

ADB Safeguard Policy Review Update – Phase 2 Regional Consultation Summary: Environmental and Social Impacts and Risk Assessment

21-23 March 2022

Disclaimer: The views expressed in this document are the views of the author/s and do not necessarily reflect the views or policies of the Asian Development Bank, or its Board of Governors, or the governments they represent. ADB does not guarantee the accuracy of the data included in this document and accepts no responsibility for any consequence of their use. The countries listed in this document do not imply any view on ADB's part as to sovereignty or independent status or necessarily confirm to ADB's terminology.

I. BACKGROUND

1. The Asian Development Bank (ADB) is undertaking a comprehensive review and update of its 2009 Safeguard Policy Statement (SPS).¹ The update process has been initiated by ADB Management following a Corporate Evaluation of the SPS by ADB's Independent Evaluation Department (IED), completed in May 2020 (IED Report).² The update will build off the findings and recommendations of the IED report, which ADB Management endorsed. Overall, the policy update will seek to strengthen safeguard implementation effectiveness and efficiency, in ways that will enhance beneficial safeguards outcomes for affected people and the environment.

2. The revised safeguard policy is expected to be ready for ADB Board consideration in 2024, following a process of further reviews, policy development and meaningful stakeholder engagement. As part of the stakeholder engagement process, ADB is undertaking a series of analytical studies to benchmark ADB's current SPS against the safeguard policies of selected multilateral financial institutions (MFIs) and also briefly consider implementation experience.³ The studies will inform the development of the new safeguard policy and will be provided for stakeholder review and consultations.⁴ Stakeholder engagement and consultation will have three main phases: Phase I - preliminary information and outreach on the overall approach for the policy update and stakeholder engagement plan; Phase II - consultation on the analytical studies; and Phase III - consultation on the draft policy paper. The objective of Phase II consultations, currently being conducted, is to obtain a better understanding of the views of stakeholders on safeguards implementation challenges and good practices, as well as recommended policy directions. This document provides a summary of the consultations for the analytical study on Environmental and Social Impacts and Risk Assessment.⁵

II. PROCEEDINGS

3. The online regional consultations for Environmental and Social Impacts and Risk Assessment were conducted on 21-23 March 2022. Five sessions were organized in various time zones to allow participation of ADB's developing member countries (DMCs), other ADB regional and non-regional members, as well as civil society organizations (CSOs) and non-governmental stakeholders.⁶ A total of 282 stakeholders participated in the five sessions, where each session ran for more than two hours, providing ample time for discussion. The main language used in all sessions is English and simultaneous interpretations were provided.⁷ Consultation materials were provided to the participants in advance, and these were translated into various languages.⁸

4. The agenda for the five sessions followed a similar format, starting with a welcome message from Bruce Dunn, Director of the Safeguards Division (SDSS) of the Sustainable

¹ ADB. 2009. [Safeguards Policy Statement](#). Manila.

² Independent Evaluation Department. 2020. [Evaluation Document: Effectiveness of the 2009 Safeguard Policy Statement](#). Manila.

³ The studies are intended to complement the evaluation completed by IED in May 2020 and will not duplicate IED's work on the overall effectiveness of the SPS.

⁴ The update process is guided by a [Stakeholder Engagement Plan](#).

⁵ ADB. 2022. [Summary of the Analytical Study for the Safeguard Policy Review and Update: Environmental and Social Impacts and Risks Management \(Draft for Consultation\)](#)

⁶ The five sessions were for: (i) DMCs in East and Southeast Asia and the Pacific; (ii) DMCs in South, Central and West Asia; (iii) CSOs and NGOs in East and Southeast Asia and the Pacific; (iv) CSOs and NGOs in North America and Europe; and (v) CSOs and NGOs in South, Central and West Asia.

⁷ Languages available for simultaneous interpretations were Hindi, Urdu, Russian, Bahasa Indonesia, Chinese, Khmer, Lao, and Vietnamese.

