

## OPERATIONS MANUAL BANK POLICIES (BP)

*These policies were prepared for use by ADB staff and are not necessarily a complete treatment of the subject.*

### INVOLUNTARY RESETTLEMENT

#### 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).<sup>1</sup> The involuntary resettlement policy applies to all ADB's operations in DMCs. The involuntary resettlement policy is a key ADB safeguard<sup>2</sup> consonant with *the Poverty Reduction Strategy* and the *Long-Term Strategic Framework*.

#### 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.<sup>3</sup>

#### 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

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<sup>1</sup> ADB projects includes (i) public sector project loans, program loans, sector loans, sector development program loans, financial intermediation loans, private sector loans or equity investments, and guarantees for funding of specific projects or subprojects; (ii) all project components regardless of the source of financing. (See also OM Section F2/OP, para. 2.)

<sup>2</sup> Other safeguard policies address environment (OM Section F1) and indigenous peoples (OM Section F3).

<sup>3</sup> 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. See para. 4(viii) on the meaning of "eligibility cut-off date."

displaced into project beneficiaries, particularly the poor and vulnerable, who may be disproportionately affected by resettlement losses.

#### **D. Scope of the Policy**

4. The three important elements of the involuntary resettlement policy are (i) compensation to replace lost assets, 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.<sup>4</sup> Some or all of these elements may be present in a project involving involuntary resettlement. For any ADB operation requiring involuntary resettlement, resettlement planning is an integral part of project design, to be dealt with from the earliest stages of the project cycle, taking into account the following basic principles:

- (i) **Involuntary resettlement should be avoided whenever feasible.**
- (ii) **Where population displacement is unavoidable, it should be minimized by providing viable livelihood options.**
- (iii) **Replacing what is lost.** If individuals or a community must lose all or part of their land, means of livelihood, or social support systems, so that a project might proceed, they will be compensated and assisted through replacement of land, housing, infrastructure, resources, income sources, and services, in cash or kind, so that their economic and social circumstances will be at least restored to the preproject level.<sup>5</sup> All compensation is based on the principle of replacement cost.<sup>6</sup>
- (iv) **Each involuntary resettlement is conceived and executed as part of a development project or program.**<sup>7</sup> ADB and executing agencies or project sponsors, during project preparation, assess opportunities for

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<sup>4</sup> Rehabilitation measures include restoration of access to public facilities, infrastructure, and services; and to cultural property and common property resources. Measures to mitigate loss of access to cultural sites, public services, water resources, grazing, or forest resources include establishment of access to equivalent and culturally acceptable resources and income-earning opportunities. Such measures must be determined in consultation with affected communities, whose rights might not be formally recognized in national legislation. Where people are seriously affected by the loss of assets, incomes, and employment, compensation solely for lost assets may not be adequate to restore their economic and social base. Such people will be entitled to rehabilitation assistance measures for restoring incomes and living standards. See OM Section F2/OP, Section C.

<sup>5</sup> If the residual of an asset taken is not economically viable, compensation and other assistance are provided as for the entire asset. In this case, affected people have the option to retain their assets. Nonland based options may be used where land is not the preferred option of the affected people; or where land of similar quality and quantity is not available.

<sup>6</sup> Replacement cost means 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. Replacement cost is based on market value before the project or dispossession, whichever is higher. In the absence of functioning markets, a compensation structure is required that enables affected people to restore their livelihoods to levels at least equivalent to those maintained at the time of dispossession, displacement, or restricted access.

<sup>7</sup> ADB may treat resettlement either as part of the main investment or as a free-standing resettlement project that is prepared, financed, and implemented in association with the main investment.

affected people to share project benefits. The affected people need to be provided with sufficient resources and opportunities to reestablish their livelihoods and homes as soon as possible, with time-bound action in coordination with the civil works.

- (v) **The affected people are to be fully informed and closely consulted.** Affected people are to be consulted on compensation and/or resettlement options, including relocation sites, and socioeconomic rehabilitation. Pertinent resettlement information is to be disclosed to the affected people at key points, and specific opportunities provided for them to participate in choosing, planning, and implementation options. Grievance redress mechanisms for affected people are to be established. Where adversely affected people are particularly vulnerable groups, resettlement planning decisions will be preceded by a social preparation phase to enhance their participation in negotiation, planning, and implementation.
- (vi) **Social and cultural institutions.** Institutions of the affected people, and, where relevant, of their hosts, are to be protected and supported. Affected people are to be assisted to integrate economically and socially into host communities so that adverse impacts on the host communities are minimized and social harmony is promoted.
- (vii) **No formal title.** Indigenous groups, ethnic minorities, pastoralists, people who claim for such land without formal legal rights, and others, who may have usufruct or customary rights to affected land or other resources, often have no formal legal title to their lands. The absence of a formal legal title to land is not a bar to ADB policy entitlements.
- (viii) **Identification.** Affected people are to be identified and recorded as early as possible in order to establish their eligibility through a population record or census that serves as an eligibility cutoff date, preferably at the project identification stage, to prevent a subsequent influx of encroachers or others who wish to take advantage of such benefits.<sup>8</sup>
- (ix) **The Poorest.** Particular attention must be paid to the needs of the poorest affected people,<sup>9</sup> and vulnerable groups that may be at high risk of impoverishment. This may include those without legal title to land or other assets, households headed by females, the elderly or disabled and other vulnerable groups, particularly indigenous peoples.<sup>10</sup> Appropriate

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<sup>8</sup> An eligibility cutoff date should be established as soon as possible in the project cycle. See OM Section F2/OP, para. 5, footnote 5.

