

# EBRD Performance Requirement 6

## Biodiversity Conservation and Sustainable Management of Living Natural Resources

### Introduction

1. This Performance Requirement (PR) recognises that the conservation of biodiversity<sup>1</sup> and sustainable management of living natural resources<sup>2</sup> are fundamental to environmental and social sustainability.
2. This PR recognises the importance of maintaining core ecological functions of ecosystems and the biodiversity they support. All ecosystems support a complexity of living organisms and vary in terms richness, abundance and importance of species.
3. The objective of biodiversity conservation and sustainable management of living resources must be balanced with the potential for utilising the multiple economic, social and cultural values of biodiversity and living natural resources in an optimised manner.
4. It is recognised that: (i) the livelihood of Indigenous Peoples and affected communities whose access to, or use of, biodiversity or living natural resources may be affected by project activities; and (ii) they may have a positive role in biodiversity conservation and sustainable management of living natural resources.

### Objectives

5. The objectives of this PR are to:
  - protect and conserve biodiversity using a precautionary approach

- adopt the mitigation hierarchy<sup>3</sup> approach, with the aim of achieving no net loss of biodiversity, and where appropriate, a net gain of biodiversity
- promote good international practice (GIP) in the sustainable management and use of living natural resources.

### Conservation of biodiversity

#### Scope of application

6. The client will, as part of its environmental and social assessment process, identify the relevant requirements of this PR, and how they will be addressed and managed through the project life cycle. The implementation of the actions necessary to meet the requirements of this PR will be managed under the client's overall environmental and social management system (ESMS) and project-specific environmental and social management plans (ESMPs), including Biodiversity Management Plans, or where appropriate, a specific Biodiversity Action Plan,<sup>4</sup> to structure the project to meet this PR within an acceptable time frame. The environmental and social assessment and management requirements are provided in PR 1.

### General requirements

#### Assessment of issues and impacts

7. The assessment process will characterise the baseline conditions to a degree that is proportional and specific to the anticipated

<sup>1</sup> For the purpose of this PR, biodiversity is defined in accordance with the Convention on Biological Diversity as the "variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are a part; this includes diversity within species, between species and of ecosystems".

<sup>2</sup> "Living natural resources" are defined as being "the plants and animals cultivated for human or animal consumption and use, whether in the wild or in a cultivated situation. It includes all types of forestry, biofuels, agriculture, including both annual and perennial crops and animal husbandry, including livestock; and both wild and capture fisheries, including all types of marine and freshwater organisms, both vertebrate and invertebrate".

<sup>3</sup> The mitigation hierarchy comprises measures taken to avoid impacts to biodiversity from the outset of development activities, and where this is not possible, to implement additional measures that would minimise, mitigate and, as a last resort, offset and/or compensate any potential residual adverse impacts.

<sup>4</sup> Biodiversity Actions Plans (BAPs) typically include a series of goals, objectives and management measures to mitigate residual impacts to achieve no net loss/net gains of priority biodiversity features or critical habitat. The goal/objectives should be realistic and based on measurable targets. Each objective should outline a series of actions and include completion indicators or monitoring targets, and the responsible party and a time frame. BAPs should be developed in consultation with relevant stakeholders, including government, external experts, local/international conservation organisations and project-affected communities.

risk and significance of impacts. The baseline assessment will consider, but will not be limited to, loss of habitat,<sup>5</sup> degradation and fragmentation, invasive alien species, overexploitation, migratory corridors, hydrological changes, nutrient loading and pollution, as well as impacts relevant to climate change and adaptation. In planning and carrying out biodiversity-related baseline and impact assessments, the client will refer to relevant good practice guidance, utilising desktop and field-based approaches as required. Where further investigations are needed to provide greater certainty of the significance of potential impacts, the client should carry out additional studies and/or monitoring before undertaking project-related activities that could cause irreversible impacts.

