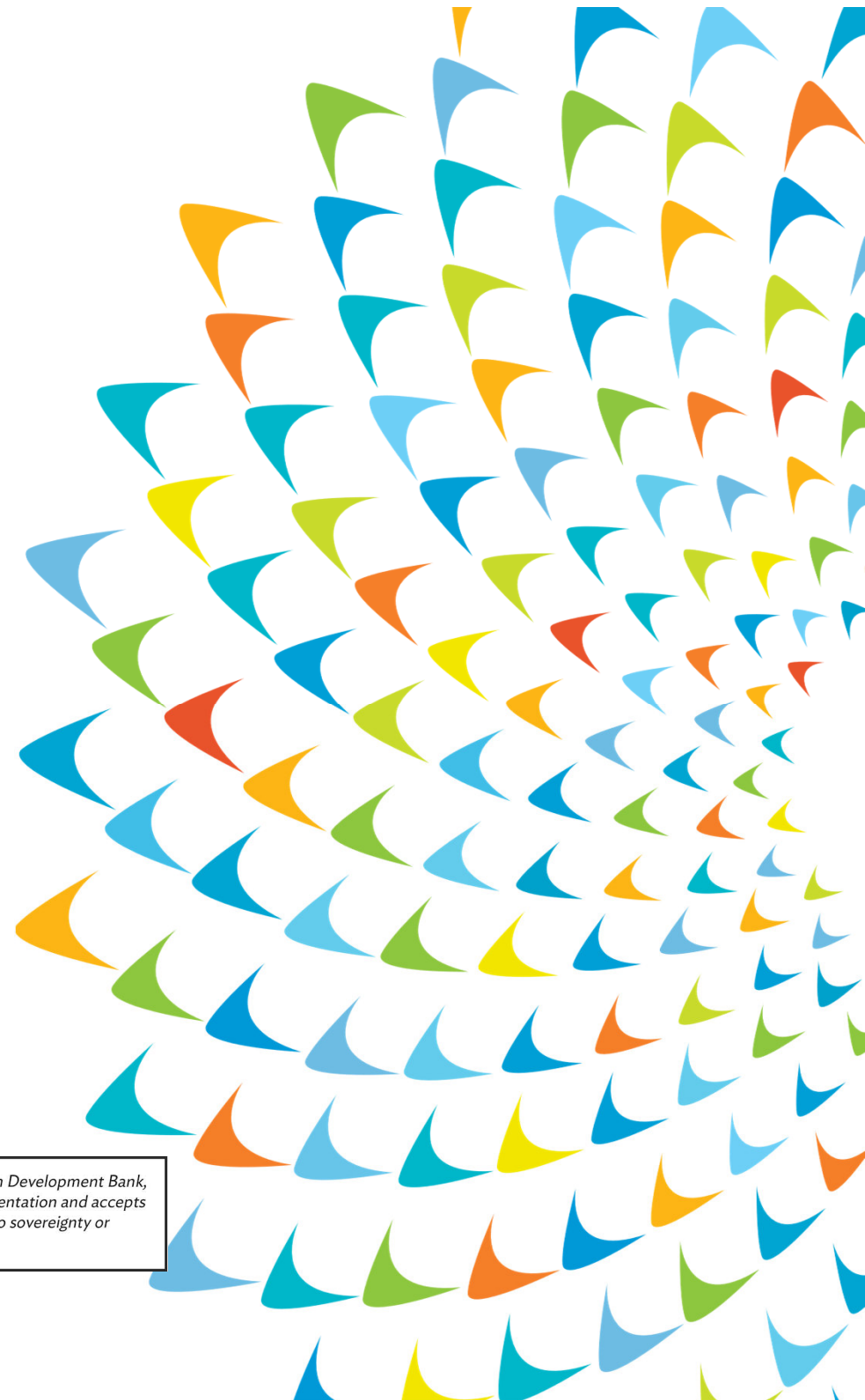




ADB Safeguards for FI

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Agenda


- ADB Requirements for FIs
- ABD Safeguard Policy Statement 2009
- Prohibited Activities
- Project Categorization
- Social Protection Requirements
- Supply Chain



Financial intermediation by banks such as ADB poses special challenges for environmental and social governance

OUTSOURCING DEVELOPMENT:

Lifting the Veil on the World Bank Group's Lending Through Financial Intermediaries



October 2016

Logos: urgewald, 11.11.11, BIC, accountability COURSE!

