

Comparative Analysis of Sri Lanka Legal Framework and ADB Safeguard Policy Statement ENVIRONMENT

(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 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>			
<p>Key element (1) Use a screening process to determine the appropriate extent and type of environmental assessment</p>	<p>The National Environment Act of 1980 Regulations</p> <p>Article 3 states that “in respect of any prescribed project for which an Environmental Impact Assessment Report is required the Project Approving Agency (PAA) shall grant its approval only with the concurrence of the Authority”</p> <p>Article 6 (ii) states that “The [PAA] shall in consultation with the Authority subject such preliminary information to environmental scoping, in order to set the Terms of Reference for the Initial Environmental Examination Report or Environmental Impact Assessment Report. as the case may be, and in doing so the [PAA] may take into consideration the views of state agencies and the public.</p> <p>(iii) The [PAA] shall convey in writing to the project proponent the Terms of Reference referred to in paragraph (ii) above within fourteen days in the case of an Initial Environmental Examination Report and thirty days in the case of an Environmental Impact Assessment Report from the date of acknowledging receipt of the preliminary information.</p> <p>(iv) Where, if on environmental scoping the [PAA] considers that the preliminary information submitted by the project proponent as required in regulation 5 above, is adequate to be an Initial Environmental Examination Report, the Project Approving Agency shall proceed as specified hereinafter.</p> <p>The National Environment Act (1980) Schedule Part 1, II and III of 1993 list the projects requiring an Environmental Assessment.</p>	<p>Full Equivalence</p>	<p>None required</p>
<p>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.</p>			

¹ There are relevant provisions of the National Environment Act of 1980 and Regulations (including Amendments thereafter) that deal with the EIA process in Sri Lanka, and Guidance for Implementing EIA process (General Guide for Project Approving Agencies Part 1 of 2006 and General Guide for Environmental Scoping Part 2) issued by the Central Environmental Authority under the aegis of the NEA and its regulations

² “Full Equivalence” denotes that the Sri Lanka’s 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 Sri Lanka’s 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 Sri Lanka’s legal requirement can be found that corresponds to the particular ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element.

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Key element (1) Identify indirect as well as direct impacts	<p>The National Environment (Amendment) Act of 1988 defines “environmental impact assessment report” as a written analysis of the predicted environmental project and containing an environmental cost-benefit analysis, if such an analysis has been prepared, and including a description of the project, and <u>includes a description of the avoidable and unavoidable adverse environmental effect of the proposed prescribed project</u> ; a description of alternative to the activity which might be less harmful to the environment together with the reasons why such alternatives were rejected, and a description of any irreversible or irretrievable commitments of resources required by the proposed prescribed project ;</p> <p>and defines “initial environmental examination report” as a written report wherein possible impacts of the prescribed project on the environment shall be assessed with a <u>view to determining whether such impacts are significant</u>, and as such requires the preparation of an environmental impact assessment report and such report shall contain such further details, descriptions, data, maps, designs and other information and details as may be prescribed by the Minister;</p> <p>The Guidance for Implementing EIA process (Number 2) Section 4.2.6.3 Defining the Affected Environment requires the definition of direct effects (impacts as a consequence of the project and confined to the project area) and indirect effects (consequence of actions encouraged, but not necessarily implemented by the project and impacts that ripple throughout the entire social spectrum)</p>	Full Equivalence	None required
Key element (2) Identify cumulative impacts	<p>The Guidance for Implementing EIA process (Number 1) Section 2.3 Criteria for IEE and EIA Item 7 defines “significant impacts” as an action in relation to other actions whose impacts are individually insignificant, but which cumulatively are apt to be significant. Significant impacts may occur if it is reasonable to anticipate a cumulatively significant impact on the environment. These actions cannot be avoided by terming an action temporary, or by breaking it down into smaller component parts.</p>	Full Equivalence	None required
Key element (3) Identify induced impacts	<p>The Guidance for Implementing EIA process (Number 1) Section 2.3 Criteria for IEE and EIA Item 5 refers to “significant impact” as assessment of degree to which possible effects on the environment are highly uncertain or involve unique or unknown risks and Item 6 refers to the degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration and Item</p>	<p>Partial Equivalence</p> <p>The inference to Items 5 and 6 of Part 1 of the Guidance document is on unknown impacts, but there is lack of direct reference to “induced impacts”</p>	For Full Equivalence the legal framework should require the assessment of “induced” impacts.
Key element (4) Identify physical impacts	<p>The Environmental Regulations of 1993 requires the Project Approving Agency (PAA) in consultation with the (Central Environmental) Authority subject such preliminary information to environmental scoping ,in order to set Terms of Reference for the for the Initial Environmental Examination Report or Environmental Impact Assessment Report, as the case may be, and in doing so the Project Approving Agency may take into consideration the views of state agencies and the public.</p>	Full Equivalence	None required

