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ENVIRONMENTAL COMPLIANCE PROCEDURES IN DEVELOPMENT PROJECTS OF LOCAL GOVERNMENT IN BANGLADESH

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Abstract: Environmental compliance in the development projects is regarded as very significant for ensuring sustainable development of a country. In Bangladesh, different environmental Acts and Ordinances have empowered local government bodies to take care of environmental issues in their development activities/projects. At the time of planning and implementation of these development activities/projects, these bodies have to identify and determine the impacts of such activities/projects on environment and natural resources, and take necessary steps to avoid or reduce the adverse environmental impacts of these activities/projects. Otherwise, due to poor planning and implementation of development activities/projects without adequate assessment of potential impacts, physical and biotic environment is significantly changed and many environmental problems take place. This article is an attempt to explore different guidelines and procedures in accordance with environmental rules and regulations to consider environmental issues in preparing development projects by local government bodies of Bangladesh.

1.0 Introduction

Development is a continuous process. Its impact on environment is ever increasing due to interference in the environmental settings. This interference is taken place in the developing countries because of unplanned development activities. Local government bodies in Bangladesh have been vested with planning and implementation of a wide range of development projects like construction of roads, bridges, culverts, housing, potable water supply and irrigation, flood control, recreation centre and markets, etc. with a view to improving the socio-economic condition at rural and urban level of the country. Environmental compliance in case of such development projects is very much essential to reduce the anticipated environmental degradation in the near future. Environmental regulations present a set of environmental protection parameters to analyze the adverse environmental consequences

of the projects and adopt appropriate measures to eliminate, reduce to acceptable levels or offset such adverse consequences through proper planning and implementation of the project.

2.0 Methodology

This study is basically based on the review of literatures collected from secondary sources i.e. published books, research works, recognized journals, electronic journals, newspapers, published and unpublished dissertations, and Websites.

3.0 Local Government Categories and Hierarchies in Bangladesh

The rural/regional local government in Bangladesh consists of three tiers:

- 1) Union *Parishads* (4501);
- 2) *Thana/Upazila Parishads* (460);
- 3) *Zila* (District) *Parishads* (64).

Urban areas have a separate set of local governments. The Bangladesh Census Commission recognized 522 urban areas in 1991 (with a population of about 5000 or more) but only about 308 of the larger urban areas among these have urban local governments. The nine largest cities have a City Corporation status, while the rest are known as *Pourashavas* or Municipalities, which again are classified according to financial strength.¹

Table 1: Hierarchy of Urban Local Governments in Bangladesh

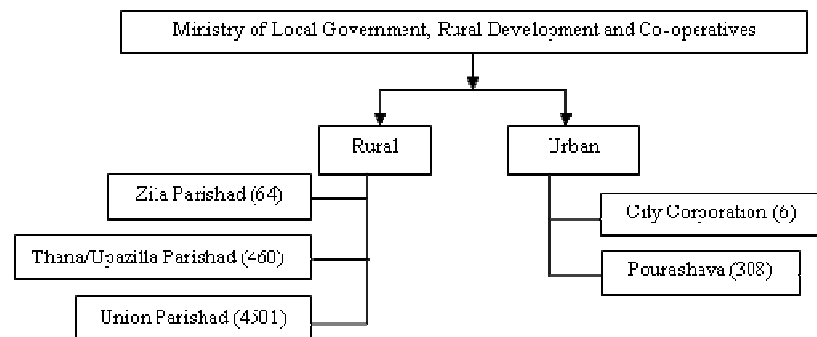
City Corporation	Dhaka, Chittagong, Khulna Rajshahi, Barishal, Sylhet, Rangpur, Narayanganj and Comilla.
<i>Pourashavas</i> (Municipalities)	308
Category	Annual income level
Class I <i>Pourashavas</i>	6 million +
Class II <i>Pourashavas</i>	2.5 million
Class III <i>Pourashavas</i>	Less than 2.5 million

Source: <http://www.unescap.org/huset/lgstudy/country/bangladesh/bangladesh.html> and various newspapers.

