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Environmental Policy



European Bank
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Foreword

The European Bank for Reconstruction and Development (EBRD) adopted its first *Environmental Policy* in 1991, at the initial meeting of its Board of Directors. The *Environmental Policy* is a key document of the EBRD, which details the commitments of the Bank's Founding Agreement "to promote in the full range of its activities, environmentally sound and sustainable development."

This publication comprises the second revision of the EBRD *Environmental Policy*, as approved by the EBRD Board of Directors on 29 April 2003.

Environmental Policy

I. EBRD's environmental mandate and policy objectives

1. Article 1 of the Agreement Establishing the European Bank for Reconstruction and Development (EBRD) states that the purpose of the EBRD is "to foster the transition towards open market-oriented economies and to promote private and entrepreneurial initiative in the central and eastern European countries". The EBRD is also directed by its Agreement to "promote in the full range of its activities environmentally sound and sustainable development" (Article 2.1vii). In addition to promoting environmentally sustainable development, "the Bank shall apply sound banking principles to all its operations" (Article 13i) and "the Bank shall not undertake any financing ... when the applicant is able to obtain sufficient financing ... elsewhere on terms and conditions that the Bank considers reasonable" (Article 13vii).
2. The EBRD recognises 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. The EBRD further recognises that sustainable development must rank among the highest priorities of the EBRD's activities. The EBRD will endeavour to ensure that its policies and business activities promote sustainable development, meeting the needs of the present without compromising those of the future.

3. In line with its mandate to promote environmentally sound and sustainable development, the term "environment" is used in this Policy in a broad sense to incorporate not only ecological aspects but also worker protection issues¹ and community issues, such as cultural property, involuntary resettlement, and impacts on indigenous peoples.²

II. General principles

4. The EBRD will seek to ensure through its environmental appraisal process that the projects it finances are environmentally sound, designed to operate in compliance with applicable regulatory requirements, and that their environmental performance is also monitored. It will pay particular attention to requiring appropriate and efficient mitigation measures and management of environmental issues, which may have legal, financial and reputational implications, as well as environmental implications. It will seek to realise additional environmental benefits through the projects it finances, in particular if the projects also provide economic benefits.

The EBRD also clearly establishes the principle that a proposed project can be rejected on environmental grounds, when there are major environmental problems, or when a proposed project fails to address environmental issues in a satisfactory way.

¹ These include occupational health and safety, harmful child labour, forced labour, and discriminatory practices.

² For the definition of the terms cultural property, involuntary resettlement and indigenous peoples, the EBRD refers to IFC OPN 11.03 on cultural property [August 1986], IFC OD 4.30 on involuntary resettlement [June 1990] and IFC OD 4.20 on indigenous peoples [September 1991].

5. The EBRD will attach particular importance to promoting energy and resource efficiency, waste reduction, redevelopment of “brownfield” sites, renewable resources and resource recovery, recycling, and the use of cleaner production in the projects it finances.
 6. The EBRD supports a precautionary approach to the management and sustainable use of natural biodiversity resources (such as wildlife, fisheries and forest products) and will seek to ensure that its operations include measures to safeguard and, where possible, enhance natural habitats and the biodiversity they support.
 7. The EBRD, through its technical cooperation programme, will provide training programmes and other mechanisms for enhancing the projects it finances, and as a means of building the necessary capacity for environmental management in its countries of operations.
 8. The EBRD will actively seek, through Bank-financed projects, to contribute to the implementation of relevant principles and rules of international environmental law. These principles and rules are set forth in instruments such as treaties, conventions and multilateral, regional or bilateral agreements, as well as in relevant non-binding instruments.
 9. The EBRD will work with other international financial institutions, the European Union, bilateral donors, UN agencies and other organisations in promoting a coordinated approach to effective environmental interventions in the region including the alleviation of severe environmental problems.
 10. The EBRD believes that to achieve environmentally sound and sustainable development, structural change needs to be implemented by individual countries. The EBRD believes that progress towards sustainable development can best be achieved by working within a sound regulatory and policy framework that uses market mechanisms to promote environmental protection and provides suitable social safety nets for vulnerable members of the community. In recognition of the strong links between good environmental performance, commercial efficiency and competitive advantage, the EBRD encourages and supports governments to provide the right signals to individuals and businesses, particularly through Bank-financed projects and selected technical cooperation initiatives.
 11. The EBRD is committed to enabling dialogue with its stakeholders, including project sponsors and other project stakeholders, governments and business partners, other international institutions, and civil society at large. In line with its *Public Information Policy*, the EBRD will promote four basic principles regarding public information and consultation. They are: (i) transparency; (ii) compliance with the mandate and accountability to shareholders; (iii) willingness to listen and receptivity to comment; and (iv) safeguarding the business approach to implementing the mandate.
- In pursuit of its mandate set forth in Article 1 of the Agreement Establishing the EBRD, the EBRD will also support the spirit, purpose and ultimate goals of the UNECE Convention on Access to Information, Public

Participation in Decision-Making and Access to Justice in Environmental Matters and the UNECE Convention on Environmental Impact Assessment in a Transboundary Context.

