



Environmental and Social Requirement 1

Assessment and management of environmental and social risks and impacts



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Introduction

1. This Environmental and Social Requirement (ESR) recognises the importance of an integrated assessment to identify the environmental and social risks and impacts, including human rights, gender, climate and nature risks and impacts, associated with projects and the client's management of environmental and social performance throughout the life of the project. A successful and efficient environmental and social management system (ESMS) promotes sound and sustainable environmental and social performance and can lead to improved financial, environmental and social outcomes. An ESMS is a dynamic, adaptive, continuous process, initiated and supported by management and, as required by ESR 10, involves meaningful communication between the client, its workers, the communities affected by the project and, where appropriate, other stakeholders.
2. This ESR outlines the client's responsibilities in the process of identifying and assessing the potential environmental and social risks and impacts associated with the project, as well as developing and implementing an ESMS for mitigating, managing, monitoring and reporting these risks and impacts.

Objectives

3. The objectives of this ESR are to:
 - identify and assess environmental and social risks and impacts of and to the project
 - adopt a mitigation hierarchy approach to address environmental and social risks and impacts from project activities on workers, affected communities and the environment
 - integrate human rights risks and impacts into the assessment and management process
 - implement an ESMS commensurate with the environmental and social risks and impacts of the project in a manner consistent with the relevant ESRs, including monitoring and reporting provisions
 - require continuous improvement of the client's environmental and social performance.

Scope of application

4. This ESR applies to all projects financed by the EBRD as established in the Environmental and Social Policy. The client will, as part of its environmental and social assessment process, identify the relevant requirements of this ESR and how they will be addressed and managed through the project assessment, design, construction, operation and decommissioning or closure and reinstatement. The ESRs should be read together. ESR 1, and other ESRs as relevant, may apply to a client's business activities beyond the project, depending on the nature of the EBRD financing.
5. If a project does not meet the ESRs and it involves the modernisation or upgrade of a client's existing facilities or business activities that do not meet the ESRs at the time of EBRD approval, the client will be required to adopt an environmental and social action plan (ESAP), which will include a series of technically and financially feasible actions and/or measures to achieve project and/or facility or activity compliance with the ESRs within a timeframe acceptable to the EBRD. In the ESAP, the EBRD and the client will agree the specific corrective and preventative actions, mitigation measures, required resources and implementation timeframe that the client will implement to manage the environmental and social risks and impacts of the project in accordance with the ESRs. The ESAP will form part of the financing agreements and include the client's obligations to support the implementation of the ESAP.

6. The environmental and/or social risks and impacts of associated facilities will be included in the environmental and social assessment process. The client will ensure that the environmental and/or social risks and impacts arising from associated facilities over which it has control or influence are managed and mitigated in accordance with applicable law, good international practice (GIP) and the objectives of the ESRs.
7. Where potentially significant environmental and/or social risks and impacts are identified from other facilities or activities in the vicinity of the project, existing facilities, and facilities or activities outside the control of the client to which the ESRs do not apply, the client will make reasonable efforts to assess and mitigate risks to the project.
8. Engagement with project stakeholders is an integral part of this process. Requirements regarding stakeholder engagement are outlined in ESR 10.

Requirements

Environmental and social management systems

9. The client will establish and maintain an integrated ESMS, or equivalent management system, appropriate to the nature and scale of the project and commensurate with the level of its environmental and social risks and impacts, in accordance with this ESR and GIP. The objective of such a management system is to integrate the implementation of ESRs into a streamlined and coordinated process and to embed this in the main operational activities of the client. The ESMS will include an overarching policy or policies defining the environmental and social commitments and objectives that enable the client to achieve sound environmental and social performance.
10. The ESMS should be dynamic and adaptive, apply on a continuous basis and, as appropriate, outline the set of management processes, plans and/or procedures for the ongoing identification, screening, assessment, mitigation, management, monitoring and disclosure of environmental and social risks and impacts associated with the project, consistent with the ESRs. The ESMS will be appropriately resourced and costed and an organisational structure will be established that defines roles, responsibilities and authority to implement the ESMS. The ESMS will consider third-party risks and impacts and will allow for the appropriate monitoring, gathering and recording of information on environmental and social risks and impacts, including performance indicators and targets, to enable reporting to the EBRD and to project stakeholders in accordance with ESR 10 and GIP. The ESMS should include provisions for the remediation of significant residual environmental and social impact.
11. For capital market transactions and in cases where a client is seeking general corporate financing or equity, the client will establish a system to manage environmental and social risks and impacts associated with its business activities and any use of proceeds, consistent with the ESRs.

