Regional Consultation on ADB's Draft Environmental and Social Framework (ESF)

Governments from East and Southeast Asia 22-23 January 2024 | Manila, Philippines



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Restatement of ADB's Commitment to Meaningful Consultation

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

All stakeholders are encouraged to articulate their inputs and concerns during these consultation sessions. By joining these sessions (and as noted in paragraph 47 of the Stakeholder Engagement Plan) stakeholders are consenting to the video and audio recording of these consultations for documentation purposes. Recordings will not be disclosed. ADB will prepare a consultation summary for disclosure on SPRU website to ensure transparency of proceedings.

Stakeholders wishing to exclude themselves from such recordings are asked to contact the Safeguards Policy Review and Update Secretariat at <u>safeguardsupdate@adb.org</u> within 2 weeks of this session with 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 course of the consultations, please get in touch with the Secretariat through email at safeguardsupdate@adb.org.

Regional Consultation Objective

- 1. Provide background and introduction to the draft Environmental and Social Framework (ESF)
 - Background and overview of the draft ESF
 - Overview of the proposed Environmental and Social Standards
 - Overview of E&S Requirements for Financing Modalities and Products and Prohibited Investment Activities List (PIAL)
- 2. Seek official feedback from government on the draft ESF





Day 1: 22 January 2024

10:10 am Opening Message
10:15 am Session 1: Overview of ESF and ESP
11:00 am Session 2: Overview of ESS 1 and ESS 10
02:00 pm Session 3: Overview of ESS 3 and ESS 9
04:15 pm Session 4: Overview of ESS 2 and ESS 4

Day 2: 23 January 2024

- 08:40 am Session 5: Overview of ESS 5
- 10:55 am Session 6: Overview of ESS 7
- 01:55 pm Session 7: Overview of ESS 6 and ESS 8
- 04:10 pm Session 8: Overview of E&S Requirements for Financing Modalities and Products and PIAL
- 06:10 pm Synthesis, Closing Message



Opening Message

Bruce Dunn Director, Policy and Technical Services, OSFG, ADB









Session 1: Overview of ESF and ESP

Bruce Dunn
Director, Policy and Technical Services, OSFG, ADB

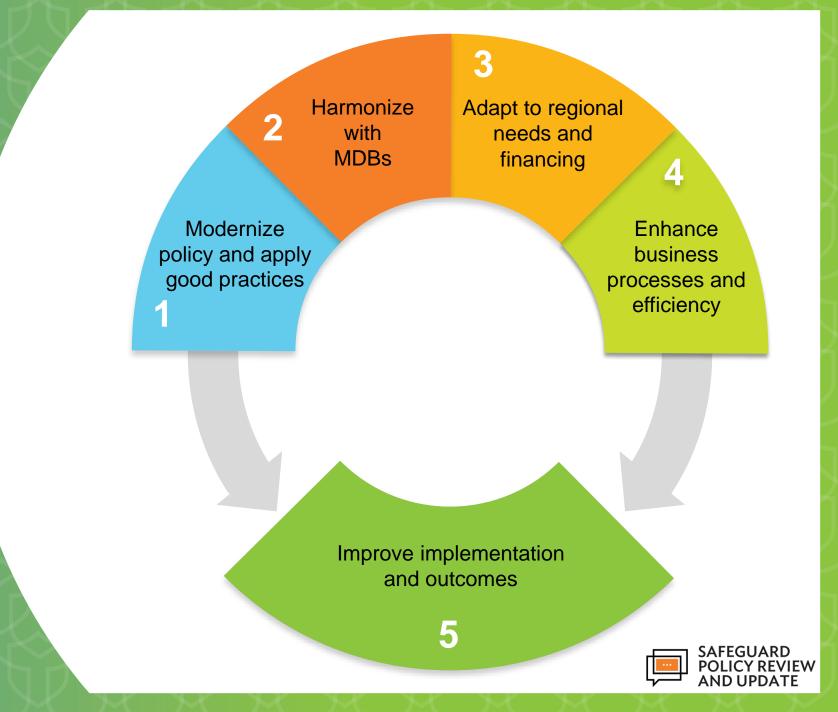
Takako Morita Principal Counsel, Office of the General Counsel (OGC), ADB





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

Objectives of Safeguard Policy Review and Update



Policy Preparations Undertaken

ADB

1. 18 thematic studies completed

- Policy architecture, environment, social and gender issues.
- Benchmarking ADB and MDBs
- Implementation experience and challenges

2. Stakeholder engagement

- 3600+ individuals consulted in total
- 80 online consultation events on thematic studies
- 10 DMCs visited/participated for in-country consultations
- ✓ 56 private sector clients consulted
- 9 project consultations with directly affected people
- ✓ 10+ focus group discussions on gender/SOGI issues
- Established Indigenous People's Advisory Group
- Dialogue with other MDBs

3. ADB Staff and Board Engagement

- Steering Committee, Lead Coordination Group & Technical Working Groups
- Informal Board Seminar (2020), Deep-Dives (2021 and 2022), bilateral meetings



Developing Member Country (DMC) in-country consultation

- 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
- 10. Georgia

Stakeholder Engagement and Consultation





Safeguard Policy Review | Asian Development Bank

www.adb.org

High Level Summary of Stakeholder Feedback



DMCs

- Recognize the importance of safeguards.
- Still some implementation challenges with the SPS
- Avoid unnecessary transaction costs
- Support closer alignment with country safeguard systems (CSS)
- Greater consistency between MFI policies and procedures would reduce transaction costs
- Need improved guidance & enhanced capacity support from early stages for country and project

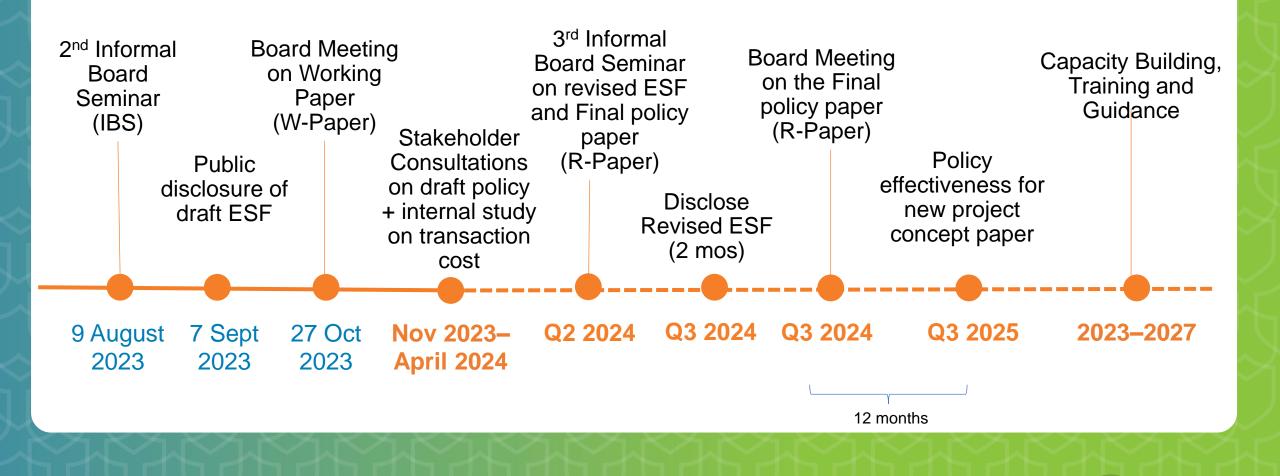
CSOs

- Don't weaken / water down safeguards
- Concerns on gaps and potential use of CSS
- Enhance stakeholder engagement and disclosure.
- Ensure safe space and address risks of retaliation.
- Concerns on safeguards for financial intermediaries
- Enhance focus on climate change, biodiversity, gender, vulnerable groups, sexual orientation and gender identity, labor issues, Indigenous People
- Include human rights due diligence

