Comments on the draft ADB Environmental and Social Framework

May 10, 2024

Science has warned that six of the nine planetary boundaries have already been breached increasing the risks of generating large-scale abrupt or irreversible environmental changes and raising inequalities[1]. Asia Pacific is most vulnerable as it dominates global use of resources, and accounts for 63 per cent of the world's material use driven by new infrastructure in cities, a growing consumer base, and global manufacturing centers[2]. Having the majority of investments in the infrastructure, energy, manufacturing and agriculture sectors in the past 50 years, the Asian Development Bank (ADB) plays a key role in shifting economies to a sustainable and equitable growth In this regard, we welcome the draft Environmental and Social Framework expressing commitment for a circular economy and just transition.

Circular economy as economic planning presents economic opportunities through savings from a reduction in the extraction of virgin materials, the creation of new jobs, and the redesign of a more restorative economy. It presents significant potential for global economic growth and could generate $4.5 trillion by 2030[3].

A safeguards policy for a circular economy must provide criteria and guidance for gradually reducing the rate of resource use per unit of economic activity, move towards designing projects and systems that reduce waste and pollution, prolong the highest and best use of products and materials, promote ecosystem regeneration, and eliminate false solutions to circularity.

Circularity only helps the environment if and when it displaces new production. Collection and recycling cause carbon, toxic and hazardous emissions, as well as energy, water, material and land use. Those pressures on the environment can only be redeemed when recycling directly avoids primary material production like virgin polymers for plastics - and not when it feeds into a pattern of growing production

The best strategy to reduce overall primary material production is reduction, followed by reuse and repair or the higher options of waste hierarchy.

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[1] https://www.stockholmresilience.org/research/planetary-boundaries.html

[2] https://www.unep.org/regions/asia-and-pacific/regional-initiatives/supporting-resource-efficiency#:~:text=Asia%20Pacific&text=Asia%20Pacific%20dominates%20global%20use,manufacturing%20centres%20in%20the%20region.

[3] Lacy, P. & Rutqvist, J. (2016). Waste to wealth: The circular economy advantage. 10.1057/9781137530707.

Circularity is not intrinsically good for our planet nor something we should aspire to at any cost. Indeed, the circular economy paradigm only considers material use. It does not address energy use, water use, land use and the integrity of planetary boundaries, and as such, it cannot capture the lifecycle impacts of products. In contrast, ensuring just levels for planetary boundaries is an overarching systemic principle that the ESF must enshrine.

Though several significant strides have been made since the 2009 ADB Safeguards Policy, the current draft needs to be more progressive with regards to ensuring upward harmonization with international conventions, loopholes on standards to ensure the needed protection for people and planet to address the triple planetary crisis, and vague definitions of fundamental concepts such as circular economy and just transition.

PART I. VISION

Recommendation: The Vision must place complex and urgent development challenges, principles based on international law and global objectives as a foundation instead of focusing on the investment priorities of ADB such as infrastructure[4] or its operational priorities, as these limit its vista for a progressive and forward-looking ESF policy of a multilateral development bank accountable to international law and a contributor to the achievement of globally-agreed development objectives

a. The triple planetary crisis of pollution, biodiversity loss, and climate change in a region with conflicts and reprisals are increasingly affecting sustainable and equitable development outcomes.
b. The vision part should also include elaboration on development concepts supporting shifts in economic planning impacting directions as a result of this changed regional context . These include concepts on circular economy and just transition as they affect all the environmental and social standards of the ESF.
c. Critically important is the clear referencing of international conventions and agreements relevant to achieving biological diversity and pollution targets. It is critical to reference the Convention on Biological Diversity, Basel Convention, Rotterdam Convention, Stockholm Convention and Minamata Convention, including the Right to a clean, healthy and sustainable environment. Aligning with these conventions can enhance collaboration among the Bank, public and private borrowers, affected communities, enhance accountability, and improve development effectiveness.
d. As we strive for integrated risk assessment, principles of environmental law should be included in the vision for application across all the ESF environmental and social standards such as biodiversity, gender, climate change among others. Presenting the principles of prevention, precautionary approach, polluter pays, rectification of damage at source, and

[4] Par 1, draft ESF

environmental justice and equity as the common core of environmental law and policy is most relevant to protecting communities and the environment.[5]

Recommendation: Operationalize the commitment to a just transition which is sparsely mentioned in para 6.

Nowadays, to address the triple planetary crisis, governments and businesses must shift towards more environmentally-friendly, resilient, and low-carbon economic models. In this sense, *just transition* means shifting in that direction in a way that is as fair and inclusive as possible to everyone concerned, creating decent work opportunities and leaving no one behind.

