Making Safeguards Work for Investors, Governments and Communities

PPPs for Infrastructure Development in Asia

Workshop Report

28-29 September 2016

Bangkok, Thailand

CONTENTS

Executive Summary

A two-day workshop on “Making Safeguards Work for Investors, Government and Communities: Public-Private Partnerships (PPPs) for Infrastructure Development in Asia” was held in Bangkok, Thailand in September 2016. This event was one of the first activities of the collaboration partners (ADB, DFAT, JICA and the World Bank) as signatories of the Principles of Collaboration for Country Safeguard Systems. The workshop, attended by 53 participants, included other development partners, USAID, EIB and AIIB, and representatives from academia, and private and public sector organizations involved in public-private partnership (PPP).

The workshop traversed the diverse and dynamic landscape of PPP investment in infrastructure development with a focus on the East Asia Pacific (EAP) region. It explored the business imperatives and upfront costs in proactive environmental and social risk management, and the subsequent costs and other business risks associated with not following a proactive approach. The workshop examined different perspectives on environmental and social risk management ranging from being part of the development space to mainstreaming it in the private sector.

The workshop also considered the role of governments, financers, investors, academia, consultants, civil society, and donors in managing environmental and social risks to support the mobilization of private sector capital into infrastructure investments.

Key questions explored by the workshop included:

1. How can PPPs and safeguards arrangements be structured for optimal success in managing environmental and social risk to secure financial benefits and avoid unnecessary dangers for investors?
2. What opportunities exist for donors to encourage private capital and partnerships in the Asia Pacific region through PPP structures and other investment vehicles to increase capital available in the region?
3. What can be learned from the private sector in terms of identifying and managing environmental and social risks that can inform public policy and development partner support?
4. What role can the development partners play in understanding, quantifying and sharing of risks between parties to encourage private sector investment in the Asia Pacific region?

A number of key recommendations were identified through the workshop discussions in response to these queries:

- In the long term, aim for unified standards. In the interim, more and better use of common approaches/standards among lenders and increased use of country safeguards systems where appropriate.

- Recognition that extensive capacity building will be required for all parties. This can be achieved through new and existing learning centers and utilizing existing PPP centers with budget provisions.
- Provision of tangible guidance such as standard E&S clauses and project structures to governments.
- For PPP projects, integration of E&S requirements, roles and responsibilities in all legal documents. Develop common clauses or standard contracts. Ensure roles and responsibilities for monitoring in contracts are clearly outlined and agreed and ensure that all parties are aware of and understand monitoring reporting.
- Research and document the cost benefit of doing things effectively such as higher capital expenditure (capex) upfront versus lower operational expenditure over the concession period. This includes institutional monitoring of what works and what does not work and knowledge capture, including case studies on the impacts of bad practices globally.
- Benchmarking and diagnostic assessment by country and/or sector to accurately identify actual blockages.
- Multi-lateral Development Banks (MDBs) identify opportunities to facilitate peer-to-peer learning opportunities.
- Preparing a “boiler-plate” PPP framework that could be contextualized by country or sector.

Other critical success factors were identified for E&S risk management of PPPs:

- Timing is important—political expectations often conflict with the realities of environmental and social requirements and timeframes for projects must be realistic. Explore tools (e.g. IFC’s transaction tools) available to facilitate early engagement.
- Careful, considered allocation and agreement of social and environment risks among parties helps put risks into the hands of those best placed to manage them during appraisal, construction and operations.
- Clear contractual obligations for the different parties involved in the preparation and implementation of infrastructure minimizes uncertainty over timing, costs, and accountability.
- It is unrealistic and counter-productive for private sector partners to insist on ring fencing themselves from risks associated with land acquisition. Poorly implemented land acquisition by a partner government will almost always have significant and ongoing ramifications.

Securing the land and/or right of way is critical to the success of any PPP project and this needs to be a key milestone in the project planning and contracting schedule—without this delays are likely. The workshop also proposed some key themes that merit further discussion and work such as: (i) pricing risk; (ii) the commercial incentives for

implementing safeguards correctly and avoiding investment if risks are unmanaged; (iii) efficiency of monitoring; (iv) the difference between local and international banks, and future opportunities for application of Equator Principles in financial institutions; (v) capacity constraints in environmental and social governance in both public and private sectors as a key issue; and (vi) in some cases difficulty can be caused if IFI standards are considered too stringent to adapt to the project context.

Figure 1: Participants at the Safeguards for PPPs Workshop

28-29 September, 2016 Bangkok, Thailand

Workshop Summary

OPENING:	***Welcome and Introductions to Day 1*** *8:30 am – 8:45 am*
Day 1 Facilitator:	***Eddie Smyth*** *Director, InterSocial*

The workshop was opened by Eddie Smyth, the Day 1 Facilitator of the Workshop on Making Safeguards Work for Investors, Governments and Communities: PPPs for Infrastructure Development in Asia.

Eddie Smyth welcomed all participants to the workshop and highlighted the opportunity for development partners (ADB, AIIB, DFAT, EIB, JICA, USAID and the World Bank Group) to review the progress and challenges of environmental and social safeguards (E&S) and to discuss how they could partner more effectively to strengthen safeguards practices in the region.

He then introduced the program, comprised of five complementary sessions on Day 1 and four sessions on Day 2. Day 1 would focus on private sector perspectives, while Day 2 would focus on development partner perspectives.

The Day 1 morning sessions covered: (i) PPPs and Environmental and Social Safeguards (E&S) in Context, (ii) Managing Environmental Risks with Large Infrastructure Projects, and (iii) a Panel Discussion—Private Sector Perspectives on Safeguards and Investment Decisions. This was followed by a lunchtime presentation from SERVIR-Mekong on tools and integration with Google Earth Engine, while the afternoon sessions covered (iv) Case Studies, Gaps and Challenges, and (v) Looking Forward—Actions to be Taken.

SESSION I:	***PPPs and Environmental & Social Safeguards in Context*** *8:45 am – 9:45 am*
Chair:	***Eddie Smyth*** *Director, InterSocial*

In opening the session, Eddie Smyth underscored that the private sector is increasingly concerned about adverse effects from social and environmental risks, while also noting the increasing demand and need for large-scale infrastructure related PPP projects in the region.

The workshop would explore a number of questions, including what governments can learn from the private sector and the role of development partners in sharing the risk on PPP projects.

Eddie Smyth explained that Session I would seek insights on the context of PPPs and safeguards in the region and introduced the three speakers for the session: Ross Butler (World Bank), Laureen Laurito (ADB) and Cathy Fong (ADB).

Presentation 1:	*Overview of Environmental and Social Safeguards Issues*
Presenter:	***Ross Butler*** *Senior Social Development Specialist, Timor-Leste, Papua New Guinea & Pacific Islands, World Bank*

Ross Butler began his presentation with an overview of World Bank projects and the role of the World Bank in helping to identify and manage risks to reduce the cost of capital. He noted that these projects are very diverse in size and nature, and are located in countries where client capacity to manage environmental and social risks varies widely. He contended that the World Bank's convening role among stakeholders helps mobilize private sector investment while ensuring that environmental and social (E&S) risks are adequately addressed.

Ross Butler highlighted key E&S risks that affect infrastructure development projects, which include, for PPPs, (i) loss of land and livelihood; (ii) inadequate compensation for land and assets; (iii) loss of access to water, eco system services; (iv) alienation from customary land; (v) negative impact from migrant labor; (vi) poor/unsafe working conditions; and (vii) pollution. These constitute risks for project sponsors and financiers, as well as governments.

He observed that project sponsors, including concessionaires or private partners, are exposed to risks such as delays in land acquisition, availability of locally-sourced construction material, additional cost due to poor risk assessment, projects that fail to adequately consider social structures and links to the environment, obstruction if agreements are not met, and reputational risks well beyond the project area.

Furthermore, the risks that affect financiers include impacts on reputation through weak mitigation or implementation measures, grievances from affected communities, standards that may not fit adequately into company policies or other institutional requirements, independent accountability, and significant grievances against projects. He also noted the potential opportunity cost for financiers.

Ross Butler identified risks for government stakeholders, including lack of consistency with country regulations, as well as objections from communities or civil society regarding issues such as land compensation, pollution, noise levels and resource access. He noted that these could result in court cases and impact the country's reputation.

He identified a number of challenges including quantifying, attributing and apportionment of risk. The delineation of responsibilities can be complex, especially in areas such as consultation and grievance management. He observed, however, that for some risks, such as land acquisition and worker management, responsibilities are quite clear.

Ross Butler emphasized that managing and mitigating the E&S risks is a fundamental part of PPPs. He stated that the World Bank's OP 4.03, which consists of eight

Performance Standards, are applicable to private sector operation, noting that they have been designed specifically for PPP projects supported by the World Bank. He also outlined the conditions under which OP 4.03 applies to a World Bank-supported project.

Ross Butler summed up his presentation by highlighting the opportunities and challenges for safeguards applications to PPPs. These opportunities improve the bankability of projects through robust E&S management and improve risk delineation through early discussion around partnership structures. Challenges include increasing the capacity of counterparts in areas such as land and resettlement, which can have a significant impact on PPP projects, and aligning the timing of project developments with the procedural time needed for World Bank due diligence.

Figure 2: PPP Arrangements in Infrastructure Projects in EAP

Presentation 2:	*Facilitating PPPs: Insights on E&S Safeguards in the Philippines*
Presenters:	***Laureen Laurito**, Social Development Officer, Environment and Safeguards Division, Asian Development Bank* ***Cathy Fong**, Senior PPP Officer, Office of Public-Private Partnership, Asian Development Bank*

Laureen Laurito and Cathy Fong jointly presented the Philippines' North-South Railway Project (NSRP) as a case study to exemplify the potential risks associated with projects.

Cathy Fong noted that the four main pillars of ADB's PPP Operational Plan are: (i) Advocacy and Capacity Development; (ii) Enabling Environment; (iii) Project Development; and (iv) Project Financing.

They presented statistics on safeguards categorization for PPP projects from 2010 onwards, based on three main risk types (environment, indigenous peoples and Involuntary Resettlement). For environment risks, 23% were assessed as Category A, 68% Category B and 1% Category C. The remaining 8% were FI. For Indigenous Peoples, the vast majority (89%) were assessed as Category C, with small percentages attributed to Category A (2%) and Category B (1%) projects, with 8% FI. For Involuntary Resettlement, 45% were Category B projects, 37% were Category C, 10% were Category A, and 8% were FI.

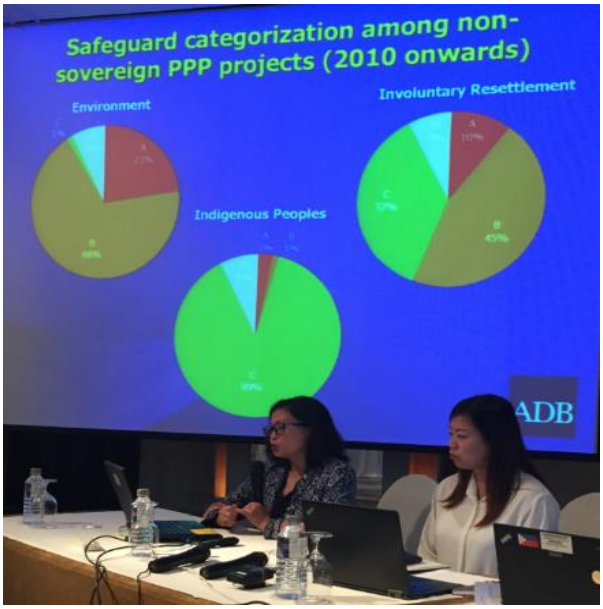

Figure 3: E&S Safeguards in the Philippines

The project map below highlights the Malolos–Tutuban segment of the NSRP and the lessons learned from the South Line case study.

Figure 4: Malolos–Tutuban segment of the NSRP

The South Line project is a 653 km railway that includes long-haul passenger rail operations. The total project cost is PHP 170.7 billion (~USD 3.8 billion), which is the largest PPP tendered in the Philippines to date and will require significant international financier and sponsor participation. NSRP is a landmark project for the Philippines and has recently been identified by the World Bank as one of 15 key projects for ASEAN connectivity. The project is co-advisory with the Development Bank of the Philippines.

