ENVIRONMENTAL SAFEGUARDS

and their role in successful project design and implementation

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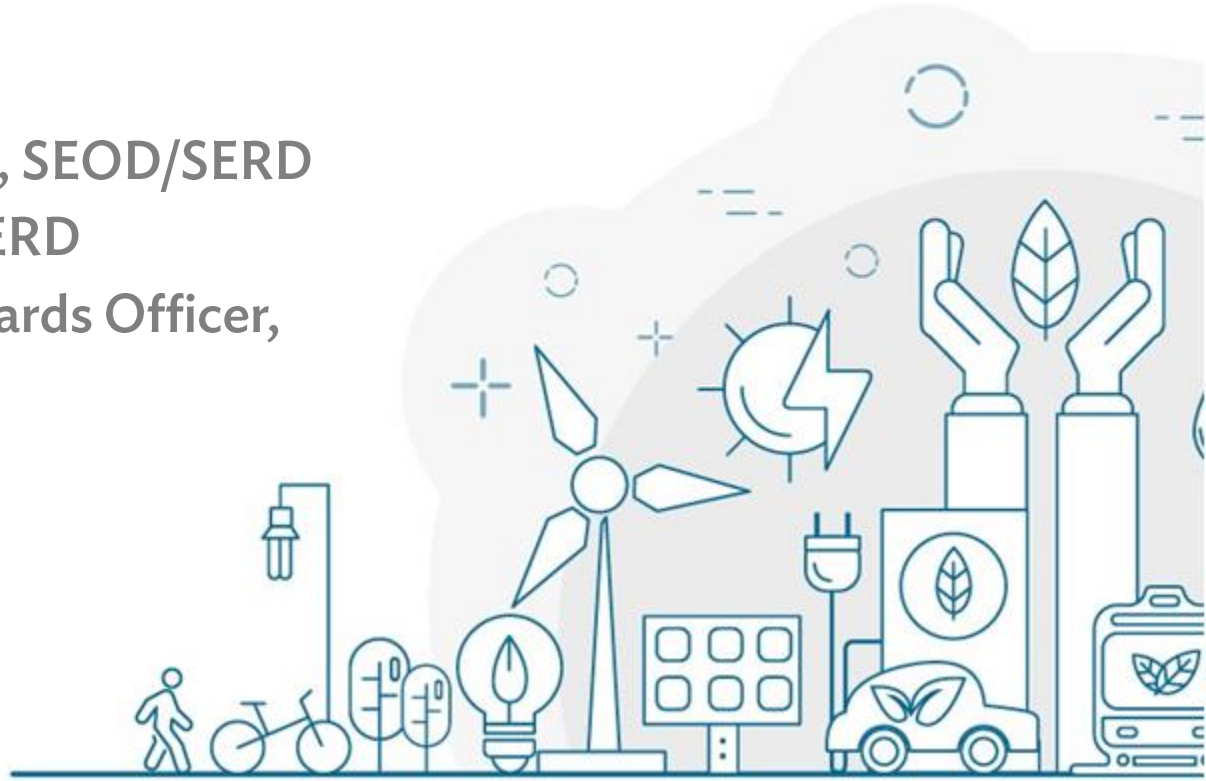
ADB



OUTLINE

A short recap of environment safeguards requirements of ADB

Environment performance of ADB projects in Southeast Asia – an overview

- Current performance
- Major non-compliances

Systemic problems and how to address them

- Systemic problems
- How to enhance project readiness and performance with regard to environment safeguards?

Looking ahead: overview of ongoing update to SPS and likely environment safeguards implications

Q&A

Environmental Safeguards in SPS 2009

Objectives

- Ensure the environmental soundness and sustainability of projects.
- Support the integration of environmental considerations into the project decision-making process.

Scope and triggers

- Environmental safeguards are triggered if a project is likely to have potential environmental risks & impacts.

11 principles

Environmental Policy Principles & Requirements

1. Screening and categorization
2. Environmental assessment
3. Examination of alternatives
4. Environmental management
5. Consultation and grievance redress
6. Information disclosure
7. Monitoring and reporting
8. Biodiversity conservation and sustainable natural resources management
9. Pollution prevention and abatement
10. Health and safety
11. Physical cultural resources

Always triggered, although requirements commensurate with the project's environmental risks and impacts (category)

-> Most requirements, if not adequately addressed, lead to project readiness and implementation issues

How does ADB rate ENV performance of projects?

- Project Performance Rating (PPR) system
- Compliance with loan covenants
- Compliance with requirements defined in the EMP and/or CAP

-> Verified through ADB review missions, review of monitoring reports, independent expert reviews