In general, the measures regarding just transition contemplated in the proposed options mainly focus on the labor aspect, with direct benefits for workers involved in waste management. However, they overlook the transition that should be considered for other affected communities and lack consideration of potential adverse impacts from transition policies for other groups. Just transition measures must remedy past and current harm and ensure non-repetition, so that the transition is beneficial for all workers, communities and territories. Measures must serve all communities and groups currently affected by plastic pollution and include remediation of territories and reparations for groups that have been harmed by past pollution. These include territories affected by the extraction of fossil fuels used as raw materials for production of goods and services with hazardous processes and content, of workers exposed to toxics in processing plants, and waste pickers who have worked informally and whose work has historically not been recognized, among others.

The ESF must include a definition of just transition in specific contexts that reflects the priorities of all affected communities, groups, and territories, expanding on measures proposed by the ILO.

PART II . ENVIRONMENTAL AND SOCIAL POLICY (E&S POLICY), WHICH SETS OUT THE MANDATORY REQUIREMENTS THAT APPLY TO ADB

SCOPE OF APPLICATION

Recommendation: The scope of the ESF must include technical assistance (TAs) projects and sectoral policies in which the ESF applies:

We recommend the following language for par 4 in the draft ESF:

> *The requirements of this E&S Policy and the ESSs apply, to the extent such ESSs are determined to be applicable, to ADB sectoral policies, ADB-financed and/or ADB-administered sovereign and private sector projects and their components, regardless of*

[5] UNEP, Judicial Handbook on Environmental Law (UNEP 2005)

the source of financing or financing modalities and products, including investment projects funded by a technical assistance, loan, and/or a grant, and/or other means, such as equity and/or guarantees, hereafter broadly referred to as projects. A project's legal agreement describes a project to which the E&S requirements apply

Technical assistance (TA) is one of ADB's primary operational instruments for delivering assistance to developing member countries (DMC) and private sector clients. ADB's TA operations support lending and grant operations through project preparation and implementation activities, advisory services, research and development, and capacity development to deliver the desired development impacts and outcomes. ADB's TA operations have become an increasingly important source of knowledge solutions to assist DMCs and private sector clients in addressing key development challenges. TAs are classified into two types: transaction TA (TRTA) and knowledge and support TA (KSTA). Both types can be used for capacity development and policy advice, while research and development activities are generally supported through KSTA, and project preparation can only be supported through TRTA.

Given the critical role of TA as the primary operational instrument for delivering assistance to DMCs and private sector clients, it also has significant role in justifying projects that may not be aligned with international development objectives, opening markets for harmful and expensive technologies, shaping policies, and investment ecosystems in favor of the client's preferences.[6]

Recommendation: The ESF must include application of the policy to contractors and sub-contractors.

The term associated facilities only refers to fixed structures, not on sub-contractors or third party vendors providing services to another company. Although the draft states "management of contractors and sub-contractors" that "the borrower/client will require that all contractors and sub-contractors engaged on a project operate in a manner consistent with the requirements of the ESSs[7]", experience suggests that private companies struggle with complying with ESS requirements. Expecting them to capacitate their subcontractors is not aligned with avoidance to harm. Instead, it increases vulnerabilities for affected communities, workers, and the environment.

[6] In the Philippines, the TAs have been used to prepare the private sector for establishing WTE incineration in Cebu, Laguna and Pampanga. The latter two were with Proctor and Gamble. This is violative of the national ban on waste incinerators. In Cambodia, TAs for Refuse-Derived Fuel and for exploring options for Carbon Capture and Utilization in the petrochemical industry supports lower options in the waste hierarchy such as redesign, reduction, reuse, and recycling and are inappropriate solutions to the country's waste composition.
[7] Par 68, draft ESF on Management of Contractors

Third party vendors are often engaged by energy plants to reduce costs. However, they do not provide sufficient education, clear guidelines or capacities to comply with safeguards requirements. In waste-to-energy (WTE) incineration plants, this will include logistics work such as transport of bottom ash to landfill, transport of biomedical wastes, maintenance of the plant, among others which are crucial in avoidance of toxic and hazardous byproducts . Activities where third party vendors are engaged are subject to national regulations and MEAs such as the Basel Convention on the Transboundary Movements of Hazardous Wastes.

Recommendation: Consistent with its programs on social protection for the informal workers and Strategy 2030 goal of leaving no one behind, the draft must state that the ESF applies to Informal workers in the supply chain.