In addition, there are also some urban centers that are under Military Cantonment Boards. The City Corporation and *Pourashavas* (Municipalities) are true urban local governments. The large number of small urban centers is administered under the Union *Parishad* system (rural local government). Some urban centers have a fairly large population, but have not yet been declared a municipality, and, therefore, also remain under Union *Parishad* management². The existing structure of the urban-local government bodies in Bangladesh can be shown by the following diagram:

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Figure 1: Existing Structure of Local Government in Bangladesh



Source: Pranab Kumar Panday, Local Government in Bangladesh, South Asian Journal, Available at <http://www.google.com/#hl=en&output=search&scient=psyab&q=Local+government+in+Bangladesh+by+pranab+kumar+pan>.

4.0 Environmental Compliance Framework of Development Projects

GoB has enacted a number of laws in different periods for ensuring environmental good governance in the country. There are around 200 different Acts and Ordinances in Bangladesh for regulating environment. Among them, a good number of laws specifically prescribed different guidelines to integrate environmental protection parameters in development projects planned and implemented by local government in Bangladesh.

4.1 Legal Framework

The Protection and Conservation of Fish Act, 1950 prohibit the destruction of or any attempt to destroy fishes by poisoning of water or the depletion of fisheries by pollution, by trade effluent or otherwise. Building Construction Act, 1952 provides for enforcement and penalties, preparation of rules, if not covered by the approved master plan, and the designation of authorized officers. The Bangladesh Forest Act, 1972 prohibited any damage by negligence for damaging or cutting down any tree and timber. This Act should require from all development projects and all agencies to have mandatory plantation. Bangladesh Wildlife Preservation Act, 1973 provides that no person damage or destroy any vegetation in any wildlife sanctuary; cause any fire in a wildlife shelter; pollute water flowing in or through a wildlife sanctuary. The Protection and Conservation of Fish Rules, 1985 prohibits construction of bunds, weirs, dams and embankments or any other

structures, whether temporary or permanent, in, on, across over the rivers, canals, khals or beels for any purpose other than irrigation, flood control or drainage. Environment Conservation Act (ECA), 1995 stipulates that "no industrial unit or project shall be established or undertaken without obtaining environmental clearance from the Director General, Department of Environment, in the manner prescribed by the rules". ECA is supported by Environmental Conservation Rules (ECR), 1997 which has prescribed certain rules that any project/development intervention is to obtain environmental clearance including the Initial Environmental Examination (IEE). The IEE will contain the scope of work of proposed Environmental Impact Assessment (EIA) of the project. Conservation and Protection of Wetland, Natural Water Channel, Khal, Beel, Retention of Pond, Playground and Open Space Act, 2000 controls land filling, intends to protect natural environment, to preserve and maintain water reservoirs, pond, open space and play grounds.

4.2 Policy Framework

Environmental Policy, 1992 prescribes to integrate environment into all plans and research works related to housing and urbanization, to control all housing and urbanization activities which may have negative impact on local and overall environment, to emphasis on the role of wetland in beautification of the city, to undertake EIA before preparing all proposed national and regional plans and projects related to housing and urbanization. The National Housing Policy, 1993 has set out a strategy that gives emphasis on private sector provision or housing with government acting as an enabler. This is strengthened with strategies for increasing access to land and housing finance, and cost recovery from public infrastructure investment. National Conservation Strategy (NCS) specified some strategies for sustainable development viz, planning functions of urban authorities with EIA capability should be in streamlined. Any urban land development plan should also incorporate transportation planning systems. Physical expansion of cities should only be carried out based on sound planning. There should be provision for adequate urban open space and recreation areas. National Environment Management Action Plan (NEMAP), 1995 suggested actions related to strengthening of local government institutional capacity for integrated planning, creating better housing facilities for the urban poor, middle class and working women, enacting appropriate legislation for land use, building standards, zoning and town planning. The National Energy Policy, 1996 highlights the important of protecting the environment by requiring the EIA for any new energy development project, introduction of economically viable and environment friendly technology and putting a ban on the use of fuel wood for brick burning.

