

# Financial Intermediary: Environmental and Social Management System Arrangement

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April 2012

## People's Republic of Bangladesh: Financing Brick Kiln Efficiency Improvement Project

Prepared by Bangladesh Bank for the Asian Development Bank

This environmental and social management system arrangement 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.

**CURRENCY EQUIVALENTS**

(as of 3 April 2012)

Currency Unit – taka (Tk)

Tk1.00 = \$0.0122

\$1.00 = Tk81.80

**ABBREVIATIONS**

|       |   |   |
|-------|---|---|
| ACFID | – | Agricultural Credit and Financial Inclusion Department      |
| ADB   | – | Asian Development Bank                                      |
| ARIPO | – | acquisition and requisition of immovable property ordinance |
| DOE   | – | department of environment                                   |
| ECA   | – | environment conservation act                                |
| ECR   | – | environment conservation rules                              |
| ERM   | – | environmental risk management                               |
| ESMS  | – | environment and social management system                    |
| FCK   | – | fixed chimney kiln  |
| GHG   | – | greenhouse gas  |
| HHK   | – | hybrid Hoffman kiln   |
| IPP   | – | indigenous people plan                                      |
| MOEF  | – | Ministry of Environment and Forest                          |
| MOF   | – | ministry of finance   |
| PFI   | – | participating financial intermediary                        |
| SME   | – | small and medium-sized enterprise                           |
| SPS   | – | safeguard policy statement (2009)                           |
| VSBK  | – | vertical shaft brick kiln                                   |

**NOTE**

In this report, "\$" refers to US dollars.

In preparing any country program or strategy, financing any project, or by making any designation of or reference to a particular territory or geographic area in this document, the Asian Development Bank does not intend to make any judgments as to the legal or other status of any territory or area.

# **FRAMEWORK FOR ESTABLISHING THE ENVIRONMENTAL AND SOCIAL MANAGEMENT SYSTEM BY PARTICIPATING FINANCIAL INTERMEDIARY**

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## 1. INTRODUCTION

1. Brick manufacturing process is energy intensive and a main source of greenhouse gas (GHG) emissions and fine particulate pollution in Bangladesh. The proposed project intends to establish an equivalent of \$50 million credit facility in local currency at Bangladesh Bank (central bank) for relending to participating financial intermediaries (PFIs) to construct more energy efficient brick kilns. The credit facility has two components: one is to upgrade polluting brick kilns to a transitional design as a temporary measure to reduce pollution while preserving sector employment,<sup>1</sup> and the other is to construct most advanced brick kiln pilots to demonstrate their operational and commercial viabilities. The combined efforts will help build up a sizeable clean brick manufacturing capacity in Bangladesh to eventually replace the existing pollution brick kilns and modernize the sector.<sup>2</sup> Aside from focusing on the “greening” of the brick kilns, the credit facility will ensure that Asian Development Bank (ADB) will not fund any subprojects that violate the relevant laws and regulations of the government, ADB’s Safeguard Policy Statement 2009 (SPS 2009), gender mainstreaming requirements, and core labor standards.

2. This environmental and social management system (ESMS) framework provides the basis for the PFIs to develop and establish their own processes to avoid, minimize, mitigate, manage, and monitor the potential adverse environmental and social impacts from funding (i) the upgrade from FCKs to improved zigzag kilns and (ii) the construction of the energy efficient vertical shaft brick kilns (VSBKs), hybrid Hoffman kiln (HHKs), and tunnel kiln. The PFIs will set up and adopt the ESMS, and will submit to ADB an annual report on the investments under the proposed project, compliance (or non-compliance) with ESMS, and corrective action or recommendations for improvement.

### ENVIRONMENTAL AND SOCIAL MANAGEMENT POLICY AND APPLICABLE REQUIREMENTS

#### A. Project Implementation Arrangement

1. Bank and Financial Institutions Division (BFID), acting through Ministry of Finance (MOF), will be the executing agency. Bangladesh Bank will be the implementing agency. BFID will establish a project steering committee, consisting of senior officials from Bangladesh Bank, BFID, Department of Environment (DOE), Finance Division of the MOF, Ministry of Environment and Forests (MOEF), Ministry of Industries, and other relevant agencies, chaired by the secretary of the BFID. The credit facility will be administered by Bangladesh Bank’s Agricultural Credit and Financial Inclusion Department (ACFID), where the project management unit will be established because of its experience in managing the \$4 million equivalent HHK credit facility.<sup>3</sup> DOE will be a part of the project implementation arrangement to provide relevant (brick and environment) technical support, including verifying brick kiln technical design and monitoring environmental benefits (e.g., carbon dioxide emission reduction), to Bangladesh Bank. The implementation arrangements are described in the project administration manual.<sup>4</sup>

<sup>1</sup> Immediately phasing out polluting brick kilns would lead to unemployment to business owners and migrant workers.

<sup>2</sup> A project preparatory technical assistance (PPTA) is not provided.

<sup>3</sup> Performance of the \$4 million HHK credit facility is discussed in the Sector Assessment (Summary): Brick (accessible from No. 3 of the Linked Documents in Appendix 2). The lessons learned are factored into the design of the project.

<sup>4</sup> Project Administration Manual (accessible from No. 4 of the Linked Documents in Appendix 2).

