

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

**PROJECT COMPLAINT MECHANISM
COMPLIANCE REVIEW MONITORING REPORT III
PARAVANI HPP PROJECT, REQUEST NUMBER: 2012/01**

September 2015

Compliance Review Monitoring Report

This Compliance Review (CR) Monitoring Report is prepared pursuant to Rule 44 of the 2009 PCM Rules of Procedure (PCM RPs)¹ whereby, pursuant to a finding of non-compliance, the PCM Officer is mandated to monitor the implementation of the recommendations of the CR Report subject to the timetable and estimate of human and financial resources as set in the Management Action Plan (MAP).

PCM reviewed a Complaint about the EBRD's Paravani Hydropower Plant (HPP) Project in Georgia, completing the CR at the end of 2013. The CR Expert made a finding of non-compliance on three of the six elements of the Complaint, namely Performance Requirements (PRs) 1, 6 and 10 of EBRD's 2008 Environmental and Social Policy (ESP).

The CR Report included recommendations² to address the findings of non-compliance, in response to which the Bank's Management prepared a MAP in accordance with PCM RP 41. The MAP addressed whether the recommendations were appropriate, and put forward a timetable and estimate of the human and financial resources required to implement the recommendations. The Complainant had an opportunity to comment on the MAP, in accordance with PCM RP 42, and the Complainant's comments along with the Report and MAP were publicly released on 1 January 2014.

PCM monitors the implementation of recommendations of CR Reports and prepares Monitoring Reports at least biannually. This is the third Monitoring Report for the Paravani HPP Project. This Report has been prepared pursuant to the update on the MAP received from the Bank's Management in August 2015. The next Monitoring Report will be prepared around January 2015.

Summary

PCM has considered the following in preparation of this Monitoring Report:

- Revised Environmental and Social Procedures, approved in July 2015
- Updated internal *Staff Guidance Manual on implementing the 2014 Public Information Policy, dated November 2014*
- Updated internal *Guidance for Preparing the Environmental and Social Input to the Project Summary Document, dated January 2015*
- *Assurance Framework*, rolled out in 2Q 2015
- Terms of Reference for Environmental and Social Impact Assessment in Category A projects
- Updated internal *Guidance Note – Stakeholder Engagement Plan, dated January 2015*

Based on the review of the above, monitoring of Recommendations 1, 3, 4 and 5 (see table below) will be closed, as no further monitoring is required.

¹ The Complaint was registered, reviewed and will continue to be processed in accordance with the 2009 PCM RPs.

² Pursuant to PCM RP 40 a CR Report includes recommendations to:

- a. address the findings of non-compliance at the level of EBRD systems or procedures to avoid a recurrence of such or similar occurrences; and/or
- b. address the findings of non-compliance in the scope of implementation of the Project taking into account prior commitments by the Bank or the Client in relation to the Project; and
- c. monitor and report on the implementation of any recommended changes.

The following will be considered by PCM when available:

- **Recommendation 2:** Guidance Note specific to PR 6 of the ESP, which is expected to be piloted later in 2015
- **Recommendation 6:** Stakeholder Engagement Plan (SEP) covering the Project’s operation.

Management’s update is presented in the table below, which also includes PCM’s comments on the status of implementation.

Update by EBRD Management and implementation status

PCM Recommendation 1 “It is recommended that EBRD issue specific guidance to its specialist E&S staff and to investment staff on the requirements of the Initial Environmental and Social Examination (IESE). This examination must (i) Identify the key E&S issues which must be fully investigated (through appropriate baseline and predictive studies) as part of the ESIA in advance of the board decision to invest in principle, and (ii) Adequately convey these requirements to the project sponsors such that they can be integrated into the project timeline, stakeholders engagement planning and reporting.”
Management Response <p>Management proposes that these recommendations will be accommodated by amending and clarifying the existing guidance for preparing the Environmental and Social Due Diligence (ESDD) Plans for projects requiring an Environmental and Social Impact Assessment (ESIA), as appropriate. Management notes that the Bank’s ESIA requirements already include a scoping stage to be undertaken at an early stage of the ESIA process to identify, in consultation with key stakeholders, as appropriate, all the potential impacts and issues, which must be investigated as part of the ESIA. For projects which have already been subject to a local environmental assessment and public consultation, the Bank commissions a Gap-analysis of existing documentation against the Bank’s requirements at the initial stages of the ESIA process to identify additional investigations required to meet the Bank’s ESIA requirements and prepare Terms of Reference for the supplementary studies.</p> <p>Management notes that the IESE is used when insufficient information is available at the time of categorisation to determine the appropriate category and scope of due diligence and, therefore, the Management’s believes the proposal above would be a more appropriate way to implement these recommendations.</p>
Resources/Timetable <p>No additional resources needed. Environmental and Social Procedures and guidance for preparing ESDD Plans for ESIA’s will be revised in 2014, following Board approval of the revised ESP.</p>
Management’s Progress Report – July 2014 <p>The revised Environmental and Social Policy was approved by the EBRD Board of Directors on 7 May 2014. Supporting documents, such as procedures and guidance notes are now being planned. E&S Procedures and internal guidance will be prepared before EBRD 2014 ESP becomes operational on 7 November 2014.</p>
Management’s Progress Report – January 2015 <p>The revised and updated Environmental and Social Procedures are pending management review and will be finalised in 2Q 2015. Following approval, they will be posted on the EBRD website. Standard Terms of Reference for Environmental and Social Impact Assessment have been prepared, which include detailed description of the scoping process to identify the key E&S issues to be fully investigated in the ESIA. Draft ESIA documents are disclosed by the client and EBRD for public review and comment a minimum of 60 calendar days prior to</p>