Environmental and social assessment

12. The client will conduct a process of environmental and social assessment commensurate with the nature and scale of the project, proportionate to the potential risks and impacts of and to the project. The assessment process will cover, in an integrated way, all relevant direct and indirect environmental and social risks and impacts of and to the project and the relevant stages of the project cycle. It will also identify and assess potential project benefits. When a project involves existing facilities or business activities and/or associated facilities, the assessment process will consider the environmental and social risks and impacts associated with them. It will include risk and impact screening, consider contextual risks and be based on current and/or recent information, and environmental and social baseline data, as well as credible external sources, at an appropriate level of detail. The assessment process will also identify:
(i) applicable environmental and social laws and regulatory requirements of the jurisdictions in which the project operates, including laws implementing host-country obligations under public international law; and
(ii) applicable requirements under the ESRs. It may be appropriate, due to the complexity or uncertainty of risks and where impacts and/or contextual risks are significant, for the client to complement its environmental and social assessment with further or enhanced studies and assessments, together with

enhanced engagement, focusing on specific risks and impacts.²⁵ The client should, where relevant, engage appropriate, independent expertise and resources to support the environmental and social assessment process.

13. The environmental and social assessment process will also identify and characterise, to an appropriate extent, the cumulative risks and impacts of and to the project, in combination with the risks and impacts of other relevant past, present and reasonably foreseeable developments, as well as unplanned but predictable activities enabled by the project that may occur later or at a different location.
14. For projects that could have adverse environmental and social risks and impacts, the client will, as an integral part of the assessment process, identify the project's stakeholders and design a plan for engaging with those stakeholders in a meaningful way to take their views and concerns into consideration in planning, implementing and operating the project in accordance with ESR 10. This stakeholder identification process will identify any foreseeable risks of retaliation against stakeholders. If any such risk is identified, the client will also develop and implement policies prohibiting any form of retaliation within the client's control and develop effective measures to respond to retaliation risks and impacts.
15. The client will, as an integral part of the assessment process, identify project-affected people or groups who are vulnerable and develop and implement mitigation and monitoring measures to ensure they are not disproportionately affected by adverse impacts of the project and can access project benefits equally. Such people or groups should be taken into account in the stakeholder identification process to ensure that the views of all affected stakeholders can be considered in planning, implementing and operating the project in accordance with ESR 10.
16. The client will consider gender in the assessment, management and monitoring of environmental and social risks and impacts, based on a sex-disaggregated baseline, monitoring data and consultation, with attention to the different burdens, barriers and impacts women and sexual and gender minorities might experience, including gender-based violence and harassment.
17. Where projects or the client's business activities involve the management of digital personal data, significant reliance on digital services and technologies, or the substantial digitalisation of services or products, the assessment process will consider environmental and social risks and impacts associated with cybersecurity, data protection and privacy.
18. Where a project is likely to be associated with significant environmental and social risks and impacts, the assessment process will, as appropriate and commensurate with the nature of the project, include an assessment of technically and financially feasible alternatives to the project's location, technology, size, design and/or mitigation options in terms of their environmental and social impacts and risks, and consider the "without project" scenario. Consistent with the mitigation hierarchy, the alternatives assessment will consider, as a priority, other options that will avoid impact. This process will include appropriate stakeholder engagement in accordance with ESR 10.
19. Where decisions on project alternatives have been made prior to the involvement of the EBRD, the client will undertake a review of these alternatives to determine: (i) the extent to which environmental and social risks and impacts associated with the preferred alternatives have been appropriately considered, (ii) the stakeholder engagement process undertaken and outcomes, and (iii) the mitigation hierarchy applied. If such review identifies significant risks and/or impacts, the client will develop appropriate risk and/or impact mitigation measures.
20. For projects that are complex or contentious, or that involve potentially significant multidimensional environmental or social risks or impacts, the client may be required to engage one or more internationally recognised independent experts. Such experts may, depending on the project, form part of an advisory panel or be otherwise employed by the client, and will provide independent advice and oversight to the project.
21. During the environmental and social assessment process and throughout project implementation, the client will identify significant environmental and social risks associated with the project's core supply chains. Where significant risks are identified, the client will use reasonable efforts to prevent and mitigate

