

ASIAN DEVELOPMENT BANK

REPORT AND RECOMMENDATION

OF THE

BOARD INSPECTION COMMITTEE

TO THE

BOARD OF DIRECTORS

ON THE

REQUEST FOR INSPECTION

ON

CHASHMA RIGHT BANK IRRIGATION PROJECT (STAGE III)
(ADB Loan No. 1146-PAK [SF])

IN THE

ISLAMIC REPUBLIC OF PAKISTAN

JULY 2004

ABBREVIATIONS

ADB	–	Asian Development Bank
BCRC	–	Board Compliance Review Committee
BIC	–	Board Inspection Committee
CRBIP	–	Chashma Right Bank Irrigation Project
CRP	–	Compliance Review Panel
EA	–	Executing Agency
EMP	–	Environment Management Plan
GRSC	–	Grievance Redress and Settlement Committee
KfW	–	Kreditanstalt für Wiederaufbau
NDSP	–	National Drainage Sector Project
OM	–	Operations Manual
RRP	–	Report and Recommendation of the President
TA	–	Technical Assistance
WAPDA	–	Water and Power Development Authority

GLOSSARY

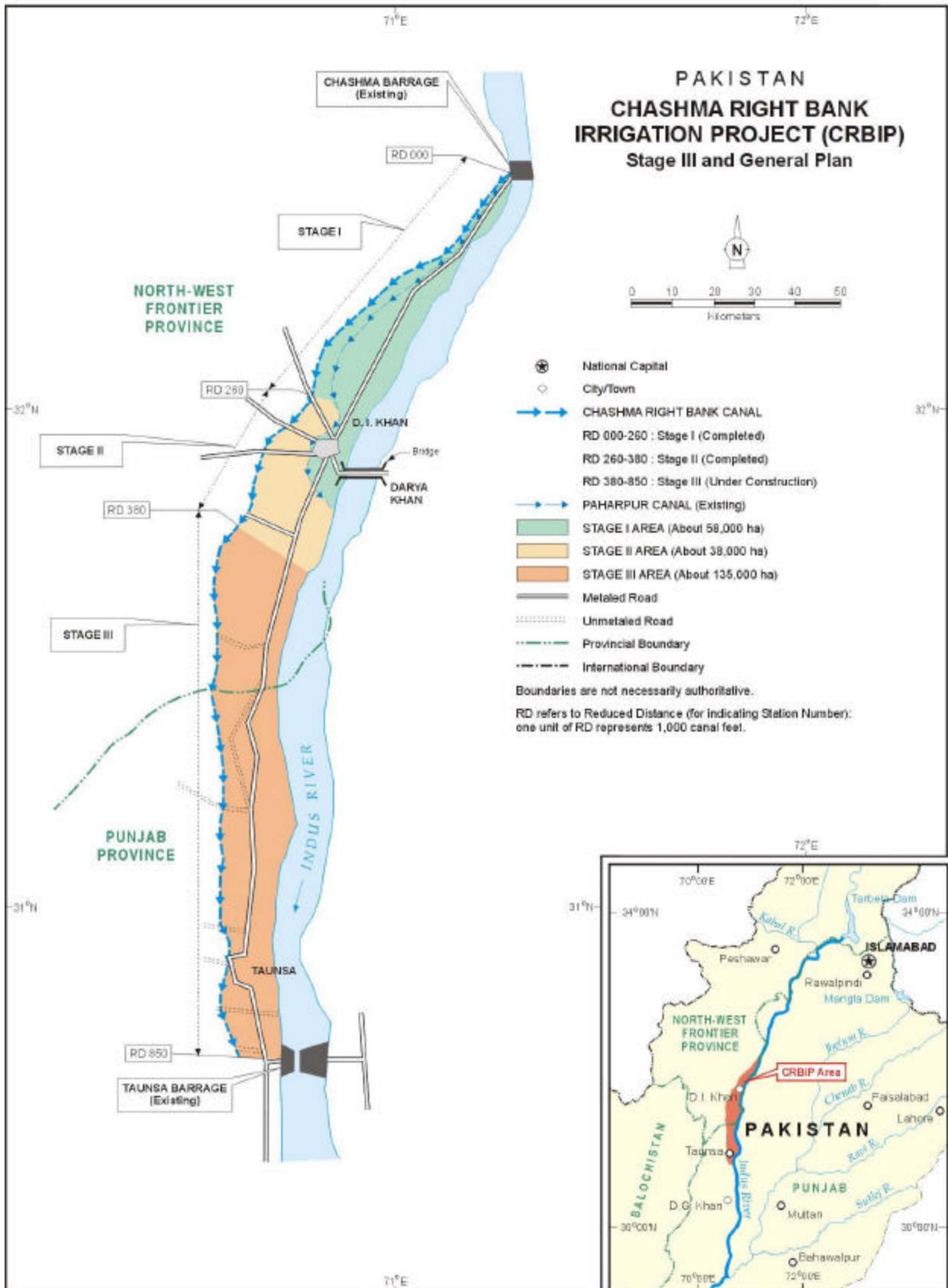
ha	–	Hectare
km	–	Kilometer
Rod kahi	–	irrigation system from hill torrent flood waters

