

# Written Submission on Asian Development Bank's (ADB) September 2023 Draft Environmental and Social Framework (ESF)

Submission from International Justice Mission  
Received on January 09, 2024

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## Feedback Form: ADB Draft Environmental and Social Framework

This form is provided for you to send feedback on draft ADB Environmental and Social Framework and 10 Environmental and Social Standards.

- Select which section you wish to comment on
- Write your comments in the space provided
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An email will be sent confirming you have successfully submitted your feedback.

If you have questions or if you are sending attachments in Word, pdf, Excel or other formats, please send them by [email](#).

### Overview/General Comments

The International Justice Mission presents follow-up recommendations/ additional recommendations to the ADB in its efforts to update the Environmental and Social Framework. Our comments are focused on ESS 2: Labour and Working Conditions, as you will find below. <Note: If published on ADB's website, please attribute comments to International Justice Mission>

### Draft Environmental and Social Policy

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### Draft ESS 1: Assessment and Management of Environmental and Social Risks and Impacts

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### Draft ESS 2: Labor and Working Conditions

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#### A. Working Conditions and Management of the Relationship with Project Workers

6. ... The plan will also set out the way in which project workers will be managed, in accordance with the requirements of the **host country's applicable laws**, this ESS2 and, if relevant, a **good international practice (GIP)** *and, in accordance with international law and guidelines including the ILO Indicators of Forced Labour.*

#### B. Terms and Conditions of Work

10. The borrower/client will ensure that project workers are: (i) paid on a regular basis including overtime where applicable; and (ii) provided with adequate periods of rest per week, annual holidays, and sickness, maternity and family leave, as **must** be set out in written contracts or other forms of information and documentation and/or otherwise in accordance with a project's labor management plan **in line with international best practices**.

11. The borrower/client will ensure that all wages, social security benefits, pension contributions, and any other entitlements earned or accrued will be paid on or before termination of the working relationship, either directly to the project workers, or where appropriate, **with a person designated by the project worker to receive wages and other entitlements**.

#### C. Non-Discrimination and Equality of Opportunity and Treatment

12. The borrower/ client will: (i) not make project employment decisions on the basis of personal characteristics unrelated to inherent job requirements, particular for those project workers are **disadvantaged** and **vulnerable**. (Note: the words "disadvantaged" and "vulnerable" should be defined).

### v. SPECIFIC REQUIREMENTS

#### A. Project Worker Accommodation

16. When... The accommodation services will be provided in a manner consistent with the principles of non-discrimination and equal opportunity, including prevention of SEAH **and meet the minimum requirements of adequate housing for workers as recommended by the ILO R115 – Workers' Housing Recommendation, 1961 (No. 115)**

#### C. Protecting the Work Force

##### a) Child Labour

23. The borrower/client may engage a child who is 13 to 15 years old for light work that will not (i) be harmful to their health or development; and (ii) prejudice their attendance at school, their participation in vocational orientation or training programs approved by the competent government authority, or their capacity to benefit from the instruction received, if the host country's applicable laws justify engaging such child consistent with the applicable international convention and ADB agrees, **and with parental endorsement or with informed consent by the parents and with clear agreement on the constitution of orientation and training**.

##### b) Forced Labour

26. If forced labor or other exploitative form of labor practices are identified, the borrower/client will promptly take corrective actions to eliminate such practices from a project **in cooperation with ADB which includes ensuring appropriate social compliance system implementation in place that supports trauma informed-care recovery and remedy for the Victim of Trafficking**.

## G. Community Workers

34. ... Those community workers voluntarily employed or engaged for a project will not be paid salary and benefits but will still have the same rights and responsibilities of other project workers, *without any formal or informal payments to community leaders for voluntary acts of by community members.*

## H. Migrant Workers

The borrower/client will identify project workers who have migrated from one country to another or from one part of the country to another for purposes of employment and ensure that they are engaged on terms and conditions of work that are not less favorable than those for non-migrant project workers carrying out the same work, as set out in paras 5 to 31.

Proper and safe migration should be ensured as this also one where forced labor often appear.

And that there shouldn't be any payment made to community leaders (formal or informal) on the voluntary act of the community.

### *Additional recommendations:*

- 1) *IJM recommends that ADB conduct a supply-chain mapping exercise throughout its supply chain ecosystem to identify risks of forced labor and mitigate risks where they have been identified. IJM further recommends that all ADB agreements with borrowers/ contractors/ clients include a requirement for supply chain mapping.*
- 2) *Under General Requirements (iv), there also needs to inclusion of social security/insurance premium coverage not just wages, regardless the type of workers.*

## Draft ESS 3: Pollution Prevention and Resource Efficiency

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## Draft ESS 4: Health, Safety, and Security

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## Draft ESS 5: Land Acquisition and Land Use Restriction

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### **Draft ESS 6: Biodiversity and Sustainable Natural Resource Management**

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### **Draft ESS 7: Indigenous Peoples**

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### **Draft ESS 8: Cultural Heritage**

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### **Draft ESS 9: Climate Change**

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### **Draft ESS 10: Stakeholder Engagement and Information Disclosure**

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### **Draft Prohibited Investment Activities List**

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### **Draft Requirements for Financing Modalities and Products**

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## **About You**

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