12. In its internal operations, the EBRD will pursue the best practices in environmental management, including energy and resource efficiency, waste reduction and recycling. The EBRD will seek to work with suppliers and sub-contractors who follow similarly high environmental standards. These issues will be taken into account in the EBRD's headquarters and Resident Offices.

III. Strategic directions

13. In order to comply with its environmental mandate, policy objectives and general principles, the EBRD will pursue four strategic directions: (i) integrating environmental considerations into the project cycle; (ii) promoting environmentally oriented investments across all sectors; (iii) mainstreaming environmental considerations through the EBRD's sectoral and country strategies and technical cooperation activities; and (iv) building partnerships to address regional and global environmental issues.

Integrating environmental considerations into the project cycle

Environmental appraisal process

14. EBRD-financed projects undergo environmental appraisals both to help the EBRD decide if an activity should be financed and, if so, the way in which environmental issues should be incorporated in project financing, planning and implementation. The EBRD supports a precautionary approach to the assessment of environmental impacts.

The EBRD's environmental appraisal work will seek to verify that each project in which the EBRD invests will be implemented on an environmentally sound basis. It is the responsibility of the project sponsor to provide the EBRD with all information required for the environmental appraisal to the satisfaction of the EBRD.

15. Screening

The first step in the EBRD's environmental appraisal process is screening. Screening is carried out to identify potential environmental issues associated with a proposed project and to specify the types of environmental information required in order to assess environmental risks, liabilities, regulatory compliance, any adverse environmental impacts and other concerns.

Screening is also used to identify potential environmental benefits or enhancements which could be built into proposed projects. These could include opportunities for cleaner production, energy efficiency, waste reduction, reduction of greenhouse gas emissions, safeguarding and enhancing biodiversity, and other forms of good environmental practice. The screening process results in the categorisation of projects under the scheme described in section 16, utilising letters and numbers to indicate the outcome of the process. Examples of the EBRD's screening categories are presented in Annex 1.

16. Direct investment projects

Direct investments are categorised under three categories, A, B or C, depending on the type, location, sensitivity and scale of the project seeking EBRD funding and the nature and magnitude of its potential environmental impacts, to determine the

level of investigation required. The categorisation is carried out for the purpose of the Bank's environmental appraisal of projects, in order to determine the EBRD's environmental and public consultation requirements. In addition, projects supported by the Bank must always meet the requirements under the applicable national legislation.

Potential environmental impact of proposed financing – Categories A, B, C

Projects are classified as Category A when the project receiving EBRD funding 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. An indicative list of Category A projects is presented in Annex 1.

Projects are classified as Category B when the project receiving EBRD funding 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 receiving EBRD funding is likely to result in minimal or no adverse future environmental impacts and therefore requires neither an EIA nor an Environmental Analysis. Initial Environmental Examinations (IEEs) are carried out where insufficient information is available at the time of screening to determine the appropriate category. The IEE is carried out by EBRD environmental staff and results in the project being classified into Category A, B or C.

Current environmental status – Categories 0 and 1

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.

17. Environmental Action Plans (EAPs)

For many projects, it is necessary to develop an Environmental Action Plan (EAP), sometimes also referred to as an Environmental Management Plan, monitoring plan, or similar term. The EAP will document key environmental issues,

the actions to be taken to address them adequately, the implementation schedule and an estimate of the associated costs. Some actions may be needed urgently, particularly when there is significant health and safety risk, or non-compliance with regulatory requirements and permits. The EAP typically addresses 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. The EAP may also address opportunities to further improve the environmental performance of the project and the costs of doing so.

EAPs are agreed between the EBRD and the project sponsor and become part of the legal agreement with the Bank. Where current operations are not in compliance with regulatory requirements and existing permits, the proposed actions and schedules for these areas of non-compliance should be agreed with the competent environmental and/or health and safety authorities. The EAP should be satisfactory to the Bank prior to final review of the project by EBRD management.

18. Financial intermediary projects

At the screening stage, a proposed project is classified as FI if it involves investment of EBRD funds through a financial intermediary (FI). FIs provide EBRD funding mainly for the small and medium-sized enterprise (SME) sector. They include, among others, private equity funds, banks, leasing companies, insurance companies and pension funds.

Prior to establishing relationships with FIs, the EBRD conducts environmental due diligence on the FI and its portfolio. This involves an assessment of the FI's existing environmental policies and procedures vis-à-vis the Bank's environmental requirements and their capacity to implement them, as well as a general assessment of the environmental issues associated with the FI's existing and likely future portfolio.