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I. INTRODUCTION

1. A Request for Inspection (the Request) of the Chashma Right Bank Irrigation Project (Stage III) (CRBIP or the Project)¹ was received on 25 November 2002, and the Board of Directors (the Board) of the Asian Development Bank (ADB) approved an inspection of the Project in April 2003. The inspection ended with the submission of the Inspection Panel's final report (the Panel's Report) to the Board Inspection Committee (the BIC) on 10 June 2004. In accordance with the Inspection Policy² (the Policy), the BIC is now submitting to the Board the Panel's Report, the Management's Response, and its recommendation on the matter.³

II. DESCRIPTION OF THE PROJECT

2. The Project, approved by the Board in December 1991, is the third phase of a scheme to irrigate 230,000 hectares (ha) of semiarid barren land in the North-West Frontier and Punjab provinces by diverting water from the Indus River at the Chashma Barrage. Stages I and II of the project are now complete; work on Stage III commenced in September 1993 and was due to be completed in December 2002. Preparation for the Project began in August 1989 with an ADB-financed technical assistance (TA).⁴

3. The Project comprises four components: (i) construction of the main canal and related facilities, including protection against flooding and erosion; (ii) construction of distributary canal and drainage facilities; (iii) on-farm water management; and (iv) agricultural and livestock extension. It also includes support for operation and maintenance and project monitoring. A grant of \$1 million, financed from ADB's Japan Special Fund, was also provided to strengthen environmental management for water resources development.

4. The Project was intended to provide irrigation and drainage facilities to about 135,000 ha of cultivable command area, increasing both crop and livestock production. This was expected to result in an increase of gross farmgate output of \$117 million equivalent for crop production and \$20 million equivalent for livestock production, and an increase in farm employment and farm income. Anticipated indirect benefits from the Project included an improvement in the quality of water available for domestic use, resulting in a reduction in waterborne diseases; improved transportation, communications and access within the command area, and with adjacent areas; and improved environmental conditions in the project area.

5. At appraisal, the estimated Project cost was \$287.5 million equivalent, to be financed in part by an ADB loan of \$185 million and Kreditanstalt fur Wiederaufbau (KfW) cofinancing in the amount of \$40 million equivalent. The Government provided the remaining \$62.5 million equivalent of the Project cost. In 1999, the Board approved⁵ the provision of additional financing in the amount of \$33.5 million equivalent to meet part of a \$50.5 million equivalent financing gap caused by then anticipated cost overruns. The revised Project cost in 1999 was \$336.4 million equivalent. As of December 2002, it was \$296.52 million equivalent. Since then, a significant cost underrun, of about \$30 million equivalent, has been identified.

¹ Loan 1146-PAK (SF): *Chashma Right Bank Irrigation Project (Stage III)*, for \$185 million equivalent.

² R225-95: *Establishment of an Inspection Function*, 10 November 1995. Hereafter "The Policy".

³ The Policy, para. 44.

⁴ TA No. 1173-PAK: *Chashma Right Bank Irrigation Project (Stage III)*, for \$575,000, approved on 7 July 1989.

⁵ R89-99: *Optimizing Existing Investments in the Water Resources Sector in Pakistan*, 10 June 1999.

6. According to the Executing Agency (EA), the construction of canals, the major work, and on-farm development work have now been completed. The closing date of the ADB loan was originally September 2000. It has been extended four times, with the fourth extension, from 31 December 2003 to 30 September 2004, approved on 16 June 2004, mainly to finance actions proposed to address concerns of the affected persons. As of 18 June 2004, 81% of the ADB loan had been disbursed.

III. THE ROLE OF THE BOARD INSPECTION COMMITTEE

7. BIC's overall mandate under the Policy is to review inspection requests, select a panel of independent experts to conduct inspections authorized by the Board, and supervise such inspections.⁶

8. In March 2003, the BIC recommended that the Board authorize an inspection of the Project. Subsequent to the Board's authorization, the BIC selected an Inspection Panel from the independent roster of experts (the Panel), provided it with appropriate terms of reference (Appendix 1) and approved its work plan and budget.⁷ The Panel's terms of reference require that its report:⁸

- a. identify all relevant facts;
- b. make a finding as to whether ADB has complied with its operational policies and procedures; and
- c. make recommendations, if appropriate, for any remedial changes in the scope or implementation of the inspected project.

