Country Safeguard Systems
Second Regional Workshop Proceedings
Towards Common Approaches and Better Results

This publication records the proceedings of the Second Regional Workshop on Strengthening Country Safeguard Systems: Towards Common Approaches for Better Results, held at the Asian Development Bank (ADB) headquarters in Manila on 7-9 October 2014. The Second Regional Workshop follows in the steps of its pathbreaking predecessor, which ADB organized on 18-19 April 2012. Harmonizing safeguard systems across countries and development partners is a task that demands time and continuity. The participants were drawn from 23 developing member countries (DMCs), 8 international development organizations, 2 civil society organizations, the private sector and ADB. A total of 154 safeguard specialists and other professionals attended, including 62 DMC representatives, 66 ADB staff, and 26 participants from international and other local organizations.

About the Asian Development Bank

ADB’s vision is an Asia and Pacific region free of poverty. Its mission is to help its developing member countries reduce poverty and improve the quality of life of their people. Despite the region’s many successes, it remains home to the majority of the world’s poor. ADB is committed to reducing poverty through inclusive economic growth, environmentally sustainable growth, and regional integration.

Based in Manila, ADB is owned by 67 members, including 48 from the region. Its main instruments for helping its developing member countries are policy dialogue, loans, equity investments, guarantees, grants, and technical assistance.
COUNTRY SAFEGUARD SYSTEMS
Second Regional Workshop Proceedings
Towards Common Approaches and Better Results
7-9 October 2014 | ADB Headquarters, Manila
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<td>ADB</td>
<td>Asian Development Bank</td>
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<tr>
<td>AECEN</td>
<td>Asian Environmental Compliance and Enforcement Network</td>
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<td>ASEAN</td>
<td>Association of Southeast Asian Nations</td>
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<tr>
<td>AMDAL</td>
<td>environmental impact analysis report (Indonesia)</td>
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<tr>
<td>BBL</td>
<td>BRAC Bank Limited</td>
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<tr>
<td>C(E)SS</td>
<td>country environmental safeguard system (Indonesia)</td>
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<td>CSO</td>
<td>civil society organization</td>
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<td>CSP</td>
<td>Country Safeguards Partnership</td>
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<td>CSS</td>
<td>country safeguard systems</td>
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<td>DFAT</td>
<td>Department of Foreign Affairs and Trade (Australia)</td>
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<td>DMC</td>
<td>developing member country</td>
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<td>EIA</td>
<td>environmental impact assessment</td>
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<td>EMP</td>
<td>environment management plan</td>
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<td>EP</td>
<td>environmental permit (Indonesia)</td>
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<td>EU</td>
<td>European Union</td>
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<td>FIDIC</td>
<td>Fédération Internationale des Ingénieurs–Conseils (Federation of Consulting Engineers)</td>
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<td>FPIC</td>
<td>free, prior, and informed consent</td>
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<td>GCF</td>
<td>Green Climate Fund</td>
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<td>GHG</td>
<td>greenhouse gas</td>
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<td>GRM</td>
<td>grievance redress mechanism</td>
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<td>IDCOL</td>
<td>Infrastructure Development Company</td>
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<tr>
<td>IFC</td>
<td>International Finance Corporation</td>
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<td>IIFCL</td>
<td>India Infrastructure Finance Company</td>
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<td>JICA</td>
<td>Japan International Cooperation Agency</td>
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<td>KRIHS</td>
<td>Korea Research Institute for Human Settlement</td>
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<td>LAA</td>
<td>Land Acquisition Act (Sri Lanka)</td>
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<td>Lao PDR</td>
<td>Lao People's Democratic Republic</td>
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<tr>
<td>MDB</td>
<td>multilateral development bank</td>
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<tr>
<td>NGO</td>
<td>nongovernment organization</td>
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<td>PEIA</td>
<td>Plan Environmental Impact Assessment (PRC)</td>
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<td>PPP</td>
<td>public-private partnership</td>
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<td>PRC</td>
<td>People's Republic of China</td>
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<td>REDD</td>
<td>reduced emission from deforestation and forest degradation</td>
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<td>RETA</td>
<td>regional technical assistance</td>
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<td>RSES</td>
<td>Environment and Social Safeguards Division (of ADB)</td>
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<td>RSDD</td>
<td>Regional and Sustainable Development Department (of ADB)</td>
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<tr>
<td>SEA</td>
<td>strategic environmental assessment</td>
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<td>SPS</td>
<td>Safeguard Policy Statement</td>
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<td>TA</td>
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UKL–UPL Environmental Management/Monitoring Efforts Report
USEPA United States Environment Protection Agency
WRI World Resources Institute
WWF World Wide Fund for Nature
Preface

The Asian Development Bank (ADB) is pleased to release the proceedings of the Second Regional Workshop on Strengthening Country Safeguard Systems: Towards Common Approaches for Better Results, held at ADB headquarters in Manila on 7-9 October 2014. The Second Regional Workshop follows in the steps of its path-breaking predecessor, which ADB organized on 18-19 April 2012. Harmonizing safeguard standards across development institutions and countries is a task that demands time, continuity, and stamina.

Country safeguard systems (CSS), covering environmental assessment, involuntary resettlement, and Indigenous Peoples, comprise the legal and institutional framework of a country, consisting of its national, subnational, or sectoral implementing institutions and relevant laws, regulations, rules and procedures that seek to avoid, minimize or mitigate development activities’ adverse environmental and social impacts. Developing countries in Asia have made significant advances in the scope and depth of their safeguard systems, as well as in their implementation experience and capacity. These systems have evolved in tandem with those of international development organizations, and often with the support of ADB and others.

The welcome evolution of safeguard systems has resulted at the same time in a multiplication of requirements. Since the 2005 Paris Declaration on Aid Effectiveness, steps have been taken to address this, by harmonizing the safeguard systems of development organizations and aligning them with those of partner countries. ADB’s Safeguard Policy Statement (SPS) of 2009 makes the strengthening of borrower and client capacity to manage environmental and social risks one of its priorities and commits ADB to assisting its developing member countries (DMCs) to strengthen their CSS so that they converge with international good practices. This is to be done in close partnership with other multilateral and bilateral development institutions.

Given the vast amount of work underway to strengthen CSS, periodic meetings can help to take stock of progress and deliberate on best ways forward. The second ADB-sponsored CSS Regional Workshop once again brought safeguard experts and practitioners from Asia and beyond to Manila to share their experience and provide a learning platform. The Proceedings that follow are intended to help achieve shared understanding of the progress made, challenges along the way, and future opportunities.

I wish to thank those who participated in and contributed to the discussions: all DMC participants from Afghanistan, Armenia, Bangladesh, Bhutan, the People’s Republic of China (PRC), Georgia, India, Indonesia, Kazakhstan, the Republic of Korea, the Kyrgyz Republic, the Lao People’s Democratic Republic (Lao PDR), the Maldives, Mongolia, Myanmar, Nepal, Pakistan, the Philippines, Sri Lanka, Tajikistan, Timor-Leste, Uzbekistan, and Viet Nam; resource persons from these DMCs and the Asian Environmental Compliance and Enforcement Network (AECEN), Australian Department of Foreign Affairs and Trade (DFAT), International Finance Corporation (IFC), Institute for Global Environmental Strategies (IGES), Japan International Cooperation Agency (JICA), Korea Research Institute for Human Settlements (KRIHS), United States Environmental Protection Agency (USEPA), and World Resources Institute (WRI), as well as independent experts. My gratitude goes to my ADB colleagues: Bindu Lohani, Vice-President for Knowledge Management and Sustainable Development for his keynote address, Directors General and Directors for chairing plenary
sessions, ADB staff participants, and the Workshop team comprising Rokeya Sabur, Laureen Laurito, Mark Kunzer, Indira Simbolon, and Chris Tabungar of the Environment and Safeguards Division, and the following consultants: John Edgar P. Gorobia, Harvey Himberg, Macel Janeo, Anan Nanayakkara, Rhea Reburiano-Javier, Ivan Ruzicka, Katherin Golitzen, Agatha Diaz, and Layla Tanjutco-Amar. Sincere appreciation to Indira Simbolon, Principal Social Development Specialist (Safeguards) who provided overall guidance in finalizing the publication of the proceedings.

Nessim J. Ahmad
Deputy Director General
Sustainable Development and Climate Change Department
(formerly Regional and Sustainable Development Department)
concurrently Chief Compliance Officer
Introduction

Background

There is a growing global emphasis on the need to broaden the vision and mission of development to include: strengthening of country safeguard systems (CSS), greater reliance on CSS to address environmental and social issues in donor-supported projects, and harmonization of safeguard policies and approaches among donors. Commitments in this regard were made under the 2005 Paris Declaration on Aid Effectiveness, and were strongly reaffirmed in the 2008 Accra Agenda for Action and the 2011 Busan Partnership for Effective Development Cooperation.

The Safeguard Policy Statement (SPS, 2009) of the Asian Development Bank (ADB) affirms ADB’s commitment to help its developing member countries (DMCs) strengthen their CSS. ADB has rendered $15 million in technical assistance (TA) towards strengthening and effectively implementing CSS. The Regional TA on Strengthening and Use of Country Safeguard Systems1 was approved in 2010 to support demand-driven subprojects to improve the systems of DMCs for managing environmental and social risks. Under this TA, the first regional workshop on CSS was convened in April 2012 and this has now been followed by the Second Regional Workshop on Strengthening Country Safeguard Systems: Towards Common Approaches for Better Results, from 7 to 9 October 2014.

Workshop Objectives and Participation

The Second Regional Workshop had three objectives. First, to provide an opportunity to reflect on achievements across the region and share innovations in safeguard policies and their implementation in the region and beyond. Second, to improve understanding of client and partner priorities and needs, in order to better target capacity development initiatives. Third, to promote dialogue and sharing of experiences among the participants and identify opportunities for South–South and triangular cooperation and knowledge sharing in environmental assessment, involuntary resettlement, and Indigenous Peoples’ safeguards.

The participants were drawn from 23 DMCs,2 eight international development organizations,3 civil society, the private sector, and ADB. A total of 154 safeguard specialists and other professionals attended, including 62 DMC representatives, 66 ADB staff, and 26 participants from international and other local organizations.

2 Afghanistan, Armenia, Bangladesh, Bhutan, the People’s Republic of China (PRC), Georgia, India, Indonesia, Kazakhstan, the Republic of Korea, the Kyrgyz Republic, the Lao People’s Democratic Republic (Lao PDR), the Maldives, Mongolia, Myanmar, Nepal, Pakistan, the Philippines, Sri Lanka, Tajikistan, Timor-Leste, Uzbekistan, and Viet Nam. Please refer to Appendix 2 for details.
3 Australian Department of Foreign Affairs and Trade (DFAT), International Finance Corporation (IFC), Japan International Cooperation Agency (JICA), and the World Bank, as well as regulatory agencies (United States Environmental Protection Agency [USEPA]) and international research bodies (Institute for Global Environmental Strategies [IGES], Korea Research Institute for Human Settlements [KRIHS], and World Resources Institute [WRI]).
**Structure of the Workshop**

The workshop took place over 3 days and included (i) an introductory session and keynote addresses; (ii) seven plenary sessions; (iii) one parallel session, divided into two parts; and (iv) one training session. Plenary sessions addressed a selected CSS theme, contained one or more presentations, and provided time for questions and answers.

The plenary sessions covered an overview of country safeguard developments, recent CSS developments in the Asia and Pacific region, partnerships to strengthen CSS, South–South cooperation in CSS, role of civil society in CSS, private sector safeguard systems, expert panels, and a final forum.

The parallel session was pedagogical; it explored both development partners’ experience and countries’ perceived challenges in applying safeguard systems.

Finally, the special training session focused on innovations in safeguard practice.

**Day 1 – 7 October 2014**

ADB formally opened the Workshop with two keynote speeches. Bindu Lohani, ADB’s Vice-President for Knowledge Management and Sustainable Development, drew on his long involvement in environmental safeguard mainstreaming to give an overview of the subject and the principal trends in CSS development. Meanwhile, Naresh Saxena used his experience with India’s Planning Commission to provide an assessment of the recently enacted Law on Land Acquisition, which replaced its colonial-era precursor.

In the first Plenary Session, the development of CSS outside the Asia and Pacific region was showcased, with examples of projects financed by international financial institutions that were implemented under country
safeguard provisions. Emphasis was made on ADB’s role in delivering technical assistance to its DMCs to strengthen their safeguard systems. A panel discussion followed the presentations.

The parallel sessions were held in the afternoon, one dealing with environmental safeguards and the other with social safeguards. The participants discussed selected subtopics in small groups. During the social safeguard session, ADB and the International Finance Corporation (IFC) staff delivered presentations which contributed to the subgroup discussions.

The first day of the Workshop ended with Plenary Session 2, which included presentations on recent CSS developments in the PRC, Indonesia, Myanmar, and Sri Lanka, and discussion of the evolution of CSS. It was recognized that environmental and social dimensions have now been integrated into development efforts.

Day 2 – 8 October 2014

The morning session opened with summaries of the Day 1 Parallel Session discussion groups.

Plenary Session 3 was devoted to the role of partnerships. Stephen Lintner’s presentation, second in the Workshop, provided a basis for a lively discussion of the topic.

Plenary Session 4 explored the subject of South–South cooperation with five presentations, followed by discussion with the panel and audience. Plenary Session 5 covered civil society’s role in CSS development.

Plenary Session 6 highlighted the experience of various financial intermediaries, private financiers and their respective clients in applying safeguard systems. During the Final Plenary, experts recapitulated the main messages from the Workshop and answered questions from the assembly.

Day 3 – 9 October 2014

The Training on Environment Safeguards tackled three relatively specialized aspects of safeguard practice: cumulative impact assessment; safeguard approaches to erosion and sedimentation in South Asia; and contractor management.

The Training on Social Safeguards discussed issues in involuntary resettlement practice. IFC presented its approach regarding Indigenous Peoples and free, prior, and informed consent (FPIC). The training also featured a case study of Cambodia’s land record system.
Mr. Ahmad was delighted to welcome his many colleagues from the developing member countries (DMCs) of the Asian Development Bank (ADB), partner institutions, and civil society, and expressed his thanks for the participation of so many knowledgeable practitioners in the country safeguard systems (CSS) discipline. He then provided an overview of the establishment and progress of CSS in the developing countries in the Asia and Pacific region. The continued evolution of these systems was the subject of the Workshop.

Multilateral development banks (MDBs) such as ADB, as well as bilateral development agencies, had also upgraded policies and continued to harmonize requirements. ADB was pleased that the World Bank was in the process of updating its safeguard policies and hoped that other financial institutions and the new climate funds would move in the same direction. These MDBs and bilateral agencies had assisted developing countries in enhancing and implementing their own safeguards through policy dialogue, investment, and technical assistance. This had led to an increasing convergence among international good practices, MDB policies and country systems, particularly in the Asia and Pacific region, but in other developing regions as well.

ADB’s pathbreaking 2009 Safeguard Policy Statement (SPS) placed strong emphasis on support to DMCs to strengthen their safeguard systems. Strengthening of borrowers’ capacity to manage environmental and social risks is a key policy objective and cornerstone of inclusive and environmentally sustainable growth. Since 2010, ADB had provided grant-financed technical assistance of over $25 million for strengthened environmental assessment and social safeguard systems to more than 29 member countries across the region. Indeed, many of the presentations in the Workshop are direct outputs of this technical assistance program.

The Second Regional Workshop on CSS, Towards Common Approaches for Better Results, was seeking to achieve at least three things. First, to provide participants an opportunity to reflect on achievements across the region, the innovations that are taking place in safeguard policies, and their implementation in the region and beyond. Second, to foster greater understanding of the priorities and needs of clients and partners so that
capacity development initiatives could be better targeted. Third, and perhaps most important, to promote
dialogue and sharing of experience among all participants, and identification of opportunities for South–
South and triangular cooperation and knowledge sharing in the field of environmental assessment, involuntary
resettlement and Indigenous Peoples’ safeguards. The Workshop was designed to be both informative and
interactive, with substantial time allocated for participants to share their experiences and to benefit from the
knowledge of experienced practitioners on best practice and innovation.

Mr. Ahmad then introduced the distinguished keynote speakers: Mr. Bindu Lohani, Vice-President, Knowledge
Management and Sustainable Development at ADB, and Mr. Naresh Saxena, formerly of the Planning
Commission of India.

Keynote Address: Milestones along the Safeguard Journey

Bindu Lohani
Vice-President, Knowledge Management and Sustainable Development, Asian Development Bank

Mr. Lohani recalled that when he began his career at ADB as an environmental specialist in 1985, there was no
unit devoted to environment. ADB at that time was focused on projects — infrastructure, roads, agriculture,
irrigation, etc. However, there was a growing realization that environment (in those days, the term “safeguard”
had not become part of the vocabulary) had to be incorporated into these development projects. Mr. Lohani
noted a number of former and current ADB and other MDB staff who shared in the long-term efforts to
achieve this. One of the early contributions of MDBs was to promote environmental impact assessment (EIA). Instead of viewing environmental protection as an obstacle to development, environment needed to be integrated into MDB feasibility work. The idea was to match the established project development tools—technical, financial and economic viability—with environmental acceptability. MDBs use EIA to this day.

The approach, while sound, took time to be realized. In the mid-1980s—in stark contrast to today—environment ministries existed in only a few countries, and where there were ministries there was often no appropriate legislation. ADB undertook a great deal of capacity building; in Indonesia, for example, ADB supported capacity building for EIA in the majority of principal line agencies so that they could incorporate environmental concerns into the development process. This work produced good results in many cases.

The next challenge was to move from a focus on regulatory compliance to environmentally informed infrastructure design. Often, by designing projects differently at the outset, subsequent problems could be avoided and environmental objectives achieved. It was a new concept at the time but before long, ADB staff began working with clients to design agricultural and infrastructure projects to be not just compliant with regulations but environmentally friendly. The share of such projects increased to more than 30% of investments through these efforts; this success spurred ADB to make a strategic decision to raise the total of projects with environmental and social objectives to 40%. Today, more than half of ADB’s projects are environmentally oriented.

A new dimension has since emerged, namely the global challenge of climate change mitigation, resilience and adaptation. Its importance can be illustrated by reference to EIAs, which are supposed to consider the alternatives to a proposed project. ADB experience suggests that this tends to be among the weakest aspects of the EIA process, yet in many types of investments, tremendous opportunities exist to consider alternatives. With regard to climate, for example, use of renewables or energy efficiency can be viable alternatives to a fossil fuel power plant. Similar considerations apply to climate resilience. ADB, working with the other MDBs, has developed very good screening devices for that purpose.

Reverting to CSS, Mr. Lohani noted that financial management systems are working well. Environmental systems still require some effort and MDBs will continue to work with countries to build their capacity. Today, the MDBs have some of the most comprehensive environmental requirements in the region. In the case of ADB, this is dictated by its governance structure; in addition, ADB is rated AAA in the credit markets and is committed to high quality in its investments. Finally, ADB projects are subject to its accountability and recourse mechanism. It also incorporates a compliance review component in case of potential violation of its own safeguard policies.

It is important to build the safeguard capacity of client countries and make their requirements as good as or even better than those of any MDB. The achievement of positive environmental and social outcomes depends ultimately on the capacity of DMCs to implement the principles of the safeguards in all of their development activities, regardless of the source of funding.

