PR 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources

Introduction

1. The EBRD recognises the need for the protection and conservation of biodiversity in the context of projects in which it invests. The term 'biodiversity' (or biological diversity) is defined in the Convention on Biological Diversity (CBD) 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*'. The Bank supports a precautionary approach to the conservation and sustainable use of biodiversity and the management of impacts upon it in line with the Rio Declaration and the CBD.

2. In pursuing these aims, the Bank is guided by and supports the implementation of applicable international law and conventions and relevant EU Directives.[1]

Objectives

3. The objectives of this Performance Requirement ("PR") are:

- to protect and conserve biodiversity
- to avoid, minimise and mitigate impacts on biodiversity and offset significant residual impacts, where appropriate, with the aim of achieving no net loss or a net gain of biodiversity
- to promote the sustainable management and use of natural resources
- to ensure that Indigenous Peoples and local communities participate appropriately in decision-making
- to provide for fair and equitable sharing of the benefits from project development and arising out of the utilisation of genetic resources
- to strengthen companies' license to operate, reputation and competitive advantage through best practice management of biodiversity as a business risk and opportunity
- to foster the development of pro-biodiversity business that offers alternative livelihoods in place of unsustainable exploitation of the natural environment.

Scope of application

4. This PR applies to projects in all types of habitats, irrespective of whether they have been disturbed or degraded previously, or whether or not they are protected or subject to management plans.

5. The applicability of this PR is determined by the Bank during the environmental and social appraisal process. The Bank will outline the generic requirements which must be met to comply with this PR, while the client is responsible for proposing for the Bank's review a set of specific measures to be taken to ensure compliance, as part of the client's overall Environmental and Social Action Plan (ESAP)

[1] Examples of relevant conventions and directives:
- Convention on Biological Diversity and its protocols.
- Convention on Wetlands of International Importance Especially as Waterfowl Habitat.
- Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention).
- Convention on the Conservation of Migratory Species of Wild Animals.
- Convention on the Protection of the Black Sea Against Pollution.
- Council Directive 92/43/EEC May 1992 on the Conservation of Natural Habitats and of Wild Fauna and Flora, as amended.
- Council Directive 79/409/EEC April 1979 on the Conservation of Birds.
- Council Directive 2004/35/EC April 2004 on Environmental Liability.
- Council Directive 85/337/EEC 27 June 1985 as amended by Directive 97/11/EC of 3 March 1997 on Environmental Impact.
- Council Directive 2001/42/EC June 2001 on Strategic Environmental Assessment.

Biodiversity Mitigation Hierarchy

Action	Response
1. Avoid	The client will seek to avoid adverse impacts on biodiversity.
2. Minimise	Where significant impacts on biodiversity cannot be avoided, the client should identify ways in which project can be modified to minimise impacts on biodiversity.
3. Mitigate	Where significant impacts on biodiversity can neither be avoided nor minimised, the client should identify measures to mitigate those impacts.
4. Offset	Where significant residual impacts on biodiversity remain, in spite of all reasonable attempts to avoid, minimise and mitigate those impacts the client will identify actions or projects to offset those impacts. Any offset projects must be structured and agreed with EBRD.

and/or Management System. The environmental and social appraisal and management requirements are outlined in PR 1 and PR 10. The Bank may engage independent biodiversity specialists to assist in its due diligence.

Requirements

Appraisal of issues and impacts

6. Through the environmental and appraisal process, the client will identify and characterise the potential impacts on biodiversity likely to be caused by the project. The extent of due diligence should be sufficient to fully characterise the risks and impacts, consistent with a precautionary approach and reflecting the concerns of relevant stakeholders. Suitably experienced and qualified experts may need to be engaged in this process. In planning and implementing impact assessments where biodiversity issues are a key focus, clients should refer to best practice guidelines on integrating biodiversity into impact assessments.[2] The appraisal also needs to take into account climate change and adaptation issues. When requirements of paragraphs 13, 14 and 15 apply, the client will retain qualified and experienced external experts to assist in conducting the appraisal.

7. Due diligence should include consideration of the nature, extent, duration, and intensity of potential impacts, assess the probability of impact occurring and determine the significance of those impacts.

8. The client will need to identify measures to avoid, minimise or mitigate potentially adverse impacts and, where appropriate and as a last resort, propose compensatory measures, such as biodiversity offsets, to achieve no net loss or a net gain of the affected biodiversity. See table above.