3. MOEF is the nodal agency in the administrative structure of the central government for planning, promotion, coordination and overseeing the implementation of environmental and forestry programs. MOEF oversees all environmental matters in the country and is a permanent member of the executive committee of the National Economic Council. MOEF plays a pivotal role as a participant of United Nations Environment Programme. The principal activities include prevention and control of pollution, forestation and regeneration of degraded areas and protection of environment, in the frame work of legislations. MOEF conducts surveys, impact assessment, control of pollution, research, and collection and dissemination of environmental information and creation of environmental awareness among all sectors of the country's population. The secretary of MOEF will chair the project steering committee.

5. The DOE is one of the departments under the MOEF. DOE executes MOEF duties on-the-ground through the consistent application of environmental rules and regulations, and provide guidance, training and promotional campaign on improving the awareness of environmental issues. DOE has a head office in Dhaka, two metropolitan offices in Dhaka and Chittagong, six divisional offices in Dhaka, Chittagong, Khulna, Bogra, Barisal and Sylhet, and 21 district offices throughout Bangladesh. DOE has a total of 361 staff and it is yet to fill out an additional 359 vacant staff positions. DOE has the capacity to monitor and review environmental condition in Bangladesh, and will provide the verification of brick kiln design standards and conduct environmental technical surveys and monitoring of the project outputs and outcomes.

## **B. Environmental Management Policy Framework at Bangladesh Bank**

6. On 30 January 2011, Bangladesh Bank issued the guidelines on environmental risk management (ERM) requiring compliance by commercial banks starting 30 June 2011. The ERM integrates environmental risk management practice into credit risk management procedures. Banks and financial institutions are required to adopt the ERM practices in a formal and structured manner in line with global norms so as to protect their financing from the risks of a deteriorating environment and ensure sustainable banking practices.

7. The ERM guidelines were also designed to establish a minimum environmental requirement for the banks and financial institutions. Among the requirements include the adoption of an environmental risk management as a policy; procedures to identify, plan, and integrate environmental risk in financing activities; alignment of financing classification of business activities across the categories of the DOE, incorporating environmental covenants in processing and approval of loans, carrying out monitoring of environmental risk, and information disclosure of compliance with the ERM guidelines in the annual report.

8. On 27 February 2011, Bangladesh Bank directed banks to adopt Green Banking Policy which incorporates the ERM and the environmental and climate change risk as part of the existing credit risk methodology in evaluating and assessing a prospective borrower. It is time-based and separated into three phases to be implemented from 31 December 2011 until 31 December 2013.

## **C. Environmental and Social Management Policy for the Participating Financial Intermediaries**

9. The environmental and social management policy of the participating financial intermediaries (PFIs) have to be approved by their respective Boards of Directors (or signed by their Presidents or other designated authorities) indicating the date, month, and the year they are signed. The objectives of the ESMS are to avoid, and when avoidance is not possible, to

minimize and mitigate adverse impacts of investments on the environment and affected people; and to maximize the opportunities for environmental and social benefits.

10. The PFIs should continually endeavor to ensure and enhance effective environmental and social management practices in all its activities, products, and services with special focus on the following:

- (i) ensure that applicable environmental and social safeguards requirements defined in paragraph 12 (below) are met for all subprojects;<sup>5</sup>
- (ii) finance businesses only when the proposed subprojects are expected to be designed, constructed, operated, and maintained in a manner consistent with applicable environmental and social safeguards requirements, as defined in paragraph 12 (below);
- (iii) integrate environmental and social risks into an internal risk management analysis;
- (iv) ensure appropriate consultation and transparency in sub-borrowers' activities;
- (v) work together with each sub-borrowers' management to put into practice applicable environmental and social safeguards requirements; and
- (vi) promote proposed subprojects with environmental and social benefits.

11. The environmental and social management policy should be communicated by the PFIs to all its staff and operational employees and report to Bangladesh Bank for reporting to ADB.

12. The PFIs will ensure that:

- (i) all investments are screened against ADB's Prohibited Investment Activities List (see Appendix 1);
- (ii) all proposed subprojects with potential significant environmental and/or social impacts are reviewed and evaluated against Safeguards Requirements 1-3 of SPS 2009 (e.g., environment, involuntary resettlement, and indigenous people);
- (iii) all proposed subprojects are reviewed and evaluated against core labor standards; and
- (iv) all proposed subprojects are reviewed and evaluated against the national laws, regulations, and standards on environment, labor, health, safety, involuntary resettlement and land acquisition, indigenous peoples, and physical cultural resources.

#### **D. Applicable National Legal and Policies and Other Requirements**

13. **Environmental Legislations.** The Bangladesh Environment Conservation Act (ECA) of 1995 provides for the protection of the environment, improvement of environmental standards, and the control and abatement of environmental pollution. This Act authorizes the DOE to undertake any activity needed to conserve and enhance quality of environment and to control, prevent and mitigate pollution. The Environment Conservation Rules (ECR) of 1997 (adopted under the provision of ECA 1995 and amended in 2002 and 2003) provides rules related to the declaration of ecologically-critical areas, obtaining environmental clearance certificate, environmental quality standards, acceptable limits for discharges of waste, and environmental

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<sup>5</sup> Subproject, as referred to in this document, is the conversion or upgrading of FCKs to zigzag kiln or any other more energy-efficient technology, and the installation or construction of new more energy-efficient technology such as hybrid Hoffman kiln (HHK), vertical shaft brick kiln (VSBK), and tunnel kiln.

guidelines on pollution prevention. ECA 1995 and ECR 1997 outline the regulatory mechanism to protect the environment in Bangladesh.

