

Comparison of ADB Principles and Requirements – Involuntary Resettlement

Policy Principles – Involuntary Resettlement Safeguards

Safeguard Requirements for Borrowers/Clients – Involuntary Resettlement

Scope:
 “The Policy on Involuntary Resettlement covers physical displacements (loss of residential land, shelter or relocation) and economic displacements (loss of lands, assets, access to assets, income sources and means of livelihoods) as a result of (i) involuntary acquisition of land, (ii) involuntary restriction on land use, and (iii) involuntary restriction of access to legally designated parks and protected areas. It covers losses and involuntary restrictions that are full or partial, and permanent or temporary.”

Scope: “4. The requirements apply to full or partial, permanent or temporary physical displacement (loss of residential land, shelter or relocation) and economic displacement (loss of lands, assets, access to assets, income sources and means of livelihoods) arising from (i) involuntary acquisition of lands, (ii) involuntary restriction on land use, and (iii) involuntary restriction of access to legally designated parks and protected areas.”

“5. There could be three types of displaced people in a project area: (i) people with formal legal rights to the land they occupy; (ii) persons without formal legal rights to land they occupy but their claims to such land are recognized or recognizable under the national laws; and (iii) persons with neither formal legal rights nor recognized or recognizable claims to the land they occupy.”

Policy Principle:

- Does not include the distinction of three types of displaced people

“1. Screen projects early to identify their past, present and future involuntary resettlement impacts and risks, and to determine the scope of the resettlement planning process which includes corrective action for unmitigated past displacements, if such displacements are directly linked to the project. Identify, assess and address the potential economic and social impacts of the project through gender disaggregated social impact assessments.”

Attachment B(C)(1) Screening-

“10. Each project proposed for ADB financing is screened as early as possible by the borrower/client to ascertain whether it has any potential IR impacts and/or unmitigated past IR activities, identify feasible alternative project alternatives, and estimate financial and human resources required for resettlement planning and implementation.”

“11. As early as possible, the borrower/client will assess applicable government policies, institutional and legal frameworks for land acquisition, compensation, relocation and rehabilitation, and verify whether or not they satisfy the policy principles. If they do not, the borrower/client, in consultation with ADB, will decide on what specific actions are needed to meet the policy principles for the project. With the assistance of a qualified and experienced resettlement specialist, the borrower/client will determine if a project has significant resettlement impacts based on the following criteria: (i) scale of IR/displacement, (ii) severity of IR

	<p>impacts/displacement; and (iii) borrower/client’s capacity to adequately address these impacts. For projects with large-scale involuntary resettlement, consider implementing resettlement as a standalone operation.”</p> <p>Attachment B(C)(2) Social Assessment -</p> <p>“12. The borrower/client will conduct a social impact assessment for projects with potential IR impacts. The social assessment report will outline identified social impacts, conduct an inventory of affected people¹ and their assets,² assess their income and livelihoods,³ and provide information regarding economic, social, and cultural conditions of affected people and their communities including a gender-disaggregated description of the findings, based on a sample of 10% of affected people and 20% of affected vulnerable populations.”</p>
<p>Policy Principle:</p> <ul style="list-style-type: none"> - No requirement to screen as early as possible, just screen early - No requirement to identify feasible alternative project alternatives or to estimate financial and human resources required for resettlement planning and implementation - No requirement to examine relevant government policies and institutional framework, though this is probably absorbed by the larger equivalency determination under CSS - No requirement to use qualified and experienced resettlement specialist to determine resettlement impacts - No requirement to use three criteria to determine extent and severity of IR impacts - Does not contain and specific requirements of the social assessment process such as inventory of people, assets, income and livelihoods, and economic, social and cultural conditions - Does require gender disaggregated social assessment, but does not specify that should be based on a sample of 10% of affected people, and 20% of affected vulnerable populations 	
<p>“2. Carry out free, prior, informed consultations with all affected people, host communities and local NGOs. Inform all affected people of their rights and options. Ensure their participation in planning and implementation of resettlement plans and also in their monitoring and evaluation of such plans. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, Indigenous Peoples, or persons without legal entitlements. Establish a local independent grievance redress mechanism. Support social and cultural institutions of affected people and their host population. Where social impacts and risks are complex and sensitive, resettlement and</p>	<p>Attachment B(C)(3) Formulation of Resettlement Planning Documents –</p> <p>“13. The borrower/client will prepare and implement resettlement planning documents in consultation with affected peoples. The objective of a resettlement plan (RP) is to provide the planning document for (i) ensuring that livelihoods and standards of living of affected people are improved or at least restored to pre-displacement (physical/economic) levels; (ii) ensuring that the standards of living of vulnerable affected groups will be improved (not merely restored) by providing adequate housing, security of land tenure, and income sources for them. A RP includes measures to ensure that the displaced people are (i) informed about their options and rights pertaining to resettlement; and (ii) consulted on choices, and provided with technically and economically feasible resettlement alternatives.”</p> <p>Attachment B(C)(6) Consultation –</p>

