

Comparative Analysis of PRC Legal Framework and ADB Safeguard Policy Statement

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
Policy Principle 1: Use a screening process for each proposed project, as early as possible, to determine the appropriate extent and type of environmental assessment so that appropriate studies are undertaken commensurate with the significance of potential impacts and risks.			
<p>Key element (1)</p> <p>Use a screening process to determine the appropriate extent and type of environmental assessment</p>	<p>EIA Law, CHAPTER III. ENVIRONMENTAL IMPACT ASSESSMENT FOR CONSTRUCTION PROJECTS.</p> <p>Article 16 lays down the screening procedure. The State carries out construction project environmental impact assessment classification based on the extent of environmental impact of the construction projects, as follows:</p> <p>(i) in case of a major potential environmental impact, an environmental impact report shall be drawn up and a comprehensive assessment of any resulting environmental impact shall be carried out;</p> <p>(ii) in case of light/slight potential environmental impact, an environmental impact report form shall be drawn up and an analysis or specific assessment of the resulting environmental impact shall be carried out;</p> <p>(iii) in case of very small environmental impact, it is not necessary to carry out an environmental impact assessment, but an environmental impact registration form shall be filled in and submitted;</p> <p>Classified Directory for Environmental Protection Management of Construction Projects (Batch 1) State Environmental Protection Administration, February 17,2001</p> <p>The Classified Directory is formulated for the purpose of implementing Environmental “Regulations on the Management of Construction Projects ” issued by the State Council, exercising classified management of environmental protection of construction projects, improving the validity of environmental impact assessment.</p> <p>1. The classified management of environmental protection of construction projects shall be implemented in accordance with the degree of the impact of the construction projects on the environment and in</p>	Full equivalence	None required.

¹ There are relevant provisions of the ENVIRONMENTAL IMPACT ASSESSMENT LAW OF THE PEOPLE'S REPUBLIC OF CHINA (Adopted at the 30th Meeting of the Standing Committee of the Ninth National People's Congress on October 28, 2002, promulgated by Order No. 77 of the President of the People's Republic of China on October 28, 2002, and effective on September 1, 2003.)

² “Full Equivalence” denotes that the PRC legal requirement(s) are in complete harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element thereof. “Partial Equivalence” denotes that the PRC legal requirement is in partial harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element; and “No Equivalence” denotes that no PRC legal requirement can be found that corresponds to the particular ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element.

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
	<p>line with the following provisions:</p> <p>(1) The environmental impact report shall be prepared for the construction project that may cause serious impact on the environment and the pollution generated by the construction project and its impact on the environment shall be assessed in an overall and detailed way.</p> <p>(2) If a construction project causes light impact on the environment, the environmental impact statement shall be prepared. The pollution generated by the construction project and its impact on the environment shall be analysed or assessed for special items.</p> <p>(3) If the construction project causes little impact on the environment and it is unnecessary to have an assessment on the environment, the environmental impact registration shall be filled in.</p> <p>2. The principle for defining the degrees of serious impact, slight impact and little impact of the construction project :</p> <p>(1) The principle for defining the serious impact of the construction project on the environment- The construction project that may cause serious impact on the environment means the project that meets any of the following conditions:</p> <p>a) All regional development projects of river basins development, construction of the development zones construction of the new urban areas and renovation of old urban areas, etc.</p> <p>b) The large and medium-sized construction projects that may cause impact on the sensitive areas of the environment.</p> <p>c) The construction projects with complicated pollution factors, many varieties of pollutants and a considerable amount of pollution or a high toxicity of the pollutants, the toxicity can hardly be reduced.</p> <p>d) The projects that may cause a major change to the ecological system structure or a major loss to the functions of the ecological environment.</p> <p>e) The construction projects that may affect the important ecological environment, the fragile ecological environment, or may cause or accelerate natural disasters.</p> <p>f) The construction projects that are likely to cause trans-boundary pollution disputes.</p> <p>(2) The principle for defining the construction projects that may cause light impact-</p> <p>The construction project that may cause light impact on the environment means the project that meets any of the following conditions:</p>		

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
	<p>a) The small construction projects that may cause impact on the environmentally sensitive areas.</p> <p>b) The construction projects that have simple pollution factors, only a few varieties of pollutants or that generate a small amount of toxicity and low toxicity of the pollutants.</p> <p>c) The construction projects that have a certain impact on the ecological conditions of topography, landforms, coverage, rare wild animals and plants, but will not change the ecological environmental</p> <p>d) The large construction projects that have few pollution factors and will not generate pollution in principle.</p> <p>e) The technological transformation projects whose pollution discharge has been reduced on the premise and whose new and old pollution sources have attained the discharge standards.</p> <p>(3) The principle for defining the construction projects with little impact on the environment-</p> <p>The construction projects that have little impact on the environment mean those projects that shall meet the following requirements:</p> <p>a) The construction projects that basically do not generate waste water, waste gas, waste dregs, dust, offensive odour, noise, vibration, radioactivity, electromagnetic wave and other negative influences for the environment.</p> <p>b) The construction projects that basically do not change topography, landforms, hydrology, coverage, rare wild animals and plants and will not change the ecological environment and functions.</p> <p>c) The small-sized construction projects that do not cause impact on the environmentally sensitive areas.</p> <p>d) The tertiary industrial projects without special environmental impact.</p> <p>3. The principle for defining the environmentally sensitive areas</p> <p>The environmentally sensitive areas in the classified management directory include the following areas:</p> <p>(1) The protection areas that require special protection: it refers to special protection areas specified by the laws and regulations of the state and local authorities or designated by the people's governments at and above the county level, such as water... protection areas, places of historical interest and scenic beauty, nature reserves, forest parks, major cultural relics protection areas, historical and cultural protection areas, major prevention and control areas of water erosion and the capital farmland areas.</p> <p>(2) Ecologically sensitive and fragile areas: it means areas that require major control and supervision for soil erosion, natural wetland, habitats of rare animals and plants or special ecological environment, natural forests, equatorial rain forests, mangroves, coral reef, spawning places, fishing grounds, and other important ecological system.</p>		

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
	<p>(3) Areas that attracts social attention: Refers to cultural and educational areas, convalescence areas and areas for hospitals, as well as protection areas with the historic, scientific, national and cultural significance.</p> <p>(4) Areas where the environmental quality has failed to attain the targets for environmental function zones.</p> <p>4. Supplementary Provisions</p> <p>(1) The construction projects which have not been listed in it for the time being shall be classified managed in accordance with the principle above mentioned.</p> <p>(2) Construction projects that are forbidden by official order of the state for construction and investment and that are listed in the Catalogue of Backward Production capacity, Technology and Products to be phased out" and the Catalogue for Banning Investment in the Industrial and Commercial Sectors" promulgated by the State Economic and Trade Commission shall not be listed in this Classified Management Directory.</p> <p>(3)The State Environmental Protection Administration is responsible for the interpretation on this Classified Directory for Environmental Protection Management of Construction Projects.</p> <p>Regulations on Environmental Management of Construction Project (Promulgated by Decree No. 253 of the State Council on November 29, 1998,</p> <p>Chapter I General Provisions</p> <p>Article 9 A construction unit should, at the construction project feasibility study stage, submit the construction project environmental impact statement, environmental impact form or environmental impact registration form for approval; however, for railway and communications construction projects, environmental impact statements or environmental impact forms may, prior to the completion of the projects' preliminary design, be submitted for approval by the competent department of environmental protection administration with authority to issue such approvals.</p> <p>For a construction project that necessitates no feasibility study pursuant to relevant State provisions, the construction unit should, prior to the commencement of construction, submit the construction project environmental impact statement, environmental impact form or environmental impact registration form for approval; where application for a business license is required, the construction unit should, prior to the applying for the business license, submit the construction project environmental impact statement, environmental impact form or environmental impact registration form for approval.</p>		