The presenters noted that the ADB has been promoting the use of Bank Performance Standards (PSs) or Equator Principles for the project and identified the biggest safeguards risk as the relocation of 100,000 informal settler families from the rail alignment over three years. This contrasts with the Three Gorges Dam project in China where over a million people were resettled over a 17-year period. In addition, the railway right-of-way has been intruded upon by settlers, including temporary and permanent structures and, as a result, they noted the risks to highly vulnerable impoverished families, as well as the implementation risks of delays, cost escalation and reputational damage.

They made reference to lessons learned from the Malolos–Tutuban line, highlighting in particular that the relatively short period of only one year (2009) was originally allocated to relocate 10,500 informal settler families and this was still not completed as of 2012. The project stalled in 2013 and remains unfinished. The poor performance of this line provided lessons for the South Line Project, especially that PPPs often set unrealistic timeframes for resettlements to the detriment of project outcomes. They also noted the lack of management of safeguards risks as one of the leading causes of PPP delays, which can also negatively affect community perception of project benefits.

The key lessons identified were: (i) to acquire land as soon as the feasibility study is approved, not when contracts have been awarded; (ii) engagement should be ongoing throughout the project and should continue beyond financial closure; (iii) plan safeguards in line with international best practice; and (iv) recognize opportunities to demonstrate project benefits.

Laureen Laurito and Cathy Fong concluded by noting that the responsible unit has scarce resources to implement resettlement and would benefit from additional people and resources.

Discussion

The first part of the discussion focused on Laureen Laurito's case study. Participants asked about the government's capacity to deal with resettlement impacts, and to explain what measures had been taken to compensate for these impacts.

Regarding government capacity, Laureen Laurito explained that while the Department of Public Works and Highways has an entire team dedicated to land acquisition, the Department of Transportation only has one individual assigned to those tasks. She added that her team was working closely with the Department of Transportation to improve its capacity.

Regarding compensation for resettlement, she noted that the law governing resettlement in the Philippines was the *Urban Development Housing Act*, which states that people can only be resettled if replacement land and housing is available. She added that the need to find land and replacement housing had significantly prolonged the process of clearing the railway right-of-way. She added that Filipino laws have a higher level of protection than most development bank safeguard policies because they require that people without legal rights to land also receive replacement land and housing as compensation, and not just resettlement assistance.

The second round of questions was less project-specific and focused on the actions that should be taken when opportunistic settlement occurs as a consequence of an announcement that a project will be undertaken in a given area. Participants responded that this was a long-term challenge for numerous development banks. Most projects have a cut-off date that is defined by a census, and people that enter the project area after the census will not receive compensation. However, in reality, this may be difficult to implement, especially when projects are delayed for several years and daily-life continues in the project area. In those cases, the project has to undertake a second census to account for, among other issues, new structures that may have been built and families that may have moved in to the project area.

The third part of the discussion focused on the main challenges for PPP projects in the Philippines. Panelists mentioned that clearing the right of way in projects was especially cumbersome and this question provided an appropriate entry point into the next session.

SESSION II:	***Managing Environmental Risks with Large Infrastructure Projects*** *9:45 am – 10:30 am*
Presentation 3:	*The Business Case and Lessons Learned*
Presenter:	***David Blaha*** *Principal Partner, Environmental Resource Management (ERM)*

David Blaha commenced his presentation by noting that his experience is primarily in assisting the private sector to manage social and environmental risks. He acknowledged that the private sector is becoming increasingly aware of, and concerned with, environmental and social risks, as well as economic, technical and geopolitical risks. He observed that the World Economic Forum identified environmental and social risks as some of the main risks to economic growth. He stated that 46% of projects are delayed, and identified social opposition as the leading cause of these delays at 42%, followed by environmental concerns at 35%.

He noted that E&S issues affect both developers and banks and that while companies are used to spending large sums on commercial feasibility issues, they are less accustomed to outlaying the same amounts on social and environmental risk management, although this approach is beginning to change. The private sector weighs risks differently, and each company balances interests differently. He presented an Environmental and Social Governance (ESG) continuum ranging between denial, discovery, defensive, offensive, and transformative, and noted that private companies are positioned variously along this spectrum in terms of their business modeling of risks.

David Blaha proposed that the public sector help de-risk projects and achieve good ESG outcomes through PPP by reinforcing private sector interests. This would include: (i) minimizing uncertainty by supporting governments with SEA preparation to ensure appropriate project selection in the first instance; and (ii) managing risks by the use of early assessments when the ability to manage risks is the highest and the intervention cost is lowest. These approaches will assist the private sector to maintain the schedule and minimize costs. He noted the opportunity to take advantage of private sector willingness to implement safeguards, and to help them move along the ESG continuum, by demonstrating the business case for pro-actively de-risking projects.

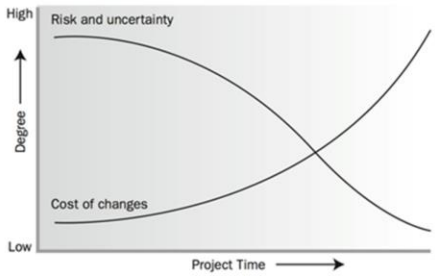

Figure 5: ESG Continuum

Models for improving ESG outcomes, such as IFC's Infraventures, where early-stage risk capital is provided, can be used to fund early stage studies and stakeholder engagement, and in the example given, involve active participation of IFC staff in building capacity and de-risking the project.

He emphasized that the keys for success include: (i) making sure that the project is the right one; (ii) applying the mitigation hierarchy; (iii) developing E&S management systems; (iv) conducting meaningful stakeholders engagement; and (v) managing social risks.

David Blaha concluded by outlining the crucial elements to consider when forming a PPP. These include: (i) considering where the private sector partner sits on the ESG continuum as well as understanding their level of commitment and capacity; (ii) understanding environmental and social expectations and whether they are clearly captured in the PPP agreement and are enforceable; (iii) determining if compliance would be with international or only national standards; (iv) determining ESG responsibilities between the public and private partners; and (v) considering options to incentivize the ESG performance of private sector partners.

Discussion

Participants asked how ERM helped ensure that compliance was achieved from the onset of the project. David Blaha replied that ERM strives to ensure that risks are proactively managed from the start of the project in order to minimize the likelihood that risks compound. He observed that this was, for example, the difference between gaining community trust from the beginning of a project and managing social conflict in the midst of it. He added that ERM assists its clients develop and maintain risk management systems that promote a proactive approach to safeguards management.

Participants also inquired if ERM's experiences in creating relationships between the private sector and civil society and NGOs have been successful and have improved the outcome of development projects. David Blaha replied that creating a relationship with civil society has obvious benefits, especially for its more sophisticated clients, who immediately understood the benefit of partnering with civil society and NGOs as a means to de-risk the project. This type of partnership, he added, fostered trust among civil society and helped nurture closer links with the community.

SESSION III:	***Private Sector Perspectives on Safeguards & Investment Decisions***
	10:45 am – 12:15 pm
Chair:	***Mark Giblett***
	Senior Infrastructure Finance Specialist, World Bank
Panelists:	***Cosette Canilao***
	Managing Director, Atkins Acuity/former Head of the PPP Unit in the Philippines
	Jean-Christophe Philbe
	Director, South & South-east Asia, Electricite de France (EDF)
	Bruce Weller
	Head of PF for Asia Pacific, BNP
	Martin David
	Principal, Baker McKenzie
	Ray Tay
	Vice President, Corporate Finance, Moody's

Mark Giblett introduced the panelists and then outlined the main questions and issues that would frame the panel's discussions.

- What are the main environmental and social risks for the private sector?
- How can private sector companies view environmental and social risk management as added value for the project, and not as red tape?
- How can the private sector be encouraged to be more proactive in its approach to E&S risk management?

Figure 6: Panel Discussion – Private Sector Perspectives on Safeguards and Investment Decisions

Cosette Canilao (Atkins Acuity) stated that the private sector was very concerned with the reputational risks associated with the environmental and social mismanagement of projects, and safeguards were therefore considered crucial aspects of every project. She emphasized that social and environmental specialists are always invited to form part of a task team from the onset of every project.

Jean-Christophe Philbe (EDF) noted that large infrastructure projects can be delayed or even fail to be implemented for many reasons and that there is no single answer to prevent that from happening. However, experience showed that if an appropriate E&S risk management framework is established initially, projects tend to progress more smoothly. He cited the following conditions as being favorable: (i) clarity of the project phases; (ii) well-prepared background documents for projects; (iii) sound legal governance framework; (iv) clear and equitable guidelines for the implementation of the project, and; (v) the implementation of international E&S standards. He pointed out that failing to implement international E&S standards was one of the main reasons for project delay.

It was, he said, of significant importance that the IFIs agree on a standard approach to E&S policies on a project and that these IFIs should improve co-ordination regarding implementation monitoring. He emphasized three lessons learned from the Nam Theun 2 Hydroelectric Project in Laos that would help guarantee that E&S risks would not delay or stall a project.

- Ensuring that E&S risk management was undertaken from the onset of the project and continued after the project has ended.
- Embedding E&S risk management measures into the contractual documents.
- Avoid creating unequal development within the country by focusing development efforts in a single region.

Bruce Weller (BNP) observed that green and sustainable investments are a business strategy and that some companies consider the assurance of appropriate environmental and social risk management measures as one of the keys to future financial success. He noted, however, that many institutions do not concur and typically view E&S risk management simply as a box that needs to be checked.

In his analysis of the East Asia and the Pacific region, where most of the local banks are expected to provide the majority of future project lending, many do not perceive the value added nor are they committed to E&S risk management. He concluded by noting that only one Chinese and one Indian bank have signed on to the Equator Principles and if environmental and social standards are to gain ground, regional institutions will have to push for broader adoption of E&S principles.

Martin David (Baker McKenzie) highlighted the role of lawyers and emphasized that clarity at the document drafting stage is an important added value that lawyers can contribute. In the past fifteen years, he has observed a clear tendency towards including environmental and social risk management covenants in the project documentation.

Ray Tay (Moody's) commented that many clients ask how environmental and social risks could impact their portfolio. In response, Moody's has created an indicator for environmental and social risk that encompassed five elements: (i) air pollution; (ii) soil pollution and land use restrictions; (iii) water shortage; (iv) human-created disasters; and (v) carbon transition risk. Sectors were then rated on their environmental and social risks, with the top three riskiest sectors being: (i) unregulated power and utilities; (ii) coal mining; and (iii) infrastructure for the processing and transporting of coal.

Presentation 4:	*SERVIR-Mekong Tools and Integration with Google Earth Engine* *12:15 pm – 1:15 pm*
Chair:	***David Ganz*** *Chief of Party, SERVIR-Mekong, Asian Disaster Preparedness Center*

David Ganz gave an overview of SERVIR-Mekong, a flagship NASA-USAID partnership to improve environmental management and resilience to climate change by strengthening the capacity of governments and other key stakeholders to integrate Earth observation information and geospatial technologies into development decision-making. The services provided by SERVIR-Mekong also integrate new remote sensing technologies provided by Google Earth Engine. He showed a video from Google to articulate the nature of the collaboration. In summary, SERVIR is being rolled out with local institutions in Western and Eastern Africa and Asia, including the Hindu-Kush Himalaya and Lower Mekong regions.

Figure 7: SERVIR Mekong Remote Sensing

In the Mekong region, the services and applications include:

- **Regional Land Cover Monitoring System**: Supports land use planning, tracking economic land concessions, Environmental Impact Assessments (EIAs), ecosystem services analysis, greenhouse gas reporting and climate change adaptation strategies.
- **Surface Water Mapping:** For flood risk assessment, emergency response planning, and near real-time flood mapping.
- **Regional Drought Information System**: Supports drought monitoring, analysis and forecasting for planning and responding to droughts, and impact assessments.
- **Virtual Rain & Stream Gauge Information Service**: Provides enhanced hydro-meteorological data service for flood forecasting, water resource management, and payments for ecosystem services.

David Ganz concluded by outlining that SERVIR, across all the hub institutions in each region, is undertaking user engagement and capacity building activities, such as consultation and dissemination workshops and awareness campaigns. In addition, there are: (i) application-oriented trainings; (ii) on the job training; (iii) exchange programs; (iv) internships; (v) NASA DEVELOP Program; (vi) Hackathon; and (vii) youth forum. The purpose of the SERVIR network is to bridge the gap between science and policy, to develop tailored services to decision makers, and apply to village concept level bringing earth observation down to the level of applications that will help farmers, villagers, and local stakeholders cope with a changing climate.