8. Through the assessment process, the client should identify and characterise, early in the project life cycle, the potential project-related opportunities, risks and impacts on biodiversity. The extent of the assessment should be sufficient to characterise the impacts, based on their likelihood and the significance and severity of impact, and reflect the concerns of potentially affected communities and, where relevant, other stakeholders. The assessment should also consider direct, indirect and cumulative impacts and evaluate the effectiveness and feasibility of the mitigation measures to be applied to the project. The assessment process should include consideration of potential landscape level impacts, as well as impacts on the ecological integrity of the ecosystems, independent of their protection status and regardless of the degree of their disturbance or degradation.
9. The assessment will consider the use of, and dependence on, ecosystems by potentially affected communities and/or Indigenous Peoples whose use of these biodiversity resources may be affected by the project. The assessment will also consider the project's dependence on these ecosystems. Where the project has the potential to impact these ecosystems, and where the client has direct management control or significant influence, adverse impacts should be avoided. If these

impacts cannot be avoided, the client will minimise them and/or implement appropriate mitigation measures with an aim to maintain the overall functionality of these ecosystems.

10. For projects that could potentially have such impacts on Indigenous Peoples and local communities, the client will provide opportunities for fair and equitable sharing of the benefits derived from the utilisation of living natural resources in accordance with: (i) the requirements for addressing economic displacement issues in PR 5; (ii) the specific requirements relating to managing potential issues and impacts on Indigenous Peoples in PR 7; and (iii) the stakeholder engagement requirements provided in PR 10.

### **Biodiversity conservation requirements**

11. Where the assessment has identified potential project-related impacts to biodiversity, the client will manage its risks in accordance with the mitigation hierarchy and GIP. The client should adopt a precautionary approach and apply adaptive management practices in which the implementation of mitigation and management measures are responsive to changing conditions and the results of project monitoring throughout the project life cycle.
12. Notwithstanding the above, some areas affected by the project may be considered "priority biodiversity features"<sup>6</sup> which include: (i) threatened habitats; (ii) vulnerable species; (iii) significant biodiversity features identified by a broad set of stakeholders or governments (such as Key Biodiversity Areas or Important Bird Areas); and (iv) ecological structure and functions needed to maintain the viability of priority biodiversity features described in this paragraph.
13. Where the assessment has identified that the project could have significant, adverse and irreversible impacts to priority biodiversity features, the client should not implement any project-related activities unless:
  - there are no technically and economically feasible alternatives
  - the overall benefits outweigh the project

<sup>5</sup> Habitat is defined as a terrestrial, freshwater or marine geographical unit or airway that supports assemblages of living organisms and their interactions with the non-living environment.

<sup>6</sup> Priority biodiversity features are a subset of biodiversity that is particularly irreplaceable or vulnerable, but at a lower priority level than critical habitats (as defined in paragraph 14).

impacts on biodiversity

- stakeholders are consulted in accordance with PR 10
- the project is permitted under applicable environmental laws, recognising the priority biodiversity features
- appropriate mitigation measures are put in place, in accordance with the mitigation hierarchy,<sup>7</sup> to ensure no net loss and preferably a net gain of priority biodiversity features over the long term, to achieve measurable conservation outcomes.

14. The most sensitive biodiversity features are defined as critical habitat, which comprise one of the following: (i) highly threatened or unique ecosystems; (ii) habitats of significant importance to endangered<sup>8</sup> or critically endangered species; (iii) habitats of significant importance to endemic or geographically restricted species; (iv) habitats supporting globally significant migratory or congregatory species; (v) areas associated with key evolutionary processes; or (vi) ecological functions that are vital to maintaining the viability of biodiversity features described in this paragraph.

15. Where the assessment has identified that the project could have adverse impacts on a critical habitat, the client will retain experienced external experts to conduct the assessment of the potential adverse impacts on this critical habitat.

