

# **2003 Environmental Policy Review: Achieving the Bank's Environmental Mandate Through Direct Investments**

## **Management Comments**

### **BACKGROUND**

EBRD is in the process of developing a new Environmental and Social Policy, which will replace the Bank's 2003 Environmental Policy. An important component of this process is a review of the implementation of the 2003 Policy, carried out by the Bank's Evaluation Department, entitled "*2003 Environmental Policy Review: Achieving the Bank's Environmental Mandate Through Direct Investments*".

EBRD Management's comments on this study are set out below. These comments can be divided into two broad categories; those that relate to evaluated projects, and those that relate to forward-looking recommendations. Table 1 gives a more detailed response to the recommendations that relate to the development and implementation of the new Environmental and Social Policy. Management would like to thank the Evaluation Department (EvD) for their report and recognises that considerable time and effort has gone into its preparation.

### **PROJECT EVALUATIONS**

#### **Methodology and Context**

The majority of the conclusions in the evaluation study are derived from a review of a sample of EBRD direct investments. The Bank's Management has questions about aspects of the methodology, and its application in this study, and in some cases about the lack of context in which the conclusions are presented (for example there is no discussion of the practical limits of the Bank's ability to leverage change). The assessments of projects' compliance against national and EU standards are based on brief site visits and Management would have liked to see more information on the number, extent and materiality of any non-compliances. Many of the conclusions are based on predictions of projects' performance, but the basis for these predictions is not always fully explained, and will, by definition, involve a degree of subjectivity. The sample size for the study is small compared with the Bank's portfolio and somewhat under-represents important project types that are the focus of much of the Bank's environmental and social work. Management, however, understands that the study sample size had to be modified as the specific circumstances of some projects did not allow for detailed scrutiny at the time of the study. Also, there is an over-reliance on a handful of identified non-compliances, which are used to extrapolate more general criticisms (for example relating to involuntary resettlement issues). These concerns mean that there are some questions as to how accurately the study reflects the true performance of the Bank's projects.

#### **Project Assessments**

The report's conclusions on the environmental, social, and occupational health and safety standards of existing projects are generally negative, which Management finds surprising given the largely positive environmental findings from past evaluations of individual projects and Annual Evaluation Overview Reports over a number of years. The findings that 79% of the projects visited are satisfactory or better, and 90% are expected to result in positive environmental change, should be viewed as significant accomplishments, as should the evaluation's forecast that 60% of projects will be fully compliant with EU standards by the time

of project completion (although Management consider this to be an under-estimate). Full compliance with EU requirements is a challenge for any company, and a comparison of the compliance levels of projects across the EU would be useful, as would a breakdown of the performance of new projects versus existing operations where there may be legacy issues to be dealt with.

For social issues, Management accepts that the Bank has been through a learning process since the introduction of the 2003 policy. External labour experts have been assisting the Bank in implementing its policy commitments since 2004. A social expert was employed in 2005 and the Bank has put considerable effort into developing its approach to social issues, particularly relating to involuntary resettlement, indigenous peoples and cultural heritage. Indeed, EBRD has been in the forefront internationally on issues such as indigenous peoples' rights, labour due diligence and community grievance mechanisms. The new policy will provide more guidance on how to identify and address social impacts, and the Bank is continuing to increase the resources it devotes to social due diligence and monitoring.

Similarly for occupational health and safety, the Bank acknowledges that the performance of some projects has been poor, but again efforts have been, and continue to be made to address this shortfall. These efforts pre-date the evaluation exercise. Health and safety is a priority issue for Management, and programmes such as the Kazakh mine safety project have been developed specifically to address it. Internally, consultants have been engaged to produce due diligence tools and training programmes for staff. However it should be recognised that producing lasting changes in occupational health and safety performance is a challenge, especially in well established operations, as it depends crucially on cultural change and local management commitment, both of which the Bank has limited influence on.