Private sector

- Convergence with International Finance Corporation (IFC) Performance Standards and Equator Principles.
- Closer alignment with CSS and national requirements
- Align disclosure requirements with IFC and other multilateral financing institutions (MFIs) (e.g., reduce 120-day disclosure for EIAs to 60 days)
- Greater clarity & guidance on requirements; provide technical support during preparation and implementation

Preparation Schedule



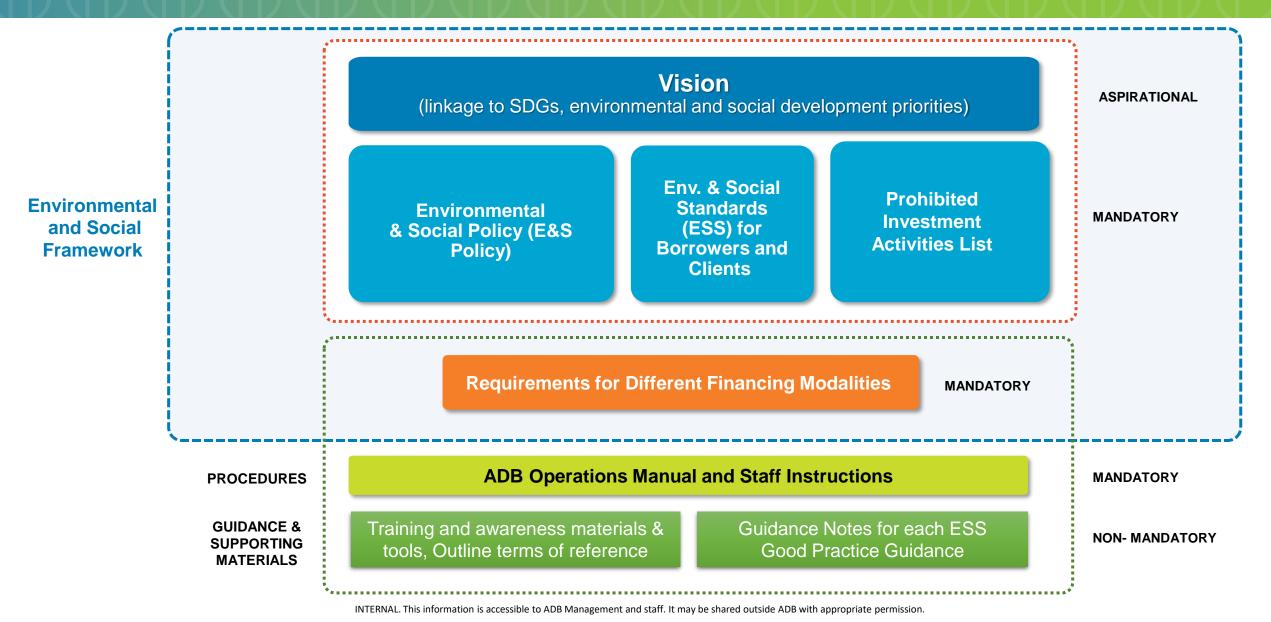


Overview of the ESF





Proposed Policy Architecture Environmental and Social Framework



Environmental and Social Policy Standards (ESS)

10 proposed standards build off the current requirements of the Safeguard Policy Statement (SPS)

ADB



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Environmental and Social Standards (ESS)

Incremental enhancements to Environment Safeguards

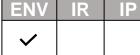


- More integrated E&S assessment
- Enhance risk assessment
- Greater focus on gender, vulnerable groups
- Enhanced monitoring

ENV	IR	IP
~	>	~

Integrates and enhances existing Environment (ENV), Involuntary Resettlement (IR), and Indigenous People's (IP) requirements





Cultural

Heritage

- Priority for avoidance of impacts
- Update critical habitat criteria
- Criteria for use of biodiversity offsets

Cultural heritage assessment and

Natural resource supply chains

Intangible cultural heritage

Ecosystem services

management

Builds on the ENV Safeguards



EN'

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ΞN

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Builds on the ENV Safeguards



- Clearer requirements on hazardous materials and on pesticide management
- resource use: energy, water, soil, raw matariala

EΝ\ \checkmark

- More emphasis on sustainable

Builds on the ENV Safeguards



EN\

 \checkmark

- Worker and community security risks
- Sexual exploitation abuse and harassment
- Incident reporting & management



IP

- Lower threshold for assessment and monitoring of GHG
- Climate change risks assessment and resilience

Builds on the ENV safeguards, and ADB procedures for risk screening on climate change.

Builds on the ENV Safeguards

Environmental and Social Standards (ESS) Incremental enhancements to Social Safeguards

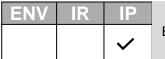
ENV

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- Core labor standards in safeguards
- Safe and healthy working conditions
- Coverage on different types of workers
- Primary suppliers

Builds on: (i) ADB Social Protection Strategy, 2001; (ii) SPS ENV safeguards & Prohibited Investment Activities List; and (iii) CLS requirements in civil works contracts.





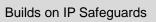
Stakeholder

Engagement

Disclosure

and Information

- Criteria for IPs (removal of vulnerability criteria)
- Free, prior and informed consent (FPIC)



disclosure

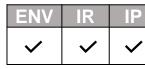
groups

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- Enhanced provisions on SPS land acquisition requirements
- Increased focus on vulnerability and livelihood restoration
- Coverage of voluntary land transactions
- Enhanced linkage with procurement and implementation of civil works





10

Integrates meaningful consultation, disclosure & grievance mechanisms from ENV, IR and IP safeguards

affected peoples and workers

Stakeholder engagement planning and

Inclusion of disadvantaged or vulnerable

Ensure no-retaliation against affected people

Grievance mechanism optimized for different

Environment and Social Policy (E&S Policy) ADB's Responsibilities

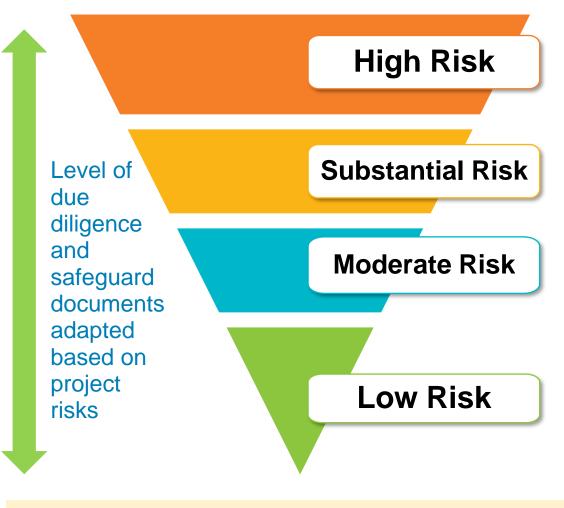
The E&S Policy sets out: (i) policy objectives; (ii) scope; and (iii) ADB responsibilities, including:

