



ASIAN DEVELOPMENT BANK

MEMORANDUM OF UNDERSTANDING ON THE GRIEVANCE REDRESS AND SETTLEMENT COMMITTEE FOR

LOAN 1146-PAK (SF): CHASHMA RIGHT BANK IRRIGATION PROJECT (STAGE III)

I. INTRODUCTION

1. A consultation mission (the Mission) from the Asian Development Bank (ADB) comprising Messrs. Yoshihiro Iwasaki, Director General, South Asia Department, Frederick C. Roche, Director, Agriculture, Environment and Natural Resources Division, Takashi Matsuo, Sr. Project Specialist, and Ms. Caroline Vandenabeele, Counsel visited Pakistan from 24 to 29 January 2003 to discuss the details of the terms of reference (TOR) and implementation arrangements of the Grievance Redress and Settlement Committee (GRSC) with the Government of Pakistan. The Mission held meetings with the Economic Affairs Division (EAD), Ministry of Water and Power (MOWP), Water and Power Development Authority (WAPDA), and the Nazims of Dera Ismail Khan and Dera Ghazi Khan Districts.¹ The persons met by the Mission are listed in Appendix 1.

2. This Memorandum of Understanding summarizes the agreements and understandings reached between EAD, MOWP, WAPDA, and the Mission. The understandings are subject to the approval of the higher authorities of the Government and ADB.

II. AGREEMENTS REACHED BETWEEN ADB AND THE GOVERNMENT

A. Need for Operationalizing GRSC

3. The Mission and the Government share the view that despite the significant positive impacts of the Project there do exist some outstanding issues relating to the affected people. The Mission and the Government agreed that the GRSC will be an effective mechanism to address the outstanding issues and therefore it should be established and operationalized promptly so that remedial measures will be taken for the affected people as early as possible.

B. Terms of Reference for GRSC

4. The Mission and the Government thoroughly discussed the draft TOR for the GRSC in detail paragraph by paragraph and finalized the TOR as attached in Appendix 2. It was agreed inter alia that (i) the GRSC will be chaired by a national legal expert who will be a retired judge, (ii) Pakistan's policies and legal framework, including but not limited to the Land Acquisition Act, will provide the fundamental legal basis for the Committee's recommendations, which will be supplemented by ADB's relevant policies, where legally possible., (iii) any project affected person can be selected as a representative of affected people following the procedure stated in

¹ The meetings were attended by representatives of ADB's Pakistan Resident Mission comprising Messrs. Marshuk Ali Shah, Country Director, Sangpa Tamang, Head, Portfolio Management Unit, and Sohail Sober Khan, Project Implementation Officer.

para. 7 of the TOR, and (iv) WAPDA and Provincial Governments will be responsible for implementing the GRSC's recommendations consistent with the national laws and procedures therein.

C. Timeframe for Operationalizing GRSC

5. The Mission and the Government agreed on the following timeframe to operationalize the GRSC:

- (a) Agreement on the establishment of the GRSC and its composition will be notified to WAPDA, the Provincial Governments, and the District Nazims by MOWP by 5 February 2003, and will be published by WAPDA in the Project area newspapers by 15 February 2003;
- (b) The Government will send the shortlists of the candidates for the national legal expert and land acquisition expert and their CVs to ADB by 15 February 2003; and
- (c) The GRSC will commence its activities by 3 March 2003.

D. Information Disclosure

6. The Government agreed to disclosure of the final TOR to the general public including posting them in ADB's website.

7. The Mission reiterated ADB's request for the Government to provide NGOs with the project documents comprising the feasibility study report (1990), two consultant's reports on the flood risk analysis (1995 and 1996), report of the project impact monitoring and evaluation study (2001), and drawings of the topographical survey (1991). In response, the Government repeated its position that these Government's documents cannot be disclosed to the general public.

E. Other Matters

8. The Mission requested WAPDA to provide answers to specific questions related to the Request for Inspection received from six NGOs on 19 November 2002. WAPDA agreed to provide the requested information to ADB by 1 February 2003 in time for the preparation of Management's Response.

III. ACKNOWLEDGEMENT

The Mission wishes to express its appreciation for the cooperation and assistance provided to the Mission by the EAD, MOWP, WAPDA and other agencies concerned.