SESSION IV:	***Case Studies, Gaps and Challenges*** *1:15 pm – 4:45 pm*

Presentation 5:	*Infrastructure Sustainability Rating Scheme*
Presenter:	***Antony Sprigg*** *CEO, Infrastructure Sustainability Council of Australia*

Antony Sprigg provided an overview of the Infrastructure Sustainability Rating Scheme (ISRS) that can be used by investors and multilaterals at pre-feasibility and planning stages, through to procurement, design, delivery and operations (green and brown field). He noted that the main uses for the ISRS include:

- Screening for major social and environmental risks (direct and through the supply chain)
- Regulatory backfill layer, where local regulation is patchy and poorly deployed
- A means to achieve desired outcomes once safeguards are deployed
- A means to obtain visibility of safeguard and project performance
- Planning and design to reduce asset footprint and resource efficiency gains

In addition, it is necessary to ensure a positive project legacy beyond just the asset in the context of capability and skills—one that is associated with enhanced standards and regulations, stakeholder engagement skills, resource efficiency, knowledge of environmental value and protection, and risk and systems-based decision making, etc.

The different risks associated with projects, include: (i) climate risks; (ii) social license; and (iii) others, including air quality. He observed that climate risks in particular are not adequately addressed, and reviewed some case studies highlighting the efficiency, risk management, governance and industry transformation, potential gains, and sustainability outcomes of each through utilizing ISRS.

Antony Sprigg provided an overview of the process needed to become an Infrastructure Sustainability Accredited Professional (ISAP). ISAP themes are: (i) management and governance; (ii) use of resources; (iii) emissions, pollution and waste; (iv) ecology; (v) people and place; and (vi) innovation.

ISRS training is offered to three target groups: professionals, managers and asset owners. The scheme applies to all infrastructure types and sizes across the whole asset life cycle from initiation and planning to operations.

An overview of benchmarking companies from compliance (business as usual) to beyond (commended, excellent and leading), indicates that many companies are not gathering appropriate data and therefore do not have any information to benchmark their progress. Antony Sprigg also noted the weighting assessments applied.

Version 2 of this scheme, expected mid-2017, will address new themes, including economic (valuing externalities; equity and distribution; risk and uncertainty; financial sustainability; and transparency) and social (environmental sustainability, human rights and business ethics within the supply chain; engaging social enterprises; indigenous-owned businesses; local employment; long-term unemployed; wellbeing; training and education; indigenous employment; and diversity).

Antony Sprigg concluded by noting the potential benefits of ISRS for multilaterals if they could undergo objective, quantitative and qualitative rating by an independent third party, with assurance and verification.

In addition, it is also important that they can be:

- inherently tailored to key sustainability risks and opportunities; and
- aligned with safeguards, international best practice references and/or local legislation and policies.

They should also be able to:

- evaluate individual proposals/projects or multiple; and
- provide technical, capability and assurance over the project life cycle.

Presentation 6:	*Case Study – Vietnam*
Presenter:	***Fred Swierczek*** *Director, AIT Center Vietnam*

Fred Swierczek used a case study to highlight donor support to PPPs in Vietnam on the DEPP project development. He also focused on Vietnam's recent law (Decree 15) on PPP and outlined his perspective on gaps, dangers, and lessons learned in this context.

He noted that approximately US$200 billion of new infrastructure projects is planned to be implemented by 2020 in Vietnam, in roads, bridges, ports, water and sanitation.

Fred Swierczek observed that in 2015 USAID expressed the following view:

> "PPP is a long term contractual relationship between the public sector and the private sector for the designs, construction financing and/or operation of public infrastructure by the private sector with payments made over the life of the Contract through service fees paid by the users to the private sector party for the use of the infrastructure delivered. In the end, the primary purpose of a PPP is for the public sector to transfer project-related risk to a private sector party that is in a better position to manage such risks."

He noted that the objective in Vietnam should be to improve government capacity to catalyze PPP and infrastructure projects, in particular when safeguards components are incomplete or lacking key elements. He observed that different lenders and donors did not include safeguards on many of the proposed projects, and referred to the Phan Thiet Road Project as an example. Although this project underwent a series of safeguards instruments, none of these were useful.

He highlighted his main point that currently safeguards requirements are lacking in Vietnamese laws and in some donor projects and he proposed that legal guidance on Viability Funding Gap (VFG) should be offered by donors. Vietnam has a procurement law that mandates that the lowest bidder should be accepted; however, problematically, the lowest bidders often do not consider E&S risks and impacts.

Fred Swierczek summarized the issues in Vietnam regarding E&S applicable to PPP as having gaps in the law that result in weak or minimal ESIA on safeguards protections for PPPs. The structure of PPPs results in negative environmental, social and health impacts due to their focus on form (e.g. Build-Operate-Transfer) and bankability and investment criteria. These objectives often conflict with time consuming and expensive ESIA and other safeguards considerations.

He concluded with the suggestion that a rapid ESIA or safeguards assessment framework with monitoring and evaluation may be an efficient entry point to address environment and social impacts of PPP infrastructure projects in Vietnam.

Presentation 7:	*How Minimizing Social Risks can Spur Private Investment*
Presenter:	***Chris Johnstone*** *Principal, rePlan*

Chris Johnstone commenced his presentation with an overview of rePlan, a social consultancy firm, which is now part of ERM. In line with some of the earlier presentations, he noted the emerging trends around the significance of non-technical risks on projects, noting that stakeholder opposition, permitting issues, and environmental concerns are the top three causes of projects being delayed or abandoned.

He explained the rise of "Resource Localism" where stakeholders are increasingly demanding a voice in how and whether proposed projects proceed. There is also increasing recognition that the process of stakeholder engagement is as important as the project outcome and the private sector is facing increased pressure to identify, disclose, and minimize risk.

In terms of the major impediments for private capital investment, he identified local regulatory and legal systems as a deterrent. This includes capital controls, tax barriers, labor policies, land regimes, and inconsistent codes and he also outlined perceived risks as constituting a significant barrier to private investment flows, including technical feasibility, corporate governance, and social risks.

Chris Johnstone highlighted four pillars of residual social risk, namely: (i) local economies; (ii) population/demography; (iii) community expectations; and (iv) governance. These, he contended, could be addressed through effective due diligence assessments and setting up carefully selected multi-sector teams to manage and quantify social risk.

He concluded his presentation with a case study of a large mine in the south of Mongolia. Staff at the mine were engaged on a "fly in-fly out" arrangement from the capital, Ulaanbaatar. However, staff retention became a challenge, resulting in the company deciding to investigate the development of a new town to relocate project workers closer to the site.

Chris Johnston detailed how rePlan took a multidisciplinary team to the proposed site of the town adjacent to an existing community to assess its feasibility. A key challenge was stakeholder expectation management—to ensure that expectations were not raised and that speculation and influx to the area could be managed. Other key challenges were how service delivery would occur, as well as affordability, so that people would be able to afford houses and associated services. The "Net Present Cost" assessment of the new town was placed in the context of the "fly in-fly out" alternative. While the model presented a compelling case for the new town, the proponent ultimately decided not to proceed due to high levels of risk and the required upfront investment. The existing town has nevertheless grown and services have been improved as a consequence of mine related regional economic development.

Presentation 8:	*Cambodian Sustainable Finance Initiative: The Beginning of a Journey*
Presenters:	***John McGinley*** *Managing Partner, Mekong Strategic*

John McGinley commenced with an overview of the Mekong Sustainable Finance Working Group (MSFWG) and their support of the Cambodian finance sector through the USAID-financed Mekong Partnership for the Environment (MPE). He explained that the core objective of the MSFWG is to provide national financial institutions within the Mekong Region with access to the necessary tools and resources to assist them in developing a sustainable finance platform, as well as manage social and environmental risk in their portfolios. This includes providing advisory services.

He conveyed that local banks play a significant role in Cambodia's economic development, and that together, under the guidance and management of the Association of Banks Cambodia (ABC), they could develop a set of social and environmental industry standards that are robust as well as appropriate for the local Cambodian context. The banking sector is working towards developing a statement of commitment as well as a set of appropriate financing principles which all banks will work towards adopting and implementing into their day-to-day operations. Both the National Bank of Cambodia (NBC) and Ministry of Environment (MOE) have signed up as implementing partners. The goal is to develop principles that are appropriate for a developing country such as Cambodia, rather than imposing ill-fitting developed market standards which may be too onerous.

He noted that sustainable finance is an opportunity for the banking industry to build on its positive role in Cambodia's development, and that by doing so, banks are not just helping to preserve Cambodia's environment and support communities, but can also seize the opportunity for a first mover advantage to expand into new markets such as low-carbon financing. Globally, sustainable financing principles have been developed by different local banking sectors. This initiative presents an opportunity for Cambodia to take the lead and act as an example of banking good practice across the region. This is an opportunity for Cambodian banks to collaborate and determine for themselves which actions and steps are most appropriate for Cambodian banks to undertake when developing sustainable financing standards.

John McGinley underscored that local banks in the region lack capacity for managing environmental and social risks. The project adopted a bottom-down approach to adopting environmental and social risk management systems. Originally, the proposal was the creation of environmental principles; however this later became standards. Several of the banks in Cambodia have signed up to the IFC standards. Signing on is voluntary, but no bank rejected them. They all voluntarily joined.

Presentation 9:	*Key Principles of Social Standards (Vietnamese Case Study)*
Presenters:	***Eddie Smyth*** *Director, InterSocial*

Eddie Smyth commenced his presentation on challenges and lessons from private sector projects on the application of social safeguards by noting that resettlement has historically been a major risk for International Financial Institutions (IFIs). The risk of resettlement is considerable, given the potential to: (i) contribute to significantly impoverishing or otherwise causing long-term impacts on the livelihoods of affected people; (ii) cause major project delays and cost overruns; and (iii) expose project stakeholders to reputational risk due to NGO interest with broad audiences.

He outlined the complexities associated with resettlement, including: (i) many emerging and developing economies have real estate markets that are still in a formative state, so resettlers may need assistance to replace land; (ii) traditional and informal users are not protected by local legislation; (iii) displacement can affect particularly vulnerable people (poverty, age, ethnic discrimination); (iv) the judiciary system does not always provide timely, fair, or free redress; (v) forced evictions are a possibility, with all the negative consequences that this entails, including reputational; and (vi) there can easily be elite capture of consultations.

Eddie Smyth noted that the IFIs are aligned in key requirements, such as: (i) no forced evictions; (ii) avoid or minimise involuntary resettlement; (iii) provide compensation at replacement cost; (iv) lack of formal title is not a bar to compensation or assistance; (v) disclose, consult, and seek participation of those affected; (vi) improve or, at a minimum, restore livelihoods and standards of living to pre-project levels (land-based, wage-based and/or enterprise based measures); and (vii) provide adequate housing with security of tenure.

However, there are often gaps or differences in local legislation, and governments do not always align with the IFI requirements. For example, governments are keen to avoid setting precedent or the officials in charge are not prepared to go beyond local law, as they are concerned that they might be accused of misuse of public money. Informal users are also often a controversial point, and in some contexts consultation and disclosure can cause anxiety. In others, replacement value or in-kind compensation are difficult as they are perceived as contradicting local law.

These differences can be particularly difficult in PPP projects, where the private parties are bound by IFI regulations, while the government's role includes providing land encumbrance free, along with responsibility for resettlement.

The main opportunities to resolve these concerns are to: (i) identify gaps between IFI standards and government legislation and implementation gaps as early as possible, utilizing existing IFI analysis where available; (ii) prepare sectoral resettlement frameworks (World Bank) to bind project sponsors and governments to IFI standards

early on; (iii) educate governments on resettlement risks and mitigation (awareness, training, coaching); and (iv) collaborate with other IFIs to ensure a coordinated approach.

Eddie Smyth then referred to a case study of a project in Vietnam, where the private sector and government jointly implemented a complex land acquisition and resettlement project in a large economic zone. The project was co-financed by a number of IFIs, and the Vietnamese government had already resettled 1,000 people previously under the original project design. A further 1,000 people would be resettled under IFI standards.

The government was concerned that they would be required to supersede their own policies which would set a precedent for other resettlements in the economic zone which would demand the international standard, rather than the government standard being followed. There will be additional resettlements in the economic zone and the different standards could cause significant social strife. Furthermore, the Resettlement Action Plan (RAP) is a government document, and the government would have great difficulty in explaining how it will supersede its own policies.

