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## **EBRD Environmental Procedures**

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## 1.0 Introduction

The European Bank for Reconstruction and Development (EBRD or the Bank) is directed by its founding agreement to adhere to sound banking principles and “promote in the full range of its activities environmentally sound and sustainable development”. The various ways in which the EBRD promotes such development are described in the Bank’s Environmental Policy (the Policy) document. One specific step taken by the Bank to address this mandate and the General Principles and Objectives set out in the Policy is to ensure that all of its investment and technical co-operation projects undergo environmental appraisal along with the financial, economic, legal and technical due diligence which is carried out, and ensure appropriate monitoring is undertaken following approval of projects by the Board of Directors.

For this the Bank has developed Environmental Procedures (the Procedures) which have two basic objectives:

1. to ensure that the environmental<sup>1</sup> implications of potential Bank-financed investment and technical co-operation projects are identified and assessed early in the Bank’s planning and decision-making process and that environmental considerations are incorporated into the preparation, approval and implementation of projects at an appropriate level.
2. to identify ways in which the Bank’s projects can be enhanced by incorporating environmental benefits or improvements.

The Procedures outline how the Bank incorporates these aims into the Bank’s overall project appraisal process and during implementation at a practical level. They summarise the nature of environmental appraisal and monitoring activities undertaken during different stages of a project’s life cycle and the institutional responsibilities for carrying them out.

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<sup>1</sup> The words “environment” and “environmental” are used in the Procedures in a broad sense to incorporate not only ecological aspects but also worker protection issues (health and safety, harmful child labour, forced labour, and discriminatory practices) and community issues, such as cultural property, involuntary resettlement, and impacts on indigenous peoples.

## **2.0 Environmental Appraisal**

### **2.1 The Role of Environmental Appraisal Within the Project Life Cycle**

During environmental appraisal, the Bank's Environment Department (ED) determines the nature of environmental and public disclosure and consultation requirements that are applicable to projects, specifies the nature of environmental information required to identify the environmental issues, risks and opportunities associated with projects, reviews environmental information collected and specifies the environmental standards and other requirements placed upon projects in order to satisfy the Bank's environmental mandate. Requirements for environmental monitoring during project implementation are also identified during environmental appraisal.

Environmental appraisal takes place at all stages of the Bank's project approval process:

- Pre-Concept Review
- Concept Review
- Structure Review (this stage is only applicable to some projects)
- Final Review
- Board Consideration

#### **Box 1: Roles and Responsibilities during Project Appraisal**

##### **Project Sponsor**

The Project Sponsor's responsibility is to provide sufficient environmental information to the Bank to allow ED to appraise the project and the Operations Committee (Ops Com) and the Board of Directors to make a decision on the project. This usually includes the commissioning of appropriate environmental studies and conducting of appropriate public consultation satisfactory to the Bank. The Project Sponsor must also allow ED specialists or designated persons, such as independent consultants, access to project facilities and records.

##### **Environment Department**

The key responsibilities of ED are:

- the appraisal of each potential project (both investment and technical cooperation projects) to assess the environmental due diligence required for each project and ensure that projects are structured to meet the Bank's Environmental Policy commitments;
- assisting banking teams and sponsors in the structuring of environmental due diligence including, for example, the preparation of Terms of Reference (TORs) for environmental impact assessments (EIAs), environmental audits and public consultation programmes. ED may also assist in the selection of consultants;
- evaluating environmental due diligence information provided to the Bank and discussing necessary actions with the Project Sponsor;

- agreeing with the Office of the General Counsel (OGC) and the Operation Leader (OL) the environmental provisions to be included in the legal documentation;
- providing an Environmental Annex to the Project Summary Document (PSD), and updates, as appropriate.

### **Operation Team**

The Operation Team, led by an Operation Leader (OL) has the overall responsibility, on behalf of the Bank, for the environmental aspects of the project. This includes:

- establishing communication channels between the Project Sponsor and ED;
- relaying the Bank's environmental requirements to the Project Sponsor;
- obtaining adequate environmental information in sufficient time for the material to be reviewed by ED;
- incorporating the findings of the environmental investigations into the project's financial and economic analysis where appropriate, prior to each stage of the Bank's decision-making process.

The OL has responsibility for ensuring that Bank-financed projects meet the environmental and public consultation requirements of the Bank. It is the responsibility of the OL to agree with ED the wording of any environmental sections in documentation submitted to Ops Com or the Board of Directors, or in monitoring memoranda. It is also the responsibility of the OL, together with OGC, to incorporate project specific environmental requirements in legal agreements, and to monitor their implementation during the lifetime of the project.

### **Operations Committee**

The Ops Com determines through Concept, Structure and Final Reviews whether an individual project is financially sound and fits the Bank's mandate, policies, and strategies, and set conditions to its approval as necessary. This role includes determining whether or not the relevant environmental issues associated with a project are clearly understood and properly dealt with within the project structure.

Any proposed material changes to these Procedures will be submitted to the Ops Com for discussion and approval.

### **Board of Directors**

A summary of the results of environmental due diligence on proposed projects, applicable project requirements and the results of the public consultation process are integrated into the Board Document and the Board of Directors (the Board) will take this information into account when considering a project. The Board also approves revisions to the Bank's Environmental Policy. A summary of the changes to the Procedures will be reported to the Board annually.

### **Office of the General Counsel**

The Office of the General Counsel (OGC) ensures that the Bank's environmental requirements, which have been agreed with the Project Sponsor, have been incorporated into the project's legal documentation. To the extent necessary, OGC also advises on the interpretation of the applicable regulatory framework for the project.

