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ADB Safeguard Policy Review and Update: Policy Architecture

REGIONAL CONSULTATIONS

15, 16 & 17 November 2021



SAFEGUARD
POLICY REVIEW
AND UPDATE

ADB



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. Welcome Remarks** (5 mins)
Bruno Carrasco, Director General, concurrently Chief Compliance Officer,
Sustainable Development and Climate Change Department (SDCC)
- 3. Session 1:** Overview of the Safeguard Policy Statement (2009) and Approach to Policy Update.
(15mins)
Bruce Dunn, Director, Safeguards Division (SDSS), SDCC
- 4. Session 2:** Policy Architecture Study: Comparative Analysis of the SPS with the policies of other MFI policies. (30mins)
Zehra Abbas, Principal Environment Specialist, SDSS, SDCC
Madhumita Gupta, Principal Social Development Specialist, SDSS, SDCC
- 5. Screen Break** (5mins)
- 6. Session 3:** Moderated Discussion on Policy Architecture. (75 mins)

Session I: Overview of ADB Safeguard Policy Statement, 2009 and Approach to Policy Update

Bruce Dunn, Director, Safeguards Division



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ADB Safeguards Policy Statement, 2009 (SPS): Overview

Three Policy Objectives

1 Avoid adverse impacts of projects on the environment and affected people, where possible;

2 Minimize, mitigate, and/or compensate for adverse project impacts on the environment and affected people when avoidance is not possible

3 Help borrowers/clients to strengthen their **safeguard systems** and develop the **capacity** to manage environmental and social risks.

Scope and Architecture

- **Approved July 2009**, effective March 2010, 11 years of implementation experience
- **Scope:** 3 main policy areas: Environment (ENV), Involuntary Resettlement (IR), and Indigenous Peoples (IP)
- **Architecture:**
 - One umbrella policy statement. 3 sets of policy principles.
 - Borrower requirements for each of the 3 policy areas (Appendices 1-3)
 - Requirements for different finance modalities – e.g. sector loans, emergency assistance, policy-based lending, financial intermediaries, corporate finance. No coverage of results-based lending (Appendix 4)
 - Prohibited Investment Activities List (Appendix 5)
 - Strengthening and Use of Country Safeguard Systems (Appendix 6)

Related ADB Policies, Strategies and Procedures

- [ADB Strategy 2030](#) and [Strategy 2030 Operational Priority Plans](#) – guide ADB to achieve vision of a prosperous, inclusive, resilient, and sustainable Asia and the Pacific
- ADB also has a range of social, environment and climate related strategies, policies and procedures that have relationships with safeguards.
- **Social Protection, Social Development and Gender**
- [Social Protection Strategy, 2001](#)– Includes requirements to apply Core Labor Standards
- [Policy on Gender and Development, 1998](#) – Gender related benefits and risks also screened, and classified, and gender action plans prepared (ADB Operations Manual (OM) C2/BP).
- [Poverty and Social Analysis](#) – Analyzes social issues and benefits covering poverty, vulnerabilities, labor and health (OM C3/BP).
- **Climate Change**
- [ADB Climate Change Operational Framework 2017-2030](#).
- Climate change risk screening and assessment required since 2013, with detailed climate risk and vulnerability assessment (CRVA) required for all projects that are medium or high risk.

Independent Evaluation Department (IED): Corporate Evaluation of Effectiveness of the 2009 Safeguard Policy Statement

Key findings:

- Overall performance of projects – preparation highly satisfactory, implementation, capacity and effectiveness needs attention
- Environment and IR results were satisfactory. IP results were limited.
- Limited integration between environment and social safeguards
- Private sector projects performed better than sovereign projects.
- Decline in risk profile of the portfolio over time (less Category A projects).
- Greater effort needed on country safeguard system strengthening.
- Safeguard staffing has increased, resulting in increased institutional capacity.
- Safeguards oversight structure needs strengthening for consistent due diligence and corporate monitoring.
- The roles and responsibilities of ADB and its clients need clarity.