### **Monitoring, Reporting and Action Plans**

It is disappointing that the study does not take more account of the significant steps the Bank has made in recent years to increase and improve its environmental and social monitoring of projects. The Environment and Sustainability Department (ESD) has always proactively monitored high risk projects and Category A projects have typically included bespoke monitoring requirements. In 2006 ESD initiated a target-driven, risk-based monitoring strategy. A fulltime environmental and social monitoring specialist was appointed in November 2006, and since June 2006 EBRD has spent considerable resources on hiring monitoring consultants from its own budget. All of this activity has resulted in a notable increase in the number of project visits, particularly for medium-sized and medium risk projects.

It is accepted that clients' Annual Environmental Reports sometime lack the quality of information that the Bank expects. Standard reporting templates have been developed to help address this, but this is an area where more work is needed. Similarly for Environmental Action Plans, while many are excellent and are of real benefit to clients, some lack detail and the Bank does need to put more effort into ensuring that Action Plans are properly implemented and reported on.

### **FORWARD-LOOKING RECOMMENDATIONS**

Table 1 lists the main recommendations from the evaluation study that relate to the planned Environmental and Social policy, along with a summary of Management's responses. More detailed responses to the main issues are given here.

## **Policy Structure and Targets**

The study recommends that the Bank revises the structure of the policy to focus on objectives and targets. Bank Management however does not believe that this Policy is the appropriate place to set out targets. There are other Bank documents, such as country or sector strategies, that are more conducive to setting objectives and targets. It must also be remembered that the Bank has a largely demand-driven private sector project portfolio, which is not programmatic, and that this limits the usefulness of many types of targets as effective management tools. For example, the study recommends a carbon neutrality target, which is a laudable goal, but EBRD's portfolio is highly project sensitive in terms of carbon emissions and so a target may be impractical at this stage.

## **Environmentally Orientated Investments**

The study recommends that the Bank move from a risk management approach to project due diligence, towards focusing more on potential environmental and social benefits. The Bank's Management concurs, and has been working on a Sustainability Initiative, although it also believes that a proactive approach to promoting project benefits has always been an integral part of the Bank's work, as reflected in its extensive Technical Cooperation programme and its significant investments in Municipal and Environmental Infrastructure. More recently, a dedicated team has been set up to promote Energy Efficiency and Climate Change projects, resulting in €1.5 billion in energy efficiency investments to date.

## **Measuring Environmental Impact**

It is proposed in the study that EBRD develop a measure for Environmental Impact, analogous to the Bank's Transition Impact tracking system. The Bank's Management believes that there may be merit in this proposal, although it will need to be discussed with internal and external stakeholders. This will be evaluated outside of the policy framework. In addition, work is already on-going with the Office of the Chief Economist to consider the potential for including environmental or sustainable development aspects into Transition Impact assessments.

## **CONCLUSIONS**

The evaluation of the implementation of the 2003 Environment Policy has been a useful exercise. As Table 1 shows, while Management does have concerns relating to the study's use of statistics that are based on subjective assessments, it agrees with almost all of the positive forward-looking recommendations. Many of the suggestions have already been implemented, while others will be addressed in the forthcoming Environmental and Social Policy. Some will require further work and will be considered as part of the Bank's longer term work programme. In addition, the review of the Lessons Learned database (Annex 3 of the study) is potentially a useful resource that can feed into the policy revision process.

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**Table 1: Evaluation Study Recommendations - Management Response**

