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ADB Safeguard Policy Review and Update: Labor and Working Conditions

REGIONAL CONSULTATIONS

29 November & 1 December 2021



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The Safeguard Policy Review and Update Phase II consultations intend to provide opportunities for stakeholders to express their views and opinions on ADB's environment and social safeguards in the most meaningful and safe manner.

All stakeholders are encouraged to articulate any project-related input and concerns they have during the consultation sessions, all of which will be recorded and duly documented during each event proper, allowing ADB to review, consider and respond to, if necessary. Background materials on the thematic areas have been released for the reference of participants in preparation for the dialogues.

All types of project feedback are welcome and will not be used to lead to any retaliation, abuse, or any kind of discrimination. Written session documentations containing the summary of feedback will be open for review by participating stakeholders prior to disclosure to the public to ensure the comfort and safety of stakeholders, and the accuracy and transparency of proceeding records.

If you have any issues or concerns on confidentiality, potential risks, abuse, or any kind of discrimination during the course of the consultations, please get in touch with the SPRU Secretariat through safeguardsupdate@adb.org.

Gentle Reminders



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- ✓ If possible, join from a quiet, distraction-free area
- ✓ Ensure your audio and video are working
- ✓ Put your microphone on mute when you are not speaking
- ✓ Virtually raise your hand on the Zoom feature to raise a point or question
- ✓ Be respectful to other joining participants
- ✓ Be conscious of time as per the agreed agenda



AGENDA



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1. **Introduction** (5mins)
Azim Manji, Session Moderator and Stakeholder Engagement Team Leader
2. **Session 1:** Welcome and Overview of the Safeguard Policy Statement (2009) and Update Process (10mins)
Bruce Dunn, Director, Safeguards Division (SDSS)
3. **Session 2:** Introduction and Background on Labor and Working Conditions (5min)
Haidy Ear-Dupuy, Senior Social Development Specialist (Labor)
4. **Session 3a:** Purpose, Scope and Process of the Study (10min)
Session 3b: Key Study Findings (15min)
Session 3c: Recommendations (5min)
Jay Wagner, Labor Consultant
5. **Session 4:** Moderated Discussion (70 minutes)
Moderated by Jelson Garcia, Senior Stakeholder Engagement Specialist
6. **Event Evaluation** (5 minutes)
7. **Wrap up** (5 minutes)
Bruce Dunn

Session I: Welcome and Overview of the Safeguard Policy Statement (2009)

Bruce Dunn, Director, Safeguards Division



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Session 2: Introduction and Background on Labor and Working Conditions

Haidy Ear-Dupuy, Senior Social Development Specialist (Labor)



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Background



- ADB is updating the 2009 Safeguard Policy Statement (SPS)
- Labor and Working Conditions (LWC) is one of studies being conducted to feed into the Safeguard Policy Review and Update (SPRU).
- ADB commissioned Plexus Energy consultant Jay Wagner to review policy requirements on LWC and benchmark against peer MFIs (WB, AIIB, IFC, EBRD, and IDB)



- **Safeguard Policy Statement (2009)**
- **Social Protection Strategy (2001)**
 - » Social Protection Operational Plan
 - » Operation Manual C3: Incorporation of Social Dimensions into ADB Operations
 - » Initial Poverty and Social Assessment (IPSA) and Summary Poverty Reduction and Social Strategy (SPRSS) reports on Core Labor Standards due diligence
 - » Loan Covenant, Project Administration Manual and Contract Agreements

Session 3a:

Purpose, Scope and Process of the Study

Jay Wagner, Labor Consultant



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Purpose and Scope



- Review ADB documents and policies inc. the 2009 SPS, Social Protection Strategy, Strategy 2030, Handbook for Poverty and Social Analysis, Handbook on Core Labor Standards (CLS), etc.
- Conduct comparative review of key similarities and differences on LWC standards/policies and implementation arrangements (guidance materials and requirements) of ADB and peer MFIs.
- Identify: best industry practices, standards and guidance; gaps, areas of convergence; strengths and weaknesses; critical issues to be addressed; and make recommendations.
- LWC includes: the core labor standards (child labor, forced labor, nondiscrimination, and freedom of association), health and safety, supply chain, other labor issues such as retrenchment.



