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ADB Safeguards Policy Update:

Consultation with Indonesian CSOs on Country Safeguard Systems (CSS)

06 February 2023



**SAFEGUARD
POLICY REVIEW
AND UPDATE**



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



Technical Announcements and Acknowledgement of Participants



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Session Reminders



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- ✓ If possible, join from a quiet, distraction-free area
- ✓ Put your microphone on mute when you are not speaking
- ✓ Raise your hand to raise a point or question
- ✓ Be respectful to everyone
- ✓ Be conscious of time as per the agreed agenda
- ✓ Please rename to NAME_ORGANIZATION so you can be properly addressed

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Penerjemahan Simultan tersedia!

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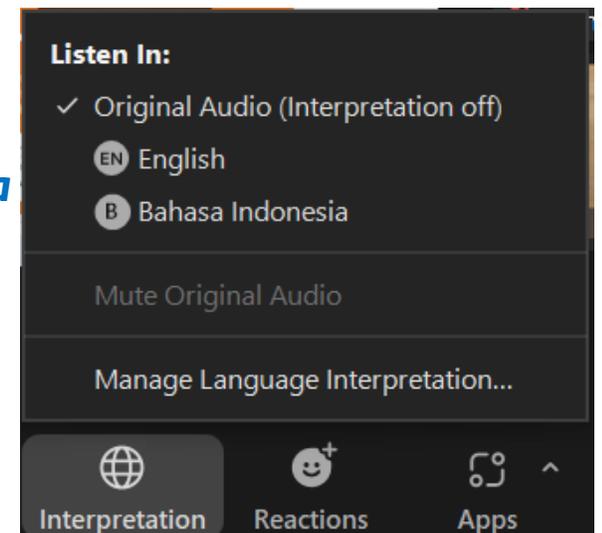
Silakan klik tombol Interpretation pada fitur Zoom di bagian bawah layar Anda.

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Languages available:

Bahasa yang tersedia:

- **English**
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Bahasa Indonesia

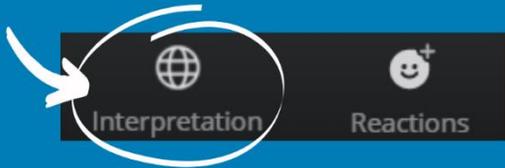




HOW TO LISTEN TO INTERPRETATIONS

1

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2

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Click Mute Original Audio to mute the English audio.



3

CHANGING YOUR NAME ON ZOOM

1

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



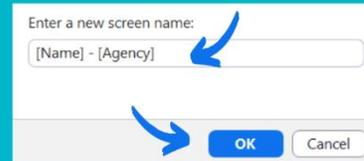
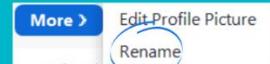
2

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



3

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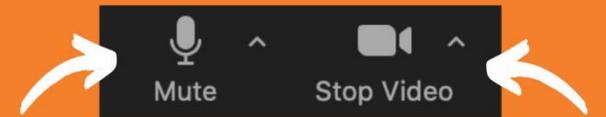


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To speak and unmute yourself, click on the microphone icon.

To show your video, click on the video icon.



Meeting Safety Protocol



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The Safeguard Policy Review and Update 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. Our session today is for CSOs only and will not involve any government representative. ADB follows this protocol:

1. Participants are encouraged to articulate their inputs and concerns in our sessions. There will be no video recording,
2. All types of respectful feedback are welcome and there is a mechanism to provide feedback anonymously. These will not be used for the purposes of retaliation, abuse, or any other kind of discrimination. ADB has a “no tolerance” policy for retaliation in this consultation process.
3. A written summary of the meeting will be prepared and shared with participants after the event. ADB will not attribute specific comments to individuals. However, if you would like a specific comment or statement attributed to you, you may inform us.
4. If you have any issues or concerns on the confidentiality, potential risks, abuse, or any kind of discrimination during the consultations, please contact the Secretariat at safeguardsupdate@adb.org.