As a result of the due diligence, the EBRD will specify its environmental requirements for each FI project. The EBRD needs to ensure the proper implementation of its environmental mandate in its FI projects while respecting the principle of delegated responsibility which characterises such projects. At a minimum, FIs will be required to comply with the requirements listed below. When EBRD financing is an equity investment, the requirements will apply to the entire portfolio. When EBRD financing is directed to specific sub-projects, the requirements will apply in respect of the sub-projects:

- (i) The FI will adopt and implement environmental procedures satisfactory to the EBRD and integrate them as fully as possible into its credit/investment appraisal and monitoring procedures. The structure of these procedures should mirror the EBRD's own environmental appraisal and monitoring process, i.e. it should include screening of all transactions, due diligence activities, setting of environmental requirements, and monitoring of the clients' environmental performance, should the transactions proceed. To assist FIs in meeting this requirement, 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 the EBRD, tailor these procedures to suit the specific structure of the institution.

- (ii) The FI will comply with the EBRD's Environmental Exclusion and Referral Lists for FIs. Activities listed on the FI Exclusion List include activities restricted or prohibited by national law or international environmental agreements. Such activities are excluded from FI financing. The FI Referral List includes activities that may have a high degree of environmental risk associated with them. For this reason, FIs are required to refer potential transactions involving such activities to the EBRD for review and approval. The EBRD will assess the environmental information collected by the FI during transaction appraisal, determine any additional information requirements and, if necessary, specify conditions under which the transaction may proceed.
- (iii) The FI will require sub-projects to comply, at a minimum, with the environmental regulations and standards and public disclosure and consultation requirements of the country where the sub-project is located. The EBRD may set additional environmental performance standards and monitoring requirements for sub-projects on a case-by-case basis, depending on the nature of the FI and its portfolio. In the case of financing for existing facilities where the above environmental standards cannot be met at the time of transaction approval, the sub-project company must have a programme for achieving compliance within a specified timeframe. For sub-projects that would be classified as Category A according to the EBRD's *Environmental Policy*, the FI

will ensure that EIAs are made available in a public place accessible to potentially affected parties.

- (iv) The FI is required to monitor the environmental performance of its sub-projects and to submit to the EBRD periodic (usually annual) reports on the implementation of its environmental procedures and the environmental performance of its investment/lending portfolio. In addition, the EBRD will encourage its FIs to disclose information on the environmental aspects of its activities to external stakeholders.
- (v) The FI will appoint a member of management to have overall responsibility for the implementation of the environmental procedures within the FI.

The EBRD's due diligence on FIs will also assess the need for technical assistance to help the FI in the implementation of the above requirements. Where other suitable programmes for environmental capacity building are not available, environmental training for FIs may be financed through technical cooperation funds.

19. Cooperation funds and special funds

The EBRD administers a number of cooperation funds and special funds. The cooperation funds include the Chernobyl Shelter Fund, the Nuclear Safety Account, the Northern Dimension Environmental Partnership Fund, and a variety of other activities funded through grants. For cooperation funds, the specific donor requirements relating to environmental issues will take precedence. To the extent donor requirements do not address a particular environmental issue in their own environmental policy, the EBRD's *Environmental Policy* will apply. However,

projects or activities financed, in whole or part, with special funds will comply with the EBRD's *Environmental Policy*.

Environmental standards

20. EBRD-financed projects will support and advance good environmental and health and safety standards throughout the region. The EBRD operates in countries which generally have enacted environmental and health and safety legislation consistent with good international practice. A number of them have specifically advanced EU accession negotiations that call for full implementation of the EU requirements within a specified timeframe. Others have signed Association or Partnership and Co-operation Agreements with the EU which provide for approximation of their national legislation towards that of the EU.

21. The EBRD requires that projects that it finances meet good international environmental practice. Therefore, the EBRD will require that projects be structured so as to meet: (i) applicable national environmental law; and (ii) EU environmental standards, insofar as these can be applied to a specific project. Where such standards do not exist or are inapplicable, the EBRD shall identify other sources of good international practice, including relevant World Bank Group guidelines, the approach of other IFIs and donors, and good industry practice, and require compliance with the selected standards.

The EBRD will not finance projects that would contravene country obligations under relevant international environmental treaties

and agreements, as identified during the environmental appraisal. In addition, projects will also be structured to meet IFC Safeguard Policies on indigenous peoples, involuntary resettlement and cultural property,³ if they involve potential impacts related to such matters.

22. In the case of financing for existing facilities, where the EBRD's standards and/or requirements cannot be met at the time of Board approval (i.e., the financing is required to make the appropriate upgrades), the project sponsor will be required to include a programme for achieving compliance with the EBRD's requirements as described previously.
23. In addition, the EBRD will make recommendations and encourage project sponsors to bring their activities that are outside the scope of the EBRD-financed project into compliance with good international practice within a reasonable timeframe.
24. Where alternative approaches are required by the circumstances of a particular project – for example, as may be the case for financial intermediaries – such approaches will be subject to Board consideration on a project-by-project basis. In all cases the standards applying to the project will be summarised in the Project Summary Document and reported to the Board.

