

I. INTRODUCTION

A. Need for the Study

1. This study evaluates safeguard aspects of the Asian Development Bank (ADB) 1998 Policy on Indigenous Peoples (IP).¹ The IP policy is one of ADB's three safeguard policies,² the other two being the policy on Involuntary Resettlement (IR) (1995)³ and the Environment policy (2002).⁴ The IP and IR policies are also known as the social safeguard policies of ADB.

2. The Regional and Sustainable Development Department (RSDD) of ADB announced a simultaneous review of all three safeguard policies in a concept paper issued 22 October 2004.⁵ The review was to determine appropriate revisions in the three policies, to be approved by ADB's Board of Directors. RSDD posted a discussion note on the ADB website in November 2005.⁶ In late October 2005 meanwhile, the Development Effectiveness Committee (DEC) of ADB's Board of Directors had requested the Operations Evaluation Department (OED) to contribute to the review process by providing independent assessments of the three safeguard policies. Special evaluation studies (SEs) would have to be carried out on a tight time schedule so that the results could feed into the discussion on the need for revised safeguard policies. The DEC also proposed that RSDD postpone its review so that it could take into account the findings of the studies and the views of the DEC. OED accepted the assignment while noting that the tight deadline would limit the depth, coverage, and amount of field work. OED would not duplicate the consultation processes begun by RSDD, but would instead review compliance with the policy during preparation and implementation, and assess results, within the available time and budget. The primary client of the study would be the DEC. RSDD agreed to postpone its review to incorporate OED's evaluation findings and the subsequent reactions of Management and the DEC. This SES covers the IP safeguards. OED has completed a parallel SES on IR safeguards⁷ and another on environment safeguards.⁸

B. Background

3. The 1998 IP Policy recognizes the difficulty of defining IP but provides the following working definition: "Indigenous peoples should be regarded as those with a social or cultural identity distinct from the dominant or mainstream society, which makes them vulnerable to being disadvantaged in the processes of development." While an informed decision needs to be made as to whether a group qualifies as IP, the IP policy mandates compliance with certain principles and procedures:

¹ ADB. 1998. *The Bank's Policy on Indigenous Peoples*. Manila. References to the 1998 IP Policy in this report use "policy" with a capital "P." Elsewhere in this report, "policy" is used generically (and with a lowercase "p") to reflect current consensus in ADB as to what it comprises: the provisions of Section F3 of the latest (2004) Operations Manual and the operating procedures and other arrangements made for the application of the policy.

² Available: <http://www.adb.org/Safeguards/default.asp>

³ ADB. 1995. *Involuntary Resettlement*. Manila.

⁴ ADB. 2002. *Environment Policy*. Manila.

⁵ ADB. 2004. *ADB Policy Statement on Environment and Social Safeguards*. Draft. Manila.

⁶ ADB. 2005. *Safeguard Policy Update: A Discussion Note*. Manila. Available: <http://www.adb.org/Documents/Policies/Safeguards/discussion-note.pdf>

⁷ ADB. 2006. *Special Evaluation Study on Involuntary Resettlement Safeguards*. Manila. Available: <http://www.adb.org/Documents/SES/REG/sst-reg-2006-14/SES-on-IR.asp>

⁸ ADB. 2006. *Special Evaluation Study of Environmental Safeguards*. Manila. Available: <http://www.adb.org/Documents/SES/REG/sst-reg-2006-13/ses-es.asp>

For development interventions it supports or assists, the Bank will ensure that affected populations and persons are at least as well-off as they would have been in the absence of the intervention, or that adequate and appropriate compensation [is] provided. Policy should ensure equality of opportunity for indigenous peoples. Policy must ensure that Bank interventions affecting indigenous peoples are (i) consistent with the needs and aspirations of affected indigenous peoples; (ii) compatible in substance and structure with affected indigenous peoples' culture and social and economic institutions; (iii) conceived, planned, and implemented with the informed participation of affected communities; (iv) equitable in development efforts and impact; and (v) not imposing the negative effects of development on indigenous peoples without appropriate and acceptable compensation.

The main procedure was stated as follows:

If the Initial Social Assessment determines that indigenous peoples are likely to be affected significantly by a Bank intervention or that indigenous peoples are disadvantaged or vulnerable in an intervention because of their social or cultural identity, a specific indigenous peoples plan addressing indigenous peoples and their concerns, that is time bound and that has appropriate budget provisions, must be developed (see paras. 37–40). This plan would be incorporated as an integral part of project design. A case-specific definition of “affected significantly” would be guided by existing Bank practice relating to this matter.