9. Once the Panel has reported, BIC is required to provide the Panel's report and Management's response to it to the Board, "together with a recommendation on the matter."⁹ Should the Panel find that ADB has failed to follow its operational policies and procedures, to the material detriment of the affected persons, BIC is required to "consult with both Management and the Director representing the relevant country concerning remedial steps that can be taken to address this failure."¹⁰

10. At this stage of an Inspection, the BIC's role is not to find in respect of or assess facts relating to the Request or to reach any conclusions on ADB's compliance with its operational policies and procedures; this is clearly the role of the independent Panel. This Report therefore outlines the process which has been followed so as to assure the Board that the Policy has been complied with in conducting the Inspection. It also provides BIC's recommendation, with a focus on proposed remedial steps with respect to the Project, taking into consideration the recommendation of the Panel (Appendix 2) as well as the views of Management, the Requesters and the Director representing the Government of Pakistan.

⁶ The Policy, para. 19. The BIC "...initially will review inspection requests (in consultation, as needed, with an independent outside expert), select a panel of outside experts from an approved roster to conduct particular inspections authorized by the Board, and supervise such inspections."

⁷ Ibid, para. 39.

⁸ Ibid, para. 43. See also para. 96 of R47-03 of 12 March 2003.

⁹ The Policy, para. 44.

¹⁰ Ibid.

IV. INSPECTION REQUEST AND CHRONOLOGY OF EVENTS

11. On 4 June 2002, the President received a complaint¹¹ which alleged that ADB had breached its operational policies and procedures in formulating and processing the Project, with a material adverse effect on some persons.

12. In its formal response,¹² Management rejected the claims; described, among other things, steps it had taken in response to flooding, resettlement and other issues that had emerged subsequent to Project appraisal; and provided updates on the status of land acquisition and compensation under the Project and on implementation of an Environment Management Plan (EMP). In addition, Management described the proposed establishment of the Grievance Redress and Settlement Committee (GRSC) as a remedial measure.¹³

13. On 25 November 2002, the Chairman of the BIC received a written request for inspection (the Request).¹⁴ The Requesters stated that they were not satisfied with Management's response to their complaint, including the remedial value of the proposed GRSC, and sought an inspection of the Project. The Requesters also proposed "specific remedies for adverse project impacts."¹⁵ The BIC considered the Request on 18 December 2002.¹⁶ It decided that, *prima facie*, the Request was neither clearly frivolous nor clearly ineligible and instituted the procedures laid down under the Policy, including seeking a further formal response from Management.¹⁷

¹¹ The complaint was lodged by Mr. Ahsan Wagha of Damaan Development Organization, Mr. Zafar Iqbal Lund of HIRAK Development Centre, Mr. Mushtaq Gadi of SUNGI Development Foundation, and Mr. Muhammad Nauman of CREED, with an authorization to represent the Project affectees. This document, and all the others referred to in this section, are available as attachments to R47-03, the BIC's Report, *Inspection Request: Chashma Right Bank Irrigation Project (Stage III)* (Loan No. 1146-PAK [SF]). This report is on the web site at http://adb.org/Inspection/projects/chashma_right.asp, and hard copies are available on request.

¹² The Policy, para. 32, "[w]ithin 45 days after receiving an initial complaint concerning a Bank project, Management shall complete its review of the grievance and provide the applicant with a formal response."

¹³ The GRSC was established in February 2003 by the Government in consultation with ADB to resolve outstanding issues under the Project. (See Appendix 3 for the GRSC's composition, functions and recommendations.)

¹⁴ Submitted by the same applicants who submitted the complaint, and two additional applicants – Mr. Khadim Hussain of Action Aid-Pakistan, and Mr. Shafi Qiasrani of CRBIP Affectees Committee – (the Requesters), with an authorization to represent the Project affectees.

¹⁵ Request, para. 82: "(i) An independent and participatory social, cultural and environmental impact assessment in western non-command area, eastern riverine belt and command area; (ii) An investigation into economic, social and physical integration of livelihoods based hill-torrent irrigation with economies generated from canal irrigation; (iii) Preparation of participatory comprehensive resettlement and rehabilitation plans for western non-command area region, eastern non-command riverine belt and affected canal command area; (iv) Formulation of appropriate legal and institutional framework to ensuring full implementation of resettlement and rehabilitation plans; (v) Revision of project cost estimates and budgets in light of the environmental and social impacts that have not yet been properly valued or mitigated; (vi) A participatory and transparent process that is designed in consultation with project affected people and concerned NGOs to revise the Planning Proforma-1; and (vii) Facilitating and providing access to all relevant information about this project and about the inspection panel claim process to the claimants, project affected people and concerned NGOs."

¹⁶ Two members of the BIC abstained from participating in the review of the Request, in accordance with para. 35 of the Policy: "If a request relates to a matter in which any member of the BIC has a personal or financial interest, which may be related to the country of which he/she is a citizen, as to which he/she might otherwise appear to have a conflict of interest, such member must abstain from participating in the review of the request and any subsequent activities related to it."

