

THE ROLE OF EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT IN PROMOTING ENVIRONMENTALLY SOUND AND SUSTAINABLE DEVELOPMENT

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Abstract

One of the most important development banks which finances private initiatives in the Central and Eastern Europe countries is the European Bank for Reconstruction and Development (EBRD). EBRD as international financial institution plays a very important role in the development of many sectors such as agribusiness, energy efficiency, financial institutions, manufacturing, municipal and environmental infrastructure, natural resources, power and energy, property and tourism, telecommunications, information technology and media, transport.

Its objectives aim to promote transition to market economies by investing mainly in the private sector, to mobilize significant foreign direct investment, to support privatization, restructuring and better municipal services to improve people's lives and to encourage environmentally sound and sustainable development.

*The present scientific article focuses on the last objective respectively **the bank commitment to promote environmentally sound and sustainable development** and shortly presents EBRD environmental policy because EBRD, unlike other development banks, has strong and imperative regulations regarding this issue. This is why all the EBRD potential beneficiaries must prove that their projects are environmentally sound.*

Keywords: business management, environment, policy, requirements, sustainable development

ERBD Environmental Policy

The purpose of EBRD is to promote “environmentally sound and sustainable development” in the full range of its investment and technical cooperation activities pursuant to its constituent treaty, the Agreement Establishing the EBRD¹. The Bank believes that sustainable development is a fundamental aspect of sound business management.

The EBRD commitment envisages that the projects it finances:

- are socially and environmentally sustainable;
- respect the rights of affected workers and communities and
- are designed and operated in compliance with applicable regulatory requirements and good international practice.

In order to translate this objective into successful practical outcomes, the Bank has adopted a comprehensive set of specific Performance Requirements (“PRs”) that clients are expected to meet, covering key areas of environmental and social impacts and issues. The Bank is committed to promoting European Union (EU) environmental standards as well as the European Principles for the Environment, to which it is a signatory, which is reflected in the PRs.

The Bank expects clients to assess and manage the environmental and social issues associated with their projects so that projects meet the PRs. The Bank's role is:

- to review the clients' assessment;
- to assist clients in developing appropriate and efficient measures to avoid or, where this is not possible, minimise, mitigate or offset, or compensate for adverse social and environmental impacts consistent with the PRs;
- to help identify opportunities for additional environmental or social benefits; and

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¹ Article 2.1 of the Agreement Establishing EBRD, European Bank for Reconstruction and Development, *Basic Documents of the European Bank for Reconstruction and Development*, November 2006.

• to monitor the projects' compliance with its environmental and social covenants as long as the Bank maintains a financial interest in the project².

As we mentioned before, bank-financed projects are expected to meet good international practice related to sustainable development. To help clients and/or their projects achieve this, the Bank has defined specific PRs for key areas of environmental and social issues and impacts as listed below³:

PR 1: Environmental and Social Appraisal and Management

PR 2: Labour and Working Conditions

PR 3: Pollution Prevention and Abatement

PR 4: Community Health, Safety and Security

PR 5: Land Acquisition, Involuntary Resettlement and Economic Displacement

PR 6: Biodiversity Conservation and Sustainable Natural Resource Management

PR 7: Indigenous Peoples

PR 8: Cultural Heritage

PR 9: Financial Intermediaries

PR 10: Information Disclosure and Stakeholder Engagement.

Each PR defines, in its objectives, the desired outcomes, followed by specific requirements for clients to help them achieve these outcomes:

PR 1: Environmental and Social Appraisal and Management

The Bank requires clients to develop a systematic approach, tailored to the nature of their activities or projects, to managing environmental and social risks and opportunities that will enable the client to comply with the Bank's Environmental and Social Policy throughout the life of the Bank's involvement with the project.

This Performance Requirement ("PR") 1 outlines the client's responsibilities in the process of appraising, managing and monitoring environmental and social issues associated with projects proposed for EBRD financing. Environmental and social impacts and issues will be appraised in the context of the project's area of influence. This area of influence may include one or more of the following, as appropriate:

- The assets and facilities directly owned or managed by the client that relate to the project activities to be financed (such as production plant, power transmission corridors, pipelines, canals, ports, access roads and construction camps).