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
Policy Principle 2: Conduct an environmental assessment for each proposed project to identify potential direct, indirect, cumulative, and induced impacts and risks to physical, biological, socioeconomic (including impacts on livelihood through environmental media, health and safety, vulnerable groups, and gender issues), and physical cultural resources in the context of the project's area of influence. Assess potential trans-boundary and global impacts, including climate change. Use strategic environmental assessment where appropriate.			
Key element (1) Identify indirect as well as direct impacts	<p>EIA, Law, CHAPTER I. GENERAL PRINCIPLES, Article 4.</p> <p>Environmental impact assessment must ... comprehensively consider the potential impact after implementation of plans or construction projects on all types of environmental factors and the ecosystem constituted by such factors, in order to provide a scientific basis for decision-</p> <p>CHAPTER III. ENVIRONMENTAL IMPACT ASSESSMENT FOR CONSTRUCTION PROJECTS</p> <p>Article 17.</p> <p>An environmental impact report for construction projects shall include the following contents:</p> <p>(ii) status quo of the surrounding environment of the construction project;</p> <p>(iii) analysis, forecast and assessment of the potential environmental impact of the construction project;</p> <p>Classified Directory for Environmental Protection Management of Construction Projects (Batch 1) State Environmental Protection Administration, February 17,2001</p> <p>2. The principle for defining the degrees of serious impact, light impact and little impact of the construction project</p> <p>f) The construction projects that are likely to cause trans-boundary pollution disputes</p> <p>Decision Of The State Council On Several Issues Concerning Environmental Protection, August 3, 1996</p> <p>5. Taking effective measures to prohibit from transfer of pollutant wastes</p> <p>According to the provisions of the Basel Convention on Control over the Transfer and Disposal of Dangerous Wastes cross Boundaries, our country forbids transfer of foreign dangerous wastes into our territory. Departments at different levels in charge of environmental protection, foreign economic cooperation and trade, and customs, etc., shall, according to the Law of the People's Republic of China on the Prevention and Control of Environmental Pollution by Solid Wastes and other relevant provisions, make rigorous check upon importation and persistently forbid transfer of external dangerous wastes and residential refuse into our country. If importation of other wastes as raw materials is really necessary, such importation shall conform to the state provisions and shall be subject to prior examination and approval.</p>	<p>Partial equivalence</p> <p>No specific requirement for assessment of indirect impacts</p>	<p>The EIA Enforcement Rules or related regulations should include directions on the need to identify indirect impacts.</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
	<p>Any unit or individual who, in violation of the state provisions, arbitrarily approves, lets pass or conducts without authorization importation of wastes shall be severely punished according to law. In case domestic wastes need to be transferred for disposal to another province, autonomous region or municipality, the transfer shall be subject to approval of the administrative departments at the provincial level of both the original place and the destination place. In case solid radioactive wastes need transfer for disposal to another province, autonomous region or municipality, the transfer shall be subject to approval of the State Administration for Environmental Protection.</p> <p>There is no explicit reference to “indirect impacts” in the any of the legal frameworks. All potential references to indirect impacts are implicit.</p>		
Key element (2) Identify cumulative impacts	<p>There is no explicit reference to “cumulative impacts” in the legal framework, with the exception of the following:</p> <p>Regulations on Environmental Management of Construction Project (Promulgated by Decree No. 253 of the State Council on November 29, 1998, Chapter V Special Provisions</p> <p>Article 31 states that environmental impact assessment should be conducted in developing construction planning for regional development such as valley development, economic development zone construction, new urban district construction and old urban development construction. Specific measures shall be developed separately by the competent department of environmental protection administration under the State Council in conjunction with other competent departments under the State Council</p>	<p>Partial equivalence.</p> <p>The proposed regulation on SEA and Cumulative Impact Assessment will provide detailed instruction on how cumulative impacts should be identified.</p>	<p>The regulation on “Environmental Management of construction projects should include directions on the need to identify cumulative impacts.</p>
Key element (3) Identify induced impacts	<p>There is no explicit reference to “induced impacts” in the legal framework. All potential references to indirect impacts are implicit.</p>	<p>No equivalence</p>	<p>The regulation on “Environmental Management of construction projects should include directions on the need to identify induced impacts</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
Key element (4) Identify physical impacts	<p>There is no explicit reference to “identification of physical impacts” in the legal framework. All potential references to physical impacts are implicit. There is implicit recognition of the need to identify physical impacts in the following sub-articles:</p> <p>Classified Directory for Environmental Protection Management of Construction Projects (Batch 1) (Revised by the State Environmental Protection Administration on February 17, 2001) The Classified Directory is formulated for the purpose of implementing Environmental “Regulations on the Management of Construction Projects ” issued by the State Council, exercising classified management of environmental protection of construction projects, improving the validity of environmental impact assessment.</p> <p>(3) The principle for defining the construction projects with little impact on the environment- The construction projects that have little impact on the environment mean those projects that shall meet the following requirements:</p> <p>b) The construction projects that basically do not change topography, landforms, hydrology, coverage, rare wild animals and plants and will not change the ecological environment and functions.</p>	<p>Partial Equivalence.</p> <p>The reference to assessment of physical impacts is explicit to construction projects</p>	<p>The EIA Law or related regulations or rules regulation should include directions on the need to explicitly identify physical impacts.</p>
Key element (5) Identify biological impacts	<p>EIA Law, Chapter I: General Provisions Article 4 EIA must be objective, open and impartial, comprehensively consider impacts on various environmental factors and the ecosystem they form after the implementation of the plan or construction project, and thus provide scientific basis for the decision-making.</p> <p>Classified Directory for Environmental Protection Management of Construction Projects (Batch 1) State Environmental Protection Administration, February 17,2001</p> <p>2. The principle for defining the degrees of serious impact, slight impact and little impact of the construction project :</p> <p>(1) The principle for defining the serious impact of the construction project on the environment- The construction project that may cause serious impact on the environment means the project that meets any of the following conditions:</p>	<p>Full Equivalence.</p>	<p>None Required</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
	<p>b) The large and medium-sized construction projects that may cause impact on the sensitive areas of the environment.</p> <p>d) The projects that may cause a major change to the ecological system structure or a major loss to the functions of the ecological environment.</p> <p>e) The construction projects that may affect the important ecological environment, the fragile ecological environment, or may cause or accelerate natural disasters.</p> <p>(2) The principle for defining the construction projects that may cause light impact-</p> <p>The construction project that may cause light impact on the environment means the project that meets any of the following conditions:</p> <p>a) The small construction projects that may cause impact on the environmentally sensitive areas.</p> <p>C) The construction projects that have a certain impact on the ecological conditions of topography, landforms, coverage, rare wild animals and plants, but will not change the ecological environmental</p> <p>(3) The principle for defining the construction projects with little impact on the environment-</p> <p>The construction projects that have little impact on the environment mean those projects that shall meet the following requirements:</p> <p>b) The construction projects that basically do not change topography, landforms, hydrology, coverage, rare wild animals and plants and will not change the ecological environment and functions.</p> <p>C) The small-sized construction projects that do not cause impact on the environmentally sensitive areas.</p> <p>3. The principle for defining the environmentally sensitive areas</p> <p>The environmentally sensitive areas in the classified management directory include the following areas:</p> <p>(1) The protection areas that require special protection: it refers to special protection areas specified by the laws and regulations of the state and local authorities or designated by the people's governments at and above the county level, such as water... protection areas, places of historical interest and scenic beauty, nature reserves, forest parks, major cultural relics protection areas, historical and cultural protection areas, major prevention and control areas of water erosion and the capital farmland areas.</p> <p>(2) Ecologically sensitive and fragile areas: it means areas that require major control and supervision for soil erosion, natural wetland, habitats of rare animals and plants or special ecological environment, natural forests, equatorial rain forests, mangroves, coral reef, spawning places, fishing grounds, and other important ecological system.</p>		

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
	<p>Regulations of the People's Republic of China on Wild Plants Protection, Decree No.204 of the State Council September 30, 1996,</p> <p>Chapter I General Provisions</p> <p>Article 1 These Regulations are formulated for the purpose of protecting, developing and rationally utilizing wild plant resources, retaining the biodiversity and maintaining ecological balances.</p> <p>Article 11 Districts with a natural concentrated distribution of species of wild plants under special state or local protection shall be designated as nature reserves in accordance with relevant laws and regulations; other districts may be designated as protection areas for wild plants under special state or local protection or protection signs for said wild plants be erected by the department of wild plants administration under local governments at and above the county level in accordance with the actual situation.</p> <p>It is forbidden to damage the protective facilities of the protection areas or the protection signs for wild plants under special state or local protection.</p> <p>Article 13 If a construction project may produce adverse effects on the environment for the survival of the wild plants under special state or local protection, the construction unit shall make an appraisal on the effects in its submitted report on the environmental impact; the department of environmental protector shall, in examining and approving the report, seek the opinion of the department of wild plants administration.</p> <p>Decision of the State Council on Several Issues Concerning Environmental Protection, August 3, 1996</p> <p>6. Preserving ecological balance, and protecting and rationally exploiting natural resources</p> <p>Local people's governments at different levels shall effectively strengthen the protection of natural resources such as fresh water, land, forest, grassland, minerals, the sea, animals and plants and climate and the protection of national ecological environment. On condition that ecological balance is maintained, those resources can be exploited and utilized in a rational way. Development of ecological agriculture shall be encouraged. ... Reclamation of waste land and control over ecological environment within mining areas shall be strengthened. Indiscriminate and excessive felling of trees shall be restrained. The forest-covered area shall be enlarged through efforts. Comprehensive control over soil erosion shall be facilitated. Vegetation of grassland shall be restored and developed. Overgrazing shall be prevented. Shrubs, medicinal herbs or other sand-fixation plants growing in grassland or desertized areas shall be</p>		