Agreed in Islamabad on 28 January 2003

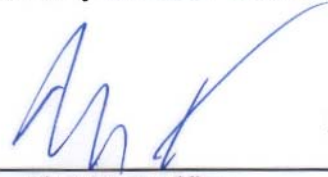
For the Government of Pakistan

For the Economic Affairs Division



Waqar Masood Khan
Secretary


For the Ministry of Water and Power



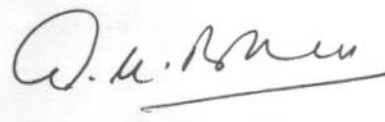
Riaz Ahmad Khan
Secretary

For Water and Power Development Authority

For the Asian Development Bank



Yoshihiro Iwasaki
Director General
South Asia Department



Ahmad Khan Bhatti
Member (Water)

LOAN NO. 1146-PAK (SF): CHASHMA RIGHT BANK IRRIGATION PROJECT (STAGE III)**LIST OF PERSONS MET BY THE CONSULTATION MISSION
(24-29 January 2003)****A. Ministry of Finance and Economic Affairs,**

Mr. Waqar Masood Khan	- Secretary, Economic Affairs Division (EAD)
Mr. Muhammad Ashraf Khan	- Senior Joint Secretary (ADB), EAD
Ms. Najima Siddiqi	- Deputy Secretary, EAD
Mr. Ahmad Hussain	- Deputy Secretary, Finance Division

B. Ministry of Water and Power

Mr. Riaz Ahmed Khan	- Secretary
Mr. Rashid Ali	- Deputy Secretary
Mr. Abdul Wahid	- Section Officer

C. Water and Power Development Authority (WAPDA)

Mr. Ahmad Khan Bhatti	- Member (Water)
Mr. Javed Ahmad Qureshi	- Chief Engineer/Project Director
Mr. Khalid Waheed Khan	- Director (Projects), North

D. District Nazims

Mr. Muhammad Jamal Khan Leghari	- Nazim, Dera Ghazi Khan District
Mr. Shoaib Nasir	- Nazim, Dera Ismail Khan District

E Provincial Government of PunjabPlanning and Development Department

Mr. Muhammad Abid Bodla	- Member Engineering
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Irrigation and Power Department

Mr. Bagh Ali Shahid	- Chief Engineer, DG Khan Zone
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Provincial Coordination and Management Unit, Punjab

Mr. Syed Akhtar Hussain	- Provincial Coordinator/Project Director
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**Chashma Right Bank Irrigation Project III
Loan 1146-PAK (SF)**

**Terms of Reference
For A Grievance Redress and Settlement Committee**

I. Rationale

1. The Chashma Right Bank Irrigation Project Stage III (the Project) in Pakistan is a major irrigation Project, with a 274 km main canal drawing water from the Indus River, 72 distribution canals, 68 cross drainage structures, and 91 bridges.

2. The Project predates the approval of ADB's Policies on Involuntary Resettlement (1995) and Indigenous Peoples (1998). Whilst the Government is responsible for land acquisition, the country's policy and legal framework for land acquisition, through the Land Acquisition Act (1894), does not match fully ADB's policy in all respects.

3. Since the year 2000, NGOs have raised various concerns about the Project, both in the command area and on the West Bank. ADB financed an independent social assessment in 2001 as requested by NGOs. A Multi-stakeholder Workshop was held in March 2002 and a framework action plan was agreed. An ADB Review Mission, fielded in May 2002, recommended and agreed with the Government on the preparation and implementation of a time bound action plan on land acquisition and resettlement within about 3 months, in order to address and fill any gaps with ADB Policy. A high level meeting with MOF and WAPDA, together with other high government officials supported the proposed actions and agreed in principle with use of \$2-3 million of Project funds to resolve the outstanding issues. It is now agreed that a special Grievance Redress and Settlement Committee (the Committee) be constituted, with representation from all key stakeholders including the Government of Pakistan (GOP) - more specifically Economics Affairs Division (EAD), the Executing Agencies (EAs) comprising WAPDA and the provincial governments of NWFP and Punjab - and the people affected, in order to address and resolve expeditiously all pending claims for compensation and other assistance which may result from the Project, where legally possible.