OXFAM ISSUE BRIEFING APRIL 2015

THE SUFFERING OF OTHERS

The human cost of the International Finance Corporation's lending through financial intermediaries



An indigenous woman in Monte Olivo, Guatemala, whose community has suffered repression linked to an IFC-backed project. Photo: Santiago Bolton, TeikSUR Guatemala

Increasingly, development money is being channelled through third parties such as banks or private equity funds. The world's leading proponent of this financing model, the International Finance Corporation, spent \$3.6bn this way in just the four years leading up to June 2013.² But what does this 'hands-off' form of development financing mean for people? Are the risks to communities and their livelihoods just too high given the weaker social and environmental protections entailed? This report tells the human story behind the high finance and statistics, and asks whether reforms to this model of lending have gone far enough to protect communities.

Logos: global witness, NISGUA, BIC, project, urgewald, MadreSelva, OXFAM

Social and Environmental Safeguards for Infrastructure Finance supported by Multilateral Development Banks

The case of Indonesian Infrastructure Financial Intermediaries, Funds, and Investments



Logos: ECOLOGICAL JUSTICE, urgewald, WALHI, WALHI, ICW, PUSAKA

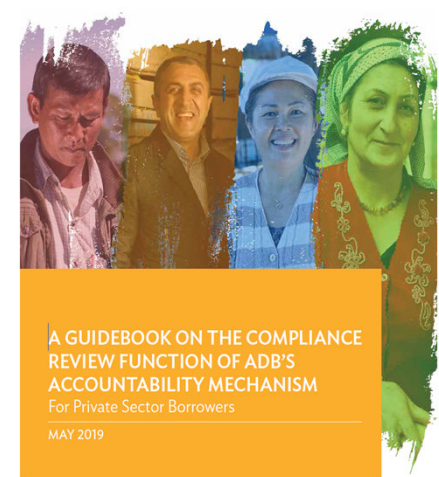
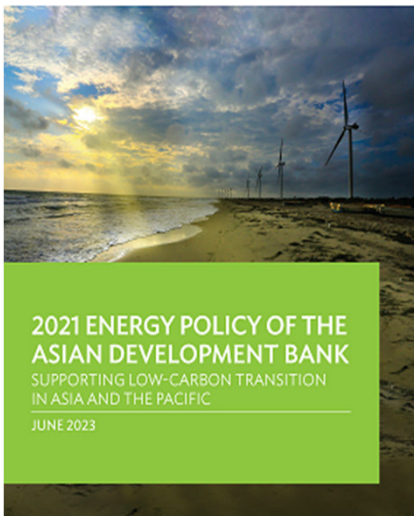
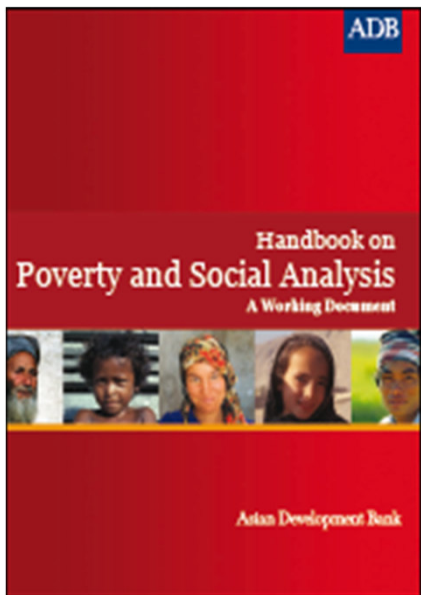
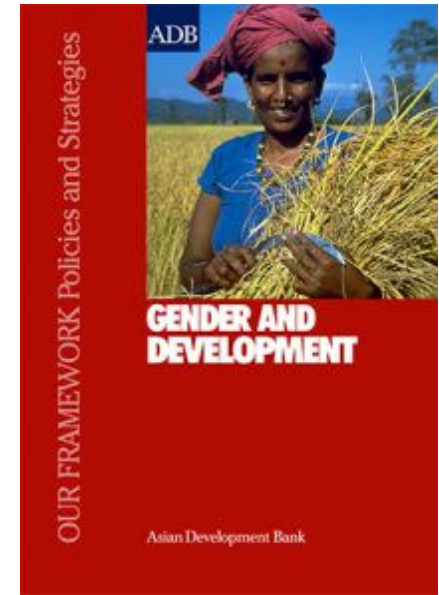
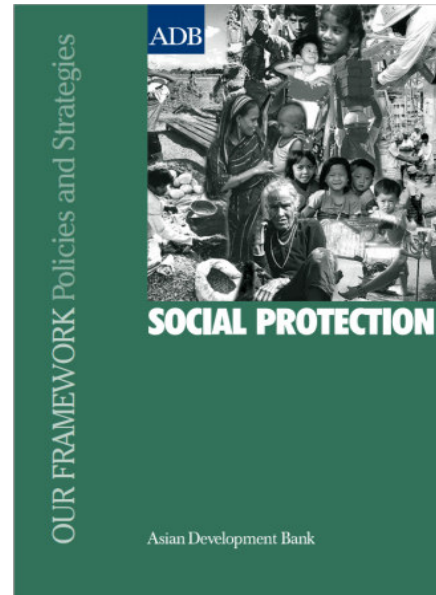
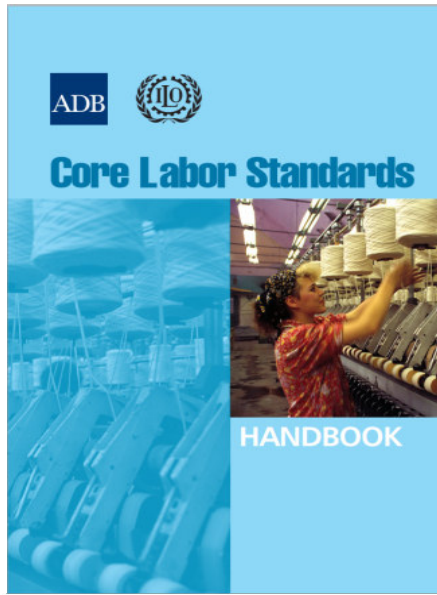
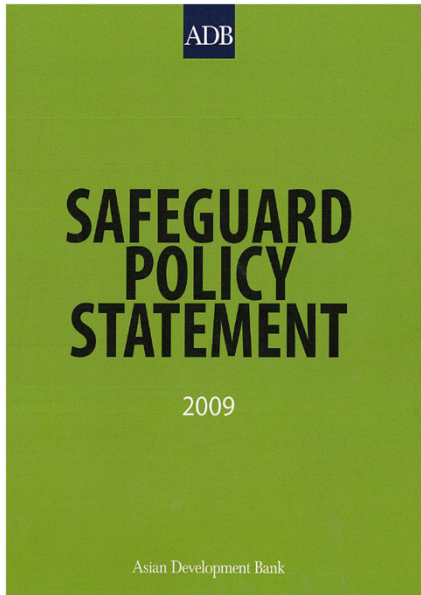