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	<p>The Guidance for Implementing EIA process (Number 2) Section 4.2.6.3 requires the definition of the <u>physical</u>, biological and social areas that will be directly or indirectly affected by the proposed project activities.</p>		
<p>Key element (5)</p> <p>Identify biological impacts</p>	<p>See response in PP 2 KE (4) above</p> <p>In addition, the The National Environment (Amendment) Act of 1988 part IV B Sections 23 K and 23 N in relation to pollution control and management of air and soil states “that no person shall pollute the atmosphere (or soil) or cause or permit the atmosphere (or soil) to be polluted so that the physical, chemical or <u>biological condition of the atmosphere</u> (or soil) is so changed as to make or reasonably be expected to make the atmosphere or any part thereof unclean, noxious, poisonous, impure, detrimental to the health, welfare, safety, or property or human beings, poisonous or <u>harmful to animals, birds, wildlife, plant or all other forms</u> of life or detrimental to any beneficial use of the atmosphere (or soil)”.</p> <p>The Guidance for Implementing EIA process (Number 1) Section 2.3 Criteria for IEE or EIA states that “significant impact” should be under Item 3 be based on the degree to which a proposed action would affect unique characteristics of a geographic area, such as religious or cultural resources, archaeological resources (including those that may exist but may not have been legally designated), <u>nature reserves, wetlands, scenic areas, ecologically crucial areas, environmentally sensitive areas or endangered or threatened species of plants and animals</u></p> <p>The Guidance for Implementing EIA process (Number 2) Section 4.2.6.3 requires the definition of the physical, <u>biological</u> and social areas that will be directly or indirectly affected by the proposed project activities.</p>	<p>Full Equivalence</p>	<p>None required</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>There is no explicit requirement in the legal framework requiring identification of socio-economic impacts, including livelihood impacts, and impacts on vulnerable groups and on gender related concerns. All reference to assessment of socio-economic impacts are implicit. However, the Guidance for Implementing EIA process (Number 2) Section 4.2.6.3 requires the definition of the physical, biological and <u>social</u> areas that will be directly or indirectly affected by the proposed project activities.</p> <p>The Guidance for Implementing EIA process (Number 1) Section 2.3 Criteria for IEE or EIA states that “significant impact” should be under Item 2 be based on the degree to which a proposed action would <u>affect public health and safety</u> and Item 4 the degree to which the impacts on the environment and <u>related social conditions are likely to be highly significant</u>.</p>	<p>Partial Equivalence</p> <p>Lack of reference to defining impacts on livelihoods, vulnerable groups and gender related issues</p>	<p>For Full Equivalence, the legal framework should explicitly mention requirement for identifying socio-economic impacts, in particular impacts on people’s livelihoods, impacts on vulnerable groups and on gender related concerns.</p>
<p>Key element (7)</p> <p>Identify impacts on</p>	<p>There is no explicit reference in the Environmental legal framework on assessing the impacts on the physical cultural resources. However, the Antiquities Ordinance (Amendment) of 1956 prohibits, or restricts subject to the prescribed conditions, the erection of buildings or the carrying on of mining, quarrying, or blasting operations on any land within the prescribed distance of any ancient monument</p>	<p>Full Equivalence</p>	<p>None required</p>

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physical cultural resources	<p>The Guidance for Implementing EIA process (Number 1) Section 2.3 Criteria for IEE or EIA states that “significant impact” should be under Item 3 be based on the degree to which a proposed action would affect unique characteristics of a geographic area, <u>such as religious or cultural resources, archaeological resources (including those that may exist but may not have been legally designated),</u> nature reserves, wetlands, scenic areas, ecologically crucial areas, environmentally sensitive areas or endangered or threatened species of plants and animals</p> <p>The Guidance for Implementing EIA process (Number 1) Section A: EIA Contents and Format, Part 2 Guidance for EIA content (Item F: Environmental Consequence of Proposed Actions) requires a discussion of the scientific and analytic basis for identifying and evaluating the environmental impacts of (1) direct and indirect effects and their significance, including biological, ecological, health, <u>historic and cultural resources impacts.</u></p>		
Key element (8) Identify impacts in the context of the project’s area of influence	<p>There is no explicit mention in the legal framework of the project’s area of influence.</p> <p>However, the Guidance for Implementing EIA process (Number 2) Section 4.2.6.3 Defining the Affected Environment sets out procedures for delineating the probable affected environment of the proposed project and entails making use of extensive input from professionals and groups involved or influenced by the project and would be part of the initial activities during the formal scoping sessions by addressing, among other things the delineation on a map of the rough outline of the geographic areas, which are likely to experience direct impacts from the prescribed project activities.</p>	<p>Partial Equivalence</p> <p>The lack of explicit reference to accessing impacts in the context of the project’s area of influence, would also necessitate delineation of the geographic areas in which the “indirect” impacts are potentially likely to occur</p>	<p>For Full Equivalence, the legal framework should clearly specify the need to initially identify the project’s area of influence as a prelude to assessment of impacts.</p>
Key element (9) Assess potential trans-boundary impacts	<p>There is no explicit reference in the legal framework to the assessment of trans-boundary impacts</p>	<p>No Equivalence</p>	<p>For Full Equivalence, the legal framework should explicitly require the assessment of trans-boundary impacts</p>
Key element (10) Assess potential global impacts, including climate change	<p>Even though, Sri Lanka is party to a number of international conventions and treaties, the legal framework does not entail the assessment of global impacts of development projects</p>	<p>No Equivalence</p>	<p>For Full Equivalence, the legal framework should explicitly require the assessment of global impacts, including climate change.</p>
Key element (11)	<p>In May 2006, the Cabinet of Ministers directed that in future, all new Policies, Plans or Programs to be</p>	<p>Partial Equivalence</p>	<p>For Full Equivalence, the legal</p>