- 1. Preparing environmental and social (E&S) risk classification in consultation with borrowers/clients
- 2. Reviewing of **E&S** assessments undertaken by a borrower/client, proportionate to the nature and scale of risks
- 3. Assisting borrowers/clients in identifying **assessment and management tools** appropriate to the E&S risks
- Supporting borrowers/clients with strengthening of their E&S systems and performance
- 5. Agreeing with borrowers/clients on the **conditions** under which ADB will consider financing a project, which will be set out in an Environmental and Social Commitment Plan and/or Environmental and Social Action Plan (ESCP/ESAP)

- 6. Supporting borrowers/clients to carry out **early and continuing meaningful consultation** with relevant stakeholders and provide project-level grievance mechanisms, consistent with the Environmental and Social Standards (ESSs)
- 7. Reviewing and monitoring the E&S performance of a project throughout a project life cycle in accordance with the ESSs and the ESCP/ESAP

Environment and Social Policy A New Approach to Risk Classification

- » Risk screening determines standards triggered, risks to focus on, and resource needs. Not all standards may be triggered by a project
- » Integrated environmental and social risk screening and classification:
 - Direct, indirect and cumulative impacts
 - Inherent risk factors in different sectors
 - Vulnerability and sensitivity of people and environment
- » Also considers other risks (New)
 - Contextual risk factors
 - Performance / capacity related risk
- » There will be one risk classification assigned to a project (no longer a separate classification for ENV, IR and IP)
- » Safeguard documents will present the basis for risk classification, including risks related to individual standards



Simplified comparison to SPS categorization Cat A (=High); Cat B (=Substantial or Moderate); Cat C (= Low)

Environment and Social Policy Addressing Risks on Disadvantaged or Vulnerable Groups



Disadvantaged or Vulnerable Groups

Individuals or groups by virtue of their age, gender, ethnicity, religion, disability, social, civic or health status, sexual orientation, gender identity, economic disadvantages or indigenous status, and/or dependence on unique natural resources, may be more likely to be at risk of being adversely affected by project impacts, and/or more limited than others in their ability to take advantage of a project's benefits, and/or excluded from/unable to participate fully in consultation processes and benefit sharing

- 1. Disadvantaged or vulnerable groups should not be disproportionately impacted by a project
- Projects should promote non-discrimination & ensure "disadvantaged or vulnerable" groups benefit equally from a project
- 3. Vulnerability is multifaceted and intersectional relationships should be considered. E.g., relationships between poverty, gender, and disability
- Differentiated measures should be designed to address impacts on the disadvantaged or vulnerable
- 5. The design of assessments and measures should adopt a sensitive approach, tailored to country context and legal frameworks, as well as the project specific context and level of risk
- 6. Safeguard measures will focus on managing risk and addressing potential harm to affected people, to the extent possible and as determined with ADB. Project measures do not imply or suggest the need for wider legal reforms
- 7. Approaches should not increase risk exposure of disadvantaged or vulnerable groups that could occur as a result of the project
- 8. Provide appropriate forms of stakeholder engagement and grievance mechanisms at the project level that are safe and accessible

Environment and Social Policy New Provisions and Requirements



1. Information disclosure:

- All disclosure requirements subject to ADB's Access to Information Policy (2018)
- Disclose documents and information relating to High, Substantial and Moderate Risk projects prior to project appraisal or final credit approval
- Limited exceptions for documents prepared by a borrower/client post-ADB approval, as reflected in an environmental and social action plan/ environmental and social commitment plan (ESCP/ESAP)

2. Consultation and participation - ADB will require a borrower/client to:

- Engage with stakeholders through information disclosure, and meaningful consultation in an inclusive manner, without discrimination throughout the project cycle
- Identify and undertake early engagement with disadvantaged or vulnerable people and groups

- 3. Grievance redress ADB will require a borrower/client to:
 - Provide a project-level grievance mechanism to receive and facilitate resolution of concerns and grievances of projectaffected persons arising in connection with a project

4. Monitoring:

 ADB will monitor borrower's/client's environmental and social policy(E&S) performance of a project in accordance with the requirements in the ESCP/ESAP in a manner proportionate to the potential E&S risks and impacts of a project

5. Capacity support:

 ADB will help borrowers/clients strengthen their E&S systems and improve their capacity to manage E&S risks

ADB

Common Approach

ADB and other multilateral or bilateral agencies can agree on a common approach for E&S assessment and management acceptable to ADB, provided that such an approach will enable a project to **achieve objectives materially consistent** with the ESSs

MDB policies, standards and their implementation procedures will be considered

Main Features

- Common approach will apply to the project, including associated facilities, financed by the same co-financier if agreed by ADB and the borrower/client
- 2. Possible to disclose one set of project information and documentation for stakeholder engagement.
- 3. Decision to use common approach to be made early, latest by project appraisal or final credit approval.
- 4. E&S performance will be measured against the common approach.
- 5. In the case of differences between MDB standards, an approach will be agreed and reflected in an ESCP.
- 6. Complemented by policy provisions on mutual reliance on due diligence undertaken by other multilateral/bilateral agencies.

Environment and Social Policy/ ESS1 Use of Borrower Systems in ADB Projects



What are 'Borrower E&S Systems'

The borrower's environmental and social system will include those aspects of the host country's policy, legal, regulatory and institutional framework, consisting of its national, subnational, or sectoral implementing institutions and applicable laws, regulations, rules and procedures and implementation capacity relevant to the E&S risks and impacts of a project

- 1. Material Consistency: Borrower's E&S systems may be used provided they address the risks and impacts of the project and enable the project to achieve objectives materially consistent with the ESSs
- 2. Assessment: ADB to undertake an assessment to establish material consistency for the project with the applicable ESSs
- 3. Environmental and Social Commitment Plan/Action Plan: sets out any gap filling measures and timeframes for their completion and sets out the E&S performance measures for a project

SPS 2009 methodology for use of Country Safeguard Systems

- Under the SPS, the use of CSS determined through establishing equivalence and acceptability
- IED Corporate Evaluation of the SPS (2020) recommended a new approach to strengthening borrower systems, with 'pragmatic use' of CSS

Session 2: Overview of ESS 1 and ESS 10

Zehra Abbas Principal Environment Specialist, OSFG, ADB

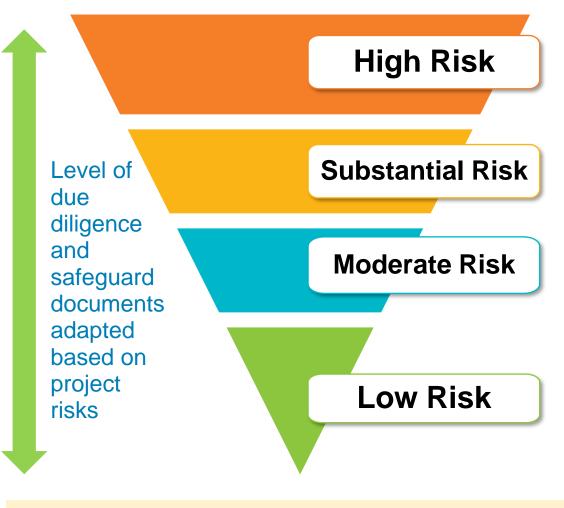
Zaruhi Hayrapetyan Social Development Specialist (Safeguards) OSFG, ADB





