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# **ADB Safeguards Policy Update:** *In-Country Stakeholder Consultation with Civil Society Organizations*

**Philippines, 17 November 2022**



**SAFEGUARD  
POLICY REVIEW  
AND UPDATE**

**ADB**

Sustainable Development and Climate Change Department (SDCC)  
Safeguards Division (SDSS)



# Technical Announcements and Acknowledgement of Participants



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AND UPDATE



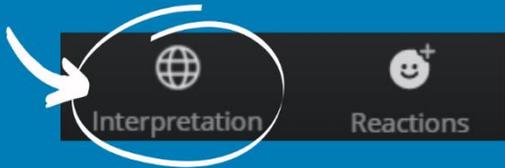
- Wifi username and password are found on your ID
- Always wear your ID on the ADB premises
- Use of face mask is optional
- Please maintain social distancing
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## HOW TO LISTEN TO INTERPRETATIONS

1

Click on the Interpretation button at the bottom of your Zoom screen.



2

Select your preferred language among the list of available interpretations.



Click Mute Original Audio to mute the English audio.



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## CHANGING YOUR NAME ON ZOOM

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Click on the Participants button at the bottom of your Zoom screen



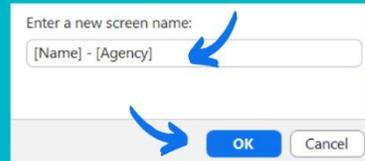
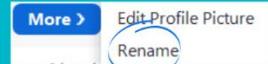
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On the right hand of your screen, look for your name. Click on the More button on the right side of your name.

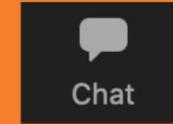


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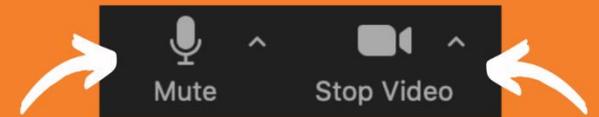


## USING ZOOM BUTTONS



Send a message, question or feedback by clicking the chat button.

To comment or raise a question live in the language you prefer, click on the smile icon (Reactions button), and then click on Raise Hand.



To speak and unmute yourself, click on the microphone icon.

To show your video, click on the video icon.





The Safeguard Policy Review and Update Phase 2 consultations provide opportunities for stakeholders to express their views and opinions on ADB's environmental and social safeguards in the most meaningful and safest manner possible.

All stakeholders are encouraged to articulate their inputs and concerns during these consultation sessions. By joining (and as noted in paragraph 47 of the Stakeholder Engagement Plan) stakeholders are consenting to the video and audio recording of these consultations. ADB will prepare consultation summaries for internal use. These will not be disclosed publicly. The purpose of the recordings is only to ensure the accuracy and transparency of proceedings.

Stakeholders wishing to exclude themselves from such recordings are asked to contact the Safeguards Policy Review and Update Secretariat at [safeguardsupdate@adb.org](mailto:safeguardsupdate@adb.org) within 2 weeks of this session to share their exceptions and exclusions.

## Restatement of ADB's Commitment to Meaningful Consultations



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All types of feedback are welcome. These will not be used for the purposes of retaliation, abuse, or any other kind of discrimination.

If you have any issues or concerns on the recording, confidentiality, potential risks, abuse, or any kind of discrimination during the consultations, or wish to exclude yourself from the recording of events and discussions, please contact the Secretariat at [safeguardsupdate@adb.org](mailto:safeguardsupdate@adb.org).

1. Provide a briefing on review and update of ADB's Safeguard Policy Statement, 2009 (SPS):
  - Objectives and approach for the policy update
  - Overview on findings from benchmarking and analytical studies;
  - Highlights of feedback received from regional consultations;
  - Policy directions and issues for the new environmental and social policy.
2. Seek feedback lessons from SPS policy implementation and recommendations on new policy directions.

- I. Technical Announcements and Acknowledgement of Participants** (10 mins)
- II. Welcome Remarks** (10 mins)  
Kelly Bird, Country Director, Philippines Country Office (PhCO)
- III. Session 1: Brief Overview and Background of the ADB Safeguard Policy Update** (20 mins)  
Bruce Dunn, Director, Safeguards Division (SDSS), Sustainable Development and Climate Change Department (SDCC)
- IV. Session 2 (a): Safeguard Policy Directions and Recommendations for Environmental Safeguards: Findings from Analytical Studies and Feedback from Phase 2 Regional Stakeholder Consultations** (20 mins)  
Zehra Abbas, Principal Environment Specialist, Safeguards Division (SDSS), Sustainable Development and Climate Change Department (SDCC)
- V. Questions, Answers and Discussion** (55 mins)
- VI. Break** (10 mins)

- VII. Session 2 (b): Safeguard Policy Directions and Recommendations for Social Safeguards: Findings from Analytical Studies and Feedback from Phase 2 Regional Stakeholder Consultations** (20 mins)  
Madhumita Gupta, Principal Social Development Specialist (Safeguards), Safeguards Division (SDSS), Sustainable Development and Climate Change Department (SDCC)
- VIII. Question, Answers and Discussion** (55 mins)
- IX. Lunch Break** (60 mins)
- X. Session 3: Land Acquisition, Resettlement and Involuntary Restriction of Access to Land** (30 mins)  
Madhumita Gupta, Principal Social Development Specialist (Safeguards), Safeguards Division (SDSS), Sustainable Development and Climate Change Department (SDCC)
- XI. Question, Answers and Discussion** (40 mins)

**XII. Session 4. Simultaneous Breakout Sessions – Presentation and Discussion (70 mins)**

**XIII. Session 4 (a) . Labor and Working Conditions**

Jay Wagner, International Labour Advisor (Consultant)

**XIV. Session 4 (b). Indigenous Peoples**

Tulsi Bisht, Senior Social Development Specialist (Safeguards), Safeguards Division (SDSS), Sustainable Development and Climate Change Department (SDCC)

**XV. Plenary Reporting (10 mins)**

**XVI. Wrap Up and Closing Remarks (10 mins)**

Bruce Dunn, Director, Safeguards Division (SDSS), Sustainable Development and Climate Change Department (SDCC)

**XVII. Event Evaluation (5 mins)**

Sustainable Development and Climate Change Department (SDCC)  
Safeguards Division (SDSS)



# Welcome Remarks

Kelly Bird, Country Director, Philippines Country Office (PhCO)



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Sustainable Development and Climate Change Department (SDCC)  
Safeguards Division (SDSS)



# Session 1: Overview on Policy Update Process and Status

Bruce Dunn, Director, Safeguards Division (SDSS),  
Sustainable Development and Climate Change Department (SDCC)



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# Objectives of Safeguard Policy Update

- **Modernize and enhance existing Safeguard Policy Statement (SPS)**, addressing key policy gaps and addressing emerging issues and risks, and vulnerabilities for affected people and the environment.
- **Adapt the policy for different financing approaches**, including sovereign and non-sovereign financing and different financing modalities
- **Improve efficiency of safeguard business processes**, seeking opportunities for streamlining and greater clarity on requirements for ADB and borrowers
- **Increase convergence and harmonization** with policies and system of other multilateral financial institutions and cofinanciers.
- **Improve implementation outcomes from safeguards**, with increased support for strengthening country systems and client capacities, and enhanced monitoring and oversight.