In addition, the private company was concerned that the newly resettled community, once reunited, would experience jealousy and discord if they were resettled with two different standards. This was ultimately addressed by the private company by separating the physical resettlement, which only involved restoring the livelihood of the newly-impacted communities, from those of past and current communities who had been impacted. These additional livelihood restoration measures were paid for by the private company and supported jointly by the government, private company and their consultants.

Eddie Smyth observed that in Vietnam, the national environmental and social safeguard standards are well aligned with international standards.

He concluded by noting that some of the key lessons for successful PPPs include: (i) alignment of local legislation and IFI standards to identify any gaps or differences; (ii) flexibility to allow the private sector to bridge gaps through project preparation; and (iii) empathy for impacted households and the provision of social safety nets (such as pensions) to help ensure that older household heads losing livelihoods do not fall into extreme poverty.

Discussion

This discussion session asked the panelists why it had been so difficult to create an enabling environment for the appropriate management of E&S risk in Vietnam. The panelists responded that most effort in the project had been placed on the financial feasibility and procurement of the project, and this had diverted effort away from E&S risk management measures.

Participants followed-up by asking if the participation of Chinese companies in projects was conducive to the application of E&S risk management measures. The session panelists explained that there are many complexities related to the participation of

Chinese companies in projects. Perhaps the biggest challenge was working with multiple levels of government, each of which has specific requirements, making it difficult to determine what and how many regulations apply to each case. A panelist also noted that another challenge was that most Chinese companies treat stakeholder consultations as an optional requirement. The panelists agreed that there should almost always be an extensive or sufficient stakeholder engagement process in projects to ensure that the public and regulators understand project activities and safeguards requirements.

The third question pertained to the future of safeguards in PPP projects in Vietnam and other countries with similar characteristics, with a participant inquiring if the panelists believed that E&S risk management practices would become more widespread in the region. The panelists replied that some E&S risk management practices in the region were already quite strong, citing, as an example, the Vietnamese requirement to develop an Environmental and Social Impact Assessment (ESIA) during project design and preparation. Another panelist underscored that future development of a regional Inter-Ministry Committee on Environmental and Social Risk Management would be an excellent venue for collaboration among states and Multilateral Development Institutions.

Participants requested that the session panelists provide additional information on their experiences developing and undertaking capacity building activities with local governments and the private sector. A panelist responded that in the case of Vietnam, a wide variety of stakeholders, including community engagement specialist, environmental specialists, project directors, managers, and procurement specialists had undertaken training at the Learning Center sponsored by the World Bank–Australia Safeguards Partnership. They highlighted the importance of including all technical specialties at different grade levels to ensure that the importance of Environmental and Social Risk Management was understood throughout the government and private sector, and emphasized that over 800 participants had been trained.

A participant requested more details on the social assessment that took place for the Vietnam case study. The presenter replied that differentiated impacts were identified for disproportionately affected adults aged 45 and older, who would likely be unable to find jobs after being resettled. As a mitigation measure, adults aged 45 and above received three years of replacement pay to help them transition. However, the presenter acknowledged this would likely be insufficient and underscored that additional measures would have to be implemented to completely restore prior livelihood conditions. The presenter stated that in some projects, affected people in similar conditions could be eligible to receive pensions for the rest of their lives. He also stated that the situation could be even more of an issue for vulnerable groups such as single-female-headed households, landless people, fishermen, and herders, because many national standards do not have specific provisions to ensure that differentiated impacts do not disproportionately affect them. He mentioned that impacts are always likely to be worse in countries where there is no social welfare support for the extremely poor.

A participant explained that in her experience the most harmful impacts from projects originated when no compensation measures existed for economic displacement, when

there were no provisions for informal settlers, and when compensation was granted at market value and not at replacement value. She added that she had found that the likelihood of harmful impacts existing in a project were greater in countries with large gaps between national and international requirements.

Another participant added that undertaking a cost-benefit analysis of resettlement compensation and the money lost due to reputational risks would likely incentivize the public and private sector to improve their social risk management measures. The panelist agreed that estimating cost of resettlement is a key part of the project planning process.

SESSION V:	***Looking Forward – Actions to be Taken*** *4:45 pm – 5:15 pm*
Chair:	***Eddie Smyth*** *Director, InterSocial*

In the closing session, Eddie Smyth addressed the question "How can environmental and social considerations contribute to PPPs for infrastructure development in Asia?" with a focus on what actions could be taken to promote more PPPs. He noted that the speakers/panelists presented the key risks and opportunities arising from PPPs.

(i) Risks. There is a clear need for significant investment in upgrading infrastructure across Asia and the private sector is willing to assume a greater role. However, the private sector is increasingly concerned about having to bear significant risks related to developing these projects. Communities have an increased awareness of their rights, and this is supported by the sharing of information on social media and the growth of civil society with international scrutiny of projects.

The different stakeholders in PPP projects may face several risks.

Communities:

- Resettlement and land acquisition leading to landlessness and loss of livelihood
- Inadequate compensation for land and assets leading to community conflict
- Loss of access to water, natural resources and customary land essential for livelihoods
- Influx of migrant labor leading to pressure on services and community conflict over jobs and land
- Pollution
- Poor and unsafe working conditions, including child labor and forced labor

Developers/government:

- Reputational risk due to community conflict and civil society scrutiny
- Project delays and/or loss of government approval
- Additional development costs
- “License to operate” compromised (operational shutdowns)
- Financial risk (difficulty in raising capital, legal fees, fines, vandalism)

Development Banks:

- Reputational risks
- Non-performing loans/investments
- Regulatory repercussions
- Breach of own “standards and code of ethics”
- Need to provide/find additional funding

Different case studies from the Philippines and Vietnam illustrate the challenges and opportunities present in PPPs.

Eddie Smyth referred to two cases, one in the Philippines and the other in Vietnam.

In the Philippines, the case study focused on the upgrading of a rail transport route requiring the resettlement of over 100,000 families. The national requirements for the acquisition of land and resettlement of informal resettlers differ from IFI standards in that they must be provided with social housing. This holistic approach helps ensure that the massive problems of informal resettlements are not merely displaced by a project, but resolved by approaching the project as a development opportunity. This process is challenging because it takes more time and resources and is not always aligned with the promises and timeframes outlined by politicians promoting projects. The Philippines has an established PPP center that helps provide alignment between the private sector and government on developing new projects.

In Vietnam, the case study dealt with the development of an economic zone and the resettlement of 2,000 families to provide land for large private sector projects. On this project the private sector provided additional financing to address the extra cost of restoring livelihoods of all the impacted households above national standards. The government was concerned about setting a precedent, but it clarified that this was a special case and the private company was paying for the additional benefits.

Private sector companies and lenders to these companies are increasingly highly sensitive to environmental and social risks. They are reluctant to invest and develop projects when governments cannot demonstrate that they will take these risks seriously and become more aligned with international standards.

(ii) Opportunities. The session speakers and panel discussion highlighted the following opportunities:

- It is important that the E&S risks are identified up-front through assessments such as SEAs to ensure that the government, private sector and IFIs have a shared understanding of the risks and their management role—which in turn increases the bankability of the project.
- Projects should develop strong Environmental and Social Management Systems from the start
- The project should engage with stakeholders, particularly impacted communities and their civil society partners, to gain trust through participatory design and monitoring when appropriate and by demonstrating benefits to build community support and secure a social license to operate.
- The key factors to managing ongoing risks include establishing a grievance redress mechanism, hiring locally, sharing benefits, developing community investments and ensuring people are better off with the project.

The role of government is to develop a positive policy environment that supports rigorous assessment and management of E&S risks with integrated spatial and social planning. This is necessary to ensure that impacted communities benefit from the project and is critically important to significantly reduce the key risks for PPP projects. There is an ongoing evolution in government policies to address environmental and social risks across Asia and peer sharing and learning can be very useful in promoting PPP development.

For the IFIs, opportunities to address these issues include: (i) identifying gaps between IFI standards and government legislation and implementation gaps as early as possible, utilizing existing IFI analysis where available; (ii) preparing sectoral resettlement frameworks (World Bank) to bind project sponsors and governments to IFI standards early on; (iii) helping educate governments on resettlement risks and mitigation (awareness, training, coaching); and (iv) collaborating with other IFIs to ensure a coordinated approach.

Eddie Smyth concluded by noting that some of the key lessons for successful PPPs include: (i) alignment of local legislation and IFI standards to identify any gaps or differences; (ii) flexibility to allow the private sector to bridge gaps through project preparation; and (iii) empathy for impacted households and the provision of social safety nets (pensions) would help ensure that older household heads losing livelihoods do not fall into poverty.

However, it is clear that unless governments align their E&S standards to international levels similar to those of MDBs, then these requirements will present an uneven playing field for some private sector companies where the government is focused only on cost considerations.

Discussion

A participant commented that in very few cases in which an E&S risk management system is lacking, a strong consultation strategy with local communities and bottom-up approach to E&S risk management with local companies could be suitable as a stand-in for safeguards.

Another participant stated that she had known of numerous cases where companies had sought other funding sources for PPP projects to avoid having to apply international environment and social standards, which were seen by the company as too onerous and burdensome. She added that even in some cases where the government and companies do have the capacity, they chose not to use international environment and social standards in order to avoid setting a precedent that they would then have to abide by for every project.

Day 2

OPENING:	***Introduction to Day 2*** *9:00 am – 9:15 am*
Day 1 Facilitator:	***Peter Leonard*** *Safeguards Adviser, East Asia Pacific, World Bank*

Peter Leonard introduced Day 2 by noting the valuable contributions from the private sector on Day 1. He also provided an overview of the structure of Day 2, which would include presentations in the morning from AIIB and the World Bank on their recent Environmental and Social Frameworks. This would be followed by EIB, IFC, the Philippines PPP Center and the Indonesia Infrastructure Finance (IIF) on their perspectives on how to structure safeguards and PPPs for optimal outcomes. The afternoon would include a donor panel with ADB, DFAT, JICA and IFC discussing recommendations and actions to enhance the effectiveness of safeguards in the development of PPPs going forward, wrapping up with group discussions.

SESSION VI:	***Safeguards Standards and PPPs*** *9:15 am – 9:45 am*

Presentation 10:	*AIIB Environmental and Social Framework*
Presenter:	***Stephen Lintner*** *Senior Environmental and Social Adviser, AIIB*

Stephen Lintner began his presentation by noting that AIIB is committed to the principles of sustainable development in the concept, design and implementation of its projects to address the development challenges of Asia. Sustainable development is seen as a key objective of the institution. He noted that AIIB has a mandate to invest in infrastructure and interconnectivity, and mentioned that the New Development Bank (BRICS Bank) also has a mandate to invest in infrastructure. In the case of AIIB, it has established its Environmental and Social Framework and is now implementing it.

Stephen Lintner then outlined AIIB's approach to its Framework, which: (i) seeks broad compatibility with other MDBs; (ii) uses established principles and practices; (iii) provides opportunities for innovation; (iv) promotes effective implementation; and (v) provides advisory support for projects.

He explained that the AIIB Framework is composed of a vision statement and an Environmental and Social Policy (ESP), which are complemented by a directive and guidelines. The vision statement provides an overview of AIIB's aspirations concerning environmental and social sustainability and the role of the Bank in meeting the challenge of sustainable development in Asia. The ESP contains mandatory requirements that apply

to all AIIB projects. Stephen Lintner observed that the Framework is very clear and concise, at around 50 pages, and with few footnotes.

The ESP also contains three Environmental and Social Standards (ESSs):

- Standard 1: Environmental and Social Assessment and Management
- Standard 2: Involuntary Resettlement
- Standard 3: Indigenous Peoples.

Stephen Lintner noted that the standards clearly state that both environmental and social impacts should be covered in assessment processes and that projects involving Involuntary Resettlement and Indigenous Peoples can have social impacts that require special measures given their complexity. Climate change, labor, and several other issues are also covered in the Framework.

Other elements of the Framework include an environmental and social exclusion list that is found in an appendix to the ESP. An Environmental and Social Directive, currently under development, sets out mandatory requirements for implementation of the policy and standards. Finally, non-mandatory guidance and information tools, which will support AIIB and its client in implementation of the policy and standards, also form part of the Framework.