14. **Environmental Clearance.** Following the ECR 1997, DOE has classified development interventions into three main categories based on potential adverse environmental impacts for the purpose of issuing the environmental clearance certificate as follows:

- (i) Green - no environmental assessment required
- (ii) Orange A – “no objection certification” from local authority required
- (iii) Orange B – initial environmental examination required
- (iv) Red – environmental impact assessment required

15. According to DOE, the conversion of FCKs to improved zigzag kiln and the construction of new VSBKs, HHKs, and tunnel kilns fall under the Orange B category based on potential environmental impacts.

16. **Brick Sector Legislation.** There is a lack of government brick sector strategy (policy), or other relevant energy efficiency guidelines to promote sustainable brick sector development. As a result, the legal and regulatory framework is poorly guided to address the underlying deficiencies in the brick sector development. The existing legislations are based on the Brick Burning Act (1989) and various amendments and circulars thereafter.

**Table 1: Key Legislations**

| Year | Regulations                                | Responsible Agency | Details  | Remarks  |
|------|--|--------------------|--|--|
| 1989 | The Brick Burning (Regulation) Act of 1989 | DOE, MOEF          | First brick-making law which banned the use of firewood for brick manufacturing and introduced licensing for brick kilns.  | Use of firewood has been discontinued but it still continues in a limited scale in the remote areas.   |
| 2001 | Revision of the Brick Burning Act of 1989  | DOE, MOEF          | Amendment to regulate the location of brick kilns which provides that they should not be set up within 3 kilometer (km) of the upazilla or district center, municipal areas, residential areas, gardens, and the government's reserve forests. | The Bangladesh Brick Manufacturing Owners Association considers this provision as a major weakness. The location requirement in this amendment has not been enforced.                                  |
| 2002 | Brick Burning rules                        | DOE, MOEF          | Requires that chimney for brick kilns should be compulsory 120 feet.   | Enforced successfully particularly in the vicinity of urban areas. Most Bull's trench kilns were upgraded to fixed chimney kiln technology but some Bull's trench kilns continue to operate illegally. |
| 2007 | Government of Bangladesh Notification      | DOE, MOEF          | Notification that environmental clearance certificates will no longer be   | Not implemented as there are no guidelines to assist brick kiln owners and facilitate the transition.  |

| Year                         | Regulations                                    | Responsible Agency | Details  | Remarks   |
|------------------------------|--|--------------------|--|---|
|                              |  |                    | renewed if the owner did not shift to alternative fuel and other improved technologies by 2010.  |   |
| 2010                         | Government of Bangladesh Notification          | DOE, MOEF          | Notification that bans FCK operation in 2013 (three years from notification date).   | Clean Air and Sustainable Environment project funded by the World Bank assists the Government in the implementation of this regulation.   |
| 2011                         | Revision of Brick Burning Act                  | DOE, MOEF          | Changes in the Act aim to facilitate the transition to more energy efficient technology and reduce level of air pollution from the brick industry. | Ongoing and may take more than one year.  |
| Regulations on air pollution |  |                    |  |   |
| 1977                         | Environment Pollution Control Ordinance, 1977. | DOE, MOEF          | Provides limited conditions for environment conservation.  | Replaced by Environment Conservation Act of 1995  |
| 1992                         | Environmental Policy and Action Plan           | MOEF               | Provides the priority areas for conservation of environment.   | A document to guide actions for environment conservation but has no legal mandate.  |
| 1995                         | ECA, 1995 or ECA95                             | DOE, MOEF          | Provides for environment conservation, improvement of environmental standards and control, and mitigation of environmental pollution.              | ECA 1995 replaced the Environment Pollution Control Ordinance 1977. The Government can issue notification in the official Gazette and make rules for carrying out the purposes of this Act, including emission standards. |
| 1997                         | ECR, 1997, or ECR97                            | DOE, MOEF          | Sets air emission standards for industries including brick kilns.  | The suspended particulate matter standard for brick kiln emission is set at 1,000 mg/m <sup>3</sup> , which is rather lenient. Even this standard could not be enforced due to limited capacity in the DOE.               |
| 2005                         | Revision of ECR97                              | DOE, MOEF          | Sets ambient air quality for criteria pollutants and vehicular emission standards  | Fine particulate (PM <sub>2.5</sub> ) standard is defined under this rule. Violation of ambient air quality standards can be enforced under this rule.  |

DOE = Department of Environment, ECA = Environmental Conservation Act, ECR = Environmental Conservation Rules, MOEF = Ministry of Environment and Forests.

Source: The World Bank. 2011. Introducing Energy-efficient Clean Technologies in the Brick Sector of Bangladesh. Washington, DC.

