

15 February 2022

Complaint no.:1065/2020/PB

Case title: How the European Investment Bank discloses environmental information in relation to projects that it finances directly

Comments on the EIB's Reply to the Ombudsman's Preliminary findings, as received by the Ombudsman on 23 November 2021

1. We thank the Ombudswoman and her staff for this opportunity to comment on the EIB's Reply to the Preliminary findings on this complaint.
2. These comments contain two sections. Section A follows the structure chosen by the EIB for its comments and responds to the most important points made by the EIB's comments individually. These comments are not exhaustive in the sense that silence would indicate agreement with the EIB; we tried to keep our comments short to facilitate the processing by the Ombudsman. In section B, we provide some more general comments as to the EIB's statements, in particular focusing on the possible way forward to resolve this complaint.
3. Unless otherwise indicated, all paragraph references below are to the EIB's Reply to the EO's Preliminary findings

A. Comments responding to individual points of the EIB's Reply

1. General remarks

1.1. The European Investment Bank (EIB)

4. In para 1.1.2, the EIB requests a rectification of the statement in the preliminary findings to the effect that some of the EIB's work methods resemble those of the banking sector. The EIB instead claims that its "methods, function, products and procedures [...] are of the banking sector. To the extent that this contradicts the Ombudsman's statement at all, which is not readily apparent, it should be noted that the EIB is not in the same position as "any other bank" but an EU body distributing public money to achieve public (EU) policy goals in accordance with Articles 308 and 309 TFEU, as acknowledged by the EIB itself. Therefore, the description of the EIB's activities in para. 5 of the Preliminary Findings is completely accurate.

1.3. Representativeness of the sample of projects inspected by the EO

5. In para. 1.3.1, the EIB argues that the sample of the inspected documents was very little and only related to two operational sectors. The EIB then claims that therefore the scope of the Ombudsman's suggestions should be limited to the five operations concerned by the inspection. This does not follow. It is only natural that the Ombudsman has limited resources and can therefore not inspect all of the EIB's operations. However, to the extent the EIB holds relevant information, it should make it available regardless of the sector concerned. The EIB does not explain why the Ombudsman's suggestions and their rationale would not be applicable in relation to other than the five operations inspected. We therefore disagree that the Suggestions should be limited to these five operations but consider that they should apply wherever the EIB holds or is obliged to hold relevant information.
6. As to paras 1.3.2. and 1.3.3, these statements of the EIB are not supported by concrete explanations as to which parts of the Suggestions do not provide a comprehensive and exhaustive account or are not pertinent to the EIB's current working methods. The Ombudsman has in fact taken account of the changes in the EIB's procedure and adjusted its Suggestions accordingly (see among others, Preliminary Findings, paras 46 and 50). The EIB does not explain why this approach of the Ombudsman led to inappropriate Suggestions.
7. In this regard, we also refer back to our comments on the Preliminary Findings of 8 September 2021 in which we explain how the approach of the EIB to not be transparent about changes in its decision-making procedure amounts to maladministration and disregards the Memorandum of Understanding between the EIB and the Ombudsman.¹

1.4 The Appraisal Report and 1.5 The ESDS

8. In para. 1.4.2 the EIB provides a list of sections of the Appraisal Report, all of which clearly pertain to the appraisal of the environmental aspects of a project. As the EIB explicitly states, the information contained in these sections is "additional" to the ESDS. The EIB then states that the "EIB services' opinion on the project's environmental and social risks and impacts and the measures to reduce/mitigate them (including conditions to disburse and undertakings) is streamlined in the ESDS" (para. 1.4.3). This confirms that the Environmental and Social Data Sheet (ESDS) is a summary of the outcome of the environmental appraisal as contained in the Appraisal Report.
9. However, the EIB then argues that the ESDS "should no longer be regarded as a derivative source" (para. 1.5.4) and that "[a]s of recently, the ESDS encompasses environmental information presented in § 1.4.2 that falls under Article 4(2) of the Aarhus Regulation." This gives the impression that the EIB has substantially reformed its procedures. However, in the experience of the complainants, no such

¹ Attached for ease of reference as Annex 3, see paras 24-29.

shift has occurred. The ESDS does still not provide all the environmental information held by the EIB in relation to the project as well as the content of the appraisal that the EIB has undertaken based on this information (in the sense of Art. 4(2)(g) Aarhus Regulation: “environmental impact studies and risk assessments concerning environmental elements”). Rather, the ESDS continue to be framed as summaries of the outcome of the assessments, rather than detailing the appraisal process and publishing the underlying information.

10. This is moreover confirmed by paras 1.4.2 and 1.4.3 as described above. The information contained in the Appraisal Report is additional to the ESDS. In fact, the information listed in para. 1.4.2 appears to be exactly the information that should be disclosed prior to Board approval.

1.7 The concept of “commercial interest”

11. Contrary to the EIB’s claim in para. 1.7.2, the Preliminary findings present a good summary of the definition of commercial interest based on the CJEU case law. In its judgements on the exception for commercially sensitive information, the Court consistently tests whether one company would gain a competitive advantage over another due to the disclosure of the information.² The Ombudsman’s interpretation of the concept of commercial interest is therefore fully appropriate and in line with the Court’s case law.

1.8 Scope of the EO’s inquiry

12. As regards para. 1.8.4, it is evident that we, the complainants, and the EIB have different understanding of what constitutes environmental information. The EIB’s understanding is not underpinned by case law and we strongly believe that our broader interpretation of environmental information is correct. However, independently of this disagreement, the Ombudsman is of course free to make broader suggestions based on its wide remit of assessing maladministration, even if they lay a different emphasis than the original Complaint. The EIB’s complaint in these paragraphs therefore appears to be unfounded.

2. The applicable regulatory framework

13. As regards the EIB’s statements in para. 2.1., it is first of all not clear why the EIB considers that the Ombudsman only „marginally” refers to the Aarhus Regulation but instead to the Aarhus Convention. However, even if this was the case, the EIB is bound by way of Art. 216(2) TFEU by the Aarhus Convention and has previously accepted that. Even assuming that the Aarhus Regulation fully implements the Aarhus Convention, which is certainly not the case, reference to the Aarhus

² See for instance, judgements on Cases T-441/17 *Arca Capital Bohemia v Commission*, ECLI:EU:T:2018:899, para. 53; T-307/16 *CEE Bankwatch Network v Commission*, ECLI:EU:T:2018:97, para. 108 and T-235/15 *Pari Pharma v EMA*, ECLI:EU:T:2018:65, para. 108.

Convention would still be legitimate, at the very least to indicate how the obligations under the Regulation are to be interpreted.

14. As to para. 2.5, importantly the EIB starts from the false premise that Art. 4(2) Aarhus Regulation somehow establishes a closed list of information that should be published. Instead, this provision establishes a general definition and a list of documents that should be disclosed as a minimum.³ Environmental information that should be actively disseminated is therefore not so delimited.
15. It is nonetheless interesting that the EIB itself acknowledges that it holds certain environmental information under Art. 4(2)(e) and (g) Aarhus Regulation. However, it does then not explain why it does not proactively disseminate this information. As was already mentioned (see para. 9 above), the EIB does not make the information under Art. 4(2)(g) Aarhus Regulation available. As explained below, it also does not disclose the information referred to in Art. 4(2)(e) Aarhus Regulation.

3. EIB's position on the EO's Preliminary findings and suggestions

3.1 The EIB's and other IFI's transparency standards

16. It is very welcome that the EIB indicates its readiness in para. 3.1.2 to assist the Ombudsman in an inquiry focusing on the extent to which other International Financial Institutions are more transparent than the EIB. We have already provided some information on the extent to which other International Financial Institutions provide more information prior to the approval of specific financing (see especially paras 6-15 of and Annexes 1-3 of our comments on the Preliminary Findings (Annex 3)). We stand ready to provide further information on this.

3.2 The timing of processing disclosure requests

17. In relation to the statistics in para. 3.2.2, it is of course positive that the EIB provides a timely response in reaction to 97% of the requests it received. This demonstrates that there does not seem to be a structural issue, such as a lack of resources, which causes the delay in the cases that were presented to the Ombudsman as part of this Complaint (para. 41). In turn, this makes the particularly slow processing of certain requests (longer than one year in one instance) particularly concerning. The EIB has not given any explanation for this particular delay.

3.3. Systematic pro-active dissemination of internal minutes and related proposals

18. In para. 3.3.1, the EIB states that it agrees with the Ombudsman that the "preliminary and purely deliberative content of internal minutes and proposals do not constitute per se environmental information for proactive dissemination." In our comments on the Preliminary findings, we highlighted that paras 28-29 of the findings risk to be misunderstood as they seem to suggest that preliminary and deliberative information

³ See in that regard also section 4.2 of the Complaint.

would not constitute environmental information.⁴ In our view, the EIB's statement in para. 3.3.1 further underlines this risk.

3.5 Proactive dissemination of "factual information" during the EIB's decision-making procedure

19. In relation to para. 3.5.2, we reiterate that Art. 4 Aarhus Regulation does not establish a close list of environmental information that should be actively disseminated (see para. 14 above) and that the EIB does not even disclose the information that it itself recognized as falling under Art. 4(2) Aarhus Regulation (para. 15). Environmental information that the EIB holds includes information on measures and activities affecting or likely to affect environmental elements and factors (Art. 2(d)(iii) Aarhus Regulation) as well as "cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in point" (Art. 2(d)(v) Aarhus Regulation). Contrary to what the EIB claims, "source documents concerning facts, factual findings and related technical/economic assumptions and calculations" and "economic assumptions and calculations" therefore clearly amount to environmental information for the purposes of the Aarhus Regulation and should be progressively made available in accordance with Art. 4 Aarhus Regulation.
20. As to para 3.5.3, the EIB does not explain how its mandate would be undermined by disclosing more environmental information. There are no rules (under EU law or otherwise) that prevent the EIB from disclosing information that is not explicitly protected by a specific, narrowly defined exclusion. Therefore, the EIB's argument that somehow further disclosure of information would undermine legal certainty is unfounded.
21. As to "significantly affecting" the *modus operandi* of the Bank, we have provided extensive information demonstrating that other International Financial Institutions disclose more information, especially while decision-making procedures are ongoing.⁵ It is therefore not clear why the EIB could not adopt the same practices while effectively fulfilling its mandate.
22. Contrary to the EIB's claim in para. 3.5.4, it is therefore not clear how the Ombudsman's Suggestions would raise "serious concerns of legal, operational and institutional nature".

3.6 Pro-active dissemination of environmental information produced by the EIB as part of projects' appraisals

23. In relation to paras 3.6.1 and 3.6.2 we refer back to the arguments made in paras 8-10 above. As mentioned there, we do not agree that the ESDS contains all relevant environmental information. In fact, the EIB confirms in para. 3.6.2 that the document is a mere summary. This makes clear that it does not give a full view of the

⁴ Annex 3, paras 16-20.

⁵ See especially Annex 3, paras 6-15 and Annexes 1-3.

environmental information held by the EIB and the appraisal undertaken on that basis.

3.7 Pro-active dissemination of environmental information produced by third parties and shared with the EIB during the project cycle

24. In paras 3.7.1-3.7.2, the EIB appears to argue that Environmental Impact Assessment reports are the only environmental information that the EIB holds in relation to the projects it appraises. As demonstrated by the description of the Appraisal Report (para. 1.4.2 as discussed in paras 8-10 above) and the fact that the EIB also undertakes appraisals where no EIA is required, this is not correct. It should also be emphasised that the EIB has undertaken various concrete commitments in relation to climate mitigation and environmental protection (contained in documents such as the Statement of Environmental and Social Principles, the Climate Strategy etc) which require an individual appraisal of the projects based on specific environmental factors. As confirmed by the CJEU in Case T-9/19,⁶ the EIB's financing decisions can also be subject to internal review as to their compliance with EU environmental law, independent of the national permitting procedure. The existence of an EIA report itself does therefore not suffice to fulfil the EIB's own appraisal requirements, meaning in turn that the EIB necessarily holds further environmental information than the EIA report.

3.8 The timing of pro-active dissemination of environmental information

25. In para. 3.8.2, the EIB states that in 2020 it published project summaries for 72% of approved projects before Board approval. It should first be clarified that the EIB only published 60% of these summaries more than 3 weeks before project approval and another 12% within the 3 weeks prior to approval. This means that for 40% of the projects no such information was available 3 weeks before they were approved by the Board of Directors. Neither of these numbers (40 % / 28 %) can in our view be described as "a limited number of projects".
26. We would also like to note that as of 10 January 2022, the EIB's project pipeline showed that that among the first 25 projects on the EIB "projects to be financed" list, 17 projects were disclosed after signature, including projects which may significantly impact environment, including projects for which an EIA has already been conducted or is expected to be conducted. In Annex 1, we provide five recent projects which the EIB only published after signature.
27. Moreover, statistics published by the EIB show that disclosure of information has become significantly more delayed over the years. In Annex 2, we provide the statistics as to when the EIB published project-related information in each calendar year. It is readily apparent that the EIB has reached an unprecedented low by only publishing 60% of projects 3 weeks prior to Board approval and only 72% of projects prior to approval at all. A clear trend to later disclosure is also clearly discernible.

⁶ Judgement on Case T-9/19 *ClientEarth v EIB*, ECLI:EU:T:2021:42.

Until 2014, the percentage of projects that was disclosed more than three weeks prior to Board approval was consistently higher than 90%. A drop to now 60% is highly significant.

28. Thus, not only are the current disclosure standards of the EIB insufficient to give the public an adequate understanding of its decision-making procedures, the level of transparency has even been deteriorating over the years.
29. As to para. 3.8.3, the fact that an ESDS may need to be modified after Board Approval does not justify only publishing the ESDS afterwards. Other International Financial Institutions change relevant documentation if changes are made at later stage of the due diligence process. For instance, the World Bank states in its Project Appraisal Documents: "This document is being made publicly available prior to Board consideration. This does not imply a presumed outcome. This document may be updated following Board consideration and the updated document will be made publicly available in accordance with the Bank's Policy: Access to Information."⁷
30. In para. 3.8.2, the EIB defers to the national permitting level, seemingly assuming that no environmental information exists on the level of EIB financing. As already mentioned above (see e.g. para. 24 above), there is no basis for this assertion.

3.9 EIB's concluding remark on the timely pro-active dissemination of environmental information produced by the EIB and/or shared by third parties as part of the EIB's E&S DD

31. As to para. 3.9.1 and 3.9.2, it should be noted that the EIB does not even publish the Environmental Impact Assessment reports for all projects prior to signature (see for instance, Annex 1, project "HEP RENEWABLE ENERGY CROATIA", which was only published after loan signature. As it confirms itself, the EIB does also not publish the ESDS before project approval. Moreover, the EIB holds more environmental information than that summarized in the ESDS. For all those reasons, we cannot agree that the EIB already implements the Suggestions by the Ombudsman.
32. In relation to para. 3.9.3, the EIB does not substantiate why it would lose clients based on disclosing environmental information. As mentioned in paras 20-22 above, there are no legal nor practical barriers that would prevent the EIB from implementing the Ombudsman's Suggestions.

⁷ See Access to information Policy, Annex 2 Routinely Available Documents A-4: Lending Information; a . Investment Project Financing (in the form of Loans, <https://ppfdocuments.azureedge.net/e5c12f4e-7f50-44f7-a0d8-78614350f97cAnnex2.pdf>).

3.10 Pro-active dissemination of environmental information produced and/or gathered as part of the monitoring of EIB's operations

33. In section 3.10, the EIB does not explain why it would not publish monitoring reports prior to the completion of the project. Para. 3.10.4-6 only refers to other EIB activities which are not related to project monitoring. This confirms that the EIB does not respect Art. 4(2)(e) Aarhus Regulation (as already mentioned in para. 15 above).

34. It is important to note that other International Financial Institutions publish monitoring reports prior to project completion. For instance, the World Bank regularly publishes monitoring reports to inform the public how a project is being implemented. On the contrary, the EIB does not even list monitoring documents which could be accessed on request.

3.12 Pro-active dissemination of information on (i) the positions of specific members of the Board of Directors and/or (ii) how Board's decisions are taken

35. As to the content of the minutes of the Board of Directors, we would indeed appreciate if the EIB examined this issue separately (as indicated in its Preliminary findings, para. 73). It is welcome that the EIB indicates its availability to assist in this process (see para. 3.12.3). We only note in that regard that the publication of the positions of Board members in case they specifically ask for this (as described in para. 3.12.2) is in our view insufficient to ensure transparency and accountability.

3.13 Timing of the pro-active dissemination of Board's Minutes

36. As to para. 3.13.3, we regret that the EIB shows apparently no willingness to engage with this Suggestion of the Ombudsman, which we believe to be fully appropriate.

4. The Ombudsman's practical suggestions

4.1 Publication of a timeline of milestones of the project cycle in the project page for all projects financed by the EIB

37. In paras 4.1.1 to 4.1.3, the EIB regrettably again defers to the national permitting level, rather than espousing its own responsibility in the appraisal of the environmental and social aspects of the projects it finances. A useful comparison can be made to the EBRD which publishes Environmental and Social Impact Assessments (ESIAs) and other environmental and social documents, at least 60 and 120 calendar days (for private and state projects respectively) before scheduled Board approval, for the purpose of public disclosure and consultation, irrespectively of its client's obligation to conduct public consultations. It is very concerning that the EIB does not acknowledge the important role it plays in the appraisal of projects.

38. As to para. 4.1.4, it is welcome that the EIB proposes to change its procedures but it is not clear how this information would be additional to the information the EIB

already publishes. To reiterate, the present complaint seeks greater access to information about pending projects before approval of the Board of Directors. It is not readily apparent how the EIB's proposal addresses this issue.

39. In relation to para. 4.1.5, it is welcome that the EIB will consider this option. In the form described, the commitment is however not very concrete and may be difficult to follow up upon without an approximate timeline.

4.2 Pro-active publication of a list of “source documents” for EIB’s online summaries and 4.3 Pro-active information on whether projects involve or give rise to “emissions into the environment”

40. The EIB's comments in paras 4.2.1, 4.2.2 and 4.3.1 go back to the fundamental disagreement between the complainants and the EIB already described in paras 19, 23, 24 etc above. We would also like to note that we have provided detailed information in our Complaint as to what information we consider should be actively disclosed by the EIB.

4.4 Active and systematic reference to the UNECE Implementation Guide on the Aarhus Convention

41. As to para. 4.4.2, we would like to note that the Aarhus Convention Implementation Guide, while not a binding document, serves as a useful reference point for the implementation of the Aarhus Convention. It does therefore not become clear from the EIB's comment why it does not wish to implement the related practical Suggestion of the Ombudsman.

4.5 Publication of all documents, including project summaries in (i) English, (ii) the main official language of the country in which the project takes place as well as in (iii) languages of regions that are clearly and specifically significantly affected by the project insertion of links to online translation tools on each project page

42. As to para. 4.5, it is concerning to read that the EIB does not see a value in providing information to the public impacted by the project it finances in a language that they will be able to understand. We would note that this appears to be a precondition to assess available redress mechanisms, such as the EIB Complaint Mechanism and the possibility to submit an internal review request under the Aarhus Regulation, which as of October 2021 has become available to individuals.⁸

4.6 Publication of the presentation on the EIB's Project Cycle

43. As to para. 4.6.2, we welcome that the EIB is considering to implement the Ombudsman's suggestion. We note, however, that the implementation of this suggestions will not remedy the main issues identified in the Complaint.

⁸ In accordance with Regulation (EU) 2021/1767 of the European Parliament and of the Council of 6 October 2021 amending Regulation (EC) No 1367/2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies, 2021 OJ L 356/1.

4.7 Publication of information on locally available avenues to (i) request environmental information and (ii) seek redress in case requests are felt not to be properly handled

44. In section 4.7, the EIB appears to misunderstand the Suggestion of the Ombudsman. Rather than asking the EIB to transfer access to information requests to other EU institutions, the Ombudsman suggests that the EIB facilitates access to environmental information. It is concerning that the EIB does not appear to consider this necessary, in particular in light of its otherwise consistent deferral to the national permitting level and its unwillingness to publish information in local languages.

B. Overall comments and conclusions

45. All in all, the EIB's Reply demonstrates a very concerning and inherently contradictory interpretation of its role, no real commitment to transparency and accountability and a lack of respect for the Ombudsman's role.

46. Throughout its Reply, the EIB defers to the national permitting stage as regards any environmental information relevant to intermediate projects that the EIB finances. This is a misunderstanding of the Aarhus Regulation and the Aarhus Convention, which are not limited to information that is used in or arises from national permitting. It is also contradictory to the EIB's own understanding as being the EU Climate Bank, which seeks to integrate environmental considerations in its appraisal processes. If the EIB would only finance based on profit-seeking considerations, like a private bank, this would be more understandable. However, since the EIB is meant to finance the EU's shift to a more green economy, it needs to be transparent about the assessments and to give information about the projects it finances. Ignoring this, the EIB seeks to be a public bank and an EU body while adhering to the transparency standards of a private bank, deferring to national authorities and national permitting as far as environmental information is concerned.

47. Equally concerning is the fact that the EIB does not react at all to the comparisons with other International Financial Institutions, neither in the context of this case, nor in the context of the parallel complaint on intermediary financing. To make matters worse, the EIB repeatedly states that other procedures, which are already put in practice by other such institutions, are impossible to realise in practice. We have made reference to a number of such practices of the EBRD, IFC and WorldBank above, which would significantly improve the EIB's practices.

48. Moreover, the EIB does not appear to recognize the role of the Ombudsman. Rather than giving serious consideration to the Ombudsman's suggestions and seeking to resolve the Complaint amicably, the EIB seeks to defend its existing approach solely based on its own interpretations of the applicable law. The EIB does not explain why the clear and reasonable suggestions by the Ombudsman could not be accepted to improve the current processes. This is even more relevant given that such procedures are, as mentioned, already followed by other International Financial Institutions.

49. As a result of this, the EIB only cooperates with the Ombudsman process to a very limited degree. As explained above, besides Suggestion 4f (and perhaps to some extent Suggestion 4a), it appears that the EIB is not willing to implement any of the Ombudsman's Suggestions, at least at this stage. This is of course a very limited level of engagement.
50. Connected to this, the processing of this complaint has demonstrated a number of instances in which the EIB is apparently applying environmental and social procedures that are not being published, thus not respecting Point of principle I of the Memorandum of Understanding between the EIB and the Ombudsman. It would be very appreciated if the Ombudsman could follow up separately on this issue.
51. Taken together, we therefore do not consider that the EIB's Reply adequately responds to the Preliminary findings in this case. The EIB's continued stance appears to be that the public should simply trust that it is fulfilling EU policy objectives and complying with EU law. In a society based on the rule of law, this will not suffice.

**Annex 1: Examples of recent projects that may significantly affect the environment
and for which information was only made available after signature**

1. HEP RENEWABLE ENERGY CROATIA

Lin: <https://www.eib.org/en/projects/pipelines/all/20200471>

disclosed 3 January 2022

signed 27/12/2021

2. ERCROS RDI AND MODERNIZATION

Link: <https://www.eib.org/en/projects/pipelines/all/20210307>

disclosed 3 January 2022

signed 2/12/2021

3. BOLOGNA AIRPORT DEVELOPMENT PLAN

Link: <https://www.eib.org/en/projects/pipelines/all/20190733>

disclosed 28 December 2021

signed 16/12/2021

4. LASSELSBERGER CERAMICS MODERNIZATION & EE

Link: <https://www.eib.org/en/projects/pipelines/all/20200741>

disclosed 22 December 2021

signed 03/11/2021

5. PKN ORLEN BIOREFINERY & RDI

Link: <https://www.eib.org/en/projects/pipelines/all/20190328>

disclosed 22 December 2021

signed 17/12/2021

Annex 2 – Timing of information disclosure related to EIB financed projects by year

The below statistics have been extracted from the Annual Reports of the EIB, publicly available at: <<https://www.eib.org/en/publications/report-on-the-implementation-on-the-eibs-transparency-policy-in-2020>> (see “All Editions of this Publication” for the reports of the previous years).

100% means all projects approved by the EIB in a given year.

	Projects published more than 3 weeks before Board approval	Projects published less than 3 weeks before Board approval	Projects published after Board approval	Projects published after contract signature
2020	60%	12%	19%	9%
2019	73%	3%	11%	13%
2018	71%	4%	12%	13%
2017	86%	2.2%	5.2%	6.6%
2016	77.8%	8.9%	3.3%	10%
2015	85%	5%	2%	8%
2014	93%	1%	4%	2%
2013	96.9%	1%	1%	1.1%
2012	95%	2.5%	0.5%	2%
2011	98.5%	1.2%	0%	0.3%
2010	96.1%	2.2%	0.5%	1.2%

8 September 2021

Complaint no.:1251/2020/PB

Case title: How the European Investment Bank discloses environmental information in relation to projects it finances that are carried out by intermediaries

Comments on the preliminary findings of 8 June 2021

1. We would first like to express our sincere thanks and appreciation for the Ombudsman's handling of our complaint. The Ombudsman's preliminary findings are a good reflection of the concerted effort of the Ombudswoman, and her services, to find a workable and practicable solution.
2. We further note that we have not been formally invited to comment on the Ombudsman's preliminary findings. We understand that this may be because the EIB is meant to provide comments first, by the end of September. In line with this, we are not going to comment on any aspects that appear to first require a reply from the EIB. We will also not ask the Ombudsman to amend the preliminary findings, even if, as it is naturally the case on some points, we assess the situation differently. Nonetheless, we would like to provide a few short comments on certain statements made in the preliminary findings. We hope that these comments can facilitate the finalization of this inquiry.
3. Unless otherwise indicated, all paragraph references below are to the preliminary findings on this complaint.

Comments

Footnote 14

4. As a first minor point, the text of footnote 14 on page 6 appears to be incomplete.

Centralised vs de-centralised approach

5. In paragraph 35, the Ombudsman states that the complainants request that the “*EIB should oblige intermediaries to collect and pass on to the EIB all the relevant ‘environmental information’, which the EIB should then centrally process and systematically publish online.*” It further states that this claim “*suggests that a highly centralised approach is the appropriate solution*” (paragraph 36). Rejecting this approach, the Ombudsman then states “*a focus on the intermediaries, rather than the EIB directly, would seem to be more beneficial to [the complainant’s] aims*” (paragraph 40).
6. We refer in this regard to paragraph 90 of the complaint which describes the efforts undertaken by one of the complainants, CEE Bankwatch Network, to request specific information from financial intermediary institutions with very limited success. As the complaint states: “*We are therefore left with a situation where the EIB is not disclosing any information but defers to the intermediaries, which in turn do not disclose any information either*” (complaint, para. 91). The Ombudsman’s statements above do not seem to reflect these challenges but rather seem to suggest that the complainants made no attempt to obtain this information from the financial intermediaries. It would be important that the Ombudsman instead acknowledges the challenges inherent in requesting environmental information from private or public banks on national level.¹
7. Moreover, a focus on the publication of certain environmental information by the financial intermediaries, which the complaint acknowledges as an option,² must not distract from the obligation of the EIB to hold all environmental information needed to discharge its obligations under the Treaties.³ A suggestion that the EIB could therefore defer all the management of environmental information to the financial intermediary is therefore problematic and it is important that this would be reflected in the final decision of the Ombudsman.

¹ See also, complaint, para. 94.

² Complaint, para. 97.

³ See complaint, para. 89.

Allocation lists

8. In paragraph 49, the Ombudsman states that the EIB had informed it at the meeting that *“there are no data or information repositories that contain all projects that are financed through intermediaries, as there are often ‘batches’ of credits (credit lines) that are used by intermediaries for very minor needs and projects.”* The EIB seems to suggest that allocation lists are not actually prepared or do not exist. However, allocation lists are for instance referenced in a 2017 Operations Evaluation Report⁴ and in an EIB presentation on “Loans for SMEs and/or MidCaps” from 2014.⁵ The latter also includes a sample of the allocation list.⁶
9. To the extent that the allocation list for certain types of credit lines does not exist would only mean that for those the EIB could not publish this information. It is however not an argument to generally refuse to publish allocation lists.
10. As regards confidentiality, it is not readily apparent why any parts of the very limited information in the allocation list would be confidential. Nonetheless, given that the list is produced in a standard format, it would be very easy to only disclose the information contained in certain columns. Of particular interest would be all the columns contained in the first line except the Annual Turnover (in EUR), the Sector / NACE Code and Allocation Amount Requested to EIB, Project Description, Implementation Start and End Date and the three categories “Compliant with Environmental Legislation”, “Environmental Impact Assessment (EIA) required” and “Particular environmental risk exists or located in a nature conservation area”.
11. In this sense, the publication of the allocation list could be a significant step to implement suggestion 2.b. of the Ombudsman. We respectfully request the Ombudsman to take this into account when adopting its final decision on the present complaint.

⁴ Evaluation of EIB Intermediated Lending through the Investment Facility in ACP, July 2017 Synthesis Evaluation Report, available at: <https://www.eib.org/attachments/ev/ev_intermediated_lending_if_acp_en.pdf>, pages 30, 35 and 43.

⁵ Available at: <https://www.eib.org/attachments/general/events/20141106_innovfin_warsaw_piat_en.pdf>, slide 15.

⁶ Ibid, slide 16.



European Investment Bank

Environmental and Social Handbook



ENVIRONMENTAL AND SOCIAL HANDBOOK

The content of this Document is subject to continuous review and revisions. In particular, it may be reviewed without notice to reflect changes to the EIB's internal rules and processes in accordance with decisions with the EIB's governing bodies.

Environment, Climate and Social Office
Projects Directorate

Version 9.0 of 02/12/2013

FOREWORD

The promotion of sustainable development - in particular the protection and enhancement of biodiversity, the fight against climate change and the respect of human rights – underpins EIB's lending strategy and objectives. An overarching document, the EIB Statement on Environmental and Social Principles and Standards, sets the policy context for the protection of the environment and human well-being. This framework promotes the EU approach to environmental and social issues, and is aligned with international best practice.

The purpose of the Environmental and Social Handbook (the Handbook) is to provide an operational translation of those policies, principles and standards.

In order to achieve the objectives embodied in the Statement, the EIB relies to a large extent on activities undertaken by borrowers and project promoters, and on the legislative, regulatory and institutional framework in place in the host country. Volume I of the Handbook provides external actors with a description of the standards to achieve, grouped across 10 thematic areas covering the full scope of environmental, climate and social impacts. Through our engagement with promoters we encourage them to align with EU standards.

The Bank's services, too, are engaged in the pursuit of those objectives through their routine practices in due diligence, monitoring, reporting, advisory work and policy discussions. Volume II describes how the services are expected to carry out that important work within the procedures and processes supporting EIB's activities.

Sector and thematic guidance will be built up progressively to provide further specific orientation, assistance and interpretation in the application of the standards to external actors and EIB staff alike. This guidance will be included in Volume III.

The Handbook reflects the wealth of experience gained by the EIB in financing projects throughout the world, and is the subject of regular review and revision. The current version of the Handbook was completed following an in-depth review aimed at clarifying its structure, integrating human rights consideration in our social standards in a more explicit manner, and taking stock of work done in other IFIs. The review was supported by extensive internal and external dialogues with key stakeholders, and established a new framework. A more holistic approach is presented to environmental and social matters, putting greater emphasis on the important dimensions of human rights, climate and biodiversity. In addition to the principle of 'do no harm', the active support of sustainable development is promoted.

The revised Handbook will contribute to reinforcing and enhancing the effectiveness of EIB policies, in particular by clarifying which standards are mandatory, and which standards promoters may progressively realise through engagement with the EIB.

It is hoped the EIB Environmental and Social Handbook will continue to be of high value to internal and external readers and users alike. Our thanks are expressed to the numerous contributors, inside and outside the EIB, who have provided us with valuable comments, insights and suggestions. Further input is encouraged and will be considered for subsequent updates.

C. Hurst
Director General
Projects Directorate

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GLOSSARY

Alternatives

In relation to a proposed activity, means different means of meeting the general purposes and requirements of the activity, which may include alternatives to (i) the property on which or location where it is proposed to undertake the activity; (ii) the type of activity to be undertaken; (iii) the design or layout of the activity; (iv) the technology to be used in the activity; and (v) operational aspects of the activity.

Area of Influence

Areas, individuals and communities impacted beyond the footprint of the project or activity 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. In addition to the area of geographical or spatial influence, temporal influence should also be determined.

Assessment Area

The location for assessment of impacts on environmental and social values and associated components. The assessment area is dependent on the environmental and social values and associated components being measured, and needs to consider the footprint of the activity and its area of influence.

Ancillary/Associated Facilities/infrastructure

Are (i) assets and facilities directly owned or managed by the promoter that relate to the project activities to be financed, (ii) supporting activities, assets and facilities owned or under the control of parties contracted for the operation of the promoters business or for the completion of the project (such as contractors); (iii) associated facilities or businesses that are not funded by the EIB as part of the project and may be separate legal entities yet whose viability and existence depend exclusively on the project or whose goods and services are essential for the successful operation of the project.

Biodiversity

The Convention on Biological Diversity defines Biodiversity 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 ecosystems.”

Ecosystem Approach

“A strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use in an equitable way [and which] recognises that humans, with their cultural diversity are an integral component of many ecosystems” (UNEP (200) Convention on Biological Diversity).

Ecosystem Services

Ecosystem services are the benefits that people, including businesses, derive from ecosystems. Ecosystem services valued by humans are often underpinned by biodiversity. Impacts on biodiversity can therefore often adversely affect the delivery of ecosystem services. Ecosystem services are organised into four types: provisioning services, regulating services, cultural services and supporting services.

Environmental Impact Assessment (EIA)

The process of identifying, predicting, evaluation and mitigating the biophysical, social and other relevant effect of projects prior to major decisions being taken and commitments made.

Environmental and Social Impact Assessment (ESIA)

The process of identifying, predicting, evaluating a project’s positive and negative environmental and social impacts on the biophysical and human environment as well as identifying ways of avoiding, minimising, mitigating and compensating, including offsetting in the case of the environment and remedying in the case of social impacts, by applying the mitigation hierarchy. This process includes consultation with direct and indirect stakeholders and the elaboration of an environmental and social management plan detailing the implementation of the mitigation measures.

GLOSSARY

Environmental Impact Study (EIS)

This is the written report resulting from the ESIA process. It is a document prepared after careful studies, describing a proposed project or activity, and disclosing the possible, probable, or certain effects of that project on the environment and the affected communities. An EIS should be comprehensive in its treatment of the subject matter, objective in its approach, and sufficiently specific for the public concerned and decision-makers to examine the potential environmental and social consequences of the carrying out or not carrying out of that proposal. An EIS should meet the requirements that it alerts the decision-maker, members of the public, and the government to the consequences to the environment and the community at large; it should also explore possible alternatives to the project that might maximise the benefits while minimising the adverse impacts. The EIS is not a decision-making end in itself but a means to a decision-making end.

Environmental and Social Management/Action Plan (ESMP/ESAP)

The plan which forms part of the Environmental and Social Assessment and sets out the measures required to maximise the benefits of the Project, avoid, minimise, mitigate and offset (in the case of environment) or remedy (in the case of social impacts) any adverse environmental and social impacts, together with budget and cost estimates, sources of funding, and adequate institutional, monitoring reporting and accountability arrangements capable of ensuring proper implementation of, and regular feedback on compliance with the environmental and social management/action plan.

Finance Contract

The loan agreement between the EIB and its borrowers.

Habitat

A terrestrial, freshwater, or marine geographical unit or airway that supports assemblages of living organisms and their interactions with the non-living environment.

Mitigation Hierarchy (Environment)

The mitigation hierarchy is defined as:

Avoidance: measures taken to avoid creating impacts from the outset, such as careful spatial or temporal placement of elements of infrastructure, in order to completely avoid impacts on certain components of biodiversity.

Minimisation: measures taken to reduce the duration, intensity and/or extent of impacts (including direct, indirect and cumulative impacts, as appropriate) that cannot be completely avoided, as far as is practically feasible.

Rehabilitation/restoration: measures taken to rehabilitate degraded ecosystems or restore cleared ecosystems following exposure to impacts that cannot be completely avoided and/ or minimised.

Compensation: measures, such as offsets, taken to compensate for any residual significant, adverse impacts that cannot be avoided, minimised and/or rehabilitated or restored, in order to achieve no net loss or a net gain of biodiversity. Offsets can take the form of positive management interventions such as restoration of degraded habitat, arrested degradation or averted risk, protecting areas where there is imminent or projected loss of biodiversity.

Mitigation Hierarchy (Human Rights):

Contrary to an environmental mitigation hierarchy, a human rights mitigation hierarchy is premised on the principle of *remedy* rather than compensation. A focus on the materiality of risk to affected persons, to be henceforth acknowledged as rights-holders, constitutes a cornerstone principle that calls for sound and meaningful stakeholder engagement and guaranteed access to remedy. It is guided by considerations of likelihood, severity and frequency of human rights impacts anticipated, thereby ordering the prioritisation of mitigation measures accordingly. In-depth assessment of the likelihood and severity of identified impacts is necessitated, so as to “prioritise actions to address actual and potential adverse human rights impacts (by) first seek(ing) to prevent and mitigate those that are most severe” (UNGP 24). The likelihood that potential human rights impacts may occur is often based on (i) the country context related to specific rights and (ii) specific business relationships that pose particular risks to human rights. Severity, on the other hand, is to be appraised on the basis of the gravity of the impact that might occur (scale), the scope of the impact and the remediability of said impact (namely, the possibility that those impacted may be restored to a situation at least the same as/equivalent to their situation prior to the impact). In Further considerations of influence over potential impact borne and leverage over those able of effecting change should inform respectively attribution of responsibility and obligation for action.

GLOSSARY

No-go Option

This is the option of not proceeding with the operation, implying a continuation of the current situation / status quo.

Non-Technical Summary (NTS)

A summary document of the Environmental (and Social) Impact Assessment or the Strategic Environmental Assessment, written in a non-technical language, so that the public can easily understand it.

Project

Project is the term defined in the EU Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment, hereafter EIA Directive, meaning the “execution of construction works or of other installations or schemes, and other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources”.

Promoter

EIB’s counterpart in an operation/project, as defined in the finance contract.

Residual Impact

An impact that adversely affects one or more environmental components, and remains, or is predicted to remain, after efforts to “minimize” and/or “restore on-site”.

Social Development and Human Well-Being

EIB’s social standards and practices pursue alignment with the policy objectives of respect for human rights, gender equality, decent work, stakeholder engagement and conflict prevention, as these are upheld in several key reference documents issued and/or endorsed by the EU, these being the Agenda for Change (European Commission, 2011); the European Consensus on Development (European Union, 2005); the Paris Declaration (2005); the Accra Agenda for Action (2008); and the Busan Partnership Agreement (OECD, 2011).

Social Impacts

According to the International Association for Impact Assessment (IAIA), social impacts, for the purpose of social impact assessment, can be defined as changes to one or more of the following:

- People’s way of life – how they live, work, play, and interact on a day-to-day basis;
- Their culture – that is, their shared beliefs, customs, values, and language or dialect;
- Their community – its cohesion, stability, character, services, and facilities;
- Their political systems – the extent to which people participate in decisions that affect their lives, the level of democratization that is taking place and the resources provided for this;
- Their environment – the quality of the air and water people use; the availability and quality of the food they eat; the level of hazard or risk, dust, and noise they are exposed to; the adequacy of sanitation, their physical safety, and their access to and control over resources;
- Their health and wellbeing – health is a state of complete physical, mental, social, and spiritual well-being, and not merely the absence of disease or infirmity;
- Their personal and property rights – particularly whether people are economically affected, or experience personal disadvantage which may include a violation of their civil liberties;
- Their fears and aspirations – their perceptions about their safety, their fears about the future of their community, and their aspirations for their future and the future of their children.

Social Impact Assessment (SIA)

The processes of analysing, monitoring and managing the intended and unintended social consequences, both positive and negative, of planned interventions (programs, plans, projects) and any social change processes invoked by those interventions. Its primary purpose is to bring about a more sustainable and equitable biophysical and human environment.

Strategic Environmental Assessment (SEA)

The formal process of ensuring that environmental consequences of certain public sector plans and programmes are identified and assessed during their preparation and before their adoption. In the EU, the SEA procedure is governed by the SEA Directive 2001/42/EC.