25. Legal documentation

Legal documents for the EBRD's investment in a project will include specific provisions reflecting the EBRD's environmental requirements resulting from the environmental appraisal process, such as

³ See footnote 2 for definitions of these terms. The reference to these three Safeguard Policies does not extend to other IFC or World Bank Group policies, operational procedures or any OD, OMS, OPN, Circular, OPNSV or guidelines which may be referenced therein.

compliance with the EAP, provisions for environmental reporting, periodic environmental audits by independent experts, the inclusion of environmental performance criteria in the definition of "Project Completion", exit audits, and/or monitoring visits by EBRD personnel.

Information disclosure and public consultation

26. The EBRD believes that meaningful public consultation is a way of improving the quality of projects. The EBRD will foster the principles of public consultation within its region of operations. In the case of projects which have been classified as Category A and thus require an Environmental Impact Assessment, those people potentially affected will have the opportunity to express their concerns and views about issues such as project design, including location, technological choice and timing, before a financing decision is made by the EBRD.

At a minimum, sponsors must ensure that national requirements for public consultation are met. In addition, sponsors will have to follow the EBRD's own public consultation requirements, which are set out in Annex 2. The EBRD's Board of Directors will take into account the comments and opinions expressed by consultees, and the way these issues are being addressed by sponsors, when considering whether to approve investment by the EBRD in a project.

Monitoring and evaluation

27. Environmental monitoring is an important aspect of the Bank's project implementation process. 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.

Operations are monitored on an ongoing basis by the operation team and the Environment Department throughout the Bank's relationship with the project. The EBRD uses a range of environmental monitoring mechanisms for Bank-financed projects including review of periodic environmental reports and other progress reports, monitoring visits by the Bank's environmental specialists or consultants and periodic third party audits to ensure that the project sponsor is implementing agreed programmes, policies, and actions as defined in the legal agreements. For each project, the Bank will define a monitoring programme specifying the appropriate monitoring tools, based upon the results of due diligence, the results of any public consultation which has taken place and within the framework of legal agreements concluded with the client.

28. Ensuring compliance with EAPs and loan covenants

In order to verify proper and timely implementation of EAPs and adherence to agreed environmental covenants, the EBRD requires that project sponsors submit periodic reports on the implementation of EAPs and any other environmental requirements. As a rule, annual reports will be expected. Environmental monitoring

missions may be undertaken to conduct a detailed review of the environmental aspects of projects in order to ensure that the project sponsor is implementing the EAP and fulfilling the environmental covenants. During implementation, results of reports, audits, or monitoring trips may indicate that changes are necessary to the EAP. In this case, EAPs may be updated or revised, to the satisfaction of the Bank, and changes will be summarised in the Project Summary Document on the Bank's Web site.

29. Evaluation

The evaluation of the environmental aspects of EBRD-financed projects is carried out by the Bank's Project Evaluation Department (PED). The starting point for such evaluations is the environmental objectives as established for each project at the time of commitment, and the relevant Country and or Sector Strategy effective at the time of commitment.

PED evaluates projects against two environmental dimensions: environmental performance and environmental change. Environmental performance captures the achievement of project objectives, while environmental change captures the difference between the environmental performance before the project started and its performance at the time of evaluation. Thus, for environmental performance, PED bases its assessment on the initial conditions and the expectations established for the project through the environmental appraisal process. PED reviews the project design, implementation, and monitoring of completed projects, and creates project evaluation reports and maintains a 'lessons learned' database.

Operational changes

30. Changes can occur in the nature and scope of EBRD-financed 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 EBRD becoming associated with projects, sites or facilities which were not previously appraised and which could have significant environmental liabilities or compliance problems. When such material changes are envisaged, an appraisal of the proposed changes will be carried out in accordance with this Policy and any additional environmental or public consultation requirements incorporated into the modified/restructured project.

Reporting and accountability

31. Reporting

In line with the EBRD's *Public Information Policy*, the EBRD will implement procedures to ensure that information is provided to interested parties concerning the EBRD's environmental activities. The EBRD will publish an *Annual Environmental Report* on its activities and on the implementation of the *Environmental Policy*, including aggregate information on greenhouse gas emissions, environmental expenditure and the environmental issues associated with the EBRD's project portfolio as well as reporting on the EBRD's internal environmental performance. Environmental issues relating to projects will be summarised in the EBRD's Project Summary Documents (PSDs) which will be available from the EBRD's Publications Desk and in its Business Information Centre (BIC), and on the EBRD's Web site (www.ebrd.com).

32. Accountability: *Independent Recourse Mechanism (IRM)*

The purpose of the IRM is to provide a venue for complaints or grievances from people who are, or are likely to be, directly and adversely affected by an EBRD-financed project to determine whether there has been material non-compliance by the Bank with specified policies, such as the *Environmental Policy*. Additionally, the IRM may assess whether the Bank could usefully employ one, or more, problem-solving techniques, such as independent fact-finding, mediation, conciliation or dialogue facilitation, to assist in resolving the problems underlying the complaint.

