

Concerns and Recommendations Regarding the Review of Asian Development Bank's Environmental Safeguards

Stephanie Fried, Ph. D.
Senior Scientist
Environmental Defense
stephf@ed.org
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In the context of the Asian Development Bank's review of Environmental Safeguards, Environmental Defense submits the enclosed comments and recommendations for your consideration. Our comments, which are included in the Collective Statement of the NGO Forum on the ADB, are based on a detailed review of ADB policies as well as those of other multilateral, bilateral and private sector financial institutions, extensive reviews of ADB audits of projects as well as information from project affected communities and NGOs throughout the Asia-Pacific region. A detailed matrix of specific recommended language changes necessary to fulfill these recommendations is also provided. The matrix incorporates detailed comments made by members of the NGO Forum on the ADB at the December 2006 Forum Safeguards meeting.

We are concerned that an agenda of dismantling existing safeguard policies is being imposed despite data -- from the Bank's own analyses -- which indicate the need to strengthen the safeguard process and increase implementation and monitoring efforts. We urge the ADB to ensure that there is *no weakening of any of the safeguard policies and that they are, in fact, strengthened with sufficient funding provided to ensure implementation*. It is of the utmost importance to ensure that the rights and natural resources of communities impacted by ADB projects are fully protected.

Categorization:

The ADB's environmental categorization system differs from and is significantly weaker than that of the World Bank (WB) which requires projects with impacts that are "sensitive" to be classified as Category A and subject to an environmental assessment. The ADB allows sensitive projects to be classified as Category B ("B-sensitive") and an EIA is not necessarily required for these projects. The World Bank defines "sensitive" projects as those which have impacts which "may be irreversible (e.g. lead to loss of a major natural habitat) or raise issues" relating to indigenous peoples, natural habitats, management of cultural property or involuntary resettlement. The World Bank requires environmental impacts of a Category A project to be compared to the impacts of alternatives, including a "without project" scenario and requires project proponents to recommend "any measures needed to prevent, minimize, mitigate, or compensate for adverse impacts and improve environmental performance."¹

Recommendations:

Require any project or subproject loans, program loans, sector loans, loans through financial intermediaries, changes in scope of loans, and private sector loans with impacts that are "sensitive" to be defined as Category A, subject to an EIA. Environmental assessments for Category A and B loans must be made available for the full 120 day public comment period, and the projects must be shown to meet international standards, norms, and laws.²

- Eliminate the "B sensitive" category. Define a loan as "sensitive" as per World Bank standards (cited above) or if it involves Politically Exposed Persons³ as defined by the Financial Action Task Force on Money Laundering (FATF). Meet or exceed WB Extractive Industry Review recommendations for extractive industry projects. standards of the World Bank's Pollution Abatement Handbook and the World Commission on Dams;

¹ OP. 4.01 EA, Sec.8

² The full IEE/EIA must be made available for comment, not simply summary documents.

³ See WB Environmental Assessment, OP 4.01, FATF 40 Recommendations. Politically Exposed Persons include individuals who are or have been entrusted with prominent public functions, i.e. heads of state, senior politicians, government, judicial, military officials, executives of state-owned companies, and their close associates and family members.

- Require clearly defined analyses of environmental impacts of “no action” and other alternatives; Require not simply “mitigation” of impacts, but prevention, minimization, compensation, and improvement of environmental performance as per WB standards; commit to a preference for “preventative measures over mitigation or compensation” as per WB; avoid “no go” zones;
- If mitigation is to occur, require that, instead of “least cost” mitigation, the mitigation results in the project producing “no significant harm” to affected communities or ecosystems, and insurance that the institutional basis for implementing mitigation measures, including environmental monitoring, is in place;
- Require that Environmental Impact Assessments for Category A projects be conducted by independent experts “not affiliated with the project” as per WB;
- For high-risk projects with complex and multidimensional environmental issues, require the establishment of an independent internationally recognized advisory panel, with members with site-specific experience to advise the ADB and the borrower during project preparation, implementation, and monitoring;
- Make monitoring reports of environmental and social impacts of ADB-financed projects and activities publicly available when they are written;
- Monitor carbon dioxide emissions associated with ADB finance and make annual reports publicly available. Institute a carbon dioxide cap for ADB’s portfolio with a requirement for clients to evaluate options to reduce project-related GHG emissions during the design and operation of the project.

Anti-Money Laundering Recommendations

- Given the link between unsustainable resource exploitation (for example, illegal logging) and money laundering⁴ and to ensure full compliance with anti-money laundering laws in the borrowing country as well as the legal requirements of ADB donor countries, EA should include an assessment the involvement of “Politically Exposed Persons” (PEP) as defined by the FATF in the project. Should the project involve any Politically Exposed Persons, the project must be classified as Category A and with a 120 day public comment period. Any such project must require Board approval, after consideration of PEP involvement, prior to implementation.

Consultation and Participation:

- Information must be made available to in-country stakeholders and potentially affected communities “in a form and language that are understandable and accessible to the groups being consulted.”⁵ Publish stakeholder views and show explicitly how the views/opinions of the stakeholders have been taken into account and influenced the EA/EIA and the project.
- Ensure that ADB-supported activities and policies are implemented only after documented Free Prior Informed Consent of indigenous and other project-affected communities.

Cofinancing:

- ADB's current requirement that all components of a project must comply with ADB's environmental assessment policy, regardless of whether or not ADB is financing a particular component, is positive and should be maintained.

⁴ A 2005 report by the Center for International Forestry Research underscores the intersection between money laundering and forest destruction. In Indonesia, high-risk forest-based projects often involve crimes such as illegal logging or the pollution of water and air by dangerous waste, leading to significant legal risks to banks. Indonesia’s new laws make financial institutions responsible for transactions involving forestry and environmental crimes. Illegal logging as a “predicate offence” for money laundering, meaning that money laundering charges and strict penalty schedules can now be applied to financial institutions engaged in projects that involve illegal timber harvesting.