[2] Best practice guidelines on integrating biodiversity into impact assessment include:
- '*Voluntary Guidelines on Biodiversity-inclusive Environmental Impact Assessment* (Contained in the CBD Decision VIII/28 from COP8 in 2006).
- *Biodiversity in Impact Assessment* (IAIA Special Publication Series No. 3).
- Various products of *The Energy and Biodiversity Initiative.*

Habitat protection and conservation

General

9. All habitats (whether modified, natural or of critical conservation value) support complexities of living organisms which vary in terms of species diversity, abundance and ecosystem and economic value. For this reason, due diligence undertaken by the client should include consideration not only of natural undisturbed habitat, including that of critical conservation value, which may be affected by the project, but also of habitat which has been disturbed or degraded by human activity, and new manmade habitat areas such as reservoirs and grasslands. Such due diligence should include an assessment of any mitigation measures to be applied to the proposed development.

10. Mitigation measures could include avoidance of sensitive sites or disruptive work at sensitive times (for example, breeding seasons), translocation of species to temporary or permanent alternative sites, post-project site restoration and re-colonisation/stocking and the creation of similar habitats (to offset) residual impacts. Individuals and communities directly affected by biodiversity loss must be compensated in an adequate and socio-culturally appropriate manner.

Modified habitats

11. Modified habitats are those where there has been apparent alteration of the natural habitat, often with the introduction of alien species of plants and animals, such as agricultural areas. Where modified or newly-created habitats may be impacted, the client should aim to minimise any further degradation or conversion of habitat. Where there is merit on conservation grounds and depending upon the nature and scale of the project, the client should identify opportunities to enhance habitats, protect and conserve biodiversity or encourage sustainable harvesting/management of the area in question. This might include foraging, bee keeping, bird watching, etc.

Natural habitats

12. Natural habitats are land and water areas where the biological communities are formed largely by native plant and animal species, and where human activity has not essentially modified the area's primary ecological functions. In areas of natural habitat, there must be no significant degradation or conversion of the habitat to the extent that (i) the ecological integrity and functioning of the ecosystem is compromised or (ii) the habitat is depleted to the extent that it could no longer support viable populations of its native species, unless:

- there are no technically and economically feasible alternatives
- the overall benefits of the project outweigh the costs, including those to the environment and biodiversity
- appropriate mitigation measures are put in place to ensure no net loss and preferably a net gain of biodiversity value in the habitat concerned, or, where appropriate, a habitat of greater conservation value.

Critical habitat

13. Irrespective of whether it is natural or modified, some habitat may be considered to be critical by virtue of (i) its high biodiversity value; (ii) its importance to the survival of endangered or critically endangered species; (iii) its importance to endemic or geographically restricted species and sub-species; (iv) its importance to migratory or congregatory species;

(v) its role in supporting assemblages of species associated with key evolutionary processes; (vi) its role in supporting biodiversity of significant social, economical or cultural importance to local communities; or (vii) its importance to species that are vital to the ecosystem as a whole (keystone species).

14. Critical habitat must not be converted or degraded. Consequently, in areas of critical habitat, the client will not implement any project activities unless the following conditions are met:

- Compliance with any due process required under international obligations or domestic law that is a prerequisite to a country granting approval for project activities in or adjacent to a critical habitat has been complied with.[3]
- There are no measurable adverse impacts, or likelihood of such, on the critical habitat which could impair its ability to function in the way(s) outlined in paragraph 13.
- Taking a precautionary perspective, the project is not anticipated to lead to a reduction in the population of any endangered or critically endangered species or a loss in area of the habitat concerned such that the persistence of a viable and representative host ecosystem be compromised.
- Notwithstanding the above, all other impacts are mitigated in accordance with the mitigation hierarchy.

Protected and designated areas

15. Areas may be designated by government agencies as protected for a variety of purposes, including to meet country obligations under international conventions. Within defined criteria, legislation may permit development in or adjacent to protected areas. In addition to the applicable requirements of paragraph 14, the client will:

- consult protected area sponsors and managers, local communities and other key stakeholders on the proposed project in accordance with PR 10;
- demonstrate that any proposed development in such areas is legally permitted and that due process leading to such permission has been complied with by the host country, if applicable, and the client; and that the development follows the mitigation hierarchy (avoid, minimise, mitigate, offset) appropriately; and
- implement additional programmes, as appropriate, to promote and enhance the conservation aims of the protected area.

Invasive alien species

16. The accidental or deliberate release or introduction of alien species into native habitats can have significant adverse impacts on biodiversity:

- Clients will not intentionally introduce alien or non-native 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.
- During due diligence, clients will assess the possibility of accidental transfer and release of alien species (for example, through risk analysis) and identify measures to minimise the potential for release, if any.

[3] For example, countries may have to demonstrate that no plausible alternatives exist or that the project is in the national interest.

