



Ministry of Planning and Investment



**Asian Development Bank
Viet Nam Resident Mission**

**HANDBOOK
ON
PROCESSING AND IMPLEMENTATION
OF ADB-FINANCED PROJECTS
IN VIET NAM**

**Ha Noi, Viet Nam
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FOREWORD

To improve the implementation performance and development impact of Official Development Assistance (ODA) projects and programs in Viet Nam, the Ministry of Planning and Investment (MPI), in cooperation with the Asian Development Bank (ADB), previously developed the Handbooks for ADB-Financed Project Processing and Implementation in Viet Nam in 2002 and 2004. With continual changes in regulations and procedures in respect to ODA utilization and implementation, and with the need to constantly improve the understanding of the various processes by the different ODA users, an update of these regulations and procedures is contained in this Revised Handbook. The Handbook covers various phases of the Project Cycle, from project identification and preparation, to implementation and hand-over.

The Handbook has been drafted based on the current regulations and procedures on ODA project management issued by the Government of Viet Nam and ADB, as well as from various experiences and lessons-learned in the implementation of ODA programs and projects. Project Managers and Management Staff of ADB-financed programs and projects, as well as other persons from Line Ministries/Agencies who may be involved in ODA activities, are encouraged to use this Handbook as a useful reference tool in clarifying the various Government of Viet Nam and ADB processing and implementation processes. However, while this Handbook can provide a first hand reference, it does not replace the more detailed documents on regulations and procedures of both the Government of Viet Nam and ADB, and it is these documents that must be referred to if further understanding is required.

During the course of the preparation of the Handbook, valuable comments and suggestions were received from staff of various Government Ministries/Agencies and ADB, as well as from many staff involved in the preparation and implementation of ADB-financed programs and projects, and various independent experts. We wish to express our appreciation and sincere thanks for the various contributions and comments provided by these persons.

Should there be any comments or suggestions on the contents of this Handbook, please submit them to the following offices:

Ministry of Planning and Investment		Viet Nam Resident Mission
Foreign Economic Relation Department		Asian Development Bank
No 2 Hoang Van Thu, Ha Noi	Or	Unit 701 – 706, Sun Red River Building
		No. 23 Phan Chu Trinh, Ha Noi

INTRODUCTION

The purpose of this Handbook is to clarify the regulations and procedures of both the Government of Viet Nam and ADB in the processing and implementation of ADB-financed programs and projects in Viet Nam. The regulations and procedures listed in this Handbook are extracted from the Government's current legal documents and ADB's Project Administration Instructions, Operations Manuals, and other relevant policies and procedures, which are available. The various project cycle processes of both the Government and the ADB are summarized and compared in the Handbook as are the different policies and procedures. While there are many common steps in the various processes, there are differences in procedures, and this Handbook is expected to facilitate and encourage staff from Line Agencies, Project Owners, Project Management Units, and ADB Project Officers in better understanding these differences and to undertake each step of the project cycle in a more "harmonized" manner in order to accelerate project processing and implementation. The Handbook also provides details on some of the more common generic issues and problems involved in project preparation and implementation.

The Handbook consists of six Chapters and an Appendix.

- Chapter I provides an overview on ADB and its cooperation with Viet Nam.
- Chapter II lists the general regulations of the Government on ODA management and ADB policies and procedures on ADB-financed projects.
- Chapter III details the procedures for processing and implementation of technical assistance projects.
- Chapter IV details the procedures for processing and start-up of loan projects and programs.
- Chapter V covers procedures for project implementation.
- Chapter VI details the procedures for processing and implementation of other types of loans including sector loans, program loans, and sector development programs.
- Appendix provides a list of key legal and policy documents on ODA project management.

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ACRONYMS AND ABBREVIATIONS

ADB	Asian Development Bank
ADF	Asian Development Fund
ADTA	Advisory Technical Assistance
AFTA	ASEAN Free Trade Area
AM	Aide Memoire
AMT	Aligned Monitoring Tool
CCBP	Comprehensive Capacity Building Program
CDTA	Capacity Development Technical Assistance
COBP	Country Operations Business Plan
CoP	Community of Practice
COS	Country Operational Strategy
COSO	Central Operations Services Office
CSP	Country Strategy and Program
DMC	Developing Member Country
EA	Executing Agency
EIA	Environmental Impact Assessment
ERD	Economics & Research Department
FDI	Foreign Direct Investment
FFM	Fact-finding Mission
FS	Feasibility Study
GDP	Gross Domestic Product
GMS	Greater Mekong Subregion
GNP	Gross National Products
IED	Independent Evaluation Department
IMF	International Monetary Fund
LA	Line Agency
LIBOR	London Interbank Offered Rate
MDBs	Multilateral Development Banks
MDG	Millennium Development Goal
MFF	Multitranchise Financing Facility
MOF	Ministry of Finance
MOFA	Ministry of Foreign Affairs
MOJ	Ministry of Justice
MONRE	Ministry of Natural Resources and Environment
MOU	Memorandum of Understanding
MPI	Ministry of Planning and Investment
MRM	Management Review Meeting
MTS	Medium-Term Strategy
NGO	Non-government Organization
OCO	Office of Co-financing Operations
OCR	Ordinary Capital Resources
ODA	Official Development Assistance
OGC	Office of General Counsel
OM	Operational Manual
OOG	Office of Government
OREI	Office of Regional Economic Integration
PAI	Project Administration Instructions
PAM	Project Administration Memorandum
PATA	Policy and Advisory Technical Assistance

PBA	Performance-based Allocation
PCP	Project Concept Paper
PD	Project Document
PDO	Project Detailed Outline
PGAE	Partnership Group on Aid Effectiveness
PM	Prime Minister
PMU	Project Management Unit
PO	Project Owner
PPMS	Project Performance Management System
PPR	Project Progress Report
PPTA	Project Preparatory Technical Assistance
PPU	Project Preparation Unit
QCBS	Quality & Cost Based Selection
RCP	Regional Cooperation Policy
RDTA	Research and Development Technical Assistance
RRP	Report and Recommendation of the President
RSDD	Regional and Sustainable Development Department
SBV	State Bank of Viet Nam
SEDP	Socio-Economic Development Plan
SERD	Southeast Asia Department
SRC	Staff Review Committee
SSTA	Small Scale Technical Assistance
TA	Technical Assistance
TCR	Technical Assistance Completion Report
TOR	Terms of Reference
VRM	Viet Nam Resident Mission (ADB)
WTO	World Trade Organization

TERMINOLOGIES

Government of Viet Nam defines the following terms as provided in Decree 131/2006/ND-CP:

- *ODA Management and Utilization Procedures* are activities carried out in the following steps:
 - Set up the list of ODA programs and projects to seek ODA funding from respective donors;
 - Prepare the programs/projects including the agreement signing of the programs/projects;
 - Implement the programs/projects;
 - Monitor and evaluate programs/projects (including post evaluation), acceptance, financial finalization and handing over of the programs/projects;
- *ODA Request List* comprises of programs, projects, which the MPI consolidates from the list requested for financing from line agencies and submits to the Prime Minister (PM) for approval in accordance with Article 8 of Decree 131/2006/ND-CP as a basis for ODA mobilization for each donor.
- *Official ODA Funding List* is the portfolio of projects, programs in the ODA Request List for which respective donors have in principle agreed to provide funds.
- *Project* is a combination of inter-related activities aiming to achieve one or several defined objectives and implemented in specific locations, under a given time frame by using defined resources. Project includes investment projects and technical assistance projects.
- *Investment Project* is a project for new development, expansion or rehabilitation of a certain physical infrastructure in order to achieve a quantitative growth or to maintain, renovate, and improve the quality of products or services, implemented in specific locations under a given time frame. Investment project can be classified in the two following types:
 - *Investment Construction Project* is an investment project related to new construction, expansion, or rehabilitation of construction works with the aim to develop, maintain and improve the quality of construction works, products, and services.
 - *Other Investment Project* is an investment project other than the investment construction project.
- *Technical Assistance Project* is a project with the aim of building capacity, strengthening institutions, or providing technical inputs for preparation and implementation of programs and projects by providing consultants and training, equipment, materials and documentations, study tours, workshops and seminars.
- *Projects of National Importance* are the projects that the National Assembly approves and makes an investment decision about in accordance with the current regulation.

- *Program/Project Associated with Policy Framework* is a program/project having macro, sectoral economic reform policies and measures which Government of the Socialist Republic of Viet Nam commits to implement in accordance with a given road map with financial and/or technical support from donor(s).
- *Program* is a combination of inter-related activities and/or projects, which may relate to one or more sectors, fields, geographical areas, various stakeholders in order to achieve one or more defined objectives during an extended implementation period or through many stages, and resources for such implementation may be mobilized from various resources at different stages and in different modalities.
- *Sector or Program-based Approach* is an ODA delivery modality where donors provide synchronous assistance based on the Government's development plan for a specific sector or a field to ensure sustainable and effective development of such sector or field.
- *Budget Support* is a delivery modality of ODA, where the ODA assistance is not linked to specific project, but directly transferred to the State budget of the Socialist Republic of Viet Nam, and is managed and utilized in accordance with the Vietnamese budget regulations and procedures.
- *Untied Loan or Grant Aid* is the ODA in the form of loan or grant aid, which is provided without tied conditions related to the supply and procurement of goods and services.
- *Tied Loan or Grant Aid* is the ODA in the form of loan or grant aid, which is provided with conditions related to the supply and procurement of goods and services from some specific suppliers or countries decided by donor(s).
- *International Treaty on ODA* is a written agreement in the name of the Vietnamese State or in the name of the Government of Socialist Republic of Viet Nam with one donor or more on ODA-related matters. International treaty on ODA includes:
 - *Framework International Treaty on ODA* is an international agreement on ODA which demonstrates commitments to common principles and conditions on development cooperation, with contents pertaining to strategies, policies, development cooperation framework, priority orientations in ODA delivery and utilization; areas, programs or projects agreed to be financed, ODA framework conditions and commitments for projects and programs for one or many years; principles regarding the procedures and plans for the management and implementation of programs and projects.
 - *Specific International Treaty on ODA* is an international agreement on ODA which demonstrates financial commitments for specific programs and projects or budget support with the following main contents: objectives, activities, outcomes to be achieved, implementation plans, financing conditions, capital, capital structure, obligations, authorities and responsibilities of each party, principles and standards to be complied with in the management and implementation of programs, projects and disbursement conditions as well as conditions on repayment of loans for programs, projects.
- *Line Agencies (LAs) of ODA Programs/Projects* (Agency or Institution makes investment decision for an investment project or Person who approves technical assistance project) are ministries, ministerial-level agencies, agencies directly under the Government, central

agencies of social and political organizations, professional organizations, agencies directly under the National Assembly, the People's Supreme Court, the People's Supreme Procuracy, and People's Committees of provinces and centrally-run cities (hereinafter called "Provincial People's Committees"), having programs and projects.

- *Owner of ODA Programs/Projects* (Investment Owner with regard to investment programs/projects, Project Owner with regard to technical assistance programs/projects - hereafter referred as *Project Owner*) is an institution assigned by the PM or LAs prescribed in Clause 15 of Decree 131/2006/ND-CP to take responsibility for direct management and utilization of ODA fund and counterpart fund for implementing programs and projects in accordance with the contents approved by relevant competent authorities as well as for managing and using the outputs after the completion of programs/projects.
- *Counterpart Fund* is the contribution in kind and/or value from Vietnamese resources for preparing and implementing ODA programs, projects as specifically prescribed in Article 26 of Decree 131/2006/ND-CP.
- *Project Management Unit* means an organization established to assist LA or Project Owner (PO) in implementation of program/project¹.

ADB uses the following terms:

- *Project Concept Paper (PCP)* is a document prepared by ADB project staff at the time of project identification describing the general contents of the project and its relationship to the Government's overall development goals and objectives. PCP is prepared for a Technical Assistance (TA) support or a Loan. PCP prepared by ADB Project Officer is equivalent to the Project Detailed Outline (PDO) prepared by the LA from the Government side during project identification stage.
- *Report and Recommendation of the President (RRP)* is a document prepared by ADB staff assessing the overall viability of the project for ADB financing and sets out the terms and conditions proposed for the loan project, and seeks approval from ADB's Board of Directors.
- *Loan Agreement* is a legal document describing ADB's terms and conditions of the loan including agreed arrangements for procurement of goods and services under the project, disbursing funds from the loan account, and other loan conditionalities.
- *Technical Assistance (TA)* is a service used to assist countries to identify and design projects, improve institutions, formulate development strategies, or foster regional cooperation. TA can be financed by grants, or - more rarely - loans through ADB's financing arrangements.
- *TA Loans* are generally provided to finance detailed engineering of a project prior to loan financing.

¹ Circular 03/2007/TT-BKH dated 12 March 2007 Guiding on Organizational Structure, Functions, and Responsibilities of ODA Program/Project Management Units

- *Project Loan* is a loan provided by ADB to a Developing Member Country (DMC) to implement an investment project.
- *Program Loan* is a loan provided by ADB to help the Government develop a sector (or subsector, sectors) as a whole and improving the performance of a sector through appropriate policy and institutional improvements over the medium to long term. Program loans are relatively quick disbursing to cover the immediate adjustment costs arising from policy reform. The ADB program loan is equivalent to the Government's Program/Project concept associated with policy framework activities.
- *Sector loan* is a form of ADB assistance to a DMC for project-related investment based on considerations relating to a sector or subsector of the DMC as a whole. The purpose of a sector loan is to assist in the development of a specific sector or subsector by financing a part of the investment in the sector planned by the DMC. Such lending is particularly appropriate when a large number of subprojects in the sector or subsector are to be financed. A sector loan is expected to improve sector policies and strengthen institutional capacity.
- *Sector Development Program* is a combination of an investment (project or sector) component and a policy-based (program) component as well as, where appropriate, attached TA, with a view to meeting sector needs in a comprehensive and integrated fashion. The sector development program is not a separate lending modality, but represents a combination, under appropriate circumstances, of policy and investment-based assistance. Sector development program is equivalent to the Government's Sector or Program-based approach concept.
- *Borrower* is a DMC of ADB which is eligible to receiving loans or grants.
- *Executing Agency (EA)* is an agency of a borrower, which is assigned by the Government to execute the project/program. EA is equivalent to the Government's LA.

CHAPTER I

OVERVIEW OF ADB AND THE COOPERATION BETWEEN ADB AND VIET NAM

A. OVERVIEW OF ADB AND ITS OPERATIONAL FEATURES

1. Members of ADB

ADB was established in 1966. As of February 2007, ADB consists of 67 members (or 66 members excluding Hong Kong), of which 48 members (or 47 members excluding Hong Kong) are in Asia and the Pacific. As a Multilateral Development Bank, the ADB supports the economic and social development of its DMCs and fosters economic growth and cooperation in the region.

Under its Strategy 2020, a long-term strategic framework adopted in 2008, ADB will follow three complementary strategic agendas: inclusive growth, environmentally sustainable growth, and regional integration.

2. Financial Resources of ADB

The financial resources of ADB consist mainly of: Ordinary Capital Resources (OCR), Asian Development Fund (ADF), Technical Assistance Special Fund (TASF), Japan Special Fund (JSF), and ADB Institute Special Fund (ADBISF) and other special funds. ADB's lending activities are divided into two major categories: Ordinary and Special Operations. ADB loans are mainly provided for projects with high developmental priority in fields and sectors such as agriculture, energy, transport and communication, water supply and sanitation, education, health, financial sector, and private sector. TA grants are mainly used for loan preparation and supporting advisory activities of policy reform and capacity building.

OCR comprises three distinct financing sources: (i) paid-in capital (subscribed capital); (ii) funds raised through borrowing in the international financial market; and (iii) accumulated retained income (reserves). OCR loans are based on prevailing market interest rates (LIBOR plus a variable spread to cover administrative costs).

The ADF was established in 1974 as ADB's concessional resource. It is presently funded by periodic replenishment from 26 donor member countries. Its borrowers are DMCs with low per capita gross national product (GNP) and limited debt repayment capacity or access to affordable market-based funding resources.

3. Financing Instruments and Assistance Modalities

ADB provides different financial instruments to both governments and private sector in the DMCs based on the priorities of its members. The financing instruments used by ADB include loans, TAs, guarantees (using reputation and political risks) and equity investment

In August 2005, four additional financing instruments and modalities were introduced. Three of these have been implemented on pilot basis from September 2005 to August 2008 under the Innovation and Efficiency Initiative. These are multi-tranche financing facility (MFF), non-sovereign public sector financing facility, and refinancing facility. The new financing instruments are intended to provide ADB's clients and operational

teams with additional financing alternatives to help finance development in large individual projects and long-term investment programs arising from country-based sector road maps.

Borrowing member countries are classified into four groups, based on the per capita GNP and debt repayment capacity, and are as follows: (i) ADF only countries (Group A); (ii) ADF with limited amount of OCR (Group B1); (iii) OCR with limited amount of ADF (Group B2); and (iv) OCR only countries (Group C). Viet Nam is currently ranked in Group B1, and is eligible for ADF and OCR financing.

At present, ADB provides assistance to DMCs through different financing modalities, including (i) project (investment and TA projects using loans; investment and TA projects using grants); (ii) sector development support (sector development programs) and (iii) budget support (program loans and direct budget support).

In contrast to other donors, ADB spends a large amount in grants to support DMCs in implementing various TAs to increase the effectiveness of aid utilization and for enhanced institutional development capacity building.

From July 2008, the TAs are classified into (i) Project Preparation Technical Assistance (PPTA) for developing a pipeline of projects suitable for financing by ADB or other external sources, or both; (ii) Capacity Development Technical Assistance (CDTA) for enhancing the capacity of EAs and other institutions, including support for implementing projects; (iii) Policy and Advisory Technical Assistance (PATA) to assist DMCs in formulating development policies, strategies, plans and programs, and undertaking sector policy and issue studies (country or sub regions); and (iv) Research and Development Technical Assistance (RDTA) for undertaking sector, policy and issue studies.

ADB promotes co-financing with funds from other official funding agencies, commercial financial institutions, and export credit agencies. Two main types of co-financing are (i) Parallel Co-financing (the co-financing donors or financiers finance and manage their funds to implement project activities/components in parallel with financing activities of the ADB); and (ii) Joint Co-financing (the co-financing donors transfer funds to the ADB and delegates ADB to manage the funds and the project).

4. Lending Terms

a. ADF

In general, the lending terms for ADF loans are the following: 32-year maturity, including an 8-year grace period, 1% interest charge during the grace period and 1.5% during the amortization period, and equal amortization. ADF financed Program loans offer the same terms except have a shorter maturity of 24 years.

In the case of ADF-financed Emergency Assistance Loans, the terms are a 40-year maturity, including a 10-year grace period, 1% interest per year, with repayment of principal at 2% a year for the first 10 years after the grace period and 4% a year thereafter. There is no commitment fee associated with ADF-financed loans.

b. OCR

OCR loans have a maturity and grace period which depend on the characteristics of the project (typically 15-25 years of maturity and 4-6 years of grace period). From July 2002,

ADB has applied the policy of LIBOR-based loans to OCR. Under this policy, OCR loans are denominated in US dollars, EURO or Yen currencies. Borrowers can choose a fixed lending rate or floating lending rate based on LIBOR. At present, ADB applies the LIBOR rate plus a spread of 0.6% to cover administration costs.

B. COOPERATION BETWEEN VIET NAM AND ADB

Viet Nam is a founding member of the ADB. During 1966-1975, ADB financed few activities in South Viet Nam. In 1975, the country was reunited with the founding of the Socialist Republic of Viet Nam. After a period of temporary interruption between 1979 and 1993, ADB resumed its operations in Viet Nam in October 1993.

1. ADB's Operations in Viet Nam since 1993

Since 1993 when ADB resumed its operations in Viet Nam up to end 2008, ADB approved 78 public sector loans totaling over US\$6 billion, comprising US\$4 billion from concessional ADF resources and US\$2 billion from less concessional OCR loans; 225 TAs (around US\$175 million); and 23 grant projects amounting to US\$135.6 million. In addition, ADB provided US\$220 million for 8 loans and US\$60 million in guarantees for 2 projects in the private sector. ADB has also financed many Greater Mekong Subregion (GMS) projects with the participation of Viet Nam. Viet Nam is one of the countries receiving the highest level of ADF. The sectors having the largest portfolios are (i) transport and communications (39.3%); (ii) agriculture and natural resources (15.1%); and (iii) energy (14.7%).