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Use strategic environmental assessment	implemented by Ministries and Government Agencies should be subjected to SEA. A handbook on Strategic Environmental Assessment has been prepared by the Central Environmental Authority in order to provide a simple guide to Government Ministries and Agencies on what SEA is, and how to carry out a SEA for a Policy, Plan or Program. Although, a few SEAs have been conducted it is under if there is supporting legal framework requiring the conduct of SEAs on policies, plans and programs	Although there is Cabinet of Ministers directive to conduct SEAs, there is no legislative requirement for conduct of SEAs	framework should require the conduct of SEAs where appropriate.
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.	<p>The National Environment Act Article 33 states that “environmental impact assessment report” means a written analysis of the predicted environmental project and; a description of alternative to the activity which might be less harmful to the environment together with the reasons why such alternatives were rejected, and a description of any irreversible or irretrievable commitments of resources required by the proposed prescribed project”;</p> <p>The Guidance for Implementing EIA process (Number 1) Section A: EIA Contents and Format, Part 2 Guidance for EIA Content (d) Proposed action and reasonable alternatives states that the EIA Report should describe the proposed action and <u>reasonable alternatives</u>, which:</p> <ol style="list-style-type: none"> 1. should include those agreed upon during the scoping process. If subsequently, it is determined to be unreasonable the reasons should be discussed in this part of the report 2. may include reasonable alternatives not discussed at the scoping stage; 3. may be more restricted for private proposals than for governmental proposals because of realistic options that may be more restricted 4. should always include the “no action” alternative, meaning one based on current practices without approval of the proposed project; 5. should always state clear reasons for rejecting the alternatives in preference to the one recommended 	Full Equivalence	None required
Key element (2) Consider the no-project alternative	<p>The Guidance for Implementing EIA process (Number 1) Section A: EIA Contents and Format, Part 2 Guidance for EIA Content (d) Proposed action and reasonable alternatives states that the EIA Report should describe the proposed action and <u>reasonable alternatives</u>, which:</p> <ol style="list-style-type: none"> 4. should always include the “<u>no action</u>” alternative, meaning one based on current practices without approval of the proposed project; 	Full Equivalence	None required
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			

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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	The National Environment Act refers to “environmental impact assessment report” means a written analysis of the predicted environmental project and containing an environmental cost-benefit analysis, if such an analysis has been prepared, and including a description of the project, <u>and includes a description of the avoidable and unavoidable adverse environmental effect of the proposed prescribed project ; a description of alternative to the activity which might be less harmful to the environment</u> together with the reasons why such alternatives were rejected, and a description of any irreversible or irretrievable commitments of resources required by the proposed prescribed project ;	Full Equivalence	None required
Key element (2) Prepare an environmental management plan (EMP)	The legal framework and Guidance for EIA process is explicit in the requirement for the preparation of an plan or alternatives to reduce the impacts	Full Equivalence	None required
Key element (3) Prepare an environmental management plan (EMP) that includes the proposed mitigation measures, environmental monitoring and reporting requirements,	The Guidance for Implementing EIA process (Number 1) Section 3.1 Recommended format for EIA should include: Proposed Monitoring Plan that includes institutional responsibilities and procedures for reporting and analysis	Full Equivalence	None required
Key element (4) Prepare an environmental management plan (EMP) that includes... related institutional or organizational arrangements, capacity development and training measures	None	No Equivalence	For Full Equivalence, the legal framework s should require the description of institutional and organizational arrangements, capacity development and training requirements for EMP implementation.
Key element (5) Prepare an environmental management plan (EMP)	The Guidance for Implementing EIA process (Number 1) Part A EIA Content and Format, Section 2 Guidance for EIA Content, Item (h) Monitoring Plan requires inclusion of (a) parameters to be monitored and frequencies	Partial Equivalence Although, there is a	For Full Equivalence, the legal framework should make explicit the requirement for

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that includes..., implementation schedule, cost estimates, and performance indicators	(b) institutional responsibilities and procedures for reporting	requirement for monitoring, it is unclear if these refer to output indicators and performance (impact indicators). Further, there is no reference to implementation schedule and costs for EMP implementation.	cost estimates, implementation schedule and performance indicators of EMP implementation
Key element (6) 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.	<p>The National Environment Act Amendment of 1988, Part IV B (Environmental Quality)</p> <p>Article 23 G (1) states that no person shall pollute any inland waters etc.....</p> <p>Article 23 G (3) states that every person who contravenes the provisions of sub-section (1) shall be guilty of an offence, and on conviction shall:</p> <p>(a) liable to a fine not less than rupees ten thousand and not exceeding rupees one hundred thousand, and thereafter in the event of the offence being continued to be committed, to a fine of rupees five hundred for each day on which the offence is continued to be committed; and</p> <p>(b) required to take within such period as may be determined by the court, such corrective measures as may be deemed necessary....</p> <p>Article 23 J and K similarly deals with the discharge of wastes into the atmosphere and liabilities faced when the law is contravened</p> <p>Article 23 M and N similarly deals with discharge and deposit of waste into the soil and liabilities faced when the law is contravened</p> <p>Article 23 P and Q similarly deals with noise pollution and liabilities faced when the law is contravened</p> <p>Article 23 V and W deals with discharge of oil or mixtures containing oil and the liabilities when the law is contravened</p>	Full Equivalence	None required
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.			
Key element (1) Carry out meaningful consultation with affected people and facilitate their	The Environmental Impact Assessment procedure laid down In the National Environmental (Amendment) Act No 56 of 1988 provides this entitlement Part IV C -- Approval of the Projects, Section 23BB Subsection (2) that states 'A project approving agency shall on receipt of an IEE report or an EIA report, as the case may be, submitted to each project approving agency in compliance with the requirement imposed under sub-section (1), by notice published in the gazette and in one newspaper each	Partial Equivalence The legal framework states that the PAA require the project proponent to notify the	For Full Equivalence the legal framework should explicitly require the project proponent to carry out full and meaningful consultation with