# Safeguards Policy Review and Update

## Approach and Methodology

**Policy update time frame:** August 2020 to October 2023

### Implementation phases:

- 1. Policy update planning** (August 2020–June 2021):
  - [Background Information Paper](#) (November 2020).
  - [Stakeholder Engagement Plan](#) (April 2021, updated July 2021)
- 2. Analytical Studies** (December 2020–December 2022):
  - Policy architecture, benchmarking standards / thematic issues
  - Review implementation experience
- 3. Policy preparation** (April 2022–October 2023):
  - Working Paper for ADB Board consideration (March 2023)
  - Final ADB Board approval of R-Paper (October 2023)
- 4. Policy roll out** (2023–2024):
  - Policy effectiveness from 2024 (date to be confirmed)
  - Implementation guidance, staff instructions, good practice notes,
  - Training and capacity building for staff and clients



**Stakeholder  
Engagement &  
Consultation**



# Stakeholder Engagement Plan (SEP) and Schedule

## OBJECTIVES



Promote diverse participation and an inclusive process



Build interest and ownership in safeguards and update process



Ensure active participation through open, safe & iterative process



Communicate process, content, and outcomes with clarity

## PROCESS

PHASE 1  
(Jun 2020–May 2021)

- ✓ Initial outreach
- ✓ Preparation of a Stakeholder Engagement Plan (SEP)
- ✓ Preliminary information sessions with DMCs and CSOs

PHASE 2  
(Nov 2021–Dec 2022)

- ✓ Publish analytical studies
- ✓ Regional consultations (all DMCs & CSOs)
- ✓ Private sector client consultations
- ✓ DMC country consultations (11 DMCs)
- ✓ Project-affected people consultations (11 projects)

PHASE 3  
(Dec 2022 – Oct 2023)

- ✓ Consultations on draft and final policy

# Analytical Studies and Regional Consultations Topics

## Completed Consultations: Nov. 2021- Jun. 2022

1. Policy Architecture
2. Indigenous Peoples
3. Resource Efficiency and Pollution Prevention
4. Labor and Working Conditions
5. Community and Occupational Health and Safety
6. Land Acquisition and Involuntary Resettlement
7. Biodiversity and Sustainable Natural Resource Management
8. Cultural Heritage
9. Stakeholder Engagement, Information Disclosure, and Grievance Redress Mechanisms
10. Lessons from Accountability Mechanism
11. Environmental and Social Impacts and Risk Assessment
12. Safeguards in Fragile and Conflict-Affected Situations (FCAS) & Small Island Developing States (SIDS)
13. Country Safeguard Systems (CSS)
14. Focus Group Discussions with Private Sector Clients
15. Climate Change
16. Gender and Safeguards
17. Sexual Exploitation, Abuse and Harassment (SEAH)
18. Sexual Orientation and Gender Identity and Expression, and Sex Characteristics (SOGIESC)

[See: Full list of Regional Consultations](#)

## Planned Consultations

1. Safeguards in Different Financing Modalities and Private Sector

# High Level Summary of Stakeholder Feedback

## SPS Update Regional Consultations

### DMCs

- Current SPS is benchmark for good practice
- Need closer alignment with country safeguard systems (CSS), avoid duplication, costs
- Greater consistency between MFI policy and procedures would reduce transaction costs
- Greater integration between environmental and social issues important, yet capacity is challenge.
- Need improved guidance & enhanced capacity support from early stages for country and project

### CSOs

- Don't water down safeguards
- Concerns on use of CSS without equivalence and acceptability.
- Enhance stakeholder engagement and disclosure.
- Need safe space and address risks of retaliation.
- Concerns on safeguards for financial intermediaries
- Some key issues – climate change, gender, vulnerable & disadvantaged groups, biodiversity, labor issues, Indigenous People's, human rights

### Private sector

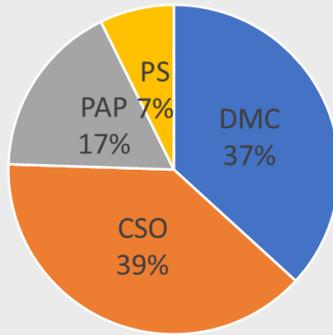
- Convergence with IFC Performance Standards and Equator Principles
- Closer alignment with CSS and requirements
- Simplify disclosure requirements in alignment with other MFIs (e.g., reduce 120-day disclosure for EIAs)
- Greater clarity & guidance on requirements; ADB technical support during preparation and implementation

## STAKEHOLDER PARTICIPATION: DIVERSITY & INCLUSION

2,589

Stakeholders consulted in Regional, In-country, and Project-affected people consultations and private sector FGDs

953 DMCs,  
1,002 CSOs  
188 Private Sector  
446 Project-affected persons participants



51% MALE 49% FEMALE



### IN-COUNTRY CONSULTATIONS

Completed (Aug-Oct 2022)	Planned (Nov 2022-Jan 2023)
1. Tonga	1. Philippines
2. Papua New Guinea	2. India
3. Mongolia	3. Indonesia
4. People's Republic of China	4. Georgia
5. Pakistan	
6. Republic of Marshall Islands	

### PAP CONSULTATIONS

7 Projects (5 sovereign, 2 non-sovereign)  
36 FGDs  
61 household interviews

### REGIONAL CONSULTATIONS

55 of 68 DMCs represented

participants from network **9** other countries outside the ADB

56 Private sector client companies joined FGDs



## ACCESSIBILITY & QUALITY OF INFORMATION\*

All **18 consultations** have had the PowerPoint slides and summary papers disclosed and translated into **4 languages** prior to the consultation event



Consultations simultaneously interpreted in **9 languages**

**94%** reported that presentations & other materials provided were **sufficient and understandable**

**83%** reported that they **received materials with sufficient time to review**



Post-event survey respondents (N=250)

## RESPONSIVENESS & TRANSPARENCY\*

87%

of participants reported that they were either **very satisfied or satisfied** with the overall quality of sessions