⁵ “in a form and language that are understandable and accessible to the groups being consulted” – World Bank OP 4.01, Sec. 15, Disclosure

The recommendations below are based on a detailed review of ADB policies as well as those of other multilateral, bilateral and private sector financial institutions, extensive reviews of ADB audits of projects and information from project-affected communities and NGOs throughout the Asia-Pacific region. We are concerned that an agenda of dismantling existing safeguard policies is being imposed despite data -- including from the Bank’s own analyses – which strongly indicate the need to strengthen the safeguard process and increase implementation and monitoring efforts. We urge the ADB to ensure that there is no weakening of any of the safeguard policies and that they are, in fact, strengthened with sufficient funding provided to ensure implementation in order to fully protect the environment and communities impacted by ADB projects.

Please send any comments on this analysis to Stephanie Fried (stephf99@gmail.com and stephf@ed.org – pls send to both addresses.)

ADB Current Environmental Policies⁶	Recommendations and Best Practice Examples from Other Institutions⁷
Classification	
<p>Environmental Assessment process: Environmental Assessment requirements depend on “significance” of impacts; each project is categorized according to “type; location; sensitivity, scale, nature, magnitude of its potential environmental impacts; and availability of cost-effective mitigation measures.” (ADB Operations Manual FI/OP, 9/25/06, p.3)</p> <p>“ADB’s environmental assessment process starts as soon as potential projects for ADB financing are identified and covers all project components whether financed by ADB, cofinanciers, or the borrower.” (OM F1/OP, 9/25/06, p.2)</p> <p>Categorization:</p> <ul style="list-style-type: none"> • Category A: “Projects could have significant adverse environmental impacts. An environmental impact assessment (EIA) is required to address significant impacts.” • Category B: “Projects could have some adverse environmental impacts, but of lesser degree or significance than those in category A. 	<p>Categorization</p> <p>The ADB’s definition of Category A projects differs from and is significantly weaker than that of the World Bank which requires projects with impacts that are “sensitive” to be classified as Category A and subject to an environmental assessment. The ADB allows even sensitive projects to be classified as Category B (“B-sensitive”) and an EIA is not necessarily required for these projects. The WB defines as “sensitive” projects which have impacts which “may be irreversible (e.g. lead to loss of a major natural habitat) or raise issues” relating to indigenous peoples, natural habitats, management of cultural property or involuntary resettlement. WB requires environmental impacts of a Category A project to be compared to the impacts of alternatives, including a “without project” scenario and requires project proponents to recommend “any measures needed to prevent, minimize, mitigate, or compensate for adverse impacts and improve environmental performance.” OP. 4.01 EA, Sec.8</p>

⁶ Asian Development Bank (ADB) policies relevant to the environment include the Environment Policy, Policy on Combating Money Laundering, Forestry Policy and other sectoral policies. The initial data collection and assessment for this analysis was conducted by Bemmy Granados.

⁷ Includes the World Bank, European Bank of Reconstruction and Development (EBRD), Inter-American Development Bank (IDB), African Development Bank (AfDB), Export Credit Agencies (ECAs), and Equator Principles Finance Institutions (EPFIs).

<p>An initial environmental examination (IEE) is required to determine whether significant environmental impacts warranting an EIA are likely. If an EIA is not needed, the IEE is regarded as the final environmental assessment report.”</p> <ul style="list-style-type: none"> • B-Sensitive: “Category B projects that are deemed by ADB’s chief compliance officer to be environmentally sensitive for the purposes of (i) the 120 day rule (ii) the environmental management plan requirement could involve projects that are (i) near environmentally sensitive areas; (ii) involve deforestation or loss of biodiversity; (iii) involve involuntary resettlement issues; (IV) involve the processing, handling and disposal of toxins and hazardous substances; or (v) involve other environmentally sensitive activities that also may be of concern to a wide group of external stakeholders.” OM/F1/OP, fnt 9, pg 5 • Category C: “Unlikely to have adverse environmental impacts. No EIA or IEE is required, although environmental implications are reviewed.” • Category F1: Projects are classified as category “F1” if they involve a credit line through a financial intermediary or an equity investment in a financial intermediary. The financial intermediary must apply an environmental management system, unless all subprojects will result in insignificant impacts. <p>(ADB Operations Manual FI/OP, 9/25/06, p.3)</p> <p>Money Laundering</p> <p>The ADB states that money laundering issues are “a matter of the first priority” in policy dialogue with DMCs and makes commitments to “combat, and assist its DMCs to combat, against M[oney] L[aundering].” and commits, as an institution to adopt as the primary international anti-money laundering standards the Financial Action Task Force’s (FATF) Forty Recommendations. In addition, the ADB commits to “strive toward international best practice standards in its treasury operations.” – ADB OM/OP, Sec.B.1.2, OM Section C6/BP, pg 1-3, 10/29/03</p>	<p>Classification Recommendations: Eliminate “B sensitive” category, place all sensitive projects in category A; “no action” alternative analysis; prevention/ minimization of damage; mitigation requirements; “no significant harm; independent internationally recognized experts; PEP involvement as trigger;</p> <ul style="list-style-type: none"> • As per WB standards, require any project with impacts that are “sensitive” to be defined as a Category A project, subject to an EA requirement; eliminate (and classify as Category A) the ADB’s “B sensitive” category which allows “sensitive” projects near “environmentally sensitive areas”, projects that include deforestation, biodiversity loss, involuntary resettlement, hazardous waste or are “of concern to a wide group of external stakeholders” to be classified “Category B” and potentially avoid a full EA; OP/OM section F1 pg5 • Define a project as “sensitive” as per WB standards “if it may be irreversible (e.g. lead to loss of a major natural habitat)”, or raises issues involving indigenous peoples, natural habitats, management of cultural property or involuntary resettlement or (as per FATF) involves Politically Exposed Persons⁸ as defined by the Financial Action Task Force (FATF) (cf: WB Environmental Assessment, OP 4.01, FATF 40 Recommendations) • Require clearly defined analyses of environmental impacts of “no action” and other alternatives; • Require not simply “mitigation” of impacts, but prevention, minimization, compensation, and improvement of environmental performance as per WB standards; commit to a preference for “preventative measures over mitigation or compensation” as per WB; • If mitigation is to occur, require that, instead of “least cost” mitigation, the mitigation results in the project producing “no significant harm” to affected communities or ecosystems, “ensurance that the institutional basis for implementing mitigation measures, including environmental monitoring, is in place” as per ADB requirements for Program Loans⁹
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⁸ See Appendix “New Tools: Money Laundering, Environmental Crime, and ‘Politically Exposed Persons;’”