17. The Brick Burning Act 1989 was revised in 2001 to regulate the location of brick kilns not to be within 3 km of the district center (or upazilla), municipal areas, residential areas, and the government's reserve forests. In October 2002, another revision was introduced to the Brick



Burning Act requiring the mandatory use of a 120-foot chimney for brick kilns. To address the contribution of brick kilns to widespread air pollution, DOE issued a notification in March 2007 which provides that environmental clearance certificates would not be renewed if the brick kiln owner will not shift to alternative fuel and improved technologies by 2010. Another DOE Notification was issued in July 2010 which bans FCK operations by July 2013. In 2011, the Brick Burning Act of 1989 is being revised to facilitate the transition of the brick sector into a more energy-efficient and less polluting process.

18. **Land Acquisition and Resettlement.** The policy framework for land acquisition and resettlement is based on the Land Acquisition Act 1894, and the Acquisition and Requisition of Immovable Property Ordinance 1982 (amended in 1994, 1995 and 2004). These regulations are being enforced by the Revenue Department. Articles 42 and 47 of the 1972 Bangladesh Constitution provide for the basic principles of property compensation. The Acquisition and Requisition of Immovable Property Ordinance 1982 (ARIPO) supersedes Land Acquisition Act 1894 and is the current legislation and guidelines on acquisition and requisition of land. ARIPO is limited to legal property owners who are supported by ownership documents such as deeds, title or agreements to be eligible for compensation under the law. In the event of differences between the ARIPO and ADB practices for projects with potential significant impacts (e.g., Category A), the provisions relevant to involuntary resettlement and land acquisition in SPS 2009 will prevail.

19. **Indigenous (Small Ethnic Community) Peoples.** The protection of the fundamental rights of all citizens which include indigenous peoples are provided for in the 1972 Constitution (Articles 11, 19 and 28). Specifically, Articles 23 and 24 set forth the protection of the cultural tradition of indigenous peoples. The Chhoto Nagpur Tenancy Act of 1908 allows for (i) individual ownership of lands to ethnic communities, and whereby the transfer of tribal land to non-tribal people without the permission of Deputy Commissioner was illegal; (ii) free to profess and practice their religions and develop their own culture, and (iii) “Adivasi” right to protect their own land.<sup>6</sup>

20. **Others.** Brick-making is highly labor intensive and brickfields attract a large number of poor migrant workers looking for employment during the dry season. These migrant workers generally bring female family members and children who end up living and even working temporarily in poor conditions within the premises of the brick kilns.

21. The Labor Law of Bangladesh 2006 provides that the minimum legal age for employment is 14 years old while the ADB’s Social Protection Strategy, approved on 13 September 2001, requires that any ADB intervention should comply with relevant internationally-recognized core labor standards. Aside from complying with core labor standards, procurement of goods and services, contractors, subcontractors and consultants for any subproject considered for this credit facility should comply with national labor laws such as minimum wages, safe working conditions that is gender-sensitive, minimum age requirement, social security contributions, and so forth. Contractors and other service providers should not engage in child labor<sup>7</sup> or forced labor,<sup>8</sup> provide procedures or mechanism that allow for equal opportunity and fair treatment of workers, etc.

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<sup>6</sup> Adivasis is Bangladesh's minority tribal group.

<sup>7</sup> Child labor refers to employing children with age below the statutory minimum age required for employment.

<sup>8</sup> Forced labor refers to all work or services not done voluntarily and obtained from workers under threat of force or penalty.

### III. ENVIRONMENTAL AND SOCIAL MANAGEMENT PROCEDURES

#### A. Screening and Categorization

22. At the initial application for funding of the subproject by a prospective sub-borrower, the PFI's environmental and social management staff (or designated staff)<sup>9</sup> should determine if it will involve any activity that is within the ADB's Prohibited Investment Activities List (see Appendix 1). If the subproject may involve any prohibited activity, the prospective sub-borrower requesting for funding will be informed that the subproject will not be considered. The designated staff of the PFI should also apply the eligibility criteria for sub-borrowers both on upgrade of FCKs and construction of VSBKs, HHKs, and tunnel kilns.

23. If a subproject is considered for funding, the environmental and social management staff (or designated staff) of the PFI and the sub-borrower (subproject company) will work together to conduct a rapid assessment of the potential environmental and social impact assessment, including involuntary resettlement and impacts to indigenous peoples. Available environmental assessment and social safeguard screening checklists can provide guidance in the rapid assessment of impacts.

24. Once the checklists are completed and verified, the designated staff of the PFI will categorize the subproject based on potential impacts as "A" (with significant environmental and/or social impacts); "B" (with less significant environmental and/or social impacts); or "C" (with minimal or no environmental and/or social impacts).

25. The designated staff of the PFI should advise the sub-borrowers of the applicable requirements given in paragraph 12 (above). ADB will not finance any subproject that is Category "A" on any of the safeguards: environment, involuntary resettlement, indigenous peoples. Safeguard requirements for Category "B" and "C" are summarized in Table 2 below

**Table 2: Safeguards Requirements**

| <b>Category<br/>(Risk Rating)</b>          | <b>Environmental<br/>Safeguards</b> | <b>Involuntary<br/>Resettlement<br/>Safeguards</b> | <b>Indigenous Peoples<br/>Safeguards</b> |
|--|-------------------------------------|--|--|
| Category B (with less significant impacts) | Comply with national laws           | Comply with national laws                          | Comply with national laws                |
| Category C (with minimal or no impacts)    | Comply with national laws           | Comply with national laws                          | Comply with national laws                |

Source: ADB, Involuntary Resettlement Safeguards: A Planning and Implementation Good Practice Sourcebook (Draft Working Document, March 2011), Appendix 3. <http://beta.adb.org/documents/involuntary-resettlement-safeguards-planning-and-implementation-good-practice-sourcebook?ref=site/safeguards/publications>.