LIST OF ACRONYMS AND ABBREVIATIONS

LIST OF ACRONYMS AND ABBREVIATIONS

7EAP	Seventh Environmental Action Programme (of the EU)
ADB	Asian Development Bank
AFS	Appraisal Fact Sheet
BAP	Biodiversity Action Plan
BIA	Biodiversity Impact Assessment
CBD	Convention on Biological Diversity
CCTAF	Climate Change Technical Assistance Facility
CDM	Clean Development Mechanism
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CMS	Convention on Migratory Species (Bonn)
COP	Corporate Operational Plan
CR	Corporate Responsibility
CSO	Civil Society Organisation
CSR	Corporate Social Responsibility
D1/D2/D3	Appendix D1/D2/D3 PJ Environmental and Social Assessment Forms
DG	Directorate General
DG ENV	Directorate General Environment (of the EU)
EA	Environmental Assessment
EC	European Commission
ECSO	Environment, Climate and Social Office
EIA	Environmental Impact Assessment
EITI	Extractive Industries Transparency Initiative
EIS	Environmental Impact Study
EMAS	Eco-Management and Audit Scheme
ESAP	Environmental and Social Action Plan
ESMP	Environmental and Social Management Plan
ENVAG	Environmental Assessment Group
EPE	European Principles for the Environment
ERR	Economic Rate of Return
ESIA	Environmental and Social Impact Assessment
ETS	European Trading Scheme
EU	European Union
EV	EIB Evaluation Unit
FI	Financial Intermediary
FRR	Financial Rate of Return
FYROM	Former Yugoslav Republic of Macedonia
GED	Electronic Documents Management System
GHG	Greenhouse Gas

LIST OF ACRONYMS AND ABBREVIATIONS

IFC	International Finance Corporation
IFI	International Financial Institution
ILO	International Labour Organisation
IPPC	Integrated Pollution Prevention and Control
ISO	International Standards Organisation
IUCN	International Union for the Conservation of Nature
JI	Joint Implementation
MC	Management Committee
MDGs	Millennium Development Goals
MoU	Memorandum of Understanding
NGO	Non-Governmental Organisation
NTS	Non-Technical Summary of EIA (or ESIA)
OECD	Organisation for Economic Cooperation and Development
OSCE	Organisation for Security and Cooperation in Europe
Ops	Operations Directorate
PJ	Projects Directorate
PJ OA	PJ Opinion for Appraisal
RAP	Resettlement Action Plan
REDD+	Reducing Emissions from Deforestation and Forest Degradation
SAC	Special Area of Conservation
SCC/COM	Strategy and Corporate Centre/Communication Department
SEA	Strategic Environmental Assessment
SIA	Social Impact Assessment
SPA	Special Protection Area
SPL	Structural Programme Loans
TA	Technical Assistance
TESS	Typology of EIB Environmental and Social Safeguards
UNECE	United Nations Economic Commission for Europe
UNFCCC	United Nations Framework Convention on Climate Change
UNHCHR	United Nations Office of the High Commissioner for Human Rights
UNICEF	United Nations Children's Fund

VOLUME I : EIB ENVIRONMENTAL AND SOCIAL STANDARDS

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1. Assessment and Management of Environmental and Social Impacts and Risks

Introduction

1. The EIB is a public institution driven by the policy objectives of the European Union and their principles of sustainable development, public participation, and accountability. It seeks to promote sustainable and inclusive growth while protecting the natural and social environment in a holistic manner, thereby ensuring that requirements relating to the protection of the environment and human well-being are integrated in the definition, preparation and implementation of all operations financed by the EIB.

2. The EIB also recognises the need for a proactive approach to ensure that environmental and social considerations are taken into account during the early stages of strategic decision-making by promoters so as to have a real influence on the choice of alternative developments. To this end, the EIB promotes the application of strategic environmental assessment as a tool for identifying and evaluating potential impacts of plans and programmes. The EIB requires the application of the precautionary principle through the mitigation hierarchy¹ in order to promote more sustainable patterns of developments in the regions it operates in.

3. The assessment of environmental and social impacts and risk, including their significance and materiality, as well as the development of adequate management plans and programmes are key tools for achieving sound environmental and social performance. In this respect, all EIB-financed operations shall comply with national legislation and international conventions and agreements ratified by the host Country. In addition, operations within the EU, Candidate and potential Candidate countries must comply with EU horizontal and/or applicable sectoral legislation while the operations outside the EU, candidate and potential Candidate countries must meet best international practice with regards to the assessment and management of environmental and social impacts and risks, promote good environmental and social governance and align with relevant EU principles and standards.

4. The EIB is committed to:

- Developing a holistic approach to impact assessment and risk management by promoting the strategic environmental assessment² as an “upstream” tool used to identify the best available options at an early planning stage and to improve the organisation and structure of the planning process;
- Promoting the principles of environmental and social assessment, through the application of the mitigation hierarchy, with the aim of achieving a high level of protection of the environment, human health, rights and well-being;
- Strengthening the environmental and social assessment process by enhancing coherence and synergies (in the EU) and alignment (outside the EU) with other EU legislation, policies, and applicable international conventions, thereby ensuring that broader key environmental and social issues, such as climate change, biodiversity, resource efficiency, disaster risks, involuntary resettlement, human rights, gender and conflict³ are considered accordingly as part of comprehensive assessment and decision-making processes; and,
- Promoting a comprehensive approach to the management of environmental and social impacts and risk by requiring the establishment of environmental and social management systems which include the planning, implementation, monitoring, evaluation and adaptive management, the aim of which is the achievement of continual improvement in the promoter’s performance.

¹ See definition of the mitigation hierarchy for environment and human rights.

² The strategic environmental assessment uses a broad definition of environment and covers social, biodiversity and climate aspects, risks and impacts, amongst others in this case.

³ This list is not exhaustive

Objectives

5. The overall objective of this Standard is to outline the promoter's responsibilities in the process of assessing, managing and monitoring environmental and social impacts and risks associated with the operations, specifically:

- Policy commitment
 - Fostering the promoter's senior level endorsement of, and adherence to sound and sustained environmental and social performance policies, standards and systems that are accordingly communicated internally and externally, and reflected in the promoter's policies and procedures. Adequate staff and budget shall be provided;
- Assessment
 - Improving the planning process through the performance of a strategic environmental assessment, so that environmental and social considerations are taken into account in the selection of alternatives, for cumulative and large-scale effects to be addressed, and a participatory approach applied in the engagement with project-affected individuals, communities, as well as other relevant stakeholders;⁴
 - Identifying, describing and assessing both adverse and positive, direct, indirect and induced environmental and social impacts, cumulative and in-combination impact/effects associated with the operation, its ancillary/associated facilities and the project area of influence;
 - Applying the mitigation hierarchy by identifying measures to be taken to avoid, reduce and, if required, compensate/remedy significant adverse residual effects on workers, affected stakeholders, and the environment, so as to contribute to the avoidance of any deterioration in the quality of human life, the environment and any net loss of biodiversity and ecosystems;
- Management
 - Requiring the development of an environmental and social management system, as a dynamic, adaptive, and continuous process, initiated and supported by the promoter's senior management, while fostering meaningful communication and dialogue between the promoter, its workforce, local communities and, where appropriate, other stakeholders. The system should be commensurate to the size and nature of the project activity;
 - Assigning actions and responsibilities, including resources, key performance indicators, funds, skills, etc. to implement the measures;
- Monitoring & Evaluation
 - Following up over time and in a systematic way, during construction, operation, and decommissioning, using certain parameters that are indicators of the status of the environment and human well-being so as to ascertain that after the implementation of mitigation and compensatory measures, no adverse impacts exceed those initially predicted;
 - Reporting on the performance and effectiveness of the environmental and social management system against pre-determined indicators and performance criteria.
- Stakeholder Engagement
 - Identifying people and/or communities that are or could be affected by the project, as well as other interested parties;
 - Ensuring that such stakeholders are appropriately engaged with on environmental and social issues that could potentially affect them through a sustained public participation process comprising both information disclosure and meaningful consultation;

⁴ Other relevant stakeholders are for example parties that may be impacted by the project or have an interest in it, such as government, other businesses, NGOs, etc.

- Maintaining a constructive relationship with stakeholders on an ongoing basis through meaningful engagement throughout the planning, implementation, monitoring and decommissioning of the project.

Scope

6. This Standard applies to all operations likely to have significant and material environmental and social impacts and risks. These impacts and risks need be taken into account at the earliest possible stage in all the technical planning and decision-making processes.

Requirements

General

7. All operation shall comply with national legislation and regulations as well as any obligations and standards in the relevant international conventions and multilateral agreements to which the host country is party to as well as with the provisions of the following treaties and conventions.

- UN ECE Aarhus Convention, with the requirements related to access to information, public participation in decision-making and access to justice in environmental matters;
- United Nations Convention on Biological Diversity focusing on the assessment of the significant adverse effects of projects on biological diversity, contributing to attaining the EU objective set in the Biodiversity Strategy of halting biodiversity loss and the degradation of ecosystem services by 2020 and restoring them where feasible (see Standard 3);
- United Nation Framework Convention on Climate Change and its UNFCCC's Kyoto Protocol and EC Policy on Climate change addressing both mitigation and adaptation responses (see Standard 4);
- United Nations Hyogo Framework for Action Programme (2005-2015) and the Community approach on the prevention of natural and man-made disasters which stresses the need to put in place procedures for assessment of the disaster risk implications of major infrastructure projects.

8. All operations located in the EU, Candidate and potential Candidate countries, which are likely to have significant effects on the environment, human health and well-being and may interfere with human rights, will be subjected to an assessment according to the EU EIA Directive 2011/92/EU.

9. This assessment may be complemented by other assessments required by EU legislation, such as the Appropriate Assessment under the Habitats and Birds Directives (92/43/EEC, 2009/147/EC respectively) and the assessment under the EU Water Framework Directive (2000/60/EC), if applicable. In line with relevant EU legislation and best international practice (see Standards 2 to 9) and under the umbrella of the ESIA, the promoter will carry out different types of assessment, such as social impact assessment which may include impacts on human health and human rights, biodiversity impact assessment, climate change impact assessment, and cultural heritage impact assessment, if applicable.

10. In order to address the limitations of addressing environmental and social impacts at project level, the promoter will also take into account the general principles of the SEA Directive 2001/42/EC and the SEA Protocol under the UN ECE Espoo Convention, if applicable. An appropriate assessment under Habitats and Birds Directive for plans and programmes will complement the SEA, if required.

11. Projects outside of the EU will also be subject of an environmental and social impact assessment (ESIA) procedure if they are likely to have significant and material impacts and risks on the environment, human health and well-being and interfere with human rights. The ESIA must be consistent with the principles contained in the EU EIA Directive and best international practice. Specific attention should be given to integrating the impacts on human rights, biodiversity, climate change, cultural heritage, and disaster risks into the overall ESIA as provided by the above mentioned international treaties in paragraph 7. If deemed necessary by the EIB, based on the nature of the project and country context, the promoter may be required to carry out a stand-alone human rights impact assessment and/or other supplementary assessments.

12. When the EIB is co-financing in partnership with other IFIs that have developed, and apply their own environment and social (E&S) policies, adequate implementation of those policies may prove enough to

meet the EIB E&S standards, pursuant to EIB's own assessment. Such possibility does not relinquish the EIB's own environmental and social due diligence duty and any gaps between that and other lenders' shall be duly accounted for.

Strategic Environmental Assessment for Plans and Programmes

13. The public sector promoters responsible for formulating, developing and implementing actions with long-term strategic objectives through planning and programme development which set up the framework for further projects as defined in this Standard, should apply a holistic approach in relation to environmental and social issues by implementing a SEA process at this level and ensuring that relevant environmental and social information is taken into account into the decision-making process.

14. Private sector promoters or public organisations that do not fall in the above-mentioned group, are encouraged to use the SEA to facilitate integrated approaches in planning and investment strategies, thereby contributing to reaching more sustainable processes and solutions.

15. When an SEA is carried out, the promoter is responsible for:

- determining the scope of the environmental and social assessment and the details of information to be included in the environmental and social report;
- drawing up an environmental and social report that identifies, describes and evaluates the likely significant effects of implementing the plan or programme. This includes the provision of information on reasonable alternatives identified, taking into account its objectives and the geographical scope. When preparing the environmental and social report, the promoter should pay special attention to the evolving baseline analysis, consideration and identification of alternatives, and integration of climate change and biodiversity;
- communicating and consulting with public authorities with environmental responsibilities and the public, as well as the other countries potentially affected; and,
- monitoring the environmental and social effects resulting from the implementation of the plan or programme implementation so that unforeseen adverse effects can be identified at an early stage and remedial action can be taken when and where required.

16. The promoter should ensure a participative and transparent SEA process by engaging all relevant stakeholders in different SEA activities and stages and using various communication and consultation tools and methods according to the occasion, type of stakeholders, context, timing and resources. The promoter should pay special attention to engage individuals and groups that may be at a heightened risk of vulnerability to negative impacts, or that may face barriers to accessing engagement processes, with a view to engaging them fully.

17. In the EU, Candidate and potential Candidate countries, when the plan or programme is also subject of an Appropriate Assessment as required by Habitats Directive, both processes should be coordinated so as to avoid duplications and overlap⁵.

18. When the plan or programme is located outside the EU, Candidate and potential Candidate countries, the promoter is encouraged to apply the principles of the SEA as an important tool towards reaching the objectives introduced by the relevant international treaties (e.g. the ESPOO Convention) and to manage the development challenges generated by the promotion of sustainable use of natural resources, adaptation and mitigation to climate change, enhancement and maintenance of biodiversity values, ecosystem services, landscape and cultural heritage, human well-being, and the protection of human rights. The EIB and the promoter will agree on the need for carrying out an SEA for certain plans and programmes, based on a case-by-case analysis.

Environmental and Social Assessment of Impacts and Risks

19. The promoter shall carry out an environmental and social assessment for any project which is likely to have significant environmental and social impacts and risks. The promoter shall be responsible for putting in place its own systems that will allow for a comprehensive and rigorous environmental and social assessment of impacts and risks, using an integrated approach in order to achieve a high level of protection of the environment taken as a whole.

⁵ The use of the EC guideline for applying Articles 6(3) and 6(4) of the Habitats Directive is recommended.

20. For projects located in the EU, Candidate and potential Candidate countries, the promoter will apply the classification provided by the Annexes I and II of the EU EIA Directive or relevant EU legislation and criteria qualifying for a social assessment (see Standards 6 to 9).

21. For projects outside of the EU, Candidate and potential Candidate countries, the promoter shall be consistent with the classification provided by EU legislation, as well as the national environmental and social legislation and applicable international best practice.

22. The environmental and social assessment is a process that entails different elements and steps with a chronological rationale. A description of each step is presented below.

Identification of Significant Impacts and Risks

23. The promoter shall establish and maintain throughout the lifecycle of the project a process for identifying the environmental and social impacts and risks of the project. The process will consider all relevant environmental and social impacts and the stakeholders who are likely to be affected by the project.

24. The level of analysis in the identification process shall be guided by the characteristics, such as the type, scale, and location of the project. The nature, likelihood, and magnitude of the identified impacts and risks as well as their materiality will shape the scope and scale of the environmental and social assessment. The process may conclude that there is a need for a comprehensive environmental and/or social assessment or based on the evaluation of the significance and materiality of the impacts, for specific assessments.

25. When the project involves existing assets, and particularly in the case of industrial activities, the information provided by any existing environmental and/or social audit reports, site reports or risk/hazard assessments and/or safety reports might be appropriate and sufficient to identify the likely significant impacts and risks. If assets to be developed, acquired or financed are not yet fully defined, the establishment of an environmental and social assessment process will identify risks and impacts at a stage in the future when the physical elements, assets, and facilities are reasonably well understood.

26. The screening of social impacts should involve a rapid analysis of the characteristics of the project, its beneficiaries, the socioeconomic characteristics of the area where the project will be developed, and its likely impacts in order to determine the appropriate scope and content of the social aspects of the assessment. During the process it is important that the environmental and social interrelationships between environmental and social impacts are taken into consideration.

Assessment Area

27. The environmental and social impacts will be assessed in the context of the project's area of influence that encompasses one or more of the following, as appropriate:

- the assets or facilities and or associated works directly owned or managed by the promoter that can be considered as an integral part of the main project intervention, by virtue, inter alia, of their purpose, nature, characteristics or location;
- supporting/enabling activities, assets or facilities owned or under the control of parties contracted for the operation of the promoter business or for the completion of the proposed project (such as sub-contractors);
- associated facilities and businesses that are not funded as part of the project and that would not have been constructed or expanded if the project did not exist, and that are essential for the successful operation of the project;
- areas and communities likely to be affected by: cumulative impacts that result from the incremental impact, on areas or resources used or directly impacted by the further planned development of the project or other sources of similar impacts in the geographical area, any existing project and/or condition, and other project-related developments than can realistically be expected at the time when the assessment is undertaken;
- areas and communities potentially affected by impacts from unplanned but predictable developments caused by the project that may occur later or at another location.

Determining the Need for a Comprehensive Environmental and Social Assessment

28. A comprehensive environmental and/or social assessment is carried out for projects classified under Annex I of the EU EIA Directive, and/or where an ESIA is required by national legislation or for projects where likely significant impacts and risks on the environment, population, human health and well-being have been determined. These projects require specific formalised and participatory assessment processes. Further details on the content of the comprehensive environmental and/or social assessment are described in the next section.

29. For those projects classified as Annex II of the EU EIA Directive or elsewhere in the national legislation, the need to carry out an environmental and social assessment is determined on a case-by-case analysis and/or based on the application of certain criteria or thresholds.

30. As part of the impacts and risks identification process, the promoter should collect and provide, at a minimum, the following information:

- the project description, including the physical characteristics of the whole project and, where relevant, its area of influence, during the construction and operational phases;
- a description of the location of the project, with particular regard to the environmental sensitivity of the geographical area likely to be affected and social aspects;
- a description of the environmental and social aspects, including impacts on human rights, likely to be significantly affected by the proposed project;
- an analysis of the communities likely to be impacted by the project, and of other relevant stakeholders of the project;
- an assessment of the likely significant effects of the proposed project on the environment, population and human health resulting from: (i) the expected residues, emissions and the production of waste, (ii) the use of natural resources, in particular soil, land, water, and biodiversity, including any hydromorphological changes, (iii) any expropriation, land acquisition and easements and/or involuntary resettlement of people and likely restrictions on access to land, shelter and/or livelihood and subsistence strategies;
- a description and justification of the measures foreseen to avoid, prevent or reduce any significant adverse effects on the environment, human health and well-being.

31. In determining the need for a comprehensive environmental and social assessment, the promoter will take into account the following criteria into the analysis:

- characteristics of the project, with particular regard to:
 - its size and, and where relevant, its area of influence;
 - cumulation with other projects and activities;
 - the use of natural resources;⁶
 - the production of waste;
 - pollution and nuisances;
 - the natural and man-made disaster risks and risk of accidents;
 - impacts of the project on climate change,⁷ contribution of the project to improved resilience, and the impacts of climate change on the project;
 - impacts of the project on the environment;⁸
 - the risks to human health;
 - impact of the project on cultural heritage and landscape; and,
 - any likely social impact as described in Standards 6 to 9.
- location of the project considering the environmental sensitivity of the geographical area and social aspects likely to be affected, with particular regard to:
 - the existing and planned land use, including land take and fragmentation;
 - the relative abundance, availability, quality and regenerative capacity of natural resources⁹ in the area;

⁶ In particular land, soil, water, and biodiversity, including hydromorphological changes.

⁷ In terms of greenhouse gas emissions including from land use, land-use change and forestry.

⁸ In particular on land (increase of settlement areas over time – land take), soil (organic matter, erosion, compaction, sealing), water (quantity and quality), air and biodiversity (population quality and quantity and ecosystem degradation and fragmentation).

- the absorption capacity of the natural environment;¹⁰
 - areas in which there has already been or is likely to be a failure to meet the environmental quality standards;
 - densely populated areas;
 - areas for which the criteria and requirements described in Standards 6 to 9 are relevant;
 - landscapes and sites of historical, cultural or archaeological significance.
- characteristics of the potential effects of the project and determination of their significance, with particular regard to:
 - the magnitude and spatial extent, the nature, including the transboundary nature, the intensity and complexity, the probability, the duration, frequency and reversibility of the impacts;
 - the speed of onset of the impacts.

Content of a Comprehensive Environmental and Social Assessment Study

32. Where a comprehensive environmental and social impact assessment is required, the promoter shall prepare an environmental and social study that will, at a minimum, include:

- Current knowledge and methods of assessment, as well as the applicable laws and regulations of the jurisdictions within which the project operates and that relate to environmental and social matters. Gap analysis between the relevant national legislation and standards and the applicable international framework;
- Description of the methodologies applied in the assessment;
- The characteristics, technical capacity and location of the project, alternatives to the proposed project and the extent to which certain matters (including the evaluation of alternatives) are more appropriately assessed at different levels (including planning level - using the outcomes of the SEA, if applicable), or on the basis of other assessment requirements (e.g. biodiversity assessment, human rights impact assessment, etc.);
- The description of the baseline scenario – adequate and appropriate quantitative and qualitative, primary and secondary data on the relevant aspects of the existing state of the environment and social context and the likely evolution thereof without implementation of the project, paying attention to any area of particular environmental and social importance and the use of natural resources;
- The description of the environmental and social aspects likely to be affected by the proposed project¹¹ and the assessment of the significance of the identified impacts based on clear and predetermined criteria articulated in the assessment methodology;
- Assessment of the likely significant effects of the proposed project on environmental and social aspects, including human rights, resulting from *inter alia* the existence of the project, the use of natural resources¹², the risks to human well-being, cultural heritage or the environment, and the cumulation of effects with other projects and/or activities. The description should cover the direct effects and any direct, secondary, cumulative, transboundary, short-, medium- and long-term, permanent and temporary, positive and negative effects of the project;
- Description and justification of the measures foreseen to prevent, reduce and where possible, compensate/remedy any significant adverse effects on the environment and human well-being, and where appropriate any proposed monitoring arrangement or post-project analysis as part of the overall promoter's environmental and social management plan;

⁹ Including soil, land, water, and biodiversity.

¹⁰ With particular attention paid to areas classified for a biodiversity assessment as described in Standard 3, areas classified or protected under national legislation and/or designated as Natura 2000 areas - for projects located in the EU, areas protected by international conventions.

¹¹ This includes in particular: impacts on human rights, fauna, flora, biodiversity, ecosystems, land, soil, water, air, climate (including climate change), material assets, cultural heritage, the inter-relationship between these factors and the exposure, vulnerability and resilience of the above factors to natural and man-made disaster risks.

¹² In particular: land, soil, water, biodiversity, ecosystems, considering as far as possible the availability of these resources also in the light of changing climatic conditions.

- Arrangements for monitoring and evaluation of the effectiveness of impact management measured as part of the overall promoter's environmental and social management plan and system, which shall include appropriate qualitative and quantitative indicators and draw on feedback from both internal and external sources, including affected stakeholders;
- Comprehensive and context-specific stakeholder identification and analysis, including identification of individuals and communities actually and potentially impacted by the project, in particular vulnerable individuals or groups, as well as other relevant stakeholders. Description of the precise engagement and consultation activities undertaken with different groups of impacted individuals, communities and other relevant stakeholders as part of the impact assessment process, including details on information sharing, timing and formats of engagement, numbers and types of stakeholders consulted, feedback received and details on how feedback was taken into consideration in the identification and assessment of impacts, design of project alternatives, impact mitigation and monitoring (see Standard 10 for further guidance);
- Arrangements for grievance mechanisms and for steps that will be taken to ensure effective access to remedy for affected stakeholders;
- Description of information sharing, reporting and disclosure undertaken as part of the impact assessment;
- Assessment of the natural, man-made disaster and accidental risks to which the project could be vulnerable and, where appropriate, descriptions of the measures foreseen to prevent such risks, as well as measures regarding preparedness for and response to emergencies (see Standard 9), to be included as part of the overall promoter's environmental and social management plan; and,
- A non-technical summary of the information provided under the above-mentioned headings.

33. Projects involving involuntary resettlement, impacts on vulnerable groups, Indigenous Peoples, minorities and/or cultural heritage will require an assessment in line with Standards 5-7 respectively, in addition to any other environmental or social assessment studies that may be required.

34. The environmental and social impact assessment will take into account all relevant stages of the project cycle, including: preconstruction, construction and operations, decommissioning and reinstatement, ensuring that mitigation measures and actions are identified so that all relevant stages of the project operate in compliance with applicable laws and regulations and EIB Standards.

35. To guarantee the completeness and sufficient quality of the information included in the environmental and social study, specifically for those projects that require a long-term preparation process, and where the prediction of the impacts were carried out at an early stage in the project's design, when relevant data may not have always been easily available,¹³ the promoter should ensure that the information required under paragraph 32 is up to date, in particular with respect to the measures envisaged to prevent, reduce, and where necessary, compensate/remedy any significant adverse impacts:

- either by providing an update of the environmental and social study based on updated studies as necessary. The exact scope of the additional information to be provided by the promoter will be agreed with the EIB on a case-by-case basis; and/or,
- by providing a statement from the relevant authority, confirming that the information included in such document remains accurate and relevant and properly reflects *inter alia* the baseline conditions, legal requirements, current knowledge and methods of assessment.

36. As part of the assessment process, in order to ensure an adequate participatory process, the promoter will identify and engage with stakeholders in accordance with Standard 10.

Coordination or Integration of the Environmental and Social Assessment with other Assessment Procedures required by EU legislation

37. For projects located **in the EU, Candidate or potential Candidate countries** that are subject to other assessment procedures under EU legislation (particularly the assessments required under art. 6(3) and art. 6(4) of Habitats Directive 92/43/EEC, and the assessment required by art. 4(7) of Water Framework Directive 2000/60/EC), the promoter will ensure that the comprehensive environmental and social assessment coordinates or integrates the other specific assessment procedures.

¹³ e.g. projects located in the EU subject to an environmental and social assessment carried out before the entering into force of the EU EIA Directive and for which the completeness of the process by granting the development consent – see paragraphs 41 to 44 - is not ensured at the time of EIB appraisal

38. The assessment required under art. 6(3) and art. 6(4) of Habitats Directive 92/43/EEC which is applicable for plans and projects individually or in combination with other plans or projects, will follow a stage-by-stage approach¹⁴ and will take into account the recommendations provided by relevant EC guidelines and international best practices, the information provided within Standard 3 - Biodiversity Impact Assessment being also relevant.

39. The assessment required under art. 4(7) of the Water Framework Directive 2000/60/EC (WFD) which refers to new modifications to the physical characteristics of a surface water body, to the alterations to the level of bodies of groundwater, or to the failure to prevent status deterioration of a body of surface water (including from high status to good status) as a result of sustainable human development activities, aims at supporting decisions on derogation from the WFD's environmental objectives, either through the setting of a longer time frame or lower environmental objectives.

40. In defining whether the criteria and conditions set out in art. 4(7) of the WFD are met, the promoter will follow the approach recommended by the EC guidelines, mainly those developed as part of the Common Implementation Strategy for the WFD. The promoter will carry out the assessment either at planning stage, incorporating the evaluation into the SEA process, if applicable, or as part of the EIA process thereby avoiding duplications.¹⁵

41. The promoter should be aware that a derogation under art. 4(7) can only be justified if all of the requirements presented for each stage are fulfilled.

Environmental and Social Management Plans

42. Taking into account the findings of the environmental and social assessment and the outcomes of the consultation with affected individuals, communities and other relevant stakeholders, the promoter will develop and implement an environmental and social management plan (ESMP) that, in sum, will describe the mitigation of environmental and social impacts and risks, the performance improvement as well as the opportunities. The level of detail and complexity of the ESMP and the priority of the identified measures and actions shall be commensurate with the nature and magnitude of project's impacts and risks, and will take account of the outcome of the engagement process with affected stakeholders, as appropriate.

43. The ESMP shall document key environmental and social impacts and risks, and the measures to be taken to address them adequately following the mitigation hierarchy. Thus, the ESMP is expected to:

- prevent the negative impacts that could be avoided;
- mitigate the negative impacts that could not be avoided but could be reduced;
- compensate/remedy the negative impacts that could neither be avoided nor reduced; and,
- enhance positive impacts.

44. All compensatory and remedial measures will be addressed in the ESMP. Where stakeholders were identified as disadvantaged, marginalised or vulnerable during the assessment process, the ESMP will include differentiated measures so that adverse impacts do not fall disproportionately on them, and they are not disadvantaged in sharing any development benefits and opportunities resulting from the project. Additionally, the ESMP should be developed as a tool to assess the implementation and the expected effectiveness of the mitigation and compensation measures and to identify any unforeseeable adverse effects.

45. The ESMP will also address, where appropriate, opportunities to achieve additional environmental and social benefits of the project including, where relevant, community development programmes, noting clearly that any positive contributions are made in addition to impact management and do not offset any adverse social and human right impacts identified.

¹⁴ The promoter should make certain that the emphasis for assessment is objectively demonstrating, with supporting evidence, that: (i) there will be no significant effects on a Natura 2000 site, or (ii) there will be no adverse effects on the integrity of a Natura 2000 site, or (iii) there is an absence of alternatives to the project that is likely to have adverse effects on the integrity of a Natura 2000 site, or (iv) there are compensation measures which maintain or enhance the overall coherence of the Natura 2000 site.

¹⁵ The promoter should provide the relevant quantitative and qualitative information required under the stages in the art. 4(7) assessment process. It requires a wide range of expertise and knowledge on the biophysical, economic and social issues. It requires the use of different approaches in gathering this information, such as: qualitative description of the situation or impacts in cases where it is difficult to quantify specific variables (e.g. a change in landscape), assessment of functional impacts, the involvement of stakeholders to provide information and their assessment of various alternatives and options, thereby taking into account social issues and cultural/local perceptions, the performance of an economic assessment to compare the costs of different alternatives for delivering the beneficial objectives considered, the benefits and foregone environmental benefits linked to new activities and, when monetary valuation is possible, the environmental impact of different options.

46. The ESMP will contain measures and actions that are measurable to the extent possible, including elements such as performance indicators, targets, or acceptance criteria that can be tracked over defined time periods. This includes allocation of resources, responsibilities and timeframe for its implementation, as well. As appropriate, the ESMP will recognise and incorporate the role of relevant actions and events controlled by third parties to address identified risks and impacts.

47. The ESMP will include provisions for the involvement of impacted individuals, communities and other stakeholders as appropriate (e.g. joint environmental monitoring), as well as provisions for remedy (through an effective grievance mechanism), regular communications with impacted stakeholders on the content, implementation and effectiveness of impact management measures. It will also suggest improvements in project design, where appropriate, to fit the needs of the beneficiary groups, include vulnerable and marginalised groups, and promote transparency and accountability.

48. Depending on the nature and scale of the project, the ESMP may consist of some documented combination of the organisational structure, responsibilities, practices, procedures, processes and resources for its implementation, measurable actions and related supporting documents (including legal agreements) that are managed in a systematic way. Recognising the dynamic nature of the project, the ESMP should be responsive to the changes in circumstances, unforeseen events, and the results of monitoring and review, the EIB agreeing with the promoter, on a case-by-case basis, the way in which proposed project changes or unforeseen circumstances are managed and reported.

49. In order to implement the ESMP, the promoter shall put in place an integrated environmental and social management system (ESMS). The ESMS will outline the set of management processes and procedures, such as human resources management, environmental management and occupational health and safety management, that allow the promoter to identify, avoid, minimise, mitigate and offset or remedy any environmental and social impacts of the operation.

Organisation Capacity and Competencies

50. The promoter, in collaboration with appropriate and relevant third parties, shall establish, maintain, and strengthen as necessary the organisational structure that defines roles, responsibilities, and authority to implement the ESMS and related ESMP. Specific staff, including management representative(s), with clear lines of responsibility and authority should be designated. Key environmental and social responsibilities should be well defined and communicated to the relevant staff and to the rest of the promoter's organisation. The promoter should ensure that sufficient human and financial resources will be provided on an on-going basis to achieve effective and progressive environmental and social performance.

51. The promoter shall ensure that employees with direct responsibility for activities relevant to the project's or the company's social and environmental performance are adequately qualified and trained so that they have the knowledge and skills necessary to perform their work. Training should also address the specific measures and actions required under the applicable Standards and the ESMS (if any) and the methods required to perform the action items in a competent and efficient manner.

52. The promoter is also responsible for the proper implementation of any specific requirements set out in the ESMP which should be carried out by contractors or subcontractors. It is the promoter's responsibility to ensure that contractors working on project sites meet these requirements. Effective contractor management includes due consideration to relevant ESMP provisions:

- into tender documents as appropriate, and screening potential contractors' capacity to meet the requirements;
- contractually requiring contractors to comply with the EIB conditions of contract and including appropriate non-compliance remedies;
- ensuring that contractors have the competence (knowledge and skills) to perform their project tasks in accordance with ESMS requirements;
- monitoring contractor compliance with the above requirements; and,
- in the case of sub-contracting, requiring the contractors to have similar arrangements with their subcontractors.

Emergency Prevention, Preparedness and Response Activities

53. Where the need for putting in place effective systems for ensuring prevention, preparedness and response to major accidents were identified during the assessment process and/or as a result of implementing Standard 9, the EMSP will identify the relevant management systems, measures and actions which must be appropriate for preventing and controlling major-accident hazards and limiting their consequences, such as: (i) the major accident prevention policy and the safety management system to be put in place for its implementation, (ii) internal and external emergency plans, including actions to ensure that those plans are tested, revised and implemented.

54. For projects located in **the EU, Candidate or potential Candidate countries** for which the risks of major-accident hazards involving dangerous substances have been identified during the appraisal process, the emergency prevention, preparedness and response activities included in the ESMS should comply with the requirements of the Seveso III Directive 2012/18/EC and the UN ECE Helsinki Convention on the Transboundary Effects of Industrial Accidents, if applicable.

55. As a minimum requirement, for all operations, the ESMS shall set out the promoter's major-accident prevention policy which represents the overall aims and principles of action, the role and responsibility of management, as well as the commitment towards continuously improving the control of major-accident hazards, and ensuring a high level of protection (see Standard 2).

56. Where applicable, the promoter should also assist and work together with the potentially affected stakeholders and the authorities responsible for setting external emergency plans, in their preparations to respond effectively to emergency situations, especially when their participation and collaboration are necessary to ensure effective response. If the relevant authorities have little or no capacity to respond effectively, the promoter should play an active role in preparing for and responding to emergencies associated with the project.

57. For projects outside of the EU for which the risks of major-accident hazards have been identified during the assessment process, the emergency prevention, preparedness and response activities included in the ESMS should be consistent with EU environmental requirements, taking into account the local conditions and laws. However these should adhere to international best environmental practice and to any obligations and standards of multilateral environmental agreements to which the host country is party to. In such cases the EIB will agree the applicable requirements with the promoter on a project by project basis.

Performance Management and Review

58. The promoter shall establish procedures to monitor and measure the timely implementation and effectiveness of the ESMP against the agreed indicators and benchmarks, as well as compliance with any environmental and social provisions included in relevant legal and/or contractual obligations and regulatory requirements.

59. The extent of monitoring will be commensurate with the project's environmental and social impacts and risks and with compliance requirements. For projects with significant impacts, the promoter might be required to retain qualified and experienced specialists to perform periodic monitoring functions/audits throughout the life of the EIB's involvement with the project. The promoter shall document monitoring results. In addition, the promoter may use third parties, such as independent experts, local communities or NGOs, to complement or verify its own monitoring information.

60. Monitoring will normally include recording information to track performance and establishing relevant operational controls to verify compliance and progress, as well as acting on inspection reports by the relevant enforcement authorities, and on feedback from stakeholders such as community members. In addition, the promoter should use dynamic mechanisms, such as internal inspections and audits, where relevant, to verify compliance and progress toward the desired outcomes.

61. The results of the monitoring should be used to correct and improve operational performance, and when relevant, disseminated to the stakeholders. The information and communication program is a useful tool to this end and to communicate any changes or adjustments to ESMP. Similarly, monitoring activities can be adjusted according to performance experience and feedback, including feedback received through any project-level grievance mechanism and other feedback loops.

62. If during project implementation and taking into account the promoter's self-monitoring, governmental inspection reports and/or third party audits/reports the need for corrective and preventive actions is identified, the promoter shall amend the ESMP accordingly and shall submit it to the EIB for approval. The promoter shall implement agreed corrective and preventive actions, and follow up on these actions to ensure their effectiveness.

63. Senior management in the promoter's organisation will receive regular performance assessments of the effectiveness of the ESMP, based on systematic data collection and analysis. The scope and frequency of such reporting will depend upon the nature and scope of the activities identified and undertaken in accordance with the promoter's management system/programme, the ESMP and other applicable project requirements. Based on results within these performance reviews, senior management shall take the necessary and appropriate steps to ensure the intent of the promoter's policy is met, that procedures, practices, and plans are being implemented, and are seen to be effective.

Intermediated Operations

64. When lending through financial intermediaries and particularly outside the EU, the EIB assesses the financial intermediaries and their capacity to on-lend the EIB funds in line with the EIB's E&S standards and particular requirements, including those outlined in the Statement of Environmental and Social Principles and Standards 2009.

65. The compliance of projects financed through intermediaries with EU directives/ national legislation, as applicable, and with the EIB's E&S Standards, is addressed by the EIB ex-ante in the context of the due diligence of each financial intermediary (whereby the EIB obtains comfort that the intermediary has the capacity to conform to EIB standards, including presenting only sub-projects for allocation which comply with EU/national law). In addition, the finance contract signed between the intermediary and the EIB, includes contractual clauses by which the final beneficiaries must comply with all the relevant national laws and regulations, international conventions to which the host country is party to, and if applicable the Community *acquis*.

66. The EIB follows up on individual allocations and reserves the right to carry out its own, detailed due diligence for each sub-project.

Corporate Loans

67. In cases where promoters with multi-site operations are seeking from the EIB general corporate finance, working capital or equity financing, the assessment at project level as outlined in documents may not always be appropriate. In such cases (as determined by the EIB), the promoter will commission a qualified and experienced, external specialist to conduct a corporate audit of their current environmental and social management system (ESMS) and the company's past and current performance against EIB's E&S Standards. The audit should:

- assess the promoter's ability to manage and address all relevant social and environmental risks and impacts of its business and operations, in particular the issues identified in the Standards (including this Standard);
- assess the promoter's compliance record with applicable laws and regulations of the jurisdictions in which the project operates that pertain to environmental and social matters, including those laws implementing host country obligations under international agreements;
- identify the company's main stakeholder groups and current stakeholder engagement activities.

68. The exact scope of the corporate audit will be agreed with the EIB on a case-by-case basis.

69. The ESMP should be incorporated into the promoter's corporate environmental and social management system. It will address any issues identified during the corporate audit by specifying time-bound measures to achieve and maintain compliance with the EIB's Standards within a reasonable time frame.

2. POLLUTION PREVENTION AND ABATEMENT

Introduction

1. Pollution prevention and control are key pillars of EU environmental policy that, in general, contribute significantly contribution to the wider Europe 2020 agenda as well as to the EU's broader objectives of smart, sustainable and inclusive growth. A project level-approach to pollution prevention and control therefore means that all EIB-financed operations within EU, Candidate or potential Candidate countries shall comply with EU environmental standards as laid down in applicable Community environmental *acquis*. Operations outside the EU, Candidate and potential Candidate countries must meet best international practices in this regard and be consistent with the relevant EU principles and standards.
2. As the official financing institution of the EU, the EIB is committed to:
 - supporting, through its operations, the implementation of the EU Seventh Environmental Action Programme to 2020 "Living well, within the limits of our planet" which aims at contributing to the transition to a resource-efficient, low-carbon economy in which natural capital is protected and enhanced, and the health and well-being of citizens is safeguarded¹;
 - promoting the implementation of the "polluter pays principle", the precautionary principle, the preventive action principle, and the principle of rectification of pollution at source as set out in the Treaty of the Functioning of the European Union; and,
 - requiring that its operations are in conformity and coherent with EU environmental principles and standards as included in the EU environmental *acquis*, mainly related to industrial emissions, water and waste management, air and soil pollution, protection of nature and biodiversity, safe use and management of chemicals and pesticides, noise, occupational health and safety..

Objectives

3. The objectives of this Standard are:
 - avoidance of any deterioration in the quality of human health or the environment, and any loss of biodiversity, by avoiding, reducing and, if possible, compensating/remediating significant adverse effects of projects supported by the EIB;
 - support to the EU aims of reducing greenhouse gas emissions and enhancing resource efficiency, that will ease pressures on the environment and bring increased competitiveness through cost savings from improved efficiency, commercialisation of innovations and better management of resources over their whole life cycle; and,
 - promotion of an integrated approach to prevention and control of emissions into air, water and soil, to waste management, to energy efficiency and to accident prevention for the protection of the environment as a whole and therefore, avoiding the shift of pollution from one environmental medium to another.

Scope

4. The Standard applies during the environmental and social impacts and risks identification process. The implementation of the actions necessary to meet the requirements contained in this Standard is managed by the promoter's overall environmental and social management plan, the elements of which are outlined in Standard 1.

Requirements

General

5. All operations located in the **EU, Candidate or potential Candidate countries** will be designed and will operate in compliance with the applicable EU environmental requirements and standards as they are

¹ http://ec.europa.eu/environment/newprg/pdf/7EAP_Proposal/en.pdf

laid down in the Community environmental *acquis*, as well as with relevant international treaties and other equivalent instruments concluded by the EU on environmental matters. In the case where national environmental standards and requirements are more stringent than those contained in EU environmental legislation, as may be the case for emission limit values or discharges into air or water, or for environmental quality standards, national standards will have to be complied with.

6. In order to ensure consistency, the time frames for reaching compliance with specific EU environmental legislation agreed between the EU and any Member States, Candidate or potential Candidate country, through bilateral agreements and/or action plans (Accession Treaties), should be considered in the operations financed by the EIB and properly reflected in the promoter's overall environment and social management plan.

7. The operations **outside of the EU, Candidate and potential Candidate countries** should be designed and operated in consistency with EU environmental standards and requirements. However the promoter should adhere to international best environmental practice and to any obligations and standards in the applicable multilateral environmental agreements to which the host country is party to. Where EU standards are more stringent than national standards, the higher EU standards are required, if practical and feasible, taking local conditions into account. In such cases the EIB will agree the applicable requirements with the promoter on a project by project basis. The promoter is responsible for legal compliance whereas regulatory and enforcement tasks remain with the relevant authorities.