## **2.2 Pre-Concept Review**

Prior to the Bank formally accepting a project for consideration, the Bank has exploratory discussions with potential clients. During this stage every effort should be made by the Operation Team to: (i) inform the Project Sponsor of the Bank's operational policies and procedures with respect to environment, disclosure and public consultation, and; (ii) collect preliminary environmental information such as the following:

- the location of the project site;
- historical and current land uses associated with the site and vicinity;
- a description of any construction activities or physical modifications involved in the project;
- summary of environmental licences or permits required for current and proposed operations and the status of any such licenses or permits;
- proposed measures for environmental mitigation and enhancement;
- potential environmental enhancement measures;
- any corporate environmental policy statements, recent studies or audits, summaries of environmental management programmes pertinent to the proposed project;
- the environmental reputation or 'track record' of the client and/or sponsor.

The Operation Team should also request the contact information for key personnel concerned with environment and worker protection issues associated with the proposed project, and discuss how communication between the Project Sponsor and the Bank will occur. The Bank recognises that, in many cases, detailed information may not always be available at this early stage of the project and will need to be gathered following Concept Review. Any environmental information gathered should be passed on to ED.

## **2.3 Concept Review**

Concept Review is the initial discussion of a project by the Ops Com. The main aim is to confirm that a project broadly fits the policies and priorities of the Bank and is worth spending significant time and resources on. The Ops Com and the Operation Team will agree the key issues to be addressed and it is generally the first instance at which projects come to the attention of non-banking departments within the Bank. The OL drafts a Concept Review Memorandum (CRM) and this is provided to the Ops Com secretariat and then circulated to a variety of groups, including ED, for review.

In preparation for Concept Review ED undertakes the following tasks:

- Assigning ED staff to the project.
- Environmental screening of the project.
- Deciding what environmental information is required in order to identify and characterise environmental issues and risks associated with the project.
- An assessment of potential environmental opportunities.
- Identifying applicable environmental standards and other requirements.

- Defining the Bank's requirements for information disclosure and public consultation.

This information is documented for each project within an Environmental Summary (ES – template included as Annex 1 to these Procedures) which, once completed, is sent to Ops Com and the OL for information and action. In addition, any environmental issues for the Concept Review discussion will be stated in ED's briefing note to Ops Com. The ES will be subject to review and revision throughout the life of the project as further information is received by ED. The environmental information contained within the ES will also form the basis of the environmental annex of the project's PSD, which is released on the Bank's website in accordance with the Public Information Policy (PIP).

The OL will need to make the Project Sponsor aware of the Bank's specific environmental and disclosure / consultation requirements for the project at this stage. Having been made aware of and understood the environmental due diligence requirements of the Bank, the Project Sponsor should begin the process of gathering the required information. This may require the retaining of independent environmental consultants to conduct environmental due diligence studies. ED can assist the Project Sponsor in this process through the provision of draft TOR or lists of environmental consultants.

### ***2.3.1 Screening categories***

When drafting the ES for the first time ED allocates a screening category to the project. The category is a reflection of the anticipated environmental impacts associated with the proposed project and the current environmental status of the facility / site and defines what type of environmental due diligence studies are required for a project.

ED staff must consider a number of questions to arrive at the appropriate screening for a project. These questions could include, for example:

- What is the use of Bank funds?
- Does the project being considered involve the construction of new facilities, a modification to existing production processes or a significant expansion of production capacity?
- Will the use of the Bank's funds therefore result in future environmental impacts?
- Are those impacts potentially significant and/or adverse and can they be readily identified and assessed?
- Is the Bank providing funds to an existing industrial facility with current or past production activities?
- Is the Bank exposed to potential risks and liabilities by lending to, or investing in, those facilities?

Projects are classified as Category A when the defined use of proceeds of the EBRD funding would involve greenfield developments, or major expansion or transformation-conversion, that could result in potentially significant adverse future environmental impacts which, at the time of screening, cannot readily be identified or assessed. An Environmental Impact Assessment (EIA) is therefore required to



identify and assess the future environmental impacts associated with the proposed project, identify potential environmental improvement opportunities, and recommend any measures needed to prevent, minimise and mitigate adverse impacts.

Annex 1 of the Environmental Policy includes an indicative list of projects subject to an EIA. Any project being considered for Bank funding that is listed in that annex is automatically subject to an EIA and must, therefore, be classified as a Category A project. In addition, the Bank may request an EIA for any other project where it deems that the project may be associated with actual or perceived significant, adverse, future impacts.

Projects are classified as Category B when the defined use of proceeds of EBRD funding would involve new construction, rehabilitation, or process/technology changes that could result in future environmental impacts which are less adverse than those of Category A projects, taking into account their nature, size and location, as well as the characteristics of the potential environmental impacts. Category B projects require an Environmental Analysis to assess any potential future environmental impacts associated with the proposed project, identify potential environmental improvement opportunities, and recommend any measures needed to prevent, minimise, and mitigate adverse impacts. The scope and format of the Environmental Analysis will vary depending on the project, but will typically be narrower than the scope of an EIA.

Projects are classified as Category C when the project being considered for EBRD funding is likely to result in minimal or no adverse future environmental impacts. Neither an EIA nor an Environmental Analysis is therefore required.

The screening process also determines whether an environmental audit is required (Category 1) or not (Category 0). Environmental Audits are carried out to assess the impact of past and current operations of existing project and/or company facilities. An Environmental Audit identifies past or present concerns, current status of regulatory compliance and environmental performance as well as potential environmental and health and safety risks, liabilities and opportunities associated with the project. Other types of investigations, such as hazard analyses or risk assessments, may also be required.

