

Part 1

Introduction

Background

“Only decent work for all—that is work that is carried out in conditions of freedom, equity, security and human dignity—can provide the social foundations for the global economy. This is the concept of decent work.”

Juan Somavia, Director General, ILO

“Because Asia is home to two thirds of the world’s poor, the fight against global poverty must be won in this region. We must dedicate ourselves to achieving our vision—a region free of poverty. This is no utopian dream. The Asia and Pacific region can be free of poverty. This will lead to a world free of poverty. We must move strongly and swiftly from vision to action.”

Tadao Chino, Former President, ADB

A. Context of the Handbook

The goal of an Asia and Pacific region free of poverty clearly defines the mission of the Asian Development Bank (ADB). The overarching goal of the International Labour Organization (ILO) is decent work. The two objectives have many in common.¹ They are two sides of the same coin with the common goals of social justice and sustainable economic development for people in the region. ADB and the ILO are working together on ways to reach these goals and have signed a memorandum of understanding² that identifies areas in which the two organizations can cooperate, collaborate, and coordinate activities at the regional, national, and enterprise levels.

This Core Labor Standards Handbook is an example of such cooperation and collaboration. The two organizations have worked together to produce this practical publication to encourage and assist policymakers at the national and regional levels, ADB staff, project teams, consultants, and members of national executing/implementing agencies involved in the design and implementation of country programs and projects to take into account core labor standards (CLS) wherever and whenever appropriate. The challenge is to convince decision makers that the introduction of CLS and labor standards in general will not impede development. On the contrary, respect for basic human rights at work and for the legal and regulatory structures to implement them, assist workers, employers, and society as a whole in the quest for sustainable economic growth and inclusive social development.

This Handbook gives some basic information on international CLS, and looks at ways in which they can be incorporated into ADB activities. The recommendations here are not an expansion of any policy, and the user should note the distinction between good practice suggestions, i.e., the examples in this Handbook, and the policy requirements presented in ADB's *Operations Manual*. All developing member countries (DMCs) of ADB, by virtue of being members of ILO,³ are bound to respect and promote the fundamental CLS.

¹ Inaugural speech by Mr. Yasuyuki Nodera, Regional Director, Asia Pacific Region, International Labour Organization, at the Regional Technical Workshop on Labor Standards, Manila, 18–19 September 2002.

² The memorandum of understanding between ADB and ILO aims to facilitate collaboration between the two organizations in matters of common interest to their DMCs. It was signed on 9 May 2002 in Shanghai.

³ The following DMCs are not the members of ILO: Kingdom of Bhutan, Cook Islands, Maldives, Marshall Islands, Federated States of Micronesia, Nauru, Tonga, and Tuvalu. However, six of these Pacific DMCs have signed the Cotonou Agreement with the European Union in 2000, which obligates them to comply with CLS.

This Handbook describes the CLS and how to integrate them into ADB operations, whenever necessary. It was developed by ILO and ADB as a result of regional technical assistance.⁴

B. ADB and ILO Working Together

In ADB's view, poverty is characterized by the lack of access to essential goods, services, assets, and opportunities to which every human being is entitled. Everyone should be free from hunger, should be able to live in peace, and should have access to basic education and primary health care services. However, in the context of this Handbook, one of the main challenges is to demonstrate that failure to respect labor standards places an economic obstacle in the way of development in DMCs. If ADB is to take account of these standards in its work, it must be on a sound economic basis and not just a social imperative.

ILO, which is a specialized agency of the United Nations system, is committed to the attainment of social justice through the promotion of decent work with its strategic components of CLS, employment, social protection, social dialogue, and cross-cutting gender issues, in order to enable men and women to have decent and productive work in conditions of freedom, equity, security, and human dignity.

ADB and the ILO recognize the expertise of each organization and seek to establish an operational framework and practical modalities for their cooperation, which focus on development issues, including

- (i) consultations between the two organizations on ADB country strategies and assistance plans, and, where appropriate and feasible, participation by ILO technical staff in ADB country poverty analysis or country strategy and program preparatory missions, by contributing advice and a summary labor market assessment, to ensure that ADB's portfolio supports inclusive, employment-generating development patterns, enhances welfare, and helps to allocate human resources to their most productive uses;
- (ii) contributions by ILO, within the framework of its mandate, to the development of a cooperative framework and networking among ministries, social partners, and other civil society partners in countries

⁴ ADB. 1999. *Strengthening the Role of Labor Standards in Selected DMCs* (TA 5887). Manila.

- where ADB is planning a social protection intervention in line with its social protection strategy;⁵ and
- (iii) assistance from ADB to ILO in the development of decent-work country programs through interagency consultations.