<sup>9</sup> The resettlement planning documents will, in each case, define the poorest and vulnerable groups, using, as appropriate, the poverty line as defined in the poverty partnership agreement with the DMC concerned, or other accepted ADB documents. A range of other documents may also provide information on poverty in the project area. Resettlement planning documents, including full and short resettlement plans and resettlement frameworks, are described in OM Section F2/OP, Section E.

<sup>10</sup> When significant indigenous peoples or ethnic minority issues are identified, as defined in OM Section F3, special attention will be paid to exploring viable alternative designs that will reduce or eliminate such impacts. An Indigenous Peoples Development Plan may be required in addition to a resettlement plan. If the indigenous people issues are judged to be less than significant, specified "indigenous people actions"

assistance must be provided to help them improve their socio-economic status.

- (x) **The full resettlement costs are to be included in the presentation of project costs and benefits.** This includes costs of compensation, relocation and rehabilitation, social preparation and livelihood programs as well as the incremental benefits over the without-project situation (which are included in the presentation of project costs and benefits). The budget also includes costs for planning, management, supervision, monitoring and evaluation, land taxes, land fees, and physical and price contingencies. Where loans include subprojects, components or investments prepared only after project approval and loans through financial intermediaries that are likely to cause involuntary resettlement, sufficient contingency allowance must be allocated for resettlement prior to approval of the loan. Similarly, resettlement plans should also reflect the timeframe for resettlement planning and implementation.
- (xi) **Eligible<sup>11</sup> costs of compensation.** Relocation and rehabilitation may be considered for inclusion in ADB loan financing for the project, if requested, to assure timely availability of the required resources and to ensure compliance with involuntary resettlement procedures during implementation.

#### **E. ADB's Assistance to the Borrower**

5. ADB's support for projects requiring significant<sup>12</sup> involuntary resettlement includes the offer of assistance to executing agencies (EAs) and other project sponsors, through grant or loan financing, to adopt and implement the above basic principles of ADB's involuntary resettlement policy within their own legal, policy, administrative, and institutional frameworks. Similarly, ADB may also offer assistance to build the capacity of the EA and other project sponsors to prepare and implement the agreed resettlement planning document effectively, to enhance a DMC's national standards and capacities for involuntary resettlement, and to develop consistent sector standards.

6. For all public and private sector projects with involuntary resettlement, the EA and other project sponsors prepare and submit to ADB, before the first management review meeting or the private sector credit committee meeting, a draft resettlement planning document<sup>13</sup> with time-bound actions and budgets that addresses the principles set out in paragraph 4. A summary of the draft resettlement planning document must be included in the RRP. A satisfactory resettlement plan/framework must be submitted by

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within the resettlement plan may suffice to meet the indigenous people policy objectives (see ADB. 1998. *Policy on Indigenous Peoples*. Manila, and OM Section F3.)

<sup>11</sup> Involuntary resettlement costs eligible for loan financing may include, for example, income restoration, relocation, site development, social preparation, monitoring, and evaluation.

<sup>12</sup> Resettlement will be "significant" where 200 or more people experience major impacts. Major impacts are defined as involving affected people being physically displaced from housing and/or having 10% or more of their productive, income generating assets lost. See also OM Section F2/OP, para. 19.

<sup>13</sup> The resettlement planning document satisfactory to ADB must be submitted by the government or, for private sector projects, the project sponsors, to ADB, preferably together with the feasibility study for the project, but in any case before project appraisal.

the EA or the project sponsors to ADB, preferably together with the project feasibility study, but in any case, before project appraisal. Resettlement is reviewed throughout the project implementation, with reviews being planned from the outset to allow the government or project sponsors and ADB to make necessary adjustments to address the involuntary resettlement policy principles during implementation. Since complete recovery can be protracted, reports on involuntary resettlement are required at project completion and may be required, sometimes even after project facilities are commissioned.

- Basis:** This OM section is based on:
- ADB. 1995. Doc. R179-95, *Involuntary Resettlement*, 12 September. Manila.
- This OM section is to be read with OM Section F2/OP.
- Compliance:** This OM section is subject to compliance review.
- For inquiries:** Questions may be directed to the Chief Compliance Officer, Regional and Sustainable Development Department.

## OPERATIONS MANUAL OPERATIONAL PROCEDURES (OP)

*These procedures were prepared for use by ADB staff and are not necessarily a complete treatment of the subject.*

### INVOLUNTARY RESETTLEMENT

1. Application of the involuntary resettlement policy helps avoid impoverishment among project-affected persons, facilitate efficient project implementation, and minimize controversy and costly delay.

#### A. Scope and Application

2. The policy applies to all ADB projects<sup>1</sup> and project components<sup>2</sup>, regardless of whether the source of financing is ADB, its cofinanciers, or the government. It also covers actions conducted in anticipation<sup>3</sup> of ADB operations.

3. Involuntary resettlement is addressed early in the project cycle to screen for involuntary resettlement effects, to avoid or minimize such effects, and to conduct due diligence. Wherever screening procedures identify likely involuntary resettlement, the policy requires efforts to avoid or minimize such effects through review of feasible alternative project design and location options. The reviews allow evaluation of risks, alternatives, and tradeoffs, and open the way for development opportunities with early stakeholder involvement, including affected people<sup>4</sup> and their representatives, local government, civil society groups, and others.

4. Affected people eligible for policy entitlements are identified and recorded as early as possible. People requiring particular assistance, such as the poor and the vulnerable, including those without legal title to land, are identified to plan specific measures to mitigate hardships and to assist them in improving their livelihoods. At all stages, resettlement identification, planning, and management will ensure that gender concerns are incorporated, including gender-specific consultation and information disclosure. This includes special attention to guarantee women's assets, property, and land-use rights; and to ensure the restoration of their income and living standards.