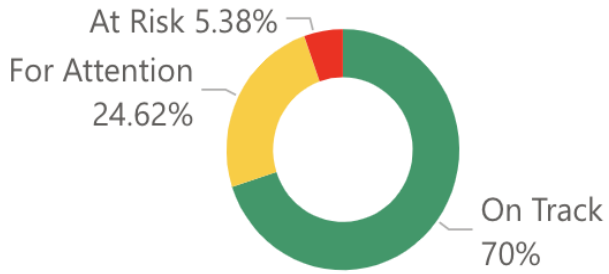
SAFEGUARDS COMPLIANCE OVERALL

Southeast Asia Department

Updated as of 29-Aug-22

Source: eOps

Acronym Guide



91	32	7	130
On Track	For Attention	At Risk	Total Projects

Cutoff Date

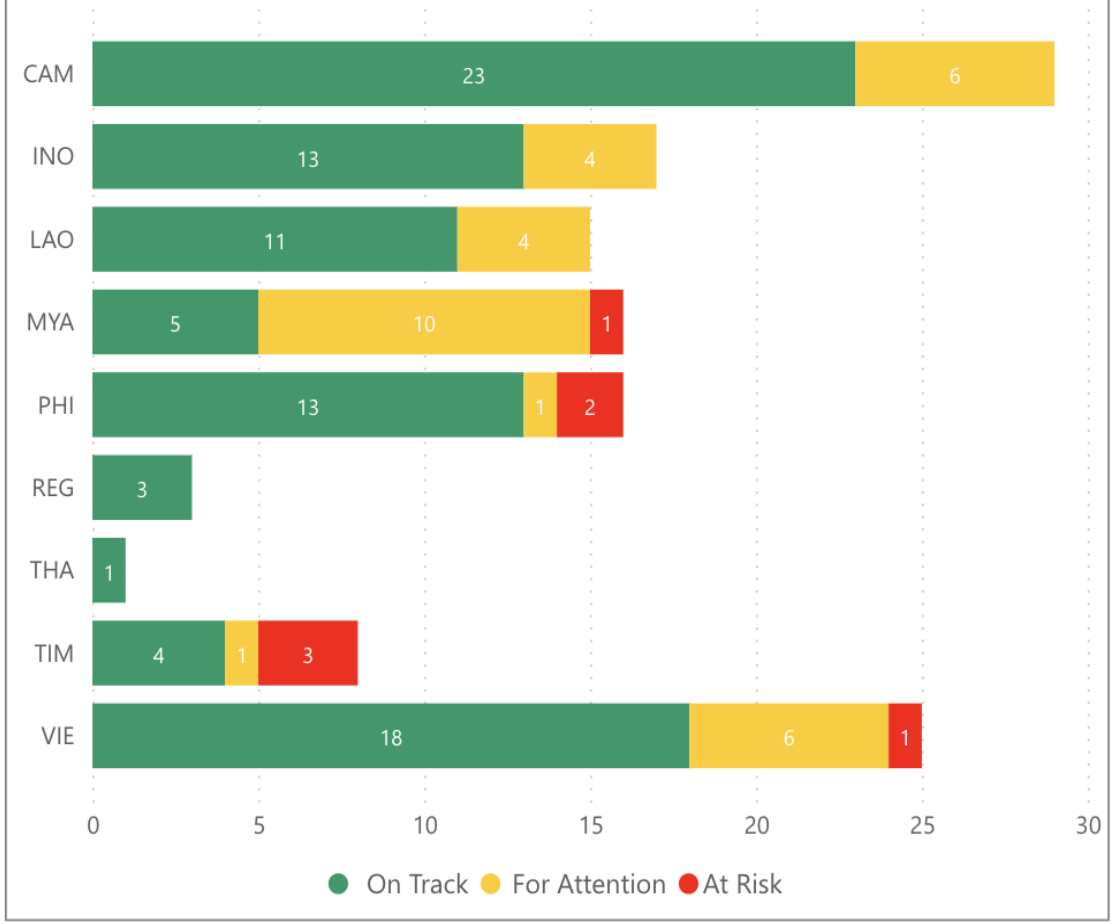
29-Aug-22

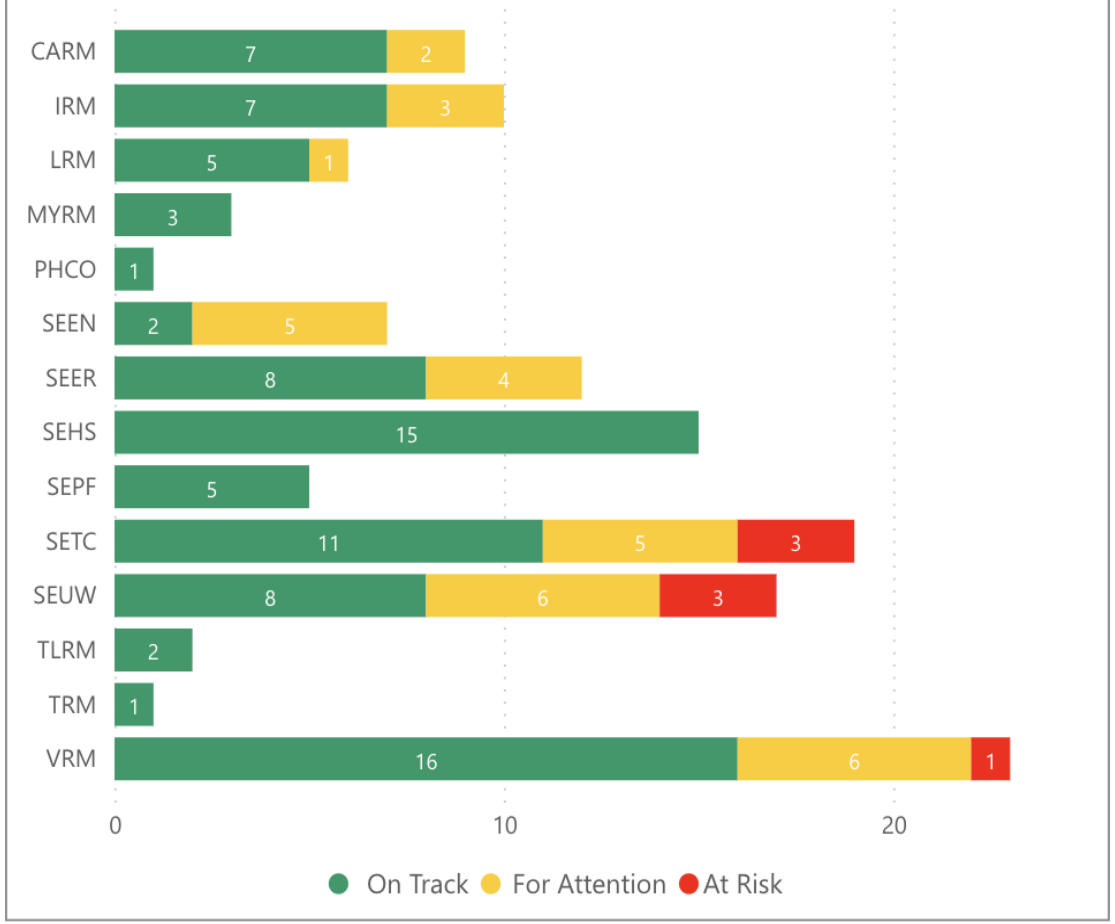
Country

All

Division

All





5 Environment Safeguards Tracking Indicators in PPR

A. Contract awards

1. ENV: No works contracts are awarded before the **environmental management plan(s) (EMP) cleared by ADB** and any **conditions of any national environmental impact assessment (EIA) / initial environmental examination (IEE) clearance are incorporated into contract documents**
2. … (IR)
3. … IP)

B. Project execution: Permits and clearances

4. ENV: Requisite **national environment, health and safety clearances*** and ADB environment safeguard clearances are obtained before commencement of applicable works.

   * Including permits, consents, licenses etc.
5. … (IR)

C. Project execution: Instruments

6. The project has a **functioning grievance redress mechanism (GRM)** and has **no high-risk outstanding grievances** related to implementation of safeguards.

