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ADB Safeguards Policy Update:

In-country Stakeholder Consultations with Government Executing and Implementing Agencies

Georgia, 24 January 2023



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POLICY REVIEW
AND UPDATE



Sustainable Development and Climate Change Department (SDCC)
Safeguards Division (SDSS)

ADB

Technical Announcements



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The Safeguard Policy Review and Update Phase 2 consultations provide opportunities for stakeholders to express their views and opinions on ADB's environmental and social safeguards in the most meaningful and safest manner possible.

All stakeholders are encouraged to articulate their inputs and concerns during these consultation sessions. By joining (and as noted in paragraph 47 of the Stakeholder Engagement Plan) stakeholders are consenting to the video and audio recording of these consultations. ADB will prepare consultation summaries for internal use. These will not be disclosed publicly. The purpose of the recordings is only to ensure the accuracy and transparency of proceedings.

Stakeholders wishing to exclude themselves from such recordings are asked to contact the Safeguards Policy Review and Update Secretariat at safeguardsupdate@adb.org within 2 weeks of this session to share their exceptions and exclusions.



All types of feedback are welcome. These will not be used for the purposes of retaliation, abuse, or any other kind of discrimination.

If you have any issues or concerns on the disclosure, recording, confidentiality, potential risks, abuse, or any kind of discrimination during the consultations, or wish to exclude yourself from the recording of events and discussions, please contact the Secretariat at safeguardsupdate@adb.org.

1. Provide a briefing on review and update of ADB's Safeguard Policy Statement, 2009 (SPS):
 - Objectives and approach for the policy update
 - Overview on findings from benchmarking and analytical studies;
 - Highlights of feedback received from regional consultations;
 - Policy directions and issues for the new environmental and social policy.
2. Seek feedback lessons from SPS policy implementation and recommendations on new policy directions.

- **Welcome Remarks** (5 mins)

Kamel Bouhmad, Deputy Country Director, Georgia Resident Mission, ADB

- **Presentation of Safeguards Issues by Implementing Agencies** (20 mins)

- **ADB Support on SPS Implementation in Georgia** (10 mins)

Ninette Pajarillaga, Senior Environment Specialist (Safeguards), CWOD-PSG

Sona Poghosyan, Social Development Specialist (Safeguards), CWOD-PSG

- **Session 1: Brief Overview and Background of the ADB Safeguard Policy Update** (20 mins)
Bruce Dunn, Director, Safeguards Division (SDSS), Sustainable Development and Climate Change Department (SDCC)
- **Session 2 (a): Safeguard Policy Directions and Recommendations for Environmental Safeguards: Findings from Analytical Studies and Feedback from Phase 2 Regional Stakeholder Consultations** (20 min), Discussion (40 min)
Zehra Abbas, Principal Environment Specialist, Safeguards Division (SDSS), Sustainable Development and Climate Change Department (SDCC)
- **Session 2 (b): Safeguard Policy Directions and Recommendations for Social Safeguards: Findings from Analytical Studies and Feedback from Phase 2 Regional Stakeholder Consultations** (20 mins) Discussion (30 min)
Madhumita Gupta, Principal Social Development Specialist (Safeguards), Safeguards Division (SDSS), Sustainable Development and Climate Change Department (SDCC)

- **Session 3. Land Acquisition, Resettlement and Involuntary Restriction of Access to Land** (30 mins) Discussion (80 min)
Irina Novikova, Principal Social Development Specialist, Safeguards Division (SDSS), Sustainable Development and Climate Change Department (SDCC)
- **Wrap Up and Next Steps** (10 mins)
Bruce Dunn, Director, Safeguards Division (SDSS), Sustainable Development and Climate Change Department (SDCC)
- **Event Evaluation** (5 mins)

Welcome Remarks

Kamel Bouhmad, Deputy Country Director, Georgia Resident Mission (GRM)



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United Water Supply Company of Georgia

Urban Services Improvement Investment Program (USIIP)

Ketevan Chomakhidze, USIIP Environment Specialist



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PROGRAM DESCRIPTION

Urban Services Improvement Investment Program

- ❑ Beginning in 2011, initially USIIP has been implemented in seven selected urban centers of Kutaisi, Poti, Marneuli, Zugdidi, Anaklia, Ureki and Mestia in six tranches of funding.
- ❑ Further, due to savings in the budget of the investment program, the following cities were added under USIIP: Abasha (WS), Telavi (WS), Gudauri (WWS) and Gudauri WWTP, Jvari (WS), Bolnisi (WW) and Chiatura (WS).
- ❑ USIIP was developed as the Georgian Government's response to the lack of adequate and safe water supply, sewerage and sanitation in urban areas of Georgia.
- ❑ The direct activities of the program include the following: water extraction, treatment and supply to customers; design, and construction of water supply and sanitation systems.

CHALLENGES AND LESSONS LEARNED

- ❑ Projects designed and executed by Supervision Companies/engineers who ensure technical compliance but pay less attention to environmental and social impacts and risks;
- ❑ Lack of relevant staff in IPMO for Occupational and Community Health and Safety;
- ❑ Lack of relevant staff for Occupational and Community Health and Safety in SC;
- ❑ Lack of IPMO/USIIP environmental Specialist's participation in bid evaluation process;

PRACTICAL LESSONS LEARNED AND SUGGESTIONS

- ❑ Lack of Public Awareness and Participation of local community prior to the commencement of project for proper implementation of the projects and its GRM;
- ❑ ADB to assist borrowers/client to strengthen their safeguard systems and develop the capacity to manage Health and Safety;
- ❑ ADB to Support in the integration of environmental requirements into the project decision-making process and contracts signed with CC and SC

PRACTICAL LESSONS LEARNED AND SUGGESTIONS

- ❑ Public Awareness and participation prior to the commencement of project is essential for proper implementation of the projects and its GRM;
- ❑ Informational materials, including leaflets, should be distributed among affected people giving full information about the functioning of the projects;
- ❑ Avoid involuntary resettlement wherever possible, and to minimize involuntary resettlement by exploring project and design alternatives;
- ❑ Involvement of local communities in the design stage of projects to ensure that the affected people are adequately informed and consulted shall be ensured

PRACTICAL LESSONS LEARNED AND SUGGESTIONS

- ❑ ADB to assist borrowers/client to strengthen their safeguard systems and develop the capacity to manage Health and Safety;
- ❑ ADB to Support in the integration of environmental requirements into the project decision-making process and contract signed with CC and SC;
- ❑ Avoid involuntary resettlement wherever possible, and to minimize involuntary resettlement by exploring project and design alternatives.