<b>No.</b>	<b>Report Ref.</b>	<b>EvD Conclusions and Recommendations<sup>1</sup></b>	<b>Management Response</b>
1	3.1.1 (p13)	The policy should be broad enough to cover all existing and future financial instruments	Noted. As with previous policies, the new policy will cover the full range of the Bank's activities.
2	3.1.1 (p13)	The main text should be simplified and the policy should include principles, objectives and targets	Agreed in part. The main text of the policy has been simplified and includes broad objectives. The Bank's Management does not believe this policy is the best place to set out targets. Instead, the Policy focuses on client performance requirements, as do the policies of other IFIs.
3	3.1.1 (p14)	There should be a separate operational plan, setting out procedures, resources, budgets, etc.	Agreed. Environmental and Social procedures will be revised in the light the new policy and a roll-out plan will be developed and implemented. Budgeting and resources planning is a continuous management activity.
4	3.1.1 (p14)	The policy should define key environmental challenges for the Bank to focus on	Agreed. The policy will guide the Bank in addressing the main environmental and social challenges it faces.
5	3.1.1 (p14)	Some words do not translate easily to Russian e.g. "environment", "policy"	Noted. This has always been a challenge, but the documents will be professionally translated (as was the 2003 policy).
6	3.1.2 (p15)	The policy should refer to health, safety environment and social, rather than just "environment"	Agreed and implemented. This has always been an intention for the new policy.
7	3.1.3 (p19)	The 2003 does not clearly define project boundaries	Agreed. The new policy and Performance Requirements will be structured to provide more detailed guidance on project boundaries, however, individual project boundaries will be determined on a case by case basis, taking account of the area of influence and project risks.
8	3.2.1	The policy needs to reflect the	Noted. The commitment to EU standards

<sup>1</sup> NB: The actual text of the Evaluation Study has been paraphrased and some minor or duplicated recommendations are not included here.

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	(p27)	reality of sectors (e.g. MEI) or countries (e.g. ETC) where EU compliance will be challenging	for all projects was decided by the Shareholders and has been an objective of the Bank since 1996. The new performance requirements will include language to clarify that longer time frames for ESAP implementation may be appropriate for projects in ETC countries. Requests for derogations will be made to the Board on a case by case basis if necessary and justified, as has been the case with the 1996 and 2003 policies.
9	3.2.1 (p27)	The new policy needs to be clearer on the timeframes for achieving EU standards	Agreed. More detail is included in the new policy. For each project, compliance timescales will be defined in the ESAP, and it is intended that Board documents will give more detail on what is attainable and in what timeframe.
10	3.2.1 (p27)	The Bank should monitor “Env/Social Impact”, in a parallel with transition impact	Noted. This proposal will need to be discussed with internal and external stakeholders and will be evaluated outside of the policy framework. In addition, work is already on-going with the Office of the Chief Economist to consider the potential for including environmental and sustainable development aspects in Transition Impact assessments.
11	3.2.2 (p31)	There needs to be more focus on additional environmental benefits and environmentally oriented investments	Agreed. The new policy will have an expanded section covering these areas. The Bank’s Sustainability Initiative is intended to address this area and manage the implementation.
12	3.3.1 (p38)	Categorisation should be applied more consistently	To avoid possible misunderstandings in future a simplified categorisation is proposed for the new policy. More information will also provided in Board papers and Project Summary Documents explaining how projects have been categorised.
13	3.3.2 (p42)	ESD should clarify what is meant by an “audit”	Agree that in the past there has been some confusion about what is meant by an “audit”. ESD has developed an audit

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			protocol that specifies its requirements. For the policy, ESD is proposing to drop the “1/0” audit category, which should simplify the process.
14	3.3.2 (p42)	ESD should have standard audit and EIA formats	Noted. General protocols are already in place defining minimum requirements. Additional practical guidance will be developed to address the requirements of the new policy. Flexibility is needed to address different sectors, regulatory regimes and project-specific issues.
15	3.3.3 (p45)	ESD should have a strategy for HSE/social TCs, (particularly for private sector H&S)	Agreed. This is being addressed through the Bank’s proposed Sustainability Initiative
16	3.3.4 (p47)	The Bank should continue to support transparency of project environmental and social information	Agreed. The new policy will have a separate Performance Requirement on client disclosure and stakeholder engagement. This is in addition to the Bank’s commitments in its Public Information Policy.
17	3.3.5 (p52)	Environmental Action Plans (EAPs) should preferably include cost and, where possible, be included in the client’s financing plan	Agreed in part. EAPs should set out the costs of implementation where practicable. The specifics of how EAPs are funded is for clients to decide.
18	3.3.5 (p53)	EAPs should be living documents	Agreed. This has already been the case to some extent. The new policy will set out requirements for management of change, including the need to update EAPs.
19	3.3.5 (p53)	EAPs should be <u>Environmental and Social</u> Action Plans (ESAPs)	Agreed and implemented.
20	3.3.6 (p58)	ESD needs to carry out more project monitoring	Agreed, although the Environment and Sustainability Department (ESD) has always monitored high risk projects. In 2006 the ESD initiated a target-driven, risk-based monitoring strategy. A full-time environmental and social monitoring specialist was appointed in November 2006, and since June 2006 EBRD has