D. Project execution: Project Safeguards Non-compliance

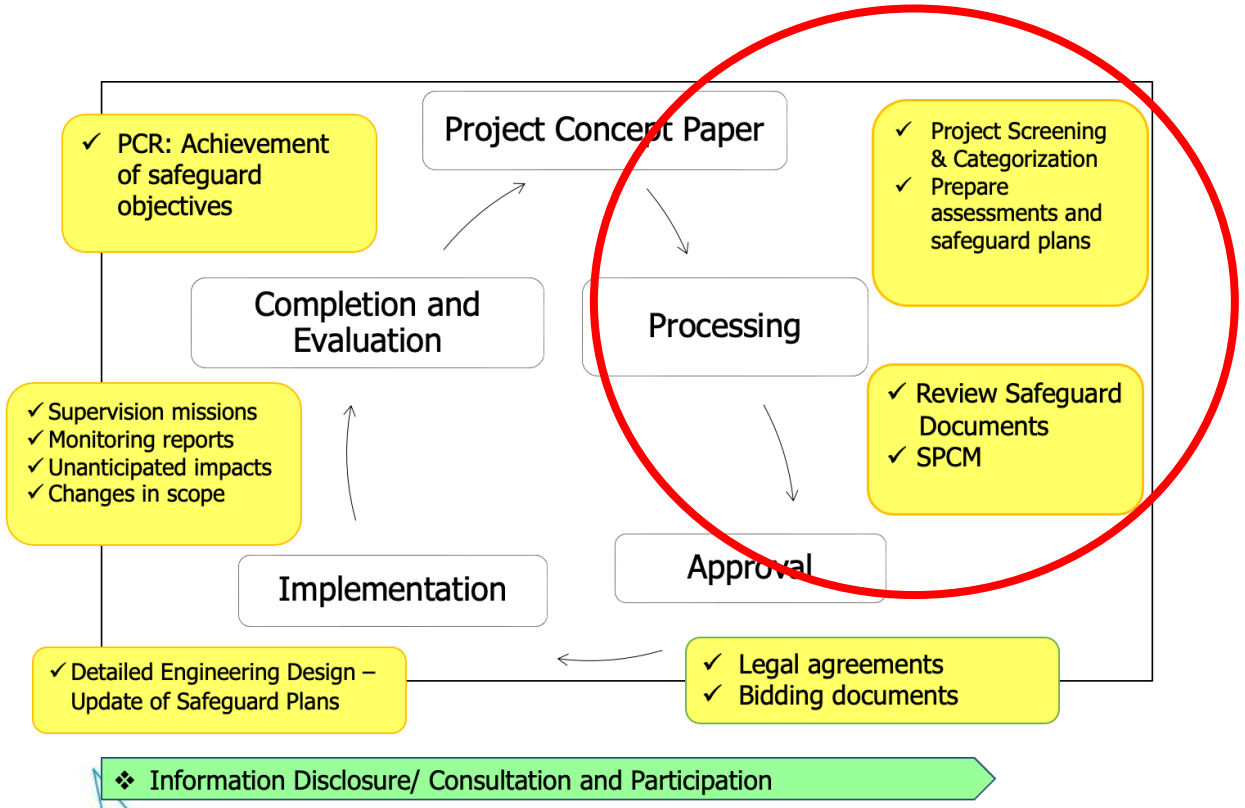
7. The project has **no significant outstanding safeguards non-compliance** or issue*

   *excluding non-compliances covered under Indicators 1-6
8. Scheduled **monitoring reports are submitted** as per agreed schedule, commencing date loan effectiveness

Main ENV reasons for “For Attention” or “At Risk” rating

- **Works contracts are awarded before the updated EMP cleared by ADB and incorporating conditions of national EIA/IEE are incorporated into contract documents**
- **Works commence before requisite national environment, health and safety clearances are obtained, e.g.:**
  - Spoil disposal site clearance; batching plant environmental license
  - Addendum to environmental license (in case of extensions)
- **Grievance Redress Mechanism is dysfunctional and/or not disclosed/accessible to PAP**
- **Project has outstanding safeguards non-compliances or issues that are not being addressed (absence of, or non-compliance with time-bound action plan):**
  - Occupational health and safety
  - Unanticipated impacts
- **Delayed submission of monitoring reports**

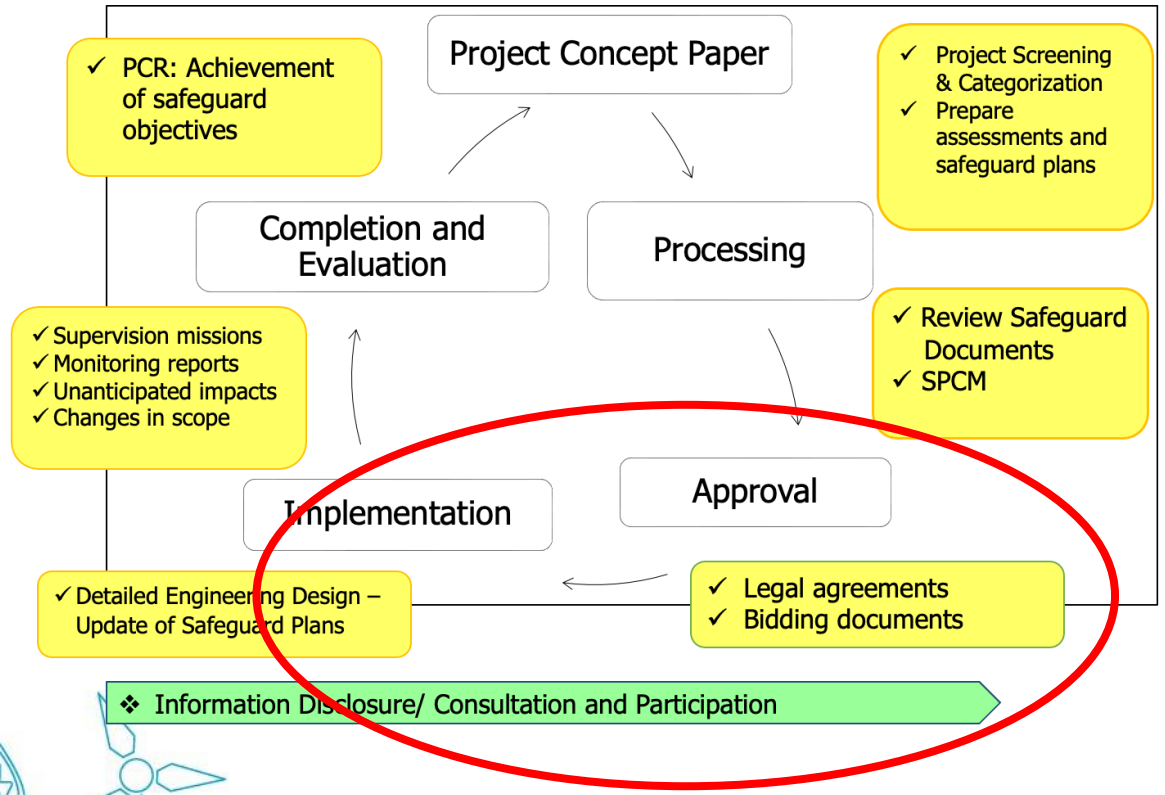
Environmental safeguards in the project cycle & key bottlenecks to project readiness and smooth implementation



Project Preparation/Approval Stage:

- Inadequate screening and categorization
- Poor impact assessments and environmental management plans
- Inadequate public consultation and information disclosure (no buy-in from affected communities and other concerned stakeholders)
- Delays in initiating domestic assessments and securing relevant domestic approvals