- Supporting/enabling activities, assets and facilities owned or under the control of parties contracted for the operation of the clients business or for the completion of the project (such as contractors).

- Associated facilities or businesses that are not funded by the EBRD as part of the project and may be separate legal entities yet whose viability and existence depend exclusively on the project and whose goods and services are essential for the successful operation of the project.

- Facilities, operations, and services owned or managed by the client which are part of the security package committed to the EBRD as collateral.

- Areas and communities potentially impacted by: cumulative impacts from further planned development of the project or other sources of similar impacts in the geographical area, any existing project or condition, and other project-related developments that can realistically be expected at the time due diligence is undertaken.

² European Bank for Reconstruction and Development, *Environmental and Social Policy*, November 2008.

³ Idem 2.

- Areas and communities potentially affected by impacts from unplanned but predictable developments caused by the project that may occur later or at a different location. The area of influence does not include potential impacts that would occur without the project or independently of the project.

Environmental and social impacts and issues will be appraised in the context of the project's area of influence. This area of influence may include one or more of the following, as appropriate:

- The assets and facilities directly owned (i) or managed by the client that relate to the project activities to be financed (such as production plant, power transmission corridors, pipelines, canals, ports, access roads and construction camps).

- Supporting/enabling activities, assets (ii) and facilities owned or under the control of parties contracted for the operation of the clients business or for the completion of the project (such as contractors).

- Associated facilities or businesses that are (iii) not funded by the EBRD as part of the project and may be separate legal entities yet whose viability and existence depend exclusively on the project and whose goods and services are essential for the successful operation of the project.

- Facilities, operations, and services owned (iv) or managed by the client which are part of the security package committed to the EBRD as collateral.

- Areas and communities potentially impacted (v) by: cumulative impacts from further planned development of the project or other sources of similar impacts in the geographical area, any existing project or condition, and other project-related developments that can realistically be expected at the time due diligence is undertaken.

- Areas and communities potentially affected (vi) by impacts from unplanned but predictable developments caused by the project that may occur later or at a different location. The area of influence does not include potential impacts that would occur without the project or independently of the project.

PR 2: Labour and Working Conditions

EBRD believes that for any business, the workforce is a valuable asset, and that good human resources management and a sound worker-management relationship based on respect for workers' rights, including freedom of association and right to collective bargaining, are key ingredients to the sustainability of the enterprise.

EBRD will seek to support, through its operations, the initiatives of other institutions such as the ILO (International Labour Organization) and the EU to promote the decent work agenda. At a minimum, the client's human resources policies, procedures and standards shall be designed to:

- establish and maintain a sound worker-management relationship
- promote the fair treatment, non-discrimination and equal opportunity of workers
- promote compliance with any collective agreements to which the client is a party, national labour and employment laws, and the fundamental principles and key regulatory standards embodied in the ILO conventions that are central to this relationship

- protect and promote the health of workers, especially by promoting safe and healthy working conditions.

The next working conditions and terms of employment must be followed:

General

Projects are required to comply, at a minimum, with: national labour, social security and occupational health and safety laws, and the principles and standards embodied in the ILO⁴

⁴ International Labour Organisations (ILO) conventions 29 and 105 (forced and bonded labour), 87 (freedom of association), 98 (right to collective bargaining), 100 and 111 (discrimination), 138 (minimum age) 182 (worst forms of child labour).

conventions related to: the abolition of child labour, the elimination of forced labour, the elimination of discrimination related to employment the freedom of association and collective bargaining.

Child labour

The client will comply with all relevant national laws provisions related to the employment of minors. In any event, the client will not employ children in a manner that is economically exploitative, or is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development. Young people below the age of 18 years will not be employed in hazardous work and all work of persons under the age of 18 shall be subject to an appropriate risk assessment.

Forced labour

The client will not employ forced labour, which consists of any work or service not voluntarily performed that is exacted from an individual under threat of force or penalty. This covers any kind of involuntary or compulsory labour, such as indentured labour, bonded labour or similar labour-contracting arrangements.