Pollution Prevention, Energy and Resource Efficiency

8. In order to prevent, reduce and as far as possible eliminate pollution arising from different activities and to establish a general framework for the control of these activities, giving priority to intervention at source, ensuring prudent management of natural resources and taking into account, when necessary, the economic situation and specific characteristics of the location in which the activity is taking place, during the whole project lifecycle. This includes project design, construction, operation and decommissioning. the promoter shall provide, as a basic obligation, that the following general principles are applied:

- all the appropriate preventive measures are taken against pollution;
- the best available techniques and/or any emerging techniques are applied, including those already defined in available Reference Documents – so-called BREFs;²
- no significant pollution is caused and a high level of protection of the environment taken as a whole is achieved;
- the generation of waste is prevented and where waste is generated, it is prepared for re-use, recycled, recovered or, where that is technically and economically impossible, it is disposed of while avoiding or reducing any impact on the environment;
- energy and resources are used efficiently, providing for significant opportunities in terms of competitiveness, cost reduction, improved productivity and security of supply; and,
- the necessary measures are taken to prevent accidents and limit their consequences.

9. The application of best available techniques, meaning the most effective and advanced stage in the development of activities and their methods of operation and including both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned, as well as of any emerging techniques that could provide either a higher general level of protection of the environment or at least the same level of protection of the environment and higher cost savings, should take into account the geographical location and/or the local environmental conditions of the installation concerned, thereby avoiding disproportionately higher costs compared to the environmental benefits.

10. In determining the applicable best available techniques or any emerging techniques, the promoter shall use the available reference documents based on:

- the performance of installations and techniques in terms of emissions, expressed as short- and long-term averages, where appropriate, and the associated reference conditions, consumption and nature of raw materials, water consumption, use of energy and generation of waste; and,
- the techniques used, associated monitoring, cross-media effects, economic and technical viability and developments therein.

² List of BREFs: <http://eippcb.jrc.ec.europa.eu/reference/>

Emissions of Atmospheric Pollution, to Water and Soil

11. With a view to contributing to meeting the overall objectives set out in the EU Thematic Strategy on Air Pollution, EU requirements on water protection and the EU Thematic Strategy on Soil Protection, the promoter will ensure that the project is designed, constructed and operated applying relevant pollution prevention measures. The promoter will also ensure that the release of emissions into air, water and soil, is controlled and, under normal operating conditions, does not exceed the associated levels recommended by the available reference documents for best available techniques, having regard to their nature and their potential to transfer pollution from one medium to another.

12. Over the lifetime of the project, the promoter must consider avoiding the deterioration of the quality of soil and groundwater. Therefore s/he should put in place adequate measures to prevent emissions to soil and groundwater and regularly monitor these measures so as to avoid leaks, spills, incidents or accidents occurring during the use or storage of different equipment and/or materials.

13. In addition to the standard monitoring measures regulated under national legislation, the promoter will put in place measures for controlling the release of pollutants outside the normal operational phase (e.g. such as start-up and shut-down operations, leaks, malfunctions and momentary stoppages and all other non-routine or accidental circumstances) so as to minimise local, regional, or transboundary pollution.

14. In order to detect possible pollution of air, water and soil at an earlier stage and, therefore, taking corrective measures avoiding spreading the pollution, the promoter shall put in place processes to ensure that all emissions are monitored on a regular basis. The monitoring requirements of emissions into air and water, the implementation measures, as well as the appropriate requirements for the regular maintenance and monitoring measures taken to prevent emissions to soil and groundwater, will be described in the promoter's overall environment and social management plan and will be integrated into the environmental and social management system. The results of the emission monitoring shall be properly communicated and made available by the promoter, thereby ensuring increased transparency of the promoter's overall management system.³

15. Where historical pollution such as soil or ground water contamination exists and/or any environmental damage⁴ has been caused due to emissions released into the environment, the promoter will seek to determine whether it is responsible for remedial measures. If it is determined that the promoter is legally responsible, then these liabilities will be resolved in accordance with relevant EU and national legislation or, in the absence of any legal framework, based on internationally disseminated best practice that will be defined with the EIB on a case-by-case approach.

Noise Emissions

16. By tackling noise emission at source, the promoter shall ensure that the project is designed, constructed and operated so as to avoid, prevent or reduce the harmful effects, including nuisance, as result exposure to environmental noise by humans.

17. The promoter shall reduce noise emissions using one or a combination of techniques identified and recommended by the available reference documents for best available techniques.

Ambient Conditions and Environmental Quality Standards

18. The promoter shall address the adverse project impacts on ambient conditions by considering, but not limited, to the following conditions:

- the environmental sensitivity of geographical areas likely to be affected by projects, with particular regard to existing and planned land use, including land take and fragmentation, the relative abundance, availability, quality and regenerative capacity of natural resources in the area, the absorption capacity of natural environment paying particular attention to those areas designated as sensitive or protected under EU and national legislation;
- the size of the project, the cumulation with other projects or activities, the use of natural resources, the overall pollution and nuisance, the natural and man-made disaster risks, with

³ Adapted from Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control)

⁴ As defined within EU legislation

particular regard to hydromorphological changes, the impact of the project on climate change and contribution to an improved resilience; and,

- characteristics of the potential impacts in terms of: magnitude and spatial extent, the nature, including their transboundary nature, the intensity, complexity and probability, the duration and reversibility, the speed of onset the impacts, etc.

19. When the project is likely to constitute a significant source of emissions in an already polluted environment, and where environmental quality standards require stricter conditions than those achievable by the use of best available techniques, the promoter will, in addition, develop alternative solutions and measures with the aim to contributing to the improvement of ambient conditions and overall compliance with environmental quality standards.

Waste Management

20. In all operations, the promoter will prevent waste generation and will reduce its hazardousness to human health and the environment, by strictly applying the waste hierarchy and the requirements defined for specific waste “streams” identified at EU level as requiring specific priority, ensuring high quality of reusing, recycling, recovering, and reaching the target that the recycled waste is used as a major, reliable source of raw materials.

21. Turning waste into energy should be a priority for the promoter, the energy recovery being limited to non-recyclable materials.

22. Where waste generation cannot be recycled or reused, the promoter should promote improved environmentally-friendly practices for the treatment, destruction and final disposal of the waste where disposal in a landfill is final resort.⁵

23. Hazardous waste will need to be reduced and, if not possible, safely managed so as to minimise adverse effects on human health and the environment, following a strict control regime as imposed by EU standards and relevant international treaties. This includes labelling, record keeping, monitoring and control obligations. The promoter should also be encouraged to identify relevant market-based alternatives for its environmentally sound disposal considering the limitations applicable to its transboundary movements.

24. When the final disposal of waste and hazardous waste is provided by third parties, the promoter shall ensure the use of licenced contractors as required by EU/national legislation in the sector.

25. The promoter shall record and report on a regular basis the waste quantities generated, as well as their off-site transfer, as required by EU legislation and international treaties.

Sound Management of Chemicals and Dangerous Substances

26. The promoter shall seek to avoid, reduce or eliminate the use of dangerous chemicals and substances of high concern and to consider replacing their use by less dangerous substances or technologies where suitable economically and technically viable alternatives are available, with the aim of ensuring a high level of protection of human health and the environment from hazardous effects of chemicals. In the meantime, the promoter is encouraged to develop projects that lead to the innovation of sustainable substitutes.

27. For projects located in the **EU, Candidate and potential Candidate countries**, where avoidance is not feasible, the promoter will consider the safety of their use, by strictly applying EU legislation, specifically the requirements of the horizontal chemicals legislation - REACH Regulation⁶.

28. By applying the REACH Regulation, the promoter is therefore responsible for the overall management of the risks from chemicals, through the assessment of hazards and risks of substances, by being encouraged to develop alternative assessment methods, providing safety information on the properties of their chemical substances and allowing for their safe handling, as well as identifying and implementing the risk management measures to protect human health and environment. The risk management measures should be applied to ensure that exposure to substances of very high concern, including

⁵ Disposal in landfills is a practice that should be gradually phased out.

⁶ The REACH Regulation contributes to the fulfilment of the International Strategic Approach to International Chemicals Management.

discharges, emissions and losses throughout the whole life-cycle, is below the threshold levels beyond which adverse effects may occur.

29. For projects **outside the EU, Candidate and potential Candidate countries**, the promoter should align with the REACH Regulation and adhere to the Strategic Approach to International Chemicals Management (SAICM). For all operations, the UN Globally Harmonised System of Classification and Labelling of Chemicals (GHS) applies.

30. The promoter shall avoid, under any circumstances, manufacturing, trading and using chemicals and substances that are subject to international bans or phase-out due to their high toxicity to human health and to the environment.

Emergency Prevention, Preparedness and Response

31. The promoter should be prepared to respond to any process upset, accidental and emergency situations by implementing control measures so as to prevent major accident hazards. In addition control measures should be put in place to limit the consequences of such accidents not only for humans (health and safety aspects) but also to the environment, if applicable, based on relevant identified operational risks, with a view to ensuring a high level of protection in a consistent and effective manner.

32. The promoter will consider the relevant EU legislation and the provisions of the international treaties, by setting basic principles for management systems, which must be suitable for the prevention and control major-accident hazards and limiting their effects. This includes the establishment of a major accident prevention policy, the preparation of safety reports, the development of safety management systems and the drawing-up of internal and external emergency plans, as well as, the creation of systems so as to ensure that those plans are tested, revised and implemented.

33. The need for putting in place effective systems for ensuring prevention, preparedness and response to major accidents should be identified and acknowledged as part of the promoter's overall environment and social management systems (as described in Standard 1), including at least:

- organisation and personnel — the roles and responsibilities of personnel and of subcontracted bodies involved in the management of major hazards at all levels in the organisation, together with the measures taken to raise awareness of the need for continuous improvement;
- identification and evaluation of major hazards — adoption and implementation of procedures for systematically identifying major hazards arising from normal and abnormal operation including subcontracted activities where applicable and the assessment of their likelihood and severity;
- operational control — adoption and implementation of procedures and instructions for safe operation, including maintenance, of plant, processes and equipment, and for alarm management and temporary stoppages;
- management of change — adoption and implementation of procedures for planning modifications to, or the design of new installations, processes or storage facilities;
- planning for emergencies — adoption and implementation of procedures to identify foreseeable emergencies by systematic analysis, to prepare, test and review emergency plans to respond to such emergencies and to provide specific training for the staff concerned;
- monitoring performance — adoption and implementation of procedures for the on-going assessment of compliance with the objectives set by the client's major-accident prevention policy and safety management system, and the mechanisms for investigation and taking corrective action in case of non-compliance; and,
- audit and review — adoption and implementation of procedures for periodic systematic assessment of the major-accident prevention policy and the effectiveness and suitability of the safety management system; the documented review of performance of the policy and safety management system and its updating by senior management, including consideration and incorporation of necessary changes indicated by the audit and review.

70. If the need for the development of internal emergency plans has been identified during the assessment stage, this plan shall include, at least:

- the relevant persons authorised to set emergency procedures in motion and those in charge of and coordinating the on-site mitigation action;

- the relevant persons with responsibility for liaising with the authority responsible for the external emergency plan, if applicable;
- for foreseeable conditions or events which could be significant in bringing about a major accident, a description of the action which should be taken to control the conditions or events and to limit their consequences, including a description of the safety equipment and the resources available;
- arrangements for limiting the risks to persons on site including how warnings are to be given and the actions persons are expected to take on receipt of a warning;
- arrangements for providing early warning of the incident to the authority responsible for setting the external emergency plan in motion, if applicable, the type of information which should be contained in an initial warning and the arrangements for the provision of more detailed information as it becomes available;
- where necessary, arrangements for training staff in the duties they will be expected to perform and, as appropriate, coordinating this with off-site emergency services; and,
- arrangements for providing assistance with off-site mitigatory action.

Pesticide Use and Management

34. When the activity includes the use of pesticides, the promoter shall seek to promote its rational and strict use, by implementing the general standards of integrated pest management approach or the use of less susceptible varieties thereby contributing to achieving the overall objectives of the EU Thematic Strategy on Sustainable use of Pesticides.⁷ This includes:

- minimising the hazards and risks to human health and the environment from the use of pesticides;
- reducing the levels of harmful active substances including through substituting the most dangerous ones with safer (including non-chemical) alternatives; and,
- promoting the use of codes of good practices.

35. The promoter shall handle and store the pesticides and their packaging and remnants in accordance with relevant EU legislation and the international good practices by applying measures that lead to the avoidance of dangerous handling operations and prevention of unwanted releases.

36. The promoter should be encouraged to implement crop-specific standards, including integrated pest management, by shifting towards a more environmentally-friendly use of all available crop protection measures, giving priority to low-risk alternatives wherever possible, and otherwise to the products with minimum impact on human health and the environment among the ones available for the same pest problem.

37. The aquatic environment is especially sensitive to pesticides. The promoter shall pay particular attention to avoiding pollution of surface water or groundwater by taking appropriate measures and reducing, as far as possible or eliminating, if appropriate, the use of pesticides in sensitive areas from a water management point of view (e.g. areas designated for abstraction of drinking water) or on sealed or very permeable surfaces that can lead to higher risk of pollution of aquatic environment.

38. The promoter shall also consider reducing, as far as possible or eliminating, if appropriate, the use of pesticides in very sensitive areas, such as areas of important biodiversity, nationally and internationally protected areas (e.g. Ramsar sites, Natura 2000 sites), or in the areas where the risks from exposure of the public to pesticides is high.

⁷ <http://ec.europa.eu/environment/ppps/>

3. EIB STANDARDS ON BIODIVERSITY AND ECOSYSTEMS

Introduction

1. Biodiversity is essential to sustaining the living networks and systems that provide us all with health, food, wealth, fuel, and the critical services our lives depend on. These organisms, ecosystems and ecological processes supply us with oxygen and clean water. They help keep our lives in balance and regulate the climate. Yet this rich biodiversity is being lost at a greatly accelerated rate because of human activities. The planet's biodiversity and natural resources are under threat from global warming, pollution and accelerated development.
2. The EIB acknowledges the intrinsic value of biodiversity and that its operations may have a potential impact on biodiversity ecosystems. Therefore it has taken a balanced approach to managing its operations in order to avoid and minimise any adverse impacts on biodiversity by applying the precautionary principle⁸ and to enhance positive impacts on biodiversity and ecosystems whenever possible so as to secure favourable economic, environmental and social outcomes of its operations.
3. The EIB is committed to the respect of all relevant instruments of European and international law. The European Union and all its member states are party to the Convention on Biological Diversity (CBD), which seeks to protect and sustain the rich diversity of life forms at the genetic, species and ecosystem levels.
4. Article 6 of the Convention states that its parties shall develop national strategies, plans or programmes for the conservation and sustainable use of biological, as well as integrate this objective into relevant sectoral or cross-sectoral plans, programmes and policies.
5. The CBD has also adopted a strategic plan for Biodiversity 2011-2020, with the associated Aichi Biodiversity targets, which all members to the Convention shall strive to meet. As a response, the European Union has adopted its own biodiversity strategy for 2020, which counts 6 targets and 20 actions.
6. This Standard aims at strengthening the implementation of the EIB's biodiversity objectives, thereby supporting the EU in meeting its goals under the 2020 Strategy.

Principles and Objectives

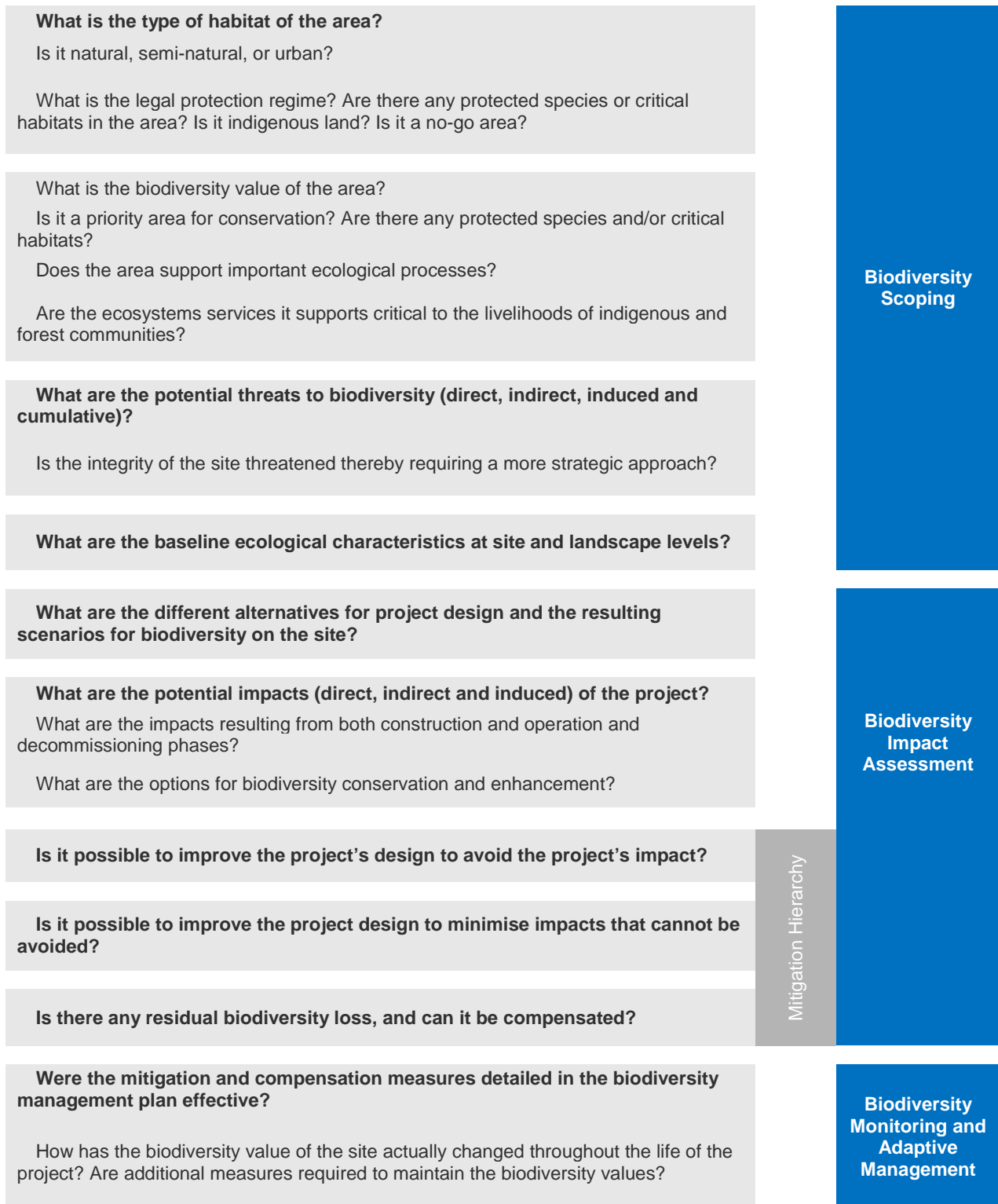
7. The following principles are the foundations of the Biodiversity Ecosystems Standard of the EIB:
 - The maintenance of the integrity of areas of important biodiversity as well as the natural functions and processes of ecosystems and their resilience through the application of the mitigation hierarchy:
 - Through the use of available data and an early screening and scoping process, determine the biodiversity footprint of the project and whether there are no-go areas;
 - The pursuit of an objective of averting loss of biodiversity and ecosystems, and at a minimum sustaining current biodiversity values implies that any impact on biodiversity and ecosystems needs to be either avoided or minimised through mitigation. This is not limited to impacts on areas designated under legal provisions (protected areas) or informal schemes (areas of important biodiversity) but to all environments, regardless of their state of conservation. Compensation for residual harm is a last resort and comes after consideration of how impacts can be avoided in the first place and then, if that is not possible, mitigated; and,
 - The rationale is that for any given environment, a biodiversity value can be attributed, in percentage of the maximum level biodiversity it would support in an ideal state of conservation (where key ecological processes are maintained). All projects should seek

⁸ The legal basis for the conservation and sustainable use of biodiversity at EU level is provided by the TFEU Article 191, which states that Community policy on the environment shall contribute to "preserving, protecting and improving the quality of the environment", based inter alia on the precautionary principles.

to increase this value and where it will be diminished, to compensate this loss through the restoration of a similar environment.

- Where feasible, internalisation of biodiversity and ecosystems values into the cost benefit analysis and design of the project;
- Consistency with EU environmental law;
 - The EIB requires compliance with all relevant EU environmental legislation for projects in the EU, Candidate and potential Candidate countries, and seeks to respect the spirit of EU environmental legislation outside the EU. The following directives are especially relevant to the EIB's standards: Directive 2011/92/EU (EIA), Directive 2001/42/EC (SEA), Directive 2009/147/EC (Birds) and Directive 92/43/EC (Habitats).
- Respect of international conventions and consistency with relevant provisions and standards contained in the international agreements and conventions:
 - The Convention on Biological Diversity of 1992 (CBD) and the Convention on the Conservation of Migratory Species of Wild Animals, 1979 (Bonn Convention or CMS) are especially relevant for definitions and impact assessment processes;
 - The Convention on International Trade in Endangered Species of Wild Flora and Fauna, 1975 (CITES) is especially relevant as far as the assessment of supply chain and indirect impacts on human activities are concerned; and,
 - The Convention on Wetlands of International Importance especially as Waterfowl Habitat, 1971 (Ramsar Convention) and the Convention Concerning the Protection of World Cultural and Natural Heritage, 1972 (UNESCO World Heritage Convention) are especially relevant as far as the characterisation of the site is concerned.
- Ecosystems and land/seascape approach:
 - This approach is particularly relevant to the impact and risk assessment process, as well as to the management plan, which too often analyses impacts in isolation from one another and prescribes mitigation measures in the same manner; and,
 - Land/seascape analysis is a fundamental step in determining conservation options that align with broader conservation efforts in the region and ensure that the mitigation strategy adopted contributes to regional-level conservation goals rather than solely site-level impacts.
- Ensuring the appropriate participation of local communities and Indigenous communities in the decision-making process, especially where impacts on ecosystems services adversely impact the livelihood of indigenous communities.
- Implement adaptive management measures so as to efficiently protect biodiversity and ecosystems; and,
- Efficient monitoring and reporting to track the promoter's overall impact and the achievement of the biodiversity actions and targets under the management plan.

The Biodiversity Assessment Thought Process



Biodiversity Scoping

8. Based on available data, the purpose of the biodiversity scoping is to determine the key biodiversity and ecosystem issues. The identified issues and the specificities of the biodiversity elements likely to be affected by the operation will define the different response pathways and the standards to be applied for the operation. Any no-go areas will be determined at this stage.
9. One of the main hurdles to the effective protection of biodiversity is that often when something is done to take it into account it is “too little, too late”. This is because most of the time the impacts of an operation on the natural environment are assessed at a stage when substantial modifications to the design cannot be implemented at affordable costs. The aim of the scoping is to integrate biodiversity information into the earliest stages of project design and implementation in order to efficiently and effectively factor it into the crucial early stages of planning.
10. To that effect, it is necessary to first categorise the project according to (i) its formal state of protection and its type (ii) its biodiversity value (iii) identify the potential threats to biodiversity and ecosystems, in order to determine the resulting requirements.
11. A biodiversity scoping must be carried out for all projects as part of the overall environmental and social assessment (ESIA) process regardless of the *prima facie* natural value of the project site.
12. The scoping must, to the extent possible, fully characterise the biodiversity and ecosystems present on the site (and at landscape level if required) prior to the project, their value for nature conservation and scientific purposes (diversity of species and ecosystems), both actual and potential, however commensurate to the impacts and risks of the project.
13. The scoping should help categorise the project along three considerations:
 - a) The legal conservation regime of the area, if any;
 - b) The type of habitat (natural, semi-natural – or socio-ecosystems, urban);
 - c) The biodiversity value of the habitat (criticality).
14. Each categorisation bears consequences for the detailed biodiversity assessment to be undertaken in the next phase. Importantly, the requirements derived from these categorisations are *cumulative*. A project located in a protected area which includes a critical habitat consisting of a socio-ecosystem will have to comply with the management requirements of the protected area, the requirements regarding the critical habitat and the guidelines regarding the assessment of impacts on socio-ecosystems.
15. These categories are independent: the lack of protection regime over an area does not prejudice its biodiversity value. That means that even where the legal regime of an area allows for the possibility of project development, this cannot be used as a justification to avoid the consequences of the criticality of the habitat. Alternatively, where a project is taking place in an area that has been identified as non-critical habitat, the management requirements of the protected area are still fully applicable. Similarly, the conservation regime does not make an assumption on the type of habitat as critical habitats may well be modified and conversely.
16. The project site boundaries are most often meaningless in ecological terms; biodiversity components are interdependent and should not be assessed in isolation of one another. As far as possible the biodiversity components should be considered across an ecologically relevant scale of the landscape/seascape and their natural functions.

Characterisation of the Formal Conservation Regime of the Area

17. Relevant protected areas, nationally or internationally designated, overlapping or neighbouring the project site, must be identified and listed. For the purpose of this assessment, the project site should be understood as including direct and indirect developments.
18. For each of these protected areas, the management requirements and all relevant information can, in principle, be found with the competent national or international authority, as well as relevant local

NGOs and stakeholders. For purposes of clarity and monitoring, where several protected areas are relevant, they should be presented following IUCN categories, starting with the strictest.⁹

19. There are a number of recognised databases and tools which allow for the identification of the presence of formally protected areas.¹⁰ Once this scoping has been performed, national and international authorities, local nature organisations and stakeholders should be consulted, as appropriate, to verify that all relevant protected areas have been listed and to check for those areas not yet designated but which should or will be designated in the foreseeable future.

20. In the **EU, Candidate and potential Candidate countries**, databases on Natura 2000 areas should be consulted, including shadow lists of sites not yet designated for which certain management requirements already apply.¹¹ Conservation objectives and/or management plans should be acknowledged as appropriate, as well as the list of relevant species for which the area has been designated, as presented in the EU Standard Data form.

21. Ideally, a map of the project site displaying the project site and all overlapping and neighbouring protected areas should be produced and integrated in the initial biodiversity assessment. GIS data on protected areas can easily be downloaded from the website of the World Database on Protected Areas, of the European Environmental Agency and from the BISE platform (Biodiversity Information System for Europe).

Characterisation of the Type of Habitat

22. For the purpose of this Standard, the EIB distinguishes between three types of habitat: natural, semi-natural and urban. The determination is made based on the level of human-induced disturbance. (e.g., presence of invasive species, level of pollution, extent of habitat fragmentation, resemblance of existing ecosystem functionality and structure to historical conditions). Depending on the type of habitat, specific attention should be given to some aspects of the assessment. It may be that a project spans over different types of habitats, in which case their respective share and location over the project site should be determined and respective requirements applied accordingly.

23. **Natural habitats** are those areas where ecological assemblages, functions and species composition are mainly attributable to natural evolutionary processes and have not been substantially modified by human activities.

24. **Semi-natural habitats** are those areas where ecological assemblages present have been substantially modified in their composition, balance or function by human activities. Those ecosystems have often evolved through traditional agricultural, pastoral or other human activities and depend on their continuation. Despite not being natural, these habitats and ecosystems often present high value in terms of biodiversity and ecosystems services.

25. **Urban habitat** is where the majority of the space is occupied, fragmented or surrounded by constructions or infrastructure. Urban environments can be sub-divided into green space, grey space, brownfield sites, and roofs and balconies¹². Not only can these areas provide surprisingly diverse rich and diverse ranges of plants and animals, but also do they offer great potential for biodiversity enhancement and ecological restoration.

Characterisation of the Biodiversity Value (Criticality)

26. Critical habitat is defined according to the following attributes:

⁹ The International Union for the Conservation of Nature (IUCN) classifies protected areas according to their management objectives. The categories are recognised by international bodies such as the United Nations and by many national governments as the global standard for defining and recording protected areas and as such are increasingly being incorporated into government legislation. http://www.iucn.org/about/work/programmes/pa/pa_products/wcpa_categories/

¹⁰ Note should be taken that these tools and databases (i) do not replace field assessment (ii) cannot be assumed to provide an exhaustive picture (iii) it should not be assumed that there is not the presence of critical habitat based on this tool

¹¹ A judgment of the European Court of Justice of 2007 C-418/04 *Commission v. Ireland* determined that Article 4(4) of the Birds Directive is applicable in "areas not classified as Special Protection Areas but should have been so classified".

¹² Common types of urban green spaces include parks, private gardens, river corridors and coastal zones. Grey space is defined as the built environment, incorporating buildings, pavements and roads. Advances in design permit the potential for biodiversity now exist in these areas (green roofs, green walls, modified bricks and roof tiles). 'Brownfield sites' refers to land that is or was occupied by a permanent structure, which has become vacant, underused or derelict and has the potential for redevelopment.

- Presence of critically endangered, endangered or vulnerable species, as defined by the IUCN Red List of threatened species and in relevant national legislation;
- Importance to the survival of endemic or restricted-range species, or unique assemblages of species;¹³
- Required for the survival of migratory species or congregatory species;
- Required for the maintenance of biological diversity with significant social, economic or cultural importance to local communities;
- Required for the maintenance of ecosystem functioning and the provision of key ecosystem goods and services; and,
- Key scientific value.

27. Given that biodiversity has an intrinsic value, for all types of habitats, there is a presumption of criticality and the burden of proof is on the promoter to characterise the absence of critical habitat on the project site. Even, for urban habitats, their criticality needs to be assessed, though their value may be more aesthetic or recreational in nature. Each criterion should be screened in consultation with relevant stakeholders, and their views attached to the assessment (e.g. local communities and conservation experts). Contradictory views, whenever they arise, should be presented in a fair manner.

28. A screening phase for each criterion should be performed to assess the likelihood of criticality of the project site. In view of the information provided by the screening, further studies should be carried out. The methodology under the appropriate assessment of the Habitats directive can be used for the screening.

29. The categorisation as semi-natural habitat is a strong indicator of the fulfilment of this criterion. Additionally, a rapid survey should assess the presence of indigenous groups or local communities that may rely on local biodiversity;

- a) Ecosystem services should be screened where these are critical to the support of indigenous communities' livelihoods;
- b) The key scientific values should be determined. The presence of evolutionary distinct species is an indicator of the scientific interest of the fauna and flora of a site.¹⁴

30. Following this screening, further studies, based on consultation, literature review, in-field data collection and verification of available information should be conducted for each of the criteria for which screening has detected a likelihood of fulfilment. There are no fixed quantitative thresholds for the fulfilment of each criterion, and they should be evaluated on a case-by-case basis, taking in account the specificities of the site. Reliance on qualified expert advice and association with recognised independent NGOs and institutions will ensure the robustness and objectivity of the results.

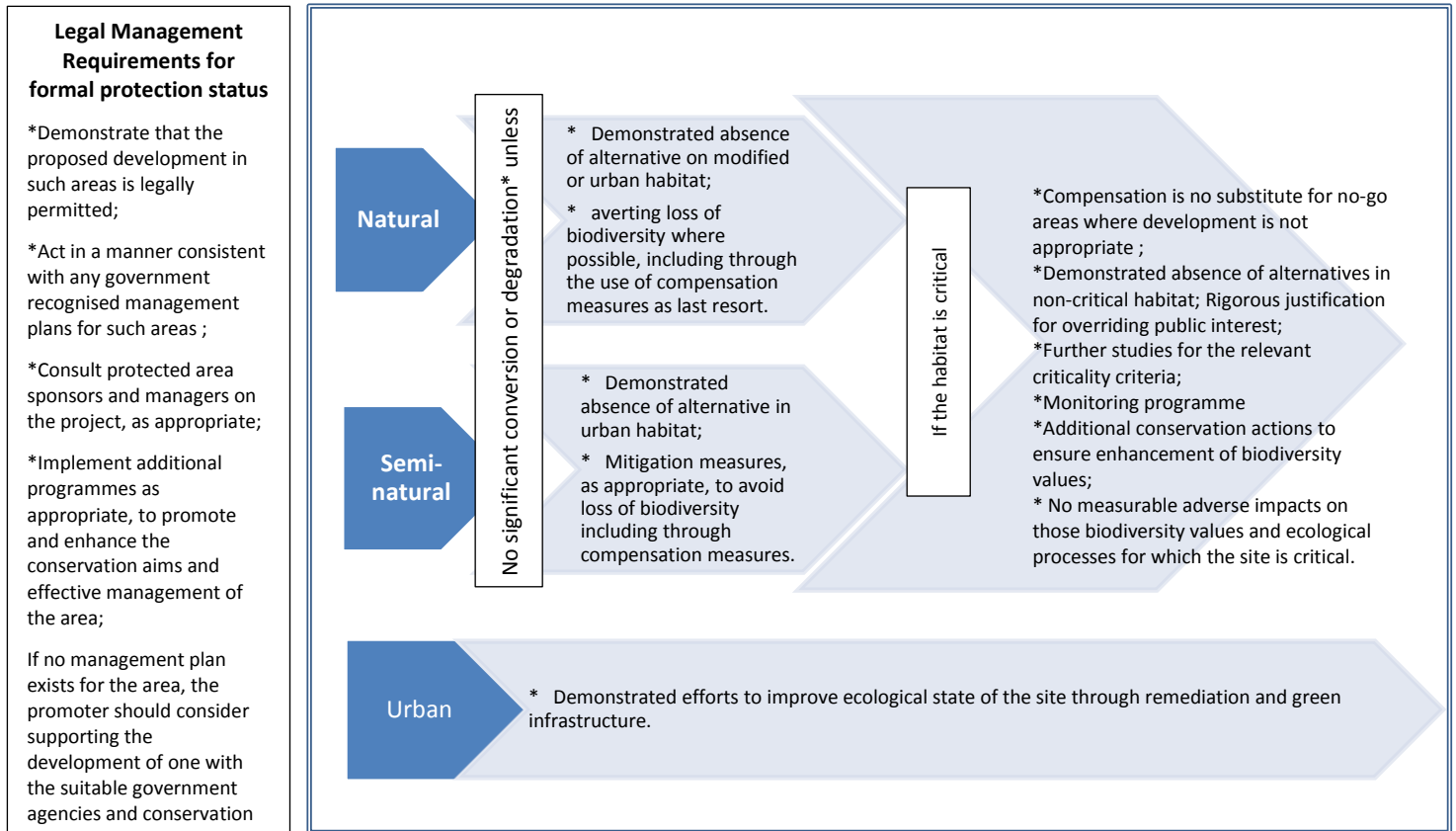
31. The fulfilment of one of the above-mentioned criterion is enough to qualify a habitat as critical. Development in a critical habitat can only go ahead if:

- a) no other viable alternatives for the project exist both in terms of project location a design and a rigorous justification for overriding public interest has been provided;
- b) positive conservation outcome is achieved through avoidance, mitigation and, as a last resort through compensation measures, and;
- c) further studies are conducted as part of the impact assessment with regards to those of the six criteria identified as relevant through the screening process.

¹³ There are limitations to the use of Red List, especially for organisms other than mammals, birds and amphibians. Consultation with experts on the species in question is essential. Furthermore, the many endemic, restricted-range, and scientifically undescribed species that have not yet been evaluated by the IUCN are also relevant. Where such species could be affected by the project, clients may be expected in certain cases to recruit appropriate species specialists to evaluate the species using the Red List decision criteria. Those species found to meet the criteria for CR or EN species would be treated in critical habitat determinations and subsequent decisions as if they appeared in those categories on the actual Red List.

¹⁴ The EDGE (Evolutionary Distinct & Globally Endangered) research program of the Zoological Society of London references those species that are evolutionary unique. Species uniqueness' can be measured as an 'Evolutionary Distinctiveness' (ED) score, using a phylogeny, or evolutionary tree. <http://www.edgeofexistence.org/index.php>

Figure 1: Summary of the requirements for areas with formal protection status and by habitat category



* significant conversion or degradation is (i) the elimination or severe reduction of the integrity of a habitat caused by a major and/or long term change in land or water use; or (ii) a modification that substantially minimises the habitat's ability to maintain viable populations of its native species)

Biodiversity Impact Assessment

32. The biodiversity impact assessment must offer, to the extent possible, a comprehensive picture of the likely direct, indirect, induced and cumulative impacts of the operation on habitats, species and ecosystems.

33. The biodiversity impact assessment may need to be contracted out to externally qualified experts with knowledge in the field.

34. It is highly recommended that this assessment form an integral part of the ESIA however certain national regulations may require free-standing analysis with a separate approval process.

35. The impact assessment takes places in three clear stages. No assessment can be valid unless these stages have been completed in the right order. The first one is the establishment of an adequate baseline of the original state of the project site and its area of influence with regards to all biodiversity aspects, commensurate with the project impacts and risks. The second one is the assessment impacts of the various alternatives – both during the construction and operation phase – against the benchmark of the without-project scenario. The third one is the consideration of a range of alternative project designs, including a without-project scenario (see Standard 1).

Establishment of Ecological Baseline

36. Baseline studies should be carried out to identify all the biodiversity and ecosystem attributes of the site and the area of influence. Baseline studies should comprise some combination of literature review¹⁵, stakeholder engagement and consultation, in-field surveys and other relevant assessments.

37. If the site has been designated to protect specific species or natural features, the assessment should include a description of them, as well as the conservation management objectives of the area where applicable. Regional planning documents should be consulted, such as local and national biodiversity action plans. These plans can also inform projections on a “without-project” situation in order to benchmark the impacts more accurately against future scenarios for the site. The baseline can use previously existing information and complete the gaps.

38. In the **EU, Candidate and potential Candidate countries**, for projects having a potential impact on a Natura 2000 site, the starting point for identifying the ecological baseline should be the Standard Data Form (SDF) prepared for each site. The SDF provides information about the site (e.g. its size, locations, threats and pressures) and about the species and habitat types for which it is designated as well as their ecological condition. The information contained within the SDF is important on several accounts as it sets the baseline against which one can determine whether the habitat type and species of Community interest present on the site is improving or deteriorating. The conservation objectives have to be analysed in the context of the Appropriate Assessment under the Habitats Directive.

39. In-field surveys must be conducted to assess the type of biodiversity and ecosystem present, whether at the genetic, species or ecosystem level.

- In **natural habitats**, the survey must cover a full year in order to list potential seasonal and migratory species. In wild and remote areas, a rapid assessment conducted by an external organisation¹⁶ might be necessary where a locally coordinated survey is not sufficient.¹⁷
- In **semi-natural habitats**, special attention should be given to the dependence of species or the type of human activities undertaken on the site prior to the project.
- Where **critical habitats** are concerned, special attention should be given to species listed under the Vulnerable, Endangered and Critically Endangered categories of the IUCN and National Red List of Endangered Species and Habitats. The establishment of the baseline should be based on in-field surveys over multiple seasons.

40. Depending on the nature and scale of the project, the use of spatial data and landscape mapping is recommended. This includes land classification and land use maps, satellite imagery or aerial photographs, vegetation type and ecosystem maps. The use of GIS is recommended to display the project elements in their environmental context.¹⁸

Stakeholder Engagement

41. The promoter should consider the differing values attached to particular biodiversity and ecosystem attributes by relevant local, national and international stakeholders. The perspectives to be taken in account include those of local communities, indigenous peoples, governmental officials, academic and research institutions, recognised experts for the biodiversity attributes of concern and national and international conservation NGOs, as appropriate.

42. While it may be impossible sometimes to reconcile those differing perspectives it is important, especially in cases where they are conflicting, to present them in a clear and balanced manner.

¹⁵ Literature reviews could comprise a number of sources such as peer-reviews journals, regional assessments, national or regional planning documents and local biodiversity action plans, where they exist.

¹⁶ Such as Conservation International Rapid Assessment Programme.

¹⁷ Link to “To RAP or not to RAP”: https://library.conservation.org/Published%20Documents/2008/To_RAP_or_not_to_RAP.pdf

¹⁸ Numerous ecosystem mapping efforts have been completed and can provide relevant databases to feed in the GIS analysis. The work of the following organizations can be consulted: United Nations Environment Programme – World Conservation Monitoring Centre (UNEP-WCMC), Ocean Data Viewer, UN Food and Agricultural Organization (FAO) Forest Resource Assessments, World Wildlife Fund (WWF) Global 200, NatureServe, Global Forest Watch, Group on Earth Observation (GEO) Global Earth Observation System of Systems (GEOSS).

43. The stakeholder engagement plan and outcome on biodiversity can be integrated in the stakeholder engagement plan of the ESIA; or separate where justified by the attributes of the site and impacts of the project (see Standard 10 on Stakeholder Engagement).

Ecosystem Services Baseline

44. Where practical and feasible, a screening of the dependency of important ecosystem services on biodiversity provided by the site and the larger region in which it is integrated should be included.¹⁹ This screening should distinguish between the services with local benefits and those with benefits at the global scale. For the former, the promoter is likely to have direct management control or significant influence and adverse impacts should be mitigated as appropriate according to the mitigation hierarchy. For the latter, they are addressed in Standards 2 and 4 on ambient and emissions standards for the service of carbon storage for example.

45. The promoter should bear in mind that the good functioning of ecosystem services might have an impact on the performance of the project itself (e.g. watershed quality in hydropower projects). Maintaining the state of the service in that case is therefore directly beneficial to the promoter's business operations.

46. As for those ecosystem services with local benefits and on which the promoter has sufficient management control, a baseline should be established identifying:

- a) the nature and extent of ecosystem services in the project site and its area of influence;
- b) the condition, trends and external (non-project) threats to such services;
- c) the beneficiaries of such services;
- d) the extent to which the project depends upon or may impact identified services.

Screening of Impacts

47. The project's area of influence includes direct, indirect and induced impacts.

48. The promoter should screen and assess the risks to and potential impacts on biodiversity and ecosystems in the project area of influence, taking into account the following:

- a) The location and scale of project activities, including those of associated facilities;
- b) Its supply chains; and,
- c) The types of technology that will be used and efficiency of the proposed equipment.

Scoping of Impacts

49. The scoping may take the form of an initial desktop analysis and literature review, including a review of regional studies and assessments, the use of global or regional screening tools, and field reconnaissance.