⁸ The analytical study and presentations are available in English, Hindi, Russian, Chinese, and Bahasa Indonesia.

Development and Climate Change Department (SDCC). It was proceeded by a presentation from Reidar Kvam, Lead Advisor and Consultant to ADB, on the preliminary findings of the Environmental and Social Impacts and Risk Assessment study. A moderated discussion followed where participants were provided space and time to ask questions and give their inputs for the policy update. The session ended with a brief event evaluation and a synthesis by Bruce Dunn.

5. In his welcome message, Bruce Dunn narrated the history and purpose of the SPS and how it is related to ADB's other policies, strategies, and procedures. He presented the key findings and recommendations of the detailed review of the SPS effectiveness conducted by the IED. He gave an overview of the ongoing SPS Review and Update Process, the timeline, and analytical studies, and presented the stakeholder engagement plan that underpins the entire review process. Finally, he highlighted four key points to guide the discussion on strengthening environmental and social impact and risk screening and assessment process. He emphasized that (i) the scope of risk to be assessed as part of the safeguards should be broadened; (ii) the need to have an integrated assessment in terms of understanding the linkages between environmental and social issues; (iii) a robust social analysis for a project area that takes into consideration impact and risks to vulnerable and disadvantage individuals and groups; (iv) the need to shift from frontloading assessments at project preparation stage to more attention across the project cycle; and (v) scope to take a more adaptive and risk based management approaches.

6. Reidar Kvam presented the preliminary findings of the Environmental and Social Impacts and Risk Assessment study. He summarized the purpose, scope, methodology and key findings of the study. The study made a comparison of ADB's 2009 SPS risk management framework with international good practice among MFIs, identified gaps and ways ADB can incorporate current and emerging good practice related to risk assessment. Six comparator institutions' frameworks were included in the study. These were (i) the Asian Infrastructure Investment Bank (AIIB); (ii) World Bank; (iii) International Finance Corporation (IFC); (iv) European Bank for Reconstruction and Development (EBRD); (v) Inter-American Development Bank (IDB); and (vi) IDB Invest. The emerging good practices and area of focused were also discussed, which emphasized on having an integrated and balanced environmental and social assessment process, greater attention to stakeholder engagement, comprehensive and informed risk management systems, among others.

7. He also discussed how the policy architecture among MFIs converge on aspirational goals through policies and standards, procedures and organization structures, and guidance, tools, and good practices. He discussed the various risk factors considered in environmental and social risk assessments including those that related to direct and indirect adverse impacts of a project, inherent sector risks, vulnerability and sensitivity in the operating environment, biodiversity, vulnerable or disadvantaged groups, contextual risk factors, and performance related risks (e.g., management systems, capacity, resources, commitment). He further clarified that higher risk projects require more effort during preparation and implementation period. He added that an integrated environmental and social assessment process would require analytical and participatory work with different projects stakeholders and decision makers as well as ensuring environmental and social issues are integrated into project design. At the end of his presentation, he shared the issues for consideration regarding the SPS update.

8. Zehra Abbas, Principal Environment Specialist, SDSS, provided a framing of the risk-based assessment approach related to the environmental and social risk assessment and the evaluation study including the issues that ADB needs to consider for the updated policy. She shared that ADB will align with the approach adopted by comparator MFIs and has identified areas for strengthening, which includes (i) integrated risk-based classification; (ii) environmental

and social impact assessment (ESIA); (iii) introduction of an adaptive risk management process; (iv) ADB's safeguard oversight mandate; and (v) capacity building program for borrowers and ADB staff. She also shared the guide questions for discussion, which was moderated by Felix Oku, Senior Social Development Specialist, SDSS.

