



Building Country Safeguard Systems

Briefing Note No. 1

Country Safeguard Systems— An Overview



Country safeguard systems are composed of the policies, practices, legal frameworks, and institutions that a country puts in place in order to avoid, minimize, or mitigate potentially harmful environmental and social impacts of development activities. All developing member countries have safeguard systems which meet ADB requirements to some degree.

The 2009 Safeguard Policy Statement of the Asian Development Bank calls for strengthening country safeguard systems as an objective in itself, to ensure that such systems achieve the benchmarks set by international good practices.

The Impetus for Safeguard Systems

Asia and the Pacific is home to some of the world's fastest growing economies. Rapid progress and the accompanying growth in infrastructure and services have changed the lives of millions in the region—from gaining access to water, power, transportation, sanitation, better health care, and education, to enhancing livelihood opportunities.

Accelerated development coupled with population growth have caused significant social and environmental impacts including increased demands on natural resources, elevated pollution levels, and changes on land use and human settlement, to name a few. These impacts put the poor, the region's most vulnerable people, at risk. There is also a growing concern on the long-term sustainability of development in many countries in Asia and the Pacific.

It is critical, therefore, to ensure that adverse risks and impacts resulting from development projects are avoided, if at all possible, or if not, minimized and/or mitigated through various environmental and social policies and practices now better known as safeguard systems.



Safeguard Systems: Emergence and Evolution

Many countries, both in Asia and the Pacific and across the globe, have long recognized the need for such systems and have begun implementing their own legal and administrative tools to deal with development risks and impacts. With its 1969 National Environmental Policy Act, the United States is considered as the first country to enact safeguards by requiring all executive federal agencies to prepare environmental assessments and environmental impact statements. Other countries soon followed suit, and screening mechanisms were put in place to alert decision-makers to unintended adverse repercussions of development projects and suggest avoidance, minimization, or mitigation remedies. In Asia and the Pacific, safeguard processes have been established and/or are undergoing continuous evolution, with each country adopting varied approaches, including Malaysia (1987), the Philippines (1975), Sri Lanka (1980), and Thailand (1975).

Alongside the formulation and establishment of country safeguard systems is the response from multilateral financial institutions (MFIs) as well as other international organizations. Environmental safeguard policies in MFIs rapidly expanded during the 1980s and 1990s; social safeguard policies, which provide a structured approach to dealing with social risks and impacts, emerged as MFI priorities shifted toward poverty alleviation.

The Asian Development Bank (ADB) established its environmental guidelines in 1981, then came out with its first safeguard policy for involuntary resettlement in 1995, followed by the Policy on Indigenous Peoples in 1998, and the Environment Policy in 2002.

Despite the diversity in the approach and the different rates of development of safeguard policies in countries and MFIs, what is common is their recognition that putting these systems in place is critical for sustainable development.





Harmonization of Safeguard Systems

In the early 2000s it became apparent to MFIs that there was an urgent need to harmonize their safeguard efforts. The number and variety of safeguard policies, requirements, and approaches were causing confusion and overlaps as well as increased transaction costs; countries in the meantime were becoming concerned about duplication of effort in complying with multiple safeguard requirements. In order to make development financing more accessible, MFIs began working together to harmonize their policies, while countries made efforts toward improving their own safeguard systems. There was a widespread recognition of the need for harmonization and alignment with country systems, especially in the wake of the 2005 Paris Declaration on Aid Effectiveness; later, in 2008, the Accra Agenda for Action further emphasized the importance of country systems.

In 2009, ADB revised its safeguard policies and approved the Safeguard Policy Statement (SPS) to promote the sustainability of project outcomes by protecting the environment and people from the potential adverse impacts of projects.¹ The SPS is the comprehensive articulation of ADB's safeguard provisions in three areas: environment, involuntary resettlement, and Indigenous Peoples. The safeguard requirements in the SPS apply to all ADB-financed projects; ADB will not finance projects that do not comply with the SPS.

The SPS has three overarching objectives: (i) to avoid adverse impacts of projects on the environment and affected people, where possible; (ii) to minimize, mitigate, and/or compensate for adverse project impacts on the environment and affected people when avoidance is not possible; and (iii) to help borrowers and clients to strengthen their safeguard systems and develop the capacity to manage environmental and social risks.