The impacts of ADB assistance on Viet Nam's development has been considerable and has greatly supported the Government's development initiatives and reform programs and agendas. The application of a results-based management approach in the latest Country Strategy and Program (CSP) will facilitate a more objective evaluation of the impacts of ADB assistance and lead to a more enhanced and effective development output in the future.

2. Country Assistance Priorities

The CSP identifies the agreed priority areas where the ADB can provide support in a responsive, relevant, and result-oriented manner to the country's development strategy and development goals, in consultation with the government, development partners, and other stakeholders. The CSP is now the primary planning instrument which guides the ADB operations in a DMC and also serves as a monitoring tool for performance in the implementation of the CSP. The CSP is aligned with the country's planning cycle. It is normally for a five-year period, and the indicative rolling business plan covers a three-year period on an annually rolling basis. Flexibility is applied to the frequency and direction of the CSP based on its mid-term review which takes into account country-specific circumstances.

Since the resumption of ADB's activities in Viet Nam in 1993, ADB operations in Viet Nam have been guided by the Interim Operation Strategy (IOS) (1993-1995), Country Operation Strategy (COS) (1996-2000), Country Strategy and Program (CSP) (2002-2004), and the Country Strategy and Program (CSP) (2007-2010). The CSP for 2007-2010 is based on a result-based approach that is aligned with the Government's Socio-Economic Development Plan (SEDP) (2006-2010). The full report is available on the ADB website.

Under the CSP 2007-2010, the ADB goal is to help the Government reduce poverty incidence to 10–11% by 2010. ADB support aims to help the Government develop the foundation for increased private sector investment and employment, including assistance to

(i) Business-led, Pro-poor Economic Growth; (ii) Social Equity and Balanced Development; (iii) Environment; and (iv) Governance. Regional cooperation through the GMS program will be promoted to help develop cross-border trade and new economic opportunities involving less developed border areas, and address cross-border concerns such as communicable diseases and adverse environmental and other adverse development impacts.

The 2007-2010 CSP includes a sector focus on the link between natural resource depletion and poverty reduction through water and coastal resource management. Support will be provided to improve urban development and planning in selected cities to improve public services outside the major cities and help avoid the urban problems associated with rapid growth in mega cities elsewhere in Asia. Efforts will be made to encourage private sector investments in mass transport and other urban environment improvement initiatives, including a water-financing program.

Support will also be provided to help Viet Nam make the necessary social and economic adjustments needed to meet the ASEAN Free Trade Area (AFTA) and World Trade Organization (WTO) obligations.

The CSP has developed a list of operational sectors and sub-sectors for Viet Nam in alignment with the Government's SEDP and priority classification based on ADB's Medium Term Strategy II and its comparative advantage as a Regional Development Bank.

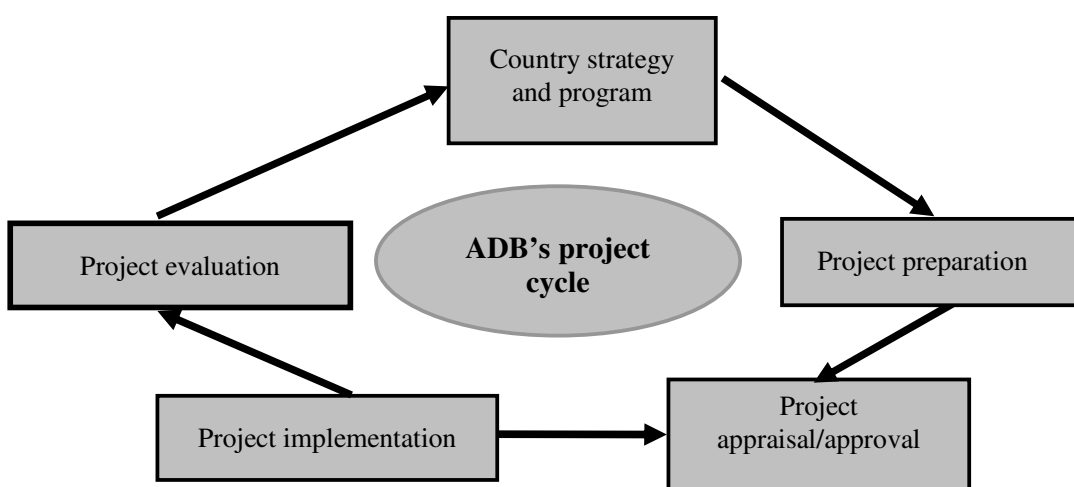
CHAPTER II

GENERAL REGULATIONS OF THE GOVERNMENT ON ODA MANAGEMENT AND ADB POLICIES AND PROCEDURES ON ADB FINANCED PROJECTS

A. PROJECT CYCLE OF THE GOVERNMENT AND ADB

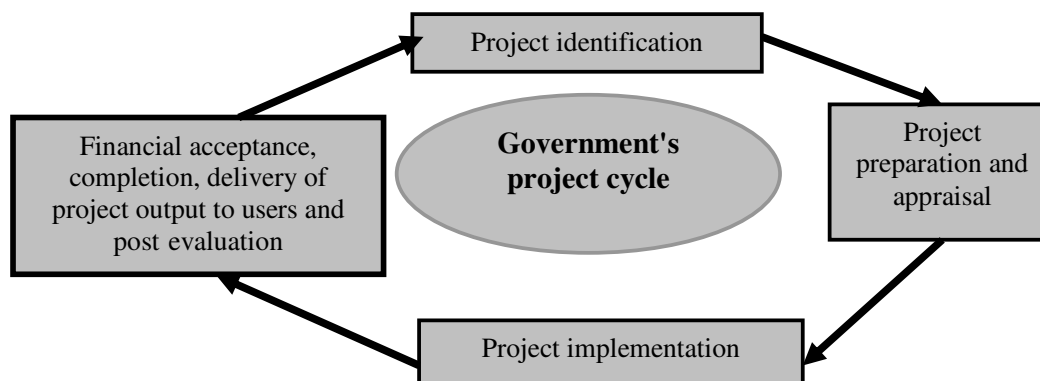
The Handbook covers the activities related to the whole project cycle. ADB's project cycle consists of five stages, including (i) identification of country strategy and program; (ii) project preparation; (iii) project appraisal and approval; (iv) project implementation; and (v) project evaluation (Figure II.1).

Figure II.1: ADB's Project Cycle



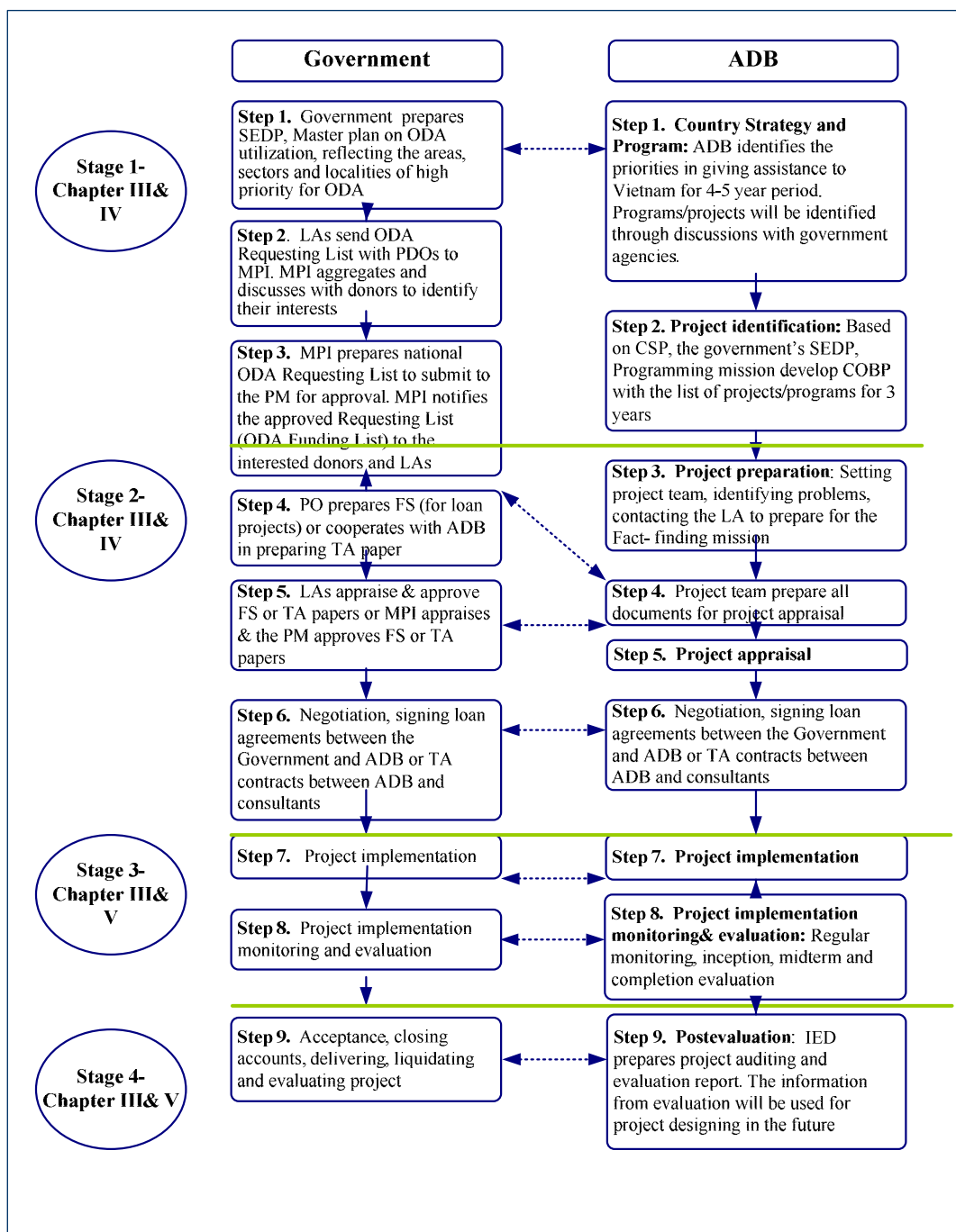
The Government's project cycle as described in Decree 131/2006/ND-CP, consists of four stages including (i) project identification; (ii) project preparation, appraisal and approval; (iii) project implementation; and (iv) project financial acceptance, completion, delivery of project output to users and post evaluation (Figure II.2).

Figure II.2: Project cycle of the Government of Viet Nam



While the Government's ODA project cycle under Decree 131/2006/ND-CP differs slightly from that of ADB (4 stages versus 5 stages) the contents are similar as can be seen in the comparative analysis shown in Figure II.3. The dividing a project cycle into (four) stages by the Government is different from the project cycle of ADB (5 stages), however, by nature, the ODA project cycle mentioned in the Decree 131/2006/ND-CP is similar to the ADB's project cycle.

Figure II.3: Comparing the ADB's Project Cycle with the Government's ODA Project Cycle



B. THE CURRENT LEGAL FRAMEWORK ON ODA MANAGEMENT AND UTILIZATION OF THE GOVERNMENT AND ADB

ODA management in Viet Nam has been regulated specifically by Decree 131/2006/ND-CP dated 9 November 2006 which cover the procedures to be followed for the mobilization, preparation and implementation of ODA projects including ADB projects. In implementing the Decree there are many circulars issued by different ministries and agencies, such as Circular 03/2007/TT-BKH dated 12 March 2007 on Organizational Structure, Functions, and Responsibilities of Project Management Unit (PMU) for ODA Programs/Projects; Circular 04/2007/TT-BKH dated 30 July 2007 on Guiding Implementation for the Decree 131/2006/ND-CP; Decision 803/2007/QD-BKH dated 30 July 2007 on Regime of Progress Report for ODA Programs/Projects; Circular 108/2007/TT-BTC dated 7 September 2007 Guiding Financial Management of ODA Projects/Programs; Circular 01/2008/TT-BNG dated 4 February 2008 Guiding the Procedures of Signing and Implementation of ODA International Treaty.

In addition to Decree 131/2006/ND-CP and the related circulars, there are many other legal documents regulating the management and utilization of ODA in Viet Nam, such as Decision 48/2008/QD-TTg dated 4 March 2008, the Guidelines on Preparation of ODA project Feasibility Study (FS); Decree 12/2009/ND-CP dated 12 February 2009 on Management of Construction Investment Projects; Law on Procurement and Decree 58/2008/ND-CP dated 5 May 2008 (for procurement); and Law on State Budget, Tax-related Laws and Decrees, Decree 69/2009/ND-CP, dated 13 August 2009, Additional regulations on Land Planning, Land Pricing and Land Compensation and Resettlement, Circular 87 and 123/2007/TT-BTC dated 23 October 2007, Circular 61/2006/QD-BTC dated 2 November 2006 (for disbursement). All legal documents relating to ODA management and utilization in general and to project preparation, implementation and monitoring and evaluation in particular are included in the CD-Rom of this Handbook.

The Core Principles for ODA management and utilization and laid out in Decree 131/2006/ND-CP are as follows:

- (i) ODA constitutes an important source of the state budget and is used to support the implementation of priority socioeconomic development programs and projects of the Government.
- (ii) The Government performs the uniform state management of ODA on the basis of democratic centralism, publicity, transparency, responsibility assignment and decentralization, combination of power with responsibility, ensures coordinated management and close inspection and supervision and promotes the initiative of all levels, branch-managing agencies, localities and implementing units.
- (iii) The attraction of ODA is associated with the improvement in the efficiency of ODA use and the assurance of the repayment of foreign debts, and is compatible with the ODA receipt and use capacity of ministries, branches, localities and implementing units.
- (iv) The uniformity and consistency of regulations on management and use of ODA, wide participation of the parties concerned, and harmony between the Government's and donors' procedures are ensured.
- (v) The provisions of Vietnamese laws and treaties to which the Socialist Republic of Viet Nam is a contracting party are complied with. When the

provisions of a treaty to which the Socialist Republic of Viet Nam is a contracting party are different from those of Vietnamese law, the provisions of that treaty are applied.

The Priority Areas for ODA utilization as indicated in Decree 131/2006/ND-CP are following:

- (i) agricultural and rural development (including agriculture, irrigation, forestry and aquaculture) in combination with hunger elimination and poverty alleviation;
- (ii) construction of synchronous and modernity-oriented economic infrastructure;
- (iii) construction of social infrastructure (in health, education and training, population and development and some other domains);
- (iv) protection of the environment and natural resources;
- (v) enhancement of institutional capacity and development of human resources; technology transfer and improvement of research and development capacity; and
- (vi) other domains as decided by the Prime Minister.

The Decree also stipulates the role and responsibilities of the key government Ministries and Agencies in the management of ODA as follows:

- (i) The **Ministry of Planning and Investment** (MPI) acts as the focal point agency in ODA attraction, coordination and management, taking the leading role in formulating strategies, policies, master plans on ODA attraction and utilization; providing guidance to the LAs on setting up their ODA Requesting Lists and consolidating these lists to the ODA Requesting List to submit to the Prime Minister for approval, cooperating with LAs in project preparation and implementation, monitoring and inspecting the management and organization for implementation of the programs and projects, conducting overall evaluation on the effectiveness of ODA utilization; preparing periodical (biannual, annual) and ad-hoc reports as well as reports at special requests from the Party and the State on management and implementation of ODA programs and projects, and on the efficiency of ODA attraction and utilization.
- (ii) The key role of the **Ministry of Finance** (MOF) is the official representing body of the State or the Government of the Socialist Republic of Viet Nam as the "Borrower" in specific international treaties on ODA loans, even in the cases where the PM authorizes SBV to chair loan negotiations and other agencies exercising the financial management of ODA programs and projects.
- (iii) The **Ministry of Justice** (MOJ) is responsible for appraising international treaties on ODA in accordance with the law on the signing, joining and implementation of international treaties, providing legal opinions on international treaties on ODA or on other legal matters at the request of agencies proposing the signing of international treaties and appraising the contents of cooperation projects in the legal sector in accordance with existing laws and regulations.
- (iv) The **State Bank of Viet Nam** (SBV) coordinates with relevant agencies in preparing contents of the negotiation, and conducting the negotiation on specific international treaties on ODA with international financial institutions

such as the World Bank (WB), the International Monetary Fund (IMF), and ADB upon the authorization of the PM. SBV also coordinates with the MOF in defining and announcing the list of commercial banks qualified to be authorized to undertake external transactions for ODA funds, and conduct on-lending and recovery of loan repayments for the State budget if necessary (Article 42).

- (v) The **Ministry of Foreign Affairs** (MOFA) takes the leading role in coordination with the Ministry of Planning and Investment to give instruction to Vietnamese diplomatic representative offices overseas to carry out ODA mobilization in accordance with the master plans and plans of ODA mobilization and utilization in given periods.
- (vi) The **Office of Government** (OOG) assists the Government and the Prime Minister in leading, directing and executing the unified State management on ODA.
- (vii) **Line Ministries and Provincial Peoples Committees:** The current legislation gives considerable responsibility to LAs to identify projects and organize project preparation and processing. Much of this work is done through POs designated by the PM or LAs. The overall responsibilities of the LAs in identifying, preparing and implementing ODA projects and programs are set out in **Article 10, Decree 131/2006/ND-CP**. The responsibilities of the PO is to prepare projects and programs and working with donors on preparation. LAs shall make proposal to the Government on the conclusion of specific international agreements on ODA for the programs and projects under their agencies, based on the proposal made by the PO. Upon proposal by the LA, SBV is responsible for leading and coordinating with relating agencies to finalize arrangements on International Agreements.
- (viii) **PMUs** are responsible for helping POs in implementing programs/projects with the key tasks, such as, preparing project implementation plans, procurement, contract management, financial management and disbursement programs/project performance monitoring and evaluation, verification, handout and liquidation of projects/programs (Part I, **Circular 03/2007/TT-BKH**, Guidance on the functions, tasks and structure of PMUs).

The above Guidelines are subject to change based on Government and ADB reviews of their respective policies and procedures from time to time.

CHAPTER III

IDENTIFICATION, PREPARATION, IMPLEMENTATION AND EVALUATION OF TECHNICAL ASSISTANCE

A. TECHNICAL ASSISTANCE IDENTIFICATION

1. Government's Policies and Procedures

Under the Hanoi Core Statement, it was agreed between the Government and donors that (i) the Government should exercise leadership in developing and implementing its 5 year SEDP through a broad consultative process which integrates ODA into mainstream planning; and (ii) Donors should base their support on the Government's SEDP and related national, regional, and provincial sectoral plans. These two principles are part of the five principles to improve aid effectiveness being monitored through 14 indicators.

Although the Government takes responsibility for project identification, it is usually advantageous in terms of time and cost to work jointly with the proposed donor on the identification process. The Government experts and ADB staff work together to develop the project concept to be submitted to the responsible authorities on both sides for approval.

TA identification starts with the preparation of SEDP on the government side and CSP on ADB side. Usually SEDP shows the Government's priority to the use of public resources, including ODA funds. Based on these priorities and the main priority domains for ODA defined in Decree 131/2006/ND-CP and ADB's CSP, LAs will generate project priorities and prepare their sector or provincial ODA requesting list to submit to the PM through MPI together with the PDOs to justify the list.

LAs should choose the donors based on their specific advantages and assistance priorities before preparing PDOs so that the LAs can make contact with the donor's project preparation officer to get their assistance in preparing PDOs.

PDOs must be prepared covering all required information as included in the **Guidelines on PDO Preparation** (Appendixes 2a of Circular 04/2007/TT-BKH, Guiding the implementation of Decree 131/2006/ND-CP). The content of the PDOs can be changed depending on the results of harmonization efforts made by the Government and 6 Banks, but in any case, there are eight actions to be done for projects/programs being included in Requesting list (Box III.1).

Based on the SEDP, ADB's CSP, ODA master plan and the PDOs sent by LAs, MPI will prepare the National ODA Requesting list to send to the PM for approval. After approval by the PM, the ODA requesting list becomes ODA Funding List. The PM will assign MPI to notify the ODA Funding list to LAs.