All projects receive a composite category to reflect both the future impacts and existing facilities aspects of the project.

### ***2.3.2 Initial Environmental Examination***

There may be projects where, at the time of screening, ED cannot decide on the screening category of a project because of a lack of preliminary information. In such cases, ED will preliminarily categorise the project as “IEE” for Concept Review to indicate that ED will need to undertake an Initial Environmental Examination (IEE) after Concept Review to determine the appropriate screening category. An IEE will typically involve a site visit by members of ED, discussions with the Project Sponsor and the local authorities and may also involve discussions with potentially affected parties to get a better understanding of the environmental issues associated with a project. The IEE must be completed well before the next stage in the project review cycle (Structure or Final Review, see below). Following the completion of the IEE, ED will decide on the appropriate screening category and associated environmental

requirements, amend the ES accordingly and circulate the revised ES to the OL and the Ops Com.

### ***2.3.3 Types of Environmental Investigation***

It is the Project Sponsor who is responsible for providing the environmental information required to allow appraisal of the proposed project to the satisfaction of the Bank.

Environmental impact assessments, environmental analyses and environmental audits are the main types of environmental investigations that are carried out on projects that have potential environmental implications. Additional types of investigations, which may be required depending upon the specific nature of the project, include, for example, energy audits, waste audits, hazard analyses and quantified risk assessments.

#### *Environmental Impact Assessment:*

Projects requiring an EIA (i.e. Category A projects) are those where the defined use of proceeds of the EBRD funding would involve greenfield developments, or major expansion or transformation-conversion, with potentially significant adverse future environmental impacts which, at the time of screening, cannot be readily identified or assessed. An EIA is carried out to identify and assess the future environmental impacts associated with the proposed project, identify potential environmental improvement opportunities and recommend any measures needed to prevent, minimise, and mitigate adverse impacts.

The detail and scope of an EIA depends upon the likely type and extent of a project's environmental effects and the sensitivity of the locations affected. The detail and scope of the EIA are therefore usually determined through a scoping process. 'Scoping' should identify the important issues and alternatives that should be examined in an Environmental Impact Assessment. A guidance note for Project Sponsors on scoping is available from EBRD. A sample format for an EIA report is included as Annex 2 to these Procedures.

In some cases an EIA may already have been completed, or proceeding, at the point when a Project Sponsor approaches the Bank to discuss potential financing. This means that the EIA process, or the EIA itself, may not have been completed in accordance with the Bank's requirements. In such cases, ED will assess the existing documentation and the EIA process for adequacy. If the process and / or documentation are deficient, the Project Sponsor will be required to carry out additional work to comply with the Bank's requirements.

#### *Environmental Analysis*

Projects requiring an Environmental Analysis (i.e. Category B projects) are those projects where the defined use of proceeds of EBRD funding would involve new construction, rehabilitation, or process/technology changes with future environmental impacts that are judged less adverse than those of Category A projects, taking into account their nature, size and location as well as the characteristics of the potential environmental impacts. Category B projects can vary greatly depending on the scope of activities being financed. A Category B project could, for example, involve:

- the rehabilitation and upgrade of municipal infrastructure such as transport networks or waste disposal sites;
- the construction of a new inner city hotel;
- the installation of new production lines within an existing industrial facility;
- the expansion of a retail network.

Given the large variations in Category B projects, the scope of an Environmental Analysis is, likewise, variable and is tailored to fit the project. An Environmental Analysis could be a stand-alone document similar to an EIA, or be a chapter within an Environmental Audit or Feasibility Study, or a questionnaire completed by the Project Sponsor. ED will decide on the most appropriate form for the Environmental Analysis, following project screening and review of preliminary information and discussions with the Project Sponsor. If consultants are being retained to conduct environmental due diligence, then the form of the Environmental Analysis will be set out in the relevant TOR.

#### *Environmental Audit*

Environmental Audits are usually required for investment projects that involve existing or past operational activities. An Environmental Audit identifies past or present concerns and environmental and health and safety risks and potential opportunities. It may also help to establish the baseline conditions for agreeing on responsibility for environmental damage, or to value immovable assets which the Bank considers taking as security. Environmental Audits carried out on Bank-financed projects are typically general environment, health and safety audits based on Bank protocols and as such do not involve intrusive sampling. If the need for additional information or studies is identified, further investigations may be required, such as soil and groundwater testing, or hazard analysis.

A generic Environmental Audit protocol has been developed by the Bank and is included as Annex 3 to these Procedures. The audit protocol must be adapted to address project and industry specific issues.

Audits are typically conducted by an independent third party, such as an environmental consulting firm, retained by the Project Sponsor. As with EIAs, there may be instances where a recent environmental audit has already been conducted, possibly as part of an acquisition or privatisation process. Such reports may be submitted to the Bank for review and ED must decide if the report contains sufficient, up-to-date information on the risks and potential liabilities associated with the project and on the regulatory compliance status of the Company. If the existing environmental audit does not provide sufficient up-to-date information or if no environmental audit has been prepared, then a new or supplementary environmental audit must be commissioned.

#### ***2.3.4 Public Disclosure and Consultation***

On all projects, the Bank is committed to providing information, as specified in Annex 2 of the Environmental Policy. As part of appraisal and monitoring, Bank staff will include discussions with local communities, environmental or other interested groups where appropriate.

For all Category A projects, public consultation requirements should be built into each stage of the EIA.

For Category B projects the public consultation requirements of the country in which the project is located will need to be followed as a minimum. In addition, the Project Sponsor must notify the affected public about the relevant environmental issues associated with the project and summarise the mitigation measures, action plans and other initiatives agreed, in an appropriate language.