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
	<p>protected from felling or digging. Technology for prevention and fixation of sand shall be actively applied so as to protect land from further desertization.</p> <p>Biological diversity shall be actively protected. Nature reserves, historic sites and scenic spots, city gardens and green land shall be developed and strictly placed under protection and management. All illegal exploitation and construction activities within nature reserves or historic sites and scenic spots which damage natural resources and environment shall be firmly banned.</p> <p>Marine Parks And Marine Reserves Regulation, 15 July 1996 SECT 3 Prohibition of fishing, hunting and collecting animals and plants, etc.</p> <p>(1) Subject to subsection (1A), no person shall fish or hunt, injure, remove or take away any animal or plant by any means in or from a marine park or marine reserve</p> <p>SECT 16 Prohibition or restriction of entry into or movement within marine parks and marine reserves</p> <p>(1) The Authority may, if he considers it necessary in the interests of good management, prohibit or restrict the entry into, or movement within a marine park or marine reserve of any person, vehicle or vessel.</p>		
<p>Key element (6)</p> <p>Identify socioeconomic impacts (including on livelihood through environmental health and safety, vulnerable groups, and gender issues)</p>	<p>Environmental Impact Assessment Enforcement Rules (revised 2003)</p> <p>Articles 1, 2, 3, 4, 5, 6 and 8 relate to conduct of EIA and Article 19 on what constitute significant impact that needs to be addressed in EIA. The significant impact on the environment referred to in Article 8 of this Act means one of the following circumstances.</p> <p>4. Those circumstances in which the development activity causes local environmental conditions to exceed environmental standards or the carrying capacity of the local environment</p> <p>5. Those circumstances in which the development activity has a significant adverse impact on the movement or rights of local residents or the traditional ways of living of minority ethnic groups</p> <p>6. Those circumstances in which the development activity has a significant adverse impact on public health or safety</p>	<p>Partial Equivalence</p> <p>Absence of explicit requirement for assessment of impacts on livelihoods, vulnerable groups and gender issues</p>	<p>To attain full equivalence, the he EIA law and EIA enforcement rules need to include directions on the need to identify socio-economic impacts, including on livelihoods, environmental health and safety, vulnerable groups, and gender issues.</p>
<p>Key element (7)</p> <p>Identify impacts on physical cultural</p>	<p>There is no explicit reference to “identification of impacts on physical/cultural resources” in the legal framework. All potential references to physical and cultural resource impacts are implicit. The implicit recognition of the need to address physical cultural resources is found in the following:</p> <p>Classified Directory for Environmental Protection Management of Construction Projects (Batch 1)</p>	<p>Partial Equivalence.</p> <p>The legislation refers to special protection to environmentally sensitive</p>	<p>For full equivalence, the EIA Law or relevant regulation or rules on EIA will require the identification of physical</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
resources	<p>(Revised by the State Environmental Protection Administration on February 17, 2001)</p> <p>The Classified Directory is formulated for the purpose of implementing Environmental "Regulations on the Management of Construction Projects " issued by the State Council, exercising classified management of environmental protection of construction projects, improving the validity of environmental impact assessment.</p> <p>3. The principle for defining the environmentally sensitive areas</p> <p>The environmentally sensitive areas in the classified management directory include the following areas:</p> <p>(1) The protection areas that require special protection: it refers to special protection areas specified by the laws and regulations of the state and local authorities or designated by the people's governments at and above the county level, such as water... protection areas, places of historical interest and scenic beauty, nature reserves, forest parks, major cultural relics protection areas, historical and cultural protection areas, major prevention and control areas of water erosion and the capital farmland areas.</p> <p>(3) Areas that attract social attention: Refers to cultural and educational areas, convalescence areas and areas for hospitals, as well as protection areas with the historic, scientific, national and cultural significance.</p>	areas that would also include.....major cultural relics protection areas, places of historical and cultural protection areas, etc, However there is no explicit requirement in the legislation to assess the physical cultural impacts	cultural resource impacts.
Key element (8) Identify impacts in the context of the project's area of influence	<p>There is no explicit reference to "identification of impacts in the context of the project's area of influence. The implicit recognition of the need to identify impacts in the context of the project's area of influence is found in the following reference:</p> <p>EIA Law</p> <p>Article 17</p> <p>The EIS of a construction project shall include the following contents:</p> <p>(2) Current status of surrounding environment of the construction project;</p>	Partial Equivalence. The legislation required the evaluation of the current status of surrounding environment, but there is no explicit reference to assess impacts in terms of the project's area of influence, although it might be implicit	The EIA law needs to include specific reference to the identification of area of influence of specific project activities and the need to ensure that EIA deals with the impact in the total area of project influence.
Key element (9) Assess potential trans-boundary impacts	<p>There is explicit reference to "assessment of trans-boundary impacts" in the legal framework.</p> <p>Classified Directory for Environmental Protection Management of Construction Projects (Batch 1) State Environmental Protection Administration, February 17,2001</p> <p>The Classified Directory is formulated for the purpose of implementing Environmental "Regulations on the Management of Construction Projects " issued by the State Council, exercising classified management of environmental protection of construction projects, improving the validity of environmental impact assessment.</p>	Full Equivalence.	None required

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
	<p>2. The principle for defining the degrees of serious impact, slight impact and little impact of the construction project :</p> <p>(1) The principle for defining the serious impact of the construction project on the environment- The construction project that may cause serious impact on the environment means the project that meets any of the following conditions:</p> <p>f) The construction projects that are likely to cause trans-boundary pollution disputes.</p> <p>Environmental Impact Assessment Enforcement Rules (revised 2003). Article 19 defines significant impact that needs to be assessed as part of EIA as:</p> <p>7. Those circumstances in which the development activity has significant adverse impact on the environment of another country.</p>		
<p>Key element (10)</p> <p>Assess potential global impacts, including climate change</p>	<p>Assessment of potential global impacts such as might be associated with climate change are associated with the following:</p> <p>Law on Prevention and Control of Air Pollution Ratification of UNFCC Ratification of Kyoto Protocol Vienna Convention Montreal Protocol:</p>	<p>Partial Equivalence</p> <p>While China is signatory to many international environmental conventions and their obligations under such protocols, there is no explicit requirement for assessment of global impacts</p>	<p>To attain full equivalence the national legislation on climate change that is under development should be approved</p>
<p>Key element (11)</p> <p>Use strategic environmental assessment</p>	<p>An Law that include SEA requirements was approved in 2002 and became effective in September 2003. It applied environmental assessment (EA) to various spatial and sector-specific plans at the national and local levels. Spatial plans cover land use plans, plans for the development and utilization of river basins and sea waters and 'guidance' plans among the sector plans. Sector plans cover plans for industry, agriculture, animal husbandry, forestry, energy, water conservancy, transportation, urban construction, tourism and natural resources development.</p> <p>Under China's EIA Law, spatial plans cannot be approved if they do not include EA Chapters or Statements, which must be prepared during the plan drafting and submitted together with the plan to a relevant authority for examination and approval. They should contain an analysis, prediction and appraisal of the environmental impacts of the plan or program and measures for preventing or mitigating the unfavorable environmental impacts.</p>	<p>Full equivalence</p>	<p>None required</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
Policy Principle 3: Examine alternatives to the project's location, design, technology, and components and their potential environmental and social impacts and document the rationale for selecting the particular alternative proposed. Also consider the no-project alternative.			
Key element (1) Examine alternatives to the project's location, design, technology.	The issue of alternatives is dealt with in the EIA Enforcement Rules (revised 2003). Article 49 states that the written report for conducting a survey and analysis of environmental impact should record the following: 9. Alternate Plan	Partial equivalence It is unclear if alternate plan means that it covers project's location, design, technology and components as well	The EIA Enforcement rules or relevant regulations should include specific information on the content of the alternate plan, including location, design and technology options
Key element (2) Consider the no-project alternative	The issue of no-project alternative is not dealt explicitly in the EIA enforcement rules, but Article 49 mentions that the analysis of Environmental impact should record an alternate plan.	No equivalence	The EIA law or EIA enforcement regulations or rules should include examination of no-project alternative
Policy Principle 4: Avoid, and where avoidance is not possible, minimize, mitigate, and/or offset adverse impacts and enhance positive impacts by means of environmental planning and management. Prepare an environmental management plan (EMP) that includes the proposed mitigation measures, environmental monitoring and reporting requirements, related institutional or organizational arrangements, capacity development and training measures, implementation schedule, cost estimates, and performance indicators. Key considerations for EMP preparation include mitigation of potential adverse impacts to the level of no significant harm to third parties, and the polluter pays principle.			
Key element (1) Avoid, and where avoidance is not possible, minimize, mitigate, and/or offset adverse impacts and enhance positive impacts by means of environmental planning and management	<p>EIA Law. CHAPTER III. ENVIRONMENTAL IMPACT ASSESSMENT FOR CONSTRUCTION PROJECTS</p> <p>Article 17.</p> <p>An environmental impact report for construction projects shall include the following contents:...</p> <p>(iv) measures taken by the construction project for environmental protection as well as technical and economic demonstrations;</p> <p>vi) recommendations for implementing environmental monitoring of the construction projects...;</p> <p>Regulations on Environmental Management of Construction Project</p> <p>(Promulgated by Decree No. 253 of the State Council on November 29, 1998)</p> <p>Chapter I General Provisions</p> <p>Article 1 These Regulations are formulated with a view to preventing construction projects from generating new pollution and damaging the ecological environment.</p> <p>Article 3 State standards and local standards for the discharge of pollutants must be complied with respecting construction projects that generate pollution; requirements for aggregate control of discharge of</p>	Full equivalence	None required.