Non-discrimination and equal opportunity

Projects will comply with EU requirements on non-discrimination related to employment. In particular, the client will:

- not make employment decisions on the basis of personal characteristics, such as gender, race, nationality, ethnic origin, religion or belief, disability, age or sexual orientation, unrelated to inherent job requirements;
- base the employment relationship on the principle of equal opportunity and fair treatment, and will not discriminate with respect to all aspects of the employment relationship, including recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, promotion, termination of employment or retirement, and discipline.

Special measures of protection or assistance to remedy past discrimination or promote local employment opportunities or selection for a particular job based on the inherent requirements of the job, which are in accordance with national law, will not be deemed discrimination.

Workers' organisations

The client will not discourage workers from forming or joining workers' organisations of their choosing or from bargaining collectively, and will not discriminate or retaliate against workers who participate, or seek to participate, in such organisations or bargain collectively.

In accordance with national law, the client will engage with such workers' organisations and provide them with information needed for meaningful negotiation in a timely manner. Where national law substantially restricts the establishment or functioning of workers' organisations, the client will enable means for workers to express their grievances and protect their rights regarding working conditions and terms of employment. These means should not be under the influence or control of the client.

Wages, benefits and conditions of work

Wages, benefits and conditions of work offered should, overall, be comparable to those offered by equivalent employers in the relevant region of that country/region and sector concerned. Where the client is a party to a collective bargaining agreement or is otherwise bound by it, such agreement will be respected.

Occupational Health and Safety (OHS)

The client will provide the workers with a safe and healthy work environment, taking into account inherent risks in its particular sector and specific classes of hazards in the client's work areas, including physical, chemical, biological, and radiological hazards.

The client will take steps to prevent accidents, injury, and disease arising from, associated with, or occurring in the course of work by:

- identifying and minimising, so far as reasonably practicable, the causes of potential hazards to workers
- provision of preventive and protective measures, including modification, substitution, or elimination of hazardous conditions or substances
- provision of appropriate equipment to minimise risks, and requiring and enforcing its use
- training of workers, and provision of appropriate incentives for them to use and comply with health and safety procedures and protective equipment
- documentation and reporting of occupational accidents, diseases and incidents
- emergency prevention, preparedness and response arrangements.

Projects will comply with relevant EU OHS requirements and, where such requirements do not exist, relevant IFC OHS guidelines.

Grievance mechanism

The client will provide a grievance mechanism for workers (and their organisations, where they exist) to raise reasonable workplace concerns. The client will inform the workers of the grievance mechanism at the time of hiring, and make it easily accessible to them. The mechanism should involve an appropriate level of management and address concerns promptly, using an understandable and transparent process that provides feedback to those concerned, without any retribution. The mechanism should not impede access to other judicial or administrative remedies that might be available under law or through existing arbitration procedures, or substitute for grievance mechanisms provided through collective agreements.

Non-employee workers

In the case of non-employee workers engaged by the client through contractors or other intermediaries to work on project sites or perform work directly related to the core functions of the project, the client will ascertain that these contractors or intermediaries are reputable and legitimate enterprises.

Supply chain

The adverse impacts associated with supply chains will be considered where low labour cost is a material factor in the competitiveness of the item supplied. In such circumstances, the client will take reasonable steps to inquire about the use of child labour and forced labour⁴ in its supply chain in relation to goods and materials which are central to the core functions of the project.

If the client learns that child labour or forced labour in contravention with ILO standards are apparent in the supply chain and the goods or materials contribute materially to the core functions of the EBRD-funded activities, the client will take all reasonable steps to address this in accordance with the following requirements:

- In relation to child labour, the client should only continue to procure such goods or materials having received satisfactory undertakings or evidence that the supplier is committed to implementing a programme in line with good international practice to eliminate such practices within a reasonable time frame. The client will report on progress with the implementation of such programme to the EBRD on a regular basis.

- In relation to forced labour, the client should only continue to procure such goods or materials having received satisfactory undertakings or evidence that the supplier has taken appropriate steps to eliminate the conditions that constitute forced labour.