5.0 Environmental Compliance Procedures in Development Project

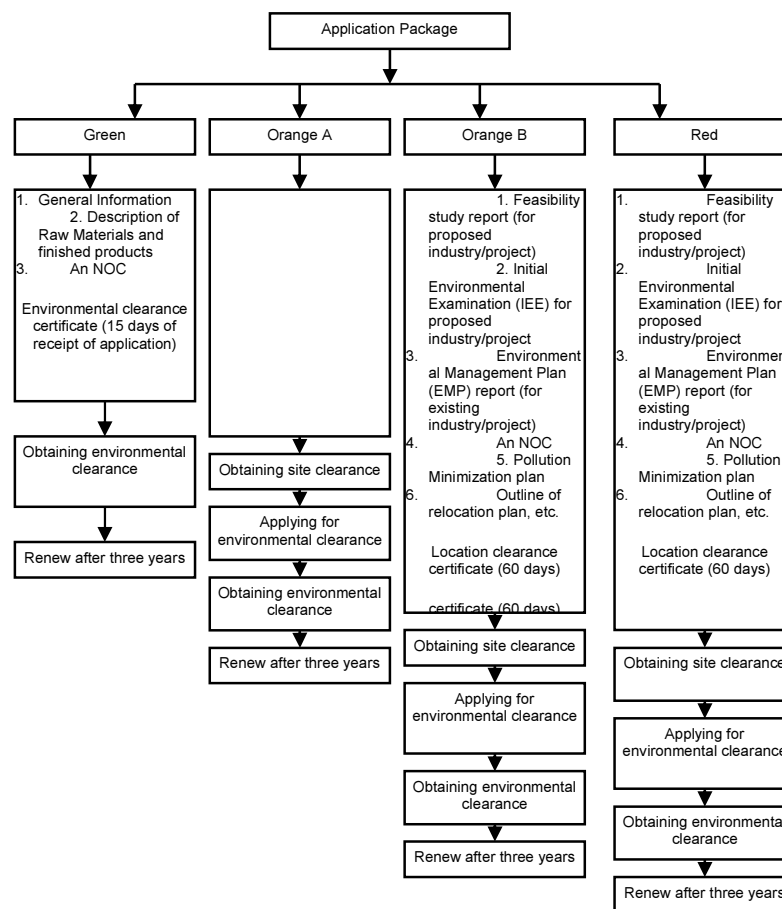
Environmental compliance in the development processes is a core issue to ensure sustainable development. Any Governmental body, whether it is national or local level, must ensure environmental issues in case of implementation of development activities that affect physical environment. Different environmental rules and regulations provide different procedures to consider environmental issues in the development activities of the country. These rules and regulations emphasize mainly on the obligation of environmental clearance from the government and undertaking Environmental Impact Assessment (EIA)³ depending on categories of the proposed projects. According to Environment Conservation Act (ECA), 1995, "No industry shall be established and no project shall be undertaken anywhere without obtaining environmental clearance from the Director General (DG) of Department of Environment (DoE), in the manner prescribed by the rules."⁴ The rules of preparing EIA for the proposed development projects in Bangladesh have been stipulated by Environmental Conservation Rules, 1997. The legal procedures of environmental clearance and EIA have been described in below.

5.1 Procedure of Environmental Clearance

Environmental Conservation Rules, 1997 provides a framework for environmental evaluation of proposed development project in all sectors and prescribes procedures for obtaining environmental clearance certificate. According to the procedures, the developer should initially obtain a location clearance certificate from the DoE and then conduct an environmental study of the development project. The Rules have classified the projects into four categories on the basis of their site condition and environmental impacts. These are as, (a) Green, (b) Orange A, (c) Orange B and (d) Red.⁵ Different procedures are mentioned for environmental clearance certificate of each category of project. According to the rules, environmental clearance certificate is issued to all existing and proposed industrial units and projects, under Green category without undergoing EIA. For the category of Orange A and B and Red projects, it requires location clearance certificate, EIA and the satisfactory submission of the required documents.

For getting environmental clearance certificate, the project proponent should apply to the concerned Divisional Officer of the Department through prescribed format (Form 3, mentioned in Rule 7). They should be accompanied with the documents as specified in Figure 2.

Figure 2: Procedure of environmental clearance for development projects



Source: S. Mumtaz, "Environmental Impact Assessment in Bangladesh", *Environmental Impact Assessment Review*, vol.22 (2002), p. 166-169.

5.2 Environmental Impact Assessment (EIA) Procedure

Environmental Impact Assessment (EIA) is a project planning tool used for environmental protection and to achieve sustainable development.⁶ It is a prediction or forecasting of the future state of the environment as a consequence of the development activity. EIA attempts to:

- describe the existing environmental conditions;
- identify various activities to be undertaken for a particular project;
- predict the consequences with and without the project on environment;
- define options, cost, procedures of damages;
- propose most cost effective mitigating measures for unavoidable impacts;
- identify residuals;
- propose alternative course of action; and
- identify resources needed.