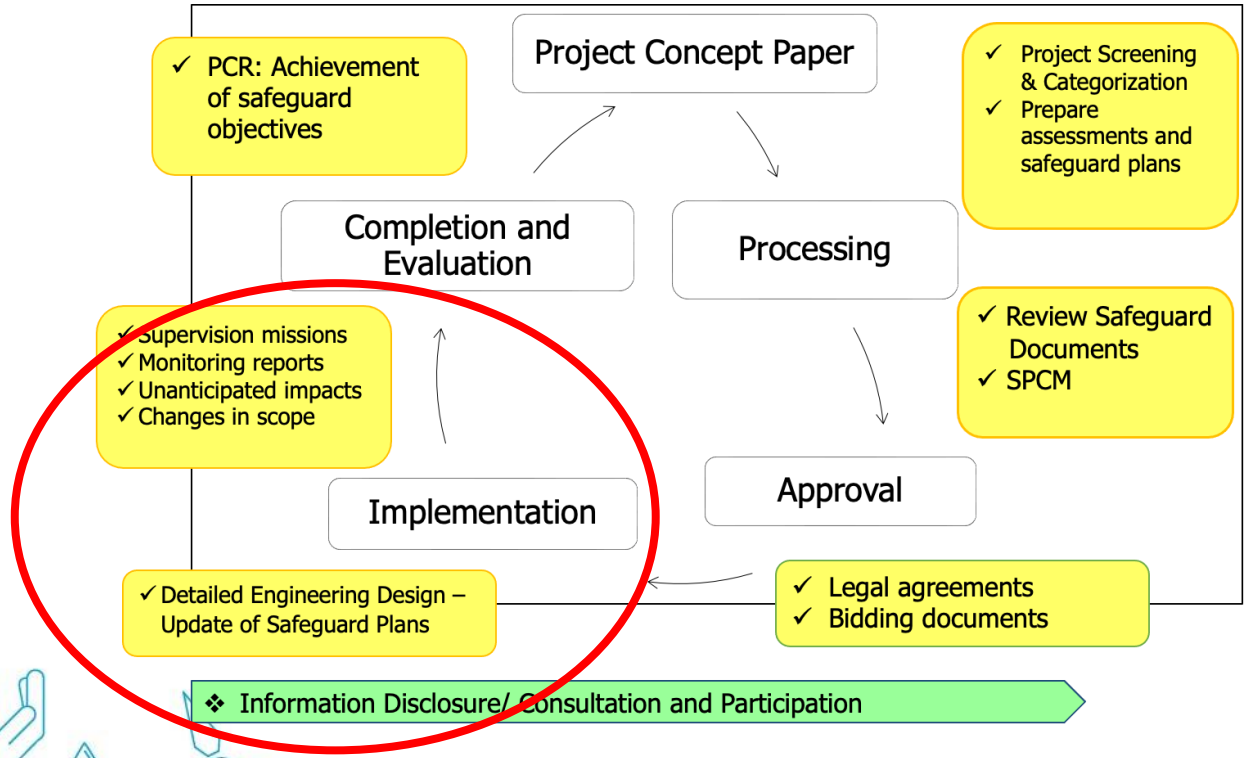
Environmental safeguards in the project cycle – key bottlenecks to project readiness and smooth implementation



From Approval to Implementation:

- Safeguard documents are not updated to reflect final DED
- No follow-through on obligations and commitments (uEMP –> bidding docs -> contracts)
- Absence of qualified specialists to support EA/IA in updating documents and reflecting requirements in bidding docs
- Required domestic clearances/approvals are not secured prior to contract award or commencement of works

Environmental safeguards in the project cycle – key bottlenecks to project readiness and smooth implementation



Implementation:

- Monitoring and supervision arrangements are unclear or inadequate
- Delays in submission and disclosure of monitoring reports
- Poor environmental management and safety performance of contractors
- Frequent incidents (environment pollution, accidents)
- Grievance Redress Mechanism is dysfunctional

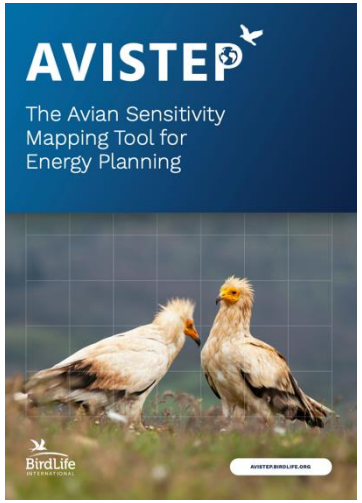
Issue 1: Inadequate risk/impact screening and categorization

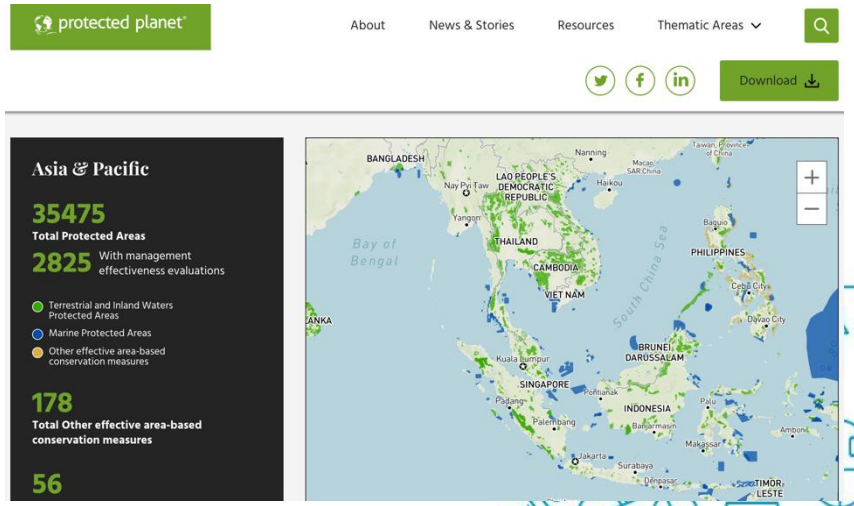
- Categorization is **based on the most sensitive component** of a project within a project's Area of Influence*
- **Early and diligent screening** of impacts and risks, based on good understanding of project scope and project sites, is key. Tools are available for rapid screening and should be used.
- Screening and categorization affect scope of assessment, disclosure requirements.
- **Especially important in case of sector projects and emergency assistance projects.** Don't assume categorization solely based on nature of project and direct footprint of infrastructure.
- **ADB team can support** - involve them early in the process to confirm categorization and due diligence requirements.

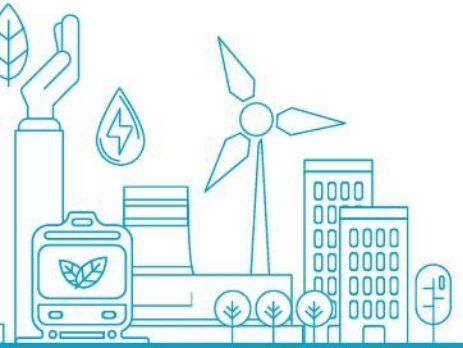
*area of influence encompasses (i) the primary project site(s) and related facilities that the borrower/client (including its contractors) develops or controls, (ii) associated facilities that are not funded as part of the project (funding may be provided separately by the borrower/client or by third parties); (iii) areas and communities potentially affected by cumulative impacts from further planned development of the project.