5. To prevent an influx of ineligible nonresidents who might take advantage of project entitlements and speculate on land values, and to prevent speculation by eligible

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<sup>1</sup> See OM Section F2/BP, footnote 1.

<sup>2</sup> The term "project components" does not cover associated facilities that are not under the influence of the executing agency or project sponsor. Due diligence must be conducted to determine the level of risk to affected people and to ADB by association.

<sup>3</sup> ADB conducts resettlement due diligence to determine whether there are any outstanding resettlement-related grievances that may undermine the investment. While preparing for project preparation technical assistance (PPTA) fact-finding, the project team uses the resettlement screening checklist of the initial poverty and social assessment to ascertain whether there had been any land acquisition and/or site clearing at the proposed project site. If no PPTA is conducted, the project team conducts resettlement due diligence and includes the findings in the report and recommendation of the President for MRM submission. If any land acquisition and/or site clearing had taken place in anticipation of the proposed project, ADB requires and assists the executing agency or project sponsor to formulate and implement a retrofitted resettlement plan that meets the ADB involuntary resettlement policy.

<sup>4</sup> See OM Section F2/BP, para. 2 and footnote 3 for a definition of an affected person or people.

affected persons, the project will establish an eligibility cutoff date.<sup>5</sup> Where projects provide direct benefits to communities, and are amenable to a local decision-making process, arrangements to deal with losses on a transparent, voluntary basis may be included in resettlement plans, with appropriate safeguards.<sup>6</sup>

6. Where involuntary resettlement is unavoidable, the policy requires satisfactory resettlement planning documents.<sup>7</sup> ADB informs the executing agency (EA) or other project sponsors of the involuntary resettlement policy and related OM requirements. Starting early in the project cycle, ADB assesses government policies, experiences, institutions, and the legal framework for involuntary resettlement to address any inconsistencies with the policy.

7. The responsibility for planning and implementing involuntary resettlement rests with the EA or other project sponsors. ADB offers support for the efforts of the EA or other project sponsors, when considered necessary for involuntary resettlement policy compliance, for (i) formulating and implementing resettlement policies, strategies, and plans; (ii) providing technical assistance to strengthen the capacity of agencies responsible for involuntary resettlement; and (iii) financing eligible resettlement costs through loan financing, if requested.

8. The level of social and economic information that forms the basis for the resettlement planning documents becomes progressively more specific from identification through the feasibility stage, and generally becomes fully adequate after detailed technical design. ADB reviews the resettlement planning document to ensure that it meets ADB requirements, and monitors its implementation.

## **B. Eligibility under the Policy**

9. Lack of formal legal title to land by any affected people is not a bar to ADB policy entitlements. In order to assist affected people who may not be entitled to compensation for loss of land under the applicable legal framework of the developing member country (DMC) concerned, eligible affected people are classified into three groups with respect to land title, each of which will have different entitlements as set out in Section C.

- (i) ***Titled:*** Those who have formal legal rights to land, including any customary or traditional rights recognized under the laws of the country.

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<sup>5</sup> The eligibility cutoff date could be the date of the delineation of the project area prior to population record or census, the date of commencement of the population record or the census within the project area boundaries, or public notification of the project by appropriate authorities.

<sup>6</sup> For projects that directly benefit communities and involve community decision-making and management, such as small-scale health, education, water or transport facilities, safeguards may be built into the community decision-making process to deal with any losses that arise. Such safeguards include (i) full consultation with landowners and any nontitled affected people on site selection; (ii) ensuring that voluntary donations do not severely affect the living standards of affected people, and are linked directly to benefits for the affected people, with community sanctioned measures to replace any losses that are agreed to through verbal and written record by affected people; (iii) any voluntary "donation" will be confirmed through verbal and written record and verified by an independent third party such as a designated nongovernment organization or legal authority; and (iv) having adequate grievance redress mechanisms in place. All such arrangements will be set out in a resettlement framework that is prepared before the first management review meeting or private sector credit committee meeting and covenanted.

<sup>7</sup> Section E sets out requirements for resettlement planning documents.

- (ii) **Legalizable:** Those who do not have formal legal rights to land when the affected population is recorded, but could claim rights to such land, under the DMC's laws.<sup>8</sup>
- (iii) **Nontitled:** Those who have no recognizable rights or claims to the land that they are occupying.

10. People moving into the project location, or assets that are constructed after the eligibility cutoff date are not entitled to compensation or other assistance.

### C. Involuntary Resettlement Entitlements

11. Where land and assets are lost, titled<sup>9</sup> (para. 9[i]) and legalizable (para. 9[ii]) affected people are entitled to compensation, in the form of cash at replacement cost or replacement land, and to other assistance to at least restore their economic and social base. Whereas nontitled affected people (para. 9[iii]), including displaced tenants, sharecroppers, and squatters, are entitled to various options of resettlement assistance, provided that they cultivated/occupied the land before the eligibility cutoff date. Resettlement assistance to nontitled affected people may also include replacement land, although there is no entitlement to this for such affected people. The resettlement package may include measures to ensure that such affected people are able to find alternative sites or income sources, depending on their losses. Where government compensation for land is inadequate to restore the affected people's economic and social base, additional socially appropriate measures are required. Policy preference is for integrating people dislocated from agricultural settings into similar settings. Land-based strategies may include provision of replacement land, ensuring greater security of tenure, and upgrading livelihoods of people without formal land titles. If suitable replacement land is unavailable, other strategies may be built around opportunities for retraining, skill development, wage employment, or self-employment, including access to credit. This is particularly important for indigenous peoples, whose degree of integration to mainstream society is limited.