III. KEY TAKEAWAYS AND DISCUSSION

9. In the moderated discussion, participants were encouraged to share perspectives or provide recommendations to improve ADB safeguard policy and implementation. Four guide questions were raised to guide participants in conveying their comments and inputs, including: (i) How can environmental and social risks and impact assessment process be strengthened?; (ii) How should contextual risks (e.g., governance, fragility, conflict, and security risks) and client capacity be better considered to ensure project performance?; (iii) How can ADB improve the assessment and management of risk for vulnerable and disadvantaged groups?; and (iv) What should be the considerations for balancing pre-project approval requirements with certain actions that can be undertaken later?

10. The discussion elicited important topics from participants: (i) scope and implementation of four-tier risk categorization approach and methodologies including benchmarking and triggers; (ii) clear scope, role and responsibilities on implementation of risk categorization; (iii) integration of reporting and monitoring frameworks; (iv) dynamic risk assessment and categorization for associated facilities; (v) looking at the portfolio level risks and the environmental and social management systems (ESMS) and financing modalities for financial institutions; (v) risk identification and labor management issues; (vi) inclusion of digital risks in risk assessments; (vii) role of environmental and social commitment plans (ESCP); (viii) capacity building; (ix) financial intermediaries and its management and (x) financing of ESIA. Other issues raised were on (i) use of gap analysis for national environment impact assessment (EIA) requirements and ADB requirements; (ii) compensatory afforestation; (iii) eminent risk on land related matters; (iv) selection of indicators for environmental analysis; (v) compliance of smaller projects to the risk assessment; (vi) establishment of "no go zones"; (vii) climate change risks and assessments including nature and biodiversity issues; (viii) human rights; and (xii) reprisal risk assessment.

11. There were several suggestions for ADB to provide a clear standard and mechanism for planning, implementation, and monitoring of environmental and social risk assessment. On meaningful consultation, it was suggested that stakeholders are involved not only during the pre-implementation phase but also during implementation. Suggestion to ensure that female participants as well as vulnerable and disadvantaged groups would be provided access to the consultation process. In terms of issues relating to labor and labor management under the risk identification, concept of intersectionality and vulnerability risk factors, it was suggested that ADB has to consider the country's performance on workers and trade union rights as documented in the International Trade Union Confederation (ITUC) Global Rights Index Report, ratification of International Labour Organization (ILO) Core Conventions and more importantly the alignment of national labor laws to these Conventions as evidenced by the reports of the ILO Supervisory Mechanisms and jurisprudence. Similarly, in terms of the proposed mitigation measures, it is worthwhile to set-up workers' welfare fund to guarantee workers' claims on adverse impact of the project even beyond its completion.

12. On project affected persons (PAPs) and resettlement costs, it was suggested that PAPs should be resettled before commencing the project to avoid delays in completion of project and resettlement cost as part of loan.

13. The participants highlighted the importance of capacity building for government agencies at the national, local and project levels that need to be undertaken. Some topics for capacity building includes proposed four-tier dynamic risk categorization approach, methodologies and tools, sensitization activities on environmental and social safeguard implementation, income restoration, procurement, and safeguards, among others were identified.

14. On disclosure of data, participants highlighted the importance of disclosing information generated from the monitoring reports especially in the local languages particularly in non-democratic countries where quite often are the only source of information to ensure public monitoring for clients. It was also suggested to include disaggregated data (e.g., by children's age), collection of baselines and endline data into the assessment process.

15. Participants also mentioned the need for a safeguard policy, which clearly delineates the role of the client and the bank in the same policy document. From a local community perspective, and those who want to understand what their entitlements are in terms of safeguards, they must clearly know what the responsibility of the bank is when it comes to EIA and social impact assessment (SIA), disclosure information and what is the role of the client.

16. It was recommended that in any risk assessment, explicit reference to groups who might be disproportionately impacted should be considered rather than collapsing everyone into one term of vulnerable groups. This is to enable differentiated impacts to be incorporated into the various assessment materials. Also, explicit consideration on gender-based violence and sexual exploitation in the risk assessment process and then management in the project context were also emphasized.