25 It may be appropriate for the client to include in its environmental and social risk and impact identification process a human rights assessment in line with the UN Guiding Principles on Business and Human Rights. This would be appropriate where the nature of the project or its operating context poses significant risk to human rights.

these risks and to remediate impacts as necessary. Where relevant, these measures will be integrated into the ESMS and/or a supply-chain management system, commensurate with the complexity of the supply chains and the associated environmental and social risks and impacts and appropriate to the nature and scale of the project. The management system will take into account: (a) the severity and likelihood of the risks and impacts; (b) whether the client caused, contributed or is directly linked to these risks and impacts; and (c) the client's leverage over the relevant core suppliers. Where necessary, the client will also assess whether terminating the relationship with a supplier would exacerbate the environmental and social risks and impacts identified. Requirements for addressing significant labour risks in the supply chain are outlined in ESR 2; requirements for addressing significant supply chain risks for living natural resources are defined in ESR 6.

22. A project is categorised "A" when it could result in potentially significant environmental and/or social impacts, including direct and cumulative environmental and social impacts, which are new and additional and cannot readily be identified or mitigated. Category A projects require a formalised and participatory environmental and social impact assessment (ESIA), including a screening and/or scoping process and an assessment of alternatives. An indicative list of Category A projects is presented in Annex B to the policy.
23. A project is categorised "B" when its potential adverse environmental and/or social impacts are typically site-specific, and/or readily identified and addressed through mitigation measures. The scope of environmental and social assessment will be determined by the EBRD on a case-by-case basis, considering the environmental and social risks associated with the project.
24. A project is categorised "C" when it is likely to have limited environmental and/or social impacts that can be readily identified and mitigated.

Environmental and social management plan

25. Taking into account the findings of the environmental and social assessment process and the outcomes of stakeholder engagement (ESR 10), the client will develop and implement a programme of actions to address the identified environmental and social risks and impacts and other performance improvement measures to meet the ESRs. Depending on the project, the programme may consist of a combination of documented procedures, plans, practices and capital investments, collectively known as an environmental and social management plan (ESMP), which forms part of the ESMS.
26. The ESMP will reflect the mitigation hierarchy and GIP, and ensure that all relevant stages of the project are structured to meet applicable laws and regulatory requirements, and the ESRs.
27. Where affected individuals or groups are identified as vulnerable, marginalised and/or experiencing discrimination during the appraisal process, the ESMP will include differentiated measures to ensure that risks and impacts do not fall disproportionately on them, and that they are able to take advantage of opportunities to benefit from the project.
28. The level of detail and complexity of the ESMP will be commensurate with the project's risks and impacts, as well as any opportunities for project improvement and benefits. The ESMP will define outcomes, measurable to the extent possible, with targets and performance indicators that can be tracked over defined time periods. Recognising the dynamic nature of the project development and implementation process, the ESMP will respond to changes in project circumstances, unforeseen events, regulatory changes and the results of monitoring and review, and be updated as necessary.

Organisational capacity and commitment

29. The client will establish, maintain and strengthen, as necessary, an organisational structure that defines roles, responsibilities and authority to implement the ESMS to ensure ongoing compliance with relevant national laws and regulatory requirements and the ESRs. The client will designate specific personnel, including management representative(s), with clear lines of responsibility and authority to maintain and implement the ESMS. Key environmental and social responsibilities will be defined and communicated to relevant personnel. The client will provide adequate support and human and financial resources on an ongoing basis to achieve effective and continuous environmental and social performance.

30. The client will ensure that employees with direct responsibility for activities relevant to the environmental and social performance of the project are suitably qualified and trained.

