

ENVIRONMENTAL ASSESSMENT AND REVIEW FRAMEWORK

Project No.: 51228-001
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IND: Railways Track Electrification Project

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ENVIRONMENTAL ASSESSMENT AND REVIEW FRAMEWORK, RESETTLEMENT FRAMEWORK AND INDIGENOUS PEOPLES PLANNING FRAMEWORK

1. ADB, as part of its sovereign lending operations, approved the IND: MFF – Railway Sector Investment Program in 2011, executed by the Ministry of Railways through its implementing agency, Rail Vikas Nigam Limited. The investment program included doubling of existing railway tracks and electrification of the railway corridors in several states of India. In compliance with ADB Safeguard Policy Statement, 2009, the Ministry of Railways developed the following safeguard frameworks: (a) environmental assessment and review framework, (b) resettlement framework, and (c) indigenous peoples planning framework, to address the potential environment and social impacts associated with the ADB funded investment program.

2. The safeguards due diligence for the proposed loan assessed the adequacy of the safeguard frameworks (environmental assessment and review framework, resettlement framework and indigenous peoples planning framework) to address the environment and social impacts associated with the electrification of tracks by the Indian Railways Finance Corporation (IRFC). The due diligence confirmed that the provisions in the safeguards frameworks are adequate to address the environment and social impacts and no material changes to the framework provisions are required. The following modifications to reflect the specific requirements of the proposed electrification subprojects have been identified in the due diligence findings:

- (i) revise sections in the frameworks related to institutional structure and implementation arrangements;
- (ii) update the national requirements related to land acquisition by including (a) the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act, 2013 and (b) guidelines by the Ministry of Power, Government of India on payment of compensation towards damages in regard to Right of Way for transmission lines, 2015;
- (iii) exclude from ADB funding, any electrification subprojects categorized A for any of the three safeguard categories, through an early screening of all subprojects at an early stage for environment, involuntary resettlement and indigenous peoples impacts; and,
- (iv) develop subproject selection criteria and procedures to exclude from ADB funding, (a) any subproject where construction activities have been commenced by the contractors, and (b) any subproject where incorporation of environment and social safeguard requirements in the procurement documents is not possible.

3. These enhancements have been discussed and agreed upon with IRFC and IRFC commits to update these frameworks prior to ADB's first disbursement, to the satisfaction of ADB.

4. The safeguard frameworks prepared as part of the IND: MFF – Railway Sector Investment Program in 2011 are presented in the following sections.

ENVIRONMENTAL IMPACT ASSESSMENT REVIEW FRAMEWORK

A. Introduction

1. The proposed Railway Sector Investment Program (RSIP) is a Multi Tranche Financing Facility (MFF) that will be implemented over a period of 8 years. The program is expected to increase the capacity of the existing rail network to handle traffic demand necessary to sustain the country's economic growth. The program has three components (i) investment, (ii) efficiency enhancement and (iii) carbon mechanism. The candidate subprojects to be considered under RSIP are (i) doubling of about 840 km of (a) Daund – Gulbarga section (224 km); (b) Sambhalpur – Titlagarh section (182 km); (c) Raipur – Titlagarh section (203 km); and (d) Hospet – Tinaighat section (229 km) and (ii) electrification of the Pune – Guntakhal section (641 km).
2. Considering that this is a long term program that will be implemented in tranches it is not possible to finalize all the project details before starting the program. Therefore this EARF is prepared to ensure that all environment safeguard requirements of ADB as well as the Government of India are met during the course of implementing the MFF.

B. Assessment of Legal Framework and Institutional Capacity

3. A number of acts, rules and ambient standards exist under the Government of India (GOI) which will help to ensure that the program will be implemented in an environmentally safe and friendly manner. Key policies that the program is subjected to comply with are: the Environment (Protection) Act, 1986; the Environmental Impact Assessment Notification, 2006 and its amendment in 2009; Environmental Impact Assessment Guidelines for Rail, Road and Highways Projects, 1989; Forest Conservation Act 1980 (Amended 1988) and Rules (1981 Amended 2003); Wildlife Protection) Act, 1972 (Amended 1993); Water Prevention and Control of Pollution Act 1972 (Amended 1988) and its Rules 1974; Air Prevention and Control of Pollution Act, 1981, (Amended 1987) and its Rules 1982; Noise Pollution (Regulation and Control) Rules, 2000 (Amended 2002); Hazardous Waste Management, Handling and Transboundary Movement Rules 2008 (Amended 2009), and Batteries Management and Handling Rules 2001.
4. These Acts and Regulations require that:
 - (i) No environmental clearance is required for railway projects. However, periodic review will be made of amendments if any in this notification, for the applicability and need of environmental clearance for railways sub project.
 - (i) Forest clearance from Department of Forests is required for diversion of forest land for non-forest purpose. Prior permission is required from forests department to carry out any work within the forest areas and felling of rail side trees. Cutting of trees need to be compensated by compensatory afforestation as per the requirement of forest department.
 - (ii) Placement of hot-mix plants, quarrying and crushers, batch mixing plants, discharge of sewage from construction camps requires No Objection Certificate (Consent to Establish and Consent to Operate) from State Pollution Control Board prior to establishment.