<p>compensation decisions should be preceded by a ‘social preparation phase’.”</p>	<p>“23. The borrower/client will carry out free, prior, and informed consultation with the active participation of affected people, host communities, and the civil society for each project with IR impacts. Such consultation and participation is an ongoing process which will begin as early as possible so that all stakeholders’ views, concerns and suggestions could be considered in formulating resettlement planning instruments, such as RP.”</p> <p>Attachment B(C)(7) Grievance Redress Mechanism –</p> <p>“24. The borrower/client will establish a grievance mechanism to receive and facilitate resolution of the affected peoples’ concerns and grievances about displacements in an impartial manner. The grievance mechanism will be scaled to the impacts of the project. It should address concerns promptly, using an understandable and transparent process that is culturally appropriate and accessible to the affected people, and at no cost and without retribution. The mechanism should not impede access to the country’s judicial or administrative remedies. The affected people will be appropriately informed about the mechanism.”</p>
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<p>Policy Principle:</p> <ul style="list-style-type: none"> - Does not require that resettlement plan ensure affected persons be consulted on choices for resettlement and provided with technically and economically feasible resettlement alternatives - Grievance Mechanism: <ul style="list-style-type: none"> • only states that one should be established – no details • No specific requirements to scale grievance mechanism to impacts of project • No requirement to address concerns promptly, understandable and transparent process that is culturally appropriate, at no cost • No requirement to inform the affected people about the existence of the grievance mechanism 	
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<p>“3. Improve or at least restore livelihoods of all affected households through (a) land-based resettlement strategies when livelihoods are land-based, and cash compensation at replacement value for land when the loss of land does not undermine livelihoods; b) prompt replacement of assets and access to assets of equal or higher value; (c) prompt compensation at full replacement cost for assets that can not be restored, and (d) where feasible, additional revenues and services through benefit sharing schemes. Those affected by physical displacements should receive in addition a) assistance to relocate, b) secure tenure, c) better housing at resettlement sites with comparable access to employment and production</p>	<p>Attachment B(B)(6) – continued scope of application –</p> <p>“6. The borrower/client will provide adequate replacement housing or cash compensation at full replacement cost, and provide relocation assistance to physically displaced people, prior to relocation. For those persons under paragraph 5 (i) or (ii), the borrower/client will also provide either replacement property of equal or higher value or cash compensation at full replacement cost. For those persons under paragraph 5 (iii), the borrower/client will provide adequate housing with security of tenure. If they own and occupy structures, the borrower/client will compensate them for the loss of assets other than land, such as dwellings and other improvements to the land, at full replacement cost. The entitlements of those under type 5 (iii) is given only if they occupy the project area prior to the cut-off date for resettlement eligibility.”</p> <p>“7. If resettlement impacts extend to loss of income or livelihood sources, regardless of whether or not the affected people are physically displaced, the borrower/client will promptly compensate loss of assets or access to assets at full replacement cost. In cases</p>
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opportunities, d) civic infrastructure and community services, e) transitional support, and f) development assistance, such as land development, credit facilities, training or employment opportunities. Integrate resettlers economically and socially into their host communities, and extend project benefits to host communities. Improve the standards of living of vulnerable groups affected by the project to comply at least with national minimum standards and provide them in rural areas with legal and affordable access to land and resources, and in urban areas with legal and affordable access to adequate housing. In case of negotiated settlements involving economic or physical displacements, procedures will be developed in a transparent, consistent and equitable manner to offer the affected people compensations and livelihood restorations, which meet the objectives of this policy principle.”