II. Status of Land Acquisition and Compensation in the Command Area

4. WAPDA has reported that the total land gazetted for the Project for acquisition under the Land Acquisition Act (LAA) was 19,503 acres (6,061 acres in 62 villages for Northwest Frontier Province (NWFP); 13,442 in 123 villages for Punjab Province) mostly under provision for emergency acquisition Section 17 of the LAA, which allows possession in advance of payment. As of 20 January 2003, PRs248.000 million has been allocated in land compensation funds in NWFP. Some PRs50.672 million (20%) has been paid to landowners for 4,541 acres. In Punjab PRs583.398 million is available from which PRs58.788 million (10%) has been paid to landowners of 4,015 acres.

III. Status of the Villagers on the West-side of Main Canal

5. As a consequence of the increased flood risk caused by the Project, 22 villages (3 in NWFP and 19 in Punjab) were deemed to be at risk. So far, NWFP villages have been protected by a bund built by WAPDA. WAPDA offered a choice between a similar bund and compensation for housing to the affected villages in Punjab. Five of these villages opted for a bund; the remaining villages have been compensated for housing based on market price, with

depreciation, and salvage deducted, plus 15 percent involuntary displacement supplement and 6 percent shifting allowance.

IV. Agreed Action to Resolve Outstanding Issues

6. ADB and Government stakeholders have agreed to resolve the outstanding issues as follows. The Committee would be appointed, with representation from all key stakeholders, including GOP, WAPDA, provincial governments, local government and the people affected, and mobilized to work among Project-affected people as soon as possible. The Committee would be chaired by an independent national legal expert from Pakistan of high standing, and include an international resettlement specialist as well as a national land acquisition expert.

Composition of the Committee

7. Members of the Committee would include one member each of the following:

National Legal Expert, chairperson;
 Representative of GOP, EAD
 Representative of WAPDA;
 Representative of the Provincial Government of Punjab;
 Representative of the Provincial Government of NWFP;
 International Resettlement Specialist;
 National Land Acquisition Expert;
 Nazim of Dera Ismail Khan District, NWFP;
 Nazim of Dera Ghazi Khan District, Punjab; and
 Two representatives of the people affected, one from Dera Ghazi Khan District, and one of Dera Ismail Khan District.

- The national legal expert, who will be a retired judge, must have substantial knowledge of and experience with Pakistan's legal framework for land acquisition and involuntary resettlement, including relevant provincial amendments to federal laws and policies. This expert will serve on the Committee as its Chairperson. He/she will be selected and financed by ADB from candidates identified by the Ministry of Water and Power in consultation with Provincial Governments.
- The international resettlement specialist is required with resettlement experience in Pakistan to sit on the Committee for up to eight months total, including 3 months in review of grievances and one month in implementation support. He/she will be selected and financed by ADB.
- Representatives of communities affected will be nominated by the respective district nazims in close consultation with district council members, and will belong to the affected area.
- One representative each of GOP, WAPDA, Punjab Provincial Government, NWFP Provincial Government, the Nazims from Dera Ismail Khan and Dera Ghazi Khan Districts shall be authorized by the respective agencies to carry out and implement the powers and functions of the Committee.
- One retired expert in land acquisition who should not belong to the area and should not have been involved in the land acquisition process for CRBC Stage III. WAPDA will

submit a list of three candidates, approved by the MOW&P, from which ADB will select a candidate.

Working of the Committee

8. The Committee Chairperson will be the national legal expert. The Committee would establish its own working method that will follow the principles of participation, transparency, taking decisions on recommendations based on majority views of the members under a one member-one vote rule, documentation of all deliberations, public hearings and recommendations.

Functions of the Committee

9. The Committee's principal task is to reach a solution to all the outstanding problems that have been raised on account of land acquisition, resettlement, compensation and rehabilitation accruing to claimants because of the Project. In regard to land acquisition, the Committee's role would be to see that all matters relating to assessment and payment of land compensation are handled fairly, transparently, and in compliance with the LAA. The Committee will recommend appropriate steps for redress of grievances when pointed out by the affectees. Pakistan's policies and legal framework, including but not limited to the LAA, will provide the fundamental legal basis for the Committee's recommendations, which will be supplemented by ADB's relevant policies, including ADB's Policy on Involuntary Resettlement (IR) (1995) and ADB's Policy on Indigenous Peoples (1998), together with relevant guidelines including on the Incorporation of Social Dimensions into Bank Operations, where legally possible.