Useful Screening Tools

- National and local registries of protected areas, sites, objects
- Internationally recognized registries and screening tools
  - www.ibat-alliance.org
  - www.protectedplanet.net
  - https://whc.unesco.org
  - https://avistep.birdlife.org







Issue 2: Biodiversity Conservation

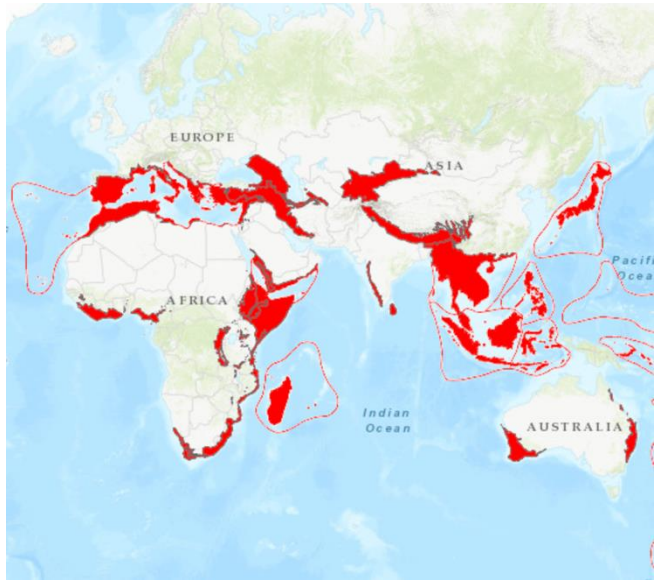
Southeast Asia is blessed with unique and rich biodiversity.

- Home to internationally recognized Biodiversity Hotspots (4); Key Biodiversity Areas (253); Ramsar Sites (64); and many nationally recognized protected areas and species.

ADB's SPS (2009) is very strict on biodiversity:

- "No project activity will be implemented in areas of critical habitat" **
- "…achieve no net loss or a net gain of biodiversity"
- "… retain qualified and experienced external experts"
- Category A for ENV

** including: habitat required for the survival of critically endangered or endangered species; areas having special significance for endemic or restricted-range species; sites that are critical for the survival of migratory species; areas having biodiversity of significant social, economic, or cultural importance to local communities; areas either legally protected or internationally recognized (IUCN, UNESCO, Ramsar)



Biodiversity Hotspots (databasin.org)

Sumatran Tiger (www.worldwildlife.org)

Typical shortcomings in ADB projects that lead to project delays:

- **Often assumed** that there will be no adverse impact on biodiversity
- **Inadequate screening** of possible/likely impacts at project concept stage
- If risks are identified, the **focus is on mitigation/offset** rather than avoidance
- Can result in significant **project processing and implementation delays** if identified too late

Risk mitigation measures and tools:

- **Be aware** that biodiversity conservation is a key focus and concern of ADB management and Board.
- **Very diligent screening** of possible biodiversity implications of proposed projects at early stage. Use available screening tools. Consult ADB early in the process.
- **Avoid any encroachment** on legally protected or internationally recognized areas (ENV cat A).
- **If impacts can't be avoided – be prepared.** Allocate sufficient time and resources for BIA, BMP, EIA etc; and for mitigation/offset measures
- ADB can provide TA and expertise

Issue 3: Quality and relevance of Environmental Impact Assessments (EIA)

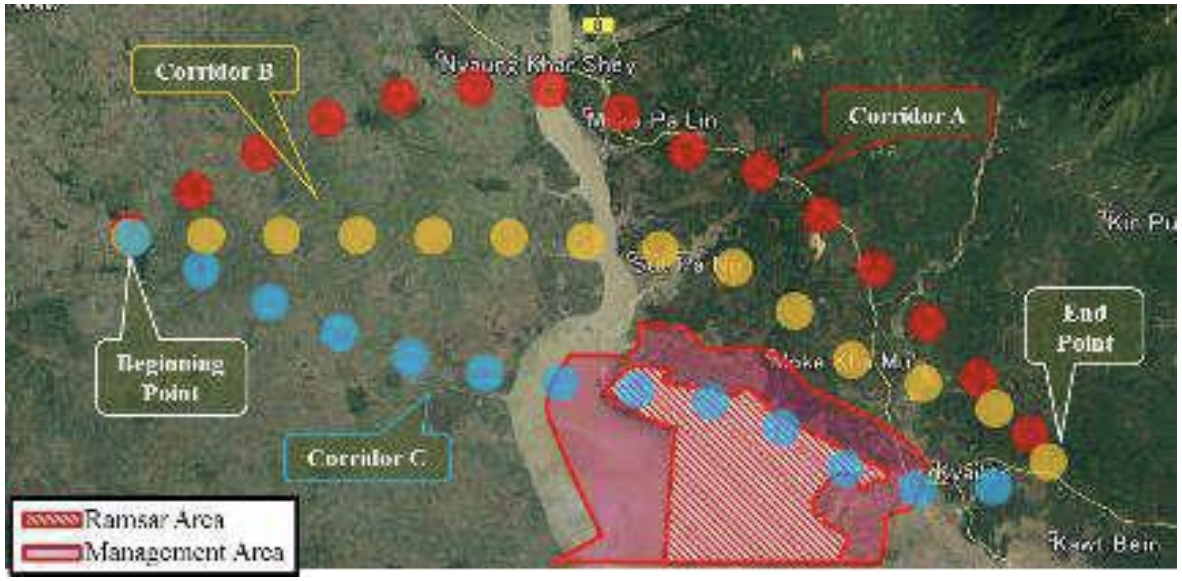
- EIA is a **systematic process** - not an end document
- EIA is crucial to enhance and **demonstrate project feasibility and sustainability**, and identify environment management requirements
- Must be **integral part of project development**, and should influence project design
- Too often **EIAs are box ticking exercises**, do not account for project specificities and local sensitivities, and do not inform project design

Poor vs Good Practices in EIA process

EIA Aspect	Poor Practice	Good Practice
EIA Schedule	**EIA starts following completion of site selection** – means assessment is just reporting the impacts and cannot inform reduction or avoidance of the impacts	**EIA commences at the earliest stage of the project development** – is able to influence the project design
Hierarchy of Mitigation	**Project design is complete when provided to EIA specialists.** Not able to apply fully the first level of the Hierarchy of Mitigation, namely avoidance of impact or risk	**EIA is able to influence the project and its design**, and **risks and impacts can be 'designed out' of the project**
Relationship between EIA and Design Teams	**Separation of teams.** Design is provided to EIA specialists for assessment only and no interaction or feedback is provided with design team	**Close working between teams, effective communication and collaboration** means the project can respond to the environmental constraints, IA specialists can provide solutions, design team can respond to findings, and a better project outcome is achieved

