

MITIGATION OF LABOR IMPACTS: RETRENCHMENT PLANS

1. All developing member countries (DMCs) of the Asian Development Bank (ADB),¹ by virtue of being a member of the International Labour Organisation (ILO), have an obligation from the fact of membership in the organization to respect, promote, and realize the principles concerning the fundamental Core Labor Standards: (i) freedom from forced labor, (ii) prohibition on child labor, (iii) freedom from discrimination at the workplace, and (iv) freedom of association and the right to collective bargaining. ADB can assist its DMCs in complying with these principles in a proactive manner; for example, by supporting programs to reduce child or bonded labor, or developing employment-generating projects for underprivileged groups. It can also do it in a passive manner, for instance, by ensuring nondiscriminatory practices and adequate health and safety standards for workers engaged under ADB projects. In case of public or private sector restructuring, ADB should make sure that workers, particularly low-income workers, regardless of race, skills, gender, or religious/political beliefs, are not unfairly disadvantaged as a result of a necessary development intervention intervention.

2. There are three major sources of mass layoffs: (i) market shifts (cyclical or structural); (ii) privatization and/or deregulation; and (iii) technological and/or organizational change, including enterprise restructuring. Necessary sector project and program lending in (ii) and (iii) may generate adverse impacts on labor that should be mitigated.

3. Unemployment and mass layoffs are problematic in any society, but present special challenges in developing countries because

- ✓ the number of affected workers is normally larger than in western societies;
- ✓ the political context may not be favorable to collective bargaining;
- ✓ often, the labor market is saturated and demand for labor low; and
- ✓ challenges increase in single-industry communities.

4. There are three major policy options to mitigate possible negative impacts of project and program lending on labor:

- (i) prevention of layoffs;
- (ii) compensation of laid-off workers; and
- (iii) redeployment of laid-off workers.

5. There is no best solution and each situation will require a tailored plan in which consultation between government, employers and labor representatives is essential. Optimally, employers can win on productivity/wage cost rationalization so as to enhance enterprise competitiveness, and workers benefit from alternative employment options. A thorough country, regional, and company labor market analysis, to understand the country/regional demand for labor and the skills supplied by the retrenched workers, is essential to evaluate options for the redundant employees. The available policies are based on (i) legal regulations, (ii) income support, (iii) skills development through retraining and employment services, and (iv) improved labor market information and counseling. Aspects such as age, gender and skills of the labor force, financial solvency of companies, fiscal impacts, the local labor market situation, income levels of employees, the existence of adequate social protection institutions (i.e., unemployment insurance, vocational/technical training centers, employment services) are critical elements when assessing a mitigation measure.

¹ With the exception of Bhutan and some Pacific Islands: Cook Islands, Maldives, Marshall Islands, Federated States of Micronesia, Nauru, Samoa, Tonga, Tuvalu and Vanuatu.

(i) Prevention

6. Prevention of layoffs is an anticipatory intervention by identifying at-risk situations. Prevention requires good technical assessments and collective action by government, employers and workers to negotiate the absorption of losses and share the burden. There are two major policies to prevent layoffs:

- (a) Layoff restrictions: outright bans and regulations requiring due diligence to make layoffs expensive to firms; this can be combined with a reduction in wages to reduce the losses caused to companies;
- (b) Employment maintenance: work-sharing arrangements; alternatively, to compensate the reduction on salaries, the state could temporarily subsidize wages;
- (c) Enterprise agreements to absorb workers from other companies in the same sector;²
- (d) Enterprise development: adoption of a dynamic corporate strategy (developed in conjunction with labor representatives) designed to expand new markets, profitable new areas of business and employment opportunities to offset declining ones.

(ii) Compensation

7. Compensation and redeployment are the most frequently used labor mitigation measures. Compensation is preferred when (i) the anticipated disruption of employment is short; (ii) the labor force is aged, near retirement age; or (iii) when the institutional capacity is too low as to be able to offer redeployment policies.

- (a) Unemployment insurance: Ideally the labor force had been contributing to a financially solvent unemployment insurance fund. This, however, is not a regular situation in many developing countries. If contributions were made but the fund may not be able to comply with payments, the provision of enriched benefits or special provisions could be assessed.³
- (b) Severance payments: Severance payments are offered on the basis of years of service, position/rank at the time of leaving, and age; employees may accept an offered lump sum payment on voluntary basis.
- (c) Early retirement pensions: Earlier retirements require negotiation given that normally a no-penalty for advancing pension rights is sought by beneficiaries, and either the government or employers will have to absorb the costs, or the retirees accept a lesser pension. It is not advised to make the pension fund absorb the costs as this is a bad practice that promotes unacceptable distortions in the social protection system.

