclusions are presented below.

A. Review of Country Systems on Involuntary Resettlement

99. ADB's list of IR compliance requirements is long, especially when taken in combination with related operational guidelines on social assessments and with the 2005 Public Communications Policy. It would be surprising if the relevant laws and regulations in any DMC matched ADB's standards in all respects. ADB's safeguard policies have evolved partly for the reason that ADB's experience over many years pointed to a need for supplementing the DMCs' legal and policy frameworks to help ensure that APs are not adversely affected by ADB-funded projects. Another reason has been the changing international context and pressure on the World Bank by NGOs, which ultimately resulted in changes in World Bank safeguards, and subsequently ADB safeguards.

⁷¹ World Bank. 2004. *Issues in Using Country Systems in Bank Operations*. Operations Policies and Country Services. October 8, 2004, Washington DC.

100. The ADB staff survey included a question on whether staff felt there were any countries that had safeguard systems that could be followed. Of the 61 replies, 14 indicated such a country: 6 for PRC and 4 for India (although one added: “with modification for how to handle squatters/encroachers”).⁷² The lack of response may indicate that (i) many staff were not sure about whether country systems had evolved sufficiently to be relied upon, (ii) country systems could not as yet be fully relied on, or (iii) many staff did not feel sufficiently familiar with the country systems to make an informed judgment.

101. ADB’s IR policy is uniform and does not specify how it is to be applied across very different DMCs. But there are large differences among DMCs.

- (i) The organization of public and private ownership in the DMCs varies. In the PRC, for example, all land is owned either by the State or by rural collectives; replacement cost cannot be calculated in the spirit of the policy, as farmers losing land cannot acquire it elsewhere. In the PRC, most farmers have access to small parcels (1/3 hectare per family) with few disparities in the local area, and many already have experience with off-farm employment. Many of the densely populated countries outside the PRC have large squatter populations,⁷³ and private land ownership is the norm. ADB’s Policy may have profound repercussions with its requirement that governments need to offer replacement value for structures, as such compensation leads to claims that squatters may subsequently wish to convert into rights in court. Countries with relatively fewer squatters may be able to provide better assistance than countries that have large populations of squatters.
- (ii) Basic systems for land acquisition and compensation differ among DMCs. This influences the degree to which the compensation given for assets lost differs from their replacement cost.
- (iii) Basic implementation arrangements for resettlement differ among DMCs, as do implementation capacities. The PRC has relatively more experience with resettlement due to the government’s exclusive responsibility for land, housing assets, and jobs until recently. The situation in Viet Nam is somewhat similar. In many other countries, resettlement as such is not recognized as a policy area or field of implementation in itself.
- (iv) Policies on land acquisition and resettlement operations are in a state of change in a number of countries. Several DMCs have adopted, or are in the process of adopting, new resettlement policies or new laws. This means that not only has ADB’s policy evolved but many DMCs are also changing. This provides some justification for looking at the question of where, and to what extent, country systems can be adopted. As it turns out, at least three of the four case study countries have adopted policies and practices recently that, on paper at least, have narrowed the gap between country systems and the ADB IR policy.

102. India adopted a National Policy for Involuntary Resettlement and Rehabilitation in February 2004, a major step forwards from the situation in which the Land Acquisition Act of 1894, amended in 1984, was the main legislation. In the PRC, the Land Administration Law was

⁷² Other countries that one or two respondents mentioned were Fiji Islands, Pakistan, Papua New Guinea, Sri Lanka, Thailand, and Viet Nam.

⁷³ In the Philippines, a conservative estimate is that 10% of the population are squatters.

revised in 1998 with some technical inputs from an ADB TA. A new Government Decision (Nr. 28) in 2004 allowed the raising of the upper limits of the compensation levels for rural land to a maximum that could be seen as theoretically equivalent to the value of a land contract in the rural collective. Unfortunately for APs, the lower limits (16 times the annual average gross output value) have not yet been raised, but this is also under consideration. Compensation rates for expropriation of arable land in the PRC have improved steadily in the past few years. Even in remote areas, they are routinely equivalent to between \$15,000 and \$50,000 per hectare of arable land; around urban areas values can double. Recently, a new regulation was approved for large and medium-sized reservoirs; the minimum compensation has become 16 times annual average gross output value, up from 10 times. Resettlement legislation for house demolition for urban areas is still under revision.

103. In Viet Nam, the system for compulsory land acquisition has undergone significant change since the approval of a new Land Law in 2003, as in the PRC helped by ADB TA. A number of decrees have been adopted that make it possible for ADB standards to be enforced in the country. If the law and decrees are implemented as intended, APs can be compensated and assisted to at least the standard that they experienced before their land was taken. The Philippines is an exception; there has been no recently approved new national legislation specifically on IR. The existing legislation is fragmentary and incomplete. Nevertheless, for many years courts have, if requested, been able to enforce compensation for loss of private land at replacement value by using independent assessors. Specific legislation (Republic Act 8368, 1997) also covers rights of illegal squatters to some extent, something that is not available as yet in most other countries. The government is taking a development approach to housing the homeless through an extensive socialized housing program. The Urban Development and Housing Act of 1992 prohibits demolition of or eviction from illegal settlements unless resettlement sites acceptable to the APs are available.

104. These developments seem to point to gradual convergence with ADB's policy and procedures. In many cases, additional standards or assistance can increasingly be negotiated with governments without setting controversial legal precedents. In PRC, India, and Viet Nam, there is recognition of the need for rehabilitation of APs in large relocation events. Yet there remain divergences with some elements of the ADB Policy in the four countries. None of the four DMCs require comprehensive RPs for cases where there are no actual relocation effects. Even the PRC does not as yet require elaborate resettlement or even land acquisition plans in road and railway projects. Most countries do not require RPs to be approved before the start of works. Most do not require the award of compensation to be completed before the start of civil works in all cases (for linear projects, this SES agrees that such is appropriate; yet compensation needs to be paid before the relocation of the individual). Most do not advocate publicly tendered external monitoring contracts as a matter of good practice, most do not prescribe grievance redress beyond the usual government system, and most do not specify public communication of RPs and RFs with the same rigor as ADB prescribes. Although public consultation clauses are present in most resettlement policies, they usually cannot reverse decisions or delay works, and they do not involve the same level of documentation as ADB requires.

105. In India, existing laws do not make the payment of relocation and transfer expenses mandatory, nor assistance for transition and livelihood support; special assistance to vulnerable people; reestablishment of agricultural and business production; assistance for income restoration; and restoring social services, social capital, community property, and resources, although this is partly covered by the Urban Development and Housing Act. The policy, in fact, mainly refers to large resettlement operations, significantly different from ADB's criterion of

mandatory need for an RP and special measures in case of anticipation of 200 APs that will experience a loss of livelihood greater than 10%. District collectors award compensation for land at *registered* market value (perhaps 40% of actual market value), not actual land replacement value, as could be calculated by independent assessors. Courts in India in the last few years have been quite specific in opposing any “reward” of assistance to squatters when this is demanded by them, which poses a special problem for the application of the ADB Policy.

106. In the PRC, continuing divergence from ADB policy includes the absence of fixed rules for the calculation of compensation for demolition of structures, crop losses, and loss of access to forested lands or grazing lands. The PRC does not make special assistance for all vulnerable APs mandatory in the sense of the ADB Policy, although it provides a somewhat higher resettlement (rehabilitation) subsidy to rural households in reverse proportion to their access to land. The PRC does not necessarily adhere to ADB’s principle of assisting the vulnerable as part of the project; it may give this responsibility on a need basis to government offices independent of the project.

107. In Viet Nam, the decrees still permit the use of frame prices rather than tailored replacement costs to determine the compensation for land loss. Compensation issues have become more complicated due to the nontransparent, volatile real estate market in the main cities, which has left APs dissatisfied with the compensation offered by the government. There is provision for providing assistance to vulnerable APs, but there are no prescribed objective criteria for the level of assistance. Also, squatters get compensation for structures only if built in areas with no land use plans or if they were built after such plans with official permission.

108. In the Philippines, existing laws do not prescribe the payment of relocation and transfer expenses; assistance for transition and livelihood support; special assistance for vulnerable people; reestablishment of agricultural and business production; assistance for income restoration; and restoring social services, social capital, community property, and resources.

109. Pending more thorough investigations of country system commonalities by RSES, a cautious and preliminary conclusion of OED is that of the four countries, PRC and Viet Nam seem closer to ADB IR standards overall, but that differences remain concerning both principles and procedures. The situation for PRC and Viet Nam is somewhat less complex than those of many other countries, as there are fewer squatters, and land ownership is less inequitable. Due to the land bureaus and, in many cities, resettlement offices, resettlement capacity is higher. Existing policy is better enforced, and legislation regarding compensation is improving. The PRC is currently putting major brakes on local governments acquiring land around towns, due to the many reported cases of abuse of requisition powers (outside the context of ADB projects, and in contrast with the much higher level of due diligence for externally financed projects). The PRC has some social safety net elements that provide limited subsistence allowances to some disabled, elderly, and otherwise seriously disadvantaged persons that do not have relatives to support them. In India and Philippines, such a system does not exist.

110. In conclusion, the country systems for IR in all four countries still need serious attention from ADB, and could not immediately be adopted as long as ADB wishes to apply its current set of safeguards. Although most countries allow the award of compensation for land at replacement cost under some circumstances, for instance, they do not prescribe this, leaving it to the project to negotiate this with the land authorities. ADB then needs to apply pressure for this to happen. However, progress has been made in strengthening the country systems. With further progress, these systems could converge with the principles and objectives of ADB’s IR policy.

B. ADB's Technical Assistance on Involuntary Resettlement

111. In addition to project-based resettlement planning, the IR policy requires ADB to take measures to strengthen DMC frameworks for involuntary resettlement. The policy encourages support for efforts by governments and other project sponsors to formulate and implement resettlement policies, strategies, laws, regulations, and specific plans. Provision of TA was envisioned to strengthen the capacity of agencies responsible for resettlement policy, planning and implementation.

112. A review of the TAs that ADB approved regarding land acquisition and resettlement since 1994 (Appendix 17) leads to the conclusion that ADB has spent much time and effort in advising on improvement of resettlement legislation and policies in its DMCs as well as in building capacity in EAs. ADB approved four regional technical assistance (RETA) activities on IR over the period 1994–2005 (one of which was small-scale, to finance a regional workshop), and at least 23 TAs (although many were small-scale) for resettlement policy, capacity development, or resettlement preparation in 10 countries: 5 in Sri Lanka; 3 each in Bangladesh, PRC, and Indonesia; 2 each in Cambodia, Pakistan, and Viet Nam; and 1 each in India, Nepal, and Philippines. Fourteen of these were undertaken in the last 5 years. All of this work was done for a modest \$7.6 million. The three main RETAs also included policy and capacity development in various countries through action plans and workshops. The actual volume of TA that has included resettlement and especially land acquisition issues may in fact be larger, as some TAs or RETAs have titles that are not self-explanatory. For instance, RETA 6113 on Making Markets Work Better for the Poor, not included in the list, may have had relevance to land acquisition and compensation in Mekong countries, as it included study of land markets. In many cases, when ADB assistance ended, the World Bank provided follow-up support. In other cases, ADB TA followed earlier involvement by the World Bank. An example of a country-oriented TA, implemented in the PRC, which added value is given in Supplementary Appendix H. The Vietnam Land Law and Decree 197/2001, the Sri Lanka National Involuntary Resettlement Policy, the Cambodian Land Law, Lao Resettlement Decree, Decision No. 28 in the PRC, and ongoing work with revisions to the PRC's Land Law have all benefited from exposure to ADB IR policy, practice, and technical support. Currently, Bangladesh, Cambodia, and Nepal are receiving technical support from ADB to develop national resettlement policies. Program loans may also contribute to resettlement policy reform. A key focus of the new Indonesia Infrastructure Reform Program loan under preparation is dialogue with the government and other multilateral institutions to address the complexities of land acquisition and resettlement.

113. The three major RETAs on IR approved in 1998, 2000, and 2002 merit some further description in this study, as well as some of the country TAs, as they demonstrate the processes ADB has supported in this area. Overall, this SES concludes that, in spite of continuing divergence between ADB and country policies, the TAs have had high value added, well beyond individual ADB-supported operations (Appendix 18).

114. Despite the progress that has been made by some DMCs, continued reliance on ADB's IR policy remains necessary in many countries, since the convergence with domestic law and policy is compromised by continuing lack of capacity and ingrained bureaucratic attitudes, including lack of filtering down of new guidelines to government officials at subnational levels.

115. In summary, there are legitimate reasons for continuing to supplement the countries' own regulations by the ADB IR policy. The SES concludes that ADB should (i) continue to support the improvement of country systems through policy dialogue and dedicated TA, and

(ii) enter into country- and EA-specific agreements that set appropriate targets for additional procedures and assistance in the medium term. The goal should be to develop country systems to the level where they meet the broad objectives and principles of ADB's IR policy. This would allow ADB, possibly working with the World Bank and other interested donors, to certify that a country's system has reached the stage that it can be used for ADB projects. Given the commitments made to harmonization in the Paris Declaration, it would not be sustainable for ADB to insist on the application of its IR policy if the World Bank certified the use of the domestic IR systems for the same type of project in the same country or vice versa. Donor coordination in this area is essential.

C. ADB's Resettlement Policy Measured Against Resettlement Practices in Developed Countries

116. Some ADB staff have raised the question whether ADB's resettlement procedures are perhaps not more advanced and "generous" than those in developed countries, implying that the policy perhaps demands too much from DMCs. Are ADB's standards higher, and in fact too high, for the current development stage of some DMCs, as many EAs and borrower representatives are claiming? Although it is generally acknowledged that resettlement policies, practices and history in developed countries have not been sufficiently studied, a few examples of practices in the United States (US), Netherlands and United Kingdom shed some light on this question (Appendix 19).

117. Country standards such as currently in place in US and Netherlands for compensation of land loss and restoration of livelihood of those losing land or access to land or housing do not appear to be lower than the ADB standards promoted. Compensation would, however, not be mandatory, for instance, for losses of water vendor businesses as a result of piped water supply to households. The US had incomplete land records and a widespread practice of illegal possession of public lands in the 19th century, but gradually legalized and privatized lands taken by millions of pioneers and squatters through sell-offs of land at low prices. More recently, adverse possession laws, establishing the principle of creation of rights through unopposed long use of land, have enforced discipline in the use of lands by their rightful owners. Continuous right of use of land for those who do not have legal title is defined in law—7 to 12 years in the US and 12 years in the United Kingdom. These figures are broadly consistent with the 10 years used in Thailand to determine if squatters are eligible for compensation. No similar time frame is specified in ADB's IR policy. In practice, a rather arbitrary date, the time of a survey, is used by ADB to determine which squatters are eligible for compensation. A difference between resettlement environments in developed countries and the ADB IR policy is that in many developed countries the social safety nets available lessen the need for the handling of all income and rehabilitation assistance through a project intervention. Another difference is the well-developed court systems that can be utilized to redress grievances. When comparing this with DMCs, the long time taken to put in place such high standards in developed countries needs to be taken into account, and the question asked, What can reasonably be expected from DMCs over a short period of time?

V. MAIN FINDINGS FROM CASE STUDIES AND COMPLEX ISSUES

118. This chapter presents findings from 16 project case studies prepared for the SES by local consultants. The projects are listed in Table 5, with their costs, loan amounts, and number of APs. The analysis covered (i) procedural and efficiency issues, (ii) impact and ADB's added value, (iii) incremental costs and transaction costs of the projects studied, and (iv) complexities related to the application of the policy.

Table 5: Project Case Studies

Loan No. and Country	Year of Approval	Project Title	Cost at Appraisal (\$ million)	Loan Amount (\$ million)	APs at Appraisal	APs at Completion
1405-IND	1995	Power Transmission (Sector)	527.4	275.0	—	435
1417-PRC	1995	Fujian Mianhuatan Hydropower	721.0	170.0	41,054	39,393
1473-PHI	1996	Sixth Road ^a	652.8	167.0	—	(36,500)
1544-PRC	1997	Zhejiang-Shanxi Water Supply	518.0	100.0	36,888	37,199
1626-PRC	1998	Guizhou-Shuibai Railway	381.0	140.0	2,466	29,653
1636-PRC	1998	Fuzhou Water Supply and Wastewater Treatment	192.2	102.0	514	521
1647-IND	1998	Rajasthan Urban Infrastructure Development	120.0	250.0	4,663	not complete
1668-PHI	1998	Southern Philippines Irrigation Sector	102.0	60.0	770	not complete
1691-PRC	1999	Southern Yunnan Road Development	770.3	250.0	5,376	21,329
1692-PRC	1999	Suzhou Creek Rehabilitation	875.8	300.0	17,552	22,256
1746-PHI	2000	Pasig River Environmental Management and Rehabilitation	150.0	75.0	55,000	not complete
1813-IND	2000	Kolkata Environmental Improvement	360.0	250.0	11,000	not complete
1835-PRC	2001	Yellow River Flood Management Sector	404.7	150.0	2,896	not complete
1839-IND	2001	Western Transport Corridor	378.0	240.0	24,012	not complete
1851-PRC	2001	Guangxi Roads Development	455.2	150.0	31,700	not complete
1870-IND	2001	West Bengal Corridor Development	323.0	210.0	11,304	not complete
		Total Ongoing	2,292.9	1,385.0	109,645	NA
		Total Completed	4,638.5	1,504.0	135,550	233,307
		Grand Total	6,931.4	2,889.0	245,195	NA

AP = affected person, IND = India, NA = not available, No. = number, PHI= Philippines, PRC = People's Republic of China.

^a Loan closed in May 2006; 3,600 Affected Families for land, and 7,300 Affected Families for structures.

Sources: Regional and Sustainable Development Department Involuntary Resettlement Database; various reports and recommendations of the President/resettlement plans; Various project completion reports and loans; technical assistance, grants, and equity approvals database.

A. Procedural and Efficiency Issues

119. The case study projects were selected based on consideration of the following factors: (i) variety in infrastructure sectors within countries, category A (updated); (ii) variety of types of resettlement operations; (iii) either ongoing operations, or completed projects with recent PCRs; and (iv) inclusion of some projects with IP plans or frameworks (see also Section C of Chapter I. All projects selected were in the public sector.⁷⁴ This section summarizes the findings in Table 6 in matrix format. The rows in the matrix represent issues assessed; columns A to P represent individual project cases. The table intends to provide a quick visual impression of the overall level of efficiency and compliance achieved for the 16 projects studied. Compliance is taken broadly, and in line with the last OM F2 section. It has to be cautioned, however, that all projects in the table were approved before the issuance of OM F2, and many projects were also largely

⁷⁴ The portfolio of completed projects approved since 1994 included only one category A ADB-supported private sector project in the four countries. One other in category A was ongoing, but the RP had been canceled. Other projects were categorized "TBD".

implemented before this time.⁷⁵ The black squares in the table indicate no efficiency or no compliance with the point discussed for a particular case study project, the gray squares indicate that the compliance or efficiency was to some extent achieved or not achieved (and difficult to assess). The white squares indicate that the case study consultants judged the resettlement operation evaluated as being either in compliance with the current OM or as efficient, or both, as the case may be. Appendix 20 provides a more complete analysis of the 16 project case studies, discussing each issue at greater length, but distinguishing four main types of issues: those regarding (i) due diligence, (ii) land acquisition and resettlement, (iii) sufficiency of compensation, and (iv) sufficiency of assistance to the vulnerable.

120. The ongoing projects studied were the Kolkata, West Bengal Corridor, and Rajasthan projects in India; the Yellow River project in PRC; and the Pasig River and the Southern Philippines Irrigation projects in Philippines. The resettlement operations were well under way, and partly completed. Some projects had very large resettlement requirements across a significant distance; some had mainly house or shop relocation requirements on the plot; others had few relocation requirements and mainly required compensation for crop losses and slices of land along roads. Given lack of information and, in many cases, the long time that had passed, little information could be systematically collected about the public consultation process and the disclosure of RPs in the older cases. Anecdotal information indicates that there were deficiencies in these areas. It is only since 2002 that ADB made the RPs systematically available on a dedicated website. This action, of course, does not guarantee that the information is spread effectively to APs, as the material is typically posted in English. Many APs are on the wrong side of the information technology divide and are not fluent in English. Only since the Public Communications Policy of 2005 has ADB specified the requirements for separate disclosure of documents to APs.

⁷⁵ ADB seems to have followed the unwritten rule that all ongoing projects need to be in compliance with the latest procedures, even if these were instituted after the loan agreement. Allegedly only for about a year or so, an up-to-then usual covenant stating that ADB's IR Policy needs to be applied *and subsequent amendments thereupon*, was dispensed with.

Table 6: Procedural Compliance with IR Policy and Efficiency Achieved in the Projects Studied for the SES

Country Project	IND					PRC								PHI		
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Procedural compliance:																
Were alternatives to minimize IR explored at the time of project design?																
Was an analysis of the DMC's legal and policy framework for IR conducted?																
If nonsector project: Was an RP or RF prepared before project approval?																
If sector project: Were RPs for all subprojects prepared in time?	—	—	■	—	—	—	—	—	—	—	—	—	—	—	—	■
Was the RP approved by EA before RRP (or ADB comments on it)?			—							^a						—
If there were changes after approval, was an update of the RP submitted?			—		—		—	?								—
Did EAs state that there were no delays in comments or approvals by ADB?			■													
Were consultations held with APs at RP preparation stage?			■													
Were consultations held with APs at RP implementation stage?																
If NGOs were involved, so were they involved in time?	—	—														—
Were internal monitoring arrangements made?																
Were external monitoring arrangements made (if this was required)?																
Was a grievance redress mechanism set up?																
Was compensation for land loss provided in time?	—															—
Was compensation for land paid in accordance with specifications in RP?	—															—
Was replacement value used as basis for compensation of losses	—															—
If no, was additional assistance paid to make up the difference?	—															—
Was compensation for structures provided before land acq./displacement?	—	—	—													—
Was compensation for structures paid in accordance with conditions in RP?		—	—													—
Was compensation for trees provided in time?	—															—
Was compensation for trees paid in accordance with or higher than in RP?	—											?	?			—
Was compensation for crops lost provided in time?	?	—			—											—
Was compensation for crops lost paid according to/higher than in RP?	?	—			—											—
Were nonlegalizable nontitleholders compensated for structures?			—	—												—
Did vulnerable squatters receive relocation and rehabilitation assistance?	■	—	—	—												—
Was compensation for business losses provided in time?			—	—	■			?	?	?						—
Was compensation for business losses paid in accordance with RP?		?	—	—				?	?	?						—
Was land acquisition completed before project works started?								?								—
Was relocation completed before project works started?			—	—												—
Were APs consulted about the design of the resettlement site (if app.)?			—	—												—
Were APs who relocated helped with their relocation?			—	—												—
If so, was this sufficient according to the APs?			—	—												—
Were nonlegalizable nontitleholders assisted in relocation costs?	—	—	—													—
Were nontitleholders assisted with transitional income during relocation?	—	—	—													—
Were vulnerable people assisted with transitional income during relocation?			—	—	■											—
Were rehabilitation assistance measures included (training, microcredit)?																—
If so, were they sufficient according to the APs?																—
Were nonlegalizable nontitleholders (squatters) assisted in rehabilitation?			—	—												—
Were vulnerable people assisted in rehabilitation?																—

— = not applicable, ? = no information found, black square = no, gray square = to some extent, white square = yes, ADB = Asian Development Bank, AP = affected person, EA = executing agency, IND = India, IR = involuntary resettlement, PHI = Philippines, PPTA = project preparatory technical assistance, PRC = People's Republic of China, RF = resettlement framework, RP = resettlement plan, RRP = report and recommendation of the President, SES = special evaluation study.

Note: A = Loan 1870-IND: West Bengal Corridor Development Project; B = Loan 1813-IND: Kolkata Environmental Improvement; C = Loan 1405-IND: Power Transmission (Sector); D = Loan 1647-IND: Rajasthan Urban Infrastructure Development; E = Loan 1839-IND: Western Transport Corridor; F = Loan 1692-PRC: Suzhou Creek Rehabilitation; G = Loan 1636-PRC: Fuzhou Water Supply and Wastewater Treatment; H = Loan 1544-PRC: Zhejiang-Shanxi Water Supply; I = Loan 1417-PRC: Fujian Mianhuatan Hydropower; J = Loan 1626-PRC: Guizhou-Shuibai Railway; K = Loan 1691-PRC: Southern Yunnan Road Development; L = Loan 1835-PRC: Yellow River Flood Management Sector; M = Loan 1851-PRC: Guangxi Roads Development; N = Loan 1746-PHI: Pasig River Environmental Management and Rehabilitation; O = Loan 1473-PHI: Sixth Road; P = Loan 1668-PHI: Southern Philippines Irrigation Sector.

^a Although EA had not endorsed the RP before RRP, they worked with PPTA team, and signed Loan agreement.

Source: Consultant reports of project case studies.

121. The main findings in Table 6 and Appendix 20 can be summarized as follows:

- (i) Procedural compliance and efficiency overall has been variable. Table 6 shows that for many procedural aspects, projects were either not in compliance with at least the latest procedures, or such compliance was ambiguous or questionable, prompting the consultants to respond that the issue was “to some extent” in compliance or not in compliance. In some cases, only insufficient information could be gathered at the stage of the field assessment, pointing to lack of documentation of the resettlement process. Generally, older resettlement interventions were less in compliance with current procedures and RPs were of lower quality. It is also clear that the overstretched ADB social development and resettlement specialists have given variable attention to resettlement operations, some receiving a good amount, others practically none.
- (ii) The study could not assess whether alternatives with less resettlement impact had been sufficiently studied, in part because feasibility studies did not discuss these systematically and RPs did not discuss them at all. There are issues of principle and methodology that make this procedural requirement difficult to impose. The issue is often one of political choice about the type of development pursued and long-term advantages versus short-term disadvantages or one of financial choice—whether to build something cheaper or more expensive. In the PRC, a better job seemed to have been done in examining alternatives to reduce the amount of resettlement, particularly when detailed designs for road alignments were finalized (i.e., after loan approval).
- (iii) The policy’s second principle of minimizing resettlement if it was unavoidable overlaps the first principle of avoiding it, but when applied at the implementation stage was often seen to be helped by the fact that land acquisition and resettlement are time-consuming and expensive options.
- (iv) The level of public consultation achieved was often in question. Consultations with APs regarding RPs were often held only nominally in the older cases, where RPs were written by consultants without demonstrable support from the government. For instance, whether sufficient consultations with APs and other stakeholders had taken place was often a subjective issue, unless it was documented that all relevant APs had explicitly agreed to the nature of the consultations and had given their full consent in writing or in fully representative surveys.
- (v) Especially with older projects, RP updates to take account of charges needed were inconsistently submitted to ADB, although the procedures were also not clear on this at the time.
- (vi) A problem arising for cases where RPs were issued before the detailed design of roads was completed was the creation of uncertainty among APs regarding whether, and especially when, they needed to move. This could paralyze business and investment decisions, sometimes for years. It may be better to notify people at the feasibility stage that some land acquisition and possibly resettlement may be required, and announce that a more detailed plan will be prepared at the stage of detailed design. Detailed resettlement planning cannot, for example, be completed until after the road alignment is finalized. This normally occurs a year or two after loan approval, when resettlement specialists are typically not involved in project administration.
- (vii) Compensation for land loss was not always paid out demonstrably at the level of full replacement cost. Compensation was usually paid in accordance with local laws and valuation procedures, especially in PRC. In India, applying the principle

of replacement cost for land lost by land owners met with many practical problems but was sometimes achieved due to pressure from ADB. Sometimes, it was paid out only several years later and after an arbitration process. Some agencies in Philippines and one in India used special assessors. As mentioned earlier, relatively high levels of compensation were achieved in parts of the PRC, particularly in the more recent projects in the transport and urban sectors. In the Philippines (and one project in India), most APs were informal dwellers/squatters and did not receive compensation for access to land and structures lost but were offered low-rent social housing and relocation assistance. In another project in India, encroachers and squatters along a road received cash compensation but preferred to be moved to vendor markets; the project had set up only one. In another case, they opposed replacement cost and were more interested in a unitary amount. In the PRC, land replacement cost along the policy's principle of "replacing what is lost" is impossible to calculate, as farmers cannot acquire new land once they lose it. Land-for-land deals are often not possible, although in the south, some rural collectives could clear new drylands. The OM leaves the possibility open that a project provides additional assistance where the land authorities do not grant compensation at the full replacement cost.

- (viii) Compensation for land and structures was generally paid in time, except in the PRC, where it was often paid in staggered installments over a number of years. Problems often arose for local governments in charge of the administration of compensation when EAs could not deliver the agreed upon funds in time.
- (ix) Compliance with the ADB guidelines about replacement cost, compensation for illegal structures and assistance to squatters in some cases caused resentment from some staff of EAs who felt exposed to criticisms by national auditors that national laws and policies had been violated.
- (x) Compliance with ADB covenants for the completion of the land acquisition and resettlement operations before the start of works was problematic in the linear projects. This, however, seemed to pose few problems in practice. What is important is that resettlement and other project implementation activities are well coordinated, something that is not well recognized in ADB's IR procedures and practices.
- (xi) Relocation was not always completed before start of works in roads cases, but works sometimes started in a different location from where the APs lived, so in practice it was less of a problem.
- (xii) Relocation assistance was mostly provided, and was a significant benefit for the APs; however there were also cases where an insufficient amount was provided.
- (xiii) Grievance redress mechanisms were often established, but mostly within the government or project structure, and sometimes committees were not functional.
- (xiv) Arrangements for external monitoring were inconsistent, often late, and had questionable results. NGO involvement in this aspect was not very high, although part of the reason was the high number of projects studied in PRC where NGOs in the international sense are only beginning to develop. In PRC, regularly a local Academy of Social Sciences was involved in monitoring benefits.
- (xv) Sector projects often encountered special problems due to the need for preparation of RPs for many subprojects with low numbers of APs, sometimes long after loan approval.

B. Impact and Added Value for Affected Persons

122. The analysis of the impact of land acquisition and/or resettlement operations was confined to assessing a series of effects and perceptions of the effects by APs. Around 600 affected households were interviewed through surveys in 2006 and questioned about improved quality of housing, satisfaction with housing conditions, resettlement location and resettlement site, access to communal resources and social services, access to agricultural land and other opportunities for livelihood restoration, perception of actual restoration of livelihood, and level of dissatisfaction with the resettlement process. The focus was on AP perceptions about resettlement operations that had been completed. Due to lack of time, the study did not attempt to measure, in a statistically rigorous manner, AP incomes and other indicators of livelihood, quality of life, and quality of housing, and compare the findings with other factual data to develop a counterfactual, i.e., what would have happened without the project.

123. The main findings of the case studies are reflected in Table 7 and discussed in detail in Appendix 21.

Table 7: Impact Issues in the Projects Studied for the SES

Countries	IND						PRC						PHI			
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Case study projects																
Was quality of new house better than APs' previous house or houses owned by host community?	—		—	—	—											
Were APs satisfied with new house at the time of the survey?	—		—	—	—											
Had they expanded the house with their own funds?	—	—	—	—	—											
Was the new housing free of mortgage or rent requirements?	—		—	—	—											
Were APs satisfied with resettlement site offered to/built for them?	—		—	—	—											
Were APs satisfied with access to communal resources/social services?	—		—	—	—											
Did APs have similar access to agricultural land as before?	—	—	—	—	—									—		
Did APs' access to agricultural land improve as a result of the new location?	—	—	—	—	—									—		
Did APs have similar access to other economic opportunities as before?			—	—												
Did APs' access to other economic opportunities improve due to new location?			—	—												
Did APs restore their livelihood (as yet)?																
If not: Can APs be held to be on the way to restoring their livelihood?	—	—								—			—			
Do APs who were relocated feel better off after resettlement?			—	—												
Do APs who did not need to relocate feel better off?		—					—	—	—	—				—	—	—
Are they complaint-free regarding the resettlement process?							?									
Was rehabilitation assistance (livelihood support) continuing after the project?				—												

— = not applicable, ? = no information found, black square = no, gray square = to some extent, white square = yes, ADB = Asian Development Bank, AP = affected persons, IND = India, PHI = Philippines, PRC = People's Republic of China, SES = special evaluation study.

Note: A = Loan 1870-IND: West Bengal Corridor Development Project; B = Loan 1813-IND: Kolkata Environmental Improvement; C = Loan 1405-IND: Power Transmission (Sector); D = Loan 1647-IND: Rajasthan Urban Infrastructure Development; E = Loan 1839-IND: Western Transport Corridor; F = Loan 1692-PRC: Suzhou Creek Rehabilitation; G = Loan 1636-PRC: Fuzhou Water Supply and Wastewater Treatment; H = Loan 1544-PRC: Zhejiang-Shanxi Water Supply; I = Loan 1417-PRC: Fujian Mianhuatan Hydropower; J = Loan 1626-PRC: Guizhou-Shuibai Railway; K = Loan 1691-PRC: Southern Yunnan Road Development; L = Loan 1835-PRC: Yellow River Flood Management Sector; M = Loan 1851-PRC: Guangxi Roads Development; N = Loan 1746-PHI: Pasig River Environmental Management and Rehabilitation; O = Loan 1473-PHI: Sixth Road; P = Loan 1668-PHI: Southern Philippines Irrigation Sector.

Source: Consultant reports of project case studies.

124. Broadly, the picture was more positive for the projects reviewed in the PRC and to some extent also for those in the Philippines. The findings were less positive for some of the projects reviewed in India, with the exception of the Kolkata project (which was not completed at the time of the case study). Although the standards of ADB for due diligence, compensation, and levels of assistance were not always met, APs in PRC and Philippines had a generally positive view of the various impacts on their livelihood and standards of living, although sometimes trading off advantages in one area against disadvantages in another. In many cases, APs judged new housing and access to public facilities as much better than before, but the restoration of livelihood was not yet fully achieved for all households. There were impoverished people, but also some relatively wealthier people among ex-APs.

125. This study takes into account that, in a changing environment, the objective of livelihood restoration may be difficult to achieve at one particular point in time for all APs involved. It is certainly not easily “inspectable,” as poor people slide in and out of poverty with regularity for a variety of reasons. The policy, procedures, and guidelines do not state the period needed for the achievement of restoration of livelihood, although it is logical that this period should not be too long. The sample included projects with resettlement operations at various stages of completion and postcompletion. Is the policy achieved when at a particular point in time, say 2 years after the resettlement operation, 80% of APs have restored their livelihood? A group of farmers displaced by a water reservoir in southern Philippines were relatively generously compensated for the loss of structures and crops, given replacement land (they were illegally occupying government timberland) and replacement houses—and yet did not restore their livelihood after 3 years because they used the compensation to plant fruit trees. In a reservoir dam project in the PRC, certain categories of APs (the ones that moved uphill and not out of the head pond area altogether) were dissatisfied with the resettlement operation. However, these APs, as they acknowledged themselves, were given a choice of either remaining in the area or moving to a relatively distant location. If the APs are, in such circumstances, given a choice and select an option that they later regret with the benefit of hindsight, there seem to be some limits on the future obligations of the government to restore their livelihoods. In some other cases, APs opted to use cash compensation for housing or consumption-related expenditure, rather than for productive investment.

126. There was awareness among many APs that without ADB’s involvement in the process, the deal offered and the conditions achieved up to the time of interview would have been worse. This was the case even in India, where some of the surveys registered much dissatisfaction. It was also the case in the more recent projects in the PRC, where ADB’s influence led to more attention to resettlement follow-up than the authorities normally provide. For instance, after the construction of the Zhejiang Shanxi Water Supply Dam, a 10-year post-RP was approved. In the Guanxi Road Development Project, much attention was devoted to restoration of lands temporarily used by road contractors and to restoration of disrupted irrigation and drainage systems. As acknowledged by many APs met during the study team’s visits, nationally funded and managed projects generally provided a less advantageous compensation package and no rehabilitation package.

127. **Wider Positive Impacts of the IR Policy.** It is the view of this SES, acknowledged by government stakeholders met during the country visits, that there have been wider impacts of ADB’s IR policy and those of other international financing institutions, particularly the World Bank, and the advocacy of NGOs. The policy, as implemented by ADB and other institutions, has raised public attention to government-funded projects that involve expropriation and displacement of APs, and has set standards for resettlement and treatment of APs that have influenced government and public opinion. Many projects have had a demonstration effect, such

as in Kolkata, where railway squatters were able to negotiate a deal regarding their eviction and resettlement, based on the resettlement deal provided to canal bank squatters under the ADB financed Kolkata Environmental Improvement Project. Public awareness of the rights of APs to decent treatment has risen as a result. Even in exclusively nationally funded resettlement operations, more articulate demands for assistance to the vulnerable are being voiced. The problems created for governments have indirectly led to greater acceptance of standards such as set by the IR policy. The EA survey results also show that there is more understanding of ADB's position. Other wider impacts have been capacity development in the EAs that do not rely only on consultants and contractual staff, and policy and law development impacts. An interesting sign of the impact of the performance standards of institutions such as ADB was demonstrated by the adoption of the Equator Principles⁷⁶ regarding environmental and social safeguards by 36 multinational companies.

C. Incremental Costs and Transaction Costs

128. Although many wider impacts may be positive from the perspective of benefits for people directly affected by ADB-supported projects, they should be weighed against the costs of resettlement planning and implementation, as borne by governments, including local governments, and ultimately by the people they serve. As with all investments, and even though some review the policy as protecting essential rights of APs, there is an opportunity cost associated with such expenses. The costs of the application of the policy can be subdivided into two: incremental costs associated with additional requirements, and transaction costs associated with negative effects on organizations or business. Although it was beyond the scope of this study to quantify these costs, their nature can be elaborated.

129. **Incremental Costs for ADB.** Incremental costs incurred by ADB when preparing resettlement plans under the policy arise from (i) initial poverty and social assessments and socioeconomic surveys to determine vulnerable people who will later be assisted, (ii) more consultations with APs than the government would have conducted to obtain their suggestions and consent for the compensation and assistance packages, and (iii) estimation of the replacement cost of assets if this is considered different from the value determined by the country's usual valuation process.⁷⁷ During loan administration, ADB needs to monitor the resettlement operation from the perspective of the policy, making sure that the additional conditions imposed by the policy are met. It could be argued that, since ADB is a not-for-profit organization, ultimately all incremental costs are borne by client countries, either directly or indirectly.

130. Incremental costs for ADB can be higher than the costs mentioned with dam and other controversial projects. One example demonstrates some of these costs. During the preparation of the Nam Theun 2 Project,⁷⁸ which was cofinanced with the World Bank Group and commercial banks, ADB spent \$1.7 million to review the studies undertaken by the proponents to ensure that the project was aligned with ADB policies; about 60% of this was to review safeguard conditions. About 14 staff years were spent for processing; 88 weeks of staff time

⁷⁶ Available: <http://www.equator-principles.com/>

⁷⁷ Some countries use market or replacement cost, and in many countries, ADB does not require such calculations in practice.

⁷⁸ ADB. 2005. *Report and Recommendation of the President to the Board of Directors on a Proposed Loan to the Lao People's Democratic Republic for the Greater Mekong Subregion: Nam Theun 2 Hydroelectric Project*. Manila.

was spent for missions and compliance reviews; six missions were mounted to Japan, Thailand, US, and Europe to meet with NGOs and other interested parties; and there were over 30 meetings and briefings with ADB Management and the Board and site visits by Management and the Board. During project processing, ADB interacted with dozens of NGOs. ADB responded to hundreds of questions raised by ADB executive directors and by advocacy NGOs that challenged staff and member governments through an internationally coordinated campaign.

131. Incremental Costs for Borrowers and EAs. For borrowers and EAs, the incremental costs beyond the country system result from (i) preparation of RPs if these are not prescribed or have a different format from those required under national systems; (ii) the extra costs of compensation against replacement value of assets lost by APs; (iii) the additional assistance provided for vulnerable APs if this is not already prescribed by the country's law or policy; and (iv) the time and human costs needed for additional due diligence, grievance redress, monitoring, and reporting to ADB.

132. Application of the ADB policy often means that, as more vulnerable people are affected, and especially as more squatters are involved, significant costs are incurred that national governments would not have been obliged to incur based on their own laws. From a borrower's perspective, the policy sometimes has the unfortunate effect of adding to the cost of ADB-financed projects that operate in areas where funded projects would be cheaper. These incremental costs also create perverse incentives for both DMCs and individual ADB staff to avoid involvement in projects that have significant resettlement elements. Arguably, these are precisely the projects for which ADB has the potential to add the greatest value for APs. If governments choose to follow domestic procedures and not to provide such additional assistance, this could lead to (i) risks of impoverishment of segments of their population that would have to be addressed later; (ii) risks connected with civil unrest; (iii) the shifting of problems to other locations, as vulnerable people do not have sufficient purchasing power to buy a home and would have to squat elsewhere; and (iv) missed opportunities for development when poor people already identified and targeted by an intervention are not subsequently helped. In other words, not addressing resettlement properly externalizes such costs, but they do not go away. On the other hand, when ADB's policy is applied flexibly, and good agreements with EAs are made before loan approval, there may be more speedy project implementation, as landowners and other APs will be better consulted, better compensated, better assisted, and less inclined to pose obstacles. The EA survey also bore this out. If the EA cannot get possession of the land, the project cannot be implemented.