⁹ ADB Operations Manual, Operational Procedures, OM F1/OP, 9/25/06, “Environmental Assessment of Program Loans”, pg 6

- Require that Environmental Impact Assessments for Category A projects be conducted by independent experts “not affiliated with the project” as per WB.
- For high-risk projects with complex and multidimensional environmental issues, require the establishment of an independent internationally recognized advisory panel, with members with site-specific experience to advise the ADB and the borrower during project preparation, implementation, and monitoring.
- Classify projects that have “site-specific” and “reversible” impacts as Category B; Do not classify “sensitive” projects as Category B.

Anti-Money Laundering Recommendations

- Given the link between unsustainable resource exploitation (illegal logging etc.) and money laundering and to ensure full compliance with anti-money laundering laws in the borrowing country as well as the legal requirements of ADB donor countries, EA should include an assessment the involvement of “Politically Exposed Persons” (PEP, as defined by the Financial Action Task Force on Money Laundering (FATF) in the project. Should the project involve any Politically Exposed Persons, there must be (1) a 120 day public comment period and (2) any such project must require Board approval, after consideration of PEP involvement, prior to implementation.

Examples:

“The [World] Bank favors preventative measures over mitigatory or compensatory measures, whenever feasible.” OP 4.01 EA, Sec.2

“For Cat A projects, the borrower retains independent EA experts not affiliated with the project to carry out the EA. For Cat. A projects that are highly risky or contentious or that involve serious and multidimensional environmental concerns, the borrower should normally also engage in an advisory panel of independent, internationally recognized environmental specialists to advise on all aspects of the project relevant to the EA.” – WB, OP 4.01 EA, Sec. 2

World Bank defines a potential impact as “sensitive if it may be irreversible (e.g. lead to loss of a major natural habitat) or raise issues covered by OD 4.20 *Indigenous Peoples*; OP 4.04 *Natural Habitats*; OP 4.11 *Management of*

	<p><i>cultural Property in Bank-Financed Projects; or OP 4.12, Involuntary Resettlement.”(WB Environmental Assessment, OP 4.01)</i></p> <p>For Category A World Bank projects, "the borrower retains independent EA experts not affiliated with the project to carry out the EA". In addition, the World Bank requires that "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 on the project relevant to the EA". (World Bank Environmental Assessment OP 4.01)</p> <p>Category B World Bank projects are further defined as “site-specific” and “few if any of them are irreversible.” AfDB Category 2 (equivalent of Category B) projects will have “site-specific environmental and/or social impacts.” The OECD Common Approaches for ECAs notes that typically Category B projects have “site-specific” impacts and “few, if any of them are irreversible.”</p>
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Environmental Assessment – Scope of Application and Required Elements

<p>Country Environmental Assessment (CEA): “ Country environmental analysis (CEA) is prepared as an input to the country strategy and program (CSP) exercise. The CEA is directed at the policy, program, and sectoral levels, although it may highlight issues associated with environmentally sensitive projects in the pipeline. “The CEA is envisaged as a participatory process that is initiated before the CSP, and continues through CSP preparation to assess potential environmental issues associated with the CSP. The CEA must be posted on the ADB’s website within 14 calendar days after completion. The draft assessment may be made available to in-country stakeholders if it is developed in consultation with non-government stakeholders.” (ADB Operations Manual F1/ OP Sec. B.1.2)</p>	<p>ADB’s policy requirement for country environmental analyses is relatively strong.</p> <p>Recommendation: Participation, local language, anti- money laundering</p> <ul style="list-style-type: none"> • The requirement for a CEA should be maintained and adequate institutional resources should be provided to ensure its effective implementation. • Given that the CEA is “envisaged as a participatory process” the ADB must commit to developing it in consultation with non-governmental stakeholders. Change the sentence beginning, “The draft assessment may be made available...stakeholders ” to “The draft assessment must
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	<p>be made available to in-country stakeholders” “in a form and language that are understandable and accessible to the groups being consulted.”¹⁰</p> <ul style="list-style-type: none"> • Given the link between unsustainable resource exploitation and money laundering and to ensure full compliance with anti-money laundering laws in the borrowing country as well as ADB donor countries, the CEA should include an assessment of levels of corruption, transparency and governance as well as an assessment of the involvement of “Politically Exposed Persons” (as defined by the Financial Action Task Force on Money Laundering (FATF)) in past and current ADB projects.
<p>EA for Project Loans: [...] ABD’s EA process starts as soon as potential projects for ADB financing are identified, and covers all project components whether financed by ADB, co-financiers, or the borrower. [...] Environmental Assessment is ideally carried out simultaneously with the pre-feasibility and feasibility studies of the project. [...] Important considerations in undertaking EA include examining alternatives; identifying potential environmental impacts, including indirect and cumulative impacts, and assessing their significance; achieving environmental standards; designing least-cost mitigation measures; developing appropriate environmental management plans and monitoring requirements; formulating institutional arrangements; and ensuring information disclosure, meaningful public consultation, and appropriate reporting of results. (ADB Operations Manual F1/OP p. 2)</p>	<p>Recommendations: Replace “least cost” with “no harm”, PEP, “no-project” alternative</p> <ul style="list-style-type: none"> • Require evaluation of “no-project” alternative as part of the environmental assessment process. • Eliminate “least cost” requirement for mitigation measures; require mitigation measures to be sufficient to ensure activities associated with program loans generate “no harm to third parties”, “no harm to ecosystems.” • Utilize language (above) regarding compliance with anti-money laundering laws including PEP involvement, public comment on any project with PEP involvement, Board submittal re PEP involvement <p>Examples: The World Bank, the IDB, the AfDB, and the OECD Common Approaches for ECAs require the examination of the “no-project” scenario as part of the environmental assessment process.</p> <p>See Financial Action Task Force regarding additional due diligence requirements for PEP involvement.</p>
<p>EA for Program Loans: ADB requires that the environmental impacts of policy actions associated with program loans be evaluated, and that appropriate mitigation measures be identified and incorporated as loan covenants. The environmental assessment</p>	<p>ADB’s EA requirement for program loans and associated policy actions is relatively strong. All ADB loans require an EA, however program loans are not categorized</p>