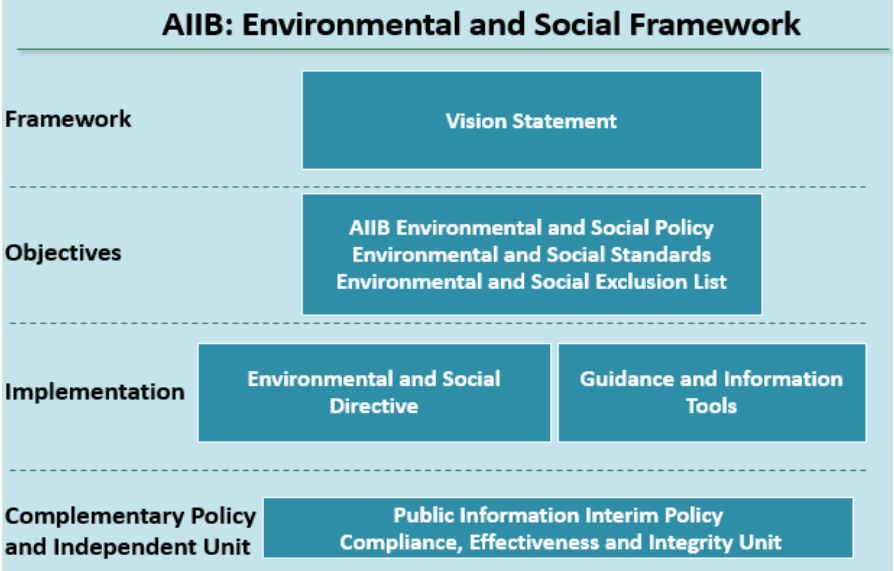

Figure 8: AIIB E&S Framework

Stephen Lintner then elaborated on the ESP and ESSs. Used together, these form an environmental and social management system that: (i) supports decision making; (ii) provides for screening and categorization of projects; (iii) analyzes potential risks and impacts; (iv) identifies actions to avoid, minimize, mitigate and/or offset impacts; (v) includes provisions for disclosure of information and public consultation; and (vi) supports integration of environmental and social management measures into design, implementation and evaluation of projects.

In terms of the scope of application, he reiterated that the ESP applies to all projects. AIIB requires each client to manage the environmental and social risks and impacts associated with its project, in a manner designed to meet the ESP and the applicable ESSs, in accordance with the Environmental and Social Management Plan (ESMP) or Environmental and Social Management Planning Framework (ESMPF), as applicable, required for the project.

With regards to screening and categorization, Stephen Lintner explained that all projects are screened to review their potential environmental and social risks and impacts. AIIB uses four categories: A, B, C, and FI. Unlike the ADB, this is a single rating—categorization is based on a combined review of both environmental and social risks and impacts. The categorization is proportional to the significance of the potential environmental and social risks and impacts. In the review of the social risks and impacts of a project, special emphasis is placed on consideration of potentially affected people who may be particularly vulnerable.

With regard to coverage of the environmental and social impact assessment (ESIA), Stephen Lintner noted the need to conduct an ESIA that identifies potential direct, indirect, cumulative, and induced physical, biological, socio-economic, and cultural resources risks and impacts. He described the impact assessment instruments pictured below.

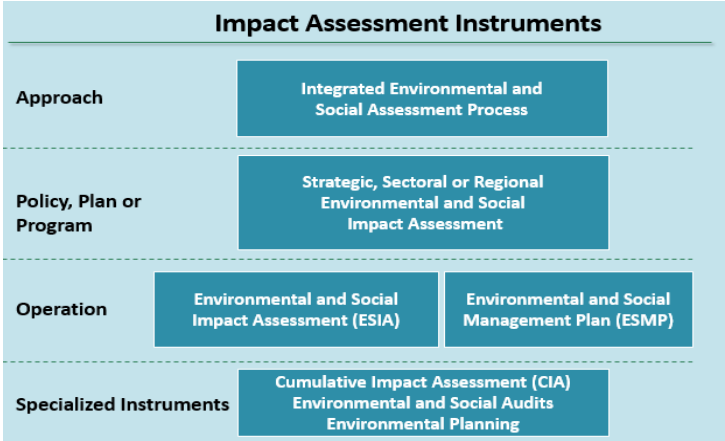

Figure 9: AIIB IA Instruments

He noted that ESMPs consist of the set of mitigation, monitoring, and institutional measures to be taken during project implementation and operation to avoid adverse environmental and social impacts, offset them, or reduce them to acceptable levels. Preparation of an ESMP includes: (i) identifying the set of measures to respond to potentially adverse impacts; (ii) outlining the actions to implement these measures; (iii) determining requirements for ensuring that the actions are effective and timely; and (iv) describing the means to meet the requirements for these actions, including in the budget and schedule for the project.

AIIB considers that strong country and corporate systems are crucial to the management of environmental and social risks and impacts and will assist in strengthening those systems through a variety of mechanisms in both the public and private sector. AIIB

believes that in many cases, the best way to strengthen country and corporate systems is to use them at the operational level, with adequate support to achieve objectives. AIIB will, therefore, selectively support projects using country and corporate systems, following review to assess their proposed application. In strengthening systems and using them in projects, AIIB will coordinate closely with other multilateral development banks, bilateral donor organizations and relevant centers of expertise.

When co-financing a project with other financial institutions, AIIB seeks to cooperate with them with a view to adopting a common approach to appraisal, requirements, monitoring, and reporting regarding the project. Where such requirements differ, typically the most stringent requirement will be applied. AIIB may agree, on a case-by-case basis, to the application to a project of the environmental and social policies and procedures of MDBs and bilateral development organizations who are co-financing the project, provided that AIIB is satisfied that they are consistent with AIIB's Articles of Agreement and broadly consistent with the ESP and the ESSs, and that acceptable monitoring procedures are in place. In such cases, AIIB may rely on the co-financier's determination as to whether the co-financier's policies and procedures have been complied with. Stephen Lintner noted that this process has been very well received by the private and public sector and has been used in recently-approved projects co-financed with the ADB in Pakistan, EBRD in Tajikistan, IFC in Myanmar and the World Bank in Indonesia and Pakistan.

Other features of the framework include: (i) project level grievance redress systems; (ii) use of independent advisory panels for complex projects; (iii) inclusion in financing agreements and contracts; and (iv) provisions for remedies. AIIB also has an independent oversight mechanism, including a compliance, effectiveness and integrity unit.

Stephen Lintner concluded by noting that the biggest challenge is to ensure that identified risks and impacts are managed and that adequate measures to prevent or mitigate those risks and impacts are integrated into project design.

Presentation 11:	*World Bank Environmental and Social Framework (ESF) and PPPs*
Presenter:	***Peter Leonard*** *Safeguards Adviser, East Asia Pacific, World Bank*

Peter Leonard commenced with the background and rationale for the revised Environmental and Social Framework (ESF) for the World Bank, namely to achieve world class safeguards, directly linked to achieving the World Bank Group's twin goals of eliminating extreme poverty by 2030 and boosting shared prosperity. This would be achieved through: (i) enhanced protection for the poor and the environment through modernized standards; (ii) inclusive access to development benefits through non-discrimination and other inclusive development approaches; (iii) stronger leadership by the World Bank through a modernized framework; and (iv) stronger partnerships through increased use of borrowers' frameworks.

He provided an overview of the revised ESF development of the World Bank's safeguards and noted the shift from eight individual fragmented safeguard policies and a policy on borrower systems, to a coherent framework of one policy and 10 Environmental and Social standards. The new ESF (i) builds on the core principles of previous safeguard policies and broadens coverage of environmental and social risks; (ii) addresses new development demands and challenges and meets varied needs of borrowers; (iii) balances monitoring and implementation support with borrower responsibility; and (iv) strengthens sustainable environmental and social outcomes of World Bank projects with the ambition of a world class safeguards framework.

Peter Leonard noted that the new ESF allows the World Bank to address new development demands and challenges. For example, China, Thailand and the Philippines have all changed tremendously recently and consequently their needs have changed since the previous safeguards policies were established. The review process for the ESF, which seeks to strengthen sustainable environmental and social outcomes, was extensive—the largest stakeholder consultations ever undertaken by the World Bank. He then provided an overview of each of the environmental and social standards:

- ESS1 - Risk Assessment and Management. Requirements for the process of assessing and managing environmental and social risk for project appraisal.
- ESS2- Labor and Working Conditions. Requirements for protecting workers in Bank-financed projects (first World Bank standard on labor).
- ESS3 - Resource Efficiency and Pollution Prevention. Requirements for cleaner production, handling resources efficiently, and preventing and managing pollution.
- ESS4 - Community Health and Safety. Requirements for health, safety, and security risks and impacts on project-affected communities.
- ESS5 - Land Acquisition, Restrictions on Land Use and Involuntary Resettlement. Requirements to prevent adverse effects of land acquisition in Bank-financed projects.
- ESS6 - Biodiversity Conservation and Sustainable Management of Living Natural Resources. Requirements for protecting living organisms and responsibly managing scarce resources.
- ESS7 - Indigenous Peoples. Considerations for Indigenous Peoples affected by Bank-financed projects to avoid negative effects and enable their access to development benefits.
- ESS8 - Cultural Heritage. Standard to protect cultural heritage, including the physical environment of cultural heritage sites.
- ESS9 - Financial Intermediaries. Requirements for managing environmental and social risk of Financial Intermediaries high and substantial risk loans.
- ESS10 - Information Disclosure & Stakeholder Engagement. Requirements for access to information and stakeholder participation in Bank-financed projects.

Peter Leonard highlighted that the third phase of consultations took place from August 2015 in 34 countries, including China, Indonesia, Japan and Vietnam in the East Asia and the Pacific region of the World Bank. The main focus was on: (i) implementability of proposed standards in World Bank-financed projects; (ii) potential changes in the effort required for borrowers; and (iii) outstanding issues to be resolved in the third draft. 52 issues arose from the preceding consultation process requiring further discussion.

Peter Leonard concluded the presentation by looking ahead to the implementation and rollout of the new ESF. This will include, among other things: (i) developing guidelines for each of the 10 Environmental and Social Standards; (ii) providing more detailed guidance on the approach of using country systems; (iii) consultations with borrower countries and development partners on the implementation of the ESF; (iv) developing regional and country engagement strategies; and (v) country environmental and social assessments of country frameworks to be done or completed where needed as part of assessment tools.

Discussion

Participants asked about AIIB's experience working with the private sector. The panelist replied that AIIB's Environmental and Social Framework provided the type of flexibility required by the private sector's processing timelines. The AIIB representative elaborated by explaining that, in his experience, working with the public sector tended to be more rigid, with somewhat inflexible processes. However, he added that working with the public sector was an advantage because stakeholder engagement generally occurred at a much earlier stage of the project and AIIB had more influence in the design of environmental and social risk management measures.

During the second part of the discussion, participants inquired about the importance of supporting the use of borrower frameworks, mentioning that some development agencies in Asia have extremely high standards that should be recognized and used as aspirational good practice examples. The session panelists responded by stating that except in the case of very small countries, it was unrealistic and unlikely that development banks and other lenders will work with an entire borrower framework, and it was more likely they would work with parts of the framework, as well as specific subnational frameworks. The panelists added that prior to the application of a borrower framework, the implementing team should undertake a gaps analysis.

The panelists emphasized that one of the next steps in the process was strengthening the borrower's framework by aligning national and subnational norms and practices. They concluded by highlighting that technical support to government institutions should be provided strategically and on a sustained basis, targeting both implementing teams as well as management and administrative staff to embed a broad understanding of environmental and social risk management measures within the institution.

SESSION VII:	***Structuring Safeguards & PPPs for Optimal Success*** *10:30 am – 10:45 am*

Presentation 12:	*Managing Environmental and Social Risks in EIB Operations*
Presenter:	***Adina Relicovschi*** *Senior Environmental Expert, Environmental, Climate and Social Office, Projects Directorate, EIB*

Adina Relicovschi commenced her presentation with an overview of the European Investment Bank (EIB), the Bank of the European Union and the largest multilateral lender and borrower in the world. EIB was established in 1958 and represents the interests of the EU states. She outlined the role of EIB as "lending, blending and advising", noting that lending in EU-28 is the EIB's principle activity accounting for 90% of total financial commitment. Blending is a way of providing innovative, sophisticated financial tools to combine EIB funding with additional sources of investment, and advising includes the provision of technical and financial expertise.