133. Transaction Costs for ADB. A recent Board information paper (footnote 68) estimated that, in 1995, lead time for infrastructure operations was 54 staff weeks for loan processing. In 2004, it was 75 staff weeks, "primarily because of safeguard assessments." The costs associated with preparation of resettlement operations themselves are not transaction costs—they are incremental costs—but the disincentives to borrow from ADB that they result in certainly are, although these are difficult to quantify.

134. The transaction costs resulting from ADB's transition period in which experience was built up and the new policy and procedures were sometimes imposed on already ongoing projects may have been high. In some cases, ADB seems to have pushed too hard. One EA in the road sector in the Philippines indicated to the study team that it is no longer willing to borrow from ADB for a next project because of the bad experience with the IR policy and its enforcement. Due to controversy over the nature of RPs for a number of subcomponents, the entire loan was suspended for 15 months. In India, a loan was canceled when a state

government decided to turn a two-lane highway improvement project into a dual carriageway. ADB was not requested to provide funding for the new project, partly because of the EA's extensive experience with the resettlement planning required as part of ADB's appraisal processes, which the government thought did not fit their schedule. The indications are that the Indonesia power sector and the Viet Nam hydro power generation sector do not wish to borrow from ADB any longer, in large part on account of ADB's IR policy and its enforcement. If clients disengage with ADB because of the IR policy or its enforcement, it may mean that they will return to the use of lower national standards and can no longer be influenced to move gradually in a better direction through continuous engagement with ADB.

135. **Transaction Costs for Borrowers and EAs.** There are various types, and some can also be viewed as benefits when a longer time frame is taken. One is the effect on the nature of the project itself, and the organization implementing it. ADB's view that resettlement should, as far as possible, be handled and budgeted by the same project that causes it⁷⁹ may add to the complexity of projects. Resettlement and livelihood restoration require much more coordination among various agencies than usual. The approach combining these activities often requires single-sector projects handled by a single or a few agencies to become multisector projects involving multiple implementing agencies. The approach complicates project design and implementation and sometimes requires EAs to build up expertise outside of their core business areas. This is viewed as a transaction cost by many EAs, which need to invest in capacity building for the sole purpose of the project. However, in the absence of country-wide social safety nets, ADB sees no alternative to this, and regards capacity building for resettlement operations in infrastructure agencies as an added benefit of the resettlement process. This was confirmed by some EAs as well. Many informed the study team that, although ADB's IR policy added transaction costs, it also increased their understanding of the need for fair treatment of APs, better due diligence, and the benefits of more humane resettlement processes.

136. One other possible transaction cost was occasionally brought forward by borrowers and EAs during the study's country missions. When the ADB policy asks governments to sidestep their own laws and government policies in order to favor certain categories of people, then this may help perpetuate the "soft state,"⁸⁰ no matter how valid the sidestepping might be in certain cases. Applying different standards within a country may diminish respect for law and government policy, and thereby make them less effective. Government policies may ultimately be undermined by precedents. Special treatment of land acquisition and resettlement is not the only area in which international agencies have been sidestepping government systems. For example, donors have sometimes required the establishment of project implementation units outside of the normal government system, although this practice is now discouraged in the Paris Declaration.

D. Complex Issues Encountered

137. Complex issues raised by this study can be divided into three groups: (i) ADB-wide issues impacting on resettlement issues, (ii) procedural and technical issues related to the way the policy fits into ADB's processes, and (iii) policy issues.

⁷⁹ Basic principle (iv) of ADB's IR policy: "Any involuntary resettlement should, as far as possible, be conceived and executed as a part of a development project or program."

⁸⁰ A concept introduced by Gunnar Myrdal referring to a state that finds it hard to enforce policies and in which government decisions can be challenged or sidestepped with relative ease. Myrdal, Gunnar. 1968. *Asian Drama: An Enquiry into the Poverty of Nations*. Pantheon. New York.

1. ADB-Wide Issues

138. **Availability of Alternative Project Finance.** Because interest rates are currently low, and OCR countries have access to other sources of finance, they are less willing to put up with what they see as onerous ADB conditionalities, including those related to safeguards. Some other financial institutions such as the World Bank also face this situation, but have more staff to assist and provide added value. Other donor agencies may have less staff available but also have less stringent conditionalities. This view comes at a time when ADB is in the process of systematizing and strengthening its application of the safeguards.

139. **Alignment with Country Systems.** There is a major issue of whether ADB's safeguard policies should be better aligned with those of the DMCs. If so, a certification process would be required to ensure that the principles of the domestic resettlement laws and procedures are converging with those in ADB's IR policy. A country by country approach would be needed, preferably in partnership with other donors. Special attention would need to be paid to the enforcement of domestic laws and policies, as poor enforcement is often a problem. Better enforcement should in principle increase respect for the law rather than decrease it, such as may be the case when financing institutions like ADB superimpose their separate standards on top of those of the countries. Alignment, however, may in practice mean the relaxing of standards in some areas, as time will be required in many countries to strengthen their resettlement policies and practices. The use of some of ADB's scarce resettlement expertise would need to shift from project-by-project processing and implementation to strengthening country systems. If successful, efforts to strengthen country systems would have a much greater strategic impact than implementing good resettlement programs in ADB-financed projects. In practice, such assessments would show that the IR systems are more advanced in some countries than in others. While it may be possible for some countries to reach international standards in a relatively short period, for many other countries many years would be required.

140. **Harmonization with Other Donors.** Countries and EAs worry about the transaction costs related to diminished respect for government policy, including the law, when different resettlement assistance packages are imposed by different multilateral and bilateral institutions. Staff of the National Highway Authority in India mentioned the case of a highway being constructed with funds from ADB, World Bank and Japan Bank for International Cooperation. Vulnerable groups on different stretches of road received widely diverging assistance packages, depending on the aid agency. Given the commitment made by all funding agencies in the Paris Declaration to harmonize, greater progress in this area is needed. This will become all the more important as the World Bank progresses with its commitment to test making greater use of country systems in the area of safeguards. Harmonization will require the safeguard policy update process to look carefully into such issues as the possible adoption of the 10 safeguard policies of World Bank and the 10 performance standards of IFC.

2. Technical Issues

141. **RPs Prepared Too Early.** ADB's IR policy and overall focus on procedural compliance during project processing have had the effect of emphasizing the preparation of the RP before loan approval. Particularly in cases where the exact location of the future works is not yet clear at an early stage, as with linear investments such as roads, railways, transmission lines, and water supply, this may not always be in the best interest of the ultimate resettlement operation. In such cases, the RP preparation may be better coordinated with the detailed design of the works. At the feasibility study stage, the number and location of APs is often not known,

because the alignment is not known. This means that the RP needs significant updating at the detailed design stage and occasionally at the project implementation stage. The preparation of detailed RPs before actual resettlement operations begin in these sectors has brought ADB much criticism, even from APs who stood to benefit, as the early and sometimes wrong announcements created in their view an unnecessary scare or raised expectations that were not met. Perhaps equally bad was the effect of premature public disclosure on the behavior of some APs. Existing APs might wish to expand their structures quickly and cheaply in order to claim more compensation. New squatters might also be attracted to the project area because of better than normal possible assistance provided at a later stage.⁸¹ However, early resettlement planning has also had advantages in the case of linear projects: (i) the establishment, at an early stage, of a budget for resettlement operations; (ii) more secure budget for resettlement planning, as it can be made part of the project preparatory TA; (iii) affected communities are informed much earlier and at a time when key project decisions are made; (iv) the surveys may help to assess project alternatives and reduce costs when resettlement is a key factor; and (v) early disclosure of the draft RP enables stakeholder feedback prior to Board approval of the loan. The safeguard policy update will have to consider the efficiency considerations carefully.

142. **Duplication with Environmental Impact Assessments (EIAs).** There is some duplication of effort in resettlement planning, as ADB's guidelines for EIAs also require attention for IR. This may be a historical relic in the sense that the EIA guidelines were developed long before ADB adopted the IR Policy. ADB should consider whether joint consideration of social and environmental impacts can serve a useful purpose, or whether it is better to consider social and environmental impacts separately.

3. Policy Issues

143. **Rewarding Wealthier Illegal Dwellers.** Concerns were expressed, notably in the West Bengal Corridor Project, about the fairness of ADB's policy in case of offering replacement value for structures built illegally on government land or right of way. Illegal dwellers themselves have submitted hundreds of grievances about the perceived unfairness in "rewarding" illegals with more financial clout who have usurped bigger areas and built bigger structures (houses, shops, workshops), with higher compensation. In their view, all were equally illegal, and richer squatters who had taken more advantage should not receive more assistance.

144. **Assistance to Deal with Losses Not Directly Related to Land.** During the study, concerns were expressed about the extent of assistance to be offered in case of business losses as a result of temporary and permanent disturbances. The Kolkata project was planning to provide assistance to 625 trash sorters at a dump site. Their livelihood would be affected by its conversion into a controlled landfill. In a recently prepared water supply project for the Jaffna area in Sri Lanka, assistance will be provided to water vendors who will be affected by the expansion in household connections under the project, as it will adversely affect their livelihoods. In both cases, monitoring arrangements through consultants or NGOs were included in the project design.⁸² The safeguard policy update process should consider whether such cases fit into an RP, or a social development action plan.

⁸¹ Even though cut-off dates are established and ID operations are conducted, some APs may not be in the area on the day of the survey. These genuine APs need to be distinguished from bogus claimants who move into the area, sometimes with the connivance of criminal syndicates, in search of resettlement benefits.

⁸² In the Jaffna project, the monitoring arrangements were also serving to check the treatment of kiosks and stalls that needed to be moved to the other side of the road during earthworks for reticulation systems.

145. **Extent of Public Consultation.** ADB promotes extensive consultation processes. This is desirable, but there is a need to appropriately distinguish among (i) the authority of the government regarding investment decisions, (ii) ADB's own responsibility to decide on financing or not, and (iii) the need for public consultation to make sure that adverse impacts are identified and mitigated, and improvements are made that enhance the impact for vulnerable groups. ADB needs to have greater clarity concerning the definition of broad community support among APs for project interventions.

146. **Due Diligence on Resettlement Issues Caused by Prior Public Investments.** A complex issue is the extent to which ADB should be held responsible for resettlement conducted by governments prior to the approval of ADB financing to support a project. Clients do not always understand why ADB regards due diligence checks as necessary for prior resettlement operations in which ADB was not involved. The current approach is that ADB checks whether outstanding grievances and claims with prior operations are legitimate and can affect the implementation of the project. This should be straightforward. However, ADB may also need to consider reputational risks arising out of involvement in projects that include components completed before ADB involvement. RSDD's review of the policy should explore how to consider these risks, whether due diligence checks should become mandatory, whether an element of proportionality can be applied, whether time limits for such retroactive compliance can be given, and whether other rules can be formulated that can guide staff.

147. **Limits of ADB's Involvement in the Project.** Current ADB IR policy, like that of the World Bank, applies to the whole project, for which ADB may contribute only a portion of the funding. ADB sometimes funds only some components while others are fully funded by the government or other financiers. The need for compliance with ADB's IR policy for the whole project is often perceived as inappropriate by DMCs, and can lead to problems if other funding agencies have different IR procedures. Special problems may occur if ADB attempts to apply the policy to program loans with investment components. OED would recommend exploring the possibility of developing procedures for applying the principle of proportionality in the assessment of ADB's responsibility.

148. **The IR Policy Applied to Private Sector Projects and Credit Line Projects.** The policy does not clearly define the boundaries with respect to resettlement needed within the context of private sector projects and credit line projects. The Private Sector Operations Department in ADB does not have any social safeguards specialist. In some cases, the government, rather than the private sector sponsor, is responsible for resettlement.

VI. ASSESSMENT AND RECOMMENDATIONS

149. In this final chapter, OED assesses the relevance of the IR policy to ADB operations, the efficiency of inputs and systems, the effectiveness of outcomes for APs and DMC capacity, and the sustainability of the IR approach. OED uses a scale of four possible ratings for each criterion—for example highly relevant, relevant, partly relevant, and irrelevant.⁸³ The assessments of relevance, efficiency, and sustainability are based on the analysis undertaken for this evaluation, complemented by the results of interviews and questionnaire surveys. The

⁸³ Likewise, the ratings can be (i) highly efficient, efficient, less efficient, and inefficient; (ii) highly effective, effective, less effective, and ineffective; and (iii) most likely sustainable, sustainable, less likely sustainable, and unsustainable.

assessment of effectiveness is mainly based on analysis of the 16 case studies selected from a portfolio of a few hundred completed and ongoing projects approved since 1994, complemented by information from 62 PCRs and relevant OED evaluation reports. It could be argued that a definitive statement of the effectiveness of ADB IR practices should rely on large surveys of a statistically significant number of APs associated with completed projects and control groups to assess the impact on APs. This evaluation was not designed to be a rigorous impact evaluation. The SES rather raises a number of questions as to possible clarifications and changes to IR principles and procedures based on the analysis and case studies undertaken. The chapter concludes with recommendations related to the planned update of the IR policy and its implementation.

A. Assessment of the Involuntary Resettlement Policy

150. The change in goalposts of the IR policy make it difficult to rate the overall success of resettlement operations since 1995. There was an extensive transition period during which ADB staff and EAs tried to come to grips with the 1995 Policy, the 1998 Handbook, and the 2003 OM F2 section. With growing experience and more international concern for resettlement operations, OESD and later RSES enforced the principles and procedures ever more systematically and strictly. Overall, this study found that the older resettlement operations in the sample of projects studied offered poorer deals to APs and were accompanied by less due diligence. Some projects, particularly in the PRC, benefited from rapid economic growth and job creation that absorbed the labor resources of the APs, thus helping to improve their livelihoods.

1. Relevance of the Policy and its Procedures

151. The IR Policy was issued prior to ADB's 1999 decision to adopt poverty reduction as its overarching objective through the Poverty Reduction Strategy. The increasing emphasis on resettlement and livelihood restoration after 2000 may have been linked to this focus on poverty reduction, as most APs are poor. Although ADB's infrastructure projects have many positive impacts, the mitigation of adverse impact on APs can be taken as a key marker to assess ADB's seriousness in fighting poverty. The relevance of the policy to ADB's poverty reduction agenda is in principle high, as is the relevance to ADB's more recent reaffirmation of infrastructure development as a major area of operations in the MTS II. Other relevant aspects are the use of the Policy in making sure that the due diligence aspects of ADB-supported projects are receiving attention during loan processing, land is acquired more speedily, and social unrest is prevented.

152. This study questions whether the current version of the policy, as embodied in OM F2/BP as well as the OP section, has expanded the scope beyond what the Board intended when the 1995 IR Policy was approved. An RP now needs to be prepared for any project in which a possible adverse impact of greater than 10% of the livelihood of one or more APs can be identified. For example, water vendors may be required to be assisted, given that they may lose business opportunities from the provision of piped water supply to households; the businesses of shop owners may be affected by highways that bypass an older road; moneylenders may lose from projects introduce microcredit; charcoal producers lose income from electrification projects; and fish farmers in waters around wastewater treatment plants may see their yields decline. These categories of APs may refer to the OM, demand compliance with the requirements set out (although the OM states it is "for ADB staff and not necessarily a complete treatment of the subject," it is on the ADB website and "subject to compliance review"), and demand to be included in an RP. Adverse social impacts need to be assessed and may need to be mitigated. However, OED questions whether the most appropriate means is through

an IR policy. Given that there is a wide range of such impacts, it may be more appropriate for them to be addressed through a social development action plan or ad hoc project-specific plan.

153. The label “IR policy” has become a misnomer. Although the emphasis of the 1995 Policy was clearly on significant physical dislocation and resettlement, later developments have focused on mitigating all potentially negative social effects from projects, including nonland effects and livelihood restoration. While the latter must be seen as positive in terms of contributing to ADB’s overarching objective, the label of “IR” on the policy seems at odds with this broader objective and places mitigation activities in the wrong framework of RPs. This has caused, and continues to cause, confusion among borrowers and EAs.

154. The procedures do not differentiate sufficiently between the responsibilities of ADB and those of EAs. It is acknowledged that ADB’s role is different from that of EAs. ADB cannot be held responsible for all of the EAs’ choices, nor can ADB penalize EAs for all violations when some of them are due to inexperience or to *force majeure*. ADB can promote the provision of training, microcredit, etc. to APs, sufficient to provide the opportunity to restore their livelihood and improve their quality of life. The goal of rehabilitating the livelihoods of 100% of APs is one to be aspired to, and on the same order as, for example, ADB’s projects planning to lift beneficiary populations out of poverty. A principle of “no one will be worse off” which the policy enshrines, while highly desirable, will be exceedingly difficult to meet in every circumstance when thousands of APs are involved. Not achieving this goal or principle should not by itself be a compliance issue, unless the agreed upon inputs, activities, or outputs, which were largely under the control of ADB, were not realized. All parties—APs, NGOs, EAs, and ADB—would agree that the lives of APs should not be adversely affected because of an ADB financed project. However, ADB has failed to distinguish adequately between goals (hope-to-meet) and obligations (must-meet) in the IR policy and related business practices.

155. In view of these considerations, this study assesses the IR policy and procedures as relevant to ADB’s operations, but on the borderline of partly relevant. If a number of the “design” issues of the policy had been addressed earlier, this study would have assessed the IR policy as highly relevant.

2. Effectiveness of Outcomes for APs and for DMC/EA Capacity

156. By the letter of ADB’s IR procedures and by the current standards enforced, the projects in the sample regularly did not comply with all requirements. Many of these were approved before the latest procedures were made official, so perhaps this should not be a surprise. But in several cases studied in the PRC, India, and the Philippines, the original Policy’s principle of fully restoring livelihoods, especially those of the vulnerable ones, was unlikely to be achieved for all of the displaced persons within a reasonable time period. This was confirmed by feedback from NGOs on projects in other countries, which identified some projects in which adverse impacts on APs, were not successfully mitigated. Nevertheless, the PCR data and the case studies undertaken also indicated that most APs were not dissatisfied and resentful. The housing situation and related quality of life standards had often improved significantly. Many believed that the deal they got was relatively good in comparison with the average treatment APs received in their countries in similar operations. Especially for projects in India, and to some extent in the Philippines, there was dissatisfaction with some aspects of the deal or the process, due to different perceptions of what was fair. More recent resettlement operations were better prepared than earlier ones, with more explicit agreements between EAs and ADB. EA project directors and ADB staff confirmed these observations in questionnaire surveys. Where acquisition of privately owned land was involved, the policy’s principle of providing

compensation at replacement cost could sometimes be seen as promoting faster resolution of land-related delays and thereby project progress. The study findings suggest that currently planned and ongoing resettlement operations may achieve a higher and more consistent level of effectiveness. For these reasons, the study tentatively assesses the current IR policy as effective in terms of outcomes for APs, though for the completed projects reviewed was rated as effective but on the borderline of being partly effective due to a number of cases observed where there were shortcomings. Further country studies, project studies, and wider consultations with other stakeholders should be undertaken during RSDD's review of the IR policy to test the robustness of this conclusion.

157. The impression of effectiveness of more recent practices on balance is enhanced by the experience of ADB's IR TAs. Such TAs have often had high value in terms of policy development and capacity building. Due in part to ADB operations, the efforts of other financiers and domestic agencies, and ADB's TA, some DMCs have either approved new policies and adapted relevant legislation, or at least paid more attention to IR than they would have in the absence of the activities of ADB, other funding agencies and NGOs. Half of the EA project directors felt that the increase in experience with resettlement safeguards within their organization was one of the main benefits of ADB involvement in the project.

3. Efficiency of Inputs, Processes, and Systems

158. Much progress has been made since 2000 with systems instituted, the categorization of resettlement impacts, and the comprehensiveness and usability of entitlement matrixes. Experience has grown, and the number of resettlement experts has increased, which has made many aspects of the preparation and handling of resettlement operations more efficient. However, given the many requirements of the currently more strictly applied policy, two additional findings of the evaluation regarding the efficiency of inputs are (i) a continuing lack of specialized staff for IR in some departments and divisions; and (ii) the mismatch between staff resources used for IR during loan preparation and during project implementation and, sometimes, in the post-construction phase. Similar findings were also reported by an OED resettlement study in 2000. These two problems have not been effectively addressed during the past 5 years. OED assesses that they are not likely to be redressed by any changes to the IR policy, as the mismatch is large. Even if a more limited scope of the IR policy were endorsed, nonland and secondary impacts of projects would still need to be addressed in some way through poverty and social assessment, and possibly social development action plans.

159. OED assesses the efficiency of the OM of 2003 as an instrument guiding operations as less than optimal, as it is not fully in line with the 1995 Policy. In addition, although it clarifies many issues, it sets the bar higher, and yet does not resolve all the issues that ADB staff and EAs face, while also creating new issues due to its greater inclusiveness. In combination with the lack of staff, the fear of rejection of draft RPs by RSES, and the fear of exposure to the compliance review mechanism if too liberal interpretations are made, the confusion that staff have about the OM has sometimes led to tense interactions with clients. In a number of cases, earlier agreements have had to be revisited due to the more inclusive concept of IR held by ADB. This was not always welcome by EAs. The second main goal of the policy, to foster learning and to create IR capacity in DMCs, has been limited by a policing mentality among some ADB staff to prevent "violations" of the many procedures. Infrequent and irregular missions have contributed to this as well. This is alienating some DMC clients. Civil society and NGOs have identified instances in which APs have been adversely affected because mitigation measures were not effectively implemented or adequately designed. Lack of ADB loan administration efforts has sometimes resulted in ADB being slow to take action to try to resolve

problems. In this sense the implementation of the policy has been inefficient and difficult. Furthermore, the emphasis on front-end compliance has led to the project preparation stage taking up far more time than before. Given finite resources, some ADB staff and many EAs see this as being to the detriment of other important aspects of project design.

160. In ADB's zeal to cover all potential adverse effects of a project and to ensure that mitigation actions are agreed upon before loan approval, detailed resettlement planning is often carried out at too early a stage for some types of projects (particularly road projects). This adds to duplication of effort and perverse effects later. For example, it may invite more squatters to move into the project area in hopes of being compensated. In other projects, such planning is appropriate at the time of loan preparation, but the planning exercise is regarded by some EAs as done mainly to satisfy ADB's internal requirements.

161. The social development/IR specialists in many, though not all, divisions have become more efficient over the years. One positive result has been that more RPs are now endorsed and owned by EAs. This is a change from past practice, in which many RPs were produced by consultants with minimal EA or even AP input, leading to little ownership later. Given the current policy mandates, more ADB specialists are needed, unless a pool of semipermanent staff consultants can be built up that is given the authority to take over part of the supervision of RP preparation and implementation tasks. EAs in India used the World Bank, with its substantial numbers of contracted specialist staff in their country office, as a good example for ADB to consider. Sufficient numbers of ADB staff located in RMs, well versed in resettlement implementation and able to proactively solve problems, can address daily problems encountered in implementing the IR policy. Possibilities for outsourcing part of the capacity development tasks now conducted by ADB specialists could also be investigated, but authority problems would have to be overcome. The mismatch between processing and implementation resources within ADB is not confined to resettlement.

162. RSES and the SPCM have helped raise the profile of resettlement in ADB's operations. However, RSES lacks the capacity to be fully efficient in its role of quality assurance. In addition, some of the mechanisms used are not credible in the present situation. The last signature on the SPCM is provided by the CCO, whose staff rely on information submitted by the ODs. RSES does not have enough staff or time to independently verify the quality of the information. In a zero ADB staff growth environment, the Accountability Mechanism has, in effect, provided strong incentives to transfer staff resources from prevention and problem solving to procedural compliance review during project processing. In view of these considerations, this study assesses the inputs, processes, and systems to implement the IR policy as less efficient.

4. Sustainability of the Policy's Approach

163. ADB's emerging inclusive approach towards adverse effects of projects through the IR policy has created incremental costs and transaction costs that diminish the positive impacts and that raise questions about its sustainability. Incremental costs include high consultant cost, cost of socioeconomic surveys to determine levels of vulnerability and need for rehabilitation, additional costs borne by some governments due to award of replacement value for land and structures when it is not the legal standard, compensation for structures and assets lost of non-titleholders (if this was not mandatory in the DMC), and assistance to the poor and vulnerable when the law of the land does not provide a treatment as generous. Transaction costs are apparent in longer preparation times for projects, which EAs resent, delays in implementation due to special arrangements different from the usual country system arrangements, extra costs

due to contract extensions when this happens, and higher commitment charges for OCR loans. Ultimately, these translate into lower economic and financial returns of projects, although the social returns may be higher.

164. Part of the transaction costs may have been a transitional problem, as the policy's approach was being experimented with. However, the application of the current procedures in sector projects and in cases of indirect impacts is a disincentive for some clients. On occasion, ADB and the EA have agreed that ADB should not be involved in contentious cases, and even sometimes in cases that are not contentious but involve significant resettlement and/or livelihood restoration. The SES, for instance, found that covenants are currently added in some sector loan agreements that discourage the inclusion of subprojects that would be categorized as A (significant), since these are likely to need too much time to prepare to fit the implementation schedule. In other cases, DMC clients no longer ask ADB to support projects with significant resettlement impacts, as ADB involvement is perceived to add too many costs and delays. Safeguards add significantly to the loan preparation time, and many clients feel it has become too long. The consequence of raising the bar much higher than the country standard is that there are incentives for both EAs and ADB staff to avoid ADB involvement in projects with significant resettlement. This is most prevalent in countries in which alternative sources of financing are available. Two other consequences flow from this perverse development: (i) ADB is having less aggregate influence on DMC IR processes, and (ii) APs are likely to be less well off than they would have been if ADB were involved in the project. A policy that will not be adopted for projects financed by clients without support from ADB cannot be called sustainable or at least replicable. Ways need to be identified to reduce such transaction costs. Although receiving considerable feedback during the evaluation on the increased transaction costs associated with the IR policy, OED recognizes that there would also be costs associated with the absence of such a policy. Examples of such costs would include long delays in acquiring the land required for the projects, potential social unrest, adverse impacts on APs, and reputational risks for ADB. A larger process to which ADB contributes mainly through policy dialogue, policy TA, capacity-building TA, and to some extent through "model" resettlement operations, may in the longer term have some effect on increasing the acceptability and thereby the replicability of ADB's policy approach in contexts other than ADB supported projects. OED assesses the policy as less likely to be sustainable.

B. Recommendations for the Update of the Safeguard Policies

165. The team in RSDD working on the policy update should consider the recommendations made below and expand the evidence base as needed, in order to arrive at a strengthened assessment of past experience, and a well-justified proposal for policy update.

166. **Management and the Board need to reconcile the differences between the 1995 Policy and the currently applied policy**, as laid down in the OM F2 section. The current OM F2/BP and even F2/OP incorporate new policy elements. In OED's view, the three key principles of the policy remain valid, but ADB needs to decide whether to endorse the greater inclusiveness of the IR policy and procedures, or return the current OM and IR practice back to greater focus on displacement of APs. In either case, the policy requires an update. It may be unrealistic to expect that the IR policy be brought back to a significantly more limited scope than currently applied in practice, so the scope of the original Policy could be somewhat extended. The new policy could then be renamed as the Land Acquisition and Involuntary Resettlement Policy, also covering, for instance, impacts of partial loss of access to land. More secondary adverse impacts of projects could then be addressed through a more specific social

development strategy or social protection strategy. If a significantly more inclusive concept is endorsed, the new policy could perhaps be labeled the Social Safeguard Policy.

167. Whatever the nature of the policy adopted, **it should have a results based framework—distinguishing desired impact, outcomes, outputs, activities, and inputs both at macro (country) and micro (project) level.** At the macro level, the policy should aim for a country system in place that ensures involuntary resettlement of people is avoided or minimized, and that people affected by public and private sector infrastructure development have been treated fairly and equitably, and can fully restore their livelihoods. The country system should set itself such standards and obligations that the imposition of separate safeguards by ADB would be superfluous. The outcome of ADB's IR policy should be convergence between country system and ADB policy and procedures, as visible in country policy frameworks and growing country and agency capacity. The outputs of the ADB IR policy would then be APs properly treated and given the means and opportunities necessary to restore their livelihoods. At the micro level of an individual project, application of the IR policy should have the desired impact of avoidance of adverse effects from projects, minimization of disruption to livelihood of those unavoidably affected, restoration of their livelihoods, and improvement in their standards of living. The outcome of the policy would be opportunities seized by APs, necessary for realizing the desired impact. The outputs of the policy would be compensation and assistance provided by the project. Activities would have to be specified for ADB and EAs and other agencies involved. Among the activities to be conducted by the EA would be the achievement of broad agreement among borrowers, EAs, and APs regarding procedures and assistance packages through a well-documented process. For APs living below the national poverty line, the desired impact should be to lift them above the poverty line. As in ADB's design and monitoring frameworks for projects, ADB and EA can only contribute to the desired impacts and outcomes. EAs are fully responsible for outputs, and ADB and EAs for an agreed set of activities and inputs.

168. **The updated policy should highlight a set of performance standards.** It should set standards for ADB and EA in terms of vulnerability assessment, public consultation, disclosure of information, reporting, monitoring, and grievance redress.

169. **The updated policy should elaborate on the objective of greater reliance on country EA systems for land acquisition and resettlement safeguards.** The common objective should be for ADB's operations to rely more on country systems for IR. This would need to be accompanied by certifications, preferably by ADB working jointly with other aid agencies, of sufficient convergence with the IR policy and effective implementation capacity. Partial use of country systems could be piloted. Rules to define the vulnerable among the APs may need to be established by country, to reduce the costly socioeconomic surveys that in many cases generate unreliable data. While the greater use of country systems is desirable, this would require much greater support by ADB during implementation than is currently the case in order to avoid negative impacts on APs. Movement toward the use of country systems would have to recognize that the IR policy, the legal and regulatory framework, and the implementation capacity vary significantly from country to country and within sectors in the same country. Thus, progress in adopting systems would be faster in some countries than in others. Indeed, for some, it may remain a distant goal.

170. **The updated policy should have clearer guidelines and procedures regarding the identification of resettlement operations needed,** such as those on project alternatives, retroactive compliance with the policy, different types of operations and lending modalities, the

minimum number of APs, and resettlement frameworks. The issues and recommendations regarding the triggering of resettlement planning are listed in Box 3.

Box 3: Guidelines and Procedures Related to Resettlement Planning

Project alternatives. The RRP needs to be more explicit about the project alternatives it considered to avoid or minimize resettlement and their costs and benefits.

Retroactive compliance with the policy. More guidance should be given on cases where the government clears the land before ADB is requested to participate in the project, and compensates, assists, and/or resettles people using its own procedures prior to ADB involvement in the project.

Different types of operations. Guidelines and possibly procedures for some important sectors could be specified (e.g., dams, large urban renewal, slum eradication), along the lines of the subsector checklists in ADB's 1994 Handbook for Incorporation of Social Dimensions. ADB may need to prioritize the use of its modest resettlement expertise on projects with anticipated large effects, during both project formulation and implementation.

Different lending modalities. The implications of new lending modalities, particularly MFF, in the OM for improved resettlement planning should also be worked out, as should those of existing modalities such as sector and sector like loans, private sector loans, and credit line operations involving resettlement.

Involuntary resettlement of communities beyond a certain scale. Operations to resettle communities may need to be cast as separate projects, beyond a certain financial threshold. This would also allow a more focused assessment of associated costs and benefits of resettlement operations. Such resettlement projects should be 100% reimbursable through loans.

Minimum number of 200 APs requiring preparation of a full RP. More appropriate criteria should be defined that consider the characteristics of the country, sector, and project and the past track record of IR implementation. The 200 figure is not appropriate for all situations.

The application of RFs. Greater reliance on RFs can work only if (i) significantly more ADB resources are devoted to project administration as opposed to preparation; (ii) the project implementation period can be extended with fewer financial consequences for the DMC; and (iii) supplementary loans can be approved quickly and flexibly if needed, should resettlement costs turn out to be significantly higher than expected.

171. **The updated policy should also be clearer on guidelines and procedures regarding compensation and assistance within resettlement operations.** The issues and recommendations are summarized in Box 4.

Box 4: Guidelines and Procedures for Compensation and Assistance

Procedures for ADB-financed acquisition of land. Procedures need to be developed for the proper valuation of land and compensation of APs in case of compulsory acquisition of land financed by ADB. ADB's current procurement guidelines generally rely on competitive bidding, something that is not generally appropriate for land acquisition. ADB needs to work out ways to apply the principles of economy and efficiency in the use of loan proceeds for land acquisition.

Use of the replacement cost method for the determination of compensation and assistance. The new handbook under preparation should indicate by major region or country how the principle of replacement cost is to be applied in various situations, particularly in those where agricultural land is not a freely marketable good, and where assets of illegal dwellers are involved.

ADB approaches in situations involving squatters. The inconsistency in the treatment of squatters between the 1995 IR Policy and OM F2 needs to be addressed. Although the OM F2 sections provide some guidance, it does not help a systematic response in all instances involving squatters. For instance, what should be ADB's response in cases where squatters settle in an area after the cut-off date and are forcibly evicted by a government. There is a need to clarify whether the policy allows the offering of replacement rental housing for squatters, and how long a squatter needs to live in an area to be eligible for compensation.

Definition of the period after which economic rehabilitation should be achieved. This needs to be indicated so that an evaluation can be based on an agreed upon benchmark.

Public consultation and disclosure requirements. Beyond those points already addressed by the new Public Communications Policy, the principle of consultation with APs should be elaborated into a principle that emphasizes broad and documented community support for resettlement in case of community type dislocations, and establishment of majority support for assistance packages that the project provides. Hearings have proved to be valuable instruments for gaining broad community support in cases where resettlement operations deal with communities rather than scattered populations. The relation among censuses, surveys, focus group discussions, interviews with representatives, and hearings should be discussed in the policy, from the perspective of what constitutes adequate consultation and broad community support.

External monitoring. The procedures should elaborate under what conditions the project should employ external monitors. The procedures should refer to the need for country agreements regarding such conditions, the need for third party monitoring, and the role that can be played by NGOs in this area. The current frequent use of external monitoring, even in cases involving a few APs or minor effects, cannot be a substitute for more (resettlement-focused) field visits by ADB staff.

C. Recommendations for Involuntary Resettlement Implementation

172. ADB is facing a dilemma. The IR bar has been continuously raised. Staff dedicated to IR have increased, but not sufficiently. The policy is equivalent to that of the World Bank, but staff resources available for its enforcement are not. The SES shows that ADB is giving insufficient attention to supervising the administration of RPs and monitoring their implementation. Most specialists in ADB would agree that ADB needs more staff, particularly in the RMs, to ensure that the current policy is applied in a more hands-on, constructive way, and in a manner that the policy mandates. More direct collaboration with relevant units in EAs is required during and after implementation to ensure that RPs are appropriately updated and implemented, and that EAs follow through on commitments to assist vulnerable people. More direct collaboration is needed, for the increasing number of sector projects, to ensure that RPs for new subprojects are well prepared and implemented within the time frames dictated by loan schedules. Without training and continuous hands-on ADB involvement, capacity cannot be built. Irregular contact between

ADB and the EAs during implementation fosters defensive attitudes. Without close collaboration between ADB and EAs, especially through the RMs, confrontations over resettlement will continue. However, ADB shareholders have also made it clear that ADB staff numbers should not grow significantly. Management must find ways to balance the staff resources and the IR policy. Options include some combination of the following: (i) allocating more resettlement specialists either through reallocation of existing positions or creating more positions; (ii) identifying ways to focus ADB's scarce resettlement expertise in areas of greatest value added; and/or (iii) changing the policy in ways that will be less staff intensive for ADB. This may involve making greater use of country systems, as was recommended in the previous section. The current mismatch between the policy and staffing is likely to lead to continued confrontation with some DMCs, EAs, NGOs, and APs; some loss of business; reputational risks for ADB; more compliance reviews; and unmitigated adverse impacts on APs. It is also likely that opportunities will be lost for providing ADB's added value that comes with its emphasis on due diligence and added components for relocation, income, and rehabilitation assistance.

173. The following three recommendations are given:

- (i) **Formulate a time-sequenced implementation plan** to complement the IR safeguard policy update. This should fully identify the required resource requirements, staffing and organizational implications, perhaps based on benchmarking staffing against that of the World Bank for the implementation of its policy. Specialist expertise needs to be created in RMs located in countries with significant IR operations to improve day-to-day interaction with project authorities. This should be achievable through the recruitment of additional national officers in the RMs or training existing ones. In ADB headquarters, national officers or long-term local consultants, could be recruited/retained to do certain tasks or to take over tasks currently carried out by short-term consultants. The safeguard policy update should consider the organization of safeguard delivery and compliance as well. Consideration should be given to RSES becoming a quality assurance unit advising on safeguard compliance issues through comments on, and spot checks of the preparation and implementation of RPs. Under this option, the authority to approve RPs and sign safeguard compliance memoranda would be turned over to the ODs. Intermediate solutions may also be considered, such as delegating the approval of RPs for category B projects to ODs with senior resettlement specialists.
- (ii) **Improve IR monitoring.** Loan covenants regarding IR need to be more consistent across loan agreements. ADB monitoring of resettlement implementation, including post-resettlement rehabilitation, needs to improve, particularly during review missions, and reporting needs to be updated more regularly and made more detailed in project performance reports. Partnerships with NGOs and civil society organizations should be strengthened with a greater involvement in project monitoring arrangements. The relevant project administration instruction on the preparation of PCRs and the PPER guidelines should be amended to specify more clearly the reporting required on IR implementation and impact. ADB should develop a better system to follow up on actions recommended in PCRs.
- (iii) **Get more involved in building country systems and capacity.** ADB should accord higher priority to training programs for EA staff, as the payoff may be high in terms of improved resettlement operations. Perhaps such a program could be outsourced. The training program should be country specific and deal with both country systems and ADB systems, and address convergence and divergence

issues. A country review on safeguards should be undertaken as part of country planning, to assess which aspects of the procedures should be instituted over and above the country's own safeguard systems. ADB TA on country systems led by RSES could feed into this. Assessments of country systems should be undertaken jointly with the World Bank and possibly other aid agencies and cover the legal/regulatory framework, institutional capacity and implementation track record. The principles of the IR policy should remain—the move to country or EA systems should not be taken to mean a lowering of the desired impact of the IR policy. As ADB moves to country systems, it should do so in concert with other aid agencies as part of the harmonization agenda. A road map for use of country systems should be prepared for interested countries that would identify time bound, monitorable indicators of progress. Under the IR policy, ADB is required to build capacity for resettlement but only modest resources have been directed towards this area. A greater effort can be justified. Management needs to address this issue in terms of the competing uses for the scarce TA resources and in light of the policy of capping the number of new TA proposals in a year because of inadequate TA supervision.

SUMMARY OF FINDINGS OF EARLIER OPERATIONS EVALUATION DEPARTMENT SOCIAL SAFEGUARD STUDIES

1. The Operations Evaluation Department carried out two evaluations: one on safeguards for hydropower projects in 1999,¹ and one on the impact of the policy in 2000.²

2. The Special Evaluation Study (SES) on **Social and Environmental Impacts of Hydropower Projects** (footnote 1) concluded that the study projects had not resulted in disastrous environmental and social impacts. However, several shortcomings occurred, most of which could have been avoided or compensated for with more diligence on the part of the project proponents, developing member countries' (DMC) agencies, and the Asian Development Bank (ADB). Identification and mitigation of project impacts improved in later study projects. The Hunan Lingjintan Project³ performed better than other study projects in terms of resettlement efforts due to institutional capabilities of the local agencies and the adoption of the development resettlement concept, wherein resettlement arrangements were imbedded in an integrated regional development program. The SES also concluded that (i) the consultation process was not very effective in most of the study projects; (ii) the preparation of study projects in terms of environmental and social concerns was weak due to the quality of baseline data and incompleteness of coverage; (iii) monitoring impacts was better during construction than in the operations phase due to the use of review missions, progress reports, and panels of experts; (iv) the institutional capabilities of DMC agencies responsible for enforcing environmental and social concerns varied substantially across countries; (v) ADB staff members' involvement in preparing project environmental and social documents and recommending their inadequacy to the Board created an awkward dual function; (vi) the project units responsible for implementing environmental and social mitigation measures, in some cases, were inappropriately staffed, inadequately funded, and established too late with insufficient authority; and (vii) at the time of the study, ADB policies and guidelines for incorporating social dimensions into ADB operations were still maturing, with ADB staff displaying a limited understanding of ADB's involuntary resettlement (IR) policy principles.

