



# Technical Assistance Report

---

Project Number: 50177-001  
Regional—Capacity Development Technical Assistance (R-CDTA)  
December 2016

## Developing Judicial Capacity for Adjudicating Climate Change and Sustainable Development Issues

This document is being disclosed to the public in accordance with ADB's Public Communications Policy 2011.

Asian Development Bank

### ABBREVIATIONS

ADB	–	Asian Development Bank
AJNE	–	Asian Judges Network on Environment
ASEAN	–	Association of Southeast Asian Nations
CVF	–	Climate Vulnerable Forum
DMC	–	developing member country
OGC	–	Office of the General Counsel
SAARC	–	South Asian Association for Regional Cooperation
TA	–	technical assistance
TASU	–	technical assistance supervising unit

### NOTE

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

<b>Vice-President</b>	D. Stokes, Administration and Corporate Management
<b>General Counsel</b>	C. Stephens, Office of the General Counsel (OGC)
<b>Deputy General Counsel</b>	R. Nagpal, OGC
<b>Team leader</b>	I. Ahsan, Senior Counsel, OGC
<b>Team member</b>	M. Saniel-Gois, Legal Operations Officer, OGC

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.

## CONTENTS

	<b>Page</b>
CAPACITY DEVELOPMENT TECHNICAL ASSISTANCE AT A GLANCE	
I. INTRODUCTION	1
II. ISSUES	1
III. THE CAPACITY DEVELOPMENT TECHNICAL ASSISTANCE	4
A. Impact and Outcome	4
B. Methodology and Key Activities	4
C. Cost and Financing	5
D. Implementation Arrangements	5
IV. THE PRESIDENT'S DECISION	5
APPENDIXES	
1. Design and Monitoring Framework	6
2. Cost Estimates and Financing Plan	9
3. Outline Terms of Reference for Consultants	10

## CAPACITY DEVELOPMENT TECHNICAL ASSISTANCE AT A GLANCE

<b>1. Basic Data</b>		<b>Project Number: 50177-001</b>	
<b>Project Name</b>	Developing Judicial Capacity for Adjudicating Climate Change and Sustainable Development Issues	<b>Department /Division</b>	OGC/OGC
<b>Country</b>	REG	<b>Executing Agency</b>	Asian Development Bank
<b>2. Sector</b>	<b>Subsector(s)</b>	<b>ADB Financing (\$ million)</b>	
✓ Public sector management	Law and judiciary		0.94
		<b>Total</b>	<b>0.94</b>
<b>3. Strategic Agenda</b>	<b>Subcomponents</b>	<b>Climate Change Information</b>	
Inclusive economic growth (IEG) Environmentally sustainable growth (ESG)	Pillar 1: Economic opportunities, including jobs, created and expanded Environmental policy and legislation Global and regional transboundary environmental concerns Natural resources conservation	Climate Change impact on the Project	Low
<b>4. Drivers of Change</b>	<b>Components</b>	<b>Gender Equity and Mainstreaming</b>	
Governance and capacity development (GCD)  Knowledge solutions (KNS)	Client relations, network, and partnership development to partnership driver of change Organizational development Knowledge sharing activities	Some gender elements (SGE)	✓
<b>5. Poverty and SDG Targeting</b>		<b>Location Impact</b>	
Geographic Targeting Household Targeting SDG Targeting SDG Goals	Yes No Yes SDG13, SDG16, SDG17	Regional	High
<b>6. TA Category:</b>	B		
<b>7. Safeguard Categorization</b>	Not Applicable		
<b>8. Financing</b>			
<b>Modality and Sources</b>		<b>Amount (\$ million)</b>	
<b>ADB</b>		<b>0.94</b>	
Capacity development technical assistance: Technical Assistance Special Fund		0.94	
<b>Cofinancing</b>		<b>0.00</b>	
None		0.00	
<b>Counterpart</b>		<b>0.00</b>	
None		0.00	
<b>Total</b>		<b>0.94</b>	
<b>9. Effective Development Cooperation</b>			
Use of country procurement systems		No	
Use of country public financial management systems		No	

## I. INTRODUCTION

1. This regional capacity development technical assistance (TA) is designed to provide training and capacity-building programs on environmental and climate change issues and adjudication for sustainable development. It follows the Building Capacity for Environmental Prosecution, Adjudication, Dispute Resolution, Compliance, and Enforcement in Asia regional TA project,<sup>1</sup> which resulted in judges from Southeast and South Asia making significant developments in environmental law in their jurisdictions. Asian judiciaries want to continue this momentum and build on these gains. Judges throughout the region realize that more disputes related to climate change will be brought before the courts as the effects and impacts of climate change intensify. However, they need help in building their knowledge and capacity to understand the various aspects of this phenomenon, and have requested to institutionalize these training and capacity-building programs. This TA is designed to respond to this demand.