#### B. Due Diligence

26. The designated staff from the PFIs should work with the sub-borrowers to conduct the environmental and social due diligence which could be in the form of desk review, site visits, or a full-scale review carried out by qualified staff (or Consultants) tasked with environmental and social safeguards function.<sup>10</sup> The sub-borrowers should provide all the required environmental and social safeguards information to the designated staff reviewing the investment. An

<sup>9</sup> The designated staff could be the Relationship Risk Manager or the Credit Risk Manager as in the Eastern Bank Limited, a potential PFI.

<sup>10</sup> Safeguards documents for review include an initial environmental examination (IEE) for category "B" subproject, resettlement plan and IPP. An environmental management plan is incorporated in the IEE.

environmental and social due diligence report will be prepared which will serve as the basis for the subproject financing from ADB.

27. All subproject investment agreements should incorporate the appropriate environmental and social covenants, as defined in paragraph 12, to be complied with by the sub-borrowers and monitored by Bangladesh Bank through the PFI.

28. The PFIs should establish a grievance and redress mechanism to address possible concerns and complaints of affected people on the environmental and social implications of their subprojects. The grievance and redress mechanism should promptly respond to legitimate concerns of affected people, consultative and participatory, transparent and free of gender discrimination, and adaptive to cultural traditions of the affected groups and communities.

### **C. Compliance Monitoring and Reporting**

29. After approval of the subproject, the designated staff of the PFI should communicate to the sub-borrowers, and confirm from time to time, its obligation of compliance with applicable environmental and social safeguard requirements of the Government and ADB. The designated staff of the PFI should confirm the subproject responsiveness with the applicable requirements in its environmental and social monitoring report. The PFI should also report to Bangladesh Bank any actual or potential areas of noncompliance arising from the implementation of safeguards management plan (e.g., environmental management plan, resettlement plan, and indigenous peoples plan [IPP]), corrective measures adopted, and outstanding issues that require follow-up actions (if any), and findings from periodic ESMS review and recommendations for improvement.

30. Evaluation of environmental and social performance of the sub-borrowers should be conducted every year. The sub-borrowers should submit annual safeguards monitoring reports of subprojects to the PFI. The reports should review the sub-borrowers' compliances with required environmental and social management system, core labor standards, and gender action plan. The PFIs will prepare annual environment and social safeguards compliance performance report of the sub-borrowers to Bangladesh Bank. The reports should include the PFIs' management, review, and monitoring of sub-borrowers' compliances with required environmental and social management system, core labor standards, and gender action plan. Based on these reports from the PFIs, Bangladesh Bank will prepare an annual environmental and social performance report and submit to ADB.

## **IV. ORGANIZATIONAL RESPONSIBILITIES, RESOURCES AND CAPACITY**

31. **Organization and Responsibilities.** A qualified (or designated staff) should be appointed in Bangladesh Bank's ACFID and the PFIs to oversee the environmental and social issues, ensure that resources are made available for environmental and social management, and sign and submit the annual environmental and social performance report to ADB. Any change or replacement of the environmental and social safeguard staff should be communicated to ADB.

32. The responsibility of ACFID includes the application of eligibility criteria in selecting the PFIs, review the "readiness" of the ESMS of the PFIs to meet the requirements of ADB's SPS 2009 prior to the first disbursement of funds to finance the subprojects, submit an annual environmental and social monitoring compliance report to ADB based on the reports they

received from the PFIs, and coordinate with each PFI any capacity building activities. Bangladesh Bank should ensure that the selections of the PFIs and the subprojects comply with applicable laws and regulations of the Government and SPS 2009.

33. **Resources and Capabilities.** The designated staff in Bangladesh Bank's ACFID and the PFIs should work with their respective managements to ensure that adequate resources will be provided for the implementation of the ESMS. The managements should ensure that their designated staff tasked for environmental and social safeguards are technically qualified to carry out the responsibility of screening and due diligence (or able to review the work done by the consultants). Training of designated staff on compliance with environmental and social safeguards and monitoring activities should be an integral part of continual capacity building. A separately processed capacity building technical assistance will be provided to address any capacity building deficiencies not only to Bangladesh Bank and the PFIs but also to the sub-borrowers. Bangladesh Bank and the PFIs should maintain a pool of qualified environmental and social consultants who can assist them in the review process, as needed.