12. For nonland assets, all eligible affected people, whether titled, legalizable, or nontitled, need to be compensated at replacement cost through cash or replacement assets. Included among these affected people are renters of buildings affected by a project, who should receive assistance to find alternative rental premises comparable to those occupied before the project.

13. 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. Such entitlements may include

- (i) relocation and transfer expenses;

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<sup>8</sup> Such claims may result from recognition of prescriptive rights, from adverse possession, from continued possession of public lands without eviction, through eligibility for a government land titling process, or from customary or traditional usage.

<sup>9</sup> If affected people with title to land have encroached from their legitimate landholding onto land that they do not own, they will be compensated only for the legitimately occupied piece and legitimate assets.



- (ii) assistance for transitional income and livelihood support;
- (iii) compensation for crop or business losses;
- (iv) reestablishment of agricultural or business production;
- (v) assistance for income restoration; and
- (vi) assistance for restoring social services, social capital, community property, and resources.

14. The need for and the magnitude of such entitlements and the delivery schedule of rehabilitation provisions will be determined through the initial poverty and social analysis and detailed resettlement planning. In each DMC, entitlements will generally be established in consultation with the affected people in accordance with applicable policies and laws, and ADB's involuntary resettlement policy standards.

15. Community and public resource losses to be considered as eligible for compensation include

- (i) common property resources, including 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.

16. Measures to improve the status of the poor and vulnerable people should focus on strategies to avoid further impoverishment and create new income opportunities. Among them are:

- (i) reducing barriers, for example, to employment opportunities, such as project work;
- (ii) improving access to and delivery of essential services, including those that can be provided by the project;
- (iii) empowering people through good governance, sound participatory processes, and effective organization; and
- (iv) reducing vulnerability to poverty through asset-building strategies such as development grants, land-for-land, replacement housing of minimum standard, and increased security of tenure.<sup>10</sup>

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<sup>10</sup> See ADB. 1998. *Handbook on Resettlement: A Guide to Good Practice*. Manila; and ADB. 2001. *Handbook on Poverty and Social Analysis*, Appendix 6.2. Manila.

17. Interventions are to be designed with participation by, and consultation with affected people, including the poor and vulnerable to ensure that their needs, priorities and preferences are addressed. Such participation and consultation need to be carried out in a transparent manner.

#### **D. Involuntary Resettlement Identification and Categorization**

##### **1. Involuntary Resettlement Screening**

18. Projects are assigned an involuntary resettlement category depending on the significance of the probable involuntary resettlement impacts.

##### **a. Involuntary Resettlement Category A: Significant**

19. "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 resettlement plan. Some of these projects may require a resettlement framework prior to the full resettlement plan.

##### **b. Involuntary Resettlement Category B: Not Significant**

20. Category B projects include involuntary resettlement impacts that are not deemed significant and require a short resettlement plan. Some of these projects may require a resettlement framework prior to the short resettlement plan.

##### **c. Involuntary Resettlement Category C**

21. No involuntary resettlement effects are foreseen in category C projects. They neither require a resettlement plan nor a resettlement framework.

22. Screening for involuntary resettlement is to be conducted as early as possible in the project cycle, at the project concept stage where feasible, and no later than project or program preparatory technical assistance, project preparatory note fact-finding, or due diligence. A project's involuntary resettlement category is determined by the category of its most resettlement-sensitive component. Screening and categorization are initiated by the operations department, and then confirmed by the chief compliance officer (CCO). This is intended as a guide, based on available data, to identify subsequent approaches, and resource requirements to address involuntary resettlement issues during project processing. Classification is an ongoing process, and the involuntary resettlement category can be changed at any time with the approval of the CCO as more detailed information becomes available and project processing proceeds. However, in case of doubt in the early stages of project preparation, a resettlement-planning document must be prepared.

## **2. Initial Poverty and Social Assessment<sup>11</sup>**

23. An initial poverty and social assessment (IPSA) is required for every development project and should be undertaken as early as possible in the project cycle, and preferably by the time of fact-finding for a PPTA or other project preparatory study or due diligence, so that appropriate measures and sufficient resources for resettlement planning can be included in the terms of reference for the feasibility study. Depending on how firm the project concept is at this stage, the IPSA may also identify people, households, and communities likely to be affected by involuntary resettlement, using an involuntary resettlement checklist. If the IPSA indicates that involuntary resettlement is likely, resettlement planning is required, preferably in conjunction with the preparation of the feasibility study. The IPSA also identifies the institutions that will be involved in resettlement planning and management, and assesses their capacities.

24. Based on how firm the project concept is at this stage, the IPSA can help identify the resources and steps required to determine project sites and alignments. If possible, it quantifies any land acquisition, land changes, or restrictions that will necessitate involuntary resettlement planning. The IPSA flags the necessary and sufficient conditions for resettlement planning and is the basis for assuring the budget and resources for preparing the resettlement plan.

### **E. Resettlement Planning Documents**

25. Planning documents are developed according to the significance and timing of involuntary resettlement impacts. The contents and level of detail vary with circumstances. However, they necessarily cover the following essential elements. Each document includes an executive summary.<sup>12</sup>

#### **1. Full Resettlement Plan**

26. A full resettlement plan includes a statement of involuntary resettlement objectives and strategy, with (i) organizational responsibilities; (ii) community participation and disclosure arrangements; (iii) findings of the socioeconomic survey and social and gender analysis; (iv) legal framework, including eligibility criteria and an entitlement matrix; (v) mechanisms for resolution of conflicts and appeals procedures; (vi) identification of alternative sites and selection; (vii) inventory, valuation of, and compensation for, lost assets; (viii) landownership, tenure, acquisition, and transfer; (ix) access to training, employment, and credit; (x) shelter, infrastructure, and social services; (xi) environmental protection and management; (xii) monitoring and evaluation; (xiii) a detailed cost estimate with budget provisions; and (xiv) an implementation schedule, showing how activities will be scheduled with time-bound actions in coordination with the civil works.