16. Critical habitat must not be further fragmented, converted or degraded to the extent that its ecological integrity or biodiversity importance is compromised. Consequently, in areas of

critical habitat, the client will not implement any project activities unless the following conditions are met:

- no other viable alternatives within the region exist for development of the project in habitats of lesser biodiversity value
- stakeholders are consulted in accordance with PR 10
- the project is permitted under applicable environmental laws, recognising the priority biodiversity features
- the project does not lead to measurable adverse impacts on those biodiversity features for which the critical habitat was designated as outlined in paragraph 14
- the project is designed to deliver net gains<sup>9</sup> for critical habitat impacted by the project
- the project is not anticipated to lead to a net reduction in the population<sup>10</sup> of any endangered or critically endangered species, over a reasonable time period<sup>11</sup>
- a robust and appropriately designed, long-term biodiversity monitoring and evaluation programme aimed at assessing the status of critical habitat is integrated into the client's adaptive management programme.

17. In such cases where a client is able to meet the requirements defined in paragraph 16, the project's mitigation strategy will be described in a Biodiversity Management Plan or Biodiversity Action Plan, wherever appropriate.

18. In instances where biodiversity offsets are proposed for priority biodiversity features or critical habitat, the client must demonstrate through an assessment that the project's significant residual impacts on biodiversity

<sup>7</sup> As a last resort, where any significant residual impacts remain, the client may need to consider the use of compensatory measures, such as biodiversity offsets.

<sup>8</sup> As listed on the International Union for the Conservation of Nature (IUCN) Red List of Threatened Species. The determination of critical habitat based on other listings is as follows: (i) if the species is listed nationally/regionally as critically endangered or endangered, in countries that have adhered to IUCN guidance, the critical habitat determination will be made on a project-by-project basis in consultation with competent professionals; and (ii) in instances where nationally or regionally listed species' categorisations do not correspond exactly to those of the IUCN (for example, some countries more generally list species as "protected" or "restricted"), an assessment will be conducted to determine the rationale and purpose of the listing. In this case, the critical habitat determination will be based on such an assessment.

<sup>9</sup> Net gains are additional conservation outcomes that can be achieved for the biodiversity values for which the critical habitat was designated. Net gains may be achieved through the development of a biodiversity offset and/or, in instances where the client could meet the requirements of paragraph 16 of this Performance Requirement without a biodiversity offset, the client should achieve net gains through the implementation of programmes that could be implemented in situ (on-the-ground) to enhance habitat, and protect and conserve biodiversity.

<sup>10</sup> Net reduction is a singular or cumulative loss of individuals that prevents the species' ability to persist at the global and/or regional/national scales for many generations or over a long period of time. The scale (for example, global and/or regional/national) of the potential net reduction is determined based on the species' listing on either the (global) IUCN Red List of Threatened Species and/or on regional/national lists. For species listed on both the (global) IUCN Red List of Threatened Species and the national/ regional lists, the net reduction will be based on the national/ regional population.

<sup>11</sup> The time frame in which clients must demonstrate "no net reduction" of critically endangered and endangered species will be determined on a case-by-case basis and in consultation with external experts.

will be adequately mitigated to meet the requirements of paragraphs 13 and 15-17, as applicable. In these instances, the client will retain experienced external experts with knowledge in offset design and implementation.

### **Legally protected and internationally recognised areas of biodiversity value**

19. Where the project occurs within or has the potential to adversely affect an area that is protected through legal or other effective means,<sup>12</sup> and/or is internationally recognised,<sup>13</sup> or proposed for such status by national governments, the client must identify and assess potential project-related impacts and apply the mitigation hierarchy so that impacts from the project will not compromise the integrity, conservation objectives and/or biodiversity importance of such an area.
20. If the assessment identifies that the project has the potential to adversely impact priority biodiversity features and/or critical habitat within the legally protected areas or internationally recognised areas of biodiversity value, the client will seek to avoid such impacts in accordance with paragraphs 13 or 15-17 respectively. In addition the client will:
  - demonstrate that any proposed development is legally permitted, which may have entailed that a specific assessment of the project-related impacts on the protected area has been carried out as required under national law
  - act in a manner consistent with any government recognised management plans for such areas
  - consult protected area managers, relevant authorities, local communities and other stakeholders on the proposed project in accordance with PR 10
  - implement additional programmes, as appropriate, to promote and enhance the conservation objectives of the protected area.