PRACTICAL LESSONS LEARNED AND SUGGESTIONS

- ▶ Training of borrowers/clients on the updated SPS 2009 provided at various levels before the effective date of the SPS and on an ongoing basis
- ▶ Provision of clear operational procedurals for implementing the SPS established before the effective date of the SPS

Sustainable Development and Climate Change Department (SDCC)
Safeguards Division (SDSS)



Municipal Development Fund

Guja Kvanchilashvili, Head of Environment and Social Department



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ASSIGNING OF ENVIRONMENTAL CATEGORY FOR PROJECTS

A

Significant adverse impacts and risks



B

Less significant impacts and risks

C

Minimal or no impact and risks

FI

For financial intermediary projects



CLARIFICATION OF DEFINITIONS

➤ Compensation and Public Taxes

- *Definition of compensation shall specifically state that it does not include the public taxes*



CLARIFICATION OF DEFINITIONS



➤ Vulnerable People

- *It's not clearly defined who belongs to the list of vulnerable people*

CONSULTATIONS

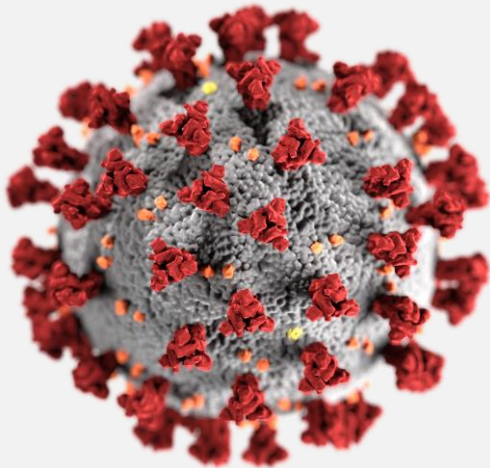
➤ Consultations with Stakeholders

- *Clearer instruction and guidance should be given how to carry out proper targeted consultations, focus group discussions and door to door meetings especially for vulnerable groups*



CONSULTATIONS

- Online consultations as alternative source of communication
 - *Outbreak of COVID-19 pandemics*
 - *Using of modern technologies in response to physical distancing*



VS



APPROACH OF ONLINE CONSULTATIONS DEVELOPED BY **MDF** IN COORDINATION WITH **ADB**

I. Notification and
Warning on holding of
Consultations in
remote mode

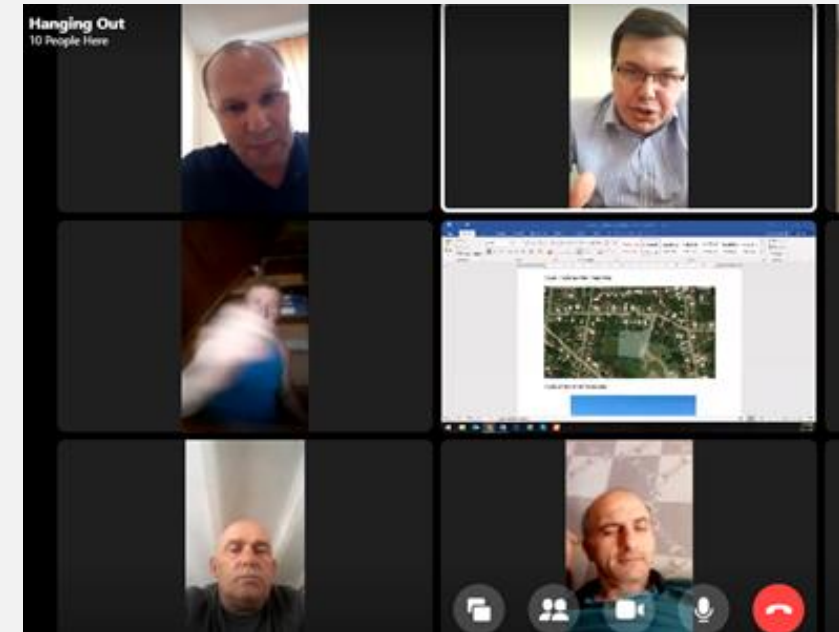
All stakeholders are contacted using
distant communication channels (via
personal computer, mobile phone)

II. Identify preferable
communication means
and internet
connection availability

MDF will support them in
registration procedures
(as needed)

III. Information booklets
about the forthcoming
consultation meetings
will be placed at the
sites of groceries and
pharmacies

public consultations are held using
either online format (on Zoom, MS
Teams, Facebook, Skype, Viber,
WhatsApp. etc.) or direct/door-to-
door consultations



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Safeguards Division (SDSS)



Roads Department

Salome Tsurtsunia, Deputy Chairman



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Roads Department of Georgia

Updates for the Safeguard Policy Statement



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OF GEORGIA



LARPs developed under ADB-funded projects suggest business compensation for 1 year of income.

- The term “one year income” is vague. It is not specified which one year is meant. Is that the year of cut – off date, previous year or average amount of the last several years giving sum of one year income. This issue has to be clearly determined.
- It is not specified whether compensation should be given for full income or net profit (the word – Income is used);
- According to the legislation of Georgia, some legal businesses (f.e. minor entrepreneurs) are not obliged to submit a tax declaration to the Revenue Service. A similar problem is the case of an individual entrepreneur; the compensation mechanism of this type of business has to be determined clearly, hence equalization of this type of business to non-declared ones, gives the unfair assessment of the loss.
- In case of temporary suspension of business, compensation mechanism should be clear.



- In the most of LARPs, it is specified to provide 3 months compensation to Employees in case of business loss, which we consider to be an unfair approach; the best practices might seem to be shared through SPS regulation.
- The compensation of Employees while the temporary suspension of the business is problematic;
- The evidences of Employment is not clear when the business is non-declared and Contracts of workers appear to be fraudulent.



- A challenge is the Livelihood Restoration, since it is necessary to clearly define what the restoration of living conditions includes, and also, it should be written in detail in which case the PIU should use a similar approach.
- The best practices needs to be shared and given as examples in the Handbooks of interpretation of SPS or given clear regulations in SPS documents.