**92%** said their **questions were satisfactorily answered** by ADB

95%

**felt safe and secure** to voice their insights and to ask questions

**91%** of participants were **satisfied** with the online platform used for consultations

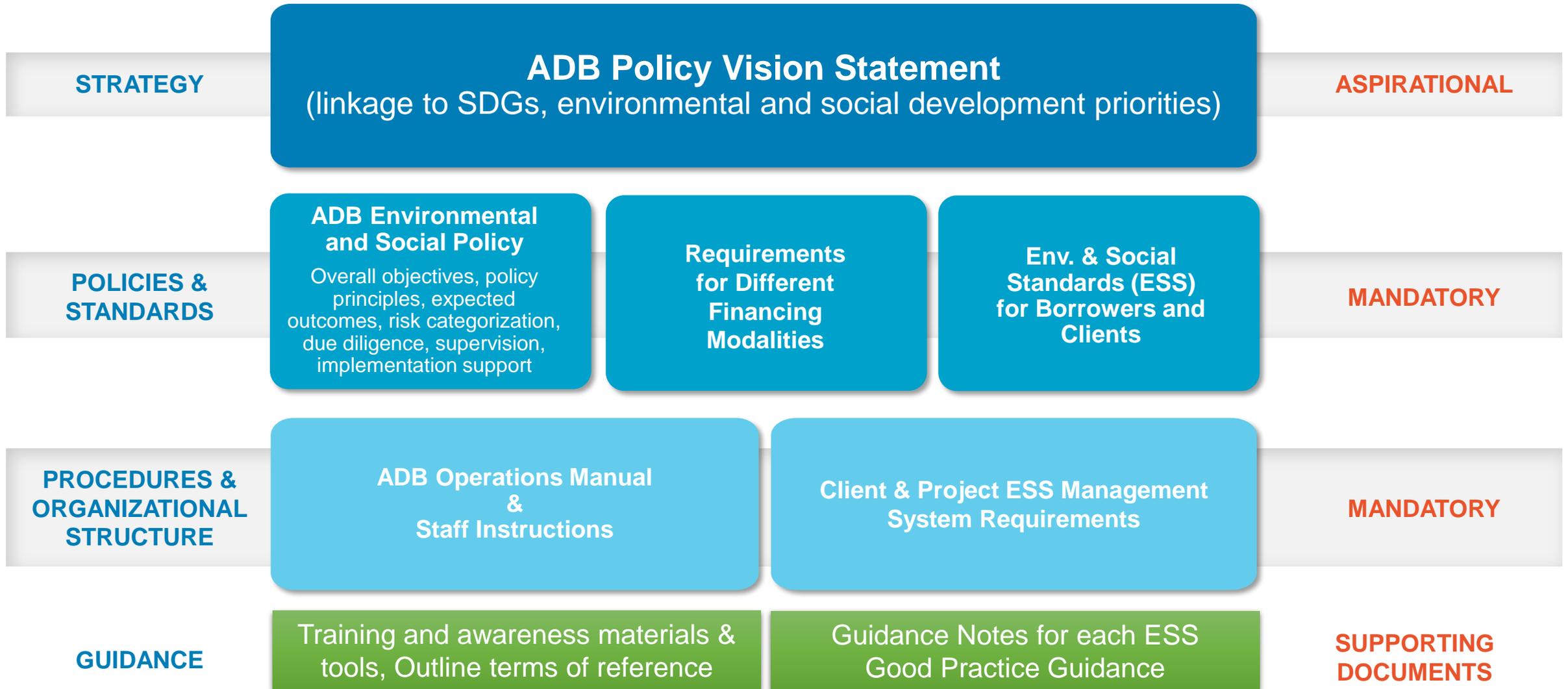


Acronyms: CSOs = civil society organizations; DMCs = developing member countries, PS = Private Sector; PAP = project-affected persons

\* Data from Regional Consultations and Private Sector FGDs

# ADB's Proposed Policy Architecture Model

## Environmental and Social Policy



# Environmental and Social Policy Standards (ESS)

Policy objectives, scope and requirements for borrowers and clients



 <p><b>1</b> Assessment &amp; management of environment and social risks and impacts</p> <p>ENV, IR, IP</p>	 <p><b>2</b> Labor and working conditions</p> <p>New</p>	 <p><b>3</b> Pollution prevention and resource efficiency</p> <p>ENV</p>
 <p><b>4</b> Health, Safety and Security</p> <p>ENV</p>	 <p><b>5</b> Land acquisition and involuntary resettlement</p> <p>IR</p>	 <p><b>6</b> Biodiversity and sustainable natural resource management</p> <p>ENV</p>
 <p><b>7</b> Indigenous Peoples</p> <p>IP</p>	 <p><b>8</b> Cultural heritage</p> <p>ENV</p>	 <p><b>9</b> Stakeholder engagement and information disclosure</p> <p>ENV, IR, IP</p>

Notes: Mapping new policy structure to previous SPS policy areas: ENV: Environment, IR: Involuntary Resettlement, IP: Indigenous People

Sustainable Development and Climate Change Department (SDCC)  
Safeguards Division (SDSS)



## Session 2(a): Policy Directions and Recommendations for Environmental Safeguards

Zehra Abbas, Principal Environment Specialist, Safeguards Division (SDSS),  
Sustainable Development and Climate Change Department (SDCC)



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# Screening and Classification of Environmental & Social Risks

## Analytical Study Findings and Policy Direction



### Main Study Findings

- ADB follows significance based categorization (A, B & C) separately for environment, involuntary resettlement and Indigenous Peoples' safeguards.
- Comparator MFIs follow an integrated classification based on impacts and risks across all safeguard standards.
- E.g. World Bank has a four-tier risk classification system (low, moderate, substantial and high risk);
- MFIs review safeguard categories or risk ratings during implementation & link to requirements for supervision & monitoring.

### Policy Direction

- » ADB and borrower/client to undertake an integrated environmental and social risk screening, categorization and assessment that considers:
  - **Direct and indirect** adverse impacts of a project
  - **Inherent** risk factors in different sectors
  - **Vulnerability and sensitivity** in the operating environment, e.g. biodiversity and natural habitats, natural disasters, and climate change, presence of vulnerable or disadvantaged groups etc.
- » ADB to also consider additional context and performance issues:
  - **Contextual risk factors**, e.g., fragility and conflict; governance; third party risks; and human rights issues
  - **Performance related risk**: Management systems, capacity, resources, commitment
- » Adopt a dynamic four-tier risk-based categorization that is regularly reviewed throughout a project's lifetime.



# Assessment & Management of Environmental & Social Risks

## Analytical Study Findings and Policy Direction

### Main Study Findings

- In the SPS, there is an imbalance in how environmental and social issues are addressed in the assessment process.
- Interrelated social and environmental impacts and risks not captured adequately.
- MFIs promote more adaptive risk management throughout the project life cycle.

### Policy Direction

- » Environmental and social assessment, commensurate with the impacts and risks.
- » More integrated assessment process, including focus on climate risks, gender, and range of vulnerable and disadvantaged groups.
- » Follow principle of adaptive risk management, balancing pre-project approval requirements with actions to be taken later based on risk level.
- » Integrate environmental and social commitment plans into legal agreements.
- » Strengthen ADB performance monitoring and capacity support, particularly during implementation.