2. The Environment Operational Directions 2013–2020 of the Asian Development Bank (ADB) identified the strengthening of environmental governance and management capacity, and responding to the climate change imperative as focus areas to support systemic, long-term, and transformational change toward green growth in Asia and the Pacific.<sup>2</sup> Building sound environmental governance and management capacity will result in improved environmental and natural resource management, including the strengthening of country systems and capacities for environmental safeguards. Continued economic growth and poverty reduction in Asia and the Pacific will not be possible without efforts to address global warming and climate change.

3. Many developing member countries (DMCs) recognize the unique and distinct leadership role the judiciary plays in the environmental enforcement chain. ADB supports regional, subregional, and national work to help ensure greater environmental justice throughout the region. Useful examples include the Asian Judges Network on Environment and the judicial roundtables in Southeast Asia and South Asia,<sup>3</sup> which have helped develop judicial experience in environmental decision-making and strengthen judicial capacity.

## II. ISSUES

4. The twin issues of environmental justice and climate change have risen in prominence from 2000 to 2010, especially with extreme weather events, intense heat waves, rising sea levels, and loss of wildlife and vegetation. The sense of urgency is not superficial or cosmetic: 2016 was the hottest year on record, and the average temperature across global land and ocean surfaces was 1.69 degrees F above the 20th century average.<sup>4</sup> Thus, an effective response to climate change is crucial, particularly in Asia and the Pacific where six of the top 10 countries most affected by climate change are located.<sup>5</sup> Of the 33 ADB DMCs, 20 belong to the

---

<sup>1</sup> Asian Development Bank (ADB). 2010. *Technical Assistance for Building Capacity for Environmental Prosecution, Adjudication, Dispute Resolution, Compliance, and Enforcement in Asia*. Manila.

<sup>2</sup> ADB. 2013. *Environment Operational Directions 2013–2020: Promoting Transitions to Green Growth in Asia and the Pacific*. Manila.

<sup>3</sup> The Southeast Asia chief justices' roundtables and the South Asia judicial roundtables on environmental justice were convened as a result of ADB's Building Capacity for Environmental Prosecution, Adjudication, Dispute Resolution, Compliance, and Enforcement in Asia regional TA project (footnote 1).

<sup>4</sup> *National Oceanic and Atmospheric Administration*. 2017. 2016 Marks Three Consecutive Years of Record Warmth for the Globe. 18 January. <http://www.noaa.gov/stories/2016-marks-three-consecutive-years-of-record-warmth-for-globe>.

<sup>5</sup> Germanwatch. 2015. *Global Climate Risk Index 2016: Who Suffers Most from Extreme Weather Events? Weather-Related Loss Events in 2014 and 1995 to 2014*. Bonn. <https://germanwatch.org/fr/download/13503.pdf>. In order of

Climate Vulnerable Forum (CVF).<sup>6</sup> CVF countries are located in the climate front line and are disproportionately affected by climate change.

5. Beyond the typical consequences of climate change lie a wide range of social impacts that shape how climate change issues come before courts. Climate change issues do not come merely in the form of environmental cases; they may also be integrated within broader questions such as economic, political, and social rights; the legality of legislative and regulatory frameworks; and the rights and duties of public officials under constitutional and administrative law. At the forefront of these issues are the interconnected aspects of community displacement, forced migration, and the disproportionate impact of climate change on vulnerable groups such as women, children, the poor, and indigenous peoples. In addition, droughts, floods, and land losses from accretion and avulsion have given rise to new legal questions relating to entitlements and remedies available to vulnerable groups. That is, do international human rights law and refugee law recognize climate change refugees? If so, what are their rights (if any) under conventional and customary international law? What are the concomitant duties of neighboring states, as well as their state of nationality?

6. It would thus be short-sighted and ill-advised to conceive of these issues as purely scientific. Climate change traverses a wide swath of policy questions, including sustainable development, corporate governance, urban and rural planning, taxation, green investment and finance, and even constitutional discourse. This, along with the attendant economic and social consequences triggered by climate change (e.g., community displacement, loss of livelihood, decreased labor productivity), demonstrates the need for a multidisciplinary approach combining economics, science, law, and policy.

7. ADB's institutional documents recognize the need for an integrated climate change approach. Strategy 2020 establishes good governance and capacity development as a driver for change, and environment (including climate change) as a core operational area.<sup>7</sup> Further, faced with the increasingly serious environmental challenges besetting the region, ADB's Midterm Review of Strategy 2020 encourages scaling up assistance for climate change adaptation and mitigation.<sup>8</sup> ADB's Environment Operational Directions 2013–2020 identifies strengthened environmental governance and management capacity as key to promoting the transition to green growth and addressing the causes and consequences of climate change (footnote 2).