- Example of the livelihood restoration that took place on the Batumi Bypass Road Project:
 - ✓ *The land plot (more than 3000 sq.m.) and house fall under the acquisition for the highway construction purposes.*
 - ✓ *As defined by the LARP, the illegal owner was compensated with the replacement cost of house and market value of the 400 sq.m. for construction of the new house.*
- This approach was accepted by ADB. But the clear regulations need to be determined in order to maintain consistency by the PIU.
- **For similar cases, what amount of the land plot can be deemed as the proportionate amount for the livelihood restoration?**
- **When losing pasture areas what are the best practices of livelihood restoration?**

Female Headed Household

- The concept of the female headed household clearly defined;
- It is important to determine the documents on the basis of which the fact of a female headed family will be established without mistake. This will prevent the flow of untargeted funds from the state budget.



Compensation of socially vulnerable families



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- It is clearly defined, in the case of a socially vulnerable family, the compensation is given to the whole family or to each member;
- According to the legislation in force in Georgia, for rating points less than 120,000, the family is considered socially vulnerable, and each family member will be given an independent amount of money in the form of social assistance;
- According to resettlement plans, a socially vulnerable family is the object of compensation and a one-time compensation is given to the head of the family, which, citing inconsistency with the current legislation, family members often complain and state that it is necessary to give independent compensation to each family member;



- It is to be clearly defined how the affected persons receive the compensation, tax-free or cases where it turns out that a particular transaction has been taxed.
- Particular attention should be paid to the issue of VAT, because entrepreneurs with a turnover of more than 100,000 are taxed by VAT, therefore, the amount taxable by VAT is deducted from the compensation amount for these persons, while others (those who are not considered VAT payers) are not.
- It is necessary to create a mechanism that will fully release the transactions carried out for the purpose of public needs from taxes. It is possible to put the clear approach directly in the SPS, the obligation of carrying out of which is owed by the loan agreement to any contracting party and is given priority in relation to the national legislation.



- It is not clearly defined how long the CUT OFF DATE is valid (RD's recommendation is 1 year);
- If the project is started by the PIU lately, is the affected person entitled to make improvements to the land and the assets on it;
- In the case of an approved LARP, if the implementation of the project was delayed (force majeure situation, Covid-19 virus), price changes occurred in the market, complaints are received from citizens mainly regarding the exchange rate. It is not necessary to re-evaluate the land plots and to carry out an inventory.



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ADB Support on SPS Implementation in Georgia

Ninette Pajarillaga, Senior Environment Specialist (Safeguards), CWOD-PSG
Sona Poghosyan, Social Development Specialist (Safeguards), CWOD-PSG

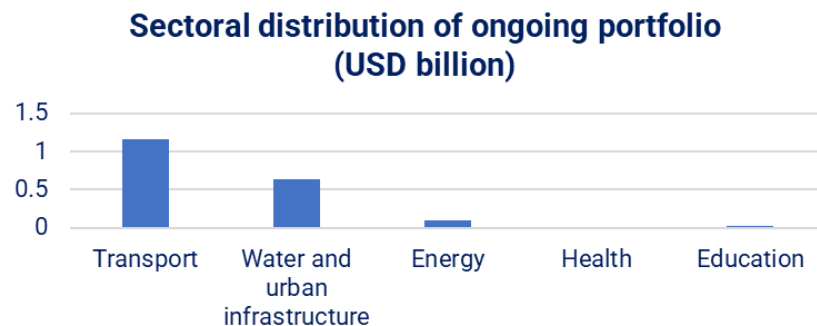


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Social Safeguards in ADB Operations in Georgia

- ADB began its partnership with Georgia in 2007 and is one of the country's largest multilateral development partners. ADB has committed \$3.92 billion loans and \$28.9 million technical assistance to Georgia.
- **Main sectors:** transport, water supply and urban infrastructure and services, followed by energy.
- As of January 2023, ADB's active portfolio comprises 13 projects.



Safeguards Categorization /# projects	IR	ENV
Category A	4	4
Category B	5	8
Category C	4	1

Challenges during the SPS application in Georgia



- Mobilization of safeguards staff
- Staff turnover requires regular capacity building and development of guidance notes/tools for sustainable monitoring and data management
- Meaningful consultations and stakeholders' engagement
- Indirect impacts (out of IR): vibration impacts, residual land plots assessment and compensation
- Grievance redress mechanism and capacity
- Capacity of supervision consultants and contractor's safeguards staff
- Budget allocation for safeguards
- Overall safeguard management system

Specific Challenges during the application of SPS



Involuntary Resettlement and Social Safeguards

- Valuation. Lack of law and methodology, capacity and resources gaps, Valuation disputes
- Land tenure and registration requirements and challenges

Environment

- Quality of SEMP's
- Government approvals and clearances for projects
- Cultural heritage assessment
- Implementation of CAPs

Capacity

- ADB Staff (HQ and RM): Social and environment focals, GRM safeguards officer
- RETA consultants: two social safeguards and one environment consultants based in GRM

Support to EA/IAs

- Monthly PIU meetings with mini-workshops
- Bi-weekly meetings on GRM cases
- On- the-job trainings and refresher sessions during the missions

Toolkits

- Grievances data management system has been developed to monitor the nature of the complaints and the resolution process
- Developing stakeholders' engagement and consultation plans and engagement of CLOs for cat. A projects
- Guidance notes for specific safeguards aspects

- LAR country assessment update and development of recommendations (Jan 2023)
- Extension of current social RETAs (until June 2023) and development of new RETAs (July 2023 onwards)
- Training and awareness raising to valuers on ADB SPS replacement cost compensation requirements
- Mainstreaming the preparation of SEP and engagement of CLOs in new projects
- In-country and regional knowledge sharing workshops and trainings
- Technical workshops – Advance Environmental Safeguards Training (May 2023), Health and Safety (September 2023), and others as needed per project

THANK YOU!



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Sustainable Development and Climate Change Department (SDCC)
Safeguards Division (SDSS)



Session 1: Overview on Policy Update Process and Status

Bruce Dunn, Director, Safeguards Division (SDSS),
Sustainable Development and Climate Change Department (SDCC)



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Objectives of Safeguard Policy Update



- **Modernize and enhance existing Safeguard Policy Statement (SPS)**, addressing key policy gaps and addressing emerging issues and risks, and vulnerabilities for affected people and the environment.
- **Adapt the policy for different financing approaches**, including sovereign and non-sovereign financing and different financing modalities
- **Improve efficiency of safeguard business processes**, seeking opportunities for streamlining and greater clarity on requirements for ADB and borrowers
- **Increase convergence and harmonization** with policies and system of other multilateral financial institutions and cofinanciers.
- **Improve implementation outcomes from safeguards**, with increased support for strengthening country systems and client capacities, and enhanced monitoring and oversight.