Promoting environmentally oriented investments across all sectors

33. An important aspect of the EBRD's additionality is promoting environmental improvements in its projects in the region. The EBRD will identify environmental opportunities in projects in which it invests and seek to incorporate a wide range of environmental measures that improve its project sponsors' environmental, operational and economic performance as well as contribute to meeting the EBRD's sound banking and transition impact criteria. These measures could include enhanced energy and resource efficiency, waste minimisation and recycling, cleaner production, development of the environmental goods and services sector, biodiversity investments, best practices in environmental management, and improved environmental performance.

34. The EBRD will also continue to develop a pipeline of viable stand-alone projects with primarily environmental objectives, including, e.g., investments in environmental infrastructure, such as water and waste-water management, and solid and hazardous waste management, in energy (district heating, energy efficiency and renewable energy) and in urban transport.

35. The EBRD will support investments to assist municipalities, particularly by developing the creditworthiness of municipal entities. Through its projects, it will promote the decentralisation of public services, the involvement of the private sector in the provision of public services, the corporatisation of municipal utilities, cost recovery through user charges, and economic efficiency in resource use and allocation. The Bank will assess to what extent the move to cost-covering tariffs may create problems of affordability for certain consumer groups and satisfy itself that effective support schemes to mitigate adverse social impacts are developed or in place.

36. The EBRD will identify and assist in developing energy efficiency projects throughout its region of operations. The EBRD will promote government support for energy savings and reductions in subsidies to energy producers and consumers in relation to both the "demand side and supply side". It will finance direct investments to reduce the intensity of energy use in larger-scale industries, and encourage energy efficiency through investments to modernise district heating networks. The EBRD will seek to develop financing instruments for small and medium-sized investments that promote energy efficiency.

Mainstreaming environmental considerations through the EBRD's sectoral and country strategies and technical cooperation activities

37. Country Strategies

Each Country Strategy will reflect the EBRD's environmental mandate and will contain a section which describes the environmental implications and opportunities of the EBRD's proposals, including environmental technical cooperation activities. The section will refer to the EBRD's possible approach to address environmental issues through its projects. This section will draw upon the country's environmental strategies and planning (i.e. National Environmental Action Plans, EU accession strategies) and the environmental work of other international institutions, notably the World Bank and the EU, to describe the country's key environmental issues.

38. Sector Strategies

Each Sector Strategy will reflect the EBRD's environmental mandate as well as contain a section on the EBRD's possible approach for addressing environmental issues through sector-specific projects.

39. Strategic environmental assessments

In addition to EIAs on specific projects, the EBRD may also carry out Strategic Environmental Assessments (SEAs) on the likely environmental consequences of proposed sector or country/regional plans or programmes which have the potential to significantly affect the environment.⁴

40. Technical cooperation (TC)

The EBRD will utilise its TC programme to mainstream environmental considerations in its projects. Specifically, the EBRD will develop, in close cooperation with other donors, assistance programmes and TC initiatives related to enhancing the sustainability of projects, public consultation as well as the environmental management capability of its private and public sector project sponsors. TC funds can also be used to finance strategic environmental studies. Stand-alone TC projects (e.g. those related to capacity building and institutional strengthening) will be undertaken, as appropriate.

Building partnerships to address regional and global environmental issues

41. Regional and global initiatives

Recognising that many of the environmental problems of its region of operations are global and transboundary in nature, the EBRD will continue to contribute to regional and international environmental initiatives that aim to address these.

42. The EBRD will, within the framework of its mandate, support through investments the implementation of Agenda 21 and of relevant global and regional agreements on environment and sustainable development, including the Framework Convention on Climate Change, the Kyoto Protocol, the Convention on Biological Diversity, the Convention on Environmental Impact Assessment in a Transboundary Context, and the Convention on Access to Information, Public Participation in Decision-Making and

⁴ The Bank defines "SEA" in accordance with the UNECE definition, which is anticipated for approval in 2003 as part of the Espoo Convention.

Access to Justice in Environmental Matters. Each of these Conventions may furnish specific themes for environmental activities. The EBRD will assist its countries of operations to incorporate relevant commitments under, and opportunities from, these international environmental agreements.

43. To address economic and environmental sustainability challenges in its region, the EBRD will expand and further strengthen its cooperation and partnership with bilateral and multi-lateral organisations and initiatives, such as the Environment for Europe Process and its Task Force and Project Preparation Committee (PPC), the Northern Dimension Environmental Partnership Fund, and the Global Environment Facility (GEF), as well as with relevant governmental agencies, key economic sectors, the financial sector, local communities, and NGOs.
44. In the area of climate change, the EBRD will also pursue the use of cooperation funds or other appropriate vehicles with shareholder governments to develop Joint Implementation (JI) and Clean Development Mechanism (CDM) projects under the Kyoto Protocol.