ADB Requirements



Asian Development Bank





ADB Requirements

ADB Safeguard Policy Statement (SPS)

The rest is also required for ADB projects (including compliance to applicable local regulations)

SR4 – Financing Modalities (incl. FI)

SR1- Environment (+ Health and Safety)

SR2 – Involuntary Resettlement (IR)

SR3 – Indigenous People (IP)

Prohibited Activities (SPS + Energy Policy)

Core Labour Standards (CLS)

Gender Development

2. Required implementation arrangements

Environmental and Social Management System (ESMS)





Safeguard Requirements 4: Special Requirements for Different Finance Modalities

Under the current Safeguards Policy Statement 2009 – ADB categorized FI into:

- FI-C – those with limited environmental impacts and no IR or IP impacts. They only finance low risk (category c) projects across the environmental, IR, IP risk categories.
- FI – those with moderate to high environmental impacts or with IR or IP impacts. These FIs finance all a, b, c categories projects.
- ADB categorization focus on the use of ADB finance – and may be for the entire operation (equity investment), or for the specific programs (such as MSME, TFP).





Safeguard Requirements 4: Special Requirements for Different Finance Modalities cont.

- FIs are required to implement environmental and social management system (ESMS) commensurate with their operational E&S risks.
 - Low risk FIs (category FI-C)'s E&S management will focus on compliance with relevant laws and other requirements, screening of prohibited activities and that ADB finance is not use for category a or b projects/transactions.
 - Moderate/High risk FIs (category FI) will implement ADB endorsed ESMS including: (i) E&S policies; (ii) screening, categorization, and E&S review procedure; (iii) E&S organizational structure and staffing including skills and competencies; (iv) training; and (v) monitoring and reporting.
- FIs will prepare and submit periodic reports at least annually to ADB.
- Where the subprojects financed by the FI using ADB funds have potential for significant environmental or social impacts (category a), the FI will ensure that such subprojects meet ADB's requirements specified in Safeguard Requirements 1–3, including information disclosure and consultation, and the FI will refer these subprojects to ADB early in its due diligence process.





SR1: Environment Safeguards

To ensure the environmental soundness and sustainability of projects



- Project screening and categorization
- Environmental assessment
- Alternatives examination
- Environmental management plan
- Consultation and grievance redress mechanism
- Information disclosure*
- Monitoring and reporting
- Biodiversity protection and natural resources management
- Pollution prevention and abatement
- Climate risks and impacts
- Occupational and community health and safety
- Physical cultural resources





SR2: Involuntary Resettlement Safeguards



To avoid involuntary resettlement, minimize IR by exploring alternatives, enhance, or restore livelihoods and Improve standards of living.

- Project screening and categorization
- Meaningful consultation and grievance redress
- Measures to restore or improve livelihood
- Relocation assistance
- Measures for vulnerable groups
- Negotiated settlement
- Informal settlers
- Resettlement plan
- Information disclosure
- Cost of involuntary resettlement
- Timing of compensation
- Monitoring and reporting



SR2: Involuntary Resettlement Safeguards

IR Scope and Trigger:

Physical displacement: relocation, loss of residential land, or loss of shelter;

Economic displacement: loss of land, assets, access to assets, income sources, or means of livelihoods

....as a result of

- (i) **involuntary acquisition** of land, or
- (ii) **involuntary restrictions on land use** or access to legally designated parks and protected areas

....to

- Owners of land/assets with titles
- Land users with customary and/or legally recognizable claims to land
- Occupants without titles or customary claims

....impacts may be

- **Full or partial**
- **Permanent or temporary**





SR3: Indigenous Peoples Safeguards



To foster respect for IPs identity, ensure appropriate benefits, active participation, avoid adverse impacts.

- Project screening and categorization
- Social impact assessment
- Meaningful consultation and grievance redress
- Consent of affected IP communities
- Physical displacement and IP in protected areas
- Indigenous Peoples planning
- Information disclosure
- Customary rights to traditional land
- Monitoring and reporting



SR3: Indigenous Peoples Safeguards

Who are Indigenous People?

“Social or cultural groups who are distinct and vulnerable.”

Distinct = varying degrees of

- Self identification & recognition by others
- Collective attachment to land
- Customary cultural, socio-economic or political institutions
- Distinct language

Vulnerable - historically, socio-economically





IP Impacts - when a project directly or indirectly affects IP's:

- Dignity, human rights, livelihood systems and culture
- Territory or natural/cultural resources owned, uses, occupied, or claimed as an ancestral domain



Need for seeking consent demonstrated through broad community supports.



Project Categorization





ADB Safeguards Categorization

Category	Environment	Involuntary Resettlement	Indigenous Peoples
A - Significant (Note that Lombard will not invest in Category A projects)	Investments that anticipate significant adverse environmental impacts that are irreversible. These impacts may affect an area larger than the sites or facilities subject to physical works.	Investments where 200 or more persons will experience major impacts, which are defined as (i) being physically displaced from housing, or (ii) losing 10% or more of their productive assets (income generating).	Investments that are expected to significantly affect the dignity, human rights, livelihood systems, or culture of Indigenous peoples or affects the territories or natural or cultural resources that Indigenous Peoples own, use, occupy, or claim as an ancestral domain or asset.
B - Less Significant	Investments with potential adverse impacts that are site-specific, few if any of them are irreversible, and in most cases mitigation measures can be more readily designed than for Category A investments.	Investments with involuntary resettlement impacts that are not deemed significant.	Investments that are likely to have limited impacts on Indigenous Peoples.
C - Minimal or No Impact	Investments that have minimal or no adverse environmental impacts.	Investments with no involuntary resettlement impacts.	Investments that are not expected to have impacts on Indigenous Peoples.