Safeguards Policy Review and Update

Approach and Methodology

Policy update time frame: August 2020 to March 2024

Implementation phases:

1. **Policy update planning** (August 2020–June 2021):
 - [Background Information Paper](#) (November 2020).
 - [Stakeholder Engagement Plan](#) (April 2021, updated July 2021)
2. **Analytical Studies** (December 2020–December 2022):
 - Policy architecture, benchmarking standards / thematic issues
 - Review implementation experience
3. **Policy preparation** (October 2023–March 2024):
 - Working Paper for ADB Board consideration (July 2023)
 - Final ADB Board approval of R-Paper (March 2024)
4. **Policy roll out** (2024-2025):
 - Policy effectiveness from 2024 (date to be confirmed)
 - Implementation guidance, staff instructions, good practice notes,
 - Training and capacity building for staff and clients



**Stakeholder
Engagement &
Consultation**



Analytical Studies and Regional Consultations Topics

Completed Consultations: Nov. 2021- Dec. 2022

1. Policy Architecture
2. Indigenous Peoples
3. Resource Efficiency and Pollution Prevention
4. Labor and Working Conditions
5. Community and Occupational Health and Safety
6. Land Acquisition and Involuntary Resettlement
7. Biodiversity and Sustainable Natural Resource Management
8. Cultural Heritage
9. Stakeholder Engagement, Information Disclosure, and Grievance Redress Mechanisms
10. Lessons from Accountability Mechanism
11. Environmental and Social Impacts and Risk Assessment
12. Safeguards in Fragile and Conflict-Affected Situations (FCAS) & Small Island Developing States (SIDS)
13. Country Safeguard Systems (CSS)
14. Focus Group Discussions with Private Sector Clients
15. Climate Change
16. Gender and Safeguards
17. Sexual Exploitation, Abuse and Harassment (SEAH)
18. Sexual Orientation and Gender Identity and Expression, and Sex Characteristics (SOGIESC)
19. Safeguards in Private Sector Operations

[See: Full list of Regional Consultations](#)

Planned Consultations

1. Safeguards in Different Financing Modalities

Stakeholder Engagement Plan (SEP) and Schedule

OBJECTIVES



Promote diverse participation and an inclusive process



Build interest and ownership in safeguards and update process



Ensure active participation through open, safe & iterative process



Communicate process, content, and outcomes with clarity

PROCESS

PHASE 1
(June 2020–May 2021)

- ✓ Initial outreach
- ✓ Preparation of a Stakeholder Engagement Plan (SEP)
- ✓ Preliminary information sessions with DMCs and CSOs

PHASE 2
(Nov 2021–Dec 2022)

- ✓ Publish analytical studies
- ✓ Regional consultations (all DMCs & CSOs)
- ✓ Private sector client consultations
- ✓ DMC country consultations (10 DMCs)
- ✓ Project-affected people consultations (11 projects)

PHASE 3
(Dec 2022 – Oct 2023)

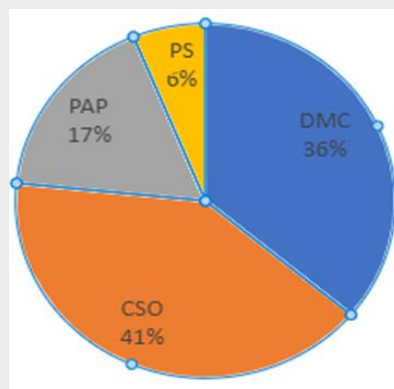
- ✓ Consultations on draft and final policy



STAKEHOLDER PARTICIPATION: DIVERSITY & INCLUSION

3,074

Stakeholders consulted in Regional, In-country, and Project-affected people consultations and private sector FGDs



REGIONAL CONSULTATIONS

55 of 68 DMCs represented

participants from 9 other countries outside the ADB network

56 Private sector client companies joined FGDs



51% MALE 49% FEMALE



IN-COUNTRY CONSULTATIONS

Completed (2022)

1. Tonga
2. Papua New Guinea
3. Mongolia
4. People's Republic of China
5. Pakistan
6. Republic of Marshall Islands
7. Philippines
8. India
9. Indonesia

Planned (2023)

1. Georgia

PAP CONSULTATIONS

524 PAPs
8 Projects (6 sovereign, 2 non-sovereign)
43 FGDs
63 household interviews

ACCESSIBILITY & QUALITY OF INFORMATION*

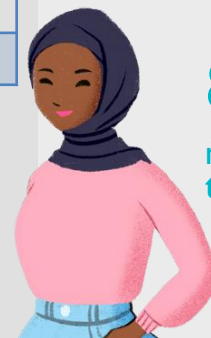
All 18 consultations have had the PowerPoint slides and summary papers disclosed and translated into 4 languages prior to the consultation event



Consultations simultaneously interpreted in 9 languages

94% reported that presentations & other materials provided were sufficient and understandable

83% reported that they received materials with sufficient time to review

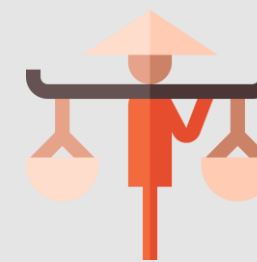


Post-event survey respondents (N=250)

RESPONSIVENESS & TRANSPARENCY*

88%

of participants reported that they were either very satisfied or satisfied with the overall quality of sessions



92% said their questions were satisfactorily answered by ADB

95%

felt safe and secure to voice their insights and to ask questions

91%

of participants were satisfied with the online platform used for consultations



Acronyms: CSOs = civil society organizations; DMCs = developing member countries, PS = Private Sector; PAP = project-affected persons

* Data from Regional Consultations and Private Sector FGDs

High Level Summary of Stakeholder Feedback

SPS Update Regional Consultations

DMCs

- Current SPS is benchmark for good practice
- Need closer alignment with country safeguard systems (CSS), avoid duplication, costs
- Greater consistency between MFI policy and procedures would reduce transaction costs
- Greater integration between environmental and social issues important, yet capacity is challenge.
- Need improved guidance & enhanced capacity support from early stages for country and project