17. On inclusion of digital risks in the environmental and social assessment, two general concerns were raised: (i) information and communication technology (ICT) and ICT related projects are often based on assumptions of advanced and stated development goals (i.e., poverty reduction, gender equity or improving agricultural production) but these assumptions often lack basis or evidence; and (ii) projects with digital dimensions often lack deliberative planning and wider stakeholder consultation, which leads to little consideration of the real footprint of projects or which communities are going to be impacted and how exactly they are going to be impacted. Based on the ADB projects that were reviewed, it was recommended that it requires more than data protection to mitigate digital technology risk, it also needs a social assessment prior to implementation. Moreover, consultation and assessment of risks of technologies, even where social impact might not be obvious, were suggested.

18. ADB acknowledged the recommendations of stakeholders and highlighted the need to look at (i) strengthening the whole approach to risk assessments including additional focus on contextual risk analysis; (ii) strengthening the integration between the environmental and social issues; (iii) strengthening focus on considering risks to vulnerable and disadvantaged groups and pros and cons of taking a more adaptive and flexible approach; and (iv) highlighting distinctions on the identification of risks and management of risks.

IV. EVALUATION AND WRAP UP

19. The moderated discussions were followed by a quick evaluation exercise. In all five sessions, most of the participants gave a rating of 4 (effective) or 5 (highly effective), on a scale of 1 to 5. Only a few participants gave the five sessions a rating of 3 (neutral) with written suggested comments to improve the consultations documented in Menti.com.

20. The synthesis for each consultation included a summary of key points and questions raised by participants. It was followed by an overview of the next steps and a reminder to send ADB further suggestions and recommendations in writing.

Session recordings can be accessed here:

1. 21 March 2022: Government Stakeholders in East Asia, Pacific, and Southeast Asia
<https://events.development.asia/node/66791>
2. 21 March 2022: Government Stakeholders in South Asia and Central and West Asia
<https://events.development.asia/node/66796>
3. 22 March 2022: CSOs and other Non-Governmental Stakeholders in East Asia, Pacific, and Southeast Asia
<https://events.development.asia/node/66801>
4. 22 March 2022: CSOs and other Non-Governmental Stakeholders in North America and Europe
<https://events.development.asia/node/66806>
5. 23 March 2022: CSOs and other Non-Governmental Stakeholders in South Asia and Central and West Asia
<https://events.development.asia/node/66811>

FEEDBACK FROM STAKEHOLDERS

Disclaimer: In view of transparency, the feedback was documented based on the manner of delivery or sharing of the stakeholders, though some feedback was edited for brevity and clarity. They are categorized by topic and reflect questions, comments, conclusions, and recommendations of stakeholders. All the feedback is discussed in the interactive session that is part of the consultations.

1. Integrated risk assessment approach, methodologies, and capacity requirements

- The proposed ADB Safeguard Policy Statement (SPS) is more comprehensive since it is similar with other international financial institutions (IFIs) like the World Bank and International Finance Corporation (IFC), among others. The proposed revision is significant as it now considers more effort on implementation and monitoring stage. The focus on integration of environmental and social impacts is now more comprehensive.
- What is the process of identifying, analyzing, and assessing the cost of environmental and social impacts? Issues on capacity to undertake environmental and social assessments were raised. Clarity was sought on human rights issues in environmental and social impact assessment (ESIA) and management.
- Should environmental impact assessment (EIA) and environmental risk assessment be conducted together? How will environmental and social management be conducted with regards to the assessment process of project risks and impact? Does ADB have a separate framework for environmental and social risk assessment as opposed to an operational and procurement risk framework, or does it form part of the overall risk management framework?
- In terms of risk identification, the concept of intersectionality and vulnerability risk factors should be considered. Include a country's past performance on labor and working conditions. It is important to consider information on workers and trade union rights, and not just employment status. It should also include working conditions of migrant workers. ADB must seriously consider the country's performance on workers and trade union rights as documented in the International Trade Union Confederation (ITUC) Global Rights Index Report, ratification of International Labour Organization (ILO) Core Conventions, and more importantly, the alignment of national labor laws to these Conventions as evidenced by the reports of the ILO supervisory mechanisms and jurisprudence. In terms of the proposed mitigation hierarchy, it is worthwhile to set-up workers' welfare fund to guarantee workers' claims on adverse impact of the project even beyond its completion.
- Is there an option to undertake gap analysis on EIA requirements of ADB and that of EIA processes and requirements of DMCs and prevent duplication of efforts?
- The scope of environmental and social risk is wide. In the context of the project, the ability to manage those risks is limited. How is the boundary of managing social risks distinguished? Which are the responsibilities that should be addressed by the government and by the program or proposed project? How are levels of environmental and social risks accurately assessed? Will the ADB have specific evaluation criteria?