Of the three country systems (financial management, environment, and procurement) championed by the Paris Declaration on Aid Effectiveness, procurement has registered the least progress. ADB recently formulated a 10-point procurement reform to increase procurement decisions taken by client countries but results have been meager. In fact, a reversal has occurred: some countries prefer to leave the MDBs in charge of procurement in order to avoid local political and lobbying pressure.
A source of frustration among client countries has been the need to prepare different safeguard-related documents for different donors. In terms of environmental safeguards, the harmonization efforts have borne fruit and it is hoped that remaining minor differences can be resolved in the near future, thus alleviating some of the burden on client governments. Such cooperation is very important, as exemplified by several of ADB’s projects that have regional elements. Harmonization of safeguards is vital to facilitate implementation of regional projects.

Mr. Lohani concluded by applauding the initiative to hold the Workshop. CSS should align with international best practice, but it is the countries themselves that will need to make it happen. The Workshop could make a major contribution to those efforts.

Keynote Address: Land Acquisition for Infrastructure and Industry in India

Naresh C. Saxena
Former Secretary, Planning Commission, Government of India

Acquisition of land by government has emerged as the most important structural constraint to industrialization, urbanization, and infrastructure improvement in India. Delays in procuring land have led to uncertainty and cost escalation. Land acquisition has drawn resistance from affected people, due to inadequate compensation, loss of livelihoods, and fear of involuntary displacement without proper rehabilitation. The colonial land acquisition law of 1894 in force until 2013 was relatively hostile to the interests of rural landowners, as its intent was to make land available to industry through government at a minimal price. The practice by most state governments was to coerce people to give up their lands by using the legal powers of eminent domain, over-using the Urgency Clause, and in some cases even through the use of force. The losers have tended to be the poorest, with few skills, often Indigenous Peoples (“tribals”). By some estimates more than 60 million people were displaced between 1947 and 2004, among whom at least 40% were tribals and 20% Scheduled Castes (the ex-“Untouchables”). Of those displaced, less than 18% were resettled. This has turned millions of independent producers into property-less laborers, an outcome that could have been avoided with imaginative land acquisition and rehabilitation policies.

Before 1990, most land was acquired by government for large irrigation and other public sector projects, where the use of coercive legal powers carried at least some credibility in the eyes of the public. More recently,
the powers of eminent domain have also been used for acquisition for private industry and real estate development, resulting in a growing resistance by existing landowners and users to leave the area and accept compensation that is considered insufficient. The resistance has been exacerbated by a large backlog (to the 1970s in some cases) of compensation payments to displaced families.

The new land acquisition law, The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and related regulations (2014) attempt to address these problems. The new law substantially enhances compensation to landowners and also requires, among other things, that each affected household, including landless laborers and tenants who were dependent on the acquired land, be either provided employment, or given a monthly inflation-indexed sum of Rs 2,000 (about $33 equivalent) for twenty years, or a lump sum of Rs 0.5 million (about $8,200 equivalent).

The new Act makes a distinction between land needed for government projects on the one hand, and private projects, including public-private partnerships (PPP), on the other. Consent of affected landowners is not required for land needed for government projects, but at least 80% of affected landowners must agree in the case of private sector projects, and 70% in the case of PPPs. Here, the land acquirer (“Requiring Body”) negotiates the terms of rehabilitation and compensation with landowners through a well-defined process designed to ensure transparency and fairness. For government projects, the new Act calls for compensation equal to double the market price in urban areas, and two to four times (depending on the location) the market value in rural areas, Provisions are included that protect the landowners from fraudulent underestimation of the market value.

It is estimated that the average direct cost of land and livelihood rehabilitation under the new law, assuming no delay or litigation, would vary between 2% and 5% of the typical project cost.

The new Act (i) contains special safeguards for tribal communities and other disadvantaged groups, as no land (even for government) can be acquired in tribal areas without the consent of the Gram Sabhas (village councils); (ii) provides for enhanced benefits for the Scheduled Castes and Scheduled Tribes; (iii) contains safeguards against arbitrary displacement, as no one can be dispossessed until all payments have been made and alternative sites for resettlement and rehabilitation have been made available; (iv) lists the infrastructural amenities that must be provided at the site receiving displaced individuals; and (v) provides (subject to a residency record) for new houses for all affected families whose original dwellings have been acquired.

The new Act gives the government the right to lease the land instead of acquiring it outright. However, such an option and other more flexible arrangements would first require that states amend their tenancy laws. A ban on leasing was imposed after Independence in almost all Indian states to encourage owner cultivation and to give security of tenure to sharecroppers and tenants. Although such laws should continue in tribal areas where agricultural markets are not well developed, the leasing ban elsewhere has acted as a brake on more dynamic and pro-landless use of land and inhibited negotiated outcomes as an alternative to coercive land acquisition.

Despite earlier concerns that the Act would prohibit negotiated settlement, the Act in fact leans in favor of such negotiations. By substantially increasing compensation amounts, the Act encourages the ultimate acquirer (usually industry) to directly negotiate with the land owner/user rather than relying on government intervention. The Act provides farmers with a government compensation option if the offer by the acquirer is found wanting. Similarly, the acquirer retains the right to turn to the government to acquire the land if the direct negotiations fail.
Not everything about the new Act can be considered a success. It deals poorly with the legitimate concern of industry regarding the delays in securing possession that can play havoc with cost projections. Acquisition of even 1 acre of land in current conditions would likely take 3 to 4 years as the proposal would have to pass through about a hundred hands. The Act establishes several new committees and stipulates that for all acquisition, a social impact assessment be conducted by one independent body and vetted by another. In addition, three other state or national committees are to be created to deliberate over reports generated by junior committees. The delays likely under such a complex structure would in turn delay compensation payments, thus harming farmers and making rehabilitation uncertain.

A simpler solution would have been to delegate powers to the district Collector to acquire up to 100 acres of land without any reference to committees or to the state governments. The Collector would obtain landowners’ consent and fix compensation through negotiations without any upper limit, thus making land available to the project within a few months.

The Act does not deal satisfactorily with the potential for rapid appreciation of acquired land giving rise to resentment among original owners who feel cheated, and deterring others from engaging in negotiations. To avoid such an outcome, a part of the appreciated value should be given to the original owner. Instead, the Act stipulates that a share of capital gain be paid only if no development has taken place on the land. This leads to spurious minimal “development” by the acquirer to avoid the obligation.

The Act also fails to require compensation for those affected when forest lands and water bodies are taken by government and passed on to private entities. This means that the poorest people, as users of common land, water, and forests, are deprived of their livelihoods without any rehabilitation and resettlement benefits.

With the change of government in May 2014 there may be a willingness to return to the Act and consider modifications, in particular ways of simplifying the procedures so that land is available to the acquiring body, and compensation provided to affected families, as soon as possible. The percentages of landowners whose consent is required in land acquisition for private and PPP purposes might also have to be reviewed. The case for a mandatory social impact assessment prior to land acquisition for linear projects or projects where total land acquired is, for example, less than 100 acres, would also deserve a review.

Such modifications would recognize that the price of land acquisition has two elements. One is the direct price paid for acquisition, rehabilitation, and resettlement, which goes directly to the affected households. The second is an indirect price that includes transaction costs and opportunity costs. Any amendment to the new law should seek to retain direct costs and drastically reduce indirect ones.

In conclusion, while the 2013 law completely replaced the colonial Land Acquisition Act, there is still room for improvement so that the process can further support economic growth.
Mr. Lintner saw the Second Country Safeguard Systems (CSS) Workshop as an opportunity to reflect on how best to forge and strengthen partnerships in CSS development and application. Development of CSS is not limited to the Asia and Pacific region. Much is happening in other parts of the world and some of it is relevant to the Asia and Pacific region.

Among different safeguard instruments, environmental assessment is the most mature and continues to perform extremely well in Europe, the Middle East, and Latin America. Far greater use is being made of sectoral and strategic environmental assessments in Africa as well as Europe. Regarding harmonization, the European Union (EU), not known to be the most dynamic organization in some cases, has led large-scale harmonization efforts and it is among the 27 EU member states, as well as candidate members, where a unified, harmonized approach to environmental issues, impact assessment, and biodiversity is emerging. The Development Assistance Committee of the Organisation for Economic Co-operation and Development (OECD) has been very active in promoting, globally, the use of strategic environmental assessment. Elsewhere, several North African countries (Egypt, Morocco, and Tunisia) utilize their own systems for aspects of projects supported by the World Bank or EU.

Multilateral and bilateral development organizations should be prepared to accept country systems and work directly with the countries to make them effective. This has become more a matter of knowledge and skills transfer than a compliance process. As most multilateral development banks (MDBs) have a mandate to use country systems, they can use this authority to support countries both in capacity building and at the operational level.

International experience suggests that size can matter in the application of safeguards, for example at the subnational level, where country systems can make a big difference. This is increasingly recognized by the European Investment Bank and the European Bank for Reconstruction and Development, which have been promoting application of safeguards at a municipal level for permitting, for example. The selection of such safeguard tools should be broadened to include environmental planning, zoning, land use controls, and other instruments, typically used at a subnational level.
As to corporate systems, trade and professional associations, such as the International Hydropower Association or the International Council on Mining and Metals, have formulated their own sustainability policies. Trade pacts also influence the development of safeguards. The North American Free Trade Agreement, for example, includes environmental and labor standards. The objective is to structure these trade agreements not to lower the standards but to build them up. The application of safeguards in Egypt, Morocco, and Tunisia, as mentioned earlier, has been influenced by the standards of its main trading partner, the EU. Similarly, in Asia, Thailand’s policy on pesticide use for crops that are exported reflects the safeguards in markets such as the US or the EU.

Among civil society and nongovernmental groups, an important question is how to promote country systems without lowering standards. This requires reconsideration of benchmarks used by the MDBs and bilateral donors for country systems. The time has come to review and revise the approaches used by the World Bank and ADB based on equivalence and acceptability assessments. These need to be nuanced without being diluted. In particular, broad, rather than detailed, equivalence should take center stage and acceptability should focus on operational acceptability. The World Bank’s safeguard diagnostic review and the country safeguard review of the Asian Development Bank (ADB) are well tested instruments. The challenge now is how to revise them without losing analytical independence, and how to find ways for subnational governments to participate so that the studies become cooperative rather than external.

Looking ahead, several important directions stand out. The first are the common approaches to environmental assessment and management such as those of the EU and its major trading partners. There may be opportunities in Asia to follow this path, for example within the Association of Southeast Asian Nations (ASEAN) or other regional bodies. Another direction is that of decentralization. In the large federal states of Latin America, major advances have been made in building subnational systems and recognizing diversity. These lessons could potentially be applied in the People’s Republic of China (PRC) or India. The third is urbanization. Especially in Latin America, safeguards are being applied by cities, led by mayors and city councils. Fourth is South–South or triangular cooperation. Outside the Asia and Pacific region, an example is the cooperation between Brazil and Portugal in creating a common platform for CSS development in the Portuguese-speaking countries in Africa and in Timor-Leste. Fifth is targeted capacity building with private sector participation. Australia and Norway, in separate programs, have been supporting CSS, particularly in Africa, to address environmental, social, and governance issues in the (private) extractive industries.

There are new and multidimensional partnerships that provide ample space to innovate. Progress will require an overarching recognition that the safeguard systems of all parties will continue to evolve over time, which calls for a dynamic and flexible approach in strengthening CSS.

**ADB Technical Assistance for Country Safeguard Systems**

Mark Kunzer  
Principal Environmental Specialist, Environment and Safeguards Division, Asian Development Bank

ADB’s experience in providing technical assistance (TA) to its DMCs for strengthening and use of their own CSS has generated results and valuable insights. The word “own” deserves emphasis as TA projects and subprojects are demand-driven as well as informed by ADB’s in-country experience in helping its borrowers implement ADB safeguards. Country ownership is both a key objective and prerequisite for effective strengthening and use of CSS.
Technical assistance for Country Safeguard Systems since 2009

Since 2009, when the Safeguard Policy Statement (SPS) authorized ADB to engage with CSS, ADB has provided TA through 14 separate projects for a total of nearly $26 million. Some of these projects are regional and include several subprojects implemented in different member countries. The Regional TA on Strengthening Country Safeguard Systems,4 has become ADB’s major delivery mechanism. The TA was initially budgeted at $3 million but has been successively expanded to its current level of $8 million to meet unanticipated demand.

At the first Regional CSS Workshop in April 2012, ADB reported on the initial results of this undertaking. Today there are many more subprojects: 25 approved subprojects (of which 11 have been completed) involving 15 countries, and more are being proposed. This Workshop offers the participants ample opportunity to learn about the details. The following summarizes key information and updates on the TA.

i) Subproject characteristics

- To date, TA countries include: Bangladesh, Indonesia, Kazakhstan, the Kyrgyz Republic, the Lao People’s Democratic Republic (Lao PDR), Mongolia, Myanmar, Nepal, Pakistan, Papua New Guinea, the Philippines, Sri Lanka, Timor-Leste, Vanuatu, and Viet Nam.
- Most of the subprojects address national level safeguards, while a few are subnational or sectoral in scope.
- The subprojects have included Environmental and Social Management Systems Capacity Building for Private Sector Financial Intermediaries and an Environmental Impact Assessment (EIA) Clearing House and bilateral country twinning (or mentoring) program, with the latter two administered by the Asian Environmental Compliance and Enforcement Network (AECEN).
- The focus of individual subprojects have been evenly divided between environmental and social (involuntary resettlement) safeguards.
- Five of the subprojects involve both environmental and social safeguards.
- ADB has also undertaken CSS-dedicated TA projects in the PRC, Kiribati, and Solomon Islands as well as several other regional and subregional TAs for Central and West Asia, and South Asia.

ii) Subproject objectives

- Among the subprojects focusing on environmental safeguards, the main objectives have included strengthening of:
  » the EIA system;
  » community consultation in the EIA process;
  » capacity for strategic environmental assessment (SEA);
  » the legal and regulatory framework for EIA;
  » institutional capacity at the sector level;
  » environmental training for civil servants;
  » implementation and monitoring capacity for EIA;
  » capacity development for the implementation of a new environmental decree; and
  » mainstreaming biodiversity consideration in the environmental safeguard system.

Among the subprojects focusing on social safeguards, the main objectives have included strengthening the regulatory framework and implementation capacity for involuntary resettlement in the following ways:

» developing capacity for screening and social assessment for project-affected people;
» informing displaced persons about their entitlements and resettlement options;
» provision of compensation and other resettlement entitlements prior to physical or economic displacement;
» paying cash compensation at full replacement cost;
» providing relocated persons with secure tenure to land, better housing at resettlement sites, and comparable access to employment and production activities; and
» providing compensation to non-title holders.

iii) **Methodology.** The subprojects have employed a variety of analytical, diagnostic, communications, and capacity building tools

- Analytical and diagnostic tools have included formal equivalence assessment, using ADB SPS policy principles to identify strengths and weaknesses in the countries’ legal frameworks; and gap analyses to identify inconsistencies within the borrowers’ own frameworks, and omissions when compared with international practice.
- Institutional and human resources assessment for capacity building has been undertaken.
- Stakeholder workshops have been held to solicit views of government, private sector, and civil society stakeholders, as well as other donor agencies active in the country.
- Training has been held to improve targeted areas of implementation capacity for ministries and other agencies responsible for safeguard policy implementation.
- Implementation manuals have been prepared to standardize and institutionalize procedures and compensate for staff turnover.

iv) **Outputs and outcomes.** Completed and near-completed subprojects have generated a number of outputs and, more importantly, outcomes. Some examples include:

- In Bangladesh, EIA Guidelines for priority transport and power sectors have been completed.
- TA-supported work on sector-level capacity building for involuntary resettlement in Indonesia has been accompanied by enactment of a new Land Acquisition Law.
- In Mongolia, there are new draft laws on EIA and land acquisition, both accompanied by a capacity assessment and capacity building plan.
- In Nepal, the TA has helped develop technical guidelines on land acquisition and involuntary resettlement for the priority road, urban, and energy sectors.
- In the Philippines, implementation at both central and regional levels of existing, highly sophisticated systems for EIA and management has improved.
- Sri Lanka has updated and strengthened its Land Acquisition Act to incorporate international best practices.
- Timor-Leste has improved its regulatory framework for environmental assessment through the issuance of a new decree and an environmental licensing law.
• In Viet Nam, detailed analysis and equivalence assessments of decrees and circulars for implementation of the 2005 Law on Environmental Protection for EIA, environment management plans (EMP), and SEA have been undertaken and extensive training provided to regional officials responsible for implementation at the project level.

• The Strengthening and Use of Country Safeguard Systems TA has generated demand for successor subprojects to facilitate legal reforms and then translate them into effective implementation.

Findings and key challenges to convergence and alignment of country safeguard systems

• Most CSS-related TA funds have been used to further strengthen legislation and capacity, stopping short of requests by DMCs to use these TA funds to support CSS in their operations.

• Demand for assistance to deal with land acquisition and resettlement has increased, balancing the more traditional focus on environmental assessment and management.

• By contrast, under the Strengthening and Use of Country Safeguard Systems TA, ADB has received no requests to work on Indigenous Peoples safeguards, one of three pillars of ADB safeguard policy.

• DMCs have expressed growing interest in tapping into the experience of other countries in the region via South–South cooperation and using ADB offices for that purpose.

Based on ADB’s experience, the following appear to pose significant challenges to convergence and alignment of CSS with ADB policy principles and other international best practices:

• On environment, the major outstanding issues include:
  » absence of a legal framework and effective communications for stakeholders’ active participation in the EIA process and EMP implementation and monitoring;
  » asymmetry between legal requirements and human resource capacity; and
  » structural gaps between central/regional locus of technical capacity and local level decision-making authority.

Given the progress made so far and the continued commitment of DMC counterparts, ADB is reasonably confident that the goal of convergence and alignment for environmental safeguards can be reached.

• With respect to Involuntary Resettlement, the main obstacles are more difficult to address and for the most part include:
  » lack of recognition of categories of project-affected people whom ADB would consider to be legitimate stakeholders, particularly occupants and users of land who lack formal or customary land title for whatever reason;
  » absence of criteria for fair compensation, such as replacement cost of land and assets based on market value, rather than arbitrary fiscal considerations; and
  » lack of transitional assistance to displaced persons and host communities.
Until recently, many viewed these issues as intractable. However, it is possible to be encouraged by the recent indications of a shift in attitude on the part of DMCs, in particular those countries – such as the PRC, India, and Indonesia – that occupy strategic positions in the region and may set an example for other countries.

- The lack of references to Indigenous Peoples reflects limited demand and action by DMCs, even if some activities relating to involuntary resettlement under the TA inevitably touch on Indigenous Peoples. Mr. Kunzer suggested that the panel following the presentation might address this issue.

The almost total absence of explicit requests to use CSS in projects financed from outside sources (such as those of ADB) requires explanation. The main reason could be continuing preference on the part of DMCs in the Asia and Pacific region for an incremental approach to improving their systems that incorporates international best practices selectively. In spite of continuing interest on the part of DMCs to have their country safeguards used by development partners, most DMCs may not be ready to commit to the full extent of alignment that a request to MDBs to use CSS would require. On the other hand, in the absence of ADB and other MDB participation in projects, CSS are in everyday use and have been for the last 20 to 30 years in most cases.