(iii) Redeployment

8. Redeployment is a preferred option and best practice always provided that: (i) the labor force is young and flexible, able to learn new skills and—in a worse scenario—capable of geographical mobility; (ii) the government is committed to improving labor market functioning and has the sufficient institutional capacity to support reforms. There are three major blocs of options:

- (a) Improving labor market functioning: Measures may include:

² For example, Malaysia used such agreements in the construction sector during the financial crisis to prevent mass layoffs; industry level agreements were negotiated between trade unions and employers organizations.

³ Unemployment insurance funds need to be established in situations of employment and economic growth; it is not advised to set them up in situations of economic stagnation and mass layoffs as they stimulate bad practices.

- A.1. *Advance layoff notice*—providing time to workers to search for alternative employment;
- A.2. *Eliminating rigidities* such as internal passports, police controls, licensing, or certification requirements;
- A.3. *Improve labor market information*—connecting supply and demand for labor through employment services.

- (b) Active labor market policies: Including:
 - B.1. *Retraining workers* in skills that have a demand in the labor market; for this, a thorough labor demand assessment needs to be done and a training plan (including subjects, trainers, available training centers or on-the-job-training positions, and estimated costs) identified;
 - B.2. *Counseling, job brokerage centers*: Employment offices normally play a significant role by providing information on job vacancies and assisting laid-off workers on personal presentation of their curriculum vitae, facilitating migration to areas where labor demand is high, etc.
 - B.3. *Promotion of self-employment*: Employment offices can also play a major role in providing support services (advice, training, credit, information about markets, etc.) for those interested in self-employment.
- (c) Stimulating job creation: In case of economic crisis or stagnation, such as the 1930s in the US, or 1998 in the Republic of Korea, direct job creation by means of public works may be a short-term solution to mitigate market fluctuations.

(iv) Divestiture of Social Assets and Services Provided by Enterprises

9. Social assets and services, such as health clinics, kindergartens/day care centers, schools, housing/accommodation, water, heating, meals/canteens, shopping facilities, transportation services, pensions, and recreation/social clubs, are often provided by large public and private firms. When enterprises are privatized, these social assets normally need to be divested; however, simple closure may result in a large social loss. There is no preferred method for divesting assets/services but simple transfer to local governments should be avoided unless demonstrated managerial and financial resources are earmarked to maintain services/operations. Other methods include privatizing the asset/service (i.e., make it a legal entity and proceed to its sale) and/or allow individuals or communities to operate it. A retrenchment plan should (i) identify and estimate the value/cash flow of the social assets/services; (ii) discuss with all stakeholders options to maintain the assets/services, bearing in mind the long-term sustainability of running the operation; and (iii) if privatization is a preferred option, arrange for legal work to convert facilities into commercial companies and schedule a timing for the open sale of each asset/service.

(v) Choosing Policy Options

10. Assessing policy options to mitigate possible negative impacts of project and program lending on labor requires a solid understanding of the interest of different stakeholders, available resources (human, fiscal) and knowledge of the country laws and idiosyncrasies. A mitigation program normally involves a combination of several of the mitigation measures described in earlier paragraphs, after careful consultation process. Optimally, there should be in place collective bargaining structures enabling employers (whether in the public or private sector) to negotiate a mutually acceptable package with a properly resourced independent trade union organization representing the employees. Such a package might, for example, incorporate (a) maximum emphasis on early retirement/natural wastage rather than compulsory layoffs of younger workers, (b) productivity/wage cost rationalization so as to enhance enterprise competitiveness, and (c) investment in product and market diversification so as to absorb surplus manpower. Selective government support/subsidy for such a package could be appropriate (possibly involving aid agency participation), provided that its sustainability was thoroughly appraised and it was not allowed to become an excuse for prolonged inefficiency and waste of scarce fiscal resources.

12. Mitigation options should always aim to adequately balance political fairness and economic sustainability. Table 9.2.1 lists the issues of the three stakeholders that have to be taken account in mitigation. A number of requirements should be considered:

- (i) Retrenchment as a result of private or public sector restructuring should be linked to sustainable productivity improvements in the enterprise and to a sound macro and sectoral policy framework in place. A sample retrenchment plan checklist is shown in Table 9.2.2.
- (ii) A socioeconomic analysis should be carried out, making the social and economic trade-offs transparent.
- (iii) The packages should be examined carefully to make sure that they are not unaffordable or collapsing other social expenditures, and that they do not lead to adverse selection problems.
- (iv) Mechanisms have to be put in place to prevent rehiring of workers taking packages.

