

MAP Monitoring & Closing Report

Monitoring Period: January – June 2021

CMI Offshore Project

EBRD Project Number 47096

Case 2017/10

August 2021

Note: This case was received under the Project Complaint Mechanism (PCM) - the former accountability mechanism of the EBRD - in accordance with the [2014 PCM Rules of Procedure](#) and the Monitoring stage was initially conducted under PCM Rules and Procedures.

Effective 1 July 2020, the Project Complaint Mechanism was replaced with the [Independent Project Accountability Mechanism](#) (IPAM), brought into effect through the [2019 Project Accountability Policy](#). Under the Policy's provisions for case transition, monitoring of the CMI Offshore Management Action Plan from the date above is undertaken in alignment with the requirements of the [2019 Project Accountability Policy](#).

IPAM is the Independent accountability mechanism of the EBRD. It reviews environmental, social, and Project disclosure-related concerns raised by Project-affected people and civil society organisations. IPAM can address concerns through two avenues: i) Problem-solving, which supports dialogue between Complainants and Clients to resolve environmental, social and public disclosure concerns without attributing blame or fault; or ii) Compliance Reviews, which determine whether the EBRD has complied with its Environmental and Social Policy and Access to Information Policy in relation to the Project.

For more information about IPAM, please contact us at ipam@ebrd.com or visit the [IPAM webpage](#).

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EXECUTIVE SUMMARY

The EBRD [Project Complaint Mechanism](#) (PCM) completed a [Compliance Review](#) of the [CMI Offshore Project \(47096\)](#) in Turkmenistan in February 2019, identifying one instance of non-compliance with the EBRD's 2014 Environmental and Social Policy (ESP). The Compliance Review determined that Bank Management did not meet its obligations to consider the environmental and social risks presented by Project-related associated facilities / activities. The independent PCM Expert responsible for the Compliance Review made two recommendations to Bank Management:

Recommendation 1: Develop detailed ESP Guidance clarifying the requirements for identifying and characterizing potentially significant environmental and social impacts of Project-related facilities / activities.

Recommendation 2: Review the EIAs completed for the oil extraction operations serviced by the Client, in order to ensure that any critical environmental and social impacts influencing the EBRD Project were addressed through the Environmental and Social Action Plan (ESAP). The Expert highlighted the need for particular review of any direct, indirect or cumulative impacts to the Hazar State Nature Reserve, to ensure appropriate mitigation measures would be implemented within the scope of the Project.

Management Action Plan

In response to the findings of non-compliance, the Bank developed a [Management Action Plan \(MAP\)](#) to address the Expert's findings and recommendation, which was approved by the EBRD Board of Directors on 5 February 2019. Bank Management committed to undertake two actions - each involving two sub-actions:

- 1.1. Clarify the environmental and social appraisal requirements for Project-related existing facilities, associated facilities and other functionally-related projects through the revised 2019 ESP, in line with peer multilateral development banks (MDBs) and EU Environmental Impact Assessment (EIA) Directives; and
- 1.2. Develop ESP Guidance on:
the scope and boundaries of past and present environmental and social issues / risks associated with existing or associated facilities, subject to the Bank's environmental and social appraisal; and
the circumstances under which the Bank's environmental and social appraisal would need to consider environmental /and social risks / impacts related to existing and new facilities not financed by EBRD.
- 2.1. Amending EBRD Guidance on environmental and social appraisal, requiring Clients to identify publicly available EIAs for associated facilities. This would enable EBRD to review and identify any critical environmental and social risks for the Client's operations. In the event that any material environmental or social risks were identified - which fell within the Client's influence to mitigate - Management committed to work with the Client to develop appropriate risk mitigation measures for inclusion in the ESAP; and
- 2.2. Preparing internal procedures to record all elements of the Bank's environmental and social appraisal, even when issues were not identified.

Management Action Plan Monitoring

The IPAM has a mandate to monitor the implementation of the Board-approved MAP, including MAPs that were adopted before IPAM came to being with the adoption of the new Policy. Monitoring of the MAP for CMI Offshore Project (“**the Project**”) initiated in March 2019 and three monitoring reports have been issued by IPAM. In August 2020 IPAM produced the [First Monitoring Report](#) for [Case 2017/10](#) covering the period March 2019 to July 2020¹ and disclosed it in the IPAM Case Registry after submission to the Board and the President, During the first monitoring period, Action 1.1 of the MAP had been completed, while Actions 1.2, 2.1, and 2.2 remained

At the end of the second monitoring period (August to December 2020), IPAM [reported](#) of the completion of items 1.2 and 2.1, with Action 2.2 remaining pending ([Second Monitoring Report](#)).