C. ADB's Social Protection Strategy in Relation to Core Labor Standards

Progress in ensuring compliance with CLS has been uneven in Asia. Child labor is prevalent in many developing countries and bonded labor is reported in some Asian countries. Discrimination at the workplace for such reasons as gender, race, caste, age, and religious and political beliefs, is widely reported. Some governments in the region repress unions and impede workers' freedom of association and from discussing their working conditions. Many workers are exposed to health hazards and suffer accidents that can be avoided. There is overwhelming evidence that decent working conditions reduce poverty, raise living standards, and improve economic growth. For these reasons, many countries and development agencies are supporting improved labor standards.⁶

Since the approval of ADB's Social Protection Strategy⁷ in September 2001, CLS have become an integral part of ADB's development mission. ADB's Social Protection Strategy and its Action Plan commit ADB to comply with the CLS, and guide ADB operations to good labor and social protection practices.

In the context of ADB's work, social protection is defined as a set of policies and programs designed to reduce poverty and vulnerability by promoting efficient labor markets, diminishing people's exposure to risks, and enhancing their capacity to protect themselves against hazards and interruption/loss of income. As such, it consists of five major elements, with each element closely interlinked to the application of labor standards and more specifically, to the CLS as outlined above:

- (i) labor markets,
- (ii) social insurance,
- (iii) social assistance,

⁵ ADB. 2001. *Social Protection Strategy*. Manila.

⁶ Opening address at the ADB/ILO Regional Workshop on Labor Standards, 18–19 September 2002, Manila by Mr. Akira Seki, Director General, Regional and Sustainable Development Department, ADB.

⁷ http://www.adb.org/Documents/Policies/Social_Protection/default.asp

- (iv) micro and area-based schemes to protect communities, and
- (v) child protection.

Within ADB's long-term strategic framework for 2001–2015,⁸ and medium-term strategies, the social protection priorities for the Asia and Pacific region are the design of sound, comprehensive social protection programs that effectively reduce poverty and vulnerability, including

- (i) interventions to protect communities and the informal sector;
- (ii) child protection; and
- (iii) labor market programs to ensure productive employment, decent working conditions, and improved human capital development.

D. Purpose of the Core Labor Standards Handbook

This Core Labor Standards Handbook gives practical knowledge on how ADB operations can comply with the CLS. It does not introduce any new policies or compliance requirements for ADB's operational staff. The main purpose of the Handbook is to provide information about CLS, explain the difference between core and other (non-core) labor standards, and finally, to present some ideas, opportunities, and examples of good practices about the application of CLS in ADB's operations. In order to give a comprehensive picture of CLS and ADB operations, the Handbook is not limited only to project level interventions, but it also covers the planning and design of country strategies and programs.

The Handbook is meant to be used by ADB operations staff who are involved in project design and implementation, but it can also be useful for a wider audience. It focuses on how CLS can be incorporated into ADB's operations, where a project or program has issues in which CLS need to be considered.

The Handbook is divided into three parts. Part 1 is an introduction into international CLS. Part 2 discusses all the eight Conventions that ILO's International Labour Conference adopted in 1998 as fundamental to the rights of every human being at work, irrespective of the level of development of individual member

⁸ ADB. 2001. *Moving the Poverty Reduction Strategy Agenda Forward in Asia and the Pacific: The Long-term Strategic Framework of the ADB (2001–2015)*. Manila. This document identifies three core areas of intervention for poverty reduction: sustainable economic growth, inclusive social development, and governance for effective policies and institutions.

States. These rights are a precondition for all the others in that they provide a necessary framework from which to strive freely to improve individual and collective conditions at work. Part 3, Core Labor Standards in ADB Operations, presents ideas about how ADB could integrate CLS in its operations. Finally, the Handbook includes several appendixes that include practical information of CLS, checklists, ILO contact information, and others.

International Core Labor Standards

The increasing attention to and international discourse on labor standards, and especially on CLS, is an inevitable consequence of globalization. As the imperatives of current economic undertakings create new work arrangements and production processes, cultivate complex supply chains, and facilitate rapid movements of capital and production units, working people in many cases suffer from the quantum leaps (and falls) of the global economy.

Just like democracy, the concept of labor standards is controversial and often misunderstood. Efforts to implement them in national laws have sometimes been seen as “anti-business,” “investment disincentive,” “a regulation that has no place in the free market,” and “as a hindrance to competitiveness.” Initiatives to include this concept in trade discussions have earned it labels like “a nontariff measure,” “a job killer,” and “a western protectionist measure.” Some simply call it “market rigidity” and “a desirable incentive without empirical basis.”