13. Given the different rank, status, and degree of specialization of employees, redundancies do not affect employees in the same manner. Often, public servants in DMCs are engaged in private practice (i.e., as lawyers, doctors, accountants, teachers) in parallel to their public employment. As committed by ADB (1999) in its *Poverty Reduction Strategy*, priority should be given to low-income groups with no alternative livelihood options.

Table 9.2.1. Issues by Stakeholders

Stakeholder	Responsibility
Labor Divestiture	
Enterprise	Retrenchment plans Labor force analysis Cooperation at the work level Tripartite consultations and negotiations
Government	Regulations Labor market information Temporary income support programs Redeployment services Tripartite consultations and negotiations
Unions	Tripartite consultations and negotiations Agreements Cooperation at the work level Collaboration in new business plans and enhanced productivity
Divested Social Assets	
Enterprise	Divesting assets and activities
Delete line above	Selling or giving enterprises and social services away to capable private entities, government, employees, or communities
Government	Taking managerial and financial responsibility for selected public services such as schools and clinics, and supporting individuals or communities willing and capable of taking over social services
Unions	Assisting employees in purchasing social assets (e.g., housing, assets with commercial potential)

Table 9.2.2. Retrenchment Plan Checklist

- *Who?* Who is the affected workforce? The number of estimated affected employees should be surveyed, by functional responsibility, age, income, employment status (contract or temporary workers, for example), family responsibilities, geographical location, and social security and welfare coverage. To avoid gender discrimination, particular attention should be given to (i) the low-income groups with no alternative livelihood and (ii) the number of redundant women workers.
- *Where?* Understanding the country or regional labor market trends and applicable labor legislation is a prerequisite of retrenchment plans. Are there any areas where labor skills are in demand? Can the retrenchment plan assist employees to move to these areas or acquire these skills? How are industrial relations in the country or region? Are there relevant laws, regulations and collective agreements, both at the enterprise or industry level, and are they respected?
- *How?* Have companies defined the new business plans, markets, and products, and organized the utilization of labor necessary to reach competitive efficiency and productivity standards? Have firms analyzed the current employees' skills mix and new skills requirements? Are the enterprises divesting social assets? Is there a plan to privatize, subcontract, or transfer outlets so social services are operated in a sustainable manner?
- *How?* Is the process of retrenchment transparent? Is there an official, independent, and efficient institutional arrangement? Is there a committee overseeing the process? Are the retrenchment rules clear and understood by affected employees? Do employees get heard? Are workers' rights reflected or neglected in the process? Are there regular consultations with accredited workers' representatives? Have workers been given sufficient advance notice?
- *How?* Of what does the prevention and compensation package consist and is it adequate? Are there clear administrative and institutional arrangements? Are the timing and magnitude of the package adequate for the laid-off workers? Have adequate funds been identified for guidance, counseling, retraining, or any other program? Are those budget requirements collapsing other social sector expenditures and revenues?
- *With whom?* Is there any international in-country agency (i.e., the ILO, World Bank) that has experience in these topics? Has any other sector experienced a significant retrenchment plan? If retraining or job brokerage and counseling services are envisaged, which would be the best institutions to provide them?

RETRENCHMENT PLAN – SAMPLE FORMATS

A. Sample Format for Workforce Analysis

Name of company:
Phone:
Fax:
Date:
Contact person:

Table 9.3.1. Total Number of Employees by Occupational Specialty According to Age and Sex

Age	1 Workers			2 Service Personnel			3 Commercial Personnel			4 Administrative Personnel			Total
	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	
<35													
35-45													
45-50													
50-55													
>55													
Total %													
Total Male And Female													
Total													

Note: *Workers* are those directly involved in production. *Service personnel* handle cleaning, maintenance, catering, transportation, etc. *Commercial personnel* are in charge of sales and order handling. *Administrative personnel* include accountants, secretaries, supervisors, managers, etc.

Table 9.3.2. Salary and Seniority: Years in the Company, Salary Range, and Social Security Coverage and Contribution

Years	1 Workers			2 Service Personnel			3 Commercial Personnel			4 Administrative Personnel			Total
	No.	Salary	S.S.	No.	Salary	S.S.	No.	Salary	S.S.	No.	Salary	S.S.	
5-10													
10-15													
15-20													
20-25													
25-30													
30-35													
>35													

Note: S.S. = Social Security.