The current document, the **Third Monitoring and Closing Report** covering the period January to June 2021, informs of the completion of the last pending action.

In line with the provisions of the Project Accountability Policy, as all actions in the MAP have been now completed, IPAM will proceed with closing the case, after disclosure of this report.

SUMMARY OF ACTIONS

S.No.	ACTIVITY	TIMELINE
1.	Compliance Review Report and draft MAP submitted to the Board	January 2019
2.	Management Action Plan approval by the Board	February 2019
3.	1st monitoring report covering period March 2019 – July 2020	August 2020
4.	2nd monitoring report covering period August – December 2020	February 2021
5.	3 rd monitoring and closing report covering period January - June 2021	August 2021

¹ No monitoring reports had been issued in relation to this case prior to IPAM start date of operation (1 July 2020), so the first monitoring report covers the period March 2019 to July 2020.

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ABBREVIATIONS LIST

EIA	Environmental impact assessment
E&S	Environment and social
ESAP	Environmental and social action plan
ESD	Environment and Sustainability Department
ESIA	Environment and Social Impact Assessment
ESP	EBRD Environmental and Social Policy
IPAM	Independent Project Accountability Mechanism
KPI	Key Performance Indicator
MAP	Management Action Plan
MDB	Multilateral development bank
OGC	Office of the General Counsel
PR	Performance Requirement
PCM	Project Complaint Mechanism
PSD	Project Summary Document
Policy	2019 Project Accountability Policy

1 Introduction

This third and closing Report provides an overview of:

- the background and context of the IPAM case;
- the monitoring activities undertaken by IPAM during the January 2021 - June 2021 monitoring period; and
- the monitoring findings and conclusions.

2 Background and Context

2.1 Complaint Submission and Eligibility Assessment

In October 2017, PCM received a Complaint from civic activists within Turkmenistan and members of the *Turkmenistan Working Group of the Civic Solidarity Program*, comprised of: Development of Democracy and Human Rights (Russia); Freedom Files (Russia); and Crude Accountability (USA) (“the Complainants”). PCM found three concerns raised in the Complaint eligible for further assessment through a Compliance Review, namely:

- 1) the appropriateness of Project categorisation;
- 2) the sufficiency of the Project’s Environmental and Social Impact Assessment (ESIA), in consideration of the differing 2014 ESP requirements dependent on categorisation; and
- 3) the concern that the Project was in fact an associated facility of an oil extraction project, with direct impacts to an internationally protected area.

Dr. Owen McIntyre was appointed to undertake the Compliance Review as an external PCM Expert.

2.2 Compliance Review Findings

On 5 February 2019, the PCM Expert found the Bank to be non-compliant with Performance Requirement 1.9 of the 2014 ESP. This instance of non-compliance related to the Complainants’ third concern, finding that:

[...] the oil extraction operations in the Cheleken oil field serviced by the Client [were] associated facilities / activities of the Project and, thus, direct, indirect or cumulative impacts likely to be associated therewith ought to have been considered in the environmental and social assessment process for the [CMI Offshore] Project.

The Compliance Review found there to be no evidence that the EBRD considered the implications of the EIAs completed for the oil extraction facilities / activities serviced by CMI Offshore. While due diligence for the CMI Offshore Project would not have required a full appraisal of the oil extraction facilities / activities serviced by the Client, EBRD should have informed itself and considered the associated environmental and social risks of these associated facilities / activities.

2.3 Compliance Review Recommendations

In response to the findings of non-compliance, the PCM Expert made two recommendations to the Bank: one that was systemic / procedural in nature, and the other, specific to the Project.

Systemic / Procedural Recommendation 1 – Develop detailed ESP Guidance, clarifying the requirements for identifying and characterizing potentially significant environmental and social

impacts of associated facilities / activities, in consideration of direct, indirect and cumulative impacts on the EBRD Project. The Expert identified that this Guidance should be aligned with best practice from peer MDBs, EU EIA Directives, and national EIA requirements.