Avoiding ("Designing out") environmental risk or impacts

Example: EIA process identified, through comprehensive bird survey, significant collision risk for CR/EN bird of pray species of a proposed overhead power line – design was adjusted to avoid such risk (underground power line)



Example: EIA process identified significant ecological risk of proposed highway alignment – this led to re-alignment of proposed highway to avoid encroachment and impact on RAMSAR site

Measures to improve quality and relevance of assessments (for EAs, IAs and PMUs)

- **Appoint qualified focal point/champion** within relevant EA/IA or PMU to supervise EIA team; request for frequent updates on status of EIA.
- **Allocate adequate resources and time** for EIA process – each project and EIA is different (complexity of project; significance and type of risks; geographic spread, etc).
- **Employ EIA experts** with the required expertise and experience and adhere to good international practice for EIAs (-> **SERD Guidance Note on EIA**)
- Make sure that consultants **do not work in silos** – project development must be iterative, allowing for initial findings of EIA to be integrated into project design.

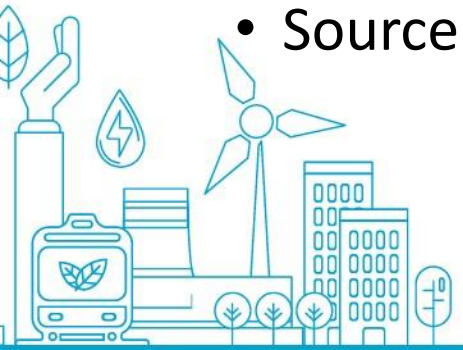
Issue 4: Inadequate Environmental Management Plans (EMP)

The EMP is a key management tool to facilitate project implementation, monitoring and reporting.

- Must clearly define WHAT, HOW, WHEN, BY WHOM.

Typical shortcomings of EMP leading to implementation problems:

- Mitigation and monitoring plans are too generic, not site specific
- Responsibilities for actions are not assigned
- Costs for implementation of measures are not established, or not reflected in project costs
- Source of funding for EMP is unclear



What can EAs, IAs and PMUs do to improve quality/relevance of EMPs?

- **Be involved** in its development and challenge consultant's assumptions.
- Make sure **mitigation measures are meaningful** and their efficacy can be verified (-> performance indicators).
- Make sure each required **action/measure is clearly assigned** to relevant entity (contractor, PSC, external monitor, EA/IA, PMU)
- Make sure the EMP **includes reasonable cost estimates** for its implementation, and costs are reflected in project design and BD.
- EMP must **reflect final project design** – need for update prior to inclusion in bidding documents and works contracts

Issue 5: Institutional arrangements and capacities

ADB SPS clearly delineates responsibilities of borrower and ADB

SPS: *The borrower is responsible for: (i)* ***assessing projects*** *and their environmental and social impacts; (ii)* ***preparing safeguard plans****; (iii)* ***engaging with affected communities*** *through information disclosure, consultation, and informed participation; (iv)* ***monitoring and reporting****; (v)* ***ensuring compliance*** *with ADB SPS and host country requirements; (vi) identify and implement* ***corrective actions****, as necessary; …*

Very demanding task, requiring adequate institutional arrangements, capacities and resources.

Typical shortcomings in projects caused by inadequate institutional arrangements:

- Absence of **Environment Safeguards Champions** - Lack of expertise and capacity within PMU to coordinate environment safeguards
- **Resources allocated for loan implementation consultants are insufficient** – intermittent mobilization with little ownership and and accountability
- **Expectation that one "expert" can cover all aspects** of environmental safeguards (biodiversity, health and safety, pollution prevention, consultation and communication)
- **No funds allocated** for monitoring; public consultation etc.

Measures to enhance institutional arrangements and capacities

- Assign an **ENV Safeguards Champion** in PMU - qualified, dedicated, with decision-making authority
- Carefully identify **needs for expert inputs** (Engineer/LIC) based on project specificities
  - High-risk vs. low-risk
  - Geographic spread
  - Required expertise (health and safety, biodiversity, cultural heritage conservation, pollution control, communication, GRM, etc)
  - Monitoring requirements (frequency, seasonality, complexity)
- Make sure that **TOR for Engineer/LIC and bidding documents** for Works Contracts accurately reflect obligations
- Establish **clear internal process of communication and reporting** between EA, IAs, PMU, Engineer/LIC and Works Contractors

Issue 6: Meaningful consultation and participation

- **Importance of meaningful public consultation is often underestimated,** inevitably leading to delays and additional costs during implementation
- **Typical shortcomings of public consultation and engagement:**
  - No stakeholder mapping; limited to government agencies and directly affected people – key stakeholders are left out
  - One-off exercise not focusing on key environmental issues and concerns of communities
  - Inadequate consultation leads to mistrust and lack of buy-in for project by PAP which can delay or affect project implementation
- **Reactions to implementation issues by communities or other stakeholders are usually much stronger where consultation is omitted**

Measures to improve meaningful consultation and participation:

- Seek support of communications specialists (e.g. Hanoi Metro Line 3 Project)
- Request to see EIA consultant's consultation plans during project processing and implementation
- For project implementation: ensure that communication plan is defined and adequately budgeted
- Do not limit consultation to information sharing. Seek avenues to move towards involvement and collaboration of the public in key project decisions.

Issue 7: Dysfunctional Grievance Redress Mechanism (GRM)

- **SPS:** *"ADB requires that the borrower to establish and maintain a GRM to receive and facilitate resolution of affected peoples' concerns and grievances about the borrower's social and environmental performance at project level. ..."*

GRMs in some projects are dysfunctional. Key causes:

- Paper exercise
- Not aligned to national/local systems and project specificities
- Key project stakeholders are not aware (EA/IA, PMU, Contractors, local authorities, PAP)
- Not adequately staffed and resourced

What are the implications of dysfunctional GRM?

