

Draft for Consultation

Summary of the Analytical Study for the Safeguard Policy Review and Update: Community and Occupational Health and Safety

November 2021

I. INTRODUCTION

1. The Asian Development Bank (ADB) is undertaking a comprehensive review and update of its Safeguard Policy Statement, 2009 (SPS).¹ The update process has been initiated by ADB Management following a Corporate Evaluation of the SPS by ADB's Independent Evaluation Department (IED), completed in May 2020 (IED Report).² The update will build off the findings and recommendations of the IED Report, which ADB Management endorsed. The update will seek to modernize the policy, considering the changing development context and evolving developing member country (DMC) and client needs and capacities; as well as opportunities for greater harmonization with the policy principles and standards of other multilateral financial institutions (MFI). The update will consider the diversity of ADB lending modalities and operations, including the private sector, as well as requirements for different contexts such as fragile and conflict affected situations (FCAS), small island developing states (SIDS) and emergency assistance. Overall, the policy update will seek to strengthen safeguard implementation effectiveness and efficiency, in ways that will enhance beneficial safeguards outcomes for the environment and affected people.
2. The revised safeguard policy is expected for ADB Board for consideration in March 2023, following a process of further review, policy development and meaningful stakeholder engagement. To inform this process, ADB is undertaking a series of brief analytical studies.³ The studies will benchmark ADB's current SPS against the policies of selected MFI and briefly consider implementation experience.⁴ The studies will inform the development of the new safeguard policy and will be provided for stakeholder review and consultations. Initial summaries will be disclosed first to gather initial stakeholder views. The analytical studies themselves will then be updated and disclosed in full. Stakeholder engagement and consultation will have three main phases: (i) preliminary information and outreach on the overall approach for the policy update and stakeholder engagement plan; (ii) consultation on the analytical studies; and (iii) consultation on the draft policy paper. There will be multiple opportunities for stakeholder engagement, including regional consultations; "deep dive" sessions with ADB developing member countries (DMCs) and civil society organizations (CSOs); focus groups on specific topics; and consultations with people affected by ADB

¹ ADB. 2009. Safeguards Policy Statement. Manila. <https://www.adb.org/documents/safeguard-policy-statement>

² Independent Evaluation Department. 2020. *Evaluation Document: Effectiveness of the 2009 Safeguard Policy Statement*. Manila. <https://www.adb.org/documents/effectiveness-2009-safeguard-policy-statement>

³ The planned analytical studies are: 1. Overall Policy Architecture; 2. Indigenous Peoples; 3. Resource Efficiency and Pollution Prevention; 4. Labor and Working Conditions; 5. Community and Occupational Health & safety; 6. Land Acquisition, Restriction of Access and Involuntary Resettlement; 7. Stakeholder Engagement, Information Disclosure and grievance redress Mechanisms; 8. Biodiversity and Natural Resource Management; 9. Country Safeguards Systems; 10. Cultural Heritage; 11. Safeguards in Different Financing Modalities; 12. Environmental and Social Impacts and Risk Assessment; 13. Climate Change; 14. Safeguards in Fragile and Conflict Affected Situations and Small Island Developing States (FCAS/SIDS). Additional studies may also be added where needed.

⁴ The studies are intended to complement the evaluation completed by IED in May 2020 and will not duplicate IEDs work on the overall effectiveness of the SPS.

projects.⁵ This document provides a summary of the analytical study on Community and Occupational Health and Safety.

II. METHODOLOGY

3. **Objective.** This consultation draft has four sections for discussion: (i) review of Community and Health and Safety (COSH) provisions within ADB's SPS framework and (ii) documentation of implementation challenges since adoption of the SPS; (iii) presentation of initial findings of the comparative and benchmarking study of the SPS against the safeguards frameworks used by selected MFIs; and (iv) emerging COSH issues not currently covered in ADB SPS.
4. **Methodology.** A desk-based review was undertaken for the comparative benchmarking study of selected MFI safeguards policies, against the SPS and associated documents addressing the topic of community and occupational health and safety including ADB's current practices and experience in their implementation. The study considered the following MFIs in addition to ADB including: Asian Infrastructure Investment Bank (AIIB), European Bank for Reconstruction and Development (EBRD), International Finance Corporation (IFC), Inter-American Development Bank (IDB) and the World Bank (WB). These were selected given that their business models and portfolio are generally similar to that of ADB's, with overlap in regional coverage in some cases. Each of these MFIs have more recently updated their safeguard policies in comparison to ADB. Additionally, ADB's current practices and experience of implementation was reviewed using the findings of IED Report in 2020 on the effectiveness of the SPS and also feedback from internal consultations with ADB's Operations Departments. This Draft Summary Report will be updated following planned rounds of consultation with key stakeholders.