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<sup>11</sup> The IPSA replaces the initial social assessment (ISA). See OM Section C3 for a description of IPSA.

<sup>12</sup> See the *Handbook on Resettlement: A Guide to Good Practice* (footnote 10), which provides guidance for preparing resettlement plans.

## 2. Short Resettlement Plan

27. A short resettlement plan covers the same issues as that of a full resettlement plan, as relevant, but in less detail. However, the short resettlement plan must ensure that adequate compensation, rehabilitation, and relocation arrangements are planned and budgeted.

## 3. Resettlement Framework

28. For ADB equity investments, loans, and/or guarantees, including through financial intermediaries with investments, subprojects, or components that have not been selected or prepared before appraisal and that may involve involuntary resettlement, a resettlement framework must be submitted before the first management review meeting (MRM) or private sector credit committee meeting (PSCCM), unless they are expected to have no resettlement effects (see also paras. 37–43). A resettlement framework sets out the broad magnitude of the scope, together with the policy, procedures, and capacity-building requirements for preparing future subprojects, components, or investments.

29. The resettlement framework sets out the resettlement policy and screening and planning procedures that will apply to subprojects, components, or investments that are prepared and approved during loan implementation to ensure that they conform to ADB's involuntary resettlement policy. The resettlement framework contains the arrangements for preparing full or short resettlement plans during implementation of the loan's subprojects, depending on the significance of the involuntary resettlement impacts. The resettlement framework includes (i) loan or investment description, with the likely scope, extent, and magnitude of the resettlement effects; (ii) screening procedures for pipeline investments or components; (iii) resettlement policy principles and eligibility criteria that are consistent with the policy and cover all investments, subprojects, and components under the loan; (iv) resettlement entitlements; (v) resettlement design criteria; and (vi) administrative, resourcing, and financing arrangements for preparation, approval, implementation, monitoring, and evaluation of full or short resettlement plans. It also sets out provisions for strengthening the capacity of the relevant executing agency, project sponsor, or financial intermediary if required to address resettlement issues. The resettlement framework may stand alone or may accompany a resettlement plan or plans for a known site, investment or core subproject that is prepared before the first MRM or PSCCM.

## F. Compliance Requirements

30. **At MRM/PSCCM.** This section sets out the compliance standards for a satisfactory resettlement planning document, based on feasibility study or more developed design, that must be reflected in the report and recommendation of the President (RRP) presented for the first MRM or PSCCM. A summary resettlement plan and or framework will be prepared based on the draft resettlement plan or framework of the EA or the project sponsor and will be circulated with the RRP that is submitted to Management before the first MRM or PSCCM. Involuntary resettlement forms one part of the safeguard policy compliance (SPC) memorandum that is prepared and signed by the Environment and Social Safeguard Division (RSES) and approved by the CCO. A draft resettlement plan and/or framework must meet all the requirements of ADB policy

and must be endorsed by the EA or project sponsor. The draft resettlement plan/framework is subject to review by the CCO. The draft resettlement plan and/or framework will state any further planning action that may be required prior to implementation, together with specific actions required during implementation.

31. **At Appraisal.**<sup>13</sup> A satisfactory resettlement plan/framework must be submitted by the EA or the project sponsors to ADB, preferably together with the project feasibility study, but in any case, before project appraisal. Subsequently, loan agreements must include specific involuntary resettlement covenants that describe the measures agreed for involuntary resettlement management, making direct reference, wherever necessary, to the requirement for implementing resettlement plans/frameworks in accordance with ADB's involuntary resettlement policy. This ensures compliance with ADB's involuntary resettlement policy by executing agencies, contractors, and supervision consultants. The provisions of the resettlement plans/frameworks must also be reflected fully in the project administration memoranda.<sup>14</sup> Moreover, the formulation of contract packages must be consistent with the resettlement plan.

### 1. Resettlement Plan

32. ADB ensures that the executing agency/project sponsor submits the draft resettlement plan, preferably together with the project's feasibility<sup>15</sup> study, but in any case for review before the first MRM or PSCCM. All costs of resettlement and compensation, including the costs of social preparation and livelihood programs, together with the incremental benefits over the "without-project" situation, must be included in the project costs and benefits. To ensure timely availability of required resources and compliance with involuntary resettlement procedures during implementation, eligible resettlement costs may be considered for inclusion in ADB loan financing for the project, if requested.

33. The feasibility study is expected to address any resettlement effects well before the first MRM or PSCCM, to facilitate the analysis of a project's technical, financial, economic, environmental, and social viability. The resettlement plan, preferably prepared in conjunction with the feasibility study, should cover the essential elements (paras. 26–27). The information at this stage does not have to be final, but the summary resettlement plan and/or framework must demonstrate before the first MRM or PSCCM that each element is adequately addressed to the satisfaction of ADB.

34. The resettlement documents are to be developed in consultation with those affected. The documents include a population record<sup>16</sup> of affected people, an asset inventory,<sup>17</sup> landownership, usage and productivity assessments,<sup>18</sup> and data on the

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<sup>13</sup> If Appraisal Mission is waived or not required, the satisfactory resettlement plan/framework should be submitted for ADB review and approval prior to loan negotiations.