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informed participation	<p>in Sinhala, Tamil and English languages, notify the place and times at which such report shall be available for inspection by the public and invite the public to make it's comments, If any, thereon" Sub-section (3) says Any member of the public may within thirty days of the date on which a notice under sub-section (2) is published, make his or her comments, If any, thereon to the project approving agency which published such notice, and such project approving agency may, where it considers appropriate in the public interest afford an opportunity to any such person of being heard in support of his comments and any other materials, If any, elicited at any such hearing in determining whether to grant it's approval for the implementation of such prescribed project"</p> <p>The Guidelines published by the Central Environmental Authority under this Act have encouraged public participation One provision is a part of the scoping process is that the appropriate Project Approving Agency (PAA) should invite the formal and informal participation of all concerned agencies, the proponent of the action, and other interested persons (including representatives of the affected public and others who might not be in accord with the action on environmental grounds). A public hearing is held at the discretion of the PAA when It considers that it would be in the public interest to do so. According to the CEA Guidelines "a variety of situations may fall within the meaning of 'public Interest" and these cannot be exhaustively defined factors for the PAA to consider are whether a proposed prescribed project is highly controversial, whether more expressions of public views are essential to make decisions, whether the proposed prescribed project might cause unusual national or regional impacts, whether it might threaten a nationally important environmentally sensitive area, whether a formal request for a public hearing has been requested by the interested party</p>	public through the national newspapers the place and times where the EIA reports are available for inspection by the public and the PAA has the discretion to afford any member of public an opportunity to be heard.	affected people and other stakeholders from very early in the project design phase throughout the planning and implementation of the project.
Key element (2) Ensure women's participation in consultation	There is no explicit reference to consult women in the EIA process	No Equivalence	For Full Equivalence the environment legal framework should explicitly require women's participation in consultation during the EIA process
Key element (3) Involve stakeholders, including affected people and concerned nongovernment organizations, early in the project preparation process.	<p>The Environmental Impact Assessment procedure laid down In the National Environmental (Amendment) Act No 56 of 1988 provides this entitlement Part IV C -- Approval of the Projects, Section 23BB Subsection (2) that states 'A project approving agency shall on receipt of an IEE report or an EIA report, as the case may be, submitted to each project approving agency in compliance with the requirement imposed under sub-section (1), by notice published in the gazette and in one newspaper each in Sinhala, Tamil and English languages, notify the place and times at which such report shall be available for inspection by the public and invite the public to make it's comments.</p> <p>However, The Guidance for Implementing EIA process (Number 2) Section 4.2.6.1 through 4.2.6.7 entails the conduct of scoping meetings early in project period as part of the decision-making process of management of impacts of proposed projects, and entails a process of building consensus among the various groups (developers, state agencies, interested organizations and individuals and affected persons)</p>	Partial Equivalence	For Full Equivalence, the legal framework should require explicit involvement of affected people and NGOs early in project preparation and throughout the preparation and operational stages of the project.

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	of development options, alternatives, mitigation actions etc.		
Key element (4) Establish a grievance redress mechanism	There is no explicit reference to a grievance redress mechanism at the project level.	No Equivalence	For Full Equivalence, the legal framework should include requirement for establishing project-level grievance redress mechanisms.
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.	<p>The National Environment Act (1980) and Amendments thereafter refers to consultation as follows:</p> <p>7. (i) Every project proponent shall submit to the Project Approving Agency such number of copies of the Initial Environmental Examination Report as required by the Project Approving Agency.</p> <p>(ii) Upon receipt of an Initial Environmental Examination Report the Project Approving Agency shall submit a copy thereof to the Authority and by prompt notice published in the <i>Gazette</i> and in one national newspaper published daily in the Sinhala, Tamil and English languages, invite the public to make written comments, if any, thereon, to the Project Approving Agency, within thirty days from the date of first appearance of the notice, either in the <i>Gazette</i> or in the newspaper.</p> <p>(iii) The Notice referred to in paragraph (ii) above shall specify the times and places at which the report shall be made available for public inspection.</p> <p>(iv) The Project Approving Agency shall make available copies of the report to any person interested to enable him to make copies thereof.</p> <p>8. (i) It shall be the duty of the Project Approving Agency, upon completion of the period of public inspection, to forward to the project proponent the comments received from the public, for review and response, within six days from the date of completion of the period of public inspection.</p> <p>(ii) The project proponent shall in writing respond to such comments to the Project Approving Agency.</p>	Full Equivalence	None required
Key element (2) Disclose the final environmental assessment, and its updates if any, to affected people and other stakeholders	<p>The National Environment Act (1980) and Amendments thereafter refers to consultation as follows:</p> <p>10. Upon receipt of an Environmental Impact Assessment Report the Project Approving Agency is mandated, (i) Upon receipt of the Report, as specified in regulation 10 above, the Project Approving Agency shall submit a copy thereof to the Authority and by prompt notice published in the <i>Gazette</i> and in one national newspaper published daily in the Sinhala, Tamil and English languages invite the public to make written comments, if any, thereon to the Project Approving Agency within thirty days from the date of the first appearance of the notice, either in the <i>Gazette</i> or in the newspaper.</p> <p>(ii) The notification shall specify the times and places at which the Report shall be made available for public inspection.</p> <p>(iii) The project Approving Agency shall make available copies of the Report to any person interested to enable him to make copies thereof.</p>	Full Equivalence	None required

