

TECHNICAL ASSISTANCE COMPLETION REPORT

Division: Bangladesh Resident Mission

TA No., Country and Name TA 4517-BAN: Development of a National Involuntary Resettlement Policy		Amount Approved: \$350,000 Revised Amount: \$350,000	
Executing Agency: Ministry of Land, Government of Bangladesh	Source of Funding: TASF	Amount Undisbursed: \$4,450	Amount Utilized: \$345,550
Approval 21 December 2004	Signing 13 September 2005	Consultant(s) Contract Duration: 9 October 2006 to 30 June 2008	TA Completion Date Original: 31 January 2006 Actual: 31 March 2008 Account Closing Date Original: 31 January 2006 Actual: 26 September 2008
Description In Bangladesh, every year people experience involuntary displacement due to the acquisition of land for various development projects – both in the public and private sectors. While the projects such as roads, bridges, power, gas, irrigation, flood control and urban/industrial development are planned for their beneficial impacts and are commonly viewed as “engines” of economic growth, these large projects also carry risks associated with loss of land, homes, properties and livelihoods. Land acquisition for development projects pose serious hardship and impoverishment risks – for example, landlessness, homelessness, joblessness, food insecurity, and a host of other social and economic costs, including disruption of community social and cultural networks. The current land laws and regulations, including the <i>Acquisition and Requisition of Immovable Property Ordinance II (1982)</i>, have failed to address the needs of those affected and displaced persons. Moreover, currently two different “standards” are practiced in Bangladesh with regard to compensation for the displaced and project-affected persons. For instance, those affected by domestically funded projects receive cash compensation only as per the 1982 Ordinance while the donor-funded projects entail additional measures, including replacement costs for lost assets, relocation assistance, and resettlement and restoration of income in post-resettlement period. It is, therefore, imperative that consistent national policy guidelines are in place to reduce disparities between projects in treating involuntary resettlement, and minimize the risk of impoverishment of those displaced by development projects. Such inconsistencies combined with delays in land acquisition, compensation and resettlement of affected persons adversely impact on effective planning and implementation of development projects. In 2004, the Government requested ADB to provide advisory technical assistance for preparation of a national policy on involuntary resettlement to strengthen the Government’s legal framework for mitigation of development-induced displacement and resettlement of affected persons caused by acquisition and requisition of land for development projects. BRM fielded a fact-finding mission on 19–26 October 2004 and reached understanding with the Government on the objectives, scope, cost estimates, financing plan, and implementation arrangements for the TA. The TA activities commenced on 1 November 2006 and were concluded on 31 December 2008. The TA closing date was extended thrice from 1 January 2006 to 31 March 2008.			
Expected Impact, Outcome and Outputs Impact: Enhanced effectiveness of government involuntary resettlement and rehabilitation measures ensuring mitigation of adverse impacts. Outcome: Adoption of a national policy on resettlement by the Government to (i) safeguard the rights of project-affected and displaced persons; (ii) ensure that appropriate mitigation measures are undertaken, including resettlement of the displaced households; and (iii) restore livelihoods and re-establish community socio-cultural systems. Outputs: Development of a comprehensive national policy on involuntary resettlement based on local contexts and needs of the primary stakeholders, and applicable to public and private sector development projects. Documents and reports prepared under the TA include (i) draft national involuntary resettlement policy; (ii) recommendations for modifications of the acquisition and requisition of Immovable Property Ordinance II of 1982 to harmonize with the national policy (prepared under this TA); (iii) guidelines for policy implementation and training materials for resettlement management; and (iv) action plan for implementation of the national resettlement policy for Bangladesh. These were consistent with the Government’s policy during the TA design and completion stages.			
Delivery of Inputs and Conduct of Activities The TA team adopted a multi-stakeholder “participatory approach” to the development of the national policy. Several small group discussion and consultation meetings were organized to ensure involvement and participation of various stakeholders, including bi-/multi-lateral agencies, key departments/agencies of the Government, NGOs with resettlement work experience and local experts and policy/advocacy groups. The activities under TA were mainly (i) review of existing policies, legislation on land acquisition, and sector policies to identify gaps; (ii) an analysis of gaps between the 1982 Ordinance and donors’ policies and gap filling measures to harmonize safeguard issues with international “good-practices”; (iii) identification of likely APs and project impacts on			