50. The promoter should consider all relevant threats to biodiversity and ecosystems. Those threats are highly context-specific and should be identified accordingly. The following points should receive special attention in all cases:

- a) Habitat loss, degradation and fragmentation (including risk of collision with traffic), creation of an edge effect;
- b) Invasive alien species;

¹⁹ Useful references include:

The Corporate Ecosystem Services Review: Guidelines for Identifying Business Risks and Opportunities Arising from Ecosystem Change (2008) developed by the World Resources Institute (WRI), World Business Council for Sustainable Development (WBCSD) and Meridian Institute. *Ecosystem Services Review for Impact Assessment* (2011) developed by WRI.

Ecosystem services guidance: Biodiversity and ecosystem services guide and checklists (2011), developed by International Petroleum Industry Environmental Conservation Association (IPECA). Related documents and toolkit of the *Natural Value Initiative* (NVI), an initiative of Flora and Fauna International, UNEP-Finance Initiative, Nyenrode Business University, the Dutch Association of Investors for Sustainable Development and the Brazilian Business School FGV.

Related reports of TEEB, including *The Economics of Ecosystems and Biodiversity: Mainstreaming the Economics of Nature* (2010). *A practical and non-technical toolkit to measure ecosystem services at the site level*, developed by UNEP-WCMC (2012).

- c) Overexploitation;
- d) Hydrological changes;
- e) Nutrient loading;
- f) Pollution;
- g) Noise;
- h) Pre-existing threats and the extent to which the project might exacerbate them; and,
- i) Spill-over effect (development of infrastructure encourages further development).

51. The last point is especially important in the case of semi-natural habitat, for which the assessment of how the project might exacerbate threats must establish a clear baseline of human activities prior to the project that may have an effect on the equilibrium of the socio-ecosystem.²⁰

Assessment of Supply Chains

52. The supply chains of the project procurement are within the scope of the assessment. In recent years a number of industry sectors have developed and/or adopted formal standards that incorporate principles, criteria and indicators, subject to independent audit and verification. In cases where living natural resources represent a significant part of the procurement budget, as much as possible, the promoter should seek to contract with those companies in their sector that abide by credible and recognised standards or certification schemes of sustainable management.²¹

53. Credible recognised standards are those which are objective and achievable, founded on a multi-stakeholder consultative process, encourage step-wise and continual improvements, and provide for independent verification through appropriate accredited bodies.

54. For commodities other than living natural resources, promoters involved in the purchasing, processing or trading of such commodities should seek to identify their supply chain risks and assess their operational and reputational exposure to such risks.²²

55. In situations where such concerns are identified, promoters should find ways to address them in a manner commensurate with their degree of control and influence.

Assessment of Impacts

56. A matrix of impacts should be drawn up, listing the activities listed in the screening on one axis and the elements of the biodiversity on the other. Those elements are not only species or natural features but also relationships and processes.

57. The biodiversity impact assessment should consider the potential impacts on project-related activities in this context, taking in account:

- a) The location and scale of project activities, including indirect impacts resulting from associated facilities, access roads, settlements and increase of the activities in the wider region;
- b) The intensity of the impact;
- c) The amount of natural resources used and their provenance;
- d) The types of technology that will be used;
- e) The timing of the impact (Is it limited to the development phase or does it occur throughout the operational phase? Is it intermittent or permanent? If it is intermittent, at what time of the day/year does it happen?);
- f) The short-term, long-term and cumulative impacts;

²⁰ The EIA Directive guidance document on Scoping as well as the Guidance on Integrating Climate Change and Biodiversity into Environmental Impact Assessment can provide useful advice on the scoping process: <http://ec.europa.eu/environment/eia/eia-guidelines/g-scoping-full-text.pdf> and <http://ec.europa.eu/environment/eia/pdf/EIA%20Guidance.pdf>

²¹ A list of recognized standards and management practices by sectors is managed by the International Trade Centre's Standards Map www.standardsmap.org and the Practitioners Network www.tradestandards.org

²² The Natural Value Initiative developed by Fauna & Flora International in association with other organisations, provides a methodology for assessing such risks.

- g) The probability of occurrence of a specific impact (e.g. explosion, leakage, etc.); and,
- h) Knowledge gaps (can all impacts be identified, assessed and quantified, if not the precautionary principle and adaptive management must be applied).

58. When specific potential significant biodiversity impacts are identified through assessment and analysis, they should be further analysed through specific studies. These studies should be undertaken by qualified and experienced professionals using standard sampling programmes and tools.

59. If the site has been designated to protect specific species or natural features, the assessment should expressly describe the potential for impacts on those, even if they have not been identified during the site surveys.

60. The operation might lead to an exacerbation of previously existing threats, through the upsetting of the local economy or the creation of new access to previously remote natural resources. Specifically in the case of semi-natural habitat the assessment should look carefully at impacts on the current anthropogenic inputs to the socio-ecosystem and how their quality and intensity could be influenced by the operation.

61. For critical habitats, it is recommended that the promoter seek an external review of the assessment by a qualified, recognised and independent organisation in the field.

62. On sites where ecosystem services of significant importance have been detected the following should be assessed, for each service;

- a) Degree of impact of the project on the service;
- b) Degree of dependence of the project on the service;
- c) Relevance of the service to affected community; and,
- d) Degree of management control of the promoter on the ecological processes supporting the service.

63. The assessment should make reference to the ESIA, national legislation and any obligations and standards of multilateral agreements and conventions to which the host country is party to. For projects within the EU, Candidate and potential Candidate countries, compliance with EU nature legislation is a legal requirement.²³ For projects outside the EU, candidate and potential Candidate countries, the ESIA and biodiversity assessment must be consistent with EU biodiversity standards.

64. Projects located in the EU, Candidate and potential Candidate countries, that may have a significant effect on a site designated and/or in the process of being designated Natura 2000, shall be subject of the assessment procedures required under Art. 6(3) and Art. 6 (4) of the Habitats Directive.

65. This assessment follows a stage-by-stage approach and takes into account the recommendations provided by the relevant EC guidelines and international good practice.²⁴

66. The promoter will ensure that the emphasis of the assessment is objectively demonstrating, with supporting evidence, that:

- there will be no significant effects on a Natura 2000 site (Stage One: Screening); or
- there will be no adverse effects on the integrity of a Natura 2000 site (Stage Two: Appropriate Assessment); or
- there is an absence of alternatives to the project or plan that is likely to have adverse effects on the integrity of a Natura 2000 site (Stage Three: Assessment of alternative solutions); or
- there are compensation measures which maintain or enhance the overall coherence of the Natura 2000 Network (Stage Four: Assessment of compensatory measures) and the project is justified by “imperative reasons of overriding public interest”.

²³ Guidance for compliance with the EIA directive is provided on the website of the DG Environment at <http://ec.europa.eu/environment/eia/eia-support.htm>

²⁴ A useful guidance document to article 6 of the habitats directive can be found here http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/guidance_art6_4_en.pdf

67. The promoter will ensure that the relevant stages will be properly completed in advance of any application for project or plan authorisation.

Cumulative Impacts Assessment

68. Cumulative impacts of the project should be appropriately assessed:

- a) Between the different elements of the projects (no 'salami-slicing' of impacts);
- b) With regards to other projects in the same sector likely to have similar impacts; and,
- c) With regards to other activities that might have similar impacts.

69. If the project is located in a legally protected area or an area of biodiversity importance (e.g. key biodiversity area) the promoter should consult with the authorities responsible for the designation in order to gather information on all projects developed in the area and support them in conducting a cumulative impact assessment of all projects.

Analysis of Alternatives

70. This assessment should inform decisions on project alternatives. Alternatives may include variations in the layout of the project site, alternative engineering and construction practices, the selection of different site or routing of linear facilities and screening of suppliers to select those with appropriate environmental/social risk management systems.

71. Different alternatives have to be sufficiently analysed with regards to their environmental impact. It should be stressed that the reference parameters for such comparisons deal with aspects concerning the conservation and the maintenance of the integrity of the site and of its ecological functions. In this step, therefore, other assessment criteria, such as economic criteria, cannot be seen as overruling the ecological criteria.

72. A 'without-project' scenario must be established. The "without-project" scenario—also referred to in the literature as a reference scenario, a baseline scenario, or a business-as-usual scenario—is a narrative that describes what is expected to happen to the project zone's biodiversity if the project is not undertaken. The aim of this scenario is to derive from socio economic and environmental trends the likely ecological state of the area in the future. This should enable a proper impact assessment of the project over time.

Biodiversity and Ecosystem Services Cost-Benefit Analysis

73. Where practical and feasible, on sites where significant biodiversity, ecosystems and their provision would be affected by an operation, an economic assessment of the biodiversity and the ecosystem services provided by the site and the larger region in which the site is integrated should be carried out, where possible with a monetary valuation of these benefits.²⁵

74. Where the biodiversity of the site is degraded such that the provision of ecosystem services is affected, the cost of restoration measures should be estimated in order to compare the overall ecosystem services that could be provided by the site in its optimal state with the services derived from the project.

75. For projects delivering services that can otherwise be provided through green infrastructure or ecological engineering, the potential for this solution should be assessed.²⁶

²⁵ A useful reference for the categories of ecosystem services is the *Millennium Ecosystem Assessment*, whereas the *TEEB report* will be a useful source of guidance for methodologies on economic valuation.

²⁶ NB: this is different from the integration of GI in the Biodiversity Action Plan in the project design. This is about delivering the service the project intends to deliver through green infrastructure.

Climate and Biodiversity Co-Benefits

76. The potential for ecosystem-based adaptation to climate change through the preservation or enhancement of ecosystem functions present on the site should be assessed and integrated in the project design where applicable.

Biodiversity Management Plan

77. Working towards a policy of averting the loss of biodiversity and in some cases a policy of no net loss (inherent in the EU Nature legislation), requires that impacts on biodiversity and ecosystems be mitigated through avoidance, minimisation and compensation not only on sites of outstanding ecological value but anywhere where biodiversity is measurable.

78. The relative importance of a natural feature can be determined by its status in terms of two axes: its irreplaceability and its vulnerability. The more vulnerable and irreplaceable it is, the more it calls for compensation. However there is a threshold after which the feature is too irreplaceable and vulnerable to take the risk of compensating for it. In those cases, if no alternative can be found to ensure that the project does not have significant impacts without taking compensation in account, the EIB cannot finance the project.

79. Given the complexity in predicting project impacts on biodiversity and ecosystems over the long term, the promoter should adopt a practice of adaptive management in which the implementation of mitigation and management measures are responsive to changing conditions and the results of monitoring throughout the project cycle.²⁷ The biodiversity management plan should thus allow for a level of flexibility so that the measures can be adjusted in the light of new findings and monitoring results.

Avoidance

80. An assessment of project infrastructure and the existing landscape can inform the identification, screening and design of alternatives as a form of avoidance.

81. Avoidance can also be implemented through the designation of “set-asides,” which are land/water areas and systems, usually within the project site or in other adjacent areas over which the promoter has management control that are excluded from development and targeted for the implementation of conservation enhancement measures.

Minimisation

82. The promoter should implement appropriate ecological restoration strategies, including physical reinstatement and rehabilitation and revegetation (or restoration) planning and methods, at the earliest possible stage in project planning.

83. When a project is located in an expanse of intact wilderness, the promoter should seek to define mitigation measures to limit fragmentation such as the design of wildlife corridors or other measures to help preserve connectivity between habitats or meta-populations. These measures should be fully discussed with relevant public bodies to ensure integration in regional strategies for the development of green networks.

84. Reclamation funding mechanisms should be established by promoters for projects having significant costs associated with reclamation and/or post-decommissioning activities. These costs should be factored in business feasibility analyses during the planning and design stages.

Compensation

85. After the design of mitigation measures, residual impacts should be evaluated. Where significant residual impacts are left, if the project is taking place in an area of critical habitat, then compensation measures (such as in the form of offsets) should be implemented. It should be noted that a reliable

²⁷ Link to the Conservation Measures Partnership:
< http://www.conservationmeasures.org/wp-content/uploads/2010/04/CMP_Open_Standards_Version_2.0.pdf >

determination of residual impacts on biodiversity needs to take in account the uncertainty of outcomes due to mitigation measures, therefore a conservation approach should be adopted in ascertaining the significance of residual impacts.

86. Offsets are the only form of compensation admitted for significant impacts. Providing training or capacity building or financing research can only be used as compensation measures for those residual impacts that are not significant.

87. Offsets²⁸ can take the form of:

- a) positive conservation management interventions, such as the restoration, enhancement, or arrested degradation of biodiversity components at suitable offset sites;
- b) where this has been demonstrated as feasible, the creation or reconstruction of an ecologically equivalent ecosystem and associated biodiversity values; and
- c) averted risk interventions which result in on-the-ground protection of biodiversity in an area demonstrated to be under threat of imminent or projected loss of that biodiversity (due to factors other than the development project in question).

88. An offset implementation and management plan must be drawn to up to present:

- a) The overall biodiversity value of the offset in comparison to the initial state of the site with a detailed description of the methodologies used.
- b) A detailed budget and timeline of the measures envisaged. Costs associated with offsetting should be factored in the business feasibility analysis.
- c) A presentation of all parties involved with their respective role, rights and responsibilities.
- d) Clear indicators of success of the operation and directions for adapting and correcting measures should indicator targets not be met.
- e) A presentation of reporting duties and timeline.

89. In implementing biodiversity offsets, promoters are strongly advised to collaborate with relevant organisations in the field, so as to meet internationally recognised best-practice.

90. For critical habitat, the promoter should seek external review of the management plan thus designed by a qualified, recognised and independent organisation in the field.

Monitoring

91. Monitoring is a requirement in critical habitats, but is also be required in other cases to evaluate the effectiveness of the biodiversity management plan.

92. Continuing monitoring provides promoters with biodiversity information that can be integrated into a project's operations and eventually its closure and environmental rehabilitation.

93. A monitoring and evaluation programme consists of three levels:

- a) in-field monitoring of relevant biodiversity values
- b) monitoring of the implementation and effectiveness of all relevant forms of mitigation measures. If a biodiversity offset is part of the mitigation strategy its success should be evaluated independently.
- c) as appropriate, and especially in the case of semi-natural habitats, the projects should also monitor levels of human activities having an impact on the biodiversity of the site (e.g. changes in agricultural expansion or practices, hunting practices).

94. A sensible set of indicators, tailored to the specificities of the site (e.g. certain species occurrence), of the impacts (e.g. concentration of pollutants) and the mitigation measures (e.g. viability of the offset) should be developed for each applicable criterion of criticality with the external specialists and relevant

²⁸ The Business and Biodiversity Offset Programme (BBOP) is one approach to offsets and provides for a set of ten principles and standards that can be followed in the design of offsets: <http://bbop.forest-trends.org/guidelines/index.php>.

stakeholders. Acceptable ranges of variability should be established for each indicator, with qualified experts identifying such thresholds.²⁹

95. Results from monitoring should be used to evaluate the effectiveness of the mitigation strategy. Measurable results that exceed identified thresholds should trigger appropriate management actions, corrective or adaptive.

²⁹ A useful reference is the Biodiversity Indicators for Monitoring Impacts and Conservation Action Developed by the Energy and Biodiversity Initiative. See <http://www.theebi.org/pdfs/indicators.pdf>

4. EIB CLIMATE-RELATED STANDARDS

Policy Alignment

1. The EIB Climate Standards, related to the value added by the EIB, require that its financing as a whole is aligned with EU climate policy. Specifically, the EIB is committed to:

- Making its lending portfolio more climate-friendly by promoting climate change mitigation projects in various sectors and promoting the adoption of energy efficient solutions in the projects financed.
- Mainstream climate risk considerations generally into the project cycle and to promote Adaptation projects or projects with adaptation components and measures, in the interests of long term sustainability.
- Assessing and reporting the carbon footprint of EIB financed investment projects the annual aggregate GHG emissions and savings published in the EIB's Annual Report for each year's of finance contract signature.
- Including from 2009 Climate Action in the Key Performance Indicators for the Corporate Operational Plan with currently an annual percentage target for lending of at least 25% based on a consistent set of definitions regarding climate action projects.
- Reflecting the value of carbon – both financial and economic – in its financing decision-making requirements and processes.
- Increasing transparency and accountability, advocacy and working with other institutions, including MFIs, BFIs (“mutual reliance”), NGOs, the European Commission and the academic community on climate-related matters.

Translating Standards into Practice

The EIB

2. Climate change considerations should be taken into account at all stages of the project cycle, in particular during the pre-appraisal and appraisal stage, the following analysis is carried out selectively:

- **Adjusted Economic and Financial Rates of Return:** When appraising the economic case for a project which results in a significant change in GHG emissions, as may be the case with energy, industry or transport projects, the EIB incorporates an economic cost of carbon. The central value for a tonne of CO₂-equivalent is currently approximately EUR 30 per tonne (for an emission in 2013), rising to nearly EUR 50 in 2030. This approach, based to a large degree on the evidence around the costs of meeting long term emissions targets, is distinct from the financial price of carbon, such as the spot price on traded markets, which may be used in the financial analysis.
- **Carbon footprint assessment:** For Investment Loans and fully appraised allocations under Framework Loans, an assessment of the GHG emissions produced as a result of the project, based on proprietary sector-specific methodologies, is systematically carried out and reported for projects emitting more than 100kt CO₂eq/yr in absolute terms or leading to an emission variation of more than 20kt CO₂eq/yr.
- **Climate change vulnerability assessment:** The EIB has identified sectors expected to be most at risk from future climate change impacts and, starting with these sectors, is developing systematic screening of projects for climate risks. The EIB aims to ensure that potential **adverse consequences of projects** on the climate change vulnerability of natural ecosystems and human structures are addressed in SEA and EIA best practice.
- **Carbon credit potential assessment:** The potential of a project to generate tradeable carbon credits is assessed. When necessary, technical assistance can be provided to promoters to help them exploit this potential.

Requirement for Intermediaries – Banks and Fund Managers

3. When lending through financial intermediaries and particularly outside the EU, the EIB assesses the financial intermediaries and their capacity to on-lend the EIB funds in line with the EIB's standards and particular requirements, including those outlined in the Statement.
4. The compliance of projects financed through intermediaries with EU Directives / national legislation, as applicable, and with the EIB's Statement, is addressed by the EIB ex-ante in the context of the appraisal of each financial intermediary (whereby EIB obtains comfort that the intermediary has the capacity to comply with EIB standards, including presenting only sub-projects for allocation which comply with EU/national law). Secondly, the Finance Contract signed between the intermediary and EIB, includes contractual clauses by which final beneficiaries must comply with all the relevant laws and regulations and, if applicable, with the Community *acquis*.
5. The EIB follows-up on individual allocations and reserves the right to carry out its own, detailed assessment of each sub-project financed.
6. For global loans or equity/debt funds dedicated to renewable energy and/or energy efficiency or climate action more generally, the EIB requires the financial intermediaries to apply the same eligibility criteria as for the EIB's direct operations.

Requirements for Project Promoters

7. All projects must comply with appropriate national and –where applicable- EU legal requirements, including multilateral agreements, related to climate change policy.
8. In particular in carbon-intensive sectors all projects must use sector-specific best available techniques (BAT), which among other things requires a rational approach to resource use, including the most effective measures in the field of energy efficiency.
9. The EIB encourages project promoters to provide information on expected absolute and relative GHG emissions from the project it finances.
10. The EIB requests information from project promoters on the climate change risks the projects face but also those of the system within which they operate, e.g. vulnerability in the supply chain or surrounding infrastructure, communities and ecosystems. Where significant risks are identified, the EIB requires the promoter to identify and apply the necessary physical or soft measures at planning, design and implementation stage to reduce these risks as well as to establish appropriate monitoring systems to ensure the sustainability of the project. If necessary, these activities can be supported by technical assistance.
11. In the case of intermediated financing, global loans or equity/debt funds dedicated to renewable energy and/or energy efficiency or climate action more generally, the EIB requires the financial intermediaries to apply the same eligibility criteria as for EIB's direct operations.

5. CULTURAL HERITAGE

Introduction

1. The EIB recognises the significance of cultural heritage as part of individual and collective identity, its central role in supporting the objectives of sustainable development and the promotion of cultural diversity. The EIB respects and promotes its protection in the regions it operates in. Consistent with the Convention Concerning the Protection of the World Cultural and Natural Heritage⁴⁵ and the Convention for the Safeguarding of Intangible Heritage⁴⁶, this Standard aims at safeguarding unique and irreplaceable cultural heritage and at guiding promoters to integrate cultural heritage management into their operations so as to avoid or mitigate the adverse impacts of their projects/activities on cultural heritage. In its operations, the EIB supports a precautionary approach to the management and sustainable use of cultural heritage in line with the Rio Declaration on Environment and Development⁴⁷.

2. EIB also recognises that cultural heritage is about far more than 'stones and bones' from the past, the term including a wide variety, and incorporating all the aspects, of a community's past and present that it identifies as a reflection and expression of its constantly evolving values, beliefs, knowledge and traditions and which it considers valuable, and desires to sustain and transmit to future generations, mainly:

- "tangible heritage", such as buildings, industrial structures and technology, landscapes and artifacts, having archaeological (prehistoric), paleontological, historical, cultural, artistic, or religious value and non-visible cultural heritage features and;
- "intangible heritage", such as language, visual art, music, performance, religion, beliefs and customary practices like hunting and gathering.

3. In pursuing its aim of protecting and conserving cultural heritage, the EIB promotes best practice principles of cultural heritage impact assessment and management that are based on the applicable international conventions and other legal instruments, such as:

- Convention concerning the Protection of the World Cultural and Natural Heritage, 1972 (UNESCO World Heritage Convention);
- Convention for the Safeguarding of the Intangible Cultural Heritage, 2003 (UNESCO Intangible Heritage Convention);
- Convention on the Protection of the Underwater Heritage, 2001 (UNESCO Underwater Heritage Convention);
- Council of Europe Convention for the Protection of the Architectural Heritage of Europe, 1985;
- Council of Europe Convention for the Protection of the Archeological Heritage of Europe, 1992 (revised version of the Convention adopted in 1969);
- Council of Europe Framework Convention on the Value of Cultural Heritage for Society, 2005;
- Council of Europe European Landscape Convention, 2000;
- The country of operations' legal framework that pertains to cultural heritage in the project area of influence, such as: cultural heritage or antiquities laws, planning or building consent laws, conservation area or protected area regulations, other laws and regulations governing the built historic environment, or laws relating to the protection of Indigenous Peoples (see Standard 7), etc.

⁴⁵ <http://whc.unesco.org/en/conventiontext/>

⁴⁶ <http://www.unesco.org/culture/ich/index.php?pg=00006>

⁴⁷ <http://www.unep.org/Documents.Multilingual/Default.asp?documentid=78&articleid=1163>

Objective

4. The objective of this Standard is to outline the promoter's responsibilities in terms of cultural heritage management, involving the actions taken to identify, assess, decide and enact decisions regarding the impact on cultural heritage associated with operations supported by the EIB, specifically:

- to support the conservation of cultural heritage in the context of EIB operations;
- to protect cultural heritage from adverse impacts of project activities by promoting the cultural heritage impact assessment and management;
- to promote the equitable sharing of benefits from the use of cultural heritage in project activities; and,
- to promote the awareness of and appreciation of cultural heritage, where possible.

Scope

5. The applicability of this Standard is established during the environmental and social impacts and risks identification process if, as an outcome of the process, it is identified that, during the project life-cycle, the project is likely to affect irreplaceable cultural heritage. The requirements of this Standard apply to cultural heritage regardless of whether or not it has been legally protected or previously disturbed.

6. The EIB recognises that sites or objects representing cultural heritage value or significance could be uncovered in unexpected locations, during the actual implementation of an approved operation. Therefore, an operation might be subject to the provisions of this Standard if it:

- involves significant excavations, demolitions, movement of earth, flooding or other changes in the physical environment;
- is located in, or in the vicinity of, a cultural heritage site recognised by the country of operation; or,
- may have an adverse impact on the culture, knowledge and practices of local and indigenous communities.

7. The applicability of this Standard in other cases will be determined by the EIB during the environmental and social risks and impacts identification process. If applicable, the EIB will agree with the promoter how the requirements of this Standard will be addressed and managed as part of the promoter's overall environmental and social management plan as described in Standard 1.

Requirements

General

8. In applying this Standard, the promoter will undertake a cultural heritage impact assessment and develop management measures, by applying the following key concepts:

- **value-added assessment** in identifying, predicting, evaluating and communicating the probable effects of the operation on the cultural life, institutions and resources of communities;
- **integrity, authenticity, protection and management** as integral part of the impact assessment;
- **preservation** – it is important irrespective of the level of the impact identified;
- **effective management** – this is important in the implementation phase as if it is not well managed, it can delay or even prevent project development;
- **fit for purpose** – cultural heritage management work must be adapted to suit the needs of each individual situation characterised by the cultural heritage context and the operation type and risks;
- **integration** – cultural heritage management needs to be integrated across the project management systems (including ancillary/associated facilities), procedures and practices at every site;
- **relationship** – sound cultural heritage management is integral to relationships with communities. If the promoter values what they value, then communities are more likely to support the project.

The relationship can also include working with communities to protect and enhance their culture and its practices;

- **managing change** – considering that cultural heritage is not static. Just as culture changes over time, management approaches need to be dynamic and adapt with it; and,
- **mutual benefit** – considering that effective cultural heritage management can have wider economic, social and environmental benefits.

9. In undertaking a cultural heritage impact assessment and management, which in the ideal case should be carried out as part of the ESIA process, the promoter will seek to actively protect culturally significant places, objects and practices in relation to the threats they face from a wide range of cultural or natural causes, resulting in the documentation, conservation, alteration or even loss of cultural heritage.

Impact Assessment

Screening for Risks or Impacts on Cultural Heritage

10. At the earliest point in time of the environmental and social appraisal, the promoter will identify if any elements of cultural heritage is likely to be adversely affected by the project and assess the likelihood of any chance finds. The promoter will work with communities, government agencies and relevant stakeholders to identify, and manage places, objects and practices of cultural significance (see Standard 1).

11. If, as an outcome of the screening process, it is deemed necessary to carry out an impact assessment, the promoter will use qualified and experienced cultural heritage specialists to study the cultural resources and to fully characterise the risks and impacts, consistent with a precautionary approach and reflecting the concerns of relevant stakeholders. The scope of the study will be agreed with the EIB on a case-by-case basis, either as part of the overall environmental and social assessment in accordance with Standard 1, or separately.

Assessing and Mitigating the Impact

12. The promoter will be responsible for locating and designing the project so as to avoid significant damage to cultural heritage. If potential impacts are identified at the early stages of project development, preference should be given to avoiding adverse impacts during the design and site selection phases.

13. Where impacts cannot be avoided, the promoter will assess potential impacts and, if necessary, implementing mitigation measures and/or any required changes in design, if applicable, providing information, at least on:

- proposed project and reasonable alternatives that were studied during the project preparation phases;
- definition of the baseline conditions with a focus on the need for a clear understanding of all heritage values;
- identification and definition, as well as investigation of the likely significant impacts through the implementation of an assessment against the relevant values (why the places, objects and/or practices are important), attributes (which are the things that embody the values) and policies (which are the conservation objectives of the values);
- consideration of the indirect and cumulative impacts;
- recommendation of new alternatives as needed and feasible; and,
- development of mitigation measures.

14. Based on the results of the field surveys, expert assessment of the significance of cultural heritage, requirements of national legislation and relevant international conventions, as well as on the results of consultations with affected communities, the promoter will be required to develop appropriate mitigation measures in order to reduce and mitigate any adverse impacts on the cultural heritage, along with the implementation schedule and required budget for such measures.

15. The proposed mitigation measures will be part of the overall promoter's environmental and social management plan. The promoter will also ensure that trained and qualified personnel are available to oversee the implementation of mitigation measures, and that any contractors working on the project have

the necessary skills and expertise and are managed and monitored in accordance with the requirements included in Standard 1.

16. The assessment and mitigation of impacts on cultural heritage will be conducted in accordance with relevant provisions of national and/or local laws, regulations and protected area management plans, national obligations under international laws and internationally accepted good practice, as indicated in the introductory part of this Standard.

17. The promoter is responsible for planning and implementing, monitoring, evaluating and updating cultural heritage management procedures by:

- developing cultural heritage management procedures and systems appropriate to the operational and cultural heritage context and ensuring that cultural heritage management considerations are integrated into all relevant operational plans and procedures, such as ground disturbance permit systems, human resources policies, health and safety procedures and environmental and social management programmes;
- contributing to the socioeconomic development of the region by effectively implementing cultural heritage programmes;
- setting targets and indicators to monitor the impact of the operation on cultural places, objects and practices, and the overall performance of the cultural heritage management system.
- using the results of cultural heritage management system audits and grievance mechanisms to continually improve performance;
- developing participatory monitoring and evaluation processes that include promoter employees, heritage experts, the community and the custodians of the heritage; and,
- reporting and communicating on the project's cultural heritage plan and disclosing the cultural heritage management outcomes.

Chance Find Procedures

18. The promoter will ensure that provisions for managing chance finds, defined as physical cultural heritage encountered unexpectedly during project implementation, are in place. Such provisions shall include notification of relevant competent bodies of found objects or sites; alerting project personnel to the possibility of chance finds being discovered; and fencing-off the area of finds to avoid any further disturbance or destruction. The promoter will not disturb any chance finds until an assessment by a designated and qualified specialist is made and actions consistent with national legislation and this Standard are identified.

Consultation with Affected Communities

19. Where a project may affect cultural heritage, the promoter will consult with affected communities who use or have used the cultural heritage within living memory for longstanding cultural purposes to identify cultural heritage of importance, and to incorporate into the promoter's decision-making process the views of the affected communities on such cultural heritage.

20. As part of the inclusive engagement, the promoter will:

- ensure that community members and stakeholders are (i) involved in cultural heritage assessments and in management decisions, (ii) consulted on impacts and opportunities, and, by providing information to affected communities, in a transparent and appropriate language, on the scope, location, duration of a project, and any activities that might involve impacts on cultural heritage (iii) ensure that cultural awareness is promoted within the organisation and that information is shared and integrated across operational functions;
- establish the knowledge base needed to shape and drive the project's cultural heritage management approach and system, identifying and understanding cultural heritage values, their significance and appropriate management options, through cultural heritage assessment and surveys with the community (including within the operation's socioeconomic knowledge base, social impact assessment and social risk assessment);

- identify and understand the project's potential impacts upon cultural heritage values through appropriate management options, by drawing on the knowledge base in consultation with community members, heritage experts and other stakeholders;
- ensure consultation with the relevant national or local regulatory authorities entrusted with protection of cultural heritage.

Project's Use of Cultural Heritage

21. Where a project proposes to use the cultural resources, knowledge, innovations, or practices of local communities embodying traditional lifestyles for commercial purposes, the promoter will inform these communities of: (i) their rights under national law; (ii) the scope and nature of the proposed commercial development; and (iii) the potential consequences of such development.

22. The promoter will proceed with such commercialisation only when it:

- enters into a good faith negotiation with the affected local communities embodying traditional lifestyles;
- documents their informed participation and the successful outcome of the negotiation; and
- provides for fair and equitable sharing of benefits from commercialisation of such knowledge, innovation, or practice, consistent with their customs and traditions.

23. Where a project proposes to use the cultural resources, knowledge, innovations, or practices of indigenous communities, the requirements of Standard 7 apply.

6. INVOLUNTARY RESETTLEMENT

Introduction

1. Projects often necessitate land acquisition, expropriation and/or restrictions on land use, resulting in the temporary or permanent resettlement of people from their original places of residence or their economic activities or subsistence practices. When affected persons and communities do not have the choice to refuse such displacement, this process is known as *involuntary resettlement*.
2. The complexity of displacement must be duly appreciated and its impact and remedy carefully analysed, planned and delivered as it may negatively affect the economic and social well-being of affected people and provoke severe economic and social problems in the origin and host communities. Income sources can be irreparably lost, people can be relocated to environments where their skills may be less applicable and monetary compensation may not be sufficient to prevent long-term hardship or disadvantage.
3. Project-induced *involuntary resettlement should be avoided* by analysing alternative project designs and locations. If it is unavoidable, the promoter, with full involvement in the decision-making process of all stakeholders, and in particular the affected people, should adopt adequate steps to minimise and mitigate its adverse impacts from an early stage. Resettlement is a process to assist those displaced to replace their housing, assets, livelihoods, land, access to resources and services and to improve or at least restore their socioeconomic and cultural conditions to those levels existing prior to the project.¹

Objectives

4. The objectives of this Standard are to:
 - Avoid or, at least minimise, project-induced resettlement whenever feasible by exploring alternative project designs;
 - Avoid and/or prevent forced evictions and provide effective remedy to minimise their negative impacts should prevention fail;
 - Ensure that any eviction which may be exceptionally required is carried out lawfully, respects the rights to life, dignity, liberty and security of those affected who must have access to an effective remedy against arbitrary evictions;
 - Respect individuals', groups' and communities' right to adequate housing and to an adequate standard of living, as well as other rights that may be impacted by resettlement;
 - Respect right to property of all affected people and communities and mitigate any adverse impacts arising from their loss of assets, or access to assets and/or restrictions of land use, whether temporary or permanent, direct or indirect, partial or in their totality. Assist all displaced persons to improve, or at least restore, their former livelihoods and living standards and adequately compensate for incurred losses, regardless of the character of existing land tenure arrangements (including title holders and those without the title) or income-earning and subsistence strategies;
 - Uphold the right to adequate housing, promoting security of tenure at resettlement sites;
 - Ensure that resettlement measures are designed and implemented through the informed and meaningful consultation and participation of the project-affected people throughout the resettlement process;² and,

¹ "All persons, groups and communities have the right to alternative land of better or equal quality and housing that must satisfy the following criteria for adequacy: accessibility, affordability, habitability, security of tenure, cultural adequacy, suitability of location, and access to essential services such as health and education." *Basic Principles and Guidelines on development-based evictions and displacement - Annex 1 of the report to the Human Rights Council of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (A/HRC/4/18)* See http://www.ohchr.org/Documents/Issues/Housing/Guidelines_en.pdf

² Standard 10 provides further details regarding EIB standards on Stakeholder Engagement.

- Give particular attention to vulnerable groups, including women and minorities, who may require special assistance and whose participation should be vigilantly promoted.³

Definitions

5. *Adequate housing*, according to human rights law, must at minimum meet the following criteria⁴:
- Security of tenure* provides occupants with legal protection against forced evictions, harassment and other threats. People living in informal settlements and communities usually lack security of tenure.
 - Availability of services, materials, facilities and infrastructure*: occupants of housing that is adequate must have access to safe drinking water, sanitation and washing facilities, energy for cooking, heating and lighting, food storage, refuse disposal, site drainage and emergency services;
 - Affordability*: the cost of housing must not threaten occupants' ability to satisfy other basic needs, nor must it compromise their security of tenure e.g. because high rent exposes them to lawful eviction for non-payment;
 - Habitability*: adequate housing must guarantee occupants' physical safety and provide adequate space and protection against the cold, damp, heat, rain, wind, and other threats to health and structural hazards;
 - Accessibility*: adequate housing must be accessible to everyone, so that the specific needs of disadvantaged and marginalised groups, such as the elderly, persons with physical or mental disabilities, and children must be taken into account;
 - Location*: housing must be situated so as to allow access to employment opportunities, health-care services, schools, childcare centres and other social facilities. It must not be located in polluted or dangerous areas; and
 - Cultural adequacy*: housing must permit the expression of cultural identity, for example, through methods of house construction and building materials.

In order to ensure security of the home, adequate housing should also include the following essential elements: privacy and security; participation in decision-making; and access to remedies for any violations suffered. In addition to these general United Nations High Commissioner for Human Rights (OHCHR) criteria, adequate housing needs to be contextualised and interpreted in light of the local standards and relevant legislation.

6. *Compensation* refers primarily to the cost of payment for expropriated land (including trees and crops that cannot be harvested), housing, structures, and other fixed assets, including assets acquired for temporary project use. It includes the costs incurred to help directly acquire substitute properties as well as the cost of acquiring resettlement sites. Compensation applies to vendors, enterprises, and other commercial operations, as well as residential units (households).

7. *Compulsory possession* refers to the process whereby the promoter is entitled to take possession of property required for the realisation of the project and duly designated as such, although there may be outstanding grievances and/or pending court judgements concerning the involuntary acquisition or valuation of such asset.

8. *Cut-off date* is set primarily to determine the affected population and their eligibility needs. It is usually the date of the census for identification of persons who will be affected by the project. The cut-off date may also be the date the project area was delineated, prior to the census, provided that there has been an effective public dissemination of information on the area delineated, and systematic and continuous dissemination subsequent to the delineation to prevent further population influx.⁵

9. *Entitlement* refers to a range of measures comprising compensation, income restoration, transfer assistance, income substitution, and relocation which are due to affected persons, depending on the nature of their losses, to restore their economic and social base.

10. *Forced evictions* concern "acts and/or omissions involving the coerced or involuntary resettlement of individuals, groups and communities from homes and/or lands and common property resources that were occupied or depended upon, thus eliminating or limiting the ability of an individual, group or community to

³ Standard 7 provides further details regarding EIB standards on Rights and Interest of Vulnerable Groups.

⁴ The Right to Adequate Housing, UN Habitat, Office of the United Nations High Commissioner for Human Rights, Fact Sheet No. 21/Rev.1. See <http://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf>.

⁵ As provided in the World Bank Involuntary Resettlement Sourcebook: Planning and Implementation in Development Projects (2004) Washington, DC.

reside or work in a particular dwelling, residence or location, without the provision of, and access to, appropriate forms of legal or other protection".⁶ Forced evictions constitute violations of a range of internationally recognised human rights, including the human rights to adequate housing, food, water, health, education, work, security of the person, freedom from cruel, inhuman and degrading treatment, and freedom of movement.

11. *Host community* is the community residing in the areas that had been identified as the new locations as part of resettlement remedial action. These may encompass the actual neighbourhoods/villages/towns where the project-affected persons are resettled to, or may simply neighbour the new settlements but have interaction with, or otherwise be impacted by, the new resettled communities.

12. *Involuntary resettlement* refers to: (a) physical displacement (i.e. physical relocation of residence or loss of shelter), and/or (b) economic displacement (i.e. 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.

13. Resettlement is considered *involuntary* when affected individuals or communities do not have the right to refuse land acquisition resulting in displacement. Involuntary resettlement can be caused by environmental degradation, natural disasters, conflicts or development projects. Even if the resettlement is prompted by public safety concerns (such as natural hazard-induced displacement), it is still considered involuntary if the resettled population has no choice to remain at their location. The involuntary resettlement is associated with loss of housing, shelter, income, land, livelihoods, assets, access to resources and services, among others. These losses occur as a consequence of declaring a public purpose in cases of: (a) land acquisition, (b) expropriation or restrictions on land use based on eminent domain, (c) forfeiting of a livelihood/subsistence strategy dependant on the use of natural resources, and/or (d) negotiated settlements in which the buyer can resort to expropriation or impose legal restrictions on land use if negotiations with the seller fail⁷.

14. Conversely, resettlement is considered *voluntary* when affected persons have the right to refuse land acquisition or engage in open market transactions. Voluntary resettlement implies that the people involved: (i) are fully and a priori knowledgeable about the project and its implications and consequences; (ii) agree freely to participate in the project; and (iii) have the option to agree or disagree with the land acquisition, without adverse consequences imposed formally or informally by the state.

15. *Land acquisition* connotes the process whereby a person is compelled by a government agency to alienate all or part of the land that person owns or possesses to the ownership and possession of the government agency for public purpose in return for compensation. It includes purchases or leasing of land and purchases or leasing of access rights (way-leave).

16. *Project-affected persons (PAPs)* refers to all persons impacted by the involuntary resettlement, including all members of a household (women, men, girls, boys, incl. several generations in the case of extended households); the owner and employees of a business; members of an ethnic minority group; tenants; land owners and sharecroppers; informal settlers (i.e. lacking formal titles); holders of customary land-rights; informal business-operators and their employees/assistants. *Eligible* PAPs may be in any of the following situations: (i) have formal legal rights to the land/structure they occupy; (ii) do not have formal legal rights to land, but have a claim to land that is recognised or recognisable under the national laws (e.g. ancestral, traditional lands); (iii) are dependent on the impacted land for their livelihood by way of customary access to natural resources; (iv) have no recognisable legal right or claim to the land or structure they occupy; and/or (v) economically displaced persons who face loss of assets or access to assets. It is important to note that PAPs are not household units or merely heads of households and different individuals will be differently impacted by the resettlement. For example, gender dynamics need to be duly observed and taken into account throughout the process.

17. *Replacement Cost* refers to the value determined to be fair compensation for: (i) land, based on its productive potential; (ii) houses and structures, based on the current market price of building materials and labor without depreciation or deductions for salvaged building material, and (iii) residential land, crops, trees, and other commodities, based on their market value. Such cost needs to further account for any removal costs, utility connection costs, taxation costs imposed on new housing/re-established businesses etc. Where markets do not exist, surrogate values must be determined.⁸

⁶ Basic Principles and Guidelines on Development-based Evictions and Displacement from Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living. A/HRC/4/18.

⁷ Adapted from IFC Guidance Note 5: Land Acquisition and Involuntary Resettlement (2012).

⁸ As adapted from the World Bank Involuntary Resettlement Sourcebook: Planning and Implementation in Development Projects (2004) Washington, DC.

18. *Restriction of access to natural resources* includes, for example, loss of access to marine fishing grounds, loss of access to sub-surface customary mineral rights by artisanal miners, loss of access to grazing land as a result of project activities.

19. *Resettlement Action Plan (RAP)* is the document in which the promoter of a project or other responsible competent authority describes the impacts of the involuntary resettlement, specifies the procedures that will be followed to identify, evaluate and compensate the impacts and defines the actions to be undertaken during all phases of the resettlement.