The PCM Expert highlighted that the Bank's 2019 Environmental and Social Policy Review offered an opportunity to clarify the environmental and social appraisal requirements applied to functionally-related projects.

Project-Specific Recommendation 2 – Review the EIAs completed for the oil extraction operations serviced by the Client, in order to ensure that any critical environmental and social impacts influencing the EBRD Project are addressed appropriately through the Environmental and Social Action Plan (ESAP). The Expert highlighted the need for particular review of direct, indirect or cumulative impacts to the Hazar State Nature Reserve, to ensure appropriate mitigate measures would be implemented within the scope of the Project.

2.4 EBRD Management Action Plan

In response to the PCM findings of Project non-compliance, the Bank prepared a Management Action Plan ([MAP](#)), dated 5 February 2019 and outlining their proposed measures to respond to the findings of non-compliance.

Bank Management confirmed that the Compliance Review identified areas of the 2014 ESP that needed clarification through Bank's 2019 ESP policy review. Bank Management maintained its view that "appropriate environmental and social due diligence was carried out proportionate to the nature and scale of the Project and commensurate with the level of its environmental and social risks and impacts." Bank Management further informed PCM that despite the Project having been approved by the Board of Directors on 18 October 2017, the loan agreement was never signed and the Project was officially cancelled on 7 December 2017.

Management committed to undertake two actions (each consisting of two sub-actions):

Management Action 1:

- 1.1. Clarify the environmental and social appraisal requirements for Project-related existing facilities, associated facilities and functionally-related other projects through the revised 2019 ESP, in line with peer multilateral development banks (MDBs) and EU Environmental Impact Assessment (EIA) Directives; and
- 1.2. Develop ESP Guidance on: the scope and boundaries of past and present environmental and social issues / risks associated with existing or associated facilities, subject to the Bank's environmental and social appraisal; and the circumstances under which the Bank's environmental and social appraisal would need to consider environmental /and social risks / impacts related to existing and new facilities not financed by EBRD.

Management Action 2:

Considering that the Project was subsequently cancelled, the Bank identified that it would not be in a position to address the second, Project-level recommendation. However, to implement lessons learned from the Project, Management committed to strengthen its systems and practices for other similar Projects by:

- 2.1. Amending EBRD Guidance on environmental and social appraisal, requiring Clients to identify publicly available EIAs for associated facilities. This would enable EBRD to review

and identify any critical environmental and social risks for the Client's operations. In the event that any material environmental or social risks were identified - which fell within the Client's influence to mitigate - Management committed to work with the Client to develop appropriate risk mitigation measures for inclusion in the ESAP; and

- 2.2. Preparing internal procedures to record all elements of the Bank's environmental and social appraisal, even when issues were not identified.

3 Monitoring Update

3.1 Monitoring Activities undertaken during the period January - August 2021

At the start of this monitoring period in January 2021, one action remained outstanding: Action 2.2 "preparing internal procedures to record all elements of the Bank's environmental and social appraisal, even when issues were not identified".

IPAM undertook the following activities during the third monitoring period:

Requested an update from Bank Management on implementation progress, which included:

- Meeting Bank Management on 15 June 2021 to get a progress update on Action 2.2: reviewing the revised E&S Procedures
- Access to the Environmental Management Database to confirm that it addresses the requirements set in the recommendation.

3.2 Monitoring Findings

In relation to the outstanding action, IPAM findings confirm that the action has been fulfilled as:

Management reported to IPAM that the revised E&S Procedures have been approved by the Environment and Sustainability Department (ESD) but are still undergoing updates as ESD intends to reflect ESD's new roles and responsibilities in terms of Paris Alignment, amongst other EBRD green initiatives.

IPAM reviewed the E&S Procedures and found that they adequately address the recommendations made. The Procedures are aligned with the 2019 ESP and describe the Bank's process for the environmental and social appraisal and monitoring of projects and how it is integrated into the overall EBRD project cycle and decision making process. They outline how the appraisal process will assess the capacity and commitment of a client to implement the project in accordance with the relevant PRs. The document includes the application of procedures to various types of projects defining what a "project" refers to and outlines how the procedures will apply to existing facilities or business activities, and/or associated facilities. A dedicated section includes how PSDs are to be prepared and the level of information included according to the category of the project. The procedures also indicate the process of delegated authority. Lastly, the procedures specify the roles and responsibilities of both the client and Bank Management on monitoring of environmental and social impacts during project implementation.