3. To address the weaknesses identified above, the SES recommended the need for (i) ADB to continue its technical assistance (TA) to help develop the consultation process in countries that need it; (ii) impact assessments to be prepared in local languages (where this was not yet being done); (iii) project preparatory work to include the collection of adequate baseline data; (iv) surveys of project-affected persons and public consultation meetings for all category A projects;⁴ (v) environmental and social scientists as an integral part of the design team for sensitive projects (which could be supplemented by a panel of experts); (vi) ADB's continued support, where needed, for the development of relevant enforcement agencies through TAs for long-term monitoring programs; (vii) multiskilled supervision teams (supplemented by external consultants or panels of experts where needed), at least during midterm review of category A projects, to evaluate the progress of environmental and social mitigation measures; (viii) a clearinghouse for all monitoring efforts, especially when several agencies carry out such monitoring (since environmental and social impacts are interrelated); (ix) the role of project environmental and social specialists and that of peer reviewers who ensure a project's adherence to ADB's guidelines to be separated (and ADB staff with such

¹ ADB. 1999. *Special Evaluation Study on Social and Environmental Impacts of Hydropower Projects*. Manila.

² ADB. 2000. *Special Evaluation Study on the Policy Impact of Involuntary Resettlement*. Manila. Available: <http://www.adb.org/Evaluation/reports.asp?s=1&wp=2&ps=25&type=4>

³ ADB. 1994. *Report and Recommendation of the President to the Board of Directors on a Proposed Loan to the People's Republic of China for the Hunan Lingjintan Hydropower Project*. Manila.

⁴ Projects that were expected to have significant adverse environmental impacts.

expertise augmented); and (x) local agencies, if adequate institutional capacity is prepared, to officially take over the responsibility of monitoring operational mitigation measures over a long period (if not, external audits were recommended).

4. The SES on the **Policy Impact of Involuntary Resettlement** (footnote 2) concluded that by 2000 there had been significant improvements to the preparation and implementation of resettlement operations after the approval of the IR policy in September 1995. This had led to enhanced payment of compensation for lost assets, providing improved housing and infrastructure, and restoring livelihoods for many resettled families. The study found new awareness in dealing with vulnerable groups, particularly the poor and informal dwellers. However, there were still many problems on the road to satisfactory resettlement results: (i) lack of appropriate and compatible national resettlement policies in most DMCs; (ii) inadequate social investigations at the project preparatory level; (iii) improperly identified impoverishment risks, resulting in inadequate restoration of income and livelihood and serious implications for the sustainability of resettlement programs;⁵ (iv) weak executing agency (EA) institutional capabilities and inadequate funding for resettlement activities; (v) weak supervision and monitoring of resettlement implementation; (vi) lack of consistency in capacity building and in the role of nongovernment organizations (NGOs) in project implementation and sustainability; and (vii) inadequate aid coordination among funding agencies. Nevertheless, the study concluded that the IR policy was adequate and relevant and that a revision was not necessary. The study suggested refinements to clarify specific policy elements, such as compensations, people directly affected by projects, and those of the vulnerable groups. Implementation practices were to be improved with a focus on income restoration in the post resettlement period. OED asked ADB to be more proactive in its cooperation with other agencies and NGOs, so that quicker progress could be made in improving and harmonizing resettlement standards.

5. Specific recommendations included the need to (i) streamline the Policy on Involuntary Resettlement implementation; (ii) adopt appropriate and improved national resettlement policies in individual DMCs; (iii) provide adequate funding for resettlement activities to prevent impoverishment of the affected people; (iv) strengthen supervision and monitor project resettlement activities by both ADB and EAs (v) strengthen and improve initial social assessment through comprehensive surveys of those affected, and improve disclosure and public consultation; (vi) strengthen ADB capacity for project resettlement activities by providing additional staff and consulting resources; (vii) strengthen the institutional capacity of the DMCs by providing technical assistance; and (viii) improve cooperation among multilateral and bilateral agencies within each DMC.

⁵ In field-based case studies from Bangladesh, Philippines, and Indonesia, the income of about one third of those affected by ADB projects was not restored after resettlement at the time of the survey.

SHIFTS IN OPERATIONALIZATION OF THE ASIAN DEVELOPMENT BANK'S INVOLUNTARY RESETTLEMENT POLICY

1. There have been shifts in the guidance given to the Asian Development Bank (ADB) staff related to the application of the 1995 Involuntary Resettlement (IR) Policy. In the view of this study, the emphasis of the 1995 Policy document and the 7 January 1997 Operations Manual (OM) was on significant displacement and resettlement,¹ while the focus of the last approved OM Sections F2/BP and F2/OP, issued on 29 October 2003, was on recognizing and addressing all kinds of losses that people affected by projects can sustain, including those that do not engender involuntary displacement and require actual resettlement. This is clear mainly from the weight given in the 1995 Policy to population displacement and significant involuntary resettlement as the key triggers for starting ADB action. Various key statements across the document attest to this, and are reflected in Box 1.² The impression that the Policy is mainly about significant displacement is reinforced by its discussion in paragraph 21 of the well-known review of World Bank projects, which is quoted to demonstrate that, of the 1,900 ongoing projects in 1993, 146 (or less than 8%) involved IR, and displaced nearly two million people. In present day terms, this percentage is not very high, indicating the World Bank's focus on significant displacement at that time. ADB's proportion of projects supported that include resettlement planning is now almost 50%.

2. The 1995 Policy is somewhat vague about the nature and severity of the anticipated adverse impacts that projects need to address. For instance, the third principle mentioned in paragraph 34 has been argued as requiring projects to address all adverse impacts on people's livelihoods. This study, however, sees this is as necessary when combined with the previous passage. Paragraph 34 (iii) reads: "If individuals or a community must lose their land, means of livelihood, social support systems, or way of life in order that a project might proceed, they should be compensated and assisted so that their economic and social future will generally be at least as favorable with the project as without it." The previous passage, however, reads as follows: "For any project that requires relocating people, resettlement should be an integral part of project design and should be dealt with from the earliest stages of the project cycle, taking into account the following basic principles..." Even in isolation, the idea of paragraph 34 (iii) is more likely intended in this context to elaborate the consequences of displacement itself, as displacement indeed brings with it losing land, means of livelihood, social support systems, or way of life—and losing only part of the land would not normally mean loss of social support systems. The argument that the Policy is intended for all projects requiring one or more persons to relocate, and therefore requiring a resettlement plan, seems to rest on the wording "for any project that requires relocating people" as well, but has to be weighed against many other statements, in the 1995 Policy which require "significant displacement" or "significant resettlement" of "population".

3. A second reason for judging the 1995 Policy as somewhat vague also stems from paragraph 34, which subsequently formed the basis for Operations Manual (OM) Section 50/BP, issued on 7 January 1997. Different from the other statements in the 1995 Policy, it discusses

¹ OM Section 50/BP (3 pages) mainly repeats paragraph 34 of the 1995 Policy. Only one principle was removed, basic principle (viii). This specified that the costs of resettlement and compensation, including the costs of social preparation and livelihood programs, should be included in the preparation of the project costs and benefits. This was apparently recognized as a procedural issue and transferred to OM Section 50/OP.

² Other sentences focusing resettlement and significant displacement of people are in paragraphs 35 ("significant involuntary resettlement"), 36 ("displacement of people," "significant involuntary resettlement"), 38 ("where population displacement is unavoidable"), 42 ("if the project is likely to involve significant involuntary resettlement"), and 43 ("the project profile for each project involving significant involuntary resettlement").

(i) “displaced people,” (ii) “adversely affected population,” (iii) “resettlers,” (iv) “affected people,” (v) “affected groups,” and (vi) “affected persons,” perhaps implying differences between these categories. Whereas all are in the IR Policy’s purview, without defining a clear definition in the Policy, the reader remains with the impression that the different terms used are mainly there to avoid repetition of the same words over and over again. In this view, the focus is clearly on resettlement.

4. Lastly, different from the rest of the 1995 Policy, paragraph 34 distinguishes among resettlement, compensation, and rehabilitation in points (v), (vii), and (viii) in a way that could be construed as indicating that the Policy would have to deal with any of the three in isolation of the other two; or if any of the other two does not apply. Nevertheless, the study argues that this usage seems to be a reflection of loose terminology rather than a deliberate intent to distinguish among the three concepts. The interpretation of the clauses is dependent on the prior qualification that reads, “For any project that requires relocating people.”

Box 1: Quotes of the 1995 Involuntary Resettlement Policy Regarding its Focus

Italics added for clarity

Para. 2. This paper deals with proposed approaches to address involuntary resettlement, compensation, and rehabilitation of people *displaced* by development projects (...)

Para. 8. Many development projects that require *involuntary displacement of people* generally have adverse economic, social, and environmental impacts on the displaced people.” “The absence of appropriate development measures for compensation, resettlement, and rehabilitation of the *displaced people* may (i) cause severe long-term hardship, impoverishment, and even decimation of the affected communities; (ii) adversely affect the host populations; and (iii) lead to severe environmental damage.

Para. 28. Until recently, development-induced *displacement of population* was considered a “sacrifice” some people have to make for the larger good. Resettlement programs in general were limited to statutory monetary compensation for land acquired for the project, and occasionally development of a resettlement site.

Para. 29: However, perceptions are changing because of delays in project implementation and benefits foregone; growing awareness about the potential adverse economic, social, and environmental consequences of population *displacement*, and increasing concern about people’s welfare. Resettlement is viewed increasingly as a development issue.

Para. 33: Bank Policy. The objectives of the Bank’s policy on involuntary resettlement should be to (i) avoid involuntary resettlement where feasible; and (ii) minimize resettlement where *population displacement* is unavoidable, and ensure that *displaced* people receive assistance, preferably under the project, so that they would be at least as well-off as they would have been in the absence of the project, as contemplated in the following paragraphs.

Para. 34. Involuntary resettlement should be an important consideration in project identification. The three important elements of involuntary resettlement are (i) compensation for lost assets and loss of livelihood and income, (ii) *assistance for relocation* including provision of relocation sites with appropriate facilities and services, and (iii) assistance for rehabilitation to achieve at least the same level of well-being with the project as without it. Some or all of these elements may be present in projects involving involuntary resettlement. *For any project that requires relocating people*, resettlement should be an integral part of project design and should be dealt with from the earliest stages of the project cycle. (...)

5. In summary, as is also intuitively self-evident from the title of the IR Policy, the original 1995 Policy was about displacement and resettlement (with emphasis on significant resettlement), and the associated compensation and assistance for relocation, rehabilitation, and vulnerable people involved. When all of this is compared with the beginning statements of OM F2/BP (Box 2), then it is clear that OM F2/BP expanded the original meaning of the Policy is stretched considerably: The 1995 objective of the Policy talked about displaced people receiving assistance, not “affected people.” The new OM also talks about “people *dispossessed or displaced*.” The definition of involuntary resettlement has become convoluted, and no longer says what it is but rather what it “addresses.”

Box 2: Quotes in the OM/BP F2 of December 2003 on the Nature of the IR Policy

A. Introduction

1. The involuntary resettlement policy provides an effective opportunity for people who dispossessed or displaced to achieve development benefits. The policy that addresses losses of land, resources, and means of livelihood or social support systems, which people suffer as a result of an ADB projects and project components in its developing member countries (DMCs). The involuntary resettlement policy applies to all ADB’s operations in DMCs. The involuntary resettlement policy is a key ADB safeguard consonant with the Poverty Reduction Strategy and the Long-Term Strategic Framework. [footnotes deleted]

B. Definitions

2. “Involuntary resettlement” addresses social and economic impacts that are permanent or temporary and are (i) caused by acquisition of land and other fixed assets, (ii) by change in the use of land, or (iii) restrictions imposed on land as a result of an ADB operation. An “affected person” is one who experiences such impacts. [footnote quoted in text]

C. The Policy

3. The involuntary resettlement policy objectives are (i) to avoid involuntary resettlement wherever feasible; (ii) to minimize resettlement where population displacement is unavoidable by choosing alternative viable project options; and (iii) where involuntary resettlement is unavoidable, to ensure that affected people receive assistance, preferably under the project, so that they will be at least as well off as they would have been in the absence of the project. Where involuntary resettlement is unavoidable, the policy is designed to include any resulting losses in project budgets. The policy treats involuntary resettlement as a development opportunity and allows planners to manage impoverishment risks and turn the people dispossessed or displaced into project beneficiaries, particularly the poor and vulnerable, who may be disproportionately affected by resettlement losses.

6. Affected persons in the OM F2 Section are defined as those who experience social and economic impacts that are permanent or temporary and are caused by (i) acquisition of land and other fixed assets, (ii) change in the use of land, or (iii) restrictions imposed on land as a result of an ADB operation. A footnote, however, goes further by avoiding any reference to land or even asset impacts [italics added]: “The term affected person includes any people, households, firms, or private institutions who, on account of *changes that result from the project* will have their (i) *standard of living adversely affected*; (ii) right, title, or interest in any house, land (including residential, commercial, agricultural, forest, and/or grazing land), water resources, or any other moveable or fixed assets acquired, possessed, restricted, or otherwise adversely affected, in full or in part, permanently or temporarily; *and/or* (iii) business,

occupation, place of work or residence, or habitat adversely affected, *with or without displacement*.” OM F2/OP reinforces this, especially in paragraph 13, which says, “All eligible affected people, including tenants and employees of affected businesses who stand to lose their jobs, incomes, or livelihoods because of project impacts, are entitled to receive one-time financial assistance to cover losses of the move, as well as economic and social rehabilitation.”

7. There are other significant changes since the issuance of the 1995 Policy. The original Policy specified that a resettlement plan (RP) was needed “where population displacement is unavoidable,” but did not elaborate on the threshold for the numbers of displaced people, neither on the need for an RP in cases wherein affected people would lose a proportion of their land or livelihood, but did not need to resettle. This was to be clarified later through a Resettlement Handbook. The 1998 Resettlement Handbook specified that a full RP was needed when more than 200 people needed to be resettled (or 100 IPs or 50 very vulnerable affected persons [APs]). A rationale was not provided, other than that the thresholds were the same as those of the World Bank. A short RP would do in cases of lower numbers of APs. OM Section F2/OP2 of 2003 reflected these changes but specified that there was a need to categorize the resettlement impact of each project into three categories: A (full RP required), B (short RP required), and C (no RP required). This was reflected in an earlier decision taken by Management in 2002. It then went on to indicate that full or short RPs needed to be prepared in all cases where either people are displaced, *or* where people lose more than 10% of their livelihoods. A lower AP threshold (above 1 but below 200) for short RPs was not indicated, and an RP needs to be prepared wherever one person or more is affected beyond an equivalent of a loss of 10% of his/her livelihood. This has led to the production of RPs and enforcement mechanisms for cases where there are only one or a handful of APs.

8. F2/OP states, “In each DMC [developing member country], entitlements will generally be established in consultation with the affected people in accordance with applicable policies and laws, and ADB’s IR Policy standards.” The statement about the applicable policy and country laws suggests complementarity with ADB’s policy requirements, but in practice, ADB’s policy is comprehensive and overlapping, and mostly uses higher standards than those of the DMCs. What is more, ADB’s current compliance focus requires that the standards be enforced strictly. Again, the ambiguity may cause considerable uncertainty in ADB staff as to what can be demanded of executing agencies and DMCs, although in the larger countries with more resettlement operations, precedents have usually been set, and practical experience has given staff more confidence in putting the demands forward.

9. Box 3 shows that the bar was set higher as a result of the 2005 Public Communications Policy.³ As shown in Box 3, ADB has adopted higher standards that mandate consultation and public disclosure of RPs. The 1995 Public Communication Policy guidelines covered resettlement operations. The OP section in OM 50 of 1997 counted three pages and specified that the RP should be submitted by the government or the private project sponsors to ADB, “preferably together with the feasibility study for the project, but in any case, before project appraisal, as the costs and implementation of resettlement are likely to critically affect the overall costs and implementation schedule of the investment project.” It was not specified who would approve the plan, and the assumption was perhaps that a definitive plan could be submitted at that stage. Neither was it specified that a draft RP would have to be issued publicly and to APs. Figure A2.1 shows the current process for preparation and implementation of IR in ADB.

³ ADB. 2005. *The Public Communications Policy of the Asian Development Bank: Disclosure and Exchange of Information*. Manila.

10. The purpose of the Operations Evaluation Department (OED) raising the issue of differences in the 1995 IR Policy and OM F2/OP is not to dispute the desirability for raising the bar. A plausible case can be made for doing so. Rather, in OED's view, the issue relates to governance in ADB. The question is whether Management and staff, or the Board, should have made such decisions. While issuing OMs is clearly the prerogative of Management, OMs should not be a way to make new policies. Given the contentious nature of the issues and the wide variety of views among various stakeholders, it is OED's view that these decisions to raise the bar should have been taken by the Board and not by Management.

Box 3: Relevant Quotes in the Public Communications Policy 2005

Information for Affected People

74. To facilitate dialogue with affected people and other individuals and organizations, information about a public or private sector project or program under preparation (including social and environmental issues) shall be made available to affected people. ADB shall work closely with the borrower or project sponsor to ensure information is provided and feedback on the proposed project design is sought, and that a focal point is designated for regular contact with affected people. This should start early in project preparation, so that the views of affected people can be adequately considered in project design, and continue at each stage of project or program preparation, processing, and implementation. ADB shall ensure that the project's or program's design allows for stakeholder feedback during implementation. ADB shall ensure that relevant information about any major changes to project scope is also shared with affected people.

75. To support the requirements in paragraph 74, developing member country governments and ADB may jointly develop communications plans for certain projects and programs, particularly those likely to generate a high level of public interest. Such plans could, for example, recommend how to engage in dialogue with affected people, broaden public access to information on economic and legal reforms, help governments and project sponsors involve affected people in the design and implementation of ADB-assisted activities, and increase involvement of grassroots and civil society organizations in the development process.¹⁶

76. Private sector entities and implementing institutions are a diverse group, with varying capabilities, and ADB is generally flexible in dealing with them. The substance of ADB's environmental and social safeguard requirements for private sector investments is generally the same as for the public sector. ADB's safeguard policies require private sector sponsors to assess, manage, monitor, and disclose the social and environmental impacts of their projects. They include requirements for early engagement by the private sector sponsor with affected people, and the timely dissemination of relevant project information to such communities in an understandable and accessible form. Toward this end, the project sponsor shall inform ADB, before appraisal, how it intends to engage with affected people.

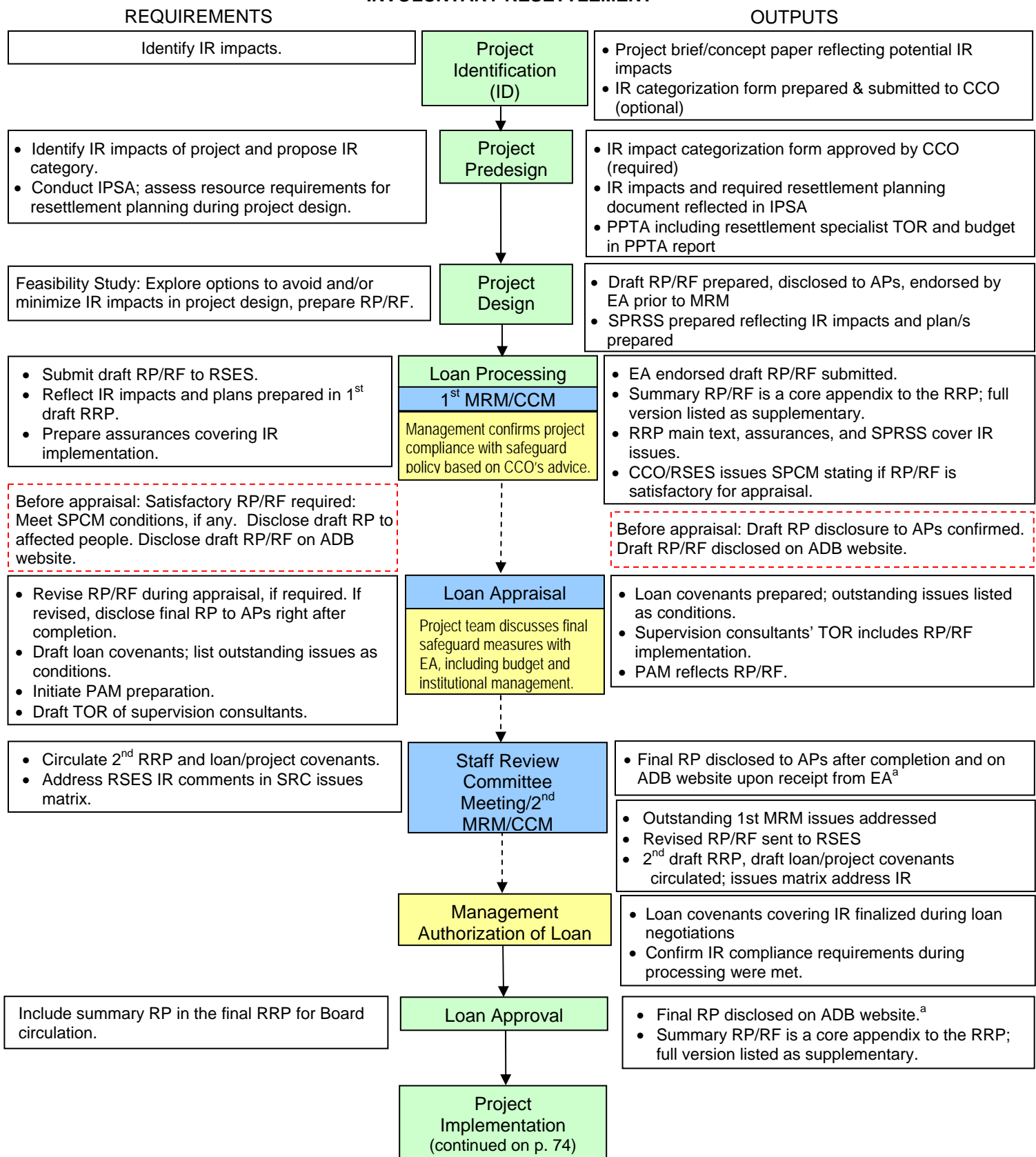
Resettlement Planning Documents

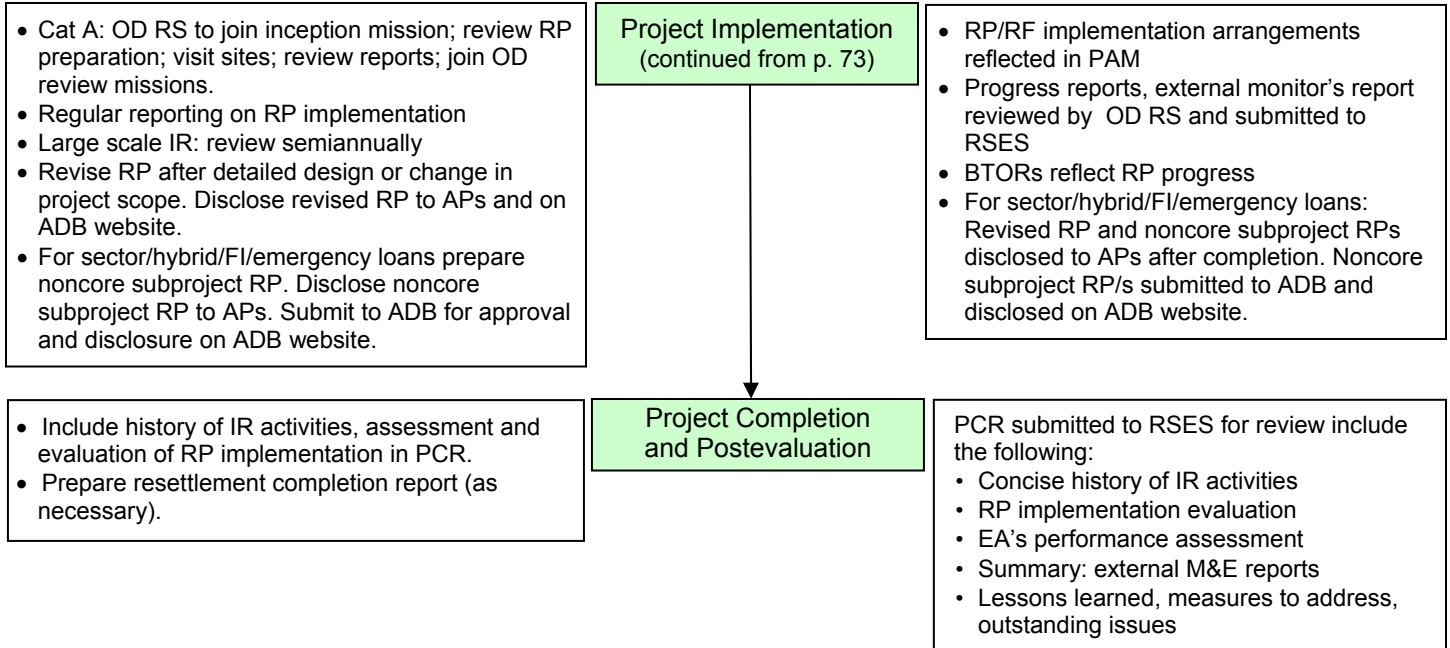
80. The borrower or private sector sponsor shall make available to affected people under Operations Manual section F2/BP on involuntary resettlement: (i) before appraisal-a draft resettlement plan; (ii) after completion of the final resettlement plan-such resettlement plan, and (iii) following revisions to the resettlement plan as a result of detailed technical design or change in scope in the program or project -the revised resettlement plan.

81. The information from the documents specified in paragraph 80 can be made available as brochures, leaflets, or booklets in local languages. For non-literate people, other communication methods will be appropriate.

82. ADB shall make publicly available: (i) before appraisal-a draft resettlement plan or framework (or both); (ii) upon receipt of the final resettlement plan-the final resettlement plan; and (iii) upon receipt of a revised resettlement plan-the revised resettlement plan.

Figure A2.1:
Safeguard Policy Compliance
INVOLUNTARY RESETTLEMENT





^a Disclosure of final RP should be done no later than upon Board approval.

ADB = Asian Development Bank, AP = affected person, BP = Bank Policy, BTOR = back-to-office report, CCO = chief compliance officer, EA = executing agency, FI = financial institution, IPSA = initial poverty and social analysis, IR = involuntary resettlement, M&E = monitoring and evaluation, MRM = Management review meeting, OD = operations department, PAM = project administration memorandum, PCR = project completion report, PPTA = project preparatory technical assistance, RF = resettlement framework, RP = resettlement plan, RRP = report and recommendation of the President, RS = resettlement specialist, RSDD = Regional and Sustainable Development Department, SPCM = Safeguard Policy Compliance Memorandum, SPRSS = summary poverty reduction and social strategy, TA = technical assistance, TOR = terms of reference.

INVOLUNTARY RESETTLEMENT BY THE WORLD BANK

1. The Asian Development Bank's (ADB) Involuntary Resettlement (IR) Policy is based in large part on World Bank experience and the World Bank's earlier IR Policy. Like ADB, the World Bank has changed its Operations Manual (OM) several times. OP 4.12 replaced OM 4.30 in December 2001 and was revised again in April 2004 to meet with the requirements of OP/BP 6.00 on Bank Financing.
2. The World Bank has 10 safeguard policies;¹ next to the IR it also has an Indigenous Peoples (IP) Policy, and has additional, related, policies for cultural properties and safety of dams. The World Bank's social safeguard policies on IR and IP are highly similar in their objectives, thresholds (200 affected persons [APs], 10%), and procedures. The differences are gradual: the World Bank states that resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. The World Bank seems to have more rules that apply in cases of projects that would restrict access to natural resources in legally designated parks and protected areas.
3. Overall, the procedures are specified in somewhat less detail than those of ADB, they leave more open for negotiations and discrete agreements. The World Bank is said not to approve projects before the point that they have been sufficiently designed in detail to cover at least one year of work. This also means that they will need to have prepared resettlement plans (RPs) that are fully final for those works, and do not need later updating, such as is generally the case with ADB RPs.
4. The World Bank has embarked on a pilot study on the use of "borrower" systems for its 10 policies. OP 4.00 to this effect was issued in March 2005.² If systems are deemed equivalent to World Bank standard, then executing agency (EA) documentation can be utilized, and there is no need for separate World Bank documents. Twelve projects are being selected worldwide, preceded by a thorough equivalence check in the host countries. Progress with this has been slow; no projects have been selected so far in Asia in as far as social safeguard equivalence is concerned.
5. In the Operations Evaluation Department's (OED) view, it is worth cooperating with the World Bank on expanded use of country systems, although this may yield results only in the medium term. ADB's South Asia Regional Department (SARD), for example, has been interacting with World Bank teams on resettlement issues. In Bhutan, the World Bank's preliminary assessment showed that the equivalence of the Bhutan system with the World Bank's IR policy was not high. The World Bank expressed general agreement with a resettlement framework prepared for an ADB-supported project. In Bangladesh, ADB was given the opportunity to comment on a resettlement framework prepared by the World Bank for an EA with which ADB also worked. This framework was prepared in response to the finding that the country's policy was deemed not equivalent to the World Bank's.

¹ Environmental Assessment, Natural Habitats, Pest Management, Indigenous People, Involuntary Resettlement, Forests, Safety of Dams, Projects on International Waterways, Projects in Disputed Areas, and Management of Cultural Property in Bank-Financed Projects.

² World Bank. 2005. *Piloting the Use of Borrower Systems to Address Environmental and Social Safeguard Issues in Bank-Supported Projects*. OP 4.00. Available on the World Bank website.

**ASIAN DEVELOPMENT BANK STATISTICS ON RESETTLEMENT PLANS
AND FRAMEWORKS**

Table A4.1: Number of Public and Private Sector Projects with Involuntary Resettlement Requirement, 1994–2005

Item	Public Sector		Private Sector		Total	% Total
	Total	%	Total	%		
		Public		Private		
A. Projects with Significant IR Requirement, Full Resettlement Plan	204	25	4	4	208	23
1. Agriculture and Natural Resources	26	3	0	0	26	3
2. Education	0	0	1	1	1	0
3. Energy	34	4	1	1	35	4
4. Health, Nutrition, and Social Protection	1	0	0	0	1	0
5. Industry and Trade	3	0	0	0	3	0
6. Multisector	32	4	0	0	32	3
7. Transport and Communications	88	11	0	0	88	10
8. Water Supply and Sanitation	20	2	1	1	21	2
9. Others (not categorized)	0	0	1	1	1	0
B. Projects with Insignificant IR Requirement, Short Resettlement Plan	37	5	1	1	38	4
1. Agriculture and Natural Resources	7	1	0	0	7	1
2. Education	1	0	0	0	1	0
3. Energy	5	1	1	1	6	1
4. Health, Nutrition, and Social Protection	2	0	0	0	2	0
5. Industry and Trade	1	0	0	0	1	0
6. Multisector	10	1	0	0	10	1
7. Transport and Communications	5	1	0	0	5	1
8. Water Supply and Sanitation	6	1	0	0	6	1
C. Projects with Resettlement Framework Only	15	2	8	8	23	2
1. Agriculture and Natural Resources	4	0	0	0	4	0
2. Education	0	0	0	0	0	0
3. Energy	1	0	1	1	2	0
4. Finance	0	0	6	6	6	1
5. Health, Nutrition, and Social Protection	1	0	0	0	1	0
6. Industry and Trade	0	0	0	0	0	0
7. Law, Economic Management, and Public Policy	0	0	0	0	0	0
8. Multisector	4	0	0	0	4	0
9. Transport and Communications	3	0	0	0	3	0
10. Water Supply and Sanitation	2	0	1	1	3	0
D. Projects with No IR Impact	563	69	91	89	654	71
1. Agriculture and Natural Resources	99	12	1	1	100	11
2. Education	76	9	0	0	76	8
3. Energy	48	6	9	9	57	6
4. Finance	69	8	20	20	89	10
5. Health, Nutrition, and Social Protection	35	4	2	2	37	4
6. Industry and Trade	23	3	7	7	30	3

Item	Public Sector		Private Sector		Total	% Total
	Total	%	Total	%		
		Public		Private		
7. Law, Economic Management, and Public Policy	49	6	0	0	49	5
8. Multisector	77	9	0	0	77	8
9. Transport and Communications	56	7	5	5	61	7
10. Water Supply and Sanitation	31	4	1	1	32	3
11. Others (not categorized)	0	0	46	45	46	5
Total	819	100	104	100	923	100

IR = involuntary resettlement.

Note: (i) 2005 loans with IR categorization from Regional and Sustainable Development Department database; (ii) 2002–2004 approved public and private sector projects (IR categorization A, B, C, and TBD); (iii) 1994–2001 public sector projects (with IR impact = A; no IR impact = C); (iv) 1995–2001 private sector projects (with IR impact = A; no IR impact = C; no sector classification and investment numbers); (v) Full resettlement plan category for public sector includes 21 projects categorized as “A/B”

Sources: Asian Development Bank Loan, Technical Assistance, Private Sector Approvals database, Regional and Sustainable Development Department database, Project Coordination and Procurement Division list of loans, and reports and recommendations to the President.

Table A4.2: Number and Percentage of Projects with Full/Short Resettlement Plans and Resettlement Framework, Approved from 1994–2005

	Full RP			Short RP		Only RF		Subtotal		No RP		Total
	No.	No.	%	No.	%	No.	%	No.	%	No.	%	
	(A)	(A/B)						A+B+RF				
Private Sector												
1994	0	0	0	0	0	0	0	0	0	0	0	0
1995	0	0	0	0	0	0	0	0	0	14	100	14
1996	0	0	0	0	0	0	0	0	0	13	100	13
1997	0	0	0	0	0	0	0	0	0	7	100	7
1998	0	0	0	0	0	0	0	0	0	8	100	8
1999	1	0	25	0	0	0	0	1	25	3	75	4
2000	1	0	9	0	0	0	0	1	9	10	91	11
2001	1	0	17	0	0	0	0	1	17	5	83	6
2002	0	0	0	0	0	1	13	1	13	7	88	8
2003	1	0	14	0	0	1	14	2	29	5	71	7
2004	0	0	0	1	7	1	7	2	14	12	86	14
2005	0	0	0	0	0	5	42	5	42	7	58	12
Total	4	0		1		8		13		91		104
Public Sector												
1994	10	1	22	0	0	0	0	11	22	39	78	50
1995	14	2	23	0	0	0	0	16	23	53	77	69
1996	19	4	27	0	0	0	0	23	27	61	73	84
1997	5	1	7	0	0	0	0	6	7	83	93	89
1998	15	2	28	0	0	0	0	17	28	43	72	60
1999	17	0	29	0	0	0	0	17	29	41	71	58
2000	15	2	20	0	0	0	0	17	20	68	80	85
2001	19	5	34	0	0	0	0	24	34	47	66	71
2002	18	0	26	6	9	5	7	29	41	41	59	70
2003	17	0	27	10	16	7	11	34	55	28	45	62
2004	16	0	27	10	17	1	2	27	46	32	54	59
2005	18	4	35	11	18	2	3	35	56	27	44	62
Total	183	21		37		15		256		563		819

IR = involuntary resettlement, RF = resettlement framework, RP = resettlement plan.

Sources: (i) 2002–2004 approved public and private sector projects (IR categorization A, B, C, and TBD); (ii) 1994–2001 public sector projects (IR categorization “with full RP” = A, “with short RP” = B); (iii) 1995–2001 private sector projects (with IR impact = A; no IR impact = C; no sector classification and investment number); (iv) Masterlist 2005 Projects–IR categorization only from Regional and Sustainable Development Department; and (v) Project Coordination and Procurement Division list of loans for other projects previously not included.

Table A4.3: Projects Approved from 1994–2005 by Country, by Five Main Infrastructure-Related Sectors

Country	1994–2001						2002–2005					
	Infrastructure Sectors ^a			Infrastructure Sectors without ANR ^b			Infrastructure Sectors ^a			Infrastructure Sectors without ANR ^b		
	Projects ^c	with RP ^d	% with RP	Projects ^c	with RP ^d	% with RP	Projects ^c	With RP ^d	% with RP	Projects ^c	with RP ^d	% with RP
China, People's Republic of	58	45	78	53	43	81	28	28	100	26	26	100
India	20	10	50	20	10	50	17	17	100	16	16	100
Sri Lanka	20	4	20	10	2	20	11	11	100	9	9	100
Bangladesh	24	12	50	17	11	65	12	11	92	10	9	90
Pakistan	19	3	16	13	3	23	11	9	82	10	9	90
Lao People's Democratic Republic	14	5	36	12	5	42	7	7	100	5	5	100
Viet Nam	19	12	63	15	9	60	9	8	89	6	5	83
Indonesia	32	8	25	17	4	24	10	8	80	7	5	71
Afghanistan	0	0	0	0	0	0	7	5	71	6	4	67
Cambodia	11	7	64	11	7	64	6	6	100	3	3	100
Nepal	15	7	47	10	7	70	4	4	100	2	2	100
Philippines	26	8	31	21	7	33	2	2	100	2	2	100
Fiji Islands	1	0	0	1	0	0	3	3	100	2	2	100
Regional	0	0	0	0	0	0	2	2	100	2	2	100
Uzbekistan	5	0	0	4	0	0	3	2	67	2	2	100
Federated States of Micronesia	1	0	0	1	0	0	1	1	100	1	1	100
Papua New Guinea	6	0	0	4	0	0	2	2	100	1	1	100
Republic of Marshall Islands	2	0	0	2	0	0	1	1	100	1	1	100
Samoa	1	0	0	1	0	0	1	1	100	1	1	100
Thailand	8	1	13	8	1	13	1	1	100	1	1	100
Azerbaijan	0	0	0	0	0	0	3	1	33	2	1	50
Bhutan	4	0	0	4	0	0	2	1	50	2	1	50
Kyrgyz Republic	8	0	0	7	0	0	1	1	100	2	1	50
Maldives	4	0	0	4	0	0	2	1	50	2	1	50
Mongolia	9	0	0	8	0	0	2	1	50	2	1	50
Tajikistan	5	1	20	5	1	20	5	4	80	2	1	50
Cook Islands	3	0	0	2	0	0	1	0	0	1	0	0

	1994–2001						2002–2005					
	Infrastructure Sectors ^a			Infrastructure Sectors without ANR ^b			Infrastructure Sectors ^a			Infrastructure Sectors without ANR ^b		
	Projects ^c	with RP ^d	Projects ^c	with RP ^d	Projects ^c	with RP ^d	Projects ^c	With RP ^d	Projects ^c	with RP ^d	Projects ^c	with RP ^d
Kazakhstan	4	0	0	3	0	0	0	0	0	1	0	0
Kiribati	1	0	0	1	0	0	0	0	0	0	0	0
Malaysia	2	1	50	0	0	0	7	0	0	0	0	0
Solomon Islands	1	0	0	1	0	0	0	0	0	0	0	0
Tonga	3	0	0	3	0	0	0	0	0	0	0	0
Vanuatu	2	0	0	2	0	0	0	0	0	0	0	0
Total	328	124	38	260	110	42	156	138	88	127	112	88

ANR = agriculture and natural resources, RP = resettlement plan, RRP = report and recommendation of the President, TA = technical assistance.

Note: Source list excludes all non-infrastructure sectors (law, economic management, and public policy, health, nutrition, and social protection, industry and trade, education, finance, etc.), program loans, TA loans, credit lines, and (for 2000–2005) other projects appearing to have little or no civil works. The listing of countries is based on the number of RPs from 2002–2005 for infrastructure sectors excluding ANR.

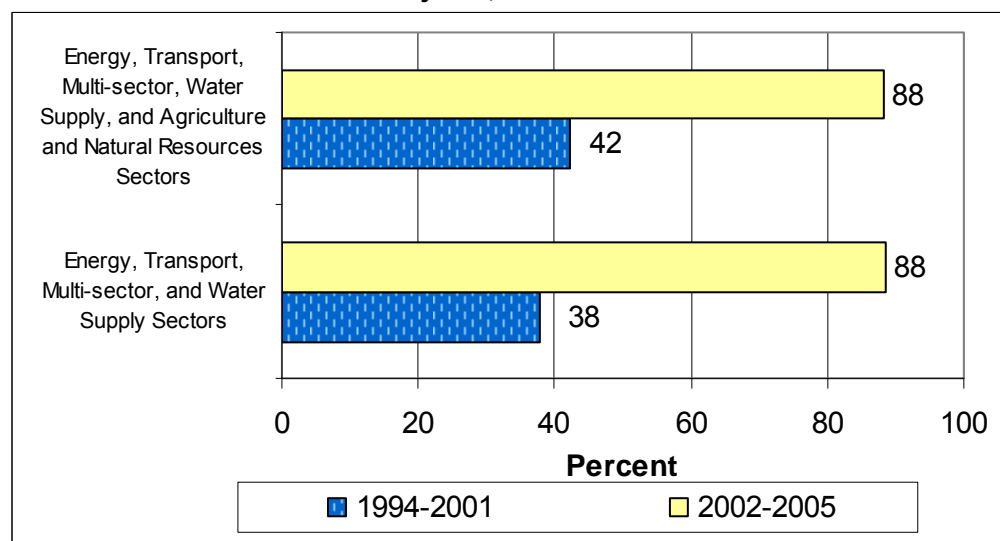
^a Infrastructure sectors refer to ANR, energy, multisector, transport and communications, and water supply and sanitation sectors.

^b Total of major infrastructure sectors without ANR sector.

^c Total of major infrastructure sector projects, excluding credit lines, TA loans, and programs.

^d Projects with RPs/resettlement frameworks/land acquisition and RP, as per project's RRP.