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- » There will be one risk classification assigned to a project (no longer a separate classification for ENV, IR and IP)
- » Safeguard documents will present the basis for risk classification, including risks related to individual standards



Simplified comparison to SPS categorization Cat A (=High); Cat B (=Substantial or Moderate); Cat C (= Low)



Assessment & Management of Environmental & Social Risks New Provisions and Improved Requirements

- 1. Integrated E&S assessment: address all direct, indirect, and cumulative E&S risks and impacts, integrating environmental and social factors
- 2. Environmental and social factors: lists issues to be considered consistent with the ESS and issues triggered for the project
- 3. Scope: establish scope of the assessment & relevant ESSs and requirements triggered
- E&S assessment: level of assessment to be proportionate to the E&S risks and impacts and the applicable ESSs
- Disadvantaged or vulnerable groups: identified through E&S assessment and differentiated measures designed based country context, nature of project and E&S risks

- 6. E&S readiness: enhanced by requiring that all E&S assessment requirements under the relevant ESSs are identified and undertaken to the extent possible to the satisfaction of ADB
- 7. Environment and Social Commitment/Action Plan (ESCP/ESAP): provides adaptive management process with measures needed to meet the requirements of the ESSs over a specified timeframe. Include measures to bring a project into compliance or to be undertaken during project implementation
- 8. Monitoring: semi-annual for high and substantial risks, and at least annual for moderate and low risks, or as per ESCP/ESAP
- 9. Management of contractors: contractors and subcontractors to fulfill requirements of the relevant ESSs and ESCP/ESAP



Stakeholder Engagement and Information Disclosure New Standard and Improved Requirements



Develop a Stakeholder Engagement Plan: outlines requirements on meaningful consultation, promoting participation in a manner that is safe and accessible for all stakeholders.

Can be a stand-alone document or as part of another safeguards document

Disadvantaged or vulnerable groups identified through stakeholder engagement and ensure their needs and concerns are recognized and accounted for in the stakeholder engagement and information disclosure process and in grievance mechanism

Establish accessible grievance mechanisms at the earliest stages to ensure timely response and management of grievances.

Clear requirements to address allegations of reprisal, abuse, intimidation, or discrimination, and take appropriate remedial measures. Provision for handling anonymous complaints **Disclose project information** as early as possible in project preparation and in a timeframe that enables meaningful consultations with stakeholders on project design, but no later than ADB's project appraisal or final credit approval

Allocate sufficient financial and human

resources to ensure the implementation of the stakeholder engagement plan, including information disclosure and grievance mechanisms

Qualified third-party experts may be engaged based on the complexity of the project to monitor and report on the implementation and recommendations to resolve identified gaps and concerns

Session 3: Overview of ESS 3 and ESS 9

Zehra Abbas Principal Environment Specialist, OSFG, ADB





ADB



Resource Conservation and Pollution Prevention New Provisions and Improved Requirements



- Resource conservation: clearer and more detailed guidance on sustainable use of resources such as energy, water, soil, and all types of raw materials
- 2. Circular economy: integrate the principles of circular economy into all aspects of a project
- 3. Waste and chemicals: clearer requirements around the direct or indirect generation of hazardous and non-hazardous wastes, and the manufacture, trade, and use of hazardous chemicals, substances and materials

- 4. Pesticides: updated requirements to ensure pesticide use minimization and management
- 5. Pollution prevention guidelines:

World Bank Group's Environmental Health and Safety Guidelines, continue to apply, along with national standards, and/or good industry practice (GIP). (Where there are inconsistencies the more stringent standard will apply)



Climate Change New Standard

ADE

Current ADB approach to Climate Change

- ADB portfolio and project level alignment with the goals of the Paris Agreement
- SPS environmental safeguards requires project level GHG emissions assessment and management (with threshold of 100,000 t/CO²eq/yr.)
- ADB undertakes projectlevel climate risk screening and climate risk and adaptation assessment

GHG Mitigation

- Project related GHG Emissions: Estimate, monitor and report project-related GHG emissions
- Undertake ex-ante estimation of absolute and relative GHG emissions of a project
- Threshold: 20,000 tCO²e/yr- absolute and relative GHG emissions between -20,000 tons and +20,000 tCO²e/yr
- >20,000 tCO²e/yr monitor absolute GHG emissions annually and report to ADB

Climate Risk

- Climate risk screening: undertake climate risk screening at the project level.
- Assessment of Climate Risks: assess climate and develop climate change adaptation and resilience measures

Presentation of Feedback from Participating Countries

Cambodia
 China, People's Republic of
 Indonesia
 Lao People's Democratic Republic
 Yiet Nam
 Mongolia



Session 4: Overview of ESS 2 and ESS 4

Felix Oku Senior Social Development Specialist (Safeguards), OSFG, ADB





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- This standard builds on and updates ADB's commitment to the core labor standards that are currently set out in the SPS Prohibited Investment Activities List, Social Protection Strategy (2001), the Core Labor Standards Handbook, associated loan covenants in project legal agreements between ADB and borrower, and civil works contracts of the borrowers for the project.
- 2. The **scope of application** of the requirements depends on the type of employment and the nature of employment relationship between the borrower and project workers.
- 3. The **focus of labor related risks** is at the project-level and the requirements apply to all sectors and all project workers.

Applies to all types of employment relationships including:

- direct workers workers engaged or employed directly by a borrower to work on a project.
- contracted workers workers engaged or employed by a third party to perform work related to a project, regardless of location.
- **primary supply workers** workers engaged or employed by a borrower's primary suppliers.

Primary suppliers are suppliers who provide directly to a project goods or materials essential for production and/or service processes that are necessary for a specific project activity and without which a project cannot continue.

 community workers – workers engaged or employed by a borrower from a community or communities in a project-affected area who contribute their labor to a community development project through different

working arrangements.

Labor Management Plan (LMP) – A new instrument to set out a systematic approach to management of labor issues in projects and reflect the requirements of national law, applicable collective agreements, and requirements of ESS2. The amount of detail set out in the LMP reflects the type of project; the type, size, and location of the workforce; and the extent to which national law satisfies the requirements of ESS2.



4. Objectives

- a. Promotion of fair treatment, non-discrimination, and equal opportunity for project workers: the employment of project workers is based on the principle of equal opportunity and fair treatment, with no discrimination with respect to any aspects of the employment, such as recruitment and hiring, compensation, working conditions and terms of employment
- b. Prevent and address any forms of violence, harassment, bullying, intimidation and exploitation against project workers, including SEAH: borrowers will take appropriate measures to prevent and address in a project context any forms of violence.
- c. Support the principles of freedom of association and collective bargaining: requires borrowers to not prohibit freedom of association and collective bargaining. Takes into account the legal context of the host country. E.g., current loan covenant in legal agreement with PRC already provides the following: "...do not restrict workers from developing a legally permissible means of expressing their grievances and protecting their rights regarding working conditions and terms of employment."
- d. Prevent the use of forced labor and child labor:* prohibits child or forced labor for all workers, including at the level of the primary supply worker and their suppliers.
- e. Promote, develop and maintain transparent project worker management relationships: identify different types of project workers and set out how they will be managed based on the employment relationships and in accordance with the requirements of the ESS and applicable host country laws
- f. Provide project workers with accessible means to raise workplace concerns: project-level grievance mechanism will be designed to address labor and working conditions, as well as to provide for confidential complaints and special protection measures for SEAH concerns.