According to ADB, "Current economic, social, political, and demographic conditions in developing countries in Asia suggest that social protection programs that respond to the vulnerabilities of informal sector workers are required if the region is to fulfill the productive potential of its vast labor force." The Bank has also stated the importance of social protection and their recognition as economic agents[8]. To date, however, the draft ESF remains mum about the rights of the informal workers. ILO estimates informal workers to be 1.3 billion in Asia or 65% of the world's informally employed workforce, yet billions of funds go to projects that harm this sector.

In ILO's guidelines for a just transition, it is recommended to undertake steps and design measures to facilitate formalization and promote decent work, particularly in, but not limited to, the waste management and recycling sectors[9]. In Asia's developing countries, the waste sector is heavily reliant on informal workers. In India, nearly 3 million informal waste workers are responsible for recycling almost 20% of the country's waste. In Vietnam, they carry out more than 90% of recycling activities. Indonesia has around 3.7 million organized waste pickers, who in Jakarta alone, contribute to the reduction of the volume of waste by 30%. Hordes of informal waste workers appear in various studies: In China (6 million), Thailand (1.5 million), and the Philippines (100,000) which are underestimated given the lack of government-led databases.

ENVIRONMENTAL AND SOCIAL RISK CLASSIFICATION

Recommendation: Recognize the significant harms of technologies being proposed in projects such as waste incineration, which is identified as an industry process that produces hazardous emissions under the Stockholm and Minamata Conventions. In addition, include harms on current solutions in place in a host country or community in the classification of environmental

[8] https://www.adb.org/sites/default/files/publication/203891/sp-informalworkers-asia.pdf.
[9] https://www.ilo.org/publications/guidelines-just-transition-towards-environmentally-sustainable-economies
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and social risks. This will strengthen the detailed assessment and justification for the proposed alternatives to existing and local solutions that are at risk of elimination due to biases of consultants or clients. More importantly, this will protect existing solutions and systems built by communities in respect of the Right to Development.

We recommend the following language for par 21 in the draft ESF:

> 'In determining the appropriate risk classification, ADB will take into account relevant issues in an integrated manner including:
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> (iv) the availability, *environmental, social and financial costs,* and nature of the technologies or methodologies proposed for mitigation and management measures, the availability of *relevant capacities, resources and institutional mechanisms* to to implement and *monitor the environmental and social risks*, and
>
> (v) the risks relevant in the context in which a project is being developed or to be implemented, which may include:
>
> *(j) whether the host country of project site has existing solutions to the problem being addressed by the project*

INFORMATION DISCLOSURE

Recommendation: information disclosure must be an essential requirement in circular economy which should start at every phase of the lifecycle of products known to have hazardous chemicals of concern such as plastics, e-waste, pesticides and those included in international conventions[10].

We recommend additional language in the draft ESF for this section:

> *"Chemical transparency at all levels of a project's life cycle must be an essential requirement for a safe circular economy[11]. Projects supporting manufacturing and remanufacturing must pass the hazard criteria for chemical use set out in the EU's Chemical Strategy for Sustainability. Transporting waste for recycling must also disclose must comply with proof and informed consent requirements when transporting them to other borders. In addition, ADB projects producing hazardous emissions regulated by international conventions such as coal plants, WTE incinerators, recycling, among others will be required continuous emissions disclosure based on international guidelines. "*

Removing hazardous chemicals including polymers from plastic products and materials will protect health and the environment, as well as empower measures further downstream. Controls on the

[10] Basel, Rotterdam, Stockholm, and Minamata Conventions identify products and industrial processes known to have hazardous chemicals or have hazardous byproducts as a result of production.
[11] GAIA INC4 Booklet

chemical composition of plastic products and materials are vital to ensuring safe and high-quality recycling. The ESF should endorse future global regulations of chemicals including polymers and should apply the no data no market principle to reduce toxics circulation and exposures through plastics. The ESF should also have anticipatory language for future bans on the production of hazardous polymers and other chemicals

Information disclosure at the downstream levels can provide the requirements for safe circularity as hazardous waste has been increasingly commodified in which manufacturing and transport of this wastestream across borders results in adverse transboundary impacts. The Basel Convention prohibits the export of hazardous wastes to countries with less-advanced storage and disposal facilities unless the importing state had detailed information on the waste shipment and gave prior written consent . However, waste and recycling companies engaged in the transport of hazardous waste may bind subcontractors or third parties to non-disclosure agreements in violation of international law, particularly the prior and informed consent of receiving countries. Refuse waste has been increasingly used as feedstock for WTE incinerators and cement kilns where illegal transport has been widely documented and opposed in receiving countries.