Financing Requirements

Category	Environmental Safeguards	Involuntary Resettlement Safeguards	Indigenous Peoples Safeguards
Category A (with potential significant impacts)	Comply with (i) ADB's PIAL and (ii) Safeguard Requirements 1 (SR 1) (Appendix 1) of the ADB Safeguard Policy Statement, including EIA preparation & submission, and (ii) national laws.	Comply with (i) ADB's PIAL and (ii) Safeguard Requirements 2 (SR 2) (Appendix 2) of the ADB Safeguard Policy Statement, including RP preparation & submission, and (ii) national laws.	Comply with (i) ADB's PIAL and (ii) Safeguard Requirements 3 (SR 3) (Appendix 3) of the ADB Safeguard Policy Statement, including IPP preparation & submission, and (ii) national laws.
Category B (with less significant impacts)	Comply with national laws and ADB's PIAL	Comply with national laws and ADB's PIAL	Comply with national laws and ADB's PIAL
Category C (with minimal or no impacts)	Comply with national laws and ADB's PIAL	Comply with national laws and ADB's PIAL	Comply with national laws and ADB's PIAL





Financing Requirements

- Category A subproject is required to prepare an environmental and social impact assessment (ESIA)
- Category B subproject is required to prepare an environmental and social assessment report in accordance with government requirements
- ADB must review and approve Category A ESIA documentation prior to approval by the institution if ADB funds are used; public disclosure is 120 days (in event of environmental A)
- ADB treats highly complex and sensitive Category A projects with additional measures
- Existing facilities/operating assets category A or B require E&S Compliance Audit



Prohibited Activities



ADB Prohibited Activities

ADB Prohibited Investment Activities List, Appendix 5 of ADB's [Safeguard Policy Statement](#) and [ADB's Energy Policy 2021](#). The following do not qualify for ADB financing:

- Forced labour/ child labour
- Any products/ activities deemed illegal under host country laws or international conventions
- Trade in weapons and munitions
- Alcoholic beverages*
- Tobacco*
- Gambling*
- Radioactive materials**
- Unbonded asbestos fibers***
- Commercial logging in primary tropical moist forests/ old-growth forests
- Marine and coastal fishing practices which are harmful to vulnerable and protected species
- Coal mining, processing, storage, and transportation
- Coal-fired power and heat generation
- Coal to chemicals processes
- Extraction of peat
- Peat-fired power and heat generation
- Upstream oil exploration, drilling or extraction activities
- Natural gas exploration or drilling activities





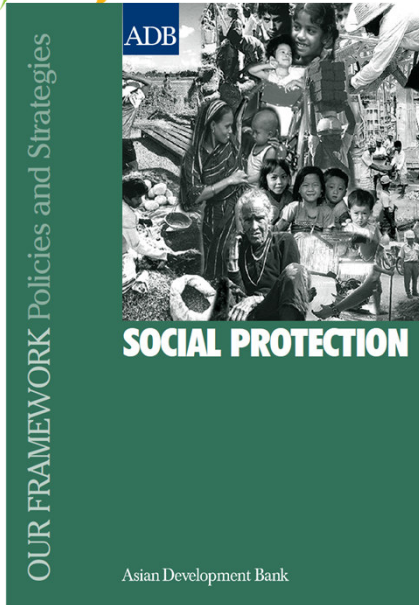
Production or activities involving harmful or exploitative forms of forced labor or child labor

- Forced labor means all work or services not voluntarily performed, that is, extracted from individuals under threat of force or penalty.
- Child labor means the employment of children whose age is below the host country's statutory minimum age of employment or employment of children in contravention of International Labor Organization Convention No. 138 "Minimum Age Convention" (www.ilo.org).
- Countries are free to specify a minimum age for labour, with a minimum of 15 years. A declaration of 14 years is also possible when for a specified period of time. Laws may also permit light work for children aged 13–15 (not harming their health or school work). The minimum age of 18 years is specified for work which "is likely to jeopardise the health, safety or morals of young persons".