Box III.1: Setting up the ODA Requesting List
(According to Circular 04/2007/TT-BKH)

Procedures to set up the ODA Requesting List are as follows:

1. The LA and the units under their management authority prepare and study all relevant planning documents to set up the **ODA Requesting List**, including Master plans and development plans of the State, sector, field and locality; public investment program, national target programs and target programs by sector and locality; ODA-related synthesis documents; the National Strategy on Foreign Borrowing and Payment; ODA Utilization master plan for 2006-2010; and donor's priorities.
2. The LA and their units or agencies, usually potential POs, develop PDOs of potential ODA programs and projects that could be included in the ODA Requesting List, covering the contents required in the item b, Clause 2, Article 7 of Decree 131/2006/ND-CP. The detailed formats to be used for PDOs for potential ODA Projects and programs are given in Appendix 2a to 2e of Circular 04/2007/TT-BKH, Guidance on implementation of Decree 131/2006/ND-CP.
3. The LA selects priority ODA programs and projects proposed by units under their management.
4. The LA submits the Request for ODA funding to the MPI at least 2 months before a scheduled exchange of views between the MPI and a respective donor (or a group of donors).
5. MPI takes the leading role in consolidating the lists of projects/programs from different LAs and submitting the consolidated ODA Requesting List to the PM.
6. The PM issues the approval decision announcing the approved ODA Requesting List.
7. MPI informs respective donors when projects for which they have expressed an interest are on the approved ODA Requesting List. When financing is committed by a donor, projects are moved from the approved requesting list to the Official ODA Funding List
- 8 MPI informs LAs that their programs and projects are in the Official ODA Funding List.

2. ADB's Policies and Procedures

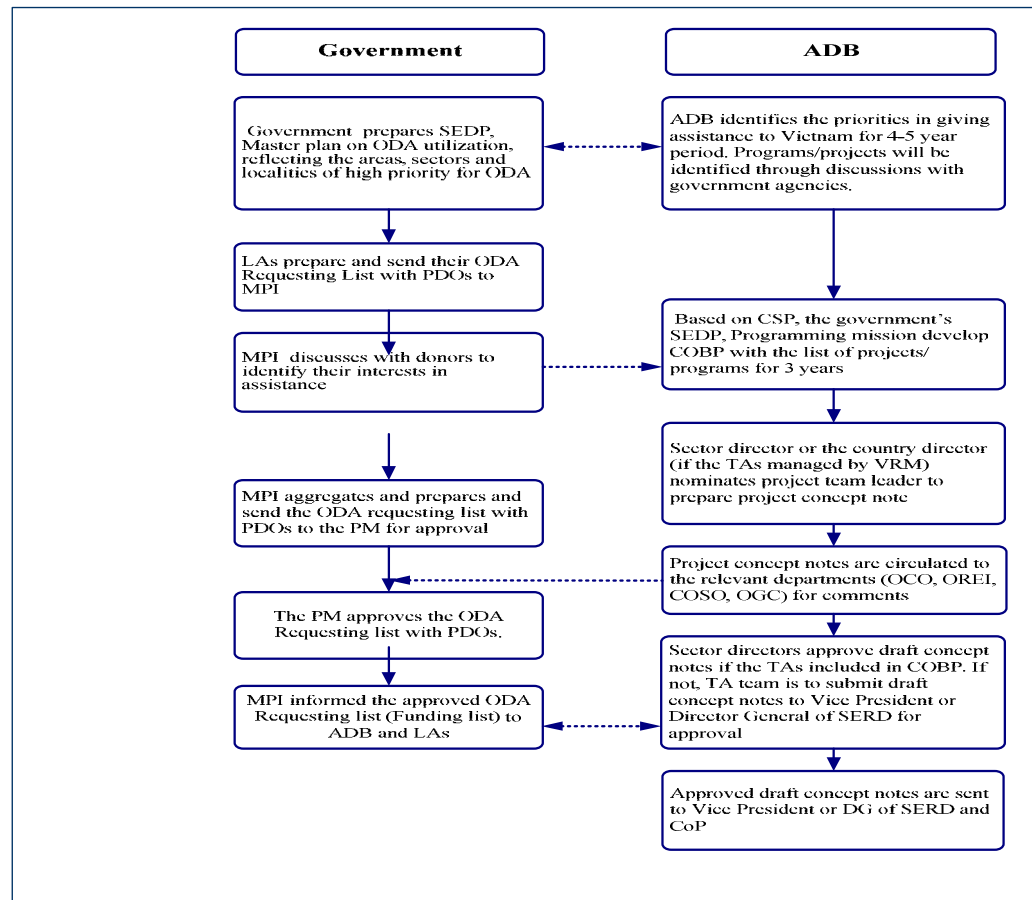
At present, there are four types of TAs including CDTA, PATA, RDTA and PPTA (Refer Section A.3, Chapter I). The TA identification process starts with the preparation of CSP. Based on the CSP, a country operational business plan (COBP) is developed, covering a list of projects and TAs for a three-year period on an annually rolling basis. To justify the inclusion of their TAs into the business plan, ADB officers have to prepare a Summary of TAs information to be included in the COBP.

After COBP approved, Sector Directors or the Country Director (if TAs are run by the Resident Mission) will appoint the head of TA preparation team to prepare TA concept paper based on the template for PPTA or the template for CATA, PATA, RDTA. The concept paper is circulated to the relevant departments, such as (i) Office of Cofinancing Operations (OCO), (ii) Office of Regional Economic Integration (OREI), (iii) Central Operations Services Office (COSO), (iv) Office of General Counselors (OGC).

Sector Directors will be authorized to approve the concept papers of the TAs included in COBP. If TAs have not been included in COBP, TA team is to submit the concept papers to the relevant Vice President or Director General of Southeast Asia Department. Approved concept papers are to be sent to the relevant Vice President or Director General of Southeast Asia Department and Community of Practice (CoP). During approving concept papers, Sector Directors can approve proposals for retroactive financing to undertake advance recruitment of consultants, if necessary.

The amount of retroactive financing is not to exceed the size of a Small Scale Technical Assistance (SSTA). If retroactive financing is approved, the advanced amount will be added to the budget for the TA, submitted to the Management or the Board for approval. The details can be referred in ADB's OM Section D11/OP. TA identification process of both the Government and ADB is compared in Figure III.1.

Figure III.1: Project Identification Process
(according to Decree 131/2006/ND-CP)



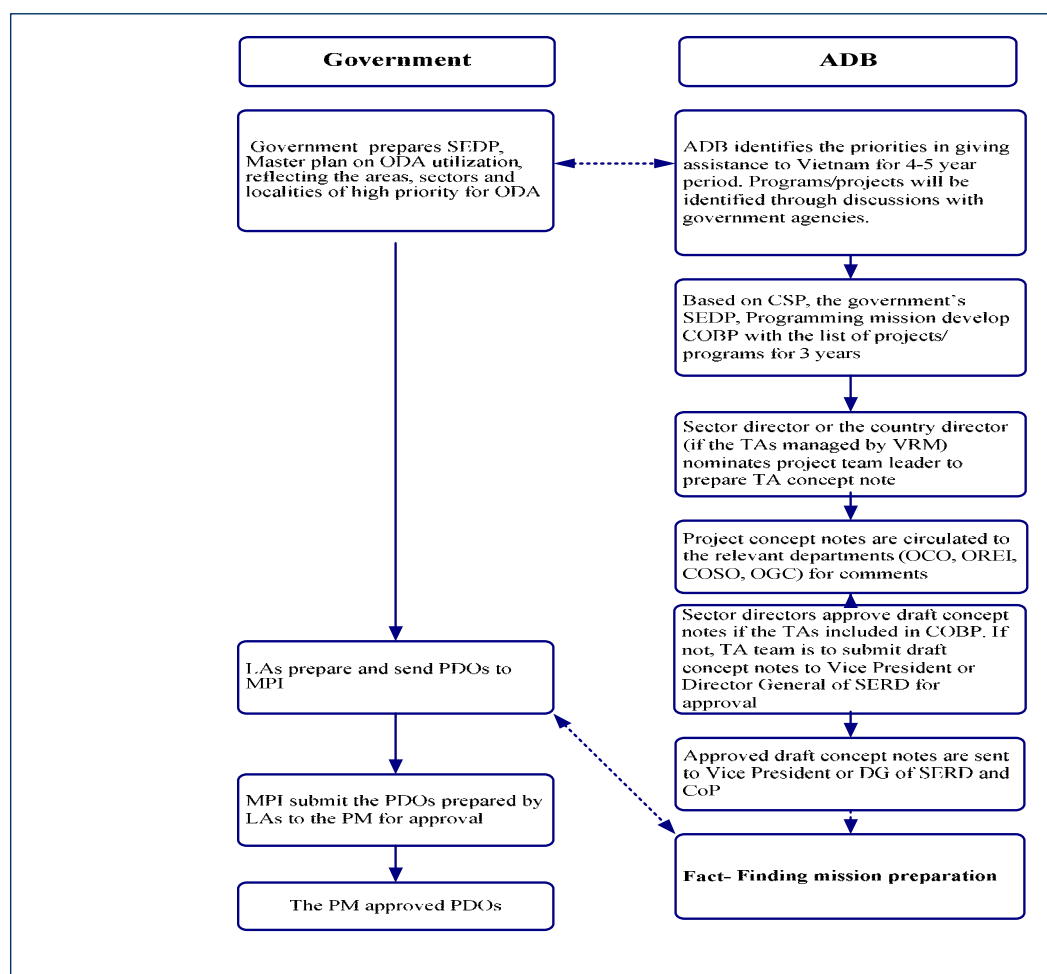
3. Some Generic Problems

Lack of funds for preparation of PDOs. Many LAs suffer difficulties in preparation of PDOs because of shortage of the capacity in preparing PDOs, as well as lack of funds for recruiting consulting services for this work. The funds for preparing PDOs are to be from the budget of LAs or POs. Therefore, LAs and POs must identify clearly their needs for external support, studying carefully the funding capacity and priorities of ADB by reviewing the CSP

and the funding capacity of the current CSP, before introducing the requests for assistance from ADB and preparing PDOs, and they must allocate the funds for PDO preparation if they really need the ODA assistance.

LAs are not active in preparing advance TA detailed outline. Most LAs do not prepare TA detail outlines to send to MPI two months in advance of discussion with ADB Program Missions. In practice, project identification process of the Government is not as described in Decree 131/2006/ND-CP or as shown in Figure III.1. At present, many LAs send TA detailed outlines and PDOs to MPI after the ADB Fact-finding Mission, or after project identification stage (Figure III.2).

Figure III.2: Project Identification Process in practice



B. TECHNICAL ASSISTANCE PREPARATION, APPROVAL, AND SIGNING

1. Government's Policies and Procedures

After receiving the notification on the ODA Funding List from MPI, LAs will appoint a **TA team** with competent officials to work with the ADB project officer to prepare the TA paper. The LAs should be actively involved in drafting the TA paper, TORs and cost estimates in order to have a good TA design.

TA preparation and appraisal procedures, content of the TA appraisal document is described in Chapter III (Articles 10-12, 14, 16-19) of Decree 131/2006/ND-CP. LAs are to consult the Memorandum of Understanding (MOU) of the ADB TA Fact-finding Mission with the relevant agencies and send the Government feedback to ADB. LAs should carefully study the needs of their agency, units and of the whole sector so that the TA TOR clearly reflects the needs of the project. For **PPTAs**, assisting LAs in preparing FS should be included in the TOR of PPTA Consultants.

After receiving consensus on draft TA paper, LA (for the TAs authorized to be approved by the LAs) or MPI (for the TAs to be approved by the PM), as stipulated in Decree 131/2006/ND-CP will undertake TA appraisal through meetings or through written comments from the relevant agencies. The TA approval by the LA or the PM should be informed to ADB and SBV for ADB to prepare TA letter. Each TA letter will be countersigned by SBV on behalf of the government, and an original copy will be submitted to ADB.

2. ADB's Policies and Procedures

To prepare ADB's TA paper, the Sector Director, in cooperation with Office of Operations Coordination or the Country Director, will send a fact-finding or reconnaissance mission to the field to discuss with the Government agencies, the LAs and potential stakeholders. During fact-finding missions, agreement should be sought from the government agencies on the TOR, any required surveys, TA monitoring framework, social and poverty assessment, TA implementation plan, and responsibilities of the relevant agencies.

After receiving the comments from the LA, ADB's TA officer will circulate the draft TA paper to the Office of General Counsel to ensure the pursuance with the ADB Charter and policies and procedures. The TA will be registered for budget allocation. Comprehensive TA concept papers and support documents will be sent to the responsible ADB Sector Director and Director General for their review and comments, after which the revised draft TA paper is sent to LAs and Government for final appraisal.

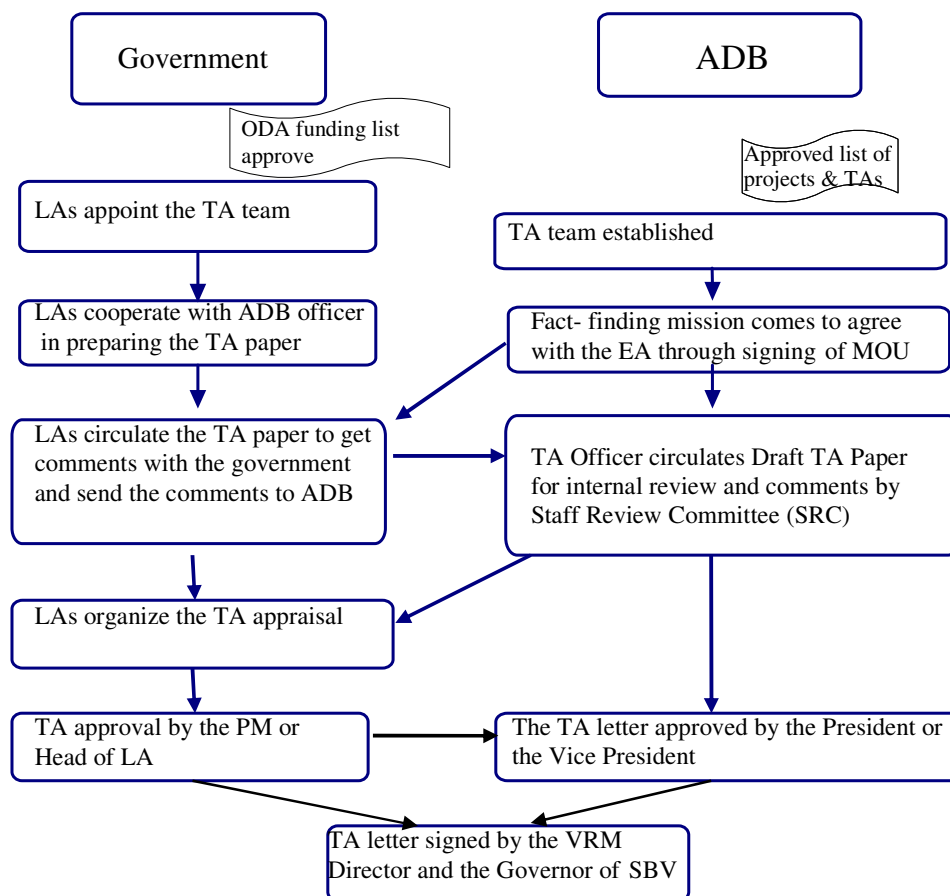
After ADB is notified on the TA approval by the Government (the PM or Head of the LA), TA letters will be sent by ADB Sector Director to the Director General and to the relevant Vice President for approval. If the size of TA exceeds US\$1.5 millions, or if the TA is using loan funds, the TA reports should be prepared and circulated between all concerned departments before sending to the ADB Board of Management for approval.

For details on PPTAs and other types of TAs (CDTA, PATA, and RDTA) processing, refer to ADB's OM Section D12/OP, issued on 13 August 2008.

In the case of PPTA, the ADB TA officer should encourage the LA to establish the loan's Project Preparation Unit (PPU) with the key staff who will be involved in implementing the future loan program.

The TA Preparation process of both the Government and ADB is compared in Figure III.3.

Figure III.3: Preparation of TAs



3. Some Generic Problems

Lack of active participation of LAs during ADB's fact-finding missions. Some LAs fail to appoint competent and capable staff to work with ADB fact-finding missions with the result that there is limited participation in TA preparation activities. Some LAs give limited attention to the ADB Fact-finding Mission MOU and are slow in providing feedback on the draft TA Paper attached to the MOU, thus causing delays in TA preparation.

Delays in signing of TA letters. In many cases, TAs are not appraised and approved by the government (LAs or the PM) until the TA is approved by ADB and TA Letter is sent to SBV and the LA for signature. Only when SBV and the LA receives the TA Letter from ADB, does the Government appraisal and approval process commence.

C. TECHNICAL ASISITANCE IMPLEMENTATION

1. Government Policies and Procedures

TA projects are presently administered by ADB and the contract with the TA consultants is signed between ADB and the TA consultants. However, LAs are requested to participate in the following overall management activities of TA implementation to ensure the quality of TA outputs:

- (i) send "no objection" or "objection" comments to ADB on the short list of consulting firms or on the three shortlisted CVs of individual consultants who will be involved in the TA preparation.
- (ii) participate as an observer in the TA contract negotiation between ADB and selected consulting firm, discussing TOR, counterpart staff, TA implementation schedule, and counterpart resources to be provided by LAs.
- (iii) coordinate/monitor the works of consultants and the LA's counterpart staff.
- (iv) provide support to consultants by providing data and information needed for the preparation of TA.
- (v) review and provide comments on consultants' draft reports.
- (vi) in cooperation with ADB and the TA consultants, organize inception, midterm and final tripartite meetings.

In the case of **PPTAs** some following considerations should be taken by LAs in addition to the above mentioned tasks:

- (i) request the consultants to refer the Common Guidelines on ODA project FS preparation, issued by the Government in April, 2008, as attachment to Decision 48/2008/QĐ-TTg, which have been accepted by ADB for the loan project document preparation.
- (ii) remind the PPTA consultants on all the requirements set by the government in general, and the project owner in particular, for loan project design, as well as the Government regulation on ODA management and utilization.

2. ADB Policies and Procedures

a. Selection of Consultants

The selection and recruitment of consultants for the TA using grants from ADB are to follow the provisions in ADB's PAI 2.02 and PAI 2.03. ADB will prepare a short list and select the consultants based on the "no objection" comments from LA .

Contract negotiation cannot commence until the Government signs the TA letter; normally it takes one to two weeks to invite a firm for negotiation and two weeks or more between negotiation and fielding of consultants. ADB will chair contract negotiation with the observance of LA representatives (if consultants are firms). The following will be discussed during the negotiation:

- (i) classification of TOR for consultants; and
- (ii) issues concerning counterpart funds, domestic project staff's capabilities and services, and office space and equipment provided by EA to implement TA.

When negotiation are concluded and approved by ADB, a "Notice to Proceed" will be sent to the Consultant by ADB.

b. Supervising Consultants' Outputs

Consultants are generally required to submit a number of progress reports including inception, interim, draft final, and final reports. ADB project officer monitors the

consultant's outputs against its targets, particularly its deadlines for producing the required reports.

c. Tripartite Meetings

Tripartite meetings are organized among ADB, PMU and the consultant to help make sure all have a common understanding of the progress of the TA and follow a participatory approach in reviewing the consultant's outputs. A tripartite meeting is often scheduled shortly after the consultant submits each major report.

d. Review Missions

ADB fields review missions as required while it is implementing the TA, to check the consultant's progress, reassess the expected completion date, and review the TA's finances.

For most TA operations, the first review mission is an inception mission. The purposes of the inception mission include: (i) ensuring that the EA and the consultant understand the TA's objectives and the consultant's TOR; (ii) reviewing the consultant's TOR in light of the first few weeks of implementation experience; (iii) reviewing and agreeing on the consultant's inception report and work plan, making alterations as necessary; (iv) resolving any difficulties that will impede the timely completion of the consultants assignment; (v) making sure that the EA is providing adequate counterpart staff and support facilities; and (vi) reconfirming the timetable for the completion of the assignment, including schedules for further tripartite meetings.

e. TA Monitoring and Evaluation

TA implementation progress is to be updated in the Technical Assistance Performance Report System. A Technical Assistance Completion Report (TCR) will be prepared by ADB project officer within one year from the completion of the TA Support.

3. Some Generic Problems

Poor performance of PPTAs is because of lack of support or poor coordination of LAs. In some cases, the PPTA counterpart staff has limited involvement and participation in working with the PPTA Consultants, resulting in poor cooperation between the LAs, POs, ADB officer and the Consultants, and limited ownership of the end product. Therefore, some loan project designs may not be based on the priority needs of the government. Some POs and LAs provide limited data to the consultants causing poor project design and incorrect policy recommendations.