Over the last decade, attitudes have begun to change. Codes of conduct and corporate social responsibility initiatives covering human rights, environmental protection, and workers’ rights have emerged. However, the debate on labor standards continues. In a recent issue of the ILO *International Labor Review*, an econometric study by David Kucera concluded that “no solid evidence is found in support of what has been referred to as the ‘conventional wisdom’, namely, that foreign investors favor countries with lower labor standards; indeed all evidence of statistical significance points in the opposite direction.”⁹ This was demonstrated recently in Cambodia, where the lifting of textile quotas after the Multifibre Agreement expired at the start of 2005 threatened to destroy Cambodia’s textile industry.

Although this trade deal no longer holds in the post-quota world, “the strategy of protecting labor standards in order to keep sewing orders up from socially conscious companies will be crucial, as Cambodia still cannot compete with China in productivity terms. In fact, according to a World Bank survey of international buyers in 2004, more than 60% of companies who bought apparel from Cambodia said compliance with labor standards was of equal or greater

⁹ www.ilo.org/public/English/support/publ/revue/sommaire/141-1-2.htm

importance than price, quality, and speed of delivery. Companies like Gap and Marks and Spencer are still continuing to source supplies from Cambodia for the same reason.”¹⁰

A. What are International Labor Standards?

Labor standards are simply the rules that govern how people are treated in a working environment. They come in a variety of forms and originate at the local, national, and international levels. Taking account of the spirit of labor standards does not necessarily mean applying complex legal formulae to every situation; it can be as simple as ensuring that basic rules of good sense and good governance have been taken into account.

Labor standards cover a very wide variety of subjects, mainly concerning basic human rights at work, respect for safety and health, and ensuring that people are paid for their work. They also extend to questions of good governance, such as labor inspection and basic labor administration. In an economic context, they are important for raising productivity and competitiveness over the long term.

At the national level, labor standards are usually set by laws and regulations. Some can also be found in collective agreements. Normally, these bind only the contracting parties—trade unions and employers—but once accepted in some countries, they acquire the force of law for the entire country or economic sector.

At the international level, labor standards are found in international conventions and recommendations. International labor standards (ILS) are important for two reasons. First, they represent the international consensus on minimum best practices, whether on human rights generally or more precisely on labor matters. Second—and more immediately important in many cases—when they have been ratified by member countries they constitute binding legal obligations in national and international law, and may even be incorporated in national law. Most ADB project documents require governments to apply their own laws, and that usually includes ratified international human rights conventions.

¹⁰ 2005 Asia Times Online Ltd.

B. Importance of Labor Standards

1. The Economic Argument for Labor Standards in General

Putting labor standards into practice improves the economies of DMCs.¹¹ Many developing countries argue that keeping labor costs low is their only comparative advantage in manufacturing and services. This is not correct because it needs to take into account the productivity-increasing effect of labor standards. Lack of respect for basic workers' rights has a negative impact on development and on the people directly affected by these problems. Labor standards are a tool used both to assist development and to measure progress toward development. They are both instruments and indicators.

2. Good Governance and Labor Standards

Good governance demands that labor standards be set and enforced. Respect for people's rights in their most basic economic activity, and action by the government to protect them, is in itself support for the concept of governance. Respecting labor standards, in whatever form, has a number of positive governance benefits; for example, it

- (i) builds respect for the law,
- (ii) increases respect for human rights,
- (iii) promotes decent work,
- (iv) improves dialogue between social partners, and
- (v) improves prospects for exports as importing countries increasingly demand respect for ILS including CLS.

As such, it makes a major contribution to poverty reduction.

By applying improved standards in its own investment projects, ADB creates a demonstrative effect for the benefit of DMCs, showing the viability of better labor standards. It also raises the awareness of all workers and employers of the region to the necessity and the benefits of applying standards.

¹¹ D. Kucera. 2002. Core labour standards and foreign direct investment, in *International Labour Review*, Vol. 141, No. 1-2 (2002), pp. 31-70.

3. Human Rights and Labor Standards

It should also be kept in mind that many labor standards are internationally recognized human rights, contained in international conventions that are almost universally ratified, including by most DMCs. There is a growing international consensus that human rights are indivisible and have to be applied to everyone.

C. ADB's Actions to Promote Respect for ILS¹²

From an ADB perspective, it is useful to take labor standards into account in order to provide assistance to DMCs. The issue is how this can be done. There are various levels and ways to promote labor standards, as proposed in a series of recommendations drafted at the ADB/ILO Regional Workshop on Labor Standards in September 2002 (Box 1).

