

EBRD Performance Requirement 8

Cultural Heritage

Introduction

1. This Performance Requirement (PR) recognises the importance of cultural heritage for present and future generations. The aim is to protect cultural heritage and to guide clients in avoiding or mitigating adverse impacts on cultural heritage in the course of their business operations. The clients are expected to be precautionary in their approach to the management and sustainable use of cultural heritage.
2. Both tangible and intangible cultural heritage are important assets for economic and social development, and are an integral part of the continuity of cultural identity and practices (including traditional skills, knowledge, beliefs and/or minor dialects and languages).
3. In pursuing these aims of protection and conservation, this PR is guided by applicable international conventions and other instruments. It also recognises the need for all parties to respect the laws and regulations that pertain to cultural heritage that could be affected by a project and the obligations under relevant international treaties and agreements ratified by host countries. These laws may be on cultural heritage or antiquities, planning or building consent, conservation areas, protected areas, and other laws and regulations governing the built historic environment, or laws relating to the protection of cultures of Indigenous Peoples. Detailed requirements for protecting Indigenous Peoples are in PR 7.

Objectives

4. The objectives of this PR are to:
 - support the protection and conservation of cultural heritage
 - adopt the mitigation hierarchy approach to protecting cultural heritage from adverse impacts arising from the project
 - promote the equitable sharing of benefits from the use of cultural heritage in business activities

- promote the awareness and appreciation of cultural heritage where possible.

Scope of application

5. 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 as an integral part of the client's overall Environmental and Social Management System (ESMS) and/or the project's Environmental and Social Management Plan (ESMP). The environmental and social assessment and management requirements are provided in PR 1. In addition, the client will apply this PR during project implementation if the project affects, or has the potential to affect, cultural heritage (tangible and intangible) which had not been previously identified.
6. For the purposes of this PR, the term cultural heritage is defined as a group of resources inherited from the past which people identify, independently of ownership, as a reflection and expression of their evolving values, beliefs, knowledge and traditions. It encompasses tangible (physical) and intangible cultural heritage, which is recognised at the local, regional or national level, or within the international community.
 - Physical cultural heritage refers to movable or immovable objects, sites, groups of structures as well as cultural or sacred spaces associated therewith, and natural features and landscapes that have archaeological, paleontological, historical, architectural, religious, aesthetic or other cultural significance.
 - Intangible cultural heritage refers to practices, representations, expressions, knowledge and skills that communities, groups and, in some cases, individuals recognise as part of their cultural heritage and which are transmitted from generation to generation.
7. Recognising that sites, objects or cultural traditions representing cultural heritage value or

significance could be discovered in unexpected locations, a project is subject to the provisions of this PR if it:

- involves significant excavations, demolitions, movement of earth, flooding or other changes in the physical environment
- is located in, or is in the vicinity of, a cultural heritage site recognised by the country of operation
- may have an adverse impact on the intangible forms of cultural heritage of people, including Indigenous Peoples.

Requirements

Assessment process

Screening for impacts on cultural heritage

8. At an early stage of the environmental and social assessment, the client will identify if any cultural heritage is likely to be adversely affected by the project, and assess the likelihood of any chance finds. In doing so, the client will consult with relevant authorities, experts, local communities and other stakeholders as appropriate. The intensity of the study of cultural resources should be adequate for characterising the potential impacts and issues of the project and reflecting the concerns of relevant stakeholders.

Avoiding impacts

9. The client, based on the outcomes of the screening process, will select the location for and design the project so as to avoid significant impacts on cultural heritage. Where the client's screening process identifies potential adverse impacts at the early stages of project development, preference should be given to avoiding adverse impacts during the design and site selection phases.

Assessing impacts that cannot be avoided

10. Where impacts cannot be avoided, the client will, on the basis of the results of the preliminary screening, undertake studies and consultation to assess potential impacts and, if necessary, the required changes in design. The scope of these studies and consultation will be determined on a case-by-case basis in consultation with the national or local regulatory

authorities entrusted with protection of cultural heritage. The studies will be conducted by qualified and experienced cultural heritage specialists, either as part of the overall environmental and social assessment process, or separately.

11. The assessment and mitigation of impacts on cultural heritage will be conducted in accordance with relevant provisions of national and/or local laws, protected area management plans and regulations, national obligations under international laws and GIP.

Managing impacts on cultural heritage

12. The client will be required to develop appropriate measures for minimising and mitigating adverse impacts on the cultural heritage. The mitigation measures will address the results of the field surveys, expert assessment of the significance of cultural heritage, national legislation and relevant international conventions, and the results of consultations with affected communities and other relevant stakeholders. Such mitigation measures will be included in the client's overall ESMS and project-specific ESMP, or in a specific Cultural Heritage Management Plan that will also include an implementation timeline and a resource need estimate for each of the mitigation measures. The client will also ensure that trained and qualified personnel are available to oversee the implementation of mitigation measures, and that any third parties, such as contractors, working on the project have the necessary skills and expertise and are managed and monitored in accordance with PR 1.
13. Where the project site is associated with impacts to cultural heritage or prevents access to previously accessible cultural heritage sites, the client will assess the use of the site by affected communities. Where the site has been used by affected communities within living memory for long-standing cultural purposes, the client will, based on consultation, allow continued access to the cultural site or will provide an alternative access route, subject to overriding health, safety and security considerations.

Chance finds procedure

14. The client will ensure that provisions for

managing chance finds, defined as physical cultural heritage encountered unexpectedly during project implementation, are in place. Such provisions shall include notification of relevant competent bodies of found objects or sites; alerting project personnel to the possibility of chance finds being discovered; and securing the area of finds to avoid any further disturbance or destruction. The client will not disturb any chance finds until an assessment by a designated and qualified specialist is made and actions consistent with national legislation and this PR are identified.

into a good faith negotiation with the affected local communities embodying traditional lifestyles; (ii) documents their informed participation and the successful outcome of the negotiation; and (iii) provides affected local communities with fair and equitable sharing of benefits from commercialisation of such knowledge, innovation or practice, consistent with their customs and traditions. Where a project proposes to use the cultural resources, knowledge, innovations or practices of Indigenous Peoples, the requirements of PR 7 will apply.

Consultation with affected communities and other stakeholders

15. Where a project may affect cultural heritage, the client will consult with affected communities within the host country who use or have used the cultural heritage within living memory for longstanding cultural purposes to identify cultural heritage of importance, and to incorporate into the client's decision-making process the views of the affected communities on such cultural heritage. The client will provide information to affected communities in a transparent and appropriate language on the scope, location and duration of a project, and any activities that might involve impacts on cultural heritage. Such consultation must follow the requirements of PR 10 and could be part of a wider consultation process on the project's environmental and social impacts. Consultation will also involve other relevant stakeholders such as national or local authorities entrusted with protection of cultural heritage, cultural heritage experts and non-governmental and civil society organisations. Impacts on cultural heritage will be appropriately mitigated with the free prior and informed participation of the affected communities.

Project's use of cultural heritage

16. Where a project entails the use of cultural resources, knowledge, innovations or practices of local communities embodying traditional lifestyles for commercial purposes, the client will inform these communities of: (i) their rights under national law; (ii) the scope and nature of the proposed commercial development; and (iii) the potential consequences of such development. The client will proceed with such commercialisation only when it: (i) enters