- Project delays – impacts on project results
- Added/ballooned costs
- Reputational harms

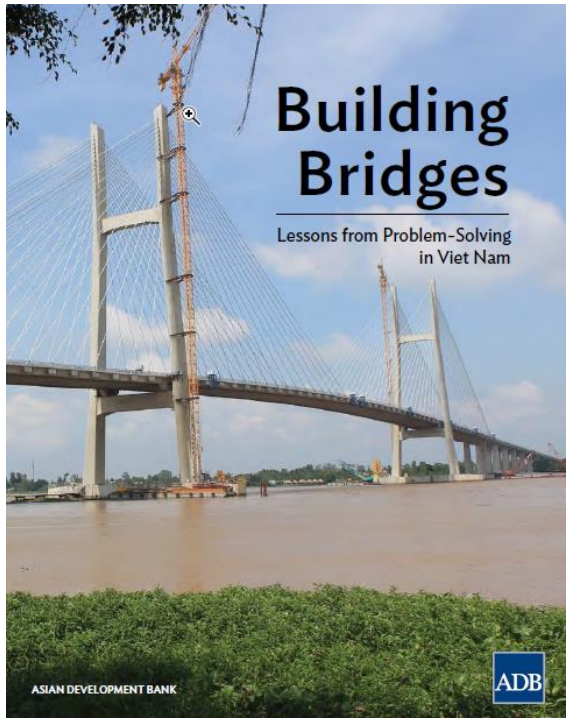
-> Don't be afraid of complaints, but be worried of unresolved complaints (including escalation to ADB's Accountability Mechanism)

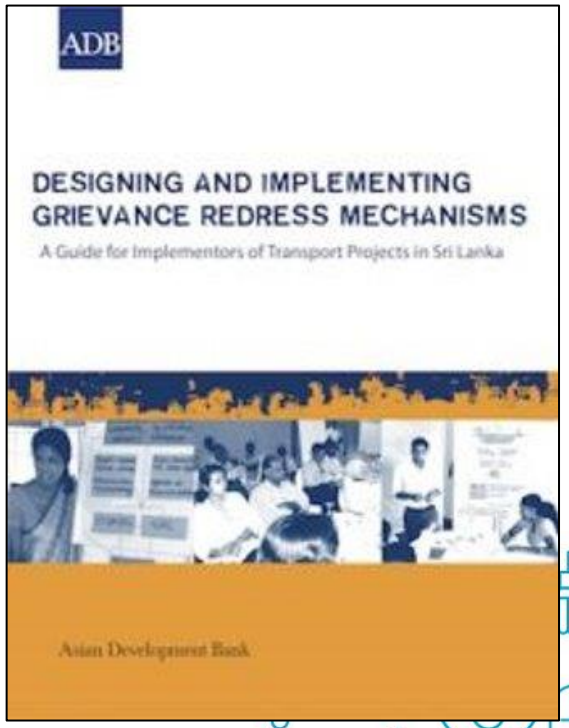
Example VIE: Central Mekong Delta Connectivity Project

- 1400 complaints filed
- All registered and solved

Good news: Resources and trainings are available to support the strengthening of project GRM:

- https://elearn.adb.org/ (e-learning module on GRM)
- 2-day training course on GRM (on demand)
- ADB. 2010. Designing and Implementing Grievance Redress Mechanisms.
- Knowledge Products (e.g. VIE Case Study)





Issue 8: Delays in securing relevant domestic environmental approvals

- **SPS:** *"ADB will not finance projects that do not comply with … the host country's social and environmental laws and regulations"*
- **Loan agreement:** *"The borrower will not award Works or Nonconsulting Services contracts until the borrower has obtained final approval of the [EIA] from the [relevant national environmental agency]"*
- **DMC regulatory frameworks:** Each DMC in SEA has its own ENV safeguards regulatory framework and procedure which are not always fully aligned with ADB SPS procedures and requirements. Some DMCs have recently updated their regulatory framework (CAM, INO, VIE)

DMC	Key EIA legislation
CAM	MOE Prakas No. 021/2020 on the Classification of Environmental Impact Assessments for Development Projects.
INO	GR No. 22/2021 on the Implementation of Environmental Protection and Management; MOEF Regulation No. 4/2021 on List of Businesses and Activities Requiring AMDAL, UKL/UPL or SPPL.
LAO	Environmental Protection Law No. 29/2012; Decree 21/2019 on Environmental Impact Assessment
PHI	Presidential Decree 1586 on Philippines Environmental Impact Statement System (PEISS)
TIM	Decree Law No. 5/2011 on Environmental Licensing
VIE	Environmental Protection Law 2020; Decree No. 08/2022/ND-CP Detailing a Number of Articles of Law on Environmental Protection 2020; MONRE Circular No. 02/2022/TT-BTNMT

Key readiness bottlenecks caused by domestic procedures

- **Country systems make domestic EIA approval a condition for project approval by ADB:**
  - **INO:** AMDAL is a pre-condition (readiness criteria) for loan negotiations;
  - **VIE:** pre-EIA (scoping) required as part of Project Proposal; IEIA or EIA approval is pre-condition for loan negotiations
  - **PHI:** Draft EIA submission to DENR-EMB (application for ECC issuance) is pre-condition for project deliberation by NEDA-ICC
- **Securing domestic EIA approval takes often (much) more time than expected**

-> At project concept stage, carefully review domestic requirements, procedures and realistic timelines; set realistic processing schedule, initiate domestic EIA process as early as possible.

Issue 8: Construction Safety

Safety provisions on many construction sites are inadequate – several fatal accidents in last 6 months.

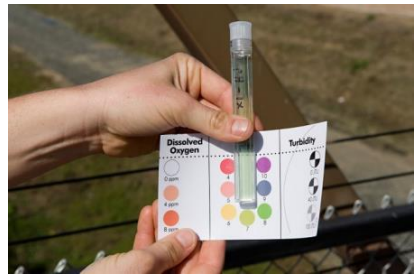
- Inadequate safety provisions not only lead to accidents; but can cause significant project implementation delays

Urgent actions required:

- Implement a zero-tolerance policy to safety
- Review capacities and authority of Engineer/LIC to supervise OHS/CHS at construction sites
- Instruct the Engineer/LIC to audit safety provisions of contractors; identify necessary corrective actions; issue notices to correct or temporary stop-work orders as needed
- Inform ADB of any accident promptly (i.e. within 24h)

Issue 9: Monitoring and Reporting

Monitoring and reporting of EMP implementation is critical to (i) confirm if assumptions and predictions of the EIA were accurate; (ii) assess progress of implementation of the EMP; (iii) identify possible problems and necessary corrective actions; (iv) inform the public and ADB on project performance.



Typical shortcomings of monitoring and reporting on EMP implementation in ADB projects:

- Responsibilities for monitoring and reporting are not clearly assigned
- Capacity of Engineer/LIC to monitor and report is insufficient (expertise, staffing, resources)
- Is often seen as a box-ticking exercise, conducted intermittently
- Monitoring/supervision protocols are not established or not aligned to project specificities (irrelevant performance indicators)

Measures to improve EMP monitoring

Critically review monitoring requirements defined in project EMP prior to endorsement; challenge consultants' assumptions as needed

Engineer/LIC usually required to develop monitoring plans. Ensure that such plans and schedules are meaningful, aligned to EMP requirements, and focusing on key risks and impacts

Establish meaningful performance indicators that allow to track progress over time and identify problems

Define Engineer/LIC resource requirements and mobilization plan based on monitoring requirements, not vis-versa

Actively participate in monitoring activities

Make use of available **monitoring and reporting templates** and checklists

Issue 10: Managing Change and Unanticipated Impacts During Implementation

Changes typically occur during project implementation, either planned or unplanned.