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
	<p>major pollutants must be met in areas subjects to aggregate control of discharge of major pollutants.</p> <p>Article 4 Industrial construction projects should adopt clean production techniques with low energy consumption, low materials consumption and low pollutant generation, and rationally exploit natural resources to prevent environmental pollution and ecological damage</p>		
<p>Key element (2) Prepare an environmental management plan (EMP)</p>	<p>EIA Law. Chapter I: General Provisions</p> <p>Article 2: "Environmental Impact Assessment" (hereafter termed EIA) as used in this Law refers to the methodology and system of performing analysis, projection and evaluation on potential environmental impacts resulted from implementation of a plan or a construction project, proposing countermeasures and measures to prevent or alleviate adverse impacts, and carrying out tracing monitoring.</p> <p>Chapter III: Environmental Impact Assessment for Construction Projects</p> <p>Article 17 The EIS of a construction project shall include the following contents:</p> <p>(1) Outline of the construction project;</p> <p>(2) Current status of surrounding environment of the construction project;</p> <p>(3) Analysis, projection and evaluation on the potential environmental impacts of the construction project;</p> <p>(4) Environmental protection measures and the technical and economic justifications for the construction project;</p> <p>(5) Cost-benefit analysis of the environmental impacts of the construction project;</p> <p>(6) Suggestions on implementation of environmental monitoring for the construction project; and</p> <p>(7) Conclusions of the EIA.</p>	<p>Partial equivalence</p> <p>Environmental mitigation measures demonstrating commitment to applicable technical standards are required by the EIA Law and related regulations. However the EMP requirements do not require that the project proponent to set forth institutional or organizational arrangements, capacity development and training measures, implementation schedule, cost estimates and performance indicators</p>	<p>The Environmental Law or EIA enforcement regulations or rules need to be strengthened to require project proponents to set forth institutional and organizational arrangements and schedule and cost estimates, performance indicators and monitoring plan for EIA</p>
<p>Policy Principle 5: Carry out meaningful consultation with affected people and facilitate their informed participation. Ensure women's participation in consultation. Involve stakeholders, including affected people and concerned nongovernment organizations, early in the project preparation process and ensure that their views and concerns are made known to and understood by decision makers and taken into account. Continue consultations with stakeholders throughout project implementation as necessary to address issues related to environmental assessment. Establish a grievance redress mechanism to receive and facilitate resolution of the affected people's concerns and grievances regarding the project's environmental performance.</p>			
<p>Key element (1) Carry out meaningful consultation with affected people and facilitate their informed participation</p>	<p>EIA Law, CHAPTER III. ENVIRONMENTAL IMPACT ASSESSMENT FOR CONSTRUCTION PROJECTS</p> <p>Article 5: The state shall encourage all relevant units, experts and the public to participate in the EIA in proper ways.</p>	<p>Partial Equivalence</p> <p>The EIA Law and the SEPA PP contained detailed and highly prescriptive provisions that are designed to ensure</p>	<p>Full equivalence may be attained by cross-referencing laws and regulations that pertain specifically to EIA and public participation in the EIA process with other existing provisions in the PRC legal</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
	<p>Article 11: The institutions responsible for preparing the specific plan shall hold expert meetings and public hearings or in other forms to solicit comments and suggestions on the draft EIS of relevant units, experts and the public, except for those that are confidential as the state stipulates. The plan preparing institutions shall seriously consider the comments and suggestions on the draft EIS of relevant units, experts and the public, and specify a description on having adopted or not adopted the comments and suggestions in the EIS that is submitted for review.</p> <p>Article 21: Except in conditions where secrecy is required by State stipulations, for construction projects that may have a major impact on the environment and for construction projects for which an environmental impact report is required, the construction work unit shall, prior to the submission for approval of the construction project environmental impact report, hold evidentiary meetings or testimony hearings or adopt other forms of soliciting the opinions of relevant work units, experts and the public. Explanations of adoption or rejection of the opinions of relevant work units, experts and the public shall be attached to the environmental impact report submitted by the construction work unit for approval.</p> <p>Interim Measures of the State Environmental Protection Administration on Public Participation in Environmental Impact Assessment 2006 (SEPA PP)</p> <p>CHAPTER I. GENERAL PRINCIPLES</p> <p>Article 2. – Scope of application.</p> <p>The State encourages public participation in the EIA of construction projects and of government plans and programs. These Measures should apply to the soliciting of opinions of units, experts and the general public during the EIA process:</p> <ul style="list-style-type: none"> • The EIA of special project plans covered by Article 11 of the Law on Environmental Impact Assessment of the People’s Republic of China that might create adverse environmental impact and which directly involve the environmental rights and interests of the public; • The EIA of construction projects covered by Article 21 of the Law on Environmental Impact Assessment of the People’s Republic of China for which an EIA report should be compiled; • The EIA of construction projects covered by the provisions of the Construction Project Environmental Impact Assessment Classification Administration Catalogue that are built in environmentally sensitive zones and that should be accompanied by an EIA report; <p>Article 3. – Public participation principles.</p>	<p>that project proponents engage in direct consultation with a reasonably well informed public stakeholders and that stakeholders’ views are taken into account in the EIA process and project development and implementation.</p> <p>The laws and regulations pertaining to EIA per se do not include explicit provisions ensuring equitable participation on the part of women or NGOs.</p> <p>Formal EIA grievance mechanisms are designed for project proponents to challenge EIA decisions rather than project-affected peoples.</p>	<p>system that are designed to ensure the empowerment of women and the participation of NGOs in decision-making</p> <p>Grievance mechanism accessible to project-affected people should be incorporated into the EIA legal framework.</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
	<p>Public participation should implement the principles of openness, equality and broadness.</p> <p>CHAPTER II. GENERAL REQUIREMENTS OF PUBLIC PARTICIPATION.</p> <p>Article 6. – Requirements of first-time information disclosure. Construction units that compile environmental impact reports and agencies that compile special plans should, within 15 business days after EIA work has been conducted by entrusted units, disclose the following information and publicly solicit suggestions and opinions from the general public on EIA work on construction projects or special plans:</p> <ul style="list-style-type: none"> - Name and overview of construction projects or special plans; - Name and contact information of construction units or special plan compilation agencies; - Name and contact information of entrusted units; - Procedure and primary content of EIA work; - Major items and methods of soliciting public suggestions and opinions. <p>Article 8. – Requirement of simplification of environmental impact forms for public information disclosure.</p> <p>Medium and small-sized construction projects to be built in the environment-sensitive areas covered by the Construction Project Environmental Impact Assessment Classification Administration Catalogue for which environmental impact forms should be compiled may have the relevant information in simplified or bulletin forms when the forms are disclosed to the public. The notice should contain the methods and places for the public to consult the environmental impact forms, the scope and major issues of concern on which public opinions are sought and the specific forms and times for soliciting public opinions.</p> <p>Article 11. – Organization forms of public participation.</p> <p>Construction units, compilation agencies and entrusted units or departments in charge of environmental protection may adopt various forms to solicit public opinions, such as surveys, expert consultancy, workshops, discussion meetings, hearings, etc.</p> <p>Article 12. – Other forms for the public to provide feedback.</p> <p>...[A]fter relevant information is disclosed, the public may put forward suggestions and opinions related to EIA work or EIA documents to construction units, compilation agencies, entrusted units or departments</p>		