## Appendix 1<sup>1</sup>

### Prohibited Investment Activities List

The following do not qualify for Asian Development Bank financing:

- (i) production or activities involving harmful or exploitative forms of forced labor<sup>2</sup> or child labor;<sup>3</sup>
- (ii) production of or trade in any product or activity deemed illegal under host country laws or regulations or international conventions and agreements or subject to international phase-out or bans, such as (a) pharmaceuticals,<sup>4</sup> pesticides, and herbicides,<sup>5</sup> (b) ozone-depleting substances,<sup>6</sup> (c) polychlorinated biphenyls<sup>7</sup> and other hazardous chemicals,<sup>8</sup> (d) wildlife or wildlife products regulated under the Convention on International Trade in Endangered Species of Wild Fauna and Flora,<sup>9</sup> and (e) transboundary trade in waste or waste products;<sup>10</sup>
- (iii) production of or trade in weapons and munitions, including paramilitary materials;
- (iv) production of or trade in alcoholic beverages, excluding beer and wine;<sup>11</sup>
- (v) production of or trade in tobacco;<sup>10</sup>
- (vi) gambling, casinos, and equivalent enterprises;<sup>10</sup>
- (vii) production of or trade in radioactive materials,<sup>12</sup> including nuclear reactors and components thereof;
- (viii) production of, trade in, or use of unbonded asbestos fibers;<sup>13</sup>
- (ix) commercial logging operations or the purchase of logging equipment for use in primary tropical moist forests or old-growth forests; and
- (x) marine and coastal fishing practices, such as large-scale pelagic drift net fishing and fine mesh net fishing, harmful to vulnerable and protected species in large numbers and damaging to marine biodiversity and habitats.

<sup>1</sup> ADB SPS 2009, Appendix 5, p76.

<sup>2</sup> Forced labor means all work or services not voluntarily performed, that is, extracted from individuals under threat of force or penalty.

<sup>3</sup> Child labor means the employment of children whose age is below the host country's statutory minimum age of employment or employment of children in contravention of International Labor Organization Convention No. 138 "Minimum Age Convention" ([www.ilo.org](http://www.ilo.org)).

<sup>4</sup> A list of pharmaceutical products subject to phaseouts or bans is available at <http://www.who.int>.

<sup>5</sup> A list of pesticides and herbicides subject to phase-out or bans is available at <http://www.pic.int>.

<sup>6</sup> A list of the chemical compounds that react with and deplete stratospheric ozone resulting in the widely publicized ozone holes is listed in the Montreal Protocol, together with target reduction and phase-out dates. Information is available at <http://www.unep.org/ozone/montreal.shtml>.

<sup>7</sup> A group of highly toxic chemicals, polychlorinated biphenyls are likely to be found in oil-filled electrical transformers, capacitors, and switchgear dating from 1950 to 1985.

<sup>8</sup> A list of hazardous chemicals is available at <http://www.pic.int>.

<sup>9</sup> A list is available at <http://www.cites.org>.

<sup>10</sup> As defined by the Basel Convention; see <http://www.basel.int>.

<sup>11</sup> This does not apply to project sponsors who are not substantially involved in these activities. Not substantially involved means that the activity concerned is ancillary to a project sponsor's primary operations.

<sup>12</sup> This does not apply to the purchase of medical equipment, quality control (measurement) equipment, and any equipment for which ADB considers the radioactive source to be trivial and adequately shielded.

<sup>13</sup> This does not apply to the purchase and use of bonded asbestos cement sheeting where the asbestos content is less than 20%.

## **Appendix 2**

### **Outline of an Environmental Assessment Report<sup>1</sup>**

#### **A. Executive Summary**

This section describes concisely the critical facts, significant findings, and recommended actions.

#### **B. Policy, Legal, and Administrative Framework**

This section discusses the national and local legal and institutional framework within which the environmental assessment is carried out. It also identifies project-relevant international environmental agreements to which the country is a party.

#### **C. Description of the Proposed Project**

This section describes the proposed project; its major components; and its geographic, ecological, social, and temporal context, including any associated facility required by and for the project (for example, access roads, power plants, water supply, quarries and borrow pits, and spoil disposal). It normally includes drawings and maps showing the project's layout and components, the project site, and the project's area of influence.

#### **D. Description of the Environment (Baseline Data)**

This section describes relevant physical, biological, and socioeconomic conditions within the study area. It also looks at current and proposed development activities within the project's area of influence, including those not directly connected to the project. It indicates the accuracy, reliability, and sources of the data.

#### **E. Anticipated Environmental Impacts and Mitigation Measures**

This section predicts and assesses the project's likely positive and negative direct and indirect impacts to physical, biological, socioeconomic (including occupational health and safety, community health and safety, vulnerable groups and gender issues, and impacts on livelihoods through environmental media [Appendix 2, paragraph 6]), and physical cultural resources in the project's area of influence, in quantitative terms to the extent possible; identifies mitigation measures and any residual negative impacts that cannot be mitigated; explores opportunities for enhancement; identifies and estimates the extent and quality of available data, key data gaps, and uncertainties associated with predictions and specifies topics that do not require further attention; and examines global, transboundary, and cumulative impacts as appropriate.

#### **F. Information Disclosure, Consultation, and Participation**

This section: (i) describes the process undertaken during project design and preparation for engaging stakeholders, including information disclosure and consultation with affected people and other stakeholders; (ii) summarizes comments and concerns received from affected people and other stakeholders and how these comments have been addressed in project design and

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<sup>1</sup> Based on ADB SPS 2009, Annex to Appendix 1, p41. Section on the analysis of alternatives was deleted as this is not needed for Category "B" projects.

mitigation measures, with special attention paid to the needs and concerns of vulnerable groups, including women, the poor, and Indigenous Peoples; and (iii) describes the planned information disclosure measures (including the type of information to be disseminated and the method of dissemination) and the process for carrying out consultation with affected people and facilitating their participation during project implementation.