Source: IED, 2020. [Corporate Evaluation of Effectiveness of the 2009 Safeguard Policy Statement](#)

Independent Evaluation Department (IED): Recommendations

1. **Modernize the SPS**, increasing its relevance and customizing it for both sovereign and private sector financing, by building on evidence from the SPS implementation experience and recent safeguard policy updates at other MFIs.
2. **Adopt a new approach in the policy to strengthening borrower systems**, with a view to a more systematic improvement and pragmatic use of country systems.
3. **Introduce a new safeguard implementation framework**, including an updated oversight structure and reporting lines that are strengthened and contribute to more consistent safeguard outcomes across ADB.
4. **Underpin the safeguards policy and implementation framework** with sufficiently detailed policy guidance (e.g., Operations Manual and Staff Instructions) and a range of operational guidance documents and good practice notes with established mechanisms for regular reviews and updates.
5. **Assess the necessary staffing complement** to deliver the safeguards implementation framework and strengthen skills, empowering staff to deliver better safeguard outcomes.

Safeguards Policy Review and Update (SPRU)

Approach and Methodology

Policy update time frame: 2.5 years - August 2020 to March 2023

Implementation phases:

- 1. Policy update planning** (August 2020 - June 2021):
 - [Background Information Paper](#) (November 2020).
 - [Stakeholder Engagement Plan](#) (April 2021, updated July 2021)
 - [Preliminary information sessions](#) and outreach (May-July 2021)
- 2. Analytical Studies** (December 2020 – June 2022):
 - Policy architecture, benchmarking standards / thematic issues
 - Review implementation experience
- 3. Policy preparation** (April 2022 - March 2023):
 - Working paper for ADB Board consideration (October 2022)
 - Final ADB Board approval (March 2023)
- 4. Policy roll out** (2023-2024):
 - Implementation guidance, staff instructions, good practice notes,
 - Training and capacity building for staff and clients

**Stakeholder
Engagement &
Consultation**



Stakeholder Engagement Plan – Overview

Phase 1: Jun 2020 - May 2021

Preliminary Information and Stakeholder Outreach

- Preparation of approach
- Preparation of stakeholder engagement plan
- Hold preliminary information sessions
- Feedback on plan
- Identification of issues of concern

Phase 2: Nov 2021 - April 2022

Share Findings of Key Analytical Studies

- Issue-based consultations and stakeholder outreach
- Consultations on key findings
- Disclosure of studies
- Documenting comments

Phase 3: April 2022 – Mar 2023

Analyze, Draft, Revise and Finalize

- Incorporation of Phase 2 recommendations into revised draft policy
- Stakeholder consultations on draft policy
- Disclosure of final draft prior to ADB Board consideration

Target groups:

- ADB Developing Member Countries (DMCs)
- Civil society and non-government organizations
- Project affected people and beneficiaries
- Private sector, including ADB clients
- International organizations and financial institutions

Types of consultations:

- Regional consultations
- “Deep Dives” with DMCs
- Focus group sessions
- Affected people consultations

Highlights from Initial Stakeholder Outreach



- **Do not “water-down safeguards”**
- **Expand policy scope and coverage**, e.g. climate change; labor and working conditions,
- **Strengthen safeguards for vulnerable and disadvantaged groups:** e.g. poor, women and girls, youth, sexual exploitation, abuse, and harassment (SEAH), disability, sexual and gender minorities
- **Enhance approach for Indigenous People:** eg, strengthen social impacts assessment, introduce Free, Prior, Informed Consent (FPIC)
- **Improve stakeholder engagement, meaningful consultation, information disclosure** and functioning of grievance redress mechanisms (**GRMs**).
- **Guidance for different financing modalities including** financial intermediaries
- **Improve implementation and oversight**, learn lessons from Accountability Mechanism cases.
- Reduce **transaction costs**, increase harmonization with other financiers
- Practical approach for use of **country safeguard systems (CSS)** / management CSS risks
- **Assess resource implications**, capacity and skills needs for the new policy
- **Consideration of human rights obligations**

Analytical Studies on Selected Topics



Policy Structure, modalities and institutional arrangements	Environment	Social
Policy Architecture	Biodiversity	Involuntary Resettlement
Integrated classification and assessment	Pollution Prevention and Environmental Standards	Livelihoods
Financing modalities	Occupational health and community safety	Indigenous Peoples
Country Safeguards Systems	Cultural heritage	Labor and working conditions
FCAS and SIDS	Climate change	Vulnerable and disadvantaged groups, including gender, SOGI, SEAH, others
Oversight Structure and implementation arrangements	Grievance Redress Mechanisms	
Staffing and human resources	Lessons learnt from project cases under the Accountability Mechanism	

Session 2: Policy Architecture Study Comparative Analysis of the SPS with other MFI Policies

Zehra Abbas, Principal Environment Specialist, SDSS

Madhumita Gupta, Principal Social Development Specialist, SDSS



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Safeguards Policy Update

Objective of the SPS Architecture Study



- Assessment of ADB's **current safeguards architecture**, including safeguard-related elements of various ADB strategies, policies and procedures in addition to the SPS.
- Review of the safeguards structure, implementing procedures of other **Multilateral Finance Institutions** (MFIs) that have updated their safeguard frameworks in recent years.
- Identification of safeguard issue areas that may require additional attention as ADB updates its safeguards framework.