Sources: Regional and Sustainable Development Department, Project Coordination and Procurement Division list of loans, and RRP.

Figure A4.1: Growth of Resettlement Plan (RP) Inclusion in Infrastructure Sector Projects, 1994–2005

Sources: Environment and Social Safeguards Division, Project Coordination and Procurement Division list of loans, and reports and recommendations of the President.

Table A4.4: Infrastructure Projects without Resettlement Planning (Category C), 1994–2005, for Indonesia, Pakistan, and Philippines

No.	Year	Project Name	Country	Loan No.	Sector
6	1994	Capacity Building in the Water Resources Sector	INO	1339	ANR
7	1994	Second Integrated Irrigation Sector	INO	1296	ANR
11	1994	Sumatra Power Transmission	INO	1320	EN
23	1994	West Lampung Emergency Reconstruction	INO	1321	TC
24	1994	Eastern Islands Roads (Sector)	INO	1335	TC
28	1995	Sulawesi Rainfed Agriculture Development	INO	1351	ANR
31	1995	Farmer Managed Irrigation Systems	INO	1378	ANR
37	1995	Gas Transmission and Distribution	INO	1357	EN
46	1995	Sumatra Urban Development	INO	1383	MS
47	1995	West Java Urban Development	INO	1384	MS
58	1995	Rural Water Supply and Sanitation Sector Project	INO	1352	WS
63	1996	P.T. Banjarmasin Agrojaya Mandiri	INO	7129	ANR
67	1996	Bapedal Regional Network	INO	1449	ANR
71	1996	Integrated Pest Management for Smallholder Estate Crops	INO	1469	ANR
99	1997	Participatory Development of Agricultural Technology	INO	1526	ANR
103	1997	Coastal Community Development and Fisheries Resources Management	INO	1570	ANR
105	1997	Northern Sumatra Irrigated Agriculture Improvement Sector	INO	1579	ANR
120	1997	Belawan, Balikpapan and Banjarmasin Ports	INO	1559	TC
121	1997	Eastern Islands Air Transport Development	INO	1586	TC
130	1997	Capacity Building of Water Supply Enterprises for Water Loss Reduction Sector	INO	1527	WS
134	1998	Central Sulawesi Integrated Area Development and Conservation	INO	1605	ANR
182	2000	Community Empowerment for Rural Development	INO	1765	MS
186	2000	Community Empowerment for Rural Development	INO	1766	MS
193	2000	Road Rehabilitation (Sector)	INO	1798	TC
220	2005	Rural Infrastructure Support Project	INO	2221	MS

No.	Year	Project Name	Country	Loan No.	Sector
221	2005	Road Rehabilitation-2 Project	INO	2184	TC
10	1994	KESC Sixth Power (Sector Loan) Project	PAK	1314/1315	EN
15	1994	Social Action Program	PAK	1301	MS
26	1995	National Drainage Sector	PAK	1413	ANR
35	1995	Forestry Sector	PAK	1403	ANR
59	1995	Punjab Rural Water Supply and Sanitation	PAK	1349	WS
70	1996	Bahawalpur Rural Development	PAK	1467	ANR
77	1996	Fauji Kabirwala Private Sector Power Project	PAK	7126	EN
86	1996	Social Action Program (Sector) II	PAK	1493	MS
104	1997	Second Flood Protection Sector	PAK	1578	ANR
116	1997	Dera Ghazi Khan Rural Development	PAK	1531	MS
131	1997	Korangi Wastewater Management	PAK	1539	WS
153	1999	Punjab Farmer Managed Irrigation Project	PAK	1679	ANR
158	1999	Malakand Rural Development	PAK	1672	MS
184	2000	North-West Frontier Province Barani Area Development Phase II	PAK	1787	MS
199	2001	North-West Frontier Province Urban Development Sector	PAK	1854	MS
211	2004	Sustainable Livelihood in Barani Areas Project	PAK	2134	ANR
218	2005	New Bong Escape Hydropower Project	PAK	2198/7222/	EN
16	1994	Rural Infrastructure Development	PHI	1332	MS
27	1995	Second Irrigation Systems Improvement	PHI	1365/1366	ANR
61	1995	Umiray-Angat Transbasin	PHI	1379	WS
65	1996	Cordillera Highland Agricultural Resource Management	PHI	1421	ANR
85	1996	Bukidnon Integrated Area Development	PHI	1453	MS
93	1996	Small Towns Water Supply Sector Project	PHI	1472	WS
94	1996	Rural Water Supply and Sanitation Sector	PHI	1440/1441	WS
102	1997	Fisheries Resource Management	PHI	1562	ANR
115	1997	Subic Bay Area Municipalities Infrastructure Improvement	PHI	1599	MS
123	1997	Third Airports Development (Southern Philippines)	PHI	1536	TC
142	1998	Clark Area Municipal Development	PHI	1658	MS
145	1998	Metro Manila Air Quality Improvement (Investment Loan)	PHI	1665	MS
164	1999	Philippine International Air Terminals Co., Inc. (PIATCO)	PHI	7155	TC
168	1999	Maynilad Water Services Incorporated (MAYNILAD)	PHI	7154	WS
169	2000	Grains Sector Development Program (Project)	PHI	1740	ANR
181	2000	Infrastructure for Rural Productivity Enhancement Sector Project	PHI	1772	MS
188	2000	North Luzon Expressway Rehabilitation and Expansion	PHI	7162	TC

ANR = agriculture and natural resources, EN = energy, MS = multisector, RRP = report and recommendation of the President, TC = transport and communications, WS = water supply and sanitation.

Note: List excludes all non-infrastructure sectors (education, finance, law, economic management and public policy, health, nutrition and social protection, and industry and trade), program loans, technical assistance loans, credit lines, and (for 2000–2005) other projects appearing to have little or no civil works as per their RRP.

Sources: Regional and Sustainable Development Department database, Project Coordination and Procurement Division list of loans, and RRP.

**ASIAN DEVELOPMENT BANK STATISTICS ON NUMBER AND PERCENTAGE OF
AFFECTED PERSONS IN PROJECTS WITH INVOLUNTARY RESETTLEMENT**

Table A5.1: Number and Percentage of Affected Persons in Projects with Involuntary Resettlement for the Period 1994–2005, Estimated at Time of Project Approval

Item	Number of Projects^a	% of Projects	Number of APs	% of APs
By Year				
1994	10	5	305,613	17
1995	13	7	53,900	3
1996	18	9	78,235	4
1997	5	3	69,065	4
1998	14	7	342,994	19
1999	17	9	79,384	4
2000	14	7	256,445	14
2001	18	9	110,123	6
2002	20	10	94,614	5
2003	24	13	151,091	8
2004	21	11	120,108	7
2005	18	9	117,178	7
Total	192	100	1,778,750	100
By Sector				
Agriculture and Natural Resources	25	13	109,054	6
Energy	32	17	124,567	7
Health, Nutrition, and Social Protection	2	1	225	0
Industry and Trade	4	2	1,815	0
Multisector (mainly urban development)	26	14	48,652	3
Transport and Communications	80	42	1,360,495	76
Water Supply and Sanitation	2	12	133,942	8
Total	192	100	1,778,750	100
By Country				
People's Republic of China ^b	71	37	1,088,158	61
Bangladesh	19	10	153,043	9
Viet Nam	19	10	156,242	9
India	14	7	99,676	6
Philippines	8	4	74,664	4
Nepal	6	3	64,341	4
Indonesia	10	5	45,281	3
Cambodia	11	6	42,419	2
Pakistan	11	6	23,623	1
Sri Lanka	5	3	15,946	1
Lao People's Democratic Republic	10	5	14,576	1
Afghanistan	1	1	196	0
Tajikistan	3	2	173	0
Uzbekistan	1	1	275	0
Federated States of Micronesia	1	1	60	0

	Number of Projects ^a	% of Projects	Number of APs	% of APs
Fiji Islands	1	1	40	0
Samoa	1	1	37	0
Total	192	100	1,778,750	100

AP = affected person, PCR = project completion report, RP = resettlement plan, RRP = report and recommendation of the President.

^a Projects whose RPs (from RRPs) indicated the number of APs as a result of involuntary resettlement.

^b If ADB's more strict categorization of severely affected peoples, those affected beyond 10% of their livelihood, is used, then the actual numbers for road and railway projects (37% of the total number of projects in PRC, with 922,640 APs counted by their RPs) could possibly be still many times higher for that country. This is because of the nature of land ownership in rural areas, which is collective ownership by registered village collectives with use rights arranged for named families and individuals. Especially until 2004, land takings from rural collectives for railways and roads used to be meticulously recorded, but not numbers of APs. Chinese authorities have left it at the discretion of village collectives to decide whether to "redistribute" land taken from individual farm lands within collectives in the right of way, among all members of the collective (each losing a small part of their land, rather than some farmers losing all), or to compensate individual members for actual land loss. Most of the AP figures in RRPs and even PCRs for new road and railway projects in the PRC seem to be based on numbers derived from aggregate land takings divided by the average area per farmer in a collective. The true picture that prevailed in the past is then very different from the APs reported in the RRPs and even PCRs, and many more people got affected, although most in minor ways.

Table A5.2: Resettled and Not-Resettled Affected Persons, Estimates and Actuals, in Infrastructure Projects Approved in the Period 1994–2005, and with Project Completion Reports

Number of Completed Projects	PRC	IND	PHI	VIE	Others	Total
	33	2	4	4	8	51
APs as estimated in RRP/RP						
Number of APs	212,891	800	5,833	6,905	42,032	268,461
- Number of APs to be resettled	145,257	800	5,833	6,356	5,362	163,608
- Number of APs with no need for resettlement	67,634	0	0	549	36,670	104,853
Actual APs as estimated by PCR/PPER						
Number of APs	292,308	435	8,171	86,064	56,287	443,265
- Number of APs resettled	164,729	0	8,171	5,336	1,256	179,492
- Number of APs with no need for resettlement	127,579	435	0	80,728	55,031	263,773
% Change - APs (Actual vs. Estimate)						
Number of APs (%)	37	(46)	40	1,146	34	65
Number of APs resettled (%)	13	(100)	40	(16)	(77)	10
Number of APs with no need for resettlement (%)	89	0	0	14,605	50	152

AP = affected person, IND = India, IR = involuntary resettlement, PCR = project completion report, PHI = Philippines, PPER = project performance evaluation report, PRC = People's Republic of China, RP = resettlement plan, RRP = report and recommendation of the President, RSDD = Regional and Sustainable Development Department, TA = technical assistance, VIE = Viet Nam.

Notes: (i) IR categories are based on RSDD; (ii) Actual IR categories are based on the actual number of APs and retrofitted in the IR category definitions in the Operations Manual (Section F2/OP); (iii) not included in the listing were Loan 1553-PRC: Shenmu-Yanan Railway, (approved 29 September 1997) which was closed on 30 June 2003 but did not have a PCR; Loan 1305-PRC: Jing Jiu Technical Enhancement, as the 212,000 APs were not directly due to the loan's equipment provision for the railroad (Beijing–Hong Kong) built by the government; and Loan 1638-PRC: Chengdu-Nanchong Expressway Project, where 188,000 secondary APs identified in the RRP were not included in the calculations, as the PCR did not discuss these. Infrastructure projects in sectors of (i) transport, (ii) energy, (iii) water, (iv) multisector, and (v) agriculture and natural resources.

Sources: Fifty-one PCRs issued for infrastructure projects approved from 1994 onwards. The PCR for the equipment financing loan for the Jing-Jiu Railway Technical Enhancement was excluded (Loan 1305-PRC, for \$200 million, approved 14 July 1994); RSDD IR database; various RRPs/RPs; various PCRs; loans, TA, grants, and equity approvals database.

**Table A5.3: Ongoing Infrastructure Projects with IR Impacts Approved
Between 1994–2005, in Four Countries**

Item	PRC	IND	PHI	VIE	Total
Number of Ongoing Projects	31	19	7	11	68
% of total	45.6	27.9	10.3	16.2	100.0
APs (based on RRP/RP)					
Number of APs	422,942.0	102,691.0	76,169.0	135,013.0	736,815.0
% of total	57.4	13.9	10.3	18.3	100.0
Number of APs to be resettled	159,173.0	14,943.0	45,176.0	17,354.0	236,646.0
% of total	67.3	6.3	19.1	7.3	100.0
Number of APs with no need for resettlement	263,769.0	87,748.0	30,993.0	117,659.0	500,169.0
% of total	52.7	17.5	6.2	23.5	100.0

AP = affected person, IND = India, IR = involuntary resettlement, PHI = Philippines, PRC = People's Republic of China, RP = resettlement plan, RRP = report and recommendation of the President, VIE = Viet Nam.

Sources: Regional and Sustainable Development Department database involuntary resettlement database; various RRRs/RPs; loans, technical assistance grants, and equity approvals database.

**Table A5.4: Resettled and Not Resettled Affected Persons by Country and Sector,
Estimates and Actuals, for Infrastructure Projects Approved Since 1994
with Project Completion Reports Issued Before 2006**

Timing/Sector	PRC	IND	PHI	VIE	Others	Total
	APs	APs	APs	APs	APs	
At Appraisal						
Agriculture and Natural Resources	0	0	0	3400	0	3,400
Energy	57,875	0	300	0	1,025	59,200
Water Supply, Sanitation and Waste Management	56,789	0	0	45	113	56,947
Transport and Communications	93,491	0	3,800	3,460	40,719	141,470
Multisector	4,736	800	5,833	6,905	43,032	268,461
Total	212,891	800	9,933	10,410	84,889	318,923
At Completion						
Agriculture and Natural Resources	90	0	0	4,248	0	4,338
Energy	55,754	435	2,217	0	375	58,781
Water Supply, Sanitation and Waste Management	61,374	0	0	200	960	62,534
Transport and Communications	170,743	0	5,277	81,616	54,952	312,588
Multisector	4,347	0	677	0	0	5,024
Total	292,308	435	8,171	86,064	56,287	443,265

AP = affected person, IND = India, PHI = Philippines, PRC = People's Republic of China, VIE = Viet Nam.

Source: All project completion reports which allowed for comparisons of estimated and actual APs (51).

Table A5.5: Resettled and Not-Resettled Affected Persons by Sector, Estimates and Actuals, for Infrastructure Projects Approved Since 1994 with Project Completion Reports Issued Before 2006

	ANR	EN	MS	TC	WS	Total
	APs	APs	APs	APs	APs	APs
APs (Appraised based on RRP/RP)						
APs	3,400	59,200	7,444	141,470	56,947	268,461
To be resettled	2,860	41,131	7,444	65,438	46,735	163,608
No need for resettlement	540	18,069	0	76,032	10,212	104,853
APs (Actual based on PCR/PPER)						
APs	4,338	58,781	5,024	312,588	62,534	443,265
Resettled	4,338	44,315	5,024	67,719	58,096	179,492
Not resettled	0	14,466	0	244,869	4,438	263,773

ANR = agriculture and natural resources, AP = affected person, EN = energy, MS = multisector, PCR = project completion report, PPER = project performance evaluation report, RP = resettlement plan, RRP = report and recommendation of the President, TC = transport and communications, WSS = water supply, sanitation and waste management.

Sources: Regional and Sustainable Development Department database; loans, technical assistance, grants, and equity approvals database; RRP and PCRs of 51 projects.

Table A5.6: List of Infrastructure Projects Approved Since 1994 with Project Completion Reports Issued Before 2006, with Estimated and Actual APs

Year	Loan No.	Project Name	AP (Appraisal)	AP (Actual)
People's Republic of China				
1994	1304	Yunnan-Simao Forestation and Sustainable Wood Utilization	0	90
1994	1313	Dalian Water Supply Project	1,800	1,036
1994	1318	Hunan Lingjintan Hydropower	3,412	6,100
1994	1324	Heilongjiang Expressway	1,100	786
1994	1325	Yunnan Expressway	2,300	1,780
1994	1336	Beijing Environmental Improvement	2,393	3,374
1995	1386	Fujian Soil Conservation and Rural Development	308	480
1995	1387	Hebei Expressway	3,662	3,910
1995	1388	Liaoning Expressway (Tieling -Siping)	2,993	855
1995	1411	Second Yantai Port	0	300
1995	1417	Fujian Mianhuatan Hydropower	41,054	39,393
1995	1419	Ping Hu Oil and Gas Development	40	40
1996	1427	Fangcheng Port	188	188
1996	1436	Second Industrial Energy Efficiency and Environment Improvement	200	0
1996	1439	Daxian-Wanxian Railway	11,290	17,570
1996	1470	Chongqing Expressway	11,200	9,381
1996	1483	Shenyang-Jinzhou Expressway	465	1,320
1996	1484	Jiangxi Expressway	1,494	2,069
1996	1490	Anhui Environment Improvement Project-Water	35	362
1997	1543	Xi'an-Xianyang-Tongchuan Environment Improvement	2,200	11
1998	1644	Yunnan Dachaoshan Power Transmission	869	492
1997	1553	Shenmu-Yanan Railway	12,518	0
1997	1582	Northeast Power Transmission	10,100	9,718
1998	1617	Hebei Roads Development	12,814	37,932
1998	1626	Guizhou-Shuibai Railway	2,466	29,653
1998	1636	Fuzhou Water Supply and Wastewater Treatment	514	521
1998	1641	Changchun-Harbin Expressway:Hashuang Expressway	2,250	4,006
1998	1638	Chengdu-Nanchong Expressway (direct APs)	17,517	34,196
1998	1642	Changchun-Harbin Expressway:Changyu Expressway	5,858	5,468
1997	1544	Zhejiang-Shanxi Water Conservancy	36,888	37,199

Year	Loan No.	Project Name	AP (Appraisal)	AP (Actual)
1999	1685	Northeast Flood Damage Rehabilitation	2,035	493
1999	1691	Southern Yunnan Road Development	5,376	21,329
1999	1692	Suzhou Creek Rehabilitation	17,552	22,256
Vietnam				
1994	1344	Red River Delta Water Resources Sector	540	652
1995	1361	Provincial Towns Water Supply and Sanitation	45	200
1995	1404	Fisheries Infrastructure Improvement	2,860	3,596
1996	1487	Second Road Improvement (Phase I)	3,460	81,616
Philippines				
	1042	Sixteenth Power (Masinloc Thermal Power)	0	1,089
1994	1333	Airport Development	3,800	5,277
1995	1367	Regional Municipal Development	1,733	677
1995	1398	Northern Luzon Transmission and Generation (19th Power)	300	1,128
India				
1995	1405	Power Transmission (Sector)	0	435
1995	1415/1416	Karnataka Urban Infrastructure Development (Government of India and HDFCL)	800	0
Other Countries				
1995	1369-LAO	Champassak Road Improvement	259	260
1996	1424-PAK	Ghazi Barotha Hydropower	650	0
1996	1428-INO	North Java Road Improvement	40,000	53,375
1996	1452-NEP	Kali Gandaki-A Hydroelectric	375	375
1996	1468-CAM	Phnom Penh Water Supply and Drainage	80	930
1996	1478-BAN	Jamuna Bridge Access Roads	460	1,317
1998	1666-BAN	Flood Damage Rehabilitation	175	0
2001	1852-TAJ	Emergency Restoration of Yavan Water Conveyance System	33	30

AP = affected person, BAN = Bangladesh, CAM = Cambodia, INO = Indonesia, LAO = Lao People's Democratic Republic, NEP = Nepal, No. = number, PAK = Pakistan, PCR = project completion report, TAJ = Tajikistan.

Note: For the Chengdu-Nanchong Expressway Project, only the direct APs were counted, as the PCR did not record the numbers of indirectly affected people that were anticipated by the Report and Recommendation of the President.

Source: All fifty-one project completion reports which allowed for comparisons of estimated and actual APs.

Table A5.7: Summary of Estimated and Actual Numbers of Affected Persons by Country and Sector, Infrastructure Projects Approved Since 1994, and with Project Completion Reports, All Countries

Item	Total Affected Persons		
	At Appraisal	At Closing	% Difference
By Country			
People's Republic of China	212,891	292,308	37
Viet Nam	6,905	86,064	1,146
Philippines	5,833	8,171	40
India	800	435	(46)
Other Countries	42,032	56,287	34
By Sector			
Agriculture and Natural Resources	3,400	4,338	28
Energy	59,200	58,781	(1)
Multisector and Industry	7,444	5,024	(33)
Transport and Communications	141,470	312,588	121
Water Supply and Sanitation	56,947	62,534	10
Total Affected Persons	268,461	443,265	65

Source: All 51 project completion reports issued until end 2005 for projects in transport, energy, water, urban/multisector, and agriculture and natural resources.

**THIRTY PROJECTS WITH HIGHEST NUMBER OF AFFECTED PERSONS
BETWEEN 1994 AND 2005; INVOLUNTARY RESETTLEMENT**

Loan No.	Year	Project Name	DMC	Sector	No. of APs	
1	1305	1994	Jing-Jiu Railway Technical Enhancement	PRC	TC	210,000
2	1638	1998	Chengdu-Nanchong Expressway ^a	PRC	TC	205,500
3	1298	1994	Jamuna Multipurpose Bridge	BAN	TC	77,200
4	1748	2000	Hefei-Xi'an Railway	PRC	TC	76,500
5	1653	1998	Third Road Improvement	VIE	TC	71,400
6	1745	2000	Pasig River Environmental Management and Rehabilitation Sector Development Program	PHI	ANR	55,000
7	1417	1995	Fujian Mianhuatan Hydropower	PRC	EN	41,000
8	1820	2000	Melamchi Water Supply	NEP	WS	40,913
9	2182	2005	Zhengzhou-Xi'an Railway	PRC	TC	37,000
10	2089	2004	Hunan Roads Development II	PRC	TC	36,978
11	1544	1997	Zhejiang-Shanxi Water Conservancy	PRC	WS	36,888
12	1784	2000	Chongqing-Guizhou Roads Development: Guizhou Component (Chongzun Expressway)	PRC	TC	31,800
13	1851	2001	Guangxi Roads Development	PRC	TC	31,700
14	1428	1996	North Java Road Improvement	INO	TC	31,300
15	2024	2003	Xi'an Urban Transport Project	PRC	TC	29,044
16	1660	1998	GMS: Phnom Penh-HCMC Road Improvement	VIE	TC	27,925
17	2051	2003	Yichang-Wanzhou Railway	PRC	TC	25,175
18	1839	2001	Western Transport Corridor	IND	TC	24,012
19	2181	2005	Central Sichuan Roads Development	PRC	TC	22,871
20	1850	2001	Ganzhou-Longyan Railway	PRC	TC	19,340
21	2029	2003	National Highways Sector I	IND	TC	17,088
22	1945	2002	GMS: Cambodia Road Improvement	CAM	TC	16,665
23	1732	1999	Rural Electrification, Distribution and Transmission	NEP	EN	16,000
24	2094	2004	Guangxi Roads Development II	PRC	TC	15,519
25	2004	2003	Ningxia Roads Development	PRC	TC	14,800
26	2125	2004	Gansu Roads Development	PRC	TC	14,750
27	1701	1999	Shanxi Roads Development	PRC	TC	13,900
28	2103/ 2104	2004	NWFP Road Development Sector and Subregional Connectivity	PAK	TC	13,590
29	2219	2005	Hunan Roads Development III	PRC	TC	13,078
30	1944	2002	East West Corridor	IND	TC	13,064

ANR = agriculture and natural resources, AP = affected person, BAN = Bangladesh, CAM = Cambodia, DMC = developing member country, EN = energy, IND = India, INO = Indonesia, MS = multisector, NEP = Nepal, No. = number, PAK = Pakistan, PHI = Philippines, PRC = People's Republic of China, TC = transport and communications, VIE = Viet Nam, WS = water supply and sanitation.

^a Number of APs for this project is the total of 17,500 APs with primary resettlement impact and 188,000 APs with secondary resettlement impact.

Note: Loan 1305-PRC: Jing-Jiu Railway Technical Enhancement, approved in 1994, was exclusively for equipment purchase. The number of resettled people prior to loan approval because of construction unrelated to the ADB loan has not been added to the totals for the tables regarding estimated and actual number of APs.

Sources: (i) 1994–2005 data from the Environment and Social Safeguards Division of the Regional and Sustainable Development Department of the Asian Development Bank; (ii) 2002–2005 number of APs data from resettlement plans posted in Asian Development Bank Involuntary Resettlement website, and reports and recommendations of the President.

DAMS IN ASIAN DEVELOPMENT BANK-SUPPORTED PROJECTS

Table A7.1: ADB Loans with Dam Component to Overall Portfolio

	No. of Loans			Amount (\$ million)		
	With Dams	All Loans	%	With Dams	All Loans	%
1970–1979	36	422	8.5	771.43	5,707.70	13.5
1980–1989	27	538	5.0	1,347.48	18,226.35	7.4
1990–1999	19	665	2.9	1,937.53	43,571.14	4.4
2000–2005	7	413	1.7	583.30	26,827.78	2.2
Total	89	2,038	4.4	4,639.74	94,332.98	4.9

ADB = Asian Development Bank, No. = number.

Source: ADB portal and ADB website on water resources. Available: <http://www.adb.org/water/topics/dams/pdf/Dams-Database.pdf>

Table A7.2: Completed ADB-Financed Large Dams Since 1994

Loan No.	DMC	Project	Amount (\$ million)	Year Approved
1318	PRC	Hunan Lingjintan Hydropower	116.0	1994
1329	LAO	Theun-Hinboun Hydropower	60.0	1994
1386	PRC	Fujian Soil Conservation and Rural Development	65.0	1995
1417	PRC	Fujian Mianhuatan Hydropower	170.0	1995
1424	PAK	Ghazi Barotha Hydropower	300.0	1996
1452	NEP	Kali Gandaki "A" Hydroelectric Power	160.0	1996
1456	LAO	Nam Leuk Hydropower	52.0	1996
1462	SRI	North Central Province Rural Development	20.0	1996
1544	PRC	Zhejiang-Shanxi Water Supply Project (Phase I)	100.0	1997
1668	PHI	Southern Philippines Irrigation Sector	60.0	1998
Ongoing:				
1757	SRI	Water Resource Management	30.0	2000
1814	PRC	West Henan Agricultural Development Project	64.3	2000
1922	PRC	Hebei Zhanghewan Pumped Storage Project	144.0	2002
1995	PRC	Harbin Water Supply	100.0	2003
2025	VIE	Phuoc Hoa Multipurpose Water Resources	90.0	2003
2032	PRC	Gansu Clean Energy Development	35.0	2003
2162	LAO	GMS Nam-Theun II Hydropower Development	120.0	2005

ADB = Asian Development Bank, DMC = developing member country, NEP = Nepal, No. = number, PAK = Pakistan, PDR = People's Democratic Republic, PHI = Philippines, PRC = People's Republic of China, SRI = Sri Lanka, VIE = Viet Nam.

Sources: ADB portal and ADB website on water resources. Available: <http://www.adb.org/water/topics/dams/pdf/Dams-Database.pdf>

Table A7.3: Large Dams in the Loan Pipeline

DMC	Title	Amount (\$ million)	Year to be Approved
IND	Uttaranchal Power Sector Development	300	2006
PRC	Rural Electrification Development Project (formerly Renewable Energy in Rural Areas)	100	2006
PRC	Guiyang Integrated Water Resources Management	150	2006
SAM	Savaii Renewable Energy	10	2006
NEP	Rural Electrification and Renewable Energy	40	2006
AFG	Hydropower and Transmission Project	100	2007

DMC	Title	Amount (\$ million)	Year to be Approved
IND	Kerala Power Sector Development Project	200	2007
VIE	Song Bung 4 Hydropower Project	180	2007
PHI	Metropolitan Waterworks and Sewerage System - New Water Source Development ^a		

AFG = Afghanistan, DMC = developing member country, IND = India, NEP = Nepal, PHI = Philippines, PRC = People's Republic of China, SAM = Samoa, VIE = Viet Nam.

Note: Pipeline list based on the Project Performance Information System as of 26 August 2005; Dam details based on report and recommendation of the President and/or project completion report.

^a Tentative depending on outcome of feasibility study.

Source: Asian Development Bank website on water resources. Available: <http://www.adb.org/water/topics/dams/pdf/Dams-Database.pdf>

LAND ACQUISITION AND RESETTLEMENT ISSUES DISCUSSED IN PROJECT COMPLETION REPORTS

A. Loan 1318-PRC: Hunan Lingjintan Hydropower Project

- (i) Slow disbursement and shortfall in the release of the resettlement budget to the affected people;
- (ii) Diversion of CNY19 million from the Taoyuan County finance department's resettlement budget to pay alleged shortfalls in the cultivated land tax;
- (iii) Slow progress of evaluation and acceptance of resettlement completion;
- (iv) Landslide along the bank reservoir, which may require further household relocations;
- (v) Occasional flooding of the reservoir area, which makes restoration of livelihood and income difficult for certain households (flooding threatens about 700 persons near the reservoir shore). Also, no funding has been made available from the project profits (the reservoir development fund). Thus, further measures are urgently needed to ensure that the incomes of affected persons do not continue to be reduced.

B. Loan 1417-PRC: Fujian Mianhuatan Hydropower

- (i) In April 2000, one of the senior officials supervising relocation was accused of receiving bribes, and received a court sentence. The Asian Development Bank (ADB) promptly requested the government to carefully review the implementation of the resettlement plan (RP) and ensure that all funds are used for the purpose intended;
- (ii) In April 2002, the external monitor reported that many of the affected people had still not been restored to their preproject income levels. The Fujian Provincial Government and Longyan Municipal Resettlement Office disputed the findings of the external monitor. The Shanghang and Yongding County Statistics Bureaus conducted a survey in early 2003 that revealed that incomes were much higher on average, but still an estimated 25% of households had not restored their preproject income levels.

C. Loan 1439-PRC: Daxian-Wanxian Railway

- (i) Two main problems were observed regarding housing. The first was the small average size of affected persons' (APs) new houses as a result of low compensation standards. Small house size makes it difficult for APs to lease their houses to earn extra income. The second problem was that some APs were relocated to remote areas with few business opportunities. However, when APs' concerns are given full attention by village leaders and local government, the resettlement problems can be resolved in a fair and timely manner.
- (ii) Relocation of affected persons in Wanzhou was tougher than in other areas, because a previous resettlement program related to the Three Gorges Water Resources Project was already making it difficult for the people of Wanzhou to find jobs. Therefore, APs relocated from areas around the Wanzhou railway station were less satisfied than others surveyed.

D. Loan 1484-PRC: Jiangxi Expressway

- (i) While the land prices and resettlement compensation rates paid to affected persons were in line with the Land Administration Law of the PRC, the government has revised rates upwards on a number of occasions since the resettlement plan was completed. Many of the relocated households had either used up their lifetime savings or borrowed from relatives and friends in order to construct better and bigger housing. This created dissatisfaction among 24% of the relocated persons, who said that cash compensation for housing should be sufficient to build bigger and better housing. More frequent dialogue with affected persons and clearer explanations on compensation entitlement would have minimized their dissatisfaction.

E. Loan 1544-PRC: Zhejiang-Shanxi Water Conservancy

- (i) About 11% of affected households have not been able to restore their 1996 income level. The worst-off households in this group resettled in villages around the reservoir or in self-selected relocation sites.

F. Loan 1626-PRC: Guizhou-Shuibai Railway

- (i) Appraisal figures were very low compared with actual figures, due to many design changes to the railway after ADB's approval of the loan.

G. Loan 1641-PRC: Changchun-Harbin Expressway:Hashuang Expressway

- (i) ADB was not kept regularly informed of the resettlement activities. Also, no external monitor was engaged as required by the loan agreement.

H. Loan 1642-PRC: Changchun-Harbin Expressway:Changyu Expressway

- (i) The provincial audit office identified some resettlement issues, such as delays in the compensation payments during implementation, though the necessary mitigation measures were adopted on a timely basis.

I. Loan 1644-PRC: Yunnan Dachaoshan Power Transmission

- (i) One factor in the slow improvement of farmers' incomes was that there were few local enterprises in the rural mountain areas. In addition, most of the affected households lived in mountain areas with tenuous road access to agricultural markets in large towns or cities.

J. Loan 1691-PRC: Southern Yunnan Road Development

- (i) The main concern in relation to resettlement implementation was the lack of funding, which resulted in serious delays in land compensation payments. Compensation was paid in a timely manner for house reconstruction, but payments for land losses were delayed for 1 to 2 years.

K. Loan 1333-PHI: Airport Development

- (i) Land acquisition and resettlement (LAR) activities were among the major issues during project implementation and the main reason for the delay experienced by the project. The Department of Transportation and Communications (DOTC) entered into three Memoranda of Agreement (MOAs) with the City of Davao for LAR. The land acquisition and resettlement plan could have been completed sooner if DOTC and the project implementation unit (PIU) had maintained full control over the resettlement process rather than delegated it to the City of Davao, which had different priorities from those of DOTC/PIU. The LAR process could also have been speeded up if DOTC/PIU had followed a clearer and more systematic project planning and implementation process. The implementation of MOA 3 encountered complications involving mortgaged properties of APs. To solve the issue, an ADB review mission fielded in February 2002 requested DOTC to (i) prepare a full RP based on ADB's resettlement policy for LAR activities still to be carried out under MOA 3; (ii) provide an assessment of past LAR compensation; and if necessary; (iii) provide additional compensation for past land acquisition to ensure replacement value as provided for by ADB policy. DOTC agreed to the first request, but rejected all retroactive action on technical grounds (a retroactive assessment of market value was unfeasible because of ongoing, rapid changes in the real estate market) and legal grounds (the ADB policy was not included in the loan covenants).

L. Loan 1367-PHI: Regional Municipal Development

- (i) "Over time, the settlers established their livelihoods, though for many this meant coping with high transportation costs for commuting to and from Illigan. However, 20% of the original families have moved on, or even moved back to the city center, because they could not cope with the isolation and the 12 km travel from this hillside resettlement colony to the city. Transport costs, lack of income opportunities, and shortage of water supply and electricity were the major problems. This experience suggests that this resettlement project faced sustainability problems."

M. Loan 1398-PHI: Northern Luzon Transmission and Generation (19th Power) Project

- (i) [Stage 2 of Masinloc Project] Project implementation delay was encountered due to delay in acquisition of land.

N. Loan 1042-PHI: Sixteenth Power (Masinloc Thermal Power) Project (Stage 1 of Loan 1398)

- (i) IR, land acquisition, right of way payment, and payment of compensation have delayed implementation of the project. The government and the National Power Corporation should have a more effective strategy for dealing with such issues.

O. Loan 1344-VIE: Red River Delta Water Resources Sector

- (i) Families whose houses were damaged due to nearby piling operations for structures complained that they faced difficulties in receiving compensation

- payments, as the resettlement and compensation plan did not foresee such damage. These families did receive compensation, but with a delay.
- (ii) One adverse impact observed by the PCR Mission has been the reduction and loss of income of families engaged in fishing activities in one of the subprojects due to the reduction of saline water intrusion as a result of the project.

P. Loan 1404-VIE: Fisheries Infrastructure Improvement

- (i) APs at the Ca Mau Port submitted the following issues to the provincial authorities: (i) the compensation rate was lower than the local authority promised at the beginning; (ii) some people got higher compensation for the same item; and (iii) the land at new resettlement zone was sold to only some people, not to everyone as committed by the local authority. The resettlement for Ca Mau Port was completed in 2002, when provincial authorities had resolved all resettlement issues.

Q. Loan 1487-VIE: Second Road Improvement (Phase I)

- (i) Resettlement in connection with upgrading of the 16 kilometers of connecting roads was carried out according to national standards, rather than the standards agreed to under the project. The national resettlement standard is less advantageous to those being resettled than ADB's, but the differences are minor. The nongovernment organization appointed to monitor resettlement—the Research Center for Gender, Family, and Environment in Development (CGFED)—informed the Project Completion Report Mission that they had not noted the deviation but found that all affected people had been fully compensated. The mission believes the deviation was accidental.

DAMS AND RESETTLEMENT

1. Because of their scale, scope, and impacts, dams are often at the center of controversy between governments, multilateral development banks, affected persons (APs) and nongovernment organizations (NGOs). Resettlement issues associated with large dams are of particular concern to NGOs.¹ The report of the World Commission on Dams² identified several reasons for this: (i) worldwide, resettlement associated with large dams accounts for a significant part of total resettlement associated with all public infrastructure development; (ii) once constructed, dams are irreversible; (iii) large dams are generally justified by national economic benefits, while their adverse impacts on APs are local within the confines of the river valleys—the mismatch between benefits and costs contributes to confrontation; (iv) resettlement for large dams is more complex than that associated with roads, railways, canals, thermal and water plants—usually more people are involved, whole communities are moved and APs lose both their homes, livelihoods, and cultural assets; (v) the more APs, the more difficult are resettlement issues; (vi) dams can affect both the upstream and downstream populations; (vii) the APs are often poor and indigenous peoples, and gender issues are not properly considered; (viii) alternatives are not investigated to minimize resettlement and adverse social impacts; (ix) the entitlements of APs to improve their livelihoods and quality of life are often not recognized, and negotiations with APs do not result in mutually agreed upon and legally enforceable mitigation and development provisions; and (x) agreed upon mitigation measures are not implemented or are not adequate to offset the actual adverse impacts on people—payment of cash compensation is often delayed, mitigation efforts are often insufficient to replace lost livelihoods, and resettlement budgets are frequently underestimated.

2. The report concluded, “Pervasive and systematic failure to assess the range of potential negative impacts and implement adequate mitigation, resettlement and development programs for the displaced, and the failure to account for the consequences of large dams for downstream livelihoods have led to the impoverishment and suffering of millions, giving rise to growing opposition to dams by affected communities worldwide.” Some of the key resettlement issues as identified by World Commission on Dams are summarized in Box 1.

¹ NGOs are also concerned about environmental and many other issues associated with large dams, but this report focuses on resettlement issues.

² World Commission on Dams. 2000. *The Report of the World Commission on Dams. Dams and Development: A New Framework for Decision-making*. Earthscan Publications Ltd, London and Sterling, VA.

Box 1: Summary of World Commission on Dams Findings on Resettlement

- 40–80 million people have been physically displaced by dams worldwide.
- Millions of people living downstream from dams—particularly those reliant on natural floodplain function and fisheries—have suffered serious harm to their livelihoods and have had the future productivity of their resources put at risk.
- Many of the displaced were not recognized (or enumerated) as such, and therefore were not resettled or compensated.
- Where compensation was provided it was often inadequate, and where the physically displaced were enumerated, many were not included in resettlement programs,
- Resettlers rarely had their livelihoods restored, as resettlement programs have focused on physical relocation rather than on the economic and social development of the displaced.
- Even in the 1990s, impacts on downstream livelihoods were not adequately assessed or accounted for in the planning and design of large dams.
- There is a clear relationship between the magnitude of displacement and the ability to rehabilitate and restore livelihoods adequately—the larger the number of displaced people, the less likely it is that livelihoods can be restored.

Source: World Commission on Dams. 2000. *The Report of the World Commission on Dams. Dams and Development: A New Framework for Decision-Making*. Earthscan Publications Ltd., London and Sterling, VA.

3. An NGO Forum on an Asian Development Bank (ADB) report³ examined ADB's support for dam projects, particularly those involving large dams, and included case studies for three projects: (i) Theun-Hinboun Hydropower in the Lao People's Democratic Republic (Lao PDR), for which ADB approved a loan on 8 November 1994; (ii) Nam Leuk Dam in the Lao PDR, with a loan approved 10 September 1996; and (iii) Kali Gandaki "A" Hydroelectric Project⁴ in Nepal, with a loan approved 23 July 1996. Major issues related to resettlement included (i) resettlement programs focused predominantly on physical relocation rather than restoring the livelihoods of displaced people; (ii) not all affected people were identified and adequately compensated, particularly communities downstream of the dam, those without land or legal title, and those affected by project infrastructure other than the reservoir; and (iii) indigenous people were adversely affected by a loss of their livelihoods and cultural way of life. Some Operations Evaluation Department (OED) reports have reached similar conclusions:

- (i) **Theun-Hinboun Hydropower Project:** The major conclusions of the ADB NGO Forum report about the resettlement aspects of this project were (i) a lack of prior consultation with APs, (ii) insufficient plans for direct compensation for APs, and (iii) adverse livelihood impacts on APs living in the upstream and downstream areas. The results of independent investigations and work of NGOs contributed to the preparation of a Mitigation and Compensation Program Report in 2000, two years after project completion. ADB's evaluation of this project⁵ rated it as successful. It was well designed, generated substantial foreign exchange earnings, was financially and economically viable, and was physically sustainable. However, the evaluation documented adverse environmental and social impacts and reached broadly similar conclusions as those of the NGO Forum on ADB. The project was approved before ADB had adopted its

³ Nuera, Auturo. *The Asian Development Bank and Dams. NGO Forum on ADB*. November 2005. Manila.

⁴ OED selects at 25% random sample of projects for independent evaluation. Although the Kali Gandaki "A" Hydroelectric Project was in the population of projects considered for evaluation in 2006, it was not selected.

⁵ ADB. 2002. *Project Performance Audit Report on the Theun-Hinboun Hydropower Project*. Manila.