For Category C projects public consultation requirements are set on a case-by-case basis, depending on the Bank's involvement with the project, the relevant issues, and interest level of the public.

More detailed information on public consultation is set out in Annex 2 of the Environmental Policy.

## **2.4 Structure Review**

Occasionally additional consideration of a project is required at an intermediate stage between Concept Review and Final Review. This usually takes place, at the request of management, if the project has a complex structure. ED may also request that a project return to Ops Com for Structure Review if there are key environmental or public consultation issues which need to be considered by Ops Com before a project progresses to Final Review.

During Structure Review the ES will be updated if additional environmental information has been reviewed by ED, or if new issues need to be brought to the attention of the Ops Com since Concept Review. Changes in the project which will necessitate changes to the ES include:

- a change in the project structure or the receipt of information which indicates that the extent or nature of environmental due diligence needs to be changed;
- the receipt of information which indicates that the Bank should no longer continue with a project because of material additional risks;
- the receipt of additional environmental due diligence information which would need to be reflected in a revised ES.

## **2.5 Environmental Requirements**

The Bank ensures compliance with its environmental requirements by incorporating appropriate environmental covenants, representations and warranties within the legal agreements with the Project Sponsor. Typically, the environmental requirements placed upon clients include the following:

### **2.5.1 Standards**

The Bank will specify the environmental standards applicable to a project. The term 'standards' is understood in the broadest sense and include both numerical and qualitative performance benchmarks. The Bank will also identify, on a project-by-

project basis, applicable international environmental treaties and agreements to ensure that any elements of proposed projects do not contravene country obligations under those treaties and agreements. Sections 20-24 of the Environmental Policy provide further detail on EBRD's environmental standards.

### ***2.5.2 Environmental Action Plan (EAP)***

An EAP (also sometimes referred to as an Environmental Management Plan, monitoring plan or similar term) is a list of agreed programmes, standards, and defined actions, to be carried out or met by the sponsor as a condition of the investment. Some projects will not have an EAP, if no environmental issues or actions are identified. In some cases, specific actions will be included as stand alone covenants in legal documents.

An EAP is based on the recommendations of the environmental investigations and forms a part of the legal documentation agreed between the Project Sponsor and the Bank. The EAP will typically document the key environmental issues associated with the project, the actions to be taken to address them adequately, the implementation schedule and an estimate of the associated costs. Although some actions may be needed urgently, an EAP may also address issues requiring a long-term or phased approach, such as compliance with expected future regulatory requirements, including compatibility with EU or other international legal requirements, standards and practices.

Where current projects are not in compliance with regulatory requirements and existing permits, the proposed actions and schedules for bringing the operations or facilities into compliance should be agreed with the competent environmental or health and safety authorities, as appropriate.

### ***2.5.3 Legal Documentation***

EBRD investments are negotiated between the Operation Team and the Project Sponsor. The main instrument for negotiating non-sovereign projects is the Term Sheet, an outline of the future loan/subscription agreement summarising the structure and principal terms and conditions of the proposed project. Negotiations of sovereign projects are focused on the draft loan agreement.

Environmental requirements and conditionalities should be incorporated early into the draft Term Sheet to avoid delays in the project cycle, including the need to renegotiate the Term Sheet. If, at the time of negotiations, details of the outcome of the environmental appraisal process are still outstanding, generic environmental covenants will be incorporated in the Term Sheet. These will alert the Project Sponsor that more specific environmental provisions may be required, depending on the results of the environmental investigations. It is the responsibility of the OL to ensure that the Term Sheet and all other legal documents related to projects adequately reflect the requirements resulting from the environmental appraisal process, in particular those issues raised in the ES.

There may be other requirements attached to a project such as periodic reporting, reporting on incidents and accidents and notification on completion tests. Information on these is given in Section 3 of these Procedures.

## **2.6 Preparation for Final Review**

Prior to Final Review, environmental appraisal involves:

- Reviewing the environmental due diligence information available to the Bank including studies, information taken from site visits by ED staff, and the results of any public consultation. ED staff must be satisfied that any material environmental liabilities which might affect the Bank or the project have been identified and that the exact status of the project with regard to compliance with relevant environmental standards is understood.
- Ensuring that proposed mitigation measures to address issues arising from environmental due diligence have been agreed with the Project Sponsor. In many instances this will require the formulation of an EAP and the Project Sponsor will need to agree with the proposed actions, time schedules and costs and commit to implementing the EAP.
- Highlighting opportunities for environmental improvements.
- Determining the nature of any additional safeguards that may need to be placed on the project.
- Identifying environmental monitoring and supervision requirements to be incorporated into the legal documentation.
- Identifying any technical co-operation initiatives that should be undertaken to improve the environmental performance of the project.
- Advising the Ops Com on whether the project, as structured, complies with the Bank's Environmental Policy and Procedures.

The ES is then updated to include the results of due diligence, public consultation and the main features of the EAP as well as highlighting, for the benefit of the OL and Ops Com, any key environmental issues that need to be considered during discussions at Final Review. ED will also work with the Operation Team in the lead up to the Final Review in preparing and agreeing on the environmental components of the Final Review Memorandum (FRM) and the environmental section of the PSD.

## **2.7 Final Review**

At Final Review projects have developed to the extent that they could soon be considered for approval by the Board. The Ops Com decides if the project may be submitted to the Board and specifies any outstanding issues that need to be addressed prior to Board submission. Environmental due diligence investigations should have been completed well before Final Review, to allow sufficient time for the Bank and the Project Sponsor to consider the results and to formulate and agree any required actions by the time that the project is submitted for approval by Ops Com.