<sup>14</sup> See ADB. Project Administration Instructions. Lotus Notes database. LNADB61.

<sup>15</sup> Resettlement costs and implementation are likely to critically affect the overall costs and implementation schedule of the primary investment project.

<sup>16</sup> The pre-appraisal population record of affected people, according to their location, is prepared through a count based on village or other local population data or census. In many cases, a full census is not available by MRM, and therefore, an updated resettlement plan will be required after detailed measurement survey and prior to land acquisition/impacts. See para. 44 below.

<sup>17</sup> The pre-appraisal asset inventory is a preliminary record of affected or lost assets at the household, enterprise, or community level.

existing economic and social condition of the affected people, including a poverty assessment and a survey of least 10% of affected people and 20% of seriously affected people, together with local-level impact data. Eligibility criteria and entitlements for compensation and other assistance according to the losses of the affected people must be established on the basis of this information. The planning process also requires consultation with and information dissemination to affected people. A schedule for providing resources and opportunities for reestablishing housing, facilities, networks, incomes, and livelihoods prior to relocation should be included in the resettlement plan.

35. The population record and asset inventory are prepared based on site investigation sufficient to identify titled, legalizable and nontitled affected people. These are essential elements in resettlement planning for establishing scope and quantities and determining the full compensation and resettlement cost. The population records, land assessment, asset inventory, and sample socioeconomic surveys are prepared in consultation with those affected.

36. The resettlement plan must also provide a time-bound action schedule for project activities such as acquisition of land to ensure that affected people are individually compensated and assisted before civil works contracts are awarded or similar milestone events occur.<sup>19</sup> The summary resettlement plan before the first MRM or PSCCM must also be accompanied by tentative cost estimates, and related budget estimates including prices and physical contingencies, and cash flows. The budget must be sufficient to meet the resettlement plan's activities, according to the established schedules coordinated with construction timelines. It must also contain assurances from the executing agency or project sponsor that sufficient funds will be made available as and when necessary for the efficient and timely implementation of resettlement activities specified in the resettlement plan.

## **2. Resettlement Framework**

### **a. Sector Loans**

37. Sector loans that are likely to involve "significant" resettlement need to submit for approval, before the first MRM or PSCCM, a resettlement framework for the loan as a whole and a summary resettlement plan for each core subproject having resettlement issues. A subproject having significant resettlement must be included among the core subprojects prepared prior to MRM or PSCCM. A "core" subproject is one that is prepared before Board approval and appraised during the ADB appraisal, and the resettlement plan or plans serve as a model for subsequent resettlement planning for other subprojects under the sector loan that will be prepared in accordance with this OM section. Sector projects involving resettlement that is not likely to be significant nevertheless require a short resettlement plan before the first MRM or PSCCM for any

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<sup>18</sup> Pre-appraisal land assessments record key features of population settlements, and natural land features, together with landownership and usage patterns.

<sup>19</sup> While compensation is required prior to dispossession or displacement of affected people from their assets, the full resettlement plan implementation, which may require income rehabilitation measures, might be completed only over a longer period of time after civil works have begun. Affected people will be provided with certain resettlement entitlements, such as land and asset compensation and transfer allowances, prior to their displacement, dispossession, or restricted access.

core subproject identified as involving resettlement;<sup>20</sup> however, if no core subproject has been identified that involves resettlement, only a resettlement framework is required before the first MRM or PSCCM for the sector project as a whole.

38. During implementation, the executing agency or project sponsor prepares each subproject resettlement plan in accordance with the resettlement planning principles set in the involuntary resettlement policy and this OM section, to be submitted for approval to ADB, or to a third party acceptable to ADB,<sup>21</sup> before the award of civil works contracts or similar milestone event that ensures that a subproject does not proceed without an acceptable resettlement plan and corresponding budget. In addition, these conditions include disclosure to affected people, delivery to affected people of compensation and allowances and house reconstruction, prior to their being dispossessed or displaced, as necessary for each subproject resettlement plan to ensure that no subproject proceeds without consultation, disclosure, and replacement of assets prior to the dispossession or displacement of affected people.

39. To facilitate the observance of these conditions, the project ensures that contract schedules and packages consistently match each subproject requiring a resettlement plan. The project also ensures that sufficient resettlement planning and management capacity are provided during project implementation.

#### **b. Other Loans with Subprojects or Components for Later Approval**

40. ADB's portfolio includes other loans with investments, subprojects, or components that may involve involuntary resettlement, that may not be known before appraisal. This may include (i) hybrid loans<sup>22</sup> for which all or part of the impact area cannot be determined before appraisal, due to the undeveloped level of technical design, and/or the need for a clearly defined community process for site selection; and (ii) cases where a project simultaneously entails one or more components that are fully defined before the first MRM or PSCCM (and for which a summary resettlement plan has been prepared, if required) and complementary small, scattered, or networked components entailing minor impacts that can be identified only in connection with detailed engineering and technical design immediately before construction.<sup>23</sup>

41. This type of project loan requires the preparation and approval of a resettlement framework prior to the first MRM or PSCCM and follows procedures similar to those applied to sector loans, except that in the absence of core subprojects, only subprojects or components due for financing during the first year of implementation require the preparation of a resettlement plan acceptable to ADB before the first MRM or PSCCM.

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<sup>20</sup> See Section D for a discussion of conditions requiring full or short resettlement plans.

<sup>21</sup> Third parties acceptable to ADB may include other multilateral financial institutions having involuntary resettlement policy requirements equivalent to, or exceeding, those of ADB.