consideration of the project by the Board of Directors for private sector projects and 120 calendar days prior to Board consideration for public sector projects.

Management's Progress Report – August 2015

The revised and updated Environmental and Social Procedures that accompany the revised Environmental and Social Policy (2014) were approved on 10 July 2015. The Procedures have been posted on the EBRD website.

Further internal processes are contained in the Assurance Framework - an internal management system which was rolled out in 2Q 2015.

Management notes that together with the Assurance Framework, this recommendation has been addressed and could be closed.

PCM comments on implementation – September 2015

PCM notes the publication of the revised *Environmental and Social Procedures*. Additionally, ESD staff will provide PCM with an overview of the *Assurance Framework* system.

This item will be closed as no further monitoring is required.

PCM Recommendation 2

“PCM recommends that EBRD issue legally derived advice (potentially integrated into the next version of the ESP) on how the relevant EU directives are interpreted for the purposes of undertaking biodiversity assessments under performance requirement 6 of the ESP. Whilst EU legislation of course changes, most of the relevant directives have been in place for many years and the underlying principles have not changed. In any case the ESP has a finite life (say 5 years) and the advice within it could be applicable for that period and then revised according to any changes in EU requirements.”

Management Response

Management proposes to clarify the role of the Bank in relation to the EU Directives in the next version of the ESP and PR 6.

Resources/Timetable

No additional resources needed. ESP and PR 6 will be reviewed and revised as appropriate during the ongoing review of ESP.

Management's Progress Report – July 2014

The revised Environmental and Social Policy was approved by the EBRD Board of Directors on 7 May 2014. The text on EU requirements and the role of the Bank is found in article 7 and footnote 6 of the ESP. In addition, a guidance note for PR6 will be prepared with the help of independent biodiversity experts. The ToR has been prepared and they address this recommendation and will provide guidance on biodiversity assessment that is to be carried out in accordance with EU Habitat Directive and associated guidance when a project could have a significant impact on the conservation objectives or integrity of a protected area comparable to a Natura 2000 site. The guidance note is expected to be completed by the year end.

Management's Progress Report – January 2015

A guidance note for the PR6 is currently being finalised with an independent consultant. It will clarify how the relevant EU directives are interpreted for the purposes of undertaking biodiversity assessments under PR 6 and provide guidance on biodiversity assessment that is to be carried out in accordance with EU Habitat Directive and associated guidance when a project could have a significant impact on the conservation objectives or integrity of a protected area comparable to a Natura 2000 site. The GN will be rolled out in the first half of 2015 to Bank staff

and our clients. This will be accompanied by internal training for ESD. The final GN will be disclosed on the EBRD website.

Management's Progress Report – August 2015

Two guidance notes on biodiversity were finalised in June 2015 by the *MFI Working Group on Biodiversity* in which EBRD participated, playing a leading role on the guidance on baseline information. The notes have specifically taken EU legislation into account. These guidance notes have been posted on the EBRD website:

Good Practice Guidelines on the Collection of Biodiversity Baseline Data

<http://www.ebrd.com/cs/Satellite?c=Content&cid=1395245538876&pagename=EBRD%2FContent%2FDownloadDocument>

Good Practices for Biodiversity Inclusive Impact Assessment and Management Planning

<http://www.ebrd.com/cs/Satellite?c=Content&cid=1395245539075&pagename=EBRD%2FContent%2FDownloadDocument>

A guidance note specific to EBRD's PR6 is in draft form and will be piloted later in 2015. The final guidance note will be disclosed on the EBRD website.

PCM comments on implementation – September 2015

PCM notes the publication of the guidance notes on biodiversity.

PCM will continue monitoring this item and will review the guidance note specific to PR 6 when preparing the next Monitoring Report.