Figure 10: Structuring Safeguards & PPPs for Optimal Success

She further outlined that 10% of EIB's lending is outside of Europe, noting an external investment ceiling of €30 billion for the period 2014-2020 under EU external lending mandate provided by EU co-legislators, the European Parliament and the European Council. EIB's priority objectives are infrastructure, SMEs, knowledge economy, and environment and climate change. Efforts to mitigate/adapt to climate change are a core priority for the EIB, with 25% of total EIB lending going towards climate action.

Adina Relicovschi provided an overview of EIB's approach to the management of environmental and social risks, noting the basis in the Lisbon Treaty, Charter of

Fundamental Rights of the EU, Good Practice from UNGPs, and ILO Core Labour Standards. This led into the EIB's Statement of Environmental and Social Principles and Standards (2009). Articulation of EIB's commitment towards E&S sustainability and the protection and respect of human rights has been captured in the 10 E&S Standards.

By approving the 2009 Statement on Environmental and Social Principles and Standards, EIB aims to add value by enhancing the environmental and social sustainability of all the projects that it is financing. These principles are key to understanding operations in the context of the wider global drivers and cross cutting issues of (i) human rights and social dimension of sustainable development; (ii) climate change; and (iii) biodiversity and ecosystems, which are integrated across all EIB lending policies. The E&S Principles are operationalized by the 10 E&S Standards and complement the financial and economic criteria in the appraisal of projects. These are aligned with other IFI E&S Standards, and apply to both public and private sector and to all regions.

In terms of EIB's financing instruments, she outlined that EIB has an extensive range of instruments to finance public and private sectors at investment and sub-investment grades of risk. There are a set of options suitable to investment grade operations, and special activities that would be utilized for low and sub investment grade operations.

Adina Relicovschi also described EIB's involvement across the project and lending operation lifecycle. She also highlighted the European PPP Expertise Center (EPEC) and the structure that they would follow for a typical project cycle. Within EIB, there are three main stages; (i) pre-appraisal to identify the eligibility of a project for EIB financing; (ii) appraisal; and (iii) monitoring from the signature of the loan contract through the project implementation and operation phase until the loan is paid back.

In addition, she referred to the EIB's publication of outcomes on environmental and social due-diligence via their Public Register on Environmental Information, at a project and policy level.

Adina Relicovschi concluded by outlining the key questions regarding environmental and social studies, cumulative assessments and implementation, including risk allocation between government and the private sector. She noted the many remaining challenges in PPP projects, including the wide gap between local regulations and the performance standards and the capacity of bidders to manage environmental and social risk.

Presentation 13:	*Understanding IFC's E&S Risk Management Approach in PPPs*
Presenter:	***Ruby Ojha*** *Environmental and Social Development Specialist, IFC*

Ruby Ojha outlined IFC's approach to managing environmental and social risks in PPPs and provided an overview of the IFC sustainability framework with respect to advisory services and where it is explicitly mentioned that advice and training will be consistent with the IFC Performance Standards.

She observed that for PPP projects, the client is either the government or public sector, and that IFC's mandate generally stops once the private developer is selected through a tender process.

In terms of PPP transactions, she explained that the role of the IFC is to: (i) ensure that the project is feasible, including preliminary E&S risk assessment; (ii) prepare a "bankable" structure and allocate risks including E&S; (iii) identify qualified investors; and (iv) and maximize competition.

Typical E&S issues in PPPs include: (i) occupational health and safety and working conditions; (ii) life and fire safety; (iii) pollution due to emissions/wastewater discharge/waste handling; (iv) access to natural resources; (v) community health and safety; (vi) land/resettlement; (vii) livelihood loss/retrenchment; and (viii) disturbance of marine ecology.

IFC internal protocols for ensuring E&S inputs at various stages of the PPP cycle include E&S scoping study to identify key E&S risks and E&S risk allocation for defining the transactional structure. At the tender stage, it is critical to ensure that E&S obligations are reflected in contract documentation. During implementation, monitoring requirements through third party audit is needed.

Ruby Ojha outlined a typical split of environmental and social obligations between the government and the concessionaire and also posed the following key questions:

- Who does the environmental and social studies, and when?
- How is compliance monitored?
- What is the capacity of stakeholders to ensure effective implementation?
- Are cumulative assessments needed?
- How is risk allocation defined between the government and private developers during implementation?

Figure 11: IFC's E&S Risk Management Approach in PPPs in the Asia Pacific

She recommended the following allocation of responsibilities between the parties:

Client:	- Availability of land free from all encumbrances - Land acquisition and implementation of Social Entitlement and Compensation Procedure/ Livelihood Restoration Plan
Concessionaire	- Implementation of Environmental and Social Management System (ESMS), Environmental and Social Management Plan (ESMP) and related sub-plans/procedures - Implementation of Contractor/subcontractor Management Plan - Implementation of OHS Management Plan
Client + Concessionaire	- Implementation of Stakeholder Engagement Plan and grievance mechanism - Audit by an Independent E&S Consultant to review compliance with E&S obligations of Concessionaire Agreement

Ruby Ojha concluded by noting the many challenges remaining in C3P projects such as:

- Significant gaps between local legal requirements and performance standards
- Efficiency of local regulatory environment
- E&S risk allocation
- E&S risk management within project management
- Capacity of successful bidder to meet PS requirement
- Capacity of client to monitor implementation of PS requirement

Presentation 14:	*Philippine Framework on ESS for PPPs*
Presenter:	***Joanna Geronimo-Anzures*** *Director, Public-Private Partnership Center (Philippines)*

Joanna Geronimo-Anzures commenced her presentation by noting that the Philippines Public-Private Partnership Center was created in 2010 and has 55 projects in the pipeline, of which 15 have been awarded. Her presentation covered the Philippines framework on environmental safeguards, the Philippines Framework on Social Safeguards, and the roles of government agencies and other stakeholders in the PPP project cycle to ensure compliance with environmental and social safeguards.

With reference to the Philippines Framework on Environmental Safeguards, she explained that this consists of three laws: the 1987 Philippine constitution and two Presidential decrees (1511 and 1586). These seek to protect and advance the right of the

people to a balanced and healthful ecology in accord with the rhythm and harmony of nature; mandate that each project must have an environmental impact study; and strengthen the need for environmental impact statement in each project.

In terms of institutional arrangements, Joanna Geronimo-Anzures noted that the Department of Environment and Natural Resources (DENR) has appointed a special bureau to be in charge of environmental risk management. The Bureau's Circular No. 2014 005 consists of guidelines for coverage, screening and standardized requirements under the Philippine Impact Statement System.

She highlighted key aspects of legislation regarding resettlement and land acquisition. The Philippine Constitution has two key aspects: (i) private property shall not be taken for public use without adequate compensation and (ii) urban and rural dwellers shall not be evicted nor their dwellings demolished except in accordance with law. There is also the Republic Act (1991), which requires prior consultation before any program or project is implemented and that relocation sites shall have been provided. A subsequent Urban Development and Housing Republic Act (1992) requires certain conditions prior to the execution of eviction and demolition orders, such as notice of at least 30 days, consultations and relocation. Furthermore, the DPWH Department Orders from 2003 include guidelines for land acquisition and resettlement action plans.

A new Republic Act (2016) called the Right of Way (ROW) law was enacted and the salient points from this act include:

- In a negotiated sale, the government shoulders payment of taxes.
- In expropriation proceedings, the Implementing Agency can seek issuance of a writ of possession if the court fails to issue the same within 7 days from receipt of payment.
- The government is to develop relocation sites for informal settlers.
- For PPP projects, the Project Proponent may (i) advance the funds covering ROW or (ii) finance the ROW and recover it from user fees.
- There is to be regulation of development within the declared ROW.

With regards to Indigenous Peoples (IPs), Joanna Geronimo-Anzures advised that the 1987 Philippine Constitution recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development. The Indigenous Peoples' Rights Republic Act (1997) gives IPs the right to determine and decide their own priorities for development. The DPWH Department Order No.327 (003) requires the creation of an Indigenous Peoples' Action Plan if IPs are affected by infrastructure projects of DPWH.

She further explained the roles and responsibilities of different stakeholders in the PPP Project Cycle, from preparation to implementation, to ensure compliance with environmental and social safeguards and noted that the most critical point was environmental and social compliance during project implementation.

Key suggestions to improve the process were: (i) setting of realistic timelines; (ii) pro-active coordination among government agencies; (iii) mitigation of political concerns relating to Indigenous Peoples; and (iv) capacity building to strengthen the monitoring of compliance with safeguards.

Discussion

The first part of the discussion focused on the PPP Center with a participant asking at what stage of the project the PPP Center became involved. The panelist responded that the PPP Center was involved from the onset of a project and throughout its lifetime—from concept to implementation. By participating throughout the project cycle, the PPP Center had greatly increased the efficiency with which a project was approved for bidding.

The discussion then covered the issue of preparing Impact Assessments. Participants inquired what steps would ensure the preparation of a good quality ESIA. The session panelists explained that a key element in ensuring adequate impact assessments was supporting clients from the early stages of the project to help them identify the main environmental and social risks and impacts. A panelist added that, when necessary, clients should be given assistance in preparing terms of reference for ESIAs before the risk identification stage. Another issue highlighted was the importance of undertaking consultations throughout the project cycle, beginning at project design and later as part of ESIA preparation.

The third discussion topic centered on the difficulty of harmonizing environmental and social risk management policies. A participant commented that companies sometimes have difficulty complying with environmental and social risk management measures when several IFIs were involved in projects and different sets of policies applied to different, or all, parts of the project. A panelist replied that the difficulty was reaching the right balance and advised that many projects overcame that challenge by agreeing on a common approach to environmental and social risk management in projects.

Presentation 15:	*Lessons Learned for Implementing International Best Practice in ESS*
Presenter:	***Wito Krisnahadi*** *Managing Director and Chief Risk Officer, Indonesia Infrastructure Financing*

Wito Krisnahadi commenced his presentation with an overview of Indonesia Infrastructure Finance (IIF), established as a non-bank financial institution that supports the development of infrastructure projects in Indonesia. The founding shareholders include PT Sarana Multi Infrastruktur (SMI) (Indonesia's state owned infrastructure financing company), IFC, ADB and Deutsche Investitions-und Entwicklungsgesellschaft mbH (DEG), with Sumitomo Mitsui Banking Corporation (SMBC) joining subsequently.

He outlined that the rationale of IIF's creation was due to bottlenecks in the infrastructure sector that hamper economic growth, caused by: (i) the funding gap, given limitations of public sector financing, long-term sources of financing, the private sector's participation, experience in project financing, experience in PPP transaction; and (ii) sub-optimal project preparation. In response, IIF provides financing to infrastructure projects and advisory services for project preparation support in order to be more investor-friendly and bankable.

Figure 12: Lessons Learned for Implementing International Best Practice in E&S Safeguards

IIF is supervised by Indonesia's Financial Service Authority with the objective of investing in commercially feasible infrastructure projects in Indonesia. IIF invests in the transportation, roads, irrigation, drinking water, waste/waste water, telecommunication and information, electricity, and oil and gas sectors as governed under the Ministry of Finance Regulation 100/2009.

IIF's vision is to provide financing for infrastructure in Indonesia and to work closely with infrastructure sponsors, the financial sector, and the Government of Indonesia to accelerate the construction of well-conceived, commercially viable infrastructure projects. IIF also ensures investors' requirements are reflected in contractual structures and concessions and works with Indonesia's financial institutions and other institutional investors to channel the public's saving into the long-term development of Indonesia's infrastructure.

Wito Krisnahadi then provided an overview of IIF's Social and Environmental Management System (SEMS), which is part of IIF's Operations Manual. This covers the details of the social and environmental safeguard policies, principles, procedures, institutional arrangements, and workflows that IIF follows for making its investments. IIF's

SEMS aims to ensure consistency and effective implementation of the social and environmental management practices in all its activities, products and services. The SEMS objectives include: (i) integrated project assessment to identify social and environmental impacts, risks and opportunities; (ii) effective stakeholder engagement through disclosure of project-related information, and consultation with affected communities on matters that directly and indirectly affect them; and (iii) management of social and environmental performance throughout the project life cycle. IIF's SEMS was modified to comply with IFC Performance Standards 2012 in December 2014.