where land Attachment B 14 acquisition affects commercial structures, affected business owners are entitled to the cost of reestablishing commercial activities elsewhere, for lost net income during transition period, and for the costs of the transfer and reinstallation of the plant, machinery or other equipment. Business owners with legal rights or recognized or recognizable claims to land where commercial activities are carried out are entitled to replacement property of equal or greater value or cash compensation at full replacement cost. The borrower/client will adequately compensate economically displaced people under para 5 (iii) for lost assets such as crops, irrigation infrastructure and other improvements made to the land other than land, at full replacement cost.”

“8. The borrower/client will rehabilitate displaced people by providing additional assistance (e.g., credit facilities, training, job opportunities) and opportunities to improve or at least restore their income-earning capacity, production levels, and standard of living.”

“9. In the event of potential adverse economic, social or environmental impacts from project activities other than land acquisition (e.g., loss of access to assets or resources or restrictions on land use), these impacts will be avoided, minimized, mitigated or compensated for through the environmental assessment process. If these impacts are found significantly adverse at any stage of the project, the borrower/client will consider applying the policy principles and safeguard requirements on involuntary resettlement, even where no initial land acquisition was involved.”

Attachement B(C)(4) Negotiated Land Acquisition-

20. Borrower/clients are encouraged to acquire land and other assets through negotiated settlements based on a free, prior and informed consultation with affected people. Negotiated land acquisition enhances the acceptability of projects by affected people. Negotiated land acquisition includes offers of fair and appropriate compensation and other incentives or benefits. The borrower/client will ensure that any negotiations with affected people openly address the risks of asymmetry of information and bargaining power of the parties. The borrower/client will engage an independent external party to document the processes and agreements of such negotiations. The borrower/client will agree with ADB on a resettlement framework (RF) that outlines the participatory process, policies and laws that are applicable to such transactions, third party validation, mechanisms of calculating replacement cost of land and other assets affected, and record-keeping requirements.

Policy Principle:

- Loss of Livelihood:
 - Under Requirements: borrower provides prompt compensation for loss of assets or access to assets at full replacement cost; when land acquisition affects commercial structures = business owners are entitled to cost of reestablishing elsewhere and for net loss during transition period

and cost of transition.

- Under Policy: land based resettlement and cash compensation for replacement value when loss of land does not undermined livelihood. Also prompt compensation at full replacement cost for assets that can not be restored. No provision for cost to reestablish elsewhere.
- Physically Displaced People:
 - Under Requirements: when people are displaced with formal legal rights to land, or claims recognizable under national law = borrower provides adequate replacement housing or cash compensation at full cost and assistance. When people without rights or claims are displaced = adequate housing with security of tenure and compensation for loss of structures.
 - Under Policy: when people are displaced there is no distinction between those with some rights and claims to land, and those without. EVERYONE affected by displacement receives: assistance to relocate, secure tenure, better housing at new site with same employment access, civic infrastructures and services, transitional support, and development assistance.
- For negotiated land acquisitions, no requirement to use independent external party to document the processes and agreements of such negotiations

This comparison was extremely confusing since the two sections are structured very differently. Both policy and requirements lean toward overall cash compensation as end-all solution for resettlement issues.

“4. The absence of formal legal title to land and by an affected person is not a bar to compensation.”

This is not explicitly stated under Requirements – but included in B. Scope of Application “3” which states that requirements apply to displaced people without legal title.

“5. Address the potential economic and social impacts of the project that are caused by involuntary restriction of access to legally designated parks and protected areas.”