PCM Recommendation 3

“PCM recommends that EBRD review this issue [that is, whether certain characteristics of the Paravani project should have triggered a strategic assessment] and prepare guidance on how the strategic context of the project should be assessed at the IESE stage and under what circumstances the ‘exceptional’ requirement for additional strategic studies would be triggered. EBRD should also advise on how existing strategic analysis should be integrated into documents disclosed as part of the project preparation process. Guidance should also be provided on the scope of analysis required within ESIA documentation on the analysis of project alternatives.”

Management Response

Management notes that the current Environmental and Social Policy (ESP) does not place any obligation to EBRD or its clients to undertake strategic assessments. Strategic (environmental) assessments are undertaken of policies, plans or programmes and are, therefore, a tool for national or regional authorities. The Bank may through its policy dialogue with such authorities support preparation of strategic assessments where they support the Environmental and Social Appraisal of the Bank's projects, especially when there is a significant concern for the potential cumulative impacts of a number of similar projects in the same geographical area. The Bank also takes into consideration existing strategic assessments, when available, in its project-specific Environmental and Social Appraisal.

Management notes that Paravani HPP project was part of a strategic hydropower sector review of Georgia led by the World Bank that was completed before the project development started and its findings were taken into consideration in the Bank's due diligence of the project.

Management proposes to clarify in its internal guidance the ways in which strategic assessments are taken into consideration in the Bank's project-specific Environmental and Social Appraisal.

Resources/Timetable

No additional resources needed. Internal operational procedures and guidance will be refined in 2014, following Board approval of the revised ESP.

Management's Progress Report – July 2014

Internal guidance will be prepared prior to 7 November 2014.

Management's Progress Report – January 2015

Standard Terms of Reference for Environmental and Social Impact Assessment have been prepared, which include a specific task to identify, review and take into consideration any relevant strategic level assessment documentation.

Management's Progress Report – August 2015

Fulfilled by January 2015.

PCM comments on implementation – September 2015

PCM considered *Terms of Reference for Environmental and Social Impact Assessment in Category A projects*. The ToR contains a requirement to review strategic assessment requirements – which is then a commitment of each consultant working on individual projects when preparing project due diligence.

The item will be closed as no further monitoring is required.

PCM Recommendation 4

“PCM recommends that in its review of the ESP EBRD integrate a requirement to this effect [that is, ESIA for ‘Category A and other projects which may have significant environmental and social impacts’ should be ‘... available in an internationally accessible language’] and consider whether when it believes that such a requirement would be too great a financial burden to place on the project sponsor that it undertakes the translation itself and discloses it as part of its transition role.”

Management Response

Management notes that the provision of an ESIA in English is neither a requirement of the 2008 ESP or the PIP. The ESP/PR10 requires the Bank's clients to prepare a Stakeholder Engagement Plan (SEP) to identify who is affected or interested in a project and how communication will work. The SEP should also determine in what language documents will be prepared and disclosed for public comment.

Management proposes to review the guidance for SEPs to make sure it specifically advises clients to document language choices in accordance with the needs of affected stakeholders. Management proposes to review this recommendation during the Policy review, and include it in the Client Survey and in discussions with civil society.

Resources/Timetable

No additional resources needed. Guidance for preparing Stakeholder Engagement Plans will be reviewed and amended, as appropriate, in 2014, following Board approval of the revised ESP.

Management's Progress Report – July 2014

The Bank is currently updating its guidance notes following approval of the new ESP and this issue will be incorporated in both the internal and external guidance on Category A disclosure and Stakeholder Engagement Plans. The revision of the ESP and PIP has led to a commitment of the Bank to release more information on environmental and social issues. After 7 November, the Project Summary Documents of new Category A projects will be updated annually on the EBRD website.

With regards to the project, the Stakeholder Engagement Plan (SEP) that was initially prepared for the Project mainly covered the construction phase. Construction is expected to end this year, with the first commissioning tests being carried during the summer period. GUE has been required to prepare an updated version of the SEP, covering the operation period. The draft version of the revised SEP will be reviewed by ESD. Particular attention will be paid

to the appropriate disclosure of specific information of interest for the CSOs and the affected communities. This guidance will be prepared before EBRD 2014 ESP becomes operational on 7 November 2014.

Management's Progress Report – January 2015

The Management decided that from January 2015, all new ESIA's will be in one of the EBRD official working languages: English, Russian, French, or German, in addition to the disclosure by the Client in the relevant local language(s). A guidance note for preparing Stakeholder Engagement Plans was updated to include requirements for translation of ESIA documents into a relevant international language for international stakeholders, as defined in the SEP.

PCM comments on implementation – September 2015

PCM Officer considered *Guidance Note – Stakeholder Engagement Plan*. The item will be closed as no further monitoring is required.

PCM Recommendation 5

“This [requiring ESIA's to be in English] would also enable consideration of the documents by EBRD staff not speaking Georgian. Where ESIA documents are prepared in a language which cannot be reviewed by the relevant EBRD staff PCM recommends that EBRD commission an independent consultant to review the documents against EBRD requirements and that EBRD disclose this report.”