# Assessment & Management of Environmental & Social Risks

## Due Diligence Requirements and Procedures

### Due Diligence Requirements for the Borrower

- **Environmental and social impact assessment (ESIA)** of the proposed project, including stakeholder engagement.
- **Stakeholder engagement** and disclosure of appropriate information in accordance with the provisions of the standard on stakeholder engagement.
- **Monitoring and reporting** on the environmental and social performance of the project against the environmental and social standards (ESSs) and management plan/s.
- **Environment and Social Commitment Plan (ESCP)**, and agreement between ADB and the Borrower. Will set out measures and actions required for the project to meet the ESSs over a specified timeframe (to be part of the legal agreement).

### Environment and Social Commitment Plan

Requires the Borrower to plan or take specific measures and actions over a specified timeframe to manage the impacts and risks of the project.

The Borrower will carry out all project activities, and relevant plans in accordance with the ESCP.



# Pollution Prevention and Resource Efficiency

## Analytical Study Findings and Policy Direction

### Main Study Findings

- Climate: Greenhouse gas emissions (GHG) – significance threshold – MFIs moving towards lower thresholds (100,000 tons to 25,000 tons CO<sub>2</sub> eq/year).
- Increase focus on hazardous waste and water issues
- Range of emerging issues and new international conventions & commitments (e.g., mercury, plastics)

### Policy Direction

- » Continue requirements for applying international good practice standards (e.g., updated World Bank Environmental Health and Safety Guidelines)
- » Consider thresholds for GHGs & benchmarking for resource efficiency
- » Assess water use and water balance (with thresholds)
- » Emerging issues to consider further, e.g.:
  - Ultrafine air pollutants
  - Circular economy and microplastics,
  - Hazardous wastes



- » Assess GHG emissions for all projects. Monitor and report on GHG which are assessed to emit more than 25,000 tons CO2 equivalent per year.
- » Benchmark energy intensity against best available techniques
- » Conduct water use and water balance assessment for projects with predicted significant long term operational water use.
- » Undertake assessment and management of soils where significant soils impacts expected.
- » For contaminated sites, undertake a health and safety risk assessment of existing pollution (on site).



# Health, Safety and Security (HSS)

## Analytical Study Findings and Policy Direction

### Main Study Findings

- Current SPS provisions are not comprehensive or consolidated
- Need to address risks across project cycle
- Gaps in a range of areas:
  - Project security risks to communities and workers
  - linkage of pollution risks to human health and environment.
  - Climate change and other vulnerabilities to affected communities
  - Traffic and road safety

### Policy Direction

- » Risk assessment and management systems for workers and community
- » Consideration of health impact assessment
- » Requirements on monitoring and reporting, including on fatalities and major incidents; including indicators for tracking and reporting.
- » Assess project security threats to workers and project-affected communities
- » Allocate budget resources for implementation, personal, training, monitoring and equipment



# Health, Safety and Security

## Additional Requirements and Due Diligence

### Requirements

- » Community and Workers' Risk Assessment and Management Plan\*, with coverage based on screening:
  - Security risk for workers and communities.
  - Sexual abuse and harassment risks to workers and affected communities.
  - Climate change and disaster risk assessment for projects in sensitive locations
  - Life and Fire safety audits for new and refurbished facilities prior to use.
  - Reporting on major incidents such as fatalities and accidents.

*\*Note, assessment needed only for projects based on screening of relevant issues, with scale of assessment and management needs commensurate issues and risks.*



### Main Study Findings

- Increased international focus on biodiversity loss and nature positive investment
- SPS generally aligned with other MFIs, however there is a need for clearer requirements and guidance for:
  - » baseline data collection and assessment
  - » determination of critical habitat,
  - » development in protected and internationally-recognized areas,
  - » assessing ecosystem services
  - » determining biodiversity offsets

### Policy Directions

- » Enhance focus on avoidance of impacts.
- » Consider to include World Heritage Sites and Alliance of Zero Extinction sites as exclusion zones (with exception for conservation)
- » Strengthen protection for critical habitats with net gain requirement. Include “free flowing rivers” as additional critical habitat trigger?
- » Use of offsets to be screened carefully to ensure implementable.
- » Assess ecosystems services and their use values as part of project due diligence
- » Consider sustainable management of primary supply chains
- » Consider emerging issues - risks of zoonotic diseases, animal welfare & genetically modified organisms (GMOs)



# Biodiversity and Sustainable Natural Resource Management

## Additional Requirements and Due Diligence

- » **Alternatives Assessment** required to demonstrate that all options have been assessed, particularly for projects where Critical Habitat is triggered (beyond existing requirements)
- » **Critical Habitat Assessment** required where identified at the screening stage
- » **Ecosystem services and/or ecological flows (e-flows) assessment** required where identified at the screening stage.
- » **Biodiversity Action Plan** prepared for projects in critical habitat to establish net gain
- » **Biodiversity Offsets**, where needed, will require confirmation on the feasibility of implementation and preparation of a biodiversity offset management plan.
- » **Supply chain risks assessment** and management required as part of the environmental assessment.



### Main Study Findings

- The SPS largely aligned with other MFIs,
- SPS does not consider:
  - » Intangible Cultural Heritage (CH) and visual impacts to CH
  - » Crosscutting aspects with biodiversity & Indigenous Peoples; and user access to CH sites.
  - » Criteria to trigger archaeological fieldwork
  - » Contractor requirements to apply protection measures
  - » Community consultation to identify CH
  - » Legally protected CH

### Policy Direction

- » Include intangible cultural resources and visual impacts
- » Screen for CH and undertake assessment and management planning
- » Monitoring and reporting needed to strengthen CH site management plans
- » Establish coordination with national CH bodies/archeological department to share project level CH findings

# Questions, Answers and Discussion



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- How to raise questions/feedback:

## For in-person participants

- Raise your hands and provide your feedback live
- Write your questions/feedback on paper and submit to the moderator, these questions will be asked anonymously

## For online participants

- Raise your hands virtually through the Zoom button
- Type your questions/feedback on the Zoom chat box
- If you want your question asked anonymously, instead of sending the chat message to everyone, you may send your question/feedback to Jennifer De Belen or Jelson Garcia

- Participants will be called on a first-come, first-served basis. Participants may be called in batches to manage time.
- Questions or feedback can be relayed in English or Filipino

**Get involved**

**Please send us your feedback and suggestions:**

## WEBSITE

<https://www.adb.org/who-we-are/about/safeguard-policy-review>



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**10:00**

## E-MAIL

[safeguardsupdate@adb.org](mailto:safeguardsupdate@adb.org)

# Screen Break



Sustainable Development and Climate Change Department (SDCC)  
Safeguards Division (SDSS)



## Session 2(b): Policy Directions and Recommendations for Social Safeguards

Madhumita Gupta, Principal Social Development Specialist, Safeguards Division (SDSS), Sustainable Development and Climate Change Department (SDCC)