B. Scope of Application “4” states that the requirements apply also to economic displacement due to restriction to legally designated parks and protected areas.

“6. Disclose draft resettlement plans, including documentation of the consultation process before appraisal at the local level and in a form, manner and language(s) accessible to affected people and other key stakeholders. The final resettlement plans and their updates will also be disclosed to the affected people and the public. “

Attachment B(C)(5) Information Disclosure –

“21. The borrower/client will submit to ADB and disclose the following resettlement planning documents to key stakeholders:

- (i) a draft RP endorsed by the borrower/client before appraisal;
- (ii) a revised RP endorsed by the borrower/client after finalizing the plan;
- (iii) new RPs or addendums, if any;
- (iv) resettlement due diligence reports and corrective action plans, if any, and
- (v) monitoring reports.”

“22. The borrower/client will provide relevant resettlement information as brochures, leaflets, or booklets in a form, manner and language(s) accessible to affected people and key stakeholders. For non-literate people, suitable other communication methods are to be used.”

Policy Principle:

- No specific requirement to disclose monitoring reports or due diligence reports/corrective action plans
- No requirement to provide other suitable communication methods for the non-literate population
- No clear deadlines for disclosing each phase/update of the RP

“7. Involuntary resettlement should be conceived and executed as part of a development project or program. Satisfactory resettlement plans, or equivalent documents, elaborate in detail the entitlements outlined in principle 3 as a time-bound action plan, outline budgets and implementation arrangements and provide a date by which livelihood restoration will be achieved. The full costs of resettlement will be included in the presentation of the costs and benefits of the project. For a project with large scale involuntary resettlement, consider implementing the involuntary resettlement component as a stand alone operation.”

Attachment B(C)(3) Formulation of Resettlement Planning Documents –

“14. A RP provides detailed socioeconomic information of the project area and affected people, scope and significance of resettlement impacts, policy and legal framework, entitlements of all affected people, institutional framework, budget, monitoring and evaluation and time-frame for implementing the RP. A resettlement plan includes the requirements set out in Annex 1.”

“15. A RP is developed in consultation with affected peoples and based on the significance of involuntary resettlement impacts. The information contained in a RP could be tentative until the completion of detailed design of the project. All costs of compensation, relocation, and livelihood restoration will be project costs. To ensure timely availability of required resources, land acquisition and resettlement costs may be considered for inclusion in ADB financing. Resettlement expenditure is eligible for ADB financing, if incurred in compliance with the ADB Safeguard Policy Statement and with ADB-approved resettlement planning documents. If ADB funds are used for resettlement costs, expenditure items will be clearly reflected in RPs.”

“17. The borrower/client will finalize the RP soon after the completion of detailed engineering designs. The anticipated changes to the RP are in the number of affected people, areas for land acquisition, budget, and implementation timetable. The entitlement matrix of the RP may be updated to reflect these changes. The standards set in the original entitlement matrix will not be lowered when the RP is finalized. The borrower/client will ensure that the final RP (i) adequately reflects all IR issues relating to the project, (ii) describes the specific mitigation measures that will be taken to address these issues, and (iii) ensures the availability of sufficient resources for this purpose.”

“18. Projects with large-scale involuntary resettlement impacts will have adequate contingency funds to address the identified potential IR impacts as well as those identified during project implementation, and to provide enhanced social benefits to affected people to mitigate their initial trauma and impoverishment. The borrower/client will inform newly identified affected people about the project and RP. Supplementary RPs, addendums to RPs, and revised RPs will be endorsed by the borrower/client prior to submitting to ADB for review. ADB’s approval is required before the award of civil works contracts or similar milestones occur. “