4. Before 1994, IP issues were addressed as part of social impact guidelines applied in the preparation of projects but were not given any special status. In February 1994, the ADB President directed the use of World Bank IP guidelines in the preparation and implementation of ADB-supported projects. The World Bank had formulated its IP Operational Directive 4.20 in September 1991. ADB approved its own IP policy in April 1998, and issued Operations Manual (OM) 53 on IP in December 2000. In May 2004, ADB issued a revised version of the policy in OM Section F3, which formalized a distinction that had already been made in practice since the end of 2001 between various kinds of IP plans (IPPs): (i) the indigenous peoples development plan (IPDP), (ii) the indigenous peoples development framework (IPDF), and (iii) the indigenous peoples specific action (SpA). In September 2006, a new Section F3/OP integrated the new disclosure requirements of ADB's Public Communications Policy (2005). A handbook on good practices in the handling of IP concerns in projects has been under preparation for a number of years. It is being prepared jointly by ADB, the World Bank, and the Inter-American Development Bank (IADB), an approach which should promote harmonization between the three institutions.

5. ADB has not reviewed its IP policy before; the 1998 IP Policy did not require such a review. OED evaluated the social and environmental safeguards for hydropower projects in 1999 but paid limited attention to IP and the implementation of IPPs and safeguards.⁹

⁹ ADB. 1999. *Special Evaluation Study on Social and Environmental Impacts of Hydropower Projects*. Manila (section IV.B.4).

C. Current Issues

6. Some IP policy issues are similar to those identified in the related SES on the IR safeguards. These issues can be summarized as follows:

- (i) The IP policy is perceived by ADB project mission leaders and some clients to be difficult to apply.
- (ii) Variable approaches are taken to IP issues in projects funded by international agencies and in those funded by national agencies. ADB has committed itself to implementing the Rome Declaration on Harmonization of 25 February 2003 and the Paris Declaration on Aid Effectiveness of 2 March 2005, which call for a harmonized funding agency approach aligned with country systems.
- (iii) The insufficiency of consultations and weaknesses in implementation and monitoring has been criticized by civil society. Nongovernment organizations (NGOs) active in the field feel that consultations, public disclosure, implementation, and monitoring should be improved.
- (iv) Some middle-income developing member countries (DMCs) claim that the required compliance with the safeguard policies has become a disincentive to seeking ADB financing for some projects, especially during periods of low interest rates and increased availability of project finance from sources other than international finance institutions. Some DMCs claim that their safeguard policies are of an acceptable standard, and that ADB needs to become more flexible in their use.

D. Scope and Methodology of the Evaluation

7. This SES report outlines the nature and scale of IP involvement in ADB operations and the extent of application of the IP policy in ADB operations, observes trends, and assesses the policy's relevance, effectiveness, efficiency, and sustainability in the context of past experience, changing circumstances, and new demands. Attention is paid to transaction costs and the value added of ADB. The report raises issues to be considered during the RSDD review and formulates a limited set of recommendations. In the rest of this report, the acronym "IP" is used as a generic term that may in practice refer to ethnic minorities, scheduled tribes, or other types of minorities identified as IP under the policy. Similarly, the acronym "IPDP" may refer also to (ethnic) minority development plans (EMDPs) or differently labeled IP plans in the DMCs.

8. **Sources of Information.** The SES drew on (i) ADB databases and documents, (ii) interviews with ADB staff and experts, (iii) questionnaire surveys, (iv) four country studies, and (v) seven project case studies. The databases and document studies were used to generate aggregate data on projects with IP, and analyze trends over the period 1994–2006 (1994 being the year when the ADB President instructed ADB staff to apply the World Bank's IP Policy, which is similar) and the first year for which categorized data is readily available). The questionnaire surveys covered ADB staff, and staff of executing agencies (EAs) involved in ongoing projects categorized as having impacts on IP. The surveys gathered 61 responses from ADB staff and 67 from EA staff, that also included questions for the environment and IR safeguard policies.¹⁰ The case study countries were the People's Republic of China (PRC),

¹⁰ Questionnaire responses regarding all three policies are reported in Appendixes 13 and 15 of the Special Evaluation Study on Involuntary Resettlement Safeguards (footnote 7).

India, Philippines, and Viet Nam. These are all countries with ADB-supported projects with IP activities. The PRC and India are DMCs that borrow only non-concessional loans from ordinary capital resources (OCR); the Philippines and Viet Nam have access to both OCR and concessional Asian Development Fund loans. In each of these countries, one to two projects were studied in depth. Most projects had some IR activities, in one of three main sectors: (i) transport; (ii) energy; and (iii) agriculture and natural resources. Research for the case studies included document study, interviews with project staff, rapid field assessments, and limited questionnaire surveys.