## **G. Grievance Redress Mechanism**

This section describes the grievance redress framework (both informal and formal channels), setting out the time frame and mechanisms for resolving complaints about environmental performance.

## **H. Environmental Management Plan**

This section deals with the set of mitigation and management measures to be taken during project implementation to avoid, reduce, mitigate, or compensate for adverse environmental impacts (in that order of priority). It may include multiple management plans and actions. It includes the following key components (with the level of detail commensurate with the project's impacts and risks):

- (i) Mitigation:
  - (a) identifies and summarizes anticipated significant adverse environmental impacts and risks;
  - (b) describes each mitigation measure with technical details, including the type of impact to which it relates and the conditions under which it is required (for instance, continuously or in the event of contingencies), together with designs, equipment descriptions, and operating procedures, as appropriate; and
  - (c) provides links to any other mitigation plans (for example, for involuntary resettlement, Indigenous Peoples, or emergency response) required for the project.
- (ii) Monitoring:
  - (a) describes monitoring measures with technical details, including parameters to be measured, methods to be used, sampling locations, frequency of measurements, detection limits and definition of thresholds that will signal the need for corrective actions; and
  - (b) describes monitoring and reporting procedures to ensure early detection of conditions that necessitate particular mitigation measures and document the progress and results of mitigation.
- (iii) Implementation arrangements:
  - (a) specifies the implementation schedule showing phasing and coordination with overall project implementation;
  - (b) describes institutional or organizational arrangements, namely, who is responsible for carrying out the mitigation and monitoring measures, which may include one or more of the following additional topics to strengthen environmental management capability: technical assistance programs, training programs, procurement of equipment and supplies related to environmental management and monitoring, and organizational changes; and

- (c) estimates capital and recurrent costs and describes sources of funds for implementing the environmental management plan.
- (iv) Performance indicators: describes the desired outcomes as measurable events to the extent possible, such as performance indicators, targets, or acceptance criteria that can be tracked over defined time periods.

## **I. Conclusion and Recommendation**

This section provides the conclusions drawn from the assessment and provides recommendations.



## **Appendix 3**

### **Outline of Resettlement Plan<sup>1</sup>**

#### **A. Executive Summary**

This section provides a concise statement of project scope, key survey findings, entitlements and recommended actions.

#### **B. Project Description**

This section provides a general description of the project, discusses project components that result in land acquisition, involuntary resettlement, or both and identify the project area. It also describes the alternatives considered to avoid or minimize resettlement. Include a table with quantified data and provide a rationale for the final decision.

#### **C. Scope of Land Acquisition and Resettlement**

This section:

- (i) discusses the project's potential impacts, and includes maps of the areas or zone of impact of project components or activities;
- (ii) describes the scope of land acquisition (provide maps) and explains why it is necessary for the main investment project;
- (iii) summarizes the key effects in terms of assets acquired and displaced persons; and,
- (iv) provides details of any common property resources that will be acquired.

#### **D. Socioeconomic Information and Profile**

This section outlines the results of the social impact assessment, the census survey, and other studies, with information and/or data disaggregated by gender, vulnerability, and other social groupings, including:

- (i) define, identify, and enumerate the people and communities to be affected;
- (ii) describe the likely impacts of land and asset acquisition on the people and communities affected taking social, cultural, and economic parameters into account;
- (iii) discuss the project's impacts on the poor, indigenous and/or ethnic minorities, and other vulnerable groups; and,
- (iv) identify gender and resettlement impacts, and the socioeconomic situation, impacts, needs, and priorities of women.

#### **E. Information Disclosure, Consultation, and Participation**

This section:

- (i) identifies project stakeholders, especially primary stakeholders;
- (ii) describes the consultation and participation mechanisms to be used during the different stages of the project cycle;

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<sup>1</sup> ADB SPS 2009, Annex to Appendix 2, p51.

- (iii) describes the legal arrangements to regularize tenure and transfer titles to resettled persons;
- (v) outlines measures to assist displaced persons with their transfer and establishment at new sites;
- (vi) describes plans to provide civic infrastructure; and,
- (vii) explains how integration with host populations will be carried out.

## **J. Income Restoration and Rehabilitation**

This section:

- (i) identifies livelihood risks and prepare disaggregated tables based on demographic data and livelihood sources;
- (ii) describes income restoration programs, including multiple options for restoring all types of livelihoods (examples include project benefit sharing, revenue sharing arrangements, joint stock for equity contributions such as land, discuss sustainability and safety nets);
- (iii) outlines measures to provide social safety net through social insurance and/or project special funds;
- (iv) describes special measures to support vulnerable groups;
- (v) explains gender considerations; and,
- (vi) describes training programs.

## **K. Resettlement Budget and Financing Plan**

This section:

- (i) provides an itemized budget for all resettlement activities, including for the resettlement unit, staff training, monitoring and evaluation, and preparation of resettlement plans during loan implementation.
- (ii) describes the flow of funds (the annual resettlement budget should show the budget-scheduled expenditure for key items).
- (iii) includes a justification for all assumptions made in calculating compensation rates and other cost estimates (taking into account both physical and cost contingencies), plus replacement costs.
- (iv) includes information about the source of funding for the resettlement plan budget.