### **Invasive alien species**

21. The client must avoid and proactively prevent accidental or deliberate introduction of alien species that could have significant adverse impacts on biodiversity, specifically:
  - the client will not intentionally introduce alien species into areas where they are not normally found unless this is carried out in accordance with the regulatory framework governing such introduction. Under no circumstances must species known to be invasive be introduced into new environments.
  - the client will identify potential risks, impacts and mitigation options related to the accidental transfer and release of alien species<sup>14</sup>
  - where alien species are already established in the country or region of the proposed project, the client will exercise diligence in not spreading the invasive species into areas in which they have not already been established. As practicable, the client should take measures to eradicate such species from areas having biodiversity importance over which they have management control.

### **Sustainable management of living natural resources**

#### **Scope of application**

22. This PR applies to projects which involve the primary production of living natural resources or where such resources are central to the project's core function.<sup>15</sup>
23. The client will, as part of its environmental and social assessment process, identify the relevant requirements of this PR and how they will be addressed and managed through the project life cycle. The client will adopt and implement measures to comply with this PR, as part of the client's overall ESMS and/or ESMP. Environmental and social assessment and management requirements are outlined in PR 1.

<sup>12</sup> This PR is guided by the IUCN definition of "Protected Area".

<sup>13</sup> Sites identified under international conventions or agreements, including, but not limited to, UNESCO Natural World Heritage Sites, UNESCO Man-and-Biosphere Reserves and the Ramsar List of Wetlands of International Importance .

<sup>14</sup> With respect to the international shipping of goods and services, this PR is guided by the International Convention for the Control and Management of Ship's Ballast Water and Sediments (BWM). Clients seeking EBRD finance for a project involving such shipping activities are expected to comply with appropriate obligations developed in the framework of this convention.

<sup>15</sup> Projects that include crop or livestock production, natural or plantation forestry, aquaculture or fisheries, and production and use of biomass for energy or biofuel production are subject to this PR.

## Requirements

### General requirements

24. Clients will manage living natural resources through the application of national regulatory requirements and relevant EU substantive environmental standards, as applicable at the project level.
25. Clients will give priority to adopting and implementing relevant globally, regionally or nationally recognised standards that are subject to independent certification or verification within a reasonable time frame. Where no relevant standards exist for particular living natural resources applicable to the project, the client will commit to applying appropriate industry-specific sustainable management practices.

### Assessment of issues and impacts

26. Clients with projects involving the use of living natural resources will assess the sustainability of the resource, as well as taking into account the potential impacts on ecosystems and the biodiversity they support and the following principles:
  - the use of any living natural resource needs to be considered in the context of the core ecological functions it provides within the ecosystem<sup>16</sup>
  - consideration of direct, indirect and cumulative impacts
  - the use of the living natural resource will follow the mitigation hierarchy approach and seek to optimise benefits for other users
  - production and/or use of species or populations that are not natural to the location and not tested for their invasiveness and/or dominance over local species should be restricted or be subject to adequate studies and approval by the relevant national competent authorities, prior to production or use.

### Crop and livestock production

27. Clients involved in crop or livestock production should ensure that they are employing GIP

to avoid or minimise negative impacts and resource consumption.

28. Clients involved in the farming, transport and slaughtering of animals for meat or by-products (for example, milk, eggs, wool) will adopt and implement national regulatory requirements, relevant EU animal welfare standards and GIP, whichever is most stringent, in animal husbandry techniques.

