



Land Acquisition and Land Use Restriction

Proposed Environmental and Social Standard 5 (ESS5)*



WHAT IS THE PROPOSED STANDARD ABOUT?

Project-related land acquisition and land use restriction (LA/LUR), if unmitigated, may lead to negative economic, social, and environmental risks. The proposed environmental and social standard 5 (ESS5) on land acquisition and land use restriction refers to all methods of obtaining land or restricting land use in connection with a project. The standard builds on the Involuntary Resettlement requirements under the Safeguard Policy Statement (2009).

* The full text of ESS5 is at [Safeguard Policy Review: Draft Policy | Asian Development Bank \(adb.org\)](https://www.adb.org/who-we-are/safeguards/safeguard-policy-review/draft-policy). <https://www.adb.org/who-we-are/safeguards/safeguard-policy-review/draft-policy>. This information brochure was prepared based on the consultation draft of the proposed Environmental and Social Framework (ESF) for information purpose only. Guidance from the ADB Board of Directors will be sought on the full text of the proposed ESF as part of the Working Paper, scheduled in Q4 2023. The final ESF will be considered for approval by the ADB Board of Directors in 2024.



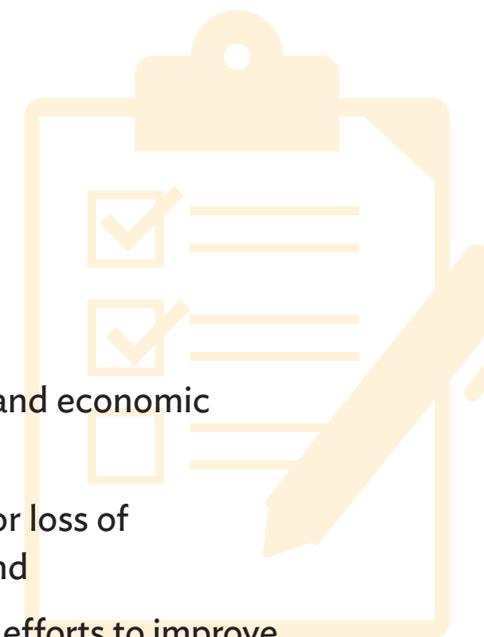
**SAFEGUARD
POLICY REVIEW
AND UPDATE**





The objectives of this ESS5 are to:

- avoid economic and physical displacement or, when unavoidable, minimize such displacement by considering feasible alternative project designs and sites;
- avoid forced eviction;
- mitigate unavoidable adverse social and economic risks and impacts from LA/LUR by
 - (a) providing timely compensation for loss of assets at full replacement cost, and
 - (b) assisting affected persons in their efforts to improve or at least restore their livelihoods and standards of living in real terms relative to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher;
- improve livelihoods and living conditions of disadvantaged or vulnerable persons; and
- ensure that LA/LUR activities are planned and implemented through appropriate stakeholder engagement, including information disclosure, meaningful consultation, and grievance management.



WHAT ARE THE NEW AND IMPROVED POLICY PROVISIONS?

1



Greater clarity on the scope of application

The proposed ESS5 provides greater clarity on the scope of application and due diligence requirements for different methods and transactions for obtaining land or restricting land use in relation to a project. It covers (i) involuntary LA/LUR, (ii) due diligence requirements for voluntary LA/LUR, (iii) activities carried out prior to a project, but which were undertaken or initiated in anticipation of, or in preparation for a project.

2



Types of Impacts

Provisions on the different types of LA/LUR impacts is improved. The types of LA/LUR impacts include (i) full, partial, permanent, and/or temporary economic and physical displacement; and (ii) affected persons without formal, traditional, or recognizable property and use rights under host country laws who occupy or utilize land.

3



Coverage of associated facilities and cumulative social impacts

The proposed standard has been strengthened to cover associated facilities, cumulative social impacts and/or legacy issues that will require mitigation of LA/LUR related risks and impacts, within the borrower/client's influence and control.

4



Risk classification

Currently, the risk classification for involuntary resettlement (IR) uses a numerical threshold of 200 severely affected persons for triggering IR category A projects. This practice of using a numerical threshold will be removed as it does not appropriately assess the various socio-economic, institutional, and contextual risks factors. The categorization will be through an integrated risk-based approach.

5



Cutoff

The proposed standard provides more clarity on the borrower/client requirements on the declaration and disclosure of the cut-off date for compensation and other benefit purposes.

6



Assessment of Impacts

Provisions of LA/LUR assessment and land acquisition plan (LAP) are strengthened to provide better clarity to the borrower/client. The LAP will be proportionate to impacts, pay particular attention to disadvantaged or vulnerable and gender, ensure stakeholder engagement, grievance mechanisms and information disclosure.

7



Compensation/ Assistance

ESS5 has strengthened the existing provisions of compensation and entitlements/ assistance, livelihood restoration and valuation of assets. The borrower/client will provide compensation and entitlements for project affected persons at full replacement costs. Adequate housing with security of tenure and safety at resettlement sites will be ensured for physically displaced persons. Affected persons will be assisted to improve or at least restore their livelihoods and standards of living in real terms relative to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher. The livelihoods and living conditions of disadvantaged or vulnerable persons will be improved, and for those physically displaced adequate housing with essential services, utilities and security of tenure will be provided.



8



Land Acquisition Frameworks

ESS 5 permits the use of Land Acquisition Frameworks (LAF) but requires justification and extensive scoping, for projects or project sub-components for which the final detailed engineering design of project facilities have not been completed and where the nature and magnitude of LA/LUR are still uncertain during project preparation.

9



Land Acquisition Plan compliance monitoring

ESS5 includes provisions for monitoring LAP implementation compliance prior to start of civil works, during implementation and require completion monitoring of LAP implementation before project closure. For projects with significant LA/LUR risks and impacts, the borrower/client will undertake external evaluation, conducted by external social monitoring and evaluation experts. There is also a provision on engagement of third-party monitoring experts directly through ADB. This will be undertaken to enhance due diligence of specific critical cases where LAP monitoring information received from the borrower/client is persistently inadequate.