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			spent considerable resource on monitoring consultants from its own budget. All of this activity has resulted in a notable increase in the number of project visits, particularly for medium-sized and medium risk projects.
21	3.3.6 (p58)	The monitoring approach be more proactive	Agreed and already implemented. A proactive monitoring approach has been in place since for several years. ESD has hired a monitoring specialist, appointed monitoring consultants and is implementing a risk-based, target driven monitoring strategy.
22	3.3.6 (p58)	ESD should use a specific structure for client AERs	Agreed in part. An AER template is used but some degree of flexibility and tailoring to suit specific projects is needed. Also, existing client systems may be equally acceptable. ESD is currently reviewing reporting requirements in partnership with the European Environment Agency.
23	3.3.6 (p58)	Web-based reporting should be investigated	Agreed. This is the long term goal but implementation would require significant resources. ESD has carried out some initial scoping.
24	3.3.7 (p59)	Standard formats should be used for EAPs	Noted. Guidance is already in place, although in practice flexibility is needed to address the specific circumstances of individual projects. New guidance on EAPs is being developed, based on current best practice.
25	3.3.7 (p60)	Standard formats should be used for monitoring reports	Agreed and implemented. ESD has developed a general template for monitoring reports, which can be adapted as necessary for each project.
26	3.3.8 (p61)	The Bank should consider offering free environmental audits	Agreed in part. TC funds are currently used for scoping sustainable development projects (e.g. TC for energy efficiency audits) and identifying additional environmental and social benefits, but

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			such funds are limited. Normal due diligence audits should continue to be client-funded.
27	3.3.8 (p61)	ESD should have more budget for due diligence and monitoring visits	Agree in principle, although it should be noted that staff resources is more of limiting factor on increasing the number of site visits undertaken.
28	3.3.8 (p62)	ESD should work towards implementing a Total Quality Management system	Agree in principle. ESD will be reviewing its procedures and management control systems in the light of the new policy.
29	3.4.2 (p64)	Audits, EIAs and EAPs need to include on Occupational Health and Safety (OHS)	Agreed. ESD accepts that this has been an issue in the past, but it is now receiving more attention. ESD has appointed consultants to develop OHS tools and training materials.
30	3.4.2 (p64)	TC should be used to provide OHS training for clients	Agreed that this a reasonable aim, provided funding is available and is decided on the basis of needs. Clients would also need to make commitments to improvements.
31	3.4.2 (p64)	There should be a separate Performance Requirement for Health and Safety.	Noted. Management believes that Occupational Health and Safety is adequately covered in the proposed Performance Requirement for Labour and Working Conditions, but will review this issue as part of the next revision of the policy documents.
32	3.4.3 (p67)	There has been a lack of attention by the Bank to social aspects. EBRD should encourage clients to make more social investments	Agreed that issues were identified with some of the projects evaluated for this study, but this is not reflective of the general approach of the Bank, particular on larger, more complex projects. Overall there have been significant improvements to the Bank's social due diligence in recent years and further changes are being implemented through the new policy, increased resources and staff training.
33	3.4.4 (p68)	EBRD should require HSE management systems for most	Agreed. Client management capacity will be addressed in the new policy but the