Environmental Impact Assessment (EIA) process of the development project in Bangladesh consists of six steps. These are as:

5.2.1 Project Screening based on Schedule 1 of ECR

Initial screening of the project is the first and simplest tier of project evaluation to decide as to whether or not to conduct an EIA. EIA process is not necessary for every kind of development project. Before conducting a full-scale EIA, a screening technique is applied to determine whether an EIA is required. Initial screening procedure divides projects into three categories:

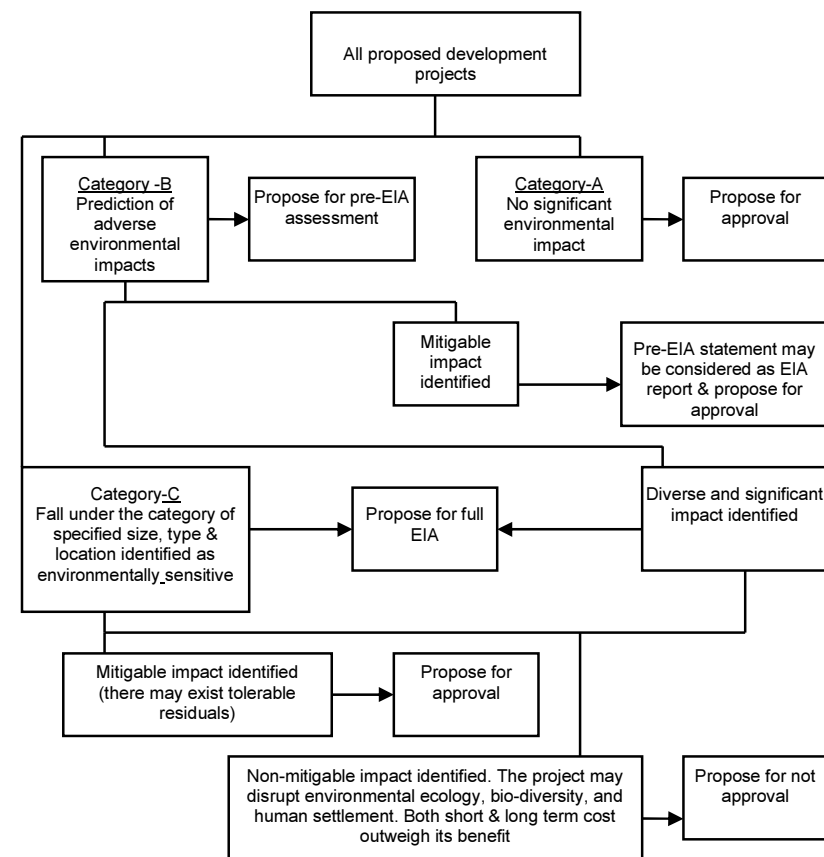
A Category: projects do not clearly require an EIA;

B Category: the requirement of an EIA is not clear and therefore further analysis or screening is necessary; and

C Category: projects clearly requiring an EIA.⁷

The following flow chart (Figure 3), at a glance, may give us an overview on how we can integrate EIA into the project approval procedure.

Figure 3: Integration of EIA into the Project Approval Procedure



Source: M. Khurshed Alam, *op. cit.* p. 47.

5.2.2 Preparation of Initial Environmental Examination/Evaluation

Scoping is the second stage in EIA process. But in Bangladesh, Initial Environmental Evaluation (IEE) replaces scoping and becomes the prime document for environmental clearance for Orange and Red categories of projects. After screening, the developer is required to prepare an IEE based on pre-feasibility level of information and defines the basic principles and objectives of the project. This document identifies the proposed location of the project and the potential environmental and social impacts⁸.

5.2.3 Issuance of Site Clearance Certificate

On the basis of IEE report, the Department of Environment (DoE) issues a site clearance. IEE is also required to find that a full EIA is required. At this stage, preliminary cost estimates and alternative locations for the project are also determined.⁹ The DoE will review IEE report and determine whether or not a full EIA is necessary. Generally, EIA is required prior to issuance of approval to start construction. The decision regarding the need for an EIA is issued as a part of the site clearance.¹⁰ A full EIA is generally required for the projects falling in Red category,

5.2.4 Preparation of the Terms of Reference

The TOR briefly describes the proposed project, identify the issues and potential impacts of the project and provide the details of basis for further study. After the site clearance is issued, the developer starts preparing a Terms of Reference (TOR) for carrying out a complete EIA study. The developer should consult with the relevant Departments and Ministries prior to submitting the TOR for review and approval. This will facilitate preparation of an acceptable TOR¹¹.