- With respect to the international shipping of goods and services, the Bank is guided by the International Convention for the Control and Management of Ship's Ballast Water and Sediments. Clients are expected to comply with appropriate obligations developed in the framework of this Convention.

Genetically Modified Organisms (GMOs)

17. There are a number of EU Directives which cover the deliberate release of GMOs into the environment (EU Directive 2001/18/EC), the placement on the market of food or feed products containing or consisting of GMOs (EU Regulation 1829/2003), export of GMOs or unintentional transboundary movement of GMOs, contained use of GMOs (in research for example (Directive 98/81/EC)) and labelling and traceability (for example, Regulation 1829/2003, 1830/2003). Within EU Member States and candidate countries clients are required to comply with applicable national and local requirements and policy. Thus, no GMOs should be used or released to the environment without approval being given by the competent authorities, or where the relevant local authority has declared itself as GMO free. In other EBRD countries of operation, clients must adopt the precautionary approach and conduct risk assessment in line with EU requirements and this PR. The Bank will also take these elements into account during its own due diligence.

Sustainable management and use of living resources

18. Clients will manage living resources in a sustainable manner. Clients seeking finance for projects involving the use of living resources will conduct due diligence to assess the sustainability of the resource use, taking into account the following principles:

- The use of any resource needs to be considered in the light of the functions it plays within the ecosystem. For example, clear felling of forests may have adverse impacts on soil erosion, watershed hydrology and fisheries. Similarly overfishing of one species may affect the ecological balance and long-term integrity of ecosystems.
- A precautionary approach should be taken, and aggregate and cumulative impacts should be considered.
- Users of living resources shall seek to minimise waste and adverse environmental impacts and optimise benefits from uses.
- Plantation or farming 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 subject to adequate studies and approval prior to utilisation.
- The needs of indigenous and local communities who live in or around the development area or whose use of biodiversity resources may be affected by the development must be considered as well as their potential positive role in conservation and sustainable ecosystem use.

19. In assessing the sustainability of the project's resource use, the Bank will be guided by the *Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity* which seek to ensure the sustainable use of biodiversity resources.[4] The Bank will also encourage projects and relevant governments and other responsible agencies to internalise the costs of ecosystem management as appropriate. Clients in the forestry and fishery sectors will also apply the relevant provisions below.

[4] Sustainable use or management is defined as exploiting resources at a rate or in a manner which enables people and communities to provide for their present social, cultural and economic well-being whilst also sustaining the potential for those resources to meet the reasonably foreseeable needs of future generations and safeguarding the life-supporting capacity of air, water and soil ecosystems as well as the long-term integrity of critical habitats.

Natural and plantation forestry

20. The conversion of disturbed land or natural habitats to forestry shall be subject to due diligence as outlined above. Critical habitat must not be converted or degraded. Clients in the forestry sector will ensure that all natural forests and plantations over which they have management control are independently certified to internationally accepted principles such as those of the Forest Stewardship Council. Where due diligence reveals that forest management practice does not meet such standards, clients will develop a management plan to allow for compliance to be attained within a time frame considered reasonable by the Bank. The harvesting of forest products must be undertaken in a sustainable way.

Fisheries

21. Clients involved in the harvesting of fish or other aquatic species must be able to demonstrate to the Bank that all their activities (from harvesting through to processing) are being undertaken in a sustainable way. This can achieved through attaining independent certification[5] (where such exists) or through studies undertaken as part of due diligence. 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 fish species.

Supply chain

22. Where the project uses external suppliers of living resources (hereafter: "resources") over which the client does not have management control and these resources are central to the project's core functions, the client will adopt and implement a sustainable resources procurement policy, procedures and action plan to ensure that:

- only resources of a legal and sustainable origin are purchased
- the origin of the resources is monitored
- the resources do not originate from protected areas or from areas recognised as having high ecological value, and that the biodiversity and the functions of the affected ecosystem are maintained in accordance with internationally and nationally approved principles.

Clients should give preference to purchasing resources certified to internationally accepted principles of sustainable management, where available.

Biodiversity and tourism

23. Environmental and social impact assessments of new or significantly expanding tourism activities and infrastructure will be consistent with the *Guidelines on Biodiversity and Tourism Development*.[6] These outline the nature of baseline information needed, the range of issues that should be considered, as well as the nature of impact mitigation and appropriate monitoring and reporting that should be included in the subsequent action plan for the project.

[5] Such as the Marine Stewardship Council's *Principles and Criteria for Sustainable Fishing.*

[6] Contained in the Decisions of the Seventh Conference of the Parties (COP-7) of the CBD and available on EBRD's web site.