- (iii) Permission from Central Ground Water Authority is required for extracting ground water for construction purposes, from areas declared as critical or semi critical from ground water potential prospective by them.

5. In addition based on ADB's Safeguard Policy Statement (SPS), 2009, the program and its subprojects will be subject to the following requirements:

- (i) Completion of the Rapid Environmental Assessment (REA) checklist and categorization of the project based on the nature and scale of environmental impacts anticipated
- (ii) Preparation of Environmental Assessment reports, EIA for category A and IEE for category B projects including an Environmental Management Plan (EMP).

6. Currently no category A subprojects are anticipated under the program. However, if there are any changes in project details and context that warrants a subproject to be under category A, an EIA report will be prepared, disclosed on ADB website 120 days before board approval of the respective subproject. For category B projects, if there are any changes in project details or anticipated impacts, the respective EMP will be updated with mitigation measures to address the new issues adequately.

7. The Executing Agency (EA) for the program is the Ministry of Railways (MOR) and the Implementing Agency (IA) is the Railway Vikas Nigam Limited (RVNL) under the Government of India. Currently RVNL does not have any environment unit or focal person. However, it has been agreed that one Environmental Focal person at the Corporate level and Environmental Officers at each of the five Project Implementation Units (PIU) will be appointed. Supervision consultants will be recruited to help the IA and PIUs to monitor implementation of the EMP and selected environmental quality parameters. Training of the relevant officials from the EA, and the Environmental Officers from the IA and PIU on Environment safeguard issues and implementation and monitoring of the EMP will be carried out under the Piggy Back TA under RSIP.

C. Anticipated Environmental Impacts

8. There are three components under the program: (i) investment, (ii) efficiency enhancement, and (iii) carbon development mechanism (CDM). It is mainly the first component that will result in environmental impacts. Under this component, 840 km of rail routes will be double tracked and 641 km of a rail section will be electrified. While the third component on CDM will result in demonstration of reduction in carbon emissions from the program it does not involve any physical activities that will have environmental impacts. Activities under this component will be administered under a separate TA.

9. No significant or adverse environmental impacts are anticipated under the investment component. Most of the impacts are likely to occur during construction stage and are temporary in nature. The land use around the alignment is primarily agriculture. Hence no significant impacts are anticipated on biodiversity or physical cultural resources. Impacts are primarily from embankment formations, cutting of trees, and transportation of construction material. It will be made mandatory for the contractor to adopt safe construction practices and ensure use of requisite personnel protective equipment to protect occupational health of labour and communities around the construction sites. Although the environmental impacts related with the project are manageable, monitoring the EMP implementation and environmental conditions needs to be done systematically to ensure mitigation of any unexpected environmental impacts.

D. Environment Assessment for Subprojects and/or Components

10. Draft IEE reports have already been prepared for all the candidate subprojects in accordance with ADB SPS 2009 requirements. As of the now all subprojects fall under category B. However, given that the program will be implemented over a duration of 8 years and subprojects will be implemented on a tranche basis, there is potential for changes in subproject details and context of project sites during implementation. Considering this situation if there are any changes in subproject details and project context that require re-categorization, new REA checklists will have to be prepared and re-categorization forms completed. For re-categorization into a category A subproject, a detailed EIA report will be prepared and posted on the ADB website for 120 days before board approval of the respective subproject. For cases of new information or change in design details the respective EMP will be updated.

11. In line with the requirements of ADB SPS 2009, no new subproject areas that fall in critical habitats will be included in the project.

12. Before processing a new tranche, it must be ensured that adequate environmental due diligence is carried for the earlier tranche. Only upon ensuring that all environmental safeguard requirements have been satisfactorily met in the earlier tranche and successful due diligence reports are produced will the next tranche be approved.

E. Consultation, Information Disclosure and Grievance Redress Mechanism

13. RVNL is responsible for ensuring that all environmental assessment documents including the environmental due diligence and monitoring reports are properly and systematically kept as part of RVNL project record.

14. All environmental documents are subject to public disclosure. Therefore, these documents will be posted on the ADB website and made available to public if requested for.

15. If any of the subprojects get re-categorized into a category "A" subproject, the EIA report will be disclosed to public through ADB and RVNL/Indian Railways websites, 120 days before ADB Board approval of the respective tranche with the subproject.