PR 3: Pollution Prevention and Abatement

The EBRD recognizes that sustainable development is a fundamental aspect of sound business management and that the pursuit of economic growth and a healthy environment are inextricably linked. Pollution prevention and abatement are key ingredients of a sustainable development agenda and EBRD-financed projects must meet good international practice in this regard.

The objectives of this Performance Requirement (PR) are:

- to avoid or, where avoidance is not possible, minimise adverse impacts on human health and the environment by avoiding or minimising pollution directly arising from projects
- to assist clients in identifying project-related opportunities for energy and resource efficiency improvements and waste reduction
- to promote the reduction of project-related greenhouse gas emissions.

Requirements

General

It is acknowledged that EU environmental requirements for the pollution prevention and abatement measures are based on the best available techniques, without prescribing the use of any technique or specific technology, but taking into consideration the technical characteristics of the installation concerned, its geographical location and local environmental conditions so as to ensure a high level of protection for the environment as a whole. ESAP provisions to achieve compliance with these requirements should take into account any nationally agreed time frame to bring about compliance with EU legislation (for example, in EU candidate countries). For projects in countries other than EU members, candidate and potential candidate countries, the time frame set in the ESAP for achieving compliance with EU environmental requirements should be consistent with any bilateral agreements or action plans agreed between the EU and the relevant country, but may take into account the cost of application and the local conditions that prevail.

Where EU environmental requirements do not exist, the client will apply other good international practice such as the World Bank Group Environmental Health and Safety Guidelines. In such cases the Bank will agree the applicable requirements with the client on a project by project basis.

For each project, the Bank will identify and agree with the client the relevant applicable environmental requirements and guidelines.

Pollution prevention, resource conservation and energy efficiency

During the design, construction, operation and decommissioning of the project (the project lifecycle) the client will consider technical characteristics of the installation concerned, its geographical location and local/ambient environmental conditions and apply pollution prevention and control technologies and practices (techniques) that are best suited to avoid or, where avoidance is not feasible, minimise or reduce adverse impacts on human health and the environment while remaining technically and financially feasible and cost-effective.

The client will avoid the release of pollutants or, when avoidance is not feasible, minimise or control their release. This applies to the release of pollutants due to routine, non-routine or accidental circumstances with the potential for local, regional, or transboundary impacts. In addition, the client should examine and incorporate in its operations, energy efficiency measures and measures to conserve water and other resources, consistent with the principles of cleaner production.

Wastes

The client will avoid or minimise the generation of hazardous and non-hazardous waste materials and reduce its harmfulness as far as practicable. Where waste generation cannot be avoided but has been minimised, the client will reuse, recycle or recover waste, or use it as a source of energy; where waste cannot be recovered or reused, the client will treat, destroy, and dispose of it in an environmentally sound manner. If the generated waste is considered hazardous, the client will explore commercially reasonable alternatives for its environmentally sound disposal considering the limitations applicable to its transboundary movement.

When waste disposal is conducted by third parties, the client will use contractors that are reputable and legitimate enterprises licensed by the relevant regulatory agencies.

Safe use and management of hazardous substances and materials

The client will seek to avoid, reduce or eliminate the use of hazardous substances and materials, and consider the use of less hazardous substitutes for such substances and materials so as to protect human health and the environment from their potential harmful impacts. Where avoidance is not feasible, the client will consider the safety of their uses and apply appropriate risk management measures in order to minimise or control the release of such substances/materials into air, water and/or land resulting from their production, transportation, handling, storage, use and disposal relating to project activities. The client will avoid the manufacture, trade, and use of hazardous substances and materials subject to international bans or phase-outs due to their high toxicity to living organisms, environmental persistence, potential for bio-accumulation, or potential for depletion of the ozone layer.

Emergency preparedness and response

The client will be prepared to respond to process upset, accidental, and emergency situations in a manner appropriate to the operational risks and the need to prevent their potential negative consequences.

Industrial production

The client will put in place processes to ensure that all emissions and effluents and wastes are inventoried and monitored on an ongoing basis. Clients required to report project-related releases of pollutants to the European Pollutant Release and Transfer Register (E-PRTR)⁵ will also report these data to the EBRD.