Low efficiency of consulting services under TAs. Counterpart staff of LAs or POs are reluctant in informing the ADB TA officer on the consultants' performance, with the result that LA's do not receive maximum benefits and value-added from the presence of the Consultants during TA implementation.

Lack of resources for TA evaluation by the Government. Due to the lack of funding for post-evaluation of TA performance, limited opportunity exists for Government to learn from previous mistakes in order to minimize waste of scarce resources.

CHAPTER IV

LOAN PROJECT/PROGRAM IDENTIFICATION, PREPARATION, APPRAISAL, APPROVAL, AND LOAN EFFECTIVENESS

A. PROJECT IDENTIFICATION

1. Government's Policies and Procedures

a. Preparation of Project Proposals to be Included in the ODA Requesting List

For loan projects, the identification stage commences with the preparation of SEDPs from the government side and CSP on ADB side. Based on the needs for assistance, LAs will propose the project ideas and prepare their **ODA Requesting list** to submit to the PM through MPI, with the PDOs attached. All the steps and actions for loan projects to be included in the ODA Requesting list are the same as for TAs (Section A.1, Chapter III).

PDO should include all the information **as required in the Guidelines on PDOs** preparation (Refer Appendix 2b, Circular 04/2007/TT-BKH, Guidance on implementation of Decree 131/2006/ND-CP).

b. Funds for PDO Preparation

Funds for preparation of PDOs may be from the budget of the LA or PO from allocated **state budget** or **grants from ADB**. In the case grants are given to LAs by ADB to implement PPTA (which is presently common practice so far to Viet Nam), counterpart funds need to be prepared.

The PDOs for TAs or PPTAs are usually simple, and LA staff can generally prepare them. However, for large projects/programs like loan projects, LAs may need the funds to recruit consultants to help them in preparing the PDO. In this case, LAs should be aware of the need for funds before sending the PDO for loan project preparation technical assistance to the PM, and **include the request for the funds for loan project preparation in the PDO of the PPTA**.

2. ADB Procedures

ADB's policies and procedures for loan project identification are similar to those for TAs, e.g. the loan project identification starts with CSP preparation in the same period (Refer Chapter III and Figure III.1). Details on loan project identification policies and procedures can be found in ADB's OM Section D11/BP, issued on 30 April 2007. According to this, draft loan concept papers should be circulated to the relevant divisions and departments before being submitted to ADB Management for approval.

A project loan proposal is not normally processed unless it has been included in the COBP (which can be a stand-alone document or attached to the CSP or the CSP midterm review) and its concept approved by Management. In exceptional cases, a loan proposal that has not been included in the COBP can be processed if Management's approval is obtained for the concept of the proposed project based on a government request or its agreement to the proposal. In all cases, project concept papers are subject to internal review and Management approval. Concept paper clearance requires that sufficient information be provided to enable

the Operations Vice President to make a prima facie judgment on whether project processing should commence.

The CSP is based on an analysis of the development priorities of a DMC and is based on thorough macro-economic, poverty, and thematic assessments, and sector diagnostics. These analyses enable ADB to establish the socioeconomic basis, strategic focus, and priority areas for its interventions in the country. Sector and/or thematic road maps are prerequisites for each priority sector and/or thematic area that is within ADB's strategic focus in a DMC. These road maps describe expected outcomes, medium-term targets and plans for each priority sector and/or thematic area, including planned policy reform, institutional development, and investment initiatives. The annual indicative rolling COBP, which includes individual lending and nonlending interventions, is based on the CSP sector road maps.

For a loan proposal to be processed, sufficient information should be available to establish its link with the development priorities of the DMC and with ADB's strategic focus for the country. The concept paper usually includes key issues, covering, as appropriate, policy and sector constraints, due diligence areas, capacity development needs, the work of other development partners, and co-financing opportunities, including credit enhancement products to mobilize financing from third parties.

The project team leader and project team of the responsible operations department prepares the concept paper in consultation with the Economics and Research Department (ERD), OCO, Independent Evaluation Department (IED), Regional and Sustainable Development Department (RSDD), COSO, and Office of the General Counsel (OGC). The Regional Director General chairs a meeting on the concept paper, attended by representatives of key support departments, the Sector Director, the project team leader and the project team. The meeting determines the merits of the proposed concept paper and, if it is supported, decides on what category to recommend to Management based on the degree of project complexity, risks, and readiness.

The concept paper, including the key issues, and the minutes, incorporating the proposed project complexity and/or risk category, are submitted by the Regional Director General to the Operations Vice President for consideration and approval. The Operations Vice President may convene a separate meeting with those involved in the concept paper preparation and the proposed project categorization, especially for complex transactions or projects with major policy issues, if deemed necessary. The operations department may subsequently recommend a change in the project category based on new information gathered during project processing.

B. PROJECT LOAN PREPARATION

1. Government Policies and Procedures

a. Responsibility for Preparation of Project Document

The **LAs** in collaboration with the ADB shall be responsible for **formulating** projects. However, close coordination and consultations shall be maintained with MPI, MOF and SBV during all stages of the project formulation process - to ensure the guidelines, systems, procedures and overall external aid management experience is brought to bear on the project design. Usually **after being notified by MPI** about the **ODA Funding List**, LA will **appoint PO** to take responsibility for project formulation.

ADB often provides PPTA Support to assist the LA in preparing the project FS. The PPTA's consultants have to work closely with various stakeholders, including the government, civil society, affected people, and other development agencies working in these sectors. ADB and the LA closely monitor the consultants' work.

On the Government side, LA will prepare the project through project preparation team or appoint a PO to prepare the project in cooperation with other government agencies as required. The preparation team can be later formed into a PMU appointed by the PO (Article 25, Decree 131/2006/ND-CP). Details of government guidelines for the organization of PMUs have been regulated by Circular 03/2007/TT-BKH, Guiding the Organizational Structure, Functions and Responsibilities of ODA Project Management Units.

To optimize the benefits to be derived from participating in the identification and preparation of projects the LA should:

- (i) ensure the appointment of dedicated officers, staff, facilities and equipment needed to support the process of project identification and formulation;
- (ii) ensure recruitment of consultants;
- (iii) ensure that the main staff involved in project formulation will be the ones assigned to the project preparation and implementation processes; and
- (iv) optimize the capacity building and learning benefits that will be derived from fully participating in the project identification and preparation process.

b. Preparation of Project FS to Justify the Project Feasibility

To justify the project feasibility, PO has to prepare the project FS to submit to the LA (in the case of projects of groups A, B, C) or to the PM (in the case of the projects of national importance) for approval. From 2008, the 6 Banks (ADB, AFD, KfW, Koreximbank, JICA, WB) have agreed with the Government to use the same format for project FS (Decision 48/2008/QD-TTg dated 4 March 2008 by the Prime Minister, on the Common Guidelines on ODA Project FS Preparation). The content of the FS should follow the Guidelines. The Guidelines define clearly the extent of details for the basic design to be described in the FS of the projects financed by the 6 Banks. The basic design in aspects of equipment and technology in project designing process should meet the following requirements:

- (i) defining the functional relationships between various processes and stages of production, including flows of material at different production stages;
- (ii) giving the basis for the total cost estimation; and
- (iii) giving the basis for the next project implementation phase.

Content of general functional design comprises general layout of system including principle project components, component's layout and basic engineering. The component's layout would define the principle physical features of the component and relationship with one another. Basic engineering essentially comprises:

- (i) Configuration of equipment and production processes, and
- (ii) Configuration of material flows and linkages between different stages of production.

The layout and basic engineering at FS level should comprise charts and drawings, including several features added to those prepared for the layout. These should be as detailed

as required to comply with the financial evaluation of the project or project alternative, and should include:

- (i) functional layout related to site conditions and indicating the position of principal structures and buildings, major equipment, roads, railways and other transport facilities, various utility and service facilities, and areas for future expansion;
- (ii) location of main production units, including loading areas, repair, storage and research and development facility etc.;
- (iii) material-flow diagram, showing the flow of main material, utilities and emissions, as well as main intermediate and main final products, through various sections of the plant;
- (iv) physical layout for transport, utility lines, consumption, linkages and communications facilities; and
- (v) areas for extension and expansion.

According to the Decision 48/2008/QĐ-TTg, in addition to the project description, project technical and technology aspects, the project formulation team shall ensure the following design aspects are considered and documented to support the Government's internal process of consideration and approval:

- (i) The project formulation team, when considering project staffing and designing the implementation arrangement, are required to: (a) clearly define the roles and functioning of key project management positions; (b) detail the tentative Terms of Reference (TOR) for these positions; (c) assess the availability of adequately skilled staff within the LA to fill the key positions; and (d) if there is a shortage of skills in one or several areas, provide specific recommendations on initiatives which might be undertaken to remedy the shortcomings.
- (ii) The project formulation team, in deciding on the number of project staff and the skill requirements for the project is required to: (a) clearly define and document the types and quantities of skills required by the project; (b) assess the availability of domestic skills and expertise against the requirements; (c) based on this assessment, determine what consultants might be sourced domestically, regionally and internationally; and (d) prepare schedule of consulting services on the basis of the assessment and consideration to the sourcing mentioned above to reduce cost, but at the same time maintaining the quality required for the project.
- (iii) The project formulation team is also required to provide a tentative timeframe schedule over the usage of key project implementation and management staff, including consultants.
- (iv) The project formulation team shall also assess the LA's eventual needs for advance financing (Refer Section IV. C. 5. a. for Advance Contracting and Retroactive Financing) to support early start-up on project effectiveness. If necessary, a detailed financing plan shall be prepared to support advance contracting activities and retroactive financing once the project is effective.
- (v) A detailed procurement schedule; outlining the goods and services to be procured, the methods of procurement, packaging, and the responsibilities and

processes for procurement, shall be prepared as part of the project documentation.

- (vi) An active and involved participation of the LA is required and the project documentation shall clearly define how this is to be accomplished.
- (vii) For projects, where there can be questions about the continued sustainability of the activities initiated under the project, it shall be clearly detailed how the medium to long term sustainability will be ensured and safeguarded.
- (viii) A detailed project implementation plan shall be prepared for all projects to support project implementation, administration and management.
- (ix) The project formulation team shall seek to rationalize the demands for reporting to focus on reporting requirements needed to monitor performance and reporting needed for management actions and conflict resolution.
- (x) The final project design document, including financing plan and the detailed implementation plan shall be accepted at the formulation or appraisal stage by the Line Ministry (Line Agency) and the ADB with the comments from the relevant ODA management agencies. This could be done through an MOU or similar committing agreement.
- (xi) In the case ADB provides a PPTA to assist the Government in formulating the project/program, the LA must cooperate with the PPTA consultants to work on the above mentioned design aspects.

c. Funds for Project/Program Preparation

The funds for project preparation can be taken from the state budget (Article 12, Decree 131/2006/ND-CP), the budget of the PO, or from ADB's grant, through PPTA, if it is available. Counterpart funds are very important in all projects; in some cases, project implementation can be terminated because of shortage/lack of counterpart funds. During loan project preparation, the need for counterpart funds should be carefully estimated for each item/activity. In addition, the sources and the ways of providing counterpart funds should be described in FS. According to present ADB policies, the counterpart funds in an ADB financed loan project should be a minimum of 10% of the total project cost.

d. Environmental and Social Safeguards Policies

In accordance with Decision 48/2008/QD-TTg, Common Guidelines on ODA Project FS preparation, the FS includes a section on social and environmental impacts analysis. The Government as well as ADB gives considerable importance to compensation, land clearance and resettlement issues because of their important social implications. Detailed procedures in dealing with these issues are stated in Article 29 of Decree 131/2006/ND-CP, Decree 197/2005/ND-CP and Decree 69/2009/ND-CP, Regulations on Land Clearance, Compensation and Resettlement.

The issue of ethnic minorities whose way of life may be affected by a development project is another common safeguard issue in Viet Nam because of the highly diverse nature of the country's population. In general, policies of ADB and the Government are very similar in dealing with this issue.

If the project is more of a program/sector approach and it is not possible to design a specific plan, but it is still known that ethnic minorities will likely be affected by the project,

an **Ethnic Minorities Planning Framework** is prepared prior to ADB appraisal. Specific Development Plans for affected ethnic minorities are then prepared during project implementation following this framework as actual cases are identified.

Regarding environmental issues, the Government has strict rules on dealing with environmental impacts of projects. According to government regulations, PO has to determine the projects classification according to Decree 80/2006/ND-CP. If the project belongs to Category 1, the project team has to work with the Ministry of Natural Resources and Environment (MONRE) in preparing an Environmental Impact Assessment (EIA).

After the preparation of the draft FS, the LA has to seek comments from all relevant stakeholders, ODA management, government agencies, and the concerned donor on the initial draft project document (usually equivalent to the midterm report of PPTA, before fielding of the loan project fact-finding mission. The draft, incorporating the various comments, will be used as the input for discussion with the ADB loan fact-finding mission.

2. ADB Policies and Procedures

ADB often provides PPTA to assist the Government in preparing loan projects (Refer Chapter III for PPTA). It is important that the LA does it utmost to ensure the originally assigned officers and staff participate in the project cycle process from start to finish. The ADB project officer should encourage the LA to ensure that **key officers and staff participating in the Project identification and preparation process are the same as those to be involved in the implementation of the project.**

The documents prepared by the Government and ADB staff at this stage, i.e. the ADB's RRP and the Government's Project FS should be harmonized. ADB accept using the Common Guidelines on ODA Project FS Preparation attached to Decision 48/2008/QD-TTg, issued by the PM as the key inputs for preparing the RRP.

Safeguard policies shall be taken into consideration during project preparation to ensure that any significant negative impacts of a project are mitigated in the following areas: (i) Environment, (ii) Involuntary Resettlement, and (iii) Indigenous Peoples.

Environmental screening is needed by the ADB on all ADB projects not just those belonging to the MONRE Group 1 projects. Projects are categorized by the ADB as (i) Category A requiring a full EIA, (ii) Category B requiring less detailed EIA, or (iii) Category C which do not require further special screening. In the project document report there should always be a section covering possible impacts of the proposed project on the environment.

Involuntary resettlement policies of ADB require the preparation of resettlement framework or resettlement plan according to the Handbook on Involuntary Resettlement.

When an initial Social Assessment carried out during project preparation shows that a project could have negative impacts on ethnic minorities, it is necessary for the Government (PO) to design an **Ethnic Minorities Plan** before ADB appraisal of the project. The Ethnic Minorities Plan evaluates how any negative impacts can be mitigated and how socio-economic conditions can be improved for the ethnic minorities.

Detailed **project risks and sensitivity analyses** are carried out to assess viability of the proposed project. Loan terms and conditions for loan effectiveness are discussed to improve sector performance and address key policy issues. The **possibility of doing advance**

actions is to be advised by the project officer to the LA so that the **agreement on advance actions** can be **made** during appraisal mission and **recorded in the MOU of the Appraisal Mission**.

In the case ADB provides a PPTA to assist the Government in project preparation, the preparation of an investment project/program starts with the preparation and implementation of the PPTA. Figure IV.1 compares the project preparation activities of both the Government and ADB.

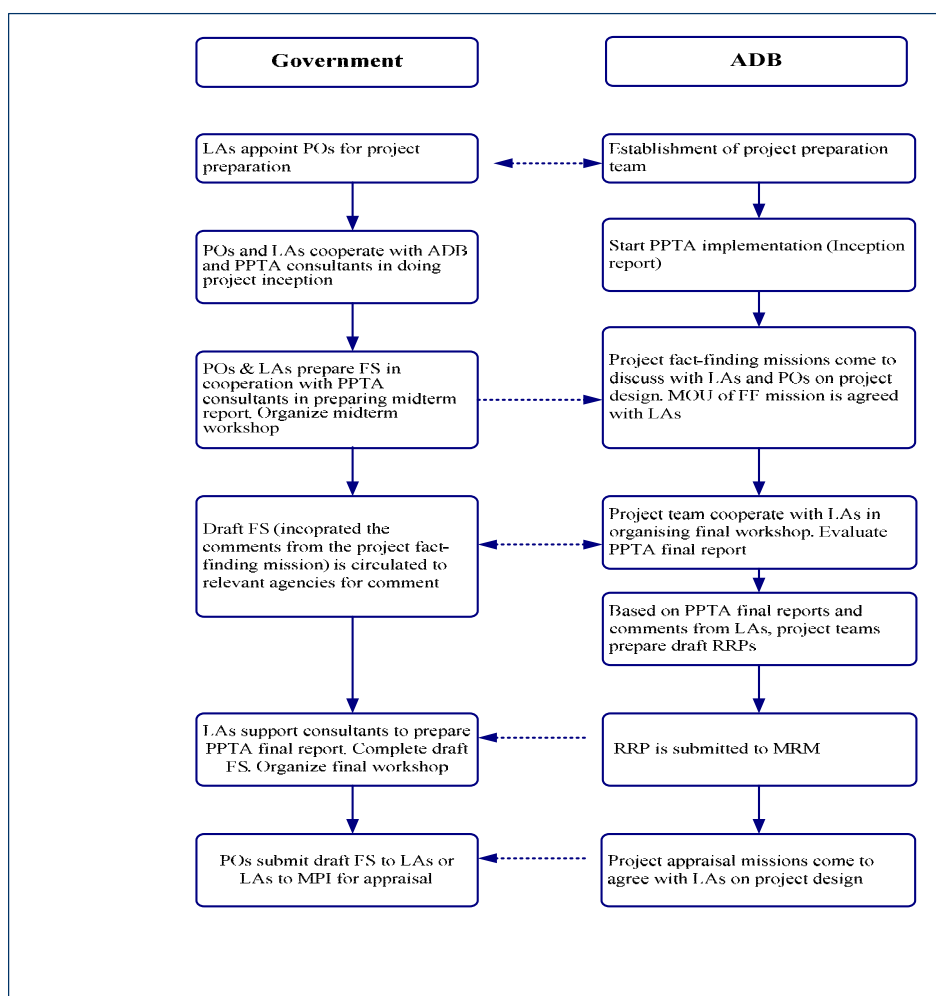
After the draft PPTA report is completed, ADB **examines project feasibility**, as presented in the consultants' report, first through a fact-finding mission and then through an appraisal mission. The **fact-finding mission**, in consultation with the government and other stakeholders, examines the project's technical, financial, economic, environmental, management aspects, and potential social impacts. Project teams will draft RRP for loans based on the PPTA reports and the findings from discussions with the Government and all concerned parties. After receiving comments on the draft RRP from the relevant divisions and departments (paragraph 26, OM Section D11/OP, issued on 30 April 2007), draft RRP will be submitted to the Management Review Meeting (MRM). After receiving MRM comments, project appraisal mission will be undertaken to finalize project agreement with the Government.

3. Some Generic Problems

Poor selection of the project preparation team leader. It is very important to select a qualified and experienced project team leader for project preparation. Project preparation team leader should have the knowledge and skills on project management so that he/she know how to mobilize the contribution from the relevant units of the LA to work on the project preparation. The preparation team leader needs to closely work with the consultants in designing the project so that potential problems, which may be raised during project implementation, can be avoided, like the delays in signing, effectiveness, start-up activities, and resettlement requirements. Inexperienced team leaders can cause significant problems in project implementation leading to poor outputs and long delays in implementation.

Lack of consultation with relevant agencies from the beginning of project preparation can lead to delays in getting consensus between them and LA and delays in sending feedbacks to ADB on project designs.

Figure IV.1: Comparing the processes of loan project processing by ADB and the Government of Viet Nam



C. PROJECT APPRAISAL, APPROVAL, LOAN NEGOTIATION, AND EFFECTIVENESS

1. Project Appraisal/Approval

a. Government Policies and Procedures

Following the ADB appraisal mission and receipt of the mission MOU, the LA commences the government appraisal and approval process. For **projects under the authority of the PM** (nationally important projects, projects concerning security or national defense, and programs or projects associated with macroeconomic policies) LAs will submit the FS to the PM for approval through MPI's appraisal department. For **projects authorized to be approved by LAs**, LAs will undertake appraisal and prepare appraisal reports, starting by designating an agency to carry out the appraisal (Refer Figure IV.2).

The **appraisal file or dossier** consisting of key documents (Refer Article 17, Decree 131/2006/ND-CP), is prepared by the PO and sent to the designated appraisal agency for appraisal. The file will be sent by the Appraisal Agency to the various involved agencies

(sector agencies for example) for comments. For more complex projects, where appraisal issues cannot be resolved without further consultation, it may be necessary to convene an "appraisal meeting" to allow the various involved agencies to further express their opinions and views. Decisions will then be made subsequent to this meeting.