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		private sector clients	requirement should be determined by project risks and needs.
34	3.4.4 (p68)	Clients should be required to appoint HSE managers	Agreed. The new policy will require clients to designate appropriate staff responsible for HSE.
35	3.5 (p71)	The Bank should recruit more H&S and social specialists	Noted. Bank Management will review resources in the light of the new policy.
36	3.5 (p71)	ESD should develop a monitoring plan each year.	Agreed and already implemented. Overall monitoring priorities are set by ESD management each year and work plans are agreed with individual staff members.
37	3.5 (p71)	ESD should use more local consultants for monitoring	Agreed, although it is dependent on finding local consultants that fully understand the Bank's requirements. In the past Bank-funded capacity-building initiatives for consultants and a similar initiative could be tried again.
38	3.5 (p71)	ESD should provide more training for ESD specialists	Agreed. Training needs of staff are reviewed regularly. ESD training in the last year has covered health and safety, labour issues, resettlement and indigenous peoples. Further training will be provided as necessary when the new policy is rolled out.
39	3.5 (p72)	Operation Leaders (OLs) should carry out basic checks on EAP implementation	Agreed. OLs have always had some responsibility for ensuring that project comply with the Bank's environmental policies, recognising that they are not expected to be environmental or social experts. In addition, covenanted action items are tracked by OAU.
40	3.5 (p72)	ESD should train OLs and Regional Office (RO) staff to carry out basic HSE site visits	Noted. Training for Bank staff on the new policy will include guidance onsite visits.
41	3.6.1 (p75)	Use TC funds to develop summaries of national environmental regulations and strengthen local enforcement	Agreed in part. The Bank has funded summaries of national environmental law in the past but, being summaries, they are of limited use for client, and can become

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		capacity	quickly outdated. ESD would be happy to contribute to any initiative to strengthen local enforcement capacity if a clear need is identified and funding is available. The work of other institutions in this area, including others IFIs, also needs to be considered.
42	3.6.2 (p77)	Use TC funds to help clients understand EU requirements	Agreed in principle. The Bank is currently co-funding a multi-IFI initiative to prepare suitable guidance on EU environmental legislation to be applied at a project level.
43	3.6.2 (p77)	Legal documents for projects in acceded EU member states should only reference national standards.	Noted. Standard legal texts will be reviewed once the new policy is in place.
44	3.6.3 (p80)	DIF/DLF projects should be covered by the Policy (recognising that the different standards and procedures are appropriate)	Agreed in principle. Similar to the 2003 Policy, the new policy will apply to all of the Bank's activities, and will include provisions for the Board to approve alternative financing mechanisms.
45	3.6.3 (p80)	All DIFs/DLFs should complete the environment questionnaire, be categorised, have an action plan and provide AERs	Agreed. ESD and the banking team have been working to implement a more consistent approach to DIF and DLF projects.
46	4.1 (p83)	More detail on project boundaries, standards and timeframes should be given in ESD sections of Board papers	Agreed. It is intended that the relevant sections of Board documents will give more detail on the Bank's requirements, what is attainable and in what timeframe.
47	4.1 (p86)	ESD should recruit staff in some of the Regional Offices	Agree in principle. This will be considered in more detail after the new policy is agreed. In addition, short to medium term postings by ESD staff to Regional Offices are being evaluated.
48	4.1 (p86)	There should be greater separation of ESD "project support" and "control functions"	Noted. This has not been considered to be a problem in the past but it may be appropriate to review the internal organisation of the Department once the new policy is agreed.

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49	4.1 (p86)	OGC should appoint a dedicated environmental lawyer for operations	Noted. Management will give due consideration to appointing a lawyer to advise primarily on the environmental law aspect of operations.
50	4.1 (p86)	OGC should work with governments on environmental regulatory reform.	Noted. Consideration will also be given to accommodating within the Legal Transition Programme ad hoc initiatives to work with governments to improve environmental laws. However this will not be added as a focus area of the programme given competing demands and the prospect of expanding the programme to include procurement law and judicial capacity building, depending on whether net income is allocated for the purpose.