20. *Resettlement Policy Framework (RPF)* is a document similar to a RAP carried out when the exact physical and/or economic displacement is unknown due to the nature (existence of multiple components or sub-projects) and/or stage of development of the project. This is typically the case for linear infrastructures. The document should include a commitment for the later implementation of a RAP, outline the general principles of resettlement that shall apply to the (sub-)project(s) and establish the criteria that shall make it necessary to develop a RAP for the underlying (sub-)project(s).

Scope

21. This Standard applies to all components of operations financed by the EIB, including associated facilities, which result in *involuntary resettlement*. It may further apply to activities resulting in involuntary resettlement that in the EIB's judgment are (a) directly and significantly related to the EIB-supported project; (b) necessary to achieve its objectives as set forth in the project documents; and (c) carried out, or planned to be carried out, contemporaneously with the project. Standard 6 shall not apply to instances where resettlement is considered voluntary and conducted as an open market transaction.

22. Standard 6 is of particular relevance where (a) there are identified gaps between national land-acquisition, expropriation and compensation standards and practices and the present Standard; (b) the institutional responsibilities regarding resettlement are complex with several different governmental or non-governmental agencies involved in the process; and (c) there is a risk of underestimating the scope of the required resettlement. This Standard is to be duly cross-referenced with the other EIB Standards and accordingly implemented.

Principles

23. This Standard is consistent with and supports international and EU human rights law.⁹ It specifically supports the right to property, to adequate housing and standard of living and food.¹⁰ The right to adequate housing of those affected by involuntary resettlement under EIB-supported projects and associated operations, shall be respected with non-discrimination as a central human rights principle. This applies to affected persons, groups and communities subjected to involuntary resettlement as well as host communities at relocation sites. It applies to all such persons, whether or not they hold a legal title to their home or property under domestic law. To ensure respect for this right in practice, certain procedural safeguards must be in place, such as involvement of affected persons in decision-making processes and access to grievance mechanisms, as further described in this Standard.

24. The right to housing is one component of the right to an adequate standard of living. Other components include the right to adequate food, clothing and to continuous improvement of living conditions. Resettlement of project-affected persons can threaten their standard of living, for instance, through loss of access to employment or loss of access to natural resources where communities depend for their livelihood on land or resources attached to the land such as water sources, fishing or hunting areas.

25. People are entitled to enjoy the right to an adequate standard of living without discrimination on grounds such as gender, race, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth or other status. This entails the

⁹ Universal Declaration of Human Rights (1948), International Covenant on Economic, Social and Cultural Rights (1966), the Charter of the Fundamental Rights of the European Union (2000). [UN Basic Principles and Guidelines on Development-based Displacement and Evictions](http://www.ohchr.org/Documents/Issues/Housing/Guidelines_en.pdf) [UN Guiding Principles on Business and Human Rights](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf) <http://www.idpguidingprinciples.org/>

¹⁰ Some of the most important international guidelines and practice on this issue are: (a) The UN *Basic Principles and Guidelines on Development-based Evictions and Displacement* presented in the annual report to the UN Human Rights Council by the UN Special Rapporteur on adequate housing, Miloon Kothari, 2007; and (b) U.N. CESCR, *General Comment No. 7: The Right to Adequate Housing: Forced Evictions*, 16th Sess., U.N. Doc. E/1998/22 (1997) Arts. 7, 17 & 18.

requirement to give special consideration to the position of groups at risk of vulnerability or marginalisation such indigenous and tribal peoples and pastoralists.¹¹

26. The promoter is required, as a minimum, to restore the living conditions of those affected by the project and ideally, to work on the continuous improvement of their living conditions.

27. In addition, the EIB is committed to upholding the Aarhus Convention, which emphasises the citizens' rights to justice, to be consulted and to enjoy access to information on projects and plans and programmes that will have environmental and social impacts on them, their assets and their lives.

28. Forced evictions shall not take place. In rare cases when they do, evictions must be carried out lawfully, only in exceptional circumstances and in full accordance with relevant international human rights and humanitarian law.

29. Experience with involuntary resettlement underlines the importance of planning and managing it properly as early as possible in the project life cycle, in consultation with all key stakeholders.

Requirements

Overarching Requirements

Census, Baseline Data and Cut-Off Date

30. The promoter is required to carry out a census and a socio-economic baseline survey to establish the number of people to be displaced, livelihoods affected, and property to be compensated. The surveys should take into account persons affected through anticipated cumulative impacts of the resettlement. The census date is usually also a cut-off date for eligibility claims. The cut-off date may also be the date of the project area delineation, prior to the census, but only following an effective and documented public information dissemination on the area delineated, and systematic and continuous dissemination subsequent to the delineation to prevent further population influx. The census should include an inventory of losses (assets, access to resources or services, etc.), a detailed measurement survey and valuation of lost assets, and it covers the total affected population. The socioeconomic baseline survey can be derived from a sample survey and is critical in identifying the current socio-economic, cultural and political profile of the affected persons; their levels of overall resilience or vulnerability; and ensuing degrees and sorts of impacts. The census and the baseline survey are ideally done in parallel. Alternatively, the socioeconomic survey is done at the preliminary project design stage and the census by the time of the final detailed design. Either way, it is important to consider the timing of safeguards tasks in the project cycle.

31. Cut-off dates determine the eligibility for compensation of project-affected persons. Therefore, they represent the actual date that the project-affected persons' assets and infrastructure at a particular site were recorded during the census survey. Assets like land, structures and others, which are created, encroached or acquired by individuals or groups, after the cut-off dates, will not be eligible for compensation. Issuance of a cut-off date requires the simultaneous clear, public and accessible disclosure of the imminent project activities on the site concerned and their relevant implications for peoples' lives. As the cut-off date is specified in the RAP, it is discussed and agreed with the EIB as part of the RAP preparation process.

32. A census may be revisited in cases when a long time has lapsed between the census undertaking and the implementation of the RAP.

Eligibility Criteria

33. Any person negatively affected by the project is eligible for compensation, livelihood restoration and/or other resettlement assistance.

34. People with formal land title, land use rights, customary or traditional rights to the land as well as those who occupy/use the land but have no formal title for objective reasons are eligible for compensation for land. People who occupy the land but have no formal or informal claim to it, such as squatters, shall be provided resettlement assistance in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the objectives of the resettlement standards laid out in this

¹¹ See EU Guidelines on Land (2004):

<http://ec.europa.eu/development/icenter/repository/EU_Land_Guidelines_Final_12_2004_en.pdf> and the Food and Agriculture Organization's (FAO) Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (2012): <<http://www.fao.org/docrep/016/i2801e/i2801e.pdf>>

Standard, if they occupy the project area prior to a cut-off date established by the promoter and acceptable to the EIB. Such affected persons shall not be compensated for land but for their land improvements or structures, such as houses and/or small businesses, and may qualify for other resettlement and rehabilitation assistance. Resettlement assistance can consist of land, cash, jobs, or other forms of assistance determined in consultation with affected people and acceptable to the promoter. Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance.

35. In addition, seasonal resource users may not be present in the project area during the time of the census and thus appropriate consultation techniques should be used to identify those PAPs.

Relocation Sites

36. Relocation sites shall fulfil as a minimum the following conditions:

- not be situated on polluted land or in immediate proximity to pollution sources that threaten the right to mental and physical health of the inhabitants;
- not be located in zones identified as potentially subject to disaster risk followed by a natural hazard;
- not be threatened by (imminent) eviction (e.g. public right-of-way), thereby augmenting the multiplying effect of the original displacement impact;
- be identified taking into account their adequacy in terms of (a) legal security of tenure; (b) availability of services, materials, facilities and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) potential for further development; (g) have the capacity to accommodate influx of new settlers at acceptable density levels; and (h) location, and cultural adequacy;
- not be on land used by communities which have been displaced as a result of violence or conflict;
- be available and have the capacity to absorb the influx of resettled persons at acceptable density levels, i.e. resettlement should not lead to new resettlement.

37. Affected stakeholders should be consulted on the choice of sites and, as far as possible, offered choices among sites. In cases of physical resettlement, alternative housing should be situated as close as possible to the original place of residence and source of livelihood of those displaced, where possible. Identified relocation sites shall fulfill as a minimum the criteria for adequate housing as identified in the General Comment 4 of the UN Committee on Economic, Social and Cultural Rights, including: (a) security of tenure; (b) services, materials, facilities and infrastructure such as potable water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services, and to natural and common resources, where appropriate; (c) affordable housing; (d) habitable housing providing inhabitants with adequate space, protection from cold, damp, heat, rain, wind or other threats to health, structural hazards and disease vectors, and ensuring the physical safety of occupants; (e) accessibility for disadvantaged groups; (f) access to employment options, health-care services, schools, childcare centres and other social facilities, whether in urban or rural areas; and (g) culturally appropriate housing.¹² If required, an appropriate environmental impacts assessment (EIA) is to be undertaken for the resettlement site.

38. In cases of economic displacement, and where the asset impacted is arable land constituting the primary and sole source of income and subsistence of the affected household, it is equally advisable that land-for-land compensation is suggested, situated as close as possible to the original place of residence.

Compensation and Income Restoration

39. All affected persons will be paid fair compensation in good time for expropriated assets. Compensation should be provided for any loss of personal, real or other property, goods or assets, including rights or interests in property, for instance, land plots and house structures, contents, infrastructure, mortgage or other debt penalties.

40. Where land has been taken, affected persons should be compensated with land of commensurate quality, size and value, or better.

¹² Source: United Nations Committee on Economic, Social and Cultural Rights' General Comment 4, Section 8 (1991).

41. The promoter is required to offer to the affected persons an informed choice of either compensation in kind (land-for-land; land plot and house to replace affected land plot and house) or monetary compensation at the outset. The promoter is expected to comply with the choice stated by the affected persons. Whenever replacement land is offered, affected households should be provided with land for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the land taken. In exceptional cases when this is not possible, adequate compensation must be provided. Monetary compensation shall take into account full replacement cost based on market value, productive potential, or equivalent residential quality, including any administrative charges, title fees, or other legal transaction costs.¹³

42. The value of any improvements to the land, business losses, equipment, inventory, livestock, trees, crops and lost wages or income must also be compensated, along with economically assessable damage, including: property or interests in property, goods, assets, use-rights or rights of access to natural resources, loss of life or limb; physical or mental harm; lost opportunities, including employment, education and social benefits; material damages and loss of earnings, including loss of earning potential; moral damage; costs required for legal or expert assistance, medicine and medical services, and psychological and social services; and costs of salvage and transport. To enable affected persons to make productive use of cash compensation, it should be paid in its entirety and in a timely manner.

43. In cases of loss of housing, replacement housing offers must satisfy criteria of adequate housing, as defined above. Compensation for houses and other structures should be equivalent to replacement cost plus relocation costs. Depreciation of assets or the value of salvage materials shall not be deducted from the value of replacement cost.

44. The situation of any project-affected persons who were subject to substandard living conditions prior to the project is to be improved following displacement.

45. Where the option of cash compensation or alternative accommodation is provided, the cost estimates for providing alternative accommodation could be used for calculating cash compensation payable. For movable structures, such as kiosks or stalls, comparable replacement sites should be offered. A good practice is to calculate replacement cost for such structures as the cost of alternative sites, the cost of replacing improvements (such as foundations), and relocation expenses or other transaction costs.¹⁴

46. The promoter is required to have made the payment by check or deposited beforehand the agreed compensation (as per valuation undertaken) to an individual or joint account for the affected person's access.

47. The promoter must ensure that compensation and income restoration measures are implemented without discrimination based on gender, race, ethnicity, religion, disability or other prohibited grounds. Regarding gender, the promoter must ensure equal treatment of women during compensation and income restoration processes, especially with regard to women's rights and interests in land, property, assets, and compensation and relocation assistance, even where these are not recognised in formal law. Within household units, it is encouraged that titles of replacement land and structures are issued in the names of the head of household and his wife, rather than merely the former.

Resettlement Assistance

48. Regardless of the circumstances and without discrimination, the promoter will ensure that affected persons or groups identified in the census, especially those who are unable to provide for themselves, have, during and after resettlement, safe and secure access to: (a) essential food, potable water and sanitation; (b) basic shelter and housing; (c) appropriate clothing; (d) essential medical services; (e) livelihood and subsistence sources; (f) fodder for livestock and access to common property resources previously depended upon; and (g) education for children and childcare facilities.¹⁵

¹³ As adapted from World Bank Involuntary Resettlement Sourcebook: Planning and Implementation in Development Projects (2004) Washington, DC.

¹⁴ As adapted from World Bank Involuntary Resettlement Sourcebook: Planning and Implementation in Development Projects (2004) Washington, DC. For further detailed guidance on compensation valuation, see: http://www4.worldbank.org/afr/ssatp/Resources/HTML/Gender-RG/Source%20%20documents%5CTool%20Kits%20&%20Guides%5CDesigning%20Projects/TLPRO10%20invol%20resettlement_sourcebookWB.pdf

¹⁵ Source: Basic Principles and Guidelines on Development-Based Evictions and Displacement. Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living. A/HRC/4/18

49. When possible, resettlement should also provide opportunities to affected and host communities to improve social and public infrastructure with the aim of contributing to the sustainable socio-economic development of their members.

Consultation

50. Resettlement is often a complex process involving a variety of stakeholders, including project-affected people, host communities, the promoter, community-based organisations (CBOs), non-governmental organisations (NGOs) and a multitude of governmental agencies, national and local. It is crucial that the promoter identifies and consults with all persons and communities involved in the resettlement process, including the host communities who will receive those who are resettled. All relevant stakeholders must be given the opportunity for informed participation in resettlement planning with the goal that the mitigation of the adverse project impacts is appropriate and the potential benefits of resettlement are sustainable. Consultation will continue in accordance with Standard 10 on Stakeholder Engagement and during the implementation and monitoring of the resettlement process.

51. In line with this, opportunities for dialogue and consultation must be extended effectively to the full spectrum of affected persons, paying particular attention to the full participation in the consultation process of women, vulnerable and marginalised groups, in accordance with Standard 7, and, where necessary, adopting additional/complementary special measures or procedures. Limiting such consultation to heads of communities and/or households alone risks missing key gender dynamics in households and, as a result, further deteriorating the standing of women. It is therefore important to hold also separate consultations with women only, possibly broken down by different age groups.

52. Wide consultation within each household unit is critical in cases of extended families, if conflicts are to be effectively mitigated.

Grievance Mechanism

53. The promoter shall set up and maintain a grievance mechanism that is independent, free and in line with the requirements set out in Standard 10 and that will allow prompt addressing of specific concerns about compensation and relocation from the affected people and host communities and other directly involved entities. The mechanism should be easily accessible, culturally appropriate, widely publicised, and well integrated in the promoter's project management system. It should enable the promoter to receive and resolve specific grievances related to compensation and relocation by affected persons or members of host communities, and use the grievance log to monitor cases and improve the resettlement process.

Forced Evictions

54. Any forced evictions shall be undertaken in full respect for human rights. In rare cases where the promoter is compelled to proceed with compulsory possession, the rationale justifying this action needs to be provided to the EIB in advance. In order to avoid breaching human rights, and in line with the UN Basic Principles for Development-based Evictions and Displacement and other relevant standards, the EIB requires that any such evictions:

- (a) are authorized by law;
- (b) are carried out in accordance with international human rights standards, including with the procedural protections against forced evictions outlined in General Comment 7 of the UN Committee on Economic, Social and Cultural Rights;¹⁶
- (c) are undertaken solely for the purpose of promoting the general welfare;
- (d) are reasonable and proportionate with regard to promoting the general welfare; and,
- (e) ensure full, fair and timely compensation, rehabilitation and non-regression of rights including the right to an adequate standard of living.¹⁷

55. Before any decision to initiate a process of compulsory possession, the promoter must demonstrate to the EIB that this is unavoidable and that the above conditions can be met in the event that forced evictions are required.

¹⁶ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 7: The right to adequate housing (Art.11.1): forced evictions, 20 May 1997, E/1998/22, available at: <http://www.refworld.org/docid/47a70799d.html>.

¹⁷ The UN Basic Principles and Guidelines on Development-based Evictions and Displacement. See <http://www.ohchr.org/Documents/Issues/Housing/Guidelines_en.pdf>

Procedural Requirements

Screening and Appraisal

56. The applicability of Standard 6 to the promoter will be determined during the EIB's environmental and social screening process. The promoter will indicate to the EIB, as early as possible, any expropriation, land acquisition and leasing and/or involuntary movement of people and likely restrictions on access to land, shelter and/or livelihood and subsistence strategies resulting from the proposed investment. If one or more of these potential impacts is identified, the standards laid out in this document will be applied. It is essential that such communication occurs at the very outset of the EIB's engagement, so as to allow for a timely introduction of ex-ante resettlement action.

57. In so doing, the promoter will identify the nature and magnitude of the likely involuntary resettlement, explore alternative designs that might minimise displacement and provide information on the capacity of Sponsors or the competent public authorities to support the processes involved (e.g. approaches to issues of land acquisition and compulsory purchase; procedures for handling disputes, land registration, and the provision of social safety nets). The promoter will also outline the required resources, including funding, staff, and time required to carry out any resettlement activities as per EIB standards, including the type and cost of needed technical assistance. The promoter will further address the impoverishment risks (e.g. those resulting from changes from land-based livelihood strategies to wage-based strategies, the sustainability and security of alternative employment strategies, opportunities for employment during project implementation or resulting from the project) and suggest proposed measures for restoring and preferably improving livelihoods. When resettlements relating to the operation have taken place prior to the EIB's involvement, the promoter will provide all relevant information in relation thereto upon request from the EIB.

58. The promoter will provide the EIB with adequate documentation in relation thereto, namely an acceptable Resettlement Policy Framework (RPF) or Resettlement Action Plan(s) (RAP). No work activities shall commence before the promoter has addressed the involuntary resettlement in a manner consistent with the principles and standards presented here and satisfactory to the EIB.

Planning Tools

60. Given that EIB works with both the *private and public sector* alike, it is important to note that the roles and responsibilities in the resettlement process may vary on the promoter's side, depending on the type of the promoter. Regardless of whether the promoter is from the public or private sector, public authorities usually plays a central role in the land acquisition and resettlement process, including the determination of compensation, and is therefore an important stakeholder in most situations.

61. To help avoid expropriation and the need to turn to public authorities to enforce relocation, both *private and public sector promoters* are advised to use negotiated settlements and facilitate resettlement on voluntary basis (i.e. acquire land through voluntary sale at market price) or consider different locations. It is important to document when the sale is voluntary. However, when the project location is fixed and involuntary resettlement is unavoidable, direct involvement of private sector promoters is encouraged so as to contribute to more integrated cost-effective, efficient, and timely implementation of those activities.

62. In the case of projects involving involuntary resettlement, the promoter will provide the EIB with the relevant RPF and/or RAP(s) that is satisfactory to the EIB and commensurate with the extent and degree of the impacts: the scope of physical and economic displacement and the vulnerability of the affected persons. No involuntary resettlement or forced evictions shall take place before a comprehensive resettlement policy framework or plan consistent with the present Standard and its associated principles is in place. The plan shall clearly indicate how affected populations, including women, minorities and other vulnerable groups have been effectively consulted and how their views were taken into account.

63. A RPF is required for projects where the exact project design and respective footprint and associated impacts (locations and numbers of people impacted by involuntary resettlement) have not been determined or several sub-projects are involved. Once the project design is specified and the necessary information about the project impacts is available, an RPF shall be further developed into Resettlement Action Plan(s). The promoter is responsible for preparing, implementing, and monitoring the relevant RPF/RAP (s) complying with this Note.

64. A RAP) is required for all operations that entail involuntary resettlement unless otherwise specified.

65. Both RPFs and RAPs need to include measures to ensure that the displaced persons are:

- (i) informed about their options and rights pertaining to resettlement;

- (ii) effectively consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives which take into account the suggestions made by the affected community as much as possible;
- (iii) provided prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project;
- (iv) provided assistance (such as moving allowances) during relocation;
- (v) provided with residential housing, or housing sites, or, as required, agricultural or business sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site (in exceptional cases when this is not possible, adequate compensation must be provided);
- (vi) offered compensation for loss of income for a transition period as a form of support after resettlement, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living. Compensation for loss of income is initially advised for the first three (3) months; only a singular repetition of this period is foreseen, not exceeding a total of six (6) months whereby loss of income may be compensated for;
- (vii) offered assistance for livelihood restoration or improvement through provision of training, credit, job placement, and/or other types of assistance; and,
- (viii) offered an appropriate grievance mechanism that will allow prompt response to specific concerns related to compensation and resettlement by affected people and host communities.

66. The promoter shall develop a RPF/RAP in line with the EIB requirements and will have to receive EIB's non-objection before implementation. Arrangements for the implementation of the plan(s) will be agreed with the EIB and will be incorporated into the RAP and the project finance contract.

Resettlement Action Plan (RAP)

67. Displaying due regard for the equal protection of women and vulnerable groups or minority rights, the RAP delineates measures to:

- a) mitigate the negative impacts of resettlement and identify potential development benefits;
- b) assure that the rights and interests of project-affected people are respected and protected, in particular those deemed vulnerable;
- c) establish the entitlements of all categories of affected people, including the host communities;
- d) introduce any additional accompanying measures for vulnerable affected persons, if relevant;
- e) document all compensation measures and relocation activities;
- f) establish procedures to document all compensation measures and relocation activities and guarantee due process to the affected people, such as meaningful consultation, adequate information to the affected people and sufficient notice before eviction, together with a free and independent grievance mechanism; and
- g) establish organisational arrangements and procedures to monitor the implementation of resettlement plans and take corrective actions as necessary.

68. At a minimum, the RAP should:

- a) state the resettlement guiding principles and objectives;
- b) describe the nature and magnitude of project impacts and identify all people to be displaced, paying special attention to vulnerable groups;
- c) carry out a census to establish the number of people to be displaced, livelihoods affected, property to be compensated and the cut-off date for eligibility claims;
- d) describe the legal framework expected to guide this Plan's land acquisition (when applicable), compensation, resolution of conflicts and appeals procedures;
- e) include an analysis of applicable national legislation, highlighting gaps with EIB requirements and required bridging measures;

- f) propose how to fill the gaps between national law and EIB requirements should such gaps be identified;
- g) describe institutional set-up and responsibilities;
- h) establish the eligibility criteria and describe the entitlements for all categories of displaced people and types of impacts suffered;
- i) describe how affected populations, including women, minorities and other vulnerable groups, have been effectively consulted and how their views were taken into account;
- j) include valuation of and compensation for lost assets and loss of income and demonstrate that these rates are adequate, i.e. at least equal to the replacement cost of lost assets/income or meeting minimum average wage thresholds;
- k) provide details of sustainable arrangements for improving the standards of living of displaced persons;
- l) provide details of sustainable arrangement for improving or, at minimum, restoring livelihoods;
- m) prepare a grievance mechanism for the settlement of disputes arising from resettlement related issues¹⁸ ensuring access to grievance and recourse for all affected persons; and,
- n) include implementation schedule, budgets, and arrangements for monitoring and evaluation.

Resettlement Policy Framework (RPF)

69. The RPF is a document clarifying:

- a) the resettlement principles to be observed;
- b) organisational arrangements guiding resettlement action;
- c) the associated legal framework, due process, entitlements, procedures;
- d) design criteria to be applied to sub-projects;
- e) estimate – to the extent feasible – of the total population to be displaced and the overall resettlement impacts and costs;
- f) disclosure, consultation and participation principles; and,
- g) grievance redress provisions.

Implementation and Monitoring

70. The promoter's obligations to implement a RAP and to report to the EIB on implementation progress will be provided for in the project's legal agreements. The promoter shall set up necessary systems (i.e. resources, staff, and procedures) to monitor the implementation of a RAP on a regular basis and take corrective action as necessary. Affected persons will be consulted as part of the monitoring activities. The implementation and effectiveness of the resettlement action plan shall be subject to monitoring and review by qualified resettlement specialists and/or other independent third parties as appropriate and commensurate to the scale and risks involved in the resettlement.

71. Implementation of a RAP will be considered completed when the adverse impacts of resettlement have been addressed in a manner that is consistent with the relevant plan and requirements outlined in this Standard. It is good practice for the promoter to present to the EIB an accountability report upon the completion of the RAP implementation, prepared by an external party. The accountability audit will include, at a minimum, a review of the mitigation measures implemented by the promoter, a comparison of implementation outcomes against agreed objectives, and a conclusion as to whether any follow-up actions and further monitoring are needed.

¹⁸ The promoter shall ensure that adequate and effective legal or other appropriate remedies are available to any person claiming that his/her right to protection against forced evictions has been violated or is under threat of violation. A/HRC/4/18

7. RIGHTS AND INTERESTS OF VULNERABLE GROUPS

Introduction

1. Some individuals or groups may be less resilient to risks and adverse impacts than others. Within the context of EIB operations, individuals and/or groups who are at a higher risk of being unable to anticipate, cope with, resist and recover from project-related risks and/or adverse impacts are considered vulnerable. Vulnerable individuals or groups may include women, children, the elderly, the poor, ethnic, religious, cultural or linguistic minorities, or indigenous groups.

2. Vulnerability is not inherent and does not occur in a vacuum. Women for instance are not inherently more vulnerable than men; but discrimination, entrenched social roles and attitudes, poverty and lack of access to decision-making can weaken their resilience and render them vulnerable to adverse project impacts. Vulnerability is thus context-specific and is to be understood through the interplay of three factors: (1) exposure to risk and adverse impacts; (2) sensitivity to those risks and impacts; and (3) adaptive capacity.

3. Vulnerable individuals and groups (1) are usually exposed to several risks and adverse impacts at once; (2) are more sensitive to those risks and impacts, having been subject to pre-existing discrimination, financial, socio-economic, cultural and/or gender inequalities, of their geographical location, their dependence on the environment and/or limited or no access to justice and decision-making; and (3) have a weaker adaptive capacity for coping with those risks and recovering from those impacts, due to limited access to necessary assets and/or resources¹⁹. As a result, they risk being disproportionately affected by project-related risks and adverse impacts.²⁰

Objectives

4. Standard 7 sets out to avoid or minimise, or otherwise mitigate and remedy²¹, potential harmful effects of EIB operations to vulnerable individuals and groups whilst seeking that these populations duly benefit from such operations. As a means to foster those project outcomes, Standard 7 proposes a framework and tools to address inequalities and other factors contributing to vulnerability, and, as appropriate, to allow for equal access to and enjoyment of project benefits for those individuals and groups.

5. Specific objectives are to:

- Affirm, respect, and protect the rights and interests of vulnerable individuals and groups within the designated operational scope, throughout the project lifecycle. Such rights include the right to non-discrimination, the right to equal treatment between women and men and the rights of indigenous peoples;
- Adopt a gender-sensitive approach to the management of environmental and social impacts, that takes into account the rights and interests of women and girls, men and boys, including specific attention to the differentiated burden of impacts that women and girls might face;
- Identify and avoid adverse impacts of EIB operations on the lives and livelihoods of vulnerable individuals and groups, including women and girls, minorities and indigenous peoples. Where avoidance is not feasible, to reduce, minimise, mitigate or effectively remedy impacts;
- Ensure that vulnerable individuals and groups are duly and early on identified in EIB operations and that engagement is meaningful, taking into account individuals' and communities' specificities, and delivered in an appropriate form, manner and language; and
- Enable vulnerable groups, including women and girls, minorities and indigenous peoples to benefit from EIB-financed operations.

6. This Standard is to be applied in synergy and cross-reference with EIB's other Standards, as relevant.

¹⁹ Including social, physical, financial, natural, human and cultural assets, and technological resources, knowledge and governance.

²⁰ As adapted from World Bank SDCC Learning in Focus: Vulnerability, exposure, sensitivity and adaptive capacity.

²¹ Echoing Article 2 of the International Covenant on Civil and Political Rights, Article 2, para. 2 of the International Covenant on Economic, Social and Cultural Rights

Definitions

7. *Non-discrimination* is a crosscutting and fundamental principle, applying to everyone in relation to their full enjoyment of all human rights and freedoms. It is enshrined in Article 21 of the Charter of Fundamental Rights of the European Union and Article 1 of the Universal Declaration of Human Rights (UDHR). The principle of non-discrimination requires the establishment of equality in fact as well as equality in law. Equality in law precludes discrimination on any ground such as sex, age, race, colour, physical ability, religion, language, political or other opinion, ethnicity, national or social origin, property, birth or other status. Equality in fact may require differential treatment (i.e. positive discrimination) in order to attain a result which establishes an equilibrium between different situations.²²

8. *Vulnerability* is determined by (1) the exposure to risks, shocks, and stress situations befalling people, (2) their sensitivity to those risks, shocks and stress situations, and (3) the means they possess to withstand or adjust to damaging loss. Vulnerability can be understood in terms of a lack of resilience to changes that threaten welfare; these can be environmental, economic, social and political, including those linked to project impacts. Such changes usually bring risk and uncertainty. Poverty, isolation, insecurity, entrenched social attitudes, gender roles, systemic discrimination and language barriers, amongst others, constitute causal factors for the emergence or reinforcement of vulnerability.

9. *Vulnerable groups* are population groups that suffer from discrimination, unequal access to rights, unequal access to and control over resources or unequal access to development opportunities. As a result, they may be poorly integrated into the formal economy, may suffer from inadequate access to basic public goods and services, may be excluded from political decision-making, and may therefore face a higher risk of impoverishment and social exclusion. More often than not, the resilience levels of such groups to adverse impacts are lower. Such groups may include ethnic, religious, cultural, linguistic minorities, indigenous groups, female-headed households, children and youngsters, the elderly, persons with disabilities, and the poor. In conflict zones and post-conflict contexts, certain groups may suffer further (e.g. women and children lacking the capacity to claim heritage from missing parents) and new categories may appear such as refugees, returnees, internally displaced people and demobilized soldiers in need of economic and social reintegration into society.

10. *Minorities* are population groups sharing an ethnicity, religious beliefs, cultural practices or language or dialect distinct to the majority ethnic, religious, linguistic, cultural identity and practices. Minorities are acknowledged as such, by their sovereign nation-states or the states in which they reside, or by relevant international bodies, ethnic minorities' observatories and monitoring entities. They tend to be subject to unequal or differential treatment, or collective discrimination and exclusion from political decision-making. The definition of minorities may further carry a spatial dimension.

11. *Gender dynamics* refer to the set of social interactions which assign different social, economic and political roles to women and men in a community. Gender dynamics underpin and reflect unequal access to rights, assets and representation, thereby differentiating women's and men's opportunities to recover from impacts and to benefit from a project.

12. *Indigenous peoples* are defined as a distinct social and cultural group, possessing some or all of the following characteristics in varying degrees.²³

- a) Self-identification as indigenous;
- b) A shared experience of oppression or colonisation;
- c) Historical continuity within a given region prior to colonisation or annexation;
- d) Collective entitlement and/or attachment to ancestral lands, territories and natural resources in their habitats and use thereof;
- e) An indigenous language, often different from the national or regional language;
- f) Distinct social, economic and political systems;
- g) Activity in non-dominant sectors of society;
- h) Distinct languages, spiritual traditions, culture, beliefs and knowledge;

²² As adapted from the Human Rights Committee's General Comment on Non-discrimination: General Comment no. 18: non-discrimination: 10/11/1989. CCPR General Comment. OHCHR.

²³ Based on ILO Convention 169 and the work of the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples.

- i) Land/natural resources-dependent means of existence; primarily self-sufficient production; and
- j) A shared wish to maintain and develop a distinctive shared identity, spirituality as well as social economic, cultural and political institutions.

In different countries indigenous peoples may for example be referred to as “ethnic minorities”, “aboriginals”, “hill tribes”, “minority nationalities”, and “tribal groups”. Determining whether a particular group is considered indigenous peoples normally requires reference to the concerned country’s own legislation. However, as indigenous people may sometimes not be recognised by their own national context, attention should be paid to evidence of self-identification as indigenous people, to the activity of indigenous people’s representative organisations and institutions, to relevant international or regional intelligence, and to shared IFI knowledge and practice. Finally, the technical judgement of qualified social scientists should be sought.

13. *Free, prior and informed consent* (FPIC) is a specific right originally acknowledged in the case of indigenous peoples, as recognised in the United Nations Declaration on the Rights of Indigenous Peoples. It is triggered by specific circumstances and strictly defined project impacts (e.g. REDD+ financing). Standard 10 includes reference and guidance on the application of FPIC.

Scope

14. The applicability of this Standard is established during the environmental and social impacts and risks identification process. The implementation of the actions necessary to meet the requirements of this Standard is managed through the promoter’s overall environmental and social management plan, the elements of which are outlined in Standard 1.

Principles

15. The EIB is committed, in line with its position as a body of the European Union, to the European Charter of Fundamental Rights, to the promotion of the full and free enjoyment of all human rights, not to be impeded by instances of discrimination and/or inequality of treatment by the law. The principles and practices established in this Standard are firmly embedded in EU law and the Union’s Charter. The principal human rights relating to this Standard are those entailed under the Equality chapter of the Charter, essentially the right to non-discrimination, to equality before the law, cultural, religious and linguistic diversity, equality between men and women, the rights of the child, the rights of the elderly and the integration of persons with disabilities.

16. The Decision of the European Parliament and of the Council on the External Mandate creates a renewed environment for EIB external operations, which is explicitly aligned with existing high-level commitments made through the European Consensus on Development (Joint statement by the Council, the EP and the EC ref:2006/C 46/01), the Paris Declaration of 2005 and the Accra Agenda for Action of 2008, all with an objective of meeting the Millennium Development goals, specifically poverty alleviation and sustainable development. These commitments resonate in the provisions of this Standard.

Requirements

Overarching Requirements

17. The promoter will take the necessary measures to appropriately manage the risks and adverse impacts of the EIB operation on vulnerable individuals and groups, including on women and girls, minorities and indigenous peoples. In so doing, the promoter will seek to avoid, minimise, or otherwise mitigate or remedy the exposure of vulnerable populations to project-related risks and adverse impacts. As a means to foster those project outcomes, the promoter will properly address discriminatory practices, inequalities and other factors which contribute to vulnerability and will, as appropriate, strengthen the adaptive capacity of vulnerable individuals or groups by promoting inclusive development and benefit-sharing.

18. The need for such measures is particularly critical in situations where discrimination is systemic and entrenched, governance is poor or protection of the rights of vulnerable groups is weak, in particular in potential conflict or post-conflict zones. In particular, the promoter will report to the EIB from the very outset the confirmed or potential presence of indigenous or tribal population groups in the area of influence of the EIB financed operation.

Procedural Requirements**Screening**

19. During the screening phase, the promoter will identify the individuals and groups who might be vulnerable and at risk of suffering adverse, compounded or disproportionate impacts, be discriminated against or excluded from intended benefits in the given project context. The promoter will ascertain the presence of any groups of peoples with particular rights that will need to be respected, for example indigenous peoples, ethnic minority groups, or children. A high-level analysis of the nature and degree of discrimination and vulnerability already experienced by individuals, communities and/or groups in the context of the project will be performed. If vulnerable individuals or groups are identified, the screening will proceed to determine at minimum:

- a) the main characteristics of the individuals and groups, and the nature of discrimination they suffer and of their vulnerability (including any existing inequalities and exclusion practices);
- b) the country's institutional and legal framework determining the identification of indigenous peoples, minorities and other vulnerable groups, as per this Standard;
- c) the current legal status regarding gender relations and the rights and status of women and girls, indigenous peoples or minorities and associated parameters, such as land tenure indicating basis for recognition, customary use of the land, any potential claims/actions, as relevant within the operation's area of influence;
- d) the type, scope and extent of project-related risks and potential impacts, both positive and negative, on such individuals and groups, against the backdrop of the country's institutional and legal framework and existing or anticipated discriminatory norms and practices against them;
- e) whether and which special measures and specific actions need to be taken to avoid, minimise, or otherwise mitigate or remedy negative impacts on vulnerable individuals and groups, and to reinforce positive effects as appropriate;
- f) the potential shortcomings of the institutional framework to achieve the objectives of this Standard, in particular regarding engagement and implementation; and,
- g) the need for technical assistance or capacity building for the promoter or others facilitating the effective management of risks falling under this Standard.

Appraisal and Monitoring**Social Assessment**

20. Where the screening process determines that (i) potential adverse impacts on vulnerable groups are present or (ii) relevant additional information is required, a more in-depth social assessment should be undertaken by the promoter. The assessment should specifically probe into the following elements, including through careful analysis of the legal framework and through collection of baseline data, disaggregated by factors such as gender, ethnicities, age, etc.:

- a) vulnerability profile of affected population;
- b) assessment of the specific context, including legal and institutional parameters;
- c) analysis and assessment of the historical frequency and severity of discrimination, social, economic or political exclusion and marginalisation suffered by the identified population;
- d) the scope and nature of adverse impacts and their effect on the identified population when compounded with their pre-existing vulnerability, and their access to resources and cultural heritage;
- e) specific actions, past or future, to avoid, minimise, or otherwise mitigate or remedy negative impacts and, as appropriate, to reinforce positive effects, including identifying opportunities and actions to promote benefit-sharing modalities for the communities; and
- f) in line with Standard 10, an appropriate engagement, consultation and participation plan, describing relevant consultation mechanisms.

Public Consultation and Participation

21. As set out in Standard 10, consultations are crucial and should be integrated at each stage of project preparation and implementation. In affirming the human rights-based principles of participation, non-discrimination and transparency in engagement and consultation, the promoter will provide discriminated and affected vulnerable groups as early as possible with all the relevant information about the project (including an assessment of potential adverse effects and projected benefits of the project). This is to be done in a culturally appropriate manner. Under-represented groups on account of gender, poverty or other elements of social vulnerability should be given equal opportunity to voice their opinions and concerns, and these should be accounted for in the project decision-making.

22. Information will be disclosed in the local language(s) and in a manner that is timely, accessible and culturally appropriate, taking into account any vulnerable or minority groups and their right to equitable representation and consideration for their rights, views and interests. It may be relevant and helpful to include other participants, notably representative institutions, Civil Society Organisations/Community Based Organisations (CSOs/CBOs), international and local advocacy groups and academic experts, if a better understanding of the context and an identification of suitable solutions is to be facilitated during the consultation process. Promoters may provide targeted capacity building or other assistance so as to allow vulnerable individuals or groups impacted by the project to fully and effectively participate in engagement and consultation processes.

Monitoring

23. Long-standing discriminatory perceptions and practices are pervasive and do not eclipse quickly. Guided by this understanding, where this Standard is triggered, the promoter will ensure that the existing monitoring practices are duly adjusted so as to be effectively responsive to the rights and interests of vulnerable population groups, safeguarding them from instances of discrimination and unequal treatment. In this sense, a tailored monitoring system, with relevant and disaggregated indicators that capture the specificities of any vulnerable population groups in the project and track the unfolding of engagement and consultation processes, the impact of the project and the implementation of impact management actions should be put in place. It is further recommended that the promoter, as part of its monitoring activities, maintains regular contact and consults with the relevant CSOs/CBOs and other relevant locally-based organizations (national human rights institutions, universities and research centres, international agencies, etc.).

Indigenous Peoples

24. Indigenous peoples are a specific case in terms of their history, their social and political organisation, their land-dependent livelihood strategies, their rights to self-determination and the need to safeguard both their collective and individual human rights. Where EIB operations encounter, affect or threaten the customary rights and interests of indigenous peoples, and where specific actions and outputs are required from promoters, particular attention to social due diligence is mandated. The UN Declaration on the Rights of Indigenous Peoples (UNDRIP)²⁴ is the guiding document of reference in this respect for the EIB.²⁵ A gender-sensitive approach endeavouring to promote the rights and interests of women and girls in indigenous communities constitutes a further layer of due diligence required.

25. In all instances involving indigenous peoples, an *Indigenous Peoples Development Plan* must be prepared, abiding by the principle of free, prior and informed consent (FPIC) and accounting, amongst others, for the recognition awarded by the state to the indigenous groups or communities affected, the

²⁴ http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

²⁵ The UN Declaration on the Rights of Indigenous Peoples (UNDRIP) declares that “indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law” (UNDRIP, Art. 1). The Declaration sets out to guarantee the rights of Indigenous peoples to enjoy and practice their cultures and customs, their religions, and their languages, and to develop and strengthen their economies and their social and political institutions. Indigenous peoples have the right to be free from discrimination, and the right to a nationality. Article 3 of UNDRIP recognizes Indigenous peoples’ right to self-determination, which includes the right “to freely determine their political status and freely pursue their economic, social and cultural development”, whilst Article 4 affirms indigenous peoples’ right “to autonomy or self-government in matters relating to their internal and local affairs,” and Article 5 protects their right “to maintain and strengthen their distinct political, legal, economic, social and cultural institutions” Article 26 states that “indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired,” and it directs states to give legal recognition to these territories. The Declaration does not override the rights of indigenous peoples contained in their treaties and agreements with individual states, and it commands these states to observe and enforce the agreements.

duty of the state to consult them, the safeguarding of both their tangible and intangible cultural heritage, their link to resources and territories, and considerations of benefit sharing arrangements with them.

26. It is acknowledged that when detailed biodiversity assessments are undertaken as part of an ESIA process in line with Standard 3, indigenous populations often enjoy links to their environment and surrounding natural resources in terms of ancestral land rights, sense of belonging, living grounds, livelihood strategies or cultural heritage ties, which can be of critical significance. As a result, such an assessment should take into account the views, roles and rights of indigenous peoples groups, of relevant NGOs and local communities affected by the project and involve, to the extent possible, such people in the management of natural resources located within the area of influence of the EIB operation. Such assessment ought to ensure that projects take into account the rights and interests of indigenous peoples, as these are related to natural resources, as well as biodiversity conservation concerns.

