

# **Comparative Review of Multilateral Development Bank Safeguard Systems**

## **Main Report and Annexes**

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*Comparative Review of MDB Safeguard Systems*

The findings, interpretations, and conclusions expressed herein are those of the author(s), and do not necessarily reflect the views of the International Bank for Reconstruction and Development / The World Bank and its affiliated organizations, or those of the Executive Directors of The World Bank or the governments they represent.

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## **Abbreviations and Acronyms**

ADB	Asian Development Bank
AfDB	African Development Bank
BP	Bank Procedures
CAS	Country Assistance Strategy
CHSS	Community Health, Safety and Security
DPL	Development Policy Lending
EA	Environmental Assessment
EBRD	European Bank for Reconstruction and Development
EHS	Environmental, Health and Safety Guidelines
EIA	Environmental Impact Assessment
EIB	European Investment Bank
ESCP	Environment and Safeguards Compliance Policy
ESH	Environmental and Social Handbook
ESP	Environmental and Social Policy
ESS	Environmental and Social Standard
EU	European Union
FI	Financial Intermediary
FPIC	Free, Prior and Informed Consent
FPIE	Free, Prior and Informed Engagement
GA	Gender Assessment
GHG	Greenhouse Gases
GRM	Grievance Redress Mechanism
IBRD	International Bank for Reconstruction and Development
IDA	International Development Association
IDB	Inter-American Development Bank
IEG	Independent Evaluation Group
IFC	International Finance Corporation
IG	Implementation Guidelines
ILO	International Labour Organization
IP	Indigenous Peoples
IPP	Indigenous Peoples Plan
IR	Involuntary resettlement
IRPG	Involuntary Resettlement Principles and Guidelines
ISS	Integrated Safeguards System
MDB	Multilateral Development Banks
MEA	Multilateral Environmental Agreement
MIGA	Multilateral Investment Guarantee Agency
MIIF	Multilateral Investment Fund
MOU	Memorandum of Understanding
OM	Operational Manual
OP	Operational Policy
OS	Operational Safeguard
PR	Performance Requirement
PS	Performance Standard
RAP	Resettlement Action Plan
SEA	Strategic Environmental Assessment

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SESA	Strategic Environmental and Social Assessment
SPS	Safeguard Policy Statement
SR	Safeguard Requirement
SRU	Safeguard Review and Update
UN	United Nations
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNGA	United Nations General Assembly
WB	World Bank

## **Executive Summary**

A comparative review was conducted for the purpose of informing Bank Management, staff and stakeholders of the salient differences between the existing environmental and social safeguard policies of the World Bank (IBRD/IDA) and the corresponding safeguard policies of the other major Multilateral Development Banks (MDBs).

The institutional scope of the review included the regional development banks that provide investment lending services similar to those of the World Bank and that serve, respectively, the following regions (with some overlap): greater Asia-Pacific – Asian Development Bank (ADB); Africa – African Development Bank (AfDB); Europe and Central Asia – European Bank for Reconstruction and Development (EBRD) and European Investment Bank (EIB);<sup>1</sup> and Latin America-Caribbean – Inter-American Development Bank (IDB). For some purposes the scope of the review was broadened to include the two institutions that lend primarily to the private sector, the International Finance Corporation (IFC)<sup>2</sup> and EBRD, whereas for other purposes the scope was limited to those institutions that, like the World Bank, lend primarily to the public sector (ADB, AfDB, EIB, and IDB).

The review included the structure (or “architecture”) of each institution’s safeguard framework; the scope and application of their respective environmental and social safeguard systems; thematic coverage of environmental and social safeguard impacts and risks; and specific operational requirements applicable to borrowers insofar as these correspond to existing World Bank Operational Policies (OPs) for environmental and social safeguards.

With respect to the OPs it should be noted that comparisons are limited to corresponding MDB policies that are: (1) Board-approved; (2) mandatory (rather than aspirational or recommended good practice, e.g., “guidelines”); and (3) applicable in the first instance to borrowers rather than to the MDBs.<sup>3</sup>

Given the intricate nature of the policies and topics that are the object of this review, it should be noted that the comparative work set out in this report is by nature highly interpretative. The reader should ultimately rely on the underlying policies and documents that are the object of this report.

### **KEY FINDINGS**

MDB safeguard policies have evolved in an iterative manner, accompanied by a deliberate effort to harmonize policies, while taking into account regional and stakeholder differences;

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<sup>1</sup> Although the EIB supports projects in many countries outside the European region, the vast majority of its operations are concentrated among the Member, Candidate and Potential Candidate Countries of the European Union. This review focuses on its safeguard policies as applied outside the greater EU region.

<sup>2</sup> MIGA, a member of the World Bank Group, applies IFC Performance Standards; however its services are limited primarily to political risk insurance, which sets it apart from other MDBs.

<sup>3</sup> E.g., Bank Procedures that accompany OPs are directed primarily toward the Bank and do not generally apply to borrowers.

therefore, it is important to acknowledge that there are many similarities between the safeguard policies of the World Bank and its MDB counterparts. The primary objective of this report is to inform the ongoing World Bank (“Bank”) Safeguard Review and Update (SRU) about some of the key similarities and differences between the Bank’s existing policies for the assessment and management of environmental and social impacts and risks and the policies of other Multilateral Development Banks (MDBs).

**1. Structure of MDB Safeguard Systems.** MDB safeguard frameworks reflect diverse institutional governance and administrative structures as well as the timing of their respective adoption.

- **Hierarchical Structure.** World Bank environmental and social safeguard policies are mostly horizontally structured as stand-alone OPs and corresponding Bank Procedures (BPs), without an overarching policy statement. Guidance documents are issued in an *ad hoc* manner on a need basis. Most other more recent MDB safeguard policies are structured in a more hierarchical and integrated manner with an over-arching policy statement, governing principles and subsidiary operational safeguard requirements, consolidated environmental and social review procedures and corresponding guidance documents.
- **Environmental Safeguards.** With respect to environmental safeguards the World Bank framework consists of six separate OPs, of which one, OP 4.01, Environmental Assessment, acts as a *de facto* procedural “umbrella” policy and is used in part to identify other OPs that may be applicable to a project. Other MDB environmental safeguards tend to be consolidated into two or three separate operational policies, standards or requirements.
- **Bank and Borrower Roles and Responsibilities.** World Bank OPs are intended to apply to borrowers, whereas the BPs apply primarily to the Bank. Nevertheless, many provisions, in particular in the earlier OPs, contain statements that are more relevant to Bank policy than to borrower requirements. Other MDB operational requirements make a more effective effort to distinguish between bank and borrower responsibilities with respect to meeting safeguard requirements in preparation and implementation of lending activities.

## 2. Scope and Application of Safeguard Systems

- **Private Sector Lending.** The World Bank applies OPs to public sector lending and World Bank Performance Standards<sup>4</sup> to private sector-led projects. Other MDBs apply the same operational safeguard policies and operational requirements to both public and private sector lending, with procedural differences applied at the project level.
- **Diverse Lending Instruments.** Notwithstanding general statements that safeguard policies apply to “all” of a particular MDB’s financed activities, all MDBs adapt their safeguard systems to the structural and procedural requirements of diverse lending instruments (e.g., policy, programmatic and project based lending). However, the World

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<sup>4</sup> Per OP 4.03, World Bank Performance Standards are derived directly from IFC Performance Standards.

Bank applies more formal distinctions to these diverse lending instruments, with each instrument governed by a separate OP.<sup>5</sup> Other MDBs take a less formal approach to these distinctions, sometimes using the same approach for two lending instruments.<sup>6</sup>

### 3. Thematic Coverage

- **Gender.** Although the Bank issued a Gender Mainstreaming Strategy in 2011 and an Operational Policy on Gender in 2003, OP 4.20 applies at the strategic level (e.g., Country Assistance Strategies) rather than the project level. There are occasional references to gender in the Bank’s social OPs. Other MDBs either have issued gender policies that are explicitly designed to be applied at the project level or have more systematically integrated gender considerations into their operational safeguard requirements.
- **Climate Change.** OP 4.01 references “climate change” among “global issues” to be included within the scope of Environmental Assessment (EA) and provides guidance with respect to assessing greenhouse gas emissions and the impacts of projects on climate change. Other MDB safeguards apply more specific and detailed operational requirements to both the bank and the borrower with respect to assessing greenhouse gas emissions and the impacts of projects on climate change as well as climate change on project viability.
- **Core Labor Rights.** Although OP 4.01 includes references to health and safety that are applicable to workers, World Bank safeguards do not reference “core labor rights” or other such rights as defined by the International Labour Organization. Other MDBs, in particular those serving exclusively or primarily the private sector (IFC, EBRD), but also AfDB, address core and other labor rights through systematic operational requirements covering issues such as freedom of association; the right to organize and bargain collectively; discrimination in employment; wages and working conditions; retrenchment; and contract, migrant and supply chain labor issues.
- **Community Health, Safety and Security (CHSS).** OP 4.01 includes references to health and safety that are applicable to locally affected communities and OP 4.37 specifically, and uniquely among MDBs, addresses dam safety. However, World Bank safeguards do not include other explicit CHSS requirements that are addressed by other MDBs, such as general infrastructure and equipment design and safety (other than large dams); hazardous materials management; emergency preparedness and response; community exposure to disease; and the potential risks posed to communities by project security personnel.<sup>7</sup>

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<sup>5</sup> OP 8.60, Development Policy Lending; OP 9.00, Program for Results; and OPs 4.00, 4.01, 4.03, 4.04, 4.09, 4.10, 4.11, 4.12, and 4.37 reserved for project based investment lending

<sup>6</sup> For example, ADB’s Operational Manual on Policy Lending states that “[f]or environmental and social safeguards, the Safeguard Policy Statement’s provisions on program lending should apply.” ADB, OM Section D4/BP, Policy-Based Lending, April 2013, footnote 11.

<sup>7</sup> Many of these issues are addressed in the 2007 World Bank Environmental, Health and Safety Guidelines (EHSGs), which are cited by the Bank in OP 4.01 as mandatory benchmarks for EA, as well as by ADB and AfDB with respect to EA, EMP and/or project performance.



- **Ecosystem Services.** World Bank safeguards refer to ecosystem services in general terms. Other MDBs include ecosystem services (such as “environmental flows”) as critical measurable inputs with respect to both environmental and social impacts.
- **Use of Country Systems.** OP/BP 4.00 authorizes the Bank to use borrower safeguard systems in lieu of Bank OPs under specified conditions. Although ADB and IDB specifically authorize use of country or borrower systems, neither has implemented this authority in investment lending. In contrast, ADB, in particular, has systematically engaged in technical assistance to support strengthening of country systems at the national, sub-national and sector levels, in preparation for potential use of country systems in investment lending.
- **Exclusion Lists.** With the exception of certain categories of pesticides, World Bank OPs for environmental and social safeguards do not include or reference a consolidated list of activities or products that are categorically excluded or prohibited from inclusion in Bank-supported investment lending projects. OP 4.76, Tobacco, issued in 1999, does include a qualified prohibition on Bank support for tobacco projects. Otherwise, the World Bank relies on its procurement policy to exclude specified products or associated activities from Bank-supported projects. Other MDBs issue formal Exclusion or Prohibition lists as part of their environmental and social safeguard policies that go well beyond the products and activities excluded by the World Bank’s procurement policy.
- **Human Rights as a Cross-Cutting Issue.** None of the MDBs (other than EIB)<sup>8</sup> have a cross-cutting policy requiring “human rights” compliance. Most of the other MDBs refer to “human rights” in supportive aspirational terms while recognizing the responsibility of clients to respect human rights. The World Bank only refers to “human rights” in OP 4.10, Indigenous Peoples.<sup>9</sup>

#### 4. Comparison of Operational Requirements

The World Bank issued its most recent full Operational Policy related to safeguards, OP 4.11, Physical Cultural Resources, in 2006.<sup>10</sup> Since then, other MDBs have modified or comprehensively revised their safeguard policies and, in the process, introduced additional operational requirements to assess and manage the environmental and social impacts and risks associated with investment lending. Some of these additional requirements introduce substantive and material provisions not found in current Bank safeguard policies, while other requirements are elaborations on requirements that may be implicit in existing Bank policies. What follows are some illustrative examples of both types of MDB provisions. A more complete inventory of such provisions, with source citations, is presented in Annex 4 of this report. In both cases, the MDB provisions are organized in relation to specific corresponding Bank OPs.

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<sup>8</sup> In compliance with the Charter of Fundamental Rights of the European Union.

<sup>9</sup> The Bank does not have a human rights mandate. The World Bank’s Articles of Agreement limit the World Bank’s mandate to “reconstruction and development” and prohibit political interference. Nonetheless, the World Bank has recognized the relevance of human rights and its operations are supportive of human rights and encourage respect for them in a manner consistent with its Articles of Agreement.

<sup>10</sup> OP/BP 4.03, Performance Standards for Private Sector Activities, issued in 2013, may be considered to be more of a procedural rather than a substantive safeguard policy.

**OP 4.01 Environmental Assessment (EA):**

- Formal integration of environmental and social impact assessment procedures;
- Explicit definitions of “associated” and “cumulative impacts” in the context of both environmental and social assessment;
- Explicit expanded scope of EA to include potential impacts and risks to community health and safety; and those specific to gender, age, ethnic status;
- Detailed requirements for the conduct of SEA and strategic environmental and social assessment;
- Reference to the World Bank Group Environmental, Health and Safety Guidelines as an operational requirement independent of EA.<sup>11</sup>
- Monitoring and reporting of greenhouse gas emissions (GHGs) as a standard requirement for EA along with requirements to promote the reduction of project-related anthropogenic GHG emissions in a manner appropriate to the nature and scale of project operations and impacts;
- A “precautionary approach” applied to all environmental impacts, going beyond the Bank’s limited application of the approach to natural habitats;
- Broader definition of transboundary issues subject to EA, including waterways, watersheds, coastal marine resources, biological corridors, regional airsheds and aquifers;
- Role for affected parties in monitoring the environmental and social management plan (ESMP);
- Documentation and public disclosure of periodic monitoring reports and corrective actions; and
- Requirement for project-specific grievance mechanisms for all environmental and social impacts, not limited to Indigenous Peoples.

**OP 4.04 Natural Habitats:**

- Impacts of “ecosystem services” and “environmental flows” on project affected people;
- A more refined categorization of natural habitats to include “modified,” “semi-natural,” and “urban” habitats as compared to the Bank’s binary distinction between “critical” and “non-critical” habitat;
- Use of “Biodiversity Impact Assessment” to obtain a more comprehensive picture of the likely direct, indirect, induced and cumulative impacts of the operation on habitats, species and ecosystems;
- Use of internationally recognized certification systems for all renewable natural resources not limited to commercial scale forestry projects;

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<sup>11</sup> The World Bank (per OP 4.01) requires Borrowers to reference the EHSs as the benchmark for “pollution prevention and abatement measures and emission levels that are normally acceptable to the Bank.” The World Bank, ADB and AfDB all reference the EHSs in their respective operational requirements with respect to pollution prevention and abatement. Accordingly, issues that are within the scope of the EHSs are not detailed in this comparison.

- Requirements for sustainable management of agriculture, livestock, fisheries and aquaculture; and
- Restrictions on the introduction of invasive species and genetically modified organisms.

***OP 4.10 Indigenous Peoples***

- Explicit requirement for “Free, Prior, and Informed Consent” under specified circumstances;
- Reference to the UN General Assembly Declaration on the Rights of Indigenous Peoples;
- Application of safeguard policies for Indigenous Peoples to “trans-border” and “uncontacted” Indigenous Peoples; and
- Use of pro-active monitoring systems (inspections, audits, semi-annual monitoring reports).

***OP 4.11 Physical Cultural Resources:***

- Cultural heritage requirements applicable to both “tangible” and “intangible heritage.”

***OP 4.12 Involuntary Resettlement (IR):***

- Explicit application of involuntary resettlement safeguards to temporary as well as permanent displacement and to “seasonal resource users;”
- Specified criteria for “adequate housing;”
- Access to safe drinking water and irrigation facilities as required component of replacement land;
- Counseling for recipients of cash compensation;
- “Impoverishment Risk Analysis” as an integral part of social impact assessment;
- Gender-disaggregated approaches to the assessment and management of IR impacts;

***OP 4.36 Forests:***

- Assessment of risks of plantation forests to ecosystem services; and
- Support to rehabilitation of degraded forests.

***OP 4.37 Safety of Dams:***

- Application of structural safety risk assessment to a full range of infrastructure projects not limited to dams.

## 1. INTRODUCTION

The primary objective of this report is to inform the ongoing World Bank (“Bank”) Safeguard Review and Update (SRU) about some of the key similarities and differences between the Bank’s existing policies for the assessment and management of environmental and social impacts and risks and the policies of other Multilateral Development Banks (MDBs) that have updated their safeguard policies since 2006, when the Bank issued the most recent of its current safeguard policies (see Box 1.) As stated in the Bank’s October 2012 Approach Paper to its SRU, “[p]olicy harmonization, coherence, and alignment are objectives shared by the Bank and virtually all of its counterpart MDBs as well as bilateral development partners.”<sup>1</sup> Accordingly, the Bank aims to consider structural and policy initiatives undertaken by other MDBs that have recently incorporated new features in their safeguard systems. In this paper, “safeguard systems” refers to the totality of an institution’s policies, principles, and operational requirements that address environmental and social issues of development projects supported by an institution’s lending instruments. “Operational safeguards” refers to requirements designed to apply primarily, or in some cases, exclusively, to investment lending operations, such as the World Bank’s Operational Policies (OPs) that are designed to apply to borrowers<sup>2</sup> and financial intermediaries (FIs).

With respect to the OPs, it should be noted that comparisons are limited to corresponding MDB policies that are: (1) Board-approved; (2) mandatory (rather than aspirational or recommended good practice, e.g., “guidelines”); and (3) applicable in the first instance to borrowers rather than to the MDBs.<sup>3</sup>

### Box 1 – Recent Revisions to Safeguard Systems at the World Bank and Other MDBs

- World Bank Operational Policy (OP) 4.11, Physical Cultural Resources (2006); Revisions to and clarifications of OP 4.01, Environmental Assessment; OP 4.37, Safety of Dams; and OP 4.03, World Bank Performance Requirements (2013)
- ADB Safeguard Policy Statement (July 2009)
- IDB Environment and Safeguards Compliance Policy (2006), Policy on Indigenous Peoples (2006), and Policy on Gender Equality in Development (2010).
- IFC Sustainability Framework, consisting of Sustainability Policy and Performance Standards (2012)
- EBRD Environmental and Social Policy (May 2014)
- EIB Statement of Environmental and Social Principles and Standards (2009), and Environmental and Social Handbook (December 2013)

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<sup>1</sup> The Rome Declaration on Harmonization (2003) was endorsed by the World Bank and 40 other MDBs. See also the subsequent declarations of the High Level Forums on Aid Effectiveness (Paris 2005, Accra 2008, and Busan 2011). Most recently, the AfDB stated that its recently issued Integrated Safeguards Statement “seeks to” [inter alia] “work toward greater harmonization of safeguard policies across multilateral finance institutions” (ISS, Executive Summary).

<sup>2</sup> Some MDBs, particular those providing substantial support to the private sector (e.g., IFC, MIGA and EBRD) refer to “clients” rather than borrowers, reflecting the provision of non-lending services such as equity, advisory service and political risk insurance.

<sup>3</sup> E.g., Bank Procedures that accompany OPs are directed primarily toward the Bank and do not generally apply to borrowers.

Some of these features include the setting out of overarching principles, potentially greater clarity of roles and responsibilities of the lender and the borrower, and what could be considered in some settings to provide greater integration of environmental and social issues. These objectives reflect the fact that various MDBs, including the Asian Development Bank (ADB), the African Development Bank (AfDB), the European Bank for Reconstruction and Development (EBRD), the European Investment Bank (EIB), the Inter-American Development Bank (IDB), and the International Finance Corporation (IFC), have all either undertaken substantive revisions to their systems and policies or have issued comprehensive new safeguard systems and policies since 2006, when the Bank issued the most recent of its Operational Policies (Physical Cultural Resources) relating to environmental and social issues (Box 1).

At the same time the Bank and its counterpart MDBs (in particular, those serving the public sector) have introduced and expanded their use of new lending instruments, in particular, policy and programmatic lending.<sup>4</sup>

In the course of the Bank's SRU, the Bank and its MDB counterparts have the opportunity to identify and learn from one another's examples of alternative and innovative approaches to addressing common environmental and social impacts and risks. AfDB, in its recently issued Integrated Safeguards System (ISS) took note of the increased compatibility of MDB environmental and social safeguard systems, and cited the 2005 "Common Framework for Environmental Assessment," issued by the Multilateral Financial Institutions Working Group on the Environment as a milestone in this respect.<sup>5</sup> In this connection the Bank acknowledges the assistance of the MDBs cited in this paper for providing input and reviewing the draft in a timely manner. However, all observations and findings in this paper are the sole responsibility of the authors.

The paper is structured as follows: Section 2: Methodology; Section 3: Components and Architecture of MDB Safeguard Systems; Section 4: Scope and Application of MDB Safeguard Systems; Section 5: Thematic Coverage; Section 6: Categorical Exclusion Policies; and Section 7: Alternative and Incremental Operational Safeguard Approaches.

## **2. METHODOLOGY**

The scope of this review is influenced by the observations made by the Independent Evaluation Group (IEG, 2010),<sup>6</sup> as well as other studies recently conducted by external stakeholders. Those studies raise questions related not only to structure and policy but also to the thematic coverage of environmental and social risks and impacts, both within and outside the formally designated "safeguard policies" of the MDBs.

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<sup>4</sup> Among various MDBs the terms "policy" and "programmatic" lending" are sometimes used interchangeably. Policy lending is sometimes referred to as "development policy lending."

<sup>5</sup> AfDB, ISS, Introduction, para. 10.

<sup>6</sup> World Bank, Independent Evaluation Group, "Safeguards and Sustainability Policies in a Changing World: An Independent Evaluation of World Bank Group Experience," paras. 5.27-5.31.

*Institutional Coverage.* The paper focuses on ADB, AfDB, EBRD, EIB, IDB and IFC. Detailed review of alternative and incremental operational safeguard requirements applied to borrowers is, however, limited to those MDBs that currently provide support primarily to public sector entities (i.e., ADB, AfDB, EIB and IDB). The *substantive scope* of the detailed review is based on the topics covered by the eight existing World Bank OPs related to safeguards (see Section 7 for more detail). All the institutions cited above were consulted and provided detailed comments on earlier drafts of this report.

*Safeguard Policies.* In general, the term “safeguards” in this review refers to the “do-no-harm,” and to a lesser extent, the “do good” requirements that apply to the operational management of environmental and social impacts and risks in *projects* financed by MDBs either directly or indirectly through financial intermediaries (FIs).<sup>7</sup> MDBs vary with respect to the treatment of these environmental and social impacts and risks; in some cases, these issues are treated as “safeguards” and normally include operational requirements on the project level, whereas other such issues are subject to more generic treatment as proactive “policies” and “programs” that may or may not be operationalized at the project level. Such distinctions are clarified in this report where appropriate. Although all MDBs have policies on Access to Information as well as Independent Accountability Mechanisms that address safeguard-related issues, neither of these aspects of MDB safeguards fall within the scope of the World Bank’s Approach paper to its SRU. Accordingly they are not included within the scope of this comparative analysis.

*Data Gathering, Assumptions and Limitations.* This report uses a straightforward comparative analytic methodology. Citations are limited to the official MDB documents and explicit statements that set forth respective approaches to and requirements for managing environmental and social impacts and risks. The analysis does not take into account policy interpretation and implementation practices that are outside the official MDB documents, even when these are well established and known to external parties. The paper does not seek to make qualitative judgments about the relative advantages and disadvantages of the various approaches. Finally, this paper focuses on safeguard systems at the policy level and does not include assessment of implementation effectiveness.

### 3. ARCHITECTURE AND COMPONENTS

In general, the MDB safeguard systems comprise the following components:

- **An Over-arching Policy Statement** setting forth the key objectives, policies, principles, scope, hierarchy and organizing framework of the institution’s approach to potential environmental and social impacts and risks of its activities. The Policy Statement generally applies to the MDB itself, articulating the key principles to which it holds itself accountable. The content of the policy statement may be aspirational, mandatory or a combination of the two.

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<sup>7</sup> IFC and EBRD do not use the term “safeguards” but refer to “Performance Standards” and “Performance Requirements,” respectively, to designate operational requirements applicable to clients.

- **Operational Requirements** for diverse types of lending operations and circumstances. These are normally mandatory in their application to borrowers and other clients.
- **Environmental and Social Review Procedures** that the MDB follows in conducting its due diligence, through preparation, approval, monitoring and supervision of projects as well as in meeting its documentation and disclosure requirements with respect to environmental and social matters. Such procedures are normally mandatory for MDB management and staff.
- **Access to Information Policies** that apply broadly to information disclosure and public access to information obtained and generated by the MDB. Such policies typically include but are not limited to topics related to environmental and social safeguards, may be implemented either within or independent of an MDB's safeguard system and are normally mandatory for the institution.<sup>8</sup>
- **Guidelines, sourcebooks, manuals** or other materials designed to inform the implementation of "best practice" for borrowers/clients and for the MDB in carrying out safeguard requirements. Such provisions may be strongly recommended but are not normally mandatory unless designated as such in specific agreements between the MDB and the borrower.

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<sup>8</sup> As noted above, some MDBs treat Access to Information Policies as an integral part of their safeguard systems, whereas for other MDBs such policies form part of a broader institutional policy with respect to disclosure of various categories of information, not limited to safeguard issues. For the purpose of this report, Access to Information will be considered as part of the "architecture" of MDB safeguard systems, but the policies themselves will not be subject to comparative analysis.

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Table 1 below identifies these components for the safeguard systems of each of the MDBs.

**Table 1. Components of MDB Safeguard Systems**

	<b>Over-arching Policy Statement</b>	<b>Operational Requirements for Borrowers/Clients</b>	<b>Environmental and Social Review Procedures</b>	<b>Access to Information Policy</b>	<b>Guidelines, Sourcebooks, Manuals for “Good Practice”</b> (selected examples)
<b>AfDB (2013)</b>	Integrated Safeguard Policy Statement	Operational Safeguards	Environmental and Social Assessment Procedures (under revision)	Disclosure and Access to Information Policy (2013)	Guidance Notes (proposed)
<b>ADB (2009)</b>	Safeguard Policy Statement	Safeguard Requirements	Operations Manual: Internal Safeguard Review Procedures	Public Communications Policy (2011)	Sourcebook Materials
<b>EBRD (2014); in force as of 7 November 2014)</b>	Environmental and Social Policy	Performance Requirements	Environmental and Social Procedures (pending update)	Public Information Policy (2014: in force as of 7 November 2014)	Guidance for Clients
<b>EIB (2013)</b>	Statement of Environmental and Social Principles and Standards (2009)	Environmental and Social Handbook (2013)	Environmental and Social Practices and Procedures (2013)	Transparency Policy (2011)	Sourcebook on Environmental Law; Guidance Notes (Work in Progress)
<b>IFC (2012)</b>	Sustainability Policy	Performance Standards	Environmental and Social Review Procedures	Access to Information Policy (2012)	Guidance Notes; Environmental, Health and Safety Guidelines; Interpretation Notes; Good Practice Materials
<b>IDB (2006)</b>	None. Partially included in OP-703	Operational Policies	Implementation Guidelines for the Environment and Safeguards Compliance Policy and other safeguard policies	Access to Information Policy (2010)	Tools and Guidelines
<b>World Bank (IBRD/IDA)</b>	None	Operational Policies	Bank Procedures	Access to Information Policy (2010)	Environmental, Health and Safety Guidelines; Involuntary Resettlement Sourcebook



With respect to their respective architectures, since 2006, starting with IFC, the MDBs have organized their environmental and social policies into a safeguard policy framework, with an umbrella policy on environmental and social sustainability. While OP 4.01 does act as an umbrella policy, the World Bank continues to lack such an over-arching “Safeguard Framework” to stratify and integrate its separate Operational Policies pertaining to environmental and social impacts and risks and to help differentiate the accountability of its OPs from other Bank policy statements. The respective architecture of each MDB’s safeguard system is presented in graphic format in Annex 1 of this report.<sup>9</sup>

#### **4. SCOPE AND APPLICATION**

In comparing how MDBs apply the various components of their safeguard systems to diverse lending instruments, project structure and circumstances, it is important to keep in mind the distinction between “safeguard systems” (in the broad sense of the term) and “safeguards” (as applied to individual lending operations). General statements that an MDB safeguard system applies to “all projects” supported by an MDB are subject to various interpretations. In some cases, the statement means that operational requirements apply to specific investment loans (SILs, in World Bank terminology), with exceptions for particular circumstances such as emergency or disaster lending, technical assistance or lower risk subprojects of FIs, but do not apply to development policy or programmatic lending. In other cases, it is suggested that such operational requirements be applied to all types of lending instruments, including development policy and programmatic lending, albeit with procedural differences as warranted by the structure and project cycles of these diverse lending instruments. Examples of such procedural differences include the use of strategic environmental and social assessment (SESA), frameworks or various forms of risk assessment and management tools in lieu of the site-specific impact and risk assessment and management instruments (such as Environmental Impact Assessment, Resettlement Action Plans and Indigenous Peoples Plans) that are normally applied to single investment lending projects.

In terms of scope, the major difference between the World Bank and its counterpart MDBs is the Bank’s application of different safeguard systems to public and private sector-led projects, for example using “World Bank Performance Standards” (derived directly from IFC Performance Standards) for the projects (or components thereof) that are owned, constructed and/or operated by the private sector, including public-private partnerships.<sup>10</sup> It should also be noted that the World Bank Group consists of separate institutions that serve the public (IBRD/IDA) and private (IFC/MIGA) sectors, respectively. Other MDBs, such as ADB, AfDB, EIB and IDB, with substantial private sector lending portfolios, apply the same operational safeguards to both

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<sup>9</sup> World Bank OP 4.01 (Environmental Assessment) is considered to be an “umbrella policy;” it requires environmental and social issues to be considered in an “integrated manner.” In addition, there are some explicit cross-references among the various Bank OPs. However, in comparison with its MDB counterparts (see Annex 1) the Bank’s safeguard system exhibits a relatively horizontal architecture as the various World Bank OPs can operate independently of one another. This structural characteristic is found in other MDB safeguard policies, including, for example, IDB.

<sup>10</sup> The application of World Bank Performance Standards is governed by OP 4.03, issued in May 2013.

categories of projects, while adjusting their procedural requirements to the particular circumstances of private sector activities. The same is true of EBRD, albeit with a much smaller public sector portfolio.

Table 2 below provides some illustrative examples of how various MDB safeguard systems apply their operational requirements to diverse lending instruments, project structures and circumstances. In general, MDBs tend to make relatively clear distinctions between aspirational, mandatory and guidance policies and procedures. Accordingly, the individual components of MDB safeguard systems are subject to varying degrees of accountability with respect to institutional governance.

**Table 2. Application of MDB Safeguard Systems to Diverse Lending Instruments, Project Structures and Circumstances**

	Clear distinction between aspirational, mandatory and guidance policies and procedures	Differential application to diverse financing instruments <sup>11</sup>	Differential application among Investment Lending instruments and circumstances <sup>12</sup>	Same set of safeguard requirements applied to public and private sector <sup>13</sup>	Clarity between Bank and Borrower responsibilities
<b>ADB</b>	Yes	Yes	Yes <sup>14</sup>	Yes	Yes
<b>AfDB</b>	Yes	Yes <sup>15</sup>	Yes	Yes	Yes
<b>EBRD</b>	Yes	N/A <sup>16</sup>	Yes <sup>17</sup>	Yes <sup>18</sup>	Yes
<b>EIB</b>	Yes	N/A <sup>19</sup>	Yes	Yes	Yes
<b>IDB</b>	Yes	Yes	Yes	Yes <sup>20</sup>	Yes
<b>IFC</b>	Yes	N/A <sup>21</sup>	Yes <sup>22</sup>	N/A	Yes
<b>World Bank (IBRD/IDA)</b>	Yes	Yes <sup>23</sup>	Yes <sup>24</sup>	No <sup>25</sup>	Yes - limited <sup>26</sup>

## Development and Programmatic Lending

With the exceptions of EBRD and IFC, which do not engage in “development policy” or “programmatic lending” (as these terms are defined by the World Bank), all other MDBs apply

<sup>11</sup> E.g., Investment Lending, Development Policy Lending, Programmatic Lending.

<sup>12</sup> E.g., with respect to existing/new operations, FIs, emergency assistance, sector lending, co-financing, technical assistance, etc.

<sup>13</sup> For MDBs that apply the same requirements, there are variations in procedures to accommodate private sector business models and project cycles.

<sup>14</sup> ADB’s SPS does not apply to technical assistance.

<sup>15</sup> AfDB applies Environmental and Social Impact Assessment to investment projects and SESA to regional, country and sector strategies as well as to “programme-based lending with high levels of environmental and social risk.”

<sup>16</sup> EBRD and IFC do not engage in development policy or programmatic lending, as understood by the World Bank and other MDBs.

<sup>17</sup> EBRD and EIB apply differential treatment to some categories of FIs.

<sup>18</sup> EBRD applies its Performance Requirements to its public sector portfolio; however differences exist in the Public Information Policy disclosure requirements for public sector Project Summary Documents (60 days before Board) and Environmental and Social Impact Assessments (120 days before Board).

<sup>19</sup> EIB does not engage in development policy lending. It does support programmatic lending, although primarily within the European Union.

<sup>20</sup> With the partial exception of the Inter-American Investment Corporation, which supports small and medium size private sector entities.

<sup>21</sup> IFC does not engage in development policy or programmatic lending, as understood by the World Bank and other MDBs, except with respect to FIs. However, IFC’s Policy and Performance Standards are applicable to IFC’s Advisory Services.

<sup>22</sup> IFC environmental and social requirements and scope of their application to FIs vary depending on a number of factors associated with the level of risk and type of investment.

<sup>23</sup> Development Policy Lending is subject to OP 8.60; programmatic lending is subject to OP 9.00.

<sup>24</sup> The Bank applies differentiated treatment to emergency and disaster relief projects under specified circumstances.

<sup>25</sup> The Bank applies the World Bank Performance Standards (OP 4.03) rather than its OPs to private sector led projects involving Public-Private Partnerships.

<sup>26</sup> In principle, Bank OPs set forth the requirements for borrowers, whereas Bank BPs set forth the procedures for the Bank, but these distinctions are not consistently clear.

different safeguard instruments for development policy and programmatic lending than for investment lending. However, the World Bank takes a more formalized approach to these distinctions.

*Policy-Based Lending*

- For policy-based lending, the **World Bank** applies the provisions of OP 8.60 (Development Policy Lending), which requires the Bank to “determine... whether specific country policies supported by the operation are likely to cause significant effects on the country’s environment, forests, and other natural resources” or to have “significant poverty and social consequences, especially on poor people and vulnerable groups.” Where such significant effects are foreseen, “the Bank summarizes relevant analytic knowledge of these effects and of the borrower’s systems for reducing adverse effects and enhancing positive effects.... If there are significant gaps in the analysis or shortcomings in the borrower’s systems, the Bank describes in the ‘Program Document’ how such gaps or shortcomings would be addressed before or during program implementation, as appropriate.”
- For Policy-Based Lending, **ADB** requires that the environment and social impacts of policy actions associated with policy-based loans be evaluated, and that appropriate mitigation measures be identified and incorporated as loan covenants. The environmental and social assessments focus on the policy actions to be supported by the policy-based loan. A matrix of potential environmental and social impacts of each policy action, together with appropriate mitigation measures, is prepared. A strategic environmental assessment and social assessments, which facilitate systematic evaluation of the environmental and social impacts of a policy, plan, or program and its alternatives, may be usefully applied.
- **IDB’s** Environmental and Safeguard Compliance Policy states that “[f]or policy-based loans,” **IDB** “analyze[s] during the design phase whether specific country policies and/or institutional changes supported by the operation will have significant and direct effects on the country’s environment and natural resources. The appropriate sequence of actions and conditions to ensure environmental [and social] sustainability are reflected in the corresponding action plan, as required.”
- **AfDB** applies “appropriate environmental and social due diligence” to its policy-based loans through categorization and the use of SESA.

*Programmatic Lending*

- For programmatic lending, since 2012, the **World Bank** has applied the provisions of OP 9.00 (Program-for-Results Financing) in lieu of its Operational Policies on safeguards. These provisions require that the Bank undertake an “Environmental and Social Systems Assessment” of potential impacts and risks that may be associated with the program as specified in the OP and to incorporate the results of the assessment into an “Integrated Risk Assessment” and “Action Plan.”

- For Results-Based Lending Program, **ADB** undertakes an assessment of the current government program safeguard system for managing environmental and social impacts and risks, and prepare a program safeguard system assessment report. Focusing on the Safeguard Policy Statement (SPS) policy principles that are likely to apply to the program, ADB carries out a diagnostic assessment of applicable relevant laws, regulations, rules and procedures for managing and mitigating the environmental and social safeguards impacts of the Results-Based Lending program.
- **IDB** requires, for loans that are based on performance criteria (analogous to the Bank's OP 9.00), early environmental and capacity assessments to be undertaken at the sector and program level, on a case-by-case basis, according to the nature of the program and the sector.
- **AfDB** applies "Strategic Environmental and Social Assessment for its ...program-based lending operations when there are high levels of environmental and social risk."

### **Investment Lending**

For investment lending, MDBs follow diverse approaches with respect to the application of operational safeguards to various project structures and circumstances, such as: new or existing operations; FIs; "associated facilities;" emergency assistance lending; co-financing operations; technical assistance and trust funds, as well as the allocation of Bank-Borrower roles and responsibilities appropriate for each project structure or circumstance. Some illustrative approaches are indicated here with respect to the application of safeguard instruments:

#### *Pre-Existing Operations*

- Focus on assessment and remediation of existing environmental or social impacts, risks and liabilities;
- Audits used in place of Environmental Impact Assessment (EIA), with full EIA under certain circumstances;
- Additional requirements possibly imposed for "legacy projects," including supplemental reporting and monitoring;
- Existing Category A projects possibly subject to longer public disclosure prior to Board approval.