Architecture Study

Study Methodology



- The Architecture study reviewed the ADB SPS against the safeguard frameworks of 5 comparator MFIs: AIIB, EBRD, IDB, IFC, WB
- **Criteria** used to compare the MFI safeguards frameworks is:
 - i. policy structure;
 - ii. scope and coverage;
 - iii. safeguards implementation procedures and systems;
 - iv. risk classification/categorization; and
 - v. compliance requirements

(i) MFI Policy Comparative Analysis: Policy Structures

- **Four of the five MFI frameworks follow a “Performance Standards” (PS) model** (EBRD, IDB, IFC, VVB). The structural features are grouped around these aspects:
 - An **overarching policy statement or vision statement** with institutional commitments to environmental and social sustainability
 - **Borrower / client requirements** for safeguards implementation, set out within 8 to 10 Performance Standards / Performance Requirements
 - Clear delineation of borrower **roles and responsibilities**
 - Most MFIs have additional internal directives and guidance
- **AiIB follows a “principles-based” approach** like ADB’s SPS with an umbrella safeguard policy statement, scope and objectives, followed by policy principles and requirements across Environment, Involuntary Resettlement and Indigenous Peoples safeguards.
- In the Dec 2020 update **AiIB** expanded requirements and included broader coverage of social issues.

(ii) MFI Policy Comparative Analysis:

Scope of Policy Application and Thematic Coverage

- **Scope:** ADB SPS has the widest scope covering all **financing modalities** across sovereign and non-sovereign.
- WB's Environmental and Social Framework (ESF, 2016) only applies to investment loans. Requirements for other financing modalities are covered by other policies.
- **Thematic Coverage:** All models cover thematic topics such as labor, health and safety, biodiversity, gender, climate change, cultural heritage, with minor variations. Some MFIs have separate standards for stakeholder engagement, gender and financial intermediaries.
ADB's current safeguard policy has **policy gaps** in these thematic areas.
- **Borrower Systems:** ADB SPS and the WB ESF both allow for the use of Borrower's safeguards systems under their own specific assessment criteria. This feature is not available in the safeguard frameworks of other MFIs.

Gaps in SPS Scope and Coverage

The study identified a range of differences in policy scope and coverage between ADB and other MFIs:

- **Social Risks and Impacts**, providing broader coverage, including for vulnerable and disadvantage groups and nondiscrimination;
- **Free, Prior and Informed Consent (FPIC)** and specifying circumstances where FPIC is required and special circumstances of indigenous peoples living in voluntary isolation.
- **Labor Working Conditions** through inclusion of a specific standard;
- **Disabilities**, ensuring nondiscrimination and equal opportunity for persons with disabilities;
- **Gender-based violence (GBV) and SEAH**, identifying, reporting and response to project risks;
- **Explicit reference to Human Rights**, including affirmation of UN human rights frameworks;
- **Integration of Climate Change and Disaster Risks, and** lower thresholds for GHG emissions;
- **Intangible Cultural Heritage** resources, and risks to these;
- **Risk of Retaliation against Stakeholders**, through explicit commitments for avoidance;
- **Security Personnel and Risks** associated with their use in projects;

(iii) MFI Comparative Analysis: Implementation Procedures & Systems

- **Implementation procedures for safeguards frameworks** have been developed by each MFIs outlining roles and responsibilities.
- **ADB Safeguard review procedures** are prescribed through the SPS itself and the operations manual for the SPS as well as of other policies.
- **All other MFIs** also provides roles and responsibilities through their safeguards frameworks and other supporting institutional directives.
- **World Bank Group's Environmental, Health and Safety Guidelines (EHS)** is required to be applied by all MFIs.