5.2.5 Submission of Draft EIA Report

Within the time frame outlined in TOR, the developer will conduct the study to develop a draft EIA report. In the process, the developer consults with the relevant Departments, such as, the Departments of Agriculture, Fisheries and Forests, etc. The draft EIA Report includes baseline physical, biological and social conditions at the project site and identification of the potential impacts on the physical, biological and social situation of the proposed project sites. The draft report should also contain proposed remedies as mitigation measures including resettlement and rehabilitation plans. The draft EIA report is submitted to DoE for reviewing comments. Based on review and comments, the draft report is revised and submitted it in final form for approval and issuance of authorization for the construction of the development project¹².

5.2.6 Submission of the Final EIA Report with Management and Monitoring Plan

The developer is notified of the approval of the final EIA report and may begin construction of the proposed project. The environmental clearance certificate for the project is not issued until the project construction is over and becomes ready for operation. Prior to issuing the environmental

clearance certificate, DoE will conduct an inspection of the project and will determine if the conditions of the site clearance and commitments made in EIA are implemented properly.

A relatively detailed description of mechanisms for compliance monitoring for site clearance and environmental clearance is provided by the ECR. In accordance with the Rules, citizens and governmental officials may lodge petitions against any development. The petition will be reviewed by an appellate body which will impose fine, penalty. At the extreme condition, it may also give the order for closing of the development projects. The environmental clearance is issued for a three year period for development project; the Government maintains a constant vigilance over the operation of the development¹³.

Any provision for consultation with the project-affected people or other stakeholders is not provided in the ECR. The only requirement of consultation is with DoE and other departments during the preparation of IEE and draft EIA report. However, an extensive consultation with the project affected people and stakeholders is conducted as per requirement of the donors and lenders, if the project requires financial assistance from foreign donors or lenders.

The DoE is responsible for monitoring of the project after it becomes operational, and may examine environmental conditions and the effectiveness of mitigation measures. As appropriate, the Department retains the authority to assure compliance with the agreed mitigation plan and maintaining the environmental quality standards¹⁴.

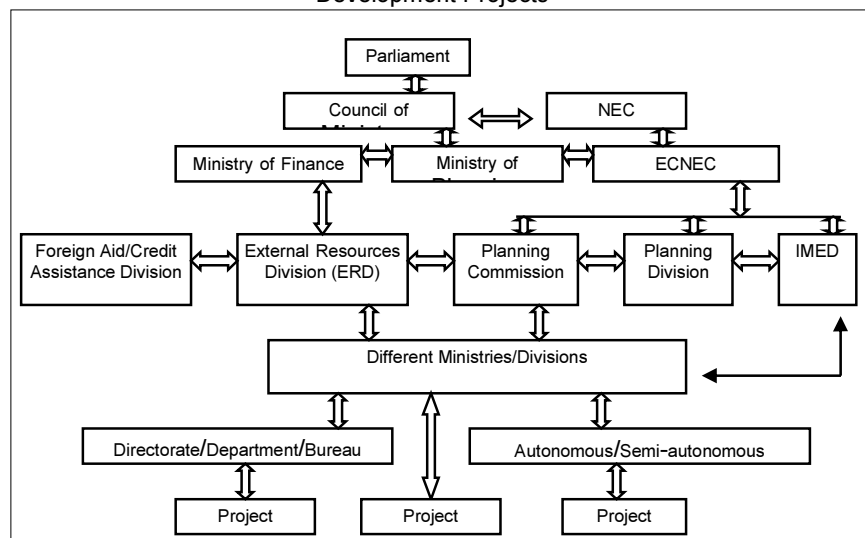
6.0 Environmental Compliances in Project Preparation and Approval

According to the Government procedure, Planning Commission invites project proposals from different Ministries or agencies as per national priorities reflected in the Five Year Plan objectives. In fact, project executing agencies select suitable project through conducting preliminary feasibility studies and thus prepare project profiles with a prescribed format named as, Development Project Proforma/Proposal (DPP)¹⁵. The DPP guidelines (Section 23 of DPP) contains the provision of a brief description of the effect/impact of the project and specific mitigation measures of adverse impact thereof if any on environment like land, water, air, bio-diversity etc.¹⁶ Every executive agency of the project has the responsibility to identify the potential environmental impacts of the project and to suggest specific mitigation measures in the DPP following the legal procedure of environmental assessment of the project.