### Fisheries and aquaculture

29. Clients involved in the farming, harvesting or processing of fish or other aquatic species must demonstrate that their activities are being, or will be, undertaken in a sustainable manner. This can be achieved through attainment of independent certification,<sup>17</sup> or through studies undertaken as part of the assessment process. Fishery activities are not necessarily limited to harvesting. Re-population or introduction of different species or populations, especially in closed environments such as lakes, must ensure that the new stock does not destroy or displace existing local endemic/natural fish species.
30. For aquaculture projects, clients will assess and minimise the risk of escape of non-native species into the aquatic environment. Clients should also assess and minimise the potential for transfer of disease and/or parasites into the environment.

### Natural and plantation forestry

31. Clients involved in primary forestry must plan their operations to avoid, or minimise, impacts on ecosystems and the biodiversity they support and meet the relevant requirements outlined in paragraphs 11 and/or 13-15 if their project-related activities have the potential to result in the conversion, fragmentation or degradation of priority biodiversity features or critical habitats.
32. Clients will obtain independent certification that internationally recognised principles and

<sup>16</sup> For example, clear felling of forests may have adverse impacts on other biodiversity, soil erosion, watershed hydrology, water quality and fisheries. Similarly, over-fishing of one species may affect the ecological balance and long-term integrity of ecosystems.

<sup>17</sup> For example, internationally recognised sustainable fisheries programmes include the Marine Stewardship Council certification scheme.

<sup>18</sup> Internationally recognised forestry certification programmes include the Forest Stewardship Council (FSC) and Programme for the Endorsement of Forest Certification (PEFC).

standards of sustainable forest management<sup>18</sup> are being met for the forests and/or plantations over which they have direct management control. Where the assessment identifies that forest management practices do not meet such standards, clients will develop a management plan to obtain such a certification within a reasonable time frame.

- the sourcing of the living natural resources is monitored and documented
- the sourcing of living natural resources does not adversely impact core ecological functions of the affected ecosystems, legally protected areas, internationally recognised areas of biodiversity value, priority biodiversity features or critical habitats.

### **Use of biomass fuel and biofuel production**

33. Clients involved in the production and use of biomass will minimise adverse effects on ecosystems and the biodiversity they support through (i) the use of residues and waste materials as the primary source of biomass fuel, where available on technically and financially feasible and cost-effective terms; and (ii) adopting and implementing relevant EU principles and standards, and, where available, seeking to certify its operations to such standards within a reasonable time frame.
34. Clients involved in biofuel production will use feedstock that is produced in a sustainable manner so that adverse effects on ecosystems and the biodiversity they support as well as the use of, and impacts on, land, water and other resources needed to produce each unit of energy are minimised. The client will adopt and implement relevant EU principles and standards or guidelines for biofuel feedstock production, and where available seek to certify its operations to such standards within a reasonable time frame.

36. Clients should give preference to purchasing living natural resources produced in accordance with internationally recognised principles and standards of sustainable management, where available for the product being purchased. Where internationally recognised industry sustainability certification systems exist, the client will seek to certify its operations and supply chain management system to such standards, within a reasonable time frame. In the absence of such certification systems, the client will apply GIP and technologies.

### **Genetically Modified Organisms (GMOs)**

37. In EU member states, GMOs may not be used or released into the environment without approval being given by the competent authorities. In other EBRD countries of operations, GMOs may not be used or released into the environment without a risk assessment, conducted in line with EU substantive standards.

### **Supply chain**

35. Where: (i) the project uses external suppliers of living natural resources over which the client does not have direct management control; (ii) these resources are central to the project's core functions; and (iii) suppliers have the potential to significantly impact ecosystems and the biodiversity that they support, the client will, as part of its overall ESMS or ESMP, adopt and implement a sustainable resources procurement policy, management procedures and verification system to evaluate its primary suppliers. The policies, procedures and verification systems will specify that:
  - only living natural resources of a legal and sustainable origin are purchased