This may now be changing, however. In Indonesia, under the TA, for example, two subprojects have been completed: one designed to strengthen the EIA (or “AMDAL”) process and a second designed to improve capacity to manage resettlement impacts in the water sector in West Java. As a result of these subprojects, the Government of Indonesia made a formal request to ADB in 2013 for a separate TA to assess the state of Indonesia’s CSS so as to enable ADB to use Indonesian safeguards under the conditions specified in ADB’s SPS. This request was approved in mid-2014 and the TA is in the early stages of implementation. This may become a model for transition from strengthening of CSS to use by development partners.

**Panel Discussion**

*Nessim J. Ahmad* was encouraged by the strong interest expressed by many DMCs for ADB assistance in supporting the further evolution of their own CSS as well as the countries’ genuine interest to share lessons from their own experience and to engage in South–South cooperation.
Jonas Leones (OIC-Director, Environmental Management Bureau, Department of Environment and Natural Resources, Philippines) spoke about environmental and labor standards that make their way into EIA and environmental permits in the Philippines. In the past, many potential investors avoided projects due to the stringency of the permitting process. The current administration is trying to simplify the process, not by lowering standards but by tying the issuance of permits to commitments by investors to accept strengthened monitoring. Another priority is capacity building for Indigenous Peoples and related consultation. The Philippine EIA process and its Constitution both emphasize adequate consultation. There is also a National Commission of Indigenous Peoples to protect the rights of indigenous communities. While the system is effective in protecting Indigenous Peoples, it is less so in helping these groups benefit from development projects. Finding new ways of empowering them and increasing the benefits derived from their rights could be an area for ADB support. The asymmetry between legal requirements and human resource capacity mentioned in the presentation is also a real problem that would justify ADB support.

Naresh Saxena noted that India’s EIA provisions were strict in law but lenient in implementation, inviting criticism that the legal rigor facilitates bribery. The current administration was considering how to make the legal provisions easier to implement. A fundamental difference between land acquisition and EIA has to do with transparency. With land acquisition, it is clear what people are supposed to receive and when they should receive it. In contrast, environmental impact differs on how stakeholders are willing to tolerate a subjective issue. While there are many in India who favor doing nothing in order to avoid any impact, it is possible to take a more balanced position. Loss of forest under a development project, for example, can be compensated for by planting trees elsewhere. With regard to Indigenous Peoples, there are major challenges in securing their participation in the mainstream of development. For that to happen, it is important first to improve literacy, provide basic health services, and build skills in these communities. As to land acquisition, win-win solutions are possible provided transaction costs can be controlled. Otherwise, neither the project proponent nor the landowners benefit. The new land law does not contain transaction costs, which makes it anti-industry and anti-farmer (but pro-bureaucracy and pro-civil society). The main purpose of the law must be to take care of the interests of the farmers, landowners, and those who are dependent on the land.

Gaia Larsen (Associate, Sustainable Finance Center, World Resources Institute [WRI]) mentioned WRI’s assessment of the safeguard aspects of new funds linked to climate change, in particular, the Green Climate Fund (GCF), the Adaptation Fund, and reduced emission from deforestation and forest degradation (REDD). Under the GCF and the Adaptation Fund, an interesting question has arisen on accreditation of national institutions based on, among other things, the strength of their safeguards. The Adaptation Fund has already formulated its own rules of accreditation. The assessment of institutions against the assessment of specific projects was deliberated on at the GCF. A result of the discussion was to accredit institutions at different levels; those doing low risk projects would be accredited only for such projects, whereas those doing riskier projects would face more stringent accreditation requirements. A 2014 WRI report, Striking the Balance: Ownership and Accountability in Social and Environmental Safeguards, addresses these issues as well as safeguard ownership and accountability, and approaches to safeguards in program and policy lending. The report supports flexibility of standards to match different country settings but insists on the need to maintain standards that everyone agrees are legitimate. Too much flexibility can lead to confusion and frustration. Harmonization of clear environmental and social standards improves understanding of requirements and implementation.

Stephen Lintner focused on the question of international best practices and standards, describing them as something that evolves and is modified over time. Different fora have varying definitions of international best practice. Organizations at a regional level, such as the EU or ASEAN, can play that role for their memberships. At MDBs, the board of directors vets the approaches used. Those approaches then become recognized as international best practice. Mechanisms such as litigation under national provisions, recourse through special
commissions, and MDB accountability mechanisms exist to determine, among other things, whether the practices being used are, indeed, best practice or at least acceptable. Preferably, approaches will not be only punitive; going to court is not the best way to learn about accountability.

Reidar Kvam (Senior Manager, Policy Quality Assurance and Knowledge Management, International Finance Corporation [IFC]), explained that IFC deliberately avoided the term “best practice” in its work with the private sector, because so many claimed their practice to be the best. These policies and approaches are constantly evolving. Fifteen years ago, IFC probably would not have included climate change considerations in the standards. At present, IFC is considering how best to integrate human rights-responsive due diligence into its standards. This is a new area for the private sector, based on the 2011 United Nations Guiding Principles on Business and Human Rights. IFC focuses on companies’ management systems and the balance of policy framework, implementation capacity and suitable governance structures, similar to a country system. The private sector should care about national standards and the authorizing environment. There is a very strong correlation between the authorizing environment and company performance. If the gap between national laws, standards, institutional capacity, and what the company tries to do is too large, poor outcomes will follow. Secondly, the narrow transaction focus common in the past is no longer sufficient because broader contextual risks have become more prominent. Cumulative impacts is an obvious example but there are also historical issues, legacy issues, and operations in conflict-affected areas and fragile states. All of these affect how IFC operates.

IFC has defined half a dozen elements in its performance standards: the need to have a policy, the ability to identify risks and impacts, the need to have management programs, organizational capacity and competencies, emergency preparedness, stakeholder engagement approaches at different levels depending on risk, and monitoring and review. This is very similar to the discussion taking place in the public sector. In the end, there are three core aspects. One, to have the right framework policies, principles, and laws. Two, to have the right institutions and implementation capacity. Three, to have the right governance structures that favor transparency, accountability, and effective rights of communities to remedy if something goes wrong.

One of the reasons why the performance standards have been globally recognized as a good practice approach is that they are principles-oriented. They are not too detailed or too front-loaded but based on a gradual or incremental achievement of the principles over time. The more prescriptive the approach, the harder it is to harmonize. In its work with financial institutions in Asia, IFC now supports the Sustainable Banking Network. In the commercial sector, similarly, commercial banks, export credit agencies, and development finance institutions have established the Equator Principles Association. This is a valuable platform to create a level playing field for financial institutions. The biggest challenges lie in the area of social impacts, in part because they are less clear and quantifiable than environmental ones. International standards are not well developed in social assessment practice and results tend to be uneven. Many parties would like to see greater consistency and simplicity but this has proven difficult. Specialists tend to work in isolation, drawing on different approaches and frameworks. Budget support and policy-based lending are good entry points for helping countries to strengthen policies and regulatory frameworks.

Nessim J. Ahmad supported the idea that private sector projects operate not in a vacuum but in the context of these systems. The linkage between the private sector safeguard systems, CSS, and those of other institutions is one that rightly demands the attention of the safeguard community and others.

Participants mentioned the harmonized approach to environmental and social safeguards put in place in some DMC projects financed by development partners, noting the more general applicability of this approach and its ultimate alignment with CSS. Some spoke about the ways of improving the link between technical safeguard specialists and decision makers, and in favor of building capacity in safeguards through South–South cooperation.
Parallel Sessions: Country Safeguard Systems In Action – How To Deliver Results

The parallel session was divided into two parts, one dealing with environmental safeguards, the other with social safeguards. The session on environmental safeguards was introduced by Mark Kunzer, Principal Environmental Specialist, Environment and Safeguards Division (RSES), Asian Development Bank (ADB); the social safeguards session by Scott Ferguson, Principal Social Development Specialist (Safeguards), East Asia Regional Department, ADB.

Note: The rapporteurs’ summaries for the small group discussions in the parallel sessions were presented on Day 2. They are included here for continuity.

A. Environmental Safeguards

The purpose of the Parallel Session was to provide the delegates an opportunity to share their experiences in applying environmental safeguards. Much progress had been made in the region but the Asian Development Bank (ADB) was interested in learning more about how the participants saw alignment with other countries and with other institutions, and in hearing about successes as well as problems. Participants could also use the session to provide information to their partners—ADB, World Bank, and Australian Department of Foreign Affairs and Trade (DFAT), Japan International Cooperation Agency (JICA) and other bilaterals—on where assistance would be likely to deliver best results.

Four small groups considered the following issues:

i) environmental assessment process in general – facilitated by Jean Williams, Pacific Transport, Energy and Natural Resources Division (PATE), ADB;

ii) review of environmental assessment reports – facilitated by Sonia Chand Sandhu, Southeast Asia Urban Development and Water Division, ADB;

iii) implementation of environmental management measures – facilitated by Bruce Dunn, RSES, ADB; and

iv) public consultation process, disclosure of documents, and monitoring – facilitated by Karma Yangzom, South Asia Transport and Communications Division, ADB.

Summary of Group Deliberations

Group 1. Environmental assessment process

Progress in the development and application of environmental impact assessment (EIA) processes in developing member countries (DMCs) has brought country systems closer to those of multilateral development banks (MDBs). One reason may be that development of environmental systems in the MDBs and the countries proceeded somewhat in parallel, providing sufficient time for parties to become familiar with the systems and their evolution.
Several participants felt that the systems in Bangladesh and the Philippines could be replicated.

Environmental assessments are not always well timed and enter the decision-making process either too early or too late, reducing their value.

**Group 2. Review of environmental assessment reports**

The Philippine system has successfully incorporated climate change considerations and other countries may want to study the approach adopted.

The quality of EIAs would improve if there were a baseline data repository that would make it possible to reconcile conflicting information and standardize reporting. Such a database would need to be maintained but the cost of that would be offset by superior EIAs.

**Group 3. Implementation of environmental management measures**

EIA implementation remains a challenge. Capacity constraints exist at both the national and local levels and in-country consultancy expertise in some cases remains weak.

Environmental management plans (EMPｓ) tend to be too generic and not site-specific enough because they are often developed too early, before design details are known. They are usually not updated and therefore not adequate to guide contractors.
MDB assistance is needed to improve EMP implementation and monitoring. It should target technical training of regulatory staff, inspection and compliance, license conditions, and procurement. EMP implementation must be mandatory, easy to understand by the contractors, and site-specific. Bidding documents should reflect that.

Biodiversity is a technical area where countries need to improve their capacity for assessment and implementation.

The private sector is increasingly aware of its broader social accountability and reputational risks. This is reflected in the private sector’s approach to environmental and social safeguards.

It might be worthwhile to explore supplementing the current command-and-control approach to safeguards with market-based instruments and initiatives.

More sector-specific guidelines on good practices are needed.

The creation of an accreditation system for EIA practitioners does not guarantee success. The quality of the accreditation system itself needs to be ensured.

**Group 4. Public consultation process, disclosure of documents, and monitoring**

Monitoring is both a strength and a weakness. Monitors are often not technically capable. A conflict of interest also exists when the approving and monitoring authority are the same. There are cases where the regulatory authority depends on the approving authority or the proponent because of resource and time constraints, or for other reasons.

Consultation with stakeholders is often duplicated by the MDBs and the countries and need to be better coordinated. Consultation could be a good candidate for legislative amendments to enable use of country systems by DMCs, especially if guidelines on consultation were improved to better address vulnerable groups and to incorporate consultation outcomes into the decision-making process.

**B. Social Safeguards**

The purpose of the Parallel Session on social safeguards was to review prevailing perceptions of CSS for social issues, share good practices, and identify difficulties in achieving donor requirements.

Five small groups considered the following issues:

i) addressing the risks to *informal settlers* of involuntary resettlement – facilitated by Mailene Buendia, Southeast Asia Transport and Communications Division, ADB;

ii) upholding the *replacement cost* standard in asset valuation – facilitated by Andrew McIntyre, RSES, ADB;

iii) designing and implementing effective *livelihood restoration* schemes – facilitated by Madhumita Gupta, East Asia Urban and Social Sectors Division, ADB;

iv) conducting effective *consultation strategies* in social safeguard planning and implementation – facilitated by Nogendra Sapkota, PATE, ADB; and

v) *identifying Indigenous Peoples at the project level*, and review of legal frameworks for recognition of Indigenous Peoples in developing countries and their characteristics – facilitated by Syarifah Aman-Wooster, Southeast Asia Environment, Natural Resources & Agriculture Division, ADB.
Summary of Group Deliberations

Group 1: Informal settlers

Assistance to informal settlers remains an unresolved issue.

Legal recognition is typically missing in spite of informal settlers’ economic contribution. Their displacement thus results in continued tenure insecurity. Livelihood restoration for informal settlers must anticipate their dependence on local resources and opportunities.

Another challenge in safeguard practice is distinguishing between legitimate informal settlers and professional squatters, who are often organized and exploit legitimate settlers. Authorities are often reluctant to provide land to informal settlers in suitable locations for this reason.

Decision makers do not have an adequate database on informal settlers, partly because they may move frequently.

The best way forward is to continue learning from successful practices in the region. Increased inter-agency coordination and collaboration, and improved social impact assessment may also help to resolve issues, as may addressing the issue on humanitarian rather than legal grounds.

Group 2. Replacement cost

Most governments use a replacement cost standard set up by the government itself or determined by independent appraisers. In some cases only tangible assets are compensated (Nepal). In other cases (Indonesia and the Republic of Korea) the loss of economic opportunity is taken into account. There are significant differences among countries in the extent to which compensation amounts are above or below prevailing market rates.

The gaps between existing provisions and those of the ADB Safeguard Policy Statement (SPS) concern (i) depreciation (reducing the value of assets, whereas SPS valuation does not depreciate structures), and (ii) tax (deducted from compensation in a number of DMCs).

All countries in the region now have a legal basis to provide compensation and some governments can bridge the gap with ADB through special assistance. Indonesia’s practice of compensating for emotional loss is an example of new forms of compensation and possible new ways of aligning country and ADB provisions.

Group 3. Livelihood restoration

The approach to livelihood restoration varies. In some cases, it might be more appropriate to emphasize income restoration, while elsewhere, a community-based approach with greater involvement by government authorities may be more appropriate. In all cases, good compensation remains essential. Among key challenges is timely completion of the compensation process, and a systematic approach to livelihood restoration that often extends beyond project closing.

Identification of economic opportunities as well as other stakeholders is important for structuring and implementing livelihood restoration measures.
Political will, good communications, and consultation are vital. Livelihood restoration programs can be complex and require strong institutional mechanisms and adequate inter-agency cooperation. Many DMCs lack sufficient experience in this domain; good practices should be shared. Affected people need to have adequate say and in some cases become shareholders (“benefit-sharers”).

Some livelihood restoration principles could become law rather than remaining technical guidelines.

**Group 4. Consultation strategies**

Sharing project information as fully as possible with those affected is important. Most DMCs have EIA and social impact assessment legislation containing provisions for public consultation. It was noted that Kazakhstan, for example, has a clearly defined consultation process.

Consultation must continue throughout the project cycle.

Among obstacles to effective consultation are (i) language (insufficient documentation in local language); (ii) technical caliber of those in charge of consultation (not always able to explain the project technicalities to the target audience); (iii) cultural barriers, including lack of gender awareness; (iv) lack of precise information on key project parameters (e.g., exact alignment of proposed road); (v) absence of legal responsibility (the Lao PDR is an interesting exception) to respond to issues raised during consultations; (vi) intimidation or bribery of people participating in consultation; (vii) insufficient quality of consultation record, reducing its value for implementation; and (viii) failure to identify and involve local project champions.

A good grievance redress mechanism can, in some cases, compensate for poor initial consultation.

Several positive examples were cited (transparency in the consultation on dam projects in Indonesia, Kazakhstan general practice).
Cultural aspects of consultation should be taken into account (e.g., in the Philippines, providing refreshments to participants).

**Group 5. Identifying Indigenous Peoples at project level**

Identifying Indigenous Peoples in project-specific contexts in the Asia and Pacific region is very challenging. Most countries do not use the term “Indigenous Peoples,” instead using a variety of other terms. For the purpose of policy application, most MDBs would treat these groups as “Indigenous Peoples” as long as they are vulnerable in the context of the project and as long as they display four distinct characteristics in varying degrees. These characteristics are: (i) self-identification as a distinct group; (ii) collective attachment to distinct habitats; (iii) distinct customary socioeconomic or political institutions; and, (iv) distinct language usually different from the national language.

While some governments may be reluctant to recognize Indigenous Peoples’ existence, many countries in the region do have a legal and policy framework and strategy to deal with Indigenous Peoples’ development. Some may even have a specific agency to implement and monitor measures and respond to issues concerning Indigenous Peoples at the local, regional, or national level. Since country policies often seek to mainstream Indigenous Peoples into the broader national development agenda, protections for Indigenous Peoples may not necessarily be addressed using the narrow focus of a project-specific safeguard lens, as outlined in MDB safeguard policies. Therefore, many countries may lack capacity and resources to manage Indigenous Peoples safeguards during project implementation and monitoring. There are also some structural barriers in CSS that prevent Indigenous Peoples from participating in development affecting them, making it challenging to conduct meaningful consultation with them, especially so when seeking to ascertain their consent in projects involving their displacement or commercialization of their natural or cultural resources.
The People’s Republic of China (PRC) is engaged in a far-reaching transformation of its economy towards environmental sustainability. Strategic environmental assessment (SEA) has become an important tool in that process. Several factors have driven adoption and use of SEA. They include (i) seriously degraded environmental quality and ecosystem services in many parts of the PRC; (ii) strong political will to create a society that reconciles economic growth and environmental improvement; (iii) expanded environmental legislation, especially Environmental Impact Assessment (EIA) Law 2003, and the newly amended Law on Environmental Protection (2014, to take effect in 2015); (iv) improved capacity for SEA practice and administration; and (v) increasing academic interest in SEA-related methods, techniques, procedures, indicators, etc.

EIA Law 2003 introduced SEA through the “Plan Environmental Impact Assessment” (PEIA), i.e., an EIA applied to a plan (and, by extension, to a policy or strategy). Regulations on PEIA were developed in 2009. The role of SEAs is often described in the PRC in terms of “three lines,” i.e., to describe the baseline, understand the bottom line, and be aware of the environmental red line.

Application of PEIA (or SEA in international parlance) in the PRC to date has been mainly at the level of plans (rather than policies or programs). In total, 2,823 SEAs were conducted by the provinces between 2009 and 2013. About 75% of these were directed at industrial parks. Other SEAs were for urban and non-urban transport, urban planning, hydrology/hydropower, tourism development, and land use.

The PRC’s Ministry of Environmental Protection has launched pilot “mega” SEAs, which assess the development repercussions in entire development regions that include 15 key provinces, municipalities and Autonomous Regions and contain more than 40% of the country’s population. These are being undertaken in four phases. The third phase, “rising strategy of Middle China,” is now ongoing, and the fourth phase will involve three clusters of municipalities.

Importantly, the new policy links project EIAs to SEAs. No project EIA can be approved unless it can demonstrate its compatibility with the relevant SEA.