PART III. ENVIRONMENTAL AND SOCIAL STANDARDS (ESSS), WHICH SET OUT THE MANDATORY REQUIREMENTS THAT APPLY TO BORROWERS/CLIENTS

ESS 1: ASSESSMENT AND MANAGEMENT OF ENVIRONMENTAL AND SOCIAL RISKS AND IMPACTS

SCOPE OF APPLICATION

As stated earlier, the scope of the ESF must include technical assistance, informal workers in the supply and value chains, and contractors and their subcontractors.

Recommendation: Use standards and guidelines as the floor for safeguards requirement rather than using national laws and EHS Guidelines of the World Bank as the primary safeguards requirement and gold standard for avoiding and managing environmental and social risks as this has been proven to be inadequate in managing chemicals of concern.

a. We recommend the deletion on the use of World Bank's EHS Guidelines in the following paragraphs (par 14, page 8, ; par 11, page 24; par 6 page 53; and par 4, page 60 in the draft ESF
b. We recommend avoidance in the use of host country's obligations and instead strive primarily toward *upward harmonization* with international laws as they are legal instruments developed by the global community in recognition of the need for mechanisms for global governance and coordination and in the face of lack of national capacities and resources to

manage pollution, waste, biodiversity and rights for informal workers. ADB must be the leader in policy coherence with these international laws and instead of using non-existent or weak national mechanisms, ADB must lead in capacitating countries towards achieving global objectives.

INDICATIVE OUTLINE OF ENVIRONMENTAL AND SOCIAL IMPACT OF ASSESSMENT

Recommendations: The following additional language are recommended in these sections:

(iv) baseline data must include

- informal workers in the country and sectoral diagnosis
- material use intensity and climate vulnerability in the country and sector diagnosis
- GHG emissions in hard-to-abate sectors and low-carbon sectors and hazardous emissions for industries identified as producing them in international conventions to avoid greenwashing or false claims of sustainability in the face of poor ESG mechanisms.

(viii) alternative analysis

- Should include existing solutions built by communities to a problem in the alternative analysis

ESS 3: RESOURCE CONSERVATION AND POLLUTION PREVENTION

Recommendation: The objectives must be aligned with international conventions which go beyond pesticides. The draft ESF has only identified pesticides when international conventions have an extensive list of hazardous chemicals for bans, phaseouts and restrictions until ultimate elimination.

We propose additional language in this section:

> e. Avoid, minimize, and manage the risks and impacts associated with the use, storage, haulage, application, and production of hazardous chemicals, substances, and materials *in accordance with international law or national mechanisms whichever is more stringent*
> f. *Comply with international and national bans and phaseouts,* avoid, minimize, and manage the risks and impacts associated with hazardous chemicals as identified in the waste and chemicals conventions,

Absence of references to the MEAs results in ambiguity in parameters and obligations between the Bank and the borrower on parameters and obligations or non-compliance to any of the MEAs. Non-alignment may also result in inconsistencies and confusion around terms, such as the lack of clear definitions as to what constitutes hazardous and non-hazardous waste[12].

[12] pp.136, 139

We recommend clear references to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, the Stockholm Convention on Persistent Organic Pollutants, the Rotterdam Convention on the Prior Informed Consent Procedure for certain Hazardous Chemicals and Pesticides in International Trade, the London Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, and the Waigani Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region. These MEAs recognize that not all types of waste are suitable or safe for open disposal in the environment, recycling or reutilization because of the presence of hazardous and toxic chemicals such as in plastic, medical, electronic, construction, and pesticide-exposed agriculture wastes.

Recommendation: Operationalize key principles of circular economy and rectification of environmental harm at the source by aligning with the prudent order of waste management embedded in the ADB Energy Policy 2021, "first reducing waste generation, then exploiting the options for reusing and recycling materials, then using waste to recover energy or usable materials, followed by sanitary engineered landfilling as the last option". Moving towards the highest priority which is reduction of waste generation is ultimately the most important safeguard for resource conservation, pollution and climate action.

Safeguards for a circular economy should be underpinned through economy-wide systems built on lesser use of material resources and redesign for material circularity so that less is wasted. However, in paragraph 10, the default alternative option for high resource demands are best available technologies which have failed to protect communities and the environment such as waste-to-energy incinerators, refuse derived fuel, chemical recycling among others which burn recyclable and reliant on fossil-fuel based feedstock instead of capacitating governments to design for a circular economy.

The ESF must include assessments in regional, country and sectoral climate and materials footprint, institutional analyses on borrowers toward achieving a circular economy and pollution avoidance in alignment with national laws or international conventions, whichever is more stringent, and creating opportunities in exploiting synergies with other policy areas, including pollution abatement and climate change.