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# Labor and Working Conditions (LWC)

## Analytical Study Findings and Policy Direction

### Main Study Findings

- Current provisions scattered between SPS, ADB Social Protection Strategy (2001), & Core Labor Standards (CLS) Handbook
- Current provisions largely aspirational and lack clear requirements for borrowers/clients
- Comparator MFIs have separate standard for LWC, & operational-focused guidance notes
- Range of policy gaps compared to other MFIs

### Policy Direction

- » Align with the LWC standards of comparator MFIs, with focus on CLS and working conditions.
- » Specific requirements on:
  - Different worker types (direct workers, contract workers, primary supply workers & community workers)
  - Equal employment opportunity
  - Sexual exploitation abuse and harassment (SEAH)
  - Labor-influx management
  - Grievance Redress Mechanisms (GRM) for workers and policy position against reprisals
  - Occupational health and safety
- » Labor management planning commensurate with risk
- » Address conditions of contracts are cascaded to subcontractors

# Land Acquisition and Land Use Restriction (LA/ LUR)

## Analytical Study Findings and Policy Direction

### Main Study Findings

- No significant gaps between ADB and MFIs for involuntary resettlement (IR) objectives and scope.
- Some MFI objectives have explicit mention of avoidance of forced eviction.
- Some MFIs have requirements for:
  - » Voluntary land transactions & voluntary land donations,
  - » Requirements for non-land acquisition livelihood impacts.
  - » Use of frameworks for projects without full impact assessments prepared before project approval;

### Policy Direction

- » Cover both involuntary & voluntary forms of land acquisition (LA) & land use restrictions (LUR)
- » Strengthened livelihood restoration requirements due to IR
- » Clarity on livelihood impacts & asset losses not caused by land acquisition.
- » Valuation of assets to be based on principle of replacement cost
- » Separation of voluntary land acquisition from negotiated settlements under eminent domain
- » Provisions on forced evictions. Enhance focus on vulnerable and disadvantaged groups, and gender.
- » Link planning with the readiness of project technical design.
- » Develop guidance on how to address legacy issues.



# Land Acquisition and Land Use Restriction (LA/ LUR)

## Additional Requirements and Due Diligence

- **IR categorization** – remove numerical threshold - impact categorization through integrated risk-based approach.
- **Social impact assessment**, census and socio-economic survey strengthened and linked with project design and implementation.
- **Voluntary land acquisition** requirements clarified in terms of due diligence and documentation.
- **Valuation of lost assets** by valuation experts based on replacement principle and recognized valuation standards.
- **Associated facilities, cumulative social impacts and/or legacy issues** require mitigation of LA/LUR related risks and impacts, within the Borrower/Client's influence and control.
- **Mitigation of project-induced impacts** like adverse socio-economic impacts on assets, incomes and livelihoods, not directly resulting from LA/LUR will follow the requirements of standard 5.
- **Land Acquisition Frameworks** allowed only as an exception with detailed justification based on scoping
- **Project finance for filling gaps** between national legislation and practices for LA/LUR and SPS requirements.
- **Engagement of third-party monitoring experts** directly through ADB to enhance due diligence for projects with significant risks.
- **Undertake compliance monitoring** of LARP implementation before start of civil works, and completion monitoring of LARP implementation at the time of project closure



### Main Study Findings

- Current SPS IP safeguards are generally well aligned with other MFI policies.
- ADB requires the criterion of ‘vulnerability’ in addition to distinctiveness criteria for IP identification purposes, which is not the case with other MFIs.
- ADB requires consent of IPs through Broad Community Support, while other MFIs require Free Informed and Prior Consent (FPIC).

### Policy Direction

- » **Vulnerability** Criterion for IP identification will be dropped, this could result in more projects requiring application of IP safeguards.
- » **Collective attachment** concept broadened to include: areas of seasonal use or occupation and nomadic and seasonal livestock and grazing routes.
- » **Strengthening Social Impact Assessment**, including provisions on intangible impacts and contextual risks
- » **Consultation**: Improve consultation, participation & information disclosure and address intersectionality of gender and IP issues
- » **Grievance Redress Mechanisms**: Improve GRM and integrate IP justice systems where appropriate
- » **Introduce FPIC with scope of application requirements broadened** from the:
  - » commercial development of natural resources to “adverse impacts on”;
  - » commercial development of cultural resources to “significant impacts” and
  - » physical displacement of IP” to “relocation of IP”
- » **Ensure appropriate policy fit for different regions, including the Pacific.**



# Indigenous Peoples (IPs)

## Associated Changes and Due Diligence

### Due Diligence Requirements

- **Introduction of FPIC and broadening scope:** would require additional due-diligence for consultation and participation of IP communities, and the documentation of outcomes. In comparison to BCS, broadening around the three specific circumstances could imply that any project in the IP areas, may require seeking FPIC.
- **Compensating IP communities** for adverse impacts will require earmarking of additional budget
- **IP Dispute resolution system** through a participatory approach will require more time and resources

### Monitoring, Capacity Building and Resources.

- **Budget allocation** with additional resources will be specified for implementing IP standards.
- **Capacity building** will be needed to implement these requirements for both ADB staff and DMC counterparts. Additional resources, time budget and technical expertise will be required.



# Stakeholder Engagement and Information Disclosure (SEID)

## Analytical Study Findings, Policy Direction and Due Diligence

### Study Findings

- ADB requirements are scattered across different safeguard areas and lack clarity on requirements.
- Recently updated MFIs have SEID requirements integrated in one policy standard.
- ADB has no specific requirements for stakeholder engagement plans.
- Enhance meaningful consultation & engagement across the project cycle

### Policy Direction

- » Clarity on stakeholder engagement, information disclosure and GRM requirements; with dedicated budget.
- » Strengthen focus on gender, vulnerable and disadvantaged groups.
- » Establishing GRMs using existing formal and informal mechanisms, provision for anonymous complaints.
- » Provision against intimidation and reprisals
- » Develop verifiable indicators to monitor key SEID components
- » Considering aligning disclosure requirements with MFIs; e.g., 60-day EIAs disclosure for Cat A. 30 days for Cat B, social assessments before ADB appraisal.

### Due Diligence Requirement

- » Develop a stakeholder engagement plan and GRM proportionate to the nature and scale of the project, with meaningful consultation throughout the project cycle.

# Questions, Answers and Discussion



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### WEBSITE

<https://www.adb.org/who-we-are/about/safeguard-policy-review>



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# Lunch Break



Sustainable Development and Climate Change Department (SDCC)  
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## Session 3: Land Acquisition, Resettlement and Involuntary Restriction of Access to Land

Madhumita Gupta, Principal Social Development Specialist (Safeguards),  
SDCC



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# ADB Safeguards Policy Statement, 2009 (SPS): Overview

The ADB logo consists of the letters 'ADB' in a white, serif font, centered within a dark blue square.