Working with the donor government members of the Project Preparation Committee (PPC) will remain a central feature of the EBRD's efforts to strengthen partnerships. The Northern Dimension Environmental Partnership Fund (NDEP) is another partnership which the EBRD hopes to build upon in the coming years. Its aim is to finance new and wide-ranging projects aimed at better protecting the environment and improving energy efficiency in the north west of Russia as well as in the Baltic Sea and Barents Sea regions.

IV. Institutional arrangements

45. In order to ensure that the strategic directions described above are properly addressed, the EBRD will allocate appropriate resources to ensure an effective implementation of its *Environmental Policy*. The Bank will maintain adequate staff resources to oversee the environmental appraisal and monitoring processes and to initiate and develop environmentally oriented operations. In addition, the EBRD maintains a Project Evaluation Department (PED), which is independent of both the Banking Department and Environment Department, to assess the performance of completed and, in some cases, of ongoing projects and programmes.
46. The EBRD will develop and maintain Environmental Procedures and appropriate guidance notes and tools to assist in implementing the *Environmental Policy*. The Bank will ensure that staff receive appropriate training on the requirements under, and implementation of the commitments in, the *Environmental Policy*.
47. The EBRD will continue to be assisted by its Environmental Advisory Council (ENVAC) whose views will be sought on general policy-related issues and on all sector policies prior to their finalisation. Its views may also be sought on project-specific issues related to the EBRD's financing.
48. The EBRD's *Environmental Policy* will continue to be subject to review by the Board of Directors every three years.

Annex 1: Environmental screening categories

The following list is indicative and the types of projects it contains are examples only.

“A” level projects

This list applies to “greenfield” or major extension projects or transformation-conversion of EBRD-financed projects in the categories listed below.

1. Crude oil refineries (excluding undertakings manufacturing only lubricants from crude oil) and installations for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day.
2. Thermal power stations and other combustion installations with a heat output of 300 megawatts or more and nuclear power stations and other nuclear reactors, including the dismantling or decommissioning of such power stations or reactors (except research installations for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1 kilowatt continuous thermal load).
3. Installations designed for the production or enrichment of nuclear fuels, the reprocessing, storage or final disposal of irradiated nuclear fuels, or for the storage, disposal or processing of radioactive waste.
4. Integrated works for the initial smelting of cast-iron and steel; installations for the production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes.
5. Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos; for asbestos-cement products, with an annual production of more than 20,000 tonnes finished product; for friction material, with an annual production of more than 50 tonnes finished product; and for other asbestos utilisation of more than 200 tonnes per year.
6. Integrated chemical installations, i.e. those installations for the manufacture on an industrial scale of substances using chemical conversion processes, in which several units are juxtaposed and are functionally linked to one another and which are for the production of: basic organic chemicals; basic inorganic chemicals; phosphorous, nitrogen or potassium-based fertilisers (simple or compound fertilisers); basic plant health products and biocides; basic pharmaceutical products using a chemical or biological process; explosives.
7. Construction of motorways, express roads and lines for long-distance railway traffic; airports with a basic runway length of 2,100 metres or more; new roads of four or more lanes, or realignment and/or widening of existing roads to provide four or more lanes, where such new roads, or realigned and/or widened sections of road would be 10 km or more in a continuous length.
8. Pipelines, terminals and associated facilities for the large-scale transport of gas, oil and chemicals.

9. Sea ports and also inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1,350 tonnes; trading ports, piers for loading and unloading connected to land, and outside ports (excluding ferry piers) which can take vessels of over 1,350 tonnes.
10. Waste-processing and disposal installations for the incineration, chemical treatment or landfill of hazardous, toxic or dangerous wastes.
11. Large⁵ dams and other impoundments designed for the holding back or permanent storage of water.
12. Groundwater abstraction activities or artificial groundwater recharge schemes in cases where the annual volume of water to be abstracted or recharged amounts to 10 million cubic metres or more.
13. Industrial plants for the: (a) production of pulp from timber or similar fibrous materials; (b) production of paper and board with a production capacity exceeding 200 air-dried metric tonnes per day.
14. Peat extraction, quarries and open-cast mining, and processing of metal ores or coal.
15. Extraction of petroleum and natural gas for commercial purposes.
16. Installations for storage of petroleum, petrochemical, or chemical products with a capacity of 200,000 tonnes or more.
17. Large-scale logging.
18. Municipal waste-water treatment plants with a capacity exceeding 150,000 population equivalent.
19. Municipal solid waste-processing and disposal facilities.
20. Large-scale tourism and retail development.
21. Construction of overhead electrical power lines.
22. Large-scale land reclamation.
23. Large-scale primary agriculture/silviculture involving intensification or conversion of natural habitats.
24. Plants for the tanning of hides and skins where the treatment capacity exceeds 12 tonnes of finished products per day.
25. Installations for the intensive rearing of poultry or pigs with more than 40,000 places for poultry; 2,000 places for production pigs (over 30 kg); or 750 places for sows.
26. Projects which are planned to be carried out in sensitive locations or are likely to have a perceptible impact on such locations, even if the project category does not appear in this list. Such sensitive locations include national parks and other protected areas identified by national or international law, and other sensitive locations of international, national or regional importance, such as wetlands, forests with high biodiversity value, areas of archaeological or cultural significance, and areas of importance for indigenous peoples or other vulnerable groups.