The ESF must use the Zero Waste Hierarchy defined as the "The conservation of all resources by means of responsible production, consumption, reuse, and recovery of all products, packaging, and materials without burning them and with no discharges to land, water, or air that threaten the

environment or human health"[13]. Developed largely in the context of pollution prevention and resource conservation, it interconnects with growing international concerns such as the emerging Global Plastics Treaty. It encourages local-global policies and strategies that close resource loops, promote the highest and best use of materials, engage communities, avoid human and environmental harms, and save energy by approaching waste issues at source. As a leading IFI in the Asia Pacific region, the ADB plays a key role in steering investments towards this direction[14] and setting the standards for private and public entities by operationalizing Zero Waste as early as the project assessment phase.

We have been critical of ADB's investment on WTE because of the climate, social and environmental harm it poses. The ADB Energy Policy 2021 considered science and community voices which expressed caution when investing in WTE. The policy principles states that "Large hydropower systems and waste-to-energy plants may be supported after careful consideration of their political, social, and environmental contexts". Further, Principle 2, states that:

> "ADB will support waste-to-energy investments for heat or electricity, provided that the feedstock for combustion results *from a prudent order of waste management priorities focusing on waste minimization, reduction, recycling before disposal to landfills.* Waste-to-energy investments can improve local environments and health in cities and rural areas by removing the environmental hazards caused by open waste dumping and open burning. ADB will support projects that promote a circular economy and *consider holistically the order of priorities—first reducing waste generation, then exploiting the options for reusing and recycling materials, then using waste to recover energy or usable materials, followed by sanitary engineered landfilling as the last option.* ADB support for waste-to-energy investments will promote sustainable livelihood opportunities for the poorest people working along the waste value chain and at landfills. The potential environmental and social impacts of waste-to-energy investments will be managed by using the best internationally available technologies in the design and operation of such projects in accordance with international conventions."

Recommendation: Define allowable safe waste streams for circularity, provide substance to the safeguards provisions in the ADB Energy Policy 2021 to mitigate the harm from false solutions aligning to the most stringent regulations , and reference international conventions on management of hazardous waste to establish clear criteria to prevent infrastructure lock-ins

[13] Zero Waste International Alliance. (2022, May 19.). Zero Waste Hierarchy of Highest and Best Use 8.0. https://zwia.org/zwh/.
[14] Zhelyazkova, Virginia. (2020). The Role of Banks for the Transition to Circular Economy. In *Circular Economy - Recent Advances, New Perspectives and Applications.* https://www.intechopen.com/chapters/74025.

into polluting technologies like WTE incineration, RDF, plastic-to-fuel and (co)incineration that will only shift the burden of plastic pollution instead of resolving it at the source.

We recommend the following revised language for par 22 of draft ESF:

> "Following the principles of circular economy in a project, the borrower/client will avoid the direct or indirect generation of hazardous and non-hazardous waste as defined by *international conventions*, including plastics, e-waste, and other non-biodegradable waste. Where significant quantities of waste generation are anticipated and avoidance is not possible, the borrower/client will undertake a waste estimation study for the implementation phase of a project cycle. The study will inform the development of proposed measures to apply the waste management hierarchy *to comply with international and national bans and phase-outs of hazardous chemicals,* minimize the generation of waste and reuse, recycle, and recover waste in a manner that is safe for human and ecosystem health, as defined by the host country's applicable laws or *international conventions on handling of hazardous waste*, whichever is more stringent. Where waste cannot be reused, recycled, or recovered, the borrower/client will treat, destroy, or dispose of it in an environmentally sound and safe manner that includes appropriate control of emissions, discharges, and residues resulting from the handling and processing of the waste material in accordance with *international guidance and standards.*

The growing interest in the reuse of material resources can pave the way for other forms of unsafe recycling which produces POPs, volatile organic compounds,[15] mercury among other hazardous emissions currently regulated globally.

E-waste contains valuable recyclable and recoverable metals and materials such as gold, copper, nickel, silver, rare-earths and materials of strategic importance such as indium and palladium. However, it also contains up to 60 different elements from the periodic table, including hazardous chemicals, of which some are POPs listed under the Stockholm Convention on Persistent Organic Pollutant. E-waste is classified as hazardous waste when it contains toxic substances such as mercury, lead and brominated flame retardants. [16]

Further, plastic waste, the most problematic waste stream, has recently been receiving increased investments through recycling or as sources of fuel through waste-to-energy incineration, refuse derived fuel and co-firing coal with waste projects. Over 13,000 chemicals are associated with

[15] Volatile organic compounds (VOCs) - Most of the contaminants present in post-consumer plastic waste are related to organic compounds, including VOCs, some of which have been reported to be of particular concern for human health, such as benzene that was detected in post-consumer recycled PET, Safeguards documents from the Indorama Ventures Blue Loan Project, reveal that VOCs are unregulated both by IFC EHS standards and ADB's 2009 Safeguards Policy.
[16] Basel Convention. 2020

plastics, and most have not been tested for safety and only 1% of plastic chemicals are subject to international regulations.