Preparation, processing and approval procedures of development projects may vary due to difference in the investment size, sources of fund and nature of projects. Moreover, separate project proforma is used for different types of project and is processed and approved by the different committees and councils. But on principle, all development projects under different ministries are initially examined by the Planning Cell of the respective Ministry in the context of sectoral targets, allocations, priority and viability before forwarding to the appropriate authority for further processing¹⁷. However, the institutions

that involved in planning and implementation of development projects and their linkage has been shown through the following diagram (Figure 4):

Figure 4: Institutional Set-up for Planning and Implementation of Development Projects



Source: S.J. Anwar Zahid, *Rural Development Planning and Project Management in Bangladesh* (Comilla: Bangladesh Academy for Rural Development, 2005), p. 67.

7.0 Conclusion

Environmental regulations indicate that development projects of local government bodies have to be planned and implemented identifying the potential impacts on environment and natural resources. They have to avoid or take appropriate steps to mitigate or minimize the adverse impacts on environment. Several research reports reveal that our present environmental condition is not improving, rather it is deteriorating day by day despite there are sufficient number environmental laws in Bangladesh. Under this situation, it is perceived that there are some loopholes of environmental governance. One of these loopholes is that in our country, local government bodies do not adequately assess the adverse environmental impacts of development projects at the time of planning and implementation of the projects. Thus, these bodies have been disobeying environmental rules and regulations in this respect. In this way, the process of environmental

governance is being hampered considerably and many environmental problems and resource degradation are taking place at rural and urban area. So, for the well being of the people, every local government body should ensure environmental consideration in their development activities/projects.

Notes and References

¹ Pranab Kumar Panday and Ishtiaq Jamil, Policy Making in Urban Bangladesh: Whose Domination?, available at <http://publicadministrationbd.blogspot.com/2011/03/local-government-in-bangladesh-note-5.html>.

² Pranab Kumar Panday, Local Government in Bangladesh, *South Asian Journal*, available at <http://www.google.com/#hl=en&output=search&client=psyab&q=Local+government+in+Bangladesh+by+pranab+kumar+pan>.

³ EIA is a process used to predict the environmental consequences of a proposed development project. It not only examines how the project might affect the environment, but also goes on to consider what measures might be introduced to mitigate the damaging environmental effects of the project and finally tries to inform the decision-makers on the options for avoiding or reducing the adverse impacts and to analyze the trade-offs involved in choosing between alternative actions.

⁴ *The Bangladesh Environmental Conservation Act, 1995*, Article-12.

⁵ *The Bangladesh Environment Conservation Rules, 1997*, Rule-7.

⁶ R.B. Khadka and U.S. Shrestha, "Process and Procedures of Environmental Impact Assessment Application in Some Countries of South Asia: A Review Study," *Journal of Environmental Science and Technology*, vol. 4(3), (2011), p. 215.

⁷ M. Khurshed Alam, "Procedures of Environmental Impact Assessment: Bangladesh Perspective," *Development Review, Dhaka*, vol. 9, (January – June, 1996), pp. 44-48.

⁸ R.B. Khadka and U.S. Shrestha, *op. cit.* p. 219.

⁹ *Environmental Conservation Rules, 1997*.

¹⁰ S. Mumtaz, "Environmental Impact Assessment in Bangladesh: A critical review," *Environmental Impact Assessment Review*, vol.22 (2002), pp. 166-169.

¹¹ R.B. Khadka and U.S. Shrestha, *op. cit.* p. 219.

¹² *Ibid.*

¹³ R.B. Khadka and U.S. Shrestha, *op. cit.* p. 220.

¹⁴ *Ibid.*

¹⁵ DPP means the proposal of the project to be undertaken, which mainly includes the location of the project and objectives, components and estimated cost summary, justification of the project, source of finance and benefits of the project. The DPP of the project is prepared by executive agency of the project.

¹⁶ GoB Circular, *Preparation, Processing and Approval Procedures of Development Projects*, (Dhaka: Planning Division, Ministry of Planning, 2008), p. 25.

¹⁷ S.J. Anwar Zahid, *Rural Development Planning and Project Management in Bangladesh* (Comilla: Bangladesh Academy for Rural Development, 2005), p. 68