III. COMMUNITY AND OCCUPATIONAL HEALTH AND SAFETY IN ADB SPS, 2009

A. Existing Policy Provisions on Community and Occupational Health and Safety

5. The SPS contains policy principles and requirements for the identification, assessment and management planning for projects with COSH risks and impacts. SPS Environmental Safeguards Policy Principle 10 covers (i) occupational health and safety and (ii) community health and safety. It mandates borrowers and clients of ADB to (i) provide workers with safe and healthy working conditions and prevent accidents, injuries, and disease; and (ii) establish preventive and emergency preparedness and response measures to avoid, and where avoidance is not possible, to minimize, adverse impacts and risks to the health and safety of local communities.

⁵ Please refer to the ADB website and Stakeholder Engagement Plan for further details.
<https://www.adb.org/who-we-are/safeguards/safeguard-policy-review>

6. Environment Safeguard Requirements (SR1) in Appendix 1 of the SPS outlines the requirements that borrowers/clients are required to meet when delivering environmental safeguards for projects supported by ADB. Paras 40 - 41 of SR1 provide the requirements for occupational health and safety (OHS) and paras 42 - 43 provides the requirements for community health and safety (CHS).
7. For OHS, SR1 requires that borrower/clients will provide workers with a safe and healthy working environments. *Workers* are defined to include non-employee workers engaged by the borrower/client through contractors or other intermediaries to work on project sites or perform work directly related to the project's core functions. SR1 also requires the borrower/client to consider general and sector specific classes of OHS hazards in the borrower's/client's work areas, including *physical, chemical, biological, and radiological hazards* in the environmental assessment and management planning process consistent with international good practice as reflected in internationally recognized standards such as the World Bank Group's Environment, Health and Safety Guidelines.⁶
8. For CHS, SR1 identifies *affected communities* as receptors to project related risks and impacts. SR1 also requires the borrower/client to consider potential exposure to both accidental and natural hazards in the assessment and management planning prioritizing the avoidance or prevention elements of the mitigation hierarchy over minimization or reduction of impacts so far as reasonably practicable.
9. SR1 lists six (6) steps that the borrower/client shall take to provide a safe and healthy working environment for workers as; (i) identifying and minimizing, so far as reasonably practicable, the causes of potential hazards to workers; (ii) providing preventive and protective measures, including modification, substitution, or elimination of hazardous conditions or substances; (iii) providing appropriate equipment to minimize risks and requiring and enforcing its use; (iv) training workers and providing them with appropriate incentives to use and comply with health and safety procedures and protective equipment; (v) documenting and reporting occupational accidents, diseases, and incidents; and (vi) having emergency prevention, preparedness, and response arrangements in place.
10. SR1 also outlines specific requirements for project structural elements and components (such as dams, tailings dams, or ash ponds)⁷ situated in high-risk locations whose failure or malfunction may threaten the safety of affected communities. For proposed projects which meet this requirement, the borrower/client will engage qualified and experienced experts, separate from those responsible for project design and construction, to conduct a review as early as possible in project development and throughout project design,

⁶ World Bank Group. 2007. General Environmental Health and Safety (EHS) Guidelines. Washington, USA. https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/ehs-guidelines

⁷ This list is not intended to be exhaustive of all types of structural components.

construction, and commissioning to ensure robust assessment and management planning has been put in place to address identified residual risks and impacts.