Indigenous Peoples Development Plan (IPDP)

27. When projects involve indigenous populations, a detailed social assessment duly tailored to the cultural and socio-economic specificities and sensitivities of indigenous communities must be undertaken, which includes the following components:

- a) a review of the legal and institutional framework applicable to indigenous peoples;
- b) baseline information on the demographic, social, cultural and political organisation characteristics of the affected communities, their land, territories or natural resources, as well as linkages to biodiversity considerations;
- c) culturally appropriate consultation mechanisms;
- d) an assessment of risks, vulnerability levels and potential project impacts (both positive and negative), based on free, prior and informed consent with the affected communities;
- e) the identification of measures to prevent, minimise, mitigate or effectively remedy adverse effects, defined in consultation with the affected groups;
- f) the clear and detailed identification of benefit-sharing arrangements, aiming to promote the well-being of the IPs;
- g) appropriate and adequate grievance procedures, considering the availability of judicial recourse and customary dispute settlement mechanisms among the indigenous peoples; and,
- h) monitoring and reporting arrangements, including reporting mechanisms and benchmarks appropriate to the project.

28. This information should then feed into the formulation by the promoter of an Indigenous Peoples Development Plan (IPDP) that is consistent with the international human rights of indigenous peoples as well as the expectations of this standard.

29. The IPDP may be free-standing or a component of a broader social management plan in cases where indigenous communities co-exist in the same area with other affected communities.

30. Assurances over the timely disclosure of the IPDP, including outputs linked to the FPIC process, should be provided. The promoter is expected to publicly disclose the final draft of the IPDP to the affected indigenous peoples' communities in an appropriate form, manner, and language. Once adopted and agreed upon by the indigenous peoples and the EIB alike, the promoter will make these documents available to the affected indigenous peoples' communities in the same manner as the earlier final draft documents.

Free Prior Informed Consent (FPIC)

31. The principle of free, prior informed consent (FPIC) refers to the process whereby the affected community of indigenous peoples arrives at a decision in accordance with their legal provisions, cultural traditions and practices. The UN Declaration on the Rights of Indigenous Peoples in 2007 will serve as guidance when implementing the FPIC process.

32. The FPIC process should produce a clear endorsement or rejection by the indigenous peoples concerned of the proposed intervention and a statement of all accompanying mitigating and remedial measures and benefit-sharing agreements. As such, it is the main instrument ensuring that at the project level the indigenous peoples' priorities for economic, social and cultural development and environmental protection are promoted, as duly informed by their traditional cultures, knowledge and practices. It is

fundamental to the exercise of their inherent right to self-determination. In those cases where the host government has already approved the project considered by the EIB for financing, the promoter will nonetheless need to verify, by way of the FPIC process, the levels and nature of free, prior and informed consent to the undertaking by the indigenous peoples concerned, as well as the adequacy and compliance with EIB standards of the mitigation measures and benefit-sharing arrangements proposed.

33. Promoters will refer to the relevant section on FPIC in EIB Standard 10 for more elaboration on the principles and requirements guiding the application of FPIC.

Indigenous Peoples Planning Framework

34. In cases where all of the relevant information is not available to develop an IPDP, the promoter may initially be requested to prepare an Indigenous Peoples Planning Framework (IPPF).

35. An acceptable IPPF is conceived as a more high-level, strategic document addressing the steps required for the IPDP undertaking, and is expected to outline in broader terms the following:

- (a) the project background;
- (b) the objectives of the IPPF;
- (c) The strategy for ensuring the effective participation of affected indigenous peoples, including a framework for ensuring free, prior, and informed consent with the affected indigenous peoples' communities at each stage of project preparation and implementation;
- (d) the strategy to ensure that project benefits will accrue to the indigenous peoples, and to mitigate any adverse impacts;
- (e) the institutional arrangements for screening project-supported activities, evaluating their effects on indigenous peoples, preparing an Indigenous Peoples Plan (IPDP), and addressing any grievances;
- (f) a plan for carrying out the social assessment for the IPDP and associated programmes or subprojects;
- (g) the types of programmes and subprojects likely to be proposed for financing under the project;
- (h) the potential positive and adverse effects of such programmes or subprojects on Indigenous Peoples;
- (i) the institutional arrangements for preparing and implementing the IPDP and associated sub-projects;
- (j) the disclosure arrangements for the IPDP and associated sub-projects to be prepared under the IPPF;
- (k) the monitoring and reporting arrangements, including reporting mechanisms and benchmarks appropriate to the project; and,
- (l) a budget for formulating and implementing the IPDP and associated sub-projects.

8. LABOUR STANDARDS

Introduction

1. The workforce is a valuable asset for any company. Sound management of human resources and of worker relations is key for sustainable business practices. The development of fair, safe and healthy working conditions based on respect for workers' rights fosters efficiency and productivity. In contrast, the failure to create and maintain sound worker-management relationships can undermine workforce commitment and effective project implementation.
2. Good labour practices and the use of appropriate codes of conduct are important to extend and protect the reputation of firms, governments and lenders; whilst labour rights violations can on the contrary damage the promoter's and the EIB's reputation.
3. Standard 8 aims at ensuring that the promoter respects the Core Labour standards of the International Labour Organisation (ILO), as well as at promoting the relevant rights under the UN Guiding Principles on Business and Human Rights for the project to be financed. The standards set out herein seek to protect and support the fundamental rights of workers in EIB-financed operations. All operations financed by the EIB, whether located inside or outside the EU, are subject to these standards throughout their entire lifecycle.

Objectives

4. With the present standards, the responsibilities of the promoter are defined to ensure that the project embraces the principles of International Labour Standards. The specific objectives of these standards are to:
 - Foster and realise non-discrimination and fair and equal treatment and opportunity at work;
 - Promote the freedom of association and collective bargaining;
 - Ensure, develop and maintain a sound worker-management relationship;
 - Promote compliance with national labour and employment laws and with internationally recognised labour standards as defined by the ILO, particularly its Core Labour Standards (as defined in the following section of these standards). Standards regarding health and safety provisions are specifically dealt with in Standard 9;
 - Protect workers, including vulnerable categories (such as migrants, indigenous peoples or illiterate workers)²⁶ and workers engaged by promoters' primary contractors and first-tier/direct suppliers, from unacceptable forms of labour and employment practices, exploitation and violation of the core labour rights; and,
 - Avoid the use of forced and child labour.

Definitions

5. *Contractors* refer to companies that undertake a contract with the promoter to provide materials or labour to perform a service or do a job.
6. The *Core Labour standards*, as defined in the 1998 ILO Declaration on Fundamental Principles and Rights at Work,²⁷ are:
 - Child labour (as defined by ILO Conventions 138 and 182). No workers under the age of 15; minimum may be lowered to 14 for developing countries²⁸; stricter thresholds are set for hazardous labour;

²⁶ The vulnerability of workers is related among other issues to the level of legal protection, the bargaining position and the isolation.

²⁷ Almost all countries are signatories to this ILO Declaration on Fundamental Principles and Rights at Work. However not all conventions have been ratified by all signatories. The various Conventions can be found at: <http://www.ilo.org/ilolex/english/convdisp1.htm>. The status of ratification for each convention and country can be accessed at <http://www.ilo.org/dyn/normlex/en/f?p=1000:12001:0::NO>

- All forms of bonded labour and forced labour (ILO Conventions 29 & 105). No forced labour, including prison or debt bondage labour; no lending of money (debt slavery) or withholding of remuneration or identity papers by employers or outside recruiters;
- Equal treatment and equal opportunity (ILO Conventions 100 & 111, and ILO Code of Practice for HIV/AIDS 85). No discrimination based on race, caste, origin, religion, disability, gender, sexual orientation, union or political affiliation, or age; no sexual harassment;
- Freedom of association and the right to collective bargaining (ILO Convention 87, 98, 135 and Recommendation 143 86).

7. A *safe and healthy working environment* is one that is supported by the realisation of ILO Core Labour Standards.

8. *Employment practices* refer to human resources management.

9. The term *harmful or hazardous child labour* is defined by the ILO (e.g. Convention C182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour) as work that deprives children of their childhood, their potential and their dignity, and that jeopardises their physical, mental or moral well-being either because of its nature or because of the conditions in which it is carried out.

10. A *Human Resources Policy* is developed to outline the promoter's approach to managing employees and to stipulate the rights of workers. It should include information relating to working conditions, hiring practices, terms of employment (e.g. entitlement to wages, hours of work and breaks, overtime arrangements and compensation, rest days and holidays, leave –annual, maternity, parental-, illness absences, benefits), freedom of association and collective bargaining rights, and training and skills development. It must be available to all employees in an understandable format.

11. *Labour practices* refer to fair, safe and healthy working conditions.

12. A *minor* is a person under the age of 18, who may be legally entitled to work in compliance with the standards of the ILO Convention 138 on minimum age for employment.

13. The *supplier* is a company, whether large, global enterprise or a small or medium-sized business based in one region or locale, which sells goods (including raw materials, semi-finished, component, and intermediary products) or provides services to a promoter. Suppliers that sell directly to a promoter are known as first-tier or direct suppliers. Suppliers that sell to other suppliers are known as sub-tier suppliers; they may be several times removed from the promoter but provide a good or service that is an element of the good or service that is ultimately sold to and utilised by the promoter.²⁹

14. By the term '*worker*' this Standard refers not just to formal employees of a company but also to contract labour, migrant workers, seasonal workers, and day labourers.

Scope

15. This Standard applies in full to all workers directly engaged by the promoter throughout the project life cycle. With regard to workers engaged through third parties, such as first-tier suppliers and primary contractors, to perform core work related to the project for a substantial duration (contract workers) and workers related to the promoter's primary suppliers (supply chain workers), the promoter will determine that such third parties are legitimate, reputable and that their workers are protected consistently with these standards. Additional due diligence may be required further down the supply chain in case of concerns.

Principles

16. EIB seeks to support through its operations the EU and ILO initiatives of promoting the Decent Work Agenda, as well as the UN Guiding Principles on Business and Human Rights. With the present Standard

²⁸ ILO Convention no. 138, art. 2 establishes this exception for member whose economy and educational facilities are insufficiently developed.

²⁹ OECD Roundtable on Corporate Responsibility, "Supply Chains and the OECD Guidelines for Multinational Enterprises" BSR Discussion Paper on Responsible Supply Chain Management, OECD Headquarters, Paris, 30 June 2010, <http://www.oecd.org/investment/guidelinesformultinationalenterprises/45534720.pdf>

8, in compliance with ILO’s Core Labour standards and the aforementioned EU Guidelines³⁰ and UN Guiding Principles, the EIB stresses the employers’ duty of care towards their own employees and those of first-tier suppliers and primary contractors, safeguarding their rights and wellbeing within the scope of activities undertaken under EIB operations.

17. The EIB will not finance projects that employ, use or benefit from harmful child labour, that use or knowingly benefit from forced labour, and that do not comply with national law on worker representation and organisation. The EIB recognises the difficult challenges associated with eliminating all forms of discrimination but expects promoters nonetheless to pursue equal opportunity policies and the respect of human rights in business practices.

Requirements

Overarching Requirements

18. The promoter shall comply, at a minimum, with the relevant national labour laws and implement and operate the project in respect of the principles of the Core Labour standards outlined in the ILO Declaration on Fundamental Principles and Rights at Work. The promoter shall ensure that all workers have employment contracts, independently of their type (e.g. direct employees, contractors, workers in the supply chain). The promoter shall ensure similar adherence to these minimum standards in the cases of its primary contractors and first-tier suppliers, duly reflecting these standards in procurement documents, contracts and monitoring arrangements. To these ends, the promoter will develop and update an appropriate human resources policy, as well as an effective management system. This management system shall cover the enforcement and compliance of labour standards, and the monitoring of the promoter’s contractors/suppliers.

Exploitation of Child Labour

19. In line with the ILO Minimum Age Convention No. 138 and the Worst Forms of Child Labour Convention No. 182,³¹ the promoter will not employ, use or benefit from the exploitation of child labour. This covers work by children that is economically exploitative or likely to be hazardous or that deprives children of their childhood, their potential and their dignity, and that is harmful to their physical and mental development.

20. The promoter will report to the EIB the presence of persons under the age of 18 and the nature of work they perform. Minors shall not be employed informally, even when this is socially or culturally acceptable practice in the sector, country or region. The following table summarises the minimum age requirements in accordance with ILO Convention no. 138 that will be applicable to EIB operations³² unless the national standards and requirements are more stringent. The promoter will ensure that all work of persons under the age of 18 will be subject to an appropriate risk assessment and regular monitoring of health, working conditions and hours of work.

	Minimum age at which children can start work	Possible exceptions for developing countries
Hazardous work Any work which is likely to jeopardize children’s physical, mental or moral health, safety or morals should not be done by anyone under the age of 18.	18 (16 under strict conditions)	18 (16 under strict conditions)
Basic Minimum Age The minimum age for work should not be below the age for finishing compulsory schooling, which is generally 15.	15	14
Light work Children between the ages of 13 and 15 years old may do light work, as long as it does not threaten their health and safety, or hinder their education or vocational orientation and training.	13-15	12-14

³⁰ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52006DC0249:EN:NOT>

³¹ Useful indications for the promoter may be found here http://www.ilo.org/public/libdoc/ilo/2008/108B09_260_engl.pdf, pp. 27-30.

³² Link to ILO Conventions and Recommendations on child labour: <http://www.ilo.org/ipecc/facts/ILOconventionsonchildlabour/lang--en/index.htm>

21. Further to the above minimum age requirements, in compliance with the list of activities excluded from EIB lending³³ and independently of the age of the worker, no project involving the worst forms of child labour (as defined in article 3 of Convention 182) will be eligible for financing by the EIB.

22. The promoter will oversee that its primary contractors and first-tier suppliers apply the same standards and practices concerning child labour.

Forced Labour

23. The promoter will not employ forced or compulsory labour. Forced or compulsory labour is understood as all work or service expected from a person under the threat of penalty or for which the person has not offered her or himself voluntarily. This covers any kind of involuntary or compulsory labour, such as indentured labour, bonded labour, or similar labour-contracting arrangements as well as human trafficking.

24. Taking into account security considerations and the nature of work, the promoter shall avoid any restriction of freedom of movement of its labour force during the course of their employment. Further, the promoter shall not engage in or tolerate the use of corporal punishment, mental or physical coercion and verbal abuse of personnel.

25. If forced labour is identified in the promoter's workforce, including direct and contracted workers throughout its supply chain, immediate steps should be taken to terminate the practice, offer conditions of work that are not coercive and refer the case to the competent law enforcement authorities. The promoter shall not tolerate such practices from its primary contractors and first-tier suppliers.

Migrant Workers

26. Consistent with the 1990 *UN Convention on the Protection of the Rights of all Migrant Workers and Members of their Families*, the promoter will identify the employment of migrant workers and will ensure their treatment is not less favourable than that of no-migrant workers undertaking similar functions. This includes enjoyment of same rights and of equal opportunities and treatment. The promoter will avoid any physical or psychological coercion on migrant workers, including unnecessary restrictions on movement or retention of worker's identity documents, such as passports, or personal belongings. The promoter will ensure that its primary contractors and first-tier suppliers uphold the same principles.

Non-Discrimination and Equality of Opportunity and Treatment

27. The promoter's human resources policy will be non-discriminatory and shall observe equal opportunities. The promoter shall ensure that employment related decisions will be based on professional skills and competencies. Employment relationship must be fair and equal in all its aspects, including remuneration, recruitment, promotion, termination of employment and disciplinary practices. Non-discrimination requires that the promoter does not make employment related decisions based on personal characteristics which are unrelated to inherent job requirements: gender, race, ethnic, social and indigenous origin, religion, political opinion, nationality, disability and sexual orientation cannot impair equality of opportunity or treatment in suitable employment or occupation, including access to vocational training.

28. Particular procedures may be required to prevent gender discrimination. The promoter shall ensure that human resources' decisions are not affected by the reproductive role of women.³⁴ Workplace policies and a complaints mechanism shall be put in place to deal with sexual harassment.

29. Where national law provides for these standards, the promoter will comply with national law. If national law is silent and does not offer such guarantees, promoters will comply with this Standard 8. In any case, the promoter is encouraged to respect the spirit of this Standard through consistent behaviour. The promoter is expected to apply a similar due diligence towards its primary contractors and first-tier suppliers.

Human Resources Policy and Access to Information

30. The promoter will develop and/or maintain a human resources policy that is appropriate to its size and workforce, and that is clear, understandable and accessible to workers.

³³ Link to Activities excluded from EIB lending: http://www.eib.org/attachments/documents/excluded_activities_2013_en.pdf

³⁴ Discrimination on grounds of maternity include dismissals for pregnancy and nursing, failure to grant time for nursing, withholding of pre- and postnatal benefits, denial of promotion, and refusal to allow workers to return to posts occupied before maternity leave.

31. Such a policy should outline the promoter's approach to managing employees and, at a minimum, contain information on the employee's rights under national labour and employment law and demonstrate consistency with the objectives of this Standard. The human resources policy should cover subjects such as working conditions (including health and safety as well as privacy standards for company provided facilities); hiring and promotion practices; terms of employment (including entitlement to wages, hours of work and breaks, overtime arrangements and compensation, rest days and holidays, leave –annual, maternity, parental-, illness absences, benefits); training, capacity building and skills development; freedom of association and collective bargaining rights, non-discrimination and equal opportunity practices (including anti-harassment procedures), grievance resolution; freedom of association and collective bargaining; disciplinary procedures and dismissals.. Accordingly, the promoter will ensure that information relating to the human resources policy is documented, accessible and clearly comprehensible to all the workers. Promoters will seek to develop recruitment plans outlining the hiring practices (including no hiring at the gate), training and skills development. When necessary, retrenchment management plans will also be developed in the spirit of transparent access to information.³⁵

32. Workers and the workers' authorised, freely-elected representatives will be provided all information necessary to undertake meaningful negotiations on employment conditions with representatives of management who are authorised to take decisions on the matter.

Association and Collective Bargaining

33. The promoter will improve working conditions through the establishment of consultative forms of worker participation with management on matters of mutual concern, without prejudice to bargaining of working conditions.

34. The promoter will engage with workers, individually or through their associations, in good faith and provide them with timely and adequate information needed for meaningful negotiation. Where host country law and legislation makes provision for freedom of association and collective bargaining the promoter will duly comply with such laws and regulations. Where the host country does not protect workers' association and collective bargaining rights, the promoter will nevertheless allow for alternative acceptable mechanisms to express grievances and protect their rights regarding the working environment and terms of employment. In either case, or where the law is silent, the promoter will not restrict workers from, or discriminate or retaliate against workers, who seek to participate in collective organisations and bargaining. The promoter will not seek to control such mechanisms or adversely influence their establishment and function.

35. The promoter will respect collective bargaining agreements undertaken with workers' organisations and will promote fair working conditions. These should not be less favourable than comparable national conditions and industrial relations. When comparability cannot be assessed, at the very least compensations must be adequate to satisfy the basic needs of workers and their families. To this end, the promoter may need to calculate the living wage (the amount needed to allow a family to experience a decent standard of living) for the town/area where the project is located. When existing compensations are inferior, the promoter shall take adequate steps to provide such a living wage.

36. The promoter is expected to ensure observance of these standards amongst its primary contractors and first-tier suppliers, too.

Collective Dismissals

37. The promoter will give reasonable notice before major business changes in order to allow for the effective and adequate mitigation of potential adverse impacts. Particularly, before collective dismissals are planned and implemented, alternatives must be taken into consideration.

38. In the event of retrenchment as the only viable option, consultation with workers and with government where appropriate will be undertaken, collective bargaining agreements will be respected and mitigation measures will be planned for. Workers' dismissal will generally be preceded by an adequate notice period and timely payments of all due sums (also referred to as severance payment) carried out in accordance with national law.³⁶ It is good practice to establish a specific grievance mechanism to deal with claims related to collective dismissals (see below).

³⁵ See below on collective dismissal.

³⁶ Severance payments can include: (i) payment of salary or wages in arrears, (ii) unused earned leave, (iii) pension benefits, (iv) gratuity benefits (i.e. those payable at cessation of employment), (v) notice period or payments in lieu of notice and (vi) statutory or collectively agreed termination benefits.

Grievance Mechanism

39. The promoter will set up an independent grievance mechanism where workers (and their organisations, where they exist) can raise reasonable workplace concerns. The promoter will grant workers free and easy access to this grievance mechanism. The mechanism shall address complaints in a timely and effective manner without fear of retribution and will thus allow for anonymous complaints.

40. Access to the grievance mechanism shall not replace or impede the subsequent access to other redress mechanisms, such as arbitration procedures, judicial, administrative or extrajudicial means of complaint. The promoter will inform workers of the grievance mechanism at the time of hire and make it accessible to them.

Procedural Requirements

41. Compliance with labour standards should be screened for all operations financed by the EIB. The promoter will provide the EIB with satisfactory information on its labour practices, both at appraisal stage and through regular monitoring. To this end, the promoter can use available international standards (such as ISO).

42. Where labour-associated risks to the project are expected or appear to be significant, a labour assessment should be carried out and where necessary, appropriate mitigation and monitoring requirements agreed and implemented.

Labour Assessment

43. Where significant labour-associated risks are identified, the promoter should make available for the EIB's review a set of more comprehensive information to perform a labour assessment as part of the EIB's due diligence process. At minimum, the labour assessment should cover the promoter's human resources policies and management capacity to implement and monitor these, including for primary contractors and first-tier suppliers; as well as the relevant management systems and procedures. If further information is required, the EIB may consult relevant stakeholders such as workers' organisations, government agencies, local government officials, and civil society organisations among others, to ensure the appropriate local support for the project.

44. This information is usually included in a comprehensive ESIA. When relevant, based on the specific risk profile, an assessment may be further required to include the descriptions and analysis of:

- The workforce (numbers, skills, types of jobs, composition);
- Working conditions (hours, physical amenities, forms of discrimination, attitudes of staff) and terms of employment (human resources policy, equal opportunities policy, staff representation and organisation) applicable to the project (both implementation and operation phases, if applicable);
- The state of compliance of the project with ILO Core Labour Standards, and national employment and labour laws;
- Types of employment relationships (wage levels, contracts, status of temporary workers, outsourcing, policies for dealing with retrenchment);
- The promoter's policy for dealing with contractors and supply chain;
- The promoter's approach to sustainability and social responsibility reporting regarding labour issues; and,
- General conditions in the sector or the surrounding environment that might pose risks of non-compliance with existing laws (e.g. corruption, rule of law).

Monitoring and Evaluation

45. Based on the findings of this labour assessment, the EIB may recommend areas where improvements are needed. Appropriate mitigation measures to address perceived inadequacies should be identified, as well as indicators for measuring and reporting on improvements (e.g. improved working conditions, support for vulnerable groups, provisions for worker welfare, representation). Special attention may need to be given to the ways that first-tier suppliers treat their labour force.

46. The promoter is recommended to regularly carry out due diligence in order to identify and assess any actual or potential adverse impact with which it may be involved (i.e. impacts that it may cause or contribute to as a result of its own activities or which may be directly linked to its operations, products or

services by its business relationships). This is of particular relevance in the case of business enterprises. As outlined in the UN Guiding Principles on Business and Human Rights (no 18), this process should: (a) draw on internal and/or independent external expertise; and (b) involve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation.

47. To these ends, arrangements for ensuring respect, promotion and realisation of international labour standards as described in the present Standard should be agreed between the EIB staff and the promoter prior to disbursement, monitored periodically throughout implementation and operation, and reported on at project completion. The promoter will be contractually required to adhere to the principle of the ILO Core Labour Standards. If the identified risks (either during the appraisal or the monitoring phase) are moderate to significant, the promoter may be further asked to undertake an independent labour audit. The exact scope of this labour audit will be discussed and agreed with the EIB.

48. The promoter will ensure that risks of labour right violations are being addressed in a satisfactory manner and within a reasonable timeframe. The promoter will further take appropriate and prompt steps to remedy any identified incident. When remedy proves impossible, the promoter will resort to different primary contractors and first-tier suppliers that can prove compliant.

Labour Audit

49. A Labour Audit is the most widespread spot-check mechanism used nowadays to monitor labour standards. Essentially a tool used to ensure and support the application of the labour standards, it amounts to the thorough formal examination of the labour practices of a particular workplace or company, based on corroborated evidence. An audit aims to check these practices against a defined standard and may well extend to supply chains.

50. The promoter may be required to directly carry out a labour audit by commissioning an independent third-party specialist. This requirement will be prompted in those projects where the risk of labour rights and standards violations is high; where there are substantive and serious concerns of such violations having occurred since appraisal; where a complaint, grievance or case of a whistle-blower has come to the attention of the EIB; or, where appraisal established a steep learning/compliance curve ahead for the promoter. A labour audit may target the promoter, its primary contractors and first-tier supplier(s), or both.

51. Effective and appropriate auditing should aim to:

- contribute to the establishment of baseline information on working conditions, at the level of the promoter and/or their primary contractors/first-tier suppliers;
- provide quantifiable performance indicators that enable measurement of improvements over time;
- screen new or potential contractors/suppliers to identify whether they meet the promoter's minimum labour standards as a basis for approving or rejecting the contractor/supplier;
- determine necessary and appropriate corrective actions; and,
- monitor progress over time – regular and consistent audits are a way of checking whether improvements are made over time.

52. In the case of third-party auditing, it is advised that specialists with local expertise and having the trust of all stakeholders (management, workers, and supervisors) are sought. The promoter shall enable a truly independent audit that allows auditors to ensure that (i) off-site, confidential worker interviews can take place; (ii) all types of workers – including contract, migrant, casual and female workers – can be interviewed; and, (iii) all Core ILO standards are covered, including special attention to freedom of association and equal treatment and equal opportunity. The selected auditor shall be independent and trustworthy and have suitable credentials.

53. The audit will result in comprehensive feedback on its findings that the promoter shall make available to the primary contractors/first-tier suppliers and workers. Robust and time-bound corrective action plans need to be established agreed and followed up on. If the corrective measures are not duly and timely undertaken, the EIB reserves the right to withdraw from its financing.

9. OCCUPATIONAL AND PUBLIC HEALTH, SAFETY AND SECURITY

Introduction

1. Projects often bring employment, economic growth and social improvement opportunities to both workers and communities. Benefits can also result from access to health, education or social protection. Project activities, however, can also increase exposure to hazards, risks and negative impacts in terms of public health and safety. These may arise through or be amplified by project-related occurrences such as increased environmental pollution, elevated noise levels the spread of communicable diseases or disproportionate use of violence by private or public security forces. Considerations should also be given to occupational health and safety issues arising in the context of projects.

2. This document lays down standards to protect and secure public and occupational health, safety and security and promote dignity of workers and citizens affected by EIB operations. EIB expects promoters to duly plan for, undertake, and monitor the adherence to these standards throughout the project life cycle³⁷ while accounting also for first-tier suppliers and primary contractors. These measures should be understood within the wider context of developing fair, humane and sustainable business practices to respect human rights.

Objectives

3. With the present standards, and in compliance with ILO's Guidelines on occupational safety and health management systems³⁸, the EU's decent work agenda³⁹, the OSH Framework Directive⁴⁰ as well as the UN Guidelines on Business and Human Rights, the EIB stresses the employers' duty of care towards project workers and society, in safeguarding occupational and public health, safety and wellbeing within the area of influence of their operations and at associated facilities.

4. Specific objectives under this Standard amount to the following:

- Promote and protect the health and safety of employees at work throughout the project life cycle by ensuring safe, healthy, hygienic and secure working and accommodation conditions and, effectively, a working environment that respects and safeguards the right to privacy, and when appropriate, to the enjoyment of the highest attainable standard of physical and mental health of workers and their families(e.g. in workers accommodation);
- Ensure that promoters duly anticipate, avoid or minimise, and effectively mitigate risks and adverse impacts to the health and safety of host communities within the project's determined area of influence (including all associated facilities) as well as end users, during both construction and operation phases;
- Help promote public health and safety across the project's area of influence by inter alia supporting and promoting programmes which aim at preventing the spread of major communicable diseases;
- Ensure the provision of private or public security to protect the project's workers and assets consistent with international human rights standards and principles;⁴¹ and,
- Ensure effective access to grievance mechanism and recourse to remedy for all project workers and members of the public in cases of violations of their rights falling within the scope of the present Standard.

³⁷ The project life cycle encompasses the project's design and creation, operations and decommissioning.

³⁸ Guidelines on occupational safety and health management systems:

http://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_publ_9221116344_en.pdf

³⁹ Directive 2006/0249: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52006DC0249:EN:NOT>

⁴⁰ Directive 89/391/EEC, as amended by Regulation (EC) No 1882/2003:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003R1882:EN:NOT>,

Directive 2007/30/EC and Regulation (EC) No 1137/2008:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32008R1137:EN:NOT>

⁴¹ International human rights standards and principles include (i) the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, (ii) the UN Code of Conduct for Law Enforcement Officials, (iii) the Voluntary Principles on Security and Human Rights and (iv) the International Code of Conduct on Private Security Providers

Definitions

5. *Contractors* refer to companies that undertake a contract with the promoter to provide materials or labour to perform a service or do a job.
6. An *Emergency Preparedness Plan* describes the procedures and practices to allow for quick and efficient responses to accidents that could result in human injury or damage to the environment. It is necessary when hazard risks have been identified. The plan usually covers the procedures to alert emergency agencies, workers and the public about an accident; the emergency response actions to be carried out; the measures regarding the use, inspection, test, and maintenance of the emergency response equipment; the training and communication requirements to ensure that employees and contractors can implement the plan and are duly informed about any update or revision in the procedures.
7. An *Environmental, Social and Health Impact Assessment (ESHIA)* connotes the more targeted and probed assessment of risks posed to public health. An ESHIA goes beyond the ESIA process, in order to effectively account for and address health and safety risks identified at assessment stage. ESHIA should promote a preventive approach and analyse the factors that are directly, indirectly, or cumulatively linked to human health and that may be affected by the proposed project (including associated facilities), so as to allow their better management. These factors include social, economic, institutional, and environmental aspects.
8. An *Influx Management Plan* is developed when project-induced migration risks are judged to be significant. The Plan should identify and assess the potential environmental and social impacts, as well as health risks within the project and its broader area of influence; propose appropriate interventions; and provide recommendations for project design and management. It should identify the stakeholders involved (defining their capacities and responsibilities); establish the monitoring, evaluation and reporting requirements; define the stakeholder engagement and public consultation and communication actions to be undertaken; and present a budget.
9. A *Hazard Assessment* establishes the risk as a result of the transport, operation or decommissioning related activities of a project. The assessment requires the analysis of the types and amounts of hazardous materials, the potential spill and release scenarios and potential uncontrolled reactions such as explosions or fires. The analysis takes into consideration the location and characteristics of the project site including distance to settlements, water resources or environmentally sensitive areas. *HAZID* (Hazard Identification Study) and *HAZOP* (Hazard and Operability Study) are internationally-accepted methodologies to perform specialised hazard assessments.
10. *Occupational health and safety measures* refer to the activities aimed at protecting workers against work-related sickness, disease and injury or even death associated with exposure to hazards encountered during the course of their work and/or dangerous environmental factors at the work place.
11. *Public health and safety measures* refer to the activities aimed at protecting the public against project-related environmental and health risks, whether for example by exposure to hazards and toxic substances, environmental (incl. air) pollution and elevated noise levels.
12. The *supplier* is a company, whether large, global enterprise or a small or medium-sized business based in one region or locale, which sells goods (including raw materials, semi-finished, component, and intermediary products) or provides services to a promoter. Suppliers that sell directly to a promoter are known as first-tier or direct suppliers. Suppliers that sell to other suppliers are known as sub-tier suppliers; they may be several times removed from the promoter but provide a good or service that is an element of the good or service that is ultimately sold to and utilised by the promoter⁴².

Scope

13. Standard 9 applies to all sectors of activity, both public and private. In the light of the nature of the activities and size of the projects, the extent of applicability of the requirements described in Standard 9 will be flagged in discussions between the promoter and the EIB as early as possible, to be further explored during the assessment process. Based upon international best practice and the EIB's recommendations, the promoter will agree with the EIB on (i) the level of comprehensiveness of the assessment of the health, safety and security risks and (ii) how occupational and public health and safety

⁴² OECD Roundtable on Corporate Responsibility, "Supply Chains and the OECD Guidelines for Multinational Enterprises" BSR Discussion Paper on Responsible Supply Chain Management, OECD Headquarters, Paris, 30 June 2010, <http://www.oecd.org/investment/guidelinesformultinationalenterprises/45534720.pdf>

requirements will be best addressed and managed as part of the promoter's overall environmental and social management plan (ESMP)⁴³. The ESMP should be supported by internationally recognised environmental and quality management systems (ISO 9001, ISO 14001). The effort devoted to planning and managing environment health and safety should be in proportion to the risks and complexity associated with the project.

14. This Standard targets the observance of the relevant rights and interests of workers and affected communities by both the promoter and third parties deployed in the delivery of services or goods related to the project, such as primary contractors or first-tier suppliers. The promoter is expected to take all necessary measures to ensure that such third parties observe and comply with these standards, duly reflecting them in procurement documents, contracts and monitoring arrangements.

Principles

15. The promoter shall ensure that health and safety risks falling under this domain are duly identified and adequately mitigated, supported by satisfactory occupational and public health and safety management plans and systems in place, based on best international practice, and tailored to the sector and/or industry in question⁴⁴. Whilst recognising the difficult challenges associated with enforcing these standards along supply chains, the EIB nonetheless expects promoters to demonstrate satisfactory practices in this respect by appropriate due diligence in the selection of the contractors and suppliers.⁴⁵

16. Finally, all security management arrangements introduced and delivered either by public law and order/security forces or private service providers will be expected to comply with the Voluntary Principles on Security and Human Rights (VPSHR)⁴⁶, the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials⁴⁷, the UN Code of Conduct for Law Enforcement Officials⁴⁸ and the International Code of Conduct on Private Security Providers⁴⁹, there maintaining the safety and security of assets and persons on the EIB-financed operation within a framework that ensures respect for human rights and fundamental freedoms.

EIB Requirements

Overarching Requirements

General Provisions

17. All projects located in EU, Candidate or potential Candidate countries will be designed and will operate in compliance with the applicable EU requirements as they are laid down in EU legislation on occupational and public health and safety, as well as with relevant international standards and best practice⁵⁰, unless the national standards and requirements are more stringent than those contained in EU legislation.

18. In order to ensure consistency, the time-frames for reaching compliance with specific EU Occupational and Public Health and Safety legislation agreed between the EU and any Member States, Candidate or Potential Candidate Country through bilateral agreements and/or action plans (Accession Treaties) should be considered in the projects financed by the EIB and properly reflected in the promoter's overall environmental and social management plan.

⁴³ Please see Annex 11 of the Handbook.

⁴⁴ For example OSHA and ISO 9000.

⁴⁵ The promoter is recommended to regularly carry out human rights due diligence in order to identify and assess any actual or potential adverse impact with which it may be involved (i.e. impacts that it may cause or contribute to as a result of its own activities or which may be directly linked to its operations, products or services by its business relationships). This is of special relevance in the case of business enterprises. As outlined in the UN Guiding Principles on Business and Human Rights (no 18), this process should: (a) draw on internal and/or independent external human rights expertise; and (b) involve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the of the business enterprise and the nature and context of the operation.

⁴⁶ The Voluntary Principles on Security and Human Rights: http://www.voluntaryprinciples.org/files/voluntary_principles_english.pdf

⁴⁷ The UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials <http://www.unrol.org/files/BASICP~3.PDF>

⁴⁸ The UN Code of Conduct for Law Enforcement Officials:

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/LawEnforcementOfficials.aspx>

⁴⁹ The International Code of Conduct on Private Security Providers: <http://www.icoc-psp.org/>

⁵⁰ Such as ILO's Guidelines on occupational safety and health management systems, the EU's decent work agenda, the OSH Framework Directive as well as the UN Guidelines on Business and Human Rights.

19. Projects outside of the EU will be designed and will be operated consistent with EU Occupational and Public Health and Safety requirements. However the promoter will adhere to international good practice and to any obligations and standards to which the host country is party to. Where EU standards are more stringent than national standards, the higher EU standards are required if practical and feasible. In such cases the EIB will agree the applicable requirements with the promoter on a project by project basis. The promoter is responsible for legal compliance whereas regulatory and enforcement tasks lie with the competent authorities.

20. Accordingly, the promoter will identify and evaluate occupational and public health and safety risks and potential adverse impacts arising directly or indirectly from the project as early as possible, on a continuous basis throughout the entire project life cycle and along its supply chain⁵¹. The promoter will promptly develop and implement appropriate and adequate measures aiming at avoiding or preventing, or as a last resort, minimising or reducing, the identified risks and potential adverse impacts. The promoter shall document robust justification for choosing to minimise or reduce impacts rather than avoiding or preventing them.

21. In so doing, the promoter will be guided by the precautionary principle, the principles that preventive action should be taken and that any impact should as a priority be effectively remedied at its source even if scientific data are insufficient, inconclusive or uncertain. The adopted measures will be commensurate with the nature and magnitude of the identified risks and impacts and will be applied without discrimination⁵², taking into account differences in risk exposure and the higher sensitivity of the most socially and economically vulnerable and marginalised groups, especially female-headed households, low-income households, children, the elderly, minorities and indigenous people.

22. The promoter is encouraged to maintain and/or introduce more stringent protective measures for safeguarding the rights and well-being of workers and the public likely to be affected by the project, thereby extending beyond and above the scope of this Standard.

23. The promoter will also be expected to undertake additional studies, capacity building activities and/or put in place reasonable and appropriate measures to strengthen public health and safety measures where the EIB so requires. To this end, appropriate resources for the implementation, monitoring and reporting of public health and safety measures and requirements will be planned for and budgeted by the promoter. Similarly, access to grievance and remedy should be ensured both for the workers and the public.

24. The promoter will provide the EIB with adequate documentation in relation to the health and safety management systems to be put in place. The latter shall include appropriate provisions for monitoring and reporting. When deemed necessary, or upon request of the EIB, the promoter may need to undertake corrective measures which should be properly documented and reported to the EIB.

Information Dissemination and Consultation

25. In line with the freedom of expression and information and the right of the public to information and consultation⁵³, the promoter will ensure that the affected stakeholders within the project's area of influence are properly identified, consulted and informed of their rights in terms of health, safety and security (refer to Standard 10 on stakeholder engagement). The promoter will further ensure that they can freely convene and express their views on project risks, impacts and the proposed health and safety management plans. This consultation shall take place as part of the assessment (e.g. as part of the EIA/ESIA process when applicable) and subsequently during the project life of the project when judged necessary and detailed in the management plans. Therein, due attention should be paid to reaching out to vulnerable groups in the local population (refer to Standard 7).

Health and Safety Management Plans and Systems

26. The promoter will develop and implement the necessary health and safety management plans, including emergency prevention, preparedness and response and disease prevention and containment plans, for promptly and effectively addressing any health and safety risks and potential adverse impacts arising throughout the project life cycle. Where the operation financed is likely to involve significant

⁵¹ The promoter is responsible for ensuring that first-tier suppliers and primary contractors abide by EIB health and safety standards and by the OSH Framework Directive.

⁵² Project workers as well as communities affected by the project must not be subject to unlawful discrimination, including on the basis of gender, ethnicity, religion, age, physical/mental ability or sexual orientation. Cross-referencing with EIB's Standard 7 is imperative in this respect.

⁵³ Cross-referencing with EIB's Standard 10 is imperative in this respect.

numbers of labourers arriving on site from beyond the local context, the Promoter shall develop and implement an Influx Management Plan.

27. The promoter will ensure that all aforementioned requirements are duly inscribed in the procurement and contracting documents of first-tier suppliers and primary contractors in the operation, governing the latter's practice and delivery of services accordingly. All health and safety management plans will form an integral part of the Project's overall environmental and social management plan (ESMP) which should be regularly reviewed and updated as required.

28. Implementation of the ESMP should rest on a well-defined and robustly established environmental and social management system (ESMS)⁵⁴, informed by internationally recognised and EIB standards and practices and governing the promoter's own and out-sourced/supplied activities. In demonstrating that adequate and appropriate resources and expertise of the ESMS are introduced for the supervision of the implementation of all health and safety management plans, the monitoring of the effectiveness of mitigated risks and remedies, as well as the identification of any new risks and impacts as they arise throughout the project, the promoter should establish a unit or team assigned with the above tasks. The unit should have the expertise required to set up, implement and monitor an ESMS.

Reporting

29. The unit or team in charge of the implementation and monitoring of the health and safety management plans should also report and record any accidents, incidents and/or breach of relevant legislation arising from the project. A qualified officer, designated to handle health and safety issues, will consult with aggrieved or affected citizens and/or community groups as appropriate and ensure that the recording of accidents and incidents is done in a non-discriminatory manner.

Grievance Mechanism

30. The promoter will grant project workers and members of the communities within the project's area of influence (as well as any other person potentially affected by project related activities) free and easy access to an independent and effective grievance mechanism⁵⁵. The mechanism shall address their health and safety concerns in a timely and effective manner and shall not impede access to other redress mechanisms, such as judicial, administrative or extrajudicial means of complaint. The promoter will duly inform workers and community members of the existence of the grievance mechanism.

Occupational Health, Safety and Hygiene

Working Environment

31. The promoter will ensure a healthy, safe and hygienic working environment, which respects human dignity, complies with general hygiene norms, and takes into account and ensures the physical and mental integrity of workers. To this end and when necessary, the promoter will carry out a HAZID (Hazard Identification Study) and/or HAZOP (Hazard and Operability Study).