9. **Limitations of the SES.** The SES was not a full impact evaluation of the IP policy mainly because relatively few projects with IPDPs formulated in 1998 or afterwards had been completed and had project completion reports (PCRs). Earlier IPDPs might not have been representative of those approved after 2002, and have not been prepared with much rigor. Thus, there was limited evaluative evidence. There were time limitations as well. The seven project case studies were conducted in only 4 of ADB's 42 DMCs, and were mostly based on rapid field assessments, supported by a few surveys of IP, generally around 40–50 households. The case studies were also mostly combined with the studies for the IR Safeguards SES; this meant that their selection had a bias toward infrastructure projects. Although extensive desk reviews included all sectors, the field investigations did not include education and health case studies. One project case study (the Cordillera Highlands Agriculture and Resource Management Project in the Philippines) did not have resettlement,¹¹ and another (the Rural Roads Sector I Project in India) was not included in the IR SES.¹² For the Guizhou–Shuibai Railway project in the PRC,¹³ an additional sample survey of over 450 households was carried out in September and October 2006. Capacity related to IP in the four case study countries selected with respect to resettlement operations is perhaps higher than the average across all DMCs. Smaller DMCs were not included in the field missions, and regions such as the Pacific and Central Asia were not represented, except through a study of secondary sources. The SES did not address all issues raised in RSDD's discussion note (footnote 6)—particularly those regarding the consequences of the application of the IP policy for lending to the private sector, credit lines, and program loans. The SES took into account the findings of a parallel safeguards evaluation by the NGO Forum on ADB, but this gave limited attention to issues particular to the IP policy. Given time constraints, civil society views were not systematically canvassed, although the ADB and OED websites included requests for feedback. After its approval, this SES report will be sent for comments to the DMCs concerned and the NGOs tracking the safeguard studies. The comments received will be posted on the OED website, together with Management's response and the summary of the DEC chairperson.

E. Organization of the Report

10. Chapter II provides some background on IP and IP issues in Asia and in the international arena. The chapter also analyzes ADB's IP policy and changes made in the IR procedures over the years, examines ADB's organizational setup, and compares its policy and organization with that of some other multilateral banks. Chapter III analyzes the importance of IPPs in ADB's loan and technical assistance (TA) portfolio, the number and nature of IP affected, their distribution, and the nature of IP issues in ADB's operations. Chapter IV reviews a number of performance

¹¹ Loan 1421-PHI: *Cordillera Highland Agricultural Resource Management Project*. Manila, for \$9.5 million, approved 11 January 2006.

¹² Loan 2018-IND: *Rural Roads Sector I Project*, for \$400.0 million, approved 20 November 2003.

¹³ Loan 1626-PRC: *Guizhou-Shuibai Railway Project*, for \$140.0 million, approved 18 August 1998.

assessments conducted by the World Bank, IADB, and NGOs, and reviews relevant ADB project performance reports (PPRs), PCRs, and OED studies. Chapter V briefly reviews the country contexts and country safeguard systems in the four case study countries selected, including the level of convergence with ADB's IP policy. ADB's TA portfolio on IP, which focuses on both policy and capacity development, is also reviewed. Chapter VI reviews the findings of the case study projects in terms of level of consultation and findings of sector projects, and assesses the impact on IP, as well as the value added of ADB support to IP. The last chapter assesses the policy in terms of relevance of the policy and procedures; effectiveness of outcomes on IP and on EA capacity; efficiency of inputs, processes, and systems; and sustainability of the policy's approach. It concludes with recommendations for ADB's consideration.

II. ADB AND INDIGENOUS PEOPLES SAFEGUARDS

A. Indigenous Peoples' Rights

11. The broad context for ADB's IP policy is summarized in this section. The United Nations (UN) estimates IP to number from 300 million to 370 million in the world,¹⁴ composing over 5,000 distinct groups in 70 countries on five continents. Over 150 million IP live in Asia; 68 million of these are scheduled tribes in India, or Adivasis. These numbers correspond to the more restrictive definition of IP, as comprising mainly cultural groups that have a historical continuity or association with a given region, or parts of a region, and that formerly inhabited the region either before its subsequent colonization or annexation, or alongside other cultural groups during the formation of a nation-state, or currently inhabit the region; or that are independently or largely isolated from the influence of the claimed governance by a nation-state, and have maintained at least in part their distinct linguistic, cultural, and social or organizational characteristics, and in doing so remain differentiated in some degree from the surrounding populations and dominant culture of the nation-state.¹⁵ By this definition, IP constitute around 5% of the population in of Asia and the Pacific. The number could be larger if other types of vulnerable ethnic minorities who identify themselves as indigenous were included, as they are in the more expansive definition of the World Bank and ADB. For instance, the PRC recognizes 55 ethnic minorities comprising over 123 million people.

12. IP are among the poorest people on earth, and many are threatened with marginalization or extinction of their lives, livelihoods, cultures, and languages. IP issues include cultural and linguistic preservation, land rights, ownership and exploitation of natural resources, political determination and autonomy, environmental degradation, poverty, health, and discrimination. The need for special protection of the rights of IP has long been recognized internationally. There is a highly active movement for the rights of IP and many NGOs, including international NGOs like the International Work Group on Indigenous Affairs. Discussions on the rights of IP have been held in the UN for the past 21 years, and in 1993 a Declaration on the Rights of Indigenous Peoples was drafted. The draft was, however, debated and then abandoned for several years. Although it was eventually adopted 13 years later by the Human Rights Council on 29 June 2006, it is yet to be ratified by the UN General Assembly.¹⁶ The

¹⁴ Available: <http://www.iwgia.org/>

¹⁵ Available: http://en.wikipedia.org/wiki/Indigenous_peoples#_note-2

¹⁶ Ratification was deferred in December 2006, but a vote on the adoption needs to be taken before September 2007.