Resettlement Policy. Due to the lack of baseline data on environmental and social impacts, issues related to fisheries, riverbank erosion, and sedimentation and the potential number of affected villages were not well understood. A lack of attention to resettlement matters during project formulation resulted in adverse impacts on APs. Independent third party monitoring reported that, while progress was being made after the adoption of the mitigation and compensation program, there remained concerns over the restoration of livelihoods. This experience underscores the difficulties of replacing natural resource and river-based livelihoods with agricultural-based livelihoods. NGOs continue to follow up with ADB and the government on the implementation of mitigation measures.

- (ii) **Nam Leuk Hydropower Project:** The report of the NGO Forum on ADB concluded that the Nam Leuk dam had adversely affected APs, both upstream and downstream, through increased health problems, food shortages, flooding, damage to fisheries and livestock, poor water quality and lack of potable water, illegal logging, and corruption associated with the project. The overall conclusion was that APs, including indigenous people, had not been adequately compensated for the losses caused by the project, and that some were poorer after Nam Leuk was built. The OED evaluation of the Nam Leuk project⁶ rated it as successful for reasons similar to the Theun-Hinboun Hydropower Project. The physical relocation was limited (16 families) and was generally successful. Many of the families were happier with their new lifestyle and with the facilities available at their new location. However, consistent with the findings of the NGO Forum on ADB, the evaluation documented adverse impacts on upstream and downstream APs after plant startup. Mitigation measures relating to reduced water quantity and impact on quality of fisheries were not fully addressed. Baseline data and monitoring of water quality and fisheries were not adequate to ascertain the project impacts, and mitigation measures were not developed. Institutional weaknesses and inadequate funds led to incomplete mitigation measures in some surrounding villages. Mitigation measures were managed effectively during project implementation, but more attention should have been paid to the mitigation measures after plant startup. NGOs remain concerned about the implementation of agreed upon mitigation measures. Their attention has provided incentives for ADB to continue monitoring the Nam Leuk Project.

4. Because of the concerns about environmental and social impacts of dams, OED undertook a special evaluation study (SES) of this topic.⁷ The four case studies⁸ examined were designed before the IR policy was adopted in 1995. When this study began in 1998, projects approved after ADB adopted the IR policy had not reached sufficient progress in implementation to draw meaningful assessments or recommendations. Although the evaluation concluded that the projects had not resulted in disastrous social impacts, there were shortcomings observed, most of which could have been avoided or mitigated with more diligence. Identification, and mitigation of project impacts improved in the later projects. The SES concluded that (i) the consultation process was not very effective in most of the study projects; (ii) the preparation of study projects in terms of social and resettlement concerns was weak due to the quality of baseline data and incompleteness of coverage; (iii) monitoring impacts was better during

⁶ ADB. 2004. *Project Performance Audit Report on the Nam Leuk Hydropower Project*. Manila.

⁷ ADB. 1999. *Special Evaluation Study on the Social and Environmental Impacts of Selected Hydropower Projects*. Manila.

⁸ Batang Ai Hydropower Project in Malaysia, approved in 1981; Power XX (Singkarak) Project in Indonesia, approved in 1990; Hunan Lingjintan Hydropower Project in the PRC, approved in 1994; and Theun-Hinboun Hydropower Project in Lao PDR, approved in 1994.

construction than in the operations phase; (iv) the institutional capabilities of agencies dealing with social concerns varied across countries; (v) ADB staff members' involvement in preparing project social documents and recommending their inadequacy to the Board created an awkward dual function;⁹ (vi) some of the project units responsible for implementing environmental and social mitigation measures were inappropriately staffed, inadequately funded, and established too late, with insufficient authority; and (vii) at the time of the study, ADB policies and guidelines for incorporating social dimensions into ADB operations were still maturing, with ADB staff displaying a limited understanding of ADB's involuntary resettlement policy principles.

5. More recent evaluation findings, including work undertaken for this study, regarding resettlement associated with dams in the People's Republic of China (PRC) are summarized below:

- (i) **Hunan Lingjintan Hydropower Project:**¹⁰ The project was technically sound, economically viable, and rated as successful. However, there were resettlement weaknesses. Approximately 3,587 people were resettled, and there were 6,100 APs, including those that required livelihood restoration. The evaluation found that (i) more than 50% of those who had resettled reported a decline in nominal income and attributed this to the shortage of farmland and ineffective production rehabilitation; (ii) only 8% of survey respondents were satisfied with the outcome of the economic rehabilitation; (iii) relocation was not completed because of financing constraints and cumbersome procedures; and (iv) while the majority of APs were happy with their new houses, many were dissatisfied with livelihood restoration and with compensation policies. There was a lack of follow up by ADB and the government on recommendations to address these issues. ADB needs to be more proactive in pursuing the recommendations after projects are completed.
- (ii) **Fujian Mianhuatan Hydropower Project:**¹¹ The project was rated as successful and appears to be financially viable. Resettlement has been implemented in accordance with PRC regulations and the provisions of the ADB-approved Resettlement Plan. Actual people affected by the project were 39,393, of whom 30,640 lost farmland and 36,913 lost housing. Figures are lower than the initial estimate of 41,000 affected people. Training programs were arranged by the local government to enhance resettlement management; and physical resettlement of people was quite successful. However, despite these, the restoration of livelihood of affected persons remains an issue. Regulations and compensation standards have limited the ability to restore livelihoods. Another possible reason was the APs' decision to spend more money on housing rather than on means of production. ADB has already intervened to increase the provision of resettlement budget, but this may not have been adequate to address the needs of all people.
- (iii) **Zhejiang Shanxi Water Supply Project:**¹² The project was rated as successful, and resettlement was carried out successfully in accordance with the ADB-approved resettlement plan and local regulations. APs were estimated to be 37,256 at project appraisal; at completion actual APs slightly decreased to 37,199. These people were moved to 123 resettlement sites in 10 counties or

⁹ This issue was addressed during the 2002 reorganization and changes in ADB's business processes.

¹⁰ ADB. 2005. *Project Performance Evaluation Report on the Hunan Lingjintan Hydropower Project in the People's Republic of China*. Manila.

¹¹ Loan 1417-PRC: *Fujian Mianhuatan Hydropower Project*, for \$170 million, approved 14 December 1995.

¹² Loan 1544-PRC: *Zhejiang-Shanxi Water Supply Project*, for \$100 million, approved 23 September 1997.

districts within Wenzhou city. The implementation of the resettlement plan was highly participatory, which led to its success. The plan's resettlement strategy emphasized relocation of APs to the coastal plain to improve their socioeconomic conditions and reduce poverty. Another resettlement strategy was to allow the host community residents to transfer their registration from farm to nonfarm status and become urban residents. Contracted farmlands were then returned to the village collective to make way for resettlers. A ten-year post resettlement rehabilitation plan is currently under implementation by a very dedicated Resettlement Office in Wenzhou. This policy was a first for the PRC. The resettlement is successful as most APs (89%) have restored and improved their income.

6. Dam projects that result in complex resettlement and livelihood issues need to be carefully prepared. Overall, ADB-financed hydropower projects have been rated as successful and have been technically and economically sound. However, there have been problems associated with resettlement and livelihood restoration. There is some evidence to suggest that, after ADB began paying more attention to resettlement issues, more effective plans have been developed to identify and mitigate resettlement and livelihood restoration risks. However, it is too early to draw firm conclusions about the results achieved, as most of the dam projects financed after the policy was adopted have not been evaluated.

7. Experience in the Lao PDR suggests that some of the recommendations of project evaluations have resulted in improvements in the design and delivery of more sustainable social and environmental mitigation programs in hydropower projects, including the development of baseline data against which to monitor impacts. ADB now includes covenants that provide for long-term monitoring. The design of the Nam Theun 2 hydropower project,¹³ which reached financial closure in May 2005, incorporated recommendations made by OED, including a comprehensive consultation process with the local population, studies of the environmental and social effects of the project and mitigation measures. However, NGOs remain concerned that there will be inadequate implementation of the measures needed to offset potential adverse environmental and resettlement impacts, particularly on the poor.

8. ADB's experience with hydropower projects in the Lao PDR illustrates that NGOs can play a role in identifying impacts and mitigation measures on APs and strengthening the monitoring of the implementation of the mitigation measures, particularly in the post operation phase, when ADB's monitoring and follow up activities normally cease. However, the Lao PDR experience also indicates that the transaction costs to ADB and the executing agency can be very high when international NGOs strongly oppose large dam projects (see also the Nam Theun 2 example in Section B of Chapter V in the main text). Ways need to be developed to reduce such transaction costs. If both ADB and NGOs are working to achieve the same objective (i.e., to identify and mitigate adverse impacts on APs) it should be possible to find ways to cooperate in a less antagonistic manner.

¹³ Loan 2162-LAO: *Greater Mekong Subregion Nam Theun 2 Hydroelectric Project*, for \$20 million, approved 4 April 2005.

ASIAN DEVELOPMENT BANK INSPECTIONS AND COMPLIANCE REVIEWS

A. Samut Prakarn Wastewater Management Project

1. The inspection was the result of a request made on 5 April 2001 to the Board Inspection Committee (BIC) from complainants represented by the Mayor of Klong Dan and two other Klong Dan residents. The complaint concerned the relocation of the treatment plant as a result of the Pollution Control Department's (the Executing Agency [EA]) decision to allow bids for a single plant site instead of the two planned originally. Due to various circumstances, the project cost had increased, which led to supplementary financing from the Asian Development Bank (ADB) in December 1998, but without the project being subjected to reappraisal.

2. The complainants raised several issues, among which were environmental issues and ADB's noncompliance with its policies on Involuntary Resettlement (IR), Incorporation of Social Dimensions in Bank Operations, and Supplementary Financing of Cost Overruns. There were alleged to be also irregularities in land acquisition. The complainants argued that ADB violated its Policy on Supplementary Financing of Cost Overruns by not reappraising the project, and alleged that ADB violated its IR Policy, not having prepared a social impact analysis or a Resettlement Plan (RP). Neither had there been any consultation or discussion with the community. Management's response was initially that there was indeed no RP for the Project but (i) the relevant policy was issued after loan approval, and the reappraisal for the supplementary loan focused on the cost overrun; (ii) the treatment plant site acquired did not involve any resettlement, and was located well away from any community; and (iii) it was necessary to complete detailed design work to determine the exact size and location of the economic exclusion zone around the marine outfall before the affected persons (APs) could be identified. Management also responded that the detailed design work was not completed until 2000 and that the final boundaries were determined only in 2001. By that time, due to contractor problems, a draft compensation plan¹ (also referred to as the RP), had not been submitted to ADB for review. ADB approved an inspection, and the inspection panel confirmed that there were indeed breaches of the policies on IR, incorporation of social dimensions, and supplementary cost financing, which essentially followed from the incorrect decision not to reappraise the project at the time of the request for supplementary financing.

3. The Inspection Panel confirmed that, although there was no need for resettlement under the project, the new site had adverse effects on the livelihood of some of the people in the surroundings. As a result of the establishment of an exclusion zone, certain mussel farmers—it was never established how many—would be excluded from their usual fishing grounds. The Inspection Panel also found no evidence that the community had been involved in a meaningful negotiation process over compensation, although it had been informed that compensation had been given to some of these farmers. The potential impacts of the plants on the fish farmers in the vicinity were identified as changes in salinity, or contamination with pathogens or heavy metals. The community near the treatment plant was also judged to be affected by the odor from industrial activities, sludge management, and adverse effect on property values.

4. The complainants alleged that the process of compensation for land had been infected by corruption. The purchase price had been inflated and the fact that the actual purchase price was equal to the maximum allowed under the contract was deemed an indication of collusion

¹ Based on the Fourth Semiannual Report on Implementation of the Recommendations of the BIC, "following the decision to declare the turnkey contract null and void, and the subsequent cessation of all project activities, no further action or progress has occurred on the compensation plan, monitoring activities, community involvement initiatives, or odor and effluent management".

between the buyer and the seller. The Thai National Counter Corruption Commission and the Thai Senate Environment Committee independently investigated the irregularities related to land acquisition. Based on an investigation of the project's single turnkey contract by a committee constituted by the Minister for Natural Resources and Environment in the Government of Thailand, the presence of irregularities was confirmed, resulting in the EA declaring the contract null and void. With respect to the fraud charges the EA laid against several individuals associated with the acquisition of the land for the wastewater treatment plant, a few key personnel in EA have been cleared, while others are still under investigation. The project has been suspended in a state of 95% completion and has not been operational up to the date of this study. No further action is likely to be taken until the contractual dispute between the EA and the turnkey contractor is resolved.

B. Chashma Right Bank Irrigation Project Stage III

5. Alleged violation of the IR and Indigenous Peoples policies was also part of the justification of this inspection. In November 2002, BIC received a request for this on account of material harm to APs, including, involuntary resettlement; inadequate compensation for the loss of land, other assets, and livelihood; and adverse impacts on traditional hill torrent farmers. The complaint was mainly a result of the change in the final realignment/location and detailed design of the main canal and distributaries, which implied a shift in the alignment of the main canal of up to two kilometers, and new designs for a number of cross drainage structures. Again, ADB had approved a supplementary loan without a full reappraisal of the project.

6. Complaints related to IR concerned the identification of the need for resettlement and resettlement planning. According to the request for inspection, at least 22 villages were subject to the risk of flooding, a situation overlooked at the time of appraisal. The Social Survey and Action Plan proposed in 1997 had not been delivered until 2001. APs had not been properly informed and consulted. Meanwhile, the indigenous hill torrent irrigation systems were negatively affected by diversions and disturbances to the flow of water. The Panel concluded that ADB had breached its policies on IR and incorporation of social dimensions. In addition, the feasibility study and appraisal document that were the bases for approving the loan did not address the issues of "rights of tribal/ethnic minorities, cultural integrity and traditional land use control," as specified in the 1986 Staff Instructions on Socio-cultural Impacts of Bank Projects.

7. The recommendations, approved by the Board, included some that were addressed exclusively to ADB and went beyond the Chashma project itself, raising the bar for safeguard compliance within ADB, and essentially demanding from ADB Management the reallocation of staff to resettlement and anticorruption supervision of canal irrigation projects:

- (i) "with respect to ongoing and future large-scale canal irrigation projects of ADB, ADB [must] ensure that appropriate, reliable, transparent and participatory mechanisms are in place, so that the requirements under ADB's Policy on Involuntary Resettlement and Anticorruption Policy, specifically with regard to the following, can be carried out:
 - (a) adequate compensation for land acquisition on a land-for-land basis or, when not possible, on a cash compensation basis at levels that enable the affected households to buy land of equivalent value;
 - (b) any issues relating to corruption; and
 - (c) the borrowing country's carrying out of any resettlement in accordance with requirements under ADB's Policy on Involuntary Resettlement; and

- (ii) ADB [must] ensure that (a) sufficient ADB human resources are available to ensure a satisfactory level of support for, and monitoring of, the implementation of any resettlement plans, environmental management plans or other measures required under ADB's safeguard policies; and (b) ADB staff are aware of their duties and obligations in the formulation, processing and implementation of ADB-assisted projects pursuant to ADB's operational policies and procedures."

C. Southern Transport Development Project

8. The compliance review for this project was essentially about violation of the IR Policy. The Joint Organization of the Affected Communities of the Colombo-Matara Highway (JO) had filed a request for such a review with ADB's Compliance Review Panel (CRP) on 14 November 2004. The complaint mainly concerned the change in the trace or alignment of the highway from the combined trace to the final trace (FT). The required studies and consultations for the FT were allegedly not done in accordance with ADB policies. JO claimed that APs were suffering or were to suffer, among others, in the form of (i) loss of homes, (ii) loss of livelihood, (iii) dispersion of integrated communities, (iv) damage to five temples, and (v) negative effects of resettlement. The CRP, which determined that the request was eligible, received authorization from the Board on 11 January 2005 to conduct a compliance review, selected findings of which were as follows:

- (i) **Operations Manual (OM) Section 47: Incorporation of Social Dimensions in Bank Operations.** The breach of compliance with this OM section results from shifting of the trace, in the absence of a serious analysis of the Galle access road. The weak management information system (MIS), which did not identify vulnerable people, and the rudimentary income restoration program were seen as serious breaches of compliance.
- (ii) **OM Section 50: Involuntary Resettlement.** The CRP concluded that there had been no public participation in the decision making regarding the significant shifts of the trace. The CRP was also concerned about Management's lack of attention to independent monitoring and the need for supporting performance in the areas of compensation and resettlement.

9. The following resettlement-related recommendations were accepted by the Board:

- (i) require that all APs be fully compensated by actual payment before they are moved;
- (ii) assist in the income restoration program and the establishment of household benchmarks through the MIS for the APs as called for in the Resettlement Implementation Plan (RIP);
- (iii) ensure that full project information, especially the essential elements of the RIP, be provided in an appropriate language to each affected household, rather than simply making it available at the district offices;
- (iv) help establish well-staffed monitoring of resettlement activities by an independent institution, forwarding concerns to the Road Development Authority for urgent action from the APs;
- (v) require immediate provision of utilities and infrastructure to resettlement sites; and
- (vi) require a special emphasis in the RIP and the income restoration program for women, if necessary by the allocation of additional staff to track their recovery as APs.

**PROJECTS WITH RESETTLEMENT/LAND ACQUISITION CONCERNS FROM NONGOVERNMENT ORGANIZATIONS/
COMMUNITY-BASED ORGANIZATIONS^a**

Project Title		Concern/s		Reaction of ADB/Other Agencies
A. Central and West Asia Regional Department				
1. Chashma Right Bank Irrigation Project (Stage III) (Pakistan)	(i)	No comprehensive resettlement plan for compensated APs;	(i)	ADB Board mandated the CRP to monitor implementation progress of recommendations made by the Inspection Panel.
	(ii)	Process for determining compensation neither transparent nor conclusive, characterized by corruption;		
	(iii)	Inadequate compensation; livelihood disruption		
2. Ghazi Barotha Hydropower Project (Pakistan)	(i)	Functioning of resettlement sites;	(i)	Infrastructure in resettlement villages completed; girls school functional;
	(ii)	land acquisition and compensation for transmission line component and payment of compensation to Tarbela Dam APs	(ii)	
B. South Asia Regional Department				
3. Kolkata Environmental Improvement Project (India)	(i)	Understated number of APs; delay in relocation of APs	(i)	Kolkata Municipal Corporation was advised to devise and implement a communications and education strategy for new encroachments, and APs not recorded in the census.
4. Melamchi Water Supply Project (Nepal)	(i)	Project's impact on traditional livelihood of residents;	(i)	ADB explained the process followed in preparing RAP. An NGO was to be engaged to carry out external monitoring of the RAP.
	(ii)	Residents not consulted when RAP was prepared	(ii)	
	(iii)	Negative impacts due to relocation of homes or acquisition of land		
5. Kali Gandaki "A" Hydroelectric Project (Nepal)	(i)	Objective of rehabilitating the livelihood of APs not achieved;	(i)	ESSD was to carry out a reassessment of the livelihoods of APs and develop a program of sustainable livelihoods based on provision of a microcredit facility.
	(ii)	Impaired fishermen's livelihood		
6. Southern Transport Development Project (Sri Lanka)	(i)	Change in alignment;	(i)	The ADB Management prepared a course of action to implement the CRP's recommendations, which the latter is monitoring.
	(ii)	Land acquisition and resettlement impacts		

Project Title		Concern		Reaction of ADB/Other Agencies
C. Southeast Asia Regional Department				
7. Chong Kneas Environmental Improvement Project (Cambodia)	(i) (ii)	Impact on traditional livelihood of APs; Equitable treatment of APs	(i)	Broad endorsement was given to the proposed approach of resettling APs, including those of Vietnamese origin.
8. East-West Transport Corridor (GMS)	(i)	Dislocation and involuntary resettlement of APs	(i) (ii) (iii)	RIPs were prepared. An international consulting firm was engaged to monitor implementation of resettlement. Beneficiary participation in the process of land acquisition and resettlement encouraged.
9. Metro Medan Urban Development (Indonesia)	(i)	Coercive land acquisition practices (complaint received in early 2003)	(i)	A special administration review mission was fielded. No evidence of coercive practices found.
10. Tangguh LNG Project (Indonesia)	(i)	Resettlement concerns (no details given)	(i)	The Project committed to implement the IR plan in accordance with local regulations and ADB guidelines.
11. Nam Theun 2 Hydropower (Lao People's Democratic Republic)	(i)	Risks associated with livelihood programs for resettled communities on the Nakai Plateau	(i) (ii)	Availability of livelihood options Livelihood programs designed with participatory inputs from community
12. Pasig River Environmental and Rehabilitation Management Program (Philippines)	(i)	Rejection of the 10-meter environmental preservation area zone; need for near-site relocation options; lack of physical progress on URAs	(i) (ii)	Alternatives to off-site relocation identified and evaluated Develop and fund URA strategies that take into account needs of poor communities
13. MWSS New Water Source Development Project (Philippines)	(i)	Resettlement of indigenous people	(i)	Dialogue with complainants held
14. Sixth Road (Philippines)	(i)	Outstanding issues related to land acquisition and resettlement	(i)	ADB is closely monitoring the LAR activities of DPWH for a successful completion of compensation of APs.

ADB = Asian Development Bank, AP = affected person, CBO = community-based organization, CRP = Compliance Review Panel, DPWH = Department of Public Works and Highways, ESSD = Environmental and Social Studies Division, GMS = Greater Mekong Subregion, LAR = land acquisition and resettlement, LNG = liquefied natural gas, NGO = nongovernment organization, RAP = resettlement action plan, RIP = resettlement implementation plan, URA = urban renewal area.

^a As published in the NGO Concerns Briefing Paper, 2004 and 2005 only.

NOTES ON CORRUPTION AND RESETTLEMENT

1. Corruption in resettlement operations can be a serious phenomenon as in any other project operations. Such operations have the potential to provide officials with multiple opportunities to shift cash funds around and coerce affected persons (APs) into paying kickbacks for the timely award of cash compensation. With proper public disclosure of compensation rates and assistance packages and monitoring by civil society, the risk of corruption can, to some extent, be mitigated. The Asian Development Bank (ADB) Involuntary Resettlement (IR) Policy of 1995 and later Operations Manual sections emphasized public disclosure. The rules were sharpened with the promulgation in 2005 of ADB's Policy on Public Communication.
2. The project case studies conducted for this special evaluation study did not focus on corruption. If information was volunteered by APs or others, then this would be recorded, but this was seldom the case in the 16 case studies conducted. There was one exception—in the Fujian Mianhuatan Hydropower Project, a senior project officer was dismissed by the government and convicted of embezzlement of project funds for resettlement operations. The People's Republic of China (PRC) Government systems uncovered this corruption, which did not involve the use of ADB funds. In the study of grievance letters conducted as part of some of the case studies, corruption allegations did not surface.
3. A review of general sources available on the Internet found statements and allegations regarding resettlement-related corruption, particularly for high-profile projects such as the Sardar Sarovar Dam Project in the Narmada Valley in India, and the Three Gorges Project in the PRC. The World Commission on Dams¹ had studied the phenomenon and concluded that corruption sometimes affected some resettlement programs. Some of its findings are included in Box 1. As resettlement operations including land acquisition are seldom financed by ADB loans, the Integrity Division of the Office of the Auditor General (OAGI) has not opened investigations into corruption in resettlement so far. However, as the financing of land acquisition is now permissible, this should become an issue of increasing concern for ADB.
4. Chris de Wet has given an interesting explanation for the occurrence of corruption in resettlement operations:²

“Resettlement and rehabilitation policies are coordinated and implemented at the level of government departments and district administration. There are weaknesses in the chains of communication and decision making due to work pressures, insufficient capacity and problems of coordination between agencies. Though resettlement officers cope as best they can, the result is invariably the development of *ad hoc* institutional arrangements. Local officials exercise considerable discretion as they develop operational routines. This allows for cutting corners and corruption. For the affected population, the local resettlement officer is the government; his or her decisions *are* policy. Implementation takes on a life of its own.”

¹ World Commission on Dams. 2000. *The Report of the World Commission on Dams. Dams and Development: A New Framework for Decision-Making*. Earthscan Publications Ltd, London and Sterling, VA.

² De Wet, Chris. Not dated. *Improving Outcomes in Development-Induced Displacement and Resettlement Projects*. Available: <http://www.fmreview.org/FMRpdfs/FMR12/fmr12.2.pdf>

Box 1: Findings of the World Commission on Dams in 2000

“Corruption is another malaise that has dogged resettlement programmes, as usual at the expense of the displaced people. To consider just one example: ‘According to National Audit Office, officials had embezzled 323 million yuan from funds earmarked for resettlement in the Three Gorges Area’ (China Report 1999: 32). Without a doubt every case of misappropriation would inevitably eat into the already insufficient funds for resettlement, further weakening the programme. Corruption is of course widespread ... and this simply highlights the need for transparency and people’s involvement in every aspect of the resettlement programme.” “... the main complaint of people affected by the Three Gorges Project is corruption among local resettlement officials which has deprived resettlers of large amounts of funds for which they are eligible.”

Comments by resettlement authority Christopher McDowell in the same report sum up corruption in resettlement:

“Corruption by local officials in China and elsewhere has resulted in the siphoning off of hundreds of thousands of dollars intended to be used in Resettlement and Rehabilitation schemes associated with dam development. As a result displaced populations do not have the infrastructure or the financial assistance necessary to pursue livelihood strategies essential for re-establishment; (b) Corruption in the contracting and sub-contracting procedures have resulted in sub-standard constructions. In the Three Gorges project roads and bridges essential for both the projects and the resettlement sites are so shoddily constructed that many are collapsing. Resettled populations are consequently isolated from other population centers, markets and resources, making almost impossible the pursuit of economic strategies essential for re-establishment. (c) Corruption in bidding for contracts, tender procedures and the granting of contracts increases the overall costs of projects (some estimates by 15–30% on average). The ‘corruption levy’ has to be found from somewhere and invariably, though evidence is only now being gathered, the budget first targeted for funds diversion is the resettlement and rehabilitation budget. Thus a direct consequence of corruption is the reduction in funds available for resettlement and rehabilitation. (d) Obfuscating deals between developers and governments [...], is resulting in irregular resettlement occurring outside legal norms. Irregular resettlement results in increased displacement, minimized protection and knock-on displacement where land for resettlers has been secured by unfair means.”

Source: World Commission on Dams. 2000. *The Report of the World Commission on Dams. Dams and Development: A New Framework for Decision-Making*. Earthscan Publications Ltd, London and Sterling, VA.

ASIAN DEVELOPMENT BANK STAFF QUESTIONNAIRE FINDINGS

Number of possible respondents: 641

Number of respondents: 61¹

A. Personal background

A1. What is your current position?

	N	%
Project Officer	44	72
Environmental Specialist	3	5
Social Specialist	3	5
Director/DG	6	10
Other	2	3
No Answer	3	5
Total Respondents	61	100

A2. In which region(s) have you worked?

	N	%
South Asia	30	49
East and Central Asia	18	30
Mekong	19	31
South East Asia	26	43
Pacific	14	23
Total Respondents	61	

A3. In which sector(s) do you principally work?

	N	%
Agriculture and Natural Resources	11	18
Transport	17	28
Energy	14	23
Water Supply/Urban	14	23
Private Sector	6	10
Other	12	20
No Answer	5	8
Total Respondents	61	

¹ Some responses under sections B and C were filtered based on the response to question A6, to reflect only those with experience in the specific safeguard. As a result, the number of valid responses for many questions under sections B and C was 55 for environmental safeguards, 56 for involuntary resettlement safeguards, and 54 for indigenous peoples safeguards. For questions B10, C2, C3, C4, and C5, respondents could give more than one answer per question, and as a result to total number of answers added up to more than 61.

A4. How many years have you been working for ADB?

Years	N	%
< 1	3	5
1–3	19	31
4–6	12	20
7–9	12	20
10–12	5	8
13–15	3	5
> 15	3	5
No answer	4	7
Total Respondents	61	100

A5. What was your experience with safeguard issues before you came to ADB?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
None	13	21	23	38	33	54
Limited	8	13	19	31	13	21
Some	21	34	11	18	9	15
Significant	12	20	4	7	1	2
No answer	7	11	4	7	5	8
Total Respondents	61	100	61	100	61	100

A6. What is your experience in ADB with the safeguard policies?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
None	6	10	5	8	7	11
Limited	9	15	7	11	21	34
Some	18	30	25	41	21	34
Significant	23	38	20	33	8	13
No answer	5	8	4	7	4	7
Total Respondents	61	100	61	100	61	100

A7. How many projects (category A or B) did you prepare and/or administer in which there were (to be) safeguard plans or frameworks

	Prepared		Under Preparation		Administered		Under Administration	
	No. of Projects	No. of Responses	No. of Projects	No. of Responses	No. of Projects	No. of Responses	No. of Projects	No. of Responses
Environment	1	5	1	10	1	1	1	4
	2	7	2	7	2	10	2	2
	3	2	3	3	3	1	3	4
	4	1	5	1	5	2	4	1
	5	3	9	1	7	3	5	3
	6	3			11	1	6	1
	15	2						
	20	1						
	30	1						
Average:	5.7		2.1		3.7		3.0	

	Prepared		Under Preparation		Administered		Under Administration	
	No. of Projects	No. of Responses	No. of Projects	No. of Responses	No. of Projects	No. of Responses	No. of Projects	No. of Responses
Involuntary resettlement	1	6	1	7	1	4	1	2
	2	2	2	6	2	6	2	5
	3	4	3	3	3	3	3	1
	10	1	4	1	5	1	4	1
	20	2			7	1	5	1
					9	1	6	1
							30	1
Average:	4.8		1.9		3.1		6.0	
Indigenous peoples	1	7	1	9	1	2	1	3
	2	4	2	3	2	1	2	5
	4	1	3	1	3	3	5	1
	5	1						
	10	1						
Average:	2.4		1.4		2.2		2.0	

B. How efficient and effective are ADB's safeguard policies?

B1. How useful has been ADB's staff training on safeguard policy issues?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
Not aware of training	2	4	2	4	1	2
Never had any training	10	18	12	21	16	28
Not useful	2	4	2	4	5	9
Somewhat useful	28	50	23	40	19	33
Very useful	7	13	10	18	7	12
No answer	6	11	7	13	6	11
Total Respondents	55	100	56	100	54	100

B2. How clear, useable, and complete are the Operations Manuals (OMs) for implementing each of the safeguard policies?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
Not aware of OMs	1	2	1	2	1	2
I did not read them	5	9	3	5	4	7
Unclear, confusing	4	7	6	11	8	14
Did not resolve all my issues	28	50	32	56	27	47
Usable; resolved all my issues	10	18	6	11	6	11
No answer	7	13	8	14	8	15
Total Respondents	55	100	56	100	54	100

Note: Those not answering the question were deemed to be others than mission leaders

B3. Have you generally been able to mobilize (i) sufficient and (ii) satisfactory consultants to PREPARE safeguard assessments and plans?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
<i>Consultant Inputs:</i>						
Not needed any	8	15	8	14	13	24
Insufficient consultant inputs planned	3	5	4	7	4	7
Sufficient consultant inputs planned	20	36	16	29	11	20
No answer	24	44	28	50	26	48
<i>Consultant Quality:</i>						
Consultants employed not satisfactory	3	5	2	4	4	7
Consultants employed satisfactory	16	29	13	23	8	15
Variable experiences with consultants	17	31	22	39	14	26
No answer	19	35	19	34	28	52
Total Respondents	55	100	56	100	54	100

Note: Those not answering the question were deemed to be others than mission leaders

B4. Have you generally been able to mobilize (i) sufficient and (ii) satisfactory consultants to help IMPLEMENT safeguard assessments and plans?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
<i>Consultant Inputs:</i>						
Not needed any	14	25	12	21	18	33
Insufficient consultant inputs planned	6	11	9	16	3	6
Sufficient consultant inputs planned	10	18	8	14	7	13
No answer	25	45	27	48	26	48
<i>Consultant Quality:</i>						
Consultants employed not satisfactory	1	2	1	2	1	2
Consultants employed satisfactory	11	20	11	20	7	13
Variable experiences with consultants	13	24	17	30	12	22
No answer	30	55	27	48	34	63
Total Respondents	55	100	56	100	54	100

Note: Those not answering the question were deemed to be others than mission leaders

B5. For mission leaders only: Have you generally received sufficient specialist advice from within your department during project PREPARATION?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
Not aware of any advice	1	2	1	2	2	4
No specialist in division, so no access	3	5	7	13	9	17
Did not need any	1	2	1	2	3	6
Insufficient (specialist too busy)	7	13	4	7	3	6
Variable	4	7	7	13	6	11
Sufficient	14	25	10	18	5	9
No answer/non-mission leaders	25	45	26	46	26	48
Total Respondents	30	100	30	100	28	100

B6. For mission leaders only: Have you generally received sufficient specialist advice from within your department during project ADMINISTRATION?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
Not aware of any advice	1	2	1	2	1	2
No specialist in division, so no access	3	5	5	9	8	15
Did not need any	4	7	3	5	5	9
Insufficient (specialist too busy)	7	13	5	9	2	4
Variable	4	7	9	16	4	7
Sufficient	10	18	6	11	6	11
No answer/non-mission leaders	26	47	27	48	28	52
Total Respondents	55	100	56	100	54	100

B7. For mission leaders only: Have you received sufficient specialist advice from RSDD during project PREPARATION?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
Not aware of any advice	1	2	0	0	1	2
Did not need any	2	4	3	5	5	9
Insufficient (specialists too busy)	4	7	6	11	7	13
Variable	13	24	12	21	7	13
Sufficient	9	16	8	14	7	13
No answer/non-mission leaders	26	47	27	48	27	50
Total Respondents	55	100	56	100	54	100

B8. For mission leaders only: Have you received sufficient specialist advice from RSDD) during project ADMINISTRATION?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
Not aware of any advice	1	2	1	2	2	4
Did not need any	8	15	10	18	13	24
Insufficient (specialists too busy)	7	13	9	16	6	11
Variable	9	16	7	13	5	9
Sufficient	3	5	1	2	1	2
No answer/non-mission leaders	27	49	28	50	27	50
Total Respondents	55	100	56	100	54	100

- B9. During project preparation, does ADB give you sufficient (i) resources and (ii) time to properly consider project alternatives with less adverse social/environmental impacts?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
<i>Sufficiency of Resources:</i>						
Generally insufficient resources	14	25	18	32	16	30
Sometimes insufficient resources	17	31	13	23	11	20
Always sufficient resources	4	7	3	5	5	9
No answer	20	36	22	39	22	41
<i>Sufficiency of Time Available:</i>						
Generally insufficient time	12	22	16	29	13	24
Sometimes insufficient time	19	35	17	30	15	28
Always sufficient time	7	13	4	7	5	9
No answer	17	31	19	34	21	39
Total Respondents	55	100	56	100	54	100

Note: High non-response is considered partly due to lower suitability of the question for non-mission leaders.

- B10. In which stages/forums should safeguard issues in category A or B projects receive more attention (if at all)?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
PPTA	37	67	37	66	36	67
Processing missions	20	36	16	29	16	30
MRM/SRC	7	13	5	9	5	9
Board	4	7	3	5	3	6
Review missions	17	31	17	30	18	33
PCRs	10	18	8	14	8	15
Total Respondents	55		56		54	

Note: Question may have more than one answer.

- B11. Do you have sufficient time and resources to satisfactorily supervise the PREPARATION of safeguard assessments/plans?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
Not enough mission resources	22	40	25	45	16	30
Enough mission resources	11	20	7	13	8	15
No answer	22	40	24	43	30	56
Not enough time for missions	20	36	22	39	16	30
Enough time for missions	10	18	5	9	7	13
No answer	25	45	29	52	31	57
Not enough time for supervision	24	44	21	38	17	31
Enough time for supervision	7	13	6	11	6	11
No answer	24	44	29	52	31	57
Total Respondents	55	100	56	100	54	100

Note: High non-response is considered partly due to lower suitability of the question for non-mission leaders.

B12. Do you have sufficient time and resources to satisfactorily supervise the ADMINISTRATION of safeguard plans?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
Not enough mission resources	23	42	24	43	16	30
Enough mission resources	8	15	6	11	5	9
No answer	24	44	26	46	33	61
Not enough time for missions	20	36	21	38	17	31
Enough time for missions	7	13	5	9	5	9
No answer	28	51	30	54	32	59
Not enough time for supervision	20	36	19	34	13	24
Enough time for supervision	8	15	7	13	7	13
No answer	27	49	30	54	34	63
Total Respondents	55	100	56	100	54	100

Note: High non-response is considered partly due to lower suitability of the question for non-mission leaders

B13. If you had any problems in ensuring the application of safeguards during project administration, then please indicate this:

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
No problems so far	15	27	9	16	18	33
Problems in some projects	23	42	25	45	13	24
Problems in all projects	2	4	4	7	2	4
No answer	15	27	18	32	21	39
Total Respondents	55	100	56	100	54	100

B14. Among the factors listed below, which FOUR related to ADB would contribute most to better safeguard policy outcomes?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
More funds for preparation	18	33	18	32	13	24
More time taken for preparation	28	51	29	52	24	44
ADB funding of land acquisition costs	3	5	11	20	3	6
More consultants assigned	7	13	8	14	7	13
More training provided to EAs by ADB	20	36	20	36	19	35
More time/staff for project administration	24	44	24	43	22	41
ADB streamlines its safeguard policies	28	51	28	50	23	43
ADB divisions streamline their interpretation	12	22	13	23	15	28
Streamlined ADB procurement processes	4	7	6	11	6	11
Other streamlined ADB processes	6	11	5	9	4	7
Others			See below			
Total Respondents	55		56		54	

Note: Question may have more than one answer.

Other factors:

Training in social assessment
 Aligning impacts to project benefit stream
 EA being more accountable to ADB for safeguards outcomes
 More training to EAs by ADB
 Government's policy more in line with ADB's policies
 Better explanation by ADB with a reality check if human resources are available at all
 Resolve differences between ADB safeguard policies and government policies

B15. Among the factors listed below, which FOUR related to country or EA would contribute most to better safeguard policy outcomes?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
More internally consistent government regulations	19	35	20	36	15	28
More progressive government regulations	16	29	16	29	13	24
Better enforcement of government policies/regulations	38	69	35	63	25	46
More time taken for project preparation.	18	33	20	36	16	30
More political will and less political interference	24	44	23	41	22	41
Combating of corruption or other irregularities	20	36	23	41	20	37
No answer	1	2	3	5	0	0
Other			None			
Total Respondents	55		56		54	

Note: Question may have more than one answer.

C. What differences do the safeguard policies make?

C1. How have ADB's safeguard procedures added value to your project(s)?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
No added value	6	11	5	9	10	19
Added value in some projects	25	45	27	48	22	41
Added value in all projects	15	27	15	27	9	17
No answer	9	16	9	16	13	24
Total Respondents	55	100	56	100	54	100

C2. For those projects where the safeguards have added value, can you specify the type of added value?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
Improved project design	21	38	13	23	9	17
More due diligence	18	33	13	23	11	20
More experience in EA	14	25	11	20	7	13
Environment/APs suffer less than otherwise	22	40	28	50	18	33
Demonstration effect beyond project	14	25	11	20	7	13
Others			See below			
No answer	15	27	28	50	26	48
Total Respondents	55		56		54	

Note: Question may have more than one answer.

Others:

Environment: Setting examples of sustainable and responsible development

Involuntary Resettlement: APs benefit

Indigenous Peoples: APs benefit

C3. If delays in implementation of your project(s) had to do with safeguard issues, what were main factors?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
Never any delays/no experience	6	11	2	4	3	6
Problems with (hiring of) consultants underestimated	4	7	8	14	6	11
Consultation processes difficult to manage	9	16	14	25	8	15
EA country system different: more time needed	10	18	19	34	11	20
EA not committed: hidden agenda	0	0	10	18	10	19
Safeguard issues misdiagnosed during preparation	6	11	10	18	7	13
ADB processes/internal disagreements	17	31	0	0	16	30
No answer	19	35	20	36	24	44
Total Respondents	55		56		54	

Note: Question may have more than one answer. The high non-response is considered partly due to lower suitability of the question for non-mission leaders or for staff not involved in project administration.

C4. What are incremental/transaction costs incurred as a result of applying the ADB safeguards beyond the requirements of the country system?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
Have not added to cost of project for DMC	4	7	3	5	3	6
Have added to cost of project 1%–3% for DMC	10	18	5	9	9	17
Have added to cost of project 4%–10% for DMC	6	11	9	16	6	11
Have added to cost of project > 10% for DMC	4	7	8	14	2	4
Do not know what was added cost for DMC	13	24	12	21	9	17
Usually add to project delays	18	33	30	54	13	24
Unusual amount of ADB time and mission cost	11	20	18	32	9	17
Unusual amount of consultant cost for PPTA	6	11	8	14	6	11
Do not know about cost for ADB	4	7	3	5	5	9
Unharmonized donor safeguards are confusing	7	13	8	14	5	9
More inconsistent application of country system	3	5	4	7	3	6
No answer	9	16	10	18	8	15
Total Respondents	55		56		54	

DMC = developing member country, PPTA = project preparatory technical assistance.

