

Ethnic Minority Planning Document

Ethnic Minority Planning Framework
Document Stage: Revised Draft
Project Number: 42107
February 2010

UZB: CAREC Corridor 2 Road Investment Program

Prepared by the Road Fund under the Ministry of Finance of the Republic of Uzbekistan for the Asian Development Bank (ADB).

The ethnic minority planning framework is a document of the borrower. The views expressed herein do not necessarily represent those of ADB's Board of Directors, Management, or staff, and may be preliminary in nature.

ABBREVIATIONS

ADB	Asian Development Bank
APs	Affected Persons
AEM	Affected Ethnic Minority
CoM	Cabinet of Ministers
DI	Design Institute
EA	Executing Agency
EMA	External Monitoring Agency
EMDP	Ethnic Minority Development Plan
EMPF	Ethnic Minority Planning Framework
GRC	Grievance Redress Committee
IMA	Internal Monitoring Agency
IPSA	Initial Poverty and Social Analysis
IP	Indigenous People
LARP	Land Acquisition and Resettlement Plan
MFF	Multi Financing Facility
NGO	Non-government Organization
PIP	Project information Pamphlet
PFR	Periodic Financing Request
PLARC	Provincial Land Acquisition and Resettlement Committee
PMU	Project Management Unit
PSC	Project Supervision Consultant
RRF	Republican Road Fund under Ministry of Finance of Uzbekistan (Road Fund)
RU	Republic of Uzbekistan
SIA	Social Impact Assessment
SPS	Safeguard Policy Statement
ST	Safeguard Team

ETHNIC MINORITY PLANNING FRAMEWORK

A. Background and Context

1. CAREC Corridor 2 will cover approximately 222 km of Highway A380 in Khorezm, Bukhara Oblasts and the Republic of Karakalpakstan. The project will be financed through ADB's Multitranche Financing Facility (MFF) with 3 tranches being applied for the Investment Program. The first tranche (Project 1) will commence in 2010, with subsequent tranches to follow as they are ready. The Executing Agency (EA) for the Project is the Republican Road Fund (RRF) under the Ministry of Finance.

2. Road rehabilitation under all three Tranches is not expected to adversely affect any indigenous peoples/ethnic minority as defined in ADB Safeguard Policy Statement (SPS) Safeguard Requirement 3 on Indigenous Peoples (June 2009). The program areas in Bukhara and Khorezm are fairly homogeneous in ethnic composition; with eighty percent of the residents are Uzbek. The population of Karakalpakstan is roughly split between Karakalpaks, Uzbeks and Kazakhs (approximately a third of the population each); with Turkmen, Russians and others constituting approximately 8% of the population. All will benefit from the opportunities provided by road up-grading and improvements.

3. This Ethnic Minority Planning Framework (EMPF) has been prepared on the basis of ADB Safeguard Policy Statement (2009) and Safeguard Requirements 3: Indigenous Peoples (SPS Appendix 3). It is to guide the preparation of future projects in which may affect any ethnic minorities located on other road tranches under the Program.

B. Minorities-related Legislation

4. The minorities-related legislation of the Republic of Uzbekistan (RU) comprises relevant non-discrimination and human rights provisions contained in, as follows:

- (i) the Constitutional Law of Uzbekistan;
- (ii) the international documents ratified or signed by the RU; and
- (iii) the national laws emanating from constitutional law and international documents.

5. The 1992 Constitution proclaims the equality of all Uzbekistani national irrespectively to their ethnic origin and language they speak (Art. 8).

6. The State undertakes the duty 'to guarantee the respectful attitude towards the languages, customs, and traditions of the nationalities (natsii) and ethnicities (narodnosti), which dwell on its territory, and to provide conditions for their development'. Those laws ban the establishment and activities of the entities propagating religious and ethnic hatred, including social organizations (Art. 3 of the Law on Social Organizations), religious communities (Art. 5 of the Law on the Freedom of Conscience and Religious Organizations), and mass media (Art. 6 of the Law on Mass Media). The most important are the relevant articles of the Law on the State Language, Law on Education, Law on Religion, Labor Code, and the provisions of the Criminal, Criminal Procedural, and Administrative codes, qualifying the legal responsibility for violation of the provisions of the above laws.