If ED has insufficient information to conduct a thorough environmental review, it will recommend in the ES that the proposed Final Review be considered as an interim review and that the operation be resubmitted to Ops Com for Final Review once sufficient environmental information is available to ED.

## **2.8 Consideration of Projects by the Board of Directors**

Each project considered for funding by the Bank is submitted to the Board of Directors, following Final Review. The Board assesses the proposal to ensure its compliance with Bank policy and to give the final authorisation for commitment of the Bank to the financing of the proposed operation.

The responsibility for the Board Documentation rests with the OL although sign-off on the content of the environmental section, by ED, is required before it is included in the documentation and distributed to the Board. For certain projects with complex or extensive environmental issues, the Board documentation may include an Environmental Annex. The Board documentation should also include a statement on conformity with the Bank's Environmental Policy.

Environmental specialists may attend the Board meeting on the project to assist the Operation Team in answering questions regarding the environmental and public consultation aspects of the project. Any directions or additional requirements arising from the Board meeting should be compared to the current requirements and included in an updated EAP and legal documentation.

### ***2.8.1 Finalisation of Legal Documents***

The OL must also ensure that the environmental provisions included in the legal documentation (e.g. conditions, covenants, monitoring and reporting requirements) have been reviewed and agreed by ED prior to completion of negotiations. Any changes to the environmental provisions in the legal documentation also need prior approval by ED.

Occasionally there are environmental conditions to be met prior to signing the legal documentation. The OGC lawyer and OL are responsible for contacting ED to identify what is needed and for liaising with the Project Sponsor.

### ***2.8.2 Delays Between Board and Signing or Between Signing and Effectiveness***

All project approvals given by the Board have a termination date, normally 12 months after the date of original Board approval. If the project remains unsigned after twelve months, the project is brought back to the Board to be re-approved on a 'no objection basis'. In such cases, ED specialists may request an update from the Company on the environmental status of the project and progress in implementing the EAP prior to the OL finalising the Board documentation so that the Board is aware of any changes in the environmental status of the project.

## **2.9 Specific issues related to the environmental appraisal of intermediated financing projects**

Intermediated financing projects generally follow the same project approval process as directly financed projects. However, the nature of environmental investigations is different, as outlined below.

### ***2.9.1 Pre-Concept Review***

Prior to submitting the CRM to Ops Com the OL should consider whether the FI project involves any obviously environmentally sensitive aspects which will require special consideration. Examples of this would include FI projects targeted at

environmentally sensitive sectors or FIs which have portfolios which include significant exposures to environmentally sensitive industries. The OL should discuss these potential environmental issues associated with the FI project with ED.

The OL should inform the FI, as early as possible in the development of the project, of the Bank's key environmental requirements which typically are:

1. Adoption and implementation of environmental procedures acceptable to the Bank. The EBRD has developed model environmental procedures and guidelines for specific types of FIs. Each FI is required to comply with the appropriate procedures in all transactions supported by EBRD finance; however, it may, in agreement with EBRD, tailor these procedures to suit the specific structure of the institution;
2. Adherence to the Bank's Environmental Exclusion List;
3. Sub-projects to comply, at a minimum, with national standards for environment, health and safety;
4. Nomination of a senior member of FI management to be responsible for environmental issues;
5. Provision of Annual Environmental Reports to the Bank.

### ***2.9.2 Concept Review***

On receipt of the Concept Review, ED will prepare an ES. The ES will outline both the Bank's due diligence requirements and the environmental requirements that will apply to the FI.

When evaluating the environmental risks associated with an FI project the Bank considers, *inter alia*, a number of factors:

- what is the nature of the FI's business (e.g. a retail bank, a private equity fund, a trading company)?
- does the FI have a sectoral bias or any particular exposures that present increased environmental risks?
- what are the current environmental policies and procedures of the FI and its environmental track record?
- what is the nature of the proposed project, for example, a credit line, an equity investment or a trade finance line?
- is there a need for Technical Co-Operation funding to strengthen the environmental capacity of the FI?

The above considerations help in deciding what due diligence is required for an FI project and what, if any, requirements other than those listed in *Section 2.9.1* above are required for the project. Similarly as with directly financed projects, the OL needs to ensure that the required environmental due diligence information is obtained and the environmental requirements agreed with the Project Sponsor, prior to Final Review.

## **2.10 The Environmental Appraisal of Technical Co-operation Projects**

In addition to making loans and equity investments, the Bank also operates a Technical Co-operation (TC) Funds Programme. All TC projects are appraised by ED to identify any environmental issues and, if necessary, build in environmental



requirements. Many TC project are undertaken as part of the preparation of subsequent investment projects. The environmental appraisal of these kinds of TC projects can result in their expansion or modification to include an environmental investigation as an integral part of the study. Other TC projects are related to sector studies, advisory services (e.g. privatisation, restructuring, financial and legal advice) and training. In these cases, environmental appraisal can result in the inclusion of an environmental component or perspective. Technical Cooperation funds can also be used for “stand alone” environmental activities such as the provision of environmental training courses and studies related to environmental standards.

## **3.0 Project Implementation**

### **3.1 Project Monitoring**

Monitoring is an important aspect of the Bank's environmental activities. It serves two purposes. The first is to ensure that the applicable environmental standards and various environmental components of projects included in legal agreements, such as the implementation of an EAP, are complied with by the Project Sponsor. The second is to keep track of the ongoing environmental impacts associated with projects and the effectiveness of mitigation measures as a "feedback" mechanism. The environmental monitoring requirements exist until the time at which the loan has been repaid, the Bank divests its equity share in a company, or the project is cancelled. Where environmental monitoring is required, specific provisions are included in the legal documentation, such as requirements for an annual environmental report, periodic environmental audits by independent experts or other third party monitoring, the inclusion of environmental performance criteria in the definition of "Project Completion", exit audits, or site visits by Bank personnel.