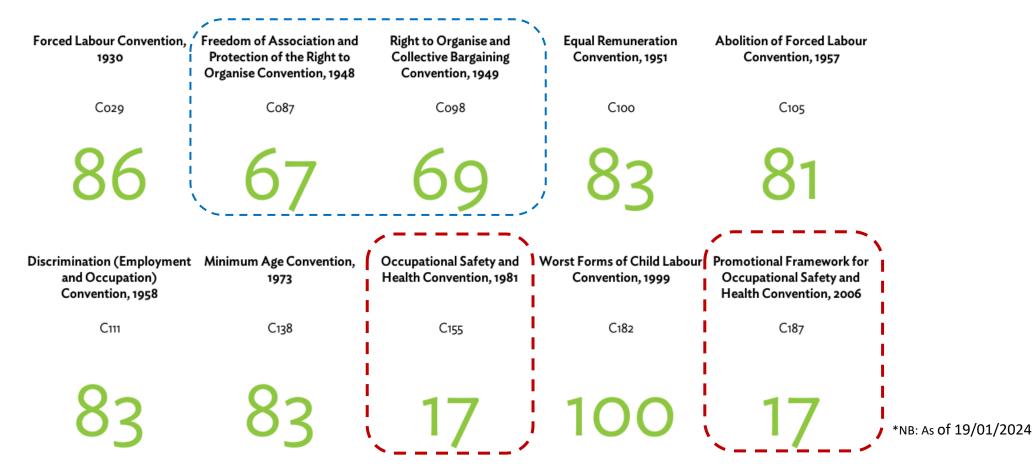
*more details included in subsequent slides





Alignment with ILO Core Labor Standards and other Multilateral Development Financing Institutions

% Spread of Fundamental ILO Conventions Ratified by ADB DMCs





Child Labor Approach (consistent with ILO C138 and C182): Borrower will not employ or engage:

- Under age 15 (or higher under host country labor law)no employment under the age of completion of compulsory schooling
- Under age 18- no employment if economically exploitative or is likely to be hazardous or interfere with the child's education, or harmful to the child's health, or physical, mental, spiritual, moral, or societal development
- Exceptions: Ages 13-15 permitted for light work that will not (i) be harmful to their health or development and (ii) prejudice their attendance at school, their participation in vocational orientation or training programs if host country laws allows such work, consistent with the applicable international convention.

Forced Labor Approach (consistent with ILO C029 and C105)

Definition

"All work or service which is exacted from any person under the threat of a penalty and for which the person has not offered themself voluntarily." (definition from ILO C029 on Forced Labor)

- If forced labor or other exploitative form of labor practices are identified, the borrower will promptly take corrective actions to eliminate such practices from a project.
- Borrower will not engage any trafficked persons.

Ratification Status of ILO conventions on Forced labor and child labor (out of 39 ADB DMCs who are members of the ILO)*

Forced labor		Child labor	
<u>C029</u>	<u>C105</u>	<u>C138</u>	<u>C182</u>
36	32	35	40



Health, Safety and Security New Standard and Improved Requirements

ADB

- Safety and security of communities and project workers: Assessment, planning, management and monitoring of safety and security related risks and impacts, including risks to community and project workers, traffic and road safety, and natural hazards
- 2. Incident reporting and management
- 3. Sexual exploitation abuse and harassment (SEAH): requires that the borrower identifies, addresses and manage project related SEAH risks for workers and affected communities
- 4. Emergency preparedness and response: risk hazard assessment for projects that could potentially cause an emergency, and prepare an emergency response plan

- 5. Responsible security personnel: where security personnel are hired to protect workers or property, they should not become a threat to the communities and workers
- 6. Infrastructure design and safety: ensure structural elements of a project comply with host country safety requirements, or good industry practice, and consider appropriate features for users age, ability or disability
- 7. Dam safety: for new or existing dam projects, apply dam safety requirements

Health & Safety Management Plan (HSMP) – Will set out a systematic approach to the management of health, safety and security risks in projects. Could include OHS, Community H&S and/or Security Management plan base on the type of project; the type, size, and location of the workforce and risks to surrounding communities.

Presentation of Feedback from Participating Countries

Cambodia
 China, People's Republic of
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 Lao People's Democratic Republic
 Yiet Nam
 Mongolia





Plenary Discussion





Synthesis and Announcements





Regional Consultation on ADB's Draft Environmental and Social Framework (ESF)

Governments from East and Southeast Asia 22-23 January 2024 | Manila, Philippines





ADE



Meeting Reminders and Recap of Day 1





Session 5: Overview of ESS 5

Irina Novikova Principal Social Development Specialist (Safeguards), OSFG, ADB





ADB



Scope: covers (i) Involuntary land acquisition/land use restriction, (ii) due diligence requirements for voluntary land transactions and land use restriction, (iii) activities carried out prior to a project, but which were undertaken or initiated in anticipation of, or in preparation for a project.

Risk Assessment and Classification: Integrated ESIA, no stand-alone numerical threshold for involuntary resettlement categorization (ESIA now considers overall impacts/risks). LA/LUR impacts may further be classified for the purpose of ESS5 application.

Coverage: ESS1 and ESS5 Associated facilities/cumulative social impacts/existing facilities require mitigation of LA/LUR risks and impacts, within the borrower/client's influence and control; past LA/LUR impacts in anticipation and in preparation of the project.

LA/LUR Impacts: (i) covers full, partial, permanent, and/or temporary economic and physical displacement; (ii) covers affected persons without formal, traditional, or recognizable property and use rights under host country laws who occupy or utilize land.

Assessment of Impacts: prepare land acquisition plan (LAP) proportionate to impacts, pay particular attention to disadvantaged or vulnerable and gender, ensure stakeholder engagement, grievance mechanisms and information disclosure.



Compensation/Assistance: provide compensation and entitlement for project affected persons. Provide adequate housing with security of tenure and safety at resettlement sites for physically displaced persons.

Land Acquisition Frameworks (LAF): if final engineering design or full assessment are not available at ADB approval of a project, and impacts are uncertain, a LAF may be prepared after providing justification based on detailed scoping and tentative budget.

LAP monitoring: ensure implementation of the LAP prior to start of civil works through conformation review, and completion monitoring at the time of project closure.

Disclosure: ensure disclosure of all LA/LUR instruments.

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Plenary Discussion





Coffee Break

We'd like to get your feedback on the session!



Scan QR Survey



Session 6: Overview of ESS 7

Tulsi Bisht <u>Senior Social Development Specialist (Safeguards), OSFG</u>





ADB

Introduction



- ESS 7 builds on the existing IP safeguards in the SPS 2009 and continues to recognizes that **Indigenous Peoples** are often among the most marginalized and vulnerable segments of the population. Their economic, social, and legal status limit their capacity to defend their rights to lands and natural and cultural resources and restrict their ability to participate in and benefit from development in ways that are in accordance with their worldview.
- Within Asia and the Pacific, Indigenous Peoples may be referred to in different countries by such terms that include indigenous ethnic minorities, indigenous cultural communities, aboriginals, hill tribes, minority nationalities, scheduled tribes, tribal groups, forest dwellers, hunter-gatherers, pastoralists, or other nomadic groups.