#### *Financial Intermediaries (FIs)*

- Focus on capacity of FI and portfolio risk:
  - ✓ Assessment of FI capacity to assess and manage EA subproject impacts and risks;
  - ✓ Most Category A and some high risk Category B subprojects are subject to MDB prior review and/or expert review and clearance.
- FIs are required to:
  - ✓ Establish an environmental and social management system commensurate with portfolio risk and acceptable to the MDB;
  - ✓ Screen subprojects;

## *Comparative Review of MDB Safeguard Systems*

- ✓ Ensure sub-borrowers carry out an appropriate level of EA and implement adequate mitigation measures for each subproject;
  - ✓ Certify and verify through monitoring that each subproject meets national requirements and applicable MDB requirements;
  - ✓ Report annually to the MDB on implementation and results.
- MDBs monitor FI performance and require time-bound remediation where necessary.

### *Emergency and Disaster Relief Lending*

- MDB EA requirements (e.g., OP 4.01) “normally apply;”
- “Fast track” environmental screening and permitting used until situation has stabilized to permit normal compliance measures;<sup>27</sup>
- In “urgent cases” with capacity constraints, safeguard measures may be “deferred from preparation to implementation phase;”
- Where standard safeguard measures are untimely, “a framework approach” is prepared to facilitate “procedural flexibility” in the application of safeguard requirements;
- In some cases, “short term emergency relief is ...specifically exempted” from safeguards.

### *Co-financing*

- “Most stringent approach:” requires application of “the more stringent of the applicable safeguard requirements;”
- “Harmonization” with other MDBs through single environmental and social assessment and planning process, unified documentation, consultation and disclosure requirements;
- “Collaboration” with client and co-financiers through Memorandum of Understanding (MOU) or other common approach process;
- Use of gap analysis and gap filling measures for projects co-financed an MDB and an FI.

### *Compliance with National Law and International Agreements*

- EA and/or project must comply with the host country’s social and environmental laws and regulations;
- Projects must comply with more stringent of host country law or MDB requirements;
- Projects must conform with the terms stipulated in the Financing Agreement, “regardless of any law to the contrary in the territory of a Project Member State;”
- “The Bank does not finance activities that would contravene ...country obligations ...under relevant international treaties and agreements, as identified during the EA;”

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<sup>27</sup> In the case of EBRD there are no formal “fast track procedures” for emergency projects; however, the Board can agree to deferral of requirements on an exceptional basis or as a derogation to the policy.

- “The Bank will require the borrower....to ensure that the project is designed and carried out in compliance with ...national obligations...under ratified Multilateral Environmental Agreements.”<sup>28</sup>

## **5. THEMATIC COVERAGE**

This analysis covers the environmental and social issues that are already part of the World Bank’s OPs as well as the “emerging areas” identified within the SRU process that are not currently covered by the OPs (i.e., human rights; labor and occupational health and safety; gender; disability; the free, prior, and informed consent (FPIC) of Indigenous Peoples; land tenure and natural resources; and climate change) (World Bank, 2012). For a detailed matrix comparing MDB thematic coverage of safeguard-related issues, see Annex 2 of this report.

In broad terms, the analysis finds that there is a general consistency among MDB safeguard systems, with respect to thematic coverage of safeguard issues (Table 3). There are nuances to be found regarding the context and extent to which these issues are addressed in the respective systems. Some issues are addressed at the strategic or policy levels, while others are addressed within the scope of an MDB’s operational safeguard system. These distinctions are clarified in Table 3.

With the above caveat, the Bank and its counterpart MDBs generally cover the following thematic issues as part of their respective safeguard systems:

- Environmental and Social Assessment and Management;
- Strategic Environmental Assessment;
- Protection of Natural Habitats;
- Pollution Prevention and Abatement (environmental health and safety guidelines, chemicals management, pest management);
- Physical Cultural Resources;
- Land Acquisition and Tenure and Involuntary Resettlement; and
- Indigenous Peoples.

Relative to the World Bank’s existing OPs, other MDBs provide thematic and/or more detailed coverage of the following environmental and social impacts and risks:<sup>29</sup>

- Biodiversity, ecosystem services and natural resource management (ADB, AfDB, EBRD, EIB, IFC);
- Climate change (AfDB, EBRD, EIB, IFC);
- Community Health and Safety (EBRD, EIB, IFC);

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<sup>28</sup> In addition to Multilateral Environmental Agreements (MEAs), some MDBs also cite multilateral and regional agreements addressing social impacts and risks, such as EBRD’s use of European Union environmental requirements where these can be applied at the project level.

<sup>29</sup> These examples are illustrative rather than exclusive. For a more comprehensive treatment of this issue, including references and discussion, see Annex 2: Thematic Coverage of MDB Safeguard Policies.

- Disability and Health (AfDB,<sup>30</sup> EBRD, IFC);
- FPIC and /or reference to the UN General Assembly Resolution on the Rights of Indigenous Peoples<sup>31</sup> (ADB, EBRD, EIB, IDB,<sup>32</sup> IFC);
- Gender (ADB, AfDB, EBRD, IDB, IFC);
- Sexual Orientation and Gender Identity (AfDB, EBRD); Human Rights (AfDB, EBRD, EIB, IFC, and IDB);<sup>33</sup>
- Vulnerability and Impoverishment (EBRD, EIB, IDB, IFC);
- Labor and Working Conditions (AfDB, EBRD, EIB, IFC);
- Stakeholder Engagement (EBRD, EIB); and
- Resource Efficiency (IFC, EBRD, EIB).

## 6. CATEGORICAL EXCLUSIONS AND PROHIBITIONS

With the exception of the World Bank, the MDBs included in this report have issued, as an integral part of their environmental and social safeguard policies or frameworks, categorical “exclusions” or similar lists of “prohibited” projects, activities and products that they will not support either through direct investment and/or indirectly through FIs.<sup>34</sup>

### Institutional Analysis

The following provides a brief summary of each MDB’s approach to categorical exclusions and prohibitions. This analysis focuses on categorical exclusions that are explicitly cited in MDBs’ stand-alone “lists” of “excluded” or “prohibited” activities, products and or services. These lists are designed to supplement categorical exclusions stated elsewhere in MDB safeguard systems such as policies, operational safeguards and procurement.<sup>35</sup> All MDBs, with the exception of the

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<sup>30</sup> AfDB, Operational Safeguard 1, para. 40, states that: “Vulnerable status can be determined by identifying a group’s likelihood of facing harder conditions as a result of the project, owing to specific factors such as [inter alia] health condition.”

<sup>31</sup> Limited to MDBs that use this terminology as set forth in the UN General Assembly Resolution on the Rights of Indigenous Peoples (UNGA Resolution).

<sup>32</sup> Per IDB, its reference to FPIC and to the then-draft UN resolution “is limited in scope and focused on agreement rather than consent.”

<sup>33</sup> See Annex 2 for specific references.

<sup>34</sup> There is some perception within the MDB community and elsewhere that such Exclusion Lists pertain only to projects financed through FIs. This perception may be consistent with the origin of the exclusion lists, which were introduced in many cases to delimit FI subprojects not otherwise subject to the safeguard requirements that MDBs apply to their own direct lending. However, a close examination of the current safeguard policies of the six MDBs reviewed here indicates that such exclusion policies are generally applicable to both direct lending and FIs, but with diverse applications depending on the specific type of lending operation. For some MDBs there are instances of overlap among Exclusion/Prohibition Lists and statements in their safeguard policies or operational requirements for borrowers. These instances tend to arise for those Lists that are designed to apply to one or more categories of FIs that may not be held accountable to operational safeguard requirements due to the nominally low risk nature of their proposed activities.

<sup>35</sup> Categorical exclusions and prohibitions included in MDB procurement policies have not been included in this comparative analysis as procurement policy is outside the scope of the Bank’s SRU and, accordingly, beyond the scope of this report. Moreover, application, implementation and monitoring of procurement provisions are not subject to the same procedures as MDB operational safeguard requirements.



World Bank, have such formal lists as described below, which are either structurally incorporated into their safeguard frameworks or cited by reference in such frameworks. However, many MDBs continue to use operational safeguards and/or procurement policy to articulate and implement various exclusions and prohibitions.<sup>36</sup> Accordingly, as this analysis is limited to stand-alone exclusion or prohibition lists, it is not intended to be exhaustive and the absence of a particular product or activity from its exclusion or prohibition list does not mean that the MDB does not exclude or prohibit the activity elsewhere in its safeguard framework or in its procurement policy.

**World Bank.** As stated above, the OPs for environmental and social safeguards do not include or reference a consolidated list of activities or products that are categorically excluded or prohibited from inclusion in Bank-supported investment lending projects. In some instances the OPs applicable to investment lending may prohibit the Bank from supporting and/or the borrower from undertaking projects that result in specified adverse environmental or social impacts.<sup>37</sup> However, these prohibitions apply only if the particular OP is applied, whereas other MDB exclusions and prohibitions apply under all circumstances.

Alone among MDBs included in this review, the World Bank has not issued a formal list of excluded or prohibited activities related to environmental and social safeguards but has relied on its Policy on Procurement as well as the “Multilateral Development Bank Harmonised Conditions of Contract for Construction for Building and Engineering Works Designed by the Employer” (June 2010)<sup>38</sup> and its operational safeguard requirements to articulate and implement its categorical exclusions and prohibitions.

For example, Bank OP 8.60 Development Policy Lending (DPL) refers to “excluded expenditures,”<sup>39</sup> but these exclusions apply only to borrower procurement under DPLs and not to Investment Lending. Bank OP 4.76 (1999) states that “[t]he Bank does not [with specified exceptions<sup>40</sup>] lend directly for investment in, or guarantee investments or loans for tobacco production, processing or marketing....To the extent practicable, the Bank does not lend indirectly for tobacco production activities, although [such] support....may occur as an

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<sup>36</sup> For example, EBRD relies on Performance Standard 2 for exclusions and prohibitions related to labor and working conditions.

<sup>37</sup> E.g., OP 4.01 prohibits projects that contravene the borrower country’s obligations under international agreements; OP 4.04 contains a prohibition against conversion or degradation of “critical natural habitats;” OP 4.36 prohibits significant conversion or degradation of critical forest area; OP. 4.09 prohibits the use of specified categories of pesticides under certain circumstances; OP 4.12 prohibits involuntary land acquisition absent specified pre-conditions; and OP 4.11 prohibits certain activities adversely affecting physical cultural resources.

<sup>38</sup> <http://fidic.org/node/321>

<sup>39</sup> Footnote 17 refers to “Excluded expenditures” consisting of “among others alcohol beverages, tobacco products, luxury items, military goods, radioactive and nuclear reactors, environmentally hazardous goods...”

<sup>40</sup> “Exceptions, which must be approved by the Vice President [Operations and Strategy, currently Operations Policy and Country Services], may be allowed for countries that are heavily dependent on tobacco as source of income (especially for poor farmers and farm workers) and foreign exchange earnings (i.e., ...where tobacco accounts for more than ten percent of exports).”

inseparable part of a project that has a broader set of objectives and outcomes (e.g., rural roads).”<sup>41</sup>

**ADB** states in its SPS that it “will not finance activities on the prohibited investment activities list.”<sup>42</sup> With respect to FIs, the SPS states that the “screening established under the [FI’s Environmental and Social Management System] will ensure that all subprojects are screened against the prohibited activities list (Appendix 5)...[and] that subprojects involving ...activities included in the prohibited investment activities list do not qualify for FI support using ADB funds...”<sup>43</sup>

**AfDB** issued a “Negative List” in 2008 as part of its “Revised [Procurement] Policy on Expenditures Eligible for Bank Group Financing.” AfDB subsequently incorporated the Negative List into the ISS and supplemented it with additional specified exclusions of “public and private investment in activities and products.... that are harmful to the physical and social environment.”<sup>44</sup>

**EIB’s** “List of Excluded Activities” (List) issued on April 22, 2013, refers to “activities excluded from EIB [direct] lending” as well as to “intermediated operations (including through funds).” In addition, EIB’s List states that additional exclusions apply subject to “EU Parliament and Council decisions as well as various EU partnership agreements” as well as “on the basis of [agreed] side letters.”<sup>45</sup>

**EBRD’s** “Environmental and Social Exclusion List,” Appendix I of the Environmental and Social Policy (ESP), states that “EBRD will not knowingly finance, directly or indirectly, projects involving the following...” In addition, EBRD has published on its website a list of other types of projects it does not finance, such as defense sector, tobacco, etc., although these are not cited in the Exclusion List accompanying the ESP.<sup>46</sup>

**IDB’s** “Exclusion List” applies to four separate categories of projects or operations, but does not appear to apply to direct lending to public sector borrowers: (1) non-sovereign guaranteed loans;<sup>47</sup> (2) trade finance operations; (3) projects financed by the Inter-American Investment Corporation (IIC); and (4) projects financed by the Multilateral Investment Fund. In addition IDB policy states that Bank procurement procedures will include a Bank-approved exclusion list of

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<sup>41</sup> Per OP 4.76, the Bank’s prohibition of tobacco-related activity is justified on the basis of “Bank activities in the health sector [which] ....discourage the use of tobacco products.”

<sup>42</sup> SPS Appendix 5, para. 47.

<sup>43</sup> SPS Appendix 4, para. 14.

<sup>44</sup> Integrated Safeguards Policy Statement, para. 18.

<sup>45</sup> [http://www.eib.org/attachments/documents/excluded\\_activities\\_2013\\_en.pdf](http://www.eib.org/attachments/documents/excluded_activities_2013_en.pdf). However, the Environmental and Social Handbook issued in January 2014 makes no references to the Excluded Activities List or its role in the screening process for either direct lending or intermediated operations.

<sup>46</sup> See <http://www.ebrd.com/pages/workingwithus/projects/what.shtml>

<sup>47</sup> Per IDB, in practice, the Exclusion List also applies in practice to all-sub-loans, including those made by FIs.

environmentally harmful products.<sup>48</sup> “Category C projects financed directly by IDB may require ... compliance with exclusion lists.”<sup>49</sup>

**IFC’s** Policy on Environmental and Social Sustainability states that “[t]here are several types of activities that IFC does not support, either through its investments or advisory services. These activities are set out in the IFC Exclusion List.”<sup>50</sup> The IFC “Exclusion List” applies to all IFC financing with diverse supplemental exclusions applicable to the following three categories of indirect lending: (i) all financial intermediaries; (ii) microfinance activities; and (iii) trade finance projects.

Annex 3 of this report contains a Table comparing the exclusion lists of all six MDBs, indicating the category of investment vehicles to which they apply.

### **Thematic Analysis**

Aside from a few references to generic exclusions based on general inconsistency with safeguard policies, the targets of MDB categorical exclusion policies may be grouped into the following four categories: (1) Biodiversity; (2) Social Impact and Risk; (3) Products; and (4) Commerce. The exclusions are listed in the order in which they are most widely adopted,<sup>51</sup> with variations regarding application to diverse direct and indirect lending instruments.

#### *(1) Biodiversity Exclusions*

- Commercial logging operations or the purchase of logging equipment for use in primary tropical moist forests or old-growth forests (ADB, AfDB, IDB, IFC);
- Driftnet fishing in the marine environment using nets of 2.5 km or more in length<sup>52</sup> (ADB,<sup>53</sup> EBRD, IDB, IFC);
- Significant degradation of critical natural habitats (protected areas, parks and high conservation areas) (IDB);<sup>54</sup> and
- Genetically modified organisms (EIB).<sup>55</sup>

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<sup>48</sup> OP-703, Directive B.17.

<sup>49</sup> IDB, Implementation Guidelines for the Environment and Safeguards Policy, Policy Directive B.5.

<sup>50</sup> IFC, Policy on Environmental and Social Sustainability, para. 19. and relevant IFC website:

[http://www.ifc.org/wps/wcm/connect/Topics\\_Ext\\_Content/IFC\\_External\\_Corporate\\_Site/IFC+Sustainability/Sustainability+Framework/IFC+Exclusion+List/](http://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/IFC+Sustainability/Sustainability+Framework/IFC+Exclusion+List/)

<sup>51</sup> The language used to describe the exclusion is identical to the language used by at least one of the MDBs and in most cases by the other indicated subscribers. Any significant exceptions or deviations are cited in the footnotes accompanying Annex 4.

<sup>52</sup> United Nations General Assembly (UNGA) Resolution 46/215 (1991) called for a global moratorium on large-scale high seas driftnet fishing, but did not define “large scale” driftnets. Other international agreements have consistently defined “large driftnets” as “gillnets or other nets or a combination of nets that are more than 2.5 kilometers in length whose purpose is to enmesh, entrap, or entangle fish by drifting on the surface of, or in, the water column.” See for example <http://www.wcpfc.int/system/files/CMM%202008-04%20%5BDriftnets%5D.pdf>

<sup>53</sup> ADB does not specify an allowable minimum length for driftnets.

<sup>54</sup> This prohibition is consistent with the safeguard policies of some other MDBs.

<sup>55</sup> EIB’s exclusion applies only where “prohibited by national legislation.”

*(2) Social Exclusions*

- Harmful or exploitative forms of child labor (ADB, AfDB, IDB, IFC);
- Harmful or exploitative forms of forced labor (ADB, AfDB, IDB, IFC);
- Gambling, casinos, and enterprises (ADB, EBRD, EIB,<sup>56</sup> IDB, IFC);
- Sex trade and related infrastructure, services and media (EIB);
- Abortion clinics (EIB);<sup>57</sup>
- Animal testing (EIB);<sup>58</sup>
- Projects resulting in limiting peoples' individual rights and freedom in violation of human rights (EIB);<sup>59</sup>
- Projects with a political or religious content (EIB);
- Discriminatory labor practices (IDB);
- Labor practices that prevent employees from freely exercising their right to association and collective bargaining (IDB);
- Non-compliance with workers' fundamental principles and rights at work (IDB);
- Ethically or morally controversial projects (EIB);
- Involuntary Resettlement of indigenous or other low-income ethnic minorities in rural areas without their informed consent (EBRD, IDB); and
- Production or activities that have potentially significant adverse impacts that carry a high degree of risk to the physical, territorial or cultural integrity of Indigenous Peoples, without the agreement of such peoples to the project and measures to address the adverse impacts (IDB, IFC).<sup>60</sup>

*(3) Product Exclusions (applying to the production, use and/or trade in) the following:*

- Weapons or munitions (ADB, AfDB, EBRD, EIB,<sup>61</sup> IDB, IFC);
- Unbonded asbestos fibers (ADB, AfDB, EBRD,<sup>62</sup> IDB, IFC);
- Alcoholic beverages (ADB, AfDB, IFC);
- Tobacco (ADB, AfDB, EBRD, EIB,<sup>63</sup> IDB, IFC);

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<sup>56</sup> EIB's exclusion applies to hotels with in-house casinos as well as "related equipment."

<sup>57</sup> EIB's exclusion applies only where this activity is "prohibited by national legislation."

<sup>58</sup> Per EIB's List of Excluded Activities, "[a]ctivities involving live animals for experimental and scientific purposes are eligible insofar as in compliance with...Directive 2010/63/EU of the European Parliament and of the Council of 22 September 2010 on The Protection of Animals Used for Scientific Purposes."

<sup>59</sup> In compliance with the Charter of Fundamental Rights of the European Union.

<sup>60</sup> This prohibition is referenced in IFC's exclusion list for microfinance projects.

<sup>61</sup> EIB's exclusion extends to "military/police equipment or infrastructure" as well as "explosives and sporting weapons."

<sup>62</sup> EBRD also excludes "asbestos-containing products."

<sup>63</sup> EIB's exclusion extends to production, manufacturing, processing and distribution of tobacco or tobacco products.

- Radioactive materials including nuclear reactors and components thereof<sup>64</sup> (ADB, AfDB, EIB,<sup>65</sup> IDB, IFC);
- Ozone depleting substances subject to international phase out (ADB, EBRD, IDB, IFC);
- Significant or commercial scale volume of “hazardous chemicals” (ADB,<sup>66</sup> IDB, IFC);
- Persistent organic pollutants production and trade in products containing polychlorinated biphenyls (PCBs) (ADB, EBRD, IDB, IFC);
- Production or trade in wood or other forestry products other than from sustainably managed forests (IFC); and
- Platinum, pearls, precious stones, gold and related products and other “luxury consumer goods” (AfDB).

*(4) Commercial exclusions. These exclusions refer primarily to commerce (and to a lesser extent production) of the following products and activities:*

- Any product or activity deemed illegal under host country laws or regulations (ADB, AfDB, EIB, EBRD, IDB, IFC);
- Any product or activity deemed illegal under international conventions and agreements (ADB, AfDB, EBRD, IDB, IFC);
- Any product or activity (such as pharmaceuticals, pesticides/herbicides and other hazardous substances) subject to international phase out or bans (ADB, AfDB, EBRD, IDB, IFC);
- Wildlife or wildlife products regulated under CITES (ADB, AfDB, EBRD, IDB, IFC);
- Transboundary movements of waste products prohibited under international law (ADB, EBRD, IDB);
- Goods without required export or import licenses or other evidence of authorization of transit from the relevant countries of export, import and if applicable, transit (EBRD);
- Shipment of oil or other hazardous substances in tankers which do not comply with International Maritime Organization Requirements (EBRD).<sup>67</sup>

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<sup>64</sup> All MDBs apply an exception for the purchase of medical equipment, quality control (measurement) equipment, and any equipment for which the radioactive source is considered by the MDB “to be trivial and adequately shielded.”

<sup>65</sup> EIB’s exclusion applies only where this activity is “prohibited by national legislation.”

<sup>66</sup> As listed in the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention).

<sup>67</sup> Per EBRD, this prohibition applies to “tankers which do not have all required MARPOL SOLAS certificates (including, without limitation, ISM Code compliance), tankers blacklisted by the European Union or banned by the Paris Memorandum of Understanding on Port State Control (Paris MOU) and tankers due for phase out under MARPOL regulation 13G. No single hull tanker over 25 years old should be used.”

## 7. COMPARISON OF OPERATIONAL SAFEGUARDS APPLICABLE TO BORROWERS

### A. Objectives and Scope of this Review

Another objective of the review is to identify “innovative” *operational requirements* that have been adopted by the Bank’s major MDB counterparts since 2006,<sup>68</sup> when the Bank issued the most recent of its eight Operational Policies (OPs) relating to environmental and social safeguards (see Box 2). The word “innovative” as used here assumes that MDBs have taken existing Bank OPs into account when revising their respective environmental and social safeguard requirements applicable to borrowers. The requirements cited below are deemed “innovative” in relation to corresponding existing Bank safeguard requirements, as well as in relation to previous versions of these MDBs’ safeguard provisions. Use of the word “innovative” in this context is not intended to convey any value judgment as to whether the provisions cited are more protective of the environment or project affected people than the corresponding provisions of the Bank’s OPs, as Bank OPs contain a number of unique provisions not replicated by other MDBs or included in this analysis. Likewise no value judgments are stated or implied as to the transactional feasibility of these provisions, borrower and/or MDB compliance with them or the results of their application.

This section focuses exclusively on the operational safeguards<sup>69</sup> of public sector oriented MDBs (ADB, AfDB, EIB and IDB). It does not include institutions that provide most of their support directly to the private sector, such as EBRD, or the Bank’s own private sector affiliates, the

IFC and the Multilateral Investment Guarantee Agency (MIGA). The decision to limit the scope of this section of the report to public sector oriented MDBs was made in order to identify safeguard requirements that have been applied to public sector clients, who comprise the

#### Box 2. World Bank Safeguard Policies

- OP 4.01, Environmental Assessment was issued in January 1999 and has been incrementally revised through 2012, although the majority of its provisions were already in place in 1999;
- OP 4.04, Natural Habitats, was issued in June 2001;
- OP 4.09, Pest Management, was issued in December 1998 with minor revisions in 2004;
- OP 4.37, Safety of Dams, was issued in October 2001;
- OP 4.36, Forests, was issued in November 2002;
- OP 4.12, Involuntary Resettlement, was issued in December 2001 and revised in August 2004 to ensure consistency with the requirements of OP 8.60; revised in March 2007 to reflect the issuance of OP 8.00, Rapid Response to Crises and Emergencies, updated in February 2011 to clarify the Use of Escrow Accounts in order to Help Reduce Delays in Implementation of Resettlement, and Clarification of Funding of Grievance Mechanisms.
- OP 4.10, Indigenous Peoples, was issued in July 2005; and
- OP 4.11, Physical Cultural Resources, was issued in July 2006.

<sup>68</sup> In a few cases the “new” measures cited were adopted prior to 2006. Several are to be found in IDB’s 1998 Operation Policy 710 on Involuntary Resettlement, which has not been substantively revised since that time.

<sup>69</sup> The term “operational safeguards” refers generally to MDB safeguard policy requirements that apply to borrowers on a mandatory basis, thereby corresponding to the World Bank Operational Policies. In a few instances, in particular with respect to EIB and IDB, it has been necessary to cite (in Annex 4) procedural sources for clarification of significant terms and the application of particular requirements.

World Bank’s core clientele, as distinct from the private sector clients of IFC/MIGA<sup>70</sup> and EBRD.<sup>71</sup>

It is important to note that in an equal number of instances, the Bank’s OPs include operational requirements that are absent from the operational safeguards of the counterpart MDBs or, if they are included, are narrower in scope or less prescriptive than those of the Bank. However, since the objective of this review is to inform the World Bank SRU process, it does not focus on those operational safeguard provisions that are unique to the Bank. Accordingly, this report should not be considered as a comprehensive “comparative analysis” of Bank and counterpart MDB operational safeguard requirements. (A textual comparison of the findings is presented in matrix format in Annex 4 of this report.)

## B. Findings

The environmental and social issues addressed by ADB, EIB and IDB are substantially the same as those of the World Bank. With respect to AfDB and EIB, substantial portions of Operational Safeguard (OS) 5 and EIB Standards 8 and 9 (Labor Conditions, Health and Safety) are outside the scope of the World Bank OPs and, accordingly, are addressed in the comparison of thematic coverage (Section 5 and Annex 2 of this report).

The following Table summarizes the main findings of this detailed comparative review. The corresponding operational safeguard requirements of the World Bank and the alternative or incremental safeguard requirements of the other MDBs are cited verbatim in Annex 4, for those seeking a more detailed perspective, with direct citations from MDB operational safeguard requirements.

**Table 3. Summary of Innovative MDB Operational Safeguard Requirements Applicable to Borrowers**

<b>World Bank OP 4.01 Environmental Assessment (EA)</b>	
✓	EA process to incorporate/address (when appropriate):
✓	more explicit definitions of “associated” and “cumulative” impacts (ADB, AfDB, EIB, IDB);
✓	use of specific methodology for screening for “climate change risk” to projects (AfDB); <sup>72</sup> greenhouse gas (GHG) emissions monitoring and reporting requirements (ADB, AfDB, EIB, IDB);
✓	more explicit reference to socio-economic impacts, including vulnerable groups, gender issues, surrounding communities and poverty conditions (ADB, AfDB, EIB);
✓	explicit framework for consultation with affected transboundary parties (ADB, EIB);
✓	Detailed requirements for conduct of SEA (ADB, EIB, IDB);
✓	“Free, prior and informed engagement” [FPIE] as a standard for public consultation and participation (EIB); <sup>73</sup>

<sup>70</sup> Although MIGA uses IFC Performance Standards it provides political risk insurance rather than financing exclusively to private sector clients.

<sup>71</sup> The report acknowledges that ADB, AfDB EIB and IDB apply their respective safeguard systems to private sector lending and that EBRD applies its Performance Requirements to the public sector clients that comprise approximately 20 percent of its portfolio.

<sup>72</sup> Several MDBs categorize natural habitats as “critical,” “modified” or [non-critical] “natural habitats.”

<sup>73</sup> EIB distinguishes FPIE from FPIC as used in the context of Indigenous Peoples.

<ul style="list-style-type: none"> <li>✓ EA and EMP must be in full <i>compliance with</i> country laws and regulations (as well as a country's international obligations) (ADB, AfDB, EIB);<sup>74</sup></li> <li>✓ "Precautionary approach" to all environmental impacts<sup>75</sup> (ADB, IDB, EIB);</li> <li>✓ Impact assessment of pollutants on environmental carrying capacity, land use, surrounding communities, poverty conditions, and transboundary receptors (AfDB, in part EIB);</li> <li>✓ Periodic monitoring report and corrective actions required by EMP documented and disclosed (ADB);</li> <li>✓ Inclusion of affected parties in monitoring ESMP (ADB, EIB for specific aspects of ESMP);</li> <li>✓ Affected parties kept informed of project-related environmental and social mitigation measures as defined in the ESMP (IDB);</li> <li>✓ Grievance redress mechanism (GRM) during the entire project cycle to facilitate resolution of affected peoples' grievances regarding the environmental and social performance of the project (ADB, AfDB, EIB, IDB);</li> <li>✓ Disaster Risk Assessment (IDB).<sup>76</sup></li> </ul>
<b>World Bank OP 4.04 Natural Habitats</b>
<ul style="list-style-type: none"> <li>✓ More specific provisions regarding ecosystem services necessary for subsistence purposes and extraction of renewable natural resources, and/or use and commercialization of indigenous knowledge as the basis for application of safeguard policy (ADB, AfDB);<sup>77</sup></li> <li>✓ Use of a refined three-fold categorization of habitats(ADB);<sup>78</sup></li> <li>✓ Broader definition of "critical habitats" to include "<i>globally significant concentrations of migratory species and/or congregatory species;</i>" "<i>regionally significant and/or highly threatened or unique ecosystems;</i>" areas that are associated with "<i>key evolutionary processes;</i>" areas that are important to species that are "<i>vital to ecosystems,</i>" such as "<i>keystone species;</i>" and areas that "<i>supply ecological networks</i>"(ADB, AfDB);</li> <li>✓ Authorization to support projects in areas of "critical habitat" if specified conditions are met. (ADB, AfDB);</li> <li>✓ Borrower to comply with national and local regulations and consult with relevant stakeholders where such regulations permit projects to encroach on legally or internationally recognized areas or areas proposed for protection or international recognition (AfDB);</li> <li>✓ Special attention to "major threats to biodiversity" (i.e., wildlife poaching and harvesting of indigenous ornamental flora and fauna) (ADB, EIB);</li> <li>✓ Biodiversity Impact Assessment to offer a comprehensive picture of the likely direct, indirect, induced and cumulative impacts of the operation on habitats, species and ecosystems (EIB);</li> <li>✓ Biodiversity Management Plan to specify proposed measures of avoidance, minimization and compensation for biodiversity impacts (EIB);</li> </ul>

<sup>74</sup> OP 4.01 specifies that the Bank does not finance activities that "contravene a country's national or international obligations."

<sup>75</sup> This refers to GRMs that apply to all safeguard policies. The Bank only expressly requires a GRM under its involuntary resettlement and Indigenous Peoples policies.

<sup>76</sup> IDB, OP-704, Disaster Risk Management Policy.

<sup>77</sup> OP 4.04 and OP 4.36 refer more generally to ecological or natural habitat functions or ecosystem functionality. Other MDBs include ecosystem services (such as "environmental flows") as critical measurable inputs with respect to both environmental and social impacts.

<sup>78</sup> These provisions closely parallel the approach taken by IFC in PS 6. AfDB classifies habitats as either "natural," "modified," or "critical." EIB classifies the habitats as either "natural," "semi-natural," or urban while noting that "critical habitats can be found in all three habitat classes."



<ul style="list-style-type: none"> <li>✓ Where offsets are proposed, a separate Offset Implementation and Management Plan to be developed (ADB, EIB, AfDB);<sup>79</sup></li> <li>✓ Assessment of the value and prioritization of specified “ecosystem services” for affected communities (ADB, AfDB, EIB, IDB);</li> <li>✓ More express requirement regarding assessment and management of “environmental flows” in relation to their impacts on upstream and downstream biodiversity and ecosystem functions (AfDB, EIB, IDB);<sup>80</sup></li> <li>✓ Landscape or seascape level impact assessment of projects located “in or near” a natural or critical habitat or near a legally protected or internationally recognized area (AfDB, EIB);</li> <li>✓ “Net benefit” or “no net loss” of biodiversity as criteria for offsets (ADB, AfDB, EIB);</li> <li>✓ Requirement or preference for use of internationally recognized system of certification for use of renewable natural resources (ADB, AfDB);<sup>81</sup></li> <li>✓ Supply chain management of living resources (AfDB, EIB);</li> <li>✓ Direct reference to specific Multilateral Environmental Agreements<sup>82</sup> (ADB, AfDB, EIB, IDB).</li> </ul>
<p><b>World Bank OP 4.36 Forests</b></p>
<ul style="list-style-type: none"> <li>✓ Biodiversity conservation expressly stated as an “integral... criterion” for siting of timber concessions (ADB, EIB);<sup>83</sup></li> <li>✓ Management criteria for second growth forests, and agro-forestry (ADB, EIB);</li> <li>✓ Assessment of impacts of plantation forests on specified ecosystem services (AfDB, EIB).</li> </ul>
<p><b>World Bank OP 4.12 Involuntary Resettlement (IR)</b></p>
<ul style="list-style-type: none"> <li>✓ Application of IR safeguard to both “permanent” and “temporary” displacement (ADB, EIB, IDB);</li> <li>✓ Application of policy to “actions conducted by the borrower...in anticipation of [ADB] projects” (ADB);</li> <li>✓ Impact assessment of IR to include impacts on cultural sites (AfDB);</li> <li>✓ Recognition of “food security,” “morbidity and mortality,” “cultural and psychological” impacts of insufficiently mitigated IR (IDB);</li> <li>✓ Special consideration to claims of seasonal resource users “who may not be present during a census” (AfDB, EIB);</li> <li>✓ Borrowers to improve the standards of living of the displaced poor to at least “minimum national standards”<sup>84</sup> (ADB, IDB, EIB);</li> <li>✓ “Adequate housing” must meet criteria specified by the UN Habitat, Office of the UN High Commissioner for Human Rights (EIB);</li> <li>✓ Social Impact Assessment to include gender disaggregated information (ADB, EIB, IDB);</li> <li>✓ Particular attention to gender concerns and gender-based resettlement measures (ADB, EIB);</li> </ul>

<sup>79</sup> Under OP 4.01 and 4.04, such an offset management plan would be included as part of the EMP.

<sup>80</sup> The World Bank requires the EA to take into account impacts on watershed and estuaries and promotes the protection of natural habitat and ecological functions in these areas.

<sup>81</sup> The World Bank, per OP 4.36, Forests, requires borrowers to obtain independent certification (as defined in the OP) for commercial or industrial scale timber harvesting but not for other renewable natural resources.

<sup>82</sup> For example ADB, AfDB and IDB cite the Convention on Biological Diversity, the Convention on International Trade in Endangered Species of Wild Flora and Fauna, the Ramsar Convention on Wetlands of International Importance, among others.

<sup>83</sup> OP 4.01 requires all environmental and social concerns to be taken into account for the design and siting of all projects.

<sup>84</sup> The World Bank (OP 4.12) requires income restoration to a minimum of pre-project levels with the objective of achieving net improvement in living standards for project affected people. IDB requires minimum standards of habitability for housing, and for livelihoods, restoration at a minimum to pre-resettlement levels and improvement in sharing of project benefits, where feasible (IDB, OP-710, Involuntary Resettlement).

## Comparative Review of MDB Safeguard Systems

<ul style="list-style-type: none"><li>✓ Detailed “Impoverishment Risk Analysis” required as an input to the Resettlement Plan (IDB);</li><li>✓ Depending on the specific context of the project, vulnerable groups may include those who are physically handicapped (AfDB);</li><li>✓ Compensation package to take account of “intangible...social and cultural assets” (IDB);</li><li>✓ Counseling for recipients of cash compensation on risks of misuse (AfDB);</li><li>✓ Access to safe drinking water and irrigation facilities as part of resettlement assistance (AfDB, EIB);</li><li>✓ When feasible, in-kind replacements to be applied as compensation for loss of common property resources (i.e., rivers, lakes, forest resources) (AfDB, EIB);</li><li>✓ “Broad Community Support” required for IR (AfDB, EIB);</li><li>✓ Detailed analysis of impacts on, and specified benefits to host communities (ADB, AfDB, EIB, IDB);</li><li>✓ Requirement for 120 day pre-Board presentation for disclosure of full Resettlement Plan (rather than prior to Appraisal). (AfDB ISS, OS 2, para. 30);<sup>85</sup></li><li>✓ Requirement for prior informed consent and direct benefits to resettled indigenous or other rural ethnic communities (IDB).</li></ul>
<b>World Bank OP 4.10 Indigenous People (IP)</b>
<ul style="list-style-type: none"><li>✓ Pre-colonial ancestry one of the criteria for identification of Indigenous Peoples (IDB);</li><li>✓ Application of policy to “trans-border” and “un-contacted” Indigenous Peoples (IDB);</li><li>✓ Use of “dynamic” monitoring systems (inspections, audits, semi-annual monitoring reports) (ADB);</li><li>✓ Use of adaptive management of Indigenous Peoples Plans (IPPs) to manage unanticipated impacts; disclosure of updated IPPs (ADB);</li><li>✓ Use of “broad community support” as an indicator of “consent” (ADB);<sup>86</sup></li><li>✓ Use of “independent advisory panels of experts, including an Indigenous Peoples expert” for preparation and implementation of IPPs (ADB);</li><li>✓ Cultural heritage requirements that apply to both “tangible” and “intangible heritage” (AfDB, EIB).</li></ul>

<sup>85</sup> The World Bank requires RAP disclosure prior to Appraisal, which in many, if not most instances, precedes Board approval by 120 days.