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	12. It shall be the duty of a Project Approving Agency, upon completion of the period of public inspection or public hearing, if held, to forward to the project proponent comments received for review and response, within six days. The Project Proponent shall respond to such comments in writing to the Project Approving Agency.		
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.	The NEA Regulations require that the PAA forward to the CEA a report which contains a plan to monitor the implementation of every approved project within 30 days of granting such approval. Monitoring would indicate the extent of compliance with the conditions set by the project proponent and the effectiveness of the mitigatory measures. A system of self-monitoring would be most appropriate.	Full Equivalence	None required
Key element (2) Document monitoring results, including the development and implementation of corrective actions, and disclose monitoring reports.	The NEA Regulations require the project proponent to submit monthly reports to the PAA regarding compliance with the specified conditions. Spot checks could be done by the PAA to verify accuracy. Usually monitoring is ensured by the application of the legally mandated Environmental Protection Licensing (EPL) procedure where any activity discharging waste into the environment is regulated under the provisions of the National Environmental Act	Partial equivalence There is no explicit reference to disclosure of monitoring reports	For full compliance, the regulations should specify the requirement for disclosure of monitoring reports
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.			
Key element (1) 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	The Fauna and Flora (protection) Ordinance No 2 of 1937 , stipulates that no person shall in a Strict Natural Reserve, National Park, Nature Reserve or Jungle corridor (e) clear or break up any land for cultivation, mining or for any other purpose; (h) make a fresh clearing (j) construct a road or path. The Similar provisions apply to Intermediate Zones, Sanctuaries The Fauna and Flora (protection) Ordinance No 2 of 1937 , as amended by the Fauna and Flora (Amendment) Act No 49 of 1993, requires that any development activity of any description whatsoever proposed to be established within one mile of the boundary of any National Reserve, should receive the prior written approval of the Director of Wildlife Conservation The Ordinance as amended mandates that	Full Equivalence	None required

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<p>species, and (iii) any lesser impacts are mitigated.</p>	<p>the project proponent should furnish an IEE or EIA report. In terms of the National Environmental Act The information that a project proponent applying for permission to establish a development project within one mile of any National Reserve has to submit is much more comprehensive than the information required for the approval process stipulated under the NEA This is because every development project or activity to be established within one mile of any National Reserve is subject to the approval process of the Department of Wildlife Conservation regardless of it's magnitude or category. Success In the implementation of this requirement will be tested to the extent that the term "development activity" is not defined In the Act . This procedure could also discourage any development activity. However, environmentally compatible, it is proposed to be established within any environmentally sensitive area.</p> <p>Siting of projects in environmentally sensitive areas that are listed m Part III of the Schedule is not prohibited, but regardless of their magnitude such projects and undertakings must go through the approval process. This itself acts as a disincentive to project proponents. Similarly even though Part I of the Order exempts projects and undertakings proposed to be established within the Coastal Zone from the approval process set out. In Part IVC of the NEA, the law requires that such projects must be subject to the (NEA) approval process i they are located In environmentally sensitive areas of the Coastal Zone. In short the EIA process set out In the Coast Conservation Act applies to projects prescribed under the NEA only when they are located wholly within the Coastal Zone but not In any environmentally sensitive area therein</p> <p>The Coast Conservation Act No 57 of 1981 together with the Coast Conservation (Amendment) Act No 64 of 1988 govern the Coastal Zone, This zone comprises mainly "the area lying within a limit of three hundred meters landwards of the Mean High Water line and a limit of two kilometres seawards of the Mean Low Water line. The EIA process is part of the permit procedure mandated m Part II of the Coast Conservation Act (CCA) for the approval of prescribed development projects and undertakings within the Coastal Zone The Act states that the Minister In charge of the subject of Coast Conservation "may having regard to the effect of those development activities on the long term stability, productivity and environmental quality of the Coastal Zone, prescribe the categories of development activity, which may be engaged in Within the Coastal Zone without a permit"</p>		
<p>Key element (2) If a project is located within a legally protected area, implement additional programs to promote and enhance the conservation aims of the protected area</p>	<p>The Fauna and Flora (protection) Ordinance No 2 of 1937, as amended by the Fauna and Flora (Amendment) Act No 49 of 1993 requires that siting of projects in environmentally sensitive areas that are listed in Part III of the Schedule is not prohibited, but regardless of their magnitude such projects and undertakings must go through the NEA approval process. This itself acts as a disincentive to project proponents. Similarly even though Part I of the Order exempts projects and undertakings proposed to be established within the Coastal Zone from the approval process set out. In Part IVC of the NEA, the law requires that such projects must be subject to the NEA approval process if they are located In environmentally sensitive areas of the Coastal Zone. In short the EIA process set out In the Coast Conservation Act applies to projects prescribed under the NEA only when they are located wholly within</p>	<p>Partial Equivalence</p> <p>There is no explicit reference to implementation of environmental enhancement measures in the legislation, although it is implicitly recognized</p>	<p>For Full Equivalence, the legal framework should explicitly require the identification of programs for enhancing conservation values of a protected area if a project is located within or near a protected area.</p>