¹⁷ The details of the process followed are set out in Section IV of the BIC's Report, R47-03: *Inspection Request: Chashma Right Bank Irrigation Project (Stage III)* (Loan No. 1146-PAK [SF]), 12 March 2003.

14. On 12 March 2003, the BIC submitted its Report to the Board, recommending an inspection of the Project, to commence in December 2003¹⁸ after the scheduled completion of a grievance redress process established by the Government of Pakistan in consultation with ADB Management. It also recommended that Management should submit to the BIC a mid-term and a final report on the progress of the grievance redress process by end-July and end-November 2003, respectively. There was provision to bring forward the commencement of the Inspection in certain circumstances.¹⁹ The Board approved the BIC's recommendation at its meeting on 2 April 2003.

15. The midterm and final reports on the grievance redress process were received by the BIC on 31 July 2003 and 16 February 2004, respectively. The Requesters were given the opportunity to comment on both reports. In each case, the BIC sought further information from one or both parties before finalizing its consideration of these reports. All documents received were published on the website.²⁰ Having considered the mid-term progress report, the BIC decided not to bring forward the proposed timetable for commencement of the Inspection.

16. In December 2003, the BIC selected the Panel to conduct the inspection from the Board-approved roster of independent experts and circulated draft terms of reference²¹ to ADB's Management, the Requesters, the Government of Pakistan, and the Panel members with a request for comments by mid-January 2004.

17. The Panel commenced its work in December 2003 by reviewing the draft terms of reference and background documents relevant to the Request. Panel members assembled in Manila at the end of January 2004. Their terms of reference and work plan were finalized on 2 February 2004.

18. In conducting the Inspection, the Panel reviewed relevant documents and conducted interviews, face-to-face or by telephone, with present and former ADB staff and consultants. In March 2004, the Director representing Pakistan informed the BIC that the Government of Pakistan consented to a visit by the Panel to Pakistan, including the Project area. This visit occurred from 26 March to 6 April 2004. The Panel met three of the Requesters, some of the affected persons, Government officials and the Chairman of the GRSC. A consultant hydrologist was engaged to accompany the Panel on their visit and to advise them on irrigation issues associated with the Project. The BIC also approved the Panel's request to engage translators and interpreters as needed for the visit.

19. The Panel's draft report, submitted on 23 April 2004, was forwarded to Management and the Requesters for comment. While not formally a requirement under the Policy, this step was included in the Panel's terms of reference in anticipation of the procedures adopted by the Board for the new Accountability Mechanism.²² The Director representing Pakistan was also given the opportunity to comment on the draft. After considering comments received, the Panel

¹⁸ One BIC member believed that an inspection should commence immediately. See R47-03, para. 99.

¹⁹ Ibid, para. 103: "In the event that it becomes evident to the BIC that the grievance redress process is likely to be unsuccessful, it could bring forward the proposed timetable for commencement of the inspection process."

²⁰ These documents can be found at http://adb.org/Inspection/projects/chashma_right.asp. The procedures followed were those laid down in para. 103, Ibid.

²¹ Ibid, para. 102.

²² R79-03: *Review of the Inspection Function: Establishment of a New ADB Accountability Mechanism*, 8 May 2003; paras. 124-125.

submitted its final report (the Panel's Report) to the BIC on 10 June 2004.²³ The comments received from the Requesters and Management are reported in Annexes 3 and 4, respectively, to the Panel's Report.

20. On 22 June, as required under the Policy,²⁴ BIC consulted with ADB's Management concerning remedial steps that could be taken to address issues raised in the Panel's Report. Management's response²⁵ to the Panel's Report was received on 24 June 2004 (see Appendix 4). The Director representing Pakistan provided written comments on 2 July 2004. This was also pursuant to para. 44 of the Policy.

V. SUMMARY OF FINDINGS OF THE PANEL AND MANAGEMENT'S RESPONSE

21. Pursuant to their Terms of Reference, the Panel investigated allegations of breaches in specified ADB operational policies and procedures. The Panel held that ADB had breached the following operational policies and procedures in the planning and/or implementation of the Project:

- Project Benefit Monitoring and Evaluation (OM Section 23 of 1987²⁶);
- Environmental Impacts (OM Section 21 of 1988²⁷, and Section 20 of 1997²⁸);
- Socioeconomic and Cultural Impacts (Relevant Staff Instructions of 1986²⁹);
- Involuntary Resettlement (OM Section 50 of 1997³⁰);
- Incorporation of Social Dimensions in Bank Operations (OM Section 47 of 1997³¹); and
- Supplementary Financing of Cost Overruns (OM Section 13 of 1995³²).

22. The Panel also held that ADB did "not address the issues of 'rights of tribal/ethnic minorities, cultural integrity and traditional land use control', as specified in the 1986 Staff Instructions on Socio-cultural Impacts of Bank Projects"³³ and that ADB had "never made any attempt to apply its Indigenous Peoples Policy and Instructions in the project".³⁴ The Executive

²³ The Executive Summary of the Panel's Report is reproduced in Appendix 3. The full Report is in Appendix 6 and the Annexes to the Panel's Report in Appendix 7.