A number of SEA technical guidelines have been developed and technical expert groups established.

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5 ADB recognizes “China” as the People’s Republic of China.
Indonesia’s AMDAL, Environmental Management/Monitoring Efforts Report and Environment Permit for Asian Development Bank-funded Projects

Ary Sudijanto
Director, Directorate for Environmental Impact Assessment, Ministry of Environment, Indonesia

Indonesia established its Country Environmental Safeguard System (C[E]SS) structured around an Environmental Impact Analysis Report (AMDAL) and an Environmental Management/Monitoring Efforts Report (UKL–UPL) 28 years ago. It has been implementing and enhancing it since then, adding the obligation for companies to secure an environmental permit (EP). The system is robust and tested.

In these conditions and with a modest amount of additional C(E)SS upgrading, applying Indonesia’s systems to projects funded by the Asian Development Bank (ADB) could save money, time, and effort for both parties. Relying on AMDAL, UKL-UPL, and EP would ensure that decisions by ADB and the Government of Indonesia are based on information of the same level of detail, and would eliminate confusion in implementation of environmental management plans (EMPs), and in verification of compliance and enforcement.

The C(E)SS has six components: (i) laws and regulations; (ii) technical guidelines; (iii) institutions; (iv) human development structures; (v) financial resources, and (vi) information systems. All six components have been strengthened in recent years. In order to align them fully with international best practices and make them an acceptable alternative to ADB’s safeguards, Indonesia needs to:

- further strengthen the EIA and EP system;
- integrate EIA and EP into sectoral project cycles and permitting procedures;
- improve the EIA certification system and accreditation of EIA consultants;
- strengthen technical capacity for EIA review and the technical pool of EIA experts; and
- develop an EIA knowledge management network and EIA information systems.

Policy and Practice of Reservoir Resettlement in the People’s Republic of China

Junhai Wang
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Some 98,000 hydropower reservoirs were built in the PRC between 1949 and 2013, 4,694 of them large- and medium-sized (greater than 10 million cubic meters). This required resettlement of about 24 million rural inhabitants.
Resettlement linked to reservoir building in the PRC today has four phases: resettlement project preparation (including formulation and approval of resettlement plan), implementation (including cost management, administrative supervision, monitoring, etc.), formal inspection and acceptance of the outcome by the Government, and long-term post-resettlement support.

Resettlement practice is anchored in Land Acquisition and Resettlement Regulations (2006) and Post-Resettlement Support Policies (2006). These are (i) people-oriented, (ii) preceded by substantial resettlement planning, (iii) accompanied by compensation, and (iv) linked to development programs. The 2006 upgrade of the land acquisition and resettlement regulations increased involuntary resettlement compensation to 600 yuan (currently about $100) per person for 20 years and further improved traditional resettlement support. Post-resettlement support is now more closely coordinated with poverty alleviation and urbanization activities in the affected area and assistance from the agricultural sector is integrated with other assistance measures.

Several difficulties affect policy implementation. One is that compensation levels for land acquired for hydropower and water conservancy projects are still lower than for highway construction projects, making it more difficult to acquire land for hydropower and water conservancy projects. Second, involuntary resettlement in general has become more difficult and contested, given underlying land scarcity. As to livelihood support, much remains to be done given the still precarious position of resettled persons and the need to identify income-earning opportunities for them.

Involuntary Resettlement Safeguard System in Sri Lanka at Completion of Technical Assistance on Strengthening and Use of Country Safeguard Systems Subproject

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Initial progress of the Technical Assistance of Strengthening and Use of Country Safeguard Systems subproject, “Supporting and Strengthening National-Level Capacity for Involuntary Resettlement System,” was reported to the 2012 workshop.5 Sri Lanka’s legal and regulatory provisions, contained in the Land Acquisition Act (LAA) and other legal instruments, has been reviewed for equivalence with ADB policies. An assessment of domestic implementation strength (“acceptability”) has also been completed.

Legal and regulatory gaps or inconsistencies were found in consultation and grievance redress; in preparation and disclosure of resettlement plans; in the extent of restoration of living standards of affected people; in negotiated settlement procedures; in timing of actual compensation; and in monitoring and evaluation of resettlement outcomes.

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The results of the “acceptability” assessment have been used to formulate an amendment to the LAA to bring it closer to the objectives of the National Involuntary Resettlement Policy, and to international best practice. Approval is pending. In the meantime, the Parliament endorsed “land acquisition (compensation payments)” regulations that reestablished Land Acquisition and Resettlement Committees for 18 major road sector projects. It is expected that with the approval of the amended LAA, the regulations will be applied to all land acquisition. The country safeguard review has also led to the decision to establish (i) a Public Complaints Resolution and Monitoring Committee, (ii) a Grievance Redress Committee, and (iii) a Review Board under the Ministry of Land and Land Development.

Current Sound Safeguard Practices and Procedures in Ministry of Construction Operations and Next Steps to Internalize Best Practices

Mya Seine Aye
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Myanmar recently reengaged with the development community; the transition process has been underway since 2011. The Ministry of Construction has two departments: Public Works, and Human Settlement and Housing Development. The responsibilities of the Public Works Department are construction and maintenance of roads and bridges and renovation of public buildings and airports. This includes initial planning, preliminary design, finalized design, alignment, and surveys.

There are a number of challenges related to safeguards. Land laws are complex and poorly harmonized; many legal instruments are over a century old. The Land Acquisition Act 1894 and other regulations cover only a few aspects of land acquisition and resettlement, and no specific law protects the rights of affected minorities. Many laws are sectoral, administered and enforced by different ministries. Responsibility for protecting the environment also is divided among many agencies.

Prior to the adoption of the Environmental Conservation Law in 2012, no requirement for the preparation of EIA or initial environmental examination existed. None of the Ministry’s projects has carried out an EIA or initial environmental examination to date.

The involvement of the Public Works Department in social safeguards is constrained due to existing legal provisions and procedures. It has limited access to land records, surveys, impact assessments, and compensation-related documentation. District and township offices, which carry out planning and surveys, are focused on implementing the Land Acquisition Act 1894, and remain unaware of certain social safeguard issues and international best practices. The existing legal framework and regulations are insufficient to identify and mitigate adverse impacts on Indigenous Peoples and those arising due to land acquisition, involuntary resettlement from development projects in general, and those undertaken by the Ministry of Construction in particular. Current procedures do not fully meet ADB’s Safeguard Policy Statement (SPS) requirements.

Internalizing international best practices in the Ministry of Construction and creating an organizational structure that facilitates them is one of the Ministry’s objectives. Hiring qualified professional staff would be part of the process. The Ministry wants to build capacity through training and workshops to help local staff to better understand ADB’s SPS and benefit from the knowledge of safeguard systems in other countries.
Panel Discussion

**Naresh Saxena:** Safeguards come into play when a new project is being considered, but a number of problems exist independently of projects. They are often rooted in land management. First, land records are inadequate and compensation cannot be paid because ownership is disputed. Second, there are restrictions on change of land use from agriculture to non-agriculture. Third, marginal farmers and small farmers cannot sell their land directly in the open market. The willing buyer–willing seller transaction is not an option in many states in India. ADB should adopt a more comprehensive view of land problems and not restrict itself only to safeguards.

**Javed Mir** concurred. Land management, whether on a sectoral, geographic, or country basis, needs to be approached in a more systematic and upstream manner. At ADB, some 80% of total investment is related to infrastructure. Land acquisition and resettlement issues are the leading causes of delays and cost overruns. Problem-free availability of land should not be the assumption at the outset of project development.

**Ary Sudijanto,** (Ministry of Environment, Indonesia): In Indonesia, too, uncertainty of landownership is a problem that goes well beyond country safeguard systems (CSS).

**Jouni Anttonen** (Cambodia Land Administration Sub Sector Program, FINNMAP): Coordination in land-related matters is essential (e.g., examples from Cambodia and Myanmar).

**Stephen Lintner** (Independent Advisor, Environmental and Social Sustainability): There is a growing spectrum of instruments available to address safeguards. Most of the time CSS are directed towards the medium- and short-term environmental and social impacts and associated risks. In the last 15 to 20 years, there has been a return to earlier work supported by regional or sectoral assessments. The presentation on SEA in the PRC was a good example of safeguard concerns rising through the planning hierarchy. Professional practice is clearly evolving. In dealing with land use, land planning, land management, and land inventory, it is important to recognize that CSS have their limits. Most multilateral development banks (MDBs), bilateral donors and all the governments have been trying, without full success, to gain control of land inventory and come to grips with tenure. A single approach or instrument cannot solve everything. Although traditional land inventory and survey approaches are quite complementary to CSS, the latter systems are better attuned to dealing with impacts and risks than inventories and transfers. Rather than considering safeguards an all-encompassing solution, it is better to think of them as elements in a multiplicity of analytical and planning tools available.

**Javed Mir** briefly described the use of SEA in the activities of ADB’s Southeast Asia Department and **Wei Li** provided more details on the approach used to classify and manage land in the PRC, where there is a strong preference for avoiding or reducing the resettlement requirements.

Participants raised the issue of applicability of safeguards to politically driven involuntary displacement. They also discussed ways of incorporating climate change considerations into CSS and noted that all MDBs and many DMCs were considering ways of formally doing so. Progress in this regard has been faster for climate change adaptation than for its “sister,” mitigation; examples of climate change concerns being incorporated into several SEAs in the PRC were shared.
Plenary Session 3: Role of Partnerships in Country Safeguard Systems

Chaired by:

Indira Simbolon
Officer-in-Charge-Environment and Safeguards Division and Principal Safeguards Specialist, Regional and Sustainable Development Department, Asian Development Bank

Development of Safeguard Systems and Opportunities for Enhanced Partnerships

Stephen Lintner
Independent Advisor, Environmental and Social Sustainability

Mr. Lintner said he would build on the comments he had made the previous day, and the two presentations should be seen as complementary. Like the majority of those working in development, he remained optimistic about country safeguard systems (CSS) and about how much can be achieved collectively through partnerships. The Workshop was a platform for knowledge sharing, sustaining the momentum generated by its 2012 predecessor. He saw an emerging consensus about issues and opportunities. Two themes were central. One was increased stakeholder coordination and cooperation. The other was enhanced convergence and alignment. Regardless of institutional affiliation—national government, bilateral donor, multilateral development bank (MDB)—what was needed were common systems that meet stakeholders’ needs. Approaches that are aligned make it easier to share experience, train, and collaborate.

There has been much progress since the 2012 workshop. Work on CSS was taking place with technical assistance from the Asian Development Bank (ADB), but also by the countries on their own or working with other partners. MDB standards were seen as benchmarks, albeit with room for review and improvement. There has been, rightly, great interest in the community of practice. The workshop participants were co-professionals. Many of them were members of the International Association for Impact Assessment. This was powerful because shared professionalism, knowledge, and skills make a big difference. It was important to get away from the old idea that financiers and beneficiaries are two separate groups and instead see the two as partners learning different things.

The development of safeguard systems for environmental and social issues started in the early 1970s and many developing member countries (DMCs) had procedures in place long before MDBs and bilateral donors. The focus of this process was integration of environmental and social issues into the planning and decision-making processes. This explains the heavy focus on upfront assessment of potential environmental and social impacts and risks. In this way, decision makers know what they are agreeing to but are also able to allocate adequate budgets for the implementation of mitigation and monitoring plans and schedule the work on environmental and social aspects to run in parallel with construction activities. In due course, impact assessment was adopted globally. Today there are, really, only two impact assessment systems in use. One, developed in North America, came to be used by the World Bank, ADB, and most of their member countries. The other was the “ecological expertise” used fairly successfully in the former Soviet Union and still used by some members of ADB. The key to both is asking questions before decisions are taken, and factoring what is known into design and implementation. The systems were also instrumental in promoting more transparent
processes through public consultation and disclosure. Most agree that this is an area where everybody needs to improve their skills.

Safeguard systems impose environmental and social accountability on both public and private sector parties. They are formal statements about the commitments and minimum standards that are going to be used, although parties are free to aim higher. Safeguard systems contain procedures and instruments, such as strategic assessment, social assessment, planning studies, zoning, and permitting. They also shape processes and outcomes. The process behind environmental and social assessment is often forgotten but it is vital. The interaction within government, between financiers and government, and with local populations is just as important as getting the reports done. The quality of the reports is often proportional to the quality of that interaction and it is important to engage in consultation early and be thorough and thoughtful about it.

Contrasting legal and policy mandates influence the process. Government officials’ duty and motivation is to implement the law. In a bilateral donor organization, law and policy co-exist. In an MDB, policies determined by that organization’s board of directors drive the activities. There is more flexibility when dealing with policies than with laws. Also, in government, safeguard responsibilities tend to be dispersed among different agencies. MDBs and bilateral donors often are able to deal with safeguard issues in a more integrated manner. When forming partnerships and learning from each other, we need to be aware of these differences.

The Paris Declaration on Aid Effectiveness was the result of genuine and intense negotiations among the parties—governments, bilateral donors, MDBs and UN agencies. The key elements are the emphasis on partnerships and the principle of mutual accountability for development outcomes. The Declaration gives a strong mandate to move to country systems for financial management, procurement, and environmental and social safeguards, and gives priority to CSS strengthening.

Use of country systems is variable, as noted the previous day. For financial management, most MDBs rely on national systems. Accountancy is well developed, accountants are licensed, and there are international standards. Procurement, on the other hand, has made little progress because of disputes about a number
of issues. As to safeguards, the progress has been good but variable. Environmental safeguards are excellent in many countries, in particular in the Asia and Pacific region. However, the actual use of CSS operationally has been limited largely to projects the World Bank has financed to date on a trial basis. There are significant opportunities to accelerate strengthening and use of CSS.

Mr. Lintner recommended several ways for DMCs to best benefit from the experience of others. **First**, countries may want to rethink the traditional emphasis on science and social science at the expense of the skills and procedures needed to implement policies. Procedures that underpin laws and policies are often inadequate. This is particularly true of involuntary resettlement and land acquisition. **Second**, administrative systems need more attention, to help institutions run better. This includes planning, financial management, and procurement. **Third**, in areas where basic principles are well developed, such as environmental assessment, the focus should be on filling the gaps, which tend to include the analysis of alternatives and the quality of public consultation and disclosure. **Fourth**, involuntary resettlement and Indigenous Peoples safeguards need to become as robust as those for environment. **Fifth**, the independence of safeguard studies should be increased and maintained. Situations where consultants are told the answer and merely justify it are to be avoided. **Last**, implementation and monitoring skills need to be strengthened and improved. This is not a science; learning by doing and working with peers can have tremendous impact.

MDBs and bilateral donors, too, need to improve their approach. First, they should welcome the new MDBs that are being established and recognize that more countries, including in the Asia and Pacific region, are becoming bilateral donors. This increases the pool of development funds and opportunities to broaden partnerships. Coordination is critical to reduce duplication. Pooling resources is also a way of promoting professional contacts and informal transfer of knowledge. Second, bilateral donors and MDBs need to screen their projects to select those that are likely to be well implemented using CSS and, based on results, gradually increase the proportion of projects implemented in this way. Third, there are aspects of safeguard systems where MDBs and bilateral donors can learn from DMCs, such as the creative use of media for information disclosure. As to dispute resolution and recourse mechanisms, good ideas for their strengthening can flow in either direction.

A legitimate concern exists in many quarters about possible dilution of safeguards. It is normal that a change of approach results in apprehension. Reform-minded safeguard practitioners need to be able to explain how doing things differently results in better outcomes. They also need to explain that safeguard convergence and filling of gaps can be labor intensive, and requires person-to-person interaction. The body of safeguard-related skills in the region continues to grow and with it, opportunities for learning and partnering.

In conclusion, Mr. Lintner made several points:

i) Strengthening CSS is something governments need to do in order to move their countries on a sustainable development path.

ii) In the context of safeguards, the most productive way to incorporate climate change considerations is to analyze its impacts on individual projects.

iii) Workshops such as the present one should continue; subregional workshops—Southeast Asia, for example, or Central Asia—would also draw people together.

iv) Engaging in a decentralization process is going to be critical for further development of safeguard systems.
v) Bringing in all government institutions that have operational experience in safeguard work and having them as partners in development of skills and administration is important.

vi) Transfer of operational experience through South–South, triangular, and twinning mechanisms is vital, with particular attention to administration, management, and finance.

vii) Direct—rather than facilitated by a third party—engagement with Indigenous Peoples’ leaders on safeguard issues should be the preferred approach.

viii) The private sector can be a source of innovation for countries.

ix) Sustaining the developing community of practice is paramount.

A phased migration to the use of CSS at the operational level is possible and desirable. Country systems only get better when they are being used by demanding partners such as the MDBs.

Panel Discussion

Mark Kunzer recalled the informal discussion by donors—World Bank, ADB, Japan International Cooperation Agency (JICA), and Australian Department of Foreign Affairs and Trade (DFAT) (then Australian Agency for International Development [AusAID]) —that followed the 2012 workshop regarding establishment of a joint safeguard practitioners’ community of practice for the Asia and Pacific region and the best ways to meet the demand for strengthening CSS. A partnership was essential to enable donors to develop a programmatic approach to working with countries and sustain financial support to implement a multi-year work program.

Three priority areas have been identified so far: (i) diagnostic studies and action plans, helping to develop legal and regulatory frameworks for EIA, involuntary resettlement, and Indigenous Peoples; (ii) capacity development; and (iii) programs for public disclosure and consultation. Knowledge management including South–South cooperation is another area of likely future efforts. Each development partner contributes its own particular expertise within a harmonized approach.

ADB’s initial contribution is a mapping of the current state of CSS throughout the Asia and Pacific region. The objective is to obtain a good snapshot of the current status, a baseline from which to work. The first set of countries to go through this process were Azerbaijan, the People’s Republic of China (PRC), Kazakhstan, Malaysia, Thailand, and Turkmenistan. These are upper middle income countries with mature institutions and legislation as well as budgetary resources. Environmental law frameworks show the highest level of equivalence, with only partial equivalence found in a number of other areas. Land acquisition and involuntary resettlement show significantly less equivalence and laws covering Indigenous Peoples are patchy at best. The performance benchmark is high for use of CSS and a more staged approach to reach it is needed. We may ask if we are using the right diagnostic instruments, or if we need to concentrate on new modalities such as performance-based lending. The attraction of working within a partnership is that wisdom and experience can be shared.

Peter Leonard (Regional Safeguards Adviser, World Bank): Part of the collaboration is directed at establishing learning centers of excellence. There is an agreement in principle among a number of partners to support existing or build new country institutions to pool training and learning resources. For example, in the
Philippines, the World Bank will soon hold a weeklong workshop coordinated with other donors, structured as a training of trainers with collaboration of local universities. The goal is to avoid duplication and be more efficient, by coordinating training inputs and embedding them within the country system itself. There are several examples of successful centers of excellence. A phased approach is advisable to ensure that these centers are sustainable. In the Philippines, the model is now in its third phase. It is somewhat less advanced in Viet Nam and is being initiated in Indonesia and the Pacific, and possibly in Myanmar.