All forms of plastic waste management including WTE incineration, RDF, chemical recycling, and PET-to-PET recycling harm the environment, health and human rights. Plastic burning, whether during open burn or controlled burning in incinerators, cement kilns, or pyrolysis, and even in state-of-the-art facilities,16 generates significant toxic and carbon emissions as well as hazardous ashes laden with microplastics.17 US EPA scientists have found some chemicals emitted by chemical recycling to be so dangerous that they expect all people exposed to them over a lifetime to develop cancer.18

Recycling increases the potential for mixing and dissemination of chemicals in plastics. This makes it hard to find applications for recycled plastic that are both safe and high enough in volume to meaningfully displace primary production.

None of these harms are adequately addressed in Basel Convention guidance, and neither does it equip governments to tell apart harmful waste-management technologies from safe ones.And without chemicals transparency and bans on chemicals including polymers of concern, safe circularity is impossible.[17]

It is important that the ESF is a forward looking policy that will be able to lead in addressing the spirit of the ongoing Global Plastics Treaty and will have a focus on plastics associated pollution, which the Basel Convention lacks. The new plastics treaty will therefore be the best avenue to establish science-based and binding criteria for truly environmentally and socially-sound management of plastic wastes that upholds environmental justice and human rights and protects planetary boundaries. Those criteria could be included in an annex for ease of amendment in light of new evidence.

Recommendation: Delete all references to offsets and offsetting as a solution in the Mitigation Hierarchy or options for managing pollution.

Studies have shown that offsetting mechanisms have failed to address pollution, have allowed companies to privatize the use of limited resources in order to enjoy business continuity operations while continuing their pollution. Carbon markets have systemic failures, meaning they would not work even if the price of carbon were "right." Most of the projects that have been financed by the carbon market are not additional, so the offsets do nothing to reduce GHG emissions. Instead, polluting companies have received huge windfall profits from over-allocation of carbon allowances, and the system is infested with corruption, obfuscation, and projects lacking

[17] https://www.sciencedirect.com/science/article/pii/S2352340923008090?via%3Dihub.

environmental integrity. Studies have shown that carbon credits have not worked and that the priority in the midst of a triple planetary crisis warrants the economy to work within the carbon and pollution budgets. [18]

However, the draft ESF is replete with offsetting as an option for "unavoidable pollution" The truth is, international conventions are telling us that production of hazardous materials must be banned, phased-out or restricted and ultimately eliminated in the immediate horizon.

Recommendation: Eliminate ambiguities in the definitions of concepts and statements to increase alignment with international conventions and expedite transition to a safe and just transition to circular economy.

These words do not help regulators, communities and borrowers to improve accountability:

- par. 9 "measures for improving resource conservation, minimizing the intensity of resource use" is unclear.
- par 20 "the borrower client will undertake an audit methodology acceptable to ADB". (acceptable standards must be defined and clear)
- par. 22 "direct or indirect generation of hazardous and non-hazardous waste" msut be clear by referencing the Basel, Rotterdam, Stockholm and Minamata conventions.
- Missing air quality provisions.

ESS 4: LABOR

Recommendation: Operationalize Just Transition as recommended by the ILO by recognizing and protecting the rights of informal workers in the supply and value chains, providing social protection, and a comprehensive program and policies to ensure fair sharing of benefits from the transition.

A Just Transition is underpinned by the recognition of the rights of all workers, whether formal or informal across the value chain. ILO Recommendations 193, 204, and the *Guidelines for a just transition towards environmentally sustainable economies and societies for all,* include provisions on the integration of workers in the waste sector, recognition of cooperatives, improvements in jobs and incomes, and addressing risks at work. For these to be ensured, they must be included in decision making spaces regarding proposed changes made to waste management systems that affect their work.

[18] https://www.no-burn.org/cop26demands/

Effectively designing and implementing a just transition also entails avoiding and saying *no* to technologies and approaches that negatively impact waste workers through physical and economic displacement (i.e. loss of access to income and social services, and resettlement). For instance, WTE incineration is known to destroy materials that they rely on for their income. Another is the closure of landfills, or restricting access to landfills. There is also the digitalization of waste management systems that do not recognize pre-existing systems established by informal waste workers.