CSOs

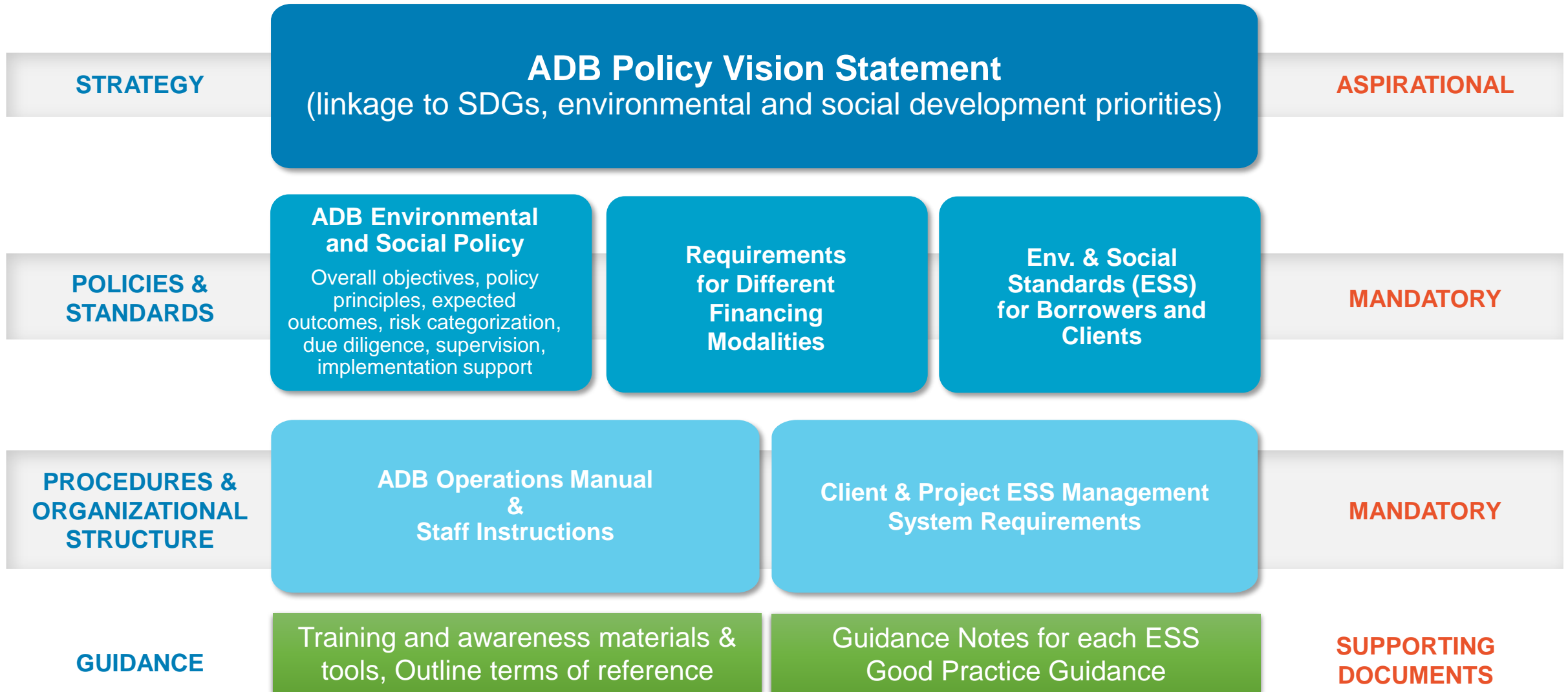
- Don't water down safeguards
- Concerns on use of CSS without equivalence and acceptability.
- Enhance stakeholder engagement and disclosure.
- Need safe space and address risks of retaliation.
- Concerns on safeguards for financial intermediaries
- Some key issues – climate change, gender, vulnerable & disadvantaged groups, biodiversity, labor issues, Indigenous People's, human rights

Private sector

- Convergence with IFC Performance Standards and Equator Principles
- Closer alignment with CSS and requirements
- Simplify disclosure requirements in alignment with other MFIs (e.g., reduce 120-day disclosure for EIAs)
- Greater clarity & guidance on requirements; ADB technical support during preparation and implementation

ADBs Proposed Policy Architecture Model

Environmental and Social Policy



Environmental and Social Policy Standards (ESS)

Policy objectives, scope and requirements for borrowers and clients



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

Sustainable Development and Climate Change Department (SDCC)
Safeguards Division (SDSS)



Session 2(a): Policy Directions and Recommendations for Environmental Safeguards

Zehra Abbas, Principal Environment Specialist, Safeguards Division (SDSS),
Sustainable Development and Climate Change Department (SDCC)



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Screening and Classification of Environmental & Social Risks

Analytical Study Findings and Policy Direction



Main Study Findings

- ADB follows significance based categorization (A, B & C) separately for environment, involuntary resettlement and Indigenous Peoples' safeguards.
- Comparator MFIs follow an integrated classification based on impacts and risks across all safeguard standards.
- E.g. World Bank has a four-tier risk classification system (low, moderate, substantial and high risk);
- MFIs review safeguard categories or risk ratings during implementation & link to requirements for supervision & monitoring.

Policy Direction

- » ADB and borrower/client to undertake an integrated environmental and social risk screening, categorization and assessment that considers:
 - **Direct and indirect** adverse impacts of a project
 - **Inherent** risk factors in different sectors
 - **Vulnerability and sensitivity** in the operating environment, e.g. biodiversity and natural habitats, natural disasters, and climate change, presence of vulnerable or disadvantaged groups etc.
- » ADB to also consider additional context and performance issues:
 - **Contextual risk factors**, e.g., fragility and conflict; governance; third party risks; and human rights issues
 - **Performance related risk:** Management systems, capacity, resources, commitment
- » Adopt a dynamic four-tier risk-based categorization that is regularly reviewed throughout a project's lifetime.



Assessment & Management of Environmental & Social Risks

Analytical Study Findings and Policy Direction

Main Study Findings

- In the SPS, there is an imbalance in how environmental and social issues are addressed in the assessment process.
- Interrelated social and environmental impacts and risks not captured adequately.
- MFIs promote more adaptive risk management throughout the project life cycle.