All environmental provisions contained within the legal documentation will be identified for monitoring purposes by the Operation Administration Unit (OAU). Where compliance with an environmental provision (e.g. disbursement condition, affirmative or reporting covenant) is an issue, OAU will obtain ED sign-off as evidence that the Project Sponsor has met the relevant environmental requirements. Specifically, as each environmental monitoring report is received, OAU will forward the report to ED, and require ED sign-off that the report is satisfactory to the Bank. ED should inform the OL and OAU at the earliest opportunity of any breach or suspected breach of an environmental covenant or condition. ED specialists will also liaise with OAU to establish specific environmental reporting needs or deadlines if not specified in the legal documents as part of the Bank's general right to request information.

Following project implementation, ED staff or environmental consultants, with the agreement of the OL, may undertake site visits on a routine or occasional basis. The Bank's Resident Offices can assist ED and OLs in obtaining information on such issues as regulatory compliance and the implementation of EAPs.

Where a waiver, consent or amendment concerning environmental matters is required, OAU will take responsibility for producing the internal waiver, consent or amendment memorandum, while OAU and OGC respectively will produce relevant draft waiver / consent letters and amendment instruments, requesting input from ED, who will review the text and sign off (together with other relevant departments) according to Bank procedures. ED has the right to recommend to OAU that such waivers, consents and amendments should be approved by, or reported to, Ops Com or the Board as appropriate.

As part of the Bank's internal monitoring process, an environmental performance rating system is employed within project monitoring reports. ED representatives may attend credit monitoring review meetings and will comment as necessary on the operation's environmental performance rating.

## **Box 2: Roles and Responsibilities during Project Implementation**

### **Project Sponsor**

Following signing of the legal documentation for an operation it is the responsibility of the Project Sponsor to comply with the agreed environmental requirements to the satisfaction of the Bank. The Project Sponsor will typically be required to provide periodic environmental reports to the Bank as well as certain other information e.g. prompt reporting of material incidents or accidents.

### **Environment Department**

ED reviews monitoring reports and, as necessary, makes field visits to ensure project conformity with agreed environmental standards and practices. ED is involved in the compliance monitoring process with respect to environmental covenants by advising OLs and the OAU on any environmental issues that may arise and by signing off on compliance with the environmental requirements. ED also has to approve waivers requested on environmental requirements, e.g. in the case of unforeseen delays in meeting a reporting requirement.

### **Operation (Project) Team**

The Operation Team is responsible for monitoring the operation's performance against the Bank's expectations and legal requirements. The OL maintains contact with the client, and undertakes periodic visits including physical inspection of premises and facilities, reviewing all financial and management reports provided by the client and verifying compliance with all covenants with the assistance of OAU and with ED in respect of compliance with environmental covenants.

### **Operations Committee**

Material changes to any operation and any material environmental incidents or accidents must be brought to the attention of the Ops Com.

### **Board of Directors**

Material changes on some operations are also subject to Board approval.

### **Operation Administration Unit**

The Operation Administration Unit (OAU) tracks and monitors the specific covenants for an operation. The OAU forwards environmental reports or information relating to environmental covenants to ED for review and maintains compliance records.

### **Project Evaluation Department**

The Project Evaluation Department evaluates projects against the Board approved project objectives and draws lessons learned for future projects.

### **3.2 Environmental reporting from the Project Sponsor to the Bank**

Periodic reporting to the Bank typically comprises an annual environmental report (AER). The AER should include updates on the progress of implementing any agreed EAP, any environment, health and safety issues that have arisen within the reporting period and how they have been dealt with, plus any changes in implementation schedules agreed with the Bank. Depending on the nature of the project or on reporting schedules agreed for other aspects of the Bank's reporting, the Project Sponsor may be required to report on a more frequent basis. The exact requirements for environmental reporting will be set out in the EAP or in furnishing of information provisions of the relevant legal documentation.

Besides periodic reporting, Project Sponsors will also be required to provide reports on any environmental incidents or accidents. Such reports must be provided to the Bank as soon as possible after the accident or incident, and, depending on its nature, the OL may need to bring the accident or incident to the attention of the Ops Com.

As part of the annual environmental reporting requirements to the Bank, Project Sponsors will be asked to provide a summary on the environmental status and implementation of project environmental requirements for publication on the Bank's website, to be attached to the Project Summary Document for the project.

### **3.3 Environmental Reporting from the Project Sponsor to the Public**

For all categories of projects where significant environmental issues have been raised, or where the affected public is particularly interested, the EBRD will encourage or require Project Sponsors to commit to on-going public information and communication programmes. For example, the Bank may require the results of ongoing environmental monitoring to be made available to the public.

For A-level projects, the Bank will require Project Sponsors to provide annual environmental reports to the affected public locally and will encourage release of this information on the Project Sponsor's website.

### **3.4 Environmental Reporting from the Bank to the Public**

For all projects, environmental issues will be summarised in an environmental annex to the PSD, which is posted on the Bank's web site prior to Board approval and is available from the Bank in hard copy, in accordance with the EBRD Public Information Policy. Environmental information in the PSD is updated annually or more frequently as appropriate.