The agencies who provide comments and attend the appraisal meeting generally consist of MOF, SBV, Ministry of Interior, MOJ, MPI, OOG, MONRE, and concerned sectoral ministries. The Government team working on project preparation should consult with senior staff in the LA for advice on how to proceed.

On completion of the appraisal process, the appraisal agency writes an appraisal report for inclusion in the final appraisal file used to request authorization to negotiate a loan agreement. The format of the **appraisal report** should follow procedures stated in Annex 5, Circular 04/2007/TT-BKH dated 30 July 2007 on Guiding Implementation for the Decree 131/2006/ND-CP and the Common Guidelines on ODA Project FS Preparation (Decision 48/2008/QD-TTg).

Projects approved at the level of the PM, are appraised by MPI or a State Appraisal Committee appointed by the PM. This committee prepares the appraisal report on completion of the appraisal.

Decision 48/2008/QD-TTg helps in resolving the problems of inconsistency between the project documents prepared by the ADB team and the GOV team.

Preparation of final **appraisal files** that will be submitted for approval to proceed with loan agreement negotiations should comply with Vietnamese Government's regulations and require the following documents:

- (i) A written request for appraisal submitted by the LA (for program or project subject to approval of the PM) or by the PO (for program or project subject to approval of the LA).
- (ii) Notification of the MPI on Official ODA Funding List.
- (iii) Program or project document (in both Vietnamese and foreign language, if any).
- (iv) All the documents, responses and comments made by concerned agencies during the process of preparing the program or project, agreements and memorandum of understanding with the donor or representative of the donor, and reports prepared by the appraisal team at the request of the donor (if any).
- (v) Financial reports of the PO during the most recent three years with certification of the LA (for program or project under domestic on-lending financial mechanism).

Eight copies of the above documentation have to be sent to either OOG (for those projects to be approved by the PM as stated in Article 19 of Decree 131/2006/ND-CP) or LA for approval, with copies to key relevant agencies. Then the LA, depending on the authorization level for the project, collects comments on the project document from relevant agencies. Approval by the PM or the LA of the appraisal report and authorization to proceed with negotiations comes with the issuance of the formal Investment Decision.

b. ADB Policies and Procedures

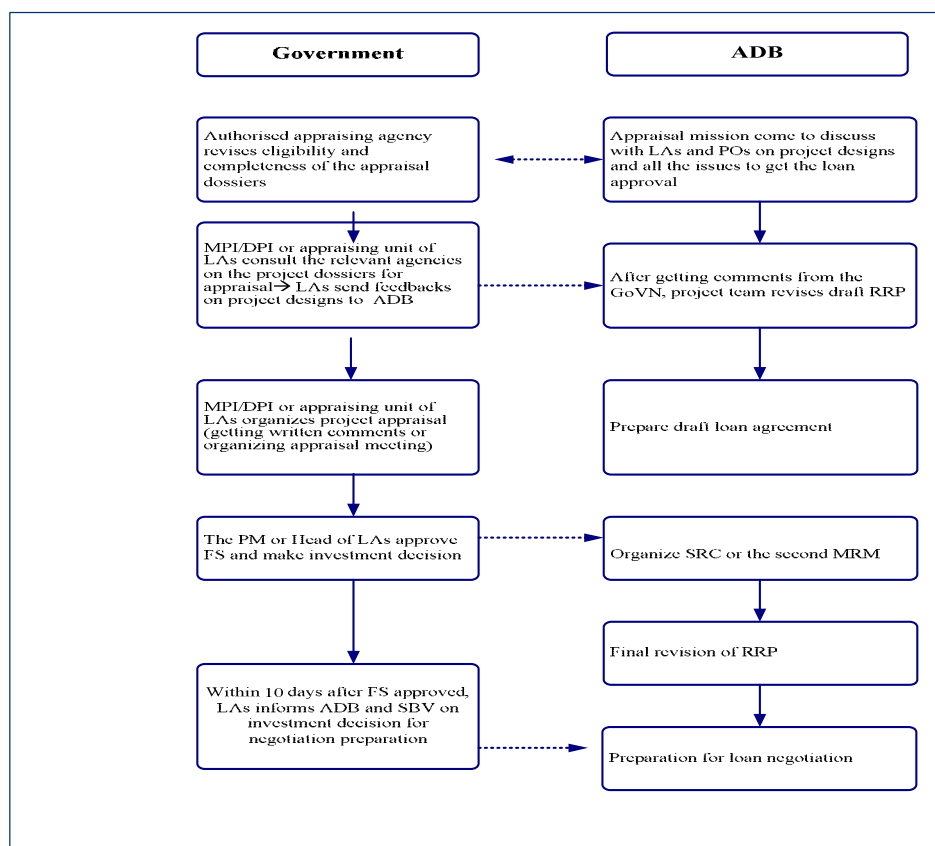
Following the examination in the field, the **Appraisal Mission** will conduct further analysis and undertake additional consultations as may be required. The key activities to be undertaken by the Appraisal Mission are following:

- (i) review and analyze all aspects of the loan proposal and sector/sub-sector to which it relates and information necessary to describe and analyze the technical, financial, and economic aspects of the proposed project.
- (ii) review the legal, institutional, social, and environmental aspects of the proposed project.
- (iii) agree a written understanding in the form of an MOU on the salient features of the loan proposal as well as on policy issues, and discuss nonstandard loan covenants with the Government and EA concerned. The MOU aims to ensure that implementation arrangements are fully understood and agreed by all concerned parties. Where necessary, the mission should secure appropriate undertakings from the borrower/executing agency on these matters.
- (iv) prepare and discuss with Viet Nam's counterparts a draft Project Administration Memorandum (PAM) as a part of the MOU for project implementation.
- (v) obtain commitment from the government on establishing the project office and on associated steps such as budget provision, timely release of counterpart funds, staff and services, and on appointing the project manager prior to loan approval. The MOU of Appraisal Mission should record the agreement between the ADB Mission and the LA on the advance actions to be undertaken and retroactive financing which can be applied to the potential advance actions, if necessary.

The proposed project manager should be fully involved in the formulation of the project during the appraisal period, as this will enhance the potential contribution of the project manager to effective implementation. The work undertaken by the appraisal mission forms the basis for the RRP and other legal documents for ADB. After reaching agreement the mission prepares a loan proposal report and draws up a draft loan agreement for negotiation.

In the case the Government makes significant changes in the scope or implementation arrangements of an approved project or when cost overruns are incurred in its implementation, a reappraisal mission will be sent to the field. The mission is expected to examine the completed and ongoing work of the approved project and to determine whether substantial changes in the project scope or implementation arrangements are necessary to achieve the original objectives of the project or whether supplementary financing of cost overruns could be considered based on the policy and operational guidelines established for such purpose. The work undertaken by the reappraisal mission forms the basis of the required Board paper (normally for approval on no-objection basis) proposing major changes in project scope, implementation arrangements, or financing arrangements.

Figure IV.2: Comparing the Government and ADB Project Appraisal Procedures



c. Some Generic Problems in Project Appraisal

Some agencies lack project appraisal capacity. Because the recent delegation of project appraisal authority as a result of Decree 131/2006/ND-CP, some agencies and provinces lack project appraisal capacity, causing delays in project appraisal.

In some cases, the Government appraisal results have some contents that are different from the ADB RRP, thus the decision on project approval by the Government may encounter difficulties. Generally, if the inconsistency is small, both sides can settle it during loan negotiation. However, if the inconsistency is large (especially if it involves changes in project structure and organization), the PPU should report it to the LA for prompt consultation with ADB on the differences in order to resolve them before ADB and the Government approves the project.

2. Loan Negotiation

After appraisal, the draft loan agreement and draft project proposal are submitted to all concerned for review. Feedback is collected, and the government is then called for negotiation with ADB (Refer Figure IV.3).

a. Government's Procedures

After receiving notification by the LA on the approval of the project, SBV will prepare all procedures for loan negotiations and seek for approving the establishment of the

loan agreement negotiation team from the PM. SBV works with Ministry of Foreign Affairs (MOFA) to arrange for issuing a Letter of Power of Attorney for the Leader of the Negotiation Team.

Prior to the start of negotiations with ADB, MOJ reviews the contents of the project loan agreement to ensure its conformity with Vietnamese Laws and Regulations and that it is consistent with other commitments.

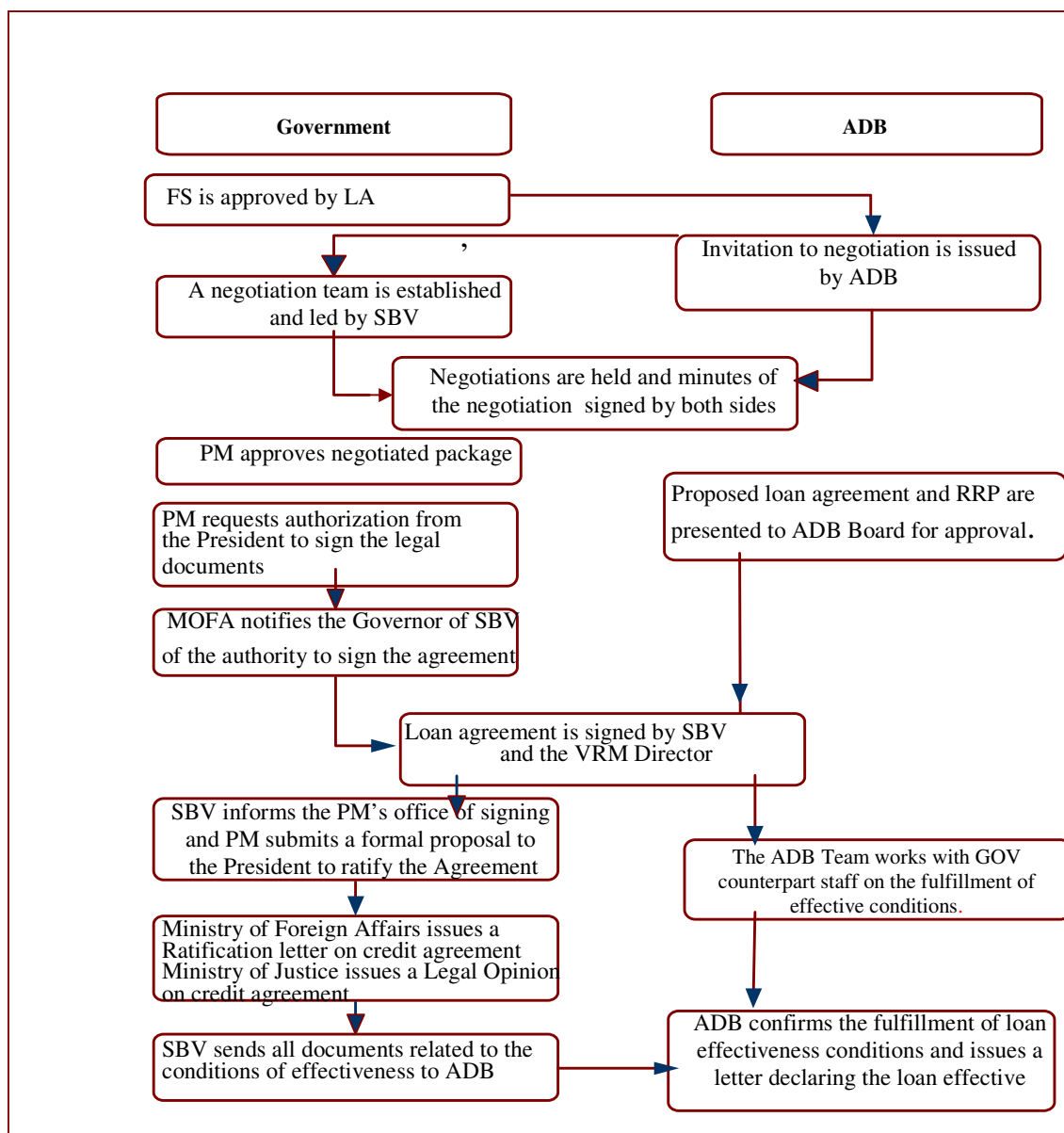
The Government Negotiation Team then meets with the ADB Negotiation Team and negotiates the Loan Agreement. Upon completion of negotiations, the two sides sign the agreed "Minutes of the Negotiations" describing details of agreements reached and recording any outstanding issues.

Within 5-10 working days of the negotiation, SBV submits a report on the results of the negotiation together with the Draft Negotiated Loan Agreement, the Minutes of the Negotiation and other documents to the PM with copies sent to relevant agencies for comment, such as MPI, MOF, MOFA, MOJ, and the LA of the project. These ministries/agencies report to the PM and SBV their views on the aspects under their responsibility. After negotiation, if there are any changes or adjustments of the proposed project scope, the LA should cooperate with MPI and MOF to submit these changes to the PM for consideration and decision.

b. ADB's Procedures

After receiving the notification of the project approval from the government and revising the RRP, a request for loan negotiation will be submitted to the government. The ADB project officer will chair the loan negotiations with the Government Negotiation Team.

Figure IV.3: Loan Negotiation, Signing and Effectiveness Procedures



3. Loan Signing

a. Government's Procedures

After ADB Board approval of the Loan Agreement, the next step is for both parties to sign the legal documents. These agreements have the power of an international treaty and their signature is authorized at the highest levels. The PM approves the loan agreement and sends the documents to the President requesting an authorization to the Governor of SBV to sign the concerned legal agreement. On receipt of this authorization, the MOFA provides an official authority to the Governor of the SBV to sign the Loan Agreement.

b. ADB's Procedures

After negotiations with the government, the loan's RRP is submitted to ADB's Board of Directors for approval. It is posted on the website after Board approval, along with the associated legal agreements.

After Board approval, the document is sent to the Government for the authorization from the President of State. Following the authorization the Loan Agreement is signed by ADB's VRM Director and the Representative of the Government (Governor of SBV).

4. Loan Effectiveness

a. Government's Procedures

The loan takes effect once certain conditions are met. This is also known as loan effectiveness. Generally, the conditions are limited to the legal requirements such as legal opinion, cross-effectiveness of co-financing, and execution of subsidiary loan agreements. The requirements and deadline for loan effectiveness are stipulated in the loan agreement. If there is a dated covenant which becomes due before the loan is declared effective, this dated covenant becomes an added condition of effectiveness.

If there are unforeseen delays it is possible for ADB to extend this period if such a request is received from the Government. If the effectiveness period elapses without an extension, the Loan Agreement is cancelled.

SBV informs the PM when the Agreement is signed and OOG submits a formal proposal to the State President to ratify the signed Loan Agreement. When the State President has ratified the Agreement, MOFA issues a Notice of the State President's Ratification to the ADB.

MOJ subsequently issues a legal opinion on the legality of loan agreement, including the signature and the ratification process. SBV sends all documents related to the conditions of effectiveness as stipulated in Loan Agreement (for example Decision on appointment of Director of PMU, Loan Sub-Agreement (if necessary), action plans, etc to ADB.

b. ADB's Procedures

After receiving the legal opinion on the legality of the Loan Agreement and all supporting documents from the Government, ADB's legal counsel and Project Officer review compliance with conditionalities after which the loan is formally declared effective. Normally, loan documents allow 90 days from Loan Agreement signing to become effective.

c. Generic Problems with Loan Effectiveness Conditionalities

Delays in fulfilling the conditions for loans effectiveness. Normally, the time for loan effectiveness is specified in the Loan Agreements as 90 days from Loan Agreement signing. However, in many cases, this timeline has to be extended due to late compliance of loan effectiveness conditions. The LA and the Government should undertake advance preparation activities to achieve loan effectiveness conditions even before the loan is signed to avoid delays in effectiveness. In case a significant delay of loan effectiveness occurs the

PMU and the EA must prepare a 'recovery plan' to speed up the start-up activities, to keep the implementation and loan disbursement progress in line with the planned schedule.

5. Advance Contracting and Retroactive Financing

a. Government's Procedures

Current Government regulations (Article 6 of Procurement Law) allow advance contracting for consultant even before project FS approval. Article 11, Decree 58/2008/ND-CP regulated that in case of consultant selection in advance, PPU should prepare procurement plan and submit to the leader of organization, who is assigned preparation of project, for approval.

The funds to implement advance contracting before project approval are not however clearly regulated. However Article 26.5 and 27, Decree 131/2006/ND-CP could be referred to and PMU has to submit the cost estimates for advance contracting to the PO and LA for approval.

b. ADB's Procedures

Advance contracting (one of the advance actions) normally refers to the process for procuring goods and related services and works, up to the stage of ADB's approval of EA's recommendation for award of contract before the effective date of the loan agreement or approval of technical assistance.

Advance contracting may also include approval of the award of contract for the procurement of goods and related services and works if retroactive financing has also been approved by ADB. Advance contracting is discussed with the EA during project processing.

Retroactive financing refers to the ADB's approval to reimburse project expenditures prior to effective date of the loan agreement. In general, ADB only accepts retroactive financing for activities occurring within 12 months before the date of loan signing and the amount to be retroactively financed does not exceed 20% of the loan amount.

ADB approval of advance contracting will not commit ADB to subsequently approve the project or to finance the procurement costs.

ADB will not finance expenditures paid by the borrower prior to loan effectiveness, even if advance contracting is approved, unless retroactive financing has also been approved by ADB.

CHAPTER V

PROJECT IMPLEMENTATION

Key areas of project implementation include (i) planning, (ii) personnel, (iii) financial management, (iv) procurement, (v) monitoring and reporting, and (vi) social and environmental safeguards.

Project implementation period could be roughly divided into three sub-periods including (i) project start-up, (ii) project implementation, and (iii) project completion and loan closing. It should be noted that while project start-up is included in this Chapter, a number of project start-up actions can and should be started/undertaken during project processing, loan negotiations and before loan effectiveness.

This Chapter will detail necessary actions under each project implementation areas during project implementation sub-period.

A. PROJECT START-UP

Table V.1: Activities in Start-up Phase and Responsibilities of Different Stakeholders

Areas	Works	PMU	PO	LA	MPI	MOF	SBV	PPC
Personnel	PMU Establishment	+	+++					
Financial Management	Opening Project Imprest Account	+	++	++		++	+++	
	Preparation of Counterpart Fund	+	++	+++	++	++		
Planning	Preparation of Updated Project Implementation Plan	+	+++	+++				
	Preparation of Updated Project Procurement Plan	+	++	+++				
Procurement	Recruitment of Project Management and/or Detailed Design Consultant	+	++	+++				
Social and Environment Safeguards	Preparation of Overall Plan on Compensation and Resettlement	+	++	++				+++

Note: (+): Submission agency, (++) : Concerned agencies, (+++) : Approval Agency.

1. Establishment of PMU

a. Government's Regulations and Procedures

LA or PO is to issue a decision to establish PMU **within 10 days** after FS approval and PMU operational **within 15 days** after its establishment (Circular 03/2007/TT-BKH). PO can also assign available PMU to manage project implementation.

Key positions in the PMU should be filled by staff involved in the project preparation phase to ensure maximum continuity from project preparation to implementation (Decision 48/2008/QD-TTg).

PMU will represent PO to manage routine implementation works, including (i) preparing detail implementation plan; (ii) monitoring and supervision of project implementation; (iii) procurement and contract management; (iv) financial management and accounting; (v) report on the implementation of projects; (vi) approval and hand over completed project and project final settlement, and (vii) others as requested by the PO.

b. ADB's Policies and Procedures

ADB requests the borrower to establish PMU and appoint project manager, accountant and procurement specialist by the end of loan negotiation. The project manager should be involved in the loan processing and participate in loan negotiations.

ADB encourages the borrower to transfer staff who were involved in project preparation to being involved with project implementation.