¹ ADB. 2009. *Safeguard Policy Statement*. Manila. <http://www.adb.org/documents/safeguard-policy-statement>

Approach of ADB to the Use of Country Safeguard Systems

The SPS reiterates the commitment of ADB to helping its developing member countries (DMCs) strengthen their country safeguard systems (CSS) and enhance their capacity for implementation. CSS are composed of the policies, practices, legal frameworks, and institutions that a country puts in place to avoid, minimize, or mitigate potentially adverse environmental and social impacts of development activities. ADB is the first among MFIs to set the strengthening and use of CSS as a policy objective and the SPS paves the way for the application of CSS to ADB-financed projects in lieu of the SPS requirements. This is because ADB believes that the application of CSS to development projects would not only reduce transaction costs but also enhance country ownership and help ensure long-term sustainability of development efforts.

Use of CSS is neither automatic nor mandatory. For ADB to consider applying CSS in ADB-financed projects, it must first determine that the legal framework is equivalent to ADB's safeguard requirements and that DMC agencies have acceptable implementation capacity and a good track record. ADB uses equivalence and acceptability assessments to establish if the CSS is designed to achieve the objectives and adhere to the policy scope, triggers, and applicable principles set out in the SPS. These assessments also seek to establish that the DMC is not just capable of, but committed to, implementing its CSS. The assessments can be conducted for selected safeguard areas, different sectors, and at different administrative levels (national, subnational, sectoral, or agency-wide) and must be undertaken together with in-country consultation and appropriate disclosure.



Progress and Challenges

ADB has made great strides in translating its SPS objective on strengthening and use of CSS into action, by funding technical assistance projects that support the preparation of diagnostic studies, capacity development measures, and knowledge products. The Regional Joint Safeguards Community of Practitioners established by ADB together with the Australian Department of Foreign Affairs and Trade, the Japan International Cooperation Agency, and the World Bank facilitates greater exchange of information and coordination on use of safeguards.

That said, there is still much work to be done. Although a number of CSS have made significant advances in environmental safeguards, others are insufficiently developed or have a long road ahead to attain standards of international good practices, especially in the areas of land acquisition and resettlement, and Indigenous Peoples.²

DMCs and MFIs recognize the need for continued support to strengthen CSS, through workshops where knowledge and experiences can be exchanged and where gaps and opportunities for collaboration can be identified; comparative studies that offer in-depth and valuable information on how CSS can be improved; and activities that enhance capacity for CSS implementation.³

With respect to environmental safeguards, there is often a lack of a legal framework and an effective communication

process to ensure active participation of stakeholders in the environmental impact assessment process and implementation and monitoring of an environmental management plan. Another issue is that legal requirements are sometimes disproportionate to human resource capacity for implementation. There are also structural gaps that limit access of local decision-making authorities to centrally located technical capacity.

With regard to involuntary resettlement, the main obstacles to alignment of CSS with ADB policy principles and other international good practices result from the lack of: recognition of categories of persons affected by projects who occupy or use the land but are not titleholders, criteria for fair compensation, and transitional assistance to displaced persons and host communities.

Finally, with regard to Indigenous Peoples, a key and fundamental challenge is the absence of a universally accepted definition of who can be considered Indigenous Peoples.

These challenges illustrate that the process of improving and enhancing safeguards is not yet complete and there is a multitude of opportunities to support strengthening of CSS so that they can be widely applied to development projects.

² ADB. 2015. *Country Safeguard Systems Second Regional Workshop Proceedings: Towards Common Approaches and Better Results*. Manila. <http://www.adb.org/publications/country-safeguard-systems-second-regional-workshop-proceedings>

³ ADB. 2012. *Country Safeguard Systems Regional Workshop Proceedings: Towards Common Approaches and Better Results*. Manila. <http://hdl.handle.net/11540/2926>



ASIAN DEVELOPMENT BANK
6 ADB Avenue, Mandaluyong City
1550 Metro Manila, Philippines
www.adb.org



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For more information, please contact:

INDIRA SIMBOLON

Principal Social Development Specialist (Safeguards)

Asian Development Bank

E-mail: indirasimbolon@adb.org