

4.0 Legal and Other Requirements

4.1 LAWS AND REGULATIONS OF PAPUA NEW GUINEA

According to the Directives of the National Constitution of PNG (the Constitution), steps should be taken to give adequate protection to valued birds, animals, fish, insects, plants and trees. The Constitution also includes national goals and directives that outline the aspirations and principles for the development of the nation, the fourth of which states:

We declare our Fourth Goal to be for Papua New Guinea's natural resources and environment to be conserved and used for the collective benefit of us all, and be replenished for the benefit of future generations.

The Constitution is supported by a legislative and policy framework that requires proposed developments to assess, reduce and manage residual social and environmental impacts such that they are as low as practicable.

Biodiversity relevant legislation includes:

- The PNG *Environment Act 2000*, which provides the administrative mechanism for environmental impact assessment and evaluation of activities regulating impacts on the environment through an approval and permitting system.
- The PNG *Fauna (Protection and Control) Act 1966*, which establishes procedures to declare fauna protected and establish sanctuaries, protected areas and Wildlife Management Areas.
- The PNG *National Parks Act 1984* and the PNG *Conservation Areas Act 1978*, which provide for the preservation of the environment and of the national cultural inheritance by conservation of sites and areas and their management. National parks are for 'public use and enjoyment' as well as conservation and can be developed as such, whereas conservation areas are primarily for conservation and alteration of land use within them is controlled under the Act.
- The PNG *International Trade (Fauna and Flora) Act 1979*, which promotes the sustainable use of fauna and flora and to implement the State's obligations as a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).
- The PNG *Crocodile Trade (Protection) Act 1974*, which provides the mechanism for the management and control of crocodile exports and other related activities.
- The PNG *Fisheries Management Act 1998* under which the Minister of the National Fisheries Authority, in respect of fisheries waters, should seek to preserve biodiversity.

In addition to biodiversity-related objectives established in the Constitution and the Fisheries Management Act, PNG is party to many international conventions relevant to biodiversity.

As part of the State of PNG's Medium Term Development Strategy, the PNG National Biodiversity Strategy and Action Plan (NBSAP) (DEC, 2007) has recently been developed. The NBSAP is the 'roadmap to the sustainable use and management of the country's biological resources'. It is the vehicle for PNG to meet its obligations under the Convention on Biological Diversity and other multilateral agreements referenced in Box 4.1. The NBSAP promotes the following broad programs: policy, legislation and administration; financial and technical resources; benefit sharing; research and information on biodiversity; biodiversity conservation; measures of sustainability; education and public awareness; and monitoring, evaluation and adaptive management.

Plate 4.1: View of Lake Kutubu



Box 4.1: Relevant international conventions to which PNG is a party

- Convention on Biological Diversity (1992), which was ratified by PNG in 1993.
- Convention on Wetlands of International Importance Especially on Wildfowl Habitat (1971) (The Ramsar Convention).
- Convention on the Protection of Natural Resources and Environment of the South Pacific Region and related protocols (Noumea, 1986).
- Plant Protection Agreement for the Asia and Pacific Region (Rome, 1956) as amended.
- Convention Concerning the Protection of World Cultural Heritage and Natural Heritage (Paris, 1972).
- Convention on the Conservation of Migratory Species of Wild Animals (Bonn, 1979) and incorporating the African-Eurasian Migratory Water Bird Agreement (1995) and the Agreement on the Conservation of Bats in Europe (1991).
- Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (Washington, 1973).
- International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (Fund Convention), 1992.
- International Plant Protection Convention (Rome, 1952) with revised text and amendments for Southeast Asia and the Pacific region (Rome, 1956).
- International Tropical Timber Agreement (ITTA) (Geneva, 1994).

4.2 INTERNATIONAL FINANCE CORPORATION

International Finance Corporation (IFC) Performance Standard 6: Biodiversity Conservation and Sustainable Natural Resource Management applies specifically to biodiversity.

Key biodiversity requirements from Performance Standard 6 are contained in paragraphs 4 to 13 of the standard. These require an impact assessment on biodiversity to be an integral part of the social and environmental assessment process focusing on the major threats to biodiversity, which include habitat destruction and invasive alien species. Under Performance Standard 6, habitats are classified as either natural, modified, or critical habitats and all are recognized as able to support important biodiversity. In natural habitats, the ecological functions are essentially unmodified by humans and biological communities are formed largely by native species, whereas modified habitats have been altered by humans and, often, the introduction of alien species. Critical habitat are areas with high biodiversity value and can be either natural or modified habitat.