He identified the main Social and Environmental (S&E) related challenges in Indonesia as:

- Limited supply of S&E Experts that understand the local context.
- Buy-in from all stakeholders is mandatory; it is insufficient for only the borrower to commit to implementing S&E Principles as this normally requires the involvement of the whole value chain.
- Understanding that outcomes are not necessarily paramount, as the process is equally important including implementation, as well as monitoring and evaluation.

Wito Krisnahadi also provided lessons learned by IIF in implementing best practice S&E to its projects and concluded his presentation with an overview of the following key takeaways:

- Engagement with project owners and borrowers is important, through both formal and informal relationship building. It is crucial to discuss and educate them on IIF's S&E Principles and encourage buy-in.
- A risk-based (rather than compliance-based) approach is more appropriate for private sector clients. Seeking creative and relatively more flexible solutions to mitigate S&E main risks are often needed, as long as the process and result are not compromised.
- Buy in from all stakeholders involved is key. Coordination with all stakeholders is of paramount importance.
- Continuous discussion and effort in presentations, explanation and close guidance for the project company by IIF's S&E Team to support the project implementation is vital.
- Continuous dialogue with and support from IIF's shareholders and lenders is required.

Discussion

Participants asked the panelist to expand on the competitive advantage of the Indonesia Infrastructure Finance Company (IIF). Wito Krisnahadi replied that the IIF is usually a complementary investment partner and that its competitive advantage stems from its strong experience in, and commitment to, following environmental and social risk management international good practices. He explained that having the IIF as a partner set the project on a much higher level of risk management, which many companies

viewed as an added value. Accordingly, many commercial banks approached the IIF to provide advisory services.

SESSION VIII: Discussions on Recommendations and Actions to Enhance Effectiveness of Safeguards in the Development of PPPs	
	1:15 pm – 3:00 pm
Chair:	***Peter Leonard***
	Safeguards Adviser, East Asia Pacific, World Bank
Panelists:	***Noel Peters***
	Senior Environment Specialist, ADB
	Jun Watanabe
	Director, Environmental and Social Considerations Review Division, JICA
	Andy Isbister
	Assistant Director, Environment Safeguards, DFAT
	Ruby Ojha
	Environmental and Social Development Specialist, IFC

Figure 13: Discussions on Actions to Enhance Effectiveness of Safeguards in the Development of PPPs

The panelists agreed that there is a tremendous need not only for investments, but also to enhance the effectiveness of those investments.

Noel Peters stated that developing country safeguards standards is a key challenge and worthy of investment because it is crucial that country safeguards standards are of a high standard. This would also allow business to be conducted more efficiently because it would make working with IFIs easier. He added that overall, IFI collaboration is beneficial. ADB's involvement with the project, for example, is sought after because of its added value—both for reputational reasons and in terms of good practice.

Jun Watanabe referred to JICA's programs in the PPP Project. JICA, he explained has guidelines for environmental and social considerations and these comply with international standards. He observed that while land acquisition is usually seen as the responsibility of the government, JICA strives to negotiate with the government and ensure that it appropriately complies with environmental and social standards.

Andy Isbister commented that the problem is not whether there are appropriate standards, but whether or not those standards are complied with. One of the main problems, he suggested, is that bureaucracy and decision makers do not know the environmental and social risks in infrastructure development. The question is how to convey these risks to decision makers, without having them revert to the lowest risk denominator.

Ruby Ojha contended that a project can be made bankable by addressing reputational risks appropriately and, accordingly, donors have a key role because they have leverage. They can also share examples of those projects that had gone wrong because risks were not addressed appropriately.

SESSION IX:	***Break out Group Discussions - Recommendations and Actions to Enhance Effectiveness of Safeguards in PPPs*** *3:45 pm – 4:30 pm*

This discussion session focused on the importance of harmonizing environmental and social risk management standards for PPP projects. A participant emphasized that it was essential that governments understood the importance of and ensured consistency in the application of environmental and social risk management measures for PPP projects across the region. Another participant added that this would make monitoring and supervision easier and more effective and would speed up bureaucratic processes. It was also noted that it would be useful to create documentation that could be applied to, and understood by, all institutions.

A participant highlighted the existence of the International Infrastructure Support System (IISS), a platform aimed at standardizing forms, including safeguards documentation, and advised that it was an excellent venue to share experiences and information on the preparation of PPPs projects across regions and organizations.

A participant then asked if the World Bank's new Environmental and Social Framework (ESF) facilitated working with borrower frameworks. A participant replied that the ESF now incorporated the ability to use a "common approach" to environmental and social risk management, which fostered the use of borrower frameworks and would facilitate finding the means to do so. The participant explained its rationale by noting that several countries now have excellent environmental and social risk management measures and focus should therefore now be on countries that are still struggling to implement adequate standards.

The key recommendations reported at the end of the group break-out discussions were:

- In the long term, aim for unified standards. In the interim, more and better use of common approaches/standard among lenders and increased use of country safeguards systems when appropriate.
- Recognition that extensive capacity building will be required for all parties, through Learning Centers and utilizing existing PPP centers or other venues.
- Provide tangible guidance such as standard E&S clauses and project structures to governments and for PPP projects.
- Integration of E&S requirements, roles and responsibilities in all legal documents. Develop common clauses or standard contracts. Ensure roles and responsibilities for monitoring in contracts are clearly outlined and agreed. Ensure all parties are aware of and understand monitoring reporting.
- Research and document the costs and benefits of doing things well, such as higher capital expenditure (capex) upfront versus lower operational expenditure (opex) over the concession period. This includes institutional monitoring of what works and what does not work and knowledge capture, including case studies on the impacts of bad practices globally.
- Benchmarking and diagnostic by country and/or sector to accurately identify actual blockages.
- MDBs should identify opportunities to facilitate peer-to-peer learning opportunities.
- Preparing a “boiler-plate” PPP framework that could be contextualized by country or sector.

Other critical success factors identified for E&S risk management on PPPs were:

- Timing is important—political expectations often conflict with the realities of environmental and social requirements and timeframes for projects must be realistic. Explore tools (e.g. IFC’s transaction tools) available to facilitate early engagement.
- Careful, considered allocation and agreement of social and environment risks among parties helps put risks into the hands of those best placed to manage them during appraisal, construction and operations.
- Clear contractual obligations for the different parties involved in the preparation and implementation of infrastructure minimizes uncertainty over timing, costs, and accountability.
- It is unrealistic and counter-productive for private sector partners to insist on ring fencing themselves from risks associated with land acquisition. Poorly implemented land acquisition by a partner government will almost always have significant and ongoing ramifications.

Presentation 16:	*Summation, Discussion and Wrap Up*
Presenter:	***Mark Kunzer*** *Principle Environmental Specialist, Asian Development Bank*

Mark Kunzer provided an overview of the workshop over the two days, making the following remarks.

Day 1

In the morning session, representatives from the World Bank and ADB provided an overview of environmental and social issues. It is important to understand social structures and that failure to do this can result in obstruction to the project if agreements are not met, as it is key to successful PPP partnerships to manage and mitigate environmental and social risks. Robust risk assessment increases the bankability of a project, while recurring issues are the capacity of counterparts and the timing and early discussions of risk.

ADB's presentation on the Philippines case studies looked at two rail projects. The major issue in both projects is securing the right of way and completing the resettlement of affected people, with a lesson that the land acquisition needs to be completed before contracts with the private sector partner become effective. Similarly, expectations of the timeframe need to be realistic. Another key point is that capacity in government agencies, and sometimes the private sector partners, are lacking in this regard.

David Blaha from ERM then presented some lessons learned in managing environmental and social risks of major infrastructure projects. He introduced the Environmental and Social Governance (ESG) continuum that provides a measure for both private sector and government partners and presented the findings of ERM research, showing that for PPP projects that have been cancelled or delayed about 50% of the delays or cancellations were due to environmental and social risks rather than technical issues.

Next a panel representing a number of the major players in PPP projects gave their perspectives of environmental and social risks and investment decisions. Cosette Canilao from Atkins Acuity and formerly from the Philippines PPP Center, made the key point that a good private sector partner in a PPP project who has a commitment to ESG and CSR will become involved in consultation and negotiations with the affected communities.

Jean-Christophe Philbe from EDF then provided a perspective on PPPs and lessons learned from the Nam Theun 2 (NT2) project. The key points included that long-term commitments for private sector partners come with major infrastructure projects and the private sector must have responsibility for environmental and social programs during construction and operation. He also provided four key lessons from NT2 Hydropower Development Project: (i) environmental and social risk must be considered from the outset and impacts last decades; (ii) embed E&S risks into contracts; (iii) clearly identify

responsibilities and role of local government agencies, as the long-term sustainability of programs depends on local government; and (iv) align all actors in a project.

Bruce Weller of BNP then provided a perspective on the financial institutions in the region. He considered that most financial institutions in the region are still in the “tick-the-box” mode with regards to environmental and socials risks and that significant gaps remain between regional banks and the International Financial Institutions (IFIs).

Martin David from Baker Makenzie then outlined the roles that lawyers have in the PPP process and the importance of reference points for project development, noting that lawyers can bring clarity to the roles and responsibilities of each of the partners and better define roles and responsibilities.

The final panel member was Ray Tay from Moody’s and he outlined their Environmental and Social Governance (ESG) ratings for infrastructure. He set out a number of indicators that have been developed explaining that the sectors identified with the highest ESG risks include power utilities, coal mines, airlines and oil and gas exploration.

In the afternoon, a number of case studies of PPP projects in Vietnam and Mongolia were outlined. Two differing perspectives were presented for Vietnam, including a successful resettlement program for a Local Economic Zone project and the failure of a proposed PPP project for a highway project near Ho Chi Minh City. In both case studies the lack of capacity in national and local government was a major stumbling block.

The wrap up for the first day concluded that affected communities must be treated fairly; otherwise this presents a significant risk to PPP projects. This is central to IFIs policies, and should be considered a natural right.

Day 2

The second day focused on the various policy requirements of the different financing institutions. It was striking that significant efforts have been made to harmonize policies among the institutions—AIIB, WB, EIB and IFC—and there are obvious similarities. For example, AIIB aligns well with ADB and WB, while IFC, and EIB have similar architecture regarding policies and performance standards. While obvious efforts are being made towards harmonization, discussions over the two days of the workshop suggest that practitioners consider that significant progress is still needed to achieve alignment between all the institutions.

Presentations from two of the agencies promoting PPPs in the region—the Philippines PPP Agency and the Indonesia Infrastructure Finance (IFF)—made it apparent that a dedicated organization to facilitate the preparation and approval of PPP projects can greatly speed up delivery of PPP projects.

Panel One. The panelists from AIIB and the World Bank summarized their new environmental and social risk management frameworks. Stephen Lintner noted that the AIIB had opted for a concise framework that prioritizes clarity and consists of three

standards—Environmental and Social Assessment and Management, Involuntary Resettlement, and Indigenous Peoples. Peter Leonard, from the World Bank, explained that the recently approved Environmental and Social Framework (ESF) provided the opportunity to clarify several issues that are not explained in sufficient detail in the World Bank's Safeguards Operational Policies. Both panelists highlighted that their new frameworks simplified working with other IFIs by allowing the use of other environmental and social risk management systems where there is consistency with their frameworks.

Panel Two. Panelists also spoke about their respective environmental and social risk management systems and explained the key challenges to ensuring compliance. Adina Relicovschi noted that the EIB had identified low capacity of non-EU members as a major challenge to lending. Ruby Ojha from the IFC observed that the greatest challenge was ensuring that bidders had the environmental and social management capacity that they claimed to have in the bidding documents. Joanna Geronimo Anzures, from the Philippines Private-Public Partnership Center, explained that the Philippines environmental safeguards framework was relatively new, and that while it improves existing opportunities to manage environmental and social risk, national and subnational institutions still require further strengthening.

The afternoon breakout sessions linked back to the objectives set out by Eddie Smyth at the start of the workshop; namely, to share experiences and practices among stakeholders on the challenges of applying E&S safeguards to infrastructure development in PPP; and to discuss recommendations and future actions to improve the application of E&S standards to PPPs in the Asia Pacific region.

Discussion also focused on how PPPs and safeguards arrangements can be structured for optimal success in managing environmental and social risk, to secure financial benefits and avoid unnecessary pitfalls for investors.