¹⁰ “in a form and language that are understandable and accessible to the groups being consulted” – World Bank OP 4.01, Sec. 15, Disclosure

<p>focuses on the policy actions to be supported by the program loan. While IEEs and SIEEs or EIAs and SEIAs do not have to be prepared for program loans, a matrix of potential environmental impacts of each policy action, together with appropriate mitigation measures, must be prepared for each program loan, with a qualitative indication of the likely order of magnitude of each impact and brief reasons for the judgment.</p> <p>The principles followed in preparing the matrix include screening of potential environmental impacts (including indirect impacts); mitigation of potential adverse impacts to the levels of "no significant harm to third parties;" polluter paying for mitigation measures; least-cost mitigation; and insurance that the institutional basis for implementing mitigation measures, including environmental monitoring, is in place. A SEA is encouraged. (ADB Operations Manual F1/OP p.5).</p>	<p>Recommendations: Require IEE/EIAs, categorization of loans, replace “least cost” with “no harm”; PEP; require SEA;</p> <ul style="list-style-type: none"> • Require categorization (A, B, etc.) for all program loans and IEE and EIAs for all program loans; • Eliminate “least cost” requirement for mitigation measures; require mitigation measures to be sufficient to ensure activities associated with program loans generate “no harm to third parties”, “no harm to ecosystems.” • Screen for involvement of Politically Exposed Persons, monitor for potentially illegal activities, including illegal logging; utilize language (above) regarding compliance with anti-money laundering laws including PEP involvement, public comment on any project with PEP involvement, Board submittal re PEP involvement • Require a Strategic Environmental Assessment (SEA) and include an action plan for any required mitigation measures and necessary capacity building. <p>Examples: The World Bank examines the country’s institutional capacity and ability to effectively implement programs (World Bank OP 8.60).</p> <p>The IDB will "analyze 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." (IDB Environment and Safeguards Compliance p. 13)</p>
<p>EA of Sector Loans: [...] Policy and institutional changes proposed in a sector loan need to be examined to determine their environmental implications, and appropriate environmental interventions need to be introduced. Under the sector lending modality, subprojects are not necessarily identified prior to loan processing, and ADB-financed sector loans normally include only small subprojects.</p> <p>For environmentally sensitive sample subprojects, the SEIA or SIEE is submitted to the Board at least 120 days before it considers the sector loan. The SEIA or SIEE describes the institutional arrangements (including budget and capacity requirements) and process that will be followed for environmental assessment of subprojects after the sector loan is approved. After the sector loan is approved, for subprojects confirmed by ADB as environmentally</p>	<p>Recommendations: Full IEE/EIA available, PEP, EAs for each subproject, public review of Category A and B subprojects, sectoral EA, screening & strengthening of implementation capacity, 120 day comment period</p> <ul style="list-style-type: none"> • Make subproject IEE, EIA available for public comment 120 days before approval, not simply the Summary IEE, EIA. • Ensure that all subprojects comply with strict application of anti-money laundering laws, including identification and assessment of Politically Exposed Persons, tracking of funding sources, monitoring for potentially illegal sources of finance, including illegal logging; (cf. FATF etc.) • Any sub-projects with PEP involvement must be submitted for 120 day public comment and must require prior Board approval before

<p>sensitive, the proposal and the IEE or EIA of the subproject must be forwarded to ADB for review. The SEIA or SIEE must be made available to the general public at least 120 days before the subproject is approved. (ADB Operations Manual F1/OP p.5-6)</p> <p>The content of the EA report for sector loans must include a description of the institutional arrangements and process to be followed for EA of subprojects to be approved during implementation. (ADB Operations Manual F1/OP p.4)</p>	<p>implementation.</p> <ul style="list-style-type: none"> • Require, as per WB requirements for sector investment loans, that “during the preparation of each proposed subproject, the project coordinating entity or implementing institution carries out appropriate EA according to country requirements and the requirements of this policy. [Ftnt: In addition, if there are sectorwide issues that cannot be addressed through individual subproject EAs (and particularly if the SIL is likely to include Category A subprojects), the borrower may be required to carry out sectoral EA before the Bank appraises the SIL]. The Bank appraises and, if necessary, includes in the SIL components to strengthen the capabilities of the coordinating entity or the implementing institution to (a) screen subprojects (b) obtain the necessary expertise to carry out the EA (c) review all findings and results of EA for individual subprojects, (d) ensure implementation of mitigation measures (including ,where applicable, an EMP), and (e) monitor environmental conditions during project implementation. If the Bank is not satisfied that adequate capacity exists for carrying out EA, all Category A subprojects and, as appropriate, Category B subprojects – including any EA reports – are subject to prior review and approval by the Bank.” (World Bank OP 4.01, Sec. 9). • Require 120 day public comment period on any Category A or Category B subproject;
<p>Strategic Environmental Assessment (SEA): A SEA facilitates systematic evaluation of the environmental impacts of a policy, plan, or program, and its alternatives, may be usefully applied in the preparation of program loans. If an investment component is included in the program loan and specific projects are identified as a part of the program loan, these projects follow the general project environmental assessment requirements. (ADB Operations Manual F1/OP p.5)</p> <p>A SEA can help identify better and more responsive environmental criteria for selecting subprojects and policies for implementing the sector loan. Strategic environmental assessment is especially useful for assessing the cumulative and synergistic environmental impacts of a series of projects proposed for a sector. (AD Manual F1/OP p.6)</p>	<p>Recommendations: Require SEA, “no action” analysis</p> <ul style="list-style-type: none"> • Require an SEA for large, high-risk projects, as well as for all program and sector loans in order to address environmental vulnerabilities, measure the cumulative impacts of multiple projects, and develop a long-term environmental strategy. • Require analysis of a “no action” alternative.