(iv) MFI Comparative Analysis: Impact & Risk Classification

- **ADB** undertakes Significance-based classification of impacts for project categorization. In the **Results Based Lending** modality an additional risk assessment layer is added for **contextual risk factors**.
- **Other MFIs** follow an integrated environmental and social classification approach based on impacts and risks across all safeguard standards, also incorporating **contextual risks**. Definitions of risk category, and project classification models vary across MFIs. Risks, and classification can also change during implementation.
- **What are Contextual Risks?** In addition to project environmental and social impacts, factors such as borrower capacity and track record, FCAS and SIDS considerations, or stakeholder concerns and complaints introduce elements of risk that most MFIs are now incorporating in their classification systems. ADB can consider this approach.
- **Risk Classification models** can be two step: impacts based classification followed by a risk layer (IDB); single step: impacts and risk-based classification (WB); or single step, only significance-based classification (current ADB SPS).

(v) MFI Comparative Analysis: Compliance Requirements

- **ADB:** Emphasis on front loaded due diligence approach ensuring compliance at project appraisal.
- **AIIB Phased approach:** Front loaded compliance with some situation specific later actions.
- **Performance Standards Approach:** Compliance over specified time frames that can be achieved after project appraisal and Board approval-through legal agreements.
 - **World Bank-Environmental and Social Commitment Plan:** obligations are agreed upon to achieve compliance after project approval.
 - **IDB:** Compliance over time approach with agreed for compliance after project approval.
 - **EBRD:** Discretionary flexibilities.
 - **IFC:** Compliance to be achieved over a reasonable period of time - project dependent.

Summary of Findings

- **Performance Standards model** offers more clarity and detail on policy objectives and requirements compared to ADB policy principles. Clearer delineation of borrower/client roles and responsibilities.
- **Greater integration of environmental and social considerations** in classification and assessment processes, addressing links between environment and social impacts. Wider consideration of vulnerabilities and cross-cutting risks.
- **Compliance over time** vs. front loaded safeguards requirements vary across MFIs. To achieve safeguards outcomes the right balance and approach are needed.
- **Opportunities for greater harmonization** through closer alignment of ADB and MFI policies. This can simplify Cofinancing and **training, capacity building programs and guidance** materials can be shared across MFIs and borrowers/clients.

Possible Scope of the Revised SPS

- Aligning the new policy with the performance standards model would provide a clear structure consistent with other MFIs.
- The new model should enhance integration between environmental and social safeguards,
- Standards to be included and specific requirements need further analysis (examples):
 - Inclusion of a standard on labor and working conditions
 - Broader consideration of vulnerable and disadvantaged groups
 - Managing risks of gender-based violence and sexual exploitation, abuse and harassment;
 - Assessment of climate change risks and vulnerabilities and GHG emissions.
 - Indigenous peoples safeguards, including use of FPIC.
 - Protecting cultural heritage, including intangible cultural heritage;
 - Managing primary supply chain risks;
 - Enhanced management of health and safety risks, including asbestos
 - Approach to strengthening stakeholder engagement and managing retaliation risks

Implications for further consideration

- **Increased scope and due diligence requirements** could lead to the need for increased financial and human resources per project.
- **Training and capacity building program** will be needed over the long-term. Partnerships on safeguards training and capacity building are needed.
- **Technical assistance resources** allocation may be needed support enhanced due diligence requirements for some DMCs, including FCAS and SIDS.
- **Safeguards quality assurance systems and implementation arrangements** across ADB will need to be reviewed and strengthened.
- **Staffing increase, skills optimization and deployment** may be required to support better policy implementation (new areas, plus field support).

Next Steps: Towards a Performance Standards Approach

- **Stakeholder feedback** on the proposed performance standards approach
- **Undertake detailed studies on each individual performance standard** in comparison with SPS required to draft new policy requirements (ongoing).
- **Review current safeguards oversight, quality assurance systems and institutional arrangements** for gaps and strengthening.
- **Review technical and financial resource** requirements for implementing the PS model. Staff resources (number, expertise, skills mix, deployment etc.)
- **Training and capacity building needs assessment and plan** (staff and DMCs).
- **Review options** for the strengthening and use of country and borrower systems.

Session 3: Moderated Discussion on Policy Architecture



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Open Discussion Forum

- **Please type in your questions and views** about the topic discussed and the material that we shared with you in advance.
- Time: 20min

Guide Questions for the Discussion

1. What are your views on the merits of aligning with the Performance Standards model for safeguards?
2. Are there any important areas that you feel should be added to the scope of the new safeguards policy?
3. How would you recommend that safeguards implementation outcomes can be improved?
4. Please share your views on any other issues that you feel need to be addressed by ADB in the safeguards policy revision process.

THANK YOU!

GET INVOLVED

Please send us
your feedback
and suggestions



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