B. Experience in implementation of the existing policy

11. The SPS has been effective since January 2010 and applies to all projects financed and/or administered by ADB. Provisions for addressing project level community, and health and safety risks and impacts are contained within the project health and safety management plans. Project health and safety management plans are regularly updated to manage changes in risks and impacts at project level. The project health and safety management plan is a key component of the project Environmental Management Plan (EMP), which ADB reviews. The borrower/client has primary responsibility to ensure implementation of the EMP, while the implementation of the health and safety plan is delegated to the project contractor with oversight responsibility from a supervision consultant depending on the scale and complexity of the project. Contractors, following requirements in the EMP may also be required to develop further details on the health and safety plan based on final detailed design and final selection of technologies and procedures for construction and operation.
12. One of the key areas where environmental safeguards are seen to be challenging to implement, is in the area of community and occupational health and safety. This was reported in the 2020 IED evaluation of the SPS. DMCs capacity (including the scope and implementation of laws and regulatory frameworks) for managing COSH were noted to be weak in some DMCs. The SPS also has limited provisions on COSH risk assessment and management, and there is also insufficient clarity in the guidance surrounding this topic.
13. The experience from ADB operations shows that social impacts are not well assessed in environmental impact assessment studies and therefore social impacts and risks are less well addressed. Furthermore, implementation of community health and safety requirements in EMPs can be poor due to gaps in contractor compliance. This is seen to be more common in projects with lower risk categories. Deficiencies in the management of worker camps and workplace safety are typical issues.

IV. COMMUNITY AND OCCUPATIONAL HEALTH AND SAFETY STUDY FINDINGS

A. Preliminary Key Findings of the Benchmarking Study

14. The draft Analytical Study compared ADB's overall approach to community and occupational health and safety with that of five comparator MFIs. The comparison was undertaken on a series of thematic areas, including overall structure, objectives and scope; identification, assessment and management of risks to communities and workers; infrastructure, materials and traffic safety; emerging themes such as ecosystem services, resilience to natural hazards and climate change.

15. **Overall Structure, Objectives and Scope:** The current SPS contain principles and requirements for occupational and community health and safety, but provides limited guidance on definitions of COSH and the approach to its risk assessment and management planning. ADB SPS is less structured and lacks clarity and details in its approach to COSH, it addresses this issue at a higher level, generally following the mitigation hierarchy. The current policy focuses on addressing direct impacts faced by affected communities and workers. The policy does not provide coverage at the level of end user, and provisions related to labor require further clarity and strengthening with regards to scope and coverage. There is a lack of supporting guidance notes on OHS and CHS risk assessments and development of action plans.
16. Comparator MFIs safeguards frameworks address COSH and Labor and Working Conditions through separate standards, though very strongly linked. Security has also been included in other MFI COSH standards. These frameworks emphasize and specifically address the borrower's role and responsibilities on COSH risk assessment and management planning covering both general and sector specific risks and impacts such as such as infrastructure, equipment and product safety.
17. **Identification, Assessment and Management of Risks to Communities and workers:** Identification of risks takes a central role and the responsibility of the client is made clear by most MFIs (i.e. WB, IFC, IBRD, and IADB). However, the study noticed there is less emphasis on these within the ADB SPS. Coverage of the risks and approach to risk assessment is detailed by many MFIs. Among those which stand out are the EBRD, IFC and World Bank, covering community exposure to diseases, vulnerability and gender including sexual exploitation, abuse and harassment (SEAH). World Bank suggests that a health impact assessment (HIA) should be undertaken as part of environmental and social impact assessment, if deemed required, while IFC in its guidance note details the HIA process. Specifically, IDB, IFC, and World Bank include this as "community exposure to water-borne, water-based, water-related, and vector-borne diseases and communicable diseases". EBRD's policy does not specifically suggest a HIA but makes clear indication that an assessment needs to be undertaken by the client - commensurate with the level of risks – to generate a project-specific safety and health plan, which includes monitoring, and safety procedures and rules. AIIB, in Environmental and Social Standard on Environmental and Social Assessment and Management (ESS1) has sections calling for assessment of health and safety risks to project workers and project-affected communities, employing a descriptive approach and directly addressing Client requirements.
18. **Infrastructure, Materials and Traffic Safety:** The need to identify and assess the risks to, and potential impacts on the safety of affected communities is clearly referred to in the current ADB policy, however traffic and road security is not explicitly mentioned, although review is undertaken separately from safeguards through ADB's Transport Sector Group, guided by ADB's Road Safety Action

Plan.⁸ Infrastructure, materials and traffic safety are addressed by most peer MFIs (i.e. IFC, WB, EBRD and IADB), through specific requirements for health and safety management. For traffic and road safety, where risks are assessed as high, EBRD requires road safety audits for each phase of the project, monitoring to resolve problems. The World Bank recommends a Road Safety Assessment when required. IADB, AIIB and ADB do not address traffic specifically in safeguards.