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
	<p>in charge of environmental protection that are approving EIA documents by means of telephone, fax, letters, e-mail or other means.</p> <p>Article 13. – Scope of public participation.</p> <p>The scope of seeking public opinions on construction project EIA documents should include units, social organizations, residents committees, villagers committees and other grassroots-level people’s self-governance organizations, individual residents, residents representatives or lawyers entrusted by residents, experts in the relevant fields and units and individuals concerned with the public’s environmental rights and interests who are located in the areas affected by the construction projects (including possible risks and accidents) and who might be impacted environmentally during project construction or post-construction. The scope of seeking public opinions on plan EIA should include enterprises and institutions, social organizations that might be impacted, experts in fields related to the plan and other units and individuals concerned with environmental public interest and the public’s environmental rights and interests.</p> <p>Article 14. – Principles for selecting representatives for public participation.</p> <p>Construction units, compilation agencies and entrusted units or departments in charge of environmental protection should, in accordance with the principles of openness, equality, broadness and representativeness, take into consideration such factors as profession, region, expertise, expressiveness and intensity of environmental impact, and reasonably select the units and individuals from whom to solicit opinions</p> <p>Article 15. – Preservation of public opinions.</p> <p>Construction units, compilation agencies and entrusted units should record and preserve for record-keeping purposes the original written opinions that were solicited.</p> <p>Article 16. – Acceptance of public opinions. Construction units or compilation agencies should append explanations of what public opinions were accepted and which were not accepted to the EIA documents that are submitted for examination and approval. Departments in charge of environmental protection, when examining and approving EIA documents, should organize experts to verify the aforementioned explanations and seriously consider the public opinions during the approval process.</p>		

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
	<p>Article 17. – Protection of the right to participate.</p> <p>When the public believes that construction units, compilation agencies or entrusted units have not provided any clear explanations as to why a certain opinion has not been accepted, they may refer the matter to the departments in charge of environmental protection that examine and approve the EIA documents. The public may append clear and specific suggestions and opinions in written form, and the departments in charge of environmental protection that examine and approve the EIA documents may carry out verification.</p> <p>CHAPTER III. ORGANIZATIONAL FORMS OF PUBLIC PARTICIPATION.</p> <p>SECTION 2. WORKSHOPS AND DISCUSSION MEETINGS.</p> <p>Article 21. – Time requirements for workshops and discussion meetings.</p> <p>The organizers of the workshops or discussion meetings should inform the participating units and individuals in writing of the time, location and main agenda five business days in advance.</p> <p>Article 22. – Results of the workshops and discussion meetings.</p> <p>The organizers of the workshops or discussion meetings should compile meeting minutes or a discussion summary based on the real-time records of the meeting proceedings five business days after the event and file them for examination. Meeting minutes or discussion summaries should accurately record differing opinions expressed by the participants.</p> <p>Article 24. – Public notice requirements for hearings.</p> <p>When construction units, compilation agencies and entrusted units decide to hold hearings, they should notify the public within the scope potentially impacted by the construction project or special plan of the time, location, hearing subjects and application procedures for the hearings 10 business days in advance, in the mass media or by other means through which the public can learn about the hearing</p> <p>Article 27. – Relevant requirements for hearing representatives.</p> <p>The participants in hearings should truthfully express the opinions of the masses and all segments of society on construction projects.</p>		

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
	Environmental Impact Assessment (Appeal Board) Regulation, April 1998		
Key element (2) Ensure women's participation in consultation	No explicit mention is made of women's participation in EIA consultation processes, although there is significant mention of public participation in EIA process.	No Equivalence	Specific direction will be required in the EIA enforcement regulations or related legislation to mention need for women's participation.
Key element (3) Involve stakeholders, including affected people and concerned nongovernment organizations, early in the project preparation process.	No specific mention is made of the scheduling of participation at different points of the EIA process EIA Law: Article 21 Except for those that are confidential as the state stipulates, for the construction projects that have potential significant environmental impacts and shall prepare EISs, the construction units shall hold expert meetings and public hearings or in other forms to solicit comments and suggestions of relevant units, experts and the public, before submitting the EISs for approval. The EISs submitted by construction units for approval shall specify a description on having adopted or not adopted the comments and suggestions of relevant units, experts and the public.	Partial equivalence No clear guidance on the timing of the involvement of stakeholders	will outline specific consultation points during the EIA process. This will be cross-referenced to the "EIA Procedures" regulation.
Key element (4) Establish a grievance redress mechanism	No mention is made of the need for project-level grievance mechanisms in the legislation	No equivalence	Articles relating to availability and accessibility of project-level grievance mechanisms to project-affected people should be included in the EIA Law or enforcement rules or relevant regulations.
Policy Principle 6: Disclose a draft environmental assessment (including the EMP) in a timely manner, before project appraisal, in an accessible place and in a form and language(s) understandable to affected people and other stakeholders. Disclose the final environmental assessment, and its updates if any, to affected people and other stakeholders.			
Key element (1) Disclose a draft environmental assessment (including the EMP) in a timely manner, before project appraisal, in an accessible place.	EIA Law. Chapter II Environmental Impact Assessment for Plans Article 7 The relevant departments under the State Council, local people's governments at or above the level of municipality with districts and relevant departments under them shall, for the land-use plans and construction and exploitation plans of regions, river basins and sea areas they organize to prepare, organize EIA and prepare chapters or descriptions on environmental impacts of the plans. The chapter or description on environmental impact of a plan shall perform analysis, projection and evaluation on the potential environmental impacts resulted from implementation of the plan, propose countermeasures and measures to prevent or alleviate adverse environmental impacts, and submit them, as component of the	Partial equivalence Public hearing are required and consideration of comments, but unclear where and when the EIA and EMPs will be disclosed at a location and language that is easily	The Environmental Law or related regulations/rules should present directions for disclosure of draft environmental assessment documents prior to appraisal

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
	<p>draft plan, to relevant review and approval departments of the plan. For the draft plans without chapters or descriptions on environmental impacts, the review and approval departments shall not approve the plan.</p> <p>Article 11 The institutions responsible for preparing the specific plan shall hold expert meetings and public hearings or in other forms to solicit comments and suggestions on the draft EIS of relevant units, experts and the public, except for those that are confidential as the state stipulates. The plan preparing institutions shall seriously consider the comments and suggestions on the draft EIS of relevant units, experts and the public, and specify a description on having adopted or not adopted the comments and suggestions in the EIS that is submitted for review.</p> <p>Article 12 The institutions responsible for preparing the specific plan shall submit the EIS together with the draft plan to the approval institutions for review and approval. The approval institutions shall not approve the plan until the EIS is submitted.</p>	accessible to the affected persons	
Key element (2) Disclose the final environmental assessment, and its updates if any, to affected people and other stakeholders	<p>SEPA PP, CHAPTER I GENERAL PRINCIPLES, Article 4. – General obligations of information disclosure.</p> <p>When construction units and agencies that compile the special project plans (hereafter referred to as construction units and compilation agencies) conduct EIA and compile EIA documents, and when the departments in charge of environmental protection examine and approve EIA documents, they should in accordance with the provisions of these Measures use appropriate and feasible forms of public participation and disclose relevant EIA information, except for that deemed to be exempted by the State from disclosure as classified information.</p>	<p>Partial equivalence</p> <p>The legislation requires disclosure of relevant EIA information, but it is unclear if the entire EIA and EMP has to be disclosed</p>	The Environmental Law or related regulations/rules should present directions for disclosure of final environmental assessment documents, including location and language requirements.
Policy Principle 7: Implement the EMP and monitor its effectiveness. Document monitoring results, including the development and implementation of corrective actions, and disclose monitoring reports.			
Key element (1) Implement the EMP and monitor its effectiveness.	<p>EIA Law. CHAPTER III. ENVIRONMENTAL IMPACT ASSESSMENT FOR CONSTRUCTION PROJECTS</p> <p>Article 15 After the implementation of plans with significant environmental impacts, the plan-preparation institutions shall timely organize tracing assessment and report the assessment results to the approval institutions, and timely propose improvement measures if obvious adverse environmental impacts are found.</p> <p>Article 26.</p> <p>In the course of a construction project, the construction work unit shall simultaneously implement the countermeasures and steps for environmental protection raised in the environmental impact report, the</p>	Full equivalence	None required.