### **3.5 Re-appraisal of Projects Due to Material Changes**

Changes may occur in the nature and scope of Bank projects following Board approval and signing. Such changes may have significant environmental implications associated with them. The conversion from a loan to equity, for example, may involve the Bank becoming associated with projects, sites or facilities which were not previously appraised and which might have significant environmental liabilities or compliance problems.

When such changes are envisaged, the OL must liaise with ED specialists to determine if a re-appraisal is needed for the modified/restructured project. A re-appraisal will be required if a change in the physical components (e.g. sites, facilities, processes, collateral) associated with the project may potentially involve environmental issues which were not subject to the initial appraisal. The ED will determine which additional investigations, if any, are needed, and agree with the OL on the time schedule for carrying them out. If the project is re-submitted to Ops Com, a revised ES will be required. Based on the outcome of the environmental investigations, ED will determine if any additional environmental covenants and/or conditions need to be included in the amended legal agreements.

### **3.6 Project Completion**

For investment operations, "Project Completion" normally coincides with the end of the Bank's disbursement phase and is legally defined in the Bank's agreement with the Project Sponsor. The definition may include environmental performance criteria. ED will assist the OL in determining whether such criteria have been met by the client.

### **3.7 Project Evaluation**

Following project completion the Bank's Project Evaluation Department (PED) may make an independent assessment of a project including the environmental performance of the Project Sponsor and the Bank, and the extent of environmental change resulting from the Bank's project. From this it derives lessons learned to be applied to future projects. The evaluation also considers the adequacy with which the Bank's public consultation requirements have been implemented. The ED will assist PED in this process by providing information on the environmental aspects of any project and by commenting on the environmental sections of draft Operation Performance Evaluation Reports (OPER).

### **4.0 Exceptions**

In exceptional cases, where a project's timing is crucial and Bank management is satisfied that the Bank's environmental requirements have, in all other respects, been followed, the Ops Com may waive some procedural requirements. In such exceptional cases, the waiver will be reported in the document submitted to the Bank's Board of Directors for approval and the legal documentation for the project will not be signed until environmental due diligence and public consultation is completed to the satisfaction of ED. Management will make its best efforts to explain to private sponsors the importance of avoiding such procedural waivers.

### **5.0 Transitional Provisions**

***Environmental Policy:*** The requirements of the 2003 Environmental Policy, as approved by EBRD's Board of Directors on 29 April 2003, will apply to all projects submitted to OpsCom for Concept Review after 30 April 2003.

***Environmental Procedures:*** The Environmental Procedures may be amended from time to time. Material changes to the Procedures need to be approved by OpsCom.<sup>2</sup> Unless specified otherwise in the OpsCom approval, changes will take effect immediately. Once changes have been adopted, the updated version of the Procedures will be posted on the Bank's website. A summary of all changes adopted during a year will be provided to the Board for information on an annual basis.

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<sup>2</sup> *OpsCom approval will not be required for editorial and other non-material changes*

## Annex 1 – Form of Environmental Summary

***CONFIDENTIAL***

### ENVIRONMENTAL SUMMARY

**Project Title:**

**Project Team:**

**ED Project Team:**

**OGC Lawyer:**

**Project Status:**

**Screening Category:** (A,B,C / 0,1 / FI / IEE) and rationale for classification

**Risk Rating:** (High / Medium / Low / Insufficient Information)

**Opportunities Rating:** (High / Medium / Low / Insufficient Information)

<b>Issues for OpsCom/Portfolio Review Meeting:</b>
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<b>Key Environmental and Consultation Requirements:</b>
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- 1. Brief Description of the Project:**
- 2. Information Reviewed:**
- 3. Due Diligence Visits by ED Staff / Consultants:**
- 4. Environmental Issues:**

***Risks:***

***Opportunities:***

***Other Issues:***

- 5. Summary of Environmental Action Plan:**
- 6. Disclosure and Consultation Issues:**
- 7. Requirements for Legal Documentation:**
- 8. Project Monitoring and Reporting:**
- 9. Further Action:**

<b>Last Updated:</b>	<b>ED Specialist:</b>
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## Annex 2

### Environmental Impact Assessment Report: Sample Table of Contents

*Please note that this generic Table of Contents may need to be tailored on a project-specific basis. In doing so, the Bank will take into account good practice guidance documents issued by other international institutions, such as the European Union<sup>3</sup>, the IALA, and the MFI Environment Working Group.*

#### Executive Summary

Concise summary description of the proposed project, its rationale, the existing environment, significant environmental impacts, recommended mitigation and enhancement measures, monitoring proposals, and the extent of the Project Sponsor's commitment to these recommendations and proposals.

#### Operational Framework

Outline the policy, legal and administrative context of the EIA summarising the environmental and project approval requirements of the Bank, co-financiers and applicable regional/global conventions or agreements. The timeframe for public consultation, project appraisal and implementation should be outlined.

- The Bank's Involvement in the Project
- Applicable IFI Environmental Assessment Procedures
- Host Country and International Regulatory Framework, standards and guidelines, treaties applicable.
- Approach to Benchmarking

#### Project Description

Precise description of the proposed project within its geographical, environmental and socio-economic context. This should include information on whether and how the project is part of a wider development programme.