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- 1. Ensure that **Indigenous Peoples** do not suffer adverse impacts as a result of projects or, where avoidance is not possible, to minimize, mitigate, and/or compensate for such impacts;
- 2. Design and implement projects in a way that fosters full respect for Indigenous Peoples' identity, dignity, human rights, livelihood systems, and cultural uniqueness as defined by the Indigenous Peoples themselves;
- 3. Ensure that Indigenous Peoples receive culturally appropriate social and economic benefits and can participate actively in projects that affect them;
- 4. Promote sustainable development benefits and opportunities for Indigenous Peoples in a culturally appropriate manner;
- 5. Ensure free, prior, and informed consent (FPIC) in the three circumstances described in this ESS7;
- 6. Recognize, respect, and preserve the culture, knowledge, and practices of Indigenous Peoples where possible in a project context, and consider opportunity to adapt to changing conditions in a manner and in a time frame acceptable to them, as appropriate.



Indigenous Peoples

ADB

New Provisions and Improved Requirements

IP identification based on 4 distinctiveness criteria (i) selfidentification, (ii) collective attachment to land, (ii) customary institutions and laws and (iv) distinct language. (The "vulnerability" criterion is dropped)

Broad Community Support replaced by Free Prior and Informed Consent (FPIC) : FPIC required under three circumstances: (i) when project has adverse impacts on IP land and natural resources; (ii) causes relocation of IPs from these lands; (iii) significant impacts on IPs' cultural heritage that is material to their identity and culture, and/or to ceremonial and/or spiritual aspects of their lives.

Participation and meaningful consultation: inclusive process, allowing sufficient time for collective decision-making process of IPs with special attention to disadvantaged or vulnerable.

Social Impact Assessment: requires assessment of intangible impacts, contextual risks, biodiversity and ecosystem services linkages

IPs Living In Voluntary Isolation: Establish appropriate measures to recognize, respect, and protect the lands, territories, culture of such IPs and avoid all undesired contact with them that could result from a project.

Projects when IP as sole beneficiaries and when not sole beneficiaries:

Indigenous Peoples Plan: prepared based on the impact assessment and meaningful consultation, proportionate to the assessed project impacts on IP communities

Budget: Adequate resources to compensate IP communities and for mitigation measures

Grievance Mechanism: Establish a mechanism that integrates IP customary dispute settlement mechanisms where appropriate, and that ensures complainants are protected from retaliation

Monitoring and reporting: proportionate to the project's risks and impacts. projects with significant adverse impacts required qualified and experienced external monitor

Presentation of Feedback from Participating Countries

Cambodia
 China, People's Republic of
 Indonesia
 Lao People's Democratic Republic
 Yiet Nam
 Mongolia



Lunch Break

We'd like to get your feedback on the session!



Scan QR code





Plenary Discussion





Session 7: Overview of ESS 6 and ESS 8

Zehra Abbas Principal Environment Specialist, OSFG





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Biodiversity and Sustainable Natural Resource Management New Provisions and Improved Requirements

- Classification of habitat types: Habitat will be classified as <u>modified</u> or <u>natural</u>, and assessment will identify potential <u>priority</u> <u>biodiversity features</u> which will determine the presence of <u>critical habitat</u>
- 2. Conservation of habitats: strengthens the conservation of biodiversity and the management of living natural resources
- Addressing impacts on biodiversity:
 (i) No net loss for modified and natural habitats,

(ii) preference for net gain of priority features,(iii) Net gain for critical habitats

- 4. Primary suppliers: risk-based sustainable resource procurement, management and verification procedures to evaluate primary suppliers of natural resources or suppliers engaged by them
- 5. No go zones: prohibits developing a project in Alliance for Zero Extinction Sites (AZEs), UNESCO Natural and Mixed World Heritage Sites, and free flowing rivers of >500km in length
- 6. Biodiversity offsets as a last resort: clarifies that biodiversity offsets should be considered only as a last resort and all viable project alternatives will need to have been previously explored and the 'offsetability' of the project will need to be established



Cultural Heritage

New Provisions and Improved Requirements

- Intangible cultural resources and visual impacts: manage the direct and cumulative project specific risks and impacts to both <u>tangible</u> and <u>intangible</u> cultural heritage
- 2. Indigenous people: provides requirements for coverage over areas with cultural heritage that overlaps with areas with Indigenous Peoples. If cultural heritage is identified in Indigenous Peoples areas, FPIC may be required in accordance with ESS7

- 3. Specific Requirements for Different Types of Cultural Heritage: includes archaeological sites and materials, underwater cultural heritage, burial sites & human remains, built heritage, landscapes or natural resources, and movable cultural heritage
- 4. Stakeholder engagement: requires meaningful consultation to identify cultural heritage, its significance, assess risks and impacts, explore methods for avoidance, mitigation, and monitoring and reporting options

Presentation of Feedback from Participating Countries

Cambodia
 China, People's Republic of
 Indonesia
 Lao People's Democratic Republic
 Yiet Nam
 Mongolia



Coffee Break

We'd like to get your feedback on the session!



ADB

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Plenary Discussion







Session 8: Overview of E&S Requirements for Financing Modalities and Products and PIAL

Takako Morita Principal Counsel, Office of the General Counsel, ADB





ADB

Requirements for Different Financing Modalities and Products

Scope of application: consolidates the E&S requirements of ADB and borrower/client for all the financing modalities and products:

- sector lending, emergency assistance, multitranche financing facility (MFF)
- policy-based lending (PBL) and sector development programs
- results-based lending (RBL)
- project readiness financing, small expenditure financing facility, technical assistance (TAs)
- financial intermediaries (FI) and corporate finance

- E&S Policy and ESS1 set out high level E&S assessment and management approach to help guide future financing modalities and products
- Policy principles are supplemented by a standalone document that sets out both ADB responsibilities and borrower/client requirements to manage E&S risks and impacts that are applicable to different types of financing modalities and products
- Coverage for TAs limited to pilot activities and policy reforms with E&S risks
- Provides more details for Financial Intermediaries and Corporate Finance

Policy Based Lending

 The focus of environmental and social assessment and management is on the policy actions—not on the specific expenditures that will be financed from budget support

ADB's responsibilities:

- Prior to finalization of policy matrix, undertake risk classification of the proposed **policy actions** based on the likely E&S risks and impacts resulting from the policy actions
- Factor in contextual or sector specific risks
- ADB will review proposed mitigation measures proposed by the borrower

Borrower requirements:

- Identify and assess potential direct and indirect
 E&S risks and impacts associated with the proposed policy actions
- Integrate mitigation measures proportionate to the risks and impacts into the design of the final policy actions to achieve objectives materially consistent with the relevant ESSs.
- If any significant strategic, geographic, and/or sector-wide E&S risks related to the scope and nature of the PBL operation are identified, the borrower will undertake further assessment, such as strategic environmental and social assessment, to inform the design of the policy actions and associated E&S management.

Results Based Lending

 The focus of environmental and social assessment and management is on the adequacy of the RBL program system to achieve the objectives consistent with the ESSs

ADB's responsibilities:

- Undertake risk classification of the proposed RBL program supported by ADB financing, factoring in risks associated with the implementation capacity of the borrower and other contextual risks
- Require borrower to achieve the objectives of the ESSs applicable to the RBL program
- Undertake a Program Safeguard Systems Assessment (PSSA) of the RBL program systems, proportionate to the nature, scope and the risk classification of the RBL program.