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
	<p>environmental impact report form and the examination and approval opinions of the examination and approval authority of the Environmental Impact Assessment Documents.</p> <p>Article 27.</p> <p>In the course of the construction and operation of a project, if conditions arise that are inconsistent with Environmental Impact Assessment Documents that have gone through examination and approval, the construction work unit shall organize a post-assessment of the environmental impact, adopt corrective measures, and report for the record to the original examination and approval authority of the Environmental Impact Assessment Documents and construction project approval authority. The original examination and approval authority of the Environmental Impact Assessment Documents may also instruct the construction work unit to prepare a post-assessment of environmental impact and take corrective measures.</p> <p>Article 28.</p> <p>The administrative department in charge of environmental protection shall conduct follow-up inspections on the environmental impact after the construction projects have gone into operation or utilization, and shall make a thorough investigation into the reasons and responsibility for the creation of serious environmental pollution or ecological damage.</p>		
<p>Key element (2)</p> <p>Document monitoring results, including the development and implementation of corrective actions, and disclose monitoring reports.</p>	<p>EIA Law. Article 27</p> <p>In case of any inconsistency with EIA documents during project construction and operation, the construction unit shall organize a post-assessment of the environmental impacts, adopt improvement measures, and report to the original EIA document approval department and original project approval department for documentation. The original EIA document approval department may also request the construction unit to perform a post-assessment of the environmental impacts and adopt improvement measures.</p> <p>Article 28 The competent departments of environmental protection administration shall perform tracing inspection on the environmental impacts after the construction projects are put into production or service, and find out reasons and identify responsibilities for present the serious environmental pollution or ecological disruption. The institutions that have provided technical services to the EIA of the construction project and prepared untrue EIA documents shall be investigated for criminal responsibility according to Article 33 of this Law. The approval department persons with dereliction or neglect of his duty who have approved the EIA documents that should not have been approved shall be investigated for criminal responsibility according to Article 35 of this Law.</p>	<p>Partial equivalence</p> <p>No requirement for disclosure of monitoring results and discretion for post assessment is not mandatory, but determined on a case-by-case basis by the approving department</p>	<p>For full equivalence, explicit requirement for documentation and disclosure of monitoring results/reports will be included in the EIA Enforcement rules.</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
<p>Policy Principle 8: Do not implement project activities in areas of critical habitats, unless (i) there are no measurable adverse impacts on the critical habitat that could impair its ability to function, (ii) there is no reduction in the population of any recognized endangered or critically endangered species, and (iii) any lesser impacts are mitigated. If a project is located within a legally protected area, implement additional programs to promote and enhance the conservation aims of the protected area. In an area of natural habitats, there must be no significant conversion or degradation, unless (i) alternatives are not available, (ii) the overall benefits from the project substantially outweigh the environmental costs, and (iii) any conversion or degradation is appropriately mitigated. Use a precautionary approach to the use, development, and management of renewable natural resources.</p>			
	<p>The Regulations on Reproduction and Conservation of Aquatic Resources (1979); the Marine Environment Protection Law (1982); the Forest Law (1984, revised 1998); the Fishery Law (1986); the Law on Protection of Wild Animals (1988); the Environment Protection Law (1979, revised 1989); the Regulations on Conservation of Terrestrial Wild Animals (1992); the Regulation on Forest and Wild Animal Nature Reserves Management (1994-5); the Regulations on Nature Reserves (1994) and the Regulation on Wild Plant Conservation (1996) include measures to protect and ensure no impacts on specific species and habitats</p>	<p>Partial Equivalence</p>	<p>For full equivalence the EIA law or the proposed Protected Areas Law should include specific reference to the exclusion of conversion of critical natural habitats and that measures to mitigate any impacts on natural habitats should be mandatory</p>
<p>Policy Principle 9: Apply pollution prevention and control technologies and practices consistent with international good practices as reflected in internationally recognized standards such as the World Bank Group's Environmental, Health and Safety Guidelines. Adopt cleaner production processes and good energy efficiency practices. Avoid pollution, or, when avoidance is not possible, minimize or control the intensity or load of pollutant emissions and discharges, including direct and indirect greenhouse gases emissions, waste generation, and release of hazardous materials from their production, transportation, handling, and storage. Avoid the use of hazardous materials subject to international bans or phaseouts. Purchase, use, and manage pesticides based on integrated pest management approaches and reduce reliance on synthetic chemical pesticides.</p>			
<p>Key element (1) Apply pollution prevention and control technologies and practices consistent with international good practices.</p>	<p>Decision of The State Council on Several Issues Concerning Environmental Protection August 3, 1996, 1. Discharge of pollutants should be subject to control of maximum quantity. A national and systemic maximum quantity index of major pollutants and a practice of regular publication thereof should be adopted</p> <p>By the year 2000, industrial pollution sources all over the country shall meet national or local standards on discharge of pollutants; different provinces, autonomous regions and municipalities directly under the central government should control maximum discharge of major pollutants under their respective jurisdiction within the maximum discharge quantity index laid down by the state...</p> <p>Local people's governments at different levels ...should, according to the above-mentioned objectives, set local objectives and measures for control over discharge quantity of major pollutants and for improvement of environmental quality, and should submit them to people's governments at higher levels for the record.</p> <p>Local people's governments at different levels should resolutely enforce the law of the People's Republic of China on the Prevention and Control of Water Pollution, effectively strengthen the prevention and</p>	<p>Full equivalence</p>	<p>None required.</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
	<p>control of water pollution so as to ensure safety in industrial and agricultural production and people's daily use of water. Drinking water sources... shall be well protected as key points. Drinking water sources protective zones shall be delimited and placed under rigorous supervision. The prevention and control of water pollution in valleys shall be strengthened. The system of maximum quantity control and the verification procedure for control over discharge of major pollutants shall be applied, according to law, where attempts to control discharged water pollutants within prescribed standards still fail to meet national prescribed standards for water environment quality..... The prevention and control on water pollution in other rivers, lakes, reservoirs and coastal waters shall also be strengthened.</p> <p>Local people's governments at different levels shall, according to the Law of the People's Republic of China on the Prevention and Control of Atmospheric Pollution, do proper work to prevent and control air pollution, put stress on air pollution by fuel coal, and bring under control the worsening of pollution by sulphur dioxide and acid rain. The State Administration for Environmental Protection shall, as soon as possible and in consultation with relevant departments, put forward opinions on delimitation of acid rain control zones and sulphur dioxide pollution control zones and propose required objectives for their control, then submit them to the State Council for approval before their enforcement.</p> <p>People's governments of cities shall strengthen comprehensive control over city environment, put emphasis on control of waste water, waste gas, waste residue and noise pollution..... Gas burning areas in cities shall be enlarged and raw coal shall be replaced. ...Priority shall be given to development of different forms of urban public transit. Motor vehicles shall be encouraged to use clean fuels, and similar other measures shall be adopted so as to reduce air pollution by tail gas of vehicles. Large- and medium-sized cities shall, step by step, expand using of bags for urban residential refuse that shall then be sorted out, collected, stored, removed, and processed for harmless conversion. Rigorous measures shall be taken to control environmental noise pollution so as to reduce its disturbance to citizens.</p> <p>Local people's governments at different levels shall, according to relevant regulations of the State Council, take effective measures to strengthen environmental management in countryside and township enterprises. The governments shall make comprehensive designing for reasonable layouts, offer instructions in light of special situations, and develop low-pollution or non-pollution industries that are suited to localities, and combined with overall countryside and township development....</p> <p>3. Making strict checks and resolutely controlling new pollution</p> <p>All large-, medium- or small-sized construction projects, expanded construction projects or reconstruction projects, and all technological renovation engineering (hereinafter referred to as construction projects for short) shall start from a raised technological level, adopt clean productive technology with low energy consumption, low materials consumption and low pollutants discharge quantity, and shall be strictly prohibited from using equipment or technology precisely banned by the state. Construction projects that influence on environment shall, in strict accordance with the law, conform with the environmental impact assessment provisions and the "three-stage simultaneous" requirement,</p>		