## IR Safeguard Objectives

- 1 **Avoid** involuntary resettlement wherever possible
- 2 **Minimize** involuntary resettlement by exploring project and design alternatives
- 3 **Restore and enhance** the livelihoods of all displaced persons in real terms relative to pre-project levels
- 4 **Improve** the standards of living of the displaced poor and other vulnerable groups

## Key Requirements

- **Triggers:** physical and economic displacement related to involuntary land acquisition, involuntary land use restriction, and involuntary restriction of access to resources/legally designated parks and protected areas; impacts can be full/partial, permanent or temporary.
- **Key requirements:**
  - Screening, categorization and assessment of IR impacts
  - IR planning: prepare/update and disclose resettlement plans
  - Stakeholder consultations with displaced persons and GRM
  - Restoration of livelihoods through replacement/compensation for lost assets at replacement cost; no displacement prior to compensation
  - Provision of assistance and support (cash and non-cash)
  - Protections for displaced persons without recognizable legal rights to land
  - Monitoring of resettlement outcomes and disclosure of reports

# Independent Evaluation Department (IED): Findings and Recommendations for IR

- 1. Maximize the value added of the IR safeguard beyond compensation.** IED evaluation finds ADB's involuntary Resettlement (IR) safeguards performance to be generally satisfactory; however, it notes a primary reliance on compensation of affected persons with a simultaneous weakness of livelihood restoration and improvement, especially for severely affected poor and vulnerable households. Recommends clearer livelihood restoration provisions and mitigation approaches. Notes weaknesses in stakeholder consultations and disclosure of resettlement plans, and further recommends improved disclosure of safeguards documentation in local languages and improved participation of government staff in consultations.
- 2. Recommends a new integrated approach to risk assessment and categorization.** The use of a numerical threshold of 200 severely affected persons for IR category A projects is judged inadequate and insufficiently risk oriented, as it does not appropriately assess the variable risks within the socio-economic, institutional, and country contexts.
- 3. Recommends enhanced mechanisms to assess social risks in projects and impacts on communities, people and their livelihoods** which do not originate from involuntary land acquisition but may still lead to physical and economic displacement.

# Analytical Study Methodology and Processes:



## Analytical Study Objective:

- Study objective is to provide informed recommendations for the update of requirements related to land acquisition, land use restriction, and involuntary resettlement.

## Analytical Study Methodology:

- Desk based document review - IED Report and ADB Management Response, project documents related to IR safeguards
- Benchmarking with other MFI polices - Comparative analysis with EBRD, IFC, IDB, World Bank
- Stakeholder consultations and workshops - ADB staff, developing member countries (DMCs), Private Sector clients and organizations, civil society organisations.

## Objectives and Scope of Application

- ADB shares with other MFIs the objectives of avoiding and minimizing adverse IR impacts.
- Other MFIs include among the policy objectives avoidance of forced eviction, compensation at replacement cost and stakeholder engagement.
- Some MFI include requirements for voluntary land transactions, such as voluntary land donations.
- Some MFIs allow application of the IR standard to livelihood impacts not resulting from land acquisition.

## Risk classification and categorization

- Except for ADB, all MFIs adopted a risk-based integrated environmental and social assessment.

## Mitigation plans

- All MFIs require preparation of varying types of resettlement planning documents commensurate with the level of displacement.
- All MFIs permit the use of resettlement frameworks for projects without impact assessments prepared before project approval
- ADB limiting the use of frameworks to four finance modalities.

## Stakeholder engagement

- All MFIs require disclosure of relevant information about displacement impacts and mitigation measures in local languages and an accessible culturally appropriate manner.
- Some MFIs detail the kind of information required.
- Except for ADB, none of the MFIs explicitly require full disclosure of resettlement documents on their websites.

## Monitoring and implementation

- ADB explicitly mandates the public disclosure of monitoring reports on its website.
- To ensure verification of the completion of RP implementation, especially for IR category A, other MFIs may require land acquisition IR completion reports and/or external compliance reviews.
- ADB does not require standalone IR completion audits and reports but mandates ongoing M&E and discloses completion of RP implementation in project completion reports.

## Roles and responsibilities

- The division of responsibilities is comparable to ADB.
- MFIs undertake screening, due diligence, supervision, support and capacity building.
- Borrowers implement all requirements for safeguard management of the standards.

# Key issues for further consideration



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## Architecture and Integration

1. Adoption of a performance standard approach, with binding requirements for Borrowers and ADB, including for staff, with clarification of differential roles and responsibilities for the management of land acquisition and land use restriction (LA/LUR).
2. Adoption of a risk-based approach to screening, scoping and categorization of LA/LUR without a numerical threshold for impact significance.
3. Adoption of an integrated environmental and social impact assessment as an overarching assessment tool to cover all anticipated social risks and impacts of a project, with specific requirements for LA/LUR.

# Key issues for further consideration



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## Scope of Application

1. To cover both involuntary and voluntary forms of LA/LUR, improve implementation practices and provide clearer guidance
2. To clarify provisions related to land use restriction and restriction on access (regarding both infrastructure and natural resource management related impacts)
3. To clarify provisions for the social impacts of associated facilities, existing facilities, legacy issues and cumulative impacts and their mitigation.
4. To clarify provisions for mitigation of livelihood impacts & asset losses not caused by land acquisition.

# Key issues for further consideration



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## Strengthening of other provisions

1. To link LA/LUR planning with the readiness of the technical design through either
  - implementation ready land acquisition plans, or
  - a framework approach coupled with enhanced scoping
2. To further clarify LA/LUR related provisions for
  - valuation of lost assets
  - livelihood restoration
  - relocation of non-titled displaced persons
  - vulnerability
  - gender
  - mitigation measures for host communities
  - strengthening of the Borrower's capacity for LA/LUR management
  - external and third-party monitoring and verification

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# Questions, Answers and Discussion



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## Session 4 (a): Labor and Working Conditions

Jay Wagner, International Labour Advisor (Consultant)



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- ADB is updating the 2009 Safeguard Policy Statement (SPS)
- Labor and Working Conditions (LWC) is one of studies being conducted to feed into the Safeguard Policy Review and Update (SPRU).
- ADB commissioned Plexus Energy consultant Jay Wagner to review policy requirements on LWC and benchmark against peer MFIs (WB, AIIB, IFC, EBRD, and IDB)

# Purpose and Scope

- Review ADB documents and policies inc. the 2009 SPS, Social Protection Strategy, Strategy 2030, Handbook for Poverty and Social Analysis, Handbook on Core Labor Standards (CLS), etc.
- Conduct comparative review of key similarities and differences on LWC standards/policies and implementation arrangements (guidance materials and requirements) of ADB and peer MFIs.
- Identify: best industry practices, standards and guidance; gaps, areas of convergence; strengths and weaknesses; critical issues to be addressed; and make recommendations.
- LWC includes: the core labor standards (child labor, forced labor, nondiscrimination, and freedom of association), health and safety, supply chain, other labor issues such as retrenchment.