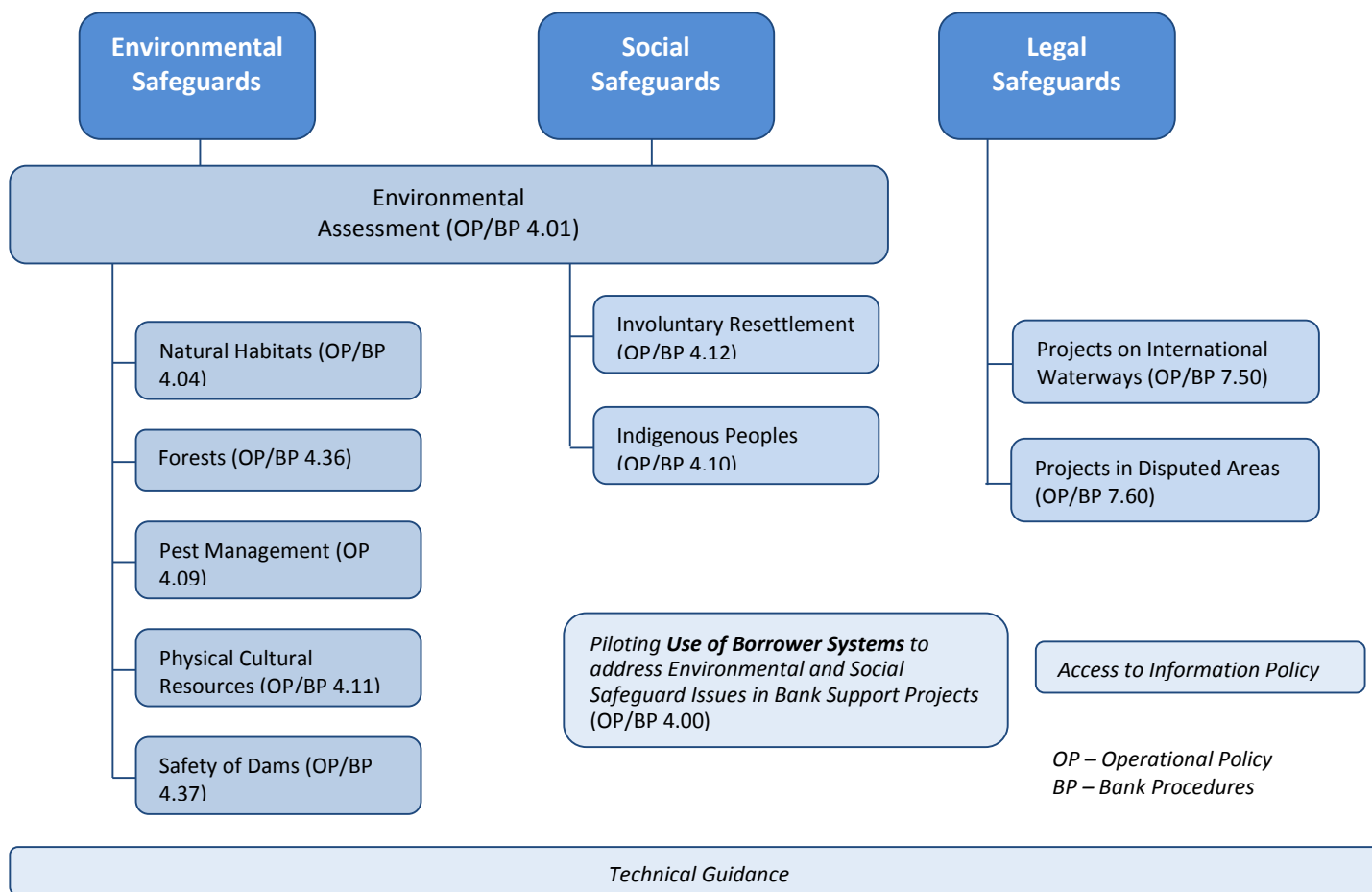
<sup>86</sup> The World Bank (OP 4.10) requires “free, prior, informed consultation” leading to a finding of “broad community support.”

## **Key References**

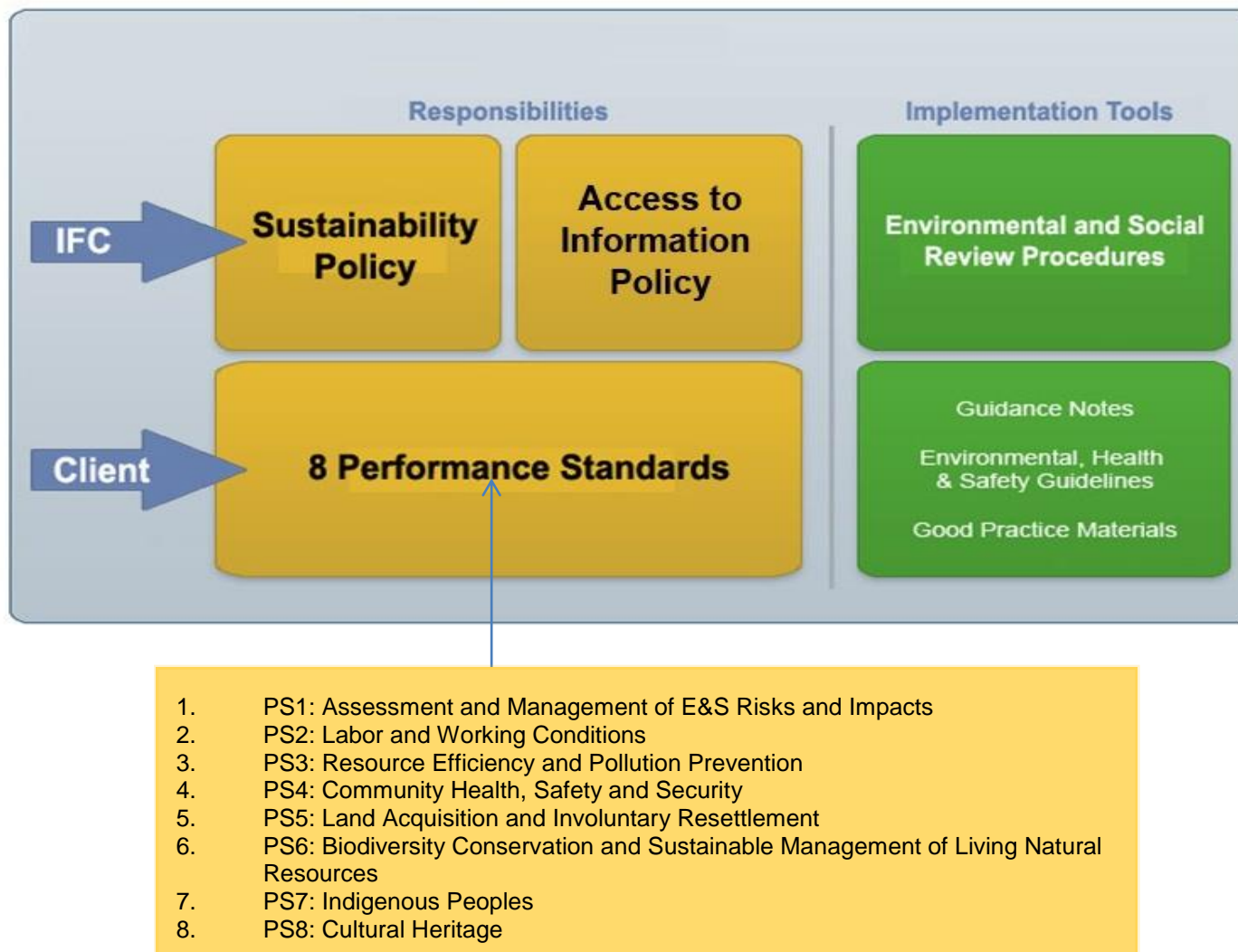
- African Development Bank, Integrated Safeguard System, December 2013
- Asian Development Bank, Safeguard Policy Statement, July 2009
- European Bank for Reconstruction and Development, Environmental and Social Policy, May 2014
- European Investment Bank, Statement of Environmental and Social Principles and Standards, 2009, and Environmental and Social Handbook, December 2013
- Inter-American Development Bank, Operational Policies on Environment and Safeguards Compliance, 2006; Indigenous Peoples, 2006; Involuntary Resettlement 1995; and Gender Equality in Development, 2010
- International Finance Corporation, Safeguard Policy Framework, 2012
- World Bank, Operational Policies 4.01, 4.04, 4.09, 4.10, 4.11, 4.12, 4.36 and 4.37
- World Bank - Proposed Review and Update of the World Bank's Safeguard Policies, Approach Paper, October 10, 2012
- World Bank, Independent Evaluation Group (IEG), Safeguards and Sustainability Practices in a Changing World (2010)

## ANNEX 1. ARCHITECTURE OF MDB SAFEGUARD FRAMEWORKS

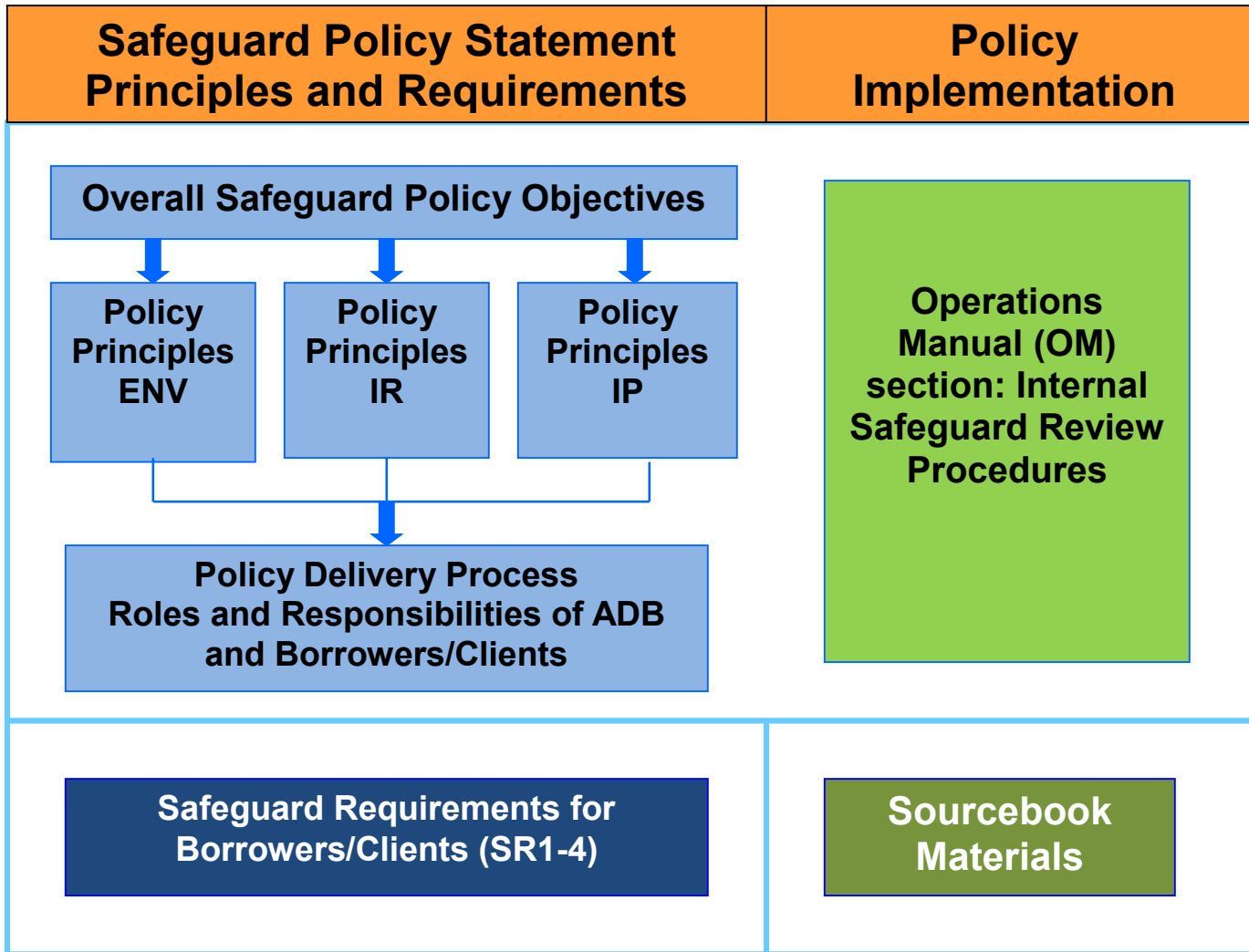
### Annex 1.1. World Bank Safeguard System



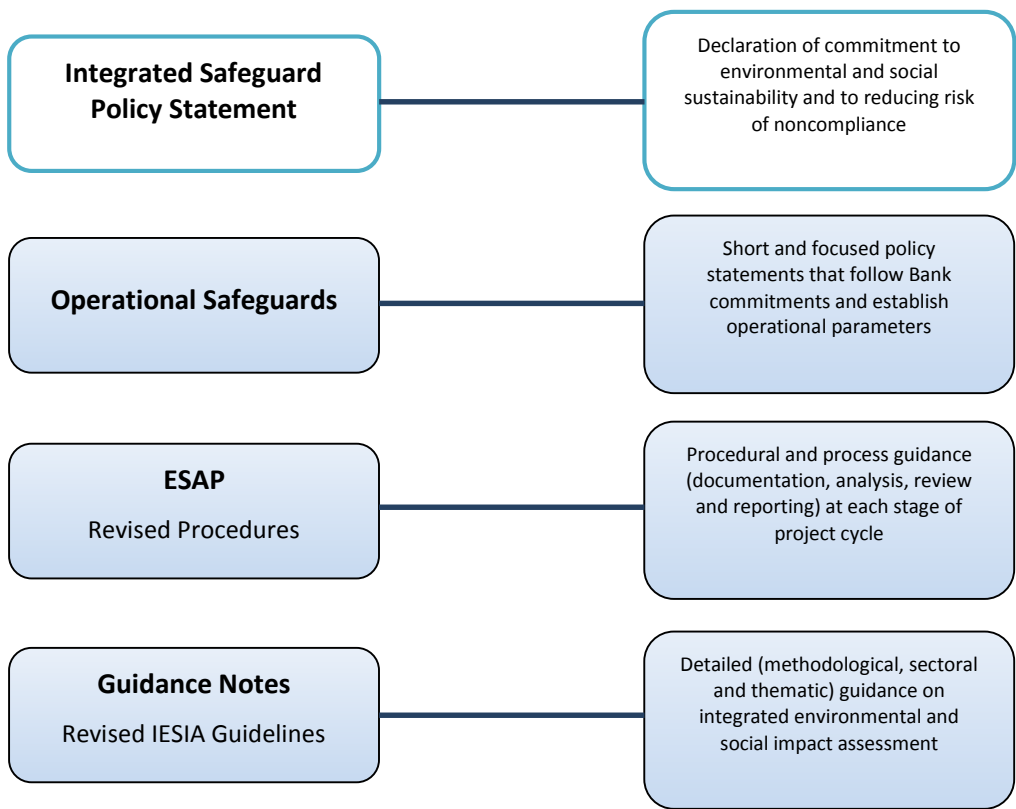
## Annex 1.2. IFC – Sustainability Framework



Annex 1.3. ADB – Safeguard Policy Statement



### Annex 1.4. AfDB – Conceptual Diagram of the Integrated Safeguards System



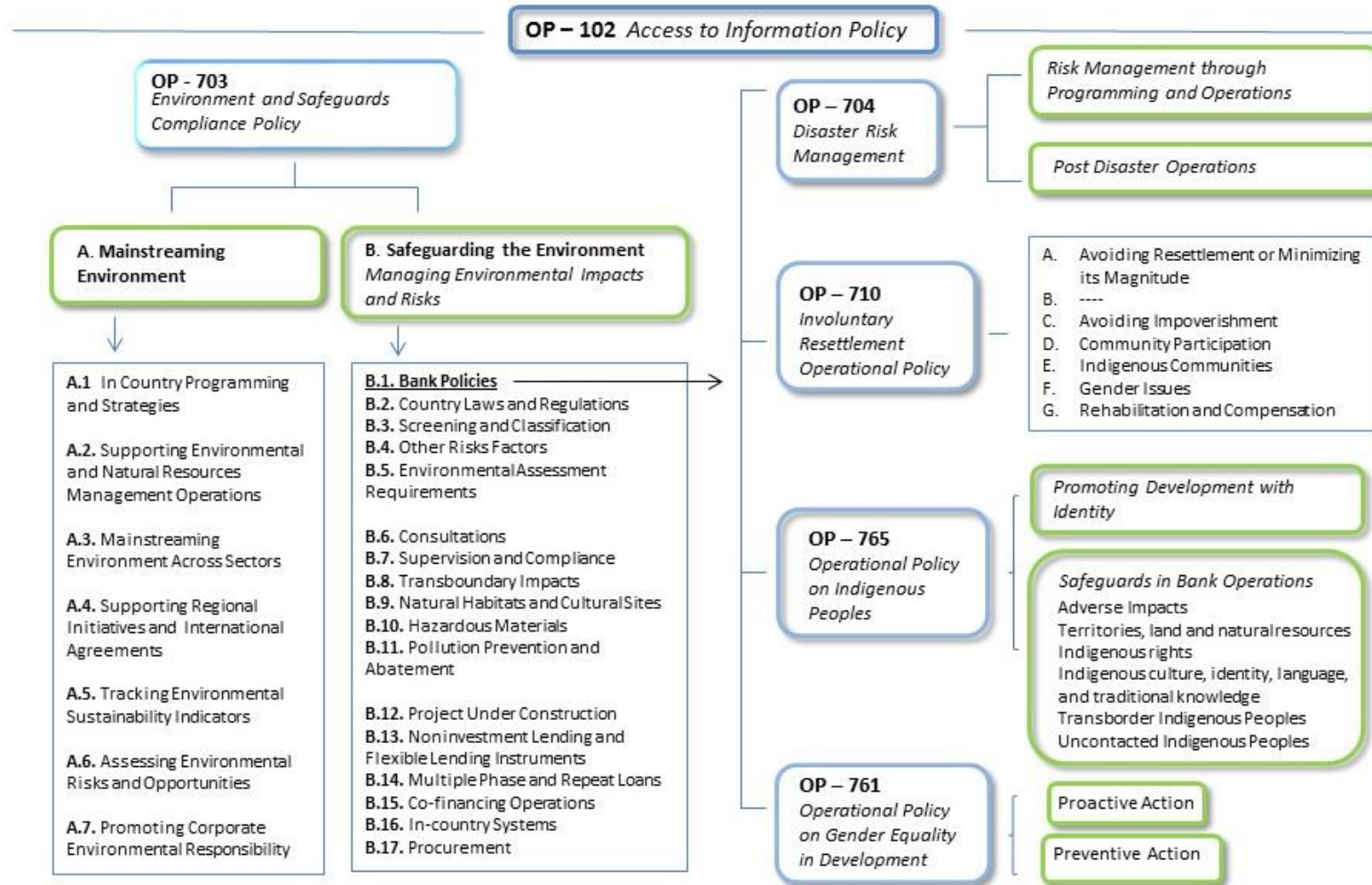
Source: AfDB's integrated Safeguards System. Policy Statement and Operational Safeguards (March 2013)

**Annex 1.5. EBRD Environmental and Social Policy (ESP)**

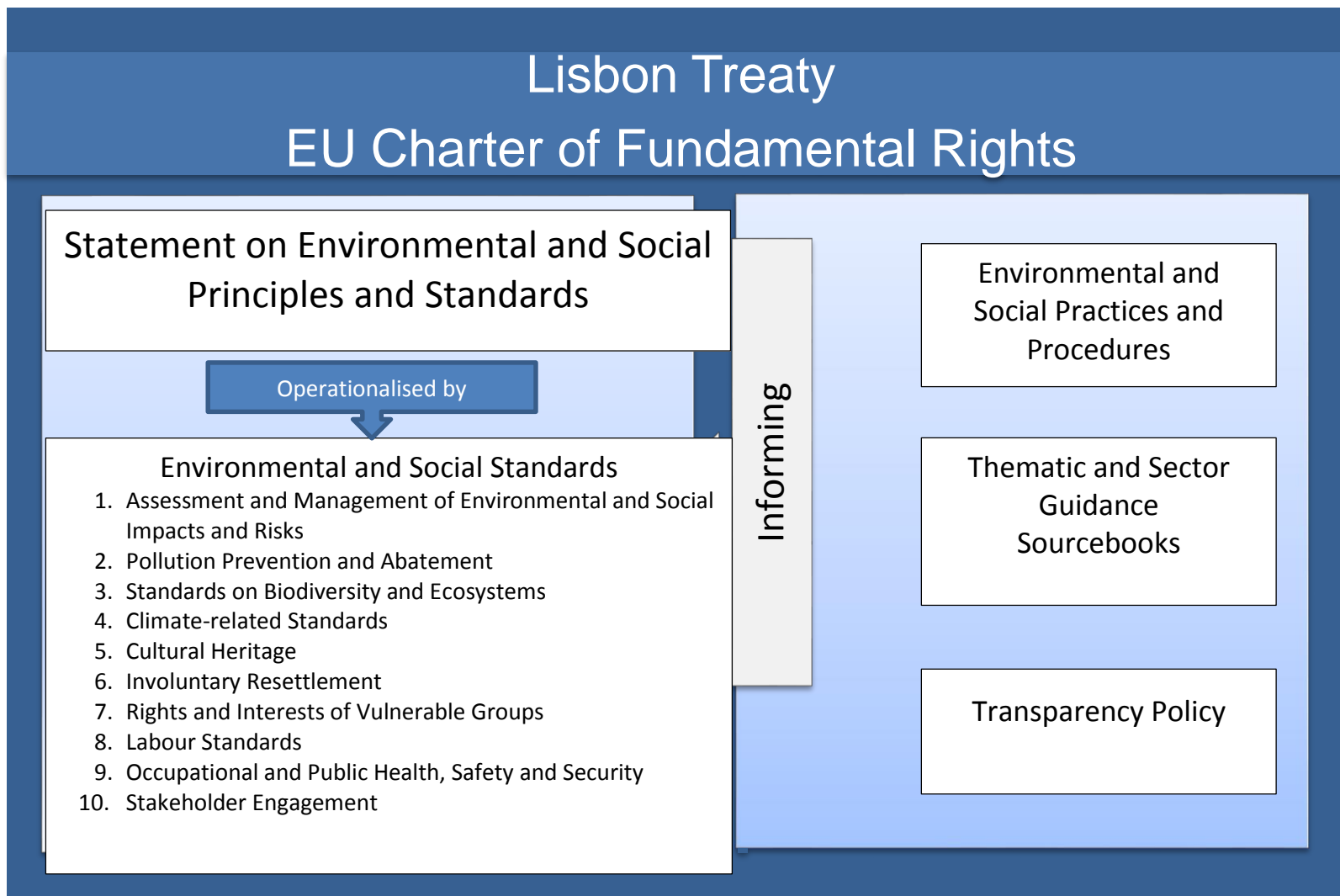
<b>EBRD 2008 Environmental and Social Policy (ESP)</b>									
Principles			Integrating E&S issues				Upside & partnerships		
<b>Performance Requirements</b>									
<b>1</b> E&S Assessment and Management	<b>2</b> Labour and OHS	<b>3</b> Pollution Prevention	<b>4</b> Safety and Security Public Health	<b>5</b> Resettlement	<b>6</b> Biodiversity	<b>7</b> Indigenous People	<b>8</b> Cultural Heritage	<b>9</b> Financial Intermediaries	<b>10</b> Stakeholder Engagement
<b>Guidance for Clients</b>									
<b>Internal E&amp;S Procedures</b>									
<b>2011 Public Information Policy (PIP)</b> ⇒ 60/120 day disclosure for EIAs/SIAs									



### Annex 1.6. IDB Safeguard System



Annex 1.7. EIB Safeguard System Annex 1.7. EIB Safeguard System



## ANNEX 2. THEMATIC COVERAGE OF MDB SAFEGUARD POLICIES

Theme	MDB	Coverage	Reference
<b>Environmental and Social Assessment and Management</b>	WB	Yes	OP (Operational Policy) 4.01, Environmental Assessment
	ADB	Yes	Safeguard Policy Statement (SPS), Safeguard Requirements 1: Environment (SR 1) Operational Policy (SR 1)
	IDB	Yes	OP-703, Environment and Safeguards Compliance Policy
	AfDB	Yes	Operational Safeguard (OS) 1, Environmental and Social Assessment
	IFC	Yes	Performance Standard (PS) 1, Assessment and Management of Environmental and Social Risks and Impacts
	EBRD	Yes	Performance Requirement (PR) 1, Assessment and Management of Environmental and Social Impacts and Issues
	EIB	Yes	Environmental and Social Standard (ESS) 1, Assessment and Management of Environmental and Social Impacts and Risks
<b>Strategic Environmental [and Social] Assessment (SEA or SESA)</b>	WB	Yes	OP 4.01, Environmental Assessment (as revised 2013)
	ADB	Yes	SR 1, Environment
	IDB	Yes	OP-703, Environment and Safeguards Compliance Policy
	AfDB	Yes	OS 1, Environmental and Social Assessment
	IFC	Yes (limited)	PS 1, Assessment and Management of Environmental and Social Risks and Impacts <sup>98</sup>
	EBRD	No	
	EIB	Yes	ESS 1, Assessment and Management of Environmental and Social Impacts and Risks
<b>Biodiversity and Natural Resources (natural habitats, forests, natural resource management, ecosystem services)</b>	WB	Yes	OP 4.04, Natural Habitats and OP 4.36, Forests <sup>99</sup>
	ADB	Yes	SR 1, Environment, <sup>100</sup> Policy on Forestry (1995)
	IDB	Yes	OP-703, Environment and Safeguards Compliance Policy <sup>101</sup>
	AfDB	Yes	OS 3, Biodiversity, Renewable Resources and Ecosystem Services

<sup>98</sup> SEA is conducted by third parties or governments rather than the IFC client.

<sup>99</sup> WB does not use term “ecosystem services,” but OP 4.04 and OP 4.36 refer more generally to ecological or natural habitat functions or ecosystem functionality.

<sup>100</sup> ADB SR 1 makes no direct reference to ecosystem services.

<sup>101</sup> IDB OP-703 makes no direct reference to ecosystem services, as the term is defined in the guidelines to the Policy.

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Theme	MDB	Coverage	Reference
	IFC	Yes	PS 6, Biodiversity Conservation and Sustainable Management of Living Natural Resources
	EBRD	Yes	PR 6, Biodiversity Conservation and Sustainable Management of Living Natural Resources <sup>102</sup>
	EIB	Yes	ESS 3, Biodiversity and Ecosystems <sup>103</sup>
<b>Pollution Prevention and Abatement and Resource Efficiency (environmental health and safety guidelines, chemicals management, pest management)</b>	WB	Yes	OP 4.01, Environmental Assessment <sup>104</sup>
	ADB	Yes	SR 1, Environment <sup>105</sup>
	IDB	Yes	OP-703, Environment and Safeguards Compliance Policy
	AfDB	Yes	OS 4, Pollution Prevention and Control, Hazardous Materials and Resources Efficiency
	IFC	Yes	PS 3, Resource Efficiency and Pollution Prevention
	EBRD	Yes	PR 3, Resource Efficiency and Pollution Prevention and Control
	EIB	Yes	ESS 2, Pollution Prevention and Abatement
<b>Community Health, Safety and Security<sup>106</sup></b>	WB	Yes	OP4.01 <sup>107</sup> and with reference to the World Bank Group Environment, Health and Safety Guidelines (WBG EHSs)
	ADB	Yes	SR 1, Environment and with reference to WBG EHSs
	IDB	Yes	OP-703, Environment and Safeguards Compliance Policy
	AfDB	Yes (limited)	OS 1, Environmental and Social Assessment <sup>108</sup>
	IFC	Yes	PS 4, Community Health, Safety and Security
	EBRD	Yes	PR 4, Health and Safety
	EIB	Yes	ESS 9, Occupational and Public Health, Safety and Security <sup>109</sup>

<sup>102</sup> EBRD PR 6 makes no direct reference to ecosystem services.

<sup>103</sup> ESS 3 refers to ecosystem services and valuation in cases where livelihoods of communities are significantly affected. Forests are covered under the EU Forests Policy.

<sup>104</sup> Requires borrowers to justify deviations from the WBG EHSs.

<sup>105</sup> In addition to specific requirements on pollution prevention and abatement, requires reference to WBG EHSs.

<sup>106</sup> EBRD, EIB and IFC include “security” measures within the scope of their respective Performance Standards/Requirements on Community Health and Safety. In these cases, “security” refers to risks to the public from “inappropriate use of force and other conduct on the part of project employees, government or private security forces” and references international good practice criteria that have been adopted for that purpose.

<sup>107</sup> Para. 3 refers generally to “human health and safety” as an impact that is required to be assessed as part of EA.

<sup>108</sup> OS 1 also makes reference to WBG EHSs.

<sup>109</sup> “Consistent with international human rights standards and principles” with reference to: (i) the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; (ii) the UN Code of Conduct for Law Enforcement Officials; (iii) the Voluntary Principles on Security and Human Rights; and (iv) the International Code of Conduct on Private Security Providers. The promoter is recommended to regularly carry out human rights due diligence in order to identify and assess any actual or potential adverse impact with which it may be involved (i.e., impacts that it may cause or contribute to as a result of its own activities or which may be directly linked to its operations, products or services by its business relationships). This is of special relevance in the case of business enterprises. As outlined in the UN Guiding Principles on Business and Human Rights (no 18), this process should:

Comparative Review of MDB Safeguard Systems

Theme	MDB	Coverage	Reference
<b>Climate Change</b>	WB	Yes	OP 4.01, footnote 5 and EHSs
	ADB	Yes	SR 1, Environment and EHSs
	IDB	Yes	OP-703, Environment and Safeguards Compliance Policy and OP-704, Disaster Risk Management
	AfDB	Yes	OS 1, Environmental and Social Assessment
	IFC	Yes	PS 1, Assessment and Management of Environmental and Social Risks; PS 3, Resource Efficiency and Pollution Prevention and EHSs
	EBRD	Yes	PR 1, Assessment and Management of Environmental and Social Impacts and Issues; PR 3, Resource Efficiency and Pollution Prevention and Control
	EIB	Yes	ESS 4, Climate Related Standards; other references in ESS 1 and ESS 3
<b>Physical Cultural Resources and Heritage</b>	WB	Yes	OP 4.11, Physical Cultural Resources
	ADB	Yes	SR 1, Environment
	IDB	Yes	OP-703, Environment and Safeguards Compliance Policy
	AfDB	Yes	OS 1, Environmental and Social Assessment
	IFC	Yes	PS 8, Cultural Heritage
	EBRD	Yes	PR 8, Cultural Heritage
	EIB	Yes	ESS 5, Cultural Heritage
<b>Land Acquisition, Resettlement, Compensation and Tenure</b>	WB	Yes	OP 4.12, Involuntary Resettlement
	ADB	Yes	SR 2, Involuntary Resettlement
	IDB	Yes	OP-710, Involuntary Resettlement
	AfDB	Yes	OS 2, Involuntary Resettlement, Land Acquisition, Population Displacement and Compensation
	IFC	Yes	PS 5, Land Acquisition, Involuntary Resettlement and Economic Displacement
	EBRD	Yes	PR 5, Land Acquisition, Involuntary Resettlement and Economic Displacement
	EIB	Yes	ESS 6, Involuntary Resettlement
<b>Indigenous Peoples</b>	WB	Yes	OP 4.10, Indigenous Peoples
	ADB	Yes	SR 3, Indigenous Peoples
	IDB	Yes	OP-765, Indigenous Peoples
	AfDB	Yes (limited)	OS 1, Environmental and Social Assessment <sup>110</sup>

(a) draw on internal and/or independent external human rights expertise; and (b) involve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation. Such security arrangements shall be defined in the ESMP; although a full standing security management plan may be requested by the EIB when deemed necessary. These requirements apply also to first-tier contractors and suppliers.

<sup>110</sup> OS 1, para. 39, "Depending on the specific context of the project, vulnerable groups may ... include ...indigenous peoples...." Para. 45, "The borrower or client is responsible for conducting and providing evidence of meaningful consultation [and]...for projects affecting indigenous peoples."

Comparative Review of MDB Safeguard Systems

Theme	MDB	Coverage	Reference
<b>Free, Prior and Informed Consent (FPIC)</b>	IFC	Yes	PS 7, Indigenous Peoples
	EBRD	Yes	PR 7, Indigenous Peoples
	EIB	Yes	ESS 7, Rights and Interests of Vulnerable Groups
	WB	No <sup>111</sup>	
	ADB	No <sup>112</sup>	
	IDB	Yes (very limited)	OP-765, Indigenous Peoples <sup>113</sup>
	AfDB	No	
	IFC	Yes	PS 7, Indigenous Peoples <sup>114</sup>
<b>Gender</b>	EBRD	Yes	PR 7 Indigenous Peoples <sup>115</sup>
	EIB	Yes	ESS 7, Rights and Interests of Vulnerable Groups; ESS 10, Stakeholder Engagement
	WB	Yes	OP 4.12, Involuntary Resettlement; OP 4.10, Indigenous Peoples; OP 4.20, Gender <sup>116</sup>
	ADB	Yes	Policy on Gender and Development (2003) and Operations Manual: C2 (2010): Gender and Development; SR 2, Involuntary Resettlement; and SR 3, Indigenous Peoples
	IDB	Yes	Gender Equality in Development: Operational Policy (2010)

<sup>111</sup> OP 4.10 requires the borrower to conduct and demonstrate a process of “free, prior, informed consultation” leading to “broad community support.” Bank safeguards make no reference to “FPIC” or to the UNDRIP.

<sup>112</sup> Although the ADB’s SPS makes no explicit reference to “FPIC,” ADB requires broad community support for commercial development of Indigenous Peoples’ cultural or natural resources, or for their physical displacement. According to ADB the combined requirements for meaningful consultation and broad community support are functionally equivalent to FPIC.

<sup>113</sup> As part of its “Strategic Focus and Mechanisms for Bank Action “(as distinct from operational safeguard requirements), IDB states that “[M]echanisms and processes [designed for the...]institutionalization of the information , timely diffusion, consultation, good-faith negotiation and participation mechanisms and processes for indigenous peoples”] ....must take into account the general principle of the free, prior and informed consent of indigenous peoples as a way to exercise their rights and “decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development.” IDB, Policy on Indigenous Peoples and Strategy for Indigenous Peoples Development, Part IV, Strengthening Governance, Footnote 58 references ILO Convention 169 Concerning Indigenous and Tribal Peoples in Independent Countries, Articles 6.2 and 7.1., as well as the [then] draft UNGA Resolution.

<sup>114</sup> IFC, Performance Standard 1, para. 32, “For projects with adverse impacts to Indigenous Peoples, the client is required to engage them in a process of ICP and in certain circumstances the client is required to obtain their Free, Prior, and Informed Consent (FPIC). The requirements related to Indigenous Peoples and the definition of the special circumstances requiring FPIC are described in Performance Standard 7.”

<sup>115</sup> Per footnote 7 of PR 7, “[t]here is no universally accepted definition of FPIC; however, for the purpose of this PR, consent refers to the process whereby the affected community of Indigenous Peoples, arrive at a decision, in accordance with their cultural traditions, customs and practices.”

<sup>116</sup> OP 4.20, Gender and Development, issued in 2003 and revised in March 2012, requires the preparation of a Gender Assessment (GA) and Action Plan (AP) for each country, which serves as an input to the World Bank’s Country Assistance Strategy (CAS). The purpose of the GA/AP is to provide the CAS with guidance in ensuring that World Bank-financed projects and other World Bank activities are gender-responsive.

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Theme	MDB	Coverage	Reference
	AfDB	Yes	OS 1, Environmental and Social Assessment
	IFC	Yes	Sustainability Policy; PS 1, Assessment and Management of Environmental and Social Impacts and Risks; PS 2, Labor and Working Conditions; PS 5, Land Acquisition and Involuntary Resettlement; and PS 7, Indigenous Peoples
	EBRD	Yes	PR 1, Assessment and Management of Environmental and Social Impacts and Issues; PR 2, Labour and Working Conditions; PR 4, Health and Safety; PR 5, Land Acquisition, Involuntary Resettlement and Economic Displacement; PR7, Indigenous Peoples; and PR 10, Information Disclosure and Stakeholder Engagement
	EIB	Yes	ESS 7, Rights and Interests of Vulnerable Groups
<b>Disability</b>	WB	No	
	ADB	No	
	IDB	No	
	AfDB	Yes	OS 1, Environmental and Social Assessment includes the “physically handicapped” among categories of “vulnerable groups”
	IFC	Yes	PS 1, Assessment and Management of Environmental and Social Risks and Impacts
	EBRD	Yes	PR 2, Labour and Working Conditions; PR 4, Health and Safety; and PR 5, Land Acquisition, Involuntary Resettlement and Economic Displacement
<b>Core Labor Standards<sup>117</sup></b>	EIB	No	
	WB	No	
	ADB	Yes (limited)	ADB’s SPS makes no direct reference to CLS as part of ADB’s operational safeguard requirements. However, the SPS Prohibited Investment Activities List (Appendix 5) excludes production or activities involving forced and child labor from qualification for ADB financing
	IDB	Yes (limited)	Non-Sovereign Guarantees Exclusion list; and Procurement Policy
	AfDB	Yes	OS 5, Labour Conditions, Health and Safety
	IFC	Yes	PS 2, Labor and Working Conditions
	EBRD	Yes	PR 2, Labour and Working Conditions
	EIB	Yes	ESS 8, Labour Standards

<sup>117</sup> “Core Labor Standards” are defined by the International Labour Organisation (ILO) in the “Declaration of the Fundamental Principles and Rights at Work” and include: freedom of association; the right to collective bargaining; prohibition of all forms of forced labor; elimination of the worst forms of child labor; and non-discrimination in employment. ILO Core Labor Standards are included in all MDBs’ procurement policies as per the 2011 MDB Harmonized Major Works (Construction) Contract.



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Theme	MDB	Coverage	Reference
<b>Occupational Health and Safety</b>	WB	Yes	OP 4.01, Environmental Assessment, via reference to WBG EHSs
	ADB	Yes	SR 1, Environment and further reference to WBG EHSs
	IDB	Yes (limited)	OP-703, Environment and Safeguards Compliance Policy
	AfDB	Yes	OS 5, Labour Conditions, Health and Safety
	IFC	Yes	PS 2, Labor and Working Conditions
	EBRD	Yes	PR 4, Health and Safety
	EIB	Yes	ESS 9, Occupational and Public Health, Safety and Security
<b>Human Rights</b>	WB	Yes (limited) <sup>118</sup>	OP 4.10, Indigenous Peoples <sup>119</sup>
	ADB	Yes (limited)	SR 3, Indigenous Peoples <sup>120</sup>
	IDB	Yes (very limited)	OP-765, Indigenous Peoples; and Guidelines for OP-703
	AfDB	Yes (limited)	ISS, Preamble <sup>121</sup>
	IFC	Yes (limited) <sup>122</sup>	IFC Sustainability Policy; PS 1, Assessment and Management of Environmental and Social Risks and Impacts; and PS 7, Indigenous Peoples <sup>123</sup>
	EBRD	Yes- (limited) <sup>124</sup>	ESP; PR 1, Assessment and Management of Environmental and Social Impacts and Issues; PR 5, Land Acquisition, Involuntary Resettlement and Economic Displacement; and PR 7, Indigenous Peoples

<sup>118</sup> In accordance with the Bank’s limited mandate. The Bank does not have a human rights mandate. The World Bank’s Articles of Agreement limit the World Bank’s mandate to “reconstruction and development” and prohibit political interference. Nonetheless, the World Bank has recognized the relevance of human rights and its operations are supportive of human rights and encourage respect for them in a manner consistent with its Articles of Agreement.