10. The Committee's functions, therefore, include wide consultations and public hearings/discussions among Project affected people. The Committee will make recommendations on (a) any compensation and other assistance due to the Project affectees under the applicable laws and policies to which the paragraph above refers; (b) remedial time-bound actions and measures to resolve any other outstanding issues and grievances that are submitted to the Committee - including those identified in the Complaint and Request¹. GOP, WAPDA and Provincial Governments will be responsible for implementing the recommendations, consistent with national laws and procedures therein.

11. The Committee will publish and disseminate information about the timeframe and process for grievance redress. It will develop a list of entitlements for compensation and other assistance that meets the applicable laws and policies as identified above, and will hear grievances according to this list.

12. The Committee will also be responsible to monitor the timely implementation of its recommendations.

Powers of the Committee

13. Within the framework of its functions, the Committee would have the powers to
- (a) record its findings and recommend remedial actions due, including measures to address grievances related to compensation;

¹ The Complaint (dated 28 May, 2002) and the Request (dated 19 November, 2002) were filed by affectees with ADB.

- (b) monitor implementation of the recommendations; and
- (c) hold public consultations, interviews and visit affected sites and villages to ensure effective participation of the communities and confirm data on population, villages, topography, and any damages which are alleged to have resulted from the Project.

Support to the Committee

14. The Committee would be supported by local consultants and counterpart staff from the relevant government authorities such as GOP, WAPDA, Provincial Governments of NWFP and Punjab, and revenue authorities.

V. Detailed Terms of Reference for the Committee

15. The Committee will be responsible for taking all such follow-up actions as necessary to fulfill its mandate, with specific tasks to be delegated as it will deem appropriate to consultants supporting it. These actions will include but not be limited to the following:

- (a) Assess all Project related documents as necessary, and the Complaint and the Request, together with any related papers and studies;
- (b) Review the applicability in each case of entitlement: of Pakistan national laws including the Land Acquisition Act, 1894 (LAA), Provincial laws and amendments thereof, and any other applicable laws and regulations; ADB's Policy on Involuntary Resettlement (IR) (1995) and ADB's Policy on Indigenous Peoples (1998), and related guidelines including Incorporation of Social Dimensions in Bank Operations, for this Project situation;
- (c) Develop a list of those eligible for entitlements according to category of loss, to provide rehabilitation to those deemed eligible under the policy and legal framework. The list will take account of the current processing of compensation payments and any other assistance under the LAA and other applicable laws. The Committee will assess the extent to which such arrangements may need to be supplemented in order to restore the economic and social base of Project affected people;
- (d) Collect additional data and information necessary for reviewing received grievances through focused survey and Participatory Rapid Appraisal (PRA) work as necessary to consult with those affected and to develop recommendations;
- (e) The Committee will recommend, where required, all possible means of support including credit (including micro credit for those without land collateral), training, extension advice and support for land development, agriculture, forestry, and social services, plus any other assistance possible, for those affected in the command area, for the flood risk affectees, and other Project-affected persons. To identify such activities, liaise with providers of land development assistance, credit, extension services and social services, for example Khushhali Bank and agricultural/forestry/social service departments under existing programs of the Government;

- (f) Liaise with Environmental Planning Agency and recommend mobilization of any possible actions that may be taken to address environmental impacts;
- (g) Prepare a participation strategy for two-way communication with those affected, and people in the Project area generally. This would include:
- review actions taken to achieve effective community participation in multi-tier Irrigation Co-ordination Committees, at canal, province and other levels
 - interview representatives from WAPDA, Provincial Agriculture and Irrigation departments, On Farm Water Management, Rodh Kohi officials and local representatives
 - establish a mechanism for registration of grievances through a network of Information Centers to be established at the local levels
 - to clarify/verify grievances and identify possible remedial measures, conduct PRA among affected committees and communities on both banks affected to diagnose key outstanding issues and constraints

On this basis prepare recommendations for enhanced community participation in planning and decision-making of the multi-tier Irrigation Co-ordination Committees and for remedial and developmental measures on both sides of the main Chashma canal.