- Meaningful consultation is the most important factor for any social and environmental safeguards. More consultation with women should be undertaken (at least 50% of participants should be women). Sensitization activities on environmental and social safeguard implementation needs to be conducted for implementation agency staff. There should be training programs on income restoration for project affected peoples and post evaluation of training results should be mandatory. Integrated risk-based classification should identify various issues which are mutually exclusive and issues which are interdependent with each other. On environmental safety concerns, sustainable and modern technology should be adopted, such as the reuse of materials particularly in road construction projects. There should be a continuous and robust monitoring system of social and environmental safeguards. Health and safety plans should be monitored based on various levels of implementation and identified issues.
- Most practitioners have a narrow view on the scope of environment issues, therefore, there is a need to develop the capacities of these offices to broaden their views.
- There is no specific requirement from the bank regarding an executing agency's desk officer's involvement in the ESIA risk assessment process. Their role is confined to the terms of reference provision, processing of no objection clearance, and submission of the ESIA report to ADB after a quick review.
- Would there be any technical guidance on how to assess specific issues (i.e., vulnerable groups)? How will ADB consider national requirements on environmental and social standard (ESS) into the updated SPS? With regards to assessing risk, the assessment could also consider the capacity of their partner to manage the risk assessment tool.
- The mention on the United Nations (UN) guiding principles on human rights was recognized. Will human rights standards, including the UN guiding principles, continue to be considered as aspirational or will this be considered as part of an assessment before engaging with clients?
- Capacity building for staff and clients is important. Will the accompanying guidance notes be subjected to consultations? Will the guidance notes be made public as appendices or as addendums to the new SPS?
- All expected risks, including those for conflict-affected areas and small island developing states, should be considered. It is possible to mitigate reprisal with the right management systems. One gap noted is considering the fundamental concept of precautionary approach as a requirement. How will this be factored into the risk assessments? Will there be clear guidance in case a project is too risky to proceed, and tranches would be suspended until clear proactive corrective steps have been taken?

2. Risk categorization

- How will the proposed four-tier dynamic risk categorization system be implemented? The specifics on planning for a shift to greater risks-based classification are needed. What methodology will be used? Would it involve weighted indicators?
- How can risk be properly identified early during the project concept phase and how can risk be managed according to the principle of proportionality?