D. What are Core Labor Standards?¹³

CLS are a set of four internationally recognized basic rights and principles at work:

- (i) freedom of association and the effective recognition of the right to collective bargaining,
- (ii) elimination of all forms of forced or compulsory labor,
- (iii) effective abolition of child labor, and
- (iv) elimination of discrimination in respect of employment and occupation.

While there are many types of labor standards, the four listed above have achieved consensus internationally as the “core” labor standards. International support for these standards reflects an understanding that they are applicable to all countries. They do not establish a particular level of working conditions, wages, or health and safety standards to be applied internationally. They are not intended to alter the comparative advantage of any country. These basic rights have been repeatedly articulated in international human rights instruments and declarations, such as the Universal Declaration of Human Rights in 1948 and the Convention

¹² General recommendations adopted at the ADB/ILO Regional Workshop on Labor Standards, Manila, 18–19 September 2002.

¹³ This component has been incorporated from World Bank. 2002. *Core Labor Standards Toolkit*. Washington, DC.

Box 1: Recommendations from the Asian Development Bank/ International Labour Organization Regional Workshop on Labor Standards, 2002

- **Strengthen Country Programming Strategies.** The inclusion of labor standards consideration in the Asian Development Bank (ADB) country programming strategies should be strengthened to improve its country-based poverty and social analysis and to highlight priorities that need to be addressed.
- **Strengthen Project Design.** The inclusion of labor standards consideration should be strengthened in the planning, design, and implementation of all ADB activities, as approved by ADB in its Social Protection Strategy. Respect for labor standards should be addressed as an issue in itself, and as a matter of ADB's corporate social responsibility.
- **Strengthen Project Implementation.** Violations of labor standards in the implementation of ADB-funded activities, or failure by contractors and subcontractors to observe the standards they are required to implement, should be prevented. ADB has limited capacity for oversight of the employment conditions of its projects. A proposed option is to request social audits from its contractors or reports from relevant labor stakeholders (e.g., labor unions).
- **Review Procurement Documents.** Procurement documents should be reviewed to ensure that they meet these requirements. There is a need to incorporate general clauses on labor standards in bidding documents.
- **Develop Proactive Policies and Interventions.** Enforcing labor standards and good working conditions cannot happen overnight. For instance, if working children were suddenly removed from their income-generating activities, their families would sink further into poverty. The solution lies in a progressive agenda to eliminate child labor, in which the first step is to fight its worst forms (children working in prostitution, hazardous jobs, etc.) urgently, while other working children are temporarily allowed to help their families providing that they can combine work with an education.

Box 1 (continued)

- **Ensure Cost-Effectiveness.** The measures necessary to take full account of labor standards may involve additional costs of implementation. Care has to be taken (i) not to construct implementation measures at such a high level that it is uneconomical to carry out economic activities and projects, (ii) to build the costs of implementation of labor standards into the costing of economic activities and projects at all levels, and (iii) to ensure that respect for labor standards is never used as a nontariff barrier or protectionist measure.
- **Develop Capacity and Training.** The measures needed to respect labor standards require training and familiarization of responsible staff, contractors, and subcontractors, and probably the acquisition of new skills. A training program should be put into place, once good practice on labor standards has been established.
- **Raise Public Awareness.** Public information campaigns ensure sensitization of public opinion on the long-term benefits of respecting labor standards, and how the cycle of poverty is reproduced by violating labor standards.
- **Involve Different Stakeholders and Institutions.** Ensuring compliance with labor standards requires positive involvement of nongovernment organizations, such as employers' associations, labor unions, and community and civil society groups. Proper involvement of these institutions is particularly required for conflict resolution. It is estimated that more than 350 million new jobs are needed in the next decade to absorb all the new entrants into the labor market in Asia and the Pacific. Involving the private sector in good, corporate socially responsible practices is essential to promote employment under decent working conditions.

on the Rights of the Child, 1989. Their most prominent recent expression is in the Declaration of the 1995 Copenhagen Summit on Social Development.

The ILO further substantiated the CLS in 1998 by the Declaration on the Fundamental Principles and Rights at Work,¹⁴ which calls upon its member countries to comply with the four principles, regardless of whether they have ratified the relevant conventions. It also identified a role for international organizations, such as the World Bank and ADB, in promoting respect for CLS.

While each of the CLS corresponds to one or more ILO conventions, a country may be in compliance with a core standard even if the conventions have not been ratified. Conversely, the fact that a country has ratified a convention does not automatically prove its compliance with that standard. In all cases, domestic legislation and practice must be considered.

It should be recalled that an obligation to respect the CLS is an inherent part of membership in the ILO. The CLS form more specific international obligations when the conventions containing them are ratified.