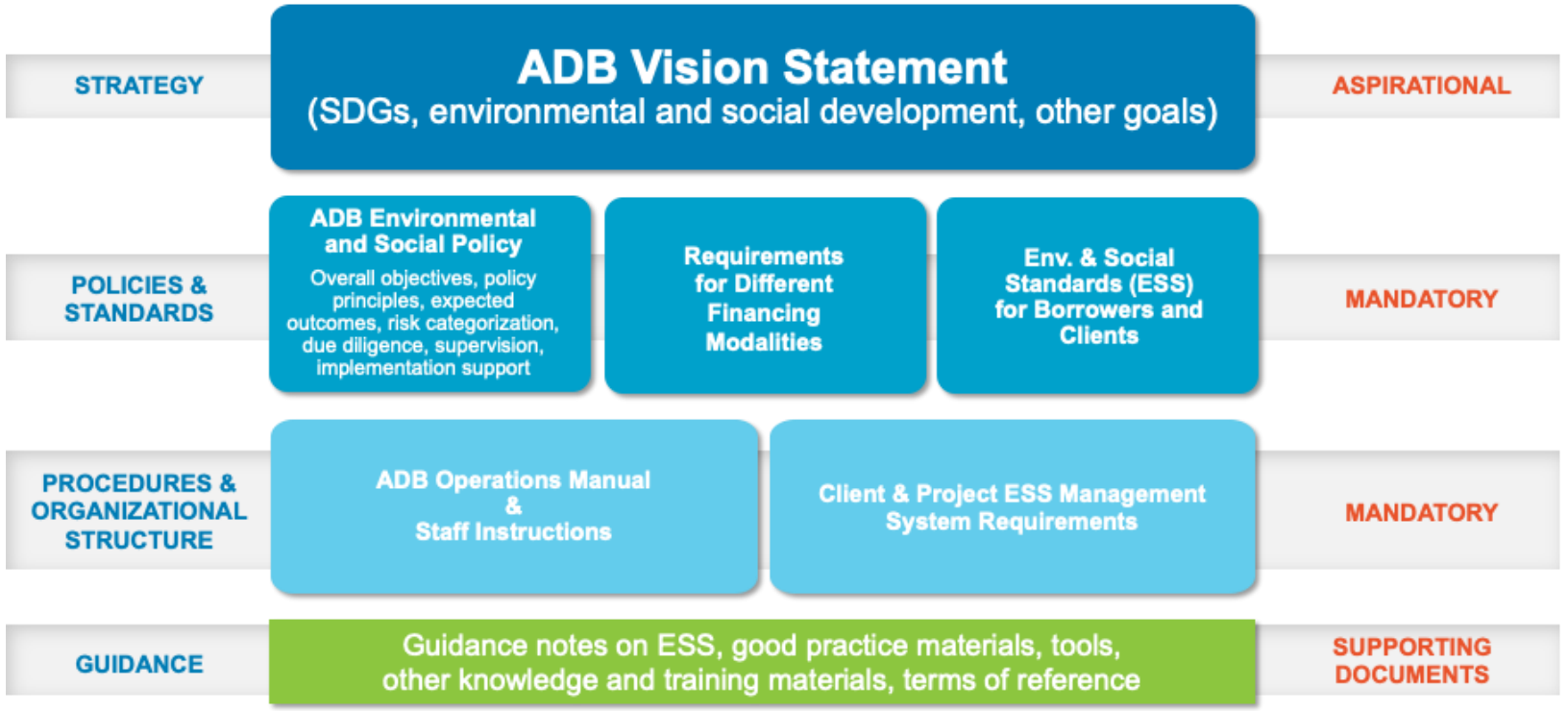
- A planned new component is added to a project
- Environmental monitoring identifies a problem, and corrective actions are needed

- **Not all changes may have environmental safeguards implications, but many do.** Not addressing these typically leads to safeguards non-compliance and significant project delays.
- **SPS:** *"Where unanticipated environmental impacts become apparent during project implementation, the borrower will update the EIA and EMP or prepare a new EIA and EMP..."; "The borrower will … identify the necessary corrective actions, and reflect them in a corrective action plan."*

➢ **Involve relevant specialists of PMU, LIC and ADB when considering a change. Inform ADB promptly when unanticipated environmental impacts occur. ADB will advise on necessary steps.**

Heads-Up: Safeguards Policy Update

- Policy update time frame: 2.5 years - August 2020 to Q2 2023
- Final ADB Board approval in 2023, followed by training and capacity building for staff and clients.



Key likely changes to safeguards policy

- **Better alignment with safeguards policies and frameworks of other IFIs**
- **Integrated environmental and social assessment,** commensurate with the impacts and risks
- **Follow principle of adaptive risk management,** balancing pre-project approval requirements with actions to be taken later based on risk level (”compliance over time”)
- **Environmental and social commitment plans** integrated into legal agreements.
- Enhanced focus on **Core Labor Standards (CLS)** and working conditions, **Sexual exploitation abuse and harassment (SEAH)**
- **More stringent health and safety requirements**
- Enhanced focus on **biodiversity conservation** (clearer requirements and guidance for: baseline data collection and assessment; determination of critical habitat; development in protected and internationally-recognized areas; assessing ecosystem services; determining biodiversity offsets)

Will be structured along **Environmental and Social Standards (ESS)**

Notes: Mapping new policy structure to previous SPS policy areas: ENV: Environment, IR: Involuntary Resettlement, IP: Indigenous People

Views and Recommendations on SPS review?
Please send us your feedback and suggestions:

WEBSITE

https://www.adb.org/who-we-are/about/safeguard-policy-review

FACEBOOK PAGE

https://www.facebook.com/ADBsafeguardreview

E-MAIL

safeguardsupdate@adb.org

Additional Resources

http://www.adb.org/site/safeguards/main

Check out our free eLearning Courses @ https://elearn.adb.org

ENVIRONMENT

ADB's Environment Safeguard Requirements

This course aims to provide ADB staff an overview of the 2009 Safeguard Policy Statement, with specific focus on environment safeguard requirements. Learners will be guided on procedural and substantive requirements for environmental assessment and management planning. Links to useful resources and templates will also be provided.

ENVIRONMENT

Overview of the Safeguard Policy Statement

This course provides a brief on the 2009 Safeguard Policy Statement. It introduces the objectives, scope and triggers for the three safeguard areas – environment, involuntary resettlement, and Indigenous Peoples. The module also briefly discusses the common safeguard requirements which all projects would need to comply with. This Overview is a p...

ENVIRONMENT

ADB's Indigenous Peoples Safeguard Requirements

This course aims to give ADB staff an overview of the principles, objectives, scope and triggers of ADB's Indigenous Peoples safeguards. It will help learners determine when and what circumstances would ADB's Indigenous Peoples safeguards be applied and the key requirements expected from borrowers/ client in designing, implementing and monitorin...