**Esther Ewagata** (Assistant Director, DFAT, Australia): Australia’s Aid Policy, released in June 2014, focuses on managing risk by mitigating adverse environmental and social impacts in the aid program, through the application of mandatory safeguard policies in environment, resettlement and child protection. The three safeguard policies are very much principles-based and outcome- (rather than process-) driven. Child protection is considered very important in the delivery of Australia’s aid program. Australia does not have an Indigenous Peoples policy as yet. The country has a very strong domestic “closing-the-gap” policy in support of Indigenous Peoples, but existing provisions are not yet at the level of international partners. This is something that DFAT may consider in the future. Australia is only now beginning to set up safeguard systems, which gives a measure of flexibility to our country partners. Recipients of Australia’s assistance are required to show compliance with country environmental laws.

DFAT prefers grantees to use country systems, where possible, rather than insisting on compliance with DFAT’s own requirements. DFAT is also committed to supporting partner countries to build capacity for effective environmental management and to working jointly with our MDB partners. DFAT has provided about $2 million to the World Bank-DFAT joint safeguard partnership and is planning CSS projects to be undertaken jointly with the World Bank. DFAT’s Aid Policy calls for delivery of aid in a way that reinforces partner governments’ responsibility to develop and plan their own development and poverty reduction. In its programs, DFAT is seeking increased accountability and performance. Finally, DFAT is strengthening engagement with the private sector innovatively to address safeguard issues.

**Kaji Takashi** (Deputy Director, JICA): JICA’s safeguard policy is contained in its Environmental and Social Consideration Guidelines. These are subject to a minor review every 5 years, and a major review every decade. A minor review is underway. The opinions of several DMCs were gathered for this purpose, their views are being incorporated, and results of the revisions will be published around March 2015. JICA technical cooperation projects targeting capacity development for infrastructure-related resettlement are being implemented in Myanmar, modelled on an earlier project in Cambodia. Concerning CSS-related research and assessments, JICA regularly analyzes the gap between its guidelines and those of DMCs. JICA has not disclosed these analyses to date but is reconsidering this policy, as it is felt that disclosing this information to DMCs through, for example, workshops in Japan, has a number of advantages for both parties.

**Reidar Kvam**: There is a range of issues where the private sector leads and is innovative, spurring on modifications of International Finance Corporation (IFC) policies and performance standards. Thus, IFC now has labor standards, guidelines on the use of security forces, updated guidance on ecosystem services including cultural ecosystem services, etc. A major transition has taken place in the private sector globally over the last few years. Corporate social responsibility is changing. Corporate social responsibility used to be top-down, well intentioned, but with little in common with what is now understood as safeguard policies. Now the private sector is taking the lead globally in accommodating a human rights-based approach to development. For example, the International Council on Mining and Metals has issued mandatory guidelines for its members on how to incorporate human rights due diligence into their projects. The International Petroleum Industry Environmental Conservation Association has done the same in the oil and gas sector. Human rights principles
have been incorporated into IFC’s policy update. Affected communities have a right to be consulted. They have a right to transparency in matters relating to their entitlements and how the impacts are managed. They have a right to remedy and to grievance mechanisms if those rights are not being maintained. So it seems that in all but name, we have collectively adopted what is a rights-based approach to development. Some operational questions remain, such as the difference between a human rights impact assessment in projects and a comprehensive environmental and social impact assessment. There is clearly an overlap between the two, and developing practical ways to address such questions is needed.
In spite of its location in a country in the “North,” the activities of the Korea Research Institute for Human Settlement (KRIHS) have many features of South–South knowledge sharing. KRIHS was established in 1978, currently has 244 highly qualified professionals and has partners in 70 countries worldwide, including international organizations. The institute deals with most issues related to land and its use.
Land acquisition and resettlement is among the subjects most actively pursued by KRIHS. The aspects of interest include (i) legal issues relating to relocation and compensation, (ii) administration (valuation, registration), (iii) governance issues (grievance redress, decentralized management, relationships among stakeholders), and (iv) broader policy (planning, financing, etc.).

KRIHS has been actively involved in land acquisition and resettlement capacity building in developing Asia, having trained some 950 officials in different aspects of land management. It has organized workshops and study tours. It has provided consulting services on spatial planning, land data management, institutional strengthening, and more.

### Twinning Partnership on Environmental Impact Assessment between Japan and Sri Lanka

**Kusala Seneviratne Mahalekame**  
Assistant Director, EIA Unit, Central Environment Authority, Sri Lanka

In Sri Lanka, environmental impact assessment (EIA) became mandatory in 1984 through a Cabinet decision. The National Environmental (Amended) Act No 56 of 1988 made EIA a part of the strategy to achieve sustainable development for the country and EIA was mandated for prescribed projects. Under the Act, the Central Environment Authority was assigned primary regulatory functions.

Even though EIA is now well established in practice, there are significant capacity needs related to the development of sector-wide EIAs, environmental management and monitoring plans, and public participation. Sharing experience with countries with well-developed EIA systems is essential to building capacity. Among Asian countries, Japan has particularly strong EIA legislation and practice that incorporate advanced considerations and new tools and approaches. It has also established systems for effective and streamlined implementation.

The Central Environment Authority, in collaboration with Asian Environmental Compliance and Enforcement Network (AECEN), initiated a Twinning Partnership on EIA between Japan and Sri Lanka. The program focused on capacity development of officers involved in the EIA process in Sri Lanka and was implemented in three stages. During the first stage, a consultation workshop was held to identify training and capacity development requirements of Sri Lankan staff. EIA systems of both Japan and Sri Lanka were presented and gaps in the Sri Lankan EIA process were discussed. Based on the findings of the workshop, specific sectors that required development of checklists/review criteria for evaluating EIA reports were identified. In addition, practical steps to deal with mitigation of development project impacts that are still new to Sri Lanka were discussed, and Japanese sites best suited for Sri Lankan officials to gain practical exposure were identified.

During the second phase, a study tour to Japan was organized to visit a thermal power plant, a monorail project, and a water pollution control project in Kawasaki City. The third phase involved a follow-up workshop in Sri Lanka to give the trainees a chance to review Sri Lankan EIA reports using Japan Bank for International Cooperation (JBIC) checklists and International Finance Corporation (IFC) guidelines. The EIA report of a coal power plant project was selected as a case study for the revised review process. The experience of the twinning project promises to introduce improved practices in several key sectors.
AECEN was established with the Asian Development Bank (ADB) and United States Aid for International Development (USAID) assistance in 2009 as a network of Asian environmental agencies interested in improving compliance with and enforcement of relevant environmental laws. There was a recognition that most countries in Asia had good laws but there was a clear need to improve compliance and enforcement. AECEN adopted the approach of South–South cooperation or twinning, as it came to be called, and has used it to establish green courts in a number of countries, train judges, address soil contamination, establish compliance assistance centers and set up self-reporting systems. AECEN takes a very broad view of “South,” including also Australia, Japan, New Zealand, and several other developed and developing countries as potential mentors. AECEN has been engaged by ADB to compile compendia of EIA-related laws, court cases, news items, and good practices. The AECEN website is a rich source of information on EIA.

AECEN facilitated South–South Cooperation to strengthen EIA capacity between the Lao PDR and Sri Lanka (see presentation above) on the one hand, and Japan on the other. This program was designed to provide hands-on learning opportunities for government officials in charge of EIA in the Lao PDR and Sri Lanka. It involved workshops in each of the countries and then a triangular workshop in Japan in June 2014. It covered specific needs that each of these countries had identified and provided good practice examples, where possible, drawn from the Japanese experience. Compared to the engagement of consultants, this approach allows benefits to flow to both the mentee and the mentor countries. The assistance is closely matched to practical needs and can be flexibly adjusted without any contractual issues. The government officials provide their staff time free of charge and the only costs are travel-related. The approach therefore is very cost-effective and fosters longstanding relationships between countries. It often results in other opportunities as well. For example, the capacity building work on the triangular relationship with Japan, the Lao PDR, and Sri Lanka has resulted in new funding by the Ministry of Environment of Japan and USAID to carry the work further.

AECEN seeks to be unobtrusive and cost-effective in its intermediary (“matchmaker”) role. It is important to be able to reliably identify the countries with the necessary expertise and willingness to share it with others who have a particular need. It is AECEN’s view that organizations like ADB and the World Bank should formally adopt South–South cooperation in accordance with the Paris Declaration on Aid Effectiveness as a preferred capacity building mode.
South–South Knowledge Sharing

Ryu Fukui
Advisor, Regional and Sustainable Development Department, and Head, Knowledge Sharing and Services Center, Asian Development Bank

There are several different knowledge transfer mechanisms in existence, including North–South, South–South, and triangular. ADB has used a number of different mechanisms, such as (i) technical assistance support, (ii) the Phnom Penh Plan for Development Management, (iii) the Central Asia Regional Economic Cooperation Institute, (iv) support of “knowledge hubs,” (v) twinning arrangements, and (vi) learning between Asia and Latin America.

In its approach to facilitating “solution-oriented South–South knowledge sharing,” ADB emphasizes

- awareness of the context and available resources – identification and matching of relevant knowledge (available in other developing member countries [DMCs], or in centers of excellence);
- demand – demand expressed by DMCs that determines existing and planned knowledge products and choice of partners, which country resident missions can help to identify;
- timeliness – “just-in-time” and more flexible responses to country knowledge needs;
- programmatic approach; and
- learning – tracking stories with positive outcomes and analysis of bottlenecks; selecting mechanisms (learning modules, workshops, study tours, use of local expertise, etc.).

Panel Discussion

Panel members reiterated the benefits of twinning partnerships—exposure to projects, technologies, and procedures new to the DMCs concerned. Some underlined also the mutual benefits of South–South cooperation, as the mentor country is often forced to examine the weaknesses and strengths in its own system while collaborating with its mentee. While interpreting “South–South” more broadly than custom would dictate, the panel argued forcefully in favor of greater funding by the development and donor community of a cost-effective mechanism based on a registry of DMCs’ capacity building needs. AECEN’s experience in adapting the US model of compliance advice centers for small and medium enterprises to developing Asia was cited as another cost-effective way of adding to domestic safeguard capacity. ADB’s use of South–South cooperation to strengthen DMCs’ judiciary and law enforcement chain and its many positive results were described by ADB participants, as was its support for facilitating dialogue of DMC senior officials on safeguards and other matters.
Mitigating the Impacts of Linear Infrastructure in Critical Wildlife Habitats

Dipankar Ghose
Director, Species and Landscape Program, World Wide Fund for Nature-India

Mr. Ghose described recent World Wide Fund for Nature (WWF)-India initiatives to help improve policies and practices to protect biodiversity in India that is threatened by the development of roads and other “linear” infrastructure, which impede free movement of animals. Such infrastructure can have serious impacts: (i) increased wildlife mortality, (ii) fragmentation of habitat when it impedes animals’ movement, (iii) habitat degradation, and (iv) creation of a conduit for invasive species.

The objective of WWF-India’s program is to improve the permeability of the major road arteries now under construction or planned, maintain the connectivity of ecological processes across those arteries, and help sustain wildlife populations over the long run in seven WWF priority landscapes.

These objectives are to be achieved through (i) vehicle and train speed reductions; (ii) identifying animal crossing points through monitoring; and (iii) advocating “smart” road design, including animal passages. “Smart” roads are those where the context helps determine the road design. WWF-India has become a member of the Indian Roads Congress and gained representation on its Environmental Committee. Since 2014, WWF-India has been developing Green Guidelines for road construction.

Examples were presented of two corridors in the Kaziranga Karbi-Anglong Landscape. Here the road design modifications were intended not only to help disperse animals from Kaziranga but also to serve as a climate change adaptation tool in allowing animals to move to the higher grounds of Karbi Anglong forests during the flood season, as floods have become more frequent and serious. In another case, in the Lumding Elephant Reserve, WWF-India proposed several types of animal passages and their soundproofing.
Reducing emissions from deforestation and forest degradation (REDD) is one of the financing mechanisms developed in support of the United Nations Framework Convention on Climate Change. REDD+ is an expanded version of REDD, which recognizes that greenhouse gas (GHG) emissions can be lowered not only through reduced deforestation and forest degradation in developing countries but also through more efficient forest conservation and sustainable management, both of which enhance forest carbon stocks and generate other benefits.

The use of the REDD+ mechanism places a number of obligations on recipient countries. These include (i) developing a national REDD+ action plan or strategy, (ii) establishing a benchmark for measuring the results (either a national “forest reference emission level” or “forest reference level”), (iii) establishing a national forest monitoring system, and (iv) incorporating a set of other safeguards and creating a safeguard information system.

The safeguards that REDD+ activities call for include:

i) compliance of proposed REDD+ activities with the objectives of national forest programs and relevant international conventions and agreements;

ii) transparent and effective national forest governance structures;

iii) respect for the knowledge and rights of Indigenous Peoples and members of local communities;

iv) full and effective participation of stakeholders;

v) ensuring that REDD+ activities are consistent with the objective of conservation of natural forests and biological diversity (e.g., not used for conversion of natural forests) and enhancement of other social and environmental benefits; and

vi) the obligation to address the risks of reversals and displacement of emissions.

The Philippine National REDD+ Strategy was developed in 2009-2010 through a multi-stakeholder process, with a prominent role played by civil society, especially the nongovernmental organization (NGO) network Code REDD, with its advocacy and technical support functions. Technical groups were created to develop components of the strategy and nearly a year was set aside for critiques, consultations, and refinement. The strategy was formally adopted in 2011 and incorporated in the National Climate Change Action Plan and the Philippine Development Plan 2011-2016.

Further development of REDD+ in the Philippines continues to be driven by civil society organizations (CSOs), especially Code REDD, via a “triple currency framework” in which REDD+ activities are to deliver results under carbon stocks, community welfare, and biodiversity conservation. Among the activities underway or
planned are (i) a REDD-Plus Roadshow ("Color it REDD"), (ii) "REDD-Plus 101" and capacity building on implementation, (iii) REDD-Plus demonstration sites, (iv) development of a Philippine REDD-Plus Safeguard Framework and Guidelines, and (v) development and testing of a REDD-Plus Safeguard Information System.

**How Can Civil Society Organizations Enhance Country Safeguard Systems?**

**Annabel Perreras**
Policy Officer, NGO Forum on ADB, Philippines

The use of country systems raises legitimate concerns by civil society about the extent to which these systems safeguard the interests of affected communities. This is the case in particular in countries with repressive governments. Ms. Perreras asked how civil society and local communities could best enhance and influence their national policies under such circumstances.

The use of country safeguard systems (CSS) requires (i) priority given by recipient governments to the environmental and social well-being of the communities affected by projects financed by multilateral development banks (MDBs), (ii) strengthening of country environmental and social safeguards and local capacity to implement these safeguards over the long term, and (iii) upward harmonization of strong environmental and social safeguard policies across the range of MDBs.

The Lao PDR’s Decree 192 on the Compensation and Resettlement in Development Projects was an example of a country provision that fell short of desirable standards, especially in relation to livelihood restoration, disclosure obligations, calculation of compensation, and grievance redress. Another example was Cambodia’s Expropriation Law of 2010, which does provide for compensation based on market price or replacement value but limits the compensation to legal and rightful owners of land. There was no comprehensive law or regulation to govern evictions, compensation or resettlement processes for people living on State property, whose tenure status thus falls outside the scope of the Expropriation Law.

“Country ownership” alone is not enough. It should be coupled with inclusive, transparent, and accountable governance. Enforcing stronger safeguard systems and their application in line with ADB’s Safeguard Policy Statement (SPS) should be the basis of ADB practice. Due diligence in the use of CSS projects is especially important in countries with repressive regimes, a track record of human rights violations and severe corruption.
Panel Discussion

Haidy S. Ear-Dupuy (Social Development Specialist, RSDD, ADB) described ADB’s relationship with the NGO Forum, an advocacy group, as “a partnership of a sort,” which remains valuable in spite of frequent criticisms. ADB has continued, and indeed is expanding, its consultations and interaction with civil society. Other panelists saw the key to civil society’s contribution to enhancing country safeguards in the readiness of its members to offer technical solutions to problems faced by DMC administrations, rather than stopping at the level of problem identification. The apprehension about providing more information to CSOs on planned investments acts as a disincentive to nurturing a solution-oriented way of functioning. Possibilities exist to exert influence on domestic application of safeguards through monitoring governments’ compliance with their international commitments. At the same time, examples were cited of situations where a doctrinaire application of safeguards came into conflict with livelihoods.
Plenary Session 6: Partnership with Private Sector

Chaired by:
Reidar Kvam
Senior Manager, Policy, Quality Assurance and Knowledge Management, International Finance Corporation

Safeguards at the India Infrastructure Finance Company

Sanjeev Ghai
Chief General Manager, India Infrastructure Finance Company Ltd., India

The India Infrastructure Finance Company (IIFCL), owned by the Government of India, is mandated to provide long-term infrastructure financing in the areas of airports, seaports, power facilities and highways. The company became operational in 2007 and since then has funded more than 300 public-private partnership (PPP) projects, about 45 of which have been financed in association with the Asian Development Bank (ADB) under a line of credit.

IIFCL’s projects are typically multi-year large undertakings with a potential for significant environmental and social impacts. IIFCL needs to balance compelling economic development needs with safeguard-related issues. In a country as huge as India, the stakes are equally huge. In reconciling economic and safeguard imperatives, IIFCL has followed a calibrated, gradual approach to implementing best international practices. As soon as it began operations, IIFCL adopted an environmental and social safeguard framework that reflects national laws and regulations. These are, by and large, in line with the practices being followed by most multilateral development banks (MDBs). In this way, IIFCL meets both country safeguard policies as well as—with only small exceptions—those of its international partners.

IIFCL undertakes preliminary screening of projects and identifies those projects that meet country safeguard provisions and are likely to be in harmony with the eligibility criteria of multinational corporations and MDBs. IIFCL is not the only provider of long-term finance for infrastructure development in India. It competes with more than 100 other banks and institutions. It therefore engages with project developers and other stakeholders and educates them about safeguard requirements of its international partners (ADB, Kreditanstalt für Wiederaufbau, World Bank, and others) to ensure that such requirements do not come as a surprise or threaten the continuity of IIFCL financing. IIFCL considers country safeguard systems (CSS) to be a kind of medicine. For the medicine to work, it has to be both effective and affordable. Mr. Ghai concluded by agreeing with Mr. Lintner that country systems improve when they are actively used.
Environmental and Social Safeguard Framework: Compliance at Infrastructure Development Company

Ahmedul Hye Chowdhury
Environment Specialist (Assistant Vice-President), Renewable Energy, Infrastructure Development Company (IDCOL), Bangladesh
A short video about IDCOL’s activities accompanied the presentation.

The Infrastructure Development Company (IDCOL) is a government-owned entity that works closely with international development partners such as the ADB, the World Bank and others. IDCOL has developed an environmental and social management framework that is being harmonized to meet the requirements of all development partners and the Government of Bangladesh.

IDCOL considers the potential environmental impacts, including through site visits, of any new project for which a client may seek IDCOL financing. The level of environmental assessment—either an initial assessment or an environmental impact assessment (EIA)—is then determined, following Government regulations and IDCOL’s own assessment of the situation. IDCOL focuses on pollutant releases and pressures on natural resources, and favors developments that minimize the need for land acquisition or resettlement. IDCOL monitors compliance thoroughly, including any compensation payments, especially when vulnerable groups such as Adivasis are involved. Health and work safety aspects are also taken into account, as are climate change considerations and waste management. Under its environmental and social management framework, IDCOL works with clients to meet the harmonized safeguard requirements and monitors closely to ensure that the safeguard “medicine” is working.