C. Policy Framework

7. This Ethnic Minority Planning Framework (EMPF) is intended to guide the preparation of future projects and future tranches in the event of any positive or/and adverse

impacts on ethnic minorities under the Program. The Framework presents the policy and procedures for the preparation of an Ethnic Minority Development Plan (EMDP) in accordance with the ADB's SPS Safeguard Requirement 3 on Indigenous Peoples (June 2009).

8. The need for an EMDP will depend on the nature and scale of the project impacts and sensitivity of ethnic minority issues. Based on the Initial Poverty and Social Assessment prepared in every project a requirement for preparing Ethnic Minority Development Plan will be identified. An EMDP would be required if the impact is "significant" which means (i) adverse impacts on customary rights of use and access to land and natural resources; (ii) negative effects on the socioeconomic and cultural integrity; (iii) effects on health, education, livelihood, access to the project benefits, and social security status; and (iv) other impacts that may alter or undermine indigenous knowledge and customary institutions. An Ethnic Minority categorization checklist to be used in the EM screening exercise during the project preparation stage is provided.

9. The framework is based on the overall national development strategies and ADB's policy on indigenous peoples. The principal objectives are to design and implement projects in a way that fosters full respect for Indigenous Peoples' identity, dignity, human rights, livelihood systems, and cultural uniqueness as defined by the Indigenous Peoples themselves. This is undertaken so that they (i) receive culturally appropriate social and economic benefits, (ii) do not suffer adverse impacts as a result of projects, and (iii) can participate actively in projects that affect them.

10. If the impacts are 'insignificant' and limited and specific actions in favor of ethnic minorities can ensure appropriate mitigations and benefits, it can be integrated in the land acquisition and resettlement plan (LARP) of the project and/or some measures which are compatible with project implementation such as involving EM in scheme selection, provide opportunities to engage in community-based construction and management schemes.

11. The EMDP will set out the measures whereby the borrower/client will ensure (i) that affected Ethnic Minority receives culturally appropriate social and economic benefits; and (ii) that when potential adverse impacts on Ethnic Minority are identified, these will be avoided to the maximum extent possible.

12. Where this avoidance is proven to be impossible, based on meaningful consultation with indigenous communities, the EMDP will outline measures to minimize, mitigate, and compensate for the adverse impacts. The level of detail and comprehensiveness of EMPs (annex to this appendix) will vary depending on the specific project and the nature of impacts to be addressed. The borrower/client will integrate the elements of the EMP into the project's design.

D. Procedures for Ethnic Minority Development Planning (EMDP) Preparation

13. An EMDP will be prepared as follows:

- (i) Screening the potential impacts of project activities on the Ethnic Minority;
- (ii) the EA will conduct a field-based social impact assessment (SIA) with subjects as recommended in the Annex to Appendix 3 of *ADB Safeguard Policy Statement (2009)*;
- (iii) review policy/guidelines regarding EM undertake meaningful consultation with the affected EM and provide the opportunity to the EM to participate in the selection of technically and economically feasible alternatives;
- (iv) prepare and disclose an EMDP, including documentation of the consultation process in accordance to the EMPF and ADB SPS SR 3 (2009);

- (v) prepare beneficial, mitigation and capacity building measures as relevant based from the SIA results;
- (vi) prepare an action plan (in addition to the LARP) for legal recognition of customary rights and territories for project activities involves involuntary land acquisition;
- (vii) if physical displacement from traditional or customary lands should occur, prepare an action plan for attaining broad community support of the project;
- (viii) establish grievance and redress mechanism for the EM; and
- (ix) prepare an appropriate budget and a mechanism for monitoring, reporting and evaluation of the EMDP.

14. In the case of future tranches with impact on indigenous people, a satisfactory EMDP will be prepared and posted on ADB website prior the appraisal of the respective Project Financing Requests (PFRs). The EMDP policy and measures must comply with ADB's SPS Safeguard Requirement 3 on Indigenous Peoples (June 2009) and approved EMPF.