- **Welcome Remarks** (5 mins)
Jiro Tominaga, Country Director, Indonesia Resident Mission (RM)
- **Background of the Session** (10 mins)
Bruce Dunn, Director, Safeguards Division (SDSS), Sustainable Development and Climate Change Department (SDCC)
- **Brief Q&A** (10 mins)
- **Country Safeguard Systems Directions in Revised Policy** (20 mins)
Zehra Abbas, Principal Environment Specialist, Safeguards Division (SDSS), Sustainable Development and Climate Change Department (SDCC)
- **Breakout session: Small group discussion** (50 mins)
- **Screen Break** (5 mins)
- **Plenary Presentation and Discussion** (60 mins)
- **Wrap up and Next Steps** (10 mins)
- **Announcements and Brief Event Evaluation** (5 mins)

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Safeguards Division (SDSS)



Welcome Remarks

Jiro Tominaga, Country Director, Indonesia Resident Mission (IRM)



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Safeguards Division (SDSS)



Background of the Session

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 March 2024

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** (October 2023–March 2024):
 - Working Paper for ADB Board consideration (July 2023)
 - Final ADB Board approval of R-Paper (March 2024)
- 4. Policy roll out** (2024-2025):
 - 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**



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

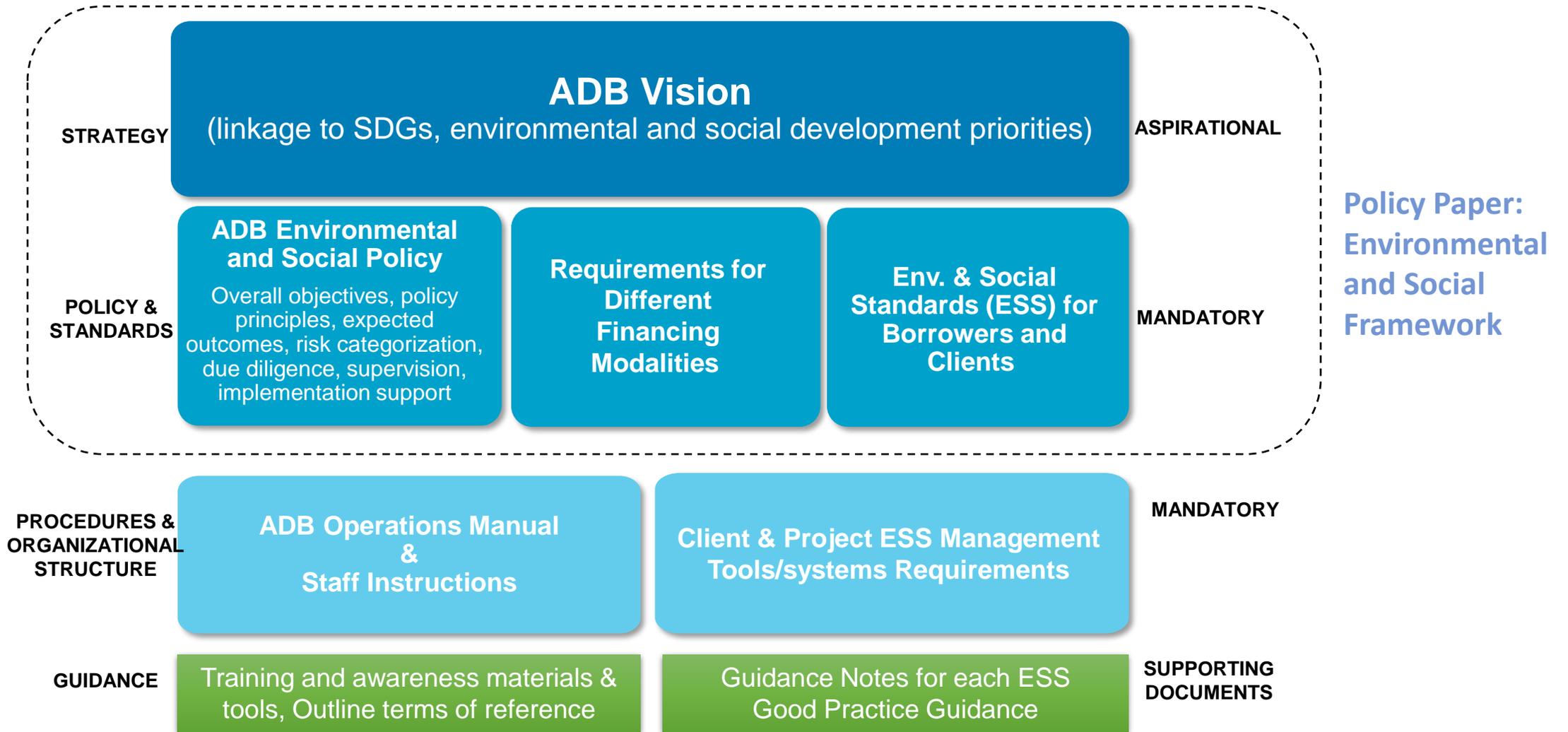
Indonesia – CSO views

High level summary of key points

- No dilution
- To strengthen the policy:
 - Balance front loaded requirements and compliance over time. Due diligence should stay strong
 - An integrated E&S risk assessment should minimize or prevent under-categorization
 - Include a human rights risk analysis
 - Include core labor standards, climate change, SEAH, GBV, and SOGIESC
 - Strengthen requirements for community safety and health, IR, IP, financial intermediaries (FIs), and associated facilities
 - Use FPIC, not BCS
 - Have clear safeguards in the supply chain
 - Have a clear policy on zero tolerance to discrimination and retaliation
- Enhance stakeholder engagement and disclosure; keep 120-day disclosure for Cat A projects
- Caution on the use of CSS without equivalence and acceptability.

ADB's Proposed Policy Architecture Model

Environmental and Social Framework



Environmental and Social Policy Standards (ESS)

Policy objectives, scope and requirements for borrowers and clients



- 1** Assessment & management of environment and social risks and impacts
- 2** Labor and working conditions
- 3** Pollution prevention and resource efficiency
- 4** Health, Safety and Security
- 5** Land acquisition and involuntary resettlement
- 6** Biodiversity and sustainable natural resource management
- 7** Indigenous Peoples
- 8** Cultural heritage