⁵ As per the definition of the International Commission on Large Dams (ICOLD). ICOLD defines a large dam as a dam with a height of 15 metres or more from the foundation. Dams that are between 5 and 15 metres high and have a reservoir volume of more than 3 million cubic metres are also classified as large dams.

“B” level projects

All “greenfield” or major extension or transformation projects not included in the list of “A” level projects are subject to a project-specific “B” level Environmental Analysis unless location, scale or other characteristics of the project, or characteristics of the potential environmental impacts require an “A” level Environmental Impact Assessment to be undertaken

“C” level projects

Projects which do not require either an “A” level Environmental Impact Assessment or a “B” level Environmental Analysis are screened in category “C”. Regardless of the “A”, “B” or “C” categorisation for environmental assessment, projects may require an Environmental Audit.

Annex 2: Consultation with the public

I. Introduction

Since its establishment, the EBRD has endeavoured to promote environmentally sound and sustainable development. On all projects, the Bank is committed to providing information, within the requirements of the *Public Information Policy* and the *Environmental Policy*. In particular, for significant “greenfield” projects and projects involving a major expansion or transformation-conversion, the Bank is committed to meaningful consultation. The Bank is looking at new ways to increase the amount of environmental information provided to interested parties during project implementation and monitoring. Public consultation and information disclosure is the responsibility of the project sponsor, and will be reviewed by the Bank, in line with its Policy commitments. Bank staff will provide guidance to project sponsors in relation to the Bank’s requirements, where appropriate.

II. General requirements

1. Many of the countries where the EBRD operates already have, or are developing, public consultation and information disclosure regulations and procedures. At a minimum, project sponsors must ensure that all such national requirements for public consultation, and that the EBRD requirements, are met.
2. Principle of adapting requirements to project needs

Requirements may be increased during due diligence if the environmental investigations demonstrate a need for increased disclosure or communication.

3. Diversity of implementation methods and tools

The EBRD does not have specific requirements for public hearings, but encourages development of appropriate methods of meaningful consultation, depending on the objective of the consultation, cultural norms of the project location, and good international practice. Among the mechanisms for consultation which may be used are technical meetings with experts, meetings with community leaders, public meetings, press and other media coverage, information disclosure via Web sites or libraries, and correspondence.

4. In accordance with the *Public Information Policy*, for each project, the Bank will release a Project Summary Document (PSD) with an environmental annex on its Web site (www.ebrd.com). For public sector projects, the PSD will be released at an appropriate stage following the initial management review, but at least 60 days prior to review by the Board of Directors. For private sector projects, the PSD will be released at least 30 days prior to Board review. Any derogations or exceptions to disclosure (e.g., capital market transactions) must be approved by the management of the Bank and reported to the Executive Committee and the Board of Directors.

III. “A” level project requirements

1. The EBRD defines “A” level projects as those where there are potentially diverse and significant environmental impacts which cannot be readily identified and quantified, and for which remedial

measures cannot readily be prescribed. An Environmental Impact Assessment (EIA) must be prepared by the project sponsor for all "A" level projects, and consultation requirements are built into each stage of the EIA. The Bank will evaluate the sponsor's public consultation programmes for adequacy and advise the sponsor accordingly if their programmes do not meet the Bank's requirements.

2. Notification

For "A" level projects, if there has been no previous notification, the project sponsor will need to provide the potentially affected public and interested non-governmental organisations (NGOs) – hereafter: "the affected public" – with information about the nature of the project for which financing is sought from the EBRD. The way that notification is undertaken will depend on local political, legal and cultural practice.

3. Scoping

By means of a scoping process, the project sponsor must ensure identification of all key issues, in particular, by consulting the affected public on the project and taking their comments into account. This scoping process will involve contact by the project sponsor with representatives of the affected public, government agencies, local authorities and other organisations.

As part of the scoping process, the project sponsor is required to prepare a draft Public Consultation and Disclosure Plan (draft PCDP) describing the public who may be affected by the project, how communication will work throughout the Environmental Impact Assessment process, and what information will be disclosed in relevant languages and by what means (e.g., Web site, libraries, etc.). The public should

be able to provide comments and recommendations on the PCDP as well as the other scoping documents. The EBRD will provide input on draft PDCPs where requested and ensure that the final plan meets the Bank's requirements.