<sup>22</sup> "Hybrid loans" have features of a regular project loan and a sector loan, such that some subprojects, components, or investments are selected and prepared only after loan approval.

<sup>23</sup> An example of this is an urban project with a water treatment plant and a related water distribution system. The impacts caused by the plant will be detailed in one specific resettlement plan to be prepared before the first MRM or PSCCM. A resettlement framework will cover the remaining work on the distribution system, specifying any resettlement-related screening criteria and the requirement for another resettlement plan or plans to be prepared and approved by ADB, or a designated third party acceptable to ADB, before the civil works contracts are awarded or similar milestones are reached.

All other processing and implementation conditions for sector loans are valid also for this type of loan.

### **c. Emergency Assistance Loans**

42. However, because emergency assistance loans must be processed quickly, procedures must be flexible. If the IPSA identifies likely involuntary resettlement effects, the completion of standard surveys and consultation requirements based on a feasibility study may not be possible before Board circulation. In such cases, a phased sequencing of preparation to develop a resettlement framework that sets out policy, procedures, and requirements that apply during loan implementation is presented in the RRP for MRM, or, if MRM does not take place, the RRP and legal agreements for Board circulation. In all cases, the RRP must justify the departure from standard procedures as described in this OM section, with reference to the specific circumstances of the individual project and the emergency processing schedule.

### **d. Financial Intermediation Loans**

43. ADB assistance through financial intermediaries may involve credit lines or other means whereby investments or operations targeted for ADB financing are to be selected and prepared during implementation. Where such loans may involve involuntary resettlement, ADB requires that, before the first MRM or PSSCM, the financial intermediary or project sponsor will submit for approval a resettlement framework to ADB and, where resettlement is likely to be significant, will assign responsibility for involuntary resettlement planning and implementation. ADB ensures that the financial intermediary or project sponsor screens the investments or subprojects to be financed by ADB and prepares resettlement plans as needed in accordance with the involuntary resettlement policy and this OM section. These are submitted to ADB, or to a third party acceptable to ADB,<sup>24</sup> for approval before civil works contracts are awarded or similar milestone events occur. The conditions for approval of resettlement plans must include consultation, disclosure, and delivery to affected people of compensation, allowances and house reconstruction, prior to dispossession or displacement of affected people, as necessary for each subproject resettlement plan, to ensure that a subproject does not proceed without replacement of assets prior to the dispossession or displacement of affected people.

## **G. Participation of Affected People and Resettlement Disclosure**

44. The policy requires that the executing agency or project sponsor disseminates information to and closely consults affected people during resettlement planning and implementation. The consultation is to be carried out as early as possible in the project cycle so that the views of the affected people are taken into account in formulating the compensation and rehabilitation measures. Further consultation also takes place during resettlement plan implementation to identify and help address issues that arise. The public consultation process must be identified in the IPSA as well as described in resettlement plan and framework reports.

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<sup>24</sup> See footnote 19.



45. Public disclosure of resettlement plans and frameworks is mandatory. In the case of resettlement plans, resettlement information on compensation and resettlement options, must be disclosed to the affected people before the first MRM or PSCCM, in a form and language that they can understand.<sup>25</sup> In similar fashion, the detailed resettlement information including measurement of losses, detailed asset valuations, entitlements and special provisions, grievance procedures, timing of payments and displacement schedule must be disclosed to the affected people.<sup>26</sup> The executing agencies are generally required to approve the posting of the resettlement plan and or resettlement framework, or its summary, for release on ADB's resettlement website prior to the first MRM or PSCCM. Web posting of resettlement plans and frameworks is mandatory upon Board approval. Relevant information on involuntary resettlement is to be included in the project profile for ADB web site.

#### **H. Initiation, Implementation, Monitoring, and Evaluation**

46. To ensure proper and timely implementation of the resettlement plan/framework and adherence to agreed land acquisition and involuntary resettlement covenants, ADB requires, for all involuntary resettlement category A and B projects, that (i) EAs or project sponsors submit quarterly or semiannual progress reports, as deemed necessary by ADB, on implementation of resettlement plans; and (ii) this requirement must be reflected in the loan agreements. Monitoring and evaluation reports are required, preferably from an external monitoring and evaluation agency. These must be reviewed by the resettlement specialist in the operations department that has the responsibility for resettlement supervision, with a copy of the reports and the operations department's assessment are to be sent to RSES. Grant or loan financing may be used to finance external monitors. Standard project accounts required by ADB and independent audit reports thereon, must include the implementation of resettlement plans. For category A projects, an ADB supervision mission is fielded to reassess involuntary resettlement preparations prior to their implementation. The timing of this assessment must be stated in the project administration memorandum. Implementation of the resettlement plan should be reviewed regularly, including at midterm and project completion. Large-scale resettlement operations should be reviewed semiannually.

47. **Completion of Final, Detailed Technical Design during Loan Implementation.** Detailed engineering and technical designs, for tendering and/or construction of civil works contracts, may be done after the Board's approval of a loan. In such cases, after detailed design, to be approved by ADB before civil works contracts are awarded or similar milestone events occur, the resettlement plan must be finalized. The resettlement plan will be disclosed to affected people and submitted to ADB for approval with revised information based on the detailed measurement survey, including full census, final asset inventory and valuation, and final budget.

48. **Resettlement Compliance during Loan Implementation.** The CCO, supported by RSES, must ensure compliance with the involuntary resettlement policy (i) where a

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<sup>25</sup> This may be in the form of a resettlement information brochure or leaflet, a summary resettlement plan, or a complete resettlement plan to be provided to affected people in a language that they can understand, in an accessible place. The process of disclosures may be synchronized with local legal processes.