8. Essential to the success of a multidisciplinary climate change approach is a credible rule of law system that ensures compliance with, and effective enforcement of, environmental laws and regulations. Judiciaries and specialized environmental tribunals therefore take on a fundamental role in environmental governance. Judges not only promulgate decisions in environmental cases (as well as other cases with an environmental nexus), but they also influence the gravity with which prosecutors, law enforcers, public interest groups, academia, and other stakeholders view environmental crimes and other climate change issues. Moreover, judicial review of environmental impact assessments and administrative decisions affects the speed and consequences of rural and urban development on people and the environment.

---

ranking, the six countries are Myanmar, the Philippines, Bangladesh, Viet Nam, Pakistan, and Thailand. The Long-term Climate Risk Index assessed climate vulnerability using 1995–2014 data.

<sup>6</sup> Climate Vulnerable Forum. CVF Participating Countries. <http://www.thecvf.org/web/climate-vulnerable-forum/cvf-participating-countries/>.

<sup>7</sup> ADB. 2008. *Strategy 2020: The Long-Term Strategic Framework of the Asian Development Bank, 2008–2020*. Manila.

<sup>8</sup> ADB. 2014. *Midterm Review of Strategy 2020: Meeting the Challenges of a Transforming Asia and Pacific*. Manila.

Judges' understanding of environmental valuation and damage assessment issues also steers compliance with environmental laws and regulations.

9. However, climate change law and policy is a fast-evolving field that judges may not have formally studied in law school, much more engaged with through specialized training in judicial academies. They may not even have access to reliable and accurate information about the scientific basis and consequences of climate change; the differences and the nexus between climate change law and environmental law; the adaptation and mitigation initiatives undertaken to address the problem; the legal and regulatory framework on which these initiatives are predicated; and how scientific, expert, and technical evidence dovetail with existing evidentiary rules. Related issues are environmental valuation and damage assessment, expert testimony, environmental impact assessments, and the implications of the Paris climate agreement<sup>9</sup> on judiciaries and case adjudication. This situation may undermine judges' efforts to comprehend the relevance and broader implications of the evidence presented, and prevent them from gaining a more nuanced appreciation of the case itself.

10. The evolving nature of climate change litigation (e.g., the status of climate change refugees and the states' obligations under international and domestic law) requires a thorough and programmatic approach to judicial training and capacity building. Generally, climate change law related to mitigation is more developed than law related to adaptation and disaster risk management.<sup>10</sup> Further, climate science usually evolves faster than legislative and regulatory frameworks. Climate change adaptation in environmental law often also involves tightening current standards of environmental protection and damage prevention. This requires examining the legal implications of adaptation, loss, and damage in DMCs, particularly in the context of the Warsaw International Mechanism for Loss and Damage.<sup>11</sup> These factors necessitate that judges be apprised of international legal principles or other innovative tools that may be used to adjudicate climate change cases in the absence of clear domestic law, especially in cases involving adaptation measures. Thus, the significance of engaging judges and enhancing their capacity in climate change law and policy cannot be overemphasized, especially in light of country imperatives under the Paris Agreement and the climate vulnerability of ADB DMCs.

11. A related issue is the manner by which climate change training is undertaken. ADB's Office of the General Counsel (OGC) seeks to complement ad hoc seminars with the institutionalization of climate change law and policy in the DMCs' respective judicial academies. Support will include the development of subject country-specific curricula, as well as presentations and related materials. Doing so ensures that training is structured, cohesive, and locally sustainable, and that knowledge is shared with all members of the judiciary regardless of the judges' personal resource constraints.

---

<sup>9</sup> United Nations Framework Convention on Climate Change. The Paris Agreement. [http://unfccc.int/paris\\_agreement/items/9485.php](http://unfccc.int/paris_agreement/items/9485.php).

<sup>10</sup> Laws relating to disaster risk management have a long history in many DMCs, such as back to 1978 in the Philippines and 1103 (over 900 years) in Viet Nam, when the first law on dikes was promulgated and where in the 19th century damaging a dike carried the death sentence. Disaster risk management laws typically focused on disaster response, and only more recently have been broadened to include disaster risk reduction.

<sup>11</sup> United Nations Framework Convention on Climate Change. Warsaw International Mechanism for Loss and Damage Associated with Climate Change Impacts. [http://unfccc.int/adaptation/workstreams/loss\\_and\\_damage/items/8134.php](http://unfccc.int/adaptation/workstreams/loss_and_damage/items/8134.php).

