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ADB Experience: Private Sector Operations

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Policy Requirements

Social Protection Strategy 2001

In the design and formulation of its loans

- ADB will comply with internationally recognized core labor standards
- ensure that for ADB-financed procurement of goods and services, contractors, subcontractors and consultants will comply with the country's labor legislation and CLS
- as part of regular loan reviews, ADB will monitor that (i) and (ii) are complied with.

Safeguards Policy Statement 2009

SR5 Prohibited Investment Activities List

The following do not qualify for ADB financing:


- production or activities involving harmful or exploitative forms of forced labor or child labor

Case Study: Patrind Hydropower Project

Project Background

- Approved in October 2011
- Construction and operation of a 147 MW run-of-the-river hydroelectric power generation plant
- EPC contractor engaged 2 subcontractors
- Construction commenced in Jan 2013 but was delayed due to some design change. COD achieved in November 2017





2014 ADB, IFC and the Lenders' Technical Advisor Received complaints from 3 NGOs

- Patind Action Committee
- Employees and Workers Union, KPK
- Union CBA of Patreend Hydro Power Project



Labor issues raised/allegations:

1. Locals excluded from employment opportunities
2. Hiring process is not transparent, full of nepotism/favoritism
3. Workers salaries, benefits and accommodations are inadequate
4. Workers wages during holidays are not paid
5. Workers who have formed a union were unjustly terminated

Steps undertaken by Lenders

- ADB and other lenders (IFC, K-EXIM) conducted safeguard review missions in August and November 2015
- Recommendations
 - key corrective actions to be implemented immediately
 - conduct of external labor audit
 - Owner's engineer to have labor expertise to conduct internal audit

Key corrective actions by SHPL

Immediately following the 2015 Mission...

- (OHS) Workers' accommodation and facilities were improved through provision of ventilation in canteens and filtration tanks for drinking water supply
- (Wages) Two subcontractors (and subcontractors under them) instructed to
 - Pay mandated minimum wages retroactively
 - Issue payslips to workers, specify overtime/holiday pay
 - Provide contracts to workers working for 90 days or more
- (CLS, OHS) EPC agreed to ensure that overtime work hours should be within the mandates of the law, should be voluntary and that consent of workers should be obtained.
- (CLS) EPC and subcontractors to include in their human resources policy the promotion of freedom of association and include in their orientation programs workers' labor rights.
- (CLS) EPC added labor rights in their induction program and volunteered to form grievance redress committees that would include workers' representatives.

Key corrective actions by the Labor Audit

- Amend contracts of guards to reflect payment of minimum wages
- Amend contracts of workers to qualify that the ban are only imposed on illegal strikes and reflect conditions of employment
- Provision of mandatory insurance policies
- Implement work hours only to 48 hours a week, 9 hours a day
- Overtime should be rendered with double pay and with worker's consent.

Lessons Learned

- Project Company is liable for activities of its contractors and subcontractors - HR policies, sample contracts, lawful terms of employment
- CLS integration in ESMP, ESMS
- Internal Labor audits – Owner’s Engineer, Project Company HR/Labor officer oversight of Contractors
- Workers grievance committees
- Toolbox talks - code of conduct, workers rights
- Requiring a bond (e.g. % of contract cost) to cover unpaid wages, social security benefit contributions
- External E&S Monitor/LESC include labor expertise
- External labor audits
- CLS compliance reporting integrated in ESMR/AESPR submitted to ADB

PSOD's Approach

Due Diligence/Audit Items

- Project Finance (Infrastructure): ESIA
- Existing facilities: ESIA/IEE, Social Audit/Due Diligence
- Corporate Finance: ESMS Audit, Subproject E&S performance audit
- Financial Intermediary/Funds: ESMS and/or CAP, subproject/portfolio company E&S performance audit

Management Plans

- Project Finance (Infrastructure): ESMP, LMP
- Brownfield project finance: ESMP and/or CAP
- Corporate Finance: ESMS and/or CAP, Subproject ESMP/LMP
- Financial Intermediary/Funds: ESMS and/or CAP, subproject/portfolio company CAP

Financing Agreements

- CLS provisions in FA/CTA/SA
- Conditions for disbursement (subplans/LMP)
- Requirement for CAP in case of noncompliance
- Monitoring and Reporting

Project Administration

- Borrower/Clients' Annual/Semi-annual ESMP/AESPR
- ADB Safeguard and Social Review Missions, LESC/LTA , Labor Audits