<sup>26</sup> As a guideline, the disclosure should take place as early as possible.

revised resettlement plan, satisfactory to ADB, forms a condition for loan effectiveness or is a dated covenant; (ii) for new, full resettlement plans that are required after Board approval to address involuntary resettlement effects unforeseen at the time of the first MRM or PSCCM; and (iii) for updated full resettlement plans and for full subproject or subcomponent resettlement plans. Resettlement specialists in the operations departments are responsible for approving short resettlement plan updates, short subproject and subcomponent resettlement plans, and any specific resettlement actions to be completed for the award of civil works contracts, civil works contract mobilization, or similar mechanisms that ensure that a subproject does not proceed without replacement of assets before displacement.

49. **Changes in Scope.** A major change materially alters or fundamentally affects the project's purpose (immediate objectives), components, costs, benefits, procurement, or other implementation arrangements as approved by the Board.<sup>27</sup> All major changes in scope need to be screened by operations departments for resettlement significance, using the involuntary resettlement checklist, and classified in accordance with the appropriate procedures. All proposed changes that are classified as category A require a full resettlement plan and those classified as B will require a short resettlement plan. Depending on circumstances, a prior approved resettlement plan for a category A or B project may be updated to cover the new impacts, and submitted for ADB's approval.

50. **Unanticipated Resettlement Impacts.** Where unanticipated resettlement impacts become apparent during project implementation, ADB assists executing agencies and other relevant government authorities to assess the significance of the impacts, evaluates the options, and prepares resettlement plans, in accordance with this OM section. Project completion review missions place special emphasis on reviewing project-induced involuntary resettlement impacts, and are expected to make appropriate recommendations to address them. ADB resident missions take on an increasing role in working with DMCs to resolve outstanding resettlement issues.

51. **Completion Reports and Performance Audit Reports.** To ensure proper documentation of the actual involuntary resettlement impacts and the successful implementation of the resettlement plan, the project or program completion report prepared by ADB's operational departments includes (i) a concise history of the involuntary resettlement aspects of the project and/or program to completion, (ii) an evaluation of the implementation of the resettlement plan and or resettlement framework and involuntary resettlement loan covenants, (iii) an assessment of the executing agencies performance; and (vi) a summary of the external monitoring and evaluation reports. As necessary, a resettlement completion report may be prepared by the executing agency, based on the agreed resettlement planning documents, together with financial audit statements that have been approved by an independent agency. The involuntary resettlement section of the project completion report is based on facts documented in the executing agency's progress reports, the external agency's monitoring and evaluation reports, and review missions' back-to-office reports.<sup>28</sup>

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<sup>27</sup> Project administration instruction 5.04 on Change on Project Scope or Implementation Arrangements, updated and submitted for approval.

<sup>28</sup> To foster organizational learning and project improvement, ADB's Operations Evaluation Department prepares project or program performance audit reports, which are independent evaluations and include an analysis of the effectiveness of the involuntary resettlement in achieving the intended objectives. The reports also assess the adequacy of the project completion report's on involuntary resettlement reporting, and focuses on specific involuntary resettlement issues as documented in the project completion report.

52. **Departmental Responsibilities.** The operations departments and the Private Sector Operations Department, supported by the Regional and Sustainable Development Department, are responsible for policy implementation. At the country level, the country strategy program process is the principal entry point for policy dialogue on each DMC's specific needs and priorities. The operations departments are responsible for proposing the categorization of all loans in consultation with the Regional and Sustainable Development Department. Final categorization is approved by the CCO. The project teams assist DMCs in involuntary resettlement planning and supervision processes, and resettlement specialists in operations departments' review of resettlement plans. Quality assurance of projects and programs is undertaken by the project teams. Internal and external resettlement networks facilitate cross-fertilization, knowledge sharing, and dissemination of lessons.

53. **Compliance.** The operations departments are responsible for complying with the policy. ADB's CCO, supported by the Environment and Social Safeguard Division, is responsible for monitoring compliance with ADB's safeguard policies, and advising and assisting operations departments. The CCO advises Management on safeguard policy issues and reviews projects' compliance with ADB's safeguard policies. For this purpose, questions of interpretation of resettlement terminology used in this OM section will be decided by the CCO.

54. **Monitoring.** Overall performance with regard to ADB's safeguard policies and procedures is assessed through the compliance monitoring system, which is implemented by RSES.

#### **I. Borrower's Responsibilities**

55. The following are essential in the preparation and review of resettlement planning documents.

- (i) All ADB requirements must be met.
- (ii) ADB staff must request the borrower to follow the formats for resettlement planning documents in the ADB-prescribed *Handbook on Resettlement*. Some departure from ADB's recommended report format may be accepted, if the documents cover all the major elements of planning.
- (iii) In preparing the resettlement planning documents, ADB requires the borrower to take into account the views of affected groups and civil society groups where relevant, including nongovernment organizations.
- (iv) Wherever possible, the borrower will give its final clearance of the resettlement plan or framework before it is submitted to the Board. Where this is not possible, and the EA's or project sponsor's clearance has still not been received before the conclusion of loan negotiations, a loan covenant requiring EA's or project sponsor's clearance/endorsement of the resettlement-planning document must be included in the loan agreement.

**Basis:** This OM section is based on OM Section F2/BP and the documents cited therein.

ADB. 2001. Doc. R152-01, Revision I, Final, *Reorganization of the Bank*, 18 September. Manila.

**Compliance:** This OM section is subject to compliance review.

**For inquiries:** Questions may be directed to the Chief Compliance Officer, Regional and Sustainable Development Department.