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	<p>the Coastal Zone but not In any environmentally sensitive area therein</p> <p>The Coast Conservation Act No 57 of 1981 together with the Coast Conservation (Amendment) Act No 64 of 1988 govern the Coastal Zone, This zone comprises mainly "the area lying within a limit of three hundred meters landwards of the Mean High Water line and a limit of two kilometres seawards of the Mean Low Water line. The EIA process is part of the permit procedure mandated in Part II of the Coast Conservation Act (CCA) for the approval of prescribed development projects and undertakings within the Coastal Zone The Act states that the Minister In charge of the subject of Coast Conservation "may having regard to the effect of those development activities on the long term stability, productivity and environmental quality of the Coastal Zone, prescribe the categories of development activity, which may be engaged in Within the Coastal Zone without a permit"</p>		
<p>Key element (3)</p> <p>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</p>	<p>The National Environment Act Amendment 1988 defines "EIA" a written analysis of the predicted environmental project and containing an environmental cost-benefit analysis....including description of the avoidable and unavoidable adverse environmental impacts of the proposed project, a description of the alternative to the activity which might be less harmful to the environment...and commitment of resources for the mitigation of any impacts.</p>	<p>Full Equivalence</p>	<p>None required</p>
<p>Key element (4)</p> <p>Use a precautionary approach to the use, development, and management of renewable natural resources.</p>	<p>None</p>	<p>No Equivalence</p>	<p>For Full Equivalence, the legal framework should require the use of a precautionary approach to development of natural resources.</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>			

(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>Key element (1) Apply pollution prevention and control technologies and practices consistent with international good practices.</p>	<p>The National Environmental (Amendment) Act, No. 56 of 1988 makes extensive reference to applying pollution prevention and control as discussed below: Section 10 of the principal enactment refers to: <i>(f)</i> to be responsible for the co-ordination of all regulatory activities relating to the discharge of wastes and pollutants into the environment and the protection and the improvement of the quality of the environment ; <i>(g)</i> to regulate, maintain and control the volume, types, constituents and effects of waste, discharge, emissions, deposits or other sources and sub-sources of pollution which are of danger or potential danger to the quality or the environment of any segment of the environment ; <i>(h)</i> to require the submission of proposals, for new projects and changes in or abandonment of existing projects, for the purpose of evaluation of the beneficial and adverse impacts of such proposals on the environment ; <i>(i)</i> to require any local authority to comply with and give effect to any recommendations relating to environmental protection within the limits of the jurisdiction of such local authority and in particular any recommendations relating to all or any of the following aspects of environmental pollution: the prohibition of the unauthorized discharge, emission or deposit of litter, waste, garbage and sewage ; <i>(ii)</i> the prevention of the discharge of untreated sewage or substandard industrial effluents or toxic chemicals into soil, canals or water ways ; <i>(v)</i> the control of pollution of the atmosphere ; <i>(vi)</i> the control of noise pollution ; and <i>(vii)</i> the storage, transport and disposal of any material which is hazardous to health and environment ; Section 23H. (1) No person shall pollute any inland waters of Sri Lanka or cause or permit to cause pollution in the inland waters of Sri Lanka so that the physical, chemical or biological condition of the waters is so changed as to make or reasonably expected to make those waters or any part of those waters unclean, noxious, poisonous, impure, detrimental to the health, welfare, safety or property of human beings, poisonous or harmful to animals, birds, wildlife, fish, plants or other forms of life or detrimental to any beneficial use made of those waters. Section 23K. (1) No person shall pollute the atmosphere or cause or permit the atmosphere to be polluted so that the physical, chemical or biological condition of the atmosphere is so changed as to make or reasonably be expected to make the atmosphere or any part thereof unclean, noxious, poisonous, impure, detrimental to the health, welfare, safety, or property or human beings, poisonous or harmful to animals, birds, wildlife, plant or all other forms of life or detrimental to any beneficial use of the atmosphere. Section 23N. (1) No person shall pollute or cause or permit to be polluted any soil or the surface of any land so that the physical, chemical or biological condition of the soil or surface is so changed as to make or be reasonably be expected to make the soil or the produce of the soil poisonous or impure, harmful or potentially harmful to the health or welfare of human beings, poisonous or harmful to animals, birds, wildlife, plants or all other forms of life or obnoxious or, unduly offensive to the senses of human beings or so as to detrimental to any beneficial use of the land.</p> <p>The National Environmental Act (Amendment of 2008) Part 1 provides guidance on protection license</p>	<p>Full Equivalence</p>	<p>None required</p>