Ambient considerations

To address adverse project impacts on existing ambient conditions, the client will:

- consider a number of factors, including the finite assimilative capacity of the environment, existing and future land use, existing ambient conditions, the project's proximity to ecologically sensitive or protected areas, and the potential for cumulative impacts with uncertain and irreversible consequences; and
- promote strategies that avoid or, where avoidance is not feasible, minimise or reduce the release of pollutants, including strategies that contribute to the improvement of ambient conditions when the project has the potential to constitute a significant source of emissions in an already degraded area. These strategies include, but are not limited to, evaluation of project location alternatives and emissions' offsets.

⁵ Companies located in the EU and EU candidate countries which release pollutants into air, water and/or land above specified thresholds are required to monitor and report the release quantities to the E-PRTR (The European Pollutant Release and Transfer Register). E-PRTR was adopted by EU Regulation 166/2006 and will succeed the current European Pollutant Emission Register. See www.eper.ec.europa.eu/eper.

Greenhouse gas emissions

The client will promote the reduction of project-related greenhouse gas (GHG) emissions in a manner appropriate to the nature and scale of project operations and impacts.

During the development of projects that are expected to or currently produce significant quantities of GHGs⁶, the client will procure and report the data necessary to enable both an assessment of baseline (pre-investment) GHG emissions and an estimate of post-implementation GHG emissions. Guidance on data requirements should be sought from the Bank. The GHG assessment will cover direct emissions from the facilities owned or controlled within the physical project boundary, together with those from any external operations on which the project is dependent, including indirect emissions associated with the off-site production of power used by the project.

Guidance on the definition of project boundary should also be sought from the Bank. Quantification and monitoring of the parameters needed to evaluate GHG emissions will be conducted annually during the life of the project.

In addition, the client will assess technically and financially feasible and cost-effective options to reduce its carbon intensity during the design and operation of the project, and pursue appropriate options.

Pesticide use and management

The client will formulate and implement an integrated pest management (IPM) and/or integrated vector management (IVM) approach for pest management activities. The client's IPM and IVM programme will entail coordinated use of pest and environmental information along with available pest control methods, including cultural practices, biological, genetic and, as a last resort, chemical means to prevent unacceptable levels of pest damage. When pest management activities include the use of pesticides, the client will strive to reduce the impacts of pesticides on human health and the environment and, more generally, to achieve a more sustainable use of pesticides as well as a significant overall reduction in the risks and uses of pesticides consistent with the necessary crop protection.

The sustainable use of pesticides shall include:

- minimising or, where possible, elimination of the use of pesticides minimising the hazards and risks to health and environment from the use of pesticides
- reducing the levels of harmful active substances by replacing the most dangerous with safer (including non-chemical) alternatives
- selecting pesticides that are low in human toxicity, known to be effective against the target species, and have minimal effects on non-target species and the environment
- using low-input or pesticide-free crop farming
- minimising damage to natural enemies and preventing the development of resistance in pests.

The client will handle, store, apply and dispose of pesticides in accordance with good international industry practice such as the Food and Agriculture Organization (FAO) International Code of Conduct on the Distribution and Use of Pesticides.

⁶ The significance of a project's contribution to GHG emissions varies between industry sectors. Guidance on the amounts of GHG emissions likely to be associated with projects in different sectors is given in *EBRD Methodology for Assessment of Greenhouse Gas Emissions – Guidance for consultants working on EBRD – financed projects (GN0)*. The significance threshold for this Performance Requirement is generally 100,000 tonnes CO₂ equivalent per year for the aggregate emissions of direct sources and indirect sources associated with purchased electricity for own consumption. However, a lower emission threshold may be appropriate where a project aims to bring about large improvements in production efficiency. Clients are encouraged to consult with the Bank in such cases on whether data procurement for GHG assessment will be required.