# Process and Deliverables

## 1. Document Review and Stakeholder Interviews

## 2. Draft Report

## 3. Final Report containing:

- A gap analysis of LWC in 2009 SPS and a comparative analysis of MFIs safeguard policies, implementation requirements and practices
- Recommendation for ways forward on LWC for ADB's updated Safeguard policy



- **Safeguard Policy Statement (2009)**
- **Social Protection Strategy (2001)**
  - » Social Protection Operational Plan
  - » Operation Manual C3: Incorporation of Social Dimensions into ADB Operations
    - » Initial Poverty and Social Assessment (IPSA) and Summary Poverty Reduction and Social Strategy (SPRSS) reports on Core Labor Standards due diligence
    - » Loan Covenant, Project Administration Manual and Contract Agreements

# Key Findings

## No. 1

- **ADB LWC Provisions are scattered**

- LWC provisions scattered over multiple documents – CLS Handbook, Handbook on Poverty and Analysis, etc.
- MDB peers (except AIIB) have a consolidated, stand-alone LWC Safeguard Standard

- **Lack of Clarity and Accessibility**

- A stand-alone LWC safeguard and associated specific guidance, like some ADBs peers have adopted, has proved beneficial in terms of clarity and accessibility for both staff and borrowers

- **Aspirational vs Practical**

- ADB provisions worded such that they aspire more to an overall development objective whereas other MFIs approach is more practical and applied
- No specific details on how to implement the CLS
- ADBs peers have defined clear, practical and auditable requirements for their clients, supported by operations-focused guidance notes

- **Policy Principles vs Performance Standards (PS)**
  - PS approach is seen as better suited to address LWC issues and to require compliance by borrowers
  - Clear and binding safeguard requirements would likely enhance developmental outcomes
- **Absence of Guidance and Operationalisation**
  - ADB lacks project-specific guidance
  - LWC requirements are not implementation-focused and not operationalized
- **Loan Modalities**
  - LWC transcend the different loan modalities and are equally applicable to private sector project finance as well as public sector lending

- **Descriptive vs Prescriptive**

- ADB focuses on a “what is”, explaining the LWC issue and how ADB can help address it
- Other MFIs chose a more prescriptive, “how to” approach for clients and projects
- Language of peer MFI LWC provisions is more binding. Absence of more binding language gives the impression that compliance with the CLS is optional, with national LWC provisions prevailing

- **Allocating Responsibility**

- IFC, WB, EBRD and IDB put onus of managing and monitoring LWC on borrowers / projects
- ADB does not allocate clear responsibility to borrowers - where it is mentioned, it falls mainly to ADB/ADB staff

- **Gaps and Omissions**

- Compared to other MFIs, ADB has key gaps on cross-cutting and emerging issues, such as vulnerability, grievance mechanism, labor influx / migrant workers, supply chain, gender and gender-based violence etc.
- These themes reinforce the importance of LWC as a core issue in project finance and sustainable development
- Implicit reference to the CLS in the safeguards is not sufficient

- **Harmonisation with MFI Peers**

- The absence of a consolidated and up-to-date safeguard addressing LWC is becoming an obstacle to co-financing with other MFIs.
- Increased harmonization between MFIs would lower transaction costs and makes it easier for staff to evaluate and oversee projects and for borrowers to comply with LWC requirements

# Recommendations

## No.1



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### Key Recommendation: Update SPS and adopt a LWC Performance Standard

- **R1 – Adopt a Stand-Alone LWC Performance Standard**
  - Consolidate LWC provisions and provide greater clarity for staff and borrowers
  - Understand the resource requirements involved
- **R2 – Safeguards Oversight and Quality Assurance**
  - Review the arrangements and steps needed to implement and oversee the roll-out of a LWC PS
  - Consider the kind of indicators needed
- **R3 – Tighten the Language of LWC Provisions**
  - Ensure that provisions are based on more definitive language such as "must" or "should"

# Recommendations

## No. 2



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- **R4 – Guidelines and Tools**
  - Develop, in parallel to a stand-alone LWC PS, operationally-focused LWC guidelines, guidance notes and tools for borrowers
- **R5 – Strengthen Bank Expertise in LWC**
  - Carry out a review of the technical expertise needed
  - Develop a capacity building and training program, learning lessons from other MFIs
- **R6 – Review CLS Implementation Status**
  - Review the extent to which the CLS are ratified and implemented in key ADB operating countries and establish where gaps exist

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# Questions, Answers and Discussion



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Session	Venue
4(a). Labor and Working Conditions	Hall 4
4(b). Safeguards and Indigenous Peoples	Halls 1&2 (this hall)

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## Session 6: Indigenous Peoples

Tulsi Charan Bisht, Senior Social Development Specialist (Safeguards),  
SDCC



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# Safeguards Requirement 3: Indigenous Peoples Safeguards

1. Safeguard Requirements 3 (SR 3): Indigenous Peoples (SPS 2009)
2. Independent Evaluation Department (IED) Review Finding on SR 3
3. Analytical Study:
  - Objective and Methodology
  - Benchmarking with other MFIs
  - Key Finding and Recommendation
4. Potential Changes in the New IP Standard

# 1. Safeguard Requirements 3: Indigenous Peoples

## **Objectives of Indigenous Peoples Safeguard:**

Design and implement projects in a way that fosters full respect for Indigenous Peoples' identity, dignity, human rights, livelihood systems, and cultural uniqueness as defined by Indigenous Peoples themselves so that they (i) receive culturally appropriate social and economic benefits, (ii) do not suffer adverse impacts as a result of projects, and (iii) can participate actively in projects that affect them.

## **Application of Indigenous Peoples Safeguard:**

Apply to all ADB-financed and or ADB-administered sovereign and non-sovereign projects. The requirement also applies to actions conducted in anticipation of ADB financing of projects.

## Indigenous Peoples Identification Criteria:

The term Indigenous Peoples is used in a generic sense to refer to distinct, vulnerable, social and cultural group possessing in varying degree four characteristics

- (i) Self-identification as a distinct group that is also recognized by others;
- (ii) collective attachment to distinct habitats or ancestral territories;
- (iii) separate and customary cultural, economic, social or political institution; and
- (iv) distinct language.

## Indigenous Peoples Safeguard Triggers:

- Triggered if a project directly or indirectly affects the dignity, human rights, livelihood systems, or culture of Indigenous Peoples or affects the territories or natural or cultural resources that Indigenous Peoples own, use, occupy, or claim as their ancestral domain.
- Triggers include both Negative & Positive impacts.