Table 9.3.3. Number of Employees According to Age and Educational Background

Educational Background	<35	35-45	45-50	50-55	>55	Total	Percentage
a. Workers							
Primary Education							
Technical/Vocational							
High School							
University							
b. Service Personnel							
Primary Education							
Technical/Vocational							
High School							
University							
c. Commercial Personnel							
Primary Education							
Technical/Vocational							
High School							
University							
d. Administrative Personnel							
Primary Education							
Technical/Vocational							
High School							
University							

Table 9.3.4. Employment Status

Employee	Employees with Permanent Positions	Percentage	Short-Term Employment	Percentage
Workers				
Service Personnel				
Commercial Personnel				
Administrative Personnel				

Table 9.3.5. Family Responsibilities and Social Services Dependency

Employee	Number with 2 Children or More	Number Dependent on Social Services
Workers		
Service Personnel		
Commercial Personnel		
Administrative Personnel		

B. Sample Employee Survey

Table 9.3.8. Sample Employee Survey

This survey is being undertaken to collect information about your job search and your ideas and expectations regarding the services and assistance you think will be of value to you as you seek new employment following your separation from X company. The information you provide will be kept strictly confidential and will be used only in generalized form to assist decision making on the kinds of services and assistance to be made available to facilitate the adjustment process.

Part I. Personal data

- Present job (department):.....
- Age:30 or less.....31-35.....36-40.....
.....41-45.....46-54..... Over 55
- Family status:single.....married
.....dependents.....no dependents
- Education:

Part II. Job search status

- Do you currently have another source of income? (Part-time job, occasional employment)
- Are your spouse/children/parents/close relatives employed/have their own business?
spouse.....children.....parents.....close relatives
- Are you seeking a job/occupation?.....
- What is your present monthly/weekly/hourly wage?.....
- Are you interested in considering offers of employment in another area, which would require you to change your place of residence? Yes.....No.....
- If the answer is "yes," indicate how far away you would consider moving:
..... To nearby communities
..... Anywhere

Part III. Retraining interests

- Are you interested in some education or training/retraining?.....Yes.....No
- If the answer is "yes," check box below indicating your interests:
..... Upgrade current professional qualifications.
..... Acquire new professional qualifications as
- Acquire new vocational skills to match appropriate demand in labor market.
..... Improve basic literacy skills.

Part IV. Services you think would be of value

- Job search assistance
- Workshop in job search techniques
- Family counseling and household budgeting
- Relocation assistance
- Workshop/training on starting your own business
- Public work projects
- Others. Please specify

C. Sample Employee Retrenchment Action Plan

Table 9.3.9. Sample Employee Retrenchment Action Plan

Name of region/enterprise/agency: Contact person and telephone number: Employee redundancy. Moderate.....Substantial.....Mass:..... (Director's classification)
<ul style="list-style-type: none"> • Narrative summary of the size and the timing of the projected redundancy and the measures being initiated to respond to it, including consultations with workers' representatives • Narrative assessment of regional plans and specifications to ameliorate redundancies • Budget estimates for funding according to plans • A separate schedule for divestiture of social assets

Table 9.3.10. Budget Estimates

Program Item (examples)	Estimated Beneficiaries	Local Funds Available	Supplementary Funds Needed	Total
Early Retirement				
Unemployment Benefits				
Job Counseling				
Vocational Training				
Relocation Assistance				
Public Works Projects				
Small Business Assistance				
Family Counseling				
Income Support				
Total				

..... Signature over name (Officer). Date. Signature over name (Director). Date.

D. Sample Advance Notice of Employee Redundancy

Table 9.3.11. Sample Advance Notice of Employee Redundancy

From:To:	
Enterprise Identification _____ _____ _____ Name and address Contact person Phone: _____	Employment Service _____ _____ _____ Name and address Contact person Phone: _____

Date of notice _____ Total number of employees in enterprise _____	Projected redundancy _____ Number of employees _____ Date to begin _____
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EMPLOYEES TO BE MADE REDUNDANT		
Occupational Category	Number	Date to Begin

I certify that each affected employee is being properly notified of their pending loss of employment.

.....Name and signature of authorized officer

.....Signature of Director.....Date

Table 9.3.12. Attachment to Advance Notice of Employee Redundancy

EMPLOYEES TO BE MADE REDUNDANT		
Name	No. of Years Worked	Compensation Action (i.e., severance payment, etc.)

I certify that each employee is being properly notified of their pending loss of employment.

Typed name.....

Signature of Director.....Date:.....