PR 4: Community Health, Safety and Security

The EBRD recognises that project activities, equipment, and infrastructure often bring benefits to communities including employment, services, and opportunities for economic development. However, projects can also increase the potential for community exposure to risks and impacts arising from temporary or permanent changes in population; transport of raw and finished materials; construction, operations and decommissioning; accidents, structural failures, and releases of hazardous materials. So, the clients policies has:

- to avoid or minimise risks to and impacts on the health and safety of the local community during the project life cycle from both routine and non-routine circumstances;
- to ensure that the safeguarding of project-related personnel and property is carried out in a legitimate manner that avoids or minimises risks to the community's safety and security.

Requirements**Community health and safety requirements****General requirements**

The client will identify and evaluate the risks and potential impacts to the health and safety of the affected community during the design, construction, operation, and decommissioning of the project and will establish preventive measures and plans to address them in a manner commensurate with the identified risks and impacts. These measures will favour the prevention or avoidance of risks and impacts over minimisation and reduction.

Where the project or stage of the project poses material risks to or potential adverse impacts on the health and safety of affected communities, the client will disclose relevant project-related information to enable the affected communities and relevant government agencies to understand these risks and potential impacts, as well as the client's proposed prevention, mitigation and emergency response measures, as appropriate. The client will consult with affected communities and relevant government agencies about the proposed measures before they are finalised and take their concerns and comments into account. The client will review the measures regularly, and engage the affected communities and agencies on an ongoing basis, informing them on the status of implementation of plans and commitments, results, and discussing with them any material changes needed to the plans, in advance of changes. Information disclosed may be summarised (maintaining a sufficient level of detail to allow stakeholders to fully understand the risks, potential impacts and measures to be taken) and/or redacted to remove confidential information.

Infrastructure and equipment safety

The client will design, construct, operate and decommission the structural elements or components of the project in accordance with good international industry practice, and will give particular consideration to potential exposure to natural hazards, especially where the structural elements are accessible to members of the affected community or where their failure could result in direct or indirect injury to the community. Structural elements will be designed and constructed by qualified and experienced professionals, and certified or approved by competent authorities or professionals.

When structural elements or components, such as dams, tailings dams or ash ponds, are situated in high-risk locations and their failure or malfunction may threaten the safety of communities, the client will engage one or more qualified experts with relevant and recognized experience in similar projects, separate from those responsible for the design and construction, to conduct a review as early as possible in project development and throughout the stages of project design, construction, and commissioning. For projects that operate moving equipment on public roads and other forms of infrastructure, the client will seek to prevent the occurrence of incidents and accidents associated with the operation of such equipment.

Hazardous materials safety

The client will prevent or minimise the potential for community exposure to hazardous materials that may be released by the project. Where there is a potential for the community (including workers and their families) to be exposed to hazards, particularly those that may be life-threatening, the client will exercise special care to avoid or minimise their exposure by modifying, substituting or eliminating the condition or substance causing the hazards.

Where hazardous materials are part of existing project infrastructure or components, the client will exercise special care when conducting start-up and decommissioning activities in order to prevent exposure to the community. The client will liaise with the competent authorities to obtain available information on exposure levels of those materials which are known to cause non-communicable disease, such as cancer or lung disease.

Environmental and natural resource issues

The client will prevent and avoid or minimise the exacerbation of impacts caused by natural hazards, such as landslides or floods, that could arise from land use changes due to project activities.

The client will also avoid or minimise adverse impacts due to project activities on air, soil, water, vegetation and fauna and other natural resources in use by the affected communities.

Community exposure to disease

The client will identify those communicable diseases that can be transmitted by the project components or its workforce (including contractors). Action plans should be developed, where appropriate, to prevent or minimise the potential for worker and community exposure to vector-borne and other communicable diseases that could result from project activities. Where specific diseases are endemic in communities in the project area of influence, the client is encouraged to explore opportunities during the project life cycle to improve environmental conditions that could help reduce their incidence, both among the workforce and locally.

Emergency preparedness and response

The client will be prepared to respond to process upset, accidental, and emergency situations in a manner appropriate to the operational risks and the need to prevent their potential negative consequences.