- (h) The participation strategy would include, inter alia, a leaflet for distribution to all affected tehsils, unions and villages and other key information points for public posting, which sets out information on:
- Grievance Redress process as set by the Committee
 - All applicable entitlements as determined by the Committee
 - Actions which may be taken to address environmental issues
 - All opportunities for access to Project benefits more broadly, including credit (including micro credit for those without land collateral), extension advice, land development support, and social services, etc.
- (i) The Committee will document carefully all consultations; issues raised and remedial measures proposed that would be considered by it in arriving at its recommendations and views. The recommendations and views of the Committee will be disclosed to persons affected in a form and language(s) they can access, and to the wider public;
- (j) The Committee would recommend the following:
- Rehabilitation and remedial measures due to the affected people, including measures to address grievances related to compensation; and actions and measures (with specific time frames indicated) required to implement these recommendations.
 - Timeframe to complete the work, with clearly defined milestones to completion that should be accomplished within the prescribed time from the date the Committee provides its recommendations.

- Time bound responsibilities as the Committee may deem necessary to be listed for GOP; WAPDA; Land Acquisition Collectors; provincial, district, tehsil, union and village officials; related agency providers; affected people and their representatives; and members of the water user associations;
- (k) Monitor implementation of the Committee's recommendations. Provide support to GOP, WAPDA, the Provincial Governments and people affected for the consideration and implementation of the recommendations. Prepare a plan for monitoring and evaluation of the key milestones and review upon completion to ensure that all remaining issues have been addressed by 31 October 2003; and
- (l) Report to ADB upon the Committee's inception after five days, after two and five months of progress, and upon completion.

VI. Resources and Timeframe

16. The Committee will work over an eight-month period in total, with the recommendations to be prepared within five months, and an additional three months designed to monitor and support implementation of the recommendations of the Committee.

Consultant Support to the Committee

17. In addition to eight person-months of the international resettlement specialist, eight person-months of the national legal expert, and eight months of the land acquisition expert, nine person months of local consultant assistance are provided as may be deemed necessary by the Committee. This will provide for at least 3 domestic consultants with local language skills and shared experience in compensation and resettlement planning/ implementation, environmental assessments and community-based assessments (one will be female, about three months each), who will be required to conduct participatory consultations, record assessment, survey work and report preparation, assist in monitoring implementation of the Committee's recommendations, and other tasks as assigned by the Committee.

Long-term Monitoring and Evaluation

18. After resolution of the Committee, GOP will make arrangements for the long-term monitoring and evaluation of the implementation of the recommendations of the Committee and of the entire Project.

Timeframe

19. The Committee will carry out its tasks in the following time frame:
- Finalization of Committee detailed working method and plan with brief report to ADB for approval — within five days from the date of its constitution;
 - Preparation of entitlement matrix — within 15 days from date of its constitution;
 - Preparation of categories of loss — within 21 days from date of its constitution;
 - Participative and consultative meetings with affected people; site visits etc – ongoing from day one;
 - Receipt of grievances till three months after its constitution, with report to ADB;

- Recommendations on remedial measures, including those to address grievances related to compensation, — within five months after its constitution, with report to ADB;
- Monitoring on implementation of Committee's recommendations; certified as completed by the Committee, with report to ADB — within eight months from the date of its constitution.

VII. Responsibilities of ADB and Government Agencies

20. ADB will finance all costs of the national land acquisition expert, the international resettlement specialist, the national legal expert, the secretary and support staff to the Committee and local consultant assistance, workshop costs, costs of printing leaflets/information sheets, and the operational costs of the Committee's offices and vehicles.

21. WAPDA will provide suitably equipped office space for the Committee, including computers and photocopying equipment, at WAPDA facilities in Taunsa and DI Khan; use of 3 vehicles/drivers; and all required data and technical support. WAPDA and provincial authorities also agree to undertake prompt revision of the project's PC-1 as required for financing the Committee's recommended remedial measures.

22. The provinces and districts will provide general support to facilitate the Committee's work, including data and use of facilities for meetings/workshops, and will promptly implement remedial measures as recommended by the Committee and agreed by WAPDA.