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	for emission or disposal of waste and Schedules of this ACT provides tolerance limits for discharge of industrial wastes on land, irrigation waters, inland surface waters and marine coastal areas		
Key Element (2) Adopt cleaner production processes and good energy efficiency practices	The reference to taking actions to prevent and reduce pollution and emissions, and reference to adoption of cleaner production processes and energy efficiency practices is implicit rather than explicit in the NEA legislation. Section 32 of the NEA (Amendment of 1988) Item 2 (m) calls for use of equipment for oil refineries to install equipment for the purpose of reducing or preventing and any effluent containing oil	Partial Equivalence Absence of explicit reference to adoption of cleaner production and energy efficiency measures	For Full Equivalence, the legal framework should specify measures be adopted for cleaner production and energy efficiency practices.
Key Element (3) 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.	<p>The National Environmental (Amendment) Act, No. 56 of 1988 makes extensive reference to applying pollution prevention and control as discussed below:</p> <p>Section 10 of the principal enactment refers to:</p> <p>(g) to regulate, maintain and control the volume, types, constituents and effects of waste, discharge, emissions, deposits or other sources and sub-sources of pollution which are of danger or potential danger to the quality or the environment of any segment of the environment ;</p> <p>(i) to require any local authority to comply with and give effect to any recommendations relating to environmental protection within the limits of the jurisdiction of such local authority and in particular any recommendations relating to all or any of the following aspects of environmental pollution: the prohibition of the unauthorized discharge, emission or deposit of litter, waste, garbage and sewage ;</p> <p>(ii) the prevention of the discharge of untreated sewage or substandard industrial effluents or toxic chemicals into soil, canals or water ways ;</p> <p>(v) the control of pollution of the atmosphere ;</p> <p>(vi) the control of noise pollution ; and</p> <p>(vii) the storage, transport and disposal of any material which is hazardous to health and environment ;</p> <p>.</p> <p>Section 23 L states that any person who owns, operates, constructs, sells, installs or offers to sell or install any machinery, vehicle or boat required by or under the Act or any regulation made thereunder to be built, fitted or equipped with any device for preventing or limiting pollution of the atmosphere without such machinery, vehicle or boat being so built, fitted or equipped shall be guilty of an offence.</p> <p>Section 32 (m) requirements that oil refineries install equipment as may be prescribed for the purpose of reducing or preventing any affluent containing oil</p>	Full Equivalence	None required
Key Element (4) Avoid the use of hazardous	The National Environment act Amendment of Section 23A (2008) defines prescribed activities a license is required: that includes all toxic and hazardous waste treatment, disposal and recycling or storage	Partial Equivalence	For Full Equivalence, the legal framework should specify

(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
materials subject to international bans or phase-outs	<p>facilities.</p> <p>Sri Lanka ratified the amendment to the Basel Convention (Decision III/1). A Cabinet decision was obtained to prohibit import of Annex VIII List A hazardous waste from all countries (not restricting to Annex VII countries); and to keep the list B as the controlled list, to take decisions on case by case basis.</p>	<p>The legal framework makes reference to banning of List A hazardous wastes, and List B of controlled substances, but decisions of phase-out is not explicit</p>	<p>phase-out of other than List A chemicals on phase-out need to be explicit, rather than on an arbitrary decision making case-by-case process</p>
<p>Key Element (5) Purchase, use, and manage pesticides based on integrated pest management approaches and reduce reliance on synthetic chemical pesticides.</p>	<p>The Control of Pesticides Act (1980) was promulgated to regulate the import, packaging, labeling, storage, formulation, transport, sale and use of pesticides</p> <p>Article 6 requires that each person desirous of obtaining of licensing any pesticide shall make an application that provides the following information:</p> <ul style="list-style-type: none"> (a) name and address of applicant (b) name and address of manufacturer; (c) proposed trade name under which the pesticide is marketed (d) a copy of draft label (e) samples of container in which the pesticide shall be sold (f) a statement of the claim made by the manufacturer of the use, potency, shelf life and effect of the pesticide (g) a statement of chemical composition, stability in storage, methods of use etc. (h) toxicological data (i) method of analysis of formulated compound (j) methods to determine residues (k) results of biological tests relating to efficacy and safety of the pesticide <p>Article 15 mentions that no person shall manufacture, pack, distribute or sell any pesticide, which is adulterated or which has decomposed or deteriorated so as to become infective or dangerous</p> <p>Article 16 states that no person shall store, transport or sell any pesticide in close juxtaposition with foodstuffs</p> <p>Article 19 states that no person shall store pesticides in bulk other than in a special store kept for that purpose. It also states that no person shall harvest or sell food crops in which pesticides have been used unless a time limit has been prescribed by regulations, or if the food crops shall contain pesticides residue in excess of the levels prescribed</p> <p>Article 26 provides power to the Minister to make regulations/provisions with regard to substances or operations which present a high or unusual degree of hazard, and such provisions may include:</p> <ul style="list-style-type: none"> (a) provide for field evaluations 	<p>Partial Equivalence</p> <p>The legal framework lacks specific guidance on the actual use, storage, discharge, and transport of the pesticide at the field level, the type of precautions to be taken at the farm level, including use of protective gear, availability of information on safe use and application and training and management of risks, as well as options for applying IPM as a means for reducing reliance on chemical pesticides</p>	<p>For Full Equivalence, the legal framework should explicitly specify the need to reduce the reliance on synthetic chemical pesticides based on the application of an IPM approach, as well as guidance on farm level safety measures for application, storage, disposal and transport of pesticides.</p>