Note: Question may have more than one answer.

- C5. In your experience, in which countries have the safeguard policies been a major factor in ADB declining to fund specific (sub) projects?

Environment	No. of Responses	Involuntary Resettlement	No. of Responses	Indigenous Peoples	No. of Responses
VIE	2	INO	3	VIE	2
BHU	1	BHU	1	IND	1
IND	1	IND	1	INO	1
INO	1	PHI	1	PHI	1
LAO	1	VIE	1		
MAL	1				
PHI	1				
Total	8	Total	7	Total	5

VIE = Viet Nam, BHU = Bhutan, IND = India, INO = Indonesia, LAO = Lao People's Democratic Republic, MAL = Malaysia, PHI = Philippines.

- C6. In your experience, in which countries have the Safeguard Policies been a major factor in EAs declining ADB loans or parts of loans?

Environment	No. of Responses	Involuntary Resettlement	No. of Responses	Indigenous Peoples	No. of Responses
BHU	2	BHU	2	IND	1
IND	1	IND	2	INO	1
KAZ	1	INO	2	KAZ	1
MAL	1	VIE	2	LAO	1
NEP	1	KAZ	1	MAL	1
PAK	1	MAL	1	VIE	1
PRC	1	SRI	1		
SRI	1				
VIE	1				
Total	10	Total	11	Total	6

BHU = Bhutan, IND = India, INO = Indonesia, KAZ = Kazakhstan, LAO = Lao People's Democratic Republic, MAL = Malaysia, NEP = Nepal, No. = number, PAK = Pakistan, PHI = Philippines, PRC = People's Republic of China, SRI = Sri Lanka, VIE = Viet Nam.

- C7a. What main differences have you had with EAs while administering projects with significant resettlement issues?

	N	%
Cost of RP preparation in sector projects	11	20
Cost of RP implementation	18	32
Definition of encroachers/squatters	19	34
Treatment of encroachers/squatters	25	45
Extent of consultation process	22	39
Definition/level of compensation	24	43
Determination of rehabilitation program	15	27
No answer	20	36
Total Respondents	56	

Note: Question may have more than one answer.

C7b. Frequency of reported differences in administering projects with significant resettlement issues

	N	%
Reported more than one	34	61
Reported only one	2	4
No answer	20	36
Total Respondents	56	100

**ASIAN DEVELOPMENT BANK STAFF SUGGESTIONS FOR IMPROVING SOCIAL
SAFEGUARD POLICIES AND THEIR APPLICATION**
(SUMMARY OF RESPONSES, FOCUSING ON DIVERSITY OF VIEWS)¹

A. Change the Nature of the Policies (12 responses in original):

- (i) The Involuntary Resettlement (IR), Gender, and Indigenous Peoples (IP) policies should be merged into one Social Safeguard Policy.
- (ii) The Policy should acknowledge that there are instances wherein certain individuals would be worse off if the project provided overall benefits to the country. We are spending too much time and effort trying to identify each and every individual affected by the project, and that results in delays and cost overruns.
- (iii) This policy should focus on high-risk projects, but currently, many low-risk projects could be defined as category A. Low-risk projects should be removed from the safeguards, and procedures should be classified as good practices.
- (iv) The present policy is unclear and impractical. Often the result of applying the policy is the inclusion of small elements in projects to meet policy requirements, but these elements are unsustainable and unlikely to be implemented effectively. The policy needs radical reformulation.
- (v) Return to reality. Legitimate landowners and squatters within the project area, including too many opportunistic squatters, are too often treated like lottery winners with their compensation and resettlement package, at the government's expense.
- (vi) Policies have to be more flexible, as countries are not willing to work with the Asian Development Bank (ADB) under the current set of rules. ADB processes have to be streamlined so we need not wait for RSES staff to take 2 weeks to provide comments back to staff at each stage of compliance reviews (checklists, draft resettlement plans [RPs], final RPs, compliance memos, reports and recommendations of the President [RRPs], etc.)—it TAKES TOO LONG to go through this procedure, especially for private sector projects, which have deadlines to meet.
- (vii) Revise the Operations Manual to get away from the current guidance on IP, which is based on the World Bank approach to projects in South America.
- (viii) The definition of IP should be modified. IP should be considered as a vulnerable group and be entitled to specific compensation.
- (ix) We need a clear definition of IP across DMCs, mainstreaming of IP development plans.
- (x) Admit that for most Pacific countries, all the people (with the possible exception of the Fiji Islands) are indigenous. And stop trying, for the sake of ticking off boxes, to create "sub-groups" or otherwise.
- (xi) Indigenous people want to mainstream and improve their lives. They should not be encouraged to maintain their subsistence lifestyle.

¹ These are responses in the ADB Staff Questionnaire Survey for this study.

B. Harmonize Country Policy with ADB Policy (10 responses)

- (i) The policy is radically different from government practices and those of other funding agencies. They need to be harmonized.
- (ii) We need to evaluate the country safeguard system and, if found acceptable to ADB, apply it to ADB-funded projects.
- (iii) Abandon the policy of compensation of squatters, as in many countries this is illegal; ADB's positive treatment causes resentment.
- (iv) Provide clarity and details at the project preparatory technical assistance (PPTA) and processing stage, due consideration of national legislation and of the difference between it and ADB policies, and clarity upfront on how these would be resolved.
- (v) Streamline ADB's policy and make it consistent with DMC practices. Should be country specific and practicable.
- (vi) For countries like the People's Republic of China, using the country system with regular external monitoring should be sufficient during project administration, although due diligence in preparation of RPs during project processing needs to be more thorough.

C. More Emphasis on Resettlement Frameworks and Implementation Supervision (8 responses)

- (i) There is too much emphasis on extensive, detailed reporting at the project preparation stage. The result is often the need for extensive rewrites during implementation. During preparation, focus on agreeing on procedures and entitlements. Detailed surveys of affected people should be left until design work is complete and undertaken during implementation. Give project divisions responsibility for review, approval, and monitoring of plans.
- (ii) There should be adoption of a resettlement framework approach to IR and negotiating such frameworks with each DMC, greater attention to IR during implementation, and more IR specialists in resident missions (RMs).
- (iii) There should be equal emphasis on outcomes, systematic monitoring, preparing RPs based on detailed design, sufficient resources, and experienced IR specialists in ADB.
- (iv) Some flexibility is required to allow timely preparation of RPs; however, ADB should be more flexible in the provision of support (if PPTA is too early, TA resources should be provided between loan negotiations and loan effectiveness).

D. Increase Capacity Building Efforts for Better Project Implementation (7 responses)

- (i) ADB systems are satisfactory, but more training is required for staff responsible for project administration.
- (ii) We need field-oriented specialists who are practical.
- (iii) EAs need to be better aware and trained
- (iv) More expert resources for project processing and implementation are needed.
- (v) Social development specialists need training to improve their capacity to deal with IP issues.

E. ADB Staff Survey Narratives Regarding Delays Associated with IR Policy²

The following views were volunteered on the question of what constitutes adequate consultation with Affected Persons (APs):

- (i) Consultation needs to be appropriate—e.g., the present resettlement policy focuses on copies of RPs being made available to APs. Most APs cannot understand these documents, as they are barely literate. There is a need to focus more on main principles and allow a bigger role for community leaders as mediums for transfer of information.
- (ii) It is important to go beyond consultation of the elites, the village leaders.
- (iii) Simple—ask the APs if they are satisfied.
- (iv) Have one meeting prior to the start of construction where views are taken into consideration.
- (v) Consultation with APs should be carried out throughout the different stages of the project cycle.
- (vi) At least 10% of AP should be consulted.
- (vii) Follow the new consultation handbook in this regard.¹
- (viii) Provisions under the new ADB public communications policy are adequate, in that notice is made of projects before they are even "hard" parts of country strategy and programs. This provides opportunity for early input into project design, to which lip service is currently paid. The current provisions under the safeguards OMs do not really cater to meaningful stakeholder input that can lead to changes in project design.
- (ix) ADB should try to contact as many people as possible, while recognizing that there will always be people left out of the process through no one's fault.

² These are responses in the ADB Staff Questionnaire Survey for this study.

EXECUTING AGENCY QUESTIONNAIRE FINDINGS

EA Survey Respondents Profile by Country

	Environment	Involuntary Resettlement	Indigenous Peoples
Afghanistan	1	1	0
Bangladesh	4	1	3
Cambodia	4	2	1
China, People's Republic of	17	17	5
India	5	5	1
Indonesia	1	2	1
Kyrgyz Republic	1	0	0
Lao People's Democratic Republic	7	5	3
Nepal	2	1	0
Pakistan	2	1	1
Philippines	4	2	3
Sri Lanka	1	0	0
Tajikistan	2	1	1
Viet Nam	10	9	5
Total Respondents	61	47	24

Note: The total number of responses received was 67.

1. Respondent's title/position in the project

Title/Position	Total
No answer	12
Additional General Manager	1
Assistant Chairman of the Board Directors	1
Chief Health Program Officer	1
Deputy Director	1
Deputy General Director	2
Deputy Project Director	1
Deputy Project Manager	1
Director	7
Director of Project Construction Office	1
General Manager	2
Department Head	1
Principal Secretary	1
Project Coordinator	1
Project Director	23
Project Head	2
Project Manager	8
Vice General Director	1
Total Respondents	67

2. Number of years in charge of/ managing the project

	Total
Average number of years	4.6
Valid Responses	57
Minimum number of years	0.3
Maximum number of years	15.0

3. Previous Experience with ADB-supported projects, Before the Project

	N	%
Yes	30	45
No	26	39
No answer	11	16
Total Respondents	67	100

4. Average number of safeguard documents in the project

	IEE	EIA	EMP	RF	LARP	LAP	RP	IPDF	IPDP	Others
Mean	4	2	4	2	2	2	3	3	3	2
Median	1	1	1	1	1	1	1	1	1	1
N	46	35	36	38	27	26	41	18	13	5
% of response	69	52	54	57	40	39	61	27	19	7

IEE = initial environmental examination, EIA = environmental impact assessment, EMP = environmental management plan, IPDF = indigenous peoples development framework, IPDP = indigenous peoples development plan, N = number of projects with such document LARP = land acquisition and resettlement plan, RF = resettlement framework, RP = resettlement plan.

Note: The questions requested specification of status of each safeguard document, whether (1) fully implemented, (2) updated but not fully implemented, (3) being updated, (4) not updated, and (5) planned. Above figures refer only to the total of these documents. Two questionnaires with large number of safeguard documents were excluded as the presentation was unclear. These cases concerned two sector projects: Loans 1831-BAN: Second Small-Scale Water Resources Development Sector and 1950-PAK: Punjab Community Water Supply and Sanitation Sector. For Loan 1831-BAN, the Project Director indicated 125 fully implemented IEEs, 10 updated IEEs but not fully implemented, 45 IEEs not updated, and 180 IEEs planned. Also indicated were 75 fully implemented EIAs, 5 updated but not fully implemented EIAs, 10 not updated EIAs, and/or 90 planned EIAs. Also indicated were 171 fully implemented EMPs, 15 updated EMPs but not fully implemented, and/or 270 planned EMPs. In addition there were 6 fully implemented LAPs, 41 updated LAPs but not fully implemented, 33 being updated, and/or 115 planned LAPs. In addition there was one Indigenous Peoples Specific Action Plan being updated. For Loan 1950-PAK, the Project Director indicated that the project has 455 fully implemented IEEs and/or 316 IEEs being updated.

5. Average number of staff and consultant positions filled, and NGOs involved for social and environmental safeguard measures at this stage

	Environment			Involuntary Resettlement			Indigenous Peoples		
	Staff	Consultants	NGOs	Staff	Consultants	NGOs	Staff	Consultants	NGOs
Mean	13	7	4	12	4	1	6	2	4
Median	3	2	1	3	2	1	2	2	1
Minimum	1	1	1	1	1	1	1	1	1
Maximum	90	76	20	50	20	2	20	5	10
N	37	36	15	27	28	12	11	10	3
% of all 67 Responses	55	55	22	40	42	19	18	16	4

NGO = nongovernment organization, N = number of respondents indicating a number for their project.

Note: Valid responses: Environment = 61; Involuntary Resettlement = 47; and Indigenous Peoples = 24.

6. Stage of implementation of main/oldest plan

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
Not yet started	11	18	7	15	5	21
0 to 6 months	7	11	7	15	6	25
7 to 12 months	2	3	1	2	2	8
1 to 2 years	6	10	9	19	1	4
More than 2 years	30	49	21	45	7	29
No answer	5	8	2	4	3	13
Total Respondents	61	100	47	100	24	100

N = number of valid responses.

Note: This question was used to determine the number of valid responses for each safeguard.

7. Did any of your staff participate in training workshops or programs provided by ADB?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
Not aware of ADB training workshops/programs	10	16	6	13	4	17
Never had any ADB trainings	12	20	12	26	6	25
No staff participated in ADB trainings	12	20	6	13	4	17
Only one staff/rep participated in ADB trainings	4	7	2	4	1	4
Some staff participated in ADB trainings	14	23	13	28	5	21
All relevant staff participated in ADB trainings	4	7	6	13	3	13
No answer	5	8	2	4	1	4
Total Respondents	61	100	47	100	24	100

ADB = Asian Development Bank, N = number of valid responses, as determined by question 6.

8. How clear, usable and complete are the guidelines available for implementing each of the ADB safeguard requirements?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
Not aware of any guidelines	5	8	1	2	1	4
Did not read any guidelines	2	3	0	0	1	4
Safeguard requirements are unclear/confusing	0	0	1	2	3	13
Safeguard requirements did not resolve all our issues	3	5	9	19	4	17
Safeguard requirements are somewhat usable	32	52	25	53	10	42
Safeguard requirements are usable, resolved issues	17	28	9	19	4	17
No answer	2	3	2	4	1	4
Total Respondents	61	100	47	100	24	100

N = number of valid responses, as determined by question 6.

9. Do you find you get sufficient help from ADB project officers and country offices with respect to the safeguard requirements?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
From ADB Project Officers:						
Not enough missions	8	13	4	9	2	8
Sufficient missions	20	33	15	32	5	21
Too many missions	1	2	1	2	1	4
Not applicable	23	38	18	38	10	42
No answer	9	15	9	19	6	25
From Country Office:						
No help from country office	9	15	5	11	4	17
Sufficient help from country office	22	36	19	40	9	38
Not applicable	21	34	14	30	5	21
No answer	9	15	9	19	6	25
Total Respondents	61	100	47	100	24	100

ADB = Asian Development Bank, N = number of valid responses, as determined by question 6.

10. How easily can you apply ADB's Safeguard requirements?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
Our laws and bylaws require more than ADB requires	3	5	2	4	0	0
ADB safeguard requirements and country laws are the same	12	20	5	11	2	8
Easy; we meet additional ADB requirements	7	11	2	4	2	8
Not easy, but we meet additional ADB requirements	29	48	26	55	14	58
Not easy; we have to follow country/agency system	4	7	11	23	5	21
Do not know/not yet clear	4	7	1	2	0	0
No answer	2	3	0	0	1	4
Total Respondents	61	100	47	100	24	100

ADB = Asian Development Bank, N = number of valid responses, as determined by question 6.

11. Are you reporting to ADB on safeguard issues as per the covenants in the Loan Agreement?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
Never any reporting	3	5	3	6	5	21
Not regularly, inadequate	6	10	4	9	0	0
Not regularly, but adequate	9	15	7	15	5	21
Regularly, but inadequate	3	5	4	9	2	8
Regularly, adequately	31	51	21	45	5	21
Not applicable	1	2	1	2	1	4
No answer	8	13	7	15	6	25
Total Respondents	61	100	47	100	24	100

N = number of valid responses, as determined by question 6.

12. Among the factors listed below, which FOUR ADB RELATED FACTORS would contribute most to better Safeguard Policy outcomes?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
More funds for preparation	27	44	14	30	7	29
More time taken for preparation	18	30	13	28	6	25
ADB funding of land acquisition costs	11	18	24	51	13	54
More consultants assigned	16	26	11	23	9	38
More training for EA staff provided by ADB	53	87	42	89	16	67
More time/staff for project administration/project cycle	16	26	13	28	3	13
ADB streamlines its safeguard policies	21	34	17	36	9	38
ADB divisions streamline their interpretation	11	18	11	23	6	25
Streamlined ADB procurement processes	13	21	8	17	2	8
Other streamlined ADB processes	11	18	7	15	2	8
ADB follows country/agency system	30	49	23	49	10	42
Other factor/s	0	0	1	2	2	8
No answer	1	2	0	0	0	0
Total Respondents	61	100	47	100	24	100

ADB = Asian Development Bank, EA = Executing Agency, N = number of valid responses, as determined by question 6.

13. Among the factors listed below, which FOUR COUNTRY OR AGENCY FACTORS would contribute most to better Safeguard Policy outcomes?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
Better government policies/regulations	24	39	20	43	8	33
Better enforcement of government policies/regulation	40	66	23	49	14	58
More time taken for preparation	13	21	13	28	4	17
Creation of more capacity in EA	47	77	35	74	21	88
More EA counterpart funds made available	25	41	26	55	16	67
More political will and less political interference	23	38	18	38	13	54
Combating of corruption or other irregularities	18	30	12	26	5	21
More authority with project office	29	48	21	45	6	25
Other factor/s	2	3	1	2	0	0
No answer	1	2	0	0	0	0
Total Respondents	61	100	47	100	24	100

EA = executing agency, N = number of valid responses, as determined by question 6.

14. Have you noticed safeguard related delays and extra consultant costs caused by (i) ADB resident mission and (ii) ADB headquarters?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
ADB Resident Mission:						
Short delays	7	11	2	4	1	4
Long delays	1	2	3	6	3	13
Extra consultant cost	2	3	4	9	1	4
ADB headquarters:						
Short delays	7	11	5	11	2	8
Long delays	4	7	7	15	2	8
Extra consultant cost	9	15	10	21	0	0
No answer	9	15	7	15	7	29
Total Respondents	61	100	47	100	24	100

ADB = Asian Development Bank, N = number of valid responses, as determined by question 6.

15. Have you noticed safeguard related delays and extra consultant costs caused by (i) your own agency, and (ii) other agencies?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
Own Agency:						
Short delays	8	13	5	11	1	4
Long delays	1	2	4	9	1	4
Extra consultant cost	9	15	8	17	0	0
Other Agencies:						
Short delays	5	8	2	4	2	8
Long delays	6	10	10	21	3	13
Extra consultant cost	2	3	5	11	1	4
No answer	8	13	6	13	7	29
Total Respondents	61	100	47	100	24	100

N = number of valid responses, as determined by question 6.

16. How have ADB's Safeguard Procedures (assessments and plans) improved your project, or components or sub-projects?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
No real improvement in project	2	3	3	6	2	8
Improved only SOME components/ sub-projects	33	54	24	51	6	25
Improved ALL components/sub-projects	14	23	10	21	6	25
Do not know	1	2	2	4	2	8
Not applicable	1	2	1	2	2	8
No answer	10	16	7	15	6	25
Total Respondents	61	100	47	100	24	100

N = number of valid responses, as determined by question 6.

17. For those projects where the safeguard procedures improved the project, can you specify the type of improvement?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
Improved project design	20	33	8	17	3	13
More due diligence/transparency	17	28	13	28	9	38
More experience in EA	29	48	22	47	9	38
Environment/APs suffer less than otherwise	26	43	19	40	8	33
Demonstration effect beyond project	3	5	6	13	4	17
Other improvements	2	3	2	4	2	8
No answer	11	18	5	11	6	25
Total Respondents	61	100	47	100	24	100

AP = affected person, EA = executing agency, N = number of valid responses, as determined by question 6.

18. If delays in implementation of your project(s) had to do with safeguard issues (EMPs, RPs, IPDP, etc.) what were main factors?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
Never any delays/no experience	22	36	9	19	8	33
Problems with (hiring of) consultants underestimated	2	3	1	2	0	0
Consultation processes difficult to manage	3	5	11	23	2	8
EA country system different (more time needed)	12	20	20	43	4	17
New EA management differs in views	1	2	1	2	1	4
Issues misdiagnosed during preparation	2	3	3	6	1	4
ADB processes/internal disagreements	1	2	5	11	1	4
No answer	16	26	8	17	8	33
Total Respondents	61	100	47	100	24	100

N = number of valid responses, as determined by question 6.

19. What are incremental costs incurred as a result of applying the ADB safeguards beyond requirements of your country or agency system?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
Have not added to cost of project for country	27	44	11	23	13	54
Have added 1%–3% to cost of project for country	8	13	9	19	2	8
Have added 4%–10% to cost of project for country	6	10	5	11	1	4
Have added more than 10% to cost of project for country	1	2	4	9	1	4
Do not know what was added to cost for country	3	5	7	15	1	4
Usually add to project delays	4	7	8	17	1	4
Unusual amount of ADB time and mission cost	1	2	3	6	0	0
Unusual amount of consultant cost PPTA	0	0	4	9	0	0
Do not know about cost for ADB	5	8	5	11	1	4
Unharmonized donor safeguards are confusing	2	3	2	4	0	0
More inconsistent application of country system	2	3	4	9	1	4
No answer	10	16	7	15	5	21
Total Respondents	61	100	47	100	24	100

ADB = Asian Development Bank, N = number of valid responses, as determined by question 6, PPTA = project preparatory technical assistance,

20. How effective have the Safeguards been in mitigating adverse impacts in the project?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
Not effective	2	3	1	2	2	8
Limitedly effective	5	8	8	17	1	4
Somewhat effective	19	31	16	34	1	4
Very effective	23	38	14	30	10	42
Do not know if effective	4	7	3	6	4	17
No answer	8	13	5	11	6	25
Total Respondents	61	100	47	100	24	100

N = number of valid responses, as determined by question 6.

21. Have the Safeguard Policies been a major factor in ADB declining to fund parts of your project?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
No	31	51	21	45	12	50
Sometimes	4	7	5	11	0	0
Yes	9	15	10	21	2	8
Do not know	5	8	6	13	3	13
No answer	12	20	5	11	7	29
Total Respondents	61	100	47	100	24	100

N = number of valid responses, as determined by question 6.

22. Have the ADB Safeguard issues been a major factor in your EA declining to pursue a part of the loan available?

	Environment		Involuntary Resettlement		Indigenous Peoples	
	N	%	N	%	N	%
No	35	57	26	55	9	38
Sometimes	7	11	6	13	3	13
Yes	6	10	8	17	3	13
Do not know	4	7	5	11	2	8
Not applicable	1	2	0	0	0	0
No answer	8	13	2	4	7	29
Total Respondents	61	100	47	100	24	100

N = number of valid responses, as determined by question 6.

23a. What main differences, if any, have you had with ADB while administering projects with significant resettlement issues?

	Total	
	N	%
Cost of RP preparation in sector projects	8	17
Cost of RP implementation	10	21
Definition of encroachers/squatters	14	30
Treatment of encroachers/squatters	7	15
Extent of consultation process	5	11
Definition/level of compensation	13	28
Determination of rehabilitation program	9	19
No answer	6	13
Total Respondents	47	

N = number of valid responses, as determined by question 6, RP = resettlement plan.

23b. Frequency of reported differences in administering projects with significant resettlement issues:

	N	%
Reported more than one	17	36
Reported only one	13	28
Reported none	11	23
No answer	6	13
Total Respondents	47	100

N = number of valid responses, as determined by question 6.

Box 1: SUGGESTIONS FOR IMPROVEMENTS SUGGESTED BY EXECUTING AGENCIES IN THE QUESTIONNAIRE SURVEY
(SELECTION OF RESPONSES, FOCUSING ON DIVERSITY OF VIEWS)

A. Change the Nature of the Resettlement Policy (9 responses)

- (i) The definition of vulnerable families should be more closely linked with economic criteria. Presently, (a) families below poverty line, (b) women headed families and (c) families having members with physical or mental disability are considered as vulnerable and are offered income generation assistance in addition to the compensation for the assets lost. Well-to-do families under (b) and (c) do not really require assistance for income generation. One needs to therefore define a threshold income above which the (b) and (c) will not be considered vulnerable. an income, two times the poverty line, may be such a threshold. Thus all families below poverty line and families under (b) and (c) but having income below two times the poverty line alone may be considered as vulnerable.
- (ii) There is also a need to identify a threshold level of loss (may be loss of land below 5% of current holdings) below which compensation for acquired assets at replacement value is considered sufficient and family level survey and entitlements are not required. This is justified based on the fact that if a family retains 95% of its landholdings, it benefits significantly due to project.
- (iii) Guidelines should be flexible. There are many examples that only rich landlords get benefits from rigid guidelines and entitlement matrix.
- (iv) The definition of voluntary resettlement should be included in the ADB project documentation. In this project there were many instances of voluntary as well as involuntary resettlement.
- (v) ADB should finance the cost of compensation. Donors could come forward to address problems relating to involuntary resettlements through extending grants.
- (vi) Resettlement Plan (RP) should be included in TA or implemented before project implementation.
- (viii) RPs should be implemented separately and should not be linked with implementation of main scope which increases delays and(?) interest payments, while EA/sponsor is deprived of the benefits during the period of the delay.
- (ix) Explicit stipulation of the safeguard policies in the loan agreement such that any amendments/changes will not affect project implementation. Implementation of IR policies shall not in any way hamper progress of civil works (main component of the project).
- (x) ADB policies should consider the difficulties in practice and make adjustments in part of working process on the premise of being complied with ADB policies on the whole.
- (xi) [Resettlement safeguards are] time consuming and cost of the project also rises.

B. Harmonize Country Policy with ADB policy (8 responses)

- (i) ADB policies should be adjusted to be more similar to local policies.
- (ii) ADB and Government need to interact more to ensure suitable regulations which are acceptable to investors.

C. More Attention For and Flexibility in Implementation (9 responses)

- (i) ADB documents are too general and should be made more specific in keeping with the personnel at the Bank who actually do the work, review reports, etc.
- (ii) Better coordination of review process within ADB HQ and more timely submission of comments. Comments should be collated and submitted as ADB comments at one time, not as individual's comments in a piece-meal manner.
- (iii) Mission teams change too much in their composition. The Environment and R&R (Social) experts should be maintained at least up to the loan signing time to avoid delays.
- (iv) Resettlement planning should be completed before loan effectivity. It should be agreed by the institution responsible.
- (v) ADB's requirement regarding submission of the independent monitoring reports on semi-annual basis is excessive. The reports should be submitted on annual basis in the first two years and the final report should be submitted after project completion. Three reports should be submitted to ADB during project implementation.
- (vi) ADB country office should take responsibility for RPs in order to save time for approval process as well as sustainable supervision of RP implementation.

D. Increase capacity building efforts for better project implementation (6 responses)

- (i) Translation of the Policy into Vietnamese, Chinese (3)
- (ii) Consultant Resettlement should be appointed
- (iii) Effective enforcement of government policies and regulation to avoid political interference and irregularities.
- (iv) More training and more consultant time is needed to complete RP process

REVIEW OF COUNTRY SYSTEMS ON INVOLUNTARY RESETTLEMENT

A. India

1. In matters of project driven involuntary resettlement of people, India used to have no policy but relied on the Land Acquisition Act (LAA) of 1894 (amended in 1984), and the National Highways Act 1957 which cuts some corners of the LAA. The LAA lays down the procedures for expropriating and compensating land owners and the amendment improved public disclosure of decisions. However, it does not directly deal with resettlement and rehabilitation of affected persons (APs), informal dwellers, tribal lands or land donation issues. Therefore it can not provide the basis for enforcing compliance with many aspects of ADB's Involuntary Resettlement (IR) Policy. The lack of legal provisions applicable to resettlement operations means that state and local governments and important public organizations were at liberty to apply their own systems for a long time.

2. In February 2004 this changed to some extent, when the Government of India approved a policy on involuntary resettlement. The National Policy for Resettlement and Rehabilitation (NPRR) constitutes a big step towards equivalence with ADB's IR Policy standards. This is shown by the following specifications: (i) the cost of resettlement and entitlements are to be made part of the project cost; (ii) consent award for compensation of land is allowed (this means APs can in principle participate in the land valuation process and that the consent of landowner is essential to finalize the award); (iii) some measure of rehabilitation assistance is to be provided to APs; (iv) assistance needs to be provided to vulnerable groups like Below Poverty Line Marginal Farmers, Scheduled Tribes and Scheduled Castes (although it is unclear whether squatters are included); (v) tribal land issues are to be dealt with separately; and (vi) assistance needs to be provided to laborers losing livelihood as a result of the project.

3. However, a detailed comparison between the Asian Development Bank (ADB) and the NPRR and other relevant legislation (Supplementary Appendix B) also shows continuing divergence. Some main substantive aspects in which the two policies are still far apart are: (i) the thresholds for the application of the policies are very different (ADB: one AP or more; NPRR: over 500 AP *families* displaced in plains and 250 in hills); (ii) the policy seems to be intended mainly for major infrastructural works like dams (only one brief paragraph addresses the complexities of linear projects like roads); (iii) no assistance is specified for encroachers and squatters that need to be moved;¹ (iv) the Policy does not discuss replacement value for land, structures and other assets lost; (v) no provision is made for addressing loss of common property resources; and (vi) there is little guidance on how to deal with voluntary contribution of land and structures in cases that projects profess to rely on such donations. It needs to be emphasized that NPRR is currently under revision ahead of its intended formal enactment. Until it is fully enacted, it cannot be enforced in India's courts.

4. Whereas in the above paragraph the focus was on substantive policy elements, Table A16.1 below summarizes the level of procedural equivalence.

¹ Given a number of recent court decisions in India, it is unlikely that squatters will be given rights to claim either compensation or any assistance; a situation that does not imply that assistance may not be given by the Government out of policy considerations.

Table A16: Key Similarities and Differences Between NPRR India and ADB Policy

ADB Policy	NPRR
<p>Provide government with technically and economically feasible resettlement alternatives.</p> <p>Ensure that the displaced persons are informed in time about their options and rights pertaining to resettlement. No special period of notification is provided.</p>	<p>Not Equivalent. Not mentioned.</p> <p>Equivalent. Also discussed in NPRR: Declaration of Affected Zone- by notification in the Official Gazette; affixation of copy of the notification on-the Notice-Board of the concerned Gram Panchayats and other prominent place or places in the affected zone; publication of the draft scheme / plan in the Official Gazette to give wide publicity to the same in the affected zone. No threshold period is indicated.</p>
<p>Consult APs and offer choices.</p> <p>Prompt and effective compensation at full replacement cost for losses of assets.</p> <p>Provide equivalent productive assets for the loss of residential house, agricultural land etc.</p> <p>Cash compensation level should be sufficient to replace the lost land and assets at full replacement cost in local markets.</p>	<p>Not equivalent. Not mentioned.</p> <p>Equivalent in case AP loses all his land and is displaced. APs will receive land if all land is lost and the APs have become displaced by the project. Not equivalent if this is not the case. In that case, compensation will be paid at a rate negotiated between the owner and acquiring body (consent award) through the provision of the Land Acquisition Act. This Act bases compensation on the average of registered land transactions in the past 3 years in the surroundings. This is however usually underreported in the deeds, for tax reasons.</p> <p>The AP may be allotted house site to the extent of actual loss of area of the acquired house.</p> <p>Each PAF owning agriculture land in the affected zone and who consequently becomes a small farmer shall get one time financial assistance equivalent to 375 days minimum agricultural wages.</p>
<p>Provide support for the transition period:</p> <ul style="list-style-type: none"> (i) relocation and transfer expenses; (ii) assistance for transitional income and livelihood support. <p>Provide assistance and allowances for rehabilitation: (i) compensation for crop or business losses; (ii) reestablishment of agricultural or business production; (iii) assistance for income restoration; and (iv) assistance for restoring social services, social capital, community property, and resources.</p> <p>Preference should be given to land based resettlement strategies for displaced persons whose livelihoods are land-based.</p> <p>Eligibility of Benefits include the APs who have customary and traditional land rights recognised under the law. APs who do not have formal legal rights to land at the time of census but have a claim to such land or assets and the APs who have no recognisable legal right to the land they are occupying. Particular attention will be paid to the needs of vulnerable groups among those displaced, especially those below</p>	<p>Equivalent. Each displaced Project Affected Family shall get a monthly subsistence allowance equivalent to 20 days of minimum agricultural wages per month for a period of 1 year up to 250 days.</p> <p>Not entirely equivalent. It is only mentioned that (i) Project Affected Families shall be provided necessary training facilities for development of entrepreneurship to take up self-employment projects at the resettlement zone; (ii) Rural artisan/small trader and self employed person shall get one-time financial assistance for construction of working shed/shop. Other types of assistance are not specified, such as microcredit or other assistance to reestablish production, or assistance for restoring social services. Only for project displaced persons.</p> <p>Not equivalent. No mention of this in NPRR.</p> <p>Not equivalent. NPRR No mention of squatters and encroachers. However, share croppers, tenants, agricultural labourers are recognized as APs.</p> <p>Equivalent. Each Tribal affected family shall get additional financial assistance equivalent to 500 days minimum agriculture wages for loss of customary rights/usages of forest produce.</p>

ADB Policy	NPRR
<p>the poverty line, landless, elderly, women and children, ethnic minorities etc.</p> <p>The displaced persons and their communities will be provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementing, and monitoring resettlement.</p> <p>Appropriate grievance mechanisms are established for these groups.</p>	<p>Each PAF of BPL category shall get a one-time financial assistance for house construction.</p> <p>Equivalent. A monitoring cell will be formed. Grievance committee would be formed with representation of women, Schedule Caste and Schedule Tribe.</p>

ADB = Asian Development Bank, AP = affected person, NPRR = National Policy for Resettlement and Rehabilitation.

5. The Government of India is well aware of the need to improve resettlement and rehabilitation practices in the country. Its approach paper to the 11th Five Year Plan deems this important enough to merit the following paragraph.²

“Our practices regarding rehabilitation of those displaced from their land because of development projects are seriously deficient and are responsible for a growing perception of exclusion and marginalisation. The costs of displacement borne by our tribal population have been unduly high, and compensation has been tardy and inadequate, leading to serious unrest in many tribal regions. This discontent is likely to grow exponentially if the benefits from enforced land acquisition are seen accruing to private interests, or even to the state, at the cost of those displaced. To prevent even greater conflict, and threat to peace and development, it is necessary to frame a transparent set of policy rules that address compensation, and make the affected persons beneficiaries of the projects, and to give these rules a legal format in terms of the rights of the displaced. In addition to those displaced by development projects, those displaced by social upheavals should also be properly resettled.”

6. On this basis, ADB should be able to work out a practical agreement regarding the use of India’s country system, complemented by specific ADB safeguards and assistance packages for vulnerable APs.

B. People’s Republic of China

7. Land in PRC is owned either by the State (all land in cities, and much ‘wasteland’ elsewhere) or by collectives (agricultural land in rural areas). One law and two regulations have governed compulsory land acquisition and involuntary resettlement: (i) the Land Administration Law of 1998, which includes land compensation and involuntary resettlement subsidy³ issues and which deals mainly with rural farm land owned by collectives, (ii) the Water/Hydro Power Resettlement Regulation of 1991, and (iii) the Regulations for the Management of Urban Residential Demolition and Eviction (1991, implemented from November 2001), applying to resettlement in towns/cities in the context of public works, where all land is owned by the state.

8. As far as the Land Administration Law is concerned, in 2004, the convergence of PRC’s country system with ADB’s resettlement policy improved, as the upper limits of the

² Planning Commission, Government of India. (2006). *Towards Faster and More Inclusive Growth. An Approach to the 11th Five Year Plan*. June 14, 2006. Delhi.

³ This actually refers to a rehabilitation subsidy; all those affected by land acquisition are entitled to it.

compensation levels for rural land were reset to a maximum which is theoretically equivalent to replacement value of land (30 times the average annual output value (AAOV) of the land; contracts in collectives are for 30 years).⁴ PRC has also made progress with regulation as to APs' right to due process. The Ministry of Land and Resources promulgated new Regulations on Land and Resources Hearings in 2004, which require the land expropriating agencies to inform affected farmers of their right to a hearing on compensation standards and the resettlement package. Such a hearing must be held if requested within five days after the parties are informed. Document No. 28, also approved October 2004, takes this further and states that before the expropriation is submitted for approval, its purposes, location, compensation standard and resettlement and rehabilitation measures should be made known to farmers whose land is to be taken, and the results of the survey on the existing situation of the land proposed to be taken should be confirmed by the rural collective and farmer households. Continuing divergence with ADB policy is perhaps most visible in the absence of standards regarding compensation for structures, permanent and annual crops, and the organization of grievance redress. PRC does not as such offer entitlements for vulnerable affected people in the sense of the ADB Policy, but provides a somewhat higher resettlement (rehabilitation) subsidy to rural people with minimal access to land (see next paragraph). A better system may be to delink the resettlement subsidy completely from the land size criterion and replace it by a vulnerability criterion. PRC does not use restoration of livelihood as a guiding principle. In fact, PRC does not adhere to ADB's principle of addressing resettlement and rehabilitation as part of the project, which implies that it should be preferably completed by the end of the project; PRC projects compensate and relocate APs during the project, but the Government is broadly responsible for providing certain safety nets to ensure people's livelihoods afterwards. The Ministry of Land and Resources is currently reviewing the land compensation system, aided by World Bank technical assistance, in order to systematize and unify this.

9. Compensation rates for expropriation of arable land in PRC have improved steadily in the past few years; even in remote areas, they are routinely equivalent to between \$15,000 and \$50,000 per hectare of arable land. Around urban areas these values can be doubled easily. Almost always, cash compensation is relied on; this is also almost invariably favored by the farmers who lose their land.⁵ Apart from land compensation and resettlement subsidy, the law provides for compensation for temporary use of land and loss of young crops. The approach is entitlement based: if the budget initially approved by MOF and the National Development and Reform Commission (NDRC) for land compensation and resettlement is not sufficient, then local governments who administer this will need to request NDRC for more budget, and request the

⁴ It could well be argued that 30xAAOV exceeds by far the replacement value, as AAOV is a gross output value, from which the farmers labor and other costs are not deducted.

⁵ From 1999 onwards, compensation for farm land lost has been calculated at between 6 and 10 times its AAOV, in accordance with the size of the land contract that the affected farmer has as a member of the rural collective. If the farmer has a contract for more than 0.5 mu (1 mu = 1/15th ha) per member of his household, then he (she) is entitled to 6x AAOV in cash compensation plus 4xAAOV "resettlement" (=rehabilitation) subsidy in the case of compulsory land acquisition, or to replacement land of comparable size and quality (but the latter is rarely available). If the land holding is between 0.3 and 0.5 mu, the entitlement is (8+5)x AAOV; if smaller than 0.3 mu, then the compensation is (10+6)xAAOV. Actual compensation provided can however be influenced by (i) compromises between administrative areas with different practices and different standards for land qualities and/or AOVs, (ii) provincial budgets, and (iii) interpretations by local governments regarding the applicability of the latest nationally approved compensation standards, when certain divergent standards for compensation have been enshrined in project agreements. ADB supported RP entitlement matrices may also play a role in the divergence from the norms. Over the years, compensation and resettlement subsidies have experienced an upward trend of the upper limits prescribed by the law; in October 2004, they went from 16xAOV to 30xAOV (unfortunately, the lower limits often used in practice did not rise). Currently, national standards for different classes of land and crop yields may be set that do not vary by province or sector, such as has been the case so far.

EA to certify this. Auditors involved in determining project acceptance at the time of project completion need to assess whether the budget was appropriately spent.

10. The other two regulations, one for dams and one for urban demolition have upheld more conservative compensation rates and have been more controversial for this reason, but are currently under revision. For urban dwellers who need to be displaced, rehabilitation assistance can be provided but not in cash and not in the context of the project causing the displacement; actual programs of rehabilitation are not mandated but are contingent upon local government interest and budgets available. The Water / Hydro Power Regulation is also under review. This policy relies on post-resettlement plans for the rehabilitation of dam reservoir displaced persons. The plans are not very much regulated and in practice this leads to variable rehabilitation efforts of the local authorities. In some cases, many inventive measures have been tried by caring local governments. In some projects, farmers losing land were offered an option to obtain town registration, a benefit that used to be highly valued, due to the advantages it provides the family in respect of work permits and opportunities, education for children and other social security benefits. (However, these advantages are now valued substantially less, as peri-urban land values continue to rise, while urban unemployment rises.)