<sup>119</sup> OP 4.10 cites the need to “ensure...respect for [the] human rights of Indigenous Peoples.”

<sup>120</sup> SR 3 cites “human rights” as among the impacts on Indigenous Peoples that could “trigger the policy.”

<sup>121</sup> In the non-binding preface to its Integrated Safeguards System, AfDB “affirms that it respects the principles and values of human rights” and “encourages member countries to observe international human rights norms, standards, and best practices.” AfDB, Integrated Safeguards System, Preface (December 2013).

<sup>122</sup> IFC “recognizes the responsibility of business to respect human rights” (Policy on Environmental and Social Sustainability; PS 1).

<sup>123</sup> Among the PS 7 Objectives, “To ensure that the development process fosters full respect for the human rights.”

<sup>124</sup> EBRD “recognises the responsibility of clients and their business activities to respect human rights” (ESP, para.9) and includes human rights as part of “social” issues (ESP, Footnote 2; PR 1, Footnote 1). One of the Objectives of PR 7 is “to ensure that the transition process fosters full respect for the dignity, human rights, aspirations, cultures and natural resource-based livelihoods of Indigenous Peoples.”



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Theme	MDB	Coverage	Reference
	EIB	Yes <sup>125</sup>	ESS, Introduction; ESS 1, Assessment and Management of Environmental and Social Impacts and Risk; ESS 6, Involuntary Resettlement; and ESS 7, Rights and Interests of Vulnerable Groups
<b>List of Excluded or Prohibited Products or Activities</b>	WB	No <sup>126</sup>	N/A
	ADB	Yes	ADB Prohibited Investment Activities List; SPS 2009
	IDB	Yes	IDB Exclusion List – Non-Sovereign Guaranteed Loans
	AfDB	Yes	Negative List (ISS, Policy Statement, para. 18)
	IFC	Yes	IFC Exclusion List, Sustainability Framework, 2012
	EBRD	Yes	Environmental and Social Exclusion List, 2014
	EIB	Yes	Activities Excluded from EIB Lending, April 2013

<sup>125</sup> In line with EIB’s requirement to follow the fundamental human rights referred to in the EU Charter, its Statement of Environmental and Social Principles and Standards states that “[t]he Bank will not finance projects which result in a violation of human rights.”

<sup>126</sup> World Bank Operational Policies for environmental and social safeguards do not include or reference a consolidated list of activities or products that are categorically excluded or prohibited from inclusion in Bank-supported investment lending projects. In particular, the Bank’s Policy on Procurement contains various provisions that effectively prohibit contractors engaged in Bank projects from taking certain actions with respect to designated actions and products. In addition, the Bank’s OP 8.60, Development Policy Lending (DPL), refers to “excluded expenditures,” but these exclusions apply only to borrower procurement under DPLs and not to investment lending. For more detail, see Section 6 of the Main Report and Annex 3 for more detail on categorical exclusions and prohibitions.

### ANNEX 3. MDB CATEGORICAL EXCLUSION OR PROHIBITION LISTS

Excluded/Prevented Activities <sup>127</sup>	ADB	AfDB	EBRD	EIB	IDB <sup>128</sup>	IFC
<b>Harmful or exploitative forms of child labor</b>	X	X <sup>129</sup>			X <sup>130</sup>	X <sup>131</sup>
<b>Harmful or exploitative forms of forced labor</b>	X	X <sup>132</sup>			X <sup>133</sup>	X <sup>134</sup>
<b>Discriminatory labor practices</b>					X <sup>135</sup>	
<b>Labor practices that prevent employees from freely exercising their right to association and collective bargaining</b>					X <sup>136</sup>	
<b>Projects which result in limiting people’s individual rights and freedom in violation of human rights</b>				X		
<b>Noncompliance with workers’ fundamental principles and rights at work</b>					X	
<b>Projects with a “political or religious content”</b>				X		
<b>“Ethically or morally controversial” projects</b>				X <sup>137</sup>		
<b>Sex trade and related infrastructure services and media</b>				X		

<sup>127</sup> It should be noted that some MDBs set forth certain categorical exclusions or prohibitions in the context of their operational requirements applicable to borrowers and/or in their procurement policies. Categorical exclusions contained in MDB operational requirements are in Section 7 and Annex 4 of this report, to the extent that these provisions differ from World Bank Operational Policy. MDB procurement policies are not within the scope of this report. Accordingly the absence of a particular exclusion or prohibition from an MDB’s formal exclusion or prohibition list should not be taken as a definitive indicator of MDB policy.

<sup>128</sup> IDB’s Exclusion List for Non-Sovereign Guaranteed operations (2012) covers “projects and companies involved in the production, trade or use” of the specified products, substances or activities included in the list.

<sup>129</sup> For AfDB such forms of labor are “defined by national regulations.”

<sup>130</sup> IDB’s exclusion is limited to Non-Sovereign loans and Sub-loans, the IIC and the Multilateral Investment Fund (MIF). It is also partially applicable to other operations through procurement policies.

<sup>131</sup> IFC applies this prohibition to all forms of IFC lending including direct lending, FIs, microfinance and trade finance.

<sup>132</sup> For AfDB such forms of labor are “defined by national regulations.”

<sup>133</sup> IDB’s exclusion is limited to the Non-Sovereign loans and Sub-loans, IIC and the MIF. It is also partially applicable to other operations through procurement policies.

<sup>134</sup> IFC applies this prohibition to all forms of IFC lending including direct lending, FIs, microfinance and trade finance.

<sup>135</sup> IDB’s exclusion is limited to Non-Sovereign loans and Sub-loans, and the IIC. It is also partially applicable to other operations through procurement policies.

<sup>136</sup> IDB’s exclusion is limited to Non-Sovereign loans and Sub-loans, and the IIC. It is also partially applicable to other operations through procurement policies.

<sup>137</sup> EIB cites “sex trade and related infrastructure services and media; animal testing; gambling and related equipment (including hotels with in-house casinos); tobacco production, manufacturing, processing and distribution.

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Excluded/Prevented Activities <sup>127</sup>	ADB	AfDB	EBRD	EIB	IDB <sup>128</sup>	IFC
<b>Abortion Clinics</b>				X <sup>138</sup>		
<b>Animal testing</b>				X <sup>139</sup>		
<b>Projects “unacceptable in environmental or social terms”</b>					X <sup>140</sup>	
<b>Production or activities that impinge on the lands owned, or claimed under adjudication, by Indigenous Peoples, without full documented consent of such peoples</b>						X <sup>141</sup>
<b>Production or trade of any product or activity deemed illegal under host country laws or regulations</b>	X	X	X	X <sup>142</sup>	X	X <sup>143</sup>
<b>Production or trade of any product or activity deemed illegal under international conventions and agreements</b>	X	X <sup>144</sup>	X		X	X <sup>145</sup>
<b>International trade in waste products</b>	X		X <sup>146</sup>		X <sup>147</sup>	
<b>Trade in wildlife or wildlife products regulated under CITES<sup>148</sup></b>	X	X	X		X	X <sup>149</sup>
<b>Genetically Modified Organisms</b>				X <sup>150</sup>	X <sup>151</sup>	

<sup>138</sup> Only where prohibited by national law.

<sup>139</sup> Activities involving live animals for experimental or scientific purposes are eligible insofar as in compliance with Directive 2010/63/EU of the European Parliament and of the Council of 22 September 2010 on “The Protection of Animals Used for Scientific Purposes.”

<sup>140</sup> IDB applies limits for this type of exclusion to trade finance and other financial intermediation activities subject to limited or no [environmental or social due diligence (ESSD)] according to Operational Policies and refers to “materially significant unmitigated negative impacts on the environment or sensitive social groups (i.e., poor, Indigenous Peoples, etc.).”

<sup>141</sup> IFC applies this exclusion only to microfinance projects.

<sup>142</sup> EIB cites “genetically modified organisms, abortion clinics, nuclear energy, etc.”

<sup>143</sup> IFC cites the following examples within this category: pharmaceuticals; pesticides/herbicides, ozone depleting substances, PCBs, wildlife or products regulated under CITES as applicable to all forms of IFC financing.

<sup>144</sup> AfDB categorically excludes “goods harmful to the environment.”

<sup>145</sup> IFC cites the following examples within this category: pharmaceuticals; pesticides/herbicides, ozone depleting substances, PCBs, wildlife or products regulated under CITES as applicable to all forms of IFC financing.

<sup>146</sup> EBRD references European Council Regulation No. 1013/2006 of June 14, 2006; Decision C(2001)107/Final of the OECD Governing Council concerning the revision of Decision C(92)39/Final on the Control of Transboundary Movements of Wastes Destined for Recovery Operations; and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

<sup>147</sup> As defined by the Basel Convention. IDB exclusion does not apply to non-hazardous waste and waste destined for recycling.

<sup>148</sup> Convention on International Trade in Endangered Species of Wild Fauna and Flora.

<sup>149</sup> IFC applies this prohibition to all forms of IFC financing.

<sup>150</sup> Only where prohibited by national law.

<sup>151</sup> Only where prohibited by national law.

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Excluded/Prevented Activities <sup>127</sup>	ADB	AfDB	EBRD	EIB	IDB <sup>128</sup>	IFC
<b>Driftnet fishing in the marine environment using nets of 2.5 km or more in length</b>	X <sup>152</sup>		X		X	X <sup>153</sup>
<b>Activities prohibited by host country legislation or international conventions relating to the protection of biodiversity resources or cultural heritage</b>			X <sup>154</sup>			
<b>Production or trade of any product or activity subject to international phase outs or bans<sup>155</sup></b>	X <sup>156</sup>	X <sup>157</sup>	X <sup>158</sup>		X <sup>159</sup>	X <sup>160</sup>
<b>Production, trade, storage or transport of significant volume of hazardous chemicals or commercial scale usage of hazardous chemicals</b>	X				X <sup>161</sup>	X <sup>162</sup>
<b>Radioactive materials including nuclear reactors and components thereof</b>	X	X		X <sup>163</sup>	X	X
<b>Trade in goods without required export or import licenses or other evidence of authorization of transit from the relevant</b>			X			

<sup>152</sup> The relevant provision in ADB's Prohibited Investment Activities List (PIAL) does not specify an allowable length for drift nets.

<sup>153</sup> Ibid.

<sup>154</sup> EBRD cites the following relevant international conventions: Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention); Convention on Wetlands of International Importance (Ramsar Convention); Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention); Convention Concerning the Protection of the World Cultural and Natural Heritage; and the Convention on Biological Diversity.

<sup>155</sup> Such as pharmaceuticals, pesticides/herbicides or other hazardous substances.

<sup>156</sup> ADB cites in particular: (a) pharmaceuticals, pesticides, and herbicides; (b) ozone-depleting substances; (c) polychlorinated biphenyls and other hazardous chemicals; (d) wildlife or wildlife products regulated under the Convention on International Trade in Endangered Species of Wild Fauna and Flora; and (e) trans-boundary trade in waste or waste products.

<sup>157</sup> See footnote 1. In addition, AfDB cites pesticides classified [by WHO] as Class Ia (extremely hazardous), Ib (highly hazardous) or II (moderately hazardous).

<sup>158</sup> EBRD cites European Council Regulation No. 2455/92 of July 23, 1992 Concerning the Export and Import of Certain Dangerous Chemicals; the UN Consolidated List of Products whose Consumption and/or Sale have been Banned, Withdrawn, Severely Restricted or not Approved by Government; Convention on the Prior Informed Consent Procedures for Certain Chemicals and Pesticides in International Trade (Rotterdam Convention); Stockholm Convention on Persistent Organic Pollutants; and the WHO Recommended Classification of Pesticides by Hazard.

<sup>159</sup> IDB's exclusion cites pharmaceuticals, pesticides and herbicides subject to either the Stockholm or Rotterdam Conventions.

<sup>160</sup> IFC's exclusion applies to all forms of IFC financing and refers to products or activities subject to international phase outs but not bans.

<sup>161</sup> IDB's exclusion is limited to the IIC.

<sup>162</sup> IFC applies this exclusion only to microfinance projects. The exclusion refers to production, trade, storage or transport of significant volumes of hazardous chemicals or commercial scale usage of hazardous chemicals including gasoline, kerosene and other petroleum products.

<sup>163</sup> Only where prohibited by national law.

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Excluded/Prevented Activities <sup>127</sup>	ADB	AfDB	EBRD	EIB	IDB <sup>128</sup>	IFC
<b>countries of export, import and, if applicable, transit</b>						
<b>Production of and trade in ozone-depleting substances subject to international phase out</b>	X		X <sup>164</sup>		X <sup>165</sup>	X
<b>Persistent organic pollutants (POPs)</b>					X <sup>166</sup>	
<b>Production of and trade in products containing polychlorinated biphenyls (PCBs)</b>	X				X	X
<b>Production of or trade in weapons and munitions</b>	X <sup>167</sup>	X		X <sup>168</sup>	X	X <sup>169</sup>
<b>Production of or trade in alcoholic beverages</b>	X <sup>170</sup>	X			X <sup>171</sup>	X <sup>172</sup>
<b>Production of or trade in tobacco</b>	X <sup>173</sup>	X		X <sup>174</sup>	X <sup>175</sup>	X <sup>176</sup>
<b>Gambling, casinos, and equivalent enterprises</b>	X <sup>177</sup>			X	X <sup>178</sup>	X <sup>179</sup>
<b>Speculative real estate investing or trading</b>					X <sup>180</sup>	

<sup>164</sup> EBRD cites the Montreal Protocol on Substances that Deplete the Ozone Layer as subject to the substances and phase out dates specified by UN Environment Programme.

<sup>165</sup> As defined by the Montreal Protocol.

<sup>166</sup> As defined by the International Convention on the Reduction and Elimination of Persistent Organic Pollutants.

<sup>167</sup> ADB also excludes paramilitary materials.

<sup>168</sup> EIB applies this exclusion to explosives and sporting weapons.

<sup>169</sup> IFC's exclusion applies to all forms of IFC financing but does not apply to "sponsors who are not substantively involved in these activities [such that] the activity concerned is ancillary to a project sponsor's primary operations."

<sup>170</sup> ADB's exclusion does not apply to project sponsors who are not substantially involved in these activities. "Not substantially involved" means that the activity concerned is ancillary to a project sponsor's primary operations.

<sup>171</sup> IDB applies this exclusion only to the MIF and to alcoholic beverages that are prohibited in the host country.

<sup>172</sup> IFC's exclusion applies to all forms of IFC financing but does not apply to beer and wine, or to "sponsors who are not substantively involved in these activities [such that] the activity concerned is ancillary to a project sponsor's primary operations."

<sup>173</sup> In addition for ADB this prohibition does not apply to beer and wine.

<sup>174</sup> EIB's exclusion applies to production, manufacturing, processing and distribution.

<sup>175</sup> IDB's exclusion does not apply to "sponsors who are not substantively involved in these activities [such that] the activity concerned is ancillary to a project sponsor's primary operations." However, this limitation is not mentioned with respect to the MIF.

<sup>176</sup> IFC's exclusion applies to all forms of IFC financing but does not apply to "sponsors who are not substantively involved in these activities [such that] the activity concerned is ancillary to a project sponsor's primary operations."

<sup>177</sup> ADB's exclusion does not apply to project sponsors who are not substantially involved in these activities. "Not substantially involved" means that the activity concerned is ancillary to a project sponsor's primary operations.

<sup>178</sup> IDB's exclusion does not apply to project sponsors who are not substantially involved in these activities. "Not substantially involved" means that the activity concerned is ancillary to a project sponsor's primary operations. This limitation is not specified with respect to the MIF.

<sup>179</sup> IFC's exclusion applies to all forms of IFC financing but does not apply to "sponsors who are not substantively involved in these activities [such that] the activity concerned is ancillary to a project sponsor's primary operations."

<sup>180</sup> IDB applies this exclusion only to the MIF.

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Excluded/Prevented Activities <sup>127</sup>	ADB	AfDB	EBRD	EIB	IDB <sup>128</sup>	IFC
<b>Production of or trade in radioactive materials including nuclear reactors and components thereof</b>	X <sup>181</sup>	X <sup>182</sup>		X	X <sup>183</sup>	X <sup>184</sup>
<b>Production of, trade in, or use of unbonded asbestos fibers</b>	X <sup>185</sup>	X <sup>186</sup>	X		X <sup>187</sup>	X <sup>188</sup>
<b>Commercial logging operations or the purchase of logging equipment for use in primary tropical moist forests or old-growth forests</b>	X	X <sup>189</sup>			X <sup>190</sup>	X <sup>191</sup>
<b>Forestry projects or operations not consistent with lenders' environment and safeguard compliance policies</b>					X <sup>192</sup>	X <sup>193</sup>
<b>Plantation projects that would require the removal of existing non-degraded natural forest</b>					X <sup>194</sup>	
<b>Significant degradation of critical natural habitats including protected areas, parks and high conservation areas</b>					X <sup>195</sup>	

<sup>181</sup> ADB's prohibition does not apply to the purchase of medical equipment, quality control (measurement) equipment, and any equipment for which ADB considers the radioactive source to be trivial and adequately shielded.

<sup>182</sup> AfDB's prohibition does not apply to the purchase of medical equipment, quality control (measurement) equipment, and any equipment for which AfDB considers the radioactive source to be trivial and adequately shielded.

<sup>183</sup> IDB's exclusion does not apply to the purchase of medical equipment, quality control (measurement) equipment and any equipment where IDB considers the radioactive source to be trivial and/or adequately shielded.

<sup>184</sup> IFC's exclusion does not apply to the purchase of medical equipment, quality control (measurement) equipment and any equipment where IFC considers the radioactive source to be trivial and/or adequately shielded.

<sup>185</sup> ADB's exclusion does not apply to the purchase and use of bonded asbestos cement sheeting where the asbestos content is less than 20%.

<sup>186</sup> AfDB's prohibition applies only to products where bonded asbestos is the "dominant material."

<sup>187</sup> IDB's exclusion does not apply to purchase and use of bonded asbestos sheeting where the asbestos content is less than 20%.

<sup>188</sup> IFC's exclusion applies to all forms of IFC financing but does not apply to purchase and use of bonded asbestos sheeting where the asbestos content is less than 20%.

<sup>189</sup> AfDB cites purchase of logging equipment for use in unmanaged primary tropical rainforests.

<sup>190</sup> IDB's exclusion is limited to trade finance operations and the MIF.

<sup>191</sup> IFC applies this prohibition to direct lending and to all FIs.

<sup>192</sup> In the case of an IDB trade finance project, the exclusion is stated in terms of "forestry projects or operations that lack sustainable management....in areas of high ecological value with the exception of preservation and light, non-extractive use of forest resources."

<sup>193</sup> IFC applies this exclusion to direct financing and all FIs. The exclusion is stated in terms of "production or trade in wood or other forestry projects other than from sustainably managed forests."

<sup>194</sup> IDB limits this exclusion to trade finance operations not otherwise subject to IDB Operational Policies.

<sup>195</sup> Ibid.

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Excluded/Prevented Activities <sup>127</sup>	ADB	AfDB	EBRD	EIB	IDB <sup>128</sup>	IFC
Large-scale mining, oil and gas exploration development and supporting services					X <sup>196</sup>	
Shipment of oil or other hazardous substances in tankers which do not comply with International Maritime Organization Requirements			X <sup>197</sup>			
Platinum		X				
Pearls		X				
Precious stones		X				
Gold and related products		X				
“Luxury” consumer goods		X				

<sup>196</sup> IDB limits this exclusion to financial intermediaries financed by the MIF.

<sup>197</sup> EBRD cites the International Convention for the Prevention of Pollution from Ships (MARPOL); International Convention for the Safety of Life at Sea (SOLAS); tankers blacklisted by the European Union or banned by the Paris Memorandum of Understanding on Port State Control; tankers due for phase out under MARPOL regulation 13G; and single hull tankers over 25 years old.

## ANNEX 4. TEXTUAL COMPARISON OF WORLD BANK, ADB, AFDB, EIB AND IDB OPERATIONAL SAFEGUARD REQUIREMENTS

Principle/ Corresponding World Bank Operational Policy	Alternative and Incremental MDB Operational Safeguard Requirements
<b>ENVIRONMENTAL ASSESSMENT</b>	
<p><b>AREA OF INFLUENCE AND DEFINITION AND ASSOCIATED IMPACTS<sup>198</sup></b></p> <p><b>OP. 4.01, para. 2:</b></p> <p>“EA evaluates a project’s potential environmental risks and impacts in its area of influence.... including all its ancillary aspects”</p> <p><b>OP 4.01 Annex A para. 6:</b></p> <p><i>Project area of influence:</i> The area likely to be affected by the project, including all its ancillary aspects, such as power transmission corridors, pipelines, canals, tunnels, relocation and access roads, borrow and disposal areas, and construction camps, as well as unplanned developments induced by the project (e.g., spontaneous settlement, logging, or shifting agriculture along access roads). The area of influence may include, for example, (a) the watershed within which the project is located; (b) any affected estuary and coastal zone; (c) off-site areas required for resettlement or compensatory tracts; (d) the airshed (e.g., where airborne pollution such as smoke or dust may enter or leave the area of influence; (e) migratory</p>	<p>“[R]elated or associated facilities [are facilities ...that are not funded by the project...[but that are] dependent on the project and that would not have been implemented if the project did not exist.”<sup>199</sup> (AfDB, OS 1<sup>200</sup>, para. 9)</p> <p>“[The project’s] area of influence encompasses... (ii) associated facilities that are not funded as part of the project (funding may be provided separately by the borrower/client or by third parties), and whose viability and existence depend exclusively on the project and whose goods or services are essential for successful operation of the project...” (ADB, SPS<sup>201</sup>, Appendix 1, para. 6)</p> <p>“Associated facilities... refer to new or additional works and/or infrastructure, irrespective of the source of financing, essential for a Bank-financed project to function, such as: new/additional access roads, railways, power lines, pipelines required to be built for the project; new /additional construction camps or permanent housing for project workers; new/additional power plants required for the project; new/additional project effluent treatment facilities; new/additional warehouses and marine terminals built to handle project goods.” (IDB, Environment and Safeguards Compliance Policy<sup>202</sup> (ESCP) Para. 6.1)</p>

<sup>198</sup> The Bank makes reference to “ancillary facilities” in the context of defining a project’s “area of influence” rather than using the term “associated impacts.” For purposes of Involuntary Resettlement, OP 4.12 also applies to activities other than components of the Project that are: “(a) directly and significantly related to the Bank-assisted project,(b) necessary to achieve its objectives as set forth in the project documents; and(c) carried out, or planned to be carried out, contemporaneously with the project.”

<sup>199</sup> “In some cases, associated facilities may have been subject to environmental and social safeguard policies of other funding institutions equivalent to the Bank’s OSs.”

<sup>200</sup> African Development Bank, Integrated Safeguard Policy, Operational Standards, (OS) (December 2013).

<sup>201</sup> Asian Development Bank, Safeguard Policy Statement, July 2009.

<sup>202</sup> Inter-American Development Bank, Environmental and Safeguard Compliance Policy (ESCP) 2006.



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<p>routes of humans, wildlife, or fish, particularly where they relate to public health, economic activities, or environmental conservation; and (f) areas used for livelihood activities (hunting, fishing, grazing, gathering, agriculture, etc.) or religious or ceremonial purposes of a customary nature.</p>	<p>“[Ancillary/Associated Facilities/infrastructure] are (i) assets and facilities directly owned or managed by the promoter that relate to the project activities to be financed, (ii) supporting activities, assets and facilities owned or under control of parties for the operation of the promoter’s business or for the completion of the project (such as contractors); (iii) associated facilities or businesses that are not funded by the EIB as part of the project and may be separate legal entities yet whose viability and existence depend exclusively on the project or whose goods and services are essential for the successful operation of the project.” (EIB, ESH,<sup>203</sup> Glossary)</p>
<p><b>CUMULATIVE IMPACTS</b></p> <p><b>OP 4.01. Annex A. para.7:</b> “Regional EA pays particular attention to potential cumulative impacts of multiple activities.”</p> <p><b>OP 4.01. Annex A. para.9:</b> “Sectoral EA pays particular attention to potential cumulative impacts of multiple activities.”</p>	<p>“Impacts and risks will be analyzed in the context of the project’s area of influence. This area of influence encompasses...(iii) areas and communities potentially affected by cumulative impacts from further planned development of the project, other sources of similar impacts in the geographical area, any existing project or condition, and other project-related developments that are realistically defined at the time the assessment is undertaken.” (ADB, SPS, Appendix 1, para. 6)</p> <p>“Where relevant, the assessment also covers possible cumulative impacts: impacts on areas and resources that result from the proposed project in addition to impacts from other existing or planned developments, including from any associated facilities, regardless of which entity undertakes those actions. Cumulative impacts can result from individually minor but collectively significant actions that take place over a period of time.” (AfDB, OS 1, para. 13)</p> <p>“Also, due consideration will be given to analyzing compliance with relevant legal requirements; direct, indirect, regional or cumulative impacts, using adequate baseline data as necessary;....” (IDB, ECSP, para. 4.19)</p> <p>“Cumulative impacts are defined as the additional and incremental changes caused by a proposed development in conjunction with other similar developments or as the combined effect of a set of developments taken</p>

<sup>203</sup> EIB, Environmental and Social Handbook (ESH), January 2014.

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	<p>together. In practice, “effects” and “impacts” are used interchangeably.” (EIB<sup>204</sup>)</p> <p>“The promoter is responsible for [...] identifying, describing, and assessing both adverse and positive, direct and indirect, cumulative and in-combination environmental and social impacts, associated with the operation, its ancillary/associated facilities and the project area of influence.” (EIB, ESH, ESS<sup>205</sup> 1, para. 5)</p>
<p><b>STRATEGIC ENVIRONMENTAL ASSESSMENT (SEA)</b></p> <p><b>OP 4.01. para. 7:</b> Depending on the project, a range of instruments can be used to satisfy the Bank’s EA requirement... When the project is likely to have sectoral or regional impacts, sectoral or regional EA is required.</p> <p><b>OP 4.01. Annex A, para. 10:</b> Strategic environmental and social assessment (SESA): An instrument that describes analytical and participatory approaches that aim to integrate environmental and social considerations into policies, plans and programs and evaluate their inter linkages with economic considerations. The term “Strategic Environmental Assessment” or “SEA” may also be used.</p>	<p>“Use strategic environmental assessment where appropriate....When the project involves the development of or changes to policies, plans, or programs that are likely to have significant environmental impacts that are regional or sectoral, strategic environmental assessment will be required. A strategic environmental assessment report will include (i) an analysis of the scenario, (ii) an assessment of long-term and indirect impacts, (iii) a description of the consultation process, and (iv) an explanation of option selected.” (ADB, SPS, Table 1, para. 2 and Appendix1, para. 11).</p> <p>“The Bank will require compliance with specified standards for ... Strategic Environmental Assessments (SEAs)... as defined in this Policy and detailed in the Guidelines. The SEA has the following objectives: (i) assure that the main environmental risks and opportunities of policies, plans or programs have been properly identified; (ii) engage early on governments and potentially affected parties in the identification and analysis of strategic issues, actions, and development alternatives; (iii) define and agree on a sequence of actions to address systematically and strategically environmental issues and priority actions, summarized in an SEA action plan for adequate monitoring and follow up; and (iv) assure that adequate environmental information is available and collected for the decision-making process. The SEA process should be triggered early in the decision-making process and prior to the implementation of the policies, plans or programs. Recommendations from</p>

<sup>204</sup>Where citations from EIB sources are not included, “EIB” refers to EIB insertions into draft matrix paper, summarizing relevant provisions of the corresponding EIB safeguard provisions as reflected in the ESH and/or EIB Statement of Environmental and Social Principles (“EIB Statement”).

<sup>205</sup> Environmental and Social Standards.

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	<p>the SEA process should be incorporated into an operation’s activities”...(IDB, ESCP para. 4.19)</p> <p>“The Strategic Environmental Assessment (SEA) addresses the key environmental and associated social impacts of policies, plans and programs. The SEA is a tool for including environmental and social issues into development planning, decision making and implementation processes at strategic levels, prior to commitments and decisions at the project-level are made...In the context of the Bank’s operations, the SEA is often the appropriate tool for the following types of operations: (i) policy-based lending operations (e.g., structural or sectoral adjustment); (ii) sector-wide loans, such as the tourism sector programs; and (iii) regional plans and programs, such as infrastructure development.” (IDB, Implementation Guidelines for the Environment and Safeguards Compliance Policy, (IG-ESCP ) p. 31)</p> <p>“The overall objective of this standards is to outline the promoter’s responsibility specifically “improving the planning process through the performance of a strategic environmental assessment, in order to ensure that environmental and social considerations are taken into account in the selection of alternative, cumulative and large-scale effects are addressed, and a participatory approach applied in the engagement with project-affected individuals and communities, as well as other relevant stakeholders.” (EIB, ESH, ESS 1, para. 5).</p> <p>“When a plan or programme is located outside the EU, Candidate and potential Candidate countries, the promoter is encouraged to apply the SEA as an important tool towards reaching the objectives introduced by the relevant international treaties (e.g. Espoo Convention) and to manage the development challenges generated by the promotion of sustainable use of natural resources, adaptation and mitigation to climate change, enhancement and maintenance of biodiversity values and ecosystems, landscape and cultural heritage, human well-being, and the protection of human rights. The EIB and the promoter will agree on the need for carrying out an SEA for</p>

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	certain plans and programmes, on a case-by-case analysis” ((EIB, ESH, ESS1, para. 16)
<p><b>SCOPE OF IMPACTS ASSESSED</b></p> <p><b>OP 4.01, para. 3.</b> EA takes into account the natural environment (air, water, and land); human health and safety; social aspects (involuntary resettlement, indigenous peoples, and physical cultural resources); and trans-boundary and global environmental aspects. EA considers natural and social aspects in an integrated way.</p> <p><b>OP 4.01 footnote 5:</b> Global environmental issues include climate change, ozone-depleting substances, pollution of international waters, and adverse impacts on biodiversity.</p> <p><b>OP 4.04 para. 5:</b> If the environmental assessment indicates that a project would significantly convert or degrade natural habitats, the project includes mitigation measures acceptable to the Bank.</p> <p><b>OP 4.36 para. 13:</b> In accordance with OP/BP 4.01, <i>Environmental Assessment</i>, the environmental assessment (EA) for an investment project addresses the potential impact of the project on forests and/or the rights and welfare of local communities.</p> <p><b>OP 4.01, para. 13:</b> When the borrower has inadequate legal or technical capacity to carry out key EA-related functions (such as review of EA, environmental monitoring, inspections, or management of mitigatory measures) for a proposed project, the project includes components to strengthen that capacity.</p> <p><b>OP 4.01, para. 2:</b> EA is a process whose breadth, depth, and type of analysis depend on the nature, scale, and potential environmental impact of the proposed project. EA evaluates a project's potential environmental risks and impacts in its area of influence;<sup>3</sup> (...) and</p>	<p>“ [EA must address ] <i>vulnerable groups and gender issues</i>” (ADB)<sup>206</sup> (emphasis added)<sup>207</sup></p> <p>“The environmental assessment will consider all potential impacts and risks of the project on physical, biological, socioeconomic (<i>occupational health and safety, community health and safety, vulnerable groups and gender issues, and impacts on livelihoods through environmental media</i> ... and physical cultural resources in an integrated way.”(ADB, SPS, Appendix 1, para. 5) (emphasis added).</p> <p>“The assessment will identify potential transboundary effects, such as air pollution, increased use or contamination of international waterways, as well as global impacts, <i>such as emission of greenhouse gases</i> and impacts on endangered species and habitats.” (ADB, SPS, Appendix 7, para. 7) (emphasis added)</p> <p>“The Bank screens projects for <i>climate change risk</i> using the Climate Safeguards System, which provides a category for project climate change risk (Box 3) and requires application of the Adaptation Review and Evaluation Procedures that are commensurate with that category. The Adaptation Review and Evaluation Procedures should be mainstreamed into the project ESMP.” (AfDB, OS 1, para. 32) (emphasis added)</p> <p>“The borrower or client shall evaluate the potential impacts of pollutant discharges and resulting ambient concentrations to the environment considering potential receptors, and assess: (AfDB, OS 4, para. 11)</p> <ul style="list-style-type: none"> <li>• Environmental carrying capacity;</li> <li>• Land use (current and future), soils, and agriculture;</li> </ul>

<sup>206</sup> With respect to the scope of EA, OP 4.01 expressly refers to Indigenous Peoples, but not to vulnerable groups generically nor to gender.

<sup>207</sup> Alternative and innovative MDB requirements relative to current World Bank Operational Policy requirements are indicated in italics where necessary.

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<p>includes the process of mitigating and managing adverse environmental impacts throughout project implementation.</p>	<ul style="list-style-type: none"> <li>• Surrounding communities and poverty conditions;</li> <li>• Local, regional, and trans-boundary potential impacts;</li> <li>• Proximity to environmentally sensitive areas and populations;</li> <li>• Proximity to surface and groundwater sources; and,</li> <li>• Potential cumulative impacts.”</li> </ul> <p>“In addition to risks posed by environmental impacts, the Bank will identify and manage other risk factors that may affect the environmental sustainability of its operations. These risk factors may include elements such as the <i>governance capacity of executing agencies/borrower and of third parties, sector-related risks</i>, risks associated with highly sensitive environmental and social concerns, and <i>vulnerability to disasters</i>. Depending on the nature and the severity of the risks, the Bank will engage with the executing agency/borrower and relevant third parties to develop appropriate measures for managing such risks.” (IDB, ESCP para. 4.18) (emphasis added)</p> <p>“EIA considers <i>the entire project cycle</i>, from the design stage to construction, operation and decommissioning, if applicable.”(IDB, IG-ESCPs, p. 30) (emphasis added)</p> <p>“Projects will be subject to an environmental and social impact assessment if they are likely to have significant effects on the environment, human health and well-being and interfere with human rights. (EIB, ESH, ESS 1, para. 8).</p> <p>“For projects outside the EU, the ESIA must be consistent with the principles contained in the EU EIS Directive and best international practice, taking into account national laws and regulations and any obligations and standards of multilateral agreements to which the host country is a party to. Specific attention should be given to integrating the impacts on human rights, biodiversity, climate change, cultural heritage and disaster risks into the overall ESIA.” (EIB), ESH, ESS 1, para. 11.)</p> <p>“Assessment Area- The location for assessment of impacts on environmental and social values and associated components. The assessment area is</p>

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	dependent on the environmental and social values and associated components being measured, and needs to consider the footprint of the activity and its area of influence.” (EIB, ESH, ESS 1, para. 27.)
<p><b>APPLICABLE LEGAL FRAMEWORK</b></p> <p><b>OP 4.01 para. 3:</b> EA also takes into account...; national environmental action plans; the country’s overall policy framework, and] national legislation, related to the environment and social aspects; and obligations of the country, pertaining to project activities, under relevant international environmental treaties and agreements. The Bank does not finance project activities that would contravene such country obligations, as identified during the EA.”</p> <p><b>OP 4.36 para. 6:</b> The Bank does not finance projects that contravene applicable international environmental agreements.</p>	<p>“ADB will not finance projects that do not comply with its safeguard policy statement, nor will it finance projects that do not comply with the host country’s social and environmental laws and regulations<sup>208</sup>, including those laws implementing host country obligations under international law.”(ADB, SPS, Overarching Statement on ADB’s Commitment and Policy Principles, para. 47 )</p> <p>“The Bank intends that the assessment process will support and strengthen existing country systems for environmental, climate and social risk management.... To achieve this objective, the borrower or client shall conduct the assessment and preparation of an ESMP in a manner that complies with existing country systems for assessing and managing environmental risk in addition to the AfDB’s requirements.” (AfDB, OS 1, para. 16)</p> <p>“To the extent possible, the assessment complies with the relevant legislation and standards applicable in the local jurisdiction, bearing in mind the equivalence of standards with those of the Bank, and it takes into consideration national- or regional- level programming documents.” (AfDB, OS 1, para. 15)</p> <p>“[M]itigation measures and actions will be identified so that the project is designed, constructed and operated in compliance with applicable laws and regulations...” (ADB. S PS, Appendix 1, para. 2)</p> <p>“The Bank will also require the borrower for that operation to ensure that it is designed and carried out in compliance with environmental laws and</p>

<sup>208</sup> The World Bank requires the borrower to “assess the adequacy” the applicable legal and institutional framework and “take into account...national legislation” but does not require the borrower’s EIA to be prepared in compliance with host country laws and obligations. The World Bank also notes the EA for category A discusses the legal framework in which the project is carried out.