E. Consultation, Disclosure and Institutional Framework

15. For the preparation of a project's EMDP, the EA through the Safeguard Team (ST) under the PMU will have overall coordination, planning, implementation and financing responsibilities. Since EM issues are sensitive, the social development specialist of ST-PMU will work with local community organizations such as Makhalla Committees, or local NGO for planning and implementation of the EMDP.

16. The EMDP will be prepared in full consultation with the affected ethnic minority groups. The consultations will be clearly and thoroughly documented. The mitigation measures and strategies will be presented to them in community level workshops for their inputs before being finalized. The EMDP and PIB will be translated into the local/EM language(s) prior to implementation and EMDP will be disclosed on ADB's website.

17. For project activities that might increase the vulnerability of the EM, the EA will seek the consent of affected EM communities in form of board community support through meaningful consultations with affected individuals and/or their recognize representatives as specify in Appendix 3 of ADB SPS (2009).

18. The existing ethnic minority development institutions and organizations will be involved in the implementation of the EMDP and resolution of any dispute arising out of the implementation process. When there is a need of EMDP, the EA will ensure that an adequate budget will be provided. This will be included in the LAR cost and EDMP would be integrated in the LARP.

F. Grievance Redress Mechanism

19. A grievance redress mechanism will be developed for addressing the grievances/complaint from the affected ethnic minority (AEM). The procedure of grievance redress will be incorporated in the Project Information Pamphlet (PIP) to be distributed prior to implementation. In order to prevent grievances rather than to redress these through a process to avoid lengthy redress process, participatory consultation with affected households will be undertaken during project planning and implementation stages. This will involve the following steps:

- (i) Resolution of complaints will be attempted at the representative project office with the involvement of the project supervision consultant (PSC), safeguard team (ST), local NGO, leaders of the affected Mahallas or the local executive body

- (ii) In absence of a settlement, AEMs may lodge a complaint with the District/Oblast Khokimiyat and receive a reply within 15 days.
- (iii) AEMs will have the right to take the dispute to an appropriate court of law if they do not accept the District/Oblast Khokimiyat's decision.

Grievance Resolution Process

1. Complaints resolution will be attempted at town/district (Rayon) level of grievance and redress committee with the involvement of the PSC/ST, NGO, leaders of the affected Mahallas and Khakimiyat (the local executive body)
2. In absence of a settlement, AEMs may lodge a complaint to District/Oblast Khokimiyate and get a reply within 15 days
3. If the District/Oblast Khokimiyate decision is unacceptable to the AEMs, then they may approach the appropriate court of law for its resolution.

G. Monitoring and Evaluation

20. The implementation of the EMDP will be monitored. The EA will establish a monitoring system involving EA staff, Councils of Rural Communities, makhalla committees, and EM groups, to ensure participatory monitoring arrangements. A set of monitoring indicators will be determined during EMDP implementation. Project supervision and monitoring consultants will carry out external monitoring. Appropriate monitoring formats will be prepared for internal and external monitoring and reporting requirements.

21. For project with significant adverse impacts on ethnic minorities, a qualified and experienced external experts or qualified NGO will be engaged by the EA to verify monitoring information of the EMDP. The external experts will advise on compliance issues and if any significant issues are found, the EA will prepare a corrective action plan or an update to the approved EMDP. The EA requires implementing the corrective actions and following up these actions to ensure their effectiveness.

22. Several key indicators and topics for monitoring and evaluation of EMDP are (i) process of the consultation activities; (ii) appropriateness of affected assets valuation and compensation disbursement; (iii) implementation of relocation process, when applicable; (iv) current condition of social, cultural, political and economic status of the EM in comparison with pre project condition; (v) status of vulnerable people as identified in the SIA; (vi) any disadvantaged conditions to the EM that was not anticipated during the preparation of EMDP that required corrective actions; and (vii) grievance redress issues.