- 9** Stakeholder engagement and information disclosure
- 10** Climate change

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Brief Question and Answer



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Country Safeguard Systems Directions in Revised Policy

Zehra Abbas, Principal Environment Specialist, SDSS



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Presentation Outline

1. Objectives and methodology for Analytical Study on CSS
2. Existing policy
3. Findings from MFI comparative analysis
4. Implementation challenges
5. Lessons learned and next steps

Objectives and Methodology of the Analytical Study

- Assess ADB's **current approach** to strengthening and use of country safeguard systems (CSS).
- Review the approach of other multilateral finance institutions (MFIs) - **AIB, IDB, World Bank** - and assess key differences in approach to CSS.
- Review evaluation findings, identify challenges and lessons learned from past experiences with CSS.
- Propose issues for further consideration in ADB's revised safeguards policy.

ADB Safeguard Policy Statement (SPS) 2009 - Approach for strengthening and use of CSS



- SPS objective: *“help borrowers/clients strengthen their safeguard systems and develop the capacity to manage environmental and social risks.”*
- ADB needs to ensure that application of CSS in ADB projects does not undermine the achievement of ADB’s safeguard policy objectives and principles.
- ADB assesses feasibility to use CSS through equivalence and acceptability.
- CSS is **equivalent** if it is designed to achieve the same objectives and adheres to the policy scope, triggers, and applicable principles;
- CSS is **acceptable** if implementation practice, track record and demonstrated commitment to implement the applicable laws, regulations, rules, and procedures.
- CSS may be used at the country, sector, or agency levels for all or one safeguard.
- ADB supervision and role of ADB’s Accountability Mechanism remains unchanged.

Approach of other MFIs to CSS

Asian Infrastructure Investment Bank (AIIB)

- Use of borrower's CSS where review establishes material consistency with the objectives of AIIB's safeguards framework.
- AIIB maintains its supervisory role in project implementation.

Inter-American Development Bank (IDB)

- Use of borrower's framework where a review finds that it is functionally equivalent to IDB's safeguards Framework.

World Bank

- **Project level** use of all or part of a borrower's CSS if the framework is materially consistent with the ESF objectives based on WB's assessment.
- **Capacity building of CSS** undertaken through an Overview Assessment of borrower CSS to identify capacity building needs.
- The Overview Assessment may also be used to determine material consistency

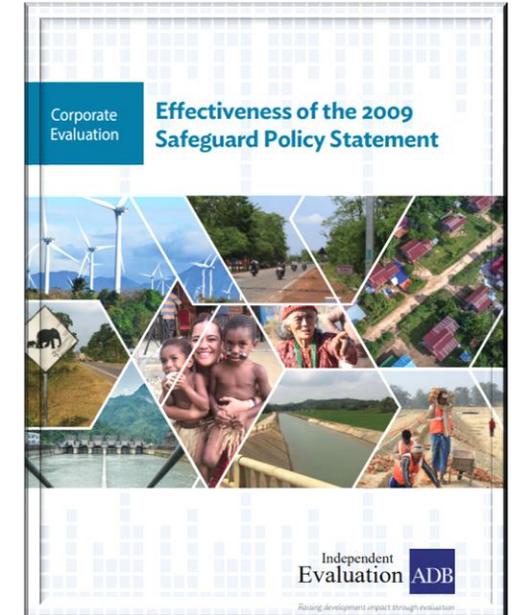
IED Evaluation of the Effectiveness of the SPS