2. Opening Project Imprest Account

a. Government's Regulations and Procedures (Refer Circular 108/2007/TT-BTC dated 7 September 2007)

After loan effectiveness, PMU opens Imprest Account at a service bank. Projects with multi-fund sources have to open separate accounts for management of separate fund withdrawal. In cases of projects having multiple levels of management, ADB agrees to have Imprest Accounts at different levels, and Imprest Account of second level could be opened in relevant branch of the service bank. The service bank may be introduced by SBV in collaboration with MOF or as regulated by Loan Agreement. Procedures relating to Imprest Account opening include:

- (i) PMU sends official letter to SBV and MOF proposing the service bank where they would like to open Imprest Account.
- (ii) SBV accepts or introduces other service bank if the proposed bank is not capable of ODA fund management.
- (iii) PMU contacts the accepted service bank to complete Imprest Account opening procedures.
- (iv) PMU sends ADB details of the Imprest Account.
- (v) To initiate an advance to the Imprest Account, PMU sends ADB a withdrawal application in the amount of which must be not higher than the ceiling of the advances as stipulated in the Loan Agreement and Disbursement Letter.

b. ADB's Policies and Procedures

Imprest Account is used for Imprest Fund procedure, one of the four major disbursement procedures (Refer section V. B. 3. b. for more details). Therefore, to open Imprest Account, Imprest Fund procedure must be approved and this must be provided for in RRP and Loan agreement.

- (i) A signed withdrawal application for Imprest Account must be submitted to ADB together with a statement of the estimated ADB share of project expenditures.

- (ii) PMU may request an initial advance to Imprest Account from ADB on approved contracts and planned expenditures for the first 6 months of the project. The initial advance is not to exceed the approved ceiling of advances.

3. Application for Counterpart Funds (Refer Clause 26 and 27, Decree 131/2006/ND-CP dated 9 November 2006)

a. Counterpart Funds

For project budgeting, the LA is responsible for balancing the annual budget plan and ensuring the full, timely, and appropriate allocation of counterpart funds as stipulated by the Loan Agreement which was agreed and signed by authorized agency.

For the programs/projects that the Government lends from ODA sources, and projects that the Government lends partly from ODA sources, the PO must arrange counterpart funds themselves before signing the ODA borrowing agreement from the Government. In this case, the PO is prioritized for borrowing Government credit for project counterpart capital. In cases where the PO encounters difficulties in obtaining counterpart capital, the PO should report to LA for necessary action.

For Government budget programs/projects where counterpart funds are not timely arranged and not included in LA budget, MPI, in collaboration with MOF, and based on reports of EA will arrange to use advance funding from the Government's following year budget for project implementation. The EA, in coordination with other relative agencies, is responsible for arranging their allocated budget of following year to reimburse the funds they have been provided in advance.

EAs are allowed to rearrange their annual allocated budget to balance the surplus and shortage of funds of allocated projects.

b. Advance Fund for Implementation of Programs/Projects

In cases where there are urgent needs for capital prior to the implementation of some items of the project, and where the Government budget has been committed to fund from ODA and the project cost has been allocated in annual financial plan, MPI, in collaboration with MOF will consider providing advance capital from the state budget based on the written resolution of the LA and agreement in writing of the donor. These advance funds will be recovered by the State Treasury when ODA has been arranged and allocated for those items of the project.

4. Preparation of Project Implementation Plan

a. Government's Regulations and Procedures

After PMU establishment, an **Overall Project Implementation Plan** and a **Detailed Project Implementation Plan** for the first year must be prepared by PMU for approval. LA approves the overall project implementation plan, PO approves detail project implementation plan in accordance with the approved overall project implementation plan (Refer Section V, **Circular 04/2007/TT-BKH** dated 30 Jul 2007 for details).

Project Implementation Plan prepared by PMU in coordination with ADB project officer, should include:

- (i) review volume, time completion milestones for each specific works.
- (ii) determine which tasks can be done before project approval and loan agreement effectiveness.
- (iii) identify resources needed for each works, including advance works.
- (iv) review and determine the progress of detail work categories based on the overall project implementation plan.

Besides preparation of the Project Implementation Plan, the Disbursement Plan for the first years program, as stipulated in Annex 7, Circular 04/2007/TT-BKH, should also be prepared by the PMU and submitted to PO and LA. The LA then prepares their project portfolio for reporting to MPI following its annual reporting guideline.

b. ADB's Policies and Procedures

Project Implementation Schedule is part of the PAM which was initiated by ADB staffs in cooperation with the LA during appraisal mission and finalized immediately after loan effectiveness.

5. Preparation of Procurement Plan

a. Government's Regulations and Procedures

During preparation of FS for ODA projects, the prime procurement plan must be prepared and included in the FS document (according to regulations of **Decision 48/2008/QĐ-TTg** dated 3 April 2008). At project start-up, PMU/PO must update and submit detail Procurement Plan to LA for approval. The Procurement Plan covers information such as name, cost estimate, capital source, the method of selection, period of selection, form of contract, and period of contract execution for each package. The contents and procedures for submission and approval of Procurement Plan are regulated in **Chapter II, Decree 58/2008/NĐ-CP** dated 5 May 2008).

b. ADB's Policies and Procedures

Procurement plan must be prepared prior to loan negotiations:

- (i) LA prepares procurement plan with the assistance of ADB project processing team. Draft procurement plan is a core appendix to the draft RRP circulated internally within ADB for interdepartmental comments.
- (ii) Final procurement plan is agreed to during loan negotiations and attached to RRP.
- (iii) Procurement plan is updated annually, covering next 18 months of procurement activities.
- (iv) Procurement plan is published on ADB website.

6. Recruitment of Project Management and/or Detailed/Technical Design Consultant

a. Government's Regulations and Procedures

Government's current legal regulation (Article 6 of Procurement Law and Article 11, Decree 58/2008/ND-CP) allows recruiting the consultant before project FS approval. The management and/or detail design consultant should be recruited before loan signing or, if necessary, before FS approval because this consultant is critical for project implementation. In this case, the prequalification of the contractor (if applicable) should also be carried out before loan signing but after FS approval.

b. ADB's Policies and Procedures

Delays in fielding of project management and/or detailed design consultants causes delays in project implementation. To accelerate the fielding of project management and/or detailed/technical design consultant, all consultant recruitment steps including preparation of TOR, advertisement, longlisting, shortlisting, issuance of Request for Proposal (RFP), bid evaluation, etc, except contract award, can be undertaken before loan effectiveness. Even TOR and RFP can be prepared with the assistance of PPTA consultant during project processing and before project approval.

7. Preparation of Overall Detailed Plan on Compensation and Resettlement required by the Government

During project preparation (FS and PPTA) the Resettlement Plan or Resettlement Frame (for projects with sub-projects/components that have not been selected or prepared before appraisal) have already been included and approved by both Government and ADB. To implement this Resettlement Plan in project implementation phase, Government's current regulations (**Chapter II-4, Decree 69/2009/ND-CP** dated 13 August 2009) stipulate detailed steps and procedures for implementing compensation and resettlement for land acquisition. The most important steps that must be undertaken by PMU in cooperation with local authorities soon after FS approval is preparation of **Overall and Specific Plan on Compensation and Resettlement** (Refer Section V.B.3 for Government's Procedures and Regulations in Implementation of Resettlement Plan).

B. PROJECT IMPLEMENTATION

1. Technical Design and Project Cost Estimate

a. Government's Regulations and Procedures

Decree 131/2006/ND-CP dated 9 November 2006 stipulates that "For the investment project, the appraisal and approval of technical designs and cost estimates; the construction permission, project quality control, works acceptance, handover, warranty, and insurance are implemented in compliance with the **Current Laws on Construction and Investment Management**". Current regulations on these areas are stipulated in the following:

- (i) Decree 12/2009/ND-CP dated 12 February 2009 for Management of Construction Investment Projects.
- (ii) Decree 209/2004/ND-CP dated 16 December 2004 for Construction Quality Control.

- (iii) Circular 108/2007/TT-BTC dated 7 September 2007, regulated on Financial Management of ODA Projects.

During project preparation phase, the LA, based on appraisal report, had approved project FS document. The FS covered "basic design" for which the content and detail level are defined in **Decision 48/2008/QĐ-TTg**. In project implementation, PMU should prepare technical design, overall cost estimate and obtain construction permit prior to construction. Regulations on procedures for preparation and approval of technical design and cost estimate are provided in **Decree 12/2009/NĐ-CP** dated 12 February 2009.

In practice, PO Owner usually recruit consultant to prepare technical design and project cost estimate. The contractors will prepare detailed design/working drawings and submit to supervision consultant for approval and construction.

b. ADB's Policies and Procedures

ADB encourages the borrower to prepare technical designs and cost estimates before loan negotiations. For single project the PPTA's scope of works may include technical designs and cost estimate. The detailed engineering and technical design, for tendering and/or construction of civil works contracts, may also be done after the Board's approval of the loan. In such cases, the consultant recruited at start-up of project implementation would undertake technical design works.

2. Procurement

Clause 3 of Procurement Law, Clause 1 of Decree 58/2008/NĐ-CP and Clause 2.5, Decree 131/2006/NĐ-CP stipulate that "for projects using ODA funds, procurement shall be in accordance with the international treaties to which the Socialist Republic of Viet Nam is a party or other international agreements which authorized organizations or agencies of the Socialist Republic of Viet Nam have signed". Thus, if there is difference in procurement regulations between Government and ADB, the Loan Agreement prevails.

a. Government's Regulations and Procedures

Current legal documents (**Procurement Law 61/2005/QH11** and **Decree 58/2008/NĐ-CP** dated 5 May 2008) regulate different methods of selection depending on the size and nature of each procurement package.

The followings tables show responsibilities of Government's relevant agencies in consultant recruitment and contractor procurement for projects classified as A, B and C.

Table V.2: Procurement of Consulting Services

Contents	Responsibilities		
	PMU	PO	LA
1. Procurement Plan	+	+	++
2. EOI for Consultants	+	++	
3. Advertisement	+		
4. Short Listing	+	++	
5. Preparation of RFP	+	+/(++)	++
6. Issuance of RFP to Shortlisted Consultants	+		
7. Bid Evaluation and Approval	+	+/(++)	++
8. Contract Signing	+/(++)	++	

Note: +: Submission agency, ++: Approval agency, (++): Delegated approval agency, if any

Table V.3: Procurement of Works, Goods and Services (other than consulting services), and Contractors

Contents	Responsibilities		
	PMU	PO	LA
1. Procurement Plan	+	+	++
2. Prequalification Document Preparation	+	++	
3. Advertisement	+		
4. Evaluation and Approval of Prequalified Bidders	+	++	
5. Procurement Document Preparation	+	+/(++)	++
6. Invitation for Bid	+		
7. Bid Evaluation and Approval	+	+/(++)	++
8. Contract Signing	+/(++)	++	

Note: +: Submission agency, ++: Approval agency, (++): Delegated approval agency, if any

b. ADB's Regulations and Procedures

For consulting services refer to "Guidelines on the Use of Consultants by Asian Development and Its Borrowers" and "Handbook for Users of Consulting Services". For works and goods, and services (other than consultant services) refer to "Procurement Guidelines".

c. Problems Encountered in Practice of Procurement

Presently the ADB and the Government have its own regulations on procurement. The Government regulations (Article 3 Bid Law) stipulated that for ODA Projects, the procurement is done on the basis of the international treaties signed by Government's authorized agencies (i.e. Loan Agreement). However, in procurement practices, there are procedures that the ADB's procurement guidelines do not mention but the Government's do (e.g. criteria for short listing consultant). PMU staffs have encountered difficulties in determining whether Government regulations should be followed in these cases.

In dealing with this situation, the procurement process will be reviewed by ADB's project officer and procurement specialist and LA's appraisal agencies. Based on each specific case, PMU should discuss with each party before taking action in order to avoid the rejection/non-approval of the procurement process.

3. Financial Management

a. Annual Financial Plan

Government's Procedures

Financial plan includes ODA fund plan and counterpart fund plan. For multi owner projects, each PO is responsible for their own financial plan. In cases where the project has many POs, together with a coordination agency, the coordinator will be responsible for planning the financial activities of the coordinating organization and synthesizing the financial plan of the whole project.

Annual financial plan of the project must show the details for every component/item and every operation of the project by capital sources (ADB, Government counterpart fund, beneficiaries' contribution and credit capital (if any) and must be accompanied by reports that explain basis to calculate expenses. Annual financial planning forms of ODA projects are stipulated in Appendix 1, Circular 108/2007/TT-BTC.

Each year, at the time of preparation and approval of state budget as currently regulated, the POs, based on project implementation progress, prepares project construction capital plans (for construction projects) or administration capital plans (for administration projects) to submit to LA (for central management projects), or to Provincial/City People's Committees (for local management projects) so that they can include in their annual budget plans for subsequent submission to the Government and National Assembly for approval.

The project annual financial plan, after its approval, should be submitted by PMU to MOF's international foreign relations department.

ADB's Procedures

Around end January each year, ADB requests PMUs to submit their project projections for contract awards and disbursements for that specific year with breakdown into quarterly projections. The contract awards and disbursement projections are to be discussed with concerned ADB project officer before officially submitting to ADB. The projections will be recorded in ADB systems and will be the basis for monitoring and rating the project performance.

b. Disbursements

Government's Regulations and Procedures

Circular 108/2007/TT-BTC of the Ministry of Finance on Regulations on ODA Project Financial Management stipulates that ODA project is managed within specified financial mechanisms (allocation from Government budget, re-lending from Government budget or both). The financial mechanism is specified at project preparation and included in project approval.

ODA capital is budget of the government and provided by ADB, so PMU should be well organized to make sure that the budget will be managed in compliance with the Government and ADB procedures. PMU has to establish a separate project accounting division with competent staff with knowledge of both the Government and ADB funding and accounting procedures.

The PMU's accounting division is responsible for accounting, auditing, project asset management and reporting in accordance with regulations of the Government and regulations stipulated in Project Agreement, with these including (i) arrange procedures to receive and use the capital, (ii) carrying out payment transactions of the project, (iii) project accounting, (iv) asset management, (v) preparation of financial reports for government agencies and ADB and (vi) project audit and final settlement;

ODA fund is withdrawn in accordance with ADB's disbursement procedures which are mentioned in ADB's procedures below.

ADB's Policies and Procedures

ADB disbursement procedures are provided in ADB Loan Disbursement Handbook.

During project appraisal and Loan Negotiations, the disbursement procedures have been discussed and agreed between ADB and the Government. ADB regulates the withdrawal of funds in accordance with the following procedures:

- (i) direct payment procedure,
- (ii) commitment procedure,
- (iii) reimbursement procedure, and
- (iv) imprest fund procedure.

c. Tax Management

Government's Regulations and Procedures

Taxes applied to ODA programs and projects usually conform to existing taxation law and regulations (Article 28, Decree 131/2006/ND-CP). General provisions on tax policy and in implementing tax exemptions for ODA projects is stipulated in **Circular 123/2007/TT-BTC** dated 23 November 2007 of the MOF, Implementing Policies on Tax and Tax Incentives for ODA Programs and Projects.

Taxes applied to ODA projects include: Export and Import Tax, Personal Income Tax, Special Consumption Tax (Excise Tax), Value Added Tax, Enterprise Income Tax. Since tax policies may change from time to time, information on tax treatment presented below may have been revised or changed since preparing this Handbook. The PMU should therefore contact MOF and Tax Authority for guidance on latest tax policies.

PMU shall proceed with the tax registration with relevant tax departments where PMU had its head office to obtain a tax identification number. This is necessary to have the reimbursement of the above mentioned taxes, if applicable, and in line with **Circular 85/2007/TT-BTC** dated 18 July 2007 by MOF.

Export and Import Tax, Special Consumption Tax (Excise Tax), and Enterprise Income Tax. The requirements and procedures on exemption are specified in **Circular 123/2007/TT-BTC** dated 23 October 2007 by MOF.

Personal Income Tax. Calculation and payment of personal income tax shall be implemented in accordance with the **Personal Income Tax 04/2007/QH12** dated 21 November

2007, **Decree 100/2008/ND-CP** dated 8 September 2008 and **Circular 84/2008/TT-BTC** dated 30 September 2008. The Government regulations governing personal income tax fully applies to national project staff and consultants. The provision for salaries is included in the project budget under operational costs. The PMU and contractors shall calculate personal income tax for national project staff and consultants with taxable income.

The Project is also responsible for deducting the irregular income tax levied on local experts/consultants who are contracted to the Project on short-term basis.

International Consultants/Foreign Specialists, who are working on ODA projects, register and pay Personal Income Tax following current Government Personal Income Tax procedures. Consultants and Specialists who are certified by MPI in accordance with **Decision 211/1998/QĐ-TTg** dated 31 November 1998 are exempt from import, special consumption, VAT and personal income taxes as regulated in **Circular 52/2000/TT-BTC** dated 5 June 2000 by MOF.

Procedure for VAT Refund. The project is eligible for VAT refund on relevant imported goods and services or items procured and purchased in Viet Nam. VAT refund application shall be sent to VAT authority, following receipts of relevant invoices, or once a month, depending on the interval between payments of the contract. In principle, the tax authority shall issue the decision on VAT refund and the payment upon receipt of a full VAT refund application. The State Treasury shall refund the VAT amount through a transfer to the applicant's account number. **Circular 60/2007/TT-BTC** dated 14 June 2007 by MOF, **Decree 85/2007/ND-CP** dated 25 May 2007, and MOF's **Official Letter 5360/TCT-CS** dated 25 Dec 2008 provide details on VAT refund for ODA projects.

The PMU can sign the contracts with contractors in two forms: (i) **Contracts without VAT** - A contract where the Contractor is eligible for refund of input VAT imposed on goods and services purchased for implementation of the contract; or (ii) **Contracts with VAT** - The PMU signs contracts with VAT, pays VAT to the contractor and submits necessary forms to obtain a VAT refund.

ADB's Policies and Procedures

ADB does not finance (i) customs duties and other taxes on imported goods; and (ii) tax (sales tax, value added tax, or any other tax levied by the borrower)

4. Social and Environmental Safeguards

a. Land Acquisition and Resettlement

Government's Regulations and Procedures

Overall requirements is that land acquisition and resettlement, if any, must be implemented in accordance with Resettlement Plan which was approved together with FS.

Compensation Principles include:

- (i) The project has to ensure equal or better living conditions, new jobs and stable life for affected peoples (unless otherwise agreed between the parties).
- (ii) Compensation through a combination of one or more forms: cash payment, ownership of house, and/or land.

- (iii) No compensation in case of illegal occupation or building of houses without construction permission (this is basic difference between compensation regulations of the Government and ADB policy where ADB's policy includes compensation for illegal occupants).
- (iv) The Government regulates principles, methods and cost-frame for compensation, while the Provincial People's Committee determines compensation costs within the province.

To acquire land the Project must establish a Land Acquisition Compensation Board. Regulations of the board of compensation are as follows:

- (i) If the project is for business purposes, the Compensation Board will be lead by PO in coordination with the local People's Committee.
- (ii) If the project is not for business purposes (i.e. for public purposes), the Board of Compensation will be leaded by local people committee in collaboration with the PO.
- (iii) Cost of land acquisition is taken from the project fund source.
- (iv) The land acquisition will be done by operating as individual sub-projects where local People's Committee's will hold position of sub-PO. At the time of financial planning and project closing, the sub-PO will notify the overall PO of compensation costs for their incorporating into the total project cost.

Key legal relevant documents for land acquisition and resettlement are as follows:

- (i) Land Law 23/2003/QH11 dated 26 November 2003;
- (ii) Decree 197/2004/NĐ-CP dated 3 December 2004 Regulations on Land Compensation and Resettlement;
- (iii) Decree 84/2007/NĐ-CP dated 25 May 2007, Additional Regulations on Land Compensation and Resettlement;
- (iv) Decree 69/2009/NĐ-CP dated 13 August 2009, Additional Regulations on Land planning, Land pricing and Land Compensation and Resettlement; and
- (v) Circular 107/2007/TT-BTC dated 7 September 2007, Instructions for Management Cost on Land Acquisition and Resettlement.

ADB's Policies and Procedures

Involuntary Resettlement Policy is one of three safeguard policies of the Bank. The others are Environmental and Indigenous People's Policies. The major policies are as follows:

- (i) Avoid involuntary resettlement wherever feasible.
- (ii) Minimize resettlement where population displacement is unavoidable by choosing alternative viable project options.
- (iii) Where involuntary resettlement is unavoidable, to ensure that affected people receive assistance, preferably under the project, so that they will be at least as well off as they would have been in the absence of the project.
- (iv) Lack of formal legal title to land by any affected people is not a bar to ADB policy entitlements.

- (v) Eligible affected people are classified into three groups with respect to land title, each of which will have different entitlements, namely (a) Titled group - those who have formal legal rights to land; (b) Legal group - those who do not have formal right to land when affected population is recorded but could claim right to such land under the laws and; (c) Non-title group - those who have no recognizable rights or claims to the land.
- (vi) People moving into the project locations or having assets that are constructed after the eligibility cutoff date are not entitled to compensation or other assistance.