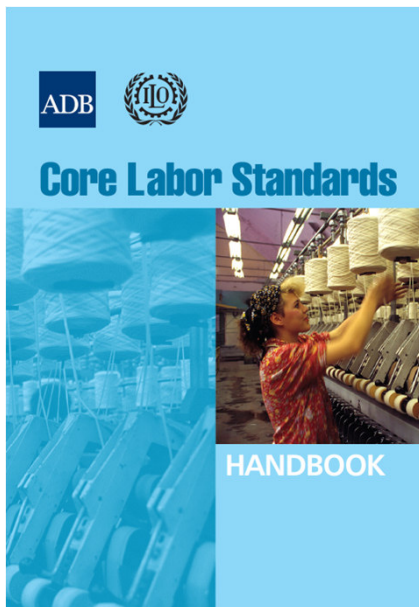
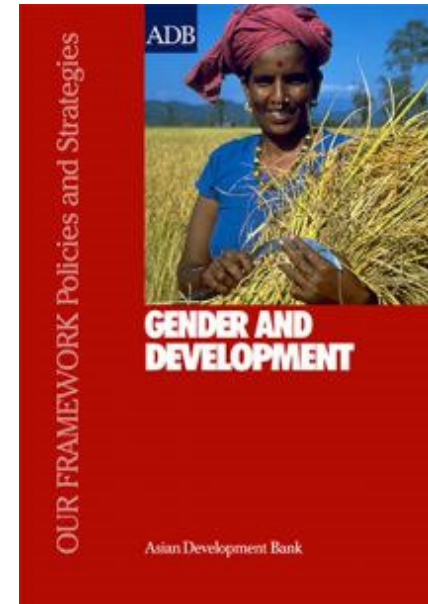


Social Protection Requirements



ILO Core Labor Standards (CLS)

- Effective abolition of Child Labor
- Elimination of Discrimination in Employment and Occupation
- Elimination of All Forms of Forced or Compulsory Labor
- Freedom of Association and the Effective Recognition of the Right to Collective Bargaining



ADB Policy on Gender and Development (GAD)

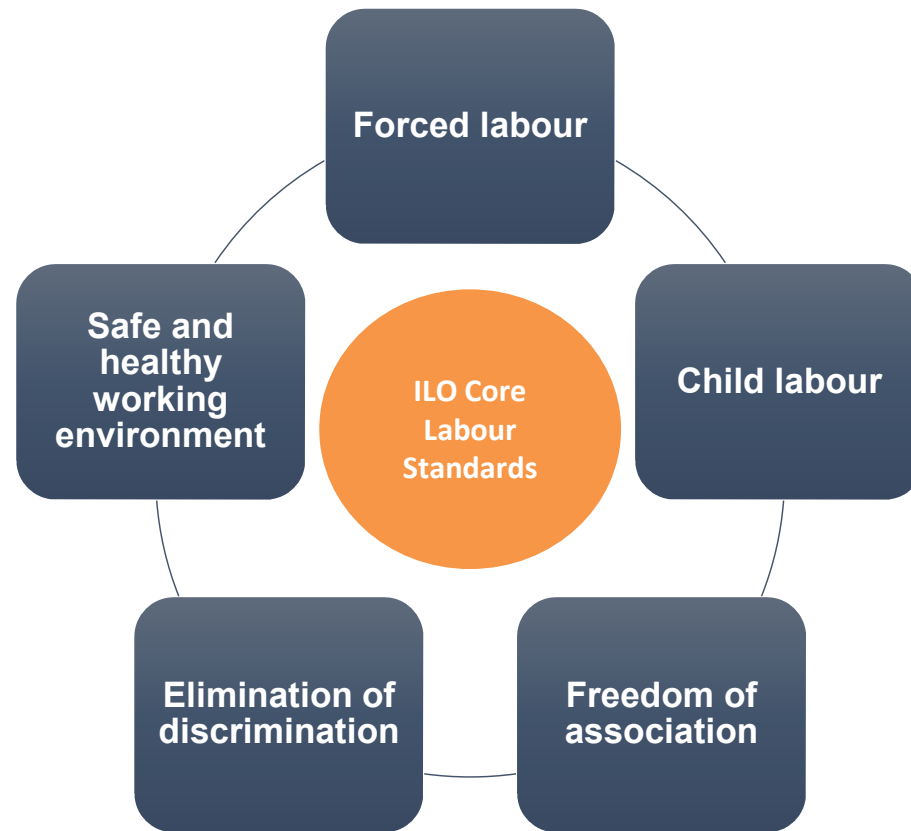
- Gender sensitivity
- Gender analysis
- Gender planning
- Mainstreaming: women's participation in the decision-making process





The ILO Core Labour Standards

ILO Core Labour Standards: Internationally recognised basic rights and principles at work



Forced and Child Labor are included in the ADB's Prohibited Investment Activity List (PIAL) and as part of its **Social Protection Strategy**, ADB adopts the Core Labour Standards in design and formation of its investment projects.