As part of the client's assessment of public health, safety and security risks and potential impacts from project-related activities, the client will identify major-accident hazards, and will take all measures necessary to prevent major accidents and to limit their consequences for humans and the environment, with a view to ensuring high levels of protection to humans and the environment in a consistent and effective manner. Such measures will be identified in a major-accident prevention/emergency preparedness policy and an appropriate management system including organisational structures, responsibilities, procedures, communication, training, resources and other aspects required to implement such policy and to respond effectively to emergencies associated with project hazards. The management system will include an internal and an external emergency plan. External emergency plans will be established with the objectives of:

- containing and controlling incidents so as to minimise the effects, and to limit damage to humans, the environment and property
- implementing measures necessary to protect humans and the environment from the effects of major accidents
- communicating the necessary information to the public and to the emergency services or public authorities concerned in the area
- providing for the restoration and clean-up of the environment following a major accident.

The client will assist and collaborate with the community and the local government agencies in their preparations to respond effectively to emergency situations, especially when their participation and collaboration are necessary to respond to such emergency situations. If local government agencies have little or no capacity to respond effectively, the client will play an active role in preparing for and responding to emergencies associated with the project, and will demonstrate capacity to respond to reasonably predictable incidents, either directly or indirectly (for example, with the assistance of emergency responders, third party contracted responders, insurance).

The client will exercise prevention and response plans on a schedule appropriate to the sector and risk associated with the project, but at least on an annual basis. The client will update local authorities and communities regularly as plans change or have to be tested.

Security personnel requirements

When the client directly retains employees or contractors to provide security to safeguard its personnel and property, it will assess risks to those within and outside the project site or facilities posed by its security arrangements. In making such arrangements, the client will be guided by the principles of proportionality, good international practices in terms of hiring, rules of conduct, training, equipping and monitoring of such personnel, and applicable law. The client will make reasonable inquiries to satisfy itself that those providing security are not implicated in past abuses, will ensure they are trained adequately in the use of force (and where applicable, firearms) and appropriate conduct toward workers and the local community, and require them to act within the applicable law. The client will not sanction any use of force except when used for preventive and defensive purposes in proportion to the nature and extent of the threat.

PR 5: Land Acquisition, Involuntary Resettlement and Economic Displacement

Involuntary resettlement refers both to physical displacement (relocation or loss of shelter) and to economic displacement (loss of assets or access to assets that leads to loss of income sources or means of livelihood) as a result of project-related land acquisition or restriction of access to natural resources

The objectives of this PR are:

- to avoid or, at least minimise, involuntary resettlement wherever feasible by exploring alternative project designs;
- to mitigate adverse social and economic impacts from land acquisition or restrictions on affected persons' use of and access to land by: providing compensation for loss of assets at replacement cost and ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected;
- to improve or, at a minimum, restore the livelihoods and standards of living of displaced persons to pre-project levels, through measures that can be enterprise-based, wage-based and/or enterprise based, so as to facilitate sustainable improvements to their socio-economic status;
- to improve living conditions among displaced persons through provision of adequate housing with security of tenure at resettlement sites.

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

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.

The targets 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.

Requirements

Habitat protection and conservation

General

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.

Modified habitats

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

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

Irrespective of whether it is natural or modified, some habitat may be considered to be critical by virtue of:

- its high biodiversity value;
- its importance to the survival of endangered or critically endangered species;
- its importance to endemic or geographically restricted species and sub-species;
- its importance to migratory or congregatory species;
- its role in supporting assemblages of species associated with key evolutionary processes;
- its role in supporting biodiversity of significant social, economical or cultural importance to local communities; or
- its importance to species that are vital to the ecosystem as a whole (keystone species).

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.
- 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 .
- 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

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 this paragraph, the client will:

- consult protected area sponsors and managers, local communities and other key stakeholders on the proposed project ;
- 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

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.

- 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)

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

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.

Natural and plantation forestry

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

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 be achieved through attaining independent certification (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

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

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*. 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.