²⁴ The Policy, para. 44.

²⁵ The BIC had also forwarded a copy of the Panel's Report when it had been received from the Panel, requesting comments on it within 30 days, as required under the Policy, para. 44. In the event Management's comments were received more quickly, partly reflecting the opportunity Management had had previously to provide detailed comments on the draft.

²⁶ The Panel's Report, para. 100. See also para. 215.

²⁷ Ibid, paras. 119 (101), 123, 128, 130. See also para, 159.

²⁸ Ibid, paras. 135 and 159.

²⁹ "While the applicable Staff Instructions were lacking in specificity regarding the requirements for social analysis and remedial action, the Panel is of the opinion that the project at the approval stage did not meet the objectives that are formulated in the 1986 Staff Instruction on Socio-cultural Impacts of Bank Projects." Ibid, para. 208.

³⁰ Ibid, paras. 299-303 and 319. The Panel also held that certain requirements in respect of the relevant Staff Instructions of 1994 were not met "within a reasonable time" (para. 273).

³¹ Ibid, paras. 206, 209, 210 and 220-223.

³² Ibid, para. 65. The Requesters had in fact argued that ADB had breached OM 32 of 1997. In their response to the claims made by the Requesters, Management said that they were mistaken in citing this Section and redirected attention to OM 13. See the Panel's Report, Chapter 3.

³³ Ibid, para. 355.

³⁴ Ibid, para. 357. This refers to Staff Instructions of 1994, and OM 53 of December 2000, relating to Indigenous Peoples. The Panel noted that the 1994 Staff Instructions, which were in place at the time of Supplementary Financing, "explicitly referred to the coming Policy" (para. 328). The ADB's Policy on Indigenous Peoples was

Summary of the Panel's Report, which provides more detail, is reproduced in Appendix 3. A detailed discussion of the Panel's findings is in the body of the Panel's Report, attached as Appendix 6.

23. While unable to quantify the impacts precisely – partly because the Project is yet to reach its full maturity and partly because baseline data are not available – the Panel also identified a range of harms which it believed stemmed from the identified breaches of ADB operational policies and procedures, and which together they assessed as likely to have been of material detriment to the Requesters. These included environmental and resettlement issues relating to unsafe, poorly located or untimely responses to unanticipated flooding; interference with the traditional Rod Kohi irrigation system³⁵ and associated livelihoods; restrictions on mobility and access to landholdings, burial grounds etc; reduced access to grazing land and fuel wood; issues concerned with the timeliness or adequacy of compensation, asset valuation and rehabilitation; the impacts of incomplete Flood Carrier Channels; the effects of water accumulation on distributary tails; water logging and salinity; and violation of the rights of affected people to be informed and to participate in making decisions about their resettlement, amongst a range of similar matters. A fuller summary is contained in the Executive Summary of the Panel's Report, and there is more detail in the body of the Panel's Report.

24. In its comments on the Panel's draft report, Management responded to each of the Panel's findings. Amongst other things, Management argued that the Panel had not made sufficient allowance for the exercise of professional judgment by ADB staff. While acknowledging that a range of issues, including many listed in para. 23 above, came to light during implementation of the Project, Management argued in their comments that these issues had not arisen from any breach by them of ADB's policies and that they would not necessarily have been prevented by following the procedures favored by the Panel.

25. In comments on the Panel's Report, Management said that "the Panel essentially ignored Management's substantial evidence-based submissions."³⁶ Management repeated their view "that staff adhered to ADB operational policies and procedures that were applicable at the time" and "Staff and Management acted professionally and did their utmost to apply policies and procedures rigorously."³⁷ Management restated their belief that the Panel has misinterpreted the requirements of the sections of the OM relating to Supplementary Financing, arguing that a full reappraisal is not required if there has been no change in the project itself.³⁸ Since this has been an issue in both Inspections undertaken by ADB,³⁹ Management proposes to amend the relevant sections of the OM to clarify the intent.⁴⁰ Management also states its view that "[t]he Panel has retroactively applied ADB operational policies and procedures to assess compliance

adopted on 17 April 1998. The Panel also noted that "the approval in 1999 of supplementary financing for the project should have been preceded by a review of issues related to the rights and interests of indigenous peoples" (para. 356; see also footnote 226).

³⁵ Under the Rod Kohi system, farmers divert hill torrent floodwaters that move rapidly from the surrounding mountains through natural channels or gullies after rain falls in the catchment area.

³⁶ *Loan 1146-PAK[Sf]: Chashma Right Bank Irrigation Project (Stage III) – Management's Response to the Report of the Inspection Panel* (hereafter 'Management's Response to the Panel's Report'), reproduced in Appendix 4 to this Report, third para., p. 1.