#### Description of the Existing Environment

Description of relevant aspects of the physical and natural environment and socio-economic conditions in areas affected by the project to include, inter alia:

- Climate
- Geomorphology and Geology
- Water Resources
  - Surface*
  - Groundwater*
- Biological and ecological resources
  - Flora and fauna*
  - Diversity of protected species*
  - Critical habitats*
  - Ecosystems*

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<sup>3</sup> See in particular <http://europa.eu.int/comm/environment/eia/eia-guidelines/g-scoping-full-text.pdf>



- Landscape and visual impacts
- Air quality
- Noise
- Social and socio-economic issues
  - Community*
  - Vulnerable groups*
  - Cultural*
  - Archaeological/heritage*
  - Public health*
- Occupational health and safety
- Land use and settlement patterns

### **Potential Impacts**

Identify the potential environmental and social impacts that could be associated with the proposed project and its feasible alternatives including those of an indirect and cumulative nature. Through a process of reasoned argumentation, impacts which are unlikely to arise or be insignificant should be discounted.

- Local impacts
- National impacts
- Regional/Global impacts

### **Analysis of Alternatives**

A systematic comparison of feasible alternatives to the project in terms of location, project technology or design in terms of potential environmental impact. This should include the ‘do-nothing’ option. Where appropriate, a least-cost analysis of alternative forms of production should be conducted (for energy generation projects for example).

### **Characterisation of Impacts and Issues**

This section should identify and characterise positive and negative environmental impacts in terms of magnitude, significance, reversibility, extent and duration. The possibility for cumulative impacts should also be considered. Quantitative data should be employed to the extent possible. The chapter should also identify opportunities for environmental enhancement and identify key uncertainties and data gaps.

- Construction Phase
- Operation & Maintenance
- Closure and Decommissioning

### **Mitigation and Management of Impacts and Issues**

This chapter should outline feasible cost-effective measures to prevent or minimise environmental impacts to acceptable levels and address other environmental issues such as the need for worker health and safety improvements, inter-agency coordination, community involvement, institutional strengthening or training within the executing agency/ governmental agencies/project sponsor or at the community level. It should also outline measures which would enhance environmental aspects within the area affected by the project. The chapter should characterise the nature of any residual environmental impacts or issues that have not been addressed. Financial provisions for potential risks should also be described (for example escrow accounts

and insurance cover to provide for *inter alia* abandonment and decommissioning, site remediation and oil spills and other emergencies).

- Construction Phase
- Implementation and Maintenance
- Decommissioning and Abandonment
- Residual Environmental Impacts

### **Monitoring and Supervision**

This chapter should describe how environmental impacts and issues will be monitored and managed in practice. It should also indicate how the project will be supervised by lenders and governmental agencies. Estimates should be provided for capital expenditure and operation and maintenance costs where possible.

- The Construction Phase
- Implementation and Maintenance
- Decommissioning and Abandonment (where appropriate)

### **Management Plan**

All measures required to address environmental and social impacts and issues as well as monitoring and supervisory activities associated with these should be consolidated in tabular form. This should also indicate institutional responsibilities, timeframes and associated costs.

### **Appendices**

- Names of those responsible for preparing the EIA
- References and Sources of Information
- Records of public meetings and consultations held
- Supporting Technical Data

## Annex 3

### Environment and Health & Safety Audit Protocol: Sample Table of Contents

#### Executive Summary

#### **1. Nature of the Project to be Supported**

- 1.1 Description and Context of the Proposed Project

#### **2. The Existing Company/Facility Conditions**

- 2.1 Description of Processes, Facilities and Assets
- 2.2 Key Environmental, Health and Safety Aspects of the Company/Facility (if any)
- 2.3 Facility Location and Description of Natural Environment
- 2.4 Facility and Site History

#### **3. Corporate Environmental, Health and Safety Management**

- 3.1 EHS Policies and Practice
- 3.2 Organization of EHS Management
- 3.3 Contingency Planning and Emergency Procedures
- 3.4 Staff Training and Supervision
- 3.5 Internal and External Stakeholder Dialogue

#### **4. Company's Environmental Performance**

- 4.1 Local/National Regulatory Requirements
- 4.2 Applicable EU/World Bank/Other Requirements and Standards
- 4.3 Inputs, Products and Releases (subdivide as appropriate into air emissions, wastewaters and wastes generation)
  - Raw Materials Source and Consumption (where appropriate)
  - Water Source and Consumption
  - Energy Source and Consumption
  - Greenhouse Gas Contribution
  - Intermediate Products Arising
  - Wastewaters/Effluent Amounts and Quality
  - Air Emission Amounts and Quality
  - Wastes Amounts and Characteristics
- 4.4 Process Efficiency
- 4.5 General Housekeeping Issues
- 4.6 Product-Related Issues
- 4.7 Material Handling and Storage

- 4.8 Hazardous Materials Management
- 4.9 Waste Management (inc. PCBs and Asbestos)
- 4.10 Soil, Surface and Groundwater Contamination
- 4.11 Current Environmental Expenditure

## **5. Health and Safety Performance**

- 5.1 Local/National Regulatory Requirements
- 5.2 Applicable EU/International Requirements and Standards
- 5.3 Key Health & Safety Issues
- 5.4 Control of Major Accident Hazards
- 5.5 Current Health and Safety Monitoring Practice
- 5.6 Summary of Regulatory Compliance Status
- 5.7 Summary of Health and Safety Expenditure

## **6. Other Worker Related Issues**

- 6.1 Forced Labour
- 6.2 Harmful Child Labour
- 6.3 Discriminatory Practices

## **7. Conclusions and Recommendations**

- 7.1 Summary of Regulatory Compliance Status
- 7.2 Key Risks and Liabilities
- 7.3 Process Efficiency and Environmental Opportunities
- 7.4 Environmental Action Plan

### **Appendices**

To include:

Details of Persons Consulted

Photo/video/CD log

Copies of Permits and other documentation

Summary of Environmental Action Plan (EAP)

EHS Performance Monitoring Protocol