16. Public consultations have been carried out during the preparation of the draft IEE reports for the subprojects. Further consultations must be carried out if there are any changes in subproject details and context to ensure that all environment related concerns of the affected persons are addressed.

17. A Grievance Redress Mechanism will be established within the existing institutional set up of RVNL before starting implementation of any of the subprojects. The purpose of this mechanism will be to help address any environment related concerns or grievances of the affected people. It will be ensured that the existence of such a mechanism will be communicated to the respective affected communities through public consultations.

F. Institutional Arrangement and Responsibilities

18. MOR is the EA and RVNL is the IA. At present RVNL does not have any environmental cell or officials to manage environmental and social aspect associated with their activities. Therefore, it has been agreed that an environmental focal person will be appointed at RVNL and environmental officers will be appointed at each of the PIUs. The Environmental focal person at RVNL will be responsible for ensuring the implementation of the EARF. Training workshops for officials of RVNL and PIU on environment safeguard issues and monitoring and implementation of the EMP will also be organized by RVNL. Resource persons for the training will be from the supervision consultants or individual consultants that will be recruited under the piggy back TA.

19. The costs for environment related issues will be covered as given in the following: (i) costs for implementation the EMP to be included under the contractor's construction costs, (ii) cost for environmental training will be covered under the piggy back TA, and (iii) the cost for monitoring the EMP and monitoring of specific environmental features to be included in the supervision consultant's contract.

20. The IA RVNL¹ will be responsible for the following:

- (i) Prepare environmental screening checklist and reclassification subprojects if required.
- (ii) Prepare terms of reference (TORs) to conduct EIA if required in accordance with the policy principles for environmental safeguards under SPS (2009)
- (iii) Hire an environmental consultant to prepare EIA report including EMP if required
- (iv) Ensure that the preparation of all environmental studies will be completed through meaningful consultations with affected people and other concerned stakeholders, including civil society. For category B projects at least one consultation with affected people will be carried out, and for category A projects two step consultations will need to be carried out
- (v) Undertake initial review of the IEE or EIA, and EMP reports to ensure its compliance with the Government's and ADB's requirement
- (vi) Obtain necessary consents or permissions (e.g. environmental clearance, forest clearance, and water board clearance) from relevant Government Agencies. Also ensure that all necessary regulatory clearances will be obtained prior to commencing any civil work of the subproject;
- (vii) Submit to ADB the IEE or EIA including EMP reports, clearances certificate and its conditions from relevant Government Agencies for ADB's consideration in approving the follow up actions for the subprojects as part of documentation for approval of subprojects
- (viii) Ensure that the EMP which include required mitigation measures and monitoring requirements with defined Bill of Quantity, forms part of bidding document;
- (ix) Ensure that contractors have access to the IEE or EIA report including EMP of the subprojects;
- (x) Ensure that contractors understand their responsibilities to mitigate environmental problems associated with their construction activities

¹ Railway Vikas Nigam Limited is a special purpose Vehicle of Ministry of Railways Government of India. RVNL, the executing agency mandate is to do project development, resource mobilization and undertaking projects on behalf of Ministry of Railways directly or by creation of project specific special purpose vehicle.

- (xi) Ensure and Monitor that the EMP including Environmental Monitoring Plan will be properly implemented;
- (xii) In case, unpredicted environmental impacts occur during project implementation stage, prepare and implement an environmental emergency program in consultation with relevant Government Agency and ADB if necessary ;
- (xiii) In case, during project implementation a sub project needs to be realigned, review the environmental classification and revise accordingly, and identify whether supplementary IEE or EIA study is required. If it is required, prepare the TOR for undertaking supplementary IEE or EIA and hire an environment consultant to carry out the study;
- (xiv) Ensure that construction workers work under safe and healthy working environment
- (xv) Ensure effective implementation of Grievance Redress Mechanism to address affected people's concerns and complaints, promptly, using understandable and transparent process that is gender responsive, culturally appropriate, and readily accessible to all segments of the affected people; and
- (xvi) Submit annual reports on the implementation of EMPs including the implementation of environmental emergency program (if any) to the State Pollution Board, MOEF, and ADB, and availability of the same for public disclosure.
- (xvii) Prepare Environmental Due Diligence reports for the earlier tranche/PFR before starting implementation of the next tranche/PFR

21. RVNL has the main responsibility for undertaking environmental due diligence and monitoring the implementation of environmental mitigation measures for all subprojects. The due diligence report as well as monitoring implementation of the environmental management plan as part of the annual report needs to be documented systematically. RVNL has to ensure that this environmental assessment review framework is well implemented. RVNL will give access to ADB to undertake environmental due diligence for all subprojects, if needed.