³⁷ *Ibid*, seventh para., p. 1.

³⁸ "The project itself did not change; only its financing requirements changed due to implementation delays and foreign exchange fluctuations." (*Ibid*, penultimate para., p. 1.) In this respect, the implications of para. 279 of the Panel's Report are not addressed in their Report.

³⁹ The previous Inspection related to *Loans 1410-THA and 1646-THA: Samut Prakarn Wastewater Management Project*, for \$150 million and \$80 million, respectively.

⁴⁰ Management's Response to the Panel's Report, last para., p. 2.

... There is no explicit language in these policies and procedures that would require retroactive application.”⁴¹

26. Management acknowledges, however, in those comments, that the supervision of the implementation process could have been handled more efficiently and that “resettlement, environmental and flooding issues could have been tackled more effectively earlier in the Project implementation process. During implementation, there were actual difficulties on the ground. Weaknesses in the supervision process were partly a function of (i) not enough continuity of the staff assigned to the supervisory task over the long implementation period of more than 10 years, and (ii) resource constraints given the scale and complexity of this Project”.⁴²

VI. VIEWS ON THE PANEL’S RECOMMENDATION

27. The Panel’s recommendation is reproduced in Appendix 2 to this Report. There are five parts, all addressed to ADB. Three of these relate to the Panel’s proposal that ADB discuss certain matters with the Government regarding continuing and further actions to address issues which have arisen with the Project that were not anticipated at the outset. The remaining two parts have general application in respect of ADB projects.

A. Management’s Views

28. In its Response to the Panel’s Report, Management states that it “is now keen to move forward together with the Government and other stakeholders to implement the GRSC recommendations and to resolve all issues of adverse impacts of the Project.”⁴³ Regarding the Panel’s proposed remedial steps, “Management finds many of the Panel’s recommendations (or parts thereof) to be in line with what Management believes should be done in moving forward”.⁴⁴ In direct consultations with the BIC held in accordance with para 44 of the Policy, Management confirmed that a number of issues had arisen which were not anticipated. Management had consistently sought to work with the Executing Agency to address these issues in a timely fashion. Management remains willing to have further discussions with the Government on such matters, and to provide support as necessary consistent with ADB’s policies and procedures and the wishes of the Government. In that sense, at least, it generally supports the Panel’s recommendations in principle. However, there are some issues of detail that need to be borne in mind in interpreting the Panel’s recommendation in practice. In that respect, the attachment to Management’s Response to the Panel’s Report includes the following observations, with respect to parts (i), (ii) and (iii) of the Panel’s recommendation:⁴⁵

- The Government has requested a loan extension of up to 30 June 2005, including to “implement remedial actions recommended by the GRSC.” An extension has been agreed to 30 September 2004 because of “the ongoing Inspection process”;

⁴¹ Management’s Response to the Panel’s Report, last para., p. 1.

⁴² Ibid, first para., p. 2.

⁴³ Ibid, second para., p. 2. Indeed, Management states that “[t]he main purpose of this additional submission, therefore, is to separate the issue of compliance from the need to move on, which will require continuing effort to monitor and address problems and issues encountered during the Project’s implementation. Management wishes to be forward looking and constructive, especially with regard to what ought to be done in relation to this and future projects.” (Ibid, fifth para., p. 1).

⁴⁴ Ibid, fourth para., p. 1.

⁴⁵ All quotations in the following list are taken from Ibid, pp. 3-4.

- Remedial actions financed by loan proceeds, whether proposed by the Panel or the GRSC, would “always be carried out in accordance with ADB policies” – and would be subject to environmental and social impact assessments. However, the use of loan proceeds to finance remedial actions requires the consent of the borrower;
- “Most remedial actions proposed by the Panel have already been dealt with under the GRSC”;
- No significant changes are expected in water management regimes;
- Loan proceeds can be used to implement the Hill Torrent Management Plan that “would stabilize and improve Rod Kohi agriculture” if the borrower requests it. “All such actions would be carried out in consultation and with participation of concerned parties”;
- Management is already working with the Government on implementation of the Environment Management Plan which was approved by the Executing Agency (WAPDA) in May 2004 following two public consultations. Implementation would be done under the National Drainage Sector Project (NDSP)⁴⁶;
- A full “Environmental Impact Assessment **will not** add relevant new information at this stage of project implementation”, given the studies which underpin the Environment Management Plan (emphasis in original);
- Management “agrees with the concept of monitoring and evaluation”, which is the responsibility of the Executing Agency. Management proposes to discuss the Panel’s proposal with the Government. This “will include environmental aspects relevant to the EMP [Environment Management Plan] and other identified environmental issues such as grazing land”; and
- Part (iii), relating to capturing any agreements reached as “legally binding obligations”, would be “subject to the Borrower’s agreement”.