Even seemingly “green-only” activities, such as home solar panels, have potential environmental risks, which have to be balanced, by recycling of batteries and photovoltaic panels, for example. Management of biodegradable waste is of particular interest because of its potential for good—generation of a renewable energy source—as well for bad, since methane is a potent greenhouse gas (GHG). In this regard, IDCOL has implemented a domestic biogas program since most farmer households keep some cows. The target is 100,000 households by 2018. Under its solar home system, IDCOL has installed 3.5 million units in rural areas of Bangladesh, with a target of 6 million by 2017. IDCOL also has a cooking program designed to increase energy efficiency and reduce indoor pollution. There is also a solar irrigation program.

Thus IDCOL seeks to ensure economic development and improve people’s living standards through sustainable and environmentally friendly investments.
Role of Ship Recycling Industry in Bangladesh Economy and Its Impact

Abul Moqsud
Deputy Managing Director and Chief Risk Officer, Risk Management Division, Eastern Bank, Bangladesh

Eastern Bank is a private sector bank in Bangladesh, established in 1992. It has total assets of US$1.9 billion and total loans and advances of about $1.3 billion. The ship recycling portfolio amounts to $60 million, and comprises 15 clients.

The beaches of Bangladesh have ideal conditions for ship recycling. The demand for scrap is high and labor is inexpensive. Four-fifths of Bangladesh’s total steel demand is met by the end product of the ship recycling business. Local ship recyclers annually supply about 2.5 million metric tons of scrap to numerous re-rolling mills set up in the country. Each year, some 100 to 120 vessels are scrapped and ship recycling is now considered an important industry by the Government (rather than a trading activity as it was until recently).

In financing the ship recycling industry, Eastern Bank applies commercial and credit-related considerations along with a wide range of other criteria. The Central Bank of Bangladesh has issued an environmental risk management policy that applies to commercial banks in the country. Based on that policy, Eastern Bank has developed an environmental risk rating of potential clients. It has four grades: green, orange A, orange B and red. Green indicates the cleanest in environmental terms, orange A somewhat less so. Where the rating is orange B or red, Eastern Bank engages an expert to propose a roadmap for environmental improvement that helps the Bank decide whether it can pursue processing of the loan or not.

In this way, Eastern Bank partners with the Central Bank and other national and international stakeholders. Although ship recycling can be profitable, it is also risky because sponsors do not have much collateral and banks cannot easily repossess the stocks. The industry is also perceived as being unsustainable and environmentally damaging. An initiative has been launched by the Bangladesh Ship Breaking Association and the Association of Bankers to improve that image. Steps being considered include implementation of improved methods of hazardous waste disposal, building the capacity to improve environmental, social, and economic performance through awareness raising and practical training, monitoring of ongoing improvements, and renewed commitment to the Hong Kong Convention for the Safe and Environmentally Sound Recycling of Ships, 2009.
Mr. Rashid presented BRAC Bank (BBL), which was established in 2001 by Bangladesh Rural Advancement Committee (BRAC), the world’s largest nongovernment organization (NGO). BBL is a private sector bank that tends to focus on small and medium enterprises but operates also in the corporate and retail sectors. From its NGO roots, BBL has retained its development orientation.

BBL operates in a country that is hugely affected by environmental and climate-related factors. Government policies and safeguard systems reflect this to a significant extent. The Central Bank has formulated key guidelines for the banking sector. In 2012, it adopted a green banking policy with instructions on phased implementation, to be completed by 2015. Phase I calls for a general commitment to the direction adopted by the Central Bank and development of green corporate policies. Phase 2 requires establishment of an environmental management system. Phase 3 calls for integration of eco-considerations into the banks’ internal processes. In addition to government drivers, a large number of NGOs play a part by working with the government as well as interacting with the private sector and influencing the development of country safeguards.

BBL has adopted a three-P motto: people, planet, and profit. The safeguard system is a way of doing business rather than merely a set of specific compliance targets. BBL has an environmental and social risk management policy and procedures, guidelines, a green banking policy, an exclusion list, and eligibility criteria. It also has incorporated environmental risk into credit risk management. Under its in-house environmental management system, employees receive corresponding training. By 2013, 5,200 staff had been trained in green banking initiatives. BBL has introduced a number of e-banking facilities also in order to reduce its environmental footprint.

BBL undertakes green financing, either directly through projects with green initiatives or indirectly through the credit evaluation process. Monitoring is an important aspect of BBL’s operations and there are clear disclosure rules. The Central Bank also requires regular reporting by banks.

BBL has environmental policies for key sectors, such as garments, which address issues such as management of hazardous chemicals, air and noise pollution, management of solid waste, and fire and explosives management. One of BBL’s clients is Urmi Group.

Mir Ashraful Hossein presented Urmi, a diversified industrial conglomerate with a major presence in the textile industry that is active overseas. Urmi has taken measures in recent years to conserve energy and water and to improve the wellbeing of its workforce and the local communities. These measures included installation of exhaust gas boilers, reconfiguration of factory space, installation of LED lighting, replacement of clutch motors by servo-motors to operate sewing machines, block washing of equipment using enzymes, and a switch from polythene to polypropylene bags.
Panel Discussion

Panelists noted the progress made by a number of DMC banks in becoming more environmentally aware—in some cases beginning to resemble development finance institutions—in contrast to their clients, who often consider safeguards an unnecessary obstacle to obtaining finance. The banking sector in DMCs offers several examples of successful harmonization of safeguard rules by development partners via a single environmental and social management framework. Some concern was voiced by a participant about safeguard procedures becoming too complex and, paradoxically, stifling reform and progress.
The Chair invited the audience to reflect, benefitting from the discussions, on how best to sustain the convergence of country safeguard systems (CSS) with international best practice and to assist developing member countries (DMCs) in accelerating the process. A good amount of progress had been made on sharing of knowledge and experience but more was needed. Some responses of Workshop participants, recorded and shared that day, suggested a number of positive takeaways. The opportunity to exchange views in person and get a sense of different perspectives that individuals and institutions bring to the table was cited time and again as a major benefit. Enthusiasm, creation of informal partnerships, a spirit of inclusiveness, scope for evidence-based advocacy, and contribution by civil society organizations (CSOs) were also mentioned.

A. H. Chowdhury saw his organization benefitting from the experience of counterparts in implementing its environmental and social management framework, not necessarily copying but incorporating the most suitable elements.

Pham Anh Cuong (Director, Biodiversity, Conservation Agency, Environment Administration, Viet Nam) mentioned his agency’s use of the biodiversity impact assessment as one of the tools in the country safeguard armory and argued for mainstreaming biodiversity considerations into safeguard systems of DMCs.

Peter Leonard spoke about (i) the collaboration of the World Bank with the Asian Development Bank (ADB), Australian Department of Foreign Affairs and Trade (DFAT), and the Japan International Cooperation Agency
(JICA) on CSS, (ii) the World Bank Group’s framework agreement on collaborating on safeguards in Asia, and (iii) the World Bank’s review and update of its safeguard policies. It is expected that strengthening, support, and use of CSS will be mainstreamed into each project review. The World Bank also intends to update and revise safeguard diagnostic reviews to make them a more active mechanism supporting CSS.

Ahmed Ali (Director General, Energy, Ministry of the Environment and Energy, Maldives) said further ADB support would make it possible to replace foreign consultants with domestic specialists more familiar with local conditions and better able to undertake consultations with target populations. Jitendra Shah explained the reasons for MDBs’ continued use of foreign consultants, while noting a transition towards a greater role for national consultants, citing the Philippines as a case in point.

Ensuring that safeguard-related consultation is meaningful was a priority mentioned by several speakers.

Several participants argued that land remained a crucial consideration in any safeguard context, as seen in the repercussions of India’s new land law. Urban land and its acquisition for development should be given at least as much attention as agricultural and other non-urban land. Some participants wanted disaster preparedness to be incorporated into the structure of safeguards, perhaps as an extension of EIA.

Walter Kolkma (Director, Independent Evaluation Division 1, ADB) invited the panel to explore the reasons for limited readiness by countries to formally ask ADB to use their CSS in ADB-funded activities. This seemed surprising since ADB’s Board of Directors can allow the use of CSS even where DMC systems do not totally match the “international gold standard.” In response, Stephen Lintner noted that the World Bank was in a similar position during the last decade, its Board of Executive Directors taking a very cautious approach until the safeguard diagnostic review tool began to generate a large amount of countrywide, sector- and project-based information and insight. With that improved understanding, the World Bank Board authorized about two dozen pilot projects for use of CSS, including the largest loan the World Bank has processed, a $4 billion loan to South Africa. The region that has the most operations using country systems at the World Bank is the Middle East and North Africa region, because the regional management made it a priority. The World Bank took the lead in testing the methodology at the operational level, while ADB led in the analytical work. Work on the use of CSS has temporarily slowed down at the World Bank because of the focus on the safeguard policy update. But the strategy is to go from piloting the use of CSS to making it a mainstream option, when and where the legal and policy framework is equivalent and there is capacity at the operational level. Equivalence needs to be understood as broad equivalence and the “acceptability” assessment refocused on operational acceptability. Rather than lowering standards, this represents learning from implementation to arrive at standards that can be pragmatically used and publicly monitored by CSOs, nongovernment organizations (NGOs), and other interested parties. Peter Leonard gave an example of pragmatic and duplication-free use by the World Bank of locally developed impact assessment documents in Indonesia.

Indira Simbolon (OIC-RSES, RSDD) argued that the use of CSS in partner-financed operations should be based on country demand and on whether agencies or countries are actually ready to use CSS that are aligned to international best practice. ADB cannot and will not push the use of CSS, but can facilitate the process through CSS strengthening.

Ari Sudijanto added that such strengthening in his country should extend to decentralized levels of government because some project decision makers are at the local government level. Applying international best practice in CSS requires improvement in terms of implementation capacity.
Peter King spoke about incorporating climate change considerations into CSS, noting that only one institution in Asia (National Bank for Agriculture and Rural Development of India) had been accredited as a national implementing entity for the Adaptation Fund. CSS analysis should feed into access to the Green Climate and Adaptation Funds, where national institutions need to be accredited as implementing entities.

Chinzorig Batbileg (Team Leader, ADB Technical Assistance on Preparation of Regulations and Capacity Development Plan for Involuntary Resettlement, Mongolia) saw the need to follow successful development of a revised land acquisition and resettlement framework in his country by a public awareness phase targeting the country's political establishment, so as to avoid the real risk of reform derailment stemming from incomplete knowledge of facts by decision makers.

Naresh Saxena saw new challenges facing the application of safeguards in his country. One was the growing gender imbalance in employment, with fewer women finding employment in part because of a particular way of applying safeguards. Another was the substantial variability of underlying conditions within and across countries, for which a single set of safeguards or standards might not be adequate.
In concluding the Workshop, Ms. Simbolon expressed gratitude to all those who made presentations and participated, as well as those who worked to make the Workshop possible. She hoped that the Workshop had succeeded in challenging everyone to bring new and collective insights to bear on strengthening and harmonization of country safeguard systems (CSS), and that the three objectives had been achieved: to provide an opportunity to reflect on achievements across the region, to better understand the priorities and needs of clients and partners for capacity building, and to share experiences and identify prospects for cooperation.

A true measure of success would be the generation of new ideas and initiatives to accelerate momentum and optimize platforms for knowledge sharing and new directions. New ideas were shared on virtually every aspect of a broad agenda—from identifying the key challenges to convergence and alignment of CSS in the region and also globally. The critical importance of partnership in CSS was emphasized, whether through communities of practice among the multilateral development banks (MDBs), bilaterals and developing member countries (DMCs), or South–South cooperation, engagement with civil society organizations (CSOs) and joint initiatives with the private sector. Broader, sustainable development issues were incorporated in the discussions as well, in particular considerations relating to climate change adaptation.
Success also would depend on what happens after the Workshop and how to translate knowledge and insight into actions that promote this ambitious agenda. As the main Workshop ended, Ms. Simbolon wished participants a safe journey home and welcomed those who would still attend the training on the last day.

It was noted that the proceedings of the Workshop would be published and ADB would actively solicit inputs as to next steps and resources required to move forward with strengthening convergence and alignment of country safeguard systems.
Parallel Sessions: Sharing Innovations in Safeguard Due Diligence and Supervision

C. Training on Environmental Safeguards

Environmental Impact Assessment: Capacity Building for Domestic and International Safeguards

Cheryl Wasserman, Davis Jones, Carol Russell, Amy Zimpfer, United States Environmental Protection Agency (Video presentation)

The United States Environmental Protection Agency (USEPA) faces challenges similar to those known to Asian Development Bank (ADB). Both institutions are under pressure to make the environmental impact assessment (EIA) process more efficient and effective. There are disagreements about definitions of significant impacts. The methods for predicting impacts are constantly evolving, in particular for indirect and cumulative impacts. There are questions about how best to use strategic environmental assessment. Meaningful stakeholder involvement is becoming more common but is open to improvements. There is substantial uncertainty especially in the area of climate change. Among the many challenges, obtaining solid results from the EIA process accompanied by auditable, and enforceable, performance measures, is probably the greatest.

In addition to its domestic activities, the USEPA engages in international capacity building in EIA and associated permitting and enforcement, in Indonesia and the Greater Mekong Subregion, among other places. USEPA training includes a training-the-trainer component; use of EIA technical review guidelines for mining, energy generation, and tourism; and a Geographic Information System (GIS) web-based analytical environmental compliance tool. The objective of training is to help build a consensus around best practices and reforms in order to obtain high-quality EIA analyses for better decision making and tangible environmental results.

The USEPA technical guidelines underline the importance of early acquisition of relevant information, the quality of the description of a project and its alternatives, thorough follow up (auditing, compliance monitoring, and enforcement if it is needed), and public participation throughout the project cycle. Attention has been paid to making the guidelines user-friendly.

The team described the USEPA’s approach to cumulative impact assessment with examples drawn from the Southwestern United States. Identification of suitable triggers or thresholds for mitigation was discussed in some detail. The approach to sedimentation and erosion control in resource extraction and road building projects was explained by reference to such activities in Colorado and Utah. Environmental assessment of the Los Angeles Airport undertaken by the USEPA was used to illustrate the application of EIA guidelines and cumulative impact assessment in a complex physical and socioeconomic setting.
Ms. Sabur described the main findings of a study undertaken by ADB’s South Asia Department to assess the current state of competencies in safeguard implementation in selected South Asian developing member countries (DMCs). This involved identification of gaps in country safeguard systems (CSS) and institutional processes, with attention directed principally towards safeguard design, implementation, and monitoring. The study also looked at effectiveness of training designed to overcome capacity weaknesses, and formulated a corresponding action plan.

The study was limited to ADB-funded projects. Three sectors were included: transport, urban and power; and three countries: Bhutan, India, and Nepal. The findings of the study were based on extensive consultations with project staff, contractors and consultants, nongovernment organization (NGO) and community representatives, government authorities, and ADB resident missions. Some examples are described below.

**Hydropower project, Bhutan.** This was a positive example, where the quality of water flowing through a diversion channel was indirect evidence of good erosion and sedimentation control measures being taken upstream.

**Road building, Bhutan.** The extreme topography made soil loss and sedimentation inevitable in many cases. But the sequencing of tasks (retaining walls, stabilization of slopes, and installation of cross-drains) was good and provided significant mitigation. Problems were experienced with revegetation of slopes, possibly caused by wrong selection of seedlings and plants. Management of labor camps and waste was poor as was the management of fuel.

**Road project in Bihar, India.** The project rehabilitated state roads and transformed local to state roads. A well-developed safeguard system was put in place and there was staff continuity. ADB worked with the same agency for seven years. There was training on environmental management plan (EMP) and an action plan. An air quality monitoring report of reasonable quality was a good baseline. These good practices co-existed with some poor ones: management of vehicle fuel; access of local population to nearby shops; safety issues; and erosion control measures. Monitoring covered 18 parameters but was visual only, making it impossible to apply to groundwater quality. For example, some monitoring routines were developed without much reflection and amounted to ticking off boxes.

**Metro project in Bangalore, India.** Major problems of working conditions, public health (mosquito breeding) and risks to surrounding population were identified. The transport of slurry was poorly controlled, resulting in pollution of the site and transport routes. No drainage or grading of the slurry disposal site was being undertaken although the site had been in operation for more than a year. There was also no tracking of the nature of the material deposited on site.
Rural road reconstruction and rehabilitation, Nepal. This project had been implemented since 2008, with many subprojects and high staff turnover. The authors of the impact assessment report could no longer be located. There were lapses in monitoring and reporting and little training given to safeguard staff. Considerable problems were caused by erosion, subsidence, and drainage.

Drinking water supply, Nepal. While the ADB project was done satisfactorily, a project run by a local authority in its vicinity had issues that could potentially undo the good work on sections of the same road that ADB was responsible for, e.g., cross-drainage installation causing significant erosion. There was insufficient coordination between the two organizations. Storage of building materials on roads in the ADB project site caused unsafe traffic conditions.

The main findings were the following:

- Long association with government counterparts pays off. Where there is continuity in ADB projects, i.e., projects of a similar kind running for 6 or 7 years, government staff are well aware of ADB requirements and their own country requirements. They have a reasonable safeguard quality system. Wherever possible they try to avoid all land acquisition in environmentally sensitive areas.

- Safeguard training was very general and did not adequately cover design or technical details of specific mitigation and monitoring measures. There was limited use of available resources and poor awareness of country safeguard standards and guidelines.

- Technical staff (e.g., site engineers) had good know-how, but environmental safeguards were not well incorporated into their work. Some concerns, such as dust or noise, are considered by local workers to just be part of the job. Also, communities may accept temporary inconvenience for the sake of benefitting from a completed facility. In EMP implementation and monitoring, the main challenge is to replace a mechanical (“sign-off”) approach by a more thoughtful one and enforce sanctions against non-performing contractors.

- EMPs were too generic when applied to site-specific situations. Contractors have to be able to respond appropriately to the site constraints in their tender proposal and for that they need a site-specific EMP. They have to show dedicated budget and people responsible for implementing specific mitigation measures.

- ADB, executing and implementing agencies and various consultants, all have their own safeguard staff. Coordination of safeguard responsibilities is needed to ensure safeguards are implemented. Monitoring report lacked technical rigor. While communities can and should be used as ad hoc monitors and be involved from the start of the project, they need to be supported by appropriate awareness sessions on EMP.

- Regulatory authorities were not very active. They have modest resources to spare especially when the project sites are remote. So the best alternative is to train decentralized staff and ensure they are available for the task to be accomplished.
A question and answer session probed the challenge of educating workers and contractors about the importance of health and safety issues and touched on the appropriateness of financial penalties for non-compliance. Regarding the specific aspects of some of the projects, the problems of sedimentation control in coastal and foreshore areas were also discussed.

Once a project has been approved, everything that has been planned actually has to happen on the ground. That is a big step. Many of those who prepare EIAs and secure all the necessary approvals have little experience in implementing their own recommendations.