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	<p>regulations of the country where the operation is being implemented...”(IDB, ESCP, para. 4.15)</p> <p>“The EIA process includes, as a minimum:...Also, due consideration will be given to analyzing compliance with relevant legal requirements....(IDB ESCP 4.19)</p> <p>“All EIB-supported operations will comply with host country laws and regulations, meet the requirements of applicable international conventions and agreements ratified by the host country, observe ... International ...Human Rights.” (EIB, Handbook, A.5)</p>
<p><b>SCREENING AND CATEGORIZATION</b></p> <p><b>OP 4.01, para. 8:</b> The Bank undertakes environmental screening of each proposed project to determine the appropriate extent and type of EA. The Bank classifies the proposed project into one of four categories, depending on the type, location, sensitivity, and scale of the project and the nature and magnitude of its potential environmental impacts.</p> <p>(a) <i>Category A:</i> A proposed project is classified as Category A if it is likely to have <i>significant adverse environmental</i> impacts that are <i>sensitive,<sup>12</sup> diverse, or unprecedented</i>. These impacts may affect an area broader than the sites or facilities subject to physical works..... For a Category A project, the borrower is responsible for preparing a report, normally an EIA (or a suitably comprehensive regional or sectoral EA) that includes, as necessary, elements of the other instruments referred to in para. 7.</p> <p>(b) <i>Category B:</i> A proposed project is classified as Category B if its potential adverse environmental impacts on human populations or</p>	<p>“For projects located in the EU, Candidate and potential Candidate countries, <i>the promoter will apply the classification provided by the Annexes I and II of the EU EIA Directive or relevant EU legislation and criteria qualifying for a social assessment (see Standards 6 to 9)..</i> For projects outside of the EU, Candidate and potential Candidate countries, the promoter shall be consistent with the classification provided by EU legislation, <i>as well as the national environmental and social legislation</i> and applicable international best practice.”( EIB, ESH, ESS 1, para.21)<sup>209</sup></p> <p>“Category 1: Bank operations likely to cause significant environmental and social impacts. Category 1 projects are likely to induce significant and/or irreversible adverse environmental <i>and/or social impacts</i>, or to significantly affect environmental <i>or social components</i> that the Bank <i>or the borrowing country considers sensitive</i>. In some cases, projects are included in Category 1 because of their potential cumulative impacts or the potential impacts of associated facilities. Any project requiring a Full Resettlement Action Plan ...under the provisions of the Bank’s policy on involuntary resettlement is also deemed to be Category 1.”<sup>210</sup> (AfDB, OS 1, para. 23)</p>

<sup>209</sup> Annexes I and II of the EIA Directive explicitly categorize projects by industry sector and size, whereas the World Bank provides indicative guidance on screening and categorization by type of nature of activity.

<sup>210</sup> Although social impacts and related requirements are not explicit criteria for inclusion in World Bank Category A, in practice this is most often the case.



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<p>environmentally important areas--including wetlands, forests, grasslands, and other natural habitats--are less adverse than those of Category A projects. These impacts are site-specific; few if any of them are irreversible; and in most cases mitigatory measures can be designed more readily than for Category A projects. The scope of EA for a Category B project may vary from project to project, but it is narrower than that of Category A EA. <sup>13</sup></p> <p>(c) Category C: A proposed project is classified as Category C if it is likely to have minimal or no adverse environmental impacts. Beyond screening, no further EA action is required for a Category C project.</p> <p>(d) <i>Category FI</i>: A proposed project is classified as Category FI if it involves investment of Bank funds through a financial intermediary, in subprojects that may result in adverse environmental impacts.</p>	<p>“Any operation that is <i>likely to cause</i> significant environmental and <i>associated social impacts</i>, or have <i>profound implications affecting natural resources</i>, will be classified as Category “A.” (IDB), ESCP para. 4.17);</p> <ul style="list-style-type: none"> <li>• Operations that are likely to cause mostly local and short-term negative environmental and associated social impacts and for which effective mitigation measures are readily available will be classified as <i>Category “B.”</i> These operations will normally require an environmental and/or social analysis, according to and focusing on, the specific issues identified in the screening process, and an environmental and social management plan (ESMP).</li> <li>• Operations that are likely to cause minimal or no negative environmental and associated social impacts will be classified as <i>Category “C.”</i> These operations do not require an environmental or social analysis beyond the screening and scoping analysis for determining the classification. However, where relevant, these operations will establish safeguard or monitoring requirements</li> </ul>
<p><b>COMPLIANCE WITH COUNTRY OBLIGATIONS UNDER MULTILATERAL ENVIRONMENTAL AGREEMENTS</b></p> <p><b>OP 4.01 para. 3:</b> EA also takes into account...; ...obligations of the country, pertaining to project activities, under relevant international environmental treaties and agreements. The Bank does not finance project activities that would contravene such country obligations, as identified during the EA.”</p> <p><b>OP 4.36 para. 6:</b> The Bank does not finance projects that contravene applicable international environmental agreements.</p>	<p>“[ADB] will not ....finance projects that do not comply with the host country’s laws ....including those laws implementing host country obligations under international law.”<sup>211</sup> (ADB, SPS, Overarching Statement on ADB’s Commitment and Policy Principles, para. 47)</p> <p>“The Bank will also require the borrower for that operation to ensure that it is designed and carried out in compliance with ...national obligations established under ratified Multilateral Environmental Agreements (MEAs).” (IDB, ESCP para. 4.15)</p> <p>“All EIB-supported operation have to comply with the relevant international agreements and conventions ratified by the host country. In particular, the provisions of the following treaties and conventions apply (EIB )</p>

<sup>211</sup> World Bank specifies that MEAs are to be “identified during the EA”, which is the responsibility of the borrower.



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	<ul style="list-style-type: none"> <li>• UN ECE Espoo Convention on Environmental Impact Assessment in a Transboundary Context concerning environmental impact assessment in a transboundary context;</li> <li>• UN ECE Aarhus Convention, with the requirements related to access to information, public participation in decision-making and access to justice in environmental matters;</li> <li>• United Nations Convention on Biological Diversity focusing on the assessment of the significant adverse effects of projects on biological diversity;</li> <li>• United Nations Framework Convention on Climate Change and its UNFCCC's Kyoto Protocol;</li> <li>• United Nations Hyogo Framework for Action Programme (2005-2015) which stresses the need to put in place procedures for assessment of the disaster risk implications of major infrastructure projects.</li> </ul>
<p><b>ENVIRONMENTAL MANAGEMENT PLANNING</b></p> <p><b>OP 4.01, para.2:</b> The Bank favors preventive measures over mitigatory or compensatory measures, whenever feasible....EA ... includes the process of mitigating and managing adverse environmental impacts throughout project implementation</p> <p><b>OP 4.01, para. 7:</b> Depending on the project, a range of instruments can be used to satisfy the Bank's EA requirement... environmental audit, hazard or risk assessment, environmental management plan (EMP) and environmental and social management framework (ESMF).</p> <p><b>OP 4.01, Annex C - Environmental Management Plan</b></p> <p>1. A project's environmental management plan (EMP) consists of the set of mitigation, monitoring, and institutional measures to be taken during implementation and operation to eliminate adverse environmental and social impacts, offset them, or reduce them to</p>	<p><b>ADB, SPS, Appendix 1</b></p> <p>12..... Key considerations include mitigation of potential adverse impacts to the level of “no significant harm to third parties”, the polluter pays principle, the precautionary approach, and adaptive management.</p> <p>13. If some residual impacts are likely to remain significant after mitigation, the EMP will also include appropriate compensatory measures (offset) that aim to ensure that the project does not cause significant net degradation to the environment. Such measures may relate, for instance, to conservation of habitat and biodiversity, preservation of ambient conditions, and greenhouse gas emissions. Monetary compensation in lieu of offset is acceptable in exceptional circumstances, provided that the compensation is used to provide environmental benefits of the same nature and is commensurate with the project’s residual impact.</p> <p>14. The EMP will define expected outcomes as measurable events to the extent possible and will include performance indicators or targets that can be</p>

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<p>acceptable levels. The plan also includes the actions needed to implement these measures.<sup>1</sup> Management plans are essential elements of EA reports for Category A projects; for many Category B projects, the EA may result in a management plan only. To prepare a management plan, the borrower and its EA design team (a) identify the set of responses to potentially adverse impacts; (b) determine requirements for ensuring that those responses are made effectively and in a timely manner; and (c) describe the means for meeting those requirements.<sup>2</sup> More specifically, the EMP includes the following components.</p> <p><i>Mitigation</i></p> <p>2. The EMP identifies feasible and cost-effective measures that may reduce potentially significant adverse environmental impacts to acceptable levels. The plan includes compensatory measures if mitigation measures are not feasible, cost-effective, or sufficient. Specifically, the EMP</p> <p>(a) identifies and summarizes all anticipated significant adverse environmental impacts (including those involving indigenous peoples or involuntary resettlement);</p> <p>(b) describes--with technical details--each mitigation measure, including the type of impact to which it relates and the conditions under which it is required (e.g., continuously or in the event of contingencies), together with designs, equipment descriptions, and operating procedures, as appropriate;</p> <p>(c) estimates any potential environmental impacts of these measures; and</p> <p>(d) provides linkage with any other mitigation plans (e.g., for involuntary resettlement, indigenous peoples, or cultural property) required for the project.</p>	<p>tracked over defined periods. It will be responsive to changes in project design, such as a major change in project location or route, or in technology, unforeseen events, and monitoring results.</p> <p>15. At times, a third party's involvement will influence implementation of the EMP. A third party may be, inter alia, a government agency, a contractor, or an operator of an associated facility. When the third-party risk is high and the borrower/client has control or influence over the actions and behavior of the third party, the borrower/client will collaborate with the third party to achieve the outcome consistent with the requirements for the borrower/client. Specific actions will be determined on a case-by-case basis.</p> <p><b>Annex 1 to Appendix 1 OUTLINE OF AN ENVIRONMENTAL IMPACT ASSESSMENT REPORT</b></p> <p><b>I. Environmental Management Plan</b></p> <p>This section deals with the set of mitigation and management measures to be taken during project implementation to avoid, reduce, mitigate, or compensate for adverse environmental impacts (in that order of priority). It may include multiple management plans and actions. It includes the following key components (with the level of detail commensurate with the project's impacts and risks):</p> <p>(i) Mitigation:</p> <p>(a) identifies and summarizes anticipated significant adverse environmental impacts and risks;</p> <p>(b) describes each mitigation measure with technical details, including the type of impact to which it relates and conditions under which it is required (for instance, continuously or in the event of contingencies), together with designs, equipment descriptions, and operating procedures, as appropriate....</p> <p>(ii) Monitoring:</p>

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<p><i>Monitoring</i></p> <p>3. Environmental monitoring during project implementation provides information about key environmental aspects of the project, particularly the environmental impacts of the project and the effectiveness of mitigation measures. Such information enables the borrower and the Bank to evaluate the success of mitigation as part of project needed. Therefore, the EMP identifies monitoring objectives and specifies the type of monitoring, with linkages to the impacts assessed in the EA report and the mitigation measures described in the EMP. Specifically, the monitoring section of the EMP provides (a) a specific description, and technical details, of monitoring measures, including the parameters to be measured, methods to be used, sampling locations, frequency of measurements, detection limits (where appropriate), and definition of thresholds that will signal the need for corrective actions; and (b) monitoring and reporting procedures to (i) ensure early detection of conditions that necessitate particular mitigation measures, and (ii) furnish information on the progress and results of mitigation.</p> <p><i>Capacity Development and Training</i></p> <p>4. To support timely and effective implementation of environmental project components and mitigation measures, the EMP draws on the EA's assessment of the existence, role, and capability of environmental units on site or at the agency and ministry level.<sup>3</sup> If necessary, the EMP recommends the establishment or expansion of such units, and the training of staff, to allow implementation of EA recommendations. Specifically, the EMP provides a specific description of institutional arrangements--who is responsible for carrying out the mitigatory and monitoring measures (e.g., for operation, supervision, enforcement, monitoring of implementation, remedial action, financing, reporting, and staff training). To strengthen environmental management capability in the agencies</p>	<p>(a) describes monitoring measures with technical details, including parameters to be measured, methods to be used, sampling locations, frequency of measurements, detection limits and definition of thresholds that will signal the need for corrective actions; and</p> <p>(b) describes monitoring and reporting procedures to ensure early detection of conditions that necessitate particular mitigation measures and document the progress and results of mitigation.</p> <p>(iv) Performance indicators: describes the desired outcomes as measurable events to the extent possible, such as performance indicators, targets, or acceptance criteria that can be tracked over defined time periods.</p> <p>“The Bank applies safeguards throughout the project cycle to ensure the environmental sustainability of all Bank-financed operations. In line with sustainable development practices, <i>the Bank takes a general precautionary approach to environmental impacts.</i>” (IDB, ESCP, para. 4.13) (emphasis added)</p> <p>The EIB requires the application of the precautionary principle through the mitigation hierarchy in order to promoter more sustainable patterns of development in the regions it operates.” (EIB)</p>

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<p>responsible for implementation, most EMPs cover one or more of the following additional topics: (a) technical assistance programs, (b) procurement of equipment and supplies, and (c) organizational changes.</p> <p><i>Implementation Schedule and Cost Estimates</i></p> <p>5. For all three aspects (mitigation, monitoring, and capacity development), the EMP provides (a) an implementation schedule for measures that must be carried out as part of the project, showing phasing and coordination with overall project implementation plans; and (b) the capital and recurrent cost estimates and sources of funds for implementing the EMP. These figures are also integrated into the total project cost tables.</p> <p><i>Integration of EMP with Project</i></p> <p>6. The borrower's decision to proceed with a project, and the Bank's decision to support it, are predicated in part on the expectation that the EMP will be executed effectively. Consequently, the Bank expects the plan to be specific in its description of the individual mitigation and monitoring measures and its assignment of institutional responsibilities, and it must be integrated into the project's overall planning, design, budget, and implementation. Such integration is achieved by establishing the EMP within the project so that the plan will receive funding and supervision along with the other components supervision, and allows corrective action to be taken when.</p> <p><b>OP 4.04 (Natural Habitats)</b></p> <p><b>Para. 10:</b> The Bank expects the borrower to take into account the views, roles, and rights of groups, including local nongovernmental organizations and local communities,<sup>6</sup> affected by Bank-financed projects involving natural habitats, and to involve such people in</p>	

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<p>planning, designing, implementing, monitoring, and evaluating such projects. Involvement may include identifying appropriate conservation measures, managing protected areas and other natural habitats, and monitoring and evaluating specific projects. The Bank encourages governments to provide such people with appropriate information and incentives to protect natural habitats.</p>	
<p><b>REFERENCE TO THE WORLD BANK GROUP ENVIRONMENTAL, HEALTH AND SAFETY GUIDELINES (EHSGs)</b></p> <p><b>OP. 4.01, para. 6.</b> The <i>Pollution Prevention and Abatement Handbook</i><sup>212</sup> describes pollution prevention and abatement measures and emission levels that are normally acceptable to the Bank. However, taking into account borrower country legislation and local conditions, the EA may recommend alternative emission levels and approaches to pollution prevention and abatement for the project. The EA report must provide full and detailed justification for the levels and approaches chosen for the particular project or site</p> <p>Footnotes 1 and 9: World Bank Group Environment[al], Health and Safety Guidelines (EHSGs) have replaced the 1998 Pollution Prevention and Abatement Handbook (PPAH). Guidelines as to what constitutes acceptable pollution prevention and abatement measures and emission levels in a Bank financed project can be found in the EHSGs. For complete reference, consult the <a href="#">World Bank Group Environmental Health and Safety Guidelines</a>. Please check the website <a href="http://www1.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/IFC+Sustainability/Sustainability+Framework/Environmental,+Health,+and+Safety+Guidelines/">[www1.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/IFC+Sustainability/Sustainability+Framework/Environmental,+Health,+and+Safety+Guidelines/]</a> for the most recent version.</p>	<p>[Policy Principle] 9. Apply pollution prevention and control technologies and practices consistent with international good practices as reflected in internationally recognized standards such as the World Bank Group’s Environmental, Health and Safety Guidelines. <b>(ADB, SPS, Table 1, Environmental Safeguards)</b></p> <p>33. During the design, construction, and operation of the project the borrower/client will apply pollution prevention and control technologies and practices consistent with international good practice, as reflected in internationally recognized standards such as the World Bank Group’s <i>Environment[al], Health and Safety Guidelines</i>. These standards contain performance levels and measures that are normally acceptable and applicable to projects. When host country regulations differ from these levels and measures, the borrower/client will achieve whichever is more stringent. If less stringent levels or measures are appropriate in view of specific project circumstances, the borrower/client will provide full and detailed justification for any proposed alternatives that are consistent with the requirements presented in this document. <b>(ADB, SPS, Appendix 1. 9. Pollution Prevention and Abatement)</b></p> <p>41. The borrower/client will apply preventive and protective measures consistent with international good practice, as reflected in internationally recognized standards such as the World Bank Group’s <i>Environment[al], Health and Safety Guidelines</i>. <b>(ADB, SPS, Appendix 1. 10. Health and Safety. a. Occupational Health and Safety)</b></p>

<sup>212</sup> The original (1998) version of the EHSGs were referred to as the *Pollution Prevention and Abatement Handbook* (1998).

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	<p>Pollution prevention and control, and resource efficiency The borrower or client applies pollution prevention and control measures consistent with national legislation and standards, applicable international conventions, and internationally recognised standards and good practice, particularly the EHS Guidelines<sup>213</sup>. When national legislation and regulations differ from the standards and measures presented in the EHS Guidelines, borrowers or clients are normally required to achieve whichever is more stringent. However, if less stringent levels or measures are appropriate to specific project circumstances, the borrower or client provides full and detailed justification for any proposed alternatives through the environmental and social assessment process. This justification demonstrates that the choice of any alternate performance levels is consistent with the overall requirements of this OS and internationally agreed best available techniques and best environmental practice. <b>(AfDB, OS 4. Pollution Prevention and Control, Hazardous Materials and Resource Efficiency; Requirements)</b></p>
<p><b>GREENHOUSE GAS (GHG) EMISSIONS</b></p> <p><b>OP 4.01, para. 3:</b> EA takes into account (...); and trans-boundary and global environmental aspects.</p> <p><b>OP 4.01 footnote 5:</b> Global environmental issues include climate change, ozone-depleting substances, pollution of international waters, and adverse impacts on biodiversity.</p> <p><b>OP 4.01, para.6.</b> The Pollution Prevention and Abatement Handbook [PPAH] describes pollution prevention and abatement measures and emission levels that are normally acceptable to the Bank. However, taking into account borrower country legislation and local conditions, the EA may recommend alternative emission levels and approaches to pollution prevention and abatement for the project.</p>	<p>“The Bank will develop and pilot a GHG tracking tool consistent with the provisions of the UNFCCC and without prejudging current negotiations under the Convention. Upon completion of the GHG tracking tool (December 2015), the Bank will report ex-ante on GHG emissions estimated to be produced by the Bank’s investments on a project-by-project basis and will report on GHG emissions (gross and net) in project documentation. The Bank will also report reductions in emissions achieved as a result of the Bank’s investments. In reporting on GHG emissions the Bank will be guided by two principles <b>(AfDB, OS 4, para. 15)</b>:</p> <ul style="list-style-type: none"> <li>• Full disclosure of information in line with its Disclosure and Access to Information policy.</li> <li>• Graduated reporting, rather than adopting a GHG threshold for reporting the Bank will undertake graduated reporting that is informed by the</li> </ul>

<sup>213</sup> In its statement of Objectives to OS 4 AfDB states that it “requires compliance with internationally accepted environmental standards, particularly the World Bank Group Environmental Health and Safety (EHS) Guidelines.”

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<p>The EA report must provide full and detailed justification for the levels and approaches chosen for the particular project or site.</p>	<p>results of piloting the GHG tracking tool. The Bank will initially report on emissions for Category 1 operations.”</p> <p>“The borrower/client will promote the reduction of project-related anthropogenic greenhouse gas emissions in a manner appropriate to the nature and scale of project operations and impacts. During the development or operation of projects that are expected to or currently produce significant quantities of greenhouse gases,<sup>10</sup> the borrower/client will quantify direct emissions from the facilities within the physical project boundary and indirect emissions associated with the off-site production of power used by the project. The borrower/client will conduct quantification and monitoring of greenhouse gas emissions annually in accordance with internationally recognized methodologies.<sup>11</sup> In addition, the borrower/client will evaluate technically and financially feasible and cost-effective options to reduce or offset project-related greenhouse gas emissions during project design and operation, and pursue appropriate options. (Footnote 10: Even though the significance of a project’s contribution to greenhouse gas emissions varies between industry sectors, the significance threshold to be considered for these requirements is generally 100,000 tons of carbon dioxide equivalent per year for the aggregate emissions of direct sources and indirect sources associated with electricity purchased for own consumption; Footnote 11: Estimation methodologies are provided by the Intergovernmental Panel on Climate Change (IPCC), various international organizations, and relevant host country agencies.)” <b>(ADB, SPS, Appendix 1, para. 39)</b></p> <p>“The borrower/client will apply preventive and protective measures consistent with international good practice, as reflected in internationally recognized standards such as the World Bank Group’s <i>Environment, Health and Safety Guidelines</i>.” <b>(ADB, SPS, Appendix 1, para. 40 )</b></p> <p>“As part of agreed mitigation measures, the Bank may require that the borrower, where feasible and cost effective, adopt cleaner production processes, energy-efficiency or renewable energy.” <b>(IDB, ESCP para. 4.28)</b></p>



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	<p>“The Bank encourages the reduction and control of greenhouse gas (GHG) emissions in a manner appropriate to the nature and scale of operations. Operations that produce significant quantities of greenhouse gases will annually quantify direct GHG emissions, in accordance with the emission estimation methodologies of the Intergovernmental Panel on Climate Change (IPCC) or other internationally accepted methodologies.” <b>(IDB, ESCP para. 4.28)<sup>214</sup></b></p> <p>“EIB requires the application of Best Available Techniques. For investment loans and fully appraised allocations under framework loans, an assessment of the GHG emissions produced as a result of the project, based on proprietary sector-specific methodologies, is systematically carried out and reported for projects emitting more than 100kt CO<sub>2</sub>eq/yr in absolute terms or leading to an emission variation of more than 20kt CO<sub>2</sub>eq/yr. ...When appraising the economic case for a project which results in significant change in GHG emissions, as may be the case with energy, industry or transport projects, the EIB incorporates an economic cost of carbon. The central value for a tonne of CO<sub>2</sub>eq is currently approximately 30 EUR per tome (for an emission in 2013), rising to nearly EUR 50 in 2030. This approach, based to a large degree on the evidence around the costs of meeting long term emissions targets is distinct from the financial price of carbon, such as the spot price on traded markets, which may be used in the financial analysis.” <b>(EIB, ESH, ESS 4, para. 2).</b></p>
<p><b>MONITORING AND SUPERVISION</b></p> <p><b>OP 4.01, Annex C, para. 1:</b> A project's environmental management plan (EMP) consists of the set of mitigation, monitoring, and institutional measures to be taken during implementation and</p>	<p>“Both the borrower/client and [The Bank] have their own separate monitoring responsibilities...”<b>(ADB, SPS, Policy Delivery Process, General Requirements, para. 57)</b></p> <p>Borrowers/clients are required to:</p>

<sup>214</sup> IDB has also adopted a GHG Assessment Emissions methodology and Guidelines for GHG Emissions in Liquid and Gaseous Fossil Fuel Power Plants; Coal-Fired Power Plants; Landfills and Cement Manufacturing Plants.



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<p>operation to eliminate adverse environmental and social impacts, offset them, or reduce them to acceptable levels.</p> <p><b>OP 4.01, Annex C, para. 3:</b> Environmental monitoring during project implementation ....enables the borrower and the Bank to evaluate the success of mitigation as part of project supervision, and allows corrective action to be taken when needed. ...</p> <p><b>OP 10.00 para. 21:</b> The Bank also provides implementation support to the Borrower or the member country by reviewing information on implementation progress, progress towards achievement of the Project’s development objectives and related results, and updates the risks and related management measures.</p> <p><b>OP 4.01 para. 4:</b> For Category A projects that are highly risky or contentious or that involve serious and multidimensional environmental concerns, the borrower should normally also engage an advisory panel of independent, internationally recognized environmental specialists to advise on all aspects of the project relevant to the EA.<sup>8</sup> The role of the advisory panel depends on the degree to which project preparation has progressed, and on the extent and quality of any EA work completed, at the time the Bank begins to consider the project.</p> <p><b>OP 4.01 Annex C (Content of EMP):</b> Environmental monitoring during project implementation provides information about key environmental aspects of the project, particularly the environmental impacts of the project and the effectiveness of mitigation measures. Such information enables the borrower and the Bank to evaluate the success of mitigation as part of project supervision, and allows corrective action to be taken when needed. Therefore, the EMP identifies monitoring objectives and specifies the type of monitoring, with linkages to the impacts assessed in the EA report and the mitigation measures described in the EMP. Specifically, the</p>	<ul style="list-style-type: none"> <li>• “Implement safeguard measures and relevant safeguard plans, as provided in the legal agreements, and to submit periodic monitoring reports on their implementation performance.”</li> <li>• “Establish and maintain procedures to monitor the progress of implementation of safeguard plans;”</li> <li>• “Verify the compliance with safeguard measures and their progress toward intended outcomes;”</li> <li>• “Document and <i>disclose</i> monitoring results and identify necessary corrective and preventive actions in the periodic monitoring reports;”</li> <li>• “Follow up on these actions to ensure progress toward the desired outcomes;”</li> <li>• “Require borrowers/clients to ... submit periodic monitoring reports on safeguard measures as agreed with ADB.”</li> </ul> <p>“[The Bank] is required to...”[r]eview... project performance against borrowers’/clients’ commitments as agreed in the legal documents.” “The extent of [the Bank’s] monitoring and supervision activities will be commensurate with the project’s risks and impacts.”</p> <p>“Monitoring and supervising of social and environmental safeguards is integrated into the project performance management system.” (ADB, SPS, Policy Delivery Process, General Requirements, para. 57)</p> <p>“The Bank will monitor the executing agency/borrower’s compliance with all safeguard requirements stipulated in the loan agreement and project operating or credit regulations. <i>Safeguard requirements, such as those in an ESMP must be incorporated into the project contract documents, its operating or credit regulations, or the project bidding documents, as appropriate, setting out as necessary milestones, timeframes and corresponding budgetary allocations to implement and monitor the plan during the course of the project. Safeguard indicators, as appropriate, should be clearly defined in the logical/results framework, followed up in project monitoring reports</i></p>

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<p>monitoring section of the EMP provides (a) a specific description, and technical details, of monitoring measures, including the parameters to be measured, methods to be used, sampling locations, frequency of measurements, detection limits (where appropriate), and definition of thresholds that will signal the need for corrective actions; and (b) monitoring and reporting procedures to (i) ensure early detection of conditions that necessitate particular mitigation measures, and (ii) furnish information on the progress and results of mitigation.</p>	<p>and reviewed in mid-term reviews and project completion reports. Compliance with safeguard commitments and identification of unexpected safeguard issues will be analyzed, reviewed and reported as part of Bank’s administration and portfolio review missions. Category “A” projects will be reviewed at least annually to assess safeguard compliance. Whenever ex-post evaluations are conducted, these will evaluate the sustainability outcomes of an operation.” (IDB, ECSP para. 4.21)</p> <p>“The ESMP must include: ... the framework for the monitoring of social and environmental impacts and risks throughout the execution of the operation, including clearly defined indicators, monitoring schedules, responsibilities and costs.” (IDB, ESCP, para. 4.19)</p> <p>“For some high safeguard risk operations that, in the Bank’s opinion, raise complex and sensitive environmental, social, or health and safety concerns, the borrower should normally establish an advisory panel of experts to provide guidance for the design and/or execution of the operation on issues relevant to the EA process including health and safety.” (IDB, ESCP para. 4.17)</p> <p>The ESMP must include <b>the consultation or participation program agreed for the operation (IDB, ESCP Para. 4.19)</b></p> <p>“Affected parties also may be asked to play a role in monitoring the ESMP.” (IDB, IG-ESCP, p. 32)</p>
<p><b>STAKEHOLDER PARTICIPATION IN EA PROCESS</b></p> <p><b>OP 4.01, para. 14:</b> “For all Category A and B projects ... during the EA process, the borrower consults project-affected groups and local non-governmental organizations (NGOs) about the project’s environmental aspects and takes their views into account. The borrower initiates such consultations as early as possible. For Category A projects, the borrower consults these groups at least twice: (a) shortly after environmental screening and before the terms of reference for the EA are finalized; and (b) once a draft EA</p>	<p>“For consultation purposes, appropriate information will be provided in location(s), format(s) and language(s) to allow for affected parties to be meaningfully consulted, to form an opinion and to comment on the proposed course of action. EIAs and/or other relevant environmental analyses will be made available to the public consistent with the Bank’s Disclosure of Information Policy (OP-102). During execution, affected parties should be kept informed of those project-related environmental and associated social mitigation measures affecting them, as defined in the ESMP.” (IDB, ESCP, para. 4.20 )</p>

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<p>report is prepared. In addition, the borrower consults with such groups throughout project implementation as necessary to address EA-related issues that affect them</p> <p><b>OP 4.01, para. 15:</b> For meaningful consultations between the borrower and project-affected groups and local NGOs on all Category A and B projects proposed for IBRD or IDA financing, the borrower provides relevant material in a timely manner prior to consultation and in a form and language that are understandable and accessible to the groups being consulted.</p> <p><b>OP 4.01, para. 16:</b> For a Category A project, the borrower provides for the initial consultation a summary of the proposed project's objectives, description, and potential impacts; for consultation after the draft EA report is prepared, the borrower provides a summary of the EA's conclusions. In addition, for a Category A project, the borrower makes the draft EA report available at a public place accessible to project-affected groups and local NGOs. For projects described in paragraph 9 above, the borrower/FI ensures that EA reports for Category A subprojects are made available in a public place accessible to affected groups and local NGOs.</p> <p><b>OP 4.01, para. 17:</b> Any separate Category B report for a project proposed for IDA financing is made available to project-affected groups and local NGOs. Public availability in the borrowing country and official receipt by the Bank of Category A reports for projects proposed for IBRD or IDA financing, and of any Category B EA report for projects proposed for IDA funding, are prerequisites to Bank appraisal of these projects.</p>	<p>“ESMPs outline responsibilities for public consultation and disclosure, and describe mechanisms for feedback and remedial action... [and] indicate the estimated costs of these activities. ... <i>Public consultations may improve the design of mitigation and monitoring measures, and should be considered in the finalization of ESMPs.</i>” (IDB, IG-ESCP, p. 32) (emphasis added)</p> <p>“The ESMP must include: ...the consultation or participation program agreed for the operation.”(IDB. ESCP. Para. 4.19)</p> <p>“For projects with significant adverse environment...impacts, [<i>Bank</i>] project teams will participate in consultation activities to understand the concerns of affected people and ensure that such concerns are addressed in project design and safeguard plans.” (ADB, SPS, Policy Delivery Process, General Requirements, para. 54)</p> <p>“Meaningful consultation is a process that (i) begins early in the project preparation stage and is carried out on an ongoing basis throughout the project cycle; (ii) provides timely disclosure of relevant and adequate information that is understandable and readily accessible to affected people; (iii) is undertaken in an atmosphere free of intimidation or coercion; (iv) is gender inclusive and responsive, and tailored to the needs of disadvantaged and vulnerable groups; and (v) enables the incorporation of all relevant views of affected people and other stakeholders into decision making, such as project design, mitigation measures, the sharing of development benefits and opportunities, and implementation issues.” (ADB, SPS, Policy Delivery Process, General Requirements, para. 54).</p> <p>“The borrower or client shall establish a credible, independent and empowered <i>local grievance and redress mechanism</i> to receive, facilitate and follow up on the resolution of the affected people’s grievances and concerns regarding the environmental and social performance of the project. The local</p>

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<p><b>OP 4.01, Footnote 19:</b> For projects with major social components, consultations are also required by other Bank policies--for example, <a href="#">OP/BP 4.10, Indigenous Peoples</a>, and <a href="#">OP/BP 4.12, Involuntary Resettlement</a></p>	<p>grievance mechanism <sup>215</sup>needs to be sufficiently independent, empowered and accessible to the stakeholders at all times during the project cycle and all responses to grievances shall be recorded and included in project supervision formats and reports.” (AfDB, OS 1, para. 55) (<i>emphasis added</i>)</p> <p>“Standard 10 outlines a <i>systematic approach to stakeholder engagement</i>.., Stakeholder engagement is an inclusive and <i>iterative process</i> that involves, in varying degrees, <i>stakeholder analysis and engagement planning</i>, and stakeholder participation, and a mechanism ensuring access to grievance and remedy.” (EIB, ESH, ESS 10, para. 2)</p> <p>“Stakeholder engagement, including disclosure and dissemination of information, will be planned for and carried out in line with the principles of prior, informed and free <i>engagement and informed participation</i>,..... <i>In the event that broad community support is not attained, the promoter is expected to dedicate all necessary resources and time to additional community engagement and public consultation initiatives, as required.</i>” (EIB, ESH, ESS 10, para. 17) (<i>emphasis added</i>)</p> <p>“Factors such as ....., <i>unequal gender relations</i> ...to be carefully considered by the promoter when pursuing an effective disclosure and information dissemination campaign.” (EIB, ESH, ESS 10, para. 20)</p> <p>“For projects outside the EU, a <i>stakeholder engagement plan, including a grievance mechanism, is mandatory as part of the ESIA process</i>. In line with Standards 7 and 10, where the EIB operations and/or components thereof impact or threaten the customary rights and interests of indigenous communities, the Team is to ascertain that a satisfactory FPIC process has been carried out.” (EIB, Handbook Volume II, Environmental and Social Practices and Procedures (ESPP), para. 164 ) (<i>emphasis added</i>)</p>

<sup>215</sup> In 2012 the World Bank began the process of exploring options for designing project based grievance mechanisms pursuant to the Management Response to the recommendations of 2010 report of the World Bank’s Independent Evaluation Group on “Safeguards and Sustainability Policies in a Changing World.” [http://siteresources.worldbank.org/EXTSAFANDSUS/Resources/mgmt\\_response\\_mar.pdf](http://siteresources.worldbank.org/EXTSAFANDSUS/Resources/mgmt_response_mar.pdf)

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<p><b>INTEGRATION OF EA</b></p> <p><b>OP 4.01 para. 2:</b> and Footnote 7 EA] is integrated closely with the economic, financial, institutional, social, and technical analyses of a proposed project,...to ensure that... environmental considerations are given adequate weight in project selection, siting, and design decisions</p>	<p>“Environmental Due Diligence...ensures that the findings of the EIA/ESIA, where required, are taken into account in the EIB appraisal and reflected in the work on risk assessment and mitigation, the cost-benefit analysis, the design and costing of the project and project management during implementation and operation.” (EIB, Handbook, Vol. II, ESPP, B.2.1) (emphasis added)</p>
<b>NATURAL HABITATS</b>	
<p><b>DEFINITION, SCOPE AND APPLICATION</b></p> <p><b>OP 4.04, Annex A, 1.a:</b> “Natural habitats are land and water areas where (i) the ecosystems’ bio-logical communities are formed largely by native plant and animal species, and (ii) human activity has not essentially modified the area’s primary ecological functions. All natural habitats have important biological, social, economic, and existence value. Important natural habitats may occur in tropical humid, dry, and cloud forests; temperate and boreal forests; Mediterranean-type shrub lands; natural arid and semi-arid lands; mangrove swamps, coastal marshes, and other wetlands; estuaries; sea grass beds; coral reefs; freshwater lakes and rivers; alpine and sub alpine environments, including herb fields, grasslands, and Paramus; and tropical and temperate grasslands.</p>	<p>“Habitat is defined as a terrestrial, freshwater, or marine geographical unit or an airway passage that supports complexities of living organisms and their interactions with the non-living environment.” (AfDB)</p> <p>“The OS shall specifically apply to Bank operations that will: (AfDB)</p> <ul style="list-style-type: none"> <li>i. Be located in any type of habitat;</li> <li>ii. Be located in areas providing <i>ecosystem services</i> upon which potentially affected stakeholders are dependent for survival, sustenance, livelihood or primary income, or which are used for sustaining the project;</li> <li>iii. <i>Extract renewable natural resources as a main purpose</i> (e.g. plantation forestry, commercial harvesting, agriculture, livestock, fisheries and aquaculture); and</li> <li>iv. Involve the <i>use of and commercialisation of an indigenous knowledge system.</i>”</li> </ul> <p>“For all projects financed by the EIB, the promoter must demonstrate that a range of alternatives and their impacts on biodiversity has been analysed. The promoter is also required to apply the mitigation hierarchy, i.e. to take appropriate measures to avoid, minimize or rehabilitate/mitigate impacts that may damage biological biodiversity. Where residual adverse impacts on biodiversity remain, the promoter may propose biodiversity offsets, where appropriate.” (EIB Statement, para. 70)</p>

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<p><b>SCREENING AND IMPACTS</b></p> <p><b>OP 4.04, Natural Habitats, para. 5:</b> If the environmental assessment indicates that a project would significantly convert or degrade natural habitats, the project includes mitigation measures acceptable to the Bank</p> <p><b>OP 4.04 Annex A:</b></p> <p>(c) <i>Significant conversion</i> is the elimination or severe diminution of the integrity of a critical or other natural habitat caused by a major, long-term change in land or water use. Significant conversion may include, for example, land clearing; replacement of natural vegetation (e.g., by crops or tree plantations); permanent flooding (e.g., by a reservoir); drainage, dredging, filling, or channelization of wetlands; or surface mining. In both terrestrial and aquatic ecosystems, conversion of natural habitats can occur as the result of severe pollution. Conversion can result directly from the action of a project or through an indirect mechanism (e.g., through induced settlement along a road).</p> <p>(d) <i>Degradation</i> is modification of a critical or other natural habitat that substantially reduces the habitat's ability to maintain viable populations of its native species.</p>	<p>“The borrower/client will assess the significance of project impacts and risks on biodiversity...[defined as] the variability among living organisms for all sources among, <i>inter alia</i>, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are a part; this includes diversity within species, between species and of ecosystems and natural resources as an integral part of the environmental assessment process...” (ADB, SPS Appendix 1, footnote 2) (emphasis added)</p> <p>“The borrower/client will assess the significance of project impacts and risks on biodiversity and natural resources as an integral part of the environmental assessment process specified in paras. 4–10. The assessment will focus on the major threats to biodiversity, which include destruction of habitat and introduction of invasive alien species, and on the use of natural resources in an unsustainable manner. (Footnote 2: The variability among living organisms from all sources including, <i>inter alia</i>, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.” (ADB, SPS, Appendix 1, para. 24).</p> <p>“Special attention shall be given to the major threats to biodiversity and ecosystem services, such as land conversion, <i>forest habitat fragmentation</i>, natural habitat loss, deforestation, <i>over-exploitation of natural areas and resources</i>, invasive alien species, <i>migration barriers</i>, <i>wild animals’ captivity</i>, harvesting endemic species and indigenous ornamental flora and fauna, and <i>wildlife poaching</i>.” (AfDB, OS 3, para. 9) (emphasis added)</p> <p>For effective integration of biodiversity considerations into EIB operations, all projects have to be screened for their potential impacts on the environment and biodiversity. ...The following impacts are of particular importance and will need to be assessed: Conversion of natural or <i>semi-natural habitats</i>, the <i>main cause of loss of biodiversity</i> worldwide; ...<i>fragmentation of natural habitat which interfere with ecological processes at a landscape scale</i>, ....installation of <i>infrastructure which can lead to losses in population of vulnerable and</i></p>