PR 7: Indigenous Peoples

Private sector projects can create opportunities for Indigenous Peoples to participate in, and benefit from project-related activities that may help them fulfill their aspiration for economic and social development. This Performance Requirement (“PR”) recognises that Indigenous Peoples may play a role in the process of transition towards open-market economies by promoting and managing activities and enterprises as partners in development alongside the private sector and their governmental representatives. Specific objectives are as follows:

- to ensure that the transition process fosters full respect for the dignity, rights, aspirations, cultures and natural resource-based livelihoods of Indigenous Peoples;
- to avoid adverse impacts of projects on the lives and livelihoods of Indigenous Peoples’ communities, or when avoidance is not feasible, to minimise, mitigate, or compensate for such impacts;
- to enable Indigenous Peoples to benefit from projects in a culturally appropriate manner;
- to support the client to establish and maintain an ongoing relationship with the Indigenous Peoples affected by a project throughout the life of the project
- to foster good faith negotiation of the client with, and the informed participation of, Indigenous Peoples when projects are to be located on traditional or customary lands used by the Indigenous Peoples, when customary or non-traditional livelihoods will be affected by the project, or in the case of commercial exploitation of the Indigenous Peoples’ cultural resources
- to recognise and respect the customary laws and customs of Indigenous Peoples and to take these into full consideration;
- to respect and preserve the culture, knowledge and practices of Indigenous Peoples in accordance with their wishes.

PR 8: Cultural Heritage

The EBRD recognises the importance of cultural heritage for present and future generations. Consistent with the Convention Concerning the Protection of the World Cultural and Natural Heritage and the Convention for the Safeguarding of Intangible Heritage, this Performance Requirement aims to protect irreplaceable cultural heritage and to guide clients to avoid or mitigate adverse impacts on cultural heritage in the course of their business operations. In addition, the requirements of this Performance Requirement related to a project's use of cultural heritage are based in part on standards set by the Convention on Biological Diversity, namely:

- to support the conservation of cultural heritage in the context of EBRD-financed projects;
- to protect cultural heritage from adverse impacts of project activities;
- to promote the equitable sharing of benefits from the use of cultural heritage in business activities;
- to promote the awareness of and appreciation of cultural heritage where possible.

PR 9: Financial Intermediaries

Financial Intermediaries (FIs) are a key instrument for the EBRD to promote sustainable financial markets and provide a vehicle to channel EBRD funding to the micro, small and medium-sized enterprise (SME) sector. Through its network of partner FIs, the EBRD can support economic development at a scale of enterprise that is smaller than would be possible through direct EBRD investment. The EBRD supports a variety of financial service providers including among others, private equity funds, banks, leasing companies, insurance companies and pension funds.

The objectives of this Performance Requirement (PR) are:

- to establish a practical way in which the Bank's mandate to promote sustainable development can be implemented in its FI investments, in line with best international practice in the commercial financial sector;
- to enable FIs to manage environmental and social risks associated with their business activities and to promote good environmental and social business practices amongst their clients;
- to promote good environmental and human resource management within FIs.

PR 10: Information Disclosure and Stakeholder Engagement

The EBRD considers stakeholder engagement as an essential part of good business practices and corporate citizenship, and a way of improving the quality of projects.

This Performance Requirement ("PR") outlines a systematic approach to stakeholder engagement that will help clients build and maintain over time a constructive relationship with their stakeholders, in particular the locally affected communities. The process of stakeholder engagement is an essential component of the appraisal, management and monitoring of environmental and social issues associated with the client's investments.

Conclusions

We may conclude that EBRD allocates a great importance on environmental protection. It seeks to ensure that the projects that finances are socially and environmentally sustainable, respect the rights of affected workers and communities and are designed and operated in compliance with EU applicable regulatory requirements and good international practices.

Romania is one of the countries from Eastern Europe who benefits from EBRD financial support. This is why, on 28th February 2012, the EBRD Board of Directors approved a financing strategy for our country. The strategy underlines that *The Bank's Environmental and Social Policy applies to all projects carried out in Romania. It will be important to identify any vulnerable*

populations that may be disproportionately affected by the projects and to ensure that stakeholder engagement activities include any marginalised groups. Health and safety is also an important consideration for all projects and the Bank will work with clients and sponsors to promote the development of an appropriate safety culture⁷.

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- European Bank for Reconstruction and Development, *Strategy for Romania*, February 2012.
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⁷ European Bank for Reconstruction and Development, *Strategy for Romania*, February 2012.