There are various levels of project supervision. The most important person for implementing environmental management requirements is the contractor. The contractor is on the ground with the equipment and controls things on a day-to-day basis. The project owner wants to see the project built according to the agreed stipulations that cover engineering quality, as well as all the environmental and social management provisions. The project owner often undertakes supervision either by using employees permanently based on the site or by delegating the task...
to a design and supervision consultant. The third level of supervision is by the national or regional environmental protection authority that may choose to do some site monitoring as part of its checks on licensing and permitting. In ADB-funded projects, ADB itself does the monitoring. At least once a year for a major project, sometimes more, ADB undertake a safeguard review mission to check on the progress and implementation of safeguards.

The contractor is the key link to ensuring the effectiveness of environmental management measures. Ensuring that this link functions is a priority. In ADB-funded projects, the loan agreement plays a crucial role as its covenants set out what ADB expects the borrower to do. Some covenants deal with safeguards. In a road building project, for example, the loan agreement may prevent the awarding of any works contract that involves environmental impacts until (i) the national environmental protection agency has approved the EIA, and (ii) the relevant provisions from the EMP have been incorporated into the works contract.

Every contractor, before bidding on a job, should know exactly what is going to be required regarding environmental management. That is why ADB loan documents contain the type of conditions described above. However, ADB loan agreements are between ADB and its borrower, not between ADB and the contractor. Since ADB itself cannot hold the contractor legally liable for complying with environmental management requirements, the onus is placed on the borrower through the tender and contract documents. Tender documents are very important as they list all the contract responsibilities, design requirements, monitoring programs, particular measures that may apply to selected parts of the site, etc.

Tender documents that contain often complex environmental management requirements require careful preparation. The so-called ADB bid and contract document tends to be used for smaller construction works. For projects such as large hydropower or major highways, ADB will normally use what is called the FIDIC contract. This is a contracting document designed by the International Federation of Consulting Engineers (Fédération Internationale des Ingénieurs–Conseils) that is used very widely around the world for major construction projects. There are detailed provisions including instructions to the bidders, various data sheets covering costs, manpower schedule, eligibility criteria, etc. Stipulations for hiring an environmental management specialist to implement the environmental management requirements may also be included.

The elements of the contract document of particular interest from a safeguard perspective are general conditions of the contract and particular (or special) conditions of contract. These are invariably included in a FIDIC contract. The general conditions are an internationally agreed set of words that cannot be changed (i.e., environmental stipulations cannot be included here). However, the general conditions contain a clause that gives particular conditions precedence over the contract’s general conditions in the event of a conflict between the two. That is where environmental management requirements need to be placed.

Another area of importance to safeguards are the so-called works requirements or description of works. In a road project in the close vicinity of wetlands where surface runoff from the road needs to be controlled in a particular way, a detailed design specification is included in the works requirements. The alternative is to give the contractor the freedom to select a design and hold the contractor responsible only for the final outcome.

To ensure effective implementation of environmental management requirements, three elements are needed. First is the EMP, which should be site-specific. The employer is committed to ensuring that the contractor implements all the requirements of the environmental management and monitoring plan, which is annexed to the tender documents. Second is the clause that details environmental management requirements. This alerts the contractor to the level of inspection and control to which the contractor is subject. The third element is a statement that compels the employer to regularly inspect the works to check on implementation of the environmental management requirements. In the event of non-compliance, a notice is issued that requires the contractor to
undertake a time-bound corrective action. In practice this can be done very simply, e.g., a written notice stating the concerns, which is given to the contractor for signature. Having a record of this action is important.

In very large projects, instances of non-compliance may need to be ranked in terms of their importance. Level 1 includes general day-to-day problems considered relatively minor. Perhaps oil spilled on the ground of the machinery yard that should be cleaned up or oil drums inappropriately stored. Once something more serious is observed, perhaps the oil in the previous example reaching a nearby stream, a higher level non-compliance, level 2, is reached. Level 3 includes major non-compliance issues that threaten to cause widespread environmental damage or social concern.

Contractor non-compliance is addressed by targeting the schedule or profitability. A delay in the contractor’s schedule generally triggers various penalties. A clause in the tender and contract documents should specify the consequences of not undertaking corrective action within a specified period. The action taken should be proportional to the scale of the project. In major construction projects like hydropower, the cost of any remedial action can be considerable because a separate contractor with major equipment costs and mobilization fees needs to be brought in. Those costs plus a penalty of a certain percentage are going to be passed on to the main contractor, providing a powerful incentive to comply. Mr. Kunzer illustrated some of the principles he had described by referring to the Nam Theun 2 Hydropower Project in the Lao People’s Domestic Republic (Lao PDR), cofinanced by ADB.

It is common for EMPs to contain an exhaustive list of environmental mitigation and management measures. This is not particularly useful for the contractor as it does not facilitate compliance. Preparation of site-specific plans by the contractors themselves is preferable as it is much more likely to incorporate efficient ways of reaching the environmental management goals. These need to be completed before contracts are awarded and construction starts. Adding environmental management measures into a construction site retroactively is risky, potentially costly, and sometimes impossible. Tender and contract documents should therefore include a clause that requires the contractor to prepare and submit an EMP (or system) for approval before taking possession of any work site. No access should be allowed until this is done. This is good practice, encouraging the contractor to initiate environmental management planning ahead of the start of construction activities.

Discussion

The question and answer session tackled a large number of concerns, including the roles of different parties in monitoring compliance, which should be incorporated into EIA and tender and contract documents in order to avoid any conflict. Differences in pursuing environmental compliance via contract-based penalties vs. permitting was mentioned. Insufficient experience in many DMCs in preparing site-specific environmental plans represents a challenge to domestic authorities and their international partners. Establishing learning centers to address this is one of the initiatives being considered by the regional safeguard community of practice. ADB has conducted courses on the subject and may do more, possibly decentralizing them to resident missions. Lack of communication between personnel responsible for environmental management, due diligence, etc. and those responsible for procurement is a recurrent problem in DMCs (and partly also in MDBs). Improving communication is important to help ensure that procurement contracts reflect the EMP down to the contractor level. For very large projects, EMPs may not be sufficient; more complex tools or environmental management systems, perhaps akin to ISO 14000, the international standards for environmental management, may become necessary.
D. Training on Social Safeguards

Involuntary Resettlement: Practice Issues

Andrew McIntyre
Senior Social Development Specialist (Safeguards), Environment and Safeguards Division, Asian Development Bank

Involuntary resettlement is stressful and invasive for the persons affected. Success in resettlement depends almost entirely on the quality of two key elements: meaningful consultation and transparent planning. A meaningful consultation involves not just a single meeting while transparent planning entails transparency throughout the process. Many aspects of involuntary resettlement—such as compensation, replacement costs, land for land, livelihood restoration, and so on—need to be taken into account, but in the absence of good consultation and transparency, the entire involuntary resettlement process suffers irretrievably. A project in Uzbekistan illustrates this: increasing transparency through information technology opened the way for a less intrusive infrastructure design that reduced the scale of involuntary resettlement. Consultation should start as early as possible, even at the project concept stage. It should include not only the people likely to be displaced but wider communities. Other key issues in the involuntary resettlement process are discussed below.

Replacement cost is a challenge. Many countries in the region do not have good land valuation or a functioning land market. Even when registered valuers can be used, valuations can vary by 100% to 200% if several estimates are available. The valuers’ registration and renown are not a guarantee of accurate estimate of the replacement cost. Field visits and talking to people about land values, putting in dummy bids in areas similar to those of interest, or conducting auctions for land may generate more reliable data. Selling a portion of excess land acquired previously by the government and using it to establish land values is a mechanism ADB has used in its Central West Asia region. Another mechanism, used in the Central West Asia region and in the People’s Republic of China (PRC), is to value land as a multiple of the average annual output value. In South Asia, ADB has used Google Maps or Google Earth data, comparing them with existing land price records in locations near those of interest to approximate the value of land that requires resettlement. There are different ways of establishing replacement cost values for land.

In rural areas, maximizing the scope for land-for-land exchanges remains the preferred option. This makes livelihood restoration easier. Where “easy” land-to-land swaps are not available, such as in a roads project in Uzbekistan, ADB has used the alternative approach of land rationalization, where some land not used for the right of way was sold off or redistributed to adjacent landowners. Temporary land pooling was used in Bhutan, where land was pooled for the duration of the land rationalization process. Land sharing tends to be used by the private sector in Thailand and Cambodia, where slum communities negotiate with the formal landowners to retain a small portion of the original land where they are provided with alternative housing. The original landowners are then free to undertake their projects on the bulk of the acquired land, often employing the former squatters. This may not be a standard case of involuntary resettlement, but it does address land use and land development issues. Opportunities exist to copy elements of these approaches in other DMCs. In most cases, finding the right mechanism takes time and effort, but with adequate consultation, local people
often propose further improvements in rationalizing the use of land. In this way, a good percentage of people end up with their livelihoods restored and a much greater sense of participation.

Livelihood restoration is an important part of ADB policy. Land-for-land is the preferred approach. Where this is not possible, it is necessary to consider a transition from land-based to other livelihoods. Gender is an important dimension, as women are often left out of the livelihood restoration process.

Livelihood restoration is not just replacement of assets and compensation at replacement cost, but the result of a prompt action. In some cases, people have waited for years to be compensated, or for construction to start. This obviously affects their livelihood. There are instances of innovative approaches, again made possible by meaningful consultation. One such is a housing project in the PRC where people have been provided with alternate housing but also with an additional unit for them to sell or lease out. Alternatives and new possibilities beyond simple cash payouts need to be considered. It is important to think about how best to establish sustainable livelihoods for resettled people, linking them to businesses in the area and to other projects run by the private sector, NGOs, or other MDBs. In livelihood restoration, one size usually does not fit all, and it ultimately pays to spend time with people discussing possibilities that are best suited to the specifics of existing conditions.

ADB safeguard policy is pro-poor. It requires that the living standards of the vulnerable and displaced poor be improved to national minimum standards. It is not sufficient to just reestablish vulnerable livelihoods. ADB projects need to consider standards of income and basic services of the displaced poor and vulnerable and build those into livelihood restoration responses.

The topic of negotiated settlements comes up frequently. ADB policy encourages it. While using it as much as possible, it is important to ensure that when land is donated by current owners it is done without any pressure, and the process is transparent. In the event of failure of negotiated settlement, where expropriation of land would result, ADB safeguard policy is automatically triggered.

In ADB, associated facilities are mentioned only in the Safeguard Policy Statement (SPS) environmental requirements. Even without specific mention of associated facilities in involuntary resettlement policy, resettlement planning should be alert to possible reputational risks to ADB. In an ADB-funded road intersection project in Kathmandu, for example, the project became conflated in the minds of the public with a nearby road widening project (implemented without ADB participation) where the approach to resettlement created a lot of dissatisfaction.

Other important points worth noting:

- The planning process needs to start early, at the country programming level, where identification of suitable infrastructure takes place. Safeguard specialists need to work with programmers well before projects are started as gaining information and understanding takes time. Early availability of relevant information can transform and improve the planning process and subsequent implementation. Easily available project management tools exist such as Project Libre, geographical information systems (GIS), e-surveys or other e-tools. Satellite imagery, Google Maps, and Google Earth are available. Some of these can be used to compile draft resettlement plans.

- Accuracy in land measurement is important. Errors or irregularities caused by reliance on deficient cadastral systems or use of old data, for example, may result in long and difficult remedial steps, once complaints are received. Mistakes made early on can have a domino effect, ultimately leading to major project delays.
• Project preparation should not shy away from difficult right-of-way alternatives. Many projects that present major involuntary resettlement challenges are economically highly viable, provided the involuntary resettlement is handled efficiently. It is important to learn about related activities of development partners to improve synergy and increase cost efficiency.

• Inadequate social impact assessment can result in significant loss to livelihoods. The seasonal factor may not be taken into account, land may be wrongly classified as uninhabited or unproductive, etc.

• The quality of documentation is equally important. Many needed documents can and should be prepared well in advance of project implementation.

• Project delays, due to poorly executed resettlement planning, can impose a huge opportunity cost on countries. Good consultation throughout the life of the project is the best means of avoiding delays. The quality of project scheduling has been slipping. Use of a detailed Gantt chart was common in the past, but now there is often no more than 20 lines of an Excel spreadsheet, even for large, complex projects. Resettlement specialists, too, need to improve their scheduling.

• Public utilities (water, electricity) are often involved in resettlement (moving transmission lines, etc.). While satisfying the needs of the resettlement project, the utilities may be in violation of other safeguards. It is important, therefore, to involve utilities more fully in the resettlement planning and its execution.

• Resettlement planning in ADB DMCs has been characterized by high staff turnover, both of consultants and in government project implementation units. External monitoring agencies vary in quality. Taken together, these represent challenges to project management. Safeguard specialists need to go beyond a mechanical and superficial matching of tasks to the available pool of consultants. It is important to ensure that the consultants retained are of good quality and their performance is candidly rated.

• Complaints are to be expected and need to be taken seriously. Projects that displace many thousands of people without a single complaint ought to be treated with suspicion. Grievances are part of meaningful consultation and their resolution is inseparable from the development process. The effectiveness of grievance redress mechanisms (GRM) in each project deserves attention. GRMs should be conceived at the concept paper, or at the latest, the design stage. Under ADB policy, grievance redress needs to be time bound. Yet in practice, grievances are not addressed quickly. Projects can be delayed for months or even years because of that. Consultation with affected people can provide valuable inputs into the design of the GRM.

• Entitlements under resettlement plans must be disbursed fully. ADB’s responsibility is to make sure that full entitlements are paid. There is a balance in involuntary resettlement between simple compensation and provision of project benefits. The expected benefits of the project may facilitate the resettlement (through land donation, for example). Compensation should be part and parcel of a meaningful consultation process for how the benefits are to be shared. If people are involved in determining their livelihood restoration processes, the project will be more pro-poor than if it just displaces people with compensation.

• Attention to project details and mitigation measures should not stand in the way of seeking to maximize the project’s wider benefits. Linear infrastructure projects, for example, can often be a tool of tourism, commercial development, or slum area redevelopment.
In conclusion, meaningful consultation and transparent planning are key to good involuntary resettlement planning. Involuntary resettlement should not be seen as a special add-on. It should be considered an integral part of development planning. Understanding the context, searching for solutions, and engaging with the wider community can benefit all of us in the long run.

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**Indigenous Peoples and Free, Prior, and Informed Consent: the International Finance Corporation's Approach**

**Reidar Kvam**  
Senior Manager, Policy, Quality Assurance and Knowledge Management, Environment, Social and Governance Department, International Finance Corporation

Mr. Kvam presented a stylized diagram of a typical development project resulting in a number of challenges relating to the physical corridor of impact: (i) government-led land acquisition, (ii) land tenure and eligibility (e.g., squatters and encroachers), (iii) compensation levels, and (iv) mechanisms of livelihood restoration. These are complex issues. In those cases where Indigenous Peoples are involved, their consent becomes essential.

In the International Finance Corporation (IFC), the projects that require free, prior, and informed consent (FPIC) are those that anticipate (i) impacts on lands and natural resources that are subject to traditional ownership or under customary use; (ii) relocation of Indigenous Peoples from lands and natural resources subject to traditional ownership or under customary use; and (iii) significant impacts on critical cultural heritage, or proposed commercial use of cultural heritage.

FPIC is defined only for the purposes of IFC’s projects and clients. It applies to project design, implementation and expected outcomes related to impacts affecting the communities of Indigenous Peoples. FPIC does not require unanimity. The policy emphasizes collective rights.

The IFC FPIC process involves several steps: (i) initial analysis of the field conditions; (ii) release of prior information; (iii) good faith negotiations, the results of which are reflected in decision making; (iv) agreement and documentation; (v) setting up a grievance mechanism; and (vi) monitoring and reporting.

An oil port and pipeline in Columbia was used as an example of IFC policy in action. The project anticipated an alignment close to the Caribbean coast, inhabited mainly by people of African descent, a group that is considered indigenous under Colombian law. FPIC was required. The analysis phase comprised extensive discussions with the affected communities. The consultants developed a graphic tool that explained more vividly the anticipated impacts of project activities on the local people. The subsequent phase of negotiation was marked by a willingness of parties to engage, provision of necessary information, and adoption of mutually acceptable procedures. Readiness to change position was as important as sufficient time given for taking a decision. The local community responded positively to this approach. In fact, the decision by the local community was taken by their assembly. A grievance mechanism was established and explained in detail to the local people.
For such projects, IFC uses a reporting format that rates performance (0 to 100%) for each of the performance standards, and compares performance as anticipated at appraisal with performance during implementation.

Training on Land Record System – A Case Study of Cambodia

Jouni Johannes Anttonen
Team Leader, Land Administration Sub Sector Programme, FINNMAP
Accompanied by a documentary film on the Cambodia land sector

When the Khmer Rouge came into power, they abolished private ownership of land and compelled Cambodians into communal living. During their rule, the Khmer Rouge destroyed not only institutions and infrastructure but also land title records and maps, which wreaked havoc in Cambodia’s land sector. In 1989, ten years after the Khmer Rouge regime ended, private landownership was reintroduced, with private landholders being able to apply to register their possession right. By the early 1990s, 4.5 million land registration applications were filed countrywide. The government made efforts to manage this but encountered a number of challenges. The government then established the Ministry of Land Management, Urban Planning and Construction in 1998 to start developing a more effective land administration system, for which it sought donor assistance.

With assistance from Finland and Germany, the first pilot project for systematic land registration covering four provinces was begun. The project eventually expanded to cover many other activities of land registration, including reestablishment of geodetic networks. The Finnish technical assistance particularly focused on the land titling program, development of a modern multipurpose cadastral system, and development of a land policy and legal framework, including the establishment of a digital system for land registration.
Encouraged by the positive results of the pilot project, the government applied for development credit from the World Bank to expand the project to 11 provinces. With additional support from Canada, the project was further expanded to 14 provinces and has included cross-cutting components such as environment, gender, and mine awareness.

This multi-donor land administration program is being implemented according to the principles of the Paris Declaration on Aid Effectiveness; thus, it is the Government of Cambodia that is leading and coordinating the program and is now also financing the program, while the donor partners and technical assistance teams are supporting program implementation. It is also important to emphasize that the program focuses on registering existing landownership rights and not on land distribution or land use planning.

Sustaining the program required adoption of a culturally sensitive approach. The early years of development cooperation focused on development of a systematic land registration system that fit Cambodian conditions, traditions, culture, resources, and capacities. The program is now concentrating on capacity building and institutional development. A faculty of land management and land administration has been established to support the training of staff from various fields, including land dispute resolution.

In 2001, the Land Law was introduced, allowing private landholders to obtain full ownership rights. However, landownership before the Khmer Rouge regime came to power in 1979 remains unrecognized by law, as the country had to start from zero to preserve its social stability. It was only upon the reintroduction of private landownership in 1989 that first possession rights were recognized and, when qualified, legal possession rights could be obtained. For land titling purposes, the parcels of land are identified through the unique parcel reference numbers assigned to them. To enhance effectiveness and efficiency, the legal mandate for land registration was decentralized to the provincial level in 2005.
Synthesis and Next Steps

The importance of environmental and social safeguards in development practice is no longer disputed, be it in the Asia and Pacific region or elsewhere. Nearly all governments have created safeguard systems and so have all institutions with a development mandate. The last two decades or so have seen growing application of safeguards both by countries and their development partners. The Workshop provided many examples of how countries have been further expanding or modifying the range of safeguard tools, practices, and institutions—the use of strategic environmental assessment in the PRC, modified land acquisition legislation in India, environmental permitting in Indonesia, and many more. Development institutions, too, have been reviewing and refining their safeguard systems, as illustrated by the review and update of the World Bank’s safeguards, or the continuing innovations in safeguard practice in IFC. That process is not finished nor is it likely to be finished any time soon.