<p>Environmental Assessment of Private Sector Operations: [...] ADB generally adopts a flexible procedure in dealing with private sector loans and investments, to tailor environmental requirements to the investment vehicle, project and expected subprojects. The substance of ADB’s environmental assessment requirements for private sector investments is the same as the requirements that apply to the public sector. For loans and equity investments with specific identified projects or subprojects, the general environmental assessment requirements are applied. For indirect assistance in the form of credit lines to or equity investments in a financial intermediary or an investment vehicle where subprojects to be financed with ADB funds will be known only during project implementation, ADB’s environmental requirements for category FI loans and equity investments apply. (ADB Operations Manual F1/OP p.7)</p>	<p>Recommendations: Independent assessment/monitoring; international standards; PEP, SEMS</p> <ul style="list-style-type: none"> • Require that private sector projects with significant impacts (Category A, former Category “B-sensitive”) have the assessment carried out by an independent expert and should require independent monitoring. • Require that private sector clients meet international standards, norms and laws and follow best practices. • Ensure that private sector operations adhere to strict application of anti-money laundering laws, including identification and assessment of Politically Exposed Persons, tracking of funding sources, monitoring for potentially illegal sources of finance, including illegal logging; (cf. FATF etc.) • Any private sector projects with PEP involvement must be submitted for 120 day public comment and must require prior Board approval before implementation. • Require the establishment of a Social and Environmental Management System for private sector projects to ensure proper integration of the environmental and social requirements throughout project implementation. <p>Examples: The IFC requires that the client establish and maintain a Social and Environmental Management System appropriate to the nature, scale and risks of project. The Management System will incorporate: (i) Social and Environmental Assessment; (ii) management program; (iii) organizational capacity; (iv) training; (v) community engagement; (vi) monitoring; and (vii) reporting. (Performance Standard 1 p.1)</p>
<p>Environmental Assessment of Financial Intermediation (FI) Loans and Equity Investments: [...] If ADB involvement is by an equity investment, where ADB funds do not finance specific subprojects but where the financial intermediary may have operations with adverse environmental impacts, the financial intermediary must adopt an appropriate environmental management system, comprising policy, procedures, and capacity, to comply with all relevant government environmental regulations and requirements in its operations. [...] (ADB Operations Manual F1/OP p.6)</p>	<p>Recommendations: ADB standards as minimum standards, not simply recipient country standards; anti-money laundering/PEP; public disclosure of EIA/IEE, Free Prior Informed Consent</p> <ul style="list-style-type: none"> • ADD to sentence beginning “If ADB involvement is by equity investment”: “to comply with all relevant government <i>and ADB</i> environmental regulations and requirements”; • Require public disclosure of EIA or IEE, not jimplly SEIA, SIEE 120 days before Cat A, B subprojects approved. • Conduct routine periodic monitoring of FI sub-projects and the

Where ADB involvement is a credit line for subprojects, the financial institution must adopt an appropriate environmental management system that will cover the environmental assessment process of all subprojects to be financed with ADB funds. Any need to strengthen the environment agency and/or the financial institution in the DMC should be addressed. For category A and environmentally sensitive B subprojects above the free limit (a monetary limit above which subloans require ADB's prior approval), the EIA or IEE must be cleared by ADB before subproject approval. The SEIA or SIEE must be disclosed to the public at least 120 days before the subproject is approved. For these subprojects, ADB reviews compliance with its environmental assessment requirements, including those related to consultation and information disclosure. For subprojects below the free limit, ADB reserves the right to review the subproject proposal and its EIA or IEE.
(ADB Operations Manual F1/OP p.7)

An exclusion list for screening negative activities should be established between the ADB and the financial intermediaries before the ADB's loan considerations (ADB Environmental Assessment Guidelines p. 29).

client's environmental management system.

- Ensure that financial intermediary adheres to strict application of anti-money laundering laws, including identification and assessment of involvement of Politically Exposed Persons (PEP), Politically Exposed Companies, off-shore shell companies, tracking of funding sources, monitoring for potentially illegal sources of finance, including illegal logging; (cf. FATF etc.)
- Any sub-projects with PEP involvement must be submitted for 120 day public comment and must require prior Board approval before implementation.
- If the FI lacks the capacity to implement an appropriate environmental management system and ensure compliance with ADB safeguard policies, require that Category A and large Category B subprojects are categorically excluded from ADB-financed FI investment.
- Develop and apply an exclusion list, which includes FPIC requirement.

Examples:

IFC and EBRD have restrictions on lending to financial intermediaries. FIs cannot finance subprojects that involve, among other things¹¹:

- Activities prohibited by the host country's legislation or international conventions.
- The production of or trade in products containing PCBs (polychlorinated biphenyls).
- The production of or trade in ozone-depleting substances subject to international phase-out.
- Trade in wildlife or wildlife products regulated under the CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora)
- Drift net fishing in the marine environment using nets greater than 2.5 km in length.