different groups and communities; (iv) identify relevant mitigative actions and development approaches; (v) development of mechanisms for including resettlement plans in project preparation; (vi) development of schemes for compensation and reestablishing livelihoods; (vii) identify possible impacts on vulnerable groups; (viii) proposing entitlements, based on potential losses; (ix) development of systems for disclosure of information and consulting with stakeholders; (x) procedure identification for grievance redressal; (xi) assess the institutional capacity of leading infrastructure agencies; (xii) review the existing time for accomplishing the legal procedures of land acquisition, and develop an adequate time frame for this purpose; (xiii) explore and recommend procedures for resettlement financing; (xiv) identify monitoring and evaluation systems; and (xv) provide training on implementation of the policy.

A team of consultants worked for four weeks in November 2006 when the TA work was temporarily suspended due to uncertain pre-election political crisis and periodic strikes in Bangladesh. After remobilization of the team in February 2007, the consultants carried out desk review of country's legal framework, consultations with EA and stakeholders, and case studies of five infrastructure projects which involved management of involuntary resettlement. Three stakeholders' workshops and a one-day national workshop were held to assess the stakeholders' views, with participation of Government's high level policy makers. All activities of the TA were substantially completed by 31 March 2007.

Evaluation of Outputs and Achievement of Outcome

The consultant team analyzed the existing legal framework and "best practices" adopted in donor-assisted projects; developed the first draft national involuntary resettlement policy for Bangladesh in close association and coordination with the EA and steering committee; and prepared recommendations and proposed amendments to existing land acquisition laws, so that they are harmonized with the draft national involuntary resettlement policy.

The draft policy consists of five sections with a set of glossary and acronyms. It provides a background and a rationale to the Policy, followed by policy objectives and guiding principles. It is the policy of the Government of Bangladesh that the rights of those displaced by development projects shall be fully respected, treated with dignity and be assisted in an equitable manner. The policy objectives are consistent with the vision and spirit of the Constitution of Bangladesh and conform to the commitment of the Government to reduce poverty and meet the millennium development goals. The Policy also aims at providing a sound basis for formulating legal instruments and to establishing the institutional framework to safeguard the interests of those affected and unable to absorb the risks and costs of modern development.

Overall Assessment and Rating

The TA consultants fully met their terms of reference. The consultant team supported the Government of Bangladesh with specialist guidance and international best practice advice on enhancements to legal frameworks and assisted the Government effectively in formulating a policy on involuntary resettlement similar to international standards. Development of the consistent National Policy and guidelines will reduce disparities between projects and minimize the risk of impoverishment of those displaced by development projects. This will also help streamline project preparation and reduce costly delays in implementation. The TA can be rated as successful.

Major Lessons

The success of the TA depended on the ability of the consultants to adjust to the institutional needs of MOL, team-work under the committed leadership of the consultant's team-leader, and the good working environment provided by the EA. The existing work-culture and the available general institutional capacity of the EA also allowed it to provide the needed support to the TA. One of the major lessons of the TA is that the government owned the process from the very beginning as a Steering Committee (SC), chaired by the Secretary, MOL, was formed at an early stage and provided guidance to the TA team and supervised the policy work. The SC included members representing the relevant infrastructure and apex ministries, and representatives from the legal profession, NGOs, and academic community. Further, the project affected people were involved in the process through consultative workshop at project sites, and stakeholders' and national workshops in Dhaka. However, implementation of the TA lost momentum on several occasions due to frequent changes of Project Director.

Recommendations and Follow-Up Actions

In Phase I of the TA, a draft national policy on involuntary resettlement was developed to complement the present Acquisition and Requisition of Immovable Property Ordinance II (1982) by addressing the broader issues resulting from loss of land, property, and livelihood. However, the Policy will require amendments to existing land laws, particularly the 1982 Ordinance used for land acquisition and payments of compensation. Once the Policy is approved by the Cabinet, it will be further reviewed and finalized, including a legal framework of enactment of the Policy into law with detailed implementation guidelines. Then the Ordinance II (1982) and the new Law will complement each other in dealing with development induced displacement. ADB may provide further assistance to the Government in legal instrumentation and implementation of the policy.

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