Recommendation on the Use of Borrower Systems



“ADB needs to adopt a new approach in the policy towards strengthening borrower systems, with a view to a more systematic improvement and pragmatic use of country systems”

- Client strengthening needs to move away from transactional compliance and gap-filling...toward a broader focus on achieving environmental and social outcomes.
- Need a more sustained approach for legislative, policy and capacity development at the sector and/or agency level.
- ADB should consider using a broader set of modalities including policy-based lending, to enhance the government regulations...
- Promoting the use of CSS continues to have merit. ADB needs to find ways to move more quickly toward this objective, while mitigating risks.
- An alternative way of moving toward using CSS... integrate support for strengthening capacity within different financing modalities, such as RBLs.



Source: [safeguards-2009-main-report.pdf \(adb.org\)](https://www.adb.org/sites/default/files/publication/2010/09/safeguards-2009-main-report.pdf)

ADB Experience with Building Capacity for CSS

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

- ADB initiated >\$50 million in technical assistance across 40 DMCs for strengthening CSS since 2009
- Assisted through country and region-specific implementation capacity building, safeguards reviews and assessments, training and guidelines.
- “Reconnaissance” equivalence assessments were undertaken for 40 DMCs – providing a high-level overview of each DMC’s safeguards frameworks.
- Support for more in-depth assessment in 3 DMCs (India, Indonesia and Sri Lanka)
- Strengthening of national safeguards implementation by establishing Safeguards Learning Centers in the Philippines, Viet Nam, and Indonesia.
- Partnerships with other development partners.

Joint Regional Community of Practice (CoP) on Safeguards *

- Established in 2016 as a coordinating body for development partners’ support to strengthening CSS.
- Goal: bring CSS to international good practice standards and share diagnostic work and ensure alignment of the partners’ procedures on CSS.

*COP partners: ADB, AIIB, Australia’s Department of Foreign Affairs and Trade, the Japan International Cooperation Agency, and the World Bank

India – Power Grid

- Only case in which ADB Board has approved agency-level use of CSS in March 2017
- Power Grid has its own corporate Environmental and Social Policy and Procedures (ESPP) and has the authority to amend to fill gaps

India-National Level Assessment 2016

- National level safeguards review for all 3 SPS safeguards undertaken.
- Sector equivalence assessments (energy, transport and power sectors) conducted for environmental and involuntary resettlement. Shared with the government for review.

Indonesia 2017-19

- State Electricity Company (PLN) can issue decrees to fill gaps.
- COVID-19 and changes in national legal framework required further analysis, which has delayed final consideration.

Sri Lanka 2017-19

- Road Development Authority (RDA) is a state-owned enterprise, but unable to fill equivalence gaps on its own (needs legal changes).
- ADB's further support focused on acceptability, to build RDA safeguards implementation capacity and guidance

Environmental Safeguards-some gaps

- EIA not required for standalone distribution line projects (only in or near protected areas)
- Geothermal exploration is exempt from EIA/Amdal, requires an environmental license- no explicit requirements for UKL-UPL.
- Gender mainstreaming at the policy levels only- not at the project level- not factored into SIA
- Does not explicitly require identifying vulnerable groups in a proposed project area and assessing impacts on them.
- no requirement to identify and assess alternatives to the project design or technology

Involuntary Resettlement- Some Gaps

- Lacks requirements to identify cases where would ppl suffer losses if access to the protected area were restricted, and livelihood depended on those areas.
- Lacks requirements to screen for the presence of informal users of conservation forests before using such areas.
- Lacks requirements for public participation in implementing and monitoring involuntary resettlement.
- Lacks requirement to identify vulnerables e.g., landless and those without legal title to land
- For acquisition of less than 5 ha, requires ppl to relinquish rights, but doesn't require PLN to provide secure title to relocation land.

Establishing equivalence

- SPS policy principles are comprehensive, and complex, including a range of requirements. A single safeguards policy principle may encompass many aspects and requirements.
- Establishing equivalence is a dynamic process, laws and regulations may change frequently, triggering the need for revising or undertaking additional assessments and public consultations.
- Difficulty in accurate translations of DMC legal frameworks to compare with SPS.