Management held a session with IPAM to demonstrate how the Environment Management Database (EMD) operates. EMD is a means for ESD to record, approve and track ESD outputs and

contributions to project-related documents. EMD serves to record diverse project-related data and status of reports. Compliance with the Performance Requirements via KPIs is recorded at end of project appraisal and then updated during project implementation and monitoring. Audits are conducted three times a year, with third party support, on a random selection to ensure compliance in reporting and effectiveness of tool.

Bank Management's progress on the MAP implementation, accompanied by IPAM's comments, are presented in **Table 1** below.

3.3. Table 1: MAP Implementation Progress

Management Action Plan Commitment Approved by the EBRD Board of Directors	EBRD Management Implementation Update	Status of Management Action Plan Commitment	IPAM Comments
Procedural / Systemic Management Actions			
<p>Action 1.2: Management will develop guidance on:</p> <ul style="list-style-type: none"> a. the scope of past and present E&S risks relevant to existing/ associated facilities, subject to the Bank's E&S appraisal; and b. the circumstances under which Management's E&S appraisal will need to consider E&S risks and impacts related to existing and new facilities / activities not financed by the EBRD. 	<p>An external Guidance Note (GN) for Performance Requirement (PR) 1 has been developed and approved by ESD management and OGC. This GN was shared with IPAM on 23/10/2020. The PR1 GN, together with PR1, addresses Action 1.2. PR1 and the PR1 GN also describe the approach to a client's existing facilities business activities, which are subject to modernisation or upgrades as part of the project as well as the approach to other facilities or activities in the vicinity of the project, existing facilities, and facilities or activities outside the control of the client.</p> <p>The GN, together with others, is due for external publication on www.ebrd.com in early 2021.</p>	Completed	IPAM received and reviewed the internal Guidance Note for PR 1
Project-Specific Management Actions			
<p>Action 2.1: Management will amend its ESP guidance on environmental and social appraisal, requiring Clients to identify publicly available EIAs for associated facilities for EBRD's review. In the event that any material environmental or social risks are identified - which remain within the Client's control of influence to mitigate - Management will work with the Client to develop and agree on appropriate risk mitigation measures for inclusion in the ESAP.</p>	<p>PR 1 of 2019 ESP and the developed PR1 GN describes the criteria for determining associated facilities, the approach to associated facilities including the integration of any associated facilities into the E&S assessment for a project (including consideration of available impact assessments for such associated facilities), what standards apply and the responsibilities of the Client.</p>	Completed	

<p>Action 2.2: Management will prepare internal procedures to record all elements of the Bank's E&S appraisal process, even when they do not identify relevant issues.</p>	<p>The E&S Procedures have been revised to reflect the 2019 Environmental and Social Policy (ESP) as well as the outcomes of PCM cases. Key revisions and enhancements include:</p> <ul style="list-style-type: none"> • Alignment with the 2019 ESP • Definitions and requirements with respect to the Project, associated facilities, existing project related facilities and Client's other facilities • Scope of Environmental and Social Due Diligence • Project Summary Document requirements • Approaches to different types of financial instruments • Delegated authority approval requirements and consideration of frameworks and facility sub-projects • Monitoring requirements. <p>EMD is a means for ESD to record, approve and track ESD outputs, including contributions to project memos, board documents and PSDs, briefing paragraphs to operations committees and contributions to the review of legal documentation. EMD further records project risks ratings, monitoring reports and PR5 data, as well as project's compliance with each aspect of the Performance Requirements via Key Performance Indicator's (KPI) which are recorded once ESD's project appraisal is complete and then updated regularly during project implementation and monitoring. To provide assurance that appropriate information and data are recorded in EMD by ESD staff, and also the implementation of ESD's Assurance Framework, ESD conducts audits three times a year, with third party support, on a random selection of each ESD specialist's project portfolio.</p>	<p>Completed</p>	<p>IPAM received revised E&S procedures and reviewed them.</p> <p>A demonstration of Environmental Management Database was provided to IPAM on how Bank's E&S appraisal process is tracked and documented throughout the project cycle.</p>
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3.4 Conclusions

During this period, Management completed the last remaining pending Action item 2.2. IPAM concludes the monitoring stage of this case noting that all committed Action items have been implemented by Management as per the approved MAP. Once this report is submitted to the Board and the President and disclosed in the public registry, IPAM will close this case.