Process and Deliverables



1. Document Review and Stakeholder Interviews

2. Draft Report

3. Final Report containing:

- A gap analysis of LVC in 2009 SPS and a comparative analysis of MFIs safeguard policies, implementation requirements and practices
- Recommendation for ways forward on LVC for ADB's updated Safeguard policy



Session 3b: Key Study Findings

Jay Wagner, Labor Consultant



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Key Findings

No. 1



- **ADB LWC Provisions are scattered**

- LWC provisions scattered over multiple documents – CLS Handbook, Handbook on Poverty and Analysis, etc.
- MDB peers (except AIIB) have a consolidated, stand-alone LWC Safeguard Standard

- **Lack of Clarity and Accessibility**

- A stand-alone LWC safeguard and associated specific guidance, like some ADBs peers have adopted, has proved beneficial in terms of clarity and accessibility for both staff and borrowers

- **Aspirational vs Practical**

- ADB provisions worded such that they aspire more to an overall development objective whereas other MFIs approach is more practical and applied
- No specific details on how to implement the CLS
- ADBs peers have defined clear, practical and auditable requirements for their clients, supported by operations-focused guidance notes

Key Findings

No. 2



- **Policy Principles vs Performance Standards (PS)**

- PS approach is seen as better suited to address LWC issues and to require compliance by borrowers
- Clear and binding safeguard requirements would likely enhance developmental outcomes

- **Absence of Guidance and Operationalisation**

- ADB lacks project-specific guidance
- LWC requirements are not implementation-focused and not operationalized

- **Loan Modalities**

- LWC transcend the different loan modalities and are equally applicable to private sector project finance as well as public sector lending

- **Descriptive vs Prescriptive**

- ADB focuses on a “what is”, explaining the LWC issue and how ADB can help address it
- Other MFIs chose a more prescriptive, “how to” approach for clients and projects
- Language of peer MFI LWC provisions is more binding. Absence of more binding language gives the impression that compliance with the CLS is optional, with national LWC provisions prevailing

- **Allocating Responsibility**

- IFC, WB, EBRD and IDB put onus of managing and monitoring LWC on borrowers / projects
- ADB does not allocate clear responsibility to borrowers - where it is mentioned, it falls mainly to ADB/ADB staff

- **Gaps and Omissions**

- Compared to other MFIs, ADB has key gaps on cross-cutting and emerging issues, such as vulnerability, grievance mechanism, labor influx / migrant workers, supply chain, gender and gender-based violence etc.
- These themes reinforce the importance of LWC as a core issue in project finance and sustainable development
- Implicit reference to the CLS in the safeguards is not sufficient

- **Harmonisation with MFI Peers**

- The absence of a consolidated and up-to-date safeguard addressing LWC is becoming an obstacle to co-financing with other MFIs.
- Increased harmonization between MFIs would lower transaction costs and makes it easier for staff to evaluate and oversee projects and for borrowers to comply with LWC requirements

Session 3c: Recommendations

Jay Wagner, Labor Consultant



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Recommendations

No.1



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Key Recommendation: Update SPS and adopt a LWC Performance Standard

- **R1 – Adopt a Stand-Alone LWC Performance Standard**
 - Consolidate LWC provisions and provide greater clarity for staff and borrowers
 - Understand the resource requirements involved
- **R2 – Safeguards Oversight and Quality Assurance**
 - Review the arrangements and steps needed to implement and oversee the roll-out of a LWC PS
 - Consider the kind of indicators needed
- **R3 – Tighten the Language of LWC Provisions**
 - Ensure that provisions are based on more definitive language such as "must" or "should"

Recommendations

No. 2



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- **R4 – Guidelines and Tools**
 - Develop, in parallel to a stand-alone LWC PS, operationally-focused LWC guidelines, guidance notes and tools for borrowers
- **R5 – Strengthen Bank Expertise in LWC**
 - Carry out a review of the technical expertise needed
 - Develop a capacity building and training program, learning lessons from other MFIs
- **R6 – Review CLS Implementation Status**
 - Review the extent to which the CLS are ratified and implemented in key ADB operating countries and establish where gaps exist

Session 4: Moderated Discussion

Moderator: Jelson Garcia, Consultant



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1. **What works and doesn't work with the current approach of ADB on LWC?**
 - What are the main obstacles to achieving the SPS/CLS objectives? What is missing?
2. **What should be the key implementing requirements for the LWC (particularly CLS)?**
 - What other aspects of working conditions in addition to CLS should be considered?

Sequence for Q&A

1st sequence – Open for statements and sharing of perspectives and recommendations (raised hands to speak)

2nd sequence – Questions sent in advance (through Zoom registration)

3rd sequence – Questions posted on the chat box and participants raising hands will be called in batches

Quick Poll

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From 1 (not effective) to 5 (highly effective),
how would you rate the effectiveness of this consultation?

Quick written feedback via www.menti.com



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Wrap Up and Synthesis

Bruce Dunn, Director, Safeguards Division



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THANK YOU!

GET INVOLVED

Please send us
your feedback and
suggestions



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