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	<p><i>endangered species.” (EIB, Handbook, Volume II, ESPP, B.1.7 (emphasis added)</i></p> <p>“The initial environmental and social impact assessment should include: potential impacts on...; areas that provide important biodiversity and ecosystems services [...]; areas traditionally used by local communities for natural goods and services; areas of semi-natural habitat which are particularly threatened; downstream and upstream ecosystems and potential impacts on the integrity of ecosystems.” (EIB, Handbook, Vol.II, ESPP, para. 69)</p> <p>“The biodiversity impact assessment [BIA] must offer, to the extent possible, a comprehensive picture of the likely direct, indirect, induced and cumulative impacts of the operation on habitats, species and ecosystems. The BIA may need to be contracted out to externally qualified experts with knowledge in the field. It is highly recommended that this assessment form an integral part of the ESIA; however certain national regulations may require free-standing analysis with a separate approval process.” (EIB, EHS, ESS 3, para. 32)</p> <p>“The [BIA] takes places in three clear stages. No assessment can be valid unless these stages have been completed in the right order. The first one is the establishment of an adequate baseline of the original state of the project site and its area of influence with regards to all biodiversity aspects, commensurate with the project impacts and risks. The second one is the assessment impacts of the various alternatives – both during the construction and operation phase – against the benchmark of the without-project scenario. The third one is the consideration of a range of alternative project designs, including a without-project scenario.” (EIB, ESH, ESS 3, para. 38)</p>
<p><b>REFERENCE TO MULTILATERAL ENVIRONMENTAL AGREEMENTS</b></p> <p><b>OP 4.01 para. 3:</b> EA also takes into account...; ...obligations of the country, pertaining to project activities, under relevant international environmental treaties and agreements. The Bank does not finance</p>	<p>Critical habitats include those areas either legally protected or officially proposed for protection, such as areas that meet the criteria of the World Conservation Union classification, the Ramsar List of Wetlands of International Importance, and the United Nations Educational, Scientific, and Cultural Organization’s world natural heritage sites. (ADB SPS, Appendix 1, footnote 5)</p>

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<p>project activities that would contravene such country obligations, as identified during the EA.”</p> <p>OP 4.04 para. 4: The Bank does not support projects that, in the Bank's opinion, involve the significant conversion or degradation<sup>3</sup> of critical natural habitats.</p> <p><b>OP 4.04 Annex A:</b> <i>Critical natural habitats</i> are:(i) existing protected areas and areas officially proposed by governments as protected areas (e.g., reserves that meet the criteria of the World Conservation Union [IUCN] classifications<sup>2</sup>), areas initially recognized as protected by traditional local communities (e.g., sacred groves), and sites that maintain conditions vital for the viability of these protected areas (as determined by the environmental assessment process<sup>3</sup>);</p>	<p>No project activity will be implemented in areas of critical habitat ....As defined by the Word Conservation Union’s Red List of Threatened Species or as defined in any national legislation. <b>(ADB, SPS, SR 1, para. 28 and footnote 6)</b></p> <p>The borrower will avoid the manufacture, trade, and use of hazardous substances and materials ...[C]onsistent with the objectives of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes. <b>(ADB, SPS, SR 1, para. 35)</b></p> <p>Consistent with the objectives of the Stockholm Convention on Persistent Organic Pollutants and the Montreal Protocol on Substances that Deplete the Ozone Layer. <b>(ADB, SPS, SR 1, para. 36).</b></p> <p>“This OS reflects the objectives of the <i>Convention on Biological Diversity</i> [CBD] to conserve biological diversity and promote the sustainable management and use of natural resources. This OS also aligns with the <i>Ramsar Convention on Wetlands</i>, the [<i>Bonn</i>] <i>Convention on the Conservation of Migratory Species of Wild Animals</i>, the <i>Convention on International Trade in Endangered Species of Wild Flora and Fauna</i> [<i>CITES</i>] the <i>World Heritage Convention</i>, the <i>UN Convention to Combat Desertification</i> and the <i>Millennium Ecosystem Assessment</i>.” <b>(AfDB OS 3, para. 3)</b> (<i>emphasis added</i>)</p> <p>“Its recommendations also align with the <i>International Plant Protection Convention</i> (IPPC) that covers the movement of invasive alien species, pests and pest risk analysis for quarantine pests, including analysis of environmental risks and living modified organisms.” <b>(AfDB, OS 3, para. 2)</b> (<i>emphasis added</i>) Annex 1 of IDB Guidelines to OP-703 lists the following MEAs Related to Biological Diversity and Natural Habitats: “[CBD]....[ CITES]... [Bonn] and <i>Ramsar Conventions</i>.” <b>(IDB, IG-ECSP)</b></p> <p>“If the project activity is inconsistent with international or national conventions, policies and/or laws, and the residual impacts on critical habitats/ecosystems are significant, the Team <i>should consider not pursuing</i></p>



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	<p><i>the project in its current design.” (EIB, Handbook, Vol. II, ESPP, para. 70) (emphasis added)</i></p> <p>“The Bank’s approach to genetically engineered organisms will be demand-driven and consistent with the laws and policies of regional member countries and sub-regional entities. Where the relevant provisions regarding risk-related assessments do not exist, the Bank will be guided by the Cartagena Protocol on Biosafety.” (AfDB, OS 3, para. 25)</p>
<p><b>CATEGORIZATION OF HABITATS</b></p> <p><b>OP 4.04 para. 4:</b> The Bank does not support projects that, in the Bank’s opinion, involve the significant conversion or degradation<sup>3</sup> of critical natural habitats.</p> <p><b>OP 4.04 para. 5:</b> Wherever feasible, Bank-financed projects are sited on lands already converted (excluding any lands that in the Bank’s opinion were converted in anticipation of the project). The Bank does not support projects involving the significant conversion of natural habitats unless there are no feasible alternatives for the project and its siting, and comprehensive analysis demonstrates that overall benefits from the project substantially outweigh the environmental costs. If the environmental assessment<sup>4</sup> indicates that a project would significantly convert or degrade natural habitats, the project includes mitigation measures acceptable to the Bank. Such mitigation measures include, as appropriate, minimizing habitat loss (e.g., strategic habitat retention and post-development restoration) and establishing and maintaining an ecologically similar protected area. The Bank accepts other forms of mitigation measures only when they are technically justified.</p> <p><b>OP 4.04 Annex A, 1.a:</b> “Natural habitats are land and water areas where (i) the ecosystems’ bio-logical communities are formed largely by native plant and animal species, and (ii) human activity has not essentially modified the area’s primary ecological functions. All natural habitats have important biological, social, economic, and</p>	<p>“[T]he Bank will not support operations involving the significant conversion or degradation of natural habitats as defined in this policy, unless: (i) there are <i>no feasible alternatives acceptable to the Bank</i>; (ii) comprehensive analysis demonstrates that overall benefits from the operation substantially outweigh the environmental costs and; (iii) mitigation and compensation measures acceptable to the Bank—including, as appropriate, minimizing habitat loss <i>and establishing and maintaining an ecologically similar protected area that is adequately funded, implemented and monitored.” (IDB, ECSP, para. 4.23)</i></p> <p>“<i>Critical natural habitats</i> are (i) existing protected areas, areas officially proposed by governments for protection or sites that maintain conditions that are vital for the viability of the aforementioned areas; and (ii) unprotected areas of known high conservation value. Existing protected areas may include reserves that meet the criteria of the IUCN Protected Area Management Categories I through VI; World Heritage Sites; areas protected under the RAMSAR Convention on Wetlands; core areas of World Biosphere Reserves; and areas in the UN List of National Parks and Protected Areas. Areas of known high conservation value are sites that, in the Bank’s opinion, may be: (i) highly suitable for biodiversity conservation; (ii) crucial for critically endangered, endangered, vulnerable or near threatened species listed as such in the IUCN Red List of Endangered Species; or (iii) critical for the viability of migratory routes of migratory species.” (IDB ESCP, Definitions)</p> <p>“<i>Natural habitats</i> are biophysical environments where: (i) the ecosystems’ biological communities are formed largely by native plant and animal species;</p>

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<p>existence value. Important natural habitats may occur in tropical humid, dry, and cloud forests; temperate and boreal forests; Mediterranean-type shrub lands; natural arid and semi-arid lands; mangrove swamps, coastal marshes, and other wetlands; estuaries; sea grass beds; coral reefs; freshwater lakes and rivers; alpine and sub alpine environments, including herb fields, grasslands, and paramos; and tropical and temperate grasslands.”</p> <p><b>OP, Annex A 1.b:</b> “Critical natural habitats are: (i) existing protected areas and areas officially proposed by governments as protected areas (e.g., reserves that meet the criteria of the World Conservation Union [IUCN] classifications), areas initially recognized as protected by traditional local communities (e.g., sacred groves), and sites that maintain conditions vital for the viability of these protected areas (as determined by the environmental assessment process); or (ii) sites identified on supplementary lists prepared by the Bank or an authoritative source determined by the Regional environment sector unit (RESU). Such sites may include areas recognized by traditional local communities (e.g., sacred groves); areas with known high suitability for bio-diversity conservation; and sites that are critical for rare, vulnerable, migratory, or endangered species. Listings are based on systematic evaluations of such factors as species richness; the degree of endemism, rarity, and vulnerability of component species; representativeness; and integrity of ecosystem processes.”</p>	<p>and (ii) human activity has not essentially modified the area’s primary ecological functions. Natural habitats may be sites that (i) provide critical ecological services required for sustainable human development (e.g., aquifer recharge areas, areas that sustain fisheries, mangrove or other ecosystems that help to prevent or mitigate natural hazards); (ii) are vital to ensure the functional integrity of ecosystems (e.g., biological corridors, natural springs); and (iii) have high levels of endemism. Natural habitats may occur in tropical humid, dry, and cloud forests; temperate and boreal forests; Mediterranean-type shrub lands; natural arid and semi-arid lands; mangrove swamps, coastal marshes, and other wetlands; estuaries; seagrass beds; coral reefs; underwater vents; freshwater lakes and rivers; alpine and sub-alpine environments, including herb fields, grasslands, and <i>páramos</i>; and tropical and temperate grasslands and <i>páramos</i>; and tropical and temperate grasslands.” <b>(IDB, ESCP, Definitions).</b></p> <p>...”EIB does not finance projects in critical habitats if there are negative impacts in terms of one or a number of the defining criteria. [...] the EIB does not finance projects located in protected sites unless they are consistent with the relevant legal requirements and site management plans” <b>(EIB, Statement, para. 71)</b></p> <p>“The implementation of this OS, involves the following habitat categories: <b>(AfDB OS 3, para. 12)</b><sup>216</sup></p> <p>(i) <i>“Natural habitats:</i> habitats in which the species composition, richness and abundance have not been modified by anthropogenic activities and native species have been preserved. Natural habitats are characterized by having original populations of native flora and fauna and are habitats that have not undergone transformation by human activities.”</p> <p>(ii) <i>“Modified habitats:</i> habitats that have been significantly altered by anthropogenic activities and the original species composition, richness</p>

<sup>216</sup> These habitat categories and their definitions are consistent with those used in IFC Performance Standard 6 (2012) and the International Union for the Conservation of Nature (IUCN) (World Conservation Union).

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	<p>and abundance reduced, with evidence of colonization by non-native species. Modified habitats include areas that have a large proportion of non-native flora and fauna or habitats that have been transformed by human activities, modifying the area’s primary ecological functions.”</p> <p>(iii) <i>“Critical habitats:</i> habitats that have a high biodiversity value; they could be either modified or natural habitats. Critical habitats include:</p> <ul style="list-style-type: none"> <li>• Habitats important to critically endangered and footprint impacted species;</li> <li>• Habitats of significant importance to endemic and/or restricted-range species and subspecies;</li> <li>• Habitats of significant importance to endemic and/or restricted-range species;</li> <li>• Habitats of significant importance to globally significant concentrations of migratory species and/or congregatory species;</li> <li>• Regionally significant and/or highly threatened or unique ecosystems;</li> <li>• Areas that are associated with key evolutionary processes;</li> <li>• Areas that are important to species that are vital to ecosystems, such as keystone species; and</li> <li>• Areas that supply ecological networks.”</li> </ul> <p>“If the project will take place in <i>or near a natural or critical habitat</i>, or near a legally protected or internationally recognized area, the borrower or client shall consider the potential risks and impacts that may occur at the landscape or seascape level in the assessment.” <b>(AfDB, OS 3, para. 15)</b></p> <p>“The Bank may agree to finance a project in a critical habitat if the borrower or client can demonstrate, using appropriate measurement and monitoring methods, that:</p>

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	<ul style="list-style-type: none"> <li>• The mitigation hierarchy has been implemented;</li> <li>• The project provides clear benefits and positive outcome for biodiversity and ecosystem services;</li> <li>• The project-related activities will not have adverse effects (direct, indirect, or cumulative) on the criteria for which the critical habitat was designated;</li> <li>• The project will not have any negative effects on critically endangered or endangered species;</li> <li>• The project will achieve the previous two points without offsets or a “net gain” analysis; and</li> <li>• A robust, appropriately designed and funded, long-term biodiversity monitoring and evaluation programme is integrated into (i.e., provides feedback into) the client’s management programme.” <b>(AfDB, OS 3, para. 19).</b></li> </ul> <p>“Where a national regulation permit a project to encroach on legally protected areas or internationally recognised areas or on areas that are proposed for protection or international recognition, the borrower or client complies with national and local regulations for appropriate environmental management, and consults with relevant stakeholders during the preparation of management and mitigation measures.” <b>(AfDB, OS 3, para. 22)</b></p> <p>“In circumstances where some project activities are located within a legally protected area, the borrower/client will meet the following [requirements in addition to those applicable to critical habitats]:</p> <ul style="list-style-type: none"> <li>(i) Act in a manner consistent with defined protected area management plans.</li> <li>(ii) Consult protected area sponsors and managers, local communities, and other key stakeholders on the proposed project.</li> </ul>

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	<p>(iii) Implement additional programs, as appropriate, to promote and enhance the conservation aims of the protected area.” (ADB, SPS, Appendix 1, para. 30)</p> <p>“EIB distinguishes between three types of habitat:</p> <p><b>Natural habitats:</b> are those areas where <i>ecological assemblages, functions and species composition are mainly attributable to natural evolutionary processes and have not been substantially modified by human activities.</i></p> <p><b>Semi-natural habitats:</b> are those areas where <i>ecological assemblages present have been substantially modified in their composition, balance or function by human activities. Those ecosystems have often evolved from traditional agriculture, pastoral or other human activities and depend on their continuation.</i></p> <p><b>Urban habitat:</b> <i>is where the majority of the space is occupied, fragmented or surrounded by constructions or infrastructure. Urban environments can be sub-divided into green space, grey space, brown field sites, and roofs and balconies. ...”</i> (EIB, ESH, EES 3, para. 25)</p> <p>“Critical habitat is defined according to the following attributes: ....<i>unique assemblages of species; required for the survival of migratory species or congregatory species; required for the maintenance of biological diversity with significant social, economic or cultural importance to local communities; required for the maintenance of ecosystem functioning and the provision of key ecosystem goods and services; and key scientific value.</i>” (EIB, ESS 3, para. 26).</p>
<p><b>MITIGATION AND ECOLOGICAL OFFSETS</b></p> <p><b>OP 4.04 para. 1:</b> “The Bank supports, and expects borrowers to apply, a precautionary approach to natural resource management to ensure opportunities for environmentally sustainable development.</p> <p><b>OP 4.04, para. 5:</b> If the environmental assessment<sup>4</sup> indicates that a project would significantly convert or degrade natural habitats. Such</p>	<p>“The borrower/client will need to identify measures to avoid, minimize, or mitigate potentially adverse impacts and risks and, as a last resort, propose compensatory measures, such as biodiversity offsets, to achieve no net loss or a net gain of the affected biodiversity.” (ADB, SPS, Appendix 1, para. 24)</p> <p>“Mitigation measures [for natural habitat] will be designed to achieve at least no net loss of biodiversity. They may include a combination of actions, such as post project restoration of habitats, offset of losses through the creation or</p>

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<p>mitigation measures [acceptable to the Bank] include ... establishing and maintaining an ecologically similar protected area.</p>	<p>effective conservation of ecologically comparable areas that are managed for biodiversity while respecting the ongoing use of such biodiversity by Indigenous Peoples or traditional communities, and compensation to direct users of biodiversity.” (ADB, SPS, Appendix 1, para. 27)</p> <p>“If projects are to be developed in natural habitats, or are to have potential adverse downstream impacts on natural habitats, they include mitigation measures to achieve either net benefit or no net loss of biodiversity—for example, ecological restoration of habitats, measures to reduce fragmentation, and restoration of ecosystem functioning. As a last resort, this can be done by the development of a biodiversity offset programme, in accordance with the biodiversity offset principles established by the Business and Biodiversity Offsets Programme or comparable organisations and programs. When considering biodiversity offsets, the borrower/client uses a landscape/seascape-scale planning process to identify the most environmentally sound approach.” (AfDB, OS 3, para. 18)</p> <p>“The borrower/client will need to identify measures to avoid, minimize, or mitigate potentially adverse impacts and risks and, as a last resort, propose compensatory measures, such as biodiversity offsets, to achieve no net loss or a net gain of the affected biodiversity.” (ADB, SPS, Appendix 1, para. 24)</p> <p>“An offset implementation and management plan must be drawn to up to present:</p> <ul style="list-style-type: none"> <li>a) The overall biodiversity value of the offset in comparison to the initial state of the site with a detailed description of the methodologies used.</li> <li>b) A detailed budget and timeline of the measures envisaged. Costs associated with offsetting should be factored in the business feasibility analysis.</li> <li>c) A presentation of all parties involved with their respective role, rights and responsibilities.</li> </ul>

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	<p>d) Clear indicators of success of the operation and directions for adapting and correcting measures should indicator targets not be met.</p> <p>e) A presentation of reporting duties and timeline.” (EIB, ESH, ESS 3, para. 88)</p> <p>“[T]he Bank will not support operations involving the significant conversion or degradation of natural habitats as defined in this policy, unless:.. (iii) mitigation and compensation measures acceptable to the Bank—including, as appropriate, minimizing habitat loss <i>and establishing and maintaining an ecologically similar protected area that is adequately funded, implemented and monitored.</i>” (IDB, ECSP, para. 4.23)</p> <p>“The Bank applies safeguards throughout the project cycle to ensure the environmental sustainability of all Bank-financed operations. In line with sustainable development practices, the Bank takes a general precautionary approach to environmental impacts. The Bank favors avoiding negative environmental impacts; when impacts are unavoidable, Bank-financed operations require mitigation measures; and for impacts that cannot be fully mitigated, compensation <b>or offsets should be implemented.</b>” (IDB, ESCP, para. 4.13)</p>
<p><b>INVASIVE ALIEN SPECIES</b></p> <p><b>OP 4.04 para.1:</b>The Bank supports, and expects borrowers to apply, a precautionary approach to natural resource management to ensure opportunities for environmentally sustainable development.<sup>217</sup></p> <p><b>OP 4.36, para.7,</b> In view of the potential for plantation projects to introduce invasive species and threaten biodiversity, such projects must be designed to prevent and mitigate these potential threats to natural habitats.</p>	<p>“The borrower or client shall intentionally take precautions to avoid introducing any potentially invasive alien species (that is, species not currently established in the country or region of the project) unless carried out:</p> <ul style="list-style-type: none"> <li>(i) In accordance with any existing applicable regulatory framework for such introduction<sup>46</sup>; or/and</li> <li>(ii) The introduction is subject to a risk, which may be part of the environmental assessment, to determine the potential for invasive behavior. Under no circumstances shall species known to be invasive be</li> </ul>

<sup>217</sup> Although OP 4.36 refers to “alien species” in the limited context for forest plantations the Bank’s requirement for the use of the “precautionary approach in OP 4.04” could be interpreted as an implicit prohibition on the introduction of alien species into any form of natural habitat.

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<p><b>OP 4.04 Annex A: (d) Degradation</b> is modification of a critical or other natural habitat that substantially reduces the habitat's ability to maintain viable populations of its native species.</p>	<p>introduced into new environments. The borrower or client shall undertake assessment of the possibility of accidental or unintended introduction of invasive alien species, and identify measures to minimize the potential for release.” (AfDB, OS 3, para. 23)</p> <p>“The borrower/client will not intentionally introduce any new alien species (that is, species not currently established in the country or region of the project) unless carried out in accordance with the existing regulatory framework for such introduction, if such a framework is present, or unless the introduction is subject to a risk assessment (as part of the environmental assessment) to determine the potential for invasive behavior. Under no circumstances must species known to be invasive be introduced into new environments. The borrower/client will undertake assessment of the possibility of accidental or unintended introduction of such invasive alien species and identify measures to minimize the potential for release.” (ADB, SPS, Appendix 1, para. 31)</p> <p>“The Bank will not support operations that introduce invasive species.” (IDB)</p> <p>“The promoter is required to take measures to avoid the introduction of invasive species, where there is potential for significant negative biodiversity impact.” (EIB, Statement, para. 74))</p>
<p><b>GENETICALLY MODIFIED ORGANISMS (GMOS)<sup>218</sup></b></p>	<p>“The Bank’s approach to genetically engineered organisms will be demand-driven and consistent with the laws and policies of regional member countries and sub-regional entities. Where the relevant provisions regarding risk-related assessments do not exist, the Bank will be guided by the Cartagena Protocol on Biosafety.” (AfDB, OS 3, para. 25)</p> <p>“GMOs are on the EIB’s exclusion list.” (EIB)</p>
<p><b>ENVIRONMENTAL FLOWS</b></p>	<p>“For projects that affect water resources, the borrower or client <i>avoids significantly altering flow regimes in ways that prevent water resources from</i></p>

<sup>218</sup> Although OP 4.04 does refer to “GMOs,” such a provision *may* possibly be interpreted as implicit in the Bank’s requirement for the use of the “precautionary approach.”



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<p><b>OP 4.04, para. 1:</b> The Bank therefore supports the protection, maintenance, and rehabilitation of natural habitats and their functions in its economic and sector work, project financing, and policy dialogue.</p> <p><b>OP 4.04, para. 3:</b>The Bank promotes and supports ...the maintenance of ecological functions<sup>219</sup></p> <p><b>OP 4.04, para. 9:</b> The Bank encourages borrowers to incorporate into their development and environmental strategies analyses of any major natural habitat issues, including identification of important natural habitat sites, the ecological functions they perform, the degree of threat to the sites, priorities for conservation, and associated recurrent-funding and capacity-building needs.</p>	<p><i>fulfilling their functions for important upstream and downstream ecosystems and their services to local communities.</i> The borrower therefore assesses and manages environmental flows for the conservation and sustainable use of biodiversity and ecosystem services. ...The borrower or client ensures that flows are maintained so that they are optimally managed to allow for the multipurpose use of water, including water’s ecological functions, and the integrity of river systems and wetlands. The member country (or group of countries) in which the project takes place is responsible for ensuring compliance through its appropriate water resources management agency. ... The borrower or client ensures that the environmental and social assessment uses appropriate methodologies to address the issue of environmental flows according to best practice, including the recommendations of the World Commission on Dams. Before beginning any waterflow project, the borrower or client conducts a participatory water needs audit to determine, in consultation with relevant stakeholders who depend on the river flows for various needs, the minimum baseline ecological flow requirements....” (AfDB, OS 3, para. 28)</p> <p>“Natural habitats may be sites that (a) provide critical ecological services required for sustainable human development (e.g., aquifer recharge areas, areas that sustain fisheries, mangrove or other ecosystems that help to prevent or mitigate natural hazards); (b) are vital to ensure the functional integrity of ecosystems (e.g., ..., natural springs).” (IDB, Definitions)</p>
<p><b>RENEWABLE NATURAL RESOURCES</b></p> <p><b>OP 4.01 para. 1:</b> 1. The Bank requires environmental assessment (EA) of projects proposed for Bank financing to help ensure that they are environmentally sound and sustainable.</p> <p><b>OP 4.36, Forests</b></p>	<p>“In projects whose main objective includes the extraction of renewable natural resources – such as forestry, <i>wild fisheries, agriculture, animal breeding and aquaculture</i> –these resources are managed in a sustainable manner, with <i>preference for internationally recognized systems of certification of sustainable management and use.</i>” (AfDB, OS 3, para. 30) (<i>emphasis added</i>)</p> <p>“Renewable natural resources will be managed in a sustainable manner. Sustainable resource management is management of the use, development,</p>

<sup>219</sup> The conservation of ecological flows may be implicit in the Bank’s requirement for the support of “ecological functions.”

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<p><b>Para. 9.</b> To be eligible for Bank financing, industrial-scale commercial harvesting operations must also</p> <p><b>a)</b> be certified under an independent forest certification system acceptable to the Bank as meeting standards of responsible forest management and use; or b) where a pre-assessment under such an independent forest certification system determines that the operation does not yet meet the requirements of subparagraph 9(a), adhere to a time-bound phased action plan acceptable to the Bank for achieving certification to such standards.</p> <p><b>OP 4.36 para. 15.</b> As appropriate, the design of projects that use forest resources or provide environmental services includes an evaluation of the prospects for the development of new markets and marketing arrangements for non-timber forest products and related forest goods and services, taking into account the full range of goods and environmental services from well-managed forests.</p>	<p>and protection of resources in a way, or at a rate, that enables people and communities, including Indigenous Peoples, to provide for their current social, economic, and cultural well-being while also sustaining the potential of those resources to meet the reasonably foreseeable needs of future generations. This includes safeguarding the life-supporting capacity of air, water, and soil ecosystems. Where possible, the borrower/client will demonstrate the sustainable management of resources through an appropriate system of independent certification.” <b>(ADB, SPS, Appendix 1, para. 32).</b></p>
<p><b>SUPPLY CHAINS OF LIVING RESOURCES</b></p>	<p>“If the borrower or client uses external suppliers of living resources, where the borrower or client does not have management control over their sourcing and the resources are key to the project’s core functions, the borrower or client shall develop and implement a sustainable resources-procurement policy, procedures, and action plan to ensure that:</p> <p>a) Only resources of a legal and sustainable origin are purchased,;</p> <p>b) The origin of the resources is monitored; and,</p> <p>c) The resources do not originate from legally protected areas or internationally recognized high conservation value areas.” <b>(AfDB, OS 3, para. 31)</b></p>
<p><b>MANAGEMENT OF ECOSYSTEM SERVICES</b></p> <p><b>OP 4.04, para. 3:</b> The Bank promotes and supports ...the maintenance of ecological functions</p>	<p>“If during the environmental and social assessment it is determined that the project may affect important ecosystem services, the borrower or client performs an ecosystem services review to identify the risks.” <b>(AfDB, OS 3, para. 32)</b></p>

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<p><b>OP 4.04, para. 1:</b> The Bank therefore supports the protection, maintenance, and rehabilitation of natural habitats and their functions in its economic and sector work, project financing, and policy dialogue.</p> <p><b>OP 4.04, para. 9:</b> The Bank encourages borrowers to incorporate into their development and environmental strategies analyses of any major natural habitat issues, including identification of important natural habitat sites, the ecological functions they perform, the degree of threat to the sites, priorities for conservation, and associated recurrent-funding and capacity-building needs.</p> <p><b>OP 4.04, Annex A:</b> (e) <i>Appropriate conservation and mitigation measures</i> remove or reduce adverse impacts on natural habitats or their functions, keeping such impacts within socially defined limits of acceptable environmental change.</p>	<p>“The value of ecosystem services is determined in terms of their value for the welfare and livelihoods of affected communities, the benefits they provide to the sustainable operation of the project (e.g., water), and the benefits they provide at the landscape/seascape level or existence options values.<sup>15</sup> However, any decisions on assessing the value of ecosystem services, establishing priorities, and/or developing strategies to avoid/mitigate impacts should be made in consultation with governmental resource management/protection agencies and local community representatives to ensure that ecosystem services critical to existing conservation and/or development objectives are preserved. After the value of ecosystem services is assessed, the borrower or client identifies, in consultation with resource managers and local communities, those ecosystem services that should be protected through the biodiversity mitigation hierarchy as ‘priority ecosystem services.’ The impact assessment takes into account the same factors as are considered in the value assessment. For the priority ecosystem services, the impact and dependence of the project are assessed in terms of change in communities’ well-being and project performance.” (AfDB, OS 3, para. 33)</p> <p>“The borrower or client attempts to avoid adverse impacts on priority ecosystem services. If such impacts are unavoidable, the borrower or client identifies ways to reduce these impacts and implement restoration measures to maintain the value and functionality of those priority ecosystem services. These measures are included in the ESMP.” (AfDB, OS 3, para. 34)</p> <p>“Natural habitats are biophysical environments where... (ii) human activity has not essentially modified the area’s primary ecological functions. Natural habitats may be sites that (i) provide critical ecological services required for sustainable human development (e.g., aquifer recharge areas, areas that sustain fisheries, mangrove or other ecosystems that help to prevent or mitigate natural hazards); (ii) are vital to ensure the functional integrity of ecosystems (e.g., biological corridors, natural springs); and (iii) have high levels of endemism.” (IDB, ESCP, para. 6.1)</p>

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	<p>“On sites where significant biodiversity, ecosystems and their provision would be affected by the project, an economic assessment on the biodiversity and the ecosystems services provided by the site and the larger regions in which the site is integrated should be carried out, where possible with a monetary valuation of these benefits. Where the biodiversity of the site is degraded such that the provision of ecosystem services is affected, the cost of restoration measures should be estimated in order to compare the overall ecosystem services that could be provided by the site in its optimal state with the services derived from the project.” (EIB, ESH, ESS 3, para. 73)</p>
<b>FORESTS</b>	
<p><b>SITING OF TIMBER CONCESSIONS</b></p> <p><b>OP 4.36</b></p> <p><i>Commercial Harvesting</i></p> <p>8. The Bank may finance commercial harvesting operations only when the Bank has determined, on the basis of the applicable environmental assessment or other relevant information, that the areas affected by the harvesting are not critical forests or related critical natural habitats.<sup>10</sup></p> <p>9. To be eligible for Bank financing, industrial-scale commercial harvesting operations must also</p> <p>a) be certified under an independent forest certification system acceptable to the Bank<sup>11</sup> as meeting standards of responsible forest management and use; or</p>	<p>“Biodiversity conservation must be an integral component and criterion in the siting of timber concessions and in the design and management of logging systems and regulations.” (ADB)<sup>220</sup></p>

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<sup>220</sup> This and several other statements cited in this section are derived from the “Recommended Strategy” (Section V) of ADB’s “Policy on Forestry” (1995). It is not clear whether statements derived from this section of the Policy fully qualify as “mandatory operational safeguard requirements” as the term is used in this paper.

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<p>b) Where a pre-assessment under such an independent forest certification system determines that the operation does not yet meet the requirements of subparagraph 9(a), adhere to a time-bound phased action plan acceptable to the Bank<sup>12</sup> for achieving certification to such standards.</p> <p>10. To be acceptable to the Bank, a forest certification system must require:</p> <ul style="list-style-type: none"> <li>a) compliance with relevant laws;</li> <li>b) recognition of and respect for any legally documented or customary land tenure and use rights as well as the rights of indigenous peoples and workers;</li> <li>c) measures to maintain or enhance sound and effective community relations;</li> <li>d) conservation of biological diversity and ecological functions;</li> <li>e) measures to maintain or enhance environmentally sound multiple benefits accruing from the forest;</li> <li>f) prevention or minimization of the adverse environmental impacts from forest use;</li> <li>g) effective forest management planning;</li> <li>h) active monitoring and assessment of relevant forest management areas; and</li> <li>i) the maintenance of critical forest areas and other critical natural habitats affected by the operation.</li> </ul> <p>11. In addition to the requirements in paragraph 11, a forest certification system must be independent, cost-effective, and based on objective and measurable performance standards that are</p>	

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<p>defined at the national level and are compatible with internationally accepted principles and criteria of sustainable forest management. The system must require independent, third-party assessment of forest management performance. In addition, the system's standards must be developed with the meaningful participation of local people and communities; indigenous peoples; non-governmental organizations representing consumer, producer, and conservation interests; and other members of civil society, including the private sector. The decision-making procedures of the certification system must be fair, transparent, independent, and designed to avoid conflicts of interest.</p> <p>12. The Bank may finance harvesting operations conducted by small-scale landholders, by local communities under community forest management, or by such entities under joint forest management arrangements, if these operations:</p> <p>(a) have achieved a standard of forest management developed with the meaningful participation of locally affected communities, consistent with the principles and criteria of responsible forest management outlined in paragraph 10; or</p> <p>(b) adhere to a time-bound phased action plan<sup>14</sup> to achieve such a standard. The action plan must be developed with the meaningful participation of locally-affected communities and be acceptable to the Bank.</p> <p>The borrower monitors all such operations with the meaningful participation of locally-affected communities.</p>	
<p><b>MANAGEMENT OF SECOND GROWTH FORESTS</b></p>	<p>“With respect to the sustainable management of second-growth forests, the Bank will promote (i) the establishment of permanent forest estates in accessible second-growth forests for sustained timber management, including their utilization in major forest industries; (ii) the use of appropriate pricing</p>

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	<p>mechanisms to ensure better timber management on these estates; (iii) concession management reforms by providing long-term tenure to private sector entrepreneurs selected through competitive bidding; (iv) the introduction and adherence to sustained-yield principles and related management approaches as an alternative to destructive/illegal logging; (v) involvement of forest-dwelling and/or forest-dependent communities, including the traditional mangrove users in the rehabilitation, enrichment planting, and assisted natural regeneration in second-growth forests through community-based forest management agreements that will include improved land tenure and other incentives as appropriate; (vi) the use of internationally accepted “certification of origin” for wood marketed as originating from sustainably managed forests; and (vii) the establishment of small-scale industries based on non-wood forest products as a long-term measure for reducing poverty, providing rural employment, and developing rural areas.”  <b>(ADB)<sup>221</sup></b></p>
<p><b>AGRICULTURE, LIVESTOCK, FISHERIES AND AQUACULTURE</b></p> <p>OP 4.36, para. 7. The Bank does not finance plantations that involve any conversion or degradation of critical natural habitats, including adjacent or downstream critical natural habitats. When the Bank finances plantations, it gives preference to siting such projects on unforested sites or lands already converted (excluding any lands that have been converted in anticipation of the project). In view of the potential for plantation projects to introduce invasive species and threaten biodiversity, such projects must be designed to prevent and mitigate these potential threats to natural habitats.</p>	<p>“The borrower or client assesses the type of habitat that will potentially be affected and follows the requirements of this OS, especially for palm oil, cocoa, coffee, tea and other commercial crop plantations. The borrower or client implements industry-specific best international management practices and available technologies.... The borrower or client follows agricultural and livestock best practices, and uses methods that do not deplete the natural resource base. .... To support sustainable fisheries and avoid significant adverse impact to the target species by catch, habitat, and associated species in accordance with relevant national laws and international good practice, the borrower or client implements the principles and standards set out in the FAO Code of Conduct for Responsible Fisheries and complies with all relevant conservation and management measures. When promoting the development of artisanal fisheries, the borrower or client uses methods that are in accordance with all relevant national laws and multilateral rules, are sustainable and not harmful to the ecosystem, avoid destructive or illegal</p>

<sup>221</sup> Ibid.

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	fishing practices, and are culturally appropriate to the communities concerned.” (AfDB, OS 3, para.30)
<p><b>PLANTATION AND AGROFORESTRY</b></p> <p><b>OP 4.36, para. 12.</b> The Bank may finance harvesting operations conducted by small-scale landholders, by local communities under community forest management, or by such entities under joint forest management arrangements, if these operations:</p> <p>(a) have achieved a standard of forest management developed with the meaningful participation of locally affected communities, consistent with the principles and criteria of responsible forest management outlined in paragraph 10; or</p> <p>(b) adhere to a time-bound phased action plan to achieve such a standard. The action plan must be developed with the meaningful participation of locally-affected communities and be acceptable to the Bank.</p>	<p>“The Bank will support small-scale forestry and agroforestry in areas from which people are migrating to forestlands or on cleared forestlands where subsistence agriculture is practiced— with a view to promoting and enhancing the economic self-reliance of the target participants. The small-scale forestry activities will comprise promoting the role of trees in farm production and soil conservation, and encouraging tree planting by communities and individual farmers. Particular attention will be given to multipurpose trees for subsistence (fruits, fuel-wood, small timber, medicines) and for commercial purposes for generating cash income.” (ADB)<sup>222</sup></p>
<p><b>MAINTENANCE OF CRITICAL WATERSHEDS</b></p> <p><b>OP 4.04, para. 3</b></p> <p>The Bank promotes and supports ...the maintenance of ecological functions</p> <p><b>OP 4.04, para. 1:</b> The conservation of natural habitats like other measures that protect and enhance the environment, is essential for long-term sustainable development. The Bank<sup>2</sup> therefore supports the protection, maintenance, and rehabilitation of natural habitats and their functions in its economic and sector work, project financing, and policy dialogue.</p>	<p>“The Bank will actively pursue protection and rehabilitation of degraded forestlands in its DMCs. The role of enrichment plantings, plantations, and assisted natural regeneration in conserving soil, stabilizing sand dunes, protecting water catchments, and improving environmental quality is frequently as important as that in the production of industrial timber. The involvement of local communities with NGOs, where appropriate, will be encouraged to rehabilitate these watersheds by reforestation and enrichment plantings with indigenous tree species, shrubs and tree crops through improved land tenure and other incentives as appropriate.” (ADB)<sup>223</sup></p>

<sup>222</sup> Ibid.

<sup>223</sup> Ibid.