There are additional standards that develop aspects of these CLS, such as those on workers with family responsibilities, protection of migrant workers, working hours for young workers, and industrial relations. Other labor standards cover such subjects as

- (i) occupational health and safety (OHS);
- (ii) employment promotion, including mechanisms (employment exchanges, etc.);
- (iii) minimum wages and payment of wages;
- (iv) social security;
- (v) labor administration (including labor inspection); and
- (vi) specific economic sectors or occupations (seafarers, dockworkers, nursing personnel, home workers, plantation workers, etc.).

¹⁴ <http://www.ilo.org/public/english/standards/relm/ilc/ilc86/com-dtxt.htm>

E. Locating Information on CLS

There are many sources of information on the status of CLS in ADB's DMCs. The most important partner on issues related to labor standards is the ILO,¹⁵ and country teams preparing country strategies and programs (CSPs) are strongly encouraged to contact staff from ILO country offices (Appendix 1). Local trade unions and employer organizations are also important sources of information. Of course, another potentially key source of information on how labor standards are treated in a country is ADB staff members' own observations and information gleaned from their networks on the ground. ILO supervision of the application of conventions is explained in Appendix 2.

F. CLS in ADB Operations

Since the approval of ADB's Social Protection Strategy in September 2001, CLS have been an integral part of ADB's development mission. The strategy and its action plan commit ADB to comply with these core labor standards and guide ADB operations to good labor and social protection practices. The following excerpt from the Strategy highlights ADB's commitment:

- "Vulnerable groups that may be negatively affected by an ADB intervention must be adequately compensated and mitigation measures put in place to avoid creating further poverty (e.g., in case of public or private sector restructuring, workers, particularly low income workers, should not be unfairly disadvantaged, regardless of race, skills, gender, age, or religious and political beliefs);¹⁶ mitigation measures should always aim to adequately balance social objectives and economic sustainability; and

¹⁵ Information of the ILO Conventions and Recommendations, as well as, the ratification of CLS by each DMC, is available from <http://www.ilo.org/public/English/standards/norm/index.htm>. From this webpage, click "Ratifications of the fundamental conventions."

¹⁶ Other typical examples are loans dealing with shifts toward market-determined pricing of energy, water, telecommunications, and housing. Ideally such development interventions should take place after appropriate regulatory institutions have been created and safety nets established. Often, however, interim measures may have to be adopted to ease the effects on households (e.g., tiered pricing of utilities or exemptions from user charges).

- (i) in the design and formulation of its loans, ADB will comply with the internationally recognized CLS;
- (ii) take all necessary and appropriate steps to ensure that for ADB financed procurement of goods and services, contractors, subcontractors and consultants will comply with the country's labor legislation (e.g., minimum wages, safe working conditions, and social security contributions, etc.) as well as with the CLS;
- As part of its regular loan reviews, ADB will monitor that (i) and (ii) are complied with."

The 1998 ILO *Declaration on Fundamental Principles and Rights at Work* specifically asks international organizations, such as development banks, to promote an atmosphere conducive to the achievement of CLS. Accordingly, although compliance with CLS may not be a condition for lending or technical assistance in client countries, ADB staff are encouraged to analyze the situation relating to CLS in formulating CSPs and individual loan projects. The question is how can ADB staff, project teams, etc., ensure that CLS are included in ADB operations? How can they find out if CLS are being respected? At what stage/s of the operational cycle can CLS be incorporated to ensure that ADB's overarching goal, strategic objectives, and operational priorities are met? A parallel question concerns the relationship of CLS and other labor standards. Since ADB needs to comply with CLS "in the design and formulation its loans", the same does not apply literally to the rest of the labor standards. However, it is important to notice that several labor standards have either been ratified by a particular DMC or integrated into its labor legislation. Therefore, it is necessary to consult the existing labor legislation, since ADB needs to ensure that ADB-financed procurement of goods and services, contractors, subcontractors and consultants will comply with the country's labor legislation.¹⁷

ADB recognizes the specific priorities in the ILO *Declaration on Fundamental Principles and Rights at Work*, ranging from freedom of association to the elimination of discrimination in employment and occupation. The CLS in the following chapters have been presented in a different order from the ILO Declaration, reflecting the frequency in which they are taken up in ADB operations, namely:

¹⁷ ADB. 2001. *Social Protection Strategy*. Manila.

- (i) effective abolition of child labor,
- (ii) elimination of discrimination in respect of employment and occupation,
- (iii) elimination of all forms of forced or compulsory labor, and
- (iv) freedom of association and the effective recognition of the right to collective bargaining.