	<p>19. A final RP is also required for the following: (i) RP(s) for specific components of a project whose sites/alignments cannot be defined prior to loan approval;4 (ii) an addendum to the draft RP(s) prepared during project processing; and (iii) RP(s) to cover unanticipated impacts.</p>
<p>Policy Principle:</p> <ul style="list-style-type: none"> - No detailed list of required components for RP as is set out in Annex 1 to Requirements. - Does not specify that costs will be part of project budget, only requires that costs be documented in plan - Does not require that plan include contingency fund for large-scale involuntary resettlement - No requirement for a final RP; lacks many details about timing of RP and process for completion 	
<p>“8. Pay compensation and provide entitlements before physical or economic displacement. Implement all resettlement plans under close supervision throughout the project implementation and up to completion.”</p>	<p>Attachment B(C)(3) Formulation of Resettlement Planning Documents –</p> <p>“16. The borrower/client will establish clear milestones to ensure that no physical and economic displacement of affected people occurs until all compensation payments at full replacement cost and other entitlements are made, and an approved rehabilitation program supported by an adequate budget is available. If a project restricts access to land, such restrictions will be imposed in accordance with a timetable outlined in RP which is agreed upon.”</p>
<p>Policy Principle:</p> <ul style="list-style-type: none"> - Does not require that approved rehabilitation program (with budget) is available before physical or economic displacement 	
<p>“9. Prepare a project completion report that assesses the outcome of resettlement, its impact on the standards of living of the affected people and if the objectives of the resettlement plan have been achieved, taking into account the baseline conditions and the results of resettlement monitoring.”</p>	<p>Attachment B(C)(10) Project Completion –</p> <p>“28. On completion of resettlement activities, as necessary, the borrower/client will prepare and submit a completion report which includes an evaluation of the implementation of RPs and the degree of compliance with IR-related loan covenants. The report will include an assessment of (i) the degree of affected people’ participation throughout the project cycle; (ii) a comparison of the level of income and livelihoods of affected people with that of the baseline status; (iii) whether the project has achieved the objectives of RPs; and (iv) lessons learned, if any, for future projects.”</p>
<p>Policy Principle:</p> <ul style="list-style-type: none"> - Does not require that project completion report assessed the degree of compliance with IR-related loan covenants - No requirement that the completion report include assessment of the affected peoples’ <i>participation</i> <p>No requirement to report of “lessons learned”</p>	

END NOTE:

There is no section in the Policy Principles equivalent to the Attachment B(C)(8) Monitoring and Reporting:

“25. The borrower/client will monitor and measure the progress of implementation of RP. In addition to recording information to track performance, the borrower/client will use dynamic mechanisms, such as inspections and audits, where relevant, to verify compliance and progress toward the desired outcomes. For projects with large-scale involuntary resettlement impacts, the borrower/client will retain qualified and experienced external experts to conduct semi-annual monitoring and/or verify monitoring information of the borrower/client. The external experts engaged by the borrower/client will advise on compliance issues, and if any significant IR issues are found, an additional RP or an addendum to the approved RP will be prepared. Until such planning documents are formulated, disclosed, and approved, the borrower/client will not proceed with implementing the specific project components, where IR impacts are identified.”

“26. The borrower/client will prepare periodic progress reports that describe progress with implementation of the RP or equivalent planning document(s), and, if any, compliance issues and corrective actions. For projects with large-scale involuntary resettlement impacts, the borrower/client will submit, at the minimum, semiannual resettlement progress reports. Quarterly progress reports are required for projects that entail relatively short implementation periods. The progress will be reported closely following the IR monitoring indicators agreed at the time of the RP approval. The costs of both internal and external RP monitoring requirements will be reflected in project budgets.”

Likewise, there is no Policy Principle equivalent to Attachment B(C)(9) Unanticipated Impacts:

27. If unanticipated IR impacts become apparent during project implementation, such as change in alignment and footprint, the borrower/client will screen the potential impacts, and if necessary, the borrower/client will formulate additional RPs, outlining measures and required resources to address the impacts adequately. If the IR impacts are not significant, specific mitigation measures are included in an addendum to the approved RP. If the changes occur 2 years after the approval of the final RP, the borrower/client will ensure the addendum covers changes to the socio-economic profile of affected people, compensation rates, entitlements, and implementation and institutional arrangements.