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 **Overview of Notes on Asian Development Bank Safeguards**

**in the Context of the Asian Infrastructure Investment Bank’s**

**Draft Environmental and Social Framework**

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The AIIB has pledged to develop “strong policies on governance, accountability, financial, procurement and environmental and social frameworks” on a level with those of other multilateral development banks.[[1]](#footnote-1)

Not only is it important for the AIIB to take a leadership role and develop safeguards that provide substantially **more robust protections than those of other multilateral development banks**, but it is also of vital importance to ensure that the proposed AIIB safeguards are **no weaker than those of other multilateral development banks.**

Unfortunately, the draft ESF appears to propose safeguards that are in many respects markedly weaker than those of other IFIs, including those of its regional “neighbor” the Asian Development Bank.

This document presents a brief overview of some of the existing best practices at the ADB that should be of use in comparison with the AIIB ESF. The current Draft AIIB ESF appears substantially weaker than the standards of the ADB safeguards below. Please note that, given the truncated period of “public consultation” on the Draft AIIB ESF, these comments are preliminary in nature.

**ADB Safeguards Update Process: 2005 - 2010**

In contrast to the brief “public consultation” held by the AIIB to develop environmental and social safeguards, the Asian Development Bank recently underwent a five-year long review of its safeguards in order to update them to best reflect regional needs. The overarching result of the ADB’s Safeguards Update was a re-emphasis of the importance of Bank responsibility for screening, categorization, review – the core of due diligence – the renewed commitment to meaningful public consultation – including the use of *local languages* to allow affected communities to participate, allowing 120 days for communities to provide input on projects which may impact their lives and livelihoods, as well as the monitoring of *compliance* with environmental and social standards.

The ADB underscored its commitment to supporting efforts to strengthen and improve implementation of borrower systems and developed robust “Country System Safeguards” to enable it to do so.

The ADB moved away from the delegation of its own due diligence responsibilities to corporate clients such as financial intermediaries, and re-affirmed the Bank’s own commitment to conducting robust due diligence.

**Asian Development Bank Safeguards Developed through Robust Public Consultation**

The following are now required by the ADB as described in the Bank’s 2010 Safeguard Policy Statement, developed after close to five years of public consultation and input:

* The **ADB maintains responsibility for conducting due diligence**, project categorization and oversight;
* The ADB **supports the strengthening and use of Country Systems** for ADB projects, with a **mandatory, clear and extensive review system** to determine the equivalency of Country Systems with ADB safeguards, prior to ADB agreement for their use. ADB **requires public input** into ADB determination of CSS equivalence, **bans the use of borrower systems for “highly complex and sensitive projects**,” underscores ADB responsibility for due diligence, and provides detailed requirements. (Note: World Bank also has detailed CSS Equivalency Requirements – See OP 4:00, especially 6-page Table A1 describing required CSS assessment methodology.)
* Mandatory **disclosure 120 days** prior to Board vote for environmental assessments for projects and subprojects likely to have significant impacts prior to approval. This was underscored by the input of affected communities across Asia, which emphasized their need for significant time to overcome the many barriers to enable them to process and respond to information on proposed projects which could dramatically impact their lives and livelihoods;
* The requirement that environmental assessments be conducted for **all components of all projects, regardless of funding sources**;
* The requirement that the Bank conducts due diligence and ensures **client compliance** with environmental and social requirements;
* A suite of relatively detailed rules for **Financial Intermediaries**, necessitating ADB management approval of category A subprojects, and full application of ADB safeguards, **including information disclosure and consultation**;
* Relatively detailed **gender-sensitive requirements**.
* Relatively robust definition of “**meaningful consultation**” procedures, with materials and consultations to be provided “**in a form and language(s) understandable to affected people** and other stakeholders. For illiterate people, other suitable communication methods will be used.” This is a sharp contrast to the AIIB’s “English only” and “videoconference” approach to consultation.
* The ADB’s **Prohibited Activities List** clearly states that “The following do not qualify for Asian Development Bank financing”, including “production of or trade in radioactive materials, including **nuclear reactors** and components thereof;” and “production or activities involving harmful or exploitative forms of forced labor or child labor.”[[2]](#footnote-2)

In addition, while the ADB Board votes to approve ADB projects, **the AIIB’s Articles of Agreement allow the AIIB Board to delegate to AIIB Management the ability to “self-approve” AIIB projects**, potentially removing projects from detailed Board scrutiny prior to approval, increasing risk, including to Board regarding fulfillment of fiduciary requirements and to communities and the environment.[[3]](#footnote-3)

1. <http://www.aiib.org/html/aboutus/AIIB/>, accessed 29 November, 2015 [↑](#footnote-ref-1)
2. For a comparison of AIIB Exclusion List with those of the World Bank, IFC and ADB, see also, Concerns about the AIIB Exclusion List and a Comparison with the ADB Prohibited Investment List, IFC Project Exclusion List, and Investments Prohibited under World Bank Safeguards, Ulu Foundation, October 2015 [↑](#footnote-ref-2)
3. For insights into the problems of self-assessment and self-review, see [Financial Times, Time to Bolster Safeguards, Not Dilute Them.](file://8885b957a9cadd0e98aa36b8b2dc8de3:BBECBE2DB5DCCE90DECA) Critique of World Bank and AIIB draft safeguards co-authored by Director of ADB's IED. October 2015; Ecological Justice, Ulu Foundation, Urgewald. From Volkswagen to Infrastructure Finance, You Get What You Inspect, Not What You Expect: The [Risks of Client Self-Assessment, Self-Monitoring and Self-Regulation at the World Bank and AIIB](file://73f82dc7e6728433f42476b15aff9a0b:BBECBE2DB5DCCE90DECA), September 2015. [↑](#footnote-ref-3)