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<p><b>OP 4.36, para. 1:</b> The management, conservation, and sustainable development of forest ecosystems and their associated resources are essential for lasting poverty reduction and sustainable development, whether located in countries with abundant forests or in those with depleted or naturally limited forest resources.</p> <p><b>OP 4.36, para. 2:</b> Where forest restoration and plantation development are necessary to meet these objectives, the Bank assists borrowers with forest restoration activities that maintain or enhance biodiversity and ecosystem functionality.</p>	
<p><b>PROMOTING PUBLIC CONSULTATION IN FORESTRY DEVELOPMENT</b></p> <p><b>OP 4.36, para. 12:</b> The borrower monitors [harvesting operations conducted by small-scale landholders, by local communities under community forest management, or by such entities under joint forest management arrangements] with the meaningful participation of locally-affected communities</p> <p><b>OP 4.04 para. 10:</b> The Bank expects the borrower to take into account the views, roles, and rights of groups, including local nongovernmental organizations and local communities, affected by Bank-financed projects involving natural habitats, and to involve such people in planning, designing, implementing, monitoring, and evaluating such projects. Involvement may include identifying appropriate conservation measures, managing protected areas and other natural habitats, and monitoring and evaluating specific projects. The Bank encourages governments to provide such people with appropriate information and incentives to protect natural habitats.</p>	<p>“The Bank together with DMC governments will, prior to financing any forestry project, carry out social assessments and necessary social design studies in accordance with standard Bank procedures, including assessing the role of women in the total resource utilization and production to identify constraints facing women to ensure appropriate levels of beneficiary consultation/participation at all stages of project identification, preparation, and implementation; and to design and agree upon, with borrowers, necessary activities in this regard. The Bank will also assist DMCs in developing and strengthening mechanisms by which public consultation on forestry issues can be facilitated and forest-dwelling and/or forest-dependent communities can be involved in land use decisions related to forest lands—the potential role of NGOs, elected local bodies, educational organizations, village revenue officials, school teachers, and other relevant bodies in this context will be encouraged.”(ADB)<sup>224</sup></p>
<b>INVOLUNTARY RESETTLEMENT (IR)</b>	

<sup>224</sup> Ibid.

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<p><b>ALTERNATIVES TO RESETTLEMENT</b></p> <p>OP4.12, para. 2.a: Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.</p>	<p>“When the resettlement implications of a project would appear to be particularly severe, the borrower shall consider either downsizing the project to reduce resettlement or finding other alternatives that can reasonably replace the project.” (AfDB, OS 2, para. 12)</p> <p>“A thorough analysis of project alternatives must be carried out in order to identify solutions that are economically and technically feasible while eliminating or minimizing the need for involuntary resettlement... When a large number of people or a significant portion of the affected community would be subject to relocation and/or impacts affect assets and values that are difficult to quantify and to compensate, after all other options have been explored the alternative of not going ahead with the project should be given serious consideration.” (IDB, Policy on Resettlement, Principles, para. 1)</p>
<p><b>SCOPE OF IR POLICY: IMPACTS COVERED</b></p> <p>OP 4.12, para. 3: “This policy covers direct economic and social impacts that both result from Bank-assisted investment projects, and are caused by (a) the involuntary taking of land resulting in (i) relocation or loss of shelter; (ii) loss of assets or access to assets; or (iii) loss of income sources or means of livelihood, whether or not the affected persons must move to another location; or (b) the involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced persons.”</p> <p>OP.12, para. 4: “This policy applies to all components of the project that result in involuntary resettlement, regardless of the source of financing. It also applies to other activities resulting in involuntary</p>	<p>“The involuntary resettlement requirements apply to ... permanent or temporary physical displacement.” (ADB, SPS, Appendix 2, para. 5)<sup>225</sup></p> <p>“The objective of the policy is to minimize the disruption of the livelihood of people living in the project’s area of influence, by avoiding or minimizing the need for physical displacement, ensuring that when people must be displaced they are treated equitably and, where feasible, can share in the benefits of the project that requires their resettlement.” (IDB, Policy on Involuntary Resettlement)</p> <p>“When a project requires the temporary relocation of people, the resettlement activities will be subject to considerations and criteria that are consistent with this policy while taking into account the temporary nature of the displacement. The objective continues to be to minimize disruption to the affected population. Special consideration will be given to avoiding</p>

<sup>225</sup> Likewise AfDB’s ISS states that: “This OS should also be taken into account when a project requires the temporary relocation of people. In that case, the resettlement activities should be subject to consideration and criteria that are consistent with this OS, while taking into account the temporary nature of the displacement. The objectives would be to minimize disruption to the people affected, avoid irreversible negative impacts, and provide satisfactory temporary services and –where appropriate– compensate for transitional hardships.” On the other hand, by not addressing the duration of IR impacts, it could be presumed that the World Bank’s IR policy covers temporary relocation.

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<p>resettlement, that in the judgment of the Bank, are (a) directly and significantly related to the Bank-assisted project, (b) necessary to achieve its objectives as set forth in the project documents; and (c) carried out, or planned to be carried out, contemporaneously with the project.”</p>	<p>irreversible negative impacts (such as permanent loss of employment), providing satisfactory temporary services, and, where appropriate, compensating for transitional hardships.” <b>(IDB, Policy on Involuntary Resettlement)</b></p> <p>“This OS does not apply to the settlement of refugees and victims of natural disasters, nor to resettlement resulting from voluntary land transactions—that is, market-based land transactions in which the seller is not obliged to sell and the buyer cannot resort to expropriation or other compulsory procedures if negotiations fail.” <b>(AfDB, OS 2, para. 10 )</b></p> <p>“Involuntary resettlement is associated with loss of housing, shelter, income, land, livelihoods, assets, access to resources and services, among others. These losses occur as a consequence of declaring a public purpose in cases of: (a) land acquisition, (b) expropriation or restrictions on land use based on eminent domain, (c) forfeiting of a livelihood/subsistence strategy dependent on the use of natural resources, and/or (d) negotiated settlements in which the buyer can resort to expropriation or impose legal restrictions on land use if negotiations with the seller fail.” <b>(EIB, ESH, ESS 6, para. 13)</b></p>
<p><b>BASELINE INFORMATION (CENSUS/ SURVEY OR SOCIAL ASSESSMENT INSTRUMENT)</b></p> <p>OP 4.12 para. 14: “Upon identification of the need for involuntary resettlement in a project, the borrower carries out a census to identify the persons who will be affected by the project (see the Annex A, para. 6(a)), to determine who will be eligible for assistance, and to discourage inflow of people ineligible for assistance. The borrower also develops a procedure, satisfactory to the Bank, for establishing the criteria by which displaced persons will be deemed eligible for compensation and other resettlement assistance.”</p>	<p>“The Social Impact Assessment (SIA) report will include...(iv) gender disaggregated information pertaining to the economic and socio-cultural conditions of displaced persons.” <b>(ADB, SPS, Appendix 2, para. 15)</b></p> <p>“The SIA report will include...a census of displaced persons ...and their assets...The asset inventory is a preliminary record of affected or lost assets at the household, enterprise or community level.” <b>(ADB, SPS, Appendix 2, footnote 3)</b></p> <p>“[S]easonal resource users may not be present in the project area of influence during the time of the survey and so special consideration shall be given to their claims.” <b>(AfDB, OS 2, para. 22)</b></p> <p>“Baseline Information. Accurate baseline information must be compiled as early as possible. It will include information on the number of people to be resettled, and on their socioeconomic and cultural characteristics, including</p>

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	<p>disaggregation by gender. In addition, the data will provide an important basis for the definition of eligibility criteria, and compensation and rehabilitation requirements.” (IDB, <b>Policy on Involuntary Resettlement</b>)</p> <p>“In selecting sites, attention must be paid to the availability of sources of off-farm income (fishing, gathering forest products, and seasonal wage employment) to complement farm income.” (IDB, <b>Involuntary Resettlement, Principles and Guidelines [IRPG]</b>, <sup>226</sup> para. 13)</p> <p>“The promoter is required to carry out a census and a socio-economic baseline survey to establish the number of people to be displaced, livelihoods affected, and property to be compensated. The surveys should take into account persons affected through anticipated cumulative impacts of the resettlement... The census should include an inventory of losses (assets, access to resources or services, etc.), a detailed measurement survey and valuation of lost assets, and it covers the total affected population.” (EIB, <b>ESH, ESS 6, para. 30</b>)</p> <p>“[S]easonal resource users may not be present in the project area during the time of the census and thus appropriate consultation techniques should be used to identify those PAPs. ...Any person negatively affected by the project is eligible for compensation, livelihood restoration and/or other resettlement assistance.” (EIB, <b>ESH, ESS 6, para. 35</b>)</p>
<p><b>ELIGIBILITY CRITERIA FOR COMPENSATION AND RESETTLEMENT ASSISTANCE (C&amp; RA)</b></p> <p>OP4.12, para. 15: “Criteria for Eligibility. Displaced persons may be classified in one of the following three groups: (c) those who have no recognizable legal right or claim to the land they are occupying.” ....</p> <p>para. 16. Persons covered under para. 15(c) are provided resettlement assistance in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the objectives</p>	<p>“Those who may not have formal legal rights to land or other assets at the time of the census/evaluation but can prove that they have a claim that would be recognized under the customary laws of the country... may also be considered as such, depending on the country’s customary land use rights, if they are sharecroppers, tenant farmers, and seasonal migrants or nomadic families losing user rights.” (AfDB, <b>OS 2, para. 11</b>)</p> <p>“Those who have no recognisable legal right or claim to the land they are occupying in the project area of influence and, ...may be entitled to resettlement assistance other than compensation for land to improve their</p>

<sup>226</sup> IDB, Involuntary Resettlement: Principles and Guidelines, 1999.

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<p>set out in this policy, if they occupy the project area prior to a cut-off date established by the borrower and acceptable to the Bank.”</p>	<p>former living standards (compensation for loss of livelihood activities, common property resources, structures and crops, etc.).... if they themselves or witnesses can demonstrate that they occupied the project area of influence for at least six months prior to a cut-off date established by the borrower or client and acceptable to the Bank.” (AfDB, OS 2, para. 11)</p> <p>“Project Affected People lacking formal legal or otherwise recognizable claims: “....Persons who lost the land they occupy in its entirety or in part who have neither formal legal rights nor recognized or recognizable claims to such land....the borrower/client will compensate them for the loss of assets other than land, such as dwellings, and also for other improvements to the land at <i>full replacement cost</i> [provided that] they occupied the land or structures in the project area prior to the cutoff date for eligibility for resettlement assistance.” (ADB, SPS, Appendix 2, paras. 7 and 8) (emphasis added)<sup>227</sup></p> <p>“Compensation and rehabilitation options must provide a fair replacement value for assets lost, and the necessary means to restore subsistence and income, to reconstruct the social networks that support production, services and mutual assistance, and to compensate for transitional hardships (such as crop losses, moving costs, interruption or loss of employment, lost income, among others) ...The compensation and rehabilitation package must take adequate account of intangible assets, especially nonmonetary social and cultural assets and, particularly in the case of rural populations, of customary rights to land and natural resources.” (IDB, Policy on Involuntary Resettlement)</p> <p>“The first step in designing the compensation and rehabilitation package is to determine the entitlements of affected persons under applicable laws and regulations, to identify any services or social benefits to which they might have access, and to ensure that sufficient resources are available. The next step is to assess what additional measures are needed, if any, to restore the</p>

<sup>227</sup> AfDB has similar provisions that apply to this category of project-affected persons provided that “they themselves or witnesses can demonstrate that they occupied the project area of influence for a reasonable time (at least six months) prior to a cut-off date established by the borrower or client and acceptable to the Bank.” In contrast the World Bank requires the borrower to provide “resettlement assistance in lieu of compensation.”

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	<p>livelihoods of the affected population to the pre-resettlement standard, and to design mechanisms capable of delivering the goods or services that are needed, including effective and expeditious procedures for the resolution of disputes. This allows the compensation and rehabilitation package to work within the constraints of local laws and institutions, complementing them only as required, with project specific measures.” (IDB, Policy on Involuntary Resettlement)</p> <p>“Where the existing legal provisions of the country, state or municipality fail to ensure that affected households are adequately compensated, additional resources should be made available through the economic rehabilitation or housing programs to ensure that the overall objective of the resettlement plan, of improving or at least restoring the former standard of living is fully achieved.” (IDB, IRPG, p. 21)</p> <p>“The absence of legal titles to land and other resources should not be a bar to compensation, even though in many countries the existing legal provisions for expropriation and indemnification only apply to those people who have full property rights to land and housing. Resettlement plans should complement existing legal provisions, and should specifically address the needs of those people who have no legal protection. Various groups, such as indigenous peoples and small holders, have informal customary rights to land, forests, fishing rounds and other natural resources. Where access to these resources is lost or diminished the affected groups should be provided with adequate land or other alternatives to make good their losses. Similarly, in those urban areas where the inhabitants lack legal titles to their plots, the rights of established households should be recognized.” (IDB, IRPG, p. 2)</p>
<p><b>COMPENSATION, INCOME RESTORATION AND REHABILITATION</b></p> <p>OP 4.12, para. 6. “To address the impacts covered under para. 3 (a) of this policy, the borrower prepares a resettlement plan or a resettlement policy framework (see paras. 25-30) that covers the following: (a) The resettlement plan or resettlement policy</p>	<p>“Borrowers must: (i) identify livelihood risks and prepare disaggregated tables based on demographic data and livelihood sources; (ii) describe income restoration programs, including multiple options for restoring all types of livelihoods (examples include project benefit sharing, revenue sharing arrangements, joint stock for equity contributions such as land, discuss sustainability and safety nets); (iii) outline measures to provide social safety</p>

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<p>framework includes measures to ensure that the displaced persons are (i) informed about their options and rights pertaining to resettlement; (ii) consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives; and (iii) provided prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project. (b) If the impacts include physical relocation, the resettlement plan or resettlement policy framework includes measures to ensure that the displaced persons are (i) provided assistance (such as moving allowances) during relocation; and (ii) provided with residential housing, or housing sites, or, as required, agricultural sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site. (c) Where necessary to achieve the objectives of the policy, the resettlement plan or resettlement policy framework also include measures to ensure that displaced persons are (i) offered support after displacement, for a transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living; and (ii) provided with development assistance in addition to compensation measures described in paragraph 6(a) (iii), such as land preparation, credit facilities, training, or job opportunities.”</p> <p><b>Para. 12:</b> “Payment of cash compensation for lost assets may be appropriate where (a) livelihoods are land-based but the land taken for the project is a small fraction [ft. nt. 17: generally less than 20% of total productive area] of the affected asset and the residual is economically viable; (b) active markets for land, housing, and labor exist, displaced persons use such markets, and there is sufficient supply of land and housing; or (c) livelihoods are not land-based. Cash compensation levels should be sufficient to replace the lost land and other assets at full replacement cost in local markets.”</p>	<p>net through social insurance and/or project special funds; (iv) describe special measures to support vulnerable groups;(v) explains gender considerations; and (vi) describe training programs.” <b>(ADB, SPS, Annex to Appendix 2, J (2))</b></p> <p>“The total cost of the project includes the full cost of all resettlement activities, factoring in the loss of livelihood and earning potential among the affected population. The calculation of the “total economic cost” also factors in the social, health, environmental and psychological impacts of the project and the displacement, which may disrupt productivity and social cohesion. The resettlement costs are treated against the economic benefits of the project, and any net benefits to the affected population are added to the benefit stream of the project.” <b>(AfDB, OS 2, para.33)</b></p> <p>“When cash payments are made, the affected people should be provided with counseling to ensure that they have the knowledge to use the compensation wisely.” <b>(AfDB), OS 2, para. 39)</b></p> <p>“The land provided should also provide <i>access to safe drinking water and irrigation facilities.</i>” <b>(AfDB, OS 2, para. 40)</b></p> <p>“In addition to material provisions, the project addresses cultural and psychological issues. It attempts to avoid the destruction of cultural, religious and archaeological sites—including natural sites and habitats valued for cultural, religious and archaeological reasons —or to provide alternative sites that are acceptable to the affected population. When relocation touches religious sites, a comprehensive plan is established in co-operation with religious and traditional community leaders to ensure that an alternative location is found and that all rituals can be conducted to ensure that the new site represents the same degree of sacredness as the previous location. Social structures and community networks among the affected persons should be maintained. Support and advice are made available to help the affected persons cope with, and benefit from, the resettlement process.” <b>(AfDB, OS 2, para.50)</b></p> <p>“Compensation and rehabilitation options must provide a ...the necessary means to ...reconstruct the social networks that support production, services</p>



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	<p>and mutual assistance. The options that are offered should be appropriate for the people affected, and should reflect their capabilities and realistic aspirations. The compensation and rehabilitation package must take adequate account of intangible assets, especially nonmonetary social and cultural assets and, particularly in the case of rural populations, of customary rights to land and natural resources. Housing and service options, when included, will be appropriate for the social and cultural context and will, at the very least, meet minimum standards of shelter and access to basic services, regardless of conditions prior to resettlement. The design of compensation packages, as well as the community consultation and decision making mechanisms included in the resettlement program, will take into account the characteristics of the resettled population as identified in the disaggregated baseline data with respect to gender, ethnicity, age, and any other factors pointing to special needs and/or vulnerability.” <b>(IDB, Policy on Involuntary Resettlement)</b></p> <p>“Regardless of the circumstances and without discrimination, the promoter will ensure that affected persons or groups identified in the census, especially those who are unable to provide for themselves, have, during and after resettlement, <i>safe and secure access to: (a) essential food, potable water and sanitation; (b) basic shelter and housing; (c) appropriate clothing; (d) essential medical services; (e) livelihood and subsistence sources; (f) fodder for livestock and access to common property resources previously depended upon; and (g) education for children and childcare facilities.</i>” <b>(EIB, ESH, ESS 6, para. 48)</b></p> <p>“Adequate housing, according to human rights law, must at minimum meet the following criteria:</p> <ul style="list-style-type: none"> <li>(i) <i>Security of tenure</i> provides occupants with legal protection against forced evictions, harassment and other threats. People living in informal settlements and communities usually lack security of tenure.</li> <li>(ii) <i>Availability of services, materials, facilities and infrastructure</i>: occupants of housing that is adequate must have access to safe drinking water,</li> </ul>



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	<p>sanitation and washing facilities, energy for cooking, heating and lighting, food storage, refuse disposal, site drainage and emergency services;</p> <p>(iii) <i>Affordability</i>: the cost of housing must not threaten occupants’ ability to satisfy other basic needs, nor must it compromise their security of tenure e.g. because high rent exposes them to lawful eviction for non-payment;</p> <p>(iv) <i>Habitability</i>: adequate housing must guarantee occupants’ physical safety and provide adequate space and protection against the cold, damp, heat, rain, wind, and other threats to health and structural hazards;</p> <p>(v) <i>Accessibility</i>: adequate housing must be accessible to everyone, so that the specific needs of disadvantaged and marginalised groups, such as the elderly, persons with physical or mental disabilities, and children must be taken into account;</p> <p>(vi) <i>Location</i>: housing must be situated so as to allow access to employment opportunities, Health care services, schools, childcare centres and other social facilities. It must not be located in polluted or dangerous areas; and</p> <p>(vii) <i>Cultural adequacy</i>: housing must permit the expression of cultural identity, for example, through methods of house construction and building materials.” (EIB ESH, ESS 6, para. 5)</p>
<p><b>MITIGATION OF IMPACTS ON HOST COMMUNITIES</b></p> <p><b>OP, 4.12, para. 13.a:</b> “Displaced persons and their communities, and any host communities receiving them, are provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementing, and monitoring resettlement.”</p> <p><b>Para. b:</b> “In new resettlement sites or host communities, infrastructure and public services are provided as necessary to improve, restore, or maintain accessibility and levels of service for the displaced persons and host communities. Alternative or similar resources are provided to compensate for the loss of access to</p>	<p>“Consultation with host communities: Carry out meaningful consultations with ... host communities ...</p> <p>(i) Where market conditions are absent or in a formative stage, the borrower/client will consult with the displaced persons and host populations to obtain adequate information about recent land transactions, land value by types, land titles, land use, cropping patterns and crop production, availability of land in the project area and region, and other related information.</p> <p>(ii) Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programs.</p>

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<p>community resources (such as fishing areas, grazing areas, fuel, or fodder).”</p>	<p>(iv) [The RAP] summarizes the results of consultations with...host communities, and discusses how concerns raised and recommendations made were addressed in the resettlement plan.” (ADB, SPS, Appendix 2, para. 10)</p> <p>“The borrower or client carries out a detailed analysis of host communities to identify potential problems associated with receiving displaced people, and to address these problems so that adverse impacts on host communities are minimised and the host communities are able to share in the development opportunities provided through the resettlement process. The assessment of host communities is based on transparent information and effective consultation, and it results in a consensual agreement that must be conveyed to the borrower or client by representative community leaders, and recorded in public consultation proceedings. ...Any payments due to the hosts for land or other assets provided to the affected population are promptly rendered in line with agreements reached with the <i>host communities</i>.” (AfDB, OS 2, para. 51 ) (emphasis added)</p> <p>“Conflicts between hosts and the affected population may develop as increased demands are placed on land, water, forests, services, and so on, or if those affected by the project are provided with services and housing superior to those of the hosts. The borrower or client carefully considers such impacts when assessing the feasibility and costs of any proposed project involving displacement, and adequate resources are reflected in the budget for mitigating these additional environmental and social impacts. The dispute-settlement procedures should be sufficiently agile to quickly resolve conflicts between hosts and the affected population.” (AfDB, OS 2, para. 53 )</p> <p>“The resettlement plan will include the results of consultations carried out in a timely and socio-culturally appropriate manner with a representative cross-section of the displaced and <i>host communities</i>.” (IDB, Policy on Involuntary Resettlement) (emphasis added)</p> <p>“Resettlement plans must take environmental considerations into account in order to prevent or mitigate any impacts that result from the development of</p>

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	<p>infrastructure, densification of the host area, or pressure on natural resources and ecologically sensitive areas. <i>An environmental impact assessment, including carrying capacity and induced socioeconomic impacts on the host community, will be carried out for each proposed relocation site, wherever the magnitude of the resettlement component or the nature of the affected areas so requires, and the environmental management plan will be included in the resettlement plan.</i> (IDB, Policy on Involuntary Resettlement)</p> <p>“Displaying due regard for the equal protection of women and vulnerable groups or minority rights, the RAP delineates measures to... c) establish the entitlements of all categories of affected people, including the host communities...” (EIB, ESH ESS 6, para. 67)</p> <p>“When possible, resettlement should also <i>provide opportunities to affected and host communities to improve social and public infrastructure</i> with the aim of contributing to the sustainable socio-economic development of their members.” (EIB ESH ESS 6, para. 49 )(emphasis added)</p> <p>“It is crucial that the promoter identifies and consults with all persons and communities involved in the resettlement process, <i>including the host communities</i> who will receive those who are resettled. All relevant stakeholders must be given the opportunity for informed participation in resettlement planning with the goal that the mitigation of the adverse project impacts is appropriate and the potential benefits of resettlement are sustainable.” (EIB, ESH ESS 6, para. 50 ) (emphasis added)</p>
<p><b>STAKEHOLDER CONSULTATION FOR IR</b></p> <p>OP 4.12, para. 2.b: “Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.”</p> <p>Para. 13.a: “Displaced persons and their communities, and any host communities receiving them, are provided timely and relevant information, consulted on resettlement options, and offered</p>	<p>“Meaningful consultation is a process that (i) begins early in the project preparation stage and is carried out on an ongoing basis throughout the project cycle; (ii) provides timely disclosure of relevant and adequate information that is understandable and readily accessible to affected people; (iii) is undertaken in an atmosphere free of intimidation or coercion; (iv) is gender inclusive and responsive, and tailored to the needs of disadvantaged and vulnerable groups; and (v) enables the incorporation of all relevant views of affected people and other stakeholders into decision making, such as</p>

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<p>opportunities to participate in planning, implementing, and monitoring resettlement.”</p> <p>Para. 14: “The borrower also develops a procedure, satisfactory to the Bank, for establishing the criteria by which displaced persons will be deemed eligible for compensation and other resettlement assistance. The procedure includes provisions for meaningful consultations with affected persons and communities, local authorities, and, as appropriate, nongovernmental organizations (NGOs), and it specifies grievance mechanisms.”</p> <p>Para. 8: “To achieve the objectives of this policy, particular attention is paid to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, indigenous peoples, ethnic minorities, or other displaced persons who may not be protected through national land compensation legislation.”</p> <p>Para. 9.... “When it is not feasible to avoid such displacement, preference is given to land-based resettlement strategies for these groups (see para. 11) that are compatible with their cultural preferences and are prepared in consultation with them (see Annex A, para. 11).”</p>	<p>project design, mitigation measures, the sharing of development benefits and opportunities, and implementation issues.” <b>(ADB, SPS Appendix 3, para. 10)</b></p> <p>“Consultations will take place during the design phase and will continue throughout the execution and monitoring of the plan, directly or through representative institutions and community organizations. Care will be taken to identify the most vulnerable subgroups and to ensure that their interests are adequately represented in this process.” <b>(IDB, Policy on Involuntary Resettlement)</b></p> <p>“The Bank will only support operations that involve the displacement of indigenous communities or other low-income ethnic minority communities in rural areas, if the Bank can ascertain that: the resettlement component will result in direct benefits to the affected community relative to their prior situation; customary rights will be fully recognized and fairly compensated; compensation options will include land-based resettlement; and <i>the people affected have given their informed consent to the resettlement and compensation measures.</i>” <b>(IDB, Policy on Involuntary Resettlement)</b> <i>(emphasis added)</i></p> <p>“Opportunities for dialogue and consultation must be extended effectively to the full spectrum of affected persons, paying particular attention to the full participation in the consultation process of women, vulnerable and marginalised groups, in accordance with Standard 7 [Rights and Interests of Vulnerable Groups, incl. indigenous people], and, where necessary, adopting additional/complementary special measures or procedures. Limiting such consultation to heads of communities and/or households alone risks missing key gender dynamics in households and, as a result, further deteriorating the standing of women. It is therefore important to hold also separate consultations with women only, possibly broken down by different age groups. Wide consultation within each household unit is critical in cases of extended families, if conflicts are to be effectively mitigated.” <b>(EIB, ESH, ESS 6, para. 51)</b></p>

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<p><b>INFORMATION DISCLOSURE IN IR</b></p> <p>OP 4.12., para.22: “As a condition of appraisal of projects involving resettlement, the borrower provides the Bank with the relevant draft resettlement instrument which conforms to this policy, and makes it available at a place accessible to displaced persons and local NGOs, in a form, manner, and language that are understandable to them. Once the Bank accepts this instrument as providing an adequate basis for project appraisal, the Bank makes it available to the public through its InfoShop. After the Bank has approved the final resettlement instrument, the Bank and the borrower disclose it again in the same manner.”</p>	<p>“Open, inclusive and effective consultation with local communities includes the following elements:</p> <ul style="list-style-type: none"> <li>• Appropriate notice to all potentially affected persons that resettlement is being considered and that there will be public hearings on the proposed plans and alternatives;</li> <li>• Effective advance dissemination by the authorities of relevant information, including land records and proposed comprehensive resettlement plans specifically addressing efforts to protect vulnerable groups ...” (AfDB, OS 2, para. 15)</li> </ul> <p>“It is particularly important that the country’s national laws and legislation as well as local definitions of land tenure, rights to common property resources, and inheritance practices are recognized and clearly explained to people who are entitled to compensation as well as to those groups that may not be eligible for land-based compensation.” (AfDB, OS 2, para. 38)</p> <p>“The criteria for site selection are explicit and are discussed in detail with the affected people.” (AfDB, OS 2, para.39)</p> <p>“The criteria for assessing the value of land, housing and other property are standardised and transparent.” (AfDB, OS 2, para. 40)</p> <p>“The [Full Resettlement Action Plan] shall be released to the public at least 120 days prior to board presentation. The [Abbreviated Resettlement Action Plan] shall be released to the public at least 30 days prior to board presentation.” (AfDB, OS 2, para. 30)</p> <p>“The borrower/client will provide relevant resettlement information ...in a form and ...understandable to affected persons and other stakeholders. <i>For illiterate people, suitable other communication methods will be used.</i>” (ADB), SPS, Appendix 2, para.57) (emphasis added)</p> <p>“[The borrower must] describe in the Resettlement Plan (RP)” the planned information disclosure measures, including the type of information to be disseminated to stakeholders and the method of dissemination.” (ADB)</p>

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	<p>“[The borrower must] disclose Resettlement Plan monitoring reports.” (ADB)</p> <p>“[The borrower must] ensure that the cut-off date is “disseminated throughout the project area.” (ADB, SPS, Appendix 2, para. 15)</p> <p>“A final resettlement plan will be presented for approval to Bank Management, as a supplement to the ESIR (currently ESMR, which is made publicly available prior to or upon distribution to the Board) prior to distribution of the operation documents for consideration by the Board of Executive Directors.” (IDB, Policy on Involuntary Resettlement)</p>
<p><b>DEDICATED GRIEVANCE MECHANISMS (FOR INVOLUNTARY RESETTLEMENT)</b></p>	<p>“[Grievance Mechanisms must pay] particular attention to the impacts on vulnerable groups... be scaled to the risks and adverse impacts of the project... address affected persons’ concerns and complaints promptly, using an understandable and transparent process that is gender responsive, culturally appropriate and readily accessible to the affected persons...without retribution... affected persons [will be] informed about the mechanism.” (ADB, SPS, Appendix 2, para. 29)</p> <p>“The next step is to.... design mechanisms capable of delivering..., including effective and expeditious procedures for the resolution of disputes.” (IDB, Policy on Involuntary Resettlement)</p> <p>“A final resettlement plan will be presented for approval to Bank Management... prior to distribution of the operation documents for consideration by the Board of Executive Directors. The final [resettlement] plan must contain: a mechanism for the settlement of disputes regarding land, compensation and any other aspects of the plan.” (IDB, Policy on Involuntary Resettlement,)</p> <p>“The promoter shall set up and maintain a grievance mechanism that is independent, free ...that will allow prompt addressing of specific concerns about compensation and relocation from the affected people and host communities and other directly involved entities. The mechanism should be easily accessible, culturally appropriate, widely publicized, and well integrated in the promoter’s project management system. It should enable the promoter</p>

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	to receive and resolve specific grievances related to compensation and relocation by affected persons or members of host communities, and use the grievance log to monitor cases and improve the resettlement process.” (EIB, EHS, ESS 6, para. 53)
<p><b>PROTECTION OF VULNERABLE GROUPS (THE POOR, WOMEN, ETHNIC AND RELIGIOUS MINORITIES AND THE DISABLED POPULATION):</b></p> <p>OP 4.12, para. 8: “To achieve the objectives of this policy, particular attention is paid to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, indigenous peoples, ethnic minorities, or other displaced persons who may not be protected through national land compensation legislation.”</p>	<p>“When displacement is unavoidable, a resettlement plan must be prepared to ensure that the affected people receive fair and adequate compensation and rehabilitation. Compensation and rehabilitation are deemed fair and adequate when they can ensure that, within the shortest possible period of time, the resettled and host populations will: achieve a minimum standard of living and access to land, natural resources, and services (such as potable water, sanitation, community infrastructure, land titling) at least equivalent to pre-resettlement levels; recover all losses caused by transitional hardships; experience as little disruption as possible to their social networks, opportunities for employment or production, and access to natural resources and public facilities; and have access to opportunities for social and economic development.” (IDB, Policy on Involuntary Resettlement)</p> <p>“In designing its operations the Bank will introduce measures to prevent, avoid or mitigate any adverse impacts and/or risks of gender based exclusion identified in the risk analysis. These risks may include....[d]isregarding the right of women to inherit and own land, homes and other assets or natural resources. The Bank will recognize women’s ownership rights regardless of marital status and will adopt measures to facilitate their access to the documents they need to exercise this right.” (IDB)<sup>228</sup></p> <p>“The baseline data collection and analysis in anticipation of IR must include an “<i>Impoverishment Risk Analysis</i>” (IRA)<sup>229</sup> and... a determination of risks and</p>

<sup>228</sup> Gender Equality in Development: Operational Policy. (2010).

<sup>229</sup> “Impoverishment Risk Analysis. When the baseline information indicates that a significant number of the persons to be resettled belong to marginal or low-income groups, special consideration will be given to the risks of impoverishment to which they may be exposed as a result of resettlement. Impoverishment can occur through any of the following six means: loss of housing, land, access to common property or other rights to real property due to lack of clear title, economic pressure or other factors; loss of employment; loss of access to means of production; food insecurity, increased morbidity and mortality; disarticulation of social networks; and loss of access to education. A detailed analysis will be carried out at the earliest opportunity, covering gender, ethnicity,

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	<p>preventative measures designed to avoid them as an input into the borrower's RP." (IDB, Policy on Involuntary Resettlement)</p> <p><b>"Indigenous Communities.</b> Those indigenous and other low-income ethnic minority communities whose identity is based on the territory they have traditionally occupied are particularly vulnerable to the disruptive and impoverishing effects of resettlement. They often lack formal property rights to the areas on which they depend for their subsistence, and find themselves at a disadvantage in pressing their claims for compensation and rehabilitation. The Bank will, therefore, only support operations that involve the displacement of indigenous communities or other low-income ethnic minority communities in rural areas, if the Bank can ascertain that: the resettlement component will result in direct benefits to the affected community relative to their prior situation; customary rights will be fully recognized and fairly compensated; compensation options will include land-based resettlement; and the people affected have given their informed consent to the resettlement and compensation measures." (IDB, Policy on Involuntary Resettlement)</p> <p><i>"[The borrower will pay adequate attention to gender concerns, including specific measures addressing the need of female headed households, gender inclusive consultation, information, disclosure and grievance mechanisms to ensure that both men and women receive adequate and appropriate compensation...and resettlement assistance." (ADB)</i></p> <p><i>"[The borrower's grievance mechanism shall be] gender responsive."(ADB)</i></p>

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income and other socioeconomic factors, in order to determine the risks and design preventive measures to minimize them. In this context, cash compensation will only be offered as an option if the social and economic conditions of the affected population, the institutional setting and housing market, or the complementary services included in the resettlement plan, are such as to ensure that it can be invested in a manner that will restore the affected population's standard of living."(IDB)



	<p>“Women’s groups and men’s groups shall be involved in resettlement planning, management and operations, and in job-creation and income-generation.” (AfDB, OS 2, para. 55)</p> <p>“The provision of health care services, particularly for pregnant women and infants, may be important during and after relocation, to prevent increases in morbidity and mortality due to malnutrition, the psychological stress of being uprooted, and the increased risk of disease.” (AfDB, OS 2, para. 55)</p> <p>“The Resettlement Action Plan includes a specific protocol specifying safeguards for the quality and quantity of land to be allocated for women, especially widows and divorcees, to ensure their means to generate income and achieve food security.” (AfDB, OS 2, para. 55)</p> <p>“Land titles at the resettlement sites are in the name of both spouses or of single heads of household, regardless of gender, if this does not conflict with the borrower or client’s own laws and legislation.” (AfDB, OS 2, para. 55)</p> <p>“Husbands and wives, unmarried women, and elderly sons and daughters are explicitly included as eligible for compensation, including compensation for loss of land, shelter, livelihoods and any other privately owned assets. Compensation payments to families are made to both husbands and wives when this is technically feasible and socially acceptable.” (AfDB, OS 2, para. 55)</p> <p>“Baseline information must include information on socio-economic and cultural characteristics of affected people, “including disaggregation by gender” and that this data must be used as “an important basis for the definition of eligibility ...compensation and rehabilitation requirements.” (IDB, Policy on Involuntary Resettlement<sup>230</sup>)</p> <p>“Vulnerable status can be determined by identifying a group’s likelihood of facing harder conditions as a result of the project, owing to such factors as gender, economic status, ethnicity, religion, cultural behaviour, sexual orientation, language or health condition. Depending on the specific context of the project, vulnerable groups may thus include female-headed households, those below the poverty line; the landless, some categories of children (orphans, homeless), marginalised social groups and indigenous</p>
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	<p>peoples, those without legal title to assets; ethnic, religious and linguistic minorities; and those who are <i>physically handicapped</i>.” (AfDB, OS 2, para. 39) <i>(emphasis added)</i></p> <p>“The promoter must ensure that compensation and income restoration measures are implemented without discrimination based on gender, race, ethnicity, religion, disability or other prohibited grounds. Regarding gender, the promoter must ensure equal treatment of women during compensation and income restoration processes, especially with regard to women’s rights and interests in land, property, assets, and compensation and relocation assistance, even where these are not recognised in formal law. Within household units, it is encouraged that titles of replacement land and structures are issued in the names of the head of household and his wife, rather than merely the former.” (EIB ESH, ESS 6, para. 47)</p>
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<p><b>IMPLEMENTATION MONITORING, SUPERVISION AND EVALUATION</b></p> <p><b>Monitoring</b></p> <p>OP 4.12 para. 24: “The borrower is responsible for adequate monitoring ... of the activities set forth in the resettlement instrument...”</p>	<p>ADB requires the borrower to prepare monitoring reports “to ensure that the implementation of the RP has produced the desired outcomes.” <b>(ADB, SPS, Appendix 2, para. 30)</b></p> <p>“For projects with ‘significant IR impacts’ [ADB requires the borrower to] retain qualified and experienced external experts or qualified NGOs” and to “verify the borrower’s... monitoring information.” <b>(ADB SPS, Appendix 2, para. 30)</b></p> <p>“The promoter’s obligations to implement a RAP and to report to the EIB on implementation progress will be provided for in the project’s legal agreements.” <b>(EIB, ESH, ESS 6, para.70)</b></p> <p>“Monitoring activities shall include a review of the grievance and redress mechanism..... Monitoring shall also evaluate the borrower or client’s commitment to the RAP and the availability of sufficient financial resources, as identified in the budget, for accomplishment of the RAP.” <b>(AfDB, OS 2, para. 61)</b></p> <p>“An independent third party monitors the implementation of large-scale or complicated Resettlement Action Plans, with regular feedback from the affected people.” <b>(AfDB, OS 2, para. 59)</b></p> <p>“Affected people are also given the opportunity to participate in...implementation monitoring.” <b>(AfDB, OS 2, para. 59)</b></p> <p>“The resettlement component of an operation must be fully and specifically covered in the reports on the progress of the overall project, and included in the logical framework of the operation. The monitoring activities will focus on compliance with the resettlement plan in terms of the social and economic conditions achieved or maintained in the resettled and host communities. The plan and the loan agreement will specify the monitoring and evaluation requirements and their timing. Whenever possible, qualitative and quantitative indicators will be included as benchmarks to evaluate those conditions at critical time intervals related to the progress of overall project execution. ...In the case of global loans, the operational regulations will</p>

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	<p>require Bank approval of the resettlement plan before a commitment is made to finance any subproject requiring resettlement. In all cases, independent supervision and multidisciplinary evaluation will be provided to the extent required by the complexity of the respective resettlement plan.” <b>(IDB, Policy on Resettlement)</b></p> <p>“The promoter shall set up necessary systems (i.e. resources, staff, and procedures) to monitor the implementation of a RAP on a regular basis and take corrective action as necessary. Affected persons will be consulted as part of the monitoring activities. The implementation and effectiveness of the resettlement action plan shall be subject to monitoring and review by qualified resettlement specialists and/or other independent third parties as appropriate and commensurate to the scale and risks involved in the resettlement.” <b>(EIB, ESH, ESS 6, para. 70)</b></p>
<p><b>Reporting</b></p>	<p>“The borrower will prepare semi-annual monitoring reports “to describe the progress of the implementation of [IR] activities and any compliance issues and corrective actions.” These reports are to “closely follow the [IR] monitoring indicators agreed at the time of [RP] approval.” <b>(ADB, SPS, Appendix 2, para. 31)</b></p> <p>“It is good practice for the promoter to present to the EIB an accountability report upon the completion of the RAP implementation, prepared by an external party. The accountability audit will include, at a minimum, a review of the mitigation measures implemented by the promoter, a comparison of implementation outcomes against agreed objectives, and a conclusion as to whether any follow-up actions and further monitoring are needed.” <b>(EIB, ESH, ESS 6 para. 71)</b></p>
<p><b>Supervision</b></p> <p>OP 4.12 para. 24...The Bank regularly supervises resettlement implementation to determine compliance with the resettlement instrument</p>	<p><b>[ADB]</b> “will conduct periodical site visits to projects with adverse...social impacts; ...conduct supervision mission with detailed review by <b>ADB’s</b> safeguard specialist or officers or consultants for projects with significant</p>

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	adverse...social impacts.” <sup>231</sup> (ADB, SPS, Policy Delivery Process, General Requirements, para. 58 (ii))
<p><b>Evaluation</b></p> <p>OP 4.12, para. 24....Upon completion of the project, the borrower undertakes an assessment to determine whether the objectives of the resettlement instrument have been achieved. The assessment takes into account the baseline conditions and the results of resettlement monitoring.</p>	<p>“[The borrower] prepares a “project completion report that assesses whether the objective and desired outcomes of the safeguard plans have been achieved, taking into account the baseline conditions and the results of monitoring.”<sup>232</sup> (ADB, SPS, Policy Delivery Process, General Requirements, para. 58 (v))</p> <p>“[W]henever possible, qualitative and quantitative indicators will be included as benchmarks to evaluate [IR] conditions at critical intervals related to the progress of...project execution. The final evaluation will be scheduled at a target date...on which it is expected that the living standards the plan was designed to provide are achieved.” (IDB, Policy on Involuntary Resettlement and ECSP B.7)</p> <p>“The evaluation compares the actual situation with the planned or predicted situation, including in particular, the number of people affected, and review the assumptions, the resettlement-induced and associated risks, and the uncertainties encountered.” (AfDB, OS 2, para. 62)</p>
<p><b>Follow-Up</b></p> <p>P 4.12, para. 24. If the assessment reveals that these objectives may not be realized, the borrower should propose follow-up measures that may serve as the basis for continued Bank supervision, as the Bank deems appropriate (see also BP 4.12, para. 16).”</p>	<p>“If unanticipated [IR] impacts are found during project implementation, the borrower...will conduct a social impact assessment and update the [RP] or formulate a new [RP] covering all applicable requirements.” (ADB, SPS, Appendix 2, para. 32).</p>
<b>INDIGENOUS PEOPLES (IP)</b>	
<b>STATEMENT OF OBJECTIVES</b>	“[t]he objective of this policy is to..... [s]afeguard indigenous peoples and their rights against adverse impacts and exclusion in Bank funded

<sup>231</sup> The World Bank regularly supervises resettlement implementation “to determine compliance with resettlement instrument,” but does not further elaborate on the Bank’s supervision requirements.