### III. THE CAPACITY DEVELOPMENT TECHNICAL ASSISTANCE

#### A. Impact and Outcome

12. The impact of this demand-driven TA project will be law and policy reforms and the rule of law strengthened through the effective adjudication of climate change and sustainable development issues. It builds on the gains of the environmental prosecution TA (footnote 1), especially in terms of sustaining and advancing earlier accomplishments in environmental adjudication and rule of law decision-making.

13. The outcome will be seminal jurisprudence that is responsive to climate change and sustainable development issues developed by judiciaries in Asia and the Pacific.

#### B. Methodology and Key Activities

14. The TA will assist judiciaries in developing seminal jurisprudence that is responsive to climate change and sustainable development issues by (i) exposing them to global and regional developments in this field, especially emerging concepts, principles, and jurisprudence from different jurisdictions and international tribunals, through their participation in national, regional, and international conferences; (ii) identifying country-specific capacity gaps and addressing them in a manner that institutionalizes training and lessons learned, which will then cascade to the lowest-level courts; and (iii) preparing knowledge products that they can easily refer to while they adjudicate disputes with climate change and sustainable development components.

15. **Output 1: Capacity of the judiciary to respond to climate change and sustainable development issues increased and improved.** This output includes support for (i) identifying needs and gaps in the judicial systems of participating countries;<sup>12</sup> (ii) organizing national, regional, and international conferences; and enabling the participation of judges, legal professionals, concerned government ministries, civil society organizations, and experts in related fields in such events; (iii) holding country-specific activities such as training programs, workshops, and seminars for judges, judicial officers, and legal professionals; (iv) establishing linkages between the Asian Judges Network on Environment and other regional and international networks and organizations, such as the Asian Environmental Compliance and Enforcement Network and the Global Judicial Institute for the Environment; and (v) managing cross-judiciary and intercountry training, knowledge-sharing, and enrichment activities.

16. **Output 2: Training and capacity-building programs institutionalized.** This output includes (i) developing regional and country-specific environmental and climate change law curricula and corresponding materials for judicial training programs to be institutionalized in judicial academies; (ii) developing a database of environment and climate change experts to facilitate training; (iii) establishing linkages and partnerships with and between existing judicial academies in the region, and fostering relationships with similar institutions around the world; and (iv) providing assistance in the designation of specialized judges through “green benches” or otherwise,<sup>13</sup> with the support of environment and climate change-trained judges.

---

<sup>12</sup> A country's participation will depend on demand from that country, to be confirmed through a needs assessment. The exact number of participating countries in relation to the TA project is yet to be determined, given that the project is demand-driven. The project is anticipated to have at least four pilot countries for outputs 1–3.

<sup>13</sup> A “green bench” is understood to mean a court or tribunal that specializes in handling cases and disputes related to the environment and natural resources.

17. **Output 3: Regional and country-specific knowledge products prepared and disseminated.** This output includes (i) disseminating interregional, regional, and/or country-specific bench books on environmental and climate change adjudication;<sup>14</sup> (ii) preparing information and education materials on environmental and climate change law such as PowerPoint presentations, videos, brochures, and handbooks; and (iii) providing support for a dedicated website of resources and materials on environmental and climate change law and adjudication.

### C. Cost and Financing

18. The TA is estimated to cost \$944,000, which will be financed on a grant basis by ADB's Technical Assistance Special Fund (TASF-V).<sup>15</sup> The participating governments may provide counterpart support in the form of counterpart staff, local communications, organization of workshops, office space for consultants, and other in-kind contributions.

### D. Implementation Arrangements

19. ADB, through OGC, will be the executing agency for this TA. Relevant judiciaries, academia, networks, or selected civil society organizations will be the implementing partners. OGC will consult and seek the advice of relevant ADB regional departments in identifying country needs and demands, and in implementing the activities. OGC will be responsible for administering and supervising the TA, and will be accountable for the delivery of the TA outputs. The TA will be implemented from January 2017 to January 2020.

20. National consultants will be recruited for 54 person-months. Three national consultants will be recruited for 12 person-months each on an intermittent basis to provide legal and policy support for the implementation of the TA. To conduct in-country training seminars and activities, four national consultants, one in each participating country, will be recruited for 3 person-months, each on an intermittent basis. One national consultant will be recruited for 6 person-months on an intermittent basis to develop and maintain a website. Two international consultants will be recruited for 6 person-months each on an intermittent basis. The terms of reference are in Appendix 3. The consultants will be recruited using the individual consultant selection method following ADB's Guidelines on the Use of Consultants (2013, as amended from time to time).<sup>16</sup> All goods and equipment to be procured under the TA will be procured following ADB's Procurement Guidelines (2015, as amended from time to time). Disbursement under the TA will follow ADB's *Technical Assistance Disbursement Handbook* (2010, as amended from time to time). OGC will work closely with the implementing partners and consultants to be recruited under the TA to ensure that the TA outputs are delivered on schedule.

## IV. THE PRESIDENT'S DECISION

21. The President, acting under the authority delegated by the Board, has approved the provision of technical assistance not exceeding the equivalent of \$944,000 on a grant basis for Developing Judicial Capacity for Adjudicating Climate Change and Sustainable Development Issues, and hereby reports this action to the Board.

<sup>14</sup> A bench book provides a judge with an overview and reference of relevant procedures to serve as a guide in the disposition of cases. Some bench books provide both procedural and substantive references for the judge.

<sup>15</sup> No objection will be obtained from the government of the participating country before financing any activity in that country.

<sup>16</sup> To reduce the administrative burden and improve economy, efficiency, and value for money, consulting services under the TA will be engaged under output-based (lump-sum) contracts, where appropriate.

## DESIGN AND MONITORING FRAMEWORK

<b>Impact the TA is Aligned with</b>			
Law and policy reform and the rule of law strengthened through the effective adjudication of climate change and sustainable development issues (Strategy 2020; Midterm Review of Strategy 2020; Environment Operational Directions 2013–2020 and Sustainable Development Goals) <sup>a</sup>			
<b>Results Chain</b>	<b>Performance Indicators with Targets and Baselines</b>	<b>Data Sources and Reporting Mechanisms</b>	<b>Risks</b>
<p><b>Outcome</b></p> <p>Seminal jurisprudence that is responsive to climate change and sustainable development issues developed by judiciaries in Asia and the Pacific</p>	<p>By 2019</p> <p>a. Quality of jurisprudence on climate change and sustainable development issues improved compared with the years 2000-2010</p> <p>b. Judges from participating countries in Asia and the Pacific recognized internationally as experts in the adjudication of climate change and sustainable development issues</p>	<p>a. Reports of decided cases; AJNE website</p> <p>b. News reporting, publications, and third-party accounts (e.g., experts, professors, scientists, and journalists)</p>	<p>Law schools and law curricula do not train lawyers and judges in climate change and sustainable development legal issues.</p>
<p><b>Outputs</b></p> <p>1. Capacity of judges and legal and judicial officers to respond to climate change and sustainable development issues increased and improved</p>	<p>1a. Judges from participating countries participated in at least three global environmental and climate change discussions, conferences, and training programs</p> <p>1b. Adjudicatory skills of judiciaries from at least four participating countries enhanced through training in social, scientific, and economic aspects of environment and climate change issues</p> <p>1c. Sustained linkages developed between AJNE and other regional and international organizations, such as Asian Environmental Compliance and Enforcement Network and Global Judicial Institute for Environment</p>	<p>1a. Event reporting and results documents</p> <p>1b. Records of training programs, seminars, workshops, and roundtables</p> <p>1c. Constitution documents of regional and international organizations, which would include AJNE judges' participation and inputs</p>	
<p>2. Training and capacity-building programs</p>	<p>2a. Curricula and modules on environmental justice, climate change, and</p>	<p>2a. Training documents, including curricula and modules</p>	



<p><b>2. Training and capacity-building programs institutionalized</b></p> <p>2.1 Develop a database of environment and climate change experts to facilitate training (month 4)</p> <p>2.2 Develop regional and country-specific curricula (month 8 onward)</p> <p>2.3 Assist in designating specialized judges or benches (month 6 onward)</p> <p><b>3. Regional and country-specific knowledge products prepared and disseminated</b></p> <p>3.1 Provide support for a dedicated website of resources and materials (month 4 onward)</p> <p>3.2 Develop information and education materials (month 10 onward)</p> <p>3.3 Develop an environmental law publication and/or climate change adjudication bench book (month 18 onward)</p>
<p><b>Inputs</b></p> <p>ADB: \$944,000</p> <p>Note: The participating governments may provide counterpart support in the form of staff, office accommodation, supplies, and secretarial assistance, where needed.</p>
<p><b>Assumptions for Partner Financing</b></p> <p>Not applicable</p>

ADB = Asian Development Bank, AJNE = Asian Judges Network on Environment, EBSCO = EBSCO Information Services, TA = technical assistance.

<sup>a</sup> ADB. 2008. *Strategy 2020: The Long-Term Strategic Framework of the Asian Development Bank, 2008–2020*. Manila; ADB. 2014. *Midterm Review of Strategy 2020: Meeting the Challenges of a Transforming Asia and Pacific*. Manila; ADB. 2013. *Environment Operational Directions 2013–2020: Promoting Transitions to Green Growth in Asia and the Pacific*. Manila; and United Nations Development Programme. Sustainable Development Goals. <http://www.undp.org/content/undp/en/home/sdgoverview/post-2015-development-agenda.html>. The project's sustainable development angle is directly related to all Sustainable Development Goals, while the climate change angle relates to goals 1 (no poverty), 2 (food security), 3 (good health and well-being), 6 (water and sanitation security), 7 (affordable and clean energy), 11 (sustainable cities and communities), 12 (responsible consumption and production), 13 (climate action), 14 (life below water), and 15 (life on land).

Source: Asian Development Bank.

**COST ESTIMATES AND FINANCING PLAN**

(\$'000)

<b>Item</b>	<b>Amount</b>
<b>Asian Development Bank<sup>a</sup></b>	
1. Consultants	
a. Remuneration and per diem	
i. International consultants	192.0
ii. National consultants	182.2
b. International and local travel	40.0
2. Training, seminars, and conferences <sup>b</sup>	
a. Facilitators	30.0
b. Training program	320.0
3. Surveys	30.0
4. Miscellaneous administration and support costs <sup>c</sup>	64.0
5. Contingencies	85.8
<b>Total</b>	<b>944.0</b>

Note: The technical assistance is estimated to cost \$944,000, of which contributions from the Asian Development Bank (ADB) are presented in the table above. The participating governments may provide counterpart support in the form of counterpart staff, local communications, organization of workshops, office space for consultants, and other in-kind contributions.

<sup>a</sup> Financed by ADB's Technical Assistance Special Fund (TASF-V).

<sup>b</sup> Includes travel of ADB staff as resource persons, and engagement of external resource persons. This will also include representation expenses in line with ADB (Budget, Personnel, and Management Systems Department; and Strategy and Policy Department). 2013. Use of Bank Resources: Regional Technical Assistance and Technical Assistance vs. Internal Administrative Expenses Budget. Memorandum. 26 June (internal). About three to six training programs, seminars, and conferences will be conducted, each with about 50–100 participants. Potential venues include Bhutan, Cambodia, India, and Nepal. Any advances will be liquidated within 30 days from completion of the event.

<sup>c</sup> Includes report preparation, publications, communications, translations, website maintenance, and other administrative expenses.

Source: Asian Development Bank estimates.

## OUTLINE TERMS OF REFERENCE FOR CONSULTANTS

1. Consultants under the regional capacity development technical assistance (TA) will be selected following the Asian Development Bank (ADB) Guidelines on the Use of Consultants (2013, as amended from time to time). These terms of reference broadly describe consultants' tasks in relation to the implementation of activities under the outputs.

2. **Background.** The twin issues of environmental justice and climate change have risen in prominence from 2000 to 2010, especially with extreme weather events, intense heat waves, rising sea levels, and loss of wildlife and vegetation. Judges throughout the region realize that more disputes related to climate change will be brought before the courts as the effects and impacts of climate change intensify. They also know that they have little knowledge of the law, economics, science, and politics behind climate change, and that they need help in building their knowledge and capacity on these matters. Asian judiciaries have requested to institutionalize training and capacity-building programs on environmental justice and climate change because they recognize that climate change will be a global challenge for years to come.

**A. Legal and Policy Specialist** (national, 12 person-months, intermittent)

3. **Qualifications.** The specialist should have a degree in law with at least 7 years of professional experience in law, justice, and development. Experience with the Association of Southeast Asian Nations (ASEAN), South Asian Association for Regional Cooperation (SAARC), and/or ADB's Pacific developing member countries (DMCs) will be preferred and considered an advantage. Experience in (i) developing and implementing capacity-building programs for judges and the legal profession; and (ii) researching, writing, and publishing ADB knowledge products is strongly preferred.

4. **Scope of work.** The specialist is expected to provide overall legal and policy support for the implementation of outputs 1–3.

5. **Detailed tasks.** The specialist will carry out the following tasks:

- (i) provide expert support and assist with the management of regional activities, including by liaising with the judiciaries of and legal practitioners from participating countries and other relevant DMCs and development partners;
- (ii) conduct extensive legal research on existing laws and policies related to international climate change and sustainable development for the guidance of TA activities;
- (iii) provide expert support in drafting the agenda, declarations, session summaries, records of proceedings, and other materials relating to the regional conferences and meetings, in a format acceptable to the TA supervising unit (TASU) team leader;
- (iv) provide research, writing, and editorial support for the knowledge products that may be published under the TA;
- (v) liaise with ADB departments and resident missions on (a) the production and publication of knowledge products; (b) the fielding of missions; (c) the holding of meetings, workshops, and seminars; and (d) the conduct of TA-related miscellaneous tasks;
- (vi) assist the TASU team leader in seeking approvals and no objections from ADB departments and from the governments of participating member countries;

- (vii) assist the TASU team leader in processing TA activities within ADB using ADB's processing and implementation policies, and facilitate the obtaining of requisite approvals by the TA team from ADB Management;
- (viii) participate in meetings with the TA team in Manila or any participating member country for the successful implementation of TA activities;
- (ix) assist the TA team in preparing the baseline report, midterm report, and TA completion report; and
- (x) perform other tasks reasonably related to achieve the TA outputs and outcomes.

**B. Project Management Specialist** (national, 12 person-months, intermittent)

6. **Qualifications.** The specialist should have a bachelor's degree with at least 5 years of professional experience in law, justice, and development. Experience with ASEAN, SAARC, and/or Pacific DMCs will be preferred and considered an advantage. The specialist is expected to provide overall project management support for administrative and financial requirements. Preference will be given to a candidate with experience working on ADB TA projects.

7. **Scope of work.** The specialist is expected to work with the TASU team leader in administering TA activities. In particular and in coordination with the legal and policy specialist and the international consultants, the project management specialist will assist in the organization and logistics of project activities and events, including training sessions and national, regional, and international conferences; and coordinate outputs and other deliverables for the TASU team leader.

8. **Detailed tasks.** The project management specialist will carry out the following tasks:
- (i) provide logistical and administrative support for workshops and training in selected DMCs; and national, regional, and international conferences and events conducted under the TA;
  - (ii) assist in the planning and implementation of TA-related project activities;
  - (iii) assist in the preparation of communications related to TA activities;
  - (iv) coordinate with selected DMCs, relevant ADB departments, resident missions, and other consultants for TA activities, as needed;
  - (v) develop a filing system and database for easy monitoring of project-related activities; and
  - (vi) perform other related duties as may be reasonably assigned by the TASU team leader.

**C. Capacity-Building Specialists** (4 national consultants, 3 person-months each, intermittent)

9. **Qualifications.** The specialists should have a bachelor's degree with at least 7 years of professional experience in law, justice, and development; and in training and capacity building. Experience with ASEAN, SAARC, and/or Pacific DMCs will be preferred and considered an advantage.

10. **Scope of work.** The specialists will assist in the conduct of in-country training and activities in select pilot countries.

11. **Detailed tasks.** In coordination with the international capacity-building specialist, the national capacity-building specialist will provide expert support and carry out the following tasks:

- (i) conduct a needs assessment for judicial training in select pilot countries, with emphasis on (a) climate change and environmental law, (b) other sustainable development issues, and (c) how these fields of law disproportionately affect vulnerable groups;
- (ii) develop a training module on climate change, environmental law, and sustainable development issues for the judiciaries of select pilot countries, in consultation with the TASU team leader, other international and national consultants, courts in the selected jurisdictions, ADB, and other relevant stakeholders;
- (iii) provide inputs in the preparation of training materials and other related materials to be used in the workshops, events, and training sessions;
- (iv) plan, coordinate, and implement climate change, environmental law, sustainable development, and other TA-related workshops and/or training sessions for judges in select pilot countries, based on the module developed; and
- (v) perform other related tasks to achieve the TA outputs and outcomes.

**D. Knowledge Management Specialist** (national, 12 person-months, intermittent)

12. **Qualifications.** The specialist should have a degree in law with at least 7 years of professional experience in law, justice, and development, particularly in climate change and sustainable development law. A postgraduate degree in law (e.g., Master of Laws) is strongly preferred and an advantage. Experience in (i) developing and implementing capacity-building programs for judges and the legal profession; and (ii) researching, writing, and publishing ADB knowledge products is strongly preferred. The specialist must have a strong background in research and writing, and must have excellent command of the English language. Experience with ASEAN, SAARC, and/or Pacific DMCs will be preferred and an advantage.

13. **Scope of work.** The specialist will assist in the preparation of (i) interregional, regional, and/or country-specific curricula; (ii) knowledge products; and (iii) training materials. As required by the TASU team leader, the specialist may also assist other consultants in the design and delivery of in-country training and activities in select pilot countries.

14. **Detailed tasks.** In coordination with the international knowledge management specialist, the national knowledge management specialist will provide expert support and carry out the following tasks:

- (i) provide legal research, writing, and editorial support for the climate change and sustainable development knowledge products that may be published under the TA;
- (ii) liaise with relevant ADB departments and resident missions on producing and publishing ADB knowledge products;
- (iii) assist in the preparation of interregional, regional, and/or country-specific curricula and training materials on climate change and sustainable development;
- (iv) assist other consultants in the design and delivery of in-country training and activities in select pilot countries, as required by the TA team leader; and
- (v) perform other related tasks to achieve the TA outputs and outcomes.

**E. Knowledge Management Specialist** (international, 6 person-months, intermittent)

15. **Qualifications.** The specialist should have a degree in law or a related field with at least 10 years of professional experience in law, justice, and development, with particular expertise and experience in climate change and/or sustainable development law. Experience in

(i) developing and implementing capacity-building programs for judges and the legal profession; and (ii) researching, writing, and publishing ADB knowledge products is strongly preferred. The specialist must have a strong background in research and writing, and must have excellent command of the English language. Experience with and extensive knowledge of ASEAN, SAARC, and/or Pacific DMCs will be preferred and an advantage.

16. **Scope of work.** The international specialist will lead the preparation of (i) interregional, regional, and/or country-specific curricula; (ii) knowledge products; and (iii) training materials. As required by the TASU team leader, the specialist may also assist other consultants in the design and delivery of in-country training and activities in select pilot countries.

17. **Detailed tasks.** The specialist will provide expert support and carry out the following tasks:

- (i) provide legal research, writing, and editorial support for the climate change and sustainable development knowledge products that may be published under the TA;
- (ii) liaise with relevant ADB departments and resident missions on producing and publishing ADB knowledge products;
- (iii) prepare interregional, regional, and/or country-specific curricula and training materials on climate change and sustainable development, in consultation with the TASU team leader, other international and national consultants, courts in select pilot countries, ADB, and other relevant stakeholders;
- (iv) assist other consultants in the design and delivery of in-country training and activities in select pilot countries, as required by the TASU team leader; and
- (v) perform other related tasks to achieve the TA outputs and outcomes.

#### **F. Capacity Development Specialist** (international, 6 person-months, intermittent)

18. **Qualifications.** The specialist should have a degree in law or a related field with at least 10 years of professional experience in law, justice, and development, with particular expertise and experience in climate change law and in the conduct of capacity-building programs and activities for judges and the legal profession. Experience with and extensive knowledge of ASEAN, SAARC, and/or Pacific DMCs will be preferred and an advantage.

19. **Scope of work.** The international specialist will lead the conduct of in-country and regional workshops and training programs.

20. **Detailed tasks.** The specialist will provide expert support and carry out the following tasks:

- (i) conduct a needs assessment for judicial training in Asia, with emphasis on (a) climate change and environmental law, (b) other sustainable development issues, and (c) how these fields of law disproportionately affect vulnerable groups;
- (ii) coordinate the development of training modules on climate change, environmental law, and sustainable development issues for the judiciaries of select pilot countries, in consultation with the TASU team leader, other international and national consultants, courts in the selected jurisdictions, ADB, and other relevant stakeholders;
- (iii) supervise and coordinate the work of national capacity development specialists in the select pilot countries;
- (iv) provide inputs in the preparation of training materials and other related materials to be used in the workshops, events, and training sessions;

- (v) plan, coordinate, and implement climate change, environmental law, sustainable development, and other TA-related workshops and/or training sessions for judges in select pilot countries, based on the module developed; and
- (vi) perform other related tasks to achieve the TA outputs and outcomes.

**G. Information Technology Specialist** (national, 6 person-months, intermittent)

21. **Qualifications.** The specialist must have a degree in information technology with at least 7 years of experience in developing and/or establishing a functional website. The specialist must have familiarity with establishing electronic regional working networks and editing electronic materials, and must have excellent command of the English language.

22. **Scope of work.** The national consultant will be responsible for revamping, updating, and maintaining the Asian Judges Network on Environment (AJNE) website, including preparing web designs and layouts that are usable and accessible in small devices.

23. **Detailed tasks.** The specialist is expected to undertake the following tasks:

- (i) maintain the current AJNE website or such other relevant websites that the TA will support;
- (ii) install techniques that would render the website usable and accessible in small devices;
- (iii) coordinate and consolidate information, including national laws on environment generated from participating DMCs;
- (iv) collect and seek web-based materials and information that will be linked to AJNE or other relevant websites that the TA will support, to promote the AJNE website's relevance to the judicial network;
- (v) facilitate stakeholders' easy access to the AJNE website or other relevant websites that the TA will support;
- (vi) help resolve any technical issues faced by the website;
- (vii) provide analytical, statistical, and technical support in the administration of the website; and
- (viii) perform other tasks reasonably related to the project assignment.

**H. General Output and Reporting Requirements for all Consultants**

24. All consultants recruited under this TA will be guided by the following output and reporting requirements:

- (i) At the time of selection, the terms of reference for each consultant should state the required internally accepted standards applicable for their deliverables.
- (ii) All reports, papers, concept notes, and submissions will be in English, will be completed and submitted in a timely manner, and must meet the needs and requirements of ADB's supervising counsel.
- (iii) All research to be conducted must be done under internationally accepted standards, with the thorough use of all available materials (e.g., books, journals, publications, and web resources).
- (iv) The consultants must be able to work diligently and appropriately in groups or teams while managing the working groups and conferences.
- (v) The consultants must observe due respect and protocol while working and engaging with high-level members of the judiciaries.