Key recommendations from ILO 204 include:

- Facilitation of the transition of workers and economic units from the informal to the formal economy, while respecting workers' fundamental rights and ensuring opportunities for income security, livelihoods and entrepreneurship;
- Promotion of the creation, preservation and sustainability of enterprises and decent jobs in the formal economy and the coherence of macroeconomic, employment, social protection and other social policies; and
- Undertaking a proper assessment and diagnostics of factors, characteristics, causes and circumstances of informality in the national context to inform the design and implementation of laws and regulations, policies and other measures aiming to facilitate the transition to the formal economy.

IV. PROHIBITED INVESTMENT ACTIVITIES LIST

Recommendation 5: Without any delay, declare a ban on the exploration, production, use, manufacturing, trade and transport of all chemicals and hazardous substances that are illegal under host country laws, regulations or ratified international conventions and agreements, or subject to international phase out or bans in the absence of national laws, such as:

Following existing international treaties and conventions, this entails the necessity to exclude or ban certain toxic and hazardous chemicals beyond pesticides from production to circularity options. For instance, the Basel Convention and Stockholm Convention identify as hazardous wastes any congenors of polychlorinated dibenzo-p-dioxin and polychlorinated dibenzo-furan (also referred to as dioxins and furans), both of which are persistent organic pollutants (POPs) released to the environment through the operations of waste incinerators and cement kilns. The Minamata Convention aims at mercury's adverse environmental and health impacts. Following the Zero Draft of the Global Plastics Treaty, ADB should also take steps to prohibit the production and reproduction of chemicals and polymers of concern, and primary plastic polymers, including their feedstock and precursors.[19]

[19] There are over 4,000 hazardous chemicals used in plastics that are not yet covered by existing MEAs.

The prohibited investment activities list must include activities in the upstream phase of production that is coherent with the growing international governance on phase-outs of certain harmful economic activities. With these in mind, the ESF must include:

- Persistent organic pollutants (POPs) s subject to international phase out[20]
- Pharmaceuticals, pesticides/herbicides and industrial chemicals subject to international phaseouts [21]
- Ozone depleting substances subject to international phase out.[22]
- Mercury-added products subject to international phaseouts until 2025[23]
- Hazardous chemicals including polymers and virgin plastic polymers[24]
- Problematic, unnecessary and avoidable plastic products [25]
- Microplastics and products containing microplastics
- Fossil fuel-derived feedstock such as plastic waste[26]

It is worth noting that other multilateral development banks (MDBs) already include bans and prohibitions on hazardous substances and chemicals in accordance with relevant MEAs, thus setting higher industry standards for other MDBs to follow. This includes, but is not limited to, POPs, mercury-added products, and polychlorinated biphenyls (PCBs) in the European Bank for Reconstruction and Development's Environmental and Social Policy[27]; POPs and PCBs in the

[20] https://chm.pops.int/TheConvention/ThePOPs/AllPOPs/tabid/2509/Default.aspx
[21] United Nations Consolidated List of Products whose Consumption and/or Sale have been Banned, Withdrawn, Severely Restricted or not Approved by Governments; Stockholm Convention on Persistent Organic Pollutants; World Health Organization Recommended Classification of Pesticides by Hazard, World Health Organization Pharmaceuticals: Restrictions in Use and Availability. Around 55 chemicals listed in Annex III, 36 pesticides (including 3 severely hazardous pesticide formulations), 18 industrial chemicals, and 1 chemical in both the pesticide and the industrial chemical categories are subject to bans since 2023 in the Convention on the Prior Informed Consent Procedures for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention).
[22] Ozone Depleting Substances (ODSs) are chemical compounds which react with and deplete stratospheric ozone, resulting in the widely publicized 'ozone holes.' The Montreal Protocol lists ODSs and their target reduction and phase out dates. The chemical compounds regulated by the Montreal Protocol include aerosols, refrigerants, foam blowing agents, solvents,
[23] List of mercury-added products for phaseouts until 2025 listed in Minamata Convention , Annex A Part 1-2.
[24] A forward looking ESF must adopt a progressive phaseout on production of new plastics and the production, manufacture and trade of problematic plastics in light of the Global Plastic Treaty negotiations. This ADB publication endorsed the banning of this material.
[25] Par 22 of the draft ESF has indicated plastics, microplastics and e-waste as hazardous materials. To guide stakeholders on different management options for problematic unnecessary, amd avoidable plastics, the Nordic Council of Ministers' Vision project developed a classification and criteria including an option for elimination without replacement to avoid creation of new environmental and social problems.
[26] In accordance with the shift away from fossil fuels, use of plastic waste which is 99 percent made from oil and gas, manufacturing plastic and plastic waste as fuel should be banned.
[27] European Bank for Reconstruction and Development. Environmental and Social Policy, April 2019. https://www.ebrd.com/environmental-and-social-policy.html.