- In the four-tier risk categorization, this may be a moving target during the implementation stage of the project. A project may move upwards from moderate substantial to high risk, or it may even move lower if risk mitigation approaches are taken. What factors help in the decision for moving up or down in terms of risk categorization? Based on experience, ADB's decision making process of safeguards and risk assessments are not found in one place. Are there checks and balances after consultants have evaluated? Are there second- and third-layer checks and balances of risks assessments before it goes to the chief compliance officer for categorization? On the four-tier categorization, will it apply to financial intermediaries (FIs), technical assistance, policy loans, etc.? Would it be the same method for risk categorization for example, category FI has not practically performed on safeguards delivery as per the Independent Evaluation Department (IED) 2015 report. In the recent report, no safeguards documents have been uploaded. It is very difficult to identify projects on the ground and to figure out that ADB financing was related to it, let alone delivery of service.
- Why isn't there "No Project" as an option in the risk mitigation categorization? It assumes that all risks can be managed instead of avoided. What was the need for the four-tier risk categorization? The IED report said that the problem is under the categorization for high-risk projects and not the lack of categories.
- How will this new approach (dynamic risk assessment and categorization) work with associated facilities? For example, ADB has a particular pattern for financing portions of associated facilities which are inherently lower risks and reflects in the risk category being B and C. As mentioned in the IED study, there is a disproportionate amount of projects, but it is unclear how the scoping of stakeholder identification and risk assessment has been done prior to the risk categorization within associated facilities. How does flexibility or adaptive dynamic risk assessment work within the associated facilities? What does it mean to expand the scope of risk to include the project footprint? Does it refer to the financial commitment that the ADB is making or looking at the entire project footprint?
- ADB currently approaches climate risk in climate change. It only assesses the risk of climate change to the project, and not how there can be project-induced climate risk to project affected people and surrounding communities. How will this be looked at in the early stage? How will it be assessed in terms of risk categorization and how will it reflect in the risk categorization itself?

3. Reporting framework and requirements

- Is there a way of integrating ESIA policies, as well as the reporting requirements among development institutions to minimize duplication of efforts?
- Is there information on how other multilateral financial institutions are doing with the more integrated approach, including sequencing actions before and after project approval, allowing for judgement and flexibility, etc. such as, does it lead to quicker processing but tedious implementation? It was asked if there were difficulties identified with conducting the required assessment during implementation rather than processing stage, as clients are normally supported by a group of consultants with intensive input during the processing.

4. Resettlement and environmental management

- It was suggested that all project affected persons (PAPs) have to be resettled before commencing the project to avoid delays in the completion of the project. The cost of resettlement and environmental management may be compulsorily included in the ADB loan share to achieve better results. During the implementation of the project, the design variations may be accepted and accounted in the project cost. In case the space for taking up compensatory afforestation is inadequate in the project area, it may be taken up in neighboring districts.
- Local legislation in India does not allow assets or land as replacement for non-title holders on government land. However, ADB SPS promotes that. In such instance, ADB should include budget for assets or land as part of the loan.

5. Stakeholder engagement and transparency

- Paragraph 22 of the analytical study stipulated that it is preferred to have a safeguard policy which clearly delineates the role of the ADB from the borrower. From a local community perspective and those who want to understand what their entitlements are in terms of safeguards, they must clearly know what the responsibility of the ADB is when it comes to EIA and social impact assessment (SIA), disclosure information, and the role of the client. It is better to have both of those information side by side in the same policy document. One cannot expect illiterate, remote and non-English speaking local communities to understand where processes and policies pertain to them when it comes to big infrastructure project. In the Tata Mundra case, the EIA and SIA documentation missed out on seasonal fishermen and there were lapses within ADB on rechecking those documents where that group of people were missed out in the original evaluation. If the policy itself did not identify the role of the ADB when it comes to categorization, it will be deeply problematic looking for accountability through the accountability mechanism.
- Assessment for projects is context specific in which the role of affected communities and civil society on the ground would be crucial. What will ADB do differently given the lessons learned in the past?
- How will consultations with workers and trade unions ensure that they minimize impacts to the privatization leveraging of the energy transition mechanism?

6. Others

- What are the imminent risks of ADB-funded projects in Papua New Guinea related to land?
- The government of Tajikistan is on a new transition to the process of evaluating and analyzing the influencing factors on environmental conditions. What indicators are considered in this topic that can be adopted?
- How can smaller projects comply with the policy requirement?
- How is the timing of ADB financing being considered in the update to enable development of safeguards with appropriate budgets?