EBRD lists certain activities that require prior approval before the FI provides

¹¹ Curmally, A., J. Sohn, C. Wright. June 2005. Multilateral Development Bank Lending through Financial Intermediaries: Environmental and Social Challenges. World Resources Institute, p.6

	<p>financial support, including the construction or major extension of large dams, mining and oil and gas production and processing, and projects that affect indigenous peoples, cultural property, or ecologically sensitive areas¹².</p> <p><i>The UNDP supports FPIC, which is considered an international best practice, stating "that the organization promotes and supports the right of indigenous peoples to free, prior and informed consent with regard to development planning and programming which may affect them".</i></p> <p>http://www.un.org/esa/socdev/unpfii/documents/FPIC_2005_UNDP.doc</p> <p>IFC's microfinance activities exclude "production or activities that impinge on the lands owned, or claimed under adjudication, by Indigenous Peoples, without full documented consent of such peoples" (IFC Exclusion List).</p>
<p>Cofinancing: ADB's environment assessment process covers all components of projects, whether financed by ADB or cofinanciers. [...] Project components that use cofinancing in any form must have environmental assessments carried out in accordance with the requirements set forth in this Operations Manual. Wherever possible, a single environmental assessment should be conducted to satisfy the requirements of ADB and the cofinanciers. (ADB Operations Manual F1/OP p.8)</p>	<p>ADB's requirement that all components of a project must comply with ADB's environmental assessment policy, regardless of whether or not ADB is financing a particular component, is positive and should be maintained.</p>
<p>Consultation and Information Disclosure</p>	
<p>Public Consultation: ADB requires public consultation in the environmental assessment process. For category A and B projects, the borrower must consult with groups affected by the proposed project and local nongovernmental organizations (NGOs). The consultation needs to be carried out as early as possible in the project cycle so that views of affected groups are taken into account in the design of the project and its environment mitigation measures. Such consultation will also take place during project implementation to identify and help address environmental issues that arise.</p>	<p>For Category A projects, the ADB, the World Bank, the EBRD, and the IDB require that project affected groups are consulted at least twice: during the EIA scoping phase and once the draft EIA is prepared.</p> <p>Recommendations: WCD, FPIC, stakeholder input accountability</p> <ul style="list-style-type: none"> • Meet World Commission on Dams requirements • Publish stakeholder views and show explicitly how the views/opinions of the stakeholders have been taken into account and influenced the EA/EIA and the project.

¹² Ibid

<p>For category A projects, ADB ensures that the borrower carries out public consultation at least twice: (i) once during the early stages of EIA field work; and (ii) once when the draft EIA report is available, and prior to loan appraisal by ADB. The public consultation process needs to be described in the EIA and SEIA reports (ADB Operations Manual F1/OP p.4).</p> <p>“The SEIA, or in the case of category-B projects that are deemed environmentally sensitive, the SIEE shall be posted on the</p> <p>ADB ensures that the borrower provides information on the project's environmental issues in a form and language(s) accessible to those being consulted (ADB Operations Manual FI/OP p.5).</p> <p>In preparing the environmental assessment reports, ADB requires the borrower to take into account the views of affected groups, including NGOs, in accordance with paragraph 9 (ADB Operations Manual FI/OP p.11).</p>	<ul style="list-style-type: none"> • Ensure that ADB projects have the free, prior informed consent (FPIC) of affected communities. <p>Examples: <i>The UNDP supports FPIC, which is considered an international best practice, stating "that the organization promotes and supports the right of indigenous peoples to free, prior and informed consent with regard to development planning and programming which may affect them".</i> http://www.un.org/esa/socdev/unpfii/documents/FPIC_2005_UNDP.doc</p> <p>IFC's microfinance activities exclude "production or activities that impinge on the lands owned, or claimed under adjudication, by Indigenous Peoples, without full documented consent of such peoples" (IFC Exclusion List).</p> <p>For Category A projects, IFC's PS 1 states that the consultation process will ensure the communities' 'free, prior and informed consultation' paving the way to broad community support. (Performance Standard 1 p.5). Broad community support is "a collection of expressions by the affected communities, through individuals and their recognized representatives, in support of the project" (IFC Guidance Notes 1). The EPFIs also require free, prior and informed consultation (Equator Principles II, Principle 5).</p> <p>HSBC requires that the freshwater infrastructure projects it finances comply with the WCD framework. (2005 Social Responsibility Report p. 10)</p> <p>OECD country export credit agencies "recognize the value of the Core Values and Strategic Priorities of the World Commission on Dams in their special sector agreement governing export credit guarantees terms and financing". (OECD, Environmental Review: OECD Credits for Hydro Power Projects)</p>
<p>Information Disclosure:</p> <p>“The SEIA, or in the case of category B projects that are deemed environmentally sensitive, the SIEE, shall be posted on the ADB’s website at least 120 days before ADB’s Board considers the loan, or in relevant cases,</p>	<p>Recommendations: Full EIA, IEE made public on web and in accessible “language(s) and forms); Category B projects same requirements as Category A</p> <ul style="list-style-type: none"> • Full EIA and IEE, not simply SEIA and SIEE must be made fully

<p>before approval of category A or category B subprojects deemed environmentally sensitive or major changes in project scope. The 120-day rule applies to all public and private sector category A projects and to those category B projects deemed to be environmentally sensitive. ADB shall make the full EIA or IEE available to interested parties on request. For a public sector project involving equity investment in a financial intermediary, or a credit line for subprojects, that requires an environmental management system under the environment policy, the RRP shall include a description of the environmental management system.” OM Section F1/OP pg 5</p> <p>“To facilitate the required consultations with project-affected groups and local NGOs, ADB ensures that the borrower provides information on the project's environmental issues in a form and language(s) accessible to those being consulted. For category A projects, this should happen (i) during the early stages of EIA field work; and (ii) when the draft EIA report is available, and before appraisal. A loan agreement may require that certain environmental monitoring reports be prepared during the course of a project. Such environmental monitoring reports shall be posted on ADB’s website upon submission to ADB. ADB shall require private sector sponsors to make environmental monitoring reports to available to affected people and to submit these to ADB for web posting. (ADB Operations Manual F1/OP p. 4-5).</p> <p>Category B projects that are deemed by ADB’s chief compliance officer to be environmentally sensitive for the purposes of the 120 day rule, and the environmental management plan requirement could involve projects that are (i) near environmentally sensitive areas; (ii) involve deforestation or loss of biodiversity; (iii) involve involuntary resettlement issues; (iv) involve the processing, handling and disposal of toxic and hazardous substances; or (v) involve other environmentally sensitive activities that also may be of concern to a wide group of external stakeholders (ADB Operations Manual F1/OP p.5).</p>	<p>available to the public both by posting on the ADB’s website and also by providing this documentation “in a form and language(s) accessible to those being consulted” 120 days prior to Board approval of category A or B projects;</p> <ul style="list-style-type: none"> • Category B projects/subprojects should be subject to the same information disclosure requirements as for Category A projects.
<p>Monitoring Implementation</p>	
<p>Environmental Management Plans and Loan Covenants: Category A and environmentally sensitive category B projects require, as part of the environmental assessment process, the development of environmental management plans (EMPs) that outline specific mitigation measures, environmental monitoring requirements, and related institutional arrangements, including budget requirements. Loan agreements include specific</p>	<p>Recommendations: Third party monitoring of EMPs and loan covenants; publish on web, make accessible in appropriate language(s)</p> <ul style="list-style-type: none"> • Require third party independent monitoring of Environmental Management Plans and loan covenants for Category A projects and encourage the use of community-based monitoring systems. • Publish EMPs on ADB website and make available in language(s) and