Inter-American Development Bank's Environmental and Social Policy Framework[28]; POPs in the Asian Infrastructure Investment Bank's Environmental and Social Framework[29].

About GAIA
www.no-burn.org
The Global Alliance for Incinerator Alternatives is a worldwide alliance of more than 800 grassroots groups, non-governmental organizations, and individuals whose ultimate vision is a just, toxic-free world without incineration.

References:

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[28] Inter-American Development Bank. Environmental and Social Policy Framework. https://www.iadb.org/en/who-we-are/topics/environmental-and-social-solutions/environmental-and-social-policy-framework#:~:text=The%20Environmental%20and%20Social%20Policy,and%20considers%20potential%20risks%20to.
[29] Asian Infrastructure Investment Bank. Environmental and Social Framework. https://www.aiib.org/en/policies-strategies/_download/environment-framework/AIIB-Revised-Environmental-and-Social-Framework-ESF-May-2021-final.pdf.

Annex 1. SIGNATORIES

Global and Regional

1. IBON International
2. NGO Forum on ADB

National

Argentina

3. Taller Ecologista

Australia

4. Toxics Free Australia

Bangladesh

5. Bangladesh Waste Pickers Union
6. Environment and Social Development Organization -ESDO
7. GRAMBANGLA UNNAYAN COMMITTEE

Brazil

8. Aliança Resíduo Zero Brasil
9. Apoena Socioambiental
10. Núcleo Alter-Nativas de Produção/UFMG

Chile

11. Fundación El Árbol
12. ONG Colectivo VientoSur
13. Red de Acción por los Derechos Ambientales RADA
14. Reparemos

China

15. Blue Dalian
16. Green Longjiang

Colombia

17. Taller 77

Ecuador

18. PlastiCo. Project Foundation

México

19. Fundación Apaztle

Germany

20. Urgewald

Guatemala

21. Colectivo Tz'unun Ya'

India

22. All India Kabadi Mazdoor Mahasangh (AIKMM)
23. Eco Circular India Foundation

24. National Hawker Federation
25. Zero Waste Himalaya

Indonesia

26. Bali Waste Platform
27. Ecoton Foundation
28. Trash Hero World
29. WALHI Central Java
30. WALHI/Friends of the Earth Indonesia
31. Yayasan Pengembangan Biosains dan Bioteknologi (YPBB)

Kyrgyzstan

32. MoveGreen

Malaysia

33. Center to Combat Corruption and Cronyism (C4 Center)
34. Consumers' Association of Penang
35. Greenpeace Malaysia
36. Malaysian Nature Society Selangor Branch Green Living Special Interest Group
37. Sahabat Alam Malaysia (Friends of the Earth)
38. Zero Waste Sabah

Maldives

39. Zero Waste Maldives

Mongolia

40. Oyu Tolgoi Watch
41. Rivers without Boundaries Coalition

Myanmar

42. Thant Myanmar

Nepal

43. Clean Up Nepal
44. Agriculture and Forestry University

Pakistan

45. Dr Akhtar Hameed Khan Memorial Trust

Panamá

46. FAS Panama

Philippines

47. Caritas Philippines
48. Coalition of Services of the Elderly, Inc.
49. De La Salle University-Dasmariñas
50. Ecowaste Coalition
51. Freedom from Debt Coalition
52. Health Care Without Harm
53. Institute for the Development of Educational and Ecological Alternatives Inc.
54. Interfacing Development Interventions for Sustainability (IDIS), Inc.

55. MASKARA - Green Stage Filipinas
56. Mother Earth Foundation
57. The Advocates for Good in the Philippines (TAGPinas)
58. UP Alumni Association Camarines Sur Chapter
59. Zero Waste Baguio Inc.

Republic of Korea

60. Korea Zero Waste Movement Network

Senegal

61. Adansonia.green

Sri Lanka

62. Centre for Environmental Justice

Taiwan

63. Taiwan Watch Institute

Tanzania

64. INNOLIF GROUP

Thailand

65. Ecological Alert and Recovery-Thailand (EARTH)

USA

66. Work on Waste USA (AEHSP)

Vietnam

67. Pacific Environment Vietnam
68. Vietnam Zero Waste Alliance