H. Financial Requirements

23. Costs related to the implementation of the EMDP will include the costs of any compensation for temporary and permanent land use as addressed in the Resettlement Framework. Other costs include the salaries and travel costs of the ST social development expert, or experts on Ethnic Minority who will monitor the implementation of the EMDP are included in the provision of services for ST.

24. Detailed surveys will be carried out at the design stage of projects by the ST or minority experts and the profile of the affected ethnic minority will be known with more accuracy.

25. In the case of future tranches with significant impact on indigenous peoples/ ethnic minorities, the respective future Project Financing Requests (PFRs) will include the cost for implementing an EMDP.

I. EM Categorization/Checklist (screening)

26. Annex 1 shows the initial screening/checklist for impact on ethnic minority.

ANNEX 1
Initial Screening for Impact on Ethnic Minority at Project Preparation Stage

Project Title:

Subproject Name: Location:

KEY CONCERNS (Please provide elaborations on the Remarks column)	YES	NO	NOT KNOWN	Remarks
A. Indigenous Peoples Identification				
1. Are there socio-cultural groups present in or use the project area who may be considered as "tribes" (hill tribes, schedules tribes, tribal peoples), "minorities" (ethnic or national minorities), or "indigenous communities" in the project area?				
2. Are there national or local laws or policies as well as anthropological researches/studies that consider these groups present in or using the project area as belonging to "ethnic minorities", scheduled tribes, tribal peoples, national minorities, or cultural communities?				
3. Do such groups self-identify as being part of a distinct social and cultural group?				
4. Do such groups maintain collective attachments to distinct habitats or ancestral territories and/or to the natural resources in these habitats and territories?				
5. Do such groups maintain cultural, economic, social, and political institutions distinct from the dominant society and culture?				
6. Do such groups speak a distinct language or dialect?				
7. Has such groups been historically, socially and economically marginalized, disempowered, excluded, and/or discriminated against?				

KEY CONCERNS (Please provide elaborations on the Remarks column)	YES	NO	NOT KNOWN	Remarks
8. Are such groups represented as "Indigenous Peoples" or as "ethnic minorities" or "scheduled tribes" or "tribal populations" in any formal decision-making bodies at the national or local levels?				
B. Identification of Potential Impacts				
9. Will the project directly or indirectly benefit or target Indigenous Peoples?				
10. Will the project directly or indirectly affect Indigenous Peoples' traditional socio-cultural and belief practices? (e.g. child-rearing, health, education, arts, and governance)				
11. Will the project affect the livelihood systems of Indigenous Peoples? (e.g., food production system, natural resource management, crafts and trade, employment status)				
12. Will the project be in an area (land or territory) occupied, owned, or used by Indigenous Peoples, and/or claimed as ancestral domain?				
C. Identification of Special Requirements <i>Will the project activities include:</i>				
13. Commercial development of the cultural resources and knowledge of Indigenous Peoples?				
14. Physical displacement from traditional or customary lands?				
15. Commercial development of natural resources (such as minerals, hydrocarbons, forests, water, hunting or fishing grounds) within customary lands under use that would impact the livelihoods or the cultural, ceremonial, spiritual uses that define the identity and community of Indigenous Peoples?				

KEY CONCERNS (Please provide elaborations on the Remarks column)	YES	NO	NOT KNOWN	Remarks
16. Establishing legal recognition of rights to lands and territories that are traditionally owned or customarily used, occupied or claimed by indigenous peoples?				
17. Acquisition of lands that are traditionally owned or customarily used, occupied or claimed by indigenous peoples?				

Decision on Screening

After reviewing the answer above, the PMU/ST Social Development Specialist agree that the project:

- ☐ Should be categorized as an A project, an Ethnic Minority Development Plan (EMDP) is required.
- ☐ Should be categorized as a B project, a specific action favorable to ethnic minority is required and addressed through a specific provision in RRP and in related plans such as a Resettlement Action Plan, a Gender Action Plan or a general Community Participatory Plan
- ☐ Should be categorized as a C project, no EMDP or specific action required

Prepared By:

Verified by:

Signature:

Signature:

Name:

Name:

Position:

Position:

Date:

Date: