

COMPARATIVE ANALYSIS OF THE ADB POLICY ON INVOLUNTARY RESETTLEMENT

Policy Matrix

Objective:

The objective of this policy matrix is to serve as a tool for the coalition of civil society organizations currently monitoring the Asian Development Bank's safeguard policy update. This matrix compares the current ADB policy on involuntary resettlement to the policies of peer institutions and to accepted best practices under international law, highlighting both ADB's *consistencies* and *gaps* in relation to international best practice. Because the *Discussion Note* released by the ADB in October 2005 repeatedly states that the safeguard policy update process will not result in a dilution or undermining of the current policy's objectives and principles, but rather will serve to enhance the policies' effectiveness, it is crucial that our coalition has a strong understanding of ADB's existing policy principles on involuntary resettlement, as well as those considered international best practice on involuntary resettlement, so that we can hold the ADB to this promise as they prepare to issue a draft of the revised safeguard policies. It is envisioned that this matrix can serve as an input for this effort, as a point of departure for discussion and debate within the civil society coalition, and also to inform future comments, analyses and letters that we may submit to the ADB. [Note: this matrix is not intended for submission to the ADB.]

Overview:

The Policy Matrix is based on a thorough review of **Section F2 of the ADB's *Operations Manual***, which is composed of the *Bank Policies* and the *Operational Procedures* on involuntary resettlement.

- The *Bank Policies* (BP) on Involuntary Resettlement contain the overarching policy principles that the ADB is committed to uphold in the area of involuntary resettlement;
- The *Operational Procedures* (OP) contain more detailed requirements on how the policy should be implemented, on responsibilities of specific actors and offices within the ADB, etc.

These policy documents, comprising the ADB policy on involuntary resettlement, are compared to the following parallel documents/policies at relevant peer institutions:

- World Bank Safeguard Policy on Involuntary Resettlement;
- IFC Performance Standard 5 on Land Acquisition and Involuntary Resettlement;
- Inter-American Development Bank Safeguard Policy on Involuntary Resettlement;
- African Development Bank Involuntary Resettlement Policy;
- The OECD's *Guidelines for Aid Agencies on Involuntary Resettlement and Displacement in Development Projects*;
- The Report of the World Commission on Dams: *Dams and Development*; and
- The *Basic principles and guidelines on development-based evictions and displacement* developed by UN Special Rapporteur on the right to adequate housing, Millon Kothari.

ADB Policy on Involuntary Resettlement ¹	Comparative Analysis with International Best Practice ²
OBJECTIVES AND GUIDING PRINCIPLES	
<p>The involuntary resettlement policy objectives are</p> <ul style="list-style-type: none"> (i) to avoid involuntary resettlement wherever feasible; (ii) to minimize resettlement where population displacement is unavoidable by choosing alternative viable options; and (iii) where involuntary resettlement is unavoidable, to ensure that affected people received assistance, preferably under the project, so that they will at least be as well off as they would have been in the absence of the project. (BP p. 1, para. 3) <p><i>Guiding principle³ (iv): Each involuntary resettlement is conceived and executed as part of a development project or program.</i> ADB and executing agencies or project sponsors, during project preparation, assess opportunities for affected people to share project benefits. The affected people need to be provided with sufficient resources and opportunities to reestablish their livelihoods and homes as soon as possible, with time-bound action in coordination with civil works. (BP pp. 2-4, para.4)</p>	<p>ABD policy principles that are consistent with international best practice:</p> <ul style="list-style-type: none"> • Involuntary population displacement should be avoided or minimized whenever feasible by exploring all viable alternative project designs (WB, IDB, IFC, AfDB, OECD, WCD, and Kothari Guidelines)⁴. • All involuntary resettlement should be conceived and executed as development programs for the affected people. (WB, IDB, AfDB, WCD, Kothari Guidelines.) • All projects involving involuntary resettlement should provide sufficient investment resources and opportunities for resettlers to share in project benefits. (WB, IDB, AfDB, WCD, Kothari Guidelines.) <p>Gaps in ABD policy that should be enhanced:</p> <ul style="list-style-type: none"> • ADB sets as an objective that affected people must be assisted through rehabilitation to restore their standard of living to pre-project levels. This falls short of international best practice, which sets the objective of improving affected peoples’ social and economic well-being and standards of living. (WB, IFC, AfDB, and OECD). (<i>While ADB has language on improving affected peoples’ standard of living in several sections of the policy, improvement is not stated up front as a core</i>

¹ The current ADB policy on involuntary resettlement (1995) is detailed in section F2 of the *ADB Operations Manual*, a two-part section that consists of the *Bank Policies* on Involuntary Resettlement (cited in the matrix as “BP”) and the *Operational Procedures* on Involuntary Resettlement (cited in the matrix as “OP”).

² The principles of ADB’s policy are compared to those of the World Bank (WB), the International Finance Corporation (IFC), the Inter-American Development Bank (IDB), as well as the guidelines prepared on development-induced displacement by the Organization for Economic Cooperation and Development (OECD), the conclusions of the World Commission on Dams (WCD), and the Guidelines on Forced Evictions developed by the UN Special Rapporteur on the Right to Adequate Housing (“Kothari Guidelines”).

³ The ADB policy contains eleven “basic principles” that guide the planning and implementation of all resettlement-related activities. These are highlighted by citing them as “guiding principles” throughout the matrix.

⁴ The listing in parentheses of various peer institutions and guidelines following each policy principle implies that these institutions adhere to that same principle.

objective, as it is in the policies of the above-listed peer institutions.)

- ADB lacks a provision stating that, in every case, the alternative to refrain from carrying out the project (**the "non-action" alternative**) **should be seriously considered**, particularly if negative impacts on affected people will be severe. This principle is a core component of the IDB and AfDB policies, and the OECD, WCD, and Kothari Guidelines.
- ADB lacks an explicit objective to **minimize the disruption of affected peoples' lives and livelihoods**. (AfDB, IDB)
 - For example, the IDB states that “[t]he objective of the policy is to minimize the disruption of the livelihood of people living in the project’s area of influence...” (IDB OP-710, p. 1, II).
- The ADB policy **does not follow a rights-based approach** to involuntary resettlement; in fact, the word “rights” is essentially absent from the policy. The WB policy requires that affected people are informed of their rights and that they are offered choices among feasible options; the IDB policy recognizes customary and other rights of indigenous peoples; the Kothari Guidelines highlight the human rights obligations of states and international development institutions; and the WCD guidelines call for a rights-based approach, noting that “a rights based approach provides a principled basis for mediating development choices among competing interests.”
- The ADB policy **does not explicitly state the impoverishment risks** and negative impacts that tend to result from involuntary resettlement, whereas other institutions tend to include an opening section that explicitly acknowledges and describes the grave social and economic risks of involuntary resettlement activities, in order to place the policy in context. (WB, IFC, IDB, AfDB, OECD)
 - The AfDB, in addition to describing risks, states as one of their four key objectives the following: “To provide **explicit guidance** to Bank staff and to the borrowers on the conditions that need to be met regarding involuntary resettlement issues in Bank operations in order to mitigate the negative impacts of displacement and resettlement, and establish sustainable economy and society” (AfDB, p. 9, III.3.2).

SCOPE AND APPLICATIONS

<p>“Involuntary Resettlement” addresses social and economic impacts that are permanent or temporary and are</p> <ul style="list-style-type: none"> (i) caused by acquisition of land and other fixed assets, (ii) by change in the use of land, or (iii) restrictions imposed on land as a result of an ADB operation. (BP p.1, para. 2) <p>The term affected person includes any people, households, firms, or private institutions who, on account of changes that result from the project will have their (i) standard of living adversely affected; (ii) right, title, or interest in any house, land (including residential, commercial, agricultural, forest, and/or grazing land), water resources, or any other moveable or fixed assets acquired, possessed, restricted, or otherwise adversely affected, in full or in part, permanently or temporarily; and/or (iii) business, occupation, place of work or residence, or habitat adversely affected, with or without displacement. (BP p. 1 footnote 3)</p> <p>The involuntary resettlement policy applies to all ADB’s operations in DMCs. [This] includes (i) public sector project loans, program loans, sector loans, sector development program loans, financial intermediation loans, private sector loans or equity investments, and guarantees for funding of specific projects or subprojects; (ii) all project components regardless of the source of funding. (BP p. 1, para. 1 and footnote 1)</p> <p>The policy also covers actions conducted in anticipation of ADB operations. ADB conducts resettlement due diligence to determine whether there are any outstanding resettlement-related grievances that may undermine the investment. (OP p. 1, footnote 3)</p>	<p style="text-align: center;">ABD policy principles that are consistent with international best practice:</p> <ul style="list-style-type: none"> • Involuntary resettlement refers to both physical displacement (loss or relocation of land, shelter, other fixed assets) and economic displacement (loss of assets or access to assets that leads to loss of income sources or means of livelihood), permanently or temporarily. (WB, AfDB, IFC) • Affected people covered by the policy include those who may not be physically displaced by an ADB-financed project, but who nonetheless are negatively affected by project impacts (such as downstream flooding or loss of access to forests or fisheries) and that result in loss of means of livelihood. (WB, AfDB, WCD) • The policy applies to all ADB’s operations in developing member countries (IDB, AfDB). • The policy applies to all components of the project, regardless of the source of funding. (IDB, AfDB, WB.) <p style="text-align: center;">Gaps in ABD policy that should be enhanced:</p>
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COMPENSATION AND ENTITLEMENTS

The three important elements of the involuntary resettlement policy are:

- (i) compensation to replace lost assets, livelihood and income;
- (ii) assistance for relocation, including provision of relocation sites with appropriate facilities and services; and
- (iii) assistance for rehabilitation to achieve at least the same level of well-being with the project as without it. (BP p. 2, para. 4)

*Guiding principle (iii): **Replacing what is lost.*** If individuals or a community must lose all or part of their land, means of livelihood, or social support systems, so that a project might proceed, they will be compensated and assisted through replacement of land, housing, infrastructure, resources, income sources and services, in cash or kind, so that their economic and social circumstances will be at least restored to the pre-project level. All compensation is based on the principle of replacement cost. (BP pp. 2-4, para.4)

*Guiding principle (vi): **Social and cultural institutions.*** Institutions of the affected people, and, where relevant, of their hosts, are to be protected and supported. Affected people are to be assisted to integrate economically and socially into host communities so that adverse impacts on the host communities are minimized and social harmony is promoted.

Rehabilitation measures include restoration of access to public facilities, infrastructure, and services; and to cultural property and common property resources. Measures to mitigate loss of access to cultural sites, public services, water resources, grazing, or forest resources include establishment of access to equivalent and culturally acceptable resources, and income-earning opportunities. Such measures must be determined in

- ABD policy principles that are consistent with international best practice:**
- **Compensation alone is not enough** to restore, let alone improve, standards of living and livelihoods after displacement. Compensation should be just one part of a broader package of development assistance measures designed to genuinely rehabilitate affected people and that factor in their development needs and priorities. (WB, IDB, AfDB, OECD, WCD, Kothari Guidelines)
 - Compensation, when appropriate, is based on the principle of **replacement cost**. (WB, IFC, IDB, AfDB, OECD, WCD, Kothari Guidelines)
 - Affected people are **compensated for all lost assets** through **cash or replacement assets**. (WB, IDB, AfDB, OECD, WCD, Kothari Guidelines)
 - **Preference should be given to land-based resettlement strategies** for displaced persons whose livelihoods are land-based. (WB, IDB, AfDB, OECD, WCD, Kothari Guidelines)
 - Replacement **land should be better or at least equal** to the land from which affected people are being displaced. (WB, AfDB, IDB, OECD, WCD, Kothari Guidelines)
 - Compensation and rehabilitation measures should account for **common property resources, cultural property, public facilities and infrastructure**. (WB, IDB, AfDB, OECD, WCD, Kothari Guidelines)
 - Rehabilitation measures should focus on enabling affected people to reconstruct a **land-based or employment-based productive existence**, as a means to permanently improve or at least restore income and standards of living. (WB, IDB, AfDB, OECD, WCD, Kothari Guidelines)
 - Compensation and other assistance required for relocation must be provided **prior to displacement**. (WB, IDB, AfDB, OECD, WCD, Kothari Guidelines.)

<p>consultation with affected communities, whose rights might not be formally recognized in national legislation. Where people are seriously affected by the loss of assets, incomes, and employment, compensation solely for lost assets may not be adequate to restore their economic and social base. Such people will be entitled to rehabilitation assistance measures including restoring incomes and living standards. (BP p. 2, footnote 4)</p> <p>Policy preference is for integrating people dislocated from agricultural settings into similar settings. Land-based strategies may include provision of replacement land, ensuring greater security of tenure, and upgrading livelihoods of people without formal land titles. If suitable replacement land is unavailable, other strategies may be built around opportunities for retraining, skill development, wage employment, or self-employment, including access to credit. This is particularly important for indigenous peoples, whose degree of integration to mainstream society is limited. (OP p. 3, para. 11)</p> <p>For nonland assets, all eligible affected people, whether titled, legalizable, or nontitled, need to be compensated at replacement cost through cash or replacement assets. (OP p. 3-4, para. 12)</p> <p>All eligible affected people, including tenants and employees of affected businesses who stand to lose their jobs, incomes, or livelihoods because of project impacts, are entitled to receive one-time financial assistance to cover losses of the move, as well as economic and social rehabilitation. Such entitlements may include:</p> <ul style="list-style-type: none"> (i) relocation and transfer expenses; (ii) assistance for transitional income and livelihood support; (iii) compensation for crop or business losses; (iv) reestablishment of agricultural or business production; (v) assistance for income restoration; and (vi) assistance for restoring social services, social 	<ul style="list-style-type: none"> • Displaced people are entitlement to assistance prior to, during, and after the relocation or transition, until they have achieved the standards of living set out in the resettlement plan. (WB, IDB, AfDB, OECD, WCD, Kothari Guidelines) • The social and cultural institutions of the affected people, and, where relevant, of the host communities, should be protected and supported. (WB, IDB, AfDB, OECD, WCD, Kothari Guidelines) • Cultural considerations should be accounted for in identifying culturally appropriate resources, living conditions, and income-earning opportunities. (WB, IDB, AfDB, OECD, WCD, Kothari Guidelines) • Compensation and rehabilitation measures should be determined in consultation with the affected people. (WB, IDB, AfDB, OECD, WCD, Kothari Guidelines)
	<p>Gaps in ABD policy that should be enhanced:</p> <ul style="list-style-type: none"> • The ADB falls short of several of its peer institutions in adequately taking into account socio-cultural aspects of compensation. <ul style="list-style-type: none"> ○ For example, the IDB mandates that “the compensation and rehabilitation package must take adequate account of intangible assets, especially nonmonetary social and cultural assets and, particularly in the case of rural populations, of customary rights to land and natural resources” (IDB OP-710, p. 4, V.3). ○ Both the IDB and the AfDB state that “particular attention must be given to socio-cultural considerations, such as cultural or religious significance of land, vulnerability of the affected population, or the availability of in-kind replacement for assets, especially when they have important intangible implications” (IDB OP-710, p. 1, III.1; AfDB p. 9, III.3.2). • The ADB policy uses pre-project conditions as the baseline to which affected peoples’ standard of living must be restored, and fails to specify certain minimum standards that must be met. <ul style="list-style-type: none"> ○ For example, the IDB policies states: “Housing and service options, when included, will be appropriate for the social and cultural context and will, at the very least, meet minimum standards of shelter and access to basic services, regardless of conditions prior to resettlement” (IDB OP-710, p.

<p>capital, community property, and resources. (OP p.4, para. 13)</p> <p>Community and public resource losses to be considered as eligible for compensation include:</p> <ul style="list-style-type: none"> (i) common property resources, including water bodies, forest, woodland, pasture and community recreation, and cultural sites; (ii) public structures such as markets, health and educational facilities, water and washing points, and meeting houses; and (iii) infrastructure such as roads, bridges, and other transport lines; power facilities; telecommunication lines; and water sanitation and drainage facilities. (OP p. 4, para. 15) <p>Measures to improve the status of the poor and vulnerable people should focus on strategies to avoid further impoverishment and create new income opportunities. Among them are:</p> <ul style="list-style-type: none"> (i) reducing barriers, for example, to employment opportunities, such as project work; (ii) improving access to and delivery of essential services, including those that can be provided by the project; (iii) empowering people through good governance, sound participatory processes, and effective organization; and (iv) reducing vulnerability to poverty through asset-building strategies such as development grants, land-for-land, replacement housing of minimum standards, and increased security of tenure. (OP p. 4-5, para. 16) <p>While compensation is required prior to dispossession or displacement of affected people from their assets, the full resettlement plan implementation, which may require income</p>	<p>4, V.3).</p> <ul style="list-style-type: none"> • In general, the ADB policy is relatively weak in specifying measures for adequately mitigating risks to the most vulnerable groups, including women, poor, and indigenous peoples. (<i>This gap is more fully addressed in the “Indigenous Peoples,” “Vulnerable and Disadvantaged Groups,” and “Gender” sections of this matrix.</i>) • While the ADB policy includes language about the importance of time-bound actions and timely compensation and assistance, several peer institutions have stronger statements. <ul style="list-style-type: none"> ○ For example, the IDB states that “[t]hese measures must be taken in a timely manner to ensure that transitional hardships are not unnecessarily prolonged and do not result in irreparable harm” (IDB OP-710, p. 4, V.3). ○ The WB requires that “the resettlement plan...includes measures to ensure that the displaced persons are...provided prompt compensation...” (WB OP 4.12, para. 6(a) (iii)). ○ The WB also requires that “resettlement sites and moving allowances have been provided to displaced persons prior to displacement” (WB OP 4.12, para. 10) • The ADB policy does not make clear distinctions between the needs of rural and urban affected people. <ul style="list-style-type: none"> ○ The OECD guidelines, for example, recommend that, “[f]or rural resettlers, it is desirable to encourage “land for land” approaches, providing replacement land of productive potential at least equivalent to the lost land. For urban resettlers, the new site should ensure comparable access to employment, infrastructure, services, and production opportunities” (OECD, p.8). • The ADB policy does not incorporate principles of rights and choice into its compensation framework. In describing the design and implementation of compensation and rehabilitation measures, peer institutions’ policies include frequent mention of “rights,” “choices,” and “options.” (WB, IFC, ADB, AfDB) • In general, the ADB policy is relatively weak in provisions for meaningful participation and consultation of affected people in designing, or even being able
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<p>rehabilitation measures, might be completed only over a longer period of time after civil works have begun. Affected people will be provided with certain resettlement entitlements, such as land and asset compensation and transfer allowances, prior to their displacement, dispossession, or restricted access. (OP p. 10, footnote 19)</p>	<p>to choose among, compensation and rehabilitation measures. <i>(This gap is more fully addressed in the “Participation and Consultation” section of this matrix.)</i></p> <ul style="list-style-type: none"> ○ The WB, for example, requires that “[p]atterns of community organization appropriate to the new circumstances are based on choices made by the displaced persons. To the extent possible, the existing social and cultural institutions of resettlers and any host communities are preserved and resettlers’ preferences with respect to relocating in preexisting communities and groups are honored” (WB, OP 4.12, para. 13(c)). ○ The AfDB requires that “[t]he criteria for site selection should be explicit and should be discussed in detail with the affected families (i.e. both the relocates and their hosts)” (AfDB, p. 18, IV.4.1.6). <ul style="list-style-type: none"> • The ADB’s framework for compensation does not allow affected people who are displaced to receive direct shares in the project’s profits. Internationally-recognized expert on involuntary resettlement and author of the WB policy on involuntary resettlement, Michael Cernea, argues that displaced people should be viewed as “investors” in the project (by “investing” their land and/or other assets) and should thus be entitled to a share in the project’s profit, until the project comes to an end.
<p>LACK OF LAND TITLE AND CORRESPONDING ENTITLEMENTS</p>	
<p>Lack of formal legal title to land by any affected people is not a bar to ADB policy entitlements. In order to assist affected people who may not be entitled to compensation for loss of land under the applicable framework of the developing member country (DMC) concerned, eligible people are classified into three groups with respect to land title, each of which will have different entitlements as set out in Section C.</p> <ul style="list-style-type: none"> (i) Titled. Those who have formal legal rights to land, including any customary or traditional rights recognized under the laws of the country. (ii) Legalizable. Those who do not have formal legal rights to land when the affected population is recorded, but could claim rights to such land, under the DMC’s laws. (iii) Nontitled. Those who have no recognizable rights or claims to the land that they are occupying. 	<p style="text-align: center;">ABD policy principles that are consistent with international best practice:</p> <ul style="list-style-type: none"> • Indigenous groups, ethnic minorities, pastoralists, people who claim for such land without formal rights, and others, who may have usufruct or customary rights to affected land of other resources, often have no formal legal title to their lands. The absence of a formal title is not a bar to policy entitlements (WB, IDB, AfDB, IFC, OECD, WCD, Kothari Guidelines) <p style="text-align: center;">Gaps in ABD policy that should be enhanced:</p> <ul style="list-style-type: none"> • The ADB policy provides rehabilitation/development assistance to all eligible affected people, as well as full replacement compensation for non-land assets. However, whereas affected people who are “titled” and “legalizable” are entitled to receive compensation for lost land, “nontitled” people are not entitled to compensation for lost land—only for loss of non-land assets. <ul style="list-style-type: none"> ○ This falls short of international best practice as described in the OECD guidelines, for example, which state that affected people without formal

<p><i>Guiding principle (vii): No formal title.</i> Indigenous groups, ethnic minorities, pastoralists, people who claim for such land without formal rights, and others, who may have usufruct or customary rights to affected land of other resources, often have no formal legal title to their lands. The absence of a formal title is not a bar to ADB policy entitlements. (BP p. 3, 4.vii)</p> <p>Where land and assets are lost, titled and legalizable affected people are entitled to compensation, in the form of cash at replacement cost or replacement land, and to other assistance to at least restore their economic and social base. Whereas nontitled affected people, including displaced tenants, sharecroppers, and squatters, are entitled to various options of resettlement assistance, provided that they cultivated/occupied the land before the eligibility cutoff date. Resettlement assistance to nontitled affected people may also include replacement land, although there is no entitlement to this for such affected people. (OP p. 3, para. 11)</p> <p>If affected people with title to land have encroached from their legitimate landholding onto land that they do not own, they will be compensated only for the legitimately occupied piece and legitimate assets. (OP p. 3, footnote 9)</p>	<p>title or land rights “must be provided with adequate land, infrastructure, and other compensation. The absence of legal title to land by such groups should not be a bar to compensation.”</p> <ul style="list-style-type: none"> ○ The AfDB adheres to the same compensation framework, but specifies that, for non-titled affected people, the resettlement assistance that they receive in lieu of compensation for land must contain at minimum “land, housing and infrastructure” (AfDB, p. 12, III.3.4.3) ○ The WB includes specifications for provision of land to non-titled affected people through resettlement assistance: “Resettlement assistance may consist of land, other assets, cash, employment, and so on, as appropriate” (WB OP 4.12, footnote 20). <ul style="list-style-type: none"> • ADB does not explicitly recognize as legitimate certain non-material ties to land, such as spiritual or ancestral assets tied to the land. <ul style="list-style-type: none"> ○ For example, the AfDB policy states that: “Those who may not have formal legal rights to land and or other assets at the time of the census but can prove that they have a claim...that would be recognized under the customary laws of the country...may also include those people who may not be physically residing at the project site or persons who may not have any assets or direct sources of livelihood derived from the project site, but who have spiritual and/or ancestral ties with the land (e.g., graveyards, sacred forests, places of worship)” (AfDB p. 12, III.3.4.2(b)). • The ADB policy lacks specific criteria for defining the unit for compensation. <ul style="list-style-type: none"> ○ For example, the AfDB mandates that “[t]he definition of the unit of compensation (family or household) should anticipate and accommodate the land and housing needs for elderly sons and daughters to establish their own households” (AfDB, p. 17, IV.4.1.4).
ELIGIBILITY	
<p><i>Guiding principle (viii): Identification.</i> Affected people are to be identified and recorded as early as possible in order to establish their eligibility through a population record or census that serves as an eligibility cutoff date, preferably at the project identification stage, to prevent a subsequent influx of encroachers or others who wish to take advantage of such benefits. An eligibility cutoff date should be established as soon</p>	<p>ABD policy principles that are consistent with international best practice:</p> <ul style="list-style-type: none"> • Affected people are to be identified as early as possible in the project cycle (WB, IDB, AfDB, IFC, OECD, WCD, Kothari Guidelines). • The absence of a formal title is not a bar to policy entitlements. (WB, AfDB,

<p>as possible in the project cycle. (BP, p.3, para. 4 and footnote 8).</p> <p>To prevent an influx of ineligible nonresidents who might take advantage of project entitlements and speculate on land values, and to prevent speculation by eligible affected persons, the project will establish an eligibility cutoff date. (OP p. 2, para. 5)</p>	<p>IDB, OECD, WCD, Kothari Guidelines)</p> <ul style="list-style-type: none"> • Host communities (those communities living in areas to which affected peoples are resettled) are also eligible for various compensation, rehabilitation, and protection measures. (WB, AfDB, IDB, OECD, WCD)
<p>People moving into the project location, or assets that are constructed after the eligibility cutoff date are not entitled to compensation or other assistance. (OP p. 3, para. 10)</p>	<p>Gaps in ABD policy that should be enhanced:</p> <ul style="list-style-type: none"> • While the ADB requires that eligibility criteria be determined through a “population record or census,” this is not sufficient. A census is not enough. Eligibility criteria should be established through rigorous baseline socio-economic studies, prior to displacement, conducted by independent parties other than the borrower, as well as through consultation with local people and organizations. <ul style="list-style-type: none"> ○ The IDB, for example, has significantly stronger language on this issue: “The resettlement plan will include the results of consultations carried out in a timely and socio-culturally appropriate manner with a representative cross-section of the displaced and host communities... Care will be taken to identify the most vulnerable subgroups and to ensure that their interests are adequately represented in this process” (IDB OP-710, p. 4, V.2). ○ The WB states that actions to prepare the resettlement planning documents “may include, for example, developing procedures for establishing eligibility for resettlement assistance; conducting socioeconomic surveys and legal analyses; carrying out public consultation; identifying resettlement sites; evaluating options for improvement or restoration of livelihoods and standards of living; or, in the case of highly risky or contentious projects, engaging a panel of independent, internationally recognized resettlement specialists” (WB BP 4.12, footnote 5). • While the ADB policy has language on host communities embedded into various stipulations of the policy, it does not explicitly recognize them as an equally important group of affected people. <ul style="list-style-type: none"> ○ For example, the OECD guidelines state that: “Host communities that accept resettlers should be involved in the planning process and assisted to overcome possible adverse socio-environmental consequences from the resettlement.” ○ AfDB contains a number of specific provisions for protecting and improving the standards of living of the host communities, for example: “The host population should also be assisted to become additional

	<p>beneficiaries of these activities” (AfDB, p. 16, IV.4.1.1); and “Resettlers should be integrated socially and economically into host communities so that adverse impacts on host communities are minimized. Any payment due to the hosts for land or other assets provided to resettlers should be promptly compensated...” (AfDB, p. 11, III.3.3(d)).</p>
<p>PARTICIPATION AND CONSULTATION</p>	
<p><i>Guiding principle (v):</i> The affected people are to be fully informed and closely consulted. Affected people are to be consulted on compensation and/or resettlement options, including relocation sites, and socioeconomic rehabilitation. Pertinent resettlement information is to be disclosed to the affected people at key points, and specific opportunities provided for them to participate in choosing, planning and implementation options. Grievance redress mechanisms for affected people are to be established. Where adversely affected people are particularly vulnerable groups, resettlement planning decisions will be preceded by a social preparation phase to enhance their participation in negotiation, planning and implementations. (BP pp. 2-4, para.4)</p> <p>In each DMC, entitlements will generally be established in consultation with the affected people in accordance with applicable policies and laws, and ADB’s involuntary resettlement policy standards. (OP p. 4, para.14)</p> <p>Interventions are to be designed with participation by, and consultation with affected people, including the poor and vulnerable to ensure that their needs, priorities and preferences are addressed. Such participation and consultation need to be carried out in a transparent manner. (OP. p. 5, para. 17)</p> <p>The resettlement documents are to be developed in consultation with those affected... The planning process also requires consultation with and information dissemination to affected people. (OP p. 9, para. 34)</p>	<p>ABD policy principles that are consistent with international best practice:</p> <ul style="list-style-type: none"> • Affected people are to be fully informed and closely consulted, during planning, implementation and monitoring of resettlement activities. (WB, IDB, AfDB, OECD, WCD, Kothari Guidelines) • All resettlement documents are to be developed in consultation with those affected. (WB, IDB, AfDB, OECD, WCD, Kothari Guidelines) • Consultation is to be carried out as early as possible in the project cycle so that the views of the affected people are taken into account in formulating the compensation and rehabilitation measures. (WB, IDB, AfDB, OECD, WCD, Kothari Guidelines) <p>Gaps in ABD policy that should be enhanced:</p> <ul style="list-style-type: none"> • The ADB policy has relatively weak and vague language on ensuring meaningful participation of affected peoples; the policy mandates that they are <i>consulted</i> on compensation and rehabilitation measures, but does not facilitate or ensure their active participation in designing the upstream elements of the project. Other institutions have much stronger provisions. <ul style="list-style-type: none"> ○ For example, the AfDB policy is particularly strong in this regard: “[D]isplaced persons and host communities should be meaningfully consulted early in the planning process and encouraged to participate in the planning and implementation of the resettlement program. The displaced persons should be informed about their options and rights pertaining to resettlement. They should be given genuine choices among technically and economically feasible resettlement alternatives. In this regard, particular attention should be paid to the location and scheduling of activities. In order for consultation to be meaningful, information about the

<p>The population records, land assessment, asset inventory, and sample socioeconomic surveys are prepared in consultation with those affected. (OP p. 10, para. 35)</p> <p>The policy requires that the executing agency or project sponsor disseminates information to and closely consults affected people during resettlement planning and implementation. The consultation is to be carried out as early as possible in the project cycle so that the views of the affected people are taken into account in formulating the compensation and rehabilitation measures. Further consultation also takes place during resettlement plan implementation to identify and help address issues that arise. The public consultation process must be identified in the IPSA as well as described in resettlement plans and framework reports. (OP p. 12, para. 44)</p>	<p>proposed project and the plans regarding resettlement and rehabilitation must be made available to local people and national civil society organizations in a timely manner and in a form and manner that is appropriate and understandable to local people" (AfDB, p. 10, III.3.3(b)).</p> <ul style="list-style-type: none"> • The ADB policy lacks strong statements on creating genuine opportunities for affected people to participate in and shape project design and other upstream processes, whereas the WB and other institutions have much stronger requirements for such participation: <ul style="list-style-type: none"> ○ "The borrower informs potentially displaced persons at an early stage about the resettlement aspects of the project and takes their views into account in project design" (WB OP 4.12, para. 19). ○ "In projects involving involuntary restriction of access to legally designated parks and protected areas, the nature of restrictions, as well as the type of measures necessary to mitigate adverse impacts, is determined with the participation of the displaced persons during the design and implementation of the project" (WB OP 4.12, para. 7). ○ "The resettlement plan will include the results of consultations carried out in a timely and socio-culturally appropriate manner with a representative cross-section of the displaced and host communities. Consultations will take place during the design phase and will continue through the execution and monitoring of the plan, directly or through representative institutions and community organizations. Care will be taken to identify the most vulnerable subgroups and to ensure that their interests are adequately represented in this process" (IDB OP-710, p. 4, V.2). • The ADB policy does not contain sufficient provisions for ensuring the meaningful participation of vulnerable and disadvantaged groups. (<i>This gap is further addressed in the sections "Indigenous Peoples," "Vulnerable and Disadvantaged Groups," and "Gender."</i>) <ul style="list-style-type: none"> ○ The AfDB policy, for example, states: "Special measures need to be put in place to ensure full and effective participation of disadvantaged groups..." (AfDB, p. 17, IV.4.1.3). • The ADB policy does not contain any requirement for obtaining <i>broad community support</i>.
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	<ul style="list-style-type: none"> ○ The IFC <i>Policy on Social and Environmental Sustainability</i>, which outlines the principles that should guide implementation of all the Performance Standards, contains an explicit requirement that project sponsors obtain broad community support: “In addition, through its own investigation, IFC assures itself that the client’s community engagement is one that involves free, prior, and informed consultation and enables the informed participation of the affected communities, leading to broad community support for the project within the affected communities, before presenting the project for approval by IFC’s Board of Directors. Broad community support is a collection of expressions by the affected communities, through individuals or their recognized representatives, in support of the project” (IFC Sustainability Policy, para. 20). ○ The AfDB clearly states that “[p]roject planners should work to ensure that affected communities give their demonstrable acceptance to the resettlement plan and the development program, and that any necessary displacement is done in the context of negotiated settlements with affected communities” (AfDB, p. 10, III.3.3(a)) ○ The WCD concludes that projects are more effective when project sponsors and affected peoples negotiate “project-specific agreements, relating, for example, to benefit-sharing, resettlement or compensation.” Furthermore, WCD notes that “conflicts are exacerbated by the absence of an agreed approach and process for assessing and negotiating acceptable project outcomes” (<i>Dams and Development</i>, p. 7). The WCD report calls for gaining public acceptance of proposed projects: “Public acceptance of key decisions is essential for equitable and sustainable water and energy resources development” (<i>Dams and Development</i>, p. 34). • The ADB policy does not contain any requirement that project sponsors obtain the free prior informed consent of affected communities as a condition for going forward with a proposed project. Recognition and respect for the internationally recognized right to prior informed consent is a core principle of both the WCD conclusions and the Kothari Guidelines.
INFORMATION DISCLOSURE	
The policy requires that the executing agency or project sponsor disseminates information to and closely consults affected people during resettlement planning and implementation. (OP p. 12,	ABD policy principles that are consistent with international best practice:

<p>para. 44)</p> <p>Pertinent resettlement information is to be disclosed to the affected people at key points, and specific opportunities provided for them to participate in choosing, planning and implementation options. (BP pp. 2-4, para.4)</p> <p>The borrower or private sector sponsor shall make available the following to the affected persons:</p> <ul style="list-style-type: none"> (i) a draft resettlement plan before appraisal; (ii) a resettlement plan after completion of the final resettlement plan; and (iii) a revised resettlement plan resulting from a detailed technical design or change in scope of the project. (OP p. 12, para. 45) <p>The information from the documents specified in paragraph 45 can be made available as brochures, leaflets, or booklets, using local languages. For non-literate people, other communication methods should be used. (OP p. 13, para. 46)</p> <p>Resettlement information including measurement of losses, detailed asset valuations, entitlements and special provisions, grievance procedures, timing of payments and displacement schedule must be disclosed to the affected people. (OP p. 13)</p> <p>ADB shall post on its website</p> <ul style="list-style-type: none"> (i) before appraisal—a draft resettlement plan or framework (or both); (ii) no later than 14 calendar days after receipt of the final resettlement plan—the final resettlement plan; and (iii) no later than 14 calendar days after receipt of a revised resettlement plan—the revised resettlement plan. (OP p. 13, para. 47) 	<ul style="list-style-type: none"> • All relevant information must be disclosed to affected people in a timely manner at all important points in the project cycle. (WB, IDB, AfDB, WCD, Kothari Guidelines) • Information should be disclosed in a form that is understandable and accessible to all affected people. (WB, IDB, AfDB, WCD, Kothari Guidelines) ○ The borrower or private sector sponsor shall make available to the affected persons, and the Bank shall post on its website in a timely manner, the following: <ul style="list-style-type: none"> ○ a draft resettlement plan before appraisal; ○ a resettlement plan after completion of the final resettlement plan; and ○ a revised resettlement plan resulting from a detailed technical design or change in scope of the project. (WB, AfDB) <p>Gaps in ABD policy that should be enhanced:</p> <ul style="list-style-type: none"> • <i>Because information disclosure is so closely connected to meaningful consultation and participation, the points made in the previous section also apply here.</i> • The ADB does not contain sufficiently concrete recommendations as to how to ensure effective disclosure of relevant information. <ul style="list-style-type: none"> ○ For example, the AfDB states that “[t]he resettlement plan should include an explicit public information strategy. This would include the use of mass media, particularly radio and television, to advise the dates and times of public meetings, availability of documents, selection criteria, cut-off dates, and compensation measures...” (AfDB, p. 17, IV.4.1.3)
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INDIGENOUS PEOPLES	
<p>When significant indigenous peoples or ethnic minority issues are identified, as defined in OM Section F3, special attention will be paid to exploring viable alternative designs that will reduce or eliminate such impacts. (BP p. 4, footnote 10)</p> <p><i>Guiding principle (ix):</i></p> <p>The Poorest. Particular attention must be paid to the needs of the poorest affected people, and vulnerable groups that may be at high risk of impoverishment. This may include those without legal title to land or other assets, households headed by females. The elderly or disabled and other vulnerable groups, particularly indigenous peoples. Appropriate assistance must be provided to help them improve their socio-economic status. (BP pp. 2-4, para.4)</p> <p>[Opportunities for retraining, skill development, wage employment, or self-employment, including access to credit are] particularly important for indigenous peoples, whose degree of integration to mainstream society is limited. (OP p. 3, para. 11)</p>	<p>ABD policy principles that are consistent with international best practice:</p> <ul style="list-style-type: none"> • When significant indigenous peoples or ethnic minority issues are identified, special attention will be paid to exploring viable alternative designs that will reduce or eliminate such impacts. <p>Gaps in ABD policy that should be enhanced:</p> <ul style="list-style-type: none"> • The ADB policy prescribes very few special protections for indigenous peoples; the policies of several of their peer institutions are significantly stronger and more in line with obligations under international law: <ul style="list-style-type: none"> ○ For example, the IDB states that “[t]hose indigenous and other low-income ethnic minority communities whose identity is based on the territory they have traditionally occupied are particularly vulnerable to the disruptive and impoverishing effects of resettlement. They often lack formal property rights to the areas on which they depend for their subsistence, and find themselves at a disadvantage in pressing their claims for compensation and rehabilitation. The Bank, therefore, will only support operations that involve the displacement of indigenous communities or other low-income ethnic minority communities in rural areas, if the Bank can ascertain that: <ol style="list-style-type: none"> 1. the resettlement component will result in direct benefits to the affected community relative to their prior situation; 2. customary rights will be fully recognized and fairly compensated; 3. compensation options will include land-based resettlement; and 4. the people affected have given their informed consent to the resettlement and compensation measures. (IDB OP-710, pp. 2-3, IV.4) • The ADB policy does not recognize or respect indigenous peoples’ right to free, prior informed consent. <ul style="list-style-type: none"> ○ The IDB policy cited above requires that affected indigenous people “have given their informed consent to the resettlement and compensation measures” (IDB OP-710, pp. 2-3, IV.4). ○ The IFC Performance Standard 7 on Indigenous Peoples, while not officially recognizing the right to free prior informed consent, states that in the case of involuntary “relocation” of indigenous peoples, the project will not proceed unless the “client” (borrower) has reached agreement with

	<p>the affected indigenous peoples through good faith negotiations: “[t]he client will not proceed with the project unless it enters into a good faith negotiation with the affected communities of Indigenous Peoples, and documents their informed participation and the successful outcome of the negotiation” (IFC PS 7, para. 14).</p> <ul style="list-style-type: none"> • The ADB policy does not specify the importance of facilitating return to traditional lands and ancestral territory whenever feasible. <ul style="list-style-type: none"> ○ The IFC policy, for example, specifically requires that, “[w]here feasible, the relocated Indigenous Peoples should be able to return to their traditional or customary lands, should the reason for their relocation cease to exist” (IFC PS 7, para. 14).
<p>VULNERABLE AND DISADVANTAGED GROUPS</p>	
<p>The policy treats involuntary resettlement as a development opportunity and allows planners to manage impoverishment risks and turn the people dispossessed or displaced into project beneficiaries, particularly the poor and vulnerable, who may be disproportionately affected by resettlement losses (BP pp 1-2, para. 3).</p> <p><i>Guiding principle (ix):</i> The Poorest. Particular attention must be paid to the needs of the poorest affected people, and vulnerable groups that may be at high risk of impoverishment. This may include those without legal title to land or other assets, households headed by females. The elderly or disabled and other vulnerable groups, particularly indigenous peoples. Appropriate assistance must be provided to help them improve their socio-economic status. (BP pp. 2-4, para.4)</p> <p>The resettlement planning documents will, in each case, define the poorest and vulnerable groups, using, as appropriate, the poverty line as defined in the poverty partnership agreement with the DMC concerned, or other accepted ADB documents. A range of other documents may also provide information on poverty in the project area. (BP p. 4, footnote 9)</p>	<p>ABD policy principles that are consistent with international best practice:</p> <ul style="list-style-type: none"> • Particular attention must be paid to the needs of the poorest affected people and vulnerable groups that may be at high risk of impoverishment. (WB, IDB, AfDB, OECD, WCD, Kothari Guidelines) • Specific measures must be planned and implemented to mitigate risks to vulnerable groups and help them improve their socio-economic well-being. (WB, IDB, AfDB, OECD, WCD, Kothari Guidelines) <p>Gaps in ABD policy that should be enhanced:</p> <ul style="list-style-type: none"> • The ADB policy lacks sufficient provisions to ensure that the views and needs of vulnerable groups are incorporated in development decision-making. <ul style="list-style-type: none"> ○ The AfDB policy is particularly strong in this regard: “Particular attention should be paid to the needs of disadvantaged groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, and ethnic, religious and linguistic minorities; including those without legal title to assets, female-headed households. Appropriate assistance must be provided to help these disadvantaged groups cope with the dislocation and improve their status. Provision of health care services, particularly for pregnant women, and infants, may be important during and after relocation to prevent increases in morbidity and

<p>People requiring particular assistance, such as the poor and the vulnerable, including those without legal title to land, are identified to plan specific measures to mitigate hardships and to assist them in improving their livelihoods (OP p. 1, para. 4).</p>	<p>mortality due to malnutrition, the psychological stress of being uprooted, and the increased risk of disease. (AfDB, pp. 10-11, III.3.3(c))</p> <ul style="list-style-type: none"> ○ “[T]he needs of disadvantaged groups (landless, female headed households, children, elderly, minority ethnic, religious and linguistic groups, etc.) must be at the center of the development approach” (AfDB, Executive Summary, p. ii). <ul style="list-style-type: none"> • The ADB policy does not contain sufficient provisions for facilitating the meaningful participation of vulnerable and disadvantaged groups. <ul style="list-style-type: none"> ○ The AfDB policy, for example, states: “Special measures need to be put in place to ensure full and effective participation of disadvantaged groups...” (AfDB, p. 17, IV.4.1.3). • In general, the ADB’s definition of vulnerable groups is too narrow. The most glaring exclusion is that of children. Children are explicitly included as vulnerable groups in the WB and AfDB policies, as well as in the WCD conclusions and Kothari Guidelines (which emphasize the importance of ensuring that children have opportunities to participate in consultations). • Under the ADB policy, projects with anticipated impacts on vulnerable groups are not automatically categorized as “significant” projects. <ul style="list-style-type: none"> ○ The AfDB automatically classifies all projects that will impact vulnerable groups, however small in number, as projects with “significant” involuntary resettlement: “Any project that has adverse impacts on disadvantaged groups of ethnic, religious and linguistic minorities, or which affects the poorest and most marginalized communities who do not have the capacity to absorb such impacts, should be considered significant, requiring a full resettlement plan” (AfDB, p. 13, footnote 1).
<p>GENDER</p>	
<p>At all stages, resettlement identification, planning, and management will ensure that gender concerns are incorporated, including gender-specific consultation and information disclosure. This includes special attention to guarantee women’s assets, property and land-use rights; and to ensure the restoration of their income and living standards. (OP p. 1, para. 4)</p>	<p>ABD policy principles that are consistent with international best practice:</p> <ul style="list-style-type: none"> • At all stages, resettlement identification, planning, and management will ensure that gender concerns are incorporated, including gender-specific consultation and information disclosure. This includes special attention to guarantee women’s assets, property and land-use rights; and to ensure the restoration of their income

	<p>and living standards. (WB, IDB, AfDB, OECD, WCD, Kothari Guidelines).</p>
	<p>Gaps in ABD policy that should be enhanced:</p>
	<ul style="list-style-type: none"> • The ADB policy mandates the comprehensive inclusion of gender concerns, but lacks concrete specifications and requirements on how and when this must be done. Several peer institutions have significantly stronger provisions on gender. <ul style="list-style-type: none"> ○ The AfDB, for example, states that, “[t]he resettlement plan should also specify safeguards for the quality and quantity of land to be allocated for women in order to ensure means to achieve income generation and food security by an insertion of a specific protocol in the resettlement plan. In the absence of formal legal rights, land titles at the resettlement site or any grants included should be in the name of both spouses... Any compensation payments should be paid into a joint account in the name of both husbands and wives... Women’s groups should be involved in resettlement planning, management and operations and in job creation and income generation” (AfDB, p. 13, III.3.4.7). • The ADB policy does not contain sufficient provisions for facilitating the meaningful participation of women. <ul style="list-style-type: none"> ○ For example, the AfDB states that, for consultation, participation and information disclosure, “careful attention should be given in the organization of meetings. The feasibility of holding separate women’s meetings and fair representation of female heads of households, in addition to mixed meetings should be explored. Also, the way in which information is disseminated should be cautiously planned as levels of literacy and networking may differ along gender lines” (AfDB, p. 10, III.3.3.(b)). • The ADB does not explicitly encourage that resettlement activities contribute to women’s development aspirations and specifically the improvement of their status, whereas the AfDB, for example, states that “resettlement offers a unique opportunity for addressing gender inequality in land ownership and control” (AfDB, p. 17, IV.4.1.5). • In general, the minimal and vague language on gender found in the ADB policy fails to reflect the importance of gender-sensitive planning, as recognized in international best practice.

	<ul style="list-style-type: none"> ○ The OECD guidelines state that, “[s]ince women are to a great extent responsible for making the natural resource base productive (with their knowledge, skills and labor) and thereby contribute significantly to the well-being of their families, communities and national economies, planning for relocation should consider their preferences and should address their specific needs and constraints.” ○ During his term as UN Special Rapporteur on the right to adequate housing, Miloon Kothari found that there was such a great need to account for and specify women’s particular risks and needs in regards to forced displacement and eviction, that he developed an entire set of guidelines specifically on women and adequate housing. (Miloon Kothari, <i>Women and adequate housing: Study by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination</i>, March 2003, E/CN.4/2003/55, http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/E.CN.4.2003.55.En?Opendocument).
BUDGETING AND COST-BENEFIT ANALYSIS	
<p><i>Guiding principle (x):</i> The full resettlement costs are to be included in the presentation of project costs and benefits. This includes costs of compensation, relocation and rehabilitation, social preparation and livelihood programs as well as the incremental benefits over the without-project situation (which are included in the presentation of project costs and benefits). The budget also includes costs for planning, management, supervision, monitoring and evaluation, land taxes, land fees, and physical and price contingencies. Where loans include subprojects, components or investments prepared only after project approval and loans through financial intermediaries that are likely to cause involuntary resettlement, sufficient contingency allowance must be allocated for resettlement prior to approval of the loan. Similarly, resettlement plans should also reflect the timeframe for resettlement planning and implementation. (BP pp. 2-4, para.4)</p>	<p style="text-align: center;">ABD policy principles that are consistent with international best practice:</p> <ul style="list-style-type: none"> • The full resettlement costs are to be included in the presentation of costs and benefits, and included in the project budget. (WB, IDB, AfDB) • Relocation and rehabilitation may be included in ADB loan financing for the project to assure timely availability of the required resources and to ensure compliance with involuntary resettlement procedures. (WB, IDB, AfDB) • The budget must be sufficient to meet the resettlement plan’s activities, according to the established schedules coordinated with construction timelines. It must also contain assurances from the EA or project sponsor that sufficient funds will be made available as and when necessary for the efficient and timely implementation of resettlement activities specified in the resettlement plan. (WB, IDB, AfDB) <p style="text-align: center;">Gaps in ABD policy that should be enhanced:</p> <ul style="list-style-type: none"> • The ADB could include additional specifications to ensure that various negative
<p><i>Guiding principle (xi):</i></p>	

<p>Eligible costs of compensation. Relocation and rehabilitation may be considered for inclusion in ADB loan financing for the project, if requested, to assure timely availability of the required resources and to ensure compliance with involuntary resettlement procedures during implementation. (BP pp. 2-4, para.4)</p> <p>ADB may treat resettlement either as part of the main investment or as a free-standing resettlement project that is prepared, financed, and implemented in association with the main investment. (BP p. 2, footnote 7)</p> <p>Involuntary resettlement costs eligible for loan financing may include, for example, income restoration, relocation, site development, social preparation, monitoring and evaluation. (BP p. 4, footnote 11)</p> <p>The budget must be sufficient to meet the resettlement plan’s activities, according to the established schedules coordinated with construction timelines. It must also contain assurances from the EA (executing agency) or project sponsor that sufficient funds will be made available as and when necessary for the efficient and timely implementation of resettlement activities specified in the resettlement plan. (OP p. 10, para. 36)</p>	<p>impacts are not externalized and left out of the cost-benefit analysis.</p> <ul style="list-style-type: none"> ○ For example, the AfDB broadens the scope of the cost-benefit analysis, stating that “[t]he total cost of the project... should include the full cost of all resettlement activities, factoring in the loss of livelihood and earning potential among affected peoples. This attempt to calculate the ‘total economic cost’ should also factor the social, health, environmental and psychological impacts of the project and the displacement, which may disrupt productivity and social integration. The resettlement costs should be treated against economic benefits of the project and any net benefits to resettlers should be added to the benefit stream of the project” (AfDB, p. 11, III.3.3(f))
<p>PROJECT CATEGORIZATION</p>	
<p>Involuntary Resettlement Category A: Significant Significant means 200 or more people will experience major impacts, which are defined as:</p> <ul style="list-style-type: none"> (i) being physically displaced from housing, or (ii) losing 10% or more of their productive assets (income generating). <p>Involuntary Resettlement Category B: Not Significant Category B projects include involuntary resettlement impacts that are not deemed significant... (OP p. 5, para. 20)</p>	<p>ABD policy principles that are consistent with international best practice:</p> <ul style="list-style-type: none"> • ADB projects are classified into one of three categories: significant, not significant, or no involuntary resettlement impacts, with the greatest requirements for resettlement planning and reporting corresponding to projects deemed “significant” (Category A). Other peer institutions follow this same principle, though they lack the explicit breakdown into “A, B and C” categories. (WB, IDB, AfDB, OECD). • A project’s involuntary resettlement category is determined by its most resettlement-sensitive component.

<p>Involuntary Resettlement Category C No involuntary resettlement effects are foreseen in category C projects. (OP p. 6, para. 21)</p> <p>Screening for involuntary resettlement is to be conducted as early as possible in the project cycle, at the project concept stage where feasible... A project’s involuntary resettlement category is determined by its most resettlement-sensitive component... Classification is an ongoing process, and the involuntary resettlement category can be changed at any time with the approval of the CCO as more detailed information becomes available and project processing proceeds. However, in case of doubt in the early stages of project preparation, a resettlement-planning document must be prepared. (OP p. 6, para. 22)</p>	<ul style="list-style-type: none"> • Classification is an ongoing process, and the involuntary resettlement category can be changed at any time in the project if unforeseen changes arise. <p>Gaps in ABD policy that should be enhanced:</p> <ul style="list-style-type: none"> • The AfDB has a similar categorization framework, but with a more nuanced definition of “significant” involuntary resettlement: <ul style="list-style-type: none"> ○ “Significant is defined as meaning 200 or more persons will experience resettlement effects. In addition to this numerical guidance, project planners and the Bank should also determine the “significance” of a project by evaluating the severity of adverse impacts on disadvantaged groups... Any project that has adverse impacts on disadvantaged groups of ethnic, religious and linguistic minorities, or which affects the poorest and most marginalized communities who do not have the capacity to absorb such impacts, should be considered significant, requiring a full resettlement plan. (AfDB, p. 13, footnote 1)
<p>PLANNING AND DOCUMENTATION REQUIREMENTS</p>	
<p>[R]esettlement planning must be an integral part of project design, to be dealt with from the earliest stages of the project cycle... (BP p. 2, para. 4)</p> <p>For all public and private sector projects with involuntary resettlement, the EA and other project sponsors prepare and submit to ADB, before the first management review meeting or the private sector credit committee meeting, a draft resettlement planning document with time-bound actions and budgets that addresses the principles set out in paragraph 4 [of the BP]. A satisfactory resettlement plan/framework must be submitted by the EA or the project sponsors to ADB...before project appraisal. (BP p. 5, para. 6)</p> <p>Category A projects require a full resettlement plan. Some of these projects may require a resettlement framework prior to the full resettlement plan. (OP p. 5, para. 19)</p>	<p>ABD policy principles that are consistent with international best practice:</p> <ul style="list-style-type: none"> • Resettlement planning must be an integral part of project design, dealt with from the earliest stages of the project cycle (WB, IDB, AfDB, OECD, WCD, Kothari Guidelines). • The resettlement documents are to be developed in consultation with those affected. (WB, IDB, AfDB, OECD, WCD, Kothari Guidelines). • Adequate baseline data must be gathered to inform the planning documents. (WB, IDB, AfDB, OECD, WCD, Kothari Guidelines). • The ADB’s planning and reporting requirements can be summarized by the following guidelines from the OECD policy: <ul style="list-style-type: none"> ○ The content and level of detail of resettlement plans will vary with circumstances, especially the magnitude of resettlement. The plan should normally include provisions for the following:

<p>Category B projects... require a short resettlement plan. Some of these projects may require a resettlement framework prior to the short resettlement plan. (OP p. 5, para. 20)</p> <p>[Category C projects] neither require a resettlement plan nor a resettlement framework. (OP p. 6, para. 21)</p> <p>An initial poverty and social assessment (IPSA) is required for every development project and should be undertaken as early as possible in the project cycle, and preferably by the time of fact-finding for a PPTA or other project preparatory study or due diligence, so that appropriate measures and sufficient resources for resettlement planning can be included in the terms of reference for the feasibility study. (OP p. 6, para. 23)</p> <p>1. Full Resettlement Plan A full resettlement plan includes a statement of involuntary resettlement objectives and strategy, with (i) organizational responsibilities; (ii) community participation and disclosure arrangements; (iii) findings of the socioeconomic survey and social and gender analysis; (iv) legal framework, including eligibility criteria and an entitlement matrix; (v) mechanisms for resolution of conflicts and appeals procedures; (vi) identification of alternative sites and selection; (vii) inventory, valuation of, and compensation for, lost assets; (viii) landownership, tenure, acquisition, and transfer; (ix) access to training, employment, and credit; (x) shelter, infrastructure and social services; (xi) environmental protection and management; (xii) monitoring and evaluation; (xiii) a detailed cost estimate with budget provisions; and (xiv) an implementation schedule, showing how activities will be scheduled with time-bound actions in coordination with civil works. (OP p. 7, para. 26)</p> <p>2. Short Resettlement Plan A short resettlement plan covers the same issues as that of a full resettlement plan, as relevant, but in less detail. However, the</p>	<ul style="list-style-type: none"> • organizational responsibilities; • socio-economic survey; • community participation and integration with host populations; • legal framework; • valuation and compensation for lost assets; • land acquisition and productive re-establishment; • access to training and employment; • shelter, infrastructure, and social services; • environmental protection and management; and • a budget, time-bound action plans, implementation timetable, monitoring, and evaluation. (WB, IDB, AfDB, OECD) <p>Gaps in ABD policy that should be enhanced:</p> <ul style="list-style-type: none"> • ADB policy does not adequately specify the methodologies or requirements by which baseline data should be gathered. <ul style="list-style-type: none"> ○ For example, the WB policy requires that, “[i]n preparing the resettlement component, the borrower draws on appropriate social, technical, and legal expertise and on relevant community-based organizations and NGOs” (WB OP 4.12, para, 19). ○ The IDB requires that “[a]ccurate baseline information must be compiled as early as possible. It will include information on the number of people to be resettled, and on their socioeconomic and cultural characteristics, including disaggregation by gender. In addition, the data will provide an important basis for the definition of eligibility criteria, and compensation and rehabilitation requirements” (IDB, OP-710, p. 3, V.1) • The ADB policy does not include a requirement for identifying vulnerable groups, and corresponding special measures to be taken, in the list of requirements among those listed for inclusion in the Full Resettlement Plan (as described in the OP on p.7, para 26). Such a requirement is explicit in the policies of the AfDB and IDB) <ul style="list-style-type: none"> ○ “Care will be taken to identify the most vulnerable subgroups and to ensure that their interests are adequately represented in this process” (IDB OP-710, p. 4, V.2). • The ABD requirements for preparation of planning documents do not adequately
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<p>short resettlement plan must ensure that adequate compensation, rehabilitation and relocation arrangements and planned and budgeted. (OP. p. 7, para. 27)</p> <p>3. Resettlement Framework ...A resettlement framework sets out the broad magnitude of the scope, together with the policy, procedures, and capacity-building requirements for preparing future subprojects, components or investments... (OP p. 7, para. 28)</p> <p>A schedule for providing resources and opportunities for reestablishing housing, facilities, networks, incomes, and livelihoods prior to relocation should also be included in the resettlement plan (OP p. 9, para. 34)</p> <p>The resettlement plan must also provide a time-bound action schedule for project activities such as acquisition of land to ensure that affected people are individually compensated and assisted before civil works contracts are awarded or similar milestone events occur. (OP p. 10, para. 36)</p>	<p>emphasize the importance of ensuring meaningful consultation and participation of affected people in this process.</p> <ul style="list-style-type: none"> ○ The IDB, for example, has significantly stronger language on this issue: “The resettlement plan will include the results of consultations carried out in a timely and socio-culturally appropriate manner with a representative cross-section of the displaced and host communities...” (IDB OP-710, p. 4, V.2). ○ The AfDB requires that “displaced persons and host communities...should be encouraged to participate in the planning...of the resettlement program” (AfDB, p. 10, III.3.3(b)) <ul style="list-style-type: none"> • ADB planning and documentation requirements do not include measures to ensure rights or options. <ul style="list-style-type: none"> ○ The WB policy, for example, states: “The resettlement plan or resettlement policy framework includes measures to ensure that displaced persons are: <ul style="list-style-type: none"> ▪ informed about their options and rights pertaining to resettlement; ▪ consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives... (WB OP 4.12, para. 6)”
COMPLIANCE, REPORTING AND SUPERVISION	
<p>Resettlement is reviewed throughout the project implementation, with reviews being planned from the outset to allow the government or project sponsors and ADB to make necessary adjustments to address the involuntary resettlement policy principles during implementation. Since complete recovery can be protracted, reports on involuntary resettlement are required at project completion and may be required, sometimes even after project facilities are commissioned. (BP p. 5, para. 6)</p> <p>To ensure proper and timely implementation of the resettlement plan/framework and adherence to agreed land acquisition and involuntary resettlement covenants, ADB requires, for all involuntary resettlement category A and B projects, that (i) EAs or project sponsors submit quarterly or semiannual progress reports, as deemed necessary by ADB, on implementation of</p>	<p style="text-align: center;">ABD policy principles that are consistent with international best practice:</p> <ul style="list-style-type: none"> • Borrowers/executing agencies/project sponsors must submit quarterly or semiannual progress reports, as deemed necessary by ADB, on implementation of resettlement plans. • Since complete recovery can be protracted, reports on involuntary resettlement are required at project completion and may be required, sometimes even after project facilities are commissioned. (WB, IDB, OECD, WCD) • Monitoring and evaluation reports are required, preferably from an external monitoring and evaluation agency. (WB, IDB, OECD, WCD) • Grievance mechanisms should be established for affected people. (WB, IDB,

<p>resettlement plans; and (ii) this requirement must be reflected in the loan agreements. Monitoring and evaluation reports are required, preferably from an external monitoring and evaluation agency. (OP p. 13, para. 49)</p> <p>For category A projects, an ADB supervision mission is fielded to reassess involuntary resettlement preparations prior to their implementation. (OP p. 13, para. 49)</p> <p>All major changes in scope need to be screened by operations departments for resettlement significance, using the involuntary resettlement checklist, and classified in accordance with the appropriate procedures. (OP p. 14, para. 52)</p> <p>To ensure proper documentation of the actual involuntary resettlement impacts and the successful implementation of the resettlement plan, the project or program completion report prepared by ADB’s operational departments includes (i) a concise history of the involuntary resettlement aspects of the project and/or program to completion, (ii) an evaluation of the implementation of the resettlement plan and/or resettlement framework and involuntary resettlement loan covenants, (iii) an assessment of the executing agency’s performance; and (iv) a summary of the external monitoring and evaluation reports. (OP pp. 14-15, para. 54)</p>	<p>AfDB, OECD, WCD, Kothari Guidelines)</p> <p>Gaps in ABD policy that should be enhanced:</p> <ul style="list-style-type: none"> • ADB policy does not contain adequate provisions for ensuring that resettlement components are supervised throughout implementation. (The policy only states that, “for category A projects, an ADB supervision mission is fielded to reassess involuntary resettlement preparations prior to their implementation.” <ul style="list-style-type: none"> ○ The WB, in contrast, mandates that “the Bank regularly supervises resettlement implementation to determine compliance with the resettlement instrument. (WB OP 4.12, para. 24) (<i>The WB has several paragraphs of detailed supervision requirements in paragraphs 13-16 in BP 4.12</i>). ○ “Resettlement components will be supervised throughout the implementation of the project” (AfDB, p. 21, IV.4.2.5). • The ADB policy has insufficient specifications as to how long supervision must continue. <ul style="list-style-type: none"> ○ The WB clearly states that “[a] project is not considered complete—and Bank supervision continues—until the resettlement measures set out in the relevant resettlement instrument have been implemented” (WB BP 4.12, para. 16). • The ADB policy does encourage monitoring by an external evaluation agency, but in general relies heavily on client-generated information through submission of reports. <ul style="list-style-type: none"> ○ The WB specifically encourages such external evaluation through the following provision: “For projects that are highly risky or contentious, or that involve significant and complex resettlement activities, the borrower should normally engage an advisory panel of independent, internationally recognized resettlement specialists to advise on all aspects of the project relevant to the resettlement activities. (WB OP 4.12, endnote 22) ○ This is in line with the best practice described in the OECD guidelines: “Review missions should be staffed with the requisite economic, sociological, and technical expertise.” (OECD, AfDB) <p>The ADB focuses their monitoring of compliance on evaluating planning documents and progress reports, but is not very specific about the indicators on which they are</p>
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	<p>assessing compliance.</p> <ul style="list-style-type: none"> ○ The IDB, in contrast, is explicit about their focus on conditions on the ground at resettlement sites: “The monitoring activities will focus on compliance with the resettlement plan in terms of the social and economic conditions achieved or maintained in the resettled and host communities. ...Whenever possible, qualitative and quantitative indicators will be included as benchmarks to evaluate those conditions at critical time intervals related to the progress of overall project execution. The final evaluation will be scheduled at a target date estimated for completion of the plan, defined as the date on which it is expected that the living standards the plan was designed to provide are achieved. ...In all cases, independent supervision and multidisciplinary evaluation will be provided to the extent required by the complexity of the respective resettlement plan” (IDB OP-710, p. 5, V.7). (<i>The AfDB has essentially identical language in section IV.4.3.20</i>). ○ This is in line with the international best practice described in the OECD guidelines: “<i>Ex post evaluation: The project completion report should evaluate the outcome of resettlement and its impact on the standards of living of the resettlers and the host population.</i>” <ul style="list-style-type: none"> ● The ADB policy does not include explicit provisions for ensuring that monitoring has participatory components (as recommended by the OECD, WB and WCD)
ROLES AND RESPONSIBILITIES OF ADB AND BORROWERS	
<p>ADB’s support for projects requiring significant involuntary resettlement includes the offer of assistance to executing agencies (EAs) and other project sponsors, through grant or loan financing, to adopt and implement the above basic principles of ADB’s involuntary resettlement policy within their own legal, policy administrative, and institutional frameworks. Similarly, ADB may also offer assistance to build the capacity of the EA and other project sponsors to prepare and implement the agreed resettlement planning document effectively, to enhance a DMC’s national standards and capacities for involuntary resettlement, and to develop consistent sector standards. (BP pp.4-5, para. 5)</p> <p>ADB informs the executing agency (EA) or other project</p>	<p style="text-align: center;">ABD policy principles that are consistent with international best practice:</p> <ul style="list-style-type: none"> ○ The borrowing agency/project sponsor/government of the country in which the project is carried out has the primary responsibility for planning, implementing and monitoring resettlement issues. (WB, IDB, AfDB, OECD, Kothari Guidelines) ● ADB supports executing agencies and other project sponsors through: <ul style="list-style-type: none"> a) assistance in designing and assessing resettlement policy, strategies, laws, regulations, and specific plans; b) financing technical assistance to strengthen the capacity of agencies responsible for resettlement; c) direct or indirect financing as appropriate of the investment costs of

<p>sponsors of the involuntary policy and related OM requirements. Starting early in the project cycle, ADB assesses government policies, experiences, institutions and the legal framework for involuntary resettlement to address any inconsistencies with the policy. (OP p. 2, para. 6)</p>	<p>resettlement; and d) encouraging co-operative relations between the government and recipient countries and support for NGOs representing the resettled and indigenous populations. (WB, AfDB, OECD,)</p>
<p>The responsibility for planning and implementing involuntary resettlement rests with the EA or other project sponsors. ADB offers support for the efforts of the EA or other project sponsors, when considered necessary for involuntary resettlement policy compliance, for (i) formulating and implementing resettlement policies, strategies and plans; (ii) providing technical assistance to strengthen the capacity of agencies responsible for involuntary resettlement; and (iii) financing eligible resettlement costs through loan financing, if requested. (OP p. 2, para. 7)</p> <p>Borrower’s Responsibilities: The following are essential in the preparation and review of resettlement planning documents:</p> <ul style="list-style-type: none"> (i) All ADB requirements must be met. (ii) ADB staff must request the borrower to follow the formats for resettlement planning documents in the ADB-prescribed <i>Handbook on Resettlement</i>. Some departure from ADB’s recommended report format may be accepted, if the documents cover all the major elements of planning. <p>In preparing the resettlement planning documents, ADB required the borrower to take into account the views of the affected groups and civil society groups where relevant, including nongovernmental organizations. (OP p. 15-16, para. 58)</p>	<p>Gaps in ABD policy that should be enhanced:</p> <ul style="list-style-type: none"> • The ADB lacks the following strong statement, made in both the WB and AfDB policies: “Borrower commitment to, and capacity for, undertaking successful resettlement is a key determinant of Bank involvement in a project. (WB OP 4.12, para. 18; also AfDB, p. 13, III.3.4.5) ○ The Kothari Guidelines state that, while States bear the primary responsibility for applying human rights and humanitarian norms, “this does not, however, absolve other parties, including project managers and personnel, international financial and other institutions or organizations, transnational and other corporations, and individual parties, including private landlords and landowners, of all responsibility.”