Following procedures are followed:

- (i) Projects are assigned an involuntary resettlement category depending on the significance of the probable involuntary resettlement impacts, namely (a) Category A - significant impact - it needs a Resettlement Plan, (b) Category B - not significant impact - Short Resettlement Plan is required, and (c) Category C - no impact is foreseen - it requires no Resettlement Plan.
- (ii) An initial poverty and social assessment (IPSA) is required for every development project and should be undertaken as early as possible, preferably by the time of fact finding for a PPTA.
- (iii) Through IPSA resettlement plan is determined. Draft resettlement plan preferably submitted together with FS, but in any case before the first MRM.
- (iv) Resettlement Plan is prepared based on survey of at least 10% of affected people and 20% of seriously affected people and is approved by ADB before implementation.
- (v) By the end of the loan negotiation EA should obtain the land required for the first year of implementation
- (vi) For projects including subprojects, components that have not been selected or prepared before appraisal and that may involve resettlement, a resettlement framework must be submitted before the first MRM.
- (vii) For projects where detailed engineering and technical design are prepared after the Board's approval of loan (i.e. during implementation), the revised/ updated Resettlement Plan must be prepared by PMU and submitted to ADB for approval. ADB (the Chief Compliance Officer - CCO, supported by Environmental and Social Safeguard Division - RSES) must ensure compliance with the involuntary resettlement policy for full updated resettlement plan.
- (viii) ADB will review implementation of Resettlement Plan regularly including at midterm and project completion. For large-scale resettlement projects, the review will be done semiannually.
- (ix) The Loan Agreement may require that a Social Monitoring Report be prepared, preferably by external monitoring and evaluation agency, during the course of project implementation.
- (x) For all involuntary resettlement category A and B projects, ADB requires the EA to submit quarterly or semiannual progress report on implementation of resettlement plan.

Problems Encountered in Land Acquisition and Resettlement

Land acquisition and resettlement remains a problem in many projects with lengthy delays in site clearance resulting. Land acquisition and resettlement policies also differ between the ADB and the Government, where the Government regulations only compensate affected persons with legal rights while ADB's policy considers those affected persons who illegally occupy lands. ADB does not consider this a reason not to compensate these persons.

Two solutions to resolve this issue are (i) implementation of resettlement plan as soon as possible to avoid outside persons entering the project area; and (ii) strengthening coordination and harmonization among stakeholders.

Land acquisition is part of overall project costs and the land acquisition needs to run as a sub-projects independently and implemented by local authorities. Towards this end, the PO should send project designs to local authorities as soon as possible so that they can start land acquisition activities. The practical and most useful way of making them familiar with project design is through their involvement in the project design preparation period. Participating in design review and appraisal meetings helps develop greater project ownership. The PO also needs to ensure timely assignment of their representative participating in the Project Compensation Council.

Additionally, land acquisition activities should be more professional by utilizing a company or an organization established by local authorities to undertake this work. In some provinces, there are resettlement councils whose staffs do not work full time for the project with the result being delays to land acquisition activities. In addition, greater training and dissemination of GOV regulations and ADB's policy on resettlement for project staff and supervision agencies is required.

b. Environment

Government's Regulations and Procedures

Current regulations require that environmental protection has to be paid attention at formulation of project and maintained throughout the whole project cycle for sustainable development purpose. At planning phase **Strategy Environmental Assessment** has to be prepared. At preparation of project (FS), based on the size, nature and magnitude of impact of each project, (i) Environmental Impact Assessment (EIA) or (ii) **Environment Protection Commitment** must be undertaken.

The lists of projects that are required to implement EIA or EPC are provided in Clauses 18 and 24 of Environment Law respectively.

The content of EIA should include measures to minimize environmental impacts with the provision of an **Environmental Management Plan** (EMP). At start-up and during project implementation, PMU and PO are responsible for dissemination of EIA/EMP and management of construction contracts in accordance with the approved EIA/EMP.

The followings are main legal documents with regard to Government's environmental consideration policy:

- (i) Environmental Law 52/2005/QH11 dated 29 November 2005;

- (ii) Decree 80/2006/ND-CP dated 9 August 2006, Guidelines on Implementation of Environmental Law;
- (iii) Decree 21/2008/ND-CP dated 28 February 2008, Additional Revisions to Decree 80/2006/ND-CP;
- (iv) Circular 05/2008/TT-BTNMT dated 8 December 2008, Detail Guidelines on implementation of Environmental Law, Decree 80/2006/ND-CP and Decree 21/2008/ND-CP; and
- (v) Decree 140/2006/ND-CP dated 22 November 2006, Provisions on Projects' Environmental Consideration.

ADB's Policies and Procedures

ADB's Environment Policy is grouped in its Poverty Reduction Strategy. ADB requires environmental assessment of all projects and the process is started as early as project identification.

The environmental assessment requirements for loan projects depend on the significance of environmental impacts which are classified in three categories, namely (i) Category A - projects could have significant adverse environmental impacts - An **Environmental Impact Assessment (EIA)** is required; (ii) Category B - projects could have some adverse environmental impacts but lesser significance than those of Category A - An **Initial Environmental Examination (IEE)** is required; and (iii) Category C - projects are unlikely to have adverse environmental impacts - No EIA or IEE is required, although **environmental implications** are required to be noted.

The EIA/IEE is prepared at preparation of project and reflected in the RRP. As part of the environmental assessment process, Category A and environmentally sensitive Category B projects require the development of **Environmental Management Plan (EMP)** that outline specific mitigation measures, environmental monitoring requirements and takes place throughout project implementation and evaluation. The EMP is reflected in the PAM, which is drafted in ADB's Inception Mission.

If there is a major change in project scope during implementation, a screening for environmental significance and classification for environmental category must be undertaken.

ADB requires submission of Semi-annual Reports on implementation of EMP during project implementation.

c. Indigenous People Policy

Government's Procedure

At present, there are no detailed regulations or policy on indigenous people for project implementation phase. Decision 48/2008/QD-TTg dated 3 April 2008 requires that FS of project preparation must include assessment of project impacts on indigenous people. The Decision also mentioned Indigenous People Plan (IPP), but without details of its content.

ADB's Policies and Procedures

Projects are categorized by significance of their impacts on indigenous peoples and include (i) Category A: the projects are expected to have significant impacts that require **Indigenous People Development Plan (IPDP)** and/or Indigenous People Development Framework (IPDF); (ii) Category B: projects are expected to have limited impacts that require **Specific Actions** specified in RRP document; and (iii) Category C: the projects are not expected to have impacts and do not require special provisions.

The screening during **Initial Poverty and Social Assessment (IPSA)**, which also results in resettlement categorization, will determine category of indigenous people impacts.

The need for an IPDP is to be included in the TOR for the PPTA if the project is identified as likely to have significant impacts on indigenous peoples. The draft of IPDP is to be reviewed by the government agencies prior to submission to ADB's MRM for review and approval.

During project implementation the status of IPDP components must be reviewed. As appropriate, ADB's review mission includes periodic review of IPDP. The progress of implementing the IPDP must be monitored regularly and the borrower's project executing agencies must report semiannually to ADB on progress.

If there is a major change in project scope during implementation, a screening for indigenous significance and classification for category must be done

5. Project Monitoring and Reporting

a. Monitoring

Government's Regulations and Procedures

PMU/PO/LA have daily responsibility for monitoring the project. MPI, MOF and other government's agencies involve in project monitoring and evaluation through progress reports of PMU/OP/LA. **Chapter V, Decree 131/2006/ND-CP** and **Section VI-I, Circular 04/2007/TT-BKH** regulates Monitoring Responsibilities of Each Agency Concerned in Project Implementation Management.

ADB's Policies and Procedures

ADB uses **Project Performance Management System (PPMS)** as a coherent and results-based approach to project planning, performance monitoring and evaluation. The PPMS comprises five components (i) Design and Monitoring Framework (preparation phase); (ii) Project Performance Report (PPR); (iii) Borrower Monitoring and Evaluation; (iv) Project Completion Report (PCR); and (v) Project Performance Evaluation Reports (PPERs), which is the post evaluation applied for selected projects at 3-5 years after project completion. PPMS must be used for all ADB loan projects where monitoring and evaluation by POs and EAs is an essential part of the PPMS. (Refer to **ADB's OM J1** for details of PPMS).

During project implementation, ADB review missions, generally semi-annual, and joined by the EA and PMU staff when appropriate, discuss the latest progress, address current and emerging problems by developing mitigation measures, and participate in the review and preparation of annual plans of operations/work plans. Review missions assess

whether the project's outputs are being delivered or if adjustments are required to ensure that the proposed outcome is likely to be achieved.

Followings are ADB's missions during project implementation:

- (i) Inception Mission: Detailed discussions on the project contents, ADB regulations and procedures, preparation of the PAM, and compliance with Loan Agreement conditionalities.
- (ii) Project Review Mission: usually 2 times per year ADB sends supervision mission to work with EA, PO, and PMU staff in order to evaluate overall project progress.
- (iii) Special Project Administration Mission: will be sent to work with EA, PO, and PMU staff if the project encounters problems that are reported by ADB project review mission or by reports from the Government.
- (iv) Midterm Review Mission: this mission is designed at mid-point of implementation period to review project progress and attainment of proposed objectives and goals and to make any design changes if necessary.
- (v) Supplementary Financing Appraisal Mission: the mission works with the Government when the project needs additional ODA funding.

b. Reporting

Government's Regulations and Procedures

The current regulations on ODA projects (Decree 131/2007/ND-CP and Section V, Circular 04/2007/TT-BKH) require PPR from different levels, timing, and by specified format.

Levels of Reports: three levels are required with these being from PMU/PO, LA and Government's management agencies (MPI and MOF)

Timing of Reports: Subject to classification of projects. For projects approved by the PM and class A:

- (i) PO/PMU reports monthly to LA, MPI, MOF and Provincial People's Committee's in Project area.
- (ii) LA reports quarterly to MPI and MOF.
- (iii) MPI and MOF report semi-annually to the PM.

Reports should follow the formats provided by the Aligned Monitoring Tool (AMT) that covers different aspects of the project including physical and financial progress, procurement, safeguard issues, and covenant execution. Details of the AMT are regulated in Annexes of the **Decision 803/2007/QĐ-BKH**.

ADB's Policies and Procedures

ADB has agreed to use the AMT as the reporting format for PMUs' monthly and quarterly progress reports to ADB. Based on PMU's reports, ADB project officer will update ADB's internal reporting system called the Project Performance Report (PPR). ADB

Management uses the rating produced by the PPR system for monitoring of individual project performance as well as the country portfolio.

6. Changes in Project Scope

a. Government's Regulations and Procedures

Pursuant to **Decree 131/2006/ND-CP** dated 9 November 2006 and **Circular 04/2007/TT-BKH** dated 30 July 2007, if there are changes in project scope during project implementation they should be processed as follows:

In the cases adjustments, amendments and supplements to contents of project that lead to:

- (i) modification in the signed specific international treaties on ODA: The LA shall comply with the existing legal laws and regulations on the signing of, accession to and implementation of international treaties.
- (ii) changes in domestic financial mechanisms or in on-lending conditions applicable to the program or project: The LA shall report to MOF and MPI or submit to the PM for approval.

In the case where the donor has agreed on the use of **budget savings** after bidding with regards to ODA loan programs and projects:

- (i) If such budget saving is used for implementation of related work items to increase the effectiveness of the on-going program or project, the LA shall submit to MPI a justification report on its intention of using such budget savings with attachment of the program or project document. MPI shall then coordinate with the relevant agencies to consider and submit to the PM for approval on using such budget savings.
- (ii) If such budget saving is used for supplementary work volume within the scope of the on-going program or project, the LA shall make its own decision on the use of such budget savings.

Usually, the budget allocation of project Loan Agreement has an unallocated amount for covering unforeseen costs. In cases changes lead to exceeding allocated budget, PO and LA may reallocate the original budget allocation including proposal to use this unallocated amount if it is agreed by ADB. If the balance within the unallocated amount is insufficient, PO, LA can consider the possibilities of using savings from various project components through reallocation of funds to be approved by ADB.

During construction, for many different reasons, most contracts would normally be changed in term of designs and/or scope. Changes may come from the PO or from the result of site survey to prepare working drawings, or even changes by reasonable proposals of the contractor. When there is a change in contract, the variation order procedures of contract should be carried out, normally in following sequence:

- (i) obtain principle approval of change from PO, LA and ADB if required (subject to scale and nature of the change).
- (ii) implement the survey, design and cost estimate for the changed works.
- (iii) obtain variation order required by contract provisions.

- (iv) revise existing contract to incorporate the changes approved or mobilization of new contractor to do the changed works.

Each contract has contingency item for unforeseen changes in quantity and currencies value of the contract during implementation. In general, constructed quantities, including that of variation orders, should not exceed the contract price which was approved in the bid plan. During construction, if the contract quantity and cost exceed the original contract, PO must rearrange budget allocation within the project and submit to LA and ADB for approval.

b. ADB's Policies and Procedures

The Government, EA, or ADB may propose changes in scope and implementation arrangements. ADB agrees to consider the changes in project scope and implementation arrangements that would improve the development impact and reflect stakeholder interests during implementation.

A change in scope or implementation arrangement is classified as either a major or minor change. A major change substantially affects the project's purpose, components, costs, benefits, procurement, or other implementation arrangements. A minor change does not substantially affect the project's purpose, benefits, procurement, or other implementation arrangements.

All major change in scope must be screened and classified in accordance with the safeguard policy and procedures as presented in OM F1, 2 and 3. Based on classification, the safeguard policies, planning requirement must be fulfilled before the change in scope is approved

The Director, user division or Country Director, RM approves the minor change. A major change that materially alters or fundamentally affects the overall project purpose (immediate objectives) and scope is approved by the Board of Directors. Otherwise the Vice President Operations approves the major change.

c. Problems Encountered by Variations of Contracts or Changes of Scope of the Project

In project implementation, contract variations due to results of the detail survey are normal. Changes of project scope are some times needed in order to achieve project objectives. However many contract variations are due to poor quality design, lack of planning, and additional works required by local authorities. These changes result in lengthy delays for many projects.

An important measure to minimize the number of contract changes during implementation is through improved quality of project preparation. The design consultants should be required to work in close coordination with local authorities during preparation period. When design changes arise PMU should actively work with the donor and government's relevant agencies to get their specific comments on the proposed changes, and where changes are approved, PMU must then incorporate changes into the project implementation plan.

7. Compliance with Loan Covenants

Loan covenants are included in the Loan Agreement. Loan covenants provide for specific action that is related to the loan and that the borrower is required to do during the implementation of the project. The covenants are intended to ensure that the project's objectives and prescribed benefits can be achieved.

There are two kinds of covenants: general and special. General covenants are those assurances and undertakings that ADB obtain from the borrowers regardless of special features of specific projects. General covenants are obligations of the borrowers to repay the loan and maintain project accounts and records of project implementation. Special covenants usually include special matters such as institutional development, staffing arrangements, training, management, sector policies etc.

During implementation of the project, ADB review/midterm/project completion missions will assess the Borrower's performance in compliance with loan covenants stipulated in the loan documents. The PPR, which is internal report of ADB, also indicates status of compliance of loan covenants and assesses rating of each covenant.

In cases of noncompliance with loan covenants by the borrower, ADB may take legal remedies including loan suspension, cancellation or acceleration of maturity which are available in the loan agreement.

C. PROJECT CLOSING AND COMPLETION

1. Project Physical Completion Date

The project physical completion date is the date on which all physical works of project are to be physically completed. This date precedes the loan closing date, normally by 6 months.

2. Loan Closing Date and Loan Extension

a. Loan Closing Date

The closing date of loan is important because it affect the Government's right to withdraw the Loan proceeds. For each loan, the Loan Agreement specifies a closing date, which is the last date for the Government to withdraw from the Loan Account. The Government and ADB can agree to extend the closing date at any time.

If at the loan closing date an amount of the loan has not been withdrawn from the Loan Account, ADB notifies the Government that withdrawals may no longer be made, and the amount is canceled.

If ADB does not take any action, the Loan Account remains open for withdrawals and the Government is billed commitment charges on the undisbursed loan amount under conditions for OCR loans until ADB sends a cancellation notice.

To avoid Loan Account remaining open beyond the loan closing date (without any agreed extension and no notice of termination), the Sector Division or the Regional Department or RM responsible for implementing the project, undertakes a review of the

disbursement position, including the Imprest Account, with the Controller's Department (CTL), at least two months before the loan closing date.

If no withdrawals from the loan account are expected beyond the closing date and any advance to the imprest account is either fully liquidated or refunded, the borrower is advised immediately after the closing date that the loan has been closed and any remaining amount is canceled. The effective date of cancellation is the date on which the notice is served to the borrower or the date specified in the notice to the borrower. Usually the last date of disbursement is regarded as the effective date of loan closing. (Refer ADB's PAI 4.05 for detail contents)

b. Extension of Loan Closing Date:

In many instances the Project Closing Date specified in the Loan Agreement needs to be extended because unexpected delays occur during the implementation of the project.

The Government's Regulations and Procedures

In project implementation, if there is a change in content of the project that leads to change content of Loan Agreement, the LA is required to execute in compliance with laws and regulations relating to international treaties. The procedures for extension, therefore, should be as follows:

- (i) LA/PO/PMU discusses and agrees with ADB on the need for extension of Loan Closing Date.
- (ii) At least 4 months before the project completion date the PO/PMU, through the LA, submits a request for extension to the SBV.
- (iii) SBV seeks comments from Government's concerned agencies such as MPI and MOF etc.
- (iv) SBV submits request for Loan Closing Date extension to the Government for approval (PM has approved Project's Requesting List and its PDO in which project start and end date were specified).
- (v) SBV sends request for extension of Loan Closing Date to ADB Sector Division.

The relevant Government procedures and regulations are as follows:

- (i) Law 41/2005/QH11 dated 14 June 2005 by National Assembly on Conclusion and Implementation of International Treaties;
- (ii) Ordinance on Conclusion and Implementation of International Agreements dated 20 April 2007 by Standing Committee of National Assembly; and
- (iii) Circular 01/2008/TT-BNG dated 4 February 2008 of MOFA

ADB's Policies and Procedures

If the closing date needs to be extended, the Government submits a request to ADB. If no request is received, the Sector Division or RM proposes a revised closing date to the Government and asks for confirmation of the proposal.

Upon receipt of the request or confirmation from the Government, the Sector Division or RM consults with the Operations Coordination Division/Unit and COSO to ascertain whether or not (i) the project can be completed successfully within the proposed extension; (ii) the remedial measures taken or proposed to be taken by the EA are adequate; and (iii) Loan Agreement covenants have been met and PMU performance is satisfactory.

If agreeable the sector division or RM prepares a brief submission recommending approval of the extension of the loan closing date. An extension includes (i) proposed period of extension, cumulative period of extension, and number of extensions; (ii) justification for the extension; (iii) schedule of projected future contract awards, commitments, and disbursements; and (iv) steps taken to ensure project completion and disbursement within the recommended period.

After the loan closing date is approved by ADB, ADB sends SBV a Notice of Extension in which new project completion date and loan closing date, proposed by the Vietnamese side, are officially set.

Approval authority: cumulative extensions of not more than two years from the original loan closing date may be approved by the Sector Director of the Regional Department concerned or CD of the RM concerned while cumulative extensions of more than two years may be approved by the Director General of the relevant Department.

When extension results from any change in project scope, the necessary approval must be obtained for change in scope (Refer to Section V.B.1.a above for change in scope, and ADB's PAI 4.05 and OM J6 for detailed regulations)

c. Closing of Loan Account

If a portion of the loan amount remains un-utilized after the closing date, the un-utilized amount is not automatically canceled. Such cancellation takes place only when the Regional Department or RM notifies the Government of the termination of its right to make withdrawals.

If no action is taken by ADB, the Loan Account remains open for withdrawals and the Government will, in the case of a loan from OCR, be billed for the commitment charge on the undisbursed loan amount until the Government receives a notice from ADB that the Loan Account has been closed.

Whenever the loan closing date is determined, the Loan Account may be kept open for up to three months after the loan closing date to complete disbursements under ongoing contracts financed by the loan, and for expenditures incurred prior to the loan closing date.