Policy Direction

- » Environmental and social assessment, commensurate with the impacts and risks.
- » More integrated assessment process, including focus on climate risks, gender, and range of vulnerable and disadvantaged groups.
- » Follow principle of adaptive risk management, balancing pre-project approval requirements with actions to be taken later based on risk level.
- » Integrate environmental and social commitment plans into legal agreements.
- » Strengthen ADB performance monitoring and capacity support, particularly during implementation.



Assessment & Management of Environmental & Social Risks

Due Diligence Requirements and Procedures

Due Diligence Requirements for the Borrower

- **Environmental and social impact assessment (ESIA)** of the proposed project, including stakeholder engagement.
- **Stakeholder engagement** and disclosure of appropriate information in accordance with the provisions of the standard on stakeholder engagement.
- **Monitoring and reporting** on the environmental and social performance of the project against the environmental and social standards (ESSs) and management plan/s.
- **Environment and Social Commitment Plan (ESCP)**, and agreement between ADB and the Borrower. Will set out measures and actions required for the project to meet the ESSs over a specified timeframe (to be part of the legal agreement).

Environment and Social Commitment Plan

Requires the Borrower to plan or take specific measures and actions over a specified timeframe to manage the impacts and risks of the project.

The Borrower will carry out all project activities, and relevant plans in accordance with the ESCP.



Pollution Prevention and Resource Efficiency

Analytical Study Findings and Policy Direction

Main Study Findings

- Climate: Greenhouse gas emissions (GHG) – significance threshold – MFIs moving towards lower thresholds (100,000 tons to 25,000 tons CO₂ eq/year).
- Increase focus on hazardous waste and water issues
- Range of emerging issues and new international conventions & commitments (e.g., mercury, plastics)

Policy Direction

- » Continue requirements for applying international good practice standards (e.g., updated World Bank Environmental Health and Safety Guidelines)
- » Consider thresholds for GHGs & benchmarking for resource efficiency
- » Assess water use and water balance (with thresholds)
- » Emerging issues to consider further, e.g.:
 - Ultrafine air pollutants
 - Circular economy and microplastics,
 - Hazardous wastes



Pollution Prevention and Resource Efficiency

Additional Requirements and Due Diligence

- » Assess GHG emissions for all projects. Monitor and report on GHG which are assessed to emit more than 25,000 tons CO2 equivalent per year.
- » Benchmark energy intensity against best available techniques
- » Conduct water use and water balance assessment for projects with predicted significant long term operational water use.
- » Undertake assessment and management of soils where significant soils impacts expected.
- » For contaminated sites, undertake a health and safety risk assessment of existing pollution (on site).



Health, Safety and Security (HSS)

Analytical Study Findings and Policy Direction

Main Study Findings

- Current SPS provisions are not comprehensive or consolidated
- Need to address risks across project cycle
- Gaps in a range of areas:
 - Project security risks to communities and workers
 - linkage of pollution risks to human health and environment.
 - Climate change and other vulnerabilities to affected communities
 - Traffic and road safety

Policy Direction

- » Risk assessment and management systems for workers and community
- » Consideration of health impact assessment
- » Requirements on monitoring and reporting, including on fatalities and major incidents; including indicators for tracking and reporting.
- » Assess project security threats to workers and project-affected communities
- » Allocate budget resources for implementation, personal, training, monitoring and equipment



Health, Safety and Security

Additional Requirements and Due Diligence

Requirements

- » Community and Workers' Risk Assessment and Management Plan*, with coverage based on screening:
 - Security risk for workers and communities.
 - Sexual abuse and harassment risks to workers and affected communities.
 - Climate change and disaster risk assessment for projects in sensitive locations
 - Life and Fire safety audits for new and refurbished facilities prior to use.
 - Reporting on major incidents such as fatalities and accidents.

**Note, assessment needed only for projects based on screening of relevant issues, with scale of assessment and management needs commensurate issues and risks.*



Biodiversity and Sustainable Natural Resource Management

Analytical Study Findings and Policy Direction

Main Study Findings

- Increased international focus on biodiversity loss and nature positive investment
- SPS generally aligned with other MFIs, however there is a need for 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

Policy Directions

- » Enhance focus on avoidance of impacts.
- » Consider to include World Heritage Sites and Alliance of Zero Extinction sites as exclusion zones (with exception for conservation)
- » Strengthen protection for critical habitats with net gain requirement. Include “free flowing rivers” as additional critical habitat trigger?
- » Use of offsets to be screened carefully to ensure implementable.
- » Assess ecosystems services and their use values as part of project due diligence
- » Consider sustainable management of primary supply chains
- » Consider emerging issues - risks of zoonotic diseases, animal welfare & genetically modified organisms (GMOs)



Biodiversity and Sustainable Natural Resource Management

Additional Requirements and Due Diligence

- » **Alternatives Assessment** required to demonstrate that all options have been assessed, particularly for projects where Critical Habitat is triggered (beyond existing requirements)
- » **Critical Habitat Assessment** required where identified at the screening stage
- » **Ecosystem services and/or ecological flows (e-flows) assessment** required where identified at the screening stage.
- » **Biodiversity Action Plan** prepared for projects in critical habitat to establish net gain
- » **Biodiversity Offsets**, where needed, will require confirmation on the feasibility of implementation and preparation of a biodiversity offset management plan.
- » **Supply chain risks assessment** and management required as part of the environmental assessment.



Cultural Heritage

Analytical Study Findings and Policy Direction

Main Study Findings

- The SPS largely aligned with other MFIs,
- SPS does not consider:
 - » Intangible Cultural Heritage (CH) and visual impacts to CH
 - » Crosscutting aspects with biodiversity & Indigenous Peoples; and user access to CH sites.
 - » Criteria to trigger archaeological fieldwork
 - » Contractor requirements to apply protection measures
 - » Community consultation to identify CH
 - » Legally protected CH

Policy Direction

- » Include intangible cultural resources and visual impacts
- » Screen for CH and undertake assessment and management planning
- » Monitoring and reporting needed to strengthen CH site management plans
- » Establish coordination with national CH bodies/archeological department to share project level CH findings

Questions, Answers and Discussion



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Session 2(b): Policy Directions and Recommendations for Social Safeguards

Madhumita Gupta, Principal Social Development Specialist, Safeguards Division (SDSS), Sustainable Development and Climate Change Department (SDCC)



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Labor and Working Conditions (LWC)