<sup>232</sup> The World Bank requires that upon project completion, the borrower undertake “an assessment to determine whether the objectives of the resettlement instrument have been achieved,” taking “into account the baseline conditions and the results of resettlement monitoring.”

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<p>OP 4.10, para. 1 states that: “This policy contributes to the Bank’s mission of poverty reduction and sustainable development by ensuring that the development process fully respects the dignity, human rights, economies, and cultures of Indigenous Peoples.”</p> <p>It also states further that: “Such Bank-financed projects include measures to (a) avoid potentially adverse effects on the Indigenous Peoples’ communities; or (b) when avoidance is not feasible, minimize, mitigate, or compensate for such effects. Bank-financed projects are also designed to ensure that the Indigenous Peoples receive social and economic benefits that are culturally appropriate and gender and intergenerationally inclusive.”</p> <p>As a threshold matter, OP 4.10 recognizes the particular challenges that Indigenous Peoples face. It states that “...the identities and cultures of Indigenous Peoples are inextricably linked to the lands on which they live and the natural resources on which they depend. These distinct circumstances expose Indigenous Peoples to different types of risks and levels of impacts from development projects, including loss of identity, culture, and customary livelihoods, as well as exposure to disease.” It also recognizes that “As a result, their economic, social, and legal status often limits their capacity to defend their interests in and rights to lands, territories, and other productive resources, and/or restricts their ability to participate in and benefit from development.”</p>	<p>development projects.” (<b>IDB, Policy on Involuntary Resettlement</b>) (<i>emphasis added</i>)</p> <p>“Objectives: to design and implement projects in a way that fosters full respect for Indigenous Peoples’ <i>identity, dignity, human rights, livelihood systems, and cultural uniqueness as defined by the Indigenous Peoples themselves</i> so that they (i) receive <i>culturally appropriate social and economic benefits</i>, (ii) <i>do not suffer adverse impacts as a result of projects</i>, and (iii) <i>can participate actively in projects that affect them.</i>” (<b>ADB, SPS, Appendix 3, para. 3</b>) (<i>emphasis added</i>)</p> <p>“Some individuals or groups may be less resilient to risks and adverse impacts than others. Within the context of EIB operations, individuals and/or groups who are at a higher risk of being unable to anticipate, cope with, resist and recover from project-related risks and/or adverse impacts are considered vulnerable. Vulnerable individuals or groups may include women, children, the elderly, the poor, ethnic, religious, cultural or linguistic minorities, or indigenous groups.” (<b>EIB, ESH, ESS 7, para. 1</b> )</p> <p>“Standard 7 sets out to avoid or minimise, or otherwise mitigate and remedy<sup>233</sup>, potential harmful effects of EIB operations to vulnerable individuals and groups whilst seeking that these populations duly benefit from such operations. As a means to foster those project outcomes, Standard 7 proposes a framework and tools to address inequalities and other factors contributing to vulnerability, and, as appropriate, to allow for equal access to and enjoyment of project benefits for those individuals and groups.” (<b>EIB, ESH, ESS 7, para. 4</b>)</p>
<p><b>SCOPE OF POLICY APPLICATION AND TRIGGERS</b></p> <p>According to OP 4.10, there are a number of key elements that guide the scope of application:</p>	<p>“The requirements apply to “all <b>ADB</b>-financed and/or <b>ADB</b>-administered ....projects, and their components regardless of the source of financing,” as</p>

<sup>233</sup> Echoing Article 2 of the International Covenant on Civil and Political Rights, Article 2, para. 2 of the International Covenant on Economic, Social and Cultural Rights.

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<p>(a) It applies to all projects that are proposed for Bank financing and that “affect” Indigenous Peoples.</p> <p>(b) Impact: Project impact (potential or actual; positive or adverse) does not influence applicability of the Policy. Rather it is driven by the presence in or, collective attachment to the project area.</p> <p>(c) The policy also states that it applies” ...to all components of the project that affect Indigenous Peoples, regardless of the source of financing.”</p> <p>(d) The Policy also applies to groups in urban areas that meet the criteria (Para. 4, and footnote 8).</p> <p>(e) No de minimis rule. Even a small number of Indigenous Peoples present in the project area would require application of the policy.</p>	<p>well as “actions conducted by the borrower/client in anticipation of ADB projects.”<sup>234</sup></p> <p>The policy is ‘triggered’ “whenever a project directly or indirectly affects the dignity, human rights, livelihood systems, or culture of Indigenous Peoples or affects the territories or natural or cultural resources that Indigenous Peoples own, use, occupy, or claim as their ancestral domain.” (<b>ADB, SPS, Appendix 3, para. 9</b>)</p> <p>Operational Policy 765 applies to “all Bank-supported operations and activities, including financial and nonfinancial products.” (<b>IDB, Policy on Indigenous Peoples,<sup>235</sup> para. 3.1</b>)</p> <p>While “[t]aking into account the perspectives of indigenous peoples, [IDB] will systematically perform a technical review of all operations submitted for its consideration in the programming and identification stages in order to determine whether indigenous peoples might be affected by the operation and identify potential impacts and benefits, be they direct, indirect, cumulative or regional.” (<b>IDB, Policy on Indigenous Peoples, para. 5.3(a)</b>)</p> <p>“Where EIB operations encounter, affect or threaten the customary rights and interests of indigenous peoples, and where specific actions and outputs are required from promoters, particular attention to social due diligence is mandated. The UN Declaration on the Rights of Indigenous Peoples (UNDRIP)<sup>236</sup> is the guiding document of reference in this respect for the EIB. A gender-sensitive approach endeavoring to promote the rights and interests of</p>

<sup>234</sup> The full text of the **ADB** SPS statement on scope and trigger states: “The requirements apply to all **ADB**-financed and/or **ADB**-administered sovereign and non-sovereign projects, and their components regardless of the source of financing, including investment projects funded by a loan; and/or a grant; and/or other means, such as equity and/or guarantees (hereafter broadly referred to as projects).” **ADB**’s references to “non-sovereign projects” and “equity” reflect **ADB**’s institutional application of its SPS to both private and public sector projects rather than a more expansive scope with respect to the substance of the policy.

<sup>235</sup> IDB, Policy on Indigenous Peoples, 2006 (OP-765).

<sup>236</sup> [http://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf)

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	women and girls in indigenous communities constitutes a further layer of due diligence required.” (EIB, ESH, ESS 7, para. 24)
<p><b>CRITERIA FOR THE IDENTIFICATION OF INDIGEOUS PEOPLES IN PROJECTS</b></p> <p>OP 4.10, para. 3. Because of the varied and changing contexts in which Indigenous Peoples live and because there is no universally accepted definition of “Indigenous Peoples,” this policy does not define the term. Indigenous Peoples may be referred to in different countries by such terms as “indigenous ethnic minorities,” “aboriginals,” “hill tribes,” “minority nationalities,” “scheduled tribes,” or “tribal groups.”</p> <p>Para. 4. For purposes of this policy, the term “Indigenous Peoples” is used in a generic sense to refer to a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees:</p> <p>(a) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;</p>	<p>“For the purposes of this policy, the term indigenous peoples refers to those who meet the following three criteria: (i) they are descendants from populations inhabiting Latin America and the Caribbean at the time of the conquest or colonization; (ii) irrespective of their legal status or current residence, they retain some or all of their own social, economic, political, linguistic and cultural institutions and practices; and (iii) they recognize themselves as belonging to indigenous or pre-colonial cultures or peoples.” (IDB, Policy on Indigenous Peoples, para. 1.1)</p> <p>IDB includes within the categories of IPs “transborder indigenous peoples;”<sup>237</sup> and “uncontacted” indigenous peoples,”<sup>238</sup> and prescribes specific measures designed to protect their rights and welfare. (IDB, Policy on Indigenous Peoples, para. 4.4 (f) and (g))</p>

<sup>237</sup> With respect to trans-border IPs, IDB requires that “in regional projects involving two or more countries or in border areas where indigenous peoples are present, the Bank will adopt such measures as are necessary to contravene adverse impacts of its projects that might affect trans-border peoples. These will include consultation and good faith negotiation processes, legal security and territorial control programs, and other culturally appropriate programs related to rights and priorities in health, freedom of movement, dual nationality (within the context of the applicable legal norms), and cultural, social, and economic integration between the affected peoples, among others.

<sup>238</sup> With respect to uncontacted indigenous peoples IDB requires that “[i]n view of the exceptional nature of uncontacted indigenous peoples, also known as ‘peoples in voluntary isolation,’” as well as their special vulnerability and the impossibility of applying prior consultation and good faith negotiation mechanisms, the Bank will only finance projects that respect the right of these peoples to remain in said isolated condition and to live freely according to their culture. In order to safeguard the collective and individual physical, territorial, and cultural integrity of these peoples, projects that may have potential impacts on these peoples, their lands and territories, or their way of life will have to include the appropriate measures to recognize, respect and protect their lands and territories, environment, health and culture, and to avoid contact with them as a consequence of the project.



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<p>(b) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories;<sup>2</sup></p> <p>(c) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and</p> <p>(d) an indigenous language, often different from the official language of the country or region.</p>	
<p><b>SOCIAL ASSESSMENT (SA)</b></p> <p>OP 4.10. Para. 9. If, based on the screening, the Bank concludes that Indigenous Peoples are present in, or have collective attachment to, the project area, the borrower undertakes a social assessment to evaluate the project’s potential positive and adverse effects on the Indigenous Peoples, and to examine project alternatives where adverse effects may be significant.</p> <p><i>Para. 5. Use of Country Systems.</i> The Bank may decide to use a country’s systems to address environmental and social safeguard issues in a Bank-financed project that affects Indigenous Peoples. This decision is made in accordance with the requirements of the applicable Bank policy on country systems</p> <p>Annex A 2. The social assessment includes, as needed:</p> <p>(a) A review on a scale appropriate to the project, of the legal and institutional framework applicable to Indigenous Peoples</p> <p>(c) it also requires “identification of key project stakeholders and the elaboration of a culturally appropriate process for consulting with the Indigenous Peoples at each stage of project preparation and implementation” as well as,</p>	<p>“Social impacts and risks will be assessed against the requirements [of]... host country obligations under <i>international law</i>.” <b>(ADB, Appendix 3, para. 13)(emphasis added)</b></p> <p>“The Bank will require and verify that the project proponent conduct an evaluation to determine the seriousness of potential adverse impacts on physical and food security, lands, territories, resources, society, rights, the traditional economy, way of life and identity or cultural integrity of indigenous peoples, and to identify the indigenous peoples affected and their legitimate representatives and internal decision-making procedures. This evaluation will include preliminary consultations with potentially affected indigenous peoples.” <b>(IDB, Policy on Indigenous Peoples, para. 4.4 (a) (i))</b></p> <p>“Where the screening process determines that (i) potential adverse impacts on vulnerable groups are present or (ii) relevant additional information is required, a more in-depth social assessment should be undertaken by the promoter. The assessment should specifically probe into the following elements, including through careful analysis of the legal framework and through collection of baseline data, disaggregated by factors such as gender, ethnicities, age, etc.:</p> <ul style="list-style-type: none"> <li>a) vulnerability profile of affected population;</li> <li>b) assessment of the specific context, including legal and institutional parameters;</li> </ul>

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<p>(d) an “ assessment, based on free, prior, and informed consultation, with the affected Indigenous Peoples’ communities, of the potential adverse and positive effects of the project.”</p>	<ul style="list-style-type: none"> <li>c) analysis and assessment of the historical frequency and severity of discrimination, social, economic or political exclusion and marginalization suffered by the identified population;</li> <li>d) the scope and nature of adverse impacts and their effect on the identified population when compounded with their pre-existing vulnerability, and their access to resources and cultural heritage;</li> <li>e) specific actions, past or future, to avoid, minimize, or otherwise mitigate or remedy negative impacts and, as appropriate, to reinforce positive effects, including identifying opportunities and actions to promote benefit-sharing modalities for the communities; and</li> <li>f) in line with Standard 10, an appropriate engagement, consultation and participation plan, describing relevant consultation mechanisms.” (EIB, ESH, ESS 7, para. 20)</li> </ul>
<p><b>APPLICABLE LEGAL FRAMEWORK</b></p> <p>OP 4.10, Para. 5. Use of Country Systems. The Bank may decide to use a country’s systems to address environmental and social safeguard issues in a Bank-financed project that affects Indigenous Peoples. This decision is made in accordance with the requirements of the applicable Bank policy on country systems</p>	<p>Social impacts and risks will be assessed against the “requirements [of]... host country obligations under <i>international law</i>.” (ADB, SPS Appendix 3, para. 13) (<i>emphasis added</i>)</p> <p>IDB cites several international legal instruments in force in each country as a source of rights for Indigenous Peoples <sup>239</sup> (IDB, Policy on Indigenous Peoples)</p>

<sup>239</sup> The full list of international legislation cited by IDB includes, “as in force for each country..., the United Nations Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the American Convention on Human Rights (1969), the International Covenant on Economic, Social, and Cultural Rights (1976), the International Convention on the Elimination of all Forms of Racial Discrimination (1966), the Convention on the Rights of the Child (1990), the International Labor Organization (ILO) Convention 107 concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries (1957), ILO Convention 169 concerning Indigenous and Tribal Populations in Independent Countries (1989), Agenda 21 adopted by the United Nations Conference on Environment and Development (UNCED) (1992), and the International Convention on Biological Diversity (1992), as well as the corresponding international jurisprudence of the Inter- American Court of Human Rights or similar bodies whose jurisdiction has been accepted by the relevant country, as well as other international instruments currently in preparation, such as the draft United Nations Declaration on the Rights of Indigenous Peoples and the draft American Declaration on the Rights of Indigenous Peoples.”

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<p>Annex A- Social Assessment, Para. 2 The social assessment includes the following elements, as needed:</p> <p>a) A review, “on a scale appropriate to the project, of the legal and institutional framework applicable to Indigenous Peoples.”</p> <p>OP 4.10, Para. 22. In furtherance of the objectives of this policy, the Bank may, at a member country’s request, support the country in its development planning and poverty reduction strategies by providing financial assistance for a variety of initiatives designed to:</p> <p>(a) strengthen local legislation, as needed, to establish legal recognition of the customary or traditional land tenure systems of Indigenous Peoples;</p>	
<p><b>INFORMATION DISCLOSURE</b></p> <p>OP4.10, para. 10. <i>Consultation and Participation.</i></p> <p>(c) [The borrower]... provides the affected Indigenous Peoples’ communities with all relevant information about the project (including an assessment of potential adverse effects of the project on the affected Indigenous Peoples’ communities) in a culturally appropriate manner at each stage of project preparation and implementation.</p> <p>Para. 15 The borrower makes the social assessment report and draft IPP/IPPF available to the affected Indigenous Peoples’ communities in an appropriate form, manner, and language</p> <p>Once the Bank accepts the documents as providing an adequate basis for project appraisal, the Bank makes them available to the public in accordance with <i>The World Bank Policy on Access to Information</i>, and the borrower makes them available to the affected Indigenous Peoples’ communities in the same manner as the earlier draft documents.</p>	<p>“If the [IPs] are illiterate, other appropriate communication methods will be used.” (ADB, SPS, Appendix 3, para. 21)</p> <p>“The borrower is required to “disclose new or updated [IPPIs]... corrective action plan[s] or [IPP] monitoring reports.” (ADB, SPS, Appendix 3, para. 20, )</p> <p>“Assurances over the timely disclosure of the IPDP, including outputs linked to the FPIC process, should be provided. The promoter is expected to publicly disclose the final draft of the IPDP to the affected indigenous peoples’ communities in an appropriate form, manner, and language. Once adopted and agreed upon by the indigenous peoples and the EIB alike, the promoter will make these documents available to the affected indigenous peoples’ communities in the same manner as the earlier final draft documents.” (EIB, ESH, ESS 7, para. 30)</p>

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<p><b>FREE PRIOR INFORMED CONSULTATION AND BROAD COMMUNITY SUPPORT</b></p> <p>Para. 1. The Bank provides project financing <i>only</i> where free, prior, and informed consultation results in broad community support to the project by the affected Indigenous Peoples.</p> <p><b>Para. 6</b> A project proposed for Bank financing that affects Indigenous Peoples requires...(c) a process of free, prior, and informed <i>consultation</i> with the affected Indigenous Peoples’ communities at each stage of the project, and particularly during project preparation, to fully identify their views and ascertain their broad community support for the project.</p> <p>10. <i>Consultation and Participation.</i> Where the project affects Indigenous Peoples, the borrower engages in free, prior, and informed consultation with them. To ensure such consultation, the borrower:</p> <p>(a) establishes an appropriate gender and inter-generationally inclusive framework that provides opportunities for consultation at each stage of project preparation and implementation among the borrower, the affected Indigenous Peoples’ communities, the Indigenous Peoples Organizations (IPOs) if any, and other local civil society organizations (CSOs) identified by the affected Indigenous Peoples’ communities;</p> <p>(b) uses consultation methods, appropriate to the social and cultural values of the affected Indigenous Peoples’ communities and their local conditions and, in designing these methods, gives special attention to the concerns of Indigenous women, youth, and children and their access to development opportunities and benefits; and</p> <p>(c) provides the affected Indigenous Peoples’ communities with all relevant information about the project (including an assessment of potential adverse effects of the project on the affected Indigenous</p>	<p>“For the purpose of policy application, [Consent of Affected Indigenous Peoples Communities] refers to a collective expression by the affected Indigenous Peoples communities, through individuals and/or their recognized representatives, of broad community support for the project activities. Such broad community support may exist even if some individuals or groups object to the project activities.” (ADB, SPS, Appendix 3, para. 3 )</p> <p>“Ascertain the <i>consent</i> of affected Indigenous Peoples communities to the following project activities: (i) commercial development of the cultural resources and knowledge of Indigenous Peoples; (ii) physical displacement from traditional or customary lands; and (iii) commercial development of natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of Indigenous Peoples. <i>For the purposes of policy application, the consent of affected Indigenous Peoples communities refers to a collective expression by the affected Indigenous Peoples communities, through individuals and/or their recognized representatives, of broad community support for such project activities.</i> Broad community support may exist even if some individuals or groups object to the project activities.” (ADB,SPS, Appendix 3, para. 3) (<i>emphasis added</i>)</p> <p>“For cases of particularly significant potential adverse impacts that carry a high degree of risk to the physical, territorial or cultural integrity of the affected indigenous peoples or groups, the Bank will further require and verify that the project proponent demonstrate that it has, through a good faith negotiation process, <i>obtained agreements</i> regarding the operation and measures to address the adverse impacts as necessary to support, in the Bank’s judgment, the sociocultural viability of the operation.” (IDB. Policy on Indigenous Peoples, para. 4.4 (a) (iii))</p> <p>“The principle of <i>free, prior informed consent (FPIC)</i> refers to the process whereby the affected community of indigenous peoples arrives at a decision in accordance with their legal provisions, cultural traditions and practices. The UN Declaration on the Rights of Indigenous Peoples in 2007 will serve as</p>

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<p>Peoples' communities) in a culturally appropriate manner at each stage of project preparation and implementation.</p> <p>11. In deciding whether to proceed with the project, the borrower ascertains, on the basis of the social assessment (see paragraph 9) and the free, prior, and informed consultation (see paragraph 10), whether the affected Indigenous Peoples' communities provide their broad support to the project. Where there is such support, the borrower prepares a detailed report that documents:</p> <ul style="list-style-type: none"> <li>(a) the findings of the social assessment;</li> <li>(b) the process of free, prior, and informed consultation with the affected Indigenous Peoples' communities;</li> <li>(c) additional measures, including project design modification, that may be required to address adverse effects on the Indigenous Peoples and to provide them with culturally appropriate project benefits;</li> <li>(d) recommendations for free, prior, and informed consultation with and participation by Indigenous Peoples' communities during project implementation, monitoring, and evaluation; and</li> <li>(e) any formal agreements reached with Indigenous Peoples' communities and/or the IPOs.</li> </ul> <p>The Bank reviews the process and the outcome of the consultation carried out by the borrower to satisfy itself that the affected Indigenous Peoples' communities have provided their broad support to the project. The Bank pays particular attention to the social assessment and to the record and outcome of the free, prior, and informed consultation with the affected Indigenous Peoples' communities as a basis for ascertaining whether there is such</p>	<p>guidance when implementing the FPIC process.” <b>(EIB, (ESH, ESS 7, para.31) (emphasis added)</b></p> <p>“The FPIC process should produce a clear endorsement or rejection by the indigenous peoples concerned of the proposed intervention and a statement of all accompanying mitigating and remedial measures and benefit-sharing agreements. As such, it is the main instrument ensuring that at the project level the indigenous peoples' priorities for economic, social and cultural development and environmental protection are promoted, as duly informed by their traditional cultures, knowledge and practices. It is fundamental to the exercise of their inherent right to self-determination. In those cases where the host government has already approved the project considered by the EIB for financing, the promoter will nonetheless need to verify, by way of the FPIC process, the levels and nature of free, prior and informed consent to the undertaking by the indigenous peoples concerned, as well as the adequacy and compliance with EIB standards of the mitigation measures and benefit-sharing arrangements proposed.” <b>(EIB, ESH, ESS 7, para. 32))</b></p> <p>“Free, prior and informed engagement defines a practice of public consultation and participation that is: (a). free from external manipulation, interference, or coercion, and intimidation; (b). based on prior disclosure and dissemination of information; (c). undertaken on an informed basis with information that is relevant, transparent, objective, meaningful, and easily accessible in culturally appropriate local language(s), and format that is understandable to the affected individuals and communities; (d). takes into account and is responsive to the needs, rights and interests of both women and men, if necessary through separate forums and engagements; and, e. includes targeted capacity building and/or other assistance as necessary to empower impacted individuals and communities, in particular those who are vulnerable and marginalised, to fully and effectively participate in engagement and consultation processes.” <b>(EIB, ESH, ESS 10, para. 6)</b></p> <p>“Free, prior and informed consent (FPIC) should not be confused with the aforementioned practice of free, prior, informed engagement. FPIC is a</p>

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<p>support. The Bank does not proceed further with project processing if it is unable to ascertain that such support exists.</p>	<p>specific right for indigenous peoples as recognised in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and ILO Convention 169/1989. It is triggered by specific circumstances and strictly defined project impacts, as elaborated in Standard 7.” (EIB, ESH, ESS 10, para. 7)<sup>240</sup></p> <p>“The borrower or client is responsible for conducting and providing evidence of meaningful consultation (i.e., consultation that is free, prior and informed) with communities likely to be affected by environmental and social impacts, and with local stakeholders, and also for ensuring broad community support, especially for Category 1 projects and for projects affecting indigenous peoples.” (AfDB)</p> <p>“Consultation is based on stakeholder analysis and is preceded by disclosure of adequate project information and environmental and social information to ensure that participants are fully informed. It begins at an early stage during project preparation and continues as needed. It is conducted in a timely manner in the context of key project preparation steps, in an appropriate language, and in an accessible place. The results of the consultation are adequately reflected in the project design and in the project documentation.” (AfDB, OS 1, para. 46)</p> <p>“The purpose of the consultation is to assess, present, and agree with communities on acceptable financial and nonfinancial compensatory measures [with respect to cultural resources].” (AfDB, OS 1, para. 41)</p>

<sup>240</sup> A meaningful [stakeholder] engagement process allows for the efficient implementation of a financed operation and, in particular, the early and effective identification, assessment, and management of any environment and social risks, impacts, and opportunities. The views, interests, and concerns of project affected communities and other interested stakeholders are heard, understood, and taken into account throughout the project lifecycle. (EIB).

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<p><b>COMMERCIAL DEVELOPMENT OF NATURAL AND CULTURAL RESOURCES</b></p> <p>OP 4.10, para. 18. If the project involves the commercial development of natural resources (such as minerals, hydrocarbon resources, forests, water, or hunting/fishing grounds) on lands or territories that Indigenous Peoples traditionally owned, or customarily used or occupied, the borrower ensures that as part of the free, prior, and informed consultation process the affected communities are informed of (a) their rights to such resources under statutory and customary law; (b) the scope and nature of the proposed commercial development and the parties interested or involved in such development; and (c) the potential effects of such development on the Indigenous Peoples’ livelihoods, environments, and use of such resources. The borrower includes in the IPP arrangements to enable the Indigenous Peoples to share equitably in the benefits<sup>18</sup> to be derived from such commercial development; at a minimum, the IPP arrangements must ensure that the Indigenous Peoples receive, in a culturally appropriate manner, benefits, compensation, and rights to due process at least equivalent to that to which any landowner with full legal title to the land would be entitled in the case of commercial development on their land.</p> <p>Para. 19. If the project involves the commercial development of Indigenous Peoples’ cultural resources and knowledge (for example, pharmacological or artistic), the borrower ensures that as part of the free, prior, and informed consultation process, the affected</p>	<p>The borrower must “ascertain the <i>consent</i><sup>242</sup> of affected [IP] communities” where such commercial development would “impact the livelihoods...of [IPs].” (emphasis added)<sup>243</sup> <b>(ADB, SPS, Appendix 3, para. 35)</b></p> <p><i>“Territories, land, and natural resources.</i> Operations that directly or indirectly affect the legal status, possession, or management of territories, lands, or natural resources traditionally occupied or used by indigenous peoples will include specific safeguards, consistent with the applicable legal framework regarding ecosystem and land protection. One of those safeguards is respect for the rights recognized in accordance with the applicable legal norms. In projects for natural resource extraction and management and protected areas management, safeguards include: (i) prior consultation mechanisms to preserve the physical, cultural, and economic integrity of the affected peoples and the sustainability of the protected areas and natural resources; (ii) mechanisms for the participation of indigenous peoples in the utilization, administration and conservation of these resources; (iii) fair compensation for any damage these peoples might suffer as a result of the project; and (iv) whenever possible, participation in project benefits. Where legal or administrative protection is insufficient to ensure that the project will not directly or indirectly cause the deterioration of the physical integrity or legal status of the affected lands, territories or resources, the project will include the pertinent restrictions or corrective or compensatory measures.” <b>(IDB, Policy on Indigenous Peoples, para. 4.4. (b))</b></p>

<sup>242</sup> ADB’s use of “consent” is qualified by the definition of “consent” as evidence of “broad community support,” (BCS), the term used by the World Bank with respect to project approval overall. The World Bank’s requirement for “free, prior, informed consultation” in relation to natural resources stops short of requiring BCS and is therefore neither equivalent nor comparable to ADB’s “consent” requirement.

<sup>243</sup> The World Bank requires the borrower to “ensure... that as part of the free, prior, and informed consultation process the affected communities are informed of (a) their rights to such resources under statutory and customary law; (b) the scope and nature of the proposed commercial development and the parties interested or involved in such development; and (c) the potential effects of such development on the Indigenous Peoples’ livelihoods, environments, and use of such resources.”



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<p>communities are informed of (a) their rights to such resources under statutory and customary law; (b) the scope and nature of the proposed commercial development and the parties interested or involved in such development; and (c) the potential effects of such development on Indigenous Peoples’ livelihoods, environments, and use of such resources. <i>Commercial development of the cultural resources and knowledge of these Indigenous Peoples is conditional upon their <b>prior agreement</b> to such development</i> (emphasis added).<sup>241</sup> The IPP reflects the nature and content of such agreements and includes arrangements to enable Indigenous Peoples to receive benefits in a culturally appropriate way and share equitably in the benefits to be derived from such commercial development.</p>	
<p><b>INDIGENOUS PEOPLES PLANS (IPPS)/IPP INPUTS</b></p> <p>OP 4.10 12. <i>Indigenous Peoples Plan.</i> On the basis of the social assessment and in consultation with the affected Indigenous Peoples’ communities, the borrower prepares an Indigenous Peoples Plan</p> <p>Annex B The Indigenous Peoples Plan (IPP) is prepared in a flexible and pragmatic manner, and its level of detail varies depending on the specific project and the nature of effects to be addressed. The IPP includes the following elements, as needed:</p> <p>(a) A summary of the information referred to in Annex A, paragraph 2 (a) and (b).</p> <p>(b) A summary of the social assessment.</p> <p>(c) A summary of results of the free, prior, and informed consultation with the affected Indigenous Peoples’ communities that</p>	<p>“The IPP must be prepared with the <i>“assistance of qualified and experienced experts... that draw on indigenous knowledge and participation by the affected [IP] communities.”</i> (ADB, SPS, Table 3, para. 6) <b>(emphasis added)</b></p> <p>“For highly complex and sensitive projects [affecting IPs]...independent advisory panels of experts not affiliated with the project...[must] be used during preparation and implementation” including “an Indigenous Peoples expert.” (ADB, SPS, Appendix 3, para. 19)</p> <p>“Once the decision to proceed with the processing of a project with potential adverse impacts has been made, the Bank will provide guidance and verify compliance by the project proponent with the following three requirements. This will be done to the Bank’s satisfaction and as early as possible in the project cycle: (i) the preparation of sociocultural evaluations as inputs for the loan document, analysis mission, and the project environmental and social review process; (ii) the implementation of socio-culturally appropriate and duly documented consultation and good faith negotiation processes with the affected indigenous peoples in relation to project design, analyses of</p>

<sup>241</sup> The standard applicable when a project involved the commercial development of Indigenous Peoples cultural resources and knowledge is “prior agreement” which is equivalent to consent.



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<p>was carried out during project preparation (Annex A) and that led to broad community support for the project.</p> <p>(d) A framework for ensuring free, prior, and informed consultation with the affected Indigenous Peoples' communities during project implementation (see paragraph 10 of this policy).</p> <p>(e) An action plan of measures to ensure that the Indigenous Peoples receive social and economic benefits that are culturally appropriate, including, if necessary, measures to enhance the capacity of the project implementing agencies.</p> <p>(f) When potential adverse effects on Indigenous Peoples are identified, an appropriate action plan of measures to avoid, minimize, mitigate, or compensate for these adverse effects.</p> <p>(g) The cost estimates and financing plan for the IPP.</p> <p>(h) Accessible procedures appropriate to the project to address grievances by the affected Indigenous Peoples' communities arising from project implementation. When designing the grievance procedures, the borrower takes into account the availability of judicial recourse and customary dispute settlement mechanisms among the Indigenous Peoples.</p> <p>(i) Mechanisms and benchmarks appropriate to the project for monitoring, evaluating, and reporting on the implementation of the IPP. The monitoring and evaluation mechanisms should include arrangements for the free, prior, and informed consultation with the affected Indigenous Peoples' communities.</p>	<p>alternatives, preparation, due diligence, and execution;<sup>15</sup> and (iii) the incorporation into the project of enforceable measures for mitigation, restoration, and compensation reflected in the content of the loan document and of project contractual documents<sup>16</sup> and detailed in plans for indigenous protection, compensation, and development or in other instruments in a timely manner.” <b>(IDB, Policy on Indigenous Peoples, para. 5.5 (b))</b></p> <p>“When projects involve indigenous populations, a detailed social assessment duly tailored to the cultural and socio-economic specificities and sensitivities of indigenous communities must be undertaken. This information should then feed into the formulation by the promoter of an Indigenous Peoples Development Plan (IPDP) that is consistent with the international human rights of indigenous peoples as well as the expectations of this standard. The IPDP may be free-standing or a component of a broader social management plan in cases where indigenous communities co-exist in the same area with other affected communities. Assurances over the timely disclosure of the IPDP, including outputs linked to the FPIC process, should be provided. The promoter is expected to publicly disclose the final draft of the IPDP to the affected indigenous peoples' communities in an appropriate form, manner, and language. Once adopted and agreed upon by the indigenous peoples and the EIB alike, the promoter will make these documents available to the affected indigenous peoples' communities in the same manner as the earlier final draft documents.” <b>(EIB, ESH, ESS 7, para. 27)</b></p>
<p><b>GRIEVANCE MECHANISM</b></p> <p>Op 4.10 Annex B 2(h) Accessible procedures appropriate to the project to address grievances by the affected Indigenous Peoples' communities arising from project implementation. When designing the grievance procedures, the borrower takes into account the</p>	<p>“The grievance mechanism [must] “be scaled to the impacts of the project...  <i>...appropriately inform...affected [IP] communities about the mechanism...address complaints promptly, using an understandable and transparent process that is culturally appropriate, gender responsive and accessible to affected [IP] communities at no cost and without retribution” or</i></p>

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<p>availability of judicial recourse and customary dispute settlement mechanisms among the Indigenous Peoples.</p>	<p>that it “not impede access to the countries judicial remedies...” (ADB, SPS, Appendix 3, para. 22)<sup>244</sup></p>
<p><b>MONITORING, EVALUATION AND REPORTING AND OF ADAPTIVE MANAGEMENT OF IPP OUTCOMES</b></p> <p>OP 4.10 Annex B 2 (i) [The IPP includes] [m]echanisms and benchmarks appropriate to the project for monitoring, evaluating, and reporting on the implementation of the IPP. The monitoring and evaluation mechanisms should include arrangements for the free, prior, and informed consultation with the affected Indigenous Peoples’ communities.</p>	<p>“The borrower must use “dynamic mechanisms” such as inspections, audits, and semi-annual monitoring reports to verify compliance. For projects with significant adverse impacts, borrowers must “retain qualified and experienced external experts or qualified NGOs to verify monitoring information...” (ADB, SPS, Appendix 3, para. 23)</p> <p>The borrower must “prepare a corrective action plan or update to the approved IPP, implement the corrective actions and follow up on these actions to ensure their effectiveness.” (ADB, SPS, Appendix 3, para. 20 (iii))</p> <p>“Should unanticipated impacts on [IPs} become apparent during project implementation, such as a change in the project’s footprint and adaptive management of IPPS become necessary, the borrower must “carry out an SIA and update the IPP or formulate a new IPP as appropriate.” (ADB, SPS, Appendix 3, para. 25)</p> <p>“The Bank will adopt supervision and evaluation measures designed to verify that the project proponent fulfills, to the Bank’s satisfaction, the agreed to measures to meet the requirements of this policy with respect to each project, including socio-culturally appropriate mechanisms for the participation of affected indigenous peoples in the monitoring and evaluation of those measures. If these requirements are not met, the Bank will take the corrective actions necessary for the project proponent to correct the problems identified within an acceptable timeframe.” (IDB, Policy on Indigenous Peoples, para. 5.3 (d))</p>

<sup>244</sup> The Bank specifies that such a mechanism is required, and that it “take into account the availability of judicial recourse and customary dispute mechanisms among [IPs].”

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