- PSSA will include assessment of the borrower's capacity and commitment to manage and mitigate unanticipated impacts or existing impacts. It will also identify programmatic, institutional, and contextual risks that may adversely affect the borrower's ability or capacity to implement the E&S requirements applicable to the RBL program.
- ADB will disclose the PSSA prior to ADB's project appraisal and undertake consultations with RBL program stakeholders.
- All activities are eligible under the RBL program unless they are assessed to be classified as High Risk.

Safeguards Application Across Financing Modalities New Provisions and Improved Requirements

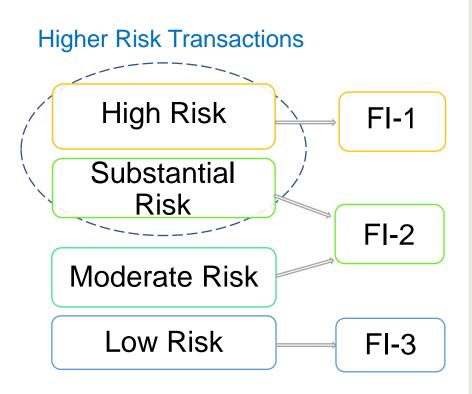
Results Based Lending

Borrower's requirements:

- Using the RBL program system to comply with the applicable objectives of the ESSs for the RBL program
- Agree with ADB on measures and actions to address gaps identified by ADB in a PSSA that are included in an integrated risk management plan and a program action plan (PAP)
- Borrower will assess RBL program activities supported by ADB and will exclude activities that are likely to be classified as **High Risk** and those that are included in the ADB Prohibited Investment Activities List

- Borrower will monitor implementation of the integrated risk management plan and the PAP and submit monitoring reports to ADB
- Borrower will develop and agree with ADB on a time-bound corrective action plan if any noncompliance is found to bring the RBL program back into compliance with the E&S requirements.

All transactions involving FIs are classified as "FI" with the following sub-classification based on the E&S risk profile of the proposed portfolio of transactions supported with ADB's financing:



FI-1: financial exposure to business activities with potential significant adverse E&S risks and impacts that are diverse, irreversible, or unprecedented

FI-2: potential limited adverse E&S risks and impacts that are few in number, generally site-specific, largely reversible, and readily addressed through mitigation measures; or includes a very limited number of business activities with potential significant adverse environmental or social risks or impacts that are diverse, irreversible, or unprecedented

FI-3: financial exposure to business activities that predominantly have minimal or no adverse environmental or social impacts

Higher Risk Transactions- For FIs with portfolio and/or proposed activities and transactions that present high to substantial E&S risks (part or all of FI-1 and FI-2 portfolio). These transactions supported by ADB financing will apply the ESSs

Financial Intermediaries (FI)

ADB's responsibilities:

- Undertake due diligence, determine the E&S risk classification, review and provide guidance on the need and adequacy of an ESMS to be used by an FI
- Review and disclose relevant FI information (e.g., summary of ESMS, monitoring reports, relevant assessment and management tools)
- ADB will review all *higher risk transactions* financed by ADB

FI requirements:

- Require FI-1 and FI-2 to develop an EMS, proportionate to the nature and scale of the E&S risks and impacts associated with activities and transactions supported by ADB financing. For FI-3, E&S screening procedures need to confirm minimal or no adverse E&S risks or impacts
- Higher risk transactions: refer all such transactions financed for ADB's review, clearance and disclosure; monitoring reports will contain details of each activity and transaction supported by ADB financing
- Require stakeholder engagement and grievance mechanism, and provide safe and healthy working environment for workers

Corporate Finance

ADB's responsibilities:

- Undertake due diligence, determine the E&S risk classification
- Review and provide guidance on the need and adequacy of an ESMS to be used by a corporate finance clients,
- Review and disclose relevant information (e.g., summary of ESMS, monitoring reports, relevant assessment and management tools).

Corporate finance client requirements:

- Develop an ESMS for activities and transactions supported by ADB financing that present high, substantial or moderate E&S risks and impacts, proportionate to the nature and scale of the E&S risks and impacts.
- Requirements for earmarked activities and transactions, and for equity and general purposes.
- Require stakeholder engagement and grievance mechanism, and provide safe and healthy working environment for workers.

- The prohibited investment activities list (PIAL) is a list of activities that do not qualify for ADB's financing.
- MDBs have different approaches with respect to exclusions; some do not have an explicit list, while others have a more extensive list of exclusions.
- The proposed policy maintains the same list of activities but adds new prohibitions from ADB's Energy Policy (2021). These relate to (i) coal-fired power generation and coal-fired heating plants; (ii) coal mining, processing, storage, or transportation; (iii) upstream or midstream oil projects; and (iv) natural gas exploration or drilling.
- Financing production of, or trade in, or use of asbestos fibers is fully prohibited under the new policy. This is a change from the current SPS, which allows the use of bonded asbestos cement sheeting with asbestos content of less than 20%. This prohibition does not apply to projects involving disposal of existing asbestos, provided a suitable asbestos management plan is adopted for disposal.



Synthesis and Next Steps

Bruce Dunn Director, OSFG, ADB





Supporting Environment and Social Framework (ESF) Implementation Balancing and supporting increased scope and with efficiency gains



ESF has a wider scope across new ESSs and cross cutting areas. How will this be balanced?

Efficiency gains from proposed ESF

- 1. Integrated risk-based and adaptive management approach
 - Encourages early-stage screening of risks to determine requirements and resource needs
 - ESS to be triggered with assessment requirements and documents based on impacts and risk
 - Balance focus on preparation and implementation, with use of ESCP/ESAPs
- Use of borrower systems where systems are materially consistent, and capacity can manage project risks
- 3. Use of a "common approach" with co-financiers, where policies are materially consistent

ADB business processes, staffing and capacity enhancements

- 1. Streamlining of business processes through the New Operating Model will enhance efficiency of project processing
- 2. Development of new safeguards Knowledge Hub and Safeguards Knowledge Management Action Plan (KMAP) to enhance staff skills
- 3. Additional safeguard staffing to address incremental skills gaps and to increase support for project implementation through the Work Program and Budget Framework process in areas including labor, vulnerable groups, climate etc.
- 4. Decentralization plan for safeguard staff will increase ADB staff in resident missions to be closer to clients
- 5. Increased technical assistance for DMCs/client capacity support proposed to support country safeguard systems, and capacity support at country, sector and project levels (linked to country knowledge plans)

Objectives:

 Ensure ADB staff and borrowers/clients have required skills, capacity and supporting guidance and tools to fully implement the ESF

Program timing:

- ESF will be effective 12 months after Board approval of policy (expected by Q2 2025)
- Implementation of the policy roll-out plan will start in 2023 and continue for 3 years after Board approval

Program activities:

- Formulation of a comprehensive 3-year capacity building plan for DMCs and private sector clients to facilitate seamless transition
- Implementation procedures for staff Operations Manual and Staff Instructions
- Guidance notes for each ESS and selected topics
- Training materials for DMCs, privates sector clients and other stakeholders to implement the requirements of the ESSs (with e-learning, videos, training programs, templates etc.)
- Accreditation of staff and certification programs for other stakeholders

Engagement process

- Training programs available online, as well as training delivery at DMC level
- Targeting executing and implementing agencies and private sector clients
- Orientation programs for other stakeholders
- Additional project by project support
- Linkage with country programing and wider capacity support

Partnerships:

- Collaboration with existing regional and DMC resources, including safeguard learning centers
- Collaboration with MDBs capacity-building programs

Preparation Schedule





ADB



Ways To Provide Feedback





What will happen to your feedback?