19. **Emerging Themes - Ecosystem Services and Resilience to Natural Hazards and Climate Change:** Cross-cutting themes like ecosystem services and climate change are covered by most MFIs, either directly in the objectives or in the policy text. Increasingly, ecosystem services are emerging aspects that need to be integrated in risk assessments and linked to the health of local communities. Provisioning and regulating ecosystem services are explicitly mentioned and defined under biodiversity safeguards (IADB and World Bank), which is linked to potential project impacts like land use change or loss of natural buffer areas (e.g. wetlands, mangroves and upland forest) that mitigate effect of natural hazards like flooding, landslides and fire. In addition, degradation and impacts to natural resources can affect quality, quantity, and availability of freshwater (a key provisioning ecosystem service) and may result in health-related risks and impacts. The above-mentioned impacts may result in increased vulnerability and community health risks. IFC also expounds on how ecosystem services fit and outlines how to conduct impact assessment on ecosystem services. IFC also mentions natural capital with respect to ecosystem service flows which is relevant to livelihoods and well-being.
20. **Climate Change Impacts on Communities:** Unlike the ADB SPS, several of the MFIs (i.e. IFC, WB, EBRD, IADB) in their recently updated safeguards frameworks emphasize the climate change impacts communities already face and that these may be further exacerbated by project activities. These then require inclusion in impact assessment, with avoidance and mitigation measures. However, none of the MFIs provide supporting guidance on how climate change impacts are to be measured or point to specific methodological approach under COSH. Typically such guidance is provided separately outside of safeguard frameworks.
21. **Labor for Local Communities:** Labor and working conditions, where local communities are employed for the project, is not explicitly mentioned in most of the MFIs safeguards frameworks, including ADB. The exception is that ADB lists child labor and forced labor in the SPS exclusion list, as is referred to by other MFIs.
22. **Workers/Labor Management:** ADB has requirements for the Core Labor Standards (CLS) with the Social Protection Strategy, 2001, as well as a Handbook on CLS which provides guidance. Within the SPS, coverage is however quite limited. Further information on this issue and a comparison with other MFIs is provided in a separate analytical study on Labor and Working Conditions. Please refer to that for further details.

⁸ ADB, 2012. [Road Safety Action Plan: An Overview](#). ADB, Manila.

23. **Emergency and Preparedness:** The need for emergency and preparedness is implied within the ADB policy with respect to community health and safety, but limited guidance on roles and responsibility of client and borrowers is provided on it. IADB follows IFC approach with regards to emergency preparedness and response. This requires the client to assist and collaborate with project affected persons, local government agencies, and other relevant parties, in the preparation of plans to respond effectively to emergency situations. If local governments agencies have little or no capacity to respond effectively, the client will play an active role in preparing and responding to emergencies associated with the project.

B. Areas for Further Consideration

24. The draft study has identified key areas which will require further discussion during the policy update. These include: (i) ecosystems services – limited to provisioning and regulating services (ii) project level security to both workers and affected communities (iii) project related sexual exploitation abuse and harassment – SEAH, including worker-to- worker and worker-to-community impacts (iv) Asbestos – review of the 20% content for bonded asbestos cement sheeting allowance in PIAL – Appendix V of the SPS, (v) product safety and safety of project services to communities, (vi) project related traffic and road safety, (vii) mental health and wellbeing of workers, (viii) animal health and safety (ix) project related fire risks to workers and community and (x) project related cyber security risks.

C. Next Steps

25. ADB will undertake consultation with all relevant stakeholders on the findings of the benchmarking study and also identify other relevant COSH issues which require consideration in the update of the SPS. Further study and analyses shall be undertaken on specific issues arising from the benchmarking study and consultation with relevant stakeholders to assess the scope of their application and practicality of their implementation as new standards and/or guidelines of the future policy updates. Stakeholder inputs and recommendations on the analysis will be solicited to enhance the analysis. More detailed analyses have also been initiated for specific topics including air quality, noise and vibration and climate change. These studies are on-going and will be integrated into future reports.