## **L. Institutional Arrangements**

This section:

- (i) describes institutional arrangement responsibilities and mechanisms for carrying out the measures of the resettlement plan;
- (ii) includes institutional capacity building program, including technical assistance, if required;
- (iii) describes role of NGOs, if involved, and organizations of affected persons in resettlement planning and management; and,
- (iv) describes how women's groups will be involved in resettlement planning and management,

**M. Implementation Schedule**

This section includes a detailed, time bound, implementation schedule for all key resettlement and rehabilitation activities. The implementation schedule should cover all aspects of resettlement activities synchronized with the project schedule of civil works construction, and provide land acquisition process and timeline.

**N. Monitoring and Reporting**

This section describes the mechanisms and benchmarks appropriate to the project for monitoring and evaluating the implementation of the resettlement plan. It specifies arrangements for participation of affected persons in the monitoring process. This section will also describe reporting procedures.

## **Appendix 4**

### **Outline of Indigenous Peoples Plan<sup>1</sup>**

#### **A. Executive Summary of the Indigenous Peoples Plan**

This section concisely describes the critical facts, significant findings, and recommended actions.

#### **B. Description of the Proposed Project**

This section provides a general description of the project; discusses project components and activities that may bring impacts on Indigenous Peoples; and identify project area.

#### **C. Social Impact Assessment**

This section:

- (i) reviews the legal and institutional framework applicable to Indigenous Peoples in project context.
- (ii) provides baseline information on the demographic, social, cultural, and political characteristics of the affected Indigenous Peoples communities; the land and territories that they have traditionally owned or customarily used or occupied; and the natural resources on which they depend.
- (iii) identifies key project stakeholders and elaborate a culturally appropriate and gender-sensitive process for meaningful consultation with Indigenous Peoples at each stage of project preparation and implementation, taking the review and baseline information into account.
- (iv) assesses, based on meaningful consultation with the affected Indigenous Peoples communities, the potential adverse and positive effects of the project. Critical to the determination of potential adverse impacts is a gender-sensitive analysis of the relative vulnerability of, and risks to, the affected Indigenous Peoples communities given their particular circumstances and close ties to land and natural resources, as well as their lack of access to opportunities relative to those available to other social groups in the communities, regions, or national societies in which they live.
- (v) includes a gender-sensitive assessment of the affected Indigenous Peoples' perceptions about the project and its impact on their social, economic, and cultural status.
- (vi) identifies and recommends, based on meaningful consultation with the affected Indigenous Peoples communities, the measures necessary to avoid adverse effects or, if such measures are not possible, identifies measures to minimize, mitigate, and/or compensate for such effects and to ensure that the Indigenous Peoples receive culturally appropriate benefits under the project.

#### **D. Information Disclosure, Consultation and Participation**

This section:

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<sup>1</sup> ADB SPS 2009, Annex to Appendix 3, p63.

- (i) describes the information disclosure, consultation and participation process with the affected Indigenous Peoples communities that was carried out during project preparation;
- (ii) summarizes their comments on the results of the social impact assessment and identifies concerns raised during consultation and how these have been addressed in project design;
- (iii) in the case of project activities requiring broad community support, documents the process and outcome of consultations with affected Indigenous Peoples communities and any agreement resulting from such consultations for the project activities and safeguard measures addressing the impacts of such activities;
- (iv) describes consultation and participation mechanisms to be used during implementation to ensure Indigenous Peoples participation during implementation; and,
- (v) confirms disclosure of the draft and final IPP to the affected Indigenous Peoples communities.

#### **E. Beneficial Measures**

This section specifies the measures to ensure that the Indigenous Peoples receive social and economic benefits that are culturally appropriate, and gender responsive.

#### **F. Mitigative Measures**

This section specifies the measures to avoid adverse impacts on Indigenous Peoples; and where the avoidance is impossible, specifies the measures to minimize, mitigate and compensate for identified unavoidable adverse impacts for each affected Indigenous Peoples groups.

#### **G. Capacity Building**

This section provides measures to strengthen the social, legal, and technical capabilities of (a) government institutions to address Indigenous Peoples issues in the project area; and (b) Indigenous Peoples organizations in the project area to enable them to represent the affected Indigenous Peoples more effectively.

#### **H. Grievance Redress Mechanism**

This section describes the procedures to redress grievances by affected Indigenous Peoples communities. It also explains how the procedures are accessible to Indigenous Peoples and culturally appropriate and gender sensitive.

#### **I. Monitoring, Reporting and Evaluation**

This section describes the mechanisms and benchmarks appropriate to the project for monitoring, and evaluating the implementation of the IPP. It also specifies arrangements for participation of affected Indigenous Peoples in the preparation and validation of monitoring, and evaluation reports.

**J. Institutional Arrangement**

This section describes institutional arrangement responsibilities and mechanisms for carrying out the various measures of the IPP. It also describes the process of including relevant local organizations and NGOs in carrying out the measures of the IPP.

**K. Budget and Financing**

This section provides an itemized budget for all activities described in the IPP.