- Due to the expected high number of feedback, ADB will not be able to respond individually to all comments.
- Stakeholder inputs from the consultations, and feedback received through various platforms will be documented.
- The stakeholder consultations summaries will be disclosed on the website.

Closing Message

Nianshan Zhang Head, OSFG, ADB





ADB

Visit SPRU FB page



https://www.facebook.com/ADBsafeguardreview
FACEBOOK PAGE



ADB Safeguard Policy Review and Update

Government stakeholders from Southeast and East Asia share their views to enhance the draft Environmental and Social Framework (ESF). After around three years of consultations to put together the draft, stakeholder engagement continues to consider experiences and best practices on the ground before the new policy is finalized.

The draft Environmental and Social Framework (ESF) is open for comments until 31 January 2024

https://bit.ly/ESFDraft

Send your feedback to https://bit.ly/ESF_Feedback or email us at safeguardsupdate@adb.org

The ESF brochure summarizes what is new and improved
https://bit.ly/485nwST

ADB Safeguard: Doing Good By Doing Better #ADBsafeguardreview



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Thank you!

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safeguardsupdate@adb.org E-MAIL





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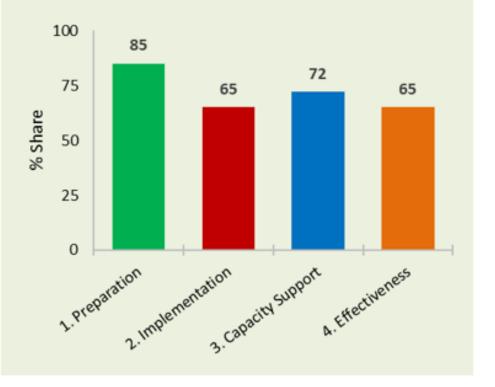
Additional Slides



ADB Independent Evaluation Department (IED) Evaluation on Effectiveness of the 2009 Safeguard Policy Statement (SPS)

- The Environment and IR results were positive. They were largely focused on direct construction related environmental (e.g., noise and vibration) and IR (e.g., compensation and resettlement) impacts. IP results were limited due to presumed mainstreaming or confined to IR impacts.
- **NSO projects performed best**, MFFs performed on par with standalone investment projects; and **FI performance was the weakest**.
- Safeguards due diligence in project preparation has been satisfactory while client monitoring and ADB implementation supervision less satisfactory.
- There has been a decline in risk profile of the portfolio, based on a narrow application of the policy, and front loading of effort.
- ADB projects did not effectively support wider country safeguard system strengthening. The use of national, subnational and sectoral systems did not succeed, only one case at the agency level materialized in 10 years.

Satisfactory Ratings of Performance



ADB Accountability Mechanism Complaints

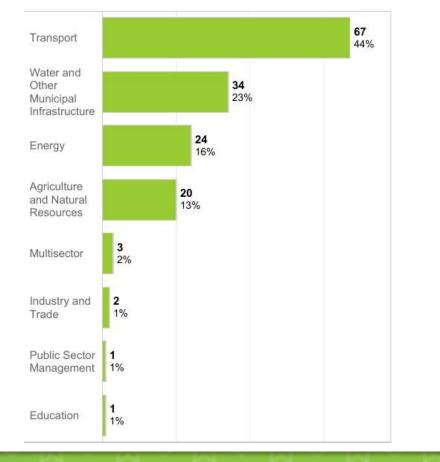
Problem-Solving Function 2004-2023*

Subject of Complaints	Problem-Solving	Share (%)
Resettlement, compensation, land acquisition, and valuation	103	36.4
Information, consultation, and participation	65	23.0
Environment ¹	40	14.1
Community and social issues ²	25	8.8
Village infrastructure ³	22	7.8
Others ⁴	15	5.3
Livelihood	13	4.6
TOTAL	283	100

Sectoral Distribution of Complaints 2004-2023*

SAFEGUARD

POLICY REVIEW AND UPDATE ADB



Includes biodiversity conservation and sustainable management of natural resources, pollution prevention and abatement, occupational and community health and safety, and conservation of physical cultural resources.
 Includes gender, health, social uplift program, environmental studies, social impact assessment, grievance redress, customary land, and indigenous people.
 Includes school and road reconstruction and rehabilitation, bus stops, multipurpose hall, toilets and cowsheds, bridges, beaten tracks, underpass for agricultural machinery, cattle pass, and distributary links.
 Includes issues on high electricity rates, grid network fee, power sector reform, procurement, loans and contract matters, project monitoring, etc.

* As of 30 September 2023

Environmental and Social Policy Standards (ESS)

Comparison of policy coverage with the Safeguards Policy Statement, 2009 (SPS)



Environmental and Social Standards (ESS)	Equivalent SPS Policy Areas			
	ENV	IR	IP	Notes
ESS 1: Assessment & Management of Environmental and Social Risks and Impacts	~	~	~	Integrates Environment (ENV), Involuntary Resettlement (IR), and Indigenous People's (IP) requirements
ESS 2: Labor and Working Conditions	~			Builds on: (i) ADB Social Protection Strategy, 2001; (ii) SPS ENV principles for occupational health and safety; and (iii) Prohibited Investment Activities List.
ESS 3: Resource Conservation and Pollution Prevention	\checkmark			
ESS 4: Health, Safety, and Security	\checkmark			
ESS 5: Land Acquisition and Land Use Restriction		\checkmark		
ESS 6: Biodiversity and Sustainable Natural Resources Management	~			
ESS 7: Indigenous Peoples			\checkmark	
ESS 8: Cultural Heritage	\checkmark			
ESS 9: Climate change	\checkmark			ENV safeguards, plus ADB procedures for risk screening on climate change.
ESS 10: Stakeholder Engagement and Information Disclosure	~	~	\checkmark	Integrates meaningful consultation, disclosure & grievance mechanisms from ENV, IR and IP safeguards

Next Stage Consultations on Draft ESF

Regional Consultations with Governments

- Cover Central and West Asia, East Asia, South Asia, Southeast Asia and Pacific
- Events to be held in Fiji, Pakistan, Philippines and India
- In-person sessions with high level government representatives

In-Country Consultations with Governments and CSOs

- In-person meetings with government representatives in 7 DMCs (PRC, Fiji, Pakistan, Indonesia, Philippines, India, Cambodia)
- Separate hybrid format for CSOs

CSO-focused Regional Consultations

- Design is a work-in-progress
- Online format

Private Sector Consultations

 3 online focus group discussions (FGDs), organized by types of transactions

Other Consultations

- Non-regional member countries
- Peer MFIs and international organizations

Timeline November 2023 to May 2024

INTERNAL. This information is accessible to ADB Management and staff. It may be shared outside ADB with appropriate permission.



ADB

Preliminary Schedule

Host Country	Regional Consultations	In-Country Government Consultations	In-Country CSO Consultations
Philippines	East & Southeast Asia Governments 22-23 Jan 2024	24-25 Jan 2024	26 Jan 2024
India	South Asia Governments 12-13 Feb 2024	14-16 Feb 2024	19 Feb 2024
Fiji	Pacific Governments 4-5 Mar 2024	6 Mar 2024	7 Mar 2024
Cambodia	-	Mar 2024 (TBD)	-
Tajikistan	Central West Asia Governments May 2024 (TBD)		

- CSO-focused Regional Consultations February and April 2024
- Private Sector Consultations April 2024