ILO definition of forced labour

ILO definition of forced labour: “All work or service which is exacted from any person under the menace of any penalty and for which the person has not offered himself or herself voluntarily”.

The definition consists of three elements:

Work or service refers to all types of work occurring in any activity, industry or sector including in the informal economy

Menace of penalty refers to a wide range of penalties used to compel a person to work

Involuntariness refers to a person being unable to exercise his/her right to free and informed consent

[What is forced labour, modern slavery and human trafficking \(ilo.org\)](https://www.ilo.org/what-is-forced-labour-modern-slavery-and-human-trafficking)



ILO definition of child labour

ILO definition of child labour: “Work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development”.

It refers to work that:

Is **mentally, physically, socially or morally harmful** to children

Interferes with their schooling by depriving them of the opportunity to attend school

Requires them to attempt to **combine school attendance** with excessively long and heavy work

[International Programme on the Elimination of Child Labour \(IPEC\) \(IPEC\) \(ilo.org\)](https://www.ilo.org/)



How to identify country level risks?



Country
legislation



Existence of
tripartite
discussion
mechanism



Level of
development



Legal
system



What type of workers
will be needed in the
project and where
labor supply will
come from

- ILO Normlex Database <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:1:0::NO::>
- 2021 Report of the ILO Committee of Experts on the Application of Conventions and Recommendations https://www.ilo.org/ankara/areas-of-work/labour-law/WCMS_779028/lang--en/index.htm
- 2021 Trafficking in Persons Report <https://www.state.gov/reports/2021-trafficking-in-persons-report/>
- ITUC Global Rights Index 2021 <https://www.ituc-csi.org/2021-global-rights-index>



CLS issues in business operations



Infrastructure

Child labor, forced/bonded labor, and gender-equal wages (construction sites, primary materials-bricks, stones, etc.)

Informal arrangements in labor, child labor, forced/bonded labor, discrimination in wage

Agriculture



Commercial industry

Formal and informal micro, small or medium businesses. Child labor, discrimination, unequal pay, forced work



Child labor/women in artisanal and small-scaled mines that has large global impact in supply chains-automobiles, banking, cosmetics, electronics, jewelry.

Extractive Industries



US Department of Labor – Bureau of International Labor Affairs (ILAB) List of Goods Produced by Child Labor or Forced Labor

(<https://www.dol.gov/sites/dolgov/files/ILAB/2020ListofGoodsExcel.xlsx>)



Supply Chain



Typical Issues

- Child Labor
- Forced Labor
- Worker's rights
- Gender-based violence
- Occupational health and safety
- Land acquisition / conversion
- Climate risks
- Impacts on natural resources (habitat, water, forests)
- High energy demand / Greenhouse gas emissions
- Significant pollution and waste outputs

Useful links:

- IFC's Global Map of Environmental and Social Risks in Agro-Commodity Production (GMAP) https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/company-resources/gmap
- Investments in the Agricultural Value Chain: Expanding the Scope of Environmental and Social Due Diligence <https://landinvestments.org/resource/investments-agricultural-value-chain-expanding-scope-environment-and-social-due-diligence>
- United Nations Global Compact Sustainable Supply Chains: Resources and Practices [Supply Chain Sustainability | UN Global Compact](#)
- OECD-FAO (2016) Guidance for Responsible Agricultural Supply Chains. [OECD-FAO Guidance for Responsible Agricultural Supply Chains - OECD](#)
- UK Modern Slavery Act 2015. [Modern Slavery Act 2015 - GOV.UK \(www.gov.uk\)](#)
- US Department of Labor – Bureau of International Labor Affairs (ILAB) List of Goods Produced by Child Labor or Forced Labour (<https://www.dol.gov/sites/dolgov/files/ILAB/2020ListofGoodsExcel.xlsx>)



Solar Supply Chain

FELIX CAN YOU PLS ADD THE REQUIREMENTS FOR FI?