C. Viet Nam

11. Legislation concerning compulsory land acquisition has undergone a great deal of change in Viet Nam since the approval of the Land Law in December 2003. Like in PRC, all land belongs to the State, but occupiers have been receiving Land Use Right Certificates issued by Peoples Committees of Provinces or Districts in the last decade. The administration of the Land Law and the granting of Land Use Rights is the responsibility of the Ministry of Natural Resources and Environment (MoNRE). Currently, approximately 70% of homestead and agricultural land in rural areas has been granted Land Use Rights (on 20-50 year basis depending on the approved use of the land), and around 50% of urban land. The original provisions relating to the recovery of land and compulsory acquisition of property attached to land by the State were contained in the Land Law and Decree 22/1998/ND-CP which elaborated the system of compensation, resettlement and assistance. In 2001, the Vietnamese Government accepted an ADB TA,⁶ to help a drafting board chaired by the MoF to draft a new decree on compensation, resettlement and rehabilitation assistance. Because at a later stage the Government decided to completely review the Land Law 1993 and pass a replacement Land Law (taking effect in July 2004), the TA was completed only in 2006. By then it had however had a significant effect on highlighting resettlement issues in the new land law and in a set of new decrees.⁷

12. The combined result of the new Land Law and its various subordinate decrees is that Vietnamese standards of compensation, resettlement and rehabilitation assistance have been raised significantly and have become more compatible with the relevant policies of the ADB, World Bank and other international donor agencies. The decrees require that a census of APs is held, socioeconomic effects assessed, and a Compensation, Resettlement and Rehabilitation Assistance Plan prepared. Compensation must be provided for loss of land, crops and trees as well as buildings and other structures attached to recovered land. Decree 197 establishes for

⁶ TA 3727-VIE: *Enhancing the Legal and Regulatory Framework for Compensation, Resettlement and Rehabilitation Assistance in Viet Nam*, for \$310,000, approved 24 September 2001.

⁷ The new Decree 197/2004/ND-CP on compensation, resettlement and assistance which replaced Decree 22 was accompanied by a new Decree 181/2004/ND-CP on the implementation of the Land Law and Decree 188/2004/ND-CP on valuation of land use rights and price frame. These decrees were later supplemented by Decree 17/2006/ND-CP issued in February 2006.

the first time that the focus of compensation is placed on the actual value of the land recovered (in the disguise of the value of owning land use rights) and not the arbitrary and artificial price shown in the official price frames issued by the central Government. If implemented as intended, APs should be compensated and assisted to at least the standard that they experienced before the land was recovered.

13. Even in spite of this convergence, there is still some significant divergence with the ADB policy: (i) the objective of minimization of involuntary resettlement is not addressed by the Land Law (it is part of the project planning and development process); (ii) the approval of the compensation, resettlement and rehabilitation assistance plan does not need to be given before the approval of a project; (iii) the decrees still permit the use of frame prices set by Provincial People's Committees (frame prices have been notoriously inaccurate in both urban and rural areas, but now they have to incorporate market prices and are getting closer to actual market values in the last two years); (iv) some squatters are not compensated for loss of access to land, depending on the length and nature of their occupancy, while they get compensation only for structures if these are built in areas with no land use plans or if they were built after such plans with official permission, (v) assistance needs to be given to vulnerable APs but the actual amounts, within the maxima set by Decree 197 or its implementing circular 116, are decided by the Chairman of the local People's Committee with no prescribed objective criteria; (vi) there are no requirements for public consultation before the notification of the project, (vii) obligations on public disclosure are less demanding (20 days before scheme approval) than those in ADB and WB policies, and (viii) there is no requirement for independent external monitoring or evaluation. It can be concluded that there is still some distance to go before there can be full alignment between ADB/World Bank and country systems.

14. In practice, the good legal progress is compromised by the lack of capacity and ingrained bureaucratic attitudes of many Government officials mainly in provinces, districts and communes. As there is no prescribed template or standard form for the plans they are frequently different between different provinces and projects. Sometimes the plans follow the ADB or WB models but at other times a very much diluted amalgam of such models is followed. This is the a consequence of having devolved the authority for compensation, resettlement and rehabilitation assistance to provinces and major cities with little oversight from the central Government other than for very large projects or projects overlapping two or more provinces. The experience to date seems to be that, in the few provinces and cities with significantly higher levels of capacity among officials, the standard of such plans closely approximate the format and standard of plans that are required by the ADB and the WB for projects that they are financing. In other cases compensation, resettlement and assistance plans are of more inferior quality.

D. Philippines

15. The Government of the Philippines as of yet does not have a specific law which comprehensively addresses the complex issues of involuntary resettlement. There are laws which provide a part of the legal framework for addressing such issues. Apart from the Philippine Constitution of 1987 which lays the basis, there is RA 7279 of 1992, otherwise known as the Urban Development and Housing Act, and lastly the Republic Act 8974 of 2000, also named the Act on the Acquisition of Right of Way, Site or Location of Government Infrastructure Projects. The Philippine Constitution guarantees payment of just compensation for private property taken for government use. The Urban and Housing Act defines the procedures for the relocation of illegal settlers in urban areas. RA 8974 sets the system for land acquisition and defines the procedures and valuation methods to be used.

16. RA 8974 prescribes that land acquisition shall be done in three ways: (i) by donation, (ii) by negotiation; and (iii) by expropriation. The act stipulates that the first option to be considered is by donation. Property owners shall be asked to donate the land needed for the government infrastructure projects. This is commonly done when the land needed is not sizable as in the case of irrigation canals or a few square meters for drainage and road improvements; and/or in situations where the private owners stand to benefit from the government project as in the case of irrigation or road access. If the private owners refuse the request for donation, the act prescribes that the government initiates negotiation with the private owners. The government shall initially offer the zonal value of the needed property as determined by the Bureau of Internal Revenue. This zonal value is usually lower than the fair market value and is based on values identified by real estate brokers and developers. If this is not acceptable to the property owners, the governments continue the negotiation to determine the fair market value of the property. The Act defines fair market value as the value which will allow the property owner to acquire similarly situated land of approximate size. The fair market value laid down by the Act is essentially equivalent to the cost of replacement of the land. If the negotiation fails, the government initiates expropriation by filing an expropriation case in court with a mandate to pay the property owner the value of the property based on zonal valuation of the Bureau of Internal Revenue. If the owner refuses to accept the offer, the court shall decide within 60 days the just compensation of the property based on conditions defined in the Act. These conditions include: (i) the classification and use for which the property is suited based on the approved land use and zoning ordinance of the municipality or city concerned; (ii) the development costs for improving the land; (iii) the value declared by the property owners as shown in their latest Tax Declaration Certificates or Sworn Statements; (iv) the current market selling price of similar properties in the vicinity based on the records on Deeds of Sale in the Office of the Register of Deeds concerned; (v) the reasonable disturbance compensation for the removal and or demolition of certain improvements on the land and for the value of improvements thereon; (vi) the size, shape or location, tax declaration and zonal valuation of the land; (vii) the price of the property as manifested in the ocular findings, oral as well as documentary evidence presented; and (viii) such facts and events as to enable the affected property owners to have sufficient funds to acquire similarly situated lands whose areas and values approximate those required from them by government which will enable the property owners to rehabilitate themselves as early as possible. The government shall then pay the property owners the difference between the amount already paid and the compensation value defined by the court. The Implementing Rules and Regulations (IRR) of RA 8974 stipulate that the replacement cost method shall be used for determining the value of improvements and structures on the land and the IRR defines this as the amount necessary to replace the improvements and structures based on the current market prices for materials, equipment, labor, contractor's profit and overhead and all other attendant costs associated with the acquisition and installation in place of the affected improvements and structures.

17. RA 7279 or the Urban Development and Housing Act of 1992 prohibits the demolition or eviction of illegal settlements unless resettlement sites acceptable to the relocatees are available. The Act requires that basic services such as infrastructure, utilities and social services; and employment opportunities shall be provided in the resettlement sites. The Implementing Rules of the Act defines the procedures and guidelines for relocation including identification of resettlement sites; census and tagging operations; consultation process; preparation and development of resettlement sites; dismantling of structures; relocation and post resettlement operations.

18. Another legal basis for compensation is Executive Order (EO) 1035 (1985) which preceded RA 8974. EO 1035 prescribes the procedures and guidelines for the expeditious

acquisition by the government of private real properties for government infrastructure projects. It defines the compensation of agricultural crops affected by government right-of-way, site or location of government infrastructure projects. This includes the payment of financial assistance to displaced tenants, cultural minorities and settlers equivalent to the average annual gross harvest for the last three years but not less than P15,000 per hectare; and disturbance compensation to agricultural lessees equivalent to five times the average gross harvest during the last three years. Trees are valued based on the current market value determined by the Office of the Assessors of the concerned municipality or city.

19. As mentioned, the legal framework for involuntary resettlement in the Philippines is constrained by the lack of a law which specifically addresses involuntary resettlement. Thus compensation based on replacement cost is limited only to the payment for land and structures; and agricultural crops affected by government projects. These are the areas where Philippine laws and the ADB policy converge. The Urban Development and Housing Act only covers urban illegal settlers, although for them it prescribes the provision of resettlement sites, basic services and employment opportunities for relocatees; and requires full consultation and the involvement of affected families/persons in site selection and design.

20. To converge with ADB's policy, the Philippine legal framework would need to be expanded to include a specific and comprehensive law which will govern involuntary resettlement in both urban and rural areas. Existing laws do not order the payment of relocation and transfer expenses; assistance for transition and livelihood support; special assistance to vulnerable people, reestablishment of agricultural and business production; assistance for income restoration and restoring social services, social capital, community property and resources (though this is partly covered by the Urban Development and Housing Act).

21. Although illegal settlers have no right to compensation for lost access to land occupied by them, some government agencies have devised ways to help illegal settlers to such access by providing relocation sites at affordable, almost giveaway, rent or price. With the assistance of ADB, affected families in the Southern Philippines Irrigation Sector Project, relocated to a resettlement site received free core housing, a truck to service the community; and land at 25% of the price paid by government to purchase this land. Resettled non-titleholder families in the Sixth Road Project were given replacement land at giveaway prices. Although illegal settlers relocated from the Pasig River were not compensated for land and structures, they were provided housing units with very low amortization and deferred payment for several years. In spite of the limitations of existing laws governing involuntary resettlement, government agencies have been able to provide a wider range of benefits than prescribed by existing laws, in compliance with the requirements of ADB Policy. In the three projects evaluated in the Philippines, the entitlement packages defined in the RPs provided for a wide range of entitlements including relocation and transfer expenses; some amount for transition expenses in the form of food allowance and transportation subsidy (Pasig, Sixth Road and the Southern Philippines Irrigation); disturbance allowance of P10,000 per family (Sixth Road); compensation for income loss based on latest tax record (Sixth Road); rental subsidy (Pasig and Sixth Road); rehabilitation assistance of P15,000 per family (Sixth Road); compensation to cover cost of reconnecting facilities such as water, power and telephone (Pasig and the Southern Philippines Irrigation project); and livelihood support through training programs and micro credit (Pasig, Sixth Road and the Southern Philippines Irrigation project).

TECHNICAL ASSISTANCE REGARDING LAND ACQUISITION AND RESETTLEMENT SINCE 1994

Table A17.1: Asian Development Bank Technical Assistance Related to Indigenous Peoples or Involuntary Resettlement, 1967–2005

	IP and IR		IP ^b		IR		Total	
	No.	Amount (\$) ^a	No.	Amount (\$) ^a	No.	Amount (\$) ^a	No.	Amount (\$) ^a
By Type								
Advisory Technical Assistance	2	1,300,000	12	6,399,300	19	4,747,400	33	12,446,700
Project Preparatory Technical Assistance	1	150,000	6	3,500,000	3	550,000	10	4,200,000
Regional Technical Assistance	0	0	11	6,800,000	4	1,936,000	15	8,736,000
Total	3	1,450,000	29	16,699,300	26	5,652,000	58	25,382,700
By Sector								
Agriculture and Natural Resources	0	0	10	6,824,300	4	1,425,000	14	8,249,300
Education	0	0	6	3,475,000	0	0	6	3,475,000
Energy	0	0	1	150,000	0	0	1	150,000
Health, Nutrition, and Social Protection	1	800,000	7	3,500,000	14	3,902,000	22	8,202,000
Law, Economic Management and Public Policy	0	0	1	550,000	2	931,400	3	1,481,400
Multisector	0	0	3	2,050,000	0	0	3	2,050,000
Transport and Communications	2	650,000	1	150,000	6	975,000	9	1,775,000
Total	3	1,450,000	29	16,699,300	26	5,652,000	58	25,382,700
By Country								
Afghanistan	0	0	1	850,000	0	0	1	850,000
Bangladesh	1	500,000	0	0	3	560,000	4	1,060,000
Cambodia	0	0	1	600,000	2	550,000	3	1,150,000
China, People's Republic of	0	0	4	2,100,000	3	1,831,400	7	3,931,400
India	1	800,000	1	150,000	1	150,000	3	1,100,000
Indonesia	1	150,000	0	0	3	690,000	4	840,000
Lao People's Democratic Republic	0	0	5	2,974,300	0	0	5	2,974,300
Nepal	0	0	1	200,000	1	150,000	2	350,000
Pakistan	0	0	0	0	2	250,000	2	250,000
Philippines	0	0	1	375,000	1	100,000	2	475,000
Sri Lanka	0	0	0	0	4	556,000	4	556,000
Viet Nam	0	0	4	2,650,000	2	460,000	6	3,110,000
Regional	0	0	11	6,800,000	4	1,936,000	15	8,736,000
Total	3	1,450,000	29	16,699,300	26	5,652,000	58	25,382,700

IP = indigenous peoples, IR = involuntary resettlement, No. = number.

^a Total of Asian Development Bank amount, Japan Special Fund, and other sources of funds.

^b TA amounts may be entirely or only partly devoted to IP issues.

Source: Asian Development Bank Technical Assistance database.

Table A17.2: Technical Assistance Related to Involuntary Resettlement (IR), 1994–2005^a

DMC	TA Name	TA Type	Total	Date Approved
BAN	Support to the Roads and Highways Department for Safeguard Policy Compliance	AD	500,000	23-Nov-04
IND	Capacity Building for Social Development	AD	800,000	23-Dec-99
INO	Social Development for the Interisland Transport Development	PP	150,000	09-Nov-04
BAN	Enhancing Capacity of Infrastructure Agencies in Management of Involuntary Resettlement	AD	150,000	28-Nov-02
BAN	Development of a National Involuntary Resettlement Policy	AD	350,000	21-Dec-04
BAN	Independent Review Panel for the Environmental and Resettlement Aspects of the Jamuna Bridge	AD	60,000	26-Jun-96
CAM	Enhancing the Resettlement Legal Framework and Capacity Building	AD	400,000	18-Dec-04
CAM	Resettlement Study and Social Impact Assessment for the GMS Cambodia Road Improvement Project	PP	150,000	11-Apr-02
IND	Resettlement and Environmental Assessment for the West Bengal Corridor Development Project	PP	150,000	13-Nov-00
INO	Capacity Building in Resettlement Management	AD	325,000	07-Nov-96
INO	Land Acquisition and Resettlement Program for the Proposed North Java Road Improvement	AD	100,000	24-Nov-94
INO	Capacity Building for Resettlement Management in Road Projects	AD	265,000	27-Dec-94
NEP	Preparation of National Resettlement Policy Framework	AD	150,000	28-Oct-04
PAK	Rural Livelihood Enhancement Through Participatory Resettlement in Irrigation Development	AD	150,000	13-Jun-03
PAK	Social Impact Analysis and Resettlement Planning	AD	100,000	03-Jul-01
PHI	Capacity Building for Resettlement Management in Development Projects	AD	100,000	12-Dec-95
PRC	Strengthening the Involuntary Resettlement Practices in the Yichang-Wanzhou Railway Project	PP	250,000	11-Nov-02
REG	Review of National Resettlement Policies and Experience with Involuntary Resettlement Projects	REG	831,000	10-Mar-98
REG	Regional Workshop on Involuntary Resettlement	REG	105,000	08-Apr-98
REG	National Resettlement Policy Enhancement and Capacity Building	REG	500,000	20-Sep-00
REG	Capacity Building for Resettlement Risk Management	REG	500,000	19-Dec-02
SRI	National Policy on Involuntary Resettlement	AD	250,000	27-Aug-99
SRI	Support to Transport Sector for Resettlement Capacity Building	AD	56,000	07-Aug-01
SRI	Capacity Building for the National Policy on Involuntary Resettlement	AD	150,000	11-Dec-01
SRI	Implementing the National Involuntary Resettlement Policy	AD	100,000	15-Dec-03
VIE	Strengthening of Resettlement Management Capacity in the Ministry of Agriculture and Rural Development	AD	150,000	04-Sep-98
VIE	Enhancing the Resettlement Legal Framework and Institutional Capacity	AD	310,000	24-Sep-01
PRC	Capacity Building for Social Assessments	AD	781,400	18-May-00
PRC	Capacity Building for Natural Resources Legislation	AD	800,000	24-Dec-96
VIE	Strengthening the Capacity of Local Stakeholders for Implementation of Son La Livelihood and Resettlement Plan	AD	1,000,000	14-Nov-05
SRI	Independent External Monitoring of Resettlement Activities of the Southern Transport Development	AD	336,000	19-Dec-05

AD = advisory, AFG = Afghanistan, BAN = Bangladesh, CAM = Cambodia, IND = India, INO = Indonesia, LAO = Lao People's Democratic Republic, NEP = Nepal, PAK = Pakistan, PHI = Philippines, PP = project preparatory, PRC = People's Republic of China, REG = Regional, SRI = Sri Lanka, VIE = Viet Nam.

^a Selection of technical assistance (TA) on IR based on rapid assessment by Operations Evaluation Department (OED) of TA papers. Selection of TA on IP based on information from ADB's IP website in combination with rapid assessment by OED of TA papers.

Sources: Asian Development Bank TA database and ADB website www.adb.org.

ASIAN DEVELOPMENT BANK TECHNICAL ASSISTANCE ON INVOLUNTARY RESETTLEMENT

1. **TA 5781-REG: Review of National Resettlement Policies and Experience with Involuntary Resettlement Projects** addressed policy requirements in seven selected developing member countries (DMCs): Bangladesh, Indonesia, Nepal, Pakistan, Philippines, People's Republic of China (PRC), and Viet Nam. The technical assistance (TA) developed National Resettlement Action Plans (NRAPs). These NRAPs recognized that, while ADB's Involuntary Resettlement (IR) Policy sets broad principles to minimize displacement, and restore incomes for affected persons (APs), these principles are implemented in projects through the DMCs' frameworks for land acquisition. While the legal basis for land acquisition and compensation in South Asian countries has been long established, many DMCs in East and Southeast Asia have land laws that were only recently developed. Most DMCs at the time lacked comprehensive national standards for involuntary resettlement. The NRAPs therefore contained recommendations to enhance national policy standards, enact the policy principles through the legal frameworks, develop appropriate institutional structures, and build capacity for implementation.¹ ADB's TA completion report (the TCR) rated the TA as highly successful. It was also strongly endorsed by the Operations Evaluation Department's Special Evaluation Study in 2000, and it won a Canadian International Development Agency award.

2. **TA 5935-REG: National Resettlement Policy Enhancement and Capacity Building** was designed to strengthen DMC capacity to enhance involuntary resettlement policy, and legal and institutional frameworks supported by continued regional consultations, by implementing selected NRAP activities in PRC, Indonesia, Nepal, Pakistan, and Philippines, and by extending the NRAP planning process to one new country, Cambodia. According to the TCR, the regional TA selected catalytic activities from each NRAP. A Cambodia NRAP was prepared, discussed, and endorsed at a national workshop; and a draft National Resettlement Policy was prepared. In Indonesia, the outputs including a refined draft Land Acquisition and Resettlement Act, an administrative and Institutional Framework, Resettlement Guidelines, and a proposal on capacity building. In addition to the national workshop, several provincial level consultations were conducted. In Nepal, final amendments were made to the Land Acquisition Act, and its Implementation Regulations were prepared, together with an Operations Manual (OM) and proposal on capacity building. A draft Resettlement Policy was also prepared. In Pakistan the draft National Resettlement Policy was refined, and a Resettlement Ordinance prepared, together with accompanying notes on implementation. Other outputs included an OM and a proposal on capacity building. Progress was made in defining the necessary outputs in the Philippines, which included a draft National Resettlement Policy, a draft executive order on Resettlement, Resettlement Guidelines, and a capacity building proposal. In the PRC the Ministry of Lands and Resources requested two special studies, a Report on the PRC Legal Framework, and a Report on Rural Land Reform and Poverty Issues in relation to resettlement. As with TA 5781-REG, the TA was intended to build awareness among stakeholders. The TCR rated the TA as successful.

3. **TA 6091: Capacity Building for Resettlement Risk Management** was all but completed by the time of drafting of this study (July 2006), but a TCR had not yet been filed. The TA responded to findings of the OED study, a regional workshop held under TA 5935, and international discussion on models of resettlement risk management. The TA focused on

¹ Under RETA 5781 it was agreed that the World Bank would support further policy enhancement work in Bangladesh. Meanwhile, the Government of Viet Nam requested ADB for TA for the purpose of resettlement policy enhancement, and this was separately processed and approved.

generating instruments needed to address risk management, asset valuation, and livelihood rehabilitation; and prepared case studies for PRC, Cambodia, and India. Whether viable risk management systems have been developed remains to be seen, but the TA delivered some good studies on income restoration, impact of resettlement in PRC, and asset valuation techniques.

4. **Other Technical Assistance.** Of the nationally oriented TAs, those for Sri Lanka and Viet Nam have had particularly good impact. In Sri Lanka, ADB TA assisted in designing a national resettlement policy that in some ways is more advanced (lower thresholds for RP preparation) than ADB's, and which was approved in 2001. However, the policy is hampered by lack of implementation capacity, and is yet to be fully enacted so that courts can enforce it. For Viet Nam, the assistance of the TA has already been discussed earlier; the new policy allows ADB-supported projects to set legally enforceable standards, but other types of projects with resettlement can go ahead with lower standards that would be unacceptable to ADB, if provincial peoples committees so decide. Of the other countries, ADB TA assisted in the formulation of resettlement policies in Bangladesh, Cambodia, PRC, Indonesia, and Nepal. In the PRC, TA contributed to the Land Management Law of 1998; the significant contribution is assessed in Appendix 10, although there are still shortcomings from a resettlement perspective to the 1998 law. The majority of the other TAs are for capacity building on resettlement management. Where ADB did less, it was often because another international agency assisted the government already in this field.

5. Based on partial and anecdotal evidence, the conclusion seems nevertheless warranted that there has been relatively high value added to many of these IR TAs and regional TAs.

COMPENSATION AND RESETTLEMENT IN THE UNITED STATES OF AMERICA AND IN THE NETHERLANDS

A. Compensation and Resettlement Policy and Practice in the United States of America

1. The United States (US) Constitution requires the state to make “just compensation” for government taking of citizens’ property for public use. The prevailing US jurisprudence adopts “fair market value” of the expropriated asset as the standard for determining compensation for state expropriations. The fair market value is commonly defined as “the amount that the land might be expected to realize if sold in the open market by a willing seller to a willing buyer.”¹

2. However, since fair market value as a basis for compensation does not take into account the replacement of land and improvements, relocation and moving costs, costs to terminate and restart utilities and services, lost business revenue, squandered customer goodwill, and demoralization costs, courts have acknowledged that under certain circumstances, an alternative measure of just compensation might be in order. Over the years, the US has developed both statutory laws and case laws to address the issue of insufficiency of fair market value compensation to achieve the legislative objective of ensuring that affected property owners do not bear the cost of public projects that will benefit the whole society. When the compensation determined cannot fully compensate affected property owners or restore their lifestyle, some courts in the US adopt an approach of paying a premium on top of the fair market value of the property at issue. For instance, the US Congress authorized a premium in the New Hampshire Mill Act requiring a 50% premium over fair market value when grist mill owners flooded upstream lands.

3. **Resettlement.** Perhaps the most important law governing resettlement assistance in the US is the 1970 Uniform Relocation Assistance and Real Property Act (the Uniform Act) and its relevant regulations. The objective of the Uniform Act “is to ensure that such persons shall not suffer disproportionate injuries as a result of programs and projects designed for the benefit of the public as a whole and to minimize the hardship of displacement on such persons.”² The act requires the expropriating agency to provide advisory assistance and financial benefits. These payments are in addition to any amount the agency must pay the property owner when it condemns or otherwise acquires property. The main contents of this codified law are as follows. The expropriating agency must send a representative of the agency to contact each person who will be displaced by the project as early as possible in the land acquisition process. The representative must explain the benefits for which the person is eligible, as determined by federal law. If the property owner disputes the adequacy of the benefits thus offered, he/she must request a reconsideration by the expropriating agency. If he/she is still not satisfied, he/she can appeal to the agency commissioner, and then to the courts.

4. **Resettlement Plan.** The expropriating agency must provide an advisory assistance program for eligible people, including (i) determining the need for relocation assistance; (ii) providing information on the availability, prices, and rentals of comparable properties; (iii) assisting affected businesses in becoming established in a suitable new location; (iv) supplying information on federal and state programs offering assistance; and (v) providing other services to minimize the hardship of relocation.

¹ Knetsch, Jack L. and Thomas E. Borcharding. *Expropriation of Private Property and the Basis for Compensation*, 29 University of Toronto Law Journal 237 (1979).

² The Uniform Relocation Assistance and Real Property Act (1970), 42 U.S.C 4601 et seq., §201(b).

5. **Replacement Housing.** The agency must ensure that there is adequate housing for the affected people. Specifically, the agency must ensure, before displacement occurs, that (i) the number of replacement units equals the number of displaced households; (ii) the replacement units are decent, safe, and sanitary, and in areas that are at least as desirable as the individual's current neighborhood; and (iii) the units are available at rents and prices that the displaced people can afford. A person cannot be forced to move from his home unless the relevant department determines that such replacement housing is available.³

6. **Relocation Assistance and Other Assistance.** Under the Uniform Act, in addition to fair market value, the expropriating agency must pay affected people (i) actual and reasonable expenses in moving the family, personal property, farm operation, or business; (ii) actual direct losses of tangible personal property resulting from the move or from the closure of a business; (iii) actual and reasonable costs in searching for a replacement business; and (iv) actual and reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at the new site. Property owners are also reimbursed for conveyance taxes, any mortgage prepayment penalty, and current property taxes. The law provides additional benefits for people displaced from their dwellings. In the case of people who have owned their homes at least 180 days before acquisition negotiations began, the expropriating agency must pay (i) the amount needed, in addition to compensation for the acquired property, to buy a comparable home; (ii) the cost of higher interest rates, if the home is mortgaged; and (iii) reasonable closing costs for acquiring the replacement home, including the title search and recording fee. For other people displaced from dwellings they have occupied for at least 90 days (owners or tenants), the acquiring agency must pay the rent for a comparable dwelling. Alternatively, the displaced person can claim money to make a down payment on a home.

7. The conclusion is that, on substantive issues (compensation and assistance), the US's compensation policy in the case of expropriation and displacement can be seen as similar or better than the ADB Policy (e.g., in establishing replacement cost it also includes compensation for depreciation of assets and lost good will in case of land acquisition and resettlement, which is not specified by the ADB Policy). The US, like many other western countries, has relied more on its court system to create case law and precedent; this works as de facto policy, although it is partly formalized in the Uniform Act. On the other hand, the US relies on the working of its social safety net to address categories of vulnerable people when they are affected by public projects. Rehabilitation measures are generally not included in resettlement operations unless in cases of mass displacement, such as with dams, or in cases of resettlement of Native Americans. On procedures, e.g., regarding the need for public consultation and approval of an RP before project approval and award of contracts, compensation before resettlement, public disclosure of the plan, grievance redress, and monitoring requirements, ADB's policy seems more cautious and elaborate. However, these measures may well be required more in the DMCs than in countries like the US. A legal requirement to minimize displacement and to investigate all project alternatives was not encountered.

B. Land Expropriation and Compensation in the Netherlands

8. In the Netherlands, the government has at least two legislations available that allow expropriation by the government of private land from its owners for projects that are in the public interest: the Expropriation Law and the Law of Preferential Rights of Municipalities. The second

³ According to 49 CFR 24.2(a)(8)(iv), the comparable form of housing must reflect appropriate local housing codes or, in absence of local codes, the policy of the displacing agency. For example, if it is "culturally" a part of the lifestyle for six children to share a bedroom, it is not acceptable to base the computation of the replacement housing payment on a dwelling that would require six children to share a bedroom.

is indirectly of interest, as it gives the right to local governments in certain cases to have a first option to purchase a private property in the public interest. The Expropriation Law is the most relevant to this study. A government body such as a municipality can initiate an expropriation procedure when it cannot agree with an owner through voluntary negotiation on a willing-seller, willing-buyer basis. The basic rule is that the owner may not deteriorate in income and assets. The court system is the ultimate arbiter. There are two phases, an administrative phase and a court phase. The administrative phase starts when the municipality approves an expropriation plan and makes it publicly available for appeal in the town hall. If prospective APs appeal against the plan and this appeal is not regarded as sufficient ground for withdrawal of the plan by the local council, the plan with the registered appeals is submitted to the central government for consideration. The APs are in position to demand a hearing at this stage. The central government can decide to reject the plan on the basis of the appeal. After approval of the plan by the government, the municipality can start a court procedure. It can request a judge to issue an order to evict the AP. The court judge also determines the compensation that the municipality has to offer to the AP. Usually, independent assessors are arranged to determine the compensation. Appeal can still be made to the Supreme Court.

9. The compensation is always determined in monetary value, but the government can consider offering the owner replacement land. The compensation has to be at least as high as the value of the lost asset. In addition, compensation must be paid for depreciation in value of other assets if relevant, and for relocation costs and income losses during the transition phase. From this, it is clear that Dutch policy for compensation for losses is at least as good as ADB's; its public communications policy can be judged better, as all public projects need to be registered in provincial or municipal land use / zoning plans, which are publicly disclosed and open for appeals. The well-developed court system as well as a particular body in the central government (called "the Crown") function as the grievance redress system.

10. Given the lengthy and onerous expropriation process, local governments resort to the expropriation procedure only by exception, and generally have the authority to negotiate a land price that can be considerably above the replacement value of the lost asset, so that it is sufficiently attractive for the owner to accept it, as this reduces the period of uncertainty over the final decision, and the associated loss of investment opportunity.

C. Adverse Possession in United States of America and United Kingdom

11. Laws of adverse possession have some relevance to the discussion, as some ADB staff commented in their questionnaire response that ADB's policy may be too generous in its prescription of the treatment of squatters. It is not true that Western countries do not have any legislation dealing with squatters. The laws they have on adverse possession can be regarded as somewhat akin to ADB's policy to provide squatters with compensation for loss of their structures (not land), and further relocation and rehabilitation assistance if they are vulnerable. Adverse possession laws are not very common in Asia, and in fact most Asian governments as well as courts have ruled against the granting of rights to squatters (i.e., nonlegalizable nontitleholders) who lose their access to land and therefore do not provide compensation for lost access to land and even structures. Thailand is perhaps an exception. Under Thai law, squatters can apply for legal title to a plot of land after 10 years of continuous occupation,

although few succeed in doing so in practice.⁴ The remainder of this section discusses the nature of adverse possession laws in US and United Kingdom (UK).

12. Adverse possession against a titled owner is a route to acquiring legal rights (or title) to a real property in addition to conventional means, such as transaction, government granting, and creation of rights through law, under certain conditions for a statutory period of time.⁵ In the US, these conditions include (i) actual possession of the land in question, (ii) continuously, (iii) exclusively, (iv) open and notoriously, (v) against the titled owner's willingness, and (vi) for a statutory period of time. To establish the actual possession, the claimant must perform some physical acts of possession in connection with the land, such as using the land for farming or grazing, improving the land, or setting up an enclosure on the land.

13. Within the statutory period of time, the claimant must exercise possession and use of the land continuously without interruption. Any interruption of this continuity may terminate the counting of the statutory time. However, this does not require the claimant to be on the land all the time; it will be sufficient if he/she can use and enjoy the land as an average owner of similar property would have used and enjoyed it.⁶ The claimant must be able to prove that the land he/she possesses is not publicly accessible; otherwise it cannot be claimed as a specific individual's property through adverse possession.

14. The claimant must also possess and use the land openly and notoriously in a way that a reasonably prudent owner in the exercise of ordinary care should discover that such possession and use constitute a claim to his property. The purpose of requiring open and notorious possession is to place the titled owner on notice of such adverse activity so that the titled owner has an opportunity to take action to vindicate his/her ownership rights.

15. Although almost all state laws in the US contain the above conditions, the time requirement is different from state to state. In general, the claimant must possess and use the land for at least 10 years.⁷ The requirement may be reduced to a fewer number of years if the claimant obtained the possession through a contract of transfer (even fraudulent), a deed for partition, or a decree of court. The law does not usually apply to publicly owned land. However, historically, the government has sold millions of acres of land at very low prices to squatters.

16. The UK adverse possession law requires 12 years of adverse possession to defeat the owner's title. However, the adverse possessor must file an application two years before he/she is legally awarded ownership, namely, at year 10 of adverse possession. The two-year waiting period is for the registered owner to defeat the claim. To substantiate his/her claim of ownership through adverse possession, the claimant must establish possession as a fact. Second, he/she must show the requisite intention with regard to the possessed land. Third, he/she must show the possession to be adverse, which is overlapping to a certain degree with the second requirement.⁸

⁴ Millions of people in Thailand continue to live on what is technically public land in legal limbo, without papers, without clear rights. Speculators exploit this ambiguity by using various informal means to get land purchase records back-dated or documents issued in their names, and then accusing villagers of encroaching. Available: <http://www.achr.net/000ACHRTsunami/Thailand%20TS/Land-1.html>

⁵ Black's Law Dictionary (1990).

⁶ 3 Am. Jur. 2d, Adverse Possession § 54.

⁷ In Washington State, the requirement is at least 7 years, and having paid all taxes on the land.

⁸ Mark Thompson, *Modern Land Law* (Second Edition) (2003), at 202.

MAIN FINDINGS FROM PROJECT CASE STUDIES: PROCEDURAL AND EFFICIENCY ISSUES

A. Due Diligence Issues

1. **Were alternatives to avoid/minimize IR explored at the time of project design?** This important question led the project case study consultants to different answers, depending on the nature of the projects and information available but also their individual perceptions. Consultants in India and Philippines mostly argued that alternatives were not sufficiently explored, those in the People's Republic of China (PRC) that they were. The scale and nature of many of the projects in the PRC may have had an influence on this perception, as may have the PRC's rigorous environmental impact assessments, which also integrate comparisons and thorough consideration of resettlement requirements. As the findings of the Special Evaluation Study on Environmental Safeguards demonstrates, environmental assessments in the PRC are more rigorous than in most other developing member countries (DMCs), which is one reason why so many of Asian Development Bank (ADB) loans are placed in the A category. The feasibility studies and reports and recommendations of the President (RRPs) generally did not provide information as to the comparison of various project alternatives with attendant financial, social, and economic costs. More fundamentally, however, the comparison of project alternatives in terms of their implications for involuntary resettlement was seldom clear cut. Incomparable advantages may need to be compared. The opinion of a project management consultant interviewed was that the owners of the illegal shacks on the canal/river banks in a project in India, who were relocated, would not have needed to be moved if different dredging and cleaning techniques had been used. The issue is, however, as much one of political choice about an orderly environment and long-term advantages versus short-term disadvantages, as one of financial choices—whether to build something cheaper or more expensive. The two dam cases studied in the PRC led to displacement of over 75,000 affected persons (APs), often across long distances. Alternatives to power and water supply would have had larger financial and certainly different environmental costs. The cost of decommissioning dams is often not included in economic analysis. The ADB Policy does not give much guidance regarding the comparison of alternatives, and the principle of avoidance of resettlement seems primary. It is unclear whether and to what extent projects with much lower economic and financial returns should be accepted on the basis of what level of reduction in resettlement needs. This makes the guidelines on the avoidance and minimization of resettlement relatively difficult to use in a practical sense, or at least, less amenable to independent evaluation. Neither is there clarity regarding the role of national government decision making with respect to choice of resettlement options. The assessment of project alternatives is often hampered by the fact that governments do the initial selection of projects eligible for financing by ADB. Governments may not wish to endorse a wide ranging analysis of project alternatives, and may not be very receptive to the findings, if they identified a completely different type of project, with a different parent agency.

2. **Was an analysis of the DMC's framework for resettlement conducted?** The answer provided by the consultants in charge of the case studies to this question was uniformly “yes.” This is not surprising, given the frequency of resettlement operations in the many infrastructure projects approved for the three case study countries. In countries with relatively fewer infrastructure operations, the answers may be more variable, especially with respect to older operations. Most of the study's consultants were less confident about the compatibility of a DMC's framework with the ADB policy, and the measures undertaken to address the discrepancies. Problems were encountered with the interpretation of the question whether the compensation for land and structures was equivalent to market or replacement value, and the legality and enforceability of special assistance to APs for relocation, transitional income loss,

and rehabilitation assistance. Whether the agreements reflected in the resettlement plans (RPs) are actually enforceable in courts is a moot point, and the agreements regularly need to be reconfirmed with governments and executing agencies (EAs) even after their approval earlier. Although there is little procedural compatibility with country or EA systems, many resettlement specialists argue that, in practice, many solutions can be worked out in individual projects by supplementing the country's mandatory compensation and resettlement requirements with additional assistance specifically targeted to vulnerable groups. This study concurs with this view, also after comparison of experiences with some comparator organizations.

3. Were the RPs or Resettlement Frameworks (RFs) prepared before project approval? The submission of short RPs before the Management Review Meeting (MRM) and full RPs before loan approval has been a standard ADB requirement for many years. However, ADB's Operations Manual (OM) section F2/OP contains a clause that allows project approval even without an RP that is fully endorsed by the government, as long as a covenant is included in the loan agreement that this is submitted soonest. No such case was found among the projects studied, although in all the sector projects, RPs for subprojects that were not prepared before loan approval were submitted after project start. The case of the Philippines' Sixth Roads Project, approved 30 September 1996, was an exception. It is illustrative of the situation in some older projects in ADB's portfolio, such as for instance the Nam Teun Hinboun Hydropower Project in the Lao People's Democratic Republic. The RRP for the Sixth Road Project, mainly concerned with road rehabilitation, announced no need for involuntary resettlement,¹ and consequently no covenant was written in the draft loan agreement that if resettlement might be found to be needed, an RP needed to be submitted to ADB for approval. An RP was in this case successfully prepared only long after the resettlement operation, due to a succession of events and misunderstandings. By the time of appraisal, two stretches of road had not completed detailed engineering design, namely, those in Mulanay in the Bondoc peninsula and the first stretch of road, about 20 km, out of Zamboanga city. These two roads subsequently had the main resettlement problems in the project. For the latter the government decided to construct a 4-lane road compared with the existing 2-lane facility (this decision was made after the loan was approved). In the Bondoc peninsula, the Mulanay road site developed a problem after approval, as a seawall collapsed that had protected a number of encroachers. The EA moved these quickly to a resettlement site made available by a local government unit, and before ADB was made aware of the issue. As the loan agreement signed 23 June 1997 did not include resettlement clauses, the EA was originally reluctant to write RPs post-facto. The drafts of the needed RPs (separate RPs were issued for land acquisition and for structures) were eventually prepared but proved unacceptable to ADB, until the project was suspended. A draft was approved only after many iterations, and after the suspension was lifted, some assistance was provided to those vulnerable APs that could still be traced, as not all had moved to the resettlement site nearby.

4. Did the RPs meet with the normal standards required (at the time)? If not, what were the shortcomings? OM F2/OP of end-2003 was a watershed in terms of specifications for RPs, and all RPs prepared long before this time were more uneven in their organization and treatment of needed procedures. Social assessments, census, and socioeconomic surveys were not focused on issues of vulnerability as much as those attempted in the last few years.

¹ Originally this project only included interurban roads, and for many roads the detailed engineering designs were completed. However, the cadastral surveys had not yet been undertaken. At the time of appraisal there was no indication that any land had to be acquired that required resettlement, and thus the environment specialist indicated that a resettlement plan was not required. The only requirement was to preserve an old bridge located in Quezon Province, built during the Spanish period. However, it was recognized that the government did not formally own some of the rights-of-way, and this would be established only after completion of the cadastral surveys.

Entitlement matrices were not as elaborate and well tested as those routinely prepared after the OM. Arrangements for public disclosure, independent grievance redress, and internal and external monitoring were not as systematically addressed. As discussed elsewhere in the report, in the past, fewer RPs were prepared for cases where there was little or no actual displacement, but only partial land or other economic losses. Those cases then often later ran into problems during implementation and needed special attention as a result of ADB's enhanced safeguard controls and growing expertise. One late case is the Rural Roads (Sector) Project I, where ADB has tried to come to terms with the widespread practice in the India-wide program for rural road rehabilitation and blacktopping, to rely on voluntary donations of slices of land when roads needed to be widened or differently aligned. Given the program's wide coverage of thousands of rural roads in two states, and in spite of agreements made during loan negotiations, EAs have opposed the formulation of individual RPs for each road. This has led to delays in ADB approval for loan reimbursements. (A follow-on project for Rural Roads in the State of West Bengal now accepts land donation by roadside communities under very tight documentation conditions.)