Contractors

31. The ESRs and the ESMS, including any specific requirements and actions it sets out, apply to the project regardless of whether it is carried out directly by the client or through contractors.
32. It is the client's responsibility to ensure that contractors working on the project meet the ESRs, where relevant, and ESMS requirements by adopting and implementing an appropriate contractor management system. Effective contractor management includes:
- assessing environmental and social risks and impacts associated with contracted works and services and incorporating relevant ESMP conditions into tender documents as appropriate, contractually requiring contractors to apply these standards and provide for mitigation and/or remediation in the case of non-compliance
 - overseeing that contractors have the knowledge and skills to perform their project tasks in accordance with contractual environmental and social conditions
 - monitoring contractor compliance with contractual environmental and social conditions
 - requiring contractors to have equivalent environmental and social arrangements with any subcontractors.
33. For projects where contractor work is already underway, the client should assess such works and implement necessary measures to ensure that contractors meet the ESRs, where applicable, and ESMS requirements.

Project monitoring and reporting

34. The client will monitor regularly the environmental and social risk, impacts and performance of the project, as well as the effectiveness of mitigation measures, in line with GIP. This monitoring is intended to: (i) determine whether the project is being implemented in accordance with the ESRs, (ii) inform the implementation of any actions, including corrective and preventative actions necessary to mitigate risks and impacts, and (iii) learn lessons, allocate resources and identify opportunities for continuous improvement.
35. Monitoring requirements will be proportional to the nature of the project and its environmental and social risks and impacts. Monitoring will address:
- any significant environmental and social risks and impacts identified during the environmental and social assessment process and during project implementation
 - relevant parts of the ESRs, as identified during the project assessment process and subsequent monitoring
 - actions specified in the ESMP and/or ESAP
 - relevant performance indicators and targets
 - grievances received from workers and external stakeholders, and how they were resolved
 - any regulatory monitoring and reporting requirements
 - any monitoring and reporting required by other parties (for example, off-takers, financiers and certification bodies).
36. The client will ensure that adequate resources and personnel are in place to carry out monitoring as part of the ESMS. The client will review the results of monitoring and initiate corrective actions as necessary. In addition, the client may use third parties, such as independent experts, local communities or civil society organisations, to complement or verify its own monitoring information. Where the relevant authorities or other third parties have responsibility for managing specific environmental and social risks and impacts and associated mitigation measures, the client will collaborate with them to establish and monitor such mitigation measures.

37. The client will provide regular reports to the EBRD on the environmental and social performance of the project, including compliance with the ESRs and implementation of the ESMS, ESMP and ESAP, significant environmental and social risks and impacts, relevant performance indicators and targets, and grievances received from workers and external stakeholders, and how they were resolved. As part of its reporting to the EBRD the client will describe the internal and/or external assurance process in developing the environmental and social report. Based on the monitoring results, the client will identify and reflect any necessary corrective and preventative actions in an amended ESMP or ESAP, to be agreed with the EBRD. The client will implement agreed corrective and preventative actions and follow up on these actions to enhance its performance. Where clients already disclose, or intend to disclose, environmental and social reports or equivalent in line with GIP that address the requirements of this paragraph, the Bank will, depending on the content, consider the use of such reports for the purposes of client reporting to the EBRD.
38. The client must promptly notify the EBRD of any environmental or social incident or accident relating to the client or the project, which has, or is likely to have, a significant adverse impact. The client will conduct an appropriate investigation into any such incident, define and implement corrective actions as necessary, and report these to the EBRD.
39. The client must promptly notify the EBRD of any changes to the project's scope, design or operation that is likely to materially change its environmental and/or social risks and impacts. The client will carry out any additional assessment and stakeholder engagement in accordance with the ESRs and amend the ESMP or ESAP accordingly, as agreed with the EBRD.
40. For projects that could have significant adverse environmental and social risks and impacts, the client may be required to engage relevant external experts to perform periodic independent reviews of the project or to carry out monitoring of specific environmental or social risks and impacts. The scope of this work and follow-up actions will be determined on a case-by-case basis and in agreement with the EBRD.