In modified habitat, care must be taken to limit further conversion or degradation and it is expected that opportunities to enhance habitat and protect and conserve biodiversity form part of operations. In natural habitat, a project cannot significantly convert or degrade¹⁰ the habitat unless there are no technically and financially feasible alternatives, the overall benefits of the project outweigh the costs, including those to the environment and biodiversity, and conversion or degradation is appropriately mitigated in such a way as to achieve no net loss of biodiversity where feasible.

In critical habitat, no project activities can be implemented unless there are no measurable adverse impacts on the ability of the critical habitat to retain the values listed in Box 4.2, and there is no reduction in the populations of recognized critically endangered or endangered species.

¹⁰ Significant conversion or degradation is (i) the elimination or severe diminution of the integrity of a habitat caused by a major, long-term change in land or water use or (ii) modification of a habitat that substantially reduces the habitat's ability to maintain viable population of its native species.

Box 4.2 Some criteria used to define critical habitat under International Finance Corporation Performance Standard 6

- Areas that meet the criteria of the IUCN protected areas classification.
- Habitat required for the survival of critically endangered or endangered species as defined by the IUCN Red List of threatened species or as defined in any national legislation.
- Areas having special significance for endemic or restricted-range species.
- Sites that are critical for the survival of migratory species.
- Areas supporting globally significant concentrations or numbers of individuals of congregatory species.
- Areas with unique assemblages of species or which are associated with key evolutionary processes or provide key ecosystem services.
- Areas having biodiversity of significant social, economic or cultural importance to local communities.

Should a project be located within a legally protected area, the project must also act consistently with the protected area management plans, consult with key stakeholders of the protected area and implement additional programs, as appropriate, to support the protected area.

Finally, Performance Standard 6 places emphasis on the importance of controlling invasive alien species.

4.3 EXXONMOBIL'S ENVIRONMENT POLICY

Esso Highlands Limited will plan and execute the ExxonMobil policy to conduct its business in a manner that is compatible with the balanced environmental and economic needs of the communities in which it operates. ExxonMobil Corporation and its affiliates are committed to continuous efforts to improve environmental performance throughout operations worldwide. Accordingly, it is Esso Highland's policy to:

- Comply with all applicable environmental laws and regulations and apply responsible standards where laws and regulations do not exist.
- Encourage concern and respect for the environment, emphasizing every employee's responsibility in environmental performance, and foster appropriate operating practices and training.
- Work with government and industry groups to foster timely development of effective environmental laws and regulations based on sound science and considering risks, costs, and benefits, including effects on energy and product supply.
- Manage its business with the goal of preventing incidents and to design, operate, and maintain facilities so that emissions and wastes are below harmful levels.
- Respond quickly and effectively to incidents resulting from its operations, in cooperation with industry organizations and authorized government agencies.
- Conduct and support research to improve understanding of the impact of its business on the environment, to improve methods of environmental protection, and to enhance its capability to make operations and products compatible with the environment.
- Communicate with the public on environmental matters and share its experience with others to facilitate improvements in industry performance.
- Undertake appropriate reviews and evaluations of its operations to measure progress and to foster compliance with this policy.

Esso Highlands Limited will plan and execute an environmentally responsible development consistent with the ExxonMobil initiative *Protect Tomorrow Today*.

Esso Highland's commitments promote biodiversity protection through efforts to limit impacts in sensitive areas and Esso Highland's environmental business planning efforts are designed to identify and steward environmental and biodiversity protection objectives and actions that are specific to each project and location. Mitigation actions include participating in initiatives that enhance the wildlife and habitat attributes of ExxonMobil's properties¹¹.

Esso Highland's Environmental Policy is supported by the co-venturers' environmental objective, which is to reduce the Project's impact on the environment and on affected communities (EIS Executive Summary).

Plate 4.2: Goare Project Awareness and Environmental Inception Report Roadshow presentation (November 2007)



⁹ http://www.exxonmobil.com/Corporate/energy_biodiversity.aspx.