B. Views of the Director Representing Pakistan

29. The Director representing Pakistan provided written comments on July 2, 2004 pursuant to para. 44 of the Policy. He writes as follows:

“The Government views the CRBIP a highly successful project. It has provided immense benefits to a very large population living in one of the least developed and less endowed areas of Pakistan. To overcome gaps which affected relatively few, a number of remedial measures have actually been implemented following the recommendations of the Grievance Redress and Settlement Committee. Various studies have been or are in the course of being launched to ensure that adverse effects of the Project are mitigated to the best satisfaction of the stakeholders, including the Requesters.

The Government shares Management’s good intention to work together to resolve the legitimate concerns under the Project. Its acts and decisions, however, must be

⁴⁶ Loan 1413-PAK(SF): *National Drainage Sector Project*, for \$140 million equivalent.

governed by the prevailing legal mandates and institutional frameworks. Resource requirements arising out of compliance review is a critical area that needs to be examined within the enabling legal environment and constraints.”

C. Views of the Requesters

30. The Requesters, in their comments on the Panel’s draft report,⁴⁷ did not address the Panel’s draft recommendation in great detail. They did, however, suggest that the Panel “should conclude that the GRSC was wholly inadequate and cannot be the basis for the implementation of the Panel’s recommendations”.⁴⁸ The Requesters also said that the current part (iv) of the Panel’s recommendation “should apply not only to large canal irrigation projects. It should apply, at the very least, to all water sector projects and all infrastructure projects in Pakistan.”⁴⁹

D. Views of the BIC

31. In making its own recommendation, the BIC acknowledges that several elements of the Panel’s recommendation, particularly those in part (i), have already been under active discussion between the Government of Pakistan and ADB for an extended period. This includes in the context of follow up actions to implement the recommendations of the GRSC.⁵⁰ These are reproduced as Appendix 5 and have all been agreed to by the Government with the exception of the additional compensation premium (Recommendation #1(b)).⁵¹ It also includes follow up work to make progress on the Hill Torrent Management Plan and the EMP. At least in principle, the follow up actions required to fully implement the recommendations of the GRSC and meet the policy intent of both the EMP and the Hill Torrent Management Plan would appear to have the potential to address all of the specific outstanding issues with the Project identified by the Panel with the possible exception of:

- Forest degradation and reduced access to fuel wood;⁵²

⁴⁷ These comments were sought pursuant to the Panel’s Terms of Reference. Consistent with the Policy, comments were not sought from the Requesters on the Panel’s final Report.

⁴⁸ *Comments on draft Chashma Inspection Report*, Section III. GRSC, first para. See the Panel’s Report (Annex 3). Also in his response to the draft, one of the Requesters, Mr Gadi, expressed a preference that ongoing consultations with local people should be pursued through a “People’s Forum of the Lok Sath” (see Annex 3 to the Panel’s Report).

⁴⁹ Ibid, third para. (original emphasis removed).

⁵⁰ To assist the Government implement its Recommendations, GRSC prepared TOR for three consultants who were recruited by ADB. These were in respect of (i) gender and social development, (ii) irrigation management, and (iii) participatory assessment in the flood impact zone (*Chashma Right Bank Irrigation Project (Stage III) (Loan 1146-PAK[SF]) Final Report on the Grievance Redress Process* (hereafter ‘Management’s Final Report’), para. 16). These three reports have now been completed. Staff believe these reports provide greater specificity about how to implement the GRSC’s recommendations.

⁵¹ Ibid, para. 14. The GRSC recommended a compensation premium of 25% for involuntary land acquisition, instead of the usual 15% (para. 11). Para. 14 also notes that timely implementation of GRSC’s Recommendation #5 would be based on past practices and conventions, while Recommendations #11 and #12 were accepted for an indicative limit of 100 households. Management’s response to the Panel’s Report (second para., p. 2) notes that implementation of the GRSC’s recommendations “has slowed in order to avoid any perception of interfering with or preempting the Inspection process.”

⁵² The Panel’s Report, see paras. 179-184. One-third of the grievances lodged with the GRSC concerned the reduction in opportunities for grazing and fuel wood collection etc in previously unirrigated land (Management’s Final Report, Table 4, p. 5). Note, however, that “the entitlement matrix approved by the GRSC provides permanent canal-water allowances for domestic use to the landless as compensation for loss of livelihood due to reduced access to land for livestock grazing and fuel,” which could usefully assist in mitigating this issue (Ibid, Appendix 6, para. 4).

- Restricted access to grazing land in previously unirrigated land; and
- The possible development of new agro-industries⁵³

32. The BIC understands from its consultations with Management, however, that Management proposes to take up these issues also in any future discussions with the Government.