<p>environmental covenants that describe environmental requirements, including the EMPs. The provisions for the EMPs must also be fully reflected in the project administration memorandums. To ensure proper and timely implementation of the EMPs and adherence to the agreed environmental covenants, ADB requires, for all category A projects and all environmentally sensitive category B projects, that (i) borrowers or executing agencies submit semiannual reports on implementation of EMPs, and this requirement is reflected in the loan agreements; and (ii) review missions from ADB regional departments conduct an annual review of environmental aspects of the project. The outcome of such reviews must be reflected in the aide memoire of the review mission. (ADB Operations Manual F1/OP p.8-9)</p> <p>For both public and private projects, the ADB shall make environmental and social monitoring reports publicly available upon their submission to ADB (The Public Communications Policy of the Asian Development Bank para. 92).</p>	<p>forms accessible to local communities;</p> <p>Examples: IFC requires that the client obtain qualified external experts to validate its monitoring information for projects with "diverse, irreversible, or unprecedented impacts" (Performance Standards 1 p. 6).</p> <p>The IFC Performance Standard Guidance Notes state that, "participatory monitoring (i.e. involvement of affected communities and other stakeholders) should be considered for large, high-risk projects." (IFC Guidance Note 1 p. 21).</p> <p>The EPFI's require that, "To ensure ongoing monitoring and reporting over the life of the loan, EPFIs will, for all Category A projects, and as appropriate, for Category B projects, require appointment of an independent environmental and/or social expert, or require that the borrower retain qualified and experienced external experts to verify its monitoring information which would be shared with EPFIs" (Equator Principles II, Principle 9).</p>
<p>Changes in Scope: A major change is one that materially alters or fundamentally affects the project's purpose (immediate objectives), components, costs, benefits, procurement, or other implementation arrangements as approved by the Board. All major changes in scope must be screened for environmental significance, and classified in accordance with paragraphs 6 and 7 of the Operations Manual. All proposed changes that are classified as category A require an EIA and those classified as B require an IEE. In the case of environmentally sensitive changes, the SEIA or SIEE must be made available to the general public, as well as the Board, at least 120 days before the change in scope is approved. (ADB Operations Manual F1/OP p. 9)</p>	<p>Recommendations: FPIC, full EIA/IEE made available</p> <ul style="list-style-type: none"> • In addition to requiring that all major changes in scope are screened for environmental significance and an EIA/IEE is completed as necessary, the ADB should explicitly require consultation with affected communities (FPIC), for major changes in project scope. • Publish full EIA/IEE (not simply SEIA/SIEE) on web and make available in language(s) and forms accessible to local communities 120 days prior to approval of change in scope; <p>Examples: The IFC requires consultation for significant changes in project scope, including an update of actions and mitigation measures to be taken (IFC Performance Standard 1p. 6).</p>
<p>Uncertainties in Locations and Alignments of Infrastructure: "“For most environmentally sensitive projects, especially category A projects, major site selection issues should have been addressed by the time of Board approval. Where uncertainty exists about specific locations or alignments of</p>	<p>Recommendations: Location must be determined prior to Board approval</p> <ul style="list-style-type: none"> • Require that specific locations and alignments of major infrastructure and

<p>major infrastructure or project facilities at the time of Board approval, the EIA or IEE must include an EMP that presents full details on the agreed process to be followed for environmental assessment, including any special studies of environmental issues and specification of environmental mitigation measures during project implementation. The pertinent details must be presented in the SEIA or SIEE, and summarized in the RRP. The details must also be reflected in the loan agreement. (ADB Operations Manual F1/OP p. 9)</p>	<p>other Category A projects must have been selected through an environmental assessment and consultation project <i>prior to</i> Board approval.</p> <ul style="list-style-type: none"> • Ensure that ADB does not finance projects that are already under construction unless the project is in demonstrated compliance with all of ADB’s safeguard policies <i>at the time of</i> Board approval.
<p>Pollution and Emissions Standards</p>	
<p>Pollution and Emissions Standards: In determining appropriate environmental standards for ADB projects, ADB follows the standards and approaches laid out in the World Bank’s <i>Pollution Prevention and Abatement Handbook</i>¹³. This handbook describes generally acceptable pollution prevention and abatement measures and emission levels. However, the environmental assessment for any individual project may recommend adoption of alternative emission levels and approaches to pollution prevention and abatement. This flexibility is required to best reflect national legislation and local conditions in determining the appropriate standards and emissions levels. In all such cases, the environmental assessment report must provide justification for the levels and approaches chosen for the particular project or site. (ADB Operations Manual F1/OP p. 8)</p>	<p>Recommendations: World Bank Pollution Prevention and Abatement Handbook</p> <ul style="list-style-type: none"> • Require that ADB projects meet or exceed the standards of the World Bank’s Pollution Prevention and Abatement Handbook.
<p>Greenhouse Gas (GHG) Emissions</p>	
<p>The ADB does not have any policy requirements regarding climate change and greenhouse gas emissions.</p>	<p>Recommendations: Emissions monitoring, reporting, carbon dioxide cap;</p> <ul style="list-style-type: none"> • For Category A and environmentally sensitive Category B projects, carbon dioxide emissions should be monitored, with annual reports made publicly available. • Institute a carbon dioxide cap for ADB’s portfolio and require clients to evaluate options to reduce or offset project-related GHG emissions during the design and operation of the project. <p>Examples: The IFC requires greenhouse gas accounting for projects that produce more than 100,000 tons of CO₂ per year and requires that the client "evaluate technically and financially feasible and cost-effective options to reduce or offset project-related GHG emissions during the design and operation of the</p>

¹³ World Bank 1999. *Pollution Prevention and Abatement Handbook: Toward Cleaner Production*. Washington DC.