Analytical Study Findings and Policy Direction

Main Study Findings

- Current provisions scattered between SPS, ADB Social Protection Strategy (2001), & Core Labor Standards (CLS) Handbook
- Current provisions largely aspirational and lack clear requirements for borrowers/clients
- Comparator MFIs have separate standard for LWC, & operational-focused guidance notes
- Range of policy gaps compared to other MFIs

Policy Direction

- » Align with the LWC standards of comparator MFIs, with focus on CLS and working conditions.
- » Specific requirements on:
 - Different worker types (direct workers, contract workers, primary supply workers & community workers)
 - Equal employment opportunity
 - Sexual exploitation abuse and harassment (SEAH)
 - Labor-influx management
 - Grievance Redress Mechanisms (GRM) for workers and policy position against reprisals
 - Occupational health and safety
- » Labor management planning commensurate with risk
- » Address conditions of contracts are cascaded to subcontractors

Land Acquisition and Land Use Restriction (LA/ LUR)

Analytical Study Findings and Policy Direction

Main Study Findings

- No significant gaps between ADB and MFIs for involuntary resettlement (IR) objectives and scope.
- Some MFI objectives have explicit mention of avoidance of forced eviction.
- Some MFIs have requirements for:
 - » Voluntary land transactions & voluntary land donations,
 - » Requirements for non-land acquisition livelihood impacts.
 - » Use of frameworks for projects without full impact assessments prepared before project approval;

Policy Direction

- » Cover both involuntary & voluntary forms of land acquisition (LA) & land use restrictions (LUR)
- » Strengthened livelihood restoration requirements due to IR
- » Clarity on livelihood impacts & asset losses not caused by land acquisition.
- » Valuation of assets to be based on principle of replacement cost
- » Separation of voluntary land acquisition from negotiated settlements under eminent domain
- » Provisions on forced evictions. Enhance focus on vulnerable and disadvantaged groups, and gender.
- » Link planning with the readiness of project technical design.
- » Develop guidance on how to address legacy issues.



Land Acquisition and Land Use Restriction (LA/ LUR)

Additional Requirements and Due Diligence

- **IR categorization** – remove numerical threshold - impact categorization through integrated risk-based approach.
- **Social impact assessment**, census and socio-economic survey strengthened and linked with project design and implementation.
- **Voluntary land acquisition** requirements clarified in terms of due diligence and documentation.
- **Valuation of lost assets** by valuation experts based on replacement principle and recognized valuation standards.
- **Associated facilities, cumulative social impacts and/or legacy issues** require mitigation of LA/LUR related risks and impacts, within the Borrower/Client's influence and control.
- **Mitigation of project-induced impacts** like adverse socio-economic impacts on assets, incomes and livelihoods, not directly resulting from LA/LUR will follow the requirements of standard 5.
- **Land Acquisition Frameworks** allowed only as an exception with detailed justification based on scoping
- **Project finance for filling gaps** between national legislation and practices for LA/LUR and SPS requirements.
- **Engagement of third-party monitoring experts** directly through ADB to enhance due diligence for projects with significant risks.
- **Undertake compliance monitoring** of LARP implementation before start of civil works, and completion monitoring of LARP implementation at the time of project closure



Indigenous Peoples (IPs)

Analytical Study Findings and Policy Direction

Main Study Findings

- Current SPS IP safeguards are generally well aligned with other MFI policies.
- ADB requires the criterion of ‘vulnerability’ in addition to distinctiveness criteria for IP identification purposes, which is not the case with other MFIs.
- ADB requires consent of IPs through Broad Community Support, while other MFIs require Free Informed and Prior Consent (FPIC).

Policy Direction

- » **Vulnerability** Criterion for IP identification will be dropped, this could result in more projects requiring application of IP safeguards.
- » **Collective attachment** concept broadened to include: areas of seasonal use or occupation and nomadic and seasonal livestock and grazing routes.
- » **Strengthening Social Impact Assessment**, including provisions on intangible impacts and contextual risks
- » **Consultation**: Improve consultation, participation & information disclosure and address intersectionality of gender and IP issues
- » **Grievance Redress Mechanisms**: Improve GRM and integrate IP justice systems where appropriate
- » **Introduce FPIC with scope of application requirements broadened** from the:
 - » commercial development of natural resources to “adverse impacts on”;
 - » commercial development of cultural resources to “significant impacts” and
 - » physical displacement of IP” to “relocation of IP”
- » **Ensure appropriate policy fit for different regions, including the Pacific.**



Indigenous Peoples (IPs)

Associated Changes and Due Diligence

Due Diligence Requirements

- **Introduction of FPIC and broadening scope:** would require additional due-diligence for consultation and participation of IP communities, and the documentation of outcomes. In comparison to BCS, broadening around the three specific circumstances could imply that any project in the IP areas, may require seeking FPIC.
- **Compensating IP communities** for adverse impacts will require earmarking of additional budget
- **IP Dispute resolution system** through a participatory approach will require more time and resources

Monitoring, Capacity Building and Resources.

- **Budget allocation** with additional resources will be specified for implementing IP standards.
- **Capacity building** will be needed to implement these requirements for both ADB staff and DMC counterparts. Additional resources, time budget and technical expertise will be required.



Stakeholder Engagement and Information Disclosure (SEID)

Analytical Study Findings, Policy Direction and Due Diligence

Study Findings

- ADB requirements are scattered across different safeguard areas and lack clarity on requirements.
- Recently updated MFIs have SEID requirements integrated in one policy standard.
- ADB has no specific requirements for stakeholder engagement plans.
- Enhance meaningful consultation & engagement across the project cycle

Policy Direction

- » Clarity on stakeholder engagement, information disclosure and GRM requirements; with dedicated budget.
- » Strengthen focus on gender, vulnerable and disadvantaged groups.
- » Establishing GRMs using existing formal and informal mechanisms, provision for anonymous complaints.
- » Provision against intimidation and reprisals
- » Develop verifiable indicators to monitor key SEID components
- » Considering aligning disclosure requirements with MFIs; e.g., 60-day EIAs disclosure for Cat A. 30 days for Cat B, social assessments before ADB appraisal.

Due Diligence Requirement

- » Develop a stakeholder engagement plan and GRM proportionate to the nature and scale of the project, with meaningful consultation throughout the project cycle.