4. EIA disclosure

Project sponsors must make the EIA publicly available for comment, in strategic locations including at or near the project site, and where relevant, in the capital or other major cities. EIA documents, including the executive summary, must be made available in a language which is accessible to the majority of people affected by the proposed project. There may also be other tools used during disclosure, such as fact sheets on issues, prepared to increase understanding of issues in the EIA. On a case-by-case basis, the EBRD will advise project sponsors regarding the document or group of documents that comprise an EIA under EBRD requirements. In some cases, this will mean that additional material to the document called an 'EIA' by the sponsor will need to be released, and in other cases, there may be information that is non-material to the EIA that may not need to be translated.

5. The EBRD strongly encourages project sponsors to place EIAs on Web sites to improve public accessibility to the documents. The Bank's Web site will, in such cases, indicate how to find the EIA on the sponsor's Web site and provide a link to the sponsor's Web site.

6. EBRD disclosure

Once the EIA documents have been released into the public domain in locations agreed with the Bank, the EIA will be provided to the Bank's Business Information Centre (BIC) in

London and made available in the EBRD Resident Office (RO) in the relevant project country(ies). A copy of the EIA is provided to the Board of Directors and a notice of availability of the document in the BIC and RO is posted on the Bank's Web site (www.ebrd.com). This disclosure is without endorsement by the Bank.

7. Timing of disclosure

For private sector projects there will be a minimum of 60 days between the date that the EIA is made available to the EBRD Board of Directors and the date of Board consideration. For public sector projects this period will be a minimum of 120 days. In practice, a longer disclosure period may be required by the Bank for more complex projects. In all cases, project sponsors are required to keep EIA-related documentation in the public domain for the duration of the Bank's involvement with the project or at least until project completion. The start of the consultation period will be triggered by the acceptance of the EIA in the Bank for disclosure in the BIC provided that the documents have been released in the region.

8. Public comments on EIAs

Following the completion of the public comment period, the project sponsor will need to provide information to those commenting and the affected public on how comments were taken into account.

9. Environmental staff of the EBRD will summarise public comment brought to the Bank's attention along with the report on public consultation from the project sponsor and incorporate this summary into the management review and Board review of

the project. When considering whether to approve a project, the Board of Directors will take into account the comments and opinions expressed by consultees and the way these issues are being addressed by project sponsors. They will consider the extent to which the sponsor has addressed the Bank's requirements for public consultation.

10. International conventions

For projects involving transboundary impacts, the notification and consultation guidelines in the working papers to the UNECE Convention on EIA in a Transboundary Context must be taken into account in the planning process and followed in principle. Bank staff will summarise how these guidelines have been followed to management, the Board, and in the Project Summary Document. The EBRD may, according to circumstances, provide guidance to, and assist, the project sponsors at this and other stages of the public consultation process, recognising the Convention obligations are between governments with the aim of finding practical solutions to implementation of the principles, particularly for those projects in countries which are not party to the Convention.

For all projects involving Environmental Impact Assessments according to the Bank's requirements, the Bank will take guidance from the principles of the UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, as committed in the EBRD *Public Information Policy*.

IV. “B” level project requirements

1. On “B” level projects the country’s public consultation requirements will need to be followed at a minimum.
2. 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. This summary must be released locally by the time of the final management review of the project, prior to Board consideration. Bank staff will report to management and the Board on the status of these requirements. Guidance will be prepared for project sponsors.

V. “C” level project requirements

Requirements for information disclosure on “C” level projects 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.

VI. Exceptions to requirements for private sector projects

Under normal circumstances, the results of public consultation should be available to the Bank prior to final management review of the project. In exceptional circumstances, the Board of Directors may approve exceptions to the requirements for public consultation set out in this Annex if the Board is satisfied that the Bank’s environmental requirements have, in all other respects, been followed. In such cases, the Board documentation must include the justification for any exception from the Bank’s requirements. Normally, the legal

documentation for the project will not be signed until the necessary public consultation is completed; if, due to the nature of the Bank’s investment such a conditionality is not suitable (e.g. capital market or price sensitive transactions), the legal documents will specify at what point the consultation will be required.

VII. Reporting

1. 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 ongoing information and communication programmes. For example, the Bank may require the results of ongoing environmental monitoring to be made available to the public.
2. For all projects, environmental issues will be summarised in the Bank’s Project Summary Document, which is posted on the Bank’s Web site and is available from the Bank in hard copy prior to the Board review, in accordance with the EBRD *Public Information Policy*.
3. 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 Web site, attached to the Project Summary Document for the project.
4. For “A” level projects, the Bank will require project sponsors to provide an annual environmental report to the affected public locally and will encourage release of this information on the project sponsor’s Web site.

VIII. Evaluation

1. Following project completion, the evaluation of a project's performance will include, where appropriate, a review of the implementation of public consultation requirements and consideration of how any issues that were raised by the public during implementation were addressed.

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