One of the points agreed upon during the Workshop was that good safeguard practices continue to evolve and as societies change, new or different safeguard requirements are likely to emerge.

The discussions in the Workshop’s parallel sessions confirmed that the process of improving and enhancing safeguard systems are not yet over. The parallel sessions revealed that there are a number of instances where country safeguards are insufficiently developed or depart significantly from international good practice. This is particularly so in the domains of land acquisition and resettlement, and Indigenous Peoples. By contrast, significant convergence characterizes environmental safeguards, where there is broad similarity across DMCs and these systems have begun to resemble those of international development partners.

It is in implementing safeguards where the greatest difficulties lie. ADB provided illustrations of some day-to-day challenges in implementing EMPs. Several DMC participants spoke about the specifics as well as difficulties of compensation practices associated with involuntary resettlement in their countries.

References to the use of CSS were numerous, as were invitations to use these systems, suggesting that at times, a key point was becoming obscured. CSS are used every day. CSS are what countries have and use. The question, and a major theme of the Workshop, was to better understand what needs to happen to convince development financial institutions and private sectors to use CSS instead of requiring the use of their own safeguard provisions.

The Workshop participants agreed that international best practice should remain the benchmark for convergence, although it underlined the less than total agreement on the definition of best practice under each safeguard category. It was accepted, however, that international financial institutions are the most advanced in safeguard design and practice and their safeguard systems (while also evolving) are the most suitable benchmark for now. The importance of harmonization among development institutions themselves was mentioned and its advantages illustrated in several presentations where donors agreed on a common single safeguard platform. The Workshop participants heard about the experience of the World Bank to date in implementing projects using CSS and recognized the indication that this direction is likely to gain in importance.

The question of whether there is a single best (or good) practice valid for all countries and sectors or whether good or best practices can or should be tailored to underlying conditions of each country or sector was not discussed in great detail, although several participants argued in favor of greater specificity. That such specificity could be in conflict with the quest for simplification that drove the Paris Declaration on Aid Effectiveness and its successors is clear. Transaction cost is minimized if a single safeguard system is used across a whole range of projects, regardless of the source of financing. In broad terms and by reference to transaction cost, therefore,
creating a platform around which all CSS could unite—i.e., undifferentiated international best (or good) practices—offers the greatest advantages. This is the direction that the Workshop has endorsed.

Several presentations raised the issue of the cost of safeguard application where the cost is understood not only as that of complying with safeguard requirements additional to those of CSS, but the cost of applying CSS. One of two keynote addresses argued, in reference to India’s new land acquisition law, that structuring safeguards too bureaucratically, with many layers of reviews etc., can undo the positive features of new safeguard provisions.

Perhaps because the majority of presentations were by the discipline specialists, most participants equated strengthening of CSS with additions to the range of safeguard instruments. Much less was said about how to “prune,” but several important pointers emerged. First, it is often possible to identify key elements of safeguard application. In involuntary resettlement, for example, practice suggests that success depends overwhelmingly on the quality of two elements: consultation and compensation. That insight could be used to simplify (or at least make more efficient) the design and implementation of some of these projects. Second, both DMCs and their partners are also seeking more efficient ways of monitoring safeguard compliance to cope with its increasing breadth and complexity. Third, a more pragmatic view is emerging to judge the degree of equivalence of CSS with international best practices more broadly and place the emphasis on operational “acceptability” of DMCs’ implementation arrangements. This is not a way of diluting safeguards, although that is a concern of many CSOs that favor as strict as possible a system of safeguards to be imposed on country institutions.

The success of safeguard systems should not be measured by their power to stop projects. The creative aspects of safeguards need to be recognized and maximized. Wise structure and application of safeguards result in a socially and environmentally responsible adaptation by project proponents, contractors, and the public at large. IFC, USEPA, and WWF-India all provided examples of this.

The international development institutions are committed to increasing the effectiveness of their assistance, through improved coordination and donor collaboration, and through practices that increasingly draw—especially at an agency level—on elements of country systems (even ahead of full convergence) in order to reduce duplication. The Workshop heard about the Safeguard Community of Practitioners established by ADB, DFAT, JICA and the World Bank in 2012, and its activities to coordinate approaches to CSS development in the Asia and Pacific region.

During the Workshop, it was confirmed that countries are becoming better connected with one another and have expanded the exchange of information on safeguards. The potential of South–South cooperation or its variants is increasingly recognized though not yet fully utilized. Participants spoke in favor of continuing regular exchanges on CSS development and use. Some felt that these consultations might be useful to organize also at subregional (e.g., ASEAN) or sectoral levels.

For ADB, the direction charted in SPS 2009 deserves to be made more specific in the months to come. Steps in that direction could be to:

1) Continue the program of technical assistance for CSS strengthening, with priority given to areas jointly established by the DMC concerned and ADB. Such assistance has a value in its own right (i.e., better environmental and social outcomes) as well as bringing the CSS closer to the common platform and accelerating convergence. Explicit demand for assistance and a good match with the ADB Country Partnership Strategy in the DMC concerned should remain essential preconditions.
2) Start using the concept of broad equivalence (of safeguard legislation, regulations) and describe how this is to be understood.

3) Shift the emphasis from equivalence reviews to assessment of implementation capacity. Rethink the approach to “acceptability.” Define operational capacity and set benchmark(s) for its acceptability.

4) Engage CSOs about a transition towards the use of CSS. MDBs support not only accountability but also greater country ownership and improved practice. Recall the wide support given by Workshop participants to the idea that systems improve only when they are used.

5) Not all additions to safeguard structures are desirable. Start learning about the cost of applying different kinds of safeguards to illustrate this point.

6) Undertake a pilot phase of CSS use in ADB operations. Describe the countries, sectors, agencies that are to be involved, under which conditions and from which date. Use the current safeguard community of practice initiative to establish safeguard monitoring and advisory mechanisms in each DMC where CSS are to be used, to help improve performance.

7) Develop details of the way in which results-based lending could be used by MDBs as a tool for greater CSS use by partners.

8) Undertake a program to unify the formats of MDB safeguard documents to be prepared by DMCs.

9) Prepare a study of the organizational and training/retraining needs in a transition to greater (or exclusive) use of CSS.
Appendix 1: Workshop Program

DAY 1, TUESDAY, 7 OCTOBER 2014
Integration of Safeguard Best Practices

<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
<th>Details</th>
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<tbody>
<tr>
<td>8:30–9:30</td>
<td>Registration</td>
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<tr>
<td>9:30–10:30</td>
<td>Forum Opening and Keynote Addresses</td>
<td>The opening session will set the scene by establishing the objectives of the Workshop, and how it will be achieved. The keynote speakers will provide an overview of the evolution of the country safeguard system (CSS) in the Asia and Pacific region. Highlights include: key milestones, barriers, and significant recent achievements in the land acquisition and resettlement process in India. Nessim J. Ahmad, Deputy Director General, Regional Sustainable Development Department (RSDD), Asian Development Bank (ADB) Bindu N. Lohani, Vice-President, Knowledge Management and Sustainable Development, ADB Naresh C. Saxena, Former Secretary, Planning Commission, India</td>
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<td>10:30–11:00</td>
<td>Group Photo and Break</td>
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<td>11:00–12:30</td>
<td>Plenary 1: Dialogue on Key Challenges to Convergence and Alignment</td>
<td>The session will highlight key challenges facing countries in the Asia and Pacific region. A panel of experts will share their experiences and identify future directions. In exploring future directions the panel will be encouraged to challenge the status quo, suggest ideas on possible ways for increasing the uptake of CSS among development partners and question current benchmarks and approaches. Chair and Moderator: Nessim J. Ahmad, Deputy Director General, RSDD, ADB Presentation: Stephen Lintner, Independent Advisor, Environmental and Social Sustainability; and Mark Kunzer, Principal Environmental Specialist, RSDD, ADB Panel: Jonas R. Leones, Officer-in-Charge-Director, Environmental Management Bureau-Department of Environment and Natural Resources, Philippines Gaia Larsen, Associate, Sustainable Finance Center, World Resources Institute (WRI) Reidar Kvarn, Senior Manager, Policy, Quality Assurance and Knowledge Management, International Finance Corporation (IFC)</td>
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<td>Time</td>
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<td>12:30–14:00</td>
<td>LUNCH</td>
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<td>14:00–15:30</td>
<td>Parallel Session A – ENVIRONMENTAL: CSS in Action – How to Deliver Results</td>
<td>This session will build on the firsthand experience of developing member country (DMC) participants in the application of CSS in projects. The session will provide an opportunity to assess the prevailing CSS perception among various user groups and stakeholders as opposed to practical insight of DMC participants. Awareness of issues and practical solutions will be explored as a way of moving forward.</td>
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<td>14:00–15:30</td>
<td>Parallel Session B – SOCIAL: CSS in Action – How to Deliver Results</td>
<td>An analytical discussion similar to Parallel session A will be applied to the social dimensions of CSS, and how to fill in gaps between CSS and international best practices.</td>
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<td>15:30–16:00</td>
<td>BREAK</td>
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<td>16:00–17:30</td>
<td>Plenary 2: Evolution of CSS – Achievements and Aspirations</td>
<td>Integration of environmental and social dimensions into development is now a well-established formula. DMCs in the Asia and Pacific region have embraced it and are making progress through a gradual process of CSS enhancement. Case study presentations by experts representing various DMCs will form part of this session. Participants can expect to hear how Strategic Environmental Assessment is shaping regional plans in the People’s Republic of China (PRC), why Indonesia proposed to use CSS in ADB funded projects and how it will achieve it, how Sri Lanka is formalizing the national land acquisition and resettlement policy, and how large-scale resettlement is being managed in the PRC for reservoir developments.</td>
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<td>Panel:</td>
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<td></td>
<td>Wei Li, Deputy Head, Research Center for Global Environmental Policy, Beijing Normal University, PRC</td>
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<td>Ary Sudijanto, Director, Ministry of Environment, Indonesia</td>
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<td>Junhai Wang, Director, Policy and Regulation Division, Resettlement Bureau, Ministry of Water Resources, PRC</td>
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<td>L.B.S.B. Dayaratne, Additional Secretary, Title Registration; and Amarasena Gamaathige, Title Resettlement Specialist, Land Division, Ministry of Land and Land Development, Sri Lanka</td>
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<td>Mya Seine Aye, Executive Engineer (Civil), Design, Quantity Survey and Research Division, Public Works, Ministry of Construction, Myanmar</td>
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<td>17:30</td>
<td>WELCOME RECEPTION BY DIRECTOR GENERAL, RSDD</td>
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DAY 2, WEDNESDAY, 8 OCTOBER 2014
Benefitting from Partnerships

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<tr>
<td>8:30–9:00</td>
<td><strong>REGISTRATION</strong></td>
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<td>9:00–9:10</td>
<td>Summary of Day 1 by Rokeya Sabur, Principal Safeguards Specialist, RSDD, ADB</td>
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<tr>
<td>9:10–10:00</td>
<td>Plenary 3: Role of Partnerships in CSS</td>
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An effective safeguard system demands commitment by a number of stakeholders and their interactive partnership. Increased cooperation and coordination could give greater coherence to safeguard systems and promote sustainable development. In order to derive benefits from partnership a Joint Country Safeguards Partnership (CSP) was formed as a direct outcome of the first Country Safeguards Workshop. Presentation and moderated panel discussion will highlight perspective from each of the CSP partners.

**Moderator:** Indira Simbolon, Officer-in-Charge, Environment and Safeguards Division, RSDD, ADB

**Presentation:**
Stephen Lintner, Independent Advisor, Environmental and Social Sustainability
Mark Kunzer, Principal Environmental Specialist, RSDD, ADB

**Panel:**
Joint CSP Members from Japan International Cooperation Agency (JICA), Australian Department of Foreign Affairs and Trade (DFAT), World Bank, and ADB

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<th>Time</th>
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<tr>
<td>10:00–10:15</td>
<td><strong>BREAK</strong></td>
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<td>10:15–11:30</td>
<td>Plenary 4: South–South Cooperation – How Is It Happening?</td>
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DMC participants and Asian Environmental Compliance and Enforcement Network will share their experiences through case study analysis highlighting cooperation between countries that led to mutually beneficial outcomes, including alignment of CSS with international best practices.

**Moderator:** Robert Guild, Director, Pacific Transport, Energy and Natural Resources Division, ADB

**Presentation and Panel:**
Hee-Nam Jung, Senior Research Fellow, Housing and Land Research Division, Korea Research Institute for Human Settlements, Republic of Korea
Kusala Seneviratne Mahalekame, Assistant Director, Environmental Impact Assessment (EIA) Unit, Central Environment Authority, Sri Lanka
Peter King, Head, Asian Environment Compliance and Enforcement Network (AECEN) Secretariat
Ryu Fukui, Advisor, RSDD and Head, Knowledge Sharing and Services Center, ADB
11:30–12:30 **Plenary 5: How Can Civil Society Organizations Enhance CSS?**

The CSOs in DMCs have contributed significantly to the evolution of CSS. This has been achieved through policy dialogue with government and multi/bilateral financing organizations, and through their own activities at the grassroots level to ensure that safeguard principles are adequately applied. A number of case studies will be presented to share diverse experience of CSOs.

**Moderator:** Gaia Larsen, Associate, Sustainable Finance Center, WRI, United States

**Presentation and Panel:**
- Dipankar Ghose, Director - Species and Landscapes Programme, World Wide Fund for Nature (WWF)-India Secretariat
- Alaya de Leon, Senior Legal and Policy Specialist, Climate Change and Environment Cluster, Ateneo School of Government, Philippines
- Annabel Perreras, Policy Officer, NGO Forum on ADB, Philippines
- Haidy S. Ear-Dupuy, Social Development Specialist, RSDD, ADB

12:30–14:00 LUNCH

14:00–15:00 **Plenary 6: Partnership with Private Sector**

More and more State Owned Corporations (SOC), in partnership with private sector and private financing entities, are investing in large development projects or businesses. These ventures require careful consideration including in-depth analysis of safeguard-related risks under complex financing arrangements. The session will hear from a number of SOCs who are essentially financial intermediaries, private financiers, and their clients on their experience in applying country systems.

**Moderator:** Reidar Kvam, Senior Manager, Policy, Quality Assurance and Knowledge Management, IFC

**Presentation and Panel:**
- Sanjeev Ghai, Chief General Manager, India Infrastructure Finance Company Ltd. (IIFCL), India
- Ahmedul Hye Chowdhury, Assistant Vice-President, Infrastructure Development Company Limited (IDCOL), Bangladesh
- Abul Moqsud, Deputy Managing Director and Chief Risk Officer, Eastern Bank, Bangladesh
- Mohammad M. Rashid, Deputy Managing Director and Head of Wholesale Banking, BRAC Bank, Australia, and Mir Ashraful Hossein, Chief Operating Officer, Urmi Group, Bangladesh

15:00–15:30 BREAK
15:30–16:30  **Final Plenary – Open Forum**

Representative expert participants will be asked to recapitulate the messages of the Workshop and any salient ideas for the future. Moderated discussion will follow, including a panel and all participants. Thoughts will be further explored in light of the challenges set forth in the beginning of the Workshop through an open forum interactive discussion providing clarifications, and pondering over any unresolved issues on advancing CSS.

**Moderator:** Jitendra J. Shah, Special Project Facilitator, Office of the Special Project Facilitator, ADB

**Presentation and Panel:**
Ahmedul Hye Chowdhury, Assistant Vice-President, IDCOL, Bangladesh
Naresh C. Saxena, Former Secretary, Planning Commission, India
Ary Sudijanto, Director, Ministry of Environment, Indonesia
Pham Anh Cuong, Director of Biodiversity Conservation Agency (BCA), Environment Administration, Ministry of Natural Resources and Environment, Viet Nam
Indira Simbolon, OIC-RSES, RSDD, ADB
Peter Leonard, Regional Safeguards Adviser, East Asia and Pacific, World Bank

16:30  **PLENARY CLOSING**
DAY 3 THURSDAY, 9 OCTOBER 2014
Auditorium D. Parallel Session C: Training On Environmental Safeguard

8:30–9:00  REGISTRATION
9:00–12:00 Parallel Session C: Training on Environmental Safeguard

An interesting mix of case studies and technical tools to manage implementation of environmental management and monitoring plans will be presented.

1. Environmental Impact Assessment (EIA) Capacity Building for Domestic and International Safeguards – Cheryl Wasserman, Associate Director for Policy Analysis; Carol Russell, Tribal Water Quality Team Leader; Amy Zimpfer, Associate Director, Air Division, United States Environmental Protection Agency

2. Safeguard Implementation: South Asia Experience in the context of CSS – Rokeya Sabur, Principal Safeguards Specialist, RSDD, ADB

3. Contractor Management – Mark Kunzer, Principal Environmental Specialist, RSDD, ADB

12:00–12:30 Q&A

Auditorium C. Parallel Session D: Training On Social Safeguard

8:30–9:00  REGISTRATION
9:00–12:00 Parallel Session D: Training on Social Safeguards

Practical guidance on identification of issues and managing the land acquisition and resettlement process will be provided via case study presentation.

1. Involuntary Resettlement Practice Issues: Case Study – Andrew McIntyre, Senior Social Development Specialist, RSDD, ADB

2. Indigenous Peoples and Free, Prior, and Informed consent (FPIC): IFC’s Approach – Reidar Kvam, Senior Manager, Policy, Quality Assurance and Knowledge Management, IFC

3. Training on Land Record System: A Case Study of Cambodia – Jouni Johannes Anttonen, Team Leader, Land Administration Sub Sector Programme, FINNMAP

12:00–12:30 Q&A
Appendix 2: Second Regional Workshop on Strengthening Country Safeguard Systems
Towards Common Approaches for Better Results

7-9 October 2014 | ADB Headquarters, Manila

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This publication records the proceedings of the Second Regional Workshop on Strengthening Country Safeguard Systems: Towards Common Approaches for Better Results, held at the Asian Development Bank (ADB) headquarters in Manila on 7-9 October 2014. The Second Regional Workshop follows in the steps of its pathbreaking predecessor, which ADB organized on 18-19 April 2012. Harmonizing safeguard systems across countries and development partners is a task that demands time and continuity. The participants were drawn from 23 developing member countries (DMCs), 8 international development organizations, 2 civil society organizations, the private sector, and ADB. A total of 154 safeguard specialists and other professionals attended, including 62 DMC representatives, 66 ADB staff, and 26 participants from international and other local organizations.

About the Asian Development Bank

ADB’s vision is an Asia and Pacific region free of poverty. Its mission is to help its developing member countries reduce poverty and improve the quality of life of their people. Despite the region’s many successes, it remains home to the majority of the world’s poor. ADB is committed to reducing poverty through inclusive economic growth, environmentally sustainable growth, and regional integration.

Based in Manila, ADB is owned by 67 members, including 48 from the region. Its main instruments for helping its developing member countries are policy dialogue, loans, equity investments, guarantees, grants, and technical assistance.