	<p>project" (IFC Performance Standard 3 p.13).</p> <p>The IDB requires that operations that "produce significant quantities of GHG emissions will annually quantify direct GHG emissions, in accordance with the emission estimation methodologies of IPCC or other internationally accepted technologies" (Environment and Safeguards Compliance Policy p.12).</p> <p>The Bank of America will assess and report on GHG emissions from its energy and utilities portfolio, with a goal of achieving a 7% reduction (Bank of America 2004 Environmental Report p.14).</p>
<p>Natural Habitats Safeguards</p>	
<p>The ADB will not finance any rural infrastructure or other public investment project that contributes significantly, directly or indirectly, to deforestation or to the degradation and depletion of forests.</p> <p>Should any such deforestation or degradation become inevitable, the Bank will insist upon a compensatory mechanism to reforest or rehabilitate equivalent areas as appropriate in full consultation with affected communities. The Bank will not support construction of roads in old-growth forests. (ADB Policy on Forestry, March 1995 p.13)</p>	<p>Recommendations: “No go” zones; biodiversity impact assessment; EIR; FPIC; PEP</p> <ul style="list-style-type: none"> • In addition to existing forestry policy, require that <ul style="list-style-type: none"> ○ “no go zones” in forested areas are identified and avoided, including; <ul style="list-style-type: none"> ▪ Change “ The Bank will not support construction of roads in old-growth forests” to “The Bank will not support construction of roads, infrastructure, conversion or extractive projects in old-growth forests. ” ▪ Do not support extractive or infrastructure projects in or near IUCN I-IV and marine V protected areas or projects conservation areas, such as UNESCO World Heritage Sites or Ramsar Wetlands. • Assess the impacts of the operation on all levels of biodiversity. • Require that any extractive industry-related project comply with recommendations of World Bank Extractive Industry Review; • Ensure Free Prior Informed Consent regarding any project in forests occupied or managed by Indigenous Peoples; • Ensure strict application of anti-money laundering laws, including identification and assessment of involvement of Politically Exposed Persons (PEP), Politically Exposed Companies, off-shore shell companies, tracking of funding sources, monitoring for potentially illegal sources of finance, including illegal logging; (cf. FATF etc.)

- Any projects or sub-projects with PEP involvement must be submitted for 120 day public comment and must require prior Board approval before implementation.

Examples:

The **IFC**, the **World Bank**, and the **IDB** will not support projects that result in the conversion of critical natural habitats.

IFC requires that the client "assess the significance of project impacts on all levels of biodiversity as an integral part of the Social and Environmental Assessment process". This assessment will consider how specific stakeholders value biodiversity differently, as well as determine the effects on ecosystem services. (Performance Standard 1 p.24)

HSBC guidelines prohibit "any involvement with companies that have projects in UNESCO World Heritage Sites, Ramsar Wetlands, or certain other sensitive ecosystems such as primary tropical moist forests". HSBC also states that it "will not finance illegal logging or projects that would cause a significant degradation of a critical natural habitat". (2005 Corporate Social Responsibility Report p. 10)

JPMorgan Chase does have no go zones and will not finance extractive projects or commercial logging in World Heritage Sites. In addition, "JPMorgan Chase will not finance commercial logging operations or the purchase of logging equipment for use in primary tropical moist forests; JPMorgan Chase will finance plantations only on nonforested areas or on heavily degraded forestland; JPMorgan Chase will not finance projects that contravene any relevant international environmental agreement that has been enacted into the law of, or otherwise has the force of law in, the country in which the project is located". (JPMorgan Chase Forestry and Biodiversity Policy and Commitments)

Bank of America will not finance commercial operations or projects that cause extraction of or clearing from primary tropical moist forests. Lending proceeds will not go to: "logging operations in intact forests as defined by

	<p>World Resource Institute (WRI) mapping as it is developed (Bank of America will assist in funding the development of WRI mapping); primary forests in temperate or boreal forest regions that are not managed using sustainable forestry practices as verified by an independent third party audit; and high conservation value forests, unless under approved conservation plans verified by an independent, third party audit with necessary permits granted by applicable governmental/regulatory authority". (Bank of America Environmental Report p.16)</p> <p>Bank of America also "will not finance companies or projects that collude with, or knowingly purchase timber from, illegal logging operations. Due diligence will include company representation as to its practices and monitoring for illegal logging". (Bank of America Environmental Report p.16)</p>
Water Projects	
<p>Large Water Projects: ADB will adopt a cautious approach to large water resource projects—particularly those involving dams and storage—given the record of environmental and social hazards associated with such projects. All such projects will need to be justified in the public interest, and stakeholders must be provided with the opportunity to comment on the justification with their views considered. The ADB will promote the informed participation of government, civil society, and other stakeholders in the country in an open and inclusive manner towards this end. (ADB Water Policy p. 19)</p>	<p>Recommendations: WCD</p> <ul style="list-style-type: none"> • Require that ADB-supported large water projects comply with WCD guidelines. <p>Examples: HSBC requires that the freshwater infrastructure projects it finances comply with the WCD framework. (2005 Social Responsibility Report p. 10)</p> <p>OECD country export credit agencies "recognize the value of the Core Values and Strategic Priorities of the World Commission on Dams in their special sector agreement governing export credit guarantees terms and financing". (OECD, Environmental Review: OECD Credits for Hydro Power Projects)</p>