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
	<p>according to which environmental protection facilities shall be designed, constructed and put into production simultaneously with main construction structures. Total construction investments should contain capital for construction of environmental protection facilities. Construction projects after being completed and put into production or use shall steadily attain the standards on discharge of pollutants prescribed by the state or localities. Environmental capacity shall be an important criterion for environmental impact assessment of construction projects. Where pollution is serious, new construction projects shall be supposed to offset old ones in calculating environmental capacity so as to ensure a decrease of total quantity of pollutants discharge.</p> <p>When a construction project is found to fail to meet environmental protection standards at the stage of examination for approval or at the stage of acceptance after completion, the administrative department in charge of environmental protection may not grant approval to the environmental impact statement of the construction project or the acceptance report on environmental protection facilities. Other relevant approval departments may not approve its construction or use in production. The interested bank may not release loans. The administrative departments in charge of environmental protection at different levels shall exercise rigorous environmental protection management of construction projects and strictly conduct daily monitoring, and shall take overall responsibility for examination and approval of environmental impact assessment of construction projects and for acceptance of environmental protection facilities according to the "three-stage simultaneous" requirement. Departments in charge of planning, economy and trade, construction, industry and commerce, and land administration at different levels and other relevant departments shall, within the scope of their respective responsibility, conduct rigorous checks at the stage of examination for approval, registration, planning, review of land use, design and acceptance of construction projects. Leading officials of local people's governments at different levels may not arbitrarily approve construction projects without prior environmental impact assessment by violating relevant state laws and regulations regarding environmental protection of construction projects. In case of violation, the approval organ and persons who have conducted the examination and granted approval shall be investigated for responsibility.</p> <p>Administrative supervisory departments shall, according to their duties and relevant provisions, strengthen the supervision over enforcement of environmental protection laws and regulations by the governments, environmental protection departments and other relevant departments, and shall put forward supervisory comments on disposal of problems they discovered.</p> <p>Ever from the date of promulgation of the present Decision, for any construction project which has already been arbitrarily started or put in production or use without going through the procedure of environmental impact assessment, the administrative department of environmental protection at or above the county level shall put forward suggestions on handling the case, and submit them to the people's</p>		

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
	<p>government at or above the county level, who may then accordingly order suspension of the construction project or stop using it in production. For any construction project which has been accepted after inspection but fails to steadily keep to national or local standards on discharge of pollutants after being put in production or use, the administrative department of environmental protection at or above the county level shall order it to stop the discharge of pollutants in excess of prescribed standards and at the same time report the case to the people's government at or above the county level for an order to suspend production for rectification.</p> <p>4. Prescribing a time limit for reaching standards and facilitating control over old pollution</p> <p>Ever from the date of promulgation of the present Decision, for any unit that discharges pollutants in excess of prescribed standards, local people's governments at or above the county level or the administrative departments of environmental protection authorized thereby shall order the unit to control the situation within a prescribed time limit ranging from one to three years depending on circumstances. Those units that fail to control the situation within the prescribed time limit shall be ordered by the people's government at or above the county level to close down, suspend production or convert to other line of production. The State Administration for Environmental Protection, the State Planning Commission and the State Economic and Trade Commission shall give instructions to and exercise supervision and check over major projects to be rectified within a prescribed time limit.</p> <p>Units discharging pollutants shall ensure the normal operation of environmental protection facilities. In case that environmental protection facilities are, without authorization by the administrative department of environmental protection, arbitrarily stopped working or left unused resulting in discharge of pollutants in excess of standards, the administrative department of environmental protection shall order a resumption of their normal operation and impose punishment according to law.</p> <p>By the date of September 30, 1996, the people's governments at or above the county level shall ban the following factories, plants and enterprises: all papermaking factories with annual output of less than 5,000 tons paper; leather processing plants with annual output of less than 30,000 pieces of oxhide; dyestuff making plants with annual output of less than 500 tons; and all enterprises that coke or refine sulphur through backward approaches known as "pits", "Pingxiang Style", "High Pot" and "Open Air Style". Local people's governments at or above the county level shall order the following enterprises to close down or stop production within the above-mentioned time limit: plants that are using indigenous methods to refine arsenic, mercury, or smelt lead, zinc, or extract oil, or pan gold, or to make agricultural chemicals, bleach and dye, make electroplates, or make asbestos products or radioactive products. In case such enterprises have not been banned, or do not close down or stop production within the prescribed time limit, concerned principal leading officials of local people's governments and enterprise managers shall be</p>		

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
	<p>investigated for legal liability.</p> <p>Measures on the Management of Environmental Standards</p> <p>Decree of the State Environmental Protection Administration</p> <p>State Environmental Protection Administration April 1, 1999</p> <p>Article 3 To prevent and control environmental pollution, to safeguard the ecological balance and to protect people's health, the competent departments of environmental protection administrations under the State Council and provincial, autonomous region and municipality governments should, in line with related rules and regulations of the State, formulate environmental standards for various technical code and specifications that require uniformity in environmental protection.</p> <p>The environmental standards consist of national standards, local standards and the standards of the State Environmental Protection Administration (SEPA standards).</p> <p>National environmental standards include national environmental quality, national pollutant emission (or control) standards, standards for national environmental monitoring methods, standards for national environmental standard samples and national environmental basic standards.</p> <p>Local environmental standards cover local environmental quality standards and local pollutant emission (or control) standard.</p> <p>Article 4 The national environmental standards and the SEPA standards shall be implemented nationwide. Upon issuance of the national environmental standards, the corresponding standards of the SEPA shall be automatically repealed.</p> <p>The local environmental standards shall be implemented within the scope of the provinces, autonomous regions and municipalities, where the standards are issued.</p> <p>Article 5. The environmental standards consist of mandatory environmental standard and recommended environmental standards.</p> <p>The environmental standards, pollutant emission standards and other environmental standards that must be implemented as stipulated in the laws and administrative rules and regulations are part of the mandatory environmental standards. The mandatory environmental standards must be implemented.</p>		

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
	<p>Those environmental standards other than the mandatory environmental standards shall be belong recommended standards which are encouraged to be adopted by the State. If the recommended environmental standards are quoted in the mandatory environmental standards, they must be also implemented compulsorily.</p> <p>Article 10 The following principles shall be followed while formulating environmental standards:...</p> <p>(5.) International standards and standards of other countries that are suited to China's situation be drawn on.</p> <p>Regulations on Environmental Management of Construction Project (Promulgated by Decree No. 253 of the State Council on November 29, 1998)</p> <p>Chapter I General Provisions</p> <p>Article 4 Industrial construction projects should adopt clean production techniques with low energy consumption, low materials consumption and low pollutant generation, and rationally exploit natural resources to prevent environmental pollution and ecological damage</p>		
<p>Policy Principle 10: Provide workers with safe and healthy working conditions and prevent accidents, injuries, and disease. Establish preventive and emergency preparedness and response measures to avoid, and where avoidance is not possible, to minimize, adverse impacts and risks to the health and safety of local communities.</p>			
	<p>The Labour Law of the People's Republic of China of 1995 states:</p> <p>Chapter 6 Labor Safety and Sanitation</p> <p>Article 52 The employer shall establish and perfect its system for labor safety and sanitation, strictly abide by State rules and standards on labor safety and sanitation, educate laborers in labor safety and sanitation, prevent accidents in the process of labor, and reduce occupational hazards.</p> <p>Article 53 Labor safety and sanitation facilities shall meet State-fixed standards. The labor safety and sanitation facilities of new projects and projects of renovation and expansion shall be designed, constructed and put into operation and use at the same time as the main projects.</p> <p>Article 54 The employer shall provide laborers with labor safety and sanitation conditions meeting State stipulations and necessary articles of labor protection, and carry out regular health examination for laborers engaged in work with occupational hazards.</p> <p>Article 55 Laborers to be engaged in special operations shall receive specialized training and acquire qualifications for these special operations.</p> <p>Article 56 Laborers should strictly follow rules on safe operation in the process of labor. Laborers shall have the right to refuse to follow orders if the management personnel of the employer direct or force</p>	Full equivalence	None required