32. In view of the results of such studies, the promoter will take the appropriate measures to respect the rights of workers and protect workers from injury, illness or death associated with exposure to hazards encountered in the workplace or arising from project activities. The proposed measures will consider sector-specific hazards⁵⁶ and will take into account any significant change to the risk, to collective means of protection and to personal protective equipment brought about by technological developments.

33. In line with Standard 2, the promoter will avoid the use of materials known to be dangerous or particularly hazardous for human health and safety as well as the environment. In case the hazards are inherent to project activity or not feasible to completely eliminate, the promoter will duly identify them through a relevant risk analysis and, accordingly, take protective measures and provide adequate personal protective equipment at no cost to the workers⁵⁷.

⁵⁴ Health and Safety management plans are a part of the ESMS (see Standard 1).

⁵⁵ UN indicates in its Guiding Principle 31 on Business and Human Rights that a non-judicial grievance mechanism should comply with the following effectiveness criteria: legitimacy, accessibility, predictability, equitability, transparency and rights-compatibility. In addition, it should be a source of continuous learning and be based on engagement and dialogue. Further clarifications can be found on http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf. See also Standard 10.

⁵⁶ These vary across industries; some industries will require specific attention. Internationally recognized guides for particular industries may need to be consulted.

⁵⁷ The promoter will ensure that project activities are carried out in line with the principle of universal accessibility of infrastructure.

Safety Training for Workers

34. The promoter will take all necessary action to ensure that workers and/or their representatives are made aware of all risks associated with their work and all protective measures are to be taken with regard to their health and safety.

35. The promoter will provide project workers with adequate, timely and regularly updated training and information material on health and safety issues and procedures. The promoter will not request unqualified workers to operate equipment that may require safety training.

36. The promoter will, if appropriate, organize demonstrations in the wearing of personal protective equipment. Personal protective equipment must be used in accordance with instructions and only for the purposes specified, except in specific and exceptional circumstances. Such instructions must be understandable to all workers.

Essential Sanitary Facilities and Living Quarters

37. The promoter will ensure that all project workers have access to adequate, safe and hygienic basic facilities, if living on-site and that qualified first-aid can be provided at all times. The promoter shall provide basic services including water, sanitation, and, in certain cases when the scale or the nature of the activity being carried out so requires, availability of medical care, based on the principles of non-discrimination and equal opportunity, and will organise awareness-raising sessions on health and safety as required⁵⁸.

38. Workers' accommodation quarters must meet minimum size⁵⁹ and hygiene standards (including adequate ventilation; water supply for drinking, cooking, bathing, and laundry purposes; toilet facilities; sewage and waste disposal facilities) and respect basic living needs. Access to cooking/meal facilities should also be provided. When the promoter is responsible for providing the food, it shall ensure that food handling facilities comply with food hygiene regulations. Policies on the quality and management of the labour camps (including accommodation, sanitary facilities, kitchens and dining halls) will be put in place and implemented.

Public Health and Safety

Risks Associated with Project Activities

39. Risks to public health and safety are normally expected to be identified at ESIA stage. An ESHIA undertaking by the promoter is triggered where the nature of the operation entails significant and/or cumulative public health risks that the ESIA is not fit to adequately analyse nor to propose satisfactory mitigation measures. An ESHIA should be carried out using sufficient public health expertise. Risks should be identified and their management integrated with other components of environmental and social assessment, so as to support a holistic and comprehensive approach to risk management. Influencing project factors to be assessed in such an undertaking, although not exhaustive, include: the location and type of the project; relevant national legislation and company's internal standards and practices; the track record of contractors as well as of public and private security providers associated with the project (see paragraph 44 on Security Management); the number of people impacted and their vulnerability profile; the timescale of the impact; legacy issues; availability of local expertise.

40. Potential negative impacts affecting the public may be triggered by the following:

- Release of and exposure to hazardous materials or chemicals (e.g. seepage into ground water, contamination of surface water supplies);
- Waste disposal (e.g. unsanitary landfills);
- Construction activity impacts, such as increased noise, dust and/or light levels throughout the day and for extended periods;

⁵⁸ This includes awareness-raising on communicative diseases, if relevant.

⁵⁹ Adequate size shall be determined in terms of e.g. floor space per occupant, height of the ceiling, and space between beds or similar facilities and shall be adequate to prevent overcrowding. According to IFC and EBRD guidance note on workers' accommodation, usual density standards for rooms or dormitory facilities range from 10 to 12.5 cubic metres (volume) or 4 to 5.5 square metres (surface) per resident, with a recommended minimum ceiling height of 2.10 metres. In collective rooms, in order to provide workers with some privacy, it is recommended that only a reasonable number of workers share the same room, with standards ranging from 2 to 8 workers

- Transportation-induced changes (e.g. changes in nature and volume of traffic provoking increase in levels of noise, dust and respiratory problems, environmental pollution, changes in nature, speeds and volumes of traffic and road accidents, etc.)
- When new building and structures will be accessed by members of the public, the promoter will consider incremental risks of the public's potential exposure to operational accidents and/or natural hazards and ensure consistency with the principle of universal access;
- Changes in population composition through, for example, in-migration of labour force, opportunity seekers or sex workers, in turn provoking pressure on health systems and infrastructure, exposure to sexually transmitted/communicable diseases, pressure on existing natural resources, increased vulnerability of local populations;
- Resource use related impacts (e.g. through modification of water courses, changes from earth movements);
- Structural components impacts (e.g. from failure of structures such as dams, faulty design, disruption of existing access); and,
- Introduction of new, or change of existing (public or private) security arrangements (see paragraph 44)

41. In line with Standard 2, in the event that hazardous materials and substances are part of existing project infrastructure or components, the promoter will take special care that these are transported, made operational and decommissioned in accordance with good international industry practice, in a way that avoids or minimises public exposure within the limits of governing national law and international good practice. Where there is a risk to public health and safety arising from the exposure to hazardous materials and substances, especially those that are life-threatening or known to cause serious hazards to human health and/or the environment, the promoter will take due care to identify, eliminate and substitute such hazardous materials and substances accordingly. An emergency preparedness plan is required accordingly.

Risks Associated with the Influx of Project Workers

42. To the extent possible, the promoter will take the necessary measures to avoid, mitigate and manage the risks and potential adverse impacts on public health and safety arising from the influx of project workers. Such risks and impacts may be associated with changes in population composition, intangible cultural heritage, health implications and exposure to communicable diseases and the increased vulnerability of communities in the area of influence of the project due to increased pressure on already scarce natural resources. In conflict and post-conflict areas, promoters shall also endeavour to mitigate the exacerbation of rivalries that in-migration can cause.

43. The promoter will especially endeavour to protect women and girls from sexual violence and harassment; and avoid and contain the spread of communicable diseases associated with in-migration, especially sexually transmitted diseases (including HIV/AIDS), Tuberculosis and Malaria. To these ends, the promoter shall organise training and awareness programmes, and ensure that codes of conduct (for workers and people living in labour camps if any) are implemented. The promoter will further find alternative means for remedying significant stress on natural resources caused by the increased population numbers. When relevant, the promoter shall develop an influx management plan.

Promoting Public Health and Safety

44. The promoter will support initiatives promoting public health, safety and security and aiming to reduce the spread of communicable diseases, especially HIV/AIDS, Tuberculosis and Malaria, where an increased incidence of the above is linked to project activities. In essence, the promoter will collaborate with public authorities and other stakeholders (such as NGOs) and build upon existing measures to implement public programmes and policies that will raise the public's awareness and understanding of communicable and preventable diseases and will effectively counter their spread. Such existing measures could build upon relevant national programmes, include community awareness programmes and support mechanisms, and account for any long-term human resource implications (e.g. time lost, skills shortages, training needs).

Security Management

45. In the course of ensuring that operation assets and personnel are secured and safeguarded in a legitimate manner, the promoter should also assess the risks and impacts upon workers, local society and communities in and surrounding the project area of influence resulting from the use of arrangements

provided by security personnel, whether privately outsourced or publicly provided. Such security arrangements shall be defined in the ESMP; although a full standing security management plan may be requested by the EIB when deemed necessary.

46. All security management arrangements introduced and delivered either by public law and order and security forces or private service providers will be expected to comply with the aforementioned Voluntary Principles on Security and Human Rights, the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the UN Code of Conduct for Law Enforcement Officials and the International Code of Conduct on Private Security Providers, therein maintaining the safety and security of assets and persons on the EIB-financed operation within an operating framework that ensures respect for human rights and fundamental freedoms.

47. The promoter is expected to be guided by the principle of proportionality and legitimate use of force, applicable law and good international practice⁶⁰ when hiring, training, equipping and monitoring security personnel as well as when setting the rules for their conduct. Specifically, the EIB expects that observance of the above-mentioned codes of conduct and principles shall be the basis for the development and observance of relevant codes of conduct for security forces and all other security management arrangements on site. As such, the promoter should ensure that security personnel are fully informed of the rules of conduct applicable to them and should seek public disclosure of security arrangements. To these ends, the promoter should ideally incorporate these requirements in the contracts and other agreements to be signed with the security providers.

⁶⁰ Among others, the UN Code of Conduct for Law Enforcement Officials and UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

10. STAKEHOLDER ENGAGEMENT

Introduction

1. A meaningful engagement process allows for the efficient implementation of a financed operation and, in particular, the early and effective identification, assessment, and management of any environmental and social risks, impacts, and opportunities. The views, interests, and concerns of project affected communities and other interested stakeholders are heard, understood, and taken into account throughout the project lifecycle.
2. Standard 10 outlines a systematic approach to stakeholder engagement that the promoter is expected to build and maintain by way of a constructive relationship with relevant stakeholders. Stakeholder engagement is an inclusive and iterative process that involves, in varying degrees, stakeholder analysis and engagement planning, timely disclosure and dissemination of/access to information, public consultations and stakeholder participation, and a mechanism ensuring access to grievance and remedy.

Objectives

3. As a public institution, the EIB actively promotes the right to access to information, as well as public consultation and participation; the right to access to remedy, including through grievance resolution, is equally acknowledged and actively promoted by the EIB. Standard 10 affirms the EIB's expectation that promoters uphold an open, transparent and accountable dialogue with all relevant stakeholders *at the local level* targeted by its EIB operations. This Standard stresses the value of public participation in the decision-making process throughout the preparation, implementation and monitoring phases of a project.
4. Specific objectives arising therefrom for the promoter amount to:
 - Establish and maintain a constructive dialogue between the promoter, the affected communities and other interested parties throughout the project life cycle;
 - Ensure that all stakeholders are properly identified and engaged;
 - Engage stakeholders in the disclosure process, engagement and consultations in an appropriate and effective manner throughout the project lifecycle, in line with the principles of public participation, non-discrimination and transparency;
 - Ensure that the relevant stakeholders, including commonly marginalised groups on account of gender, poverty, educational profile and other elements of social vulnerability, are given equal opportunity and possibility to voice their opinions and concerns, and that these are accounted for in the project decision-making; and,
 - Duly verify and assess that the quality and process of engagement undertaken by third parties on the project conform to the provisions included in the present standard.

Definitions

5. *Broad community support* is a collection of expressions by the affected communities, through individuals and their legitimate representatives, in support of the project. There may be broad community support even if some individuals or groups object to the project.
6. *Free, prior and informed engagement* defines a practice of public consultation and participation that is:
 - a. free from external manipulation, interference, or coercion, and intimidation;
 - b. based on prior disclosure and dissemination of information;
 - c. undertaken on an informed basis with information that is relevant, transparent, objective, meaningful, and easily accessible in culturally appropriate local language(s), and format that is understandable to the affected individuals and communities;
 - d. takes into account and is responsive to the needs, rights and interests of both women and men, if necessary through separate forums and engagements; and,

- e. includes targeted capacity building and/or other assistance as necessary to empower impacted individuals and communities, in particular those who are vulnerable and marginalised, to fully and effectively participate in engagement and consultation processes.

7. *Free, prior and informed consent (FPIC)* should not be confused with the aforementioned practice of free, prior, informed engagement. FPIC is a specific right for indigenous peoples as recognised in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)⁶¹ and ILO Convention 169/1989.⁶² It is triggered by specific circumstances and strictly defined project impacts, as elaborated in Standard 7.⁶³

8. A *Grievance Mechanism* constitutes the system introduced by the promoter that affords all stakeholders, in particular impacted individuals and communities, the ability to provide feedback, channel their concerns and, thereby, access information and, where relevant, seek recourse and remedy. Such mechanism ought to be effective, by way of being verifiably legitimate; accessible; predictable; equitable; transparent; compatible with human rights; based on engagement and dialogue; and, a source of learning for all stakeholders involved, including the promoter.⁶⁴ The scope of such a mechanism concerns the entire operation, yet it is not intended to serve employer-workforce relations, as a separate grievance structure is exclusively dedicated to this purpose.

9. *Stakeholders* are those who will be or are likely to be directly or indirectly affected, positively or negatively, by a project (commonly referred to as project-affected people or project-affected communities), as well as those who might have an interest in, or may influence, the project.

10. A *Stakeholder Engagement Plan (SEP)* is intended as a blueprint that outlines a project's stakeholder engagement strategy and guides its roll-out. As a rule, it describes the regulatory and/or promoter's requirements for consultation and disclosure; identifies and prioritises key stakeholder groups; provides a strategy and timetable for sharing information and engaging and consulting with each of these groups; describes resources and responsibilities for implementing stakeholder engagement activities; and, describes how stakeholder engagement activities will be incorporated into the promoter's environmental and social management system (ESMS). The same Plan also establishes firm references and links to the operation's grievance mechanism. The scope and level of detail of the plan should be scaled to fit the needs of the project.

Scope

11. The nature and extent of stakeholder engagement will reflect the nature and complexity of the project and its stakeholders, the project risks and potential adverse impacts on individuals, communities and other impacted stakeholders, and the sector. Stakeholder engagement processes will therefore vary across projects and different financing instruments. Beyond any single operation financed by the EIB, stakeholder engagement is recommended as good and necessary practice for promoters to adopt more generally.

12. In addition to this Standard's contents, as set out below, requirements on information dissemination and public consultation are raised in other environmental and social standards to be duly cross-referenced with the present Standard. Equally, application of Standard 10 in specific contexts and concerning the inclusion of specific groups' opinions should be guided by the relevant requirements entailed in the other Standards.

Principles

13. The principles of public participation, non-discrimination and transparency are integral to sound governance and democratic decision-making in the EU. The EU's primary legislation addresses the issue of participation: the Treaty of Amsterdam fortified the notion of transparency and the basis for consultation, whilst participatory democracy is directly addressed in the Treaty of Lisbon. Principles of

⁶¹ http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

⁶² <http://www.ilo.org/indigenous/Conventions/no169/lang--en/index.htm>

⁶³ For projects that may lead to physical displacement of Indigenous Peoples, the Promoter is required to obtain their Free, Prior, and Informed Consent (FPIC). Additionally, the EIB adheres to good international practice requiring that REDD+ projects apply FPIC, too, whether indigenous populations or forest communities are affected.

⁶⁴ These being the eight (8) effectiveness criteria of a Grievance Mechanism, as outlined in Principle 31 of the United Nations Guiding Principles on Business and Human Rights:

<http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf>

good governance are reflected in the White Paper on European Governance,⁶⁵ which acknowledges the need for greater citizen involvement and openness, and sets out the minimum standards for consultations on EU policies, while national governments remain responsible for nurturing a culture of debate and dialogue as well as improving their own national consultative processes.

14. ESIA undertakings should follow the spirit of the Aarhus Convention. The Aarhus Convention, otherwise known as the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, grants the public rights regarding access to information, public participation and access to justice, in governmental decision-making processes on matters concerning the local, national and trans-boundary environment. It focuses on interactions between the public and public authorities.

15. Moreover, the 1992 Rio Declaration on Environment and Development and the 2002 Johannesburg Declaration on Sustainable Development recall the right to access to information and public participation within the context of sustainable development, whilst several EU member states' bilateral development agencies have the principles of participatory development enshrined in their practice.

EIB Requirements

Overarching Requirements

16. Stakeholder engagement will be planned for and carried out by the promoter without discrimination, taking into account differences in risk exposure and the increased sensitivity and reduced resilience of vulnerable groups in line with Standard 7.

17. Stakeholder engagement, including disclosure and dissemination of information, will be planned for and carried out in line with the principles of prior, informed and free engagement and informed participation, in order to lead to broad community support by the affected communities and longer-term sustainability of the project's activities. In the event that broad community support is not attained, the promoter is expected to dedicate all necessary resources and time to additional community engagement and public consultation initiatives, as is required.

18. Stakeholders' inputs will be documented and carefully considered throughout the project preparation and implementation phases.

19. Effective and meaningful engagement and consultation is a two way process to be guided by the following general principles:

- be initiated by the promoter early in the process of identification of environmental and social risks and potential adverse impacts and continue throughout the project life cycle as risks and impacts arise;
- be inclusive of the affected communities, and accessible to any vulnerable groups within, and differentiated by various segments;⁶⁶
- be inclusive, beyond the affected parties, of any groups or individuals who have been identified as other interested parties; and,
- be adequately documented both in substance and process.

20. Factors such as literacy, unequal gender relations and access to dissemination media constitute factors to be carefully considered by the promoter when pursuing an effective disclosure and information dissemination campaign.

Procedural Requirements

Stakeholder Identification and Analysis

21. The promoter will be comprehensive in identifying and prioritising all project stakeholders in the given context, especially those who may be differentially or disproportionately affected by the project because of their vulnerable status. Mapping the different types of stakeholders creates the basis for identifying the

⁶⁵ http://eur-lex.europa.eu/LexUriServ/site/en/com/2001/com2001_0428en01.pdf

⁶⁶ Ensuring that all stakeholders, including under-represented groups on account of gender, poverty and other elements of social vulnerability are given equal opportunity to voice their opinions and concerns and that these are accounted for in the project decision-making.

people who have human rights entitlements related to a project, as well as for identifying the entities accountable for these entitlements. It is also a valuable exercise for distinguishing between rights and interests in an operation and ensuring respect for the former, given they constitute a primary responsibility for public and private sector promoters alike.

22. Stakeholder analysis needs to clearly identify and differentiate between the different types of stakeholders, including consideration of their rights, roles, duties and responsibilities in the given context, outlining rights-holders and duty-bearers.⁶⁷ Such analysis will help identify all impacted individuals and communities (right bearers) and the rights which they hold and may be threatened or interfered with in an operation. Government agencies, promoters and other parties (e.g. suppliers and contractors), as duty bearers, have the obligation and responsibility to ensure that these rights are upheld.

23. Particular attention will be placed upon the identification of vulnerable individuals and groups in the given project context and their meaningful engagement in consultation processes.

24. Drawing on independent experts and legitimate representatives can be particularly important in those contexts where rights-holders have limited capacity to represent their own views or may be restrained in doing so by contextual factors (e.g. post-conflict societal tensions, exclusion of certain groups from mainstream political life). In those cases, assessment of the representation of communities and groups is essential, particularly in terms of verifying whether the representatives engaged by the promoter faithfully and legitimately represent views of rights-holders concerned.

25. Stakeholder identification and analysis is a critical element in the stakeholder engagement process and the elaboration of relevant activities and measures that will take characteristics and interests of stakeholders into account. Failure to identify all relevant stakeholders can aggravate existing issues and subsequently jeopardise project objectives.

26. Many of the techniques and methodologies common to socio-economic assessments can aid in identifying stakeholders and determining how and to what extent a particular project may affect them.

Engagement Planning

27. Stakeholder engagement should be built into an operation's planning in a way that enables a meaningful information exchange with all identified stakeholder groups at the very outset of the project and at subsequent key decision-making points in its life cycle. Adequate budgetary resources should be foreseen and dedicated to this activity.

28. In the case of projects with significant environmental and social risks and impacts,⁶⁸ the promoter, at a minimum, will engage in a preliminary scoping process with identified affected individuals, communities and other relevant stakeholders to ensure the identification of all key issues to be investigated as part of the Environmental and Social Impact Assessment (ESIA) process.

29. The scoping process will facilitate the development of a Stakeholder Engagement Plan (SEP) for the project (see Annex 6 of Volume II). As part of this process, stakeholders should be able to provide input to the draft Stakeholder Engagement Plan and any other scoping document, and receive feedback on how their comments and input have been incorporated and addressed.

30. The promoter will follow up with a second round of consultations when the draft final ESIA/ESMP reports are ready for consultation. Subsequently, the size and nature of the project, the number and nature of identified stakeholders as well as the provisions in the national legislation and relevant best practices will help determine the location, time, level and frequency of follow-up public consultations throughout the lifecycle of the project.

31. The promoter will be expected to build upon the avenues of communication and stakeholder engagement established during the ESIA process. This may include using the appropriate community engagement practices to disclose information and receive feedback on the effectiveness of the implementation of the mitigation measures defined in the ESMP, as well as the affected communities' ongoing interests and concerns about the project.

⁶⁷ Rights-holders are understood all individuals and some groups (such as indigenous peoples), since they have human rights. organisations or entities, such as States, trade unions or religious institutions, are not human rights-holders, but may act in a representative capacity for individuals who are rights-holders. Duty-bearers are all those actors who have human rights duties and responsibilities vis-à-vis the project affected rights holders. States are the primary human rights duty-bearers, given they have a legal obligation to protect, respect and fulfill human rights. Companies and their contractors, suppliers and other business partners, have a complementary responsibility to respect human rights which is to avoid infringing on the human rights of others and address those impacts with which they are involved.

⁶⁸ As defined in Annex I and Annex II of the EU EIA Directive.

Information Disclosure

32. The timely disclosure of relevant project information enables stakeholders to understand the project's risks, impacts and opportunities. Mindful of this and as foreseen in the Stakeholder Engagement Plan, the promoter will provide identified stakeholders with relevant information in a timely and appropriate manner. The promoter will further disclose and grant access to relevant information to any other interested party as appropriate.

33. The promoter will provide the following information ("the Information") to all identified stakeholders who are likely to be affected by adverse environmental or social impacts from the project:

- the purpose nature, objectives and scale of the project;
- the duration of proposed project activities;
- any risks to and potential adverse impacts with regard to the environment, land tenure changes (resettlement, land acquisition or expropriation), occupational and community health, safety and security, and any other potential adverse impact on communities arising from the project;
- the proposed mitigation plans and associated budget;
- the available grievance mechanisms;
- any added value and opportunities for benefit-sharing;
- the envisaged consultation process, if any, and opportunities and ways in which the public can participate; and,
- time and venue of any envisaged public meetings, and the process by which meetings are notified, summarised, and reported.

34. This information will be disclosed in the local language(s) and in a manner that is timely, accessible and culturally appropriate, taking into account any vulnerable or minority groups and their right to equitable representation and consideration for their rights, views and interests. The promoter will ensure that access to information is enabled to stakeholders early in the environmental and social impact assessment process and will continue as it unfolds.

Public Consultation

35. The consultation process is part of the public commitment of the promoter. Where communities are, or are likely to be, affected by adverse impacts from a project, the promoter will undertake a process of meaningful consultation in a manner that provides the affected parties with opportunities to identify and express their views on project risks, impacts, and mitigation measures, and engage in a collaborative process with the project in responding to, and addressing considerations raised. Initial stakeholder consultations will occur early enough for the rights and interests of impacted individuals and communities to influence decisions made throughout the project life cycle.

36. The promoter will consult all identified stakeholders at strategic decision-making points during the project lifecycle and certainly before any impact is delivered. The frequency and degree of subsequent engagement and consultations will depend on the nature and magnitude of risks and current and potential adverse environmental or social impacts arising from the project. At minimum, the promoter will ensure that a regular, consistent and reliable platform of on-going dialogue and communication with stakeholders is maintained.

37. Within the context of such dialogue, the promoter will consider, take into account and respond to all views expressed as appropriate and report to stakeholders on the *rationale* of ultimate decisions. Such rationale will need to demonstrate that impacts causing interference with people's human rights are in accordance with the law of the state in question, in pursuit of a legitimate public aim and proportionate to the objectives sought to be achieved by the project. Key in this process is the promoter's responsiveness and the meaningful on-going engagement and consultations with impacted individuals, communities and other relevant stakeholders.

38. The promoter will be required to review the effectiveness of previous public consultation processes, report on the findings and make the necessary amendments in the operation's environmental and social action plan (ESAP) and SEP to improve future consultations (see the section on monitoring and reporting below). The promoter will inform those who have participated in the public consultation process in a timely manner of the final decision on the project, the accompanying environmental and social mitigation measures and any associated benefits for the local communities. The promoter will further inform the latter of the reasons and considerations on which the decision was based, as well as of the judicial and

non-judicial grievance or complaint mechanism or process that should be available during the entire duration of the project.

Free Prior Informed Consent (FPIC)

39. In line with Standard 7, the principle of free, prior, informed consent (FPIC) refers to the process whereby an affected community of indigenous peoples arrives at a decision in accordance with their legal provisions, cultural traditions and practices. The UN Declaration on the Rights of Indigenous Peoples⁶⁹ ratified in 2007 is the standard to be applied in the implementation of sustainable development projects at all levels, including respect for full participation in decision-making and indigenous peoples' free, prior informed consent to policies, programmes and projects affecting them.

40. In properly appreciating and applying FPIC:

- *Free* should imply no coercion, intimidation or manipulation.
- *Prior* should imply consent has been sought sufficiently in advance of any authorization or commencement of activities and respect time requirements of indigenous consultation/consensus processes.
- *Informed* should imply that information is provided that covers (at least) the following aspects: (a) the nature, size, pace, reversibility and scope of any proposed project or activity; (b) the reason/s or purpose of the project and/or activity; (c) the duration of the above; (d) the locality of areas that will be affected; (e) a preliminary assessment of the likely economic, social, cultural and environmental impact, including potential risks and benefit sharing in a context that respects the precautionary principle; (f) personnel likely to be involved in the execution of the proposed project (including indigenous peoples, private sector staff, research institutions, government employees and others); and (g) procedures that the project may entail; and
- *Consent* should be premised on consultation and participation undertaken in good faith and full and equitable participation, allowing for as much time as needed and an effective system for communicating among interest-holders, participation of peoples' own freely chosen representatives and customary or other institutions, and the participation of indigenous women, as well as children and youth as appropriate^{70, 71}.

41. The principle underlines the EIB's acknowledgement of the important nexus linking sustainable development and self-determination. Moreover, and in line with the EIB's commitment to human rights, it is the respect and protection of indigenous peoples' human and collective rights that should guide the promoter's actions. In affirming those rights, the FPIC process should produce a clear endorsement or rejection of the proposed intervention and a statement of all accompanying mitigating measures and/or benefit-sharing agreements. It may be expressed in conditional or unconditional terms. As such, it is the main instrument ensuring to the promoter and the EIB alike that at the project level, the indigenous peoples' priorities for economic, social and cultural development and environmental protection are promoted, informed by their traditional cultures, knowledge and practices, and the implementation of their inherent right to self-determination.

42. FPIC is expected to be established through good faith negotiation between the promoter and the participating indigenous communities and to be fully documented as a mutually accepted process between the parties, carrying evidence of agreement between them as the outcome of the negotiations and clearly outlining benefit- and risk-sharing provisions. The EIB is not prescriptive on what constitutes consent and does not require that FPIC ascribes to unanimity, rather that satisfactorily documented evidence of the meaningful engagement of the whole body of a participating community is provided.

43. In the application of FPIC, the promoter should pay particular attention to the representativeness and legitimacy underpinning the process. The objective should be to reach a collective decision (involving indigenous peoples' representative bodies and organizations e.g., councils of elders or village councils), as well as members of the affected communities of indigenous peoples; and any other local civil society

⁶⁹ http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

⁷⁰ Source: Excerpt from the Report of the International Workshop on Methodologies Regarding Free Prior and Informed Consent E/C.19/2005/3, endorsed by the UNPFII at its Fourth Session in 2005.

⁷¹ The ILO Convention 169/1989 also refers to the principles of FPIC. Therein, Articles 6, 7, 16, 16 and 22 provide that the government shall consult the peoples concerned, through appropriate procedures, in particular through their representative institutions; establish means by which these peoples can freely participate to at least the same extent as other sectors of population; assist these peoples' own institutions and initiatives and in appropriate cases provide the resources for these purposes.

organizations identified by the affected indigenous peoples' communities). Further consideration should be given to the following success factors:

- the concerned communities' capacity to negotiate;
- verification of freedom from coercion and the cultural appropriateness of the engagement over an adequate period of time; and,
- information provided to the communities in a culturally appropriate format and in a timely manner.

44. When possible, it is good practice for the promoter to provide in advance capacity building support to indigenous peoples' communities and their organisations, so that they may meaningfully engage in the appreciation of the intended project, impacts and implications arising therefrom.

Grievance Mechanism

45. The promoter should be aware of and responsive to stakeholders' concerns related to the project in a timely manner. A grievance mechanism, process, or procedure at the project level constitutes a critical means for the early identification and remedy of undesirable or unforeseen impacts and other concerns arising out of the execution of the project. Its establishment promotes the affected persons' access to remedy and may facilitate resolution of such concerns and grievances linked to the promoter's environmental and social performance.

46. The promoter will ensure that a grievance mechanism is introduced at project level, irrespective of other complementary linkages or access to existing public grievance channels in the country concerned. It should be designed as a mechanism that is:

- legitimate and trusted;
- scaled to the risks and potential adverse impacts of the project;
- publicised and accessible, appropriately tailored to all potentially-affected persons and communities and other interested parties, irrespective of their literacy and administrative capacity;
- free of cost for the stakeholders;
- includes the anonymity option, where feasible, and guarantee confidential handling of requests, if so requested by the complainant;
- fair, transparent and inclusive;
- guided by engagement and dialogue;
- predictable in terms of process;
- timely:
- not impeding access to grievance and resolution on grounds of one's financial ability to seek judicial remedy; and,
- a source of continuous learning for the promoter and the lending operation at large.

47. It is expected that such a mechanism is introduced by the promoter at the very outset of project design. In terms of scope, it should possess a life-span similar to that of the operation, whilst it should be open to serve all interested parties bearing concerns that arise out of the project's scope.

48. Where a complaint is not admissible or relevant, the promoter will refer the aggrieved parties to the relevant authority or other grievance process. The grievance mechanism, process or procedure should not impede access to independent judicial or administrative remedies outside any project specific context; quite the contrary, it should complement and facilitate access to independent bodies (e.g. Ombudsman).

49. Such mechanism, process, or procedure will document and address concerns communicated to the promoter promptly and effectively, using an understandable and transparent process that is culturally appropriate and readily accessible to all stakeholders, at no cost and without retribution. This is critical for it to be able to deliver on its intended purpose, namely the strengthening of non-judicial access to grievance at the project level. For the grievance redress to function well, the mechanism should be adequately planned for, budgeted and staffed.

50. The promoter will introduce an effective feedback system to the mechanism, informing the affected communities about the project grievance process and its outcomes and reporting regularly to the public on its implementation, while protecting the privacy of individuals. The promoter will also inform the affected communities of their right to independent judicial recourse in the event that grievances cannot

satisfactorily be resolved using the project-specific mechanisms. Resolution of a grievance should be confirmed by way of evidence of the satisfaction of the stakeholder/aggrieved party. It is required that the promoter diligently documents this process.

Monitoring and Reporting

51. Engagement with stakeholders during the life of a project is a dynamic and challenging process. Promoters are required to monitor the implementation of the stakeholder engagement plan and the performance of the grievance mechanism and report on both. In accordance to and as an integral component of a project's Environmental and Social Management System, monitoring and reporting procedures must be established early on in the operation by the promoter.

52. In terms of monitoring, the promoter will arrange for all necessary provisions to assure stakeholder engagement during the monitoring phase. Thereby, the promoter will endeavour to involve independent third parties (e.g. CSOs, NGOs, national human rights institutions) or to facilitate community-driven monitoring, where practical and acceptable by the communities concerned.

53. In terms of reporting, the promoter will establish regular communication and reporting channels back to the communities and individuals impacted and concerned, whether through non-technical summaries of progress updates, engagement activities, public meetings, targeted issue-based hearings.

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A. RATIONALE AND CONCEPTS

A.1 Introduction

1. The Environmental and Social Procedures and Practices Handbook (herein referred to as the “Handbook”) provides to EIB project teams advice on the planning and management of the environmental and social appraisal and monitoring of EIB operations in accordance with the established EIB environmental and social policy framework. The Handbook is based on an approach to appraising, managing and monitoring environmental and social impacts, risks and opportunities in proportion to their significance. It describes the steps for determining the scope of the environmental, social and monitoring activities the EIB shall carry out for all operations in all regions throughout the project cycle. It also explains the role of specialised units or individuals who collectively ensure that the EIB’s activities respond to the highest possible standards. The practices and standards apply to all of the EIB’s operations.

2. The Handbook builds upon and reflects the EIB Statement on Environmental and Social Principles and Standards (EIB Statement), the ten Environmental and Social Standards (EIB E&S Standards), and other relevant and applicable instruments such as the EU Treaties, the Charter of Fundamental Rights of the European Union, the EU environmental *acquis*, international conventions and multilateral environmental and human rights agreements¹.

3. The application of these procedures will vary according to the type of operation and EIB’s level of engagement in the underlying project. The procedures and practices also delineate EIB’s disclosure requirements in accordance with the requirements of the UNECE Aarhus Convention² (Aarhus Convention) on access to information, public participation in decision-making and access to justice in environmental matters as well as in accordance with the EIB Transparency Policy³.

A.2 Background

4. Sustainable Development has been a fundamental objective of the European Union since 1997. It was enshrined as Article 2 of the Treaty and is supposed to underpin all EU policies and actions as an overarching principle. The Sustainable Development Strategy, adopted by the European Council in June 2006 and revised in 2009, deals in an integrated way with economic, environmental and social issues (the “triple bottom line”) and lists the seven following key challenges:

- Climate change and clean energy;
- Sustainable transport;
- Sustainable consumption and production;
- Conservation and management of natural resources;
- Public health;
- Social inclusion, demography and migration; and,
- Global poverty.

5. The environmental and social policies, principles and standards, as well as the procedures and practices of the EIB, derive from and reflect the evolving EU approach and that of other international institutions towards the promotion of environmental sustainability, social development and human well-being, in the broader context of the goal of sustainable development. This is reflected in the objectives and targets of the EIB’s Corporate Operational Plan (COP)⁴ and in its activities.

6. In terms of promoting social development and human well-being, EIB’s social standards and practices seek alignment with the policy objectives enshrined in several key reference documents issued and/or

¹Such as the UN covenants and conventions on Human Rights, the ILO Conventions, as well as the UN Guiding Principles on Business and Human Rights.

²Aarhus Convention: <http://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>

³EIB Transparency Policy: http://www.eib.org/attachments/strategies/transparency_policy_en.pdf

⁴EIB’s Corporate Operation Plan (COP): http://www.eib.org/attachments/strategies/cop_2013_en.pdf

endorsed by the EU. Namely, EIB social standards and practices align with the EU policy objectives relating to the respect for human rights, gender equality, decent work, stakeholder engagement and conflict prevention, as upheld in the Agenda for Change (European Commission, 2011), the European Consensus on Development (European Union, 2005), the Paris Declaration (2005), the Accra Agenda for Action (2008) and the Busan Partnership Agreement (OECD, 2011).

7. The respect and protection of human rights being central to the social sphere, EIB's social standards and the subsequent application of its social due diligence further align with the EU Strategic Framework and Action Plan on Human Rights and Democracy (2012), the UN Guiding Principles for Business and Human Rights (UNGPs), the Renewed EU Strategy 2011-2014 for Corporate Social Responsibility and the OECD Guidelines for Multinational Enterprises (2008). The EIB thereby commits to the promotion of robust and comprehensive human-rights-responsive due diligence processes, guided by a principled pragmatism.

A.3 Roles and Responsibilities

ROLE OF THE PROMOTER

6. The promoter is responsible for achieving compliance with relevant legal standards and policies and managing the environmental and social impacts and risks associated with its project to this end. The promoter is responsible for providing the information required by the EIB to carry out its due diligence and for structuring the project to meet the EIB's environmental and social (E&S) standards and requirements. The promoter is also responsible for disclosing project-related environmental and social information, as well as carrying out any stakeholder engagement and consultation required, and/or verifying that any project-related stakeholder engagement and consultation activities carried out by third parties (e.g. host government agencies) meet the standards expected by the EIB. The promoter may be required to carry out supplemental studies to the satisfaction of the EIB.

7. Following the signing of the finance contract, it is the responsibility of the promoter to comply with the contractually agreed E&S standards and requirements to the satisfaction of the EIB, and to monitor the project's performance against these requirements as part of the promoter's environmental and social management system. The promoter will be required to provide periodic environmental and social reports to the EIB. The promoter will also facilitate monitoring missions carried out by the EIB or third-parties when required.

ROLE OF THE EIB

8. The EIB's role is to support sound operations that have been designed and structured so as to meet EIB E&S standards and requirements as well as international best practice. This includes:

- assessing the operation against the relevant legal framework;
- assessing the operation against EIB E&S principles and standards;
- advising and, where required, assisting the promoter in developing measures to manage the E&S impacts and risks of the operation consistent with EIB's standards;
- assessing the capacity of the promoter to implement all the E&S requirements;
- identifying opportunities to enhance E&S outcomes;
- assessing the E&S institutional capacity of the relevant national authorities and agencies and providing technical assistance, if needed;
- monitoring the operation's performance in accordance with the EIB's E&S standards throughout the duration of the loan; and
- disclosing information about its projects in accordance with the requirements of the Aarhus Convention and the EIB Transparency Policy.

ROLE OF THE PROJECT TEAM

9. The EIB Project Team (the Team), led by the contact person (from the Projects Directorate - PJ) and the loan officer (from the Operations Directorate - OPs)⁵, has the overall responsibility for the operation, including the environmental and social aspects. This includes:

⁵ For products that do not require PJ involvement, the Team is led by only a loan officer (e.g. global loans)

- the communication between the promoter and all relevant parties of the Team;
- obtaining, in a timely manner, environmental and social information and documentation that is sufficient to allow the Team to make a review and assessment of operation/project-related environmental and social issues, impacts and risks prior to submission to the Management Committee (MC) and the Board of Directors;
- liaising through the Article 19 process with the relevant services of the Commission;
- incorporating the findings of the assessment, to the extent possible, into the economic analysis (e.g. economic price of carbon, environmental and social externalities);
- structuring the project so as to meet the EIB E&S standards and requirements;
- defining project relevant E&S indicators to measure the impact of the project to be included in the Result Measurement Framework (REM)⁶ and the Three Pillar Assessment (3PA)⁷, and
- ensuring that any specific E&S requirements that are set as conditions for lending (e.g. standards, monitoring requirements, management measures) have been incorporated into the legal documentation.

10. PJ and the respective EIB staff responsible for monitoring carry out periodic monitoring of the project's/operation's performance against the EIB's E&S standards and the defined contractual requirements. The EIB will also undertake the necessary monitoring missions to review the project against the environmental and social management plans (ESMP)/ environmental and social action plans (ESAP), the established indicators and will verify compliance of the project with the environmental and social conditions in the finance contract.

ROLE OF ENVIRONMENT, CLIMATE AND SOCIAL OFFICE (ECSO) WITH RESPECT TO ALL OPERATIONS

11. ECSO supports the Teams in the environmental and social assessment of operations. Its level of intervention is determined by the level of E&S due diligence required, the significance and complexity of the potential impacts and risks identified at the Project Identification Note (PIN) stage. In the cases where an ECSO member is a full team member, s/he is responsible for structuring the assessment, agreeing on the E&S documentation with the promoter, assessing the E&S information provided to the EIB and discussing the necessary actions within the Team as well as with the promoter, drafting the Environmental and Social Data Sheet (ESDS) (Annex 1), agreeing with JU the conditions to be inserted in the finance contract, including the monitoring indicators required in the PJ Appraisal Report, and monitoring the E&S performance of the project during implementation.

12. If an ECSO specialist has been attributed as a team member to a project, the ECSO specialist will review the environmental and social monitoring reports and, as necessary, will participate in the monitoring missions to ensure project compliance with the environmental and social conditions. In these cases, the ECSO specialist will be responsible for signing off on the promoter's compliance with the environmental and social conditions.

ROLE OF THE ENVIRONMENTAL ASSESSMENT GROUP (ENVAG)

13. The PJ members of ENVAG (ENVAGs) are specialists that work to ensure the quality and consistency of the environmental and social due diligence throughout the EIB project cycle and across sectors. Furthermore they assist ECSO develop policies and practices in the E&S fields and provide support in the implementation and awareness raising of the EIB's E&S standards and due diligence procedures.

14. At the time of attribution of the members of the Team - for all operations, with the exception of those categories of operations that are not subject to a PJ environmental and social due diligence (e.g. global loans) - the PJ Head of Department responsible for the operation also designates a representative of ENVAG with appropriate sector expertise who supports and provides advice to the Team on E&S matters. Following his/her review of the E&S aspects included in the PJ project documents, the ENVAG signs off on the formal PJ documents

⁶ REM: <http://projects/horizontal-issues/rem-results-measurement-framework/>

⁷3PA: <http://projects/horizontal-issues/value-added-framework-vaf/3-pillar-assessment-faqs/>

15. The PJ Contact Person is responsible throughout the project cycle for timely and appropriate consultation on environmental aspects with the ENVAG representative attributed to the operation.

16. In particular, the ENVAG representative should review:

- the E&S risks highlighted in the PIN;
- the environmental and social form and content of the PJ Opinion for Appraisal (OA); and
- the environmental and social due diligence (ESDS and associated appendices) of the PJ Appraisal Report. ECSO will provide back-up support to individual members of ENVAG as required. The responsibility for the project appraisal and monitoring remains with the Project Team.