Procedures for Loan Account closing:

- (i) PMU reduces advanced amount 1 year before loan closing date or when the undisbursed balance of the loan is equal to twice the amount of advance, whichever comes first.
- (ii) At the time of loan closing, PMU promptly refunds to ADB, the currency of the Account, any balance of the advance not liquidated.
- (iii) Request for Loan Account closing is sent to the service bank.

3. Project Completion Report (PCR)

a. Government's Regulations and Procedures

Upon Project Completion of technical works, PMU and PO staff will carry out final tests/surveys and hand over project facilities to their operational users. Maintenance arrangements are put in place by responsible agencies and operational users.

Decree 131/2006/ND-CP dated 9 November 2006 stipulated that within six months of project completion date, the PMU/PO submits a Completion Report to the LA in accordance with the AMT which is included in Decision 803/2007/QD-BKH.

b. ADB's Policies and Procedures

Within 6 months to 1 year after physical completion of a project, the EA is required to prepare a PCR. The PCR should be prepared under the direction of the EA project manager, incorporating information provided by the consultant and contractor as appropriate.

ADB will use the EA's PCR to prepare ADB's own PCR after fielding the PCR Mission. If the EA's PCR is delayed and the project is considered complete, the concerned Director, Sector Division or CD, may, after consultation with the latest review mission staff, decide to proceed with preparing ADB's PCR in the absence of the EA's PCR.

The objective of the PCR is to learn from experiences of the Government, EA, and ADB in implementing projects, and to use the lessons learned to improve the performance of ongoing and future ADB-financed projects. The PCR will also be used as a measure of ADB's development effectiveness and as an input to future country strategy formulation documents.

A PCR (i) provides a concise description and assessment of the project from identification to completion; (ii) evaluates the adequacy of preparation; design; appraisal; implementation arrangements; and performance of the borrower, EA, and ADB, including how problems were handled, whether they were foreseen as potential risks, and the adequacy of the solutions adopted during implementation; (iii) provides a preliminary evaluation of initial operation, and achievement and sustainability of benefits; (iv) provides a preliminary evaluation of the extent of achievement of the outcome of the project and the project's contribution to achieving the expected impact; (v) suggests follow-up actions required during project operation; and (vi) makes recommendations, based on the evaluation and lessons learned, for future project implementation and operation as well as improvements in related ADB procedures.

When the project is approaching completion, an ADB review mission should agree with the Government and EA executing agency on the outline and timing for the EA's PCR. Assistance in preparing the EA's PCR is usually a part of the terms of reference of project implementation consultants. Other agencies may help prepare the EA's PCR, especially for projects they co-financed, following ADB's PCR format (Refer **ADB's PAI 6.07** and **OM K1** for detail regulations).

4. Post Evaluation

a. Government's Regulations and Procedures

Decree 131/2006/ND-CP dated 9 November 2006 and **Circular 04/2007/TT-BKH** dated 30 July 2007 stipulate two types of project evaluation.

Terminal Evaluation. Being carried out upon the completion of the programs and projects by independent or hired consultants with the aim to review the results achieved, to have an overall assessment of the whole implementation process and to draw necessary lessons learned as basis for preparation of the program or project completion reports. The terminal evaluation must be done within 6 months of the projection completion. The evaluation report will then be submitted to the LA and ADB. For projects approved by the PM, the evaluation report must also be submitted to MPI and MOF.

Impact Evaluation. Being carried out at a relevant time but not later than 3 years from the date when the programs and projects were put into operation with the aim to assess their efficiency, sustainability and socio-economic impacts compared to their initial objectives. MPI takes lead and cooperates with LA and ADB in preparing annual project/program evaluation plan. The LA is then responsible for hiring an independent consultant to implement project impact evaluation.

b. ADB's Regulations

An independent evaluation by IED, called Project/Program Performance Audit Reports (PPARs) is done for a selection of completed projects/programs for which PCRs are available and chosen using stratified random sampling. PPARs are prepared following the Guidelines for the Preparation of Project Performance Audit Reports. PPARs evaluate the design, implementation, and performance of loan projects and programs. PPARs assess the effectiveness of projects/programs in achieving their intended objectives, and include analytical commentary. A PPAR includes a review of the relevant PCR and states any changes from its conclusion.

A PPAR is generally prepared 3 years after project/program completion, to ensure the availability of adequate data relating to pertinent benefits and costs. This allows for a more objective assessment of project/program performance and sustainability.

A PPAR is generally self-contained and, to the extent possible, avoids repeating the contents of the PCR. The PPAR focuses on important issues affecting implementation performance, and assesses the project/program in terms of a consistent set of criteria including relevance, efficacy, efficiency, sustainability, institutional development, and other impacts. Major considerations are to identify key issues, highlight remedial measures appropriate for improving the efficiency and effectiveness of operations, and draw meaningful lessons that can help improve the designs of future projects and programs.

A project/program may be evaluated again 5 years after the PPAR, or 8 years after completion if no PPAR has been prepared. A project/program may be reevaluated if the PPAR highlights issues that need to be reexamined at a later date. A reevaluation study is aimed at an in depth assessment of benefits and impacts of a single project, to assess its long-term sustainability.

Evaluated projects/programs are classified as highly successful, successful, partly successful, or unsuccessful (Refer **ADB's OM K1** for detailed regulations).

CHAPTER VI

SECTOR LOANS, SECTOR DEVELOPMENT PROGRAMS, AND PROGRAM LOANS

A. SECTOR LOANS (SIMILAR TO GOVERNMENT'S UMBRELLA PROJECTS)

1. Government's Policies and Procedures

The identification, preparation, implementation and completion of sector loan (or umbrella) projects follow the same policies and procedures which are applied to normal investment projects. There are no separate provisions for umbrella projects, except the separate template of PDO for umbrella projects, but the content of the template is the same as the template of PDO for normal investment projects. However, in practice, preparation and implementation of umbrella projects are more complex because the subprojects under umbrella projects can usually be identified only during the project implementation. Due to no provision stipulating umbrella projects, a lot of difficulties have been encountered by LAs and POs when dealing with umbrella projects.

For an umbrella project the FS report will identify and prepare investment reports for a set of sample subprojects, and will define criteria for subprojects to be financed under the sector loan.

2. ADB's Policies and Procedures

Sector lending is a form of ADB assistance for project-related investments based on considerations relating to a sector or subsector as a whole. The purpose of a sector loan is to assist in the development of a specific sector or subsector by financing a part of the investment in that sector. Such lending is particularly appropriate when a large number of subprojects in the sector or subsector are to be financed. A sector loan is expected to improve sector policies and strengthen institutional capacity.

Sector loans may finance the sector investment needs in specified geographical area (area slice) or may support the sector as a whole over a specified period of time (time slice), or both. Sector loan proceeds will be utilized primarily to meet the foreign exchange costs of subprojects making up the sector loan. Recurring costs (e.g., fuel, essential supplies) and local currency expenditures of subprojects may also be financed under sector loans in accordance with relevant ADB policies.

To receive ADB support for sector loans, the Government has to submit to ADB an acceptable medium or long- term sector/subsector development plan, statement on sector policies that affect the development of the sector/subsector concerned; and an assessment of the technical and managerial capabilities of the sector institutions to develop, process and implement projects. After the general acceptability of these documents, a mission holds discussions with the borrower to assess the sector development plan, the financing needs of the sector and the adequacy of the institutional arrangements available or proposed for implementing the sector loan. After ADB Management has cleared the loan proposal, a mission determines the scope and amount of the proposed sector loan.

Under a sector loan, the borrower or the executing agency is primarily responsible for identifying, prioritizing, formulating, appraising, approving, and implementing subprojects in

accordance with technical, financial, and economic appraisal criteria mutually agreed upon between ADB and the Government at the time of appraisal. ADB will be minimally involved in processing subprojects, except that in the initial phase, if deemed necessary, a few subprojects may be appraised by ADB to serve as models. Based on the experience and capability of the EA, a suitable threshold for appraisal of subprojects (in physical or financial terms) may be established at the time of appraisal. Subprojects above the threshold will have to be submitted to the ADB for approval, while subprojects below the threshold may be fully processed and approved by the Government or the EA in accordance with the agreed upon criteria. The ADB, however, will review subprojects on a selective basis to check that the EA has complied with the agreed criteria.

Flexibility will be available to the Government/EA to replace some subprojects with others prior to the start of their implementation or to reallocate funds among components of ongoing subprojects. Prior ADB approval will be required for replacement of subprojects above the threshold.

Goods and works financed under a sector loan are to be procured in accordance with ADB's Guidelines for Procurement. ADB's standards disbursement procedures are normally used. For supervision and monitoring, ADB reviews the execution of subprojects on a selective basis, monitor the capability and performance of the LA and assesses any change in circumstances that may have a bearing on the sector development plan in general and on the implementation and operation of the sector subprojects in particular.

B. PROGRAM LOAN

1. Government's Policies and Procedures

There is no provision or legal document regulating the identification, preparation, implementation and monitoring and evaluation of program loans, except the separate template of PDO program loans, but the content of the template is similar to the template of PDO for normal investment projects.

As there is no investment component, the program loan does not require the preparation of FS. However, LAs have to prepare a policy framework, describing the reform policies that the Government must implement and define the conditions for each disbursement time and prepare a "policy letter", and submit to the highest level of Government for approval in which the objectives and contents of the program are summarized.

2. ADB's Policies and Procedures

Program Loans are to help the government cover the costs associated with reform policies. Usually Program Loans are disbursed in two or three tranches. The Program Loan documents usually identify policy actions that the Government plans to implement during the loan period. Some conditions are determined as "conditions for financing". When the Government meets financing conditions, the loans will be transferred to the state budget.

Program Loans are identified based on the CSP, with a view to achieving certain medium-to long-term sector, multi-sector or subsector objectives. During program loan processing (Refer OM Section D11 - Processing Loan Proposals), the following actions need to be undertaken:

- (i) determine whether the existing and envisaged policy framework and institutional development plan form an appropriate basis for ADB support.
- (ii) assess the public investment plans in the sector, and the envisaged distribution of roles between the public and private sectors.

A major objective in program loan processing is to reach an understanding with the government on the medium and long-term development framework in the sector and on the schedule of policy steps to be undertaken during the program period which will be formalized as the government's policy in the form of a letter (the development policy letter) to the President of ADB.

The letter must spell out in appropriate detail medium-to-long-term sector objectives, the measures already taken and those to be taken to achieve them, and various indicators to be used in monitoring program implementation and sector performance. The draft development policy letter is included in full in the successive stages of the RRP. The RRP for program loans are required to address the following issues:

- (i) diagnostics: assessing the extent to which a particular policy distortion leads to a particular policy problem;
- (ii) the policy matrix: selecting policy actions for inclusion in the matrix based on the extent to which they address problems identified in the diagnostics;
- (iii) linkage with sector strategy: ensuring that the program formulation is consistent with the government's plan for the sector and ADB's own sector strategy;
- (iv) tranching: apportioning policy actions into tranches to ensure proper sequencing and implementation of required policy actions;
- (v) policy: focused institution building- providing complementary assistance to enhance policy delivery capacity;
- (vi) adjustment costs: identifying, to the extent possible, the costs of policy changes; and
- (vii) performance indicators: specifying monitorable indicators that can subsequently be used to assess the development impact of the program.

During **Appraisal** it is important that an understanding is reached on detailed program objectives and content, conditions of loan effectiveness, tranching and conditions of tranche release, use of counterpart funds, procurement and disbursement, how key elements of the program will be monitored and all other issues listed in the draft RRP and the minutes of the MRM. Depending on the complexity of the issues, more than one appraisal mission may sometimes be required for a program loan. A **second MRM** is required **for all** program loans.

ADB and the government must agree on the essential features of the development policy letter prior to loan negotiations.

There is considerable flexibility in the use of program loan proceeds to meet the government development needs. The loan proceeds may be utilized to finance economy-wide import requirements on the basis of negative import list or positive list (with documentation in respect of specific imports). ADB's international competitive bidding procedures will no longer be required for contracts financed under the program loans.

C. SECTOR DEVELOPMENT LOANS

Sector Development Loans are a combination of an investment (project or sector) component and policy based (program) component to help the government make sector development policies and implementation of publicly policy commitments.

1. Government's Policies and Procedures

Provisions of ADB and the Government relating to identification, preparation, approval, negotiation, execution and closing of a project by sector approach are similar to that of investment projects described in Chapter IV and V of this Handbook. The differences are only contents of PDO and FS. PDO content of a sector development program is outlined in Appendix 2d, Circular 04/2007/TT-BKH. Presently there is no specific Government procedures for FS preparation for sector development programs.

Sector development programs require preparation of a policy matrix for policy- based component and the FS for investment component in preparation period. The policy framework describes the reform policies that the Government must implement and defines the conditions for each disbursement release and prepares "policy letter" and submits to the highest level of Government for approval, in which the objectives and contents of the program are summarized.

The FS for investment component follows the same template as used for normal investment projects.

The LA and PMU must monitor not only the implementation of investment activities, but also the implementation of the policies committed by the government under the policy matrix.

2. ADB's Policies and Procedures

Where ADB provides technical assistance to prepare programs based on sector approach (the Government's term) or sector development program (ADB's term), final report of technical assistant in preparation phase will include a sector development policy framework and preparing documents for project investment. Policy framework includes policies that the Government commits to implement during the loan. The Loan proceeds will be taken into the state budget or in a separate account for investment projects.

The project documents include descriptions of the total cost of the project, objectives and project size. In case the sector loan includes many sub-projects to be determined during project implementation, the report of project preparation technical assistance must define sub- project selection criteria and the list of provinces covered by the sector loan. Final technical assistance report must also include project preparation report for a number of typical sub-projects.

Current ADB policies and procedures with regard to procurement and disbursement apply to a Sector Development Program.

APPENDIX

LIST OF KEY LEGAL AND POLICY DOCUMENTS ON ODA PROJECT MANAGEMENT

ADB

1. Operational Manual (OM)
2. Project Administration Instructions (PAI)
3. Procurement Guidelines, 2007
4. Guidelines on The Use of Consultants by ADB and Its Borrowers, 2007
5. Handbook on Resettlement, 1998
6. Loan Disbursement Handbook, 2007

GOVERNMENT

Overall Official Development Assistance (ODA) Management

7. Decree 131/2006/ND-CP dated 9 November 2006, Regulations on the Management and Utilization of Official Development Assistance
8. Circular 03/2007/TT-BKH dated 12 March 2007 by MPI, Regulations on Organizational Structure, Functions, and Responsibilities of ODA Program/Project Management Units
9. Circular 04/2007/TT-BKH dated 30 July 2007 by MPI, Guiding Application of the Decree 131/CP
10. Decision 48/2008/QD-TTg dated 4 March 2008 by the PM, General Guidelines on ODA Project FS Preparation
11. Decision 803/2007/QD-BKH dated 30 July 2007 by MPI, Requirements for Progress Report for ODA Programs/Projects
12. Decision 290/2006/QD-TTg dated 29 December 2006 by the PM on Strategic Framework for ODA Mobilization and Utilization 2006 - 2010
13. Decision 955/QD-TTg dated 3 September 2004 by the PM on Guiding the Establishment of the Inter-sector Task Force Addressing the Problematic Issues during the ODA Programs/Projects Implementation Process
14. Circular 108/2007/TT-BTC dated 7 September 2007 by MOF on Financial Management Implementation for ODA Program/Project
15. Decision 61/2006/QD-BTC dated 2 November 2006 by MOF on Cost Norms for ODA Programs/Projects
16. Circular 123/2007/TT-BTC dated 23 October 2007 by MOF on Tax Policy and Tax Exemption Implementation for ODA Program/Project
17. Official Letter 7333 TC/TCT dated 2 July 2004 by MOF on Business Profit Tax and Personal Income Tax for ODA Grant Project.

Financial Management

18. Law 01/2002/QH11 dated 16 December 2002 by the National Assembly on the State Budget
19. Decree 60/2003/ND-CP dated 6 June 2003 Guiding the Implementation of Law 01/2002/QH11 dated 16 December 2002 by the National Assembly on the State Budget
20. Circular 59/2003/TT-BTC dated 23 June 2003 by MOF providing Guidance on the Implementation of Decree 60/2003/ND-CP dated 6 June 2003 by the Government

- Guiding the Implementation of Law 01/2002/QH11 dated 16 December 2003 by the National Assembly on the State Budget
21. Circular 27/2007/TT-BTC dated 3 April 2007, Guidance on Government Budget's Investment Capital Disbursement
 22. Circular 130/2007/TT-BTC dated 2 November 2007, Revisions of Circular 27/2007/TT-BTC
 23. Circular 33/2007/TT-BTC dated 9 April 2007, Guidance on Government Budget's Project Completion Liquidation
 24. Circular 98/2207/TT-BTC dated 9 August 2007, Revisions of Circular 33/2007/TT-BTC
 25. Circular 117/2008/TT-BT dated 5 December 2008, Guidance on Government Budget's Project Management Cost

Environment and Resettlement (Social and Environmental Safeguards)

26. Land Law 23/2003/QH11 dated 26 November 2003
27. Environment Protection Law 52/2005/QH11 dated 29 November 2005
28. Decree 81/2004/ND-CP dated 29 October 2004, on Implementation of the Land Law
29. Decree 188/2004/ND-CP dated 16 November 2004, on Methods of Determining Land Prices and Assorted-Land Price Brackets
30. Decree 197/2004/ND-CP dated 3 December 2004, on Compensation, Support and Resettlement when Land is Recovered by the State
31. State Decree 80/2006/ND-CP dated 9 August 2006 on EIA and IEE
32. Decree 21/2008/ND-CP dated 28 December 2008, Revisions and Additions to Decree 80/2006/ND-CP
33. Decree 140/2006/ND-CP dated 22 November 2006, Regulations on Environment Protection in Preparation, Appraisal, Approval and Implementation of Development Projects and Programs
34. Circular 05/2008/TT-BTNMT dated 8 December 2008, Guidelines for Application of Environmental Law and Relevant Decrees
35. Decree 84/2007/ND-CP dated 25 May 2007, on Amending Regulations on Issuing Land Use Rights Certificate, Land Acquisition, Procedures of Land Compensation and Dispute of Claims on Land
36. Decree 123/2007/ND-CP dated 27 July 2007, on Revising and Amending Some Articles of Decree 188/2004/ND-CP
37. Decree 69/2009/ND-CP, dated 13 August 2009, Additional regulations on Land Planning, Land Pricing and Land Compensation and Resettlement.

Procurement

38. Law 61/2005/QH11 dated 29 November 2005 on Procurement
39. Decree 58/2008/NĐ-CP dated 5 May 2008, on Use of Procurement Law

Management of Investment and Construction

40. Law 59/2005/QH11 dated 29 Nov 2005 on Investment
41. Construction Law 16/2003/QH11 dated 26 November 2006
42. Decree 209/2004/ND-CP dated 16 December 2004 on Quality Management of Construction Works

43. Decree 126/2004/ND-CP dated 26 May 2004 on Sanctioning of Administrative Violations in Construction Activities, Urban Infrastructure Management and House Use Management
44. Decree 08/2005/ND-CP dated 24 January 2005 on Construction Planning
45. Decree 12/2009/ND-CP dated 12 February 2009 on Management of Investment and Construction Works
46. Decree 99/2007/ND-CP dated 13 June 2007 on Management of Construction Costs
47. Decree 52/1999/ND-CP dated 8 July 1999 issuing the Regulation on Management of Investment and Construction
48. Decree 12/2000/ND-CP dated 5 May 2000, on amending some articles of Regulation on Management of Investment and Construction issued in conjunction with Decree 52/1999/ND-CP dated 8 July 1999 by the Government
49. Decree 07/2003/NĐ-CP dated 30 January 2003, on amending some articles of the Regulation on Management of Investment and Construction
50. Circular 09/2008/TT-BXD dated 17 April 2008, on Guidance for Adjustment of Construction Contract Cost

Execution of International Treaties

51. Law 41/2005/QH11 dated 14 June 2005 by National Assembly on Conclusion and Implementation of International Treaties
52. Ordinance on Conclusion and Implementation of International Agreements dated 20 April 2007 by Standing Committee of National Assembly
53. Decree 134/2005/ND-CP dated 1 November 2005, Government's Regulations on Borrowing and Paying for Foreign Funds
54. Circular 01/2008/TT-BNG dated 4 February 2008 by MOFA

OTHER REFERENCE DOCUMENTS

55. Hanoi Core Statement, June 2005
56. Paris Declaration on Aid Effectiveness, March 2005