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	<ul style="list-style-type: none"> (b) regulate the marketing and distribution to safeguard third parties and the environment (c) establishing standards or technical competence and equipment used in the manufacture, formulation and packaging of pesticides (d) the mode and manner of use of the pesticides 		
<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>Key Element (1) Provide workers with safe and healthy working conditions and prevent accidents, injuries, and disease</p>	<p>The Factories Ordinance of 1942 and (Amendments Act 54 of 1961) ensure Safety Health & Welfare of workers. Chapter 4 of the (Amendment) Act covers Occupational Safety and Health and Payment of Workers Compensation as discussed below.</p> <p>Part II of Chapter 4 of the Amendment titled Health (General Provisions) includes special provisions covering cleanliness, overcrowding, regulations regarding space allowance for workers, temperature, ventilation, lighting, drainage, sanitary facilities and medical supervision.</p> <p>Part III of Chapter 4 of the Amendment titled Safety (General Provisions) includes special provisions covering the safety use of various types of equipment, ensuring safety against inflammable substance, fire management and safety precautions and controls, construction of floors, passages and stairs, safe means of access in place of employment, precautions against dangerous fumes, etc.</p> <p>Part IV of Chapter 4 of the Amendment titled Welfare has provisions to ensure drinking water, washing facilities and use of protective clothing</p> <p>Part V of Chapter 4 of the Amendment titled Health, Safety and Welfare (General Provisions and Regulations) ensures precautions against dangerous gases and vapour, protection of eyes, and protection against and prevention of radiation</p> <p>Part VI of Chapter 4 of the Amendment covers rules relating to notification and investigation of accidents and industrial diseases</p> <p>Part VII of Chapter 4 of the Amendment deals with provisions relating to employment of women and young persons</p> <p>Part VIII of Chapter 4 of the Amendment deals with the responsibilities of the owner of the factory or industrial facility</p>	<p>Full Equivalence</p>	<p>None required</p>
<p>Key Element (2) Establish preventive and emergency preparedness and response measures to avoid, and where avoidance is not possible, to minimize, adverse</p>	<p>National Environmental Act Amendment of 2008 defines specific measures for issues of licence for industries to operate as follows:</p> <p>Schedule II: Form A: Application for a licence for the emission of wastes: requires information on: (i) precautions to prevent accidental fires; (ii) availability of fire fighting equipment; and (iii) training of personnel in fire fighting.</p> <p>Form B: requires holder of the licence to: (d) assigning duties and responsibilities to management and</p>	<p>Full Equivalence</p>	<p>None required</p>

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impacts and risks to the health and safety of local communities	<p>staff with regard to protection of the environment.</p> <p>Schedule IV: Form A: requires arrangements for security and emergency procedures, (i) including assessment of surrounding areas to industrial site in terms of human activities, (ii) emergency measures to be adopted (including notice of warning to the public) and what are the precautions to be taken to prevent accidents; (iii) emergency measures to be adopted in the event of an accident.</p> <p>Schedule VII Form for reporting accidents, that include: (i) events leading to the accident; (ii) location and date of accident; (iii) data assessing the effects of the accident; (iv) emergency measures taken; (v) steps taken to prevent the recurrence of such an accident</p>		
<p>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>			
Key element (1) Conserve physical cultural resources and avoid destroying or damaging them by using field-based surveys that employ qualified and experienced experts during environmental assessment.	<p>The Antiquities Ordinance (Amendment) of 1956, Article 24 discuss the conservation of physical cultural resources</p> <p>24. (1) Regulations may be made prohibiting, or restricting subject to the prescribed conditions, the erection of buildings or the carrying on of mining, quarrying, or blasting operations on any land within the prescribed distance of any ancient monument situated on Crown land or any protected monument. (2) Every regulation made under subsection (1) shall have effect notwithstanding anything in any other written law; but nothing <i>in</i> any such regulation shall permit or be deemed to permit the erection of any building or the carrying on of any operations mentioned in subsection (1) in contravention of any Provision of such other law.</p>	Full Equivalence	None required
Key element (2) 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>The Regulations of the Antiquities Ordinance No. 9 of 1940 Part 1 refers to the “Discovery of Antiquities otherwise than under a licence to excavate” that requires that every person who discovers an antiquity...to furnish to the Government Agent of the Province...to which the discovery was made the following particulars relating to the antiquity:</p> <p>(i) the circumstance in which the discovery was made;</p> <p>(ii) the name and exact location of the land in which the discovery was made;</p> <p>(iii) the name and address of the owner of the land;</p> <p>(iv) the position of the discovered antiquity in relation to any ancient structural remains to be seen in the place;</p> <p>(v) the depth from the surface at which the antiquity was lying;</p>	Full Equivalence	None required

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	(vi) the state of preservation in which the antiquity was found; (vii) a full description of the antiquity with details as to the dimensions, materials, shape and weight; (viii) any information which the finder is able to furnish, regarding the identity of the antiquity; (ix) if several antiquities were found at the same place, their relative positions, illustrated by a sketch, if possible		

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