5. Were the RPs approved by the EA/Borrower before Board approval of the RRs?

This was generally formally the case except where involuntary resettlement proved to be an unexpected need during project implementation, sometimes as a result of changing alignments of roads, or changed scope of the project. Sector projects, which are defined by the identification and preparation of usually many subprojects in different locations after loan approval, are a special case. The RF, approved by the government before loan approval, is to cater to sector projects. Another case is that some RPs have been prepared by consultants and were approved by governments without careful scrutiny of their provisions. This was the case with the Guizhou Shuibai Railway Project. This case also underestimated the number of APs by a wide margin. The problem during implementation is exacerbated when project administrators are changed and new administrators are not aware of the provisions, or distance themselves from the RP on the basis of their apparent variance with the legal framework in the country. The ownership of many RPs is often low, a circumstance that cannot even be countered by the routine statement on the front page of most RPs that "this is not an ADB document." The project director of the Rural Roads I (Sector) Project in one state, although having been in position for some time, professed never to have seen the RP for his project, and questioned its legitimacy.

6. Were there changes in land acquisition/resettlement conditions? If so, were updates of the RP submitted to ADB?

In at least four cases in the PRC—older cases—no update was offered to ADB when changes were made in the conditions under which land acquisition and resettlement were to take place. This reflects the great discretion ADB accorded to Chinese authorities in the past, especially in road and railway cases. The previous OM of 1997 is also not entirely clear on the need for RP updates. ADB's due diligence activities in the PRC are, however, increasing, which has led to added value for APs, e.g., more attention for restoration of land temporarily used by road construction contractors. In the Philippines, no update was offered for the Pasig River Project, even when a new government in 2001 imposed a moratorium on resettlement operations, which lasted several years.

7. Were there delays in comments or approvals by ADB?

This is a complaint often heard in the study team's discussions with authorities. Delays in the approval of (updated) RPs by ADB proved to be a major bottleneck in at least four cases in the sample of projects studied. The final approval of the RP for the Sixth Road Project took at least five drafts and over a year of preparation, during which the project as a whole could not proceed. Delays were also encountered in the Southern Philippines Irrigation Sector Project. The RP was revised five times and was delayed due to lack of clarity on the requirements of the ADB policy. These were

elaborated and explained in more detail as the RP preparation progressed, which took nearly three years to complete. In the Pasig River Project, the RP was also revised five times over more than one year before it was approved by ADB (before approval of the loan). In the Rural Roads Sector Project in India, delays in disbursements were experienced due to delays in the submission by the EAs of the agreed upon RPs for the roads planned. But a special administration mission that included a resettlement expert from ADB for more than 10 days in October 2005 helped the EA to prepare the Land Acquisition Plan. ADB approved this quickly afterwards. In the West Bengal Transport Project, approval from ADB regarding the RP for seven rural access roads was provided in record time. In the case of the Kolkata Environmental Improvement Project, ADB approved the revised entitlement matrix within a month's time. In the PRC, approvals were also generally provided quickly, but the problem in some cases was lack of submission of updated RPs, even when the numbers of APs had risen a lot, such as in the Guizhou Shuibai Railway Project, and Guanxi I. One reason for the lack of updated RPs was the lack of supervision of resettlement operations by ADB.

8. **Were consultations held with APs at the RP preparation stage?** The definition of consultation that ADB has traditionally employed is very wide. The study team usually found evidence of some form of consultation, comprising meetings of consultants with authorities, community leaders, and usually some APs during field visits, and also census and socioeconomic surveys of these APs. However, formalized community meetings with recorded agreements prior to major decisions were usually not relied on in the past, even in the cases of mass movements of people, such as the two dam cases and the Pasig River resettlement. For APs in India, the Revenue Department was often the face of the project, and EAs were seldom directly associated with land acquisition or even resettlement. Staff of field units of EAs usually had had no training in public consultation for resettlement. With the increasing focus on public disclosure and consultations to obtain verifiable broad community support, this is now changing at least for the larger and more recent resettlement operations. In the West Bengal Transport Project, 80% of APs were aware about the impending resettlement operation. In the Kolkata Project, it was 63%. A survey of the Rural Road I project in Chattisgarh provided poorer results; however, the project claimed that consultation and community participation had been institutionalized for each of the hundreds of subproject roads through transect walks before the finalization of the design of the alignment. The older transport projects in PRC hardly involved public consultation of the type favored by ADB. More recently, there has been some improvement, although a limited concept of public consultation still predominates.

9. **Were consultations held with APs at the RP implementation stage?** Findings from the case studies here are similar. There may be more evidence of consultations during implementation in newer than in older projects, as a result of the increasing number of sector projects that require RPs after project approval, and of the Environment and Social Safeguards Division of the Regional and Sustainable Development Department's insistence on the updating of the RPs after the more detailed design of especially road and railway works. Consultations in the PRC varied with the organization in charge. In Wenzhou, the municipality's Resettlement Office was very experienced, highly committed, and had high political backing for consultation for rehabilitation of APs of the Zhejiang-Shanxi dam in the "post-resettlement phase." In the area of the Mianhuatan Dam Project, less was done in terms of postresettlement rehabilitation works and thus there were also fewer consultations.

10. **Were nongovernment organizations (NGOs) involved? If so, were they involved in time?** In the PRC, NGOs are almost non-existent in this field, and in the rural areas, village collectives and internal groupings were sometimes viewed as the "grassroots-based" equivalent. Even outside the PRC, NGOs were not always relied on in the sample, in spite of the

suggestions in the policy (para. 27) to involve such NGOs or other local organizations. The Kolkata Project and the Pasig River Project in the sample used NGOs and community organizations most. The NGOs involved in the Pasig River Project were effective in carrying out the tagging operation and organizing the affected families, but according to the findings of a survey they did not involve all APs in the consultation process. They focused on community leaders, who were less effective in communicating information regarding the relocation plans, compensation packages, and resettlement sites. Miscommunication and misunderstanding led to a belligerent and one time bloody confrontation with APs. In the Kolkata Project, the resettlement process is still ongoing. NGOs hired cover a broad range of training and microcredit-based activities in the project, and no complaints were heard from APs visited. Indeed there was much appreciation of their role and rapport with APs.

11. **Were monitoring arrangements made?** The policy states that the RP should indicate the monitoring and evaluation requirements. OM F2/OP, para. 46, specifies that EAs are to submit quarterly or semiannual progress reports, and that monitoring and evaluation reports are required, “preferably from an external monitoring and evaluation agency.” In the study’s sample, which combines older and newer projects, the existence of special monitoring arrangements for resettlement was usually corroborated, but they were not always established at the beginning as they should, but midway or only at the end of the operations, presumably from the mistaken assumption that ADB would be interested mainly in a post-audit or evaluation of the impact on APs. In the Sixth Road Project, monitoring arrangements were made very late, as ADB discovered the extent of impact relatively late, at around the time of the midterm review of the project. The Rural Roads Sector Project did not have separate monitoring arrangements, arguably because there was formally no need for resettlement or even formal land acquisition. However, project implementation consultants were supposed to incorporate the checking of the processes and agreements as to land donations. Sometimes the project relied only on an external agency, such as the Guangxi Roads Project, which relied on the Guangxi Academy of Social Sciences. In the PRC, most of the projects with resettlement had external monitoring arrangements, and produced regular monitoring reports. Monitoring reports were often not prepared, specifically for resettlement operations. In those cases where they were, they were prepared only at the end due to late organization of external monitoring, after protracted periods of procurement of the consultants.

12. **Were grievance redress mechanisms included? Were they fully independent of project or local government authorities?** The experiences were variable. The RPs usually specified what APs could do to address a grievance about the project. Grievance mechanisms were usually located within the government or project structure. Only rarely, fully independent mechanisms were created to deal with grievances. In the PRC road and railway cases, the grievance mechanism usually included a stepwise system starting from village authorities, then county, then municipal authorities, as these were in charge. As the complainant can threaten to move to the next level of grievance redress, there can be effective pressure on village authorities to address the grievance, which is their job. On the other hand there is significant pressure on the individual as a member of the village collective to conform to the collective’s official position. The village collective constitutes a large part of the social safety net. The setup of the grievance redress from village upwards encourages practical complaints and discourages the posting of grievances that challenge the system, such as those regarding compensation rates and how these are determined. The study team generally did not find any fundamental complaints being registered, in spite of the expression of disappointment with the compensation rates in individual interviews (particularly in the dam cases). In the Wenzhou Resettlement Office, dealing with the Zhejiang-Shanxi Dam, a permanent grievance section was set up regarding the dam resettlement process, with proper administration and handling of grievances.

In the Mianhuatan Dam Project, such a section was not available, and grievances were filed with the general municipal resettlement office. In the Philippine cases, grievance redress was available to all three projects, but became available late in the Sixth Roads project. In the Indian cases, the Kolkata Project and Rural Roads had no grievance redress system, and relied on the project team itself to attend to the grievances. In the West Bengal Corridor Project, a grievance redress committee and land advisory committee were formed by gazette notification in each of the districts involved; 1022 grievances were lodged up to the time of the case study, and these were addressed in 12 meetings of the two committees. It was very effective: 958 grievances were expressed regarding the exclusion of APs from the 2001 RP census list. In other projects studied in India, such as the Rajasthan Urban Project, the Western Transport Corridor project and the Power Transmission project, grievance redress mechanisms did not work very well.² In most cases in India, the grievance redress committee, which has an EA representative, was headed by the District Collector.

B. Land Acquisition and Resettlement Issues

13. Was land acquisition completed before project works started? If not, was this a problem? OM F2 is not restrictive with respect to the procedures for the completion of land acquisition before start of works or resettlement. Many countries have rules about this themselves, and where they do, they need no further safeguard enforcement from the side of ADB.

14. Was payment of compensation for land loss completed in time? The Policy of 1995 does not make a statement on this, but OM F2/OP para. 38 requires delivery of compensation to APs and allowances and house reconstruction, prior to their being dispossessed or displaced. In several projects studied, the government proved unable to provide the compensation before relocation of APs, and for instance in the PRC, compensation was sometimes delivered to "land loss APs" (as opposed to relocatees) in installments over a period of time, well after actual land loss was experienced. In the Southern Yunnan Project, payment of compensation was 1-2 years late due to late payments by the road agency to local governments administering the compensation, and insufficient budgets of the latter. However, when actual relocation was involved, compensation was usually provided in time to APs. In the West Bengal Corridor Project, compensation for structures, initially provided in a lump sum equal for all nontitleholders along the road, was later corrected through an ADB intervention, in order to ensure that the compensation was equivalent to the replacement value of the structure actually lost (resented by APs). In some other projects studied, compensation had also been awarded very late. As mentioned, due to particular problems, compensation for structures and other assistance was provided years after actual relocation in the Sixth Road Project.

² Staff of the India Resident Mission disputed these OED findings. They stated that ADB had fielded a special loan administration mission to the Western Transport Corridor Project in August 2004. The mission spent 8 days in the field and reported that the grievance redress mechanism was working well. The record books of grievance redress were reviewed; 399 grievances were reported in 2004, of which 324 (81 percent) were resolved by the existing mechanism. Staff admitted that the situation might have changed at the time that OED conducted their survey, since land acquisition and resettlement and rehabilitation activities had been completed (except litigation cases), and NGOs had been demobilized. Regarding the Power Transmission Project, the project completion report (PCR) had confirmed that the grievance redress mechanism had functioned well. Only one AP had complained about the delay in dispensation of compensation amount, but this was due to legalities pertaining to establishment of ownership; one other AP complained about not having proper access to his remaining land, which the Committee and project authorities subsequently agreed to attend to. The limited surveys held for this special evaluation study registered much dissatisfaction with the compensation awarded, sometimes five years late.

15. **Was relocation completed before the start of civil works?** This is not a requirement of the policy but is a requirement sometimes included in loan agreement covenants. Resettlement sites or housing for APs obviously need to be constructed and available before relocation can start. Adherence to these standards was sometimes fundamental, as in the case of dam reservoir resettlement projects. But also in other projects, such as the Southern Philippines Irrigation Project, they proved to have been generally met, with the general exception of the roads and railway projects. Resettlement sites in the West Bengal Corridor, Pasig River, and Sixth Road projects were either problematic in terms of location or facilities and access to public services or common property resources. Where such sites were not offered (for instance as a result of the wish of the APs to self-relocate), many APs wished to occupy temporary shelters or stay with relatives in order to see the road works progress before they started their own construction work, or wished to add their own savings to compensation received before building a new house at their own pace. For this reason, the requirement has to be applied flexibly. Overall, APs proved reasonably satisfied as long as they were warned in time about the compensation and assistance offered, and the date when the move needed to be made. The desire to know well in advance when the APs needed to move was seen as crucial, even more so in some cases than the levels of assistance themselves. Too often, there were either no clear dates set for APs in different road locations, or if they were, they proved wrong. This uncertainty caused considerable inconvenience and even unrest. Another issue was the quality of resettlement sites that were offered to APs; this varied. In some cases, it took a few years for any resettlement site to gain access to the necessary facilities, causing much inconvenience by APs in the transition period.

16. **Were relocation assistance measures included? Did APs find them sufficient?** In all cases reviewed, relocation assistance was provided, and generally it was appreciated. In two cases there were complaints, the West Bengal Transport Corridor Project, and the Pasig River Project. The latter's resettlement was partly done hurriedly by the government before actual approval of the ADB loan and in anticipation of approval, and for this reason was not closely monitored by ADB. In the Sixth Road and the Southern Philippines Irrigation projects, APs received very generous relocation assistance as a result of ADB involvement, which consisted of free transport to resettlement sites, free food allowance for three days, and varying rates of disturbance allowance given by each sending local government unit ranging from an equivalent PhP40 to PhP140 (at \$=PhP50). In the Mianhuatan Dam resettlement case, standards for moving expenses were inconsistently applied. A moving and relocating subsidy was paid to most APs, but each county or city district had a different amount, ranging from \$10 to \$60 per person (at \$=Y8), and there were also cases where the moving subsidy was paid at over \$60 per household. The West Bengal Transport Project provided nonlegalizable APs (small business enterprises [SBEs] and Informal dwellers) with (i) rental assistance for one month at \$5 (\$=Rs50), income and shifting assistance at \$40 for APs and \$30 for SBE owners, and (iii) special assistance for the vulnerable at \$10. The APs were not happy, because they were told earlier that the SBEs were to relocate through a corridor management plan under a new license or contract agreement, which they preferred, as it would bring stability to their businesses and improved facilities. This plan, however, did not move forward.

17. **Was other compensation provided in time (structures, trees, crops, transitional business losses)?** In most cases, when compensation was offered for lost assets, it was offered in a timely fashion, i.e., before relocation. The Sixth Road Project was an exception, for reasons already discussed. In the Pasig River Project, the compensation was integrated in a resettlement package that consisted of the right of the affected squatters to rent a unit in a resettlement site and eventually buy this after five years at subsidized rates. In a power transmission project in India that succeeded an earlier completed project used as a case study,

ADB required a RP indicating the exact number of APs to be compensated for temporary crop losses as a result of the construction of the transmission towers. The EA argued that it could not list the plots and names of their owners long before the actual positioning of the towers, as this depended on terrain and a multitude of other factors. Furthermore, since the compensation due was only for crop losses, the determination of the actual loss during the works on the plot was prescribed by law. Based on documents cosigned by the AP and the EA, the district collector would then determine the compensation afterwards, usually some six months later. Compensation for business losses sustained during the period of transition is an altogether different chapter, and some of the case studies had problems in establishing whether the projects had been able to provide any compensation at all. As mentioned, uncertainty as to the actual need for resettlement in road projects for which the alignment is not yet fully determined can lead to large indirect losses, related to the ripple effect on investment decisions. This by itself is often a strong argument in favor of speedy resettlement planning as part of either detailed design of the project (often after project approval) or as part even of implementation, if such implementation is done incrementally. In depth resettlement planning as part of the feasibility study is then counterproductive, as the announcement of tentative resettlement requirements can foster such uncertainty unnecessarily and can also foster a false sense of certainty about the need for resettlement, which may be later reversed.

C. Sufficiency of Compensation

18. The OM is not fully clear on the definition of the term compensation as opposed to assistance (or even “entitlements”), as was also pointed out earlier. This study sees entitlements as those compensations mandated by the country’s laws or policies, and in practice they mainly cover physical assets such as land and structures, but not economic or livelihood losses such as business losses and losses due to longer travel time, etc. The latter are generally part of either “relocation assistance” or “rehabilitation assistance.” OM F2/BP para. 4, however, states: “All compensation is based on the principle of replacement cost.” A footnote explains replacement cost as the cost based on the method of valuing assets to replace the loss at market value, or its nearest equivalent, plus any transaction costs such as administrative charges, taxes, registration, and titling costs. Where national law does not meet this standard, the replacement cost will be supplemented as necessary.

19. **Was compensation for land paid in accordance with standards set in the RP or RF?** Most RPs and all RFs have an entitlement matrix that does not specify actual compensation amounts but reiterates the policy principle of compensation at replacement cost and without indicating how this is actually to be squared with the normal land loss valuation processes in the country. This means that actual amounts of compensation are seldom mentioned in RPs and RFs, except in the PRC (among the case study countries). In India, compensation levels as sanctioned by authorities are usually based on the average of land sales in the surroundings—a value that underestimates the real value due to systematic underreporting of sales prices for fear of taxation. With great difficulty, consent awards can be negotiated based on special approvals by district collectors. In the PRC, the average annual output value (AAOV) method is used; the calculation of replacement value is impossible, as rural land is not marketable; farmers losing land cannot so far acquire this elsewhere. In the Philippines, a more realistic assessment can be made of market value of the land, if the landowner is not happy with the zonal value offered, enforced by court decisions. In Viet Nam, the compensation is determined by people’s committees, within a prescribed band width. Thus, in the absence of actual amounts being mentioned in RPs, it proved difficult to assess whether the compensation provided to APs for land loss met with the criterion of replacement cost. However, RPs for the PRC sometimes specified actual amounts per category of unit of land,

which could be compared with actual amounts received. In the cases where this was possible, these amounts were not met due to changes in provincial and lower level government standards. In the Sixth Road Project, lands for compensation were classified as severely and marginally affected properties, either eligible or non-eligible for compensation. APs who did not have documents of ownership were not entitled to land compensation, while those who had documents of ownership were compensated according to land values agreed upon between the APs and the EA, and based on a contracted land appraiser's assessment of the replacement cost.

20. Did compensation for land lost meet the standard of replacement cost? In the three projects investigated in the Philippines, most of the APs were squatters, but where they were not, the compensation for land generally met the standard of replacement cost. Applicable laws governing land acquisition for government projects allow that the requirements of the ADB policy are met. However in the PRC, compensation for loss of land was felt as being short of replacement cost in the earlier dam cases, Mianhuatan and Zhejiang Shanxi, as the compensation rates under the hydropower regulation have not been as generous as the ones under the Land Management Law of 1998. They were, however, better in the road and railway transport projects. They were best in the urban environments of Shanghai Suzhou Creek and Fuzhou; however, in some rural areas, a smaller or larger part of the compensation for loss of land was retained by the village collectives, to be spent for public purposes. In India, the award of compensation is based on the calculation of average sales of land in the vicinity over the last three years, which one study estimated is generally underreported at about 40% of the real value.³ The difference was made up partially by (i) the Land Acquisition Act allowing for an additional 30% solatium and additional 12% per year of delay in the award, and (ii) projects awarding additional assistance to landed APs. The limited surveys done for several projects in India indicated the likelihood of discontent among a number of APs with compensation levels (West Bengal Corridor, Western Transport Corridor). In the Rajasthan Urban Project and the Power Transmission Project, compensation may have been based on replacement value, but this did not increase the satisfaction of the APs significantly. In the Western Transport Corridor project, the compensation was awarded at replacement cost, but arrived only after a long and uncertain process of arbitration.

21. Was compensation for other assets (structures, crops, trees) paid in accordance with standards set in the RP or RF? In all cases where such standards were needed, compensation was indeed paid broadly in accordance with the standards set. This, however, does not imply uniformity in such compensations across the country where the project case studies took place. In the Philippines, compensation for mango trees on one island in the same (sector) project proved to be very different from compensation on another island, with little justification.

22. Was compensation for business losses paid in accordance with or higher than in the RP? Business losses were generally not fully taken into account, especially in the older RPs and their entitlement matrixes. Income assistance for the period of relocation (transitional income) was provided in some older projects in India and PRC. In the Philippines, the Sixth Road Project provided for income loss based on tax records of APs. Business losses of squatters were not taken into account in proportion to their losses, other than indirectly through the provision of a standard assistance package that was equal for all those who moved. As ADB increasingly focuses on business losses in RPs, APs such as scavengers of open dump sites who are displaced when the sites are replaced by controlled landfills, and water vendors robbed

³ TA 6091: *Capacity Building for Resettlement Risk Management*, for \$500,000, approved 19 December 2002.

of business because of the extension of piped water systems, are compensated more systematically. In the Suzhou Creek project, farmers who used to rent out part of their houses to migrants illegally were not compensated for the loss in income.

23. Were nonlegalizable nontitleholders (squatters) compensated for loss of structures and other (nonland) losses? The IR Policy is not fully clear on the eligibility of compensation for losses of access to land by nontitleholders. It states: “The absence of formal legal title to land by some affected groups should not be a bar to compensation,” which seems to imply that loss of land needs to be compensated for; the principle of replacing what is lost would also require that squatters who are moved need a home, i.e., a location with a structure. However, OM F2/OP is very clear on this matter and excludes such eligibility for compensation of land; it offers squatters only assistance with relocation and rehabilitation. In cases where squatters were the main APs, such as in the Kolkata and Pasig River projects, they were offered replacement housing on conditions of either heavily subsidized price or subsidized rent.

D. Sufficiency of Assistance to the Vulnerable

24. Were vulnerable people assisted during relocation? This was usually the case in Philippines and PRC, and it was generally in conformity with the RPs. In the India case study, fewer APs needed to be moved, and the Kolkata Project was the main case: good relocation assistance was provided. In the Western Transport Corridor Project, 44 vendors were to move to a vendor market resettlement site. However, although the households were evicted from the national highway in 2002, the allotment of the new shops was made only in 2003. For one and a half years, the households had to work as laborers to make ends meet. No assistance was provided to them during this period, and it took these households nearly two years to reestablish their livelihoods. The association of the vendors would have thought it beneficial if, instead of the assistance of Rs. 2000 (around \$50 in 2003) allocated to each household, the project had made some working capital available to the members or provided them with linkages to financial institutions, so that they could reestablish their businesses. Large relocation expenses were incurred in many cases in Philippines and PRC, such as in the Zhezijang Shanxi Resettlement Project in Wenzhou, which provided transportation subsidy, the cost of a meal during moving, medical costs during moving, transportation costs and transportation damage to goods/household items, lost labor time due to moving, and transitional rent subsidy. Income assistance to bridge the time taken by relocation was often provided in lump sums. As mentioned, the government moved the APs away from the two sites investigated for the case study of the Sixth Road Project without much assistance, in the absence of an RP. However, upon approval of the RP, those who could still be traced were extended an entitlement package that included (retroactive) transportation allowance, rental subsidy, disturbance allowance, and income loss allowance. Compensation to cover the costs of reconnecting utilities was also provided.

25. Were vulnerable people assisted in their need for rehabilitation? As per the procedures, the need for income rehabilitation measures for vulnerable people is determined based on their socioeconomic profile, on consultations, and on the state of the economy in the area. When greenfield resettlement sites are involved, usually a lot of public facilities and services are required in addition to income restoration activities. There are no hard and fast rules for the most effective types of rehabilitation assistance, and each RP has formulated different rehabilitation measures, as also negotiated with governments. This is even the case in the PRC, a country with a system that provided its population with jobs and a social safety net in the past. The rehabilitation measures included in RPs studied by this study were different in each project and province in accordance with their resources. The two similar dam reservoir

resettlements had postresettlement rehabilitation programs that were different in their coverage. Postproject rehabilitation is usually not part of investment projects in the PRC, and is at the discretion of local governments, which may have different resources, standards, and practices. The Kolkata project provided relatively more rehabilitation assistance than the other cases in India, where the assistance to the vulnerable was usually confined to cash lumpsums to such generic categories female-headed households, scheduled tribes, scheduled castes, disabled and elderly households, and households below the poverty line. This led to cases where the policy provision for additional assistance was utilized by households headed by women but who were not poor. Similarly, households that had a 'Below Poverty Line' card obtained special assistance but sometimes the really poor did not have such cards. The conclusion of very variable application of the policy principle to focus on vulnerable APs also proved to apply in the Philippines. Like many other countries, the Philippines has no policy prescribing extra assistance to vulnerable groups, or prescribing the level of rehabilitation assistance. Rehabilitation cannot be claimed by APs, titled or nontitled, in the context of projects, and therefore, APs are dependent on ad hoc project decision making, which can be sparing or generous. In some project sites, good rehabilitation activities were undertaken, in others less. In the Southern Philippines Irrigation Project, a very good deal was made for vulnerable APs. A group of 41 nontitled families occupying government land classified as timber land got a concrete house in addition to compensation for their old traditional huts, a plot of land at 25% of the purchase price of government and at very liberal terms, a service truck, income loss during demolition, transfer and house construction, relocation expenses, a piped water system, power, road access, access to health and educational facilities, and a chapel. Rehabilitation in the form of livelihood training, technical assistance in farm technology and production, and microcredit continue to be provided to APs. In the Pasig Project, no special deals were made for particularly vulnerable APs; all APs were treated in the same way. APs received transportation allowance, food allowance during the transition period, daily shuttle service to Metro Manila, a flexible rent scheme prorated according to capacity to pay, basic utilities and services, a college, a church, and day care centers. All APs in the Sixth Road Project were also treated in the same way. The EA provided a disturbance allowance of \$200 per family (at \$=PhP50), rental subsidy, compensation for income loss, rehabilitation assistance of \$300 per family, and compensation to cover the cost of reconnecting utilities.

26. Were nonlegalizable nontitleholders (squatters) assisted in economic rehabilitation? In both Philippines and India, squatters were among the main APs. In the Pasig River, Southern Philippines Irrigation, Kolkata, and West Bengal projects, some assistance was provided in terms of training programs and microcredit. In the Sixth Road case studied, a rehabilitation program was provided belatedly for the Mulanay resettlement site in Bondoc, for reasons discussed earlier. Due to ADB's insistence, some measures were indeed directed at resettled squatters.

27. Were rehabilitation assistance measures sufficient for restoration of livelihood according to the APs? Several questionnaire surveys and in-depth interviews conducted with APs established that there were large differences in the appreciation by APs of the rehabilitation assistance provided, and that APs particularly complained about the lack of economic opportunities provided in the usually more remote resettlement sites. The evaluation of the extent of rehabilitation is bedeviled by the lack in the Policy of an overall point of reference, for example a target of full economic and social rehabilitation within two years of actual resettlement. If such a criterion would be taken, then in most projects studied outside the PRC, in Philippines and India, the rehabilitation of APs has not been fully achieved yet. This is in spite of the satisfaction by many with improved living conditions as a result of better housing and other conditions. In the PRC, income levels were generally quickly restored, barring exceptions

in the two dam projects, although at the cost of significant changes in lifestyle and types of employment.

28. **Were rehabilitation measures continued after the project?** According to the IR Policy, continuation of the rehabilitation measures after the project may be required, including ADB's monitoring of this. In the PRC, the economic rehabilitation in case of mass movements of people, as in the two dam reservoir cases, is seen as a postresettlement issue, and is pursued, albeit with varying focus. In the Suzhou Creek Project in Shanghai, where, due to urban renewal, people were placed in apartment buildings outside the center, such postresettlement work is not seen as necessary, as the people are viewed as benefiting from being in close proximity to the city center. In the road and railway cases, no economic rehabilitation work was done, and rehabilitation was viewed as part of the resettlement or rehabilitation subsidy (4-6 x AAOV), a component of the cash compensation offered to APs who lost their land. In India, economic rehabilitation activities were part of NGO work postresettlement for the Kolkata Project; in the West Bengal Corridor Development and Western Transport Corridor projects, rehabilitation activities were much less prominent. In the Philippines, the Pasig River Project APs received much training and some microcredit, but the distance of the sites to the center of Manila (1 hour travel time) remained a main disadvantage for many of the resettles. the Southern Philippines Irrigation project APs received livelihood training and microcredit.

IMPACT OF CASE STUDY PROJECTS ON HOUSING, RESETTLEMENT SITES, AND RESTORATION OF LIVELIHOODS

1. **Housing.** Almost uniformly, housing quality for affected persons (APs) improved after resettlement, not only housing in resettlement sites, but also houses such as those built by APs themselves in the People's Republic of China (PRC) and in India road projects. In the PRC, the dam resettlement projects offered cash compensation for lost housing and land, but APs were required to use townhouse designs prepared by the project. In many cases, the compensation was not sufficient to build the 3- or 4-storey townhouse as planned by the authorities. APs therefore had to invest their own savings or borrow, which led to some indebtedness that persists to this day. However, in the Shanxi water supply projects, many families of four members or more were offered two housing units, the second of which could subsequently be rented out. Also, a number of ground floor workshop areas near urban streets were rented out, sometimes as shops. When the debts (mortgages) are paid, the value of the properties are certain to go up by very much. A minority of farmers that had opted to resettle nearer to the reservoir, higher in the hills and away from the busy coastal areas, now regret that choice, and have become seriously indebted as their incomes are very low due to reduced production resources or common property resources. Mostly these are older farmers, of less interest to employers in the "new economy" of the coastal areas. Urban projects such as Suzhou Creek Rehabilitation in Shanghai resettled people that used to live in tiny degraded tenements in waterlogged areas in big apartment buildings on the outskirts of this megacity. They were uniformly very happy in spite of the longer travel distances, as their new and much larger apartments gained in value and enhanced their living standards. Expressway and railway construction projects had seldom engaged in creating resettlement sites in the PRC, and cash compensation was uniformly relied on to provide APs with sufficient funds to make their own arrangements within the ambit of their village collectives. Usually, they would find a "foundation plot" for a new house, for which the project often already provided architectural designs. Since compensation standards have gone up significantly in the PRC over the past 10 years, the compensation offered was often sufficient for building a much better, concrete and brick house. In India, the Kolkata Project case is illustrative. Thousands of nontitled canal bank dwellers were first moved to a temporary camp in the immediate vicinity, and in 2005 the process begun to transfer them to 4-storey, 17 square meter apartment blocks built by a company several hundred meters further away. The dwellers do not need to pay for the apartments; half of their cost will be paid for by the project, the other half by a national program for poverty relief. Poor squatters who used to live in shacks along the canals will now have to live together in 4-storey buildings, pay bills for services, and make joint maintenance arrangements. Whether they will stay in the apartments remains to be seen; the influence on this from squatting syndicates cannot be assessed at this stage, neither that of other factors such as the payment of 5% of the cost of the apartment. In the Philippines, the Pasig River Project offered 20–30 square meter housing to thousands of affected families in various resettlement sites 10–50 kilometers from Manila. The families would not own the land, but could opt to buy it at subsidized rates, whereas the monthly rent was also offered at rates of around \$10 a month equivalent. In the resettlement site of the Sixth Road Project in Munsayac in the Bondoc Peninsula, land was offered free to the squatter families, barring registration and titling fee; concrete roads, concrete septic vaults, power, and piped water were offered as well. As per the surveys held, APs both in the Kolkata Project and the three Philippines cases were almost uniformly satisfied with housing conditions, calling them greatly improved as compared with their previous housing situation.

2. **Resettlement Sites.** Small sites housing 50–200 families were constructed in the West Bengal Corridor, Sixth Road, and Southern Philippines Irrigation projects; larger complexes were built or acquired under the Kolkata and Pasig River projects; some were not fully complete

with facilities, but overall, over the years, good progress was made. In the Pasig River Project, the majority of the APs were satisfied with the improved environment, access to services and access to utilities; and almost 90% were satisfied with the housing conditions. More than 50% felt better off in the resettlement site compared with their original location, although 60% felt that it was more difficult to get to employment centers from the resettlement sites. APs of the Sixth Road project overwhelmingly expressed satisfaction with the housing conditions and access to services and utilities. In the Southern Philippines Irrigation Project, all APs stated that they were much better off in the resettlement site and noted that they were satisfied with the better living conditions, access to services and utilities; and access to the town center from the resettlement site. In the West Bengal Corridor project and Western Transport project, market or shop complexes were built, however not to the liking of the APs due to their distance from the main road. In road projects in the PRC, the different situations have already been described. Greenfield resettlement sites were seldom developed for APs, but APs were regularly fitted in new township developments planned with a wider purpose than housing APs exclusively, whereas smaller scale resettlement would often be handled relying on generous compensation for lost assets on the one hand, and cooperation from village collectives on the other. In the Mianhuatan Project, more than two thirds of APs were relocated to agricultural regions that were not far from their original homes. About 37% of APs voluntarily chose near-reservoir agricultural resettlement—compared with only 3% in the Zhezijang-Shanxi water supply project. All interviewed APs reported that they were offered at least two options in terms of resettlement sites. As with overall housing conditions, APs in the various projects were often satisfied with the residential qualities of the resettlement sites built for them, especially after the teething problems were by and large over. APs were often not satisfied with the locations of the sites, and were not satisfied because of not having been able to choose themselves whether to be in a resettlement site or get cash compensation in order to settle on their own.

3. **Access to Livelihood Opportunities.** In the projects reviewed that affected farmers (or fishers, as in the Mulanay area) most APs lost more land than they gained after resettlement. The land-for-land option that the ADB Policy favors could not always be exercised. The two dam reservoir resettlement projects operated on the principle of providing new land to APs but succeeded in doing so only in part; smaller parcels were provided, along with compensation for land losses. Many farmers made even more use of casual labor opportunities than they did before, or utilized microcredit to start small businesses (carpet weaving with carpet looms, etc.), leaving the farming of their share in the replacement land offered to their communities to a few farmers who would then provide them with a share of the produce. As a result, income from farming decreased, but income from other sources increased, also as a result of the booming economy in the eastern seaboard. In the other projects in the PRC that took away land from farmers, the remaining land was often redistributed among farmers of the village collective, so that all shared equally in the land loss. In the three projects evaluated in the Philippines, APs from the Southern Philippines Irrigation Project expressed most satisfaction about the access to livelihood opportunities. However, they still complained that after three years they had not regained the income levels they had had in the former location, since they were starting anew with their agricultural activities including propagation of fruit trees, which take much longer to mature and bear fruit. Furthermore agricultural lands given them were much smaller than the lands they occupied around the dam area. In the Pasig River, APs rued that the distance from Metro Manila adversely affected their access to livelihood opportunities and emphasized that the reason why they illegally settled along the banks of the Pasig River was its close proximity to livelihood and employment opportunities. Many of the APs of the Sixth Road Project relocated some distance from their former location along the easement of the national highway. Their former location accorded opportunities for small-scale commercial activities, and farmers had better access to markets in their former location along the highway. APs in the PRC overall

did well, as far as economic opportunities other than farming were concerned, even if they were forced by circumstances to work as casual migrant laborers or to do petty business. The PRC economy was able to absorb most in the margins of the new economy. Most problematic was the situation for older and illiterate farmers, who generally could not find a place in the new economy. For these, the limited social safety nets that the government provides, for instance through the “five insurances scheme,” needed to be employed, but are not able to lift these people out of poverty.

4. Can APs be held to be on the way to restoring their livelihood? In the PRC, the surveys confirmed that this was the case for between 70% and 85% of the APs, but not the case for the elderly and some other vulnerable categories. Some would, however, also have been among the poorest if they had not resettled. The greater access to land before resettlement would have provided them with a larger and more secure source of livelihood than is available to them today. In the Philippines, income restoration has not been fully achieved for many in the Pasig River and Southern Philippines Irrigation projects. In India, the results were most disappointing, with the large majority of APs claiming they were worse off than before (except in the Kolkata project). APs surveyed in at least 9 of the 16 case study projects stated that they had complaints against the resettlement process.

MANAGEMENT RESPONSE TO THE SPECIAL EVALUATION STUDY ON INVOLUNTARY RESETTLEMENT SAFEGUARDS

On 6 October 2006, the Director General, Operations Evaluation Department, received the following response from the Managing Director General on behalf of Management:

I. General Comments

1. Management welcomes OED's Special Evaluation Study (SES) on ADB involuntary resettlement safeguards and appreciates efforts to complete the study in a short time. As requested by OED, Management's response focuses on the final recommendations of the SES.

2. Management is aware that the findings of the SES are subject to significant limitations as described in para. 9 of the SES and as highlighted in detailed interdepartmental comments on the draft report. We nevertheless believe that the recommendations directed at the safeguard policy update (paras. 166–171) and the recommendations for involuntary resettlement implementation (paras. 172–173) are highly relevant. We would emphasize, however, that both sets of recommendations should be further reviewed and considered in the context of the safeguard policy update, including its consultation process. The current status and timeline of the safeguard policy update is provided on <http://www.adb.org/Safeguards/>.

II. Comments on Recommendations

A. Recommendations for the Update of the Safeguard Policies

- (i) “Management and the Board need to reconcile the difference between the 1995 Policy and the currently applied policy” (para. 166)**

3. Management recognizes that there are ambiguities in the 1995 Policy on Involuntary Resettlement. We believe that successive versions of the Operations Manual were able to clarify these ambiguities and elaborate on operational procedures consistent with the intent of the policy. Management acknowledges the need to ensure that the updated policy to be submitted for Board approval provides full clarity on its scope, objectives, and principles. We also believe that the policy should be accompanied by clear operational procedures for delivery of results.

- (ii) “The policy should have a results-based framework-distinguishing desired impact, outcomes, outputs, activities, and inputs both at macro (country) and micro (project) level” (para. 167)**

4. Management agrees that achievement of results should guide the policy update. The substance of the recommendation as laid out in para. 167 deserves further review.

- (iii) “The updated policy should highlight a set of performance standards” (para. 168)**

5. Management agrees in principle that the concept of performance standards is relevant and merits consideration in the safeguard policy update. We note that a set of performance standards for safeguards have been introduced for the first time in the context of International Finance Corporation’s recently approved safeguard policies and procedures, and experience with these may be relevant.

- (iv) “The updated policy should elaborate on the objective of greater reliance on country executing agency systems for land acquisition and resettlement safeguards” (para. 169)**

6. We agree that consideration should be given to greater reliance on country systems where this does not compromise achievement of safeguard policy objectives. We would note that it is already an established practice for resettlement frameworks and plans to take into account country and executing agency systems, with filling of gaps as required to meet ADB safeguard policy provisions. Over time, such gaps can be expected to diminish, especially with support of development partners, although this might only be a longer-term prospect in several developing member countries (DMCs). We would point out that *TA 6285-REG: Strengthening Country Systems* is reviewing possible approaches for assessing country systems and their increased application. The results will be considered in the safeguard policy update. We are also in close consultation with the World Bank on the performance of its pilot program on the application of country systems.

- (v) “The updated policy should have clear guidelines and procedures regarding the identification of resettlement operation needed” (para. 170)**

7. Management agrees with this recommendation. We have noted the issues and recommendations summarized in Box 3 and agree these should be considered as part of the safeguard policy update. The need for clarity in guidelines and procedures will be addressed through the revisions to the Operations Manual that will accompany the updated policy and through the revised Handbook on Involuntary Resettlement that will follow. A key issue will be to formulate operational procedures that improve the relevance and effectiveness of resettlement planning and implementation, and address opportunities to reduce transactions costs.

(vi) “The updated policy should be clearer on guidelines and procedures regarding compensation and assistance within resettlement operations” (para. 171)

8. Management agrees that the issues and suggestions in Box 4 should be considered in the safeguard policy update. The need for clarity in guidelines and procedures will be addressed in the revisions to the Operations Manual and the Handbook.

B. Recommendations for Involuntary Resettlement Implementation

9. The SES finds that there are significant constraints on staff resources to implement the Involuntary Resettlement Policy and to ensure strong engagement with executing agencies in this regard (para. 172). Management agrees that this issue warrants serious attention. We have noted that among the three suggested options to address this issue, one is to consider “changing the policy in ways that will be less staff intensive for ADB”. In this regard, Management believes that the emphasis should be to improve the efficiency and effectiveness of operational procedures without compromising policy delivery. This will be explored in the safeguard policy update, along with options to optimize internal resource allocation.

10. The SES makes three further recommendations.

(i) “Formulate a time-sequenced implementation plan” (para. 173 [i])

11. As part of the safeguard policy update process, we agree that the updated policy and operational procedures should be accompanied by a time-bound action plan that includes a realistic assessment of resource requirements and their optimal allocation. The options offered for inclusion in this plan will be considered, including the need to strengthen specialist expertise in resident missions and to review responsibilities of RSES and the Operations Departments.

(ii) “Improve IR monitoring” (para. 173 [ii])

12. Management agrees that monitoring and supervision of involuntary resettlement implementation needs more attention. We would note that the policy update is looking at ways to balance procedural requirements during processing with increased attention to project implementation. We would point out that partnerships with nongovernment organizations and civil society organizations are already being integrated into resettlement plan implementation and monitoring processes, particularly in DMCs with a strong and reputable nongovernment organization base. This recommendation merits attention in the safeguard policy update.

(iii) “Get more involved in building country systems and capacity” (para. 173 [iii])

13. Management agrees that the strengthening of country systems and capacity is a sound development objective that should continue to be pursued. RETA 6285 will elaborate an approach for assessing equivalence between country systems and international best practice, as well as associated capacity constraints. This will allow identification of gaps at country and sector levels for targeted capacity building by ADB and other development partners.