Questions, Answers and Discussion



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Lunch Break



Session 3:

Land Acquisition, Resettlement and Involuntary Restriction of Access to Land

Irina Novikova, Principal Social Development Specialist, Safeguards Division (SDSS), Sustainable Development and Climate Change Department (SDCC)



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ADB Safeguards Policy Statement, 2009 (SPS): Overview



IR Safeguard Objectives

- 1 **Avoid** involuntary resettlement wherever possible
- 2 **Minimize** involuntary resettlement by exploring project and design alternatives
- 3 **Restore and enhance** the livelihoods of all displaced persons in real terms relative to pre-project levels
- 4 **Improve** the standards of living of the displaced poor and other vulnerable groups

Key Requirements

- **Triggers:** physical and economic displacement related to involuntary land acquisition, involuntary land use restriction, and involuntary restriction of access to resources/legally designated parks and protected areas; impacts can be full/partial, permanent or temporary.
- **Key requirements:**
 - Screening, categorization and assessment of IR impacts
 - IR planning: prepare/update and disclose resettlement plans
 - Stakeholder consultations with displaced persons and GRM
 - Restoration of livelihoods through replacement/compensation for lost assets at replacement cost; no displacement prior to compensation
 - Provision of assistance and support (cash and non-cash)
 - Protections for displaced persons without recognizable legal rights to land
 - Monitoring of resettlement outcomes and disclosure of reports

Independent Evaluation Department (IED): Findings and Recommendations for IR



- 1. Maximize the value added of the IR safeguard beyond compensation.** IED evaluation finds ADB's involuntary Resettlement (IR) safeguards performance to be generally satisfactory; however, it notes a primary reliance on compensation of affected persons with a simultaneous weakness of livelihood restoration and improvement, especially for severely affected poor and vulnerable households. Recommends clearer livelihood restoration provisions and mitigation approaches. Notes weaknesses in stakeholder consultations and disclosure of resettlement plans, and further recommends improved disclosure of safeguards documentation in local languages and improved participation of government staff in consultations.
- 2. Recommends a new integrated approach to risk assessment and categorization.** The use of a numerical threshold of 200 severely affected persons for IR category A projects is judged inadequate and insufficiently risk oriented, as it does not appropriately assess the variable risks within the socio-economic, institutional, and country contexts.
- 3. Recommends enhanced mechanisms to assess social risks in projects and impacts on communities, people and their livelihoods** which do not originate from involuntary land acquisition but may still lead to physical and economic displacement.

Analytical Study Methodology and Processes:



Analytical Study Objective:

- Study objective is to provide informed recommendations for the update of requirements related to land acquisition, land use restriction, and involuntary resettlement.

Analytical Study Methodology:

- Desk based document review - IED Report and ADB Management Response, project documents related to IR safeguards
- Benchmarking with other MFI policies - Comparative analysis with EBRD, IFC, IDB, World Bank
- Stakeholder consultations and workshops - ADB staff, developing member countries (DMCs), Private Sector clients and organizations, civil society organisations.

Findings of Benchmarking of ADB IR Safeguard with MFIs



Objectives and Scope of Application

- ADB shares with other MFIs the objectives of avoiding and minimizing adverse IR impacts.
- Other MFIs include among the policy objectives avoidance of forced eviction, compensation at replacement cost and stakeholder engagement.
- Some MFI include requirements for voluntary land transactions, such as voluntary land donations.
- Some MFIs allow application of the IR standard to livelihood impacts not resulting from land acquisition.

Risk classification and categorization

- Except for ADB, all MFIs adopted a risk-based integrated environmental and social assessment.

Findings of Benchmarking of ADB IR Safeguard with MFIs



Mitigation plans

- All MFIs require preparation of varying types of resettlement planning documents commensurate with the level of displacement.
- All MFIs permit the use of resettlement frameworks for projects without impact assessments prepared before project approval
- ADB limiting the use of frameworks to four finance modalities.

Stakeholder engagement

- All MFIs require disclosure of relevant information about displacement impacts and mitigation measures in local languages and an accessible culturally appropriate manner.
- Some MFIs detail the kind of information required.
- Except for ADB, none of the MFIs explicitly require full disclosure of resettlement documents on their websites.

Findings of Benchmarking of ADB IR Safeguard with MFIs



Monitoring and implementation

- ADB explicitly mandates the public disclosure of monitoring reports on its website.
- To ensure verification of the completion of RP implementation, especially for IR category A, other MFIs may require land acquisition IR completion reports and/or external compliance reviews.
- ADB does not require standalone IR completion audits and reports but mandates ongoing M&E and discloses completion of RP implementation in project completion reports.

Roles and responsibilities

- The division of responsibilities is comparable to ADB.
- MFIs undertake screening, due diligence, supervision, support and capacity building.
- Borrowers implement all requirements for safeguard management of the standards.



Architecture and Integration

1. Adoption of a performance standard approach, with binding requirements for Borrowers and ADB, including for staff, with clarification of differential roles and responsibilities for the management of land acquisition and land use restriction (LA/LUR).
2. Adoption of a risk-based approach to screening, scoping and categorization of LA/LUR without a numerical threshold for impact significance.
3. Adoption of an integrated environmental and social impact assessment as an overarching assessment tool to cover all anticipated social risks and impacts of a project, with specific requirements for LA/LUR.

Key issues for further consideration



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Scope of Application

1. To cover both involuntary and voluntary forms of LA/LUR, improve implementation practices and provide clearer guidance
2. To clarify provisions related to land use restriction and restriction on access (regarding both infrastructure and natural resource management related impacts)
3. To clarify provisions for the social impacts of associated facilities, existing facilities, legacy issues and cumulative impacts and their mitigation.
4. To clarify provisions for mitigation of livelihood impacts & asset losses not caused by land acquisition.



Strengthening of other provisions

1. To link LA/LUR planning with the readiness of the technical design through either
 - implementation ready land acquisition plans, or
 - a framework approach coupled with enhanced scoping
2. To further clarify LA/LUR related provisions for
 - valuation of lost assets
 - livelihood restoration
 - relocation of non-titled displaced persons
 - vulnerability
 - gender
 - mitigation measures for host communities
 - strengthening of the Borrower's capacity for LA/LUR management
 - external and third-party monitoring and verification

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Questions, Answers and Discussion



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Wrap Up and Next Steps

Bruce Dunn, Director, Safeguards Division (SDSS),
Sustainable Development and Climate Change Department (SDCC)



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Event Evaluation



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Thank You