The key recommendations identified through the group discussion in response were:

- Securing the land and/or right of way is critical to the success of any PPP project. This needs to be a key milestone early in the project planning and contracting schedule and without this delays are inevitable.
- Timing is important—political expectations often conflict with the realities of environmental and social requirements and hence timeframes for projects must be pragmatic.
- Allocation of E&S risk among partners needs to be well considered and clearly agreed.
- Capacity, especially for monitoring is a critical element.
- Continuing lack of alignment between lenders policies needs to be corrected.

APPENDIX I - Agenda

Wednesday 28 AM September 2016		
8:30 am – 8:45 am	**Welcome and Introductions**	Day 1 Facilitator: Eddie Smyth (Inter Social)
8:45 am – 9:45 am	**Session I:** ***PPPs and Environmental & Social Safeguards in context***	
	• Overview of Environmental and Social Safeguards Issues Pertaining to PPP Arrangements in Infrastructure Projects in EAP	Ross Butler (WB) (*20 mins*)
	• Facilitating PPPs: Insights on E&S Safeguards in the Philippines	Laureen Laurito (ADB) (*20 mins*)
	• Discussion	*(20 mins)*
9:45 am – 10:30 am	**Session II:** ***Managing Environmental Risks with Large Infrastructure Projects: Lessons Learned***	David Blaha (ERM) *(30 mins + questions)*
10:30 am – 10:45 am	***Break***	
10:45 am – 12:00 pm	**Session III:** ***Panel Discussion – Private Sector Perspectives on Safeguards and Investment Decisions*** - Gaps in industry understanding around the relationship between social risk and project outcomes and the value of early engagement. - Factoring safeguards into the costs of bids. - How does the private sector approach risk-sharing in the context of safeguards? - Is it fair to require the private sector to implement safeguards beyond those immediately associated with the underlying project itself? - Is there a point at which the costs and management time of complying with the safeguard requirements result in the project being either uneconomic or just to "troublesome" to support?	*Panel Chair: Mark Giblett (WB)* *(20 mins introduction)* *Q & A with Private Sector Panelists:* Martin David (Baker McKenzie) Cosette Canilao (Atkins Acuity) Bruce Weller (BNP) Ray Tay (Moodys) Jean-Christophe Philbe (EDF) *(15 mins discussion)*
12:00 pm – 1:15 pm	***Lunch*** *Optional Presentation on SERVIR-Mekong Present Tools and Integration with Google Earth Engine - David Ganz and Peeranan Towashiraporn (45 mins)*	

AGENDA

Wednesday 28 PM September 2016		
1:15 pm – 2:45 pm	**Session IV: *Case Studies, Gaps and Challenges***	
	• Infrastructure Sustainability Rating Scheme	Antony Sprigg (ISCA) *(30 mins)*
	• Case Study – Vietnam Legislative and Regulatory Environment for PPPs	Fred Swierczek (AIT) *(30 mins)*
	• Questions / Discussion	*(30 mins)*
2:45 pm – 3:00 pm	***Break***	
3:00pm – 4:45pm	**Session IV: *Continued – Case Studies, Gaps and Challenges***	
	• Closing the Gaps: How Minimizing Social Risks can Spur Private Investment	Chris Johnstone (rePlan) *(25 mins)*
	• Cambodian Sustainable Finance Initiative: The Beginning of a Journey	John McGinley (Mekong Strategic) *(25 mins)*
	• Key Principles of Social Standards, with Focus on a Vietnamese Case Study	Eddie Smyth (Inter Social) *(30 mins)*
	• Questions / Discussion	*(25 mins)*
4:45 pm – 5:15 pm	**Session V – *Looking Forward – Actions to be Taken***	
	• How can Environment and Social Considerations Contribute to Public Private Partnerships for Infrastructure Development in Asia	Day 1 Facilitator: Eddie Smyth (Inter Social)
5:30 pm – 7:00 pm	***Reception – in the Padma Room***	

AGENDA

Thursday 29 AM September 2016		
9:00 am – 9:15 am	**Introduction to Day Two**	Day 2 Facilitator: Peter Leonard (WB)
9:15 am – 10:30 am	**Session VI: *Safeguards Standards and PPPs***	
	• New AIIB Environmental and Social Framework	Stephen Lintner (AIIB) *By VC (25 mins)*
	• Recently Approved World Bank Environmental and Social Framework (ESF) and Impact on PPPs	Peter Leonard (WB) *(25 mins)*
	• Discussion	*(25 mins)*
10:30 am – 10:45 am	***Break***	
10:45 am – 12:00 pm	**Session VII: *Structuring Safeguards & PPPs for Optimal Outcomes***	
	• Managing Environmental and Social Risks in EIB Operations	Adina Relicovschi (EIB) *(20 mins)*
	• Understanding IFC's approach to Manage E&S Risks in PPPs in the Asia Pacific	Ruby Ojha (IFC) *(20 mins)*
	• Overview of Philippine Framework on Environmental and Social Safeguards for PPP Projects	Joanna Geronimo-Anzures (Philippines PPP Center) *(20 mins)*
	• Discussion	*(15 mins)*
12:00 pm – 13:15 pm	***Lunch***	

AGENDA

Thursday 29 PM September 2016		
1:15 pm – 1:45 pm	Lessons Learned for Implementing International Best Practice in Social and Environmental Safeguards	Wito Krisnahadi (IIF) *(20 mins)*
1:45 pm – 3:00 pm	**Session VIII: *Discussions on Recommendations and Actions to Enhance Effectiveness of Safeguards in the Development of PPP*** Panel Discussion (Donors) on issues including: - What are the roles of governments, private sector, financial backers and donors in addressing roadblocks to private sector investment mechanisms? - What are the opportunities for donors to contribute to strong environmental and social risk management of PPPs and other private sector investments in the Asia Pacific?	Noel Peters (ADB) Jun Watanabe (JICA) Andy Isbister (DFAT) Ruby Ojha (IFC)
3:30 pm – 3:45 pm	***Break***	
3:45 pm – 4:30 pm	**Session IX: *Break-Out Group Discussions*** Recommendations & Actions to Enhance Effectiveness of Safeguards in the Development of PPP	
3:45 pm – 4:30 pm	**Session X: *continued*** Plenary Reporting and Discussion on Recommendations and Actions.	
4:30 pm – 5:00 pm	**Summation, Discussion and Wrap up**	Mark Kunzer (ADB)

APPENDIX II - PowerPoints Presented
September 28, 2016

	Day 1	**PPPs for Infrastructure Development in Asia**
1	Session I: 1	Overview of Environmental and Social Safeguards Issues Pertaining to PPP Arrangements in Infrastructure Projects in EAP (Ross Butler)
2	Session I: 2	Facilitating PPPs: Insights on E&S Safeguards in the Philippines (Laureen Laurito & Cathy Fong)
3	Session II: 3	Managing Environmental Risks with Large Infrastructure Projects: Lessons Learned (David Blaha)
4	Session III: 4	Presentation on SERVIR-Mekong (David Ganz)
5	Session IV: 5	Infrastructure Sustainability Rating Scheme (Antony Sprigg)
6	Session IV: 6	Case Study – Vietnam: Legislative and Regulatory Environment for PPPs (Fred Swierczek)
7	Session IV: 7	Closing the Gaps: How Minimizing Social Risks can Spur Private Investment (Chris Johnstone)
8	Session IV: 8	Cambodian Sustainable Finance Initiative: The Beginning of a Journey (John McGinley)
9	Session IV: 9	Key Principles of Social Standards, with Focus on a Vietnamese Case Study (Eddie Smyth)
	Day 2	
10	Session VII: 10	New AIIB Environmental and Social Framework (Stephen Lintner)
11	Session VII: 11	Recently Approved World Bank Environmental and Social Framework (ESF) and Impact on PPPs (Peter Leonard)
12	Session VIII: 12	Managing Environmental and Social Risks in EIB Operations (Adina Relicovschi)
13	Session VIII: 13	Understanding IFC's Approach to Manage E&S Risks in PPPs in the Asia Pacific (Ruby Ojha)
14	Session VIII: 14	Overview of Philippine Framework on Environmental and Social Safeguards for PPP Projects (Joanna Geronimo-Anzures)
15	Session VIII: 15	Lessons Learned for Implementing International Best Practice in Social and Environmental Safeguards (Wito Krisnahadi)

APPENDIX III - List of Participants

Name	Organisation	Location	Position
Mark Kunzer	ADB	Philippines	Principle Environmental Specialist
Noel Peters	ADB	Philippines	Senior Environment Specialist
Laureen Laurito	ADB	Philippines	Social Development Officer
Cathy Fong	ADB	Philippines	Senior PPP Officer
Jonathan Shaw	AIT Bangkok	Vietnam	Executive Director
Fred Swierczek	AIT VN	Vietnam	Director, AIT Vietnam
Naveed Anwar	AIT Bangkok	Vietnam	Executive Director, AIT Solutions
Oleg Shipin	AIT Bangkok	Vietnam	Professor of Environmental Technology
Cosette Canilao	Atkins Acuity	Singapore	Managing Director
Martin David	Baker McKenzie (law firm)	Singapore	Principal – Finance and Projects
Bruce Weller	BNP	Singapore	Head of Project Finance for Asia Pacific
Ms. Li Mingcong	China PPP Centre	China	Analyst & Loan Officer
Dr. Carl Middeton	Chula University	Thailand	Professor
Andy Isbister	DFAT	Australia	Resettlement Safeguards Adviser
Michael Quinn	DFAT	Australia	Assistant Director - Environment Safeguards
John Alikpala	DFAT	Philippines	Portfolio Manager - Philippines
Philip Montgomery	DFAT	Australia	Principle Consultant, GHD
Benjamin Duret	EDF	Thailand	Project Coordinator / Senior Legal Counsel
Adina Relicovschi	EIB	Luxembourg	Senior Environmental Expert
Jean-Christophe Philbe	Electricite de France	Thailand	Director Asia, International Division
David Blaha	ERM	USA	Principal Partner
Ruby Ojha	IFC	India	E& S Development Specialist
Mr. Wito Krisnahadi	IFF	Indonesia	Managing Director and Chief Risk Officer
Jeremy Saw	InfraCo Asia (PIDG)	Singapore	Legal & Compliance Manager
Ian McAlister	InfraCo Asia (PIDG)	Singapore	Technical expert
Antony Sprigg	ISC of Australia	Australia	CEO
Kirsty O'Connell	ISC of Australia	Australia	Stakeholder Advisory Group
Eddie Smyth	Inter Social	Ireland	Director
Jun Watanabe	JICA	Japan	Director, E&S Review Division
Yoshiki Uenishi	JICA	Japan	Deputy Director, E&S Supervision Division
Ray Tay	Moodys	Singapore	Vice President, Corporate Finance, Moody's

Name	Organisation	Location	Position
John McGinley	MPE Cambodia	Cambodia	Managing Partner, Mekong Strategic
Dari Prempoomiwate	NEDA	Thailand	Director, Technical Assistance Bureau
Chanita Kehatat	NEDA	Thailand	Project Analyst, Technical Assistance Bureau
Pongsatorn Noodum	NEDA	Thailand	Project Analyst, Technical Assistance Bureau
Chakriya Kathaleephan	NEDA	Thailand	Policy and Planning Analyst, Policy and Planning Bureau
Monticha Rukwijidkul	NEDA	Thailand	Project Analyst, Project Operation and Management Bureau
Jirayout Boonyalid	NEDA	Thailand	Project Analyst, Project Operation and Management Bureau
Toshio Fujinuma	NEDA	Thailand	JICA Expert to Dawei SPV
Mr. Yasuo Kannami	NEDA	Thailand	JICA Expert to Dawei SPV
Christy Owen	Pact World	Thailand	Chief of Party
Joanna Geronimo-Anzures	PPP Centre Philippines	Philippines	Director
Chris Johnstone	rePlan	Canada	Principal
David Ganz	SERVIR-Mekong	USA	Director
Chris Dege	USAID	USA	Environmental Adviser
Peter Leonard	World Bank	USA	Safeguards Adviser, EAP Region
Ross Butler	World Bank	Australia	Senior Social Development Specialist
Ivan Besserer	World Bank	USA	Social Development Specialist
Sonya Sampson	World Bank	Australia	Social Development Specialist
Mark Giblett	World Bank	Singapore	Senior Infrastructure Finance Specialist
Indira Dharmapatni	World Bank	Indonesia	Senior Operations Officer
Krisnan Isomartana	World Bank	Indonesia	Senior Environmental Specialist
Wolfhart Pohl	World Bank	Thailand	Lead Environmental Specialist