Management Response

Management proposes to review this recommendation for all ESIA's to also be in the Working Language of the Bank during the ESP review and include it in the associated Client Survey. The review of the extent of information to be translated into an EBRD Working Language will take into consideration the ESP commitment that EBRD's social and environmental appraisal will be appropriate to the nature and scale of the project, and commensurate with the level of its environmental and social risks and impacts.

Resources/Timetable

No additional resources needed. ESIA language requirements will be reviewed and amended as part of the ongoing review of ESP.

Management's Progress Report – June 2014

This issue is still being reviewed and a decision will be taken prior to the 2014 policy going into force in November.

Management's Progress Report – January 2015

The Management decided that from January 2015, all new ESIA's will be in one of the EBRD official working languages: English, Russian, French, or German, in addition to the disclosure by the Client in the relevant local language(s). A guidance note for preparing Stakeholder Engagement Plans was updated to include requirements for translation of ESIA documents into a relevant international language for international stakeholders, as defined in the SEP.

PCM comments on implementation – September 2015

PCM Officer considered *Guidance Note – Stakeholder Engagement Plan*. The item will be closed as no further monitoring is required.

PCM Recommendation 6

“PCM recommends that in addition to effectively monitoring implementation of the Environmental and

Social Action Plan EBRD should work with GUE to prepare and disclose a comprehensive annual report which updates the ESIA/ESAP on which consultation can take place and which can inform future HPP developments within Georgia. At a generic level, EBRD should also consider as part of its policy review, how important elements of the environmental and social appraisal which are undertaken after disclosure of the ESIA are made available publicly as they form an important element of third party review of EBRD projects.”

Management Response

ESP/PR10 requires GUE to keep the ESIA in the public domain throughout the life of the project, and amend it, from time to time, with additional relevant information. GUE is also required to disclose relevant project performance and information to public periodically as well as maintain a constructive relationship with stakeholders on an ongoing basis through meaningful engagement during project implementation. GUE has identified the information to be released to public and the frequency of such disclosure in the Stakeholder Engagement Plan for the project.

Management proposes that the Bank will discuss with GUE to agree the specific information to be disclosed to address the issues raised by the CSOs and affected communities.

Management notes that the ongoing reviews of ESP and Public Information Policy include reviewing disclosure requirements by clients and by the Bank.

Resources/Timetable

No additional resources needed. Current client obligation in the financing agreements, which is being monitored by Bank staff. The Bank staff will review the client’s disclosure plans and agree with the client specific information to be disclosed. Disclosure requirements will be reviewed and amended as part of the ongoing review of ESP.

Management’s Progress Report – July 2014

The Stakeholder Engagement Plan (SEP) that was initially prepared for the Project mainly covered the construction phase. Construction is expected to end this year, with the first commissioning tests being carried during the summer period. GUE has been required to prepare an updated version of the SEP, covering the operation period. The draft version of the revised SEP will be reviewed by ESD. Particular attention will be paid to the appropriate disclosure of specific information of interest for the CSOs and the affected communities.

The revision of the ESP and PIP has led to a commitment of the Bank to release more information on environmental and social issues. After 7 November, the Project Summary Documents of new Category A projects will be updated annually on the EBRD website.

Management’s Progress Report – January 2015

The actions described in the Management Response are being implemented. A new Stakeholder Engagement Plan (SEP) covering the operation period is being finalised (as of January 2015, it is a working draft). In 2014, a number of engagement activities were carried out by GUE, spontaneously or after workshops were held with EBRD on Good International Practices in the hydropower sector. This includes for example (i) Paravani HPP website was revamped and now includes numerous information on the social activities carried out by GUE with and for the local population, (ii) the birds and aquatic biodiversity monitoring plans were disclosed on Paravani HPP website and the subsequent monitoring reports will be disclosed in 2015, (iii) in July 2014, a presentation was made to representatives of Khertvisi on the results of a flood risk assessment that demonstrates the absence of significant additional flood risk generated by the HPP operation (the assessment was carried out after a local NGO had claimed that the HPP would generate flood risks), and (iv) GUE has installed numerous signs at critical locations to warn people about local dangerous areas (for example at the intake).

Management’s Progress Report – August 2015

ESD is working with GEU in preparing the SEP for the Operational Phase of the project and will provide comments

on any commitments therein for sharing of information relevant to the local communities, including information about flood risks.

Actions (i) and (ii) are continuing. The Bank is reviewing the 2015 monitoring reports on birds and aquatic biodiversity and the flood assessment report.

PCM comments on implementation – September 2015

The PCM will continue monitoring this item and will review the Stakeholder Engagement Plan when available.