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
	<p>them to work in violation of regulations, and to criticize, expose and accuse any acts endangering the safety of their life and physical health.</p> <p>Article 57 The State shall establish a system for the statistical report and treatment of accidents of injuries or deaths and cases of occupational diseases. The labor administrative departments and other relevant departments under the people's governments at or above the county level and the employer shall, in accordance with law, carry out statistical report and disposition with respect to accidents of injuries or deaths occurred to laborers in the process of their work and situations of occupational diseases.</p> <p>Chapter 7 Special Protection for Female Staff and Workers and Juvenile Workers</p> <p>Article 58 The State provides special protection to female staff and workers and juvenile workers. Juvenile workers refer to laborers up to 16 years old but below 18 years old.</p> <p>Article 59 It is forbidden to arrange underground work for women workers at mines, or any labor with Grade IV physical labor intensity as stipulated by the State, or other labor forbidden to women.</p> <p>Article 60 It is forbidden to engage women workers in work high above the ground, under low temperatures, or in cold water during their menstrual periods or labor with Grade III physical labor intensity as stipulated by the State.</p> <p>Article 61 It is forbidden to engage women workers during their pregnancy in work with Grade III physical labor intensity as stipulated by the State or other work the State prevents them from doing during pregnancy. It is forbidden to prolong the work hours of women workers pregnant for seven months or ask them to work night shifts.</p> <p>Article 62 Birth-giving women workers shall be entitled to maternity leaves no shorter than 90 days.</p> <p>Article 63 It is forbidden to engage women workers in work with Grade III physical labor intensity as stipulated by the State during their breast-feeding of babies less than one year old and other labor the State prevents them from doing during their breastfeeding periods. Neither shall their work hours be prolonged nor they be asked to work night shifts during these periods.</p> <p>Article 64 It is forbidden to engage underage workers in work under wells at mines, poisonous or harmful work, labor Grade IV physical labor intensity as stipulated by the State, or any other labor the State prevents them from doing.</p> <p>Article 65 The employer shall carry out regular physical examinations for underage workers.</p> <p>Other legislation that are also relevant are:</p> <p>The Law of People's Republic of China on Safe Production ("Safe Production Law"), 2002.</p> <p>Occupational Disease Control Law, 2001</p> <p>The Regulations on Safe Management of Dangerous Chemicals</p> <p>Regulations on Labor Protection for Using Toxic Substances in Workplace</p>		

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
Policy Principle 11: Conserve physical cultural resources and avoid destroying or damaging them by using field-based surveys that employ qualified and experienced experts during environmental assessment. Provide for the use of “chance find” procedures that include a pre-approved management and conservation approach for materials that may be discovered during project implementation.			
	<p>Constitution, Art. 22. The State “protects places of scenic and historical interest, valuable cultural monuments and relics and other important items of China’s historical and cultural heritage.”</p> <p>Law on Protection of Cultural Relics(as amended in 2002)</p> <p>Article 2 The State places under its protection the following cultural relics within the boundaries of the People's Republic of China:</p> <p>(1) sites of ancient culture, ancient tombs, ancient architectural structures, cave temples, stone carvings and murals that are of historical, artistic or scientific value;</p> <p>(2) important modern and contemporary historic sites, material objects and typical buildings that are related to major historical events, revolutionary movements or famous personalities and that are highly memorable or are of great significance for education or for the preservation of historical data;</p> <p>Article 3 Immovable cultural relics, such as sites of ancient culture, ancient tombs, ancient architectural structures, cave temples, stone carvings and murals as well as important modern and contemporary historic sites and typical buildings, may, depending on their historical, artistic and scientific value, be designated respectively as major sites to be protected for their historical and cultural value at the national level, sites to be protected for their historical and cultural value at the provincial level, and sites to be protected for their historical and cultural value at the city or county level</p> <p>Article 7 All government department, public organizations and individuals shall have the obligation to protect the cultural relics in accordance with laws.</p> <p>Article 9 People's governments at various levels shall attach importance to the protection of cultural relics and correctly handle the relations between economic and social development and the protection of cultural relics so as to ensure safety of the cultural relics. Capital construction and the development of tourism shall be governed by the principle for the work concerning the protection of cultural relics, and such activities may not cause damage to cultural relics</p> <p>Article 13 The administrative department for cultural relics under the State Council shall select sites from among the ones protected for their significant historical, artistic or scientific value at the provincial, city or county level and designate them as major sites to be protected for their historical and cultural value at the</p>	Full equivalence	None required.

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
	<p>national level, or shall directly designate such major sites, and report them to the State Council for verification and announcement.</p> <p>Sites to be protected for their historical and cultural value at the provincial level shall be verified and announced by the people's governments of provinces, autonomous regions, or municipalities directly under the Central Government, and be reported to the State Council for the record.</p> <p>Sites to be protected for their historical and cultural value at the city or county level shall be verified and announced respectively by the people's governments of cities divided into districts, of autonomous prefectures and of counties, and be reported to the people's governments of provinces, autonomous regions, or municipalities directly under the Central Government for the record</p> <p>Article 16 When drawing up plans for urban and rural construction, the people's governments at various levels shall, on the basis of the requirements for the protection of cultural relics, see to it that protective measures for the historical and cultural sites protected at different levels within their own administrative areas are first formulated through consultation between the departments for urban and rural construction planning and the administrative departments for cultural relics and include such measures in their plans.</p> <p>Article 17 No construction of additional projects or such operations as blasting, drilling and digging may be conducted within the area of protection for a historical and cultural site. However, where under special circumstances it is necessary to conduct construction of additional projects or such operations as blasting, drilling and digging within the area of protection for such a site, its safety shall be guaranteed, and the matter shall be subject to approval by the people's government which originally verified and announced the site and which, before giving approval, shall ask consent of the administrative department for cultural relics under the people's government at the next higher level; and where construction of additional projects or such operations as blasting, drilling and digging are to be conducted within the area of protection for a major historical and cultural site protected at the national level, the matter shall be subject to approval by the people's government of the relevant province, autonomous region, or municipality directly under the Central Government, which, before giving approval, shall ask consent of the administrative department for cultural relics under the State Council.</p> <p>Article 18No construction of a project conducted in an area for control of construction may deform the historical features of the site protected for its historical and cultural value; and the design for the project shall, in correspondence with the protection level of the site protected for its historical and cultural value, be subject to consent by the appropriate administrative department for cultural relics before it is submitted to the department for urban and rural construction planning for approval.</p>		

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions of the draft of the Law on EIA ¹	(C) Extent of Equivalence ²	(D) Recommended Gap-filling Measures
	<p>Article 19 No facilities that pollute the sites protected for their historical and cultural value or their environment may be put up within the area of protection for these sites or the area for control of construction, and no activities that may adversely affect the safety and environment of these sites may be conducted. Where there are already facilities that pollute the sites and their environment, they shall be brought under control within a specified time limit.</p> <p>Article 20 While choosing a place for a construction project, the construction unit shall try its best to get around the site of immovable cultural relics; where it is impossible to do so under special circumstances, it shall do everything it can to protect the original site protected for its historical and cultural value.</p> <p>Where the original site is to be protected, the construction unit shall first work out protective measures and, in correspondence with the level of protection for the site, submit the measures to the appropriate administrative department for cultural relics for approval, and include the measures in its feasibility study report or in the design in which the task of protection is specified.</p> <p>Where it is impossible to protect the original site or the site needs to be moved to another place or dismantled, the matter shall be reported to the people's government of the relevant province, autonomous region, or municipality directly under the Central Government for approval; where a site protected for its historical and cultural value at the provincial level needs to be moved to another place or dismantled, consent of the administrative department for cultural relics under the State Council shall be asked prior to approval. No major historical and cultural sites protected at the national level may be dismantled; where such a site needs to be moved to another place, the matter shall be reported by the people's government of the relevant province, autonomous region, or municipality directly under the Central Government to the State Council for approval.</p> <p>Among the State-owned immovable cultural relics to be dismantled in accordance with the provisions of the preceding paragraph, the murals, carvings, building components, etc. which are worthy of collecting shall be collected by the institution for the collection of cultural relics designated by the administrative department for cultural relics.</p> <p>The expenses required for protecting, moving to another place or dismantling an original site as provided for by this Article shall be included in the budget of the construction unit for the construction project.</p> <p>Criminal Law of the PRC, 1997</p>		

DRAFT