# Indigenous Peoples Safeguard General Requirements:

- Screening and Categorization based on significance of impact
- Conducting Social Impact Assessment (SIA)
- Consultation, Participation & Information Disclosure
- Preparing Indigenous Peoples Plan (IPP)
- Outlining Beneficial and Mitigative Measures
- Grievance Redress Mechanism
- Capacity Building of the Borrowers where required
- Institutional Arrangements and Budgeting for IPP Implementation
- Undertaking Monitoring & Reporting on IPP Implementation
- Project Completion Report

# Indigenous Peoples Safeguard Specific Requirements: Broad Community Support (BCS):



SPS requires projects to seek Broad Community Support (BCS) where the project activities include

- commercial development of cultural resources and knowledge of IP;
- physical displacement from traditional or customary lands;
- commercial development of natural resources within customary land.

Requirements to seek BCS and its documentation are laid out in SR 3.

- ADB reviews the documentation of the BCS process to satisfy itself of the BCS for a project.
- ADB conducts its own due-diligence to assure itself of existence of BCS.
- ADB does not finance the project if such support does not exist.

## 2. IED Report Outcomes on IP Safeguard Implementation:

- Indigenous Peoples outcomes have been less than satisfactory;
- Emphasis on avoiding areas where Indigenous Peoples live;
- Mainstreaming Indigenous Peoples communities;
- Indigenous Peoples issues are narrowed to resettlement aspects;
- Borrowers' reluctance to implement IP safeguard requirements;
- Planning documents lack adequate social impact assessment;
- Information disclosure is a concern;
- Significant drop in the share of projects triggering IP safeguards since SPS approval

### 3. Analytical Study Summary:

**Objective:** to provide informed recommendations for the update of IP Safeguards.

#### **Methodology:**

*Desk based document review* - IED Report and ADB Management Response, project documents related to IP safeguards such as selected Indigenous Peoples Plans (IPPs), Monitoring Reports and relevant reports from ADB Accountability Mechanism

*Benchmarking with other MFI polices* - Comparative analysis with AIIB, AfDB, EBRD, EIB, IDB, IFC, NDB, World Bank

*Stakeholder consultations* -ADB staff, developing member countries (DMCs), Private Sector clients and organizations, civil society organizations, Indigenous Peoples and IP Organizations (IPO) and Representatives

# Implementation Challenges of SR 3:

- Identification of IPs: Complex and need further clarification
- Vulnerability as one criterion of IP Identification: Helps focus on those who need help but causes misalignment with MFIs, results in mainstreaming
- Conflating involuntary resettlement impacts with SR3 specific impacts: Results in involuntary resettlement issues getting priority over the SR3 impacts
- IP safeguard is complex: Rigorous and distinct requirements and takes longer to prepare and implement projects
- Resource constraints: Monetary resources, time and skills in ADB, DMCs, IPOs and clients
- Requires robust and culturally sensitive Social Impacts Assessment
- Alignment with other multilateral finance institutions (MFI) on IP policies

# Benchmarking of ADB IP Safeguards with the MFIs:

Comparative textual assessment of IP safeguards of ADB with other MFIs to assess the extent of harmonization and alignment.

**IP Policy Objectives** - ADB shares with other MFIs the objectives of avoiding and minimizing the potential adverse impacts on IP. Some MFIs have more detailed objectives such as FPIC, support for women, girls and other groups within IP communities.

**IP Policy Scope of Application & Triggers** - SPS shares the criterion of 'distinctiveness' based on four characteristics like other MFIs in the process of IP identification. There is a marked difference in ADB's approach that requires social groups to be 'vulnerable' too. Other MFIs like IFC, WB only require 'distinctiveness'.

**Social Impact Assessment** - ADB has similar requirements of conduct of SIA. Other MFIs (IFC, WB, EBRD) require an integrated approach to environment and social impact assessment (ESIA), while ADB requires separate SIA and EIA.

**Stakeholder Engagement (Information Disclosure & Consultation)** - ADB shares the meaningful consultation and disclosure requirement with other MFIs.

**Roles and responsibilities** – Provisions defining roles and responsibilities of both borrower and the MFI are similar across the institutions.

**Assessing SR 3 with National Standards** -ADB requires a gap assessment between SPS requirements and national safeguard policies and identified gaps need to be addressed to comply with ADB requirements. Some MFIs such as IFC, IDB have similar requirements, while WB does not have such specific references.

**Grievance Redress Mechanism** -All MFIs including ADB have requirements related to GRM. Some MFIs such as EBRD, IFC, IDB have more details on GRM requirements. All MFIs require early establishment, accessibility, impartiality and transparency in GRM.

**Promoting Benefits and Wellbeing of IPs** - All MFIs share the objective that IP benefit from development interventions in a culturally appropriate manner.

**Monitoring, Reporting and Institutional Support** – All MFIs share the requirement of monitoring and reporting. Though MFIs require assessment of borrowers' capacity and commitment, not all provide for implementation support, while ADB does offer capacity building support.

**Voluntary Isolation** - ADB does not have any requirement for IP's living remotely or in voluntary isolation, MFIs like WB, IFC, IDB, EBRD have such requirements.

**Special Requirements (Broad Community Support vs Free Prior and Informed Consent)**- there is a divergence as ADB requires seeking BCS, other MFIs such as EBRD, EIB, WB, IFC, IDB have adopted FPIC.

# Analytical Study Recommendation:

- IP identification – ‘Distinctiveness’ only or both ‘Distinctiveness and Vulnerability’
- Adopting FPIC
- Improving SR3 requirements and processes:
  - Improving SIA to assess IP impacts (tangible/non-tangible)
  - Developing IP specific mitigation measures
  - Improving consultation procedures
  - Making GRM more inclusive
  - Monitoring and reporting to include non-tangible indicators
  - Promoting capacity building for ADB staff and borrowers
- Addressing political sensitivities
- Developing clarity for technical terms, concepts and safeguard requirements

# Potential Changes in the New IP Standard:

1. Scope of Application: ESS 7 will apply if Indigenous Peoples are present in, or have collective attachment to, a proposed project area.
2. Changes in IP identification criteria: “Vulnerability” requirement for IP identification dropped.
3. Introducing “Free, Prior, and Informed Consent” (FPIC) in place of existing “Broad Community Support” (BCS); the special circumstances requirements broadened from “commercial development of natural resources” to “adverse impacts on”; from “commercial development of cultural resources” to “significant impacts” and from “physical displacement of IP” to “relocation of IP”.
4. Compensating IP communities for adverse impacts clarified and will also be cross-referenced with IR PS.
5. Minor Changes:
  - Clarifying objectives
  - GRM: Inclusion of IP dispute resolution system

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# Questions, Answers and Discussion



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# Plenary Reporting



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# Wrap Up and Closing Remarks

Bruce Dunn, Director, Safeguards Division (SDSS),  
Sustainable Development and Climate Change Department (SDCC)



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# Event Evaluation



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# Thank You