Filling equivalence gaps

- Equivalence gaps can be filled where agencies have the authority to make corporate rules to fill gaps, and where it is possible to agree with the agency on gap filling action plans. In cases where the agency does not have such authority, gap filling measures cannot be implemented.

Acceptability assessments

- Reliable acceptability assessments are not possible due to poor quality of project implementation data and limited data availability. Field audits of projects needed, but take time and cost. Gap filling measures of changes in national legal frameworks may create new gaps in acceptability.

Pursue early and strategic engagement with DMCs

- Early strategic policy dialogue on CSS and capacity needs should be linked to ADB country partnership strategy (CPS) stage to identifying priorities for strengthening CSS.
- Need to undertake comprehensive CSS review as part of country diagnostics - this may serve to establish baseline and identify indicators for future monitoring
- Continue to expand and assist CSS capacity, including national safeguard learning centers, with collaboration between development partners

Strengthen capacity building approach

- Develop new approaches to build project level safeguards capacity at DMCs based on priority sectors identified through the CPS.
- Enhance support through additional guidance materials, training, and tools.

Legal and Institutional Reforms

- Institutional and legal reform are needed to mainstreaming safeguards processes into country systems, this requires long-term engagement.

Lessons Learned from the Indonesia CSS case

Findings

- There is continued interest from DMCs that ADB should allow the use of national safeguards systems in ADB projects
- Methodology needs to be updated to easily identify key gaps and means to fill them at the project level
- The concept of Functional/Material consistency
- Feedback from DMCs and CSOs- dichotomy of views

The way forward

- Progressively strengthen CSS through linkage with financing modalities, such as upstream engagement- through identifying opportunities to converge national systems towards good practices for safeguards through policy enhancements.
- Apply CSS to a “program” and use ADB safeguards as a compliance benchmark, prepare **program action plans** to fill gaps between ADB and program systems
- Exploring potential to assess CSS at the project or standards level

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Breakout Session: Small Group Discussion



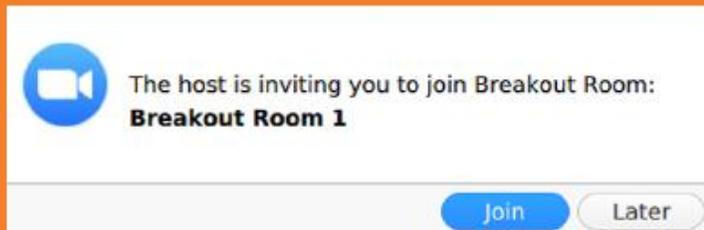
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- CSO participants will be divided into 3 groups (all ADB participants will remain in the plenary room). To manage time, group selection is pre-determined by the Zoom host, but participants may transfer to other group if he/she wishes.
- Each group will be assigned a CSO moderator. The group should select a note taker and rapporteur. IT support from ADB is also provided.
- Groups will be given 50 minutes to discuss the following questions:
 - 1) **What do you see as opportunities and challenges for CSS in Indonesia?**
 - 2) **What are your recommendations on CSS for the updated policy?**
- After the breakout session, everyone will return to the plenary room for reporting and discussion.

How to join breakout room

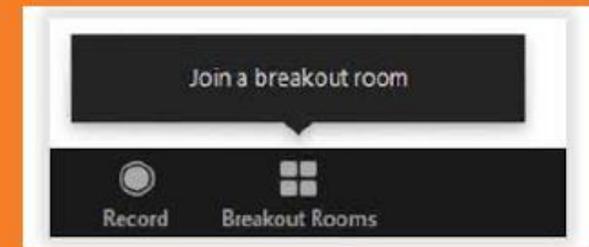
- 1** The host will invite you to join the breakout room. A dialogue box will prompt on your screen. Click JOIN.



- 2** If you opt to join later, you can still join by clicking the Breakout Rooms at bottom of your Zoom screen.



- 3** Click JOIN BREAKOUT ROOM



- 4** You will be directed to the breakout room after this window



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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E-MAIL

safeguardsupdate@adb.org



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Screen Break



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Plenary Presentation per Group and Discussion



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Summary of Presentation



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Wrap Up and Next Steps

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



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Event Evaluation



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Quick Poll



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Please rate your satisfaction with today's session:

- 5** – Highly satisfied
- 4** – Somewhat satisfied
- 3** – Neutral
- 2** - Somewhat dissatisfied
- 1** – Very dissatisfied

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Thank You