33. The BIC notes Management's observation that "in moving forward, continued dialogue with the Government and other stakeholders is of vital importance to resolve the outstanding issues."⁵⁴ Further dialogue which encompasses all of the outstanding issues with the Project, to the maximum extent feasible, would be desirable. Similarly, adequate monitoring and follow up are important. Amongst other things, appropriate monitoring will establish whether adequate measures are put in place in respect of "139 out of the compensated 462 households ...still residing in the flood impact zone,"⁵⁵ which is clearly a high priority issue of concern, and to assess whether the intent of ADB's resettlement policy that the living conditions of resettled persons have at least been restored, has been achieved in practice.

34. It is in this context that the BIC notes that the Panel has recommended (in parts (i), (ii) and (iii) of its recommendation) that ADB discuss certain important matters with the Government of Pakistan. The BIC recognizes that these matters will be subject to detailed analysis by the Government of Pakistan and that any agreement reached pursuant to such discussions will need to take full account of ADB's policies and procedures, the availability of financial and other resources, and of applicable laws and regulations in Pakistan. The implementation, monitoring and evaluation of environmental management measures will need to be carried out with due regard to the actual implementation status of the Project (see para 28) and the need to redress unresolved issues with appropriate involvement by local people and in timely fashion.

35. The BIC also notes that parts (iv) and (v) of the Panel's recommendation express observations in connection with (a) the carrying out by ADB of its safeguard policies with respect to ongoing and future large scale canal irrigation projects; (b) the availability of adequate resources for carrying out and monitoring safeguard policies; and (c) raising staff awareness of the requirements of ADB's operational policies and procedures. These are of general application rather than of specific application to the steps required to be taken under the Project.

36. In making the recommendation that the Board approve the recommendation of the Panel, therefore, five members of the BIC note that the Panel's recommendation needs to be implemented having regard to the discussion in this Report. One member of the Committee believes that the Panel's findings are unduly negative. He believes that the Project is quite successful and is benefitting a substantial number of people. He refers to para. 11 of Management's Response to the Panel's draft report (see Appendix 7). This member would prefer the recommendation in para 39, below, be amended to replace the word "approve" with the word "consider". It would then read: "The BIC recommends that the Board consider ..."

⁵³ The Panel's Report, para. 186.

⁵⁴ Management's Response to the Final Report, para. 3, p. 2.

⁵⁵ A survey "done by the Participatory Assessment Specialist in December 2003 to April 2004 showed that 139 ..." (The Panel's Report, p. 10). This was one of three consultancies funded by ADB to assist the Government to implement the recommendations of the GRSC (see footnote 50).

37. Appropriate monitoring and follow up is important following an Inspection. Indeed, specific arrangements in respect of monitoring and follow up of Board decisions have now been incorporated into the arrangements under the Accountability Mechanism adopted by the Board in 2003. Consistent with the spirit of those new arrangements, the BIC further recommends that in addition to any arrangement that ADB Management may seek to put in place with the Government of Pakistan and the relevant Executing Agency regarding their responsibilities in this area in relation to the Project, monitoring of ADB's implementation of the Board's decision in this matter on behalf of the Board should be undertaken by the Compliance Review Panel (CRP), in accordance with the procedures set out in para 133 of the Accountability Mechanism policy.⁵⁶

38. Amongst other things, this procedure requires an annual report to the Board on implementation of Board decisions relating to remedial measures. The methodology for monitoring will include consultations with Management, the Requesters, the Executing Agency/Government and Board members; document review; and site visits. The CRP will also consider any information received from the Requester and the public. The new Policy requires that the CRP will finalize its reports in consultation with the Board Compliance Review Committee (BCRC) before making them available to the Board, Management, the Requester, the Executing Agency/Government and the public.

VII. RECOMMENDATION OF THE BOARD INSPECTION COMMITTEE

39. Acknowledging that, in implementation, Management will need to take into consideration the factors discussed in paras. 31 to 38, the BIC recommends that the Board approve:⁵⁷

- (i) the recommendation of the Inspection Panel as set out in Appendix 2; and
- (ii) that the CRP monitor the implementation by ADB of this decision, applying the relevant procedures of the Accountability Mechanism.

⁵⁶ R79-03, *Review of the Inspection Function: Establishment of a New Accountability Mechanism*, 8 May 2003.

⁵⁷ One member believes that this recommendation should read "that the Board consider ..." (see para 36). The recommendation in para 39 is the view of the majority of the Committee, consistent with para 62 of the Inspection Procedures.

LIST OF APPENDIXES

Number	Title
1.	Terms of Reference for the Inspection Panel for the Chashma Right Bank Irrigation Project (Stage III) (Loan No. 1146-PAK[SF])
2.	Panel's Recommendation
3.	Executive Summary of Panel's Report
4.	Management's Response to the Panel's Report
5.	GRSC Composition, Function and Recommendations
6.	Report of the Inspection Panel on Chashma Right Bank Irrigation Project (Stage III) (Loan No. 1146-PAK[SF])
7.	Annexes to Panel's Report