17. The name of the ENVAG will appear on the OA, the PJ Appraisal Report and the ESDS, thereby indicating that s/he has had the opportunity to review the E&S aspects of the project included in the aforementioned documentation.

ROLE OF THE CIVIL SOCIETY UNIT

18. The role of the Civil Society Unit, within the EIB's Communication Department, is to manage relations with Non-Governmental Organisations (NGOs) and other Civil Society Organisations (CSOs). The Unit acts as an interface with civil society, in particular in coordinating replies to enquiries and requests for information and organising meetings and workshops with interested organisations.

19. The Civil Society Unit also has a coordinating and facilitating role when EIB staff corresponds and meet with local CSOs, notably when there is a particular interest among the local population in an EIB-financed project.

A.4 Operational Context

A.4.1 Environmental and Social Eligibility

20. The EIB makes long term loans and other investments for the development of projects in the EU Member States and other countries to which it is mandated by the EU in order to support EU policies, including environmental and applicable social policies. In addition, there may be a specific environmental reason for financing the project. In general terms – within the limits of any mandates that may apply – an investment is eligible for environmental reasons for EIB financing to the extent that it supports the objectives of the EU Treaties, the environmental and social *acquis* and the environmental priorities of the “Seventh Environmental Action Programme – Living Well within the limits of our Planet (2012-2020)”⁸. For projects outside the EU, the EIB financing is governed by decisions of the EIB's Board of Governors and by separate mandates and partnership agreements from the EU and the Member States⁹.

21. The environmental and social criteria, for the purpose of classifying lending, should be applied to all projects, whether within or outside the EU, that are expected to have a significant beneficial impacts on the environment and social well-being.

22. The environmental lending objectives of the EIB are stated in the latest EIB COP, which is available on the EIB's website.

23. The COP defines the following main areas for EIB projects to be eligible for EIB financing on environmental grounds. These then result in specific high priority areas for environment (see [Table A](#)):

- Tackling climate change, e.g. energy efficiency and renewable energy;
- Protecting nature and biodiversity;
- Reducing the impact of the environment on human health, e.g. the supply of safe drinking water and wastewater treatment, and improvements to air quality;

⁸ Link to the 7th EAP: http://ec.europa.eu/environment/newprg/pdf/7EAP_Proposal/en.pdf

⁹ Link to EU agreements:

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- Promoting the sustainable use and management of natural resources, e.g. waste management and watershed management; and,
- Improving the quality of life in the urban environment, e.g. urban transport and urban renewal.

Table A: High Priority Areas for Environment

<p>Environmental Protection</p> <ul style="list-style-type: none"> - Promotion of efficient and sustainable natural resource management, incl. agribusiness, fisheries, forestry, water resources - Reduction of flood risk in compliance with the EU flood directive - Support to sustainable drinking water supply services, wastewater treatment, improving aquatic biodiversity; projects to meet EU environmental directive compliance backlogs - Avoidance of breach of EU solid waste directives and substantial reduction of pollution and/or recycling of waste from industrial processes; soil depollution; nuclear decommissioning
<p>Renewable Energy & Energy Efficiency</p> <ul style="list-style-type: none"> - Renewable Energy (RE) - Energy Efficiency (EE)
<p>Sustainable Transport</p> <ul style="list-style-type: none"> - The development of cleaner, safer, more efficient means of transport including the “smart” management of transport systems
<p>Economic & Social Cohesion</p> <ul style="list-style-type: none"> - All eligible projects located in a Convergence area
<p>Climate Action</p> <ul style="list-style-type: none"> - All eligible projects contributing to climate change mitigation - All eligible projects contributing to climate change adaptation

24. Projects contributing to biodiversity and natural disaster and reconstruction projects are also considered to be high priority projects that can fall in any of the above-mentioned categories. These high priority areas do not preclude the financing of other environmentally eligible projects.

A.4.2 Types of Operations

25. The EIB currently distinguishes between the following types of operation:

Investment Loans (IL): this covers all operations (whether single or multi-scheme, single or multi-promoter) where the information about the underlying investment expenditures is sufficient to analyse the project in one stage.

Investment Programmes (IP): are multi-scheme operations with one (or more) common features (e.g. one sector or objective, such as corporate R&D programmes or infrastructure programmes). Such investment programmes fall under the category of Investment Loan and do not therefore require a two-stage submission to the Management Committee or the Board.

Framework Loans (FL): are instruments for financing multi-component investments where, due to incomplete information being available at the appraisal stage, decisions concerning the financing of specific schemes have to be taken after approval of the overall operation by the Board. FLs can be single or multi-sector, single or multi-promoter, financially intermediated or coordinated through a central body.

Structural Programme Loans (SPL): are a subset of the FL category. SPLs are aimed at co-financing multi-scheme investments managed by public authorities included within an Operational Programme (OP)

to meet EU economic and social cohesion objectives and supported by grants from the EU Structural or Cohesion Funds.

Global Loans (GL): a line of credit to an intermediary financing institution or a EIB which then on-lends the proceeds ("sub-loans" or "allocations"), at its own risk, to finance small and medium-sized projects (not identified at the time of submission to the Board) being undertaken by private or public sector promoters.

Loans to/for SMES: *EIB Loans for SMEs* are lines of credit to an intermediary financing institution or a EIB in all regions of EIB operation, which then on-lends the proceeds ("sub-loans" or "allocations") to finance small and medium sized investments being undertaken by SMEs. As is the case for Global Loans (GLs), the intermediary financing institution assumes responsibility for assessing risk on individual sub-loans to SMEs.

Mid-Cap Loans (ML): Mid-caps are intermediate-sized companies with less than 3,000 employees on a consolidated basis, whose investment projects generally exceed the authorised ceiling on global loans but are of insufficient size to justify an investment loan. Mid-cap projects and programmes must comply with the EIB eligibility criteria set out in the Eligibility Guidelines. An allocation under a mid-cap loan is a simplified direct operation (investment loan). It is a line of credit to an identified intermediary financing institution/EIB, which on-lends the proceeds ("sub-loans" or "allocations"), normally at its own risk, for the financing of medium-scale projects promoted by mid-cap companies. A mid-cap loan differs from a direct investment loan in that it is intermediated and the project-related due diligence is summarised by the intermediary on designated forms. The mid-cap loan product does not require an "ex-ante" identification of the projects financed or the promoters involved.

Funds: an investment operation where the EIB invests equity in a fund which then makes investments in one or more projects.

Mutual Reliance Initiative (MRI) Projects: The MRI projects between AFD, EIB and KfW aims at streamlining co-financing relationships with a view to generating cost savings for promoters and borrowers and, in the longer run, the co-financing Partners, and at enhancing their visibility in providing development finance and implementing EU external policies. Under the MRI, the co-financing partners delegate parts of their project-related work to one of them, carrying the lead financier (LF) role at various stages of the project cycle for a given project.

A.5 Environmental and Social Assessment – Guiding Principles

26. To all its operations and activities, the EIB applies a number of core environmental and social standards and processes that reflect international standards and best practice. All EIB-supported operations, independently of the form of financial commitment, i.e. lending, blending or advising, should:

- Comply with host country laws and regulations;
- Observe the Universal Declaration on Human Rights;
- Comply and/or align with the EU environmental *acquis*;¹⁰
- Observe the Charter on Fundamental Rights of the European Union;¹¹
- Meet the requirements of applicable international conventions and agreements ratified by the host country;
- Comply and/or align with the EU social *acquis*;¹²
- Apply the European Principles for the Environment¹³ (see Annex 2 for the Declaration);
- Apply the UN Guiding Principles on Business and Human Rights;¹⁴

¹⁰ The "environmental *acquis*" is comprised of the main EU legal instruments, approximately 300 directives covering environmental protection, polluting and other activities, production processes, procedures and procedural rights as well as products, and cross-cutting issues (e.g. EIAs, access to information on the environment and combating climate change). Quality and related emissions standards are set for air, waste management, water, nature protection, industrial pollution control, chemicals and genetically modified organisms, noise and nuclear safety and radiation protection.

¹¹ http://www.europarl.europa.eu/charter/pdf/text_en.pdf

¹² The "social *acquis*" is the part of the *acquis communautaire* that includes the body of laws, principles, policy objectives, declarations, resolutions and international agreements defining the social policy of the EU. <http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/socialacquis.htm>

¹³ European Principles for the Environment (EPE): http://www.nib.int/about_nib/environment/environmental_cooperation/epe

¹⁴ http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

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- Apply “best available techniques” (BAT), as appropriate;
- Apply best environmental and social management practices during project implementation and operation, including best practice standards and frameworks specific to the industry, sector and/or project country context; and
- Adhere to other specific international environmental and social standards and best practices, as identified to be applicable during project screening and appraisal, based on the particular project context and industry practices.

27. According to its own policy requirements, the EIB shall satisfy itself that projects to be financed (including related ancillary/associated infrastructure and facilities and the area of influence) comply with its environmental and social principles, standards and requirements, as framed in the EIB Statement of Environmental and Social Principles and Standards and its 10 E&S Standards, in particular that:

- Projects to be financed within the EU, Candidate and potential Candidate countries comply with the EU *acquis* for the protection of the environment and human well-being;
- Projects to be financed in third countries are assessed on the basis of EU environmental and social principles, standards and practices. In all cases, projects comply with applicable national and relevant international environmental and social legislation and conventions; and
- Projects in all regions satisfy the EIB environmental and social standards.

28. An overview of the EIB’s environmental and social standards, documentation and information requirements from the promoter and internal due diligence is given below in [Table B](#).

Table B: Typology of EIB Environmental and Social Standards (TESS)

	A	B	C	D	E	F
	30 day Rule	EIB Publication of the NTS	EIB Publication of the EIS	Compliance with EU Standards	Social Assessment required	Nature Declaration by the CA
Region of Application						
EU 28 (+EFTA)			NO*	YES	YES, selectively	
Candidate (Tur, FYROM)	NO			YES, subject to phasing		
Potential Candidate (W. Balkans)						
EU Neighbours and Partners		YES		YES		YES
Russian Federation				if practical and feasible		
ALA	YES		YES		YES	
RSA						
ACP						

Notes:

A The Non-Technical Summary (NTS) for all investment loans outside EU-28, Candidate and potential Candidate countries will, be made public for a minimum of 30 days before the project is presented to the EIB Board of Directors.

B For all projects requiring an EIA, the NTS (or equivalent document for projects outside the EU-28, Candidate and potential Candidate countries), will be made public, either on the EIB’s projects website or by a link to the website of the promoter.

C The Environmental and Social Impact Study (ESIS) (the written report from the Environmental and Social Impact Assessment) for all projects outside the EU-28 and requiring an ESIA, shall be made public either on the EIB’s projects website or by a link to the website of the promoter*. Within the EU, it is a legal requirement of the promoter to make the EIS and NTS public.

D The projects shall comply with EU standards in Candidate and potential Candidate countries, subject to phasing where the project has been designed to meet the requirement of the relevant EU law by the date of accession or in accordance with any transition arrangements. This does not apply to the horizontal directives such as the EIA, SEA and Nature Directives which must be complied with. Outside the EU, Candidate and potential Candidate countries, the benchmark is EU standards. Where EU standards are more stringent than national standards, the higher EU standards are required if practical and feasible (i.e. affordability, local conditions, international best practice, etc.).

E The EIB will carry out a social assessment for all operations/projects outside EU-28, Candidate and potential Candidate countries and on a selective basis in operations/projects in the EU, Candidate and potential Candidate countries.

F Nature/ biodiversity Assessment will be carried out for all projects having an impact on sites of nature conservation (marine or terrestrial), protected species or areas of important biodiversity value, irrespective of their conservation status. In EU-28, Candidate and potential Candidate countries, Form A or equivalent declaration under the Habitats Directive is required for projects without significant impact on sites of nature conservation and Form B or equivalent declaration under the Habitats Directive for projects with significant impacts on sites of nature conservation, to be signed by the relevant authority responsible for monitoring sites of nature conservation. In all other countries, the EIB uses the same approach, with similar declaration from the relevant authority responsible for monitoring national and/or internationally protected sites and species.

B. INVESTMENT LOANS AND FRAMEWORK LOANS

B.1 Pre-Appraisal Stage

B.1.1 Introduction

29. All projects financed by the EIB shall undergo an environmental and social assessment which shall be scaled appropriately to the project context (i.e. considering the significance of potential and identified impacts and risks). There are three key aspects that need to be considered in the assessment:

- the E&S, climate and biodiversity impacts, risks and issues associated with the project, its ancillary/associated facilities/infrastructure and its area of influence,
- the capacity of the promoter to address and manage these in an adequate manner in accordance with the EIB's standards and requirements, and
- the role of third parties in achieving alignment with the E&S principles and standards (e.g. competent authorities, government agencies, etc.).

30. The E&S assessment is not a single action but an on-going and iterative process that takes place throughout the project cycle. Therefore, it is essential that the E&S issues are taken into account during identification, appraisal, implementation, monitoring and evaluation.

31. Effective identification and management of the E&S risks, impacts and opportunities are key pre-requisites to assisting promoters with the progress of their projects in a timely and efficient manner. Early screening of E&S issues and early attribution of an ECSO specialist, where needed, seeks to ensure the prevention of problems later in the due diligence process, which may cause significant delays for the project.

B.1.2 Attribution of PJ Staff and First Reaction

32. Once a project has been considered to be eligible for EIB financing, i.e. the project supports the EU 7th Environmental Action Plan,¹⁵ contributes to EIB environmental and climate lending objectives in the COP (environmental priorities – See Table A) and under the defined external mandates and partnership agreements, PJ is requested to give up-stream feedback on environmental and social impacts and risks of potential projects.

33. At an early stage, prior to a project being formally identified in the EIB's data systems, PJ may be asked for a first reaction on a project. In these cases and upon reviewing the project, it may be necessary for PJ to highlight to Ops that it is recommended not to commence formal discussions with the promoter or to go to the appraisal stage. Should the reasons for such a recommendation include environmental and social impacts and risks, and since a Project Team will not have been formally identified, the PJ staff should discuss the matter with one of the Department ENVAG representatives and as needed with an ECSO E&S specialist. This first reaction to Ops may in some cases be a formal written document, in which case the wording should be discussed with an ENVAG representative.

34. Based on any available project documentation as well as on experience in the sector, the country and with the promoter, the following issues will assist PJ in determining whether the EIB should proceed to Project Identification Note (PIN) stage:

- Location/Policy based impacts and risks and induced impacts and risks:
 - a. Are there any E&S risks and impacts associated with this particular location or its proximity to other sensitive sites (e.g. in or near sensitive and/or valuable ecosystems and in or near sites which are priority areas for conservation; cultural heritage sites; densely populated areas where resettlement and pollution impacts may be significant; conflict-affected environments or weak governance areas).
 - b. Are there other developments directly associated with the proposed operation or which in combination will generate high impact?

¹⁵ Link to EU 7th Environmental Action Plan: http://ec.europa.eu/environment/newprg/pdf/7EAP_Proposal/en.pdf

- c. What are the historical and current land uses associated with the site?
- Sector/activity based impacts and risks:
 - a. Are there specific environmental or social impacts and risks associated with this sector, of which one has to be particularly aware of or concerned with?
- Promoter risks:
 - a. Does the promoter have specific competency in management of impacts and risks?
 - b. Does the promoter have any corporate policy statements or procedures related to environmental and/or social performance or sustainable development?
 - c. What is the environmental and social track record of the promoter?
 - d. Was a legal case ever opened against the promoter for breach of environmental and social legislation?

35. Once a project has been formally identified and a Team allocated to the project, an initial analysis of the environmental and social issues and risks, for inclusion in the PIN, should be carried out using the screening process in Section B.1.3.

36. The PJ part of the Team, which usually includes an engineer and an economist, is attributed to a project by the Department Management. It is then responsible for carrying out the environmental and social due diligence. An ENVAG is also assigned to the project and should be consulted to ensure EIB environmental and social principles and standards are correctly applied, and to support the Team on particular issues, as needed. ECSO specialists provide back-up support to the Team and the ENVAG, as and when needed (e.g. a specialist from ECSO may be assigned to the Team). Should the project be complex in nature and have complex environmental and social issues, in particular related to involuntary resettlement, significant impacts on vulnerable groups and indigenous peoples, labour standards, biodiversity and climate change adaptation, then support of an ECSO specialist should be sought. For this purpose, the ECSO specialist may be formally assigned to the Team. For complex, high risk and contentious projects an external expert may be consulted to assist in the review of specific E&S aspects and impacts.

B.1.3 Environmental and Social Screening and Project Identification Note (PIN)

37. Before the EIB proceeds with full due diligence, an E&S screening shall be carried out for all projects. The Project Team will establish the definition of the project including a description of the project assessment area, its ancillary/associated facilities/infrastructure as well as the project's area of influence. The Project Team, will then, to the extent possible, determine the potential E&S risks and impacts of concern, the nature and magnitude of the potential impacts and have a preliminary indication of the promoter's capacity to manage these issues.

38. The Team should obtain and review available assessment information such as the following:
- Previously prepared assessment reports (especially in the case of repeat operations);
 - Planning documents;
 - Project-related environmental and/or social studies;
 - Technical documentation related to pollution control and criteria, site and safety reports;
 - Applicable legal and regulatory framework and available permits and authorisations (see Section B.1.5);
 - Community engagement activities (information disclosure, dissemination, consultation, and other engagement activities and processes); and,
 - Information collected by Ops during preliminary discussions with the promoter.

39. Based on the above-mentioned documentation, the following screening checklist should be filled out by the Project Team, with eventual support of ECSO. This checklist will then assist the Team in highlighting any E&S risks and impacts in the PIN. In addition project teams have access to external, high quality databases, which specialise in the calculation, analysis and visualisation of global risks or in the case for protected areas and species to BISE, World Database on Protected Areas, the Integrated Biodiversity Assessment Tool, and DG ENV Natura 2000 Database, amongst others.

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Table C: Checklist for the E&S screening at PIN stage¹⁶

Environmental and Social Issues	Yes ✓	No or Not Sure X	Initial level of Risk (High, Medium or Low)
E&S Policy, Legislation and Standards			
<u>EU policy:</u> <ul style="list-style-type: none"> Is the project/operation consistent with EU environmental and social policy? 			
<u>Legal context and compliance:</u> <ul style="list-style-type: none"> Is the project/operation likely to be consistent with EU/national/international environmental and social legal frameworks (i.e. international conventions ratified by the host country)? 			
<u>Consultation and disclosure under the EIA process?</u> <ul style="list-style-type: none"> Has the screening decision been disclosed to the public? Has the NTS been disclosed to the public and consultation under the EIA process been carried out? 			
<u>EIB E&S principles and standards:</u> <ul style="list-style-type: none"> Is the project/operation likely to be consistent with EIB E&S principles and standards? 			
<u>IFI E&S standards, safeguards and operational policies:</u> <ul style="list-style-type: none"> Is the project/operation likely to be consistent with IFI E&S standards or safeguards and operational policies? 			
Environment, Biodiversity, Climate Change			
<u>Environmental impacts:</u> <ul style="list-style-type: none"> Will the project have an impact on air, soil, water through emissions or similar? 			
<u>Transboundary impacts:</u> <ul style="list-style-type: none"> Will the project impact a cross-border region (river, canal, lake, seas, forest, mountain range, etc.) which forms a boundary between or runs through 2 or more sovereign states in any way? 			
<u>Protected areas:</u> <ul style="list-style-type: none"> Does the project include activities within or adjacent to protected and environmentally sensitive areas? 			
<u>Critical Habitats:</u> <ul style="list-style-type: none"> Does the project involve significant conversion or degradation of critical habitats? Does the project impact on an area of critical habitat? 			Note: the project may be precluded from financing if the impacts on critical habitats are too significant as per EIB E&S Statement.
<u>Biodiversity:</u> <ul style="list-style-type: none"> Will the project impact an area high in biodiversity or impact on a vulnerable, endangered or critically endangered species? 			Note: the project may be precluded from financing as per EIB E&S Statement
<u>Forestry:</u> Does the project involve: <ul style="list-style-type: none"> the financing of commercial forestry? logging operations in tropical moist forest the purchase of logging equipment for use in tropical moist forest? 			Note: the project may be precluded from financing as per EIB Forestry Policy

¹⁶ The term project refers to the “project” as in an investment loan or the underlying projects in an investment programme or framework loan.

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<u>Cultural heritage:</u> <ul style="list-style-type: none"> Will the project adversely impact non-replicable cultural property (e.g. archaeological, historical or religious sites), sites with unique natural values or intangible cultural heritage (e.g. social practices, rituals and festive events)? 			
<u>Vulnerability to climate change:</u> <ul style="list-style-type: none"> Will the outcome of the project and/or impact of the project on environment, communities or ecosystems be significantly affected by climate change projections? Do the projects for climate change in the lifetime of the project significantly increase the risks above (e.g. to the environment, biodiversity, forestry)? 			
<u>Climate change mitigation:</u> <ul style="list-style-type: none"> Will the project have significant absolute or relative GHG emissions? 			
Social			
<u>Social assessment:</u> <ul style="list-style-type: none"> Will the project/operation have significant adverse social impacts and risks? 			
<u>Involuntary resettlement:</u> <ul style="list-style-type: none"> Will the project have any involuntary resettlement, either or both physical or economic? Will the project result in livelihood changes that can increase the pressure on available natural resources? 			
<u>Vulnerable groups and Indigenous Peoples (IPs):</u> <ul style="list-style-type: none"> Does the project impact on indigenous peoples and, if so, have the particular rights of indigenous groups been considered (e.g. rights to lands, territories and resources, rights to FPIC, etc...) Will the project have adverse impacts on vulnerable groups? Have vulnerable groups amongst impacted stakeholders been identified and included in project planning and consultation and engagement activities? 			
<u>Labour Standards:</u> <ul style="list-style-type: none"> Are there risks of forced or child labour? Is there any indication of child or forced labour in the supply chain? 			Project may be precluded from EIB financing as per EIB E&S Statement
<u>Occupational and public health, safety and security:</u> <ul style="list-style-type: none"> Will the project have an impact (direct /indirect) on occupational and public health and safety? 			
<u>Stakeholder engagement:</u> <ul style="list-style-type: none"> Has the project engaged adequately with project-affected stakeholders? Has a project grievance mechanism been established? Is an adequate accountability reporting in place? 			
Other E&S Issues			
<u>Project boundaries:</u> <ul style="list-style-type: none"> Are the project's ancillary/associated facilities/infrastructure and area of influence likely to pose any significant E&S impacts and risks? 			

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<u>Environmental and social management:</u> <ul style="list-style-type: none"> Is the environmental and social capacity/performance of the promoter to manage E&S issues satisfactory? Does the promoter have an appropriate and effective management system in place? 			
<u>Supply chain:</u> <ul style="list-style-type: none"> Are there any risks of adverse environmental and social impacts of the project's supply chain? 			
Reputational Risk			
<u>Stakeholder interests:</u> <ul style="list-style-type: none"> Are there any major stakeholder interests in the project/operation? 			
<u>Risks:</u> <ul style="list-style-type: none"> Is the project/operation likely to pose significant risks from an environmental, climate or social point of view? Is the EIB likely to be exposed to any reputational risk? 			

Note: All environmental and social issues must be screened; if in doubt, the analyst should err on the side of caution and include the issue under the heading "No or Not Sure". Where an issue then falls under "No or Not Sure", the environmental and social due diligence should focus on these matters. The Team should follow the precautionary principle as detailed in Article 191 of Treaty.

40. Some guidance on screening:

- Start as early as possible so that environmental, biodiversity, climate, and social risks, impacts and opportunities can be appropriately integrated into the project planning and implementation rather than being brought in at the last minute;
- Consider indirect effects: some important environmental, biodiversity, climate and social effects may be secondary or indirect;
- Consider cumulative impacts of the project with other existing or planned projects;
- Consider, where practical and feasible, the environmental and social impacts through the supply chain;
- Consider existing causes of environmental and social changes - underlying causes may include: increased environmental hazards, social conflicts, market failure, weak institutions, unclear property rights, inadequate knowledge. How will the project contribute to triggering, increasing or reducing these causes/trends?
- Consider impacts on different social groups: different groups in society may be impacted differently by the project. Varying socio-economic circumstances mean that there may be trade-offs.

41. Some criteria to measure the magnitude of impacts:

- Magnitude and spatial extent of the impact, absolute amount of resource or ecosystem affected, impact on structure and functions of the habitats; impact on populations of protected and/or listed species;
- Number of people affected;
- Intensity and complexity of impact;
- The nature and transboundary nature of the impact;
- Vulnerability and resilience of ecosystems and/or communities/people affected;
- Timing, duration and reversibility of impact and the speed of onset of the impact;
- Probability of occurrence of specific impact; and
- The cumulation of impacts with the impacts of other projects – so called in-combination effect.

B.1.4 Opinion for Appraisal and Categorisation

42. Following the screening, a project is categorised according to its potential environmental and social impacts and risks. In order to assign the appropriate categorisation, the results of the screening process and the following points, at minimum, must be considered:

- What is the nature of the project (e.g. greenfield site, brownfield site, expansion of capacity, etc.)?
- Are there any significant environmental and social issues of concern (direct, indirect, regional, transboundary, cumulative or in-combination in nature, short-, medium- and long-term permanent or temporary)?
- Can the impacts be readily identified and assessed and mitigated?
- How will compliance with EIB's E&S principles and standards and requirements be assessed?
- Is the definition and/or scope of the project accurately described (e.g. ancillary/associated facilities/infrastructure included in the project)?
- What is the area of influence?
- Are there third party or supply chain issues?
- What are the legal compliance requirements of the project?
- Is the project part of a plan or a programme that would trigger the requirement for an SEA?
- What is the historical and current land use associated with the site?
- Are land acquisition, resettlement and/or economic displacement likely to take place?
- What are the social characteristics of the local population and what are the likely impacts on vulnerable groups if any?
- What kind of public consultation and/or stakeholder engagement is likely to be required (identification of stakeholders, disclosure of information and consultation)?
- What further assessment is required (e.g. SEA, EIA, SIA, ESIA, biodiversity/appropriate assessment/critical habitat assessment, vulnerability assessment, downstream impacts etc.)?
- What is the environmental and social reputation of the promoter?
- How satisfactory are the promoter's policies and capacity with respect to E&S issues and compliance with EIB standards?
- How satisfactory are the competent authority's policies and capacity with respect to E&S issues and compliance with EIB standards?
- Is the EIB exposed to potential reputational risks?
- Is an ECSO environment and/or social specialist required to assist in the due diligence and what should be their level of involvement?
- Will consultants or other third party services be required?
- Will a pre-appraisal mission be required?

43. The initial categorisation reflects the extent, significance and the complexity of potential impacts and risks of the project, its ancillary/associated facilities/infrastructure and its areas of influence, thereby determining the appropriate environmental and social assessment and due diligence requirements¹⁷ for the selected operation. The final overall environmental and social impact rating will be assigned to the project following the Project Team's appraisal when all outcome requirements of the project have been analysed. This rating takes into account the residual environmental and social impacts after mitigation, remedy and compensation (See Section B.2.9). The E&S impact rating is not to be confused with the REM/3PA rating.

44. The screening analysis should lead to specific questions on environmental and social matters in the questionnaire sent to the promoter. The results of this analysis are recorded in the Opinion for Appraisal document (PJ OA). Normally the PJ OA text on environment and social issues will be used directly by Ops in their Agreement to Appraise and in the environment section of the Note to the Commission for Article 19 (see Section B.1.9). The Agreement to Appraise is an internal document used for appraisal authorisation by the EIB's Senior Management. As such, it contains project information including the environmental and social impacts and risks that have to be addressed during appraisal.

45. The initial project categorisation should be recorded in the PJ OA and subsequently confirmed (overall impact rating) in the PJ Appraisal Report, Appendix D1 – the Overall Environmental and Social Assessment Form, and the Appraisal Fact Sheet (AFS) in Serapis. At project completion, this categorisation will be reviewed. Table D illustrates the EIB project categorisation to be applied.

¹⁷ The categorisation will also determine the level of active and consistent communication at both pipeline and project levels; the optimisation of human resource allocation – best deployment of staff and expertise; the extent of stakeholder engagement.

Table D: EIB Initial Project Categorisation

Categorisation	Definition
A	Minimal or no adverse impacts – Low risk.
B	Environmental and social impacts can be readily identified and mitigation and/or remedial measures can be put in place – Medium risk
C	There may be highly significant, adverse and/or long-term environmental and social impacts, the magnitude of which is difficult to determine at the screening stage– High risk.
D	Not acceptable in EIB terms.

46. The Team shall document the above information from paragraph 42, if available, for each project in the E&S section of the OA. It should include information on the key impacts, risks, issues and opportunities as well as the applicable EU directives, EIB E&S standards, the agreed E&S project standards when co-financing with other partners, and the nature of the due diligence required. It is good practice to estimate the timeframe for completing the due diligence.

47. When the EIB is co-financing in partnership with other IFIs that have developed, and apply their own E&S policies, adequate implementation of those policies may prove enough to meet the EIB standards, pursuant to EIB’s own assessment. Such possibility does not relinquish the EIB’s own environmental and social due diligence duty and any gaps between that and other lenders’ shall be duly accounted for.

48. The PJ contact person should discuss their analysis of the environmental and social impacts and risks as well as the categorisation assigned to the project with the ENVAG in order to get their input, and guidance as necessary, on the environmental and social text of the PJ OA and prior to the appraisal mission. This will assist the Team in focussing the environmental and social section of the questionnaire on the key environmental and social documents, meetings, visits and information required to establish an understanding of the project impacts, risks and opportunities, approval processes, mitigation, monitoring and responsibilities. ENVAG should review the PJ OA and the Note to the Commission and sign-off on the E&S assessment of the project.

49. For specific environmental, social and climate issues, the Team may also consult one of the specialists in ECSO for mission, questionnaire preparation and back-up, as needed.

50. Where there is no PJ OA (i.e. when PJ writes immediately the PJ Appraisal Report), the PJ contact person, in consultation with the ENVAG should nevertheless review the environmental and social section of the PIN and the Note to the Commission.

B.1.5 Screening for Legislative Compliance

51. The Team should identify the main legal requirements applicable to the project and any actual or foreseen legal issues.

52. PJ should record the main national, EU and international legal instruments¹⁸ that are relevant to the project and identify any other actual or foreseen legal issues, for example, compliance issues (at both project and competent authority level), future legislation.

53. **Strategic Environmental Assessment:** In the EU, Candidate and potential Candidate countries, if the project results from a programme or a plan of which the first formal preparatory act is subsequent to 21 July 2004 or which began before that date but was not adopted or submitted to the legislative procedure by 21 July 2006, the relevant plan or programme may fall within the scope of the Strategic Environmental Assessment (SEA) according to the EU Directive on SEA 2001/42/EC (henceforth referred to as the SEA Directive).

¹⁸ <http://www.ohchr.org/en/professionalinterest/Pages/InternationalLaw.aspx>; <http://www.ilo.org/global/standards/lang--en/index.htm>

54. Though the SEA Directive applies to plans or programmes fulfilling certain criteria included in their definition as laid down in the Directive, and modifications to them, the requirements and guidance of the SEA should be taken to include all relevant plans or programmes regardless of their formal title. Therefore it is important to verify if the plans or programmes have been screened to determine whether they are likely to have significant environmental effects, and, as a result, if an SEA has to be performed or not.

55. **Environmental (and Social) Impact Assessment:** The EIB requires that all projects in the EU, Candidate and potential Candidate countries, likely to have a significant effect on the environment, be subject to an EIA, according to the definitions and requirements of Directive 2011/92/EC (henceforth referred to as the EIA Directive).¹⁹ Annex I of the Directive lists the types of project for which an EIA is mandatory and Annex II the types of project for which the need to carry out an EIA is determined by the competent authorities through a case-by-case examination and/or thresholds or criteria set.

56. With regards to projects in third countries for which a formal ESIA is required, the ESIA process and content must be consistent with the requirements of the EU EIA Directive. The ESIA, which includes public consultation and stakeholder engagement, is the responsibility of the promoter and the competent authorities. The full ESIA process should be completed and its findings and recommendations should satisfy the requirements of the EIB prior to Board approval.

57. **Habitats Assessment:** The EIB requires that a screening, according to the Habitats Directive Assessment, be carried out for all projects in the EU, Candidate and potential Candidate countries, likely to have an impact upon a European site or listed species, either alone or in combination with other plans and projects. Is the project likely to adversely affect a European Site or a species which is of importance in Europe, then the EIB requires that an Appropriate Assessment according to Articles 6 (3) and (4) be carried out and concluded by the competent authorities.

58. **Social Assessment:** Similarly, the EIB requires that all projects/operations, irrespective of the region, that are likely to have significant adverse social impacts, are subject to a social impact assessment (SIA)²⁰. The impact assessment needs to be scaled to the project context and identify, assess and address project-related social impacts and risks according to the requirements spelled out in the EIB Social Standards (6 to 10). The assessment can also draw on the Guidance for assessing Social Impacts within the EU Commission Impact Assessment System²¹ and the International Principles for Impact Assessment of the IAIA.²² The SIA should be integrated into the ESIA process and the resulting ESIA study. The findings, recommendations and management plan must satisfy the requirements of the EIB.

59. **Environmental and Social Standards:** In the EU, as well as Candidate and potential Candidate countries, all operations supported by the EIB should comply with both national and EU environmental and social law.

60. The time-frames for completing transposition of EU law or reaching compliance with specific EU environmental legislation agreed between the EU and any Member State, Candidate, or potential Candidate countries through bilateral agreements and/or action plans (Accession Treaties and partnership agreements) should be considered, case-by-case, and a phased approach may be adopted for the project/operation. Where a phased approach is justified, the operation should be designed and planned in such a way as to facilitate upgrading to the EU standards by no later than the end of the negotiated transition period. It is important to note that no phasing is permitted for the horizontal directives: the SEA, the EIA and the two Nature directives.

61. In all other regions, all operations/projects should comply with national legislation, be consistent and aligned with EU environmental and social standards and should adhere to international best

¹⁹ The EIA Directive provides for an integrated environmental and social assessment. Link to EIA Directive: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1985L0337:20030625:EN:PDF>

²⁰ IAIA definition and methodology for a Social Impact Assessment: <http://www.iaia.org/publicdocuments/special-publications/sp2.pdf>

²¹ DG EMPL has produced Guidance for Assessing Social Impacts within the Commission Impact Assessment System: <http://ec.europa.eu/social/BlobServlet?docId=4215&langId=en>

²² <http://www.iaia.org/publicdocuments/sections/sia/IAIA-SIA-International-Principles.pdf>

environmental and social practices. Where EU standards are more stringent than national standards, the higher EU standards are required if practical and feasible.

62. The EIB recognises that for a variety of reasons, including institutional capacity, technological capability, availability of investment funds and consumer ability and willingness to pay, for a particular project/operation the immediate achievement of EU requirements may not be practical and in some cases many not be desirable. When the case arises, it is incumbent on the promoter to provide an acceptable justification to the EIB for a deviation from EU standards, within the framework of the environmental and social principles and standards set out in the EIB Statement and the 10 standards. In such cases, provision should be made for a phased approach to higher standards.

63. All operations should also comply with the obligations of relevant environmental and human rights international conventions and agreements to which the host country and the EU - in the case of a Member State - is a party to.

64. The promoter is responsible for legal compliance whereas regulatory and enforcement tasks lie with the competent authorities.

B.1.6 Screening for Social Issues

65. In order to identify the extent and complexity of the potential social impacts and risks, the Team should screen the project as early as possible. A key objective of the EIB, in the EU MS, is to enhance social cohesion and support investments that promote social inclusion in the interests of enhancing equity and equitable access to goods and services. Outside of the EU, the EIB operations contribute to the EU development goal of poverty alleviation and sustainable development. The EIB will also verify that operations are aligned with international conventions on human rights and that they do not result in human rights abuses. This is particularly relevant in situations where the legal and administrative environment may be weak and in potential conflict zones.

66. Project-related social issues are primarily examined in the assessment of projects outside the EU-28. The extent and complexity of social issues varies from project to project. Projects may have negative as well as positive social impacts. The EIB will ensure that the adverse social impacts of projects are mitigated and their positive social impacts are encouraged. Where the EIB is one of a number of financing partners, it may be possible to utilise their respective existing social safeguard policy frameworks, although the EIB may need to carry out its own due diligence for those standards that may not explicitly be covered by the co-financiers.

67. The Team should take into account additional potential factors influencing social impacts and risks pertaining to the context of the project. These may include risks associated with operations in weak and conflict prone regions; in areas where the protection of biodiversity and ecosystem services may impact on livelihoods or health, a lack of rule of law, transparency and accountability; inequitable distributional outcomes; extreme poverty; complex social dynamics.

B.1.7 Screening for Biodiversity

68. Project activities can be direct drivers of change to biodiversity and ecosystem services, either by causing changes in the natural environment, or as a result of social and economic changes that are known to affect the natural environment. In addition, project activities can be indirect drivers of change through changes in social, cultural and economic policies and practices. The following impacts are of particular importance and will need to be assessed:

- Conversion of natural or semi-natural habitats, the main cause of loss of biodiversity worldwide;
- Introduction or facilitated dispersal of invasive alien species; once introduced, these species can invade local ecosystems, ousting the indigenous plants and/or animals and changing these ecosystems;
- Fragmentation of natural habitat which interfere with ecological processes at a landscape scale, isolates living communities, and can lead both to loss of biodiversity and a reduction of the viability of ecosystems in the long term; and

- Installation of infrastructure which can lead to losses in population of vulnerable and endangered species (e.g. wind farms).

69. For effective integration of biodiversity considerations into EIB operations, all projects have to be screened for their potential impact on the biodiversity and ecosystems. The initial environmental and social assessment (which takes into account the location and scale of project activities, the type of technology used, and the project's proximity to areas that have important biodiversity and ecosystems) should flag any potential impacts and risks the project may have on biodiversity and their ecosystems and these should include:

- Potential impacts on protected areas and areas supporting protected species;
- Impacts on other areas (e.g. a threatened ecosystem, areas of important biodiversity value, areas which are priority areas for conservation) that are not protected but are important for biodiversity;
- Activities posing a particular threat to biodiversity (in terms of their type, magnitude, location, duration, timing, reversibility);
- Areas that provide important biodiversity and ecosystem services including extractive reserves, indigenous people's territories, wetlands, fish breeding grounds, soils prone to erosion, relatively undisturbed or characteristic habitat, flood storage areas, groundwater recharge areas, etc.;
- Areas traditionally used by local communities for natural goods or services;
- Areas of semi-natural habitats (e.g. extensively managed grasslands, wetlands or forests) which are particularly threatened by intensification of management or abandonment;
- Downstream and upstream ecosystems (e.g. water storage or dam); and,
- Potential impacts in the integrity of ecosystems.

70. If a project activity is inconsistent with international or national conventions, policies and/or laws, and the residual impacts on critical habitat/ecosystems are significant, the Team should consider not pursuing the project in its current design.

B.1.8 Screening for Climate Mitigation and Adaptation

71. From an operational standpoint, the climate change-related part of the pre-appraisal process aims to make a preliminary determination on the following:

72. **Carbon Credit Potential Assessment:** Depending on the information available at pre-appraisal, the Project Team may conclude that a) the project has no potential to generate carbon credits; b) the potential of the project to generate carbon credits can only be assessed at a later stage; or c) the project has potential to generate carbon credits.

73. In the latter two cases, the Team is also requested to make the determination as to whether the project promoter may require technical assistance (TA) to prepare the CDM or JI component of the project.

74. **Vulnerability Assessment:** Depending on the information available at Pre-Appraisal, the project Team may conclude that the project a) is not vulnerable to climate change now or in the future; b) may be vulnerable to climate change now or in the future, but needs to be assessed in more detail; c) is definitely vulnerable to climate change now or in the future. This assessment may give an indication of a project being labelled at Appraisal as "Climate Action (Adaptation)" project, in part or entirely.

75. In general terms the vulnerability assessment is based on the evaluation of the following three elements:

- The climate risk in the region, country, sector activities or project sites face (where data is available); the capacity of the country/region to factor in these risks given its level of development or specific actions that it may have already undertaken; the capacity of the project promoter to manage climate risks; and,
- The extent to which the project may have adverse consequences on the vulnerability of natural ecosystems and human structures.

76. High risk projects in this sense would typically be projects in risk-affected sectors (e.g. agriculture, water, hydropower) or located in high risk areas (e.g. coastal areas), or related to livelihoods already close to the limit of tolerance (e.g. the Sahel).

77. Should the Team determine that the project may be vulnerable to climate change, the promoter is required to introduce climate change parameters into the preparation and design of the projects, and to identify and apply adaptation measures so as to ensure the sustainability of the project. In cases where projects are at high risk due to climate change or when they affect the vulnerability of a country or geographical area, the Project Team may require that the promoter implement design changes.

78. **Carbon Footprint:** The Team should determine, if possible, whether the project's absolute carbon footprint will be above or below 100kt of CO₂-e emitted per year or the relative carbon footprint is larger than 20kt of CO₂-e per year (plus or minus). Methodologies²³ have been developed and tested for the actual calculation of a project's footprint. In some cases this preliminary assessment may give an indication of a project being labelled at Appraisal as a "Climate Action (Mitigation)" project, in part or entirely.

B.1.9 Request for the Opinion of the Commission – Article 19 Procedure

79. According to its policy requirements, and to facilitate a clearer assignment of responsibilities and a better exchange of environmental information, the EIB has agreed to inform the European Commission of certain issues regarding operations to be financed by the EIB. In particular, it has been agreed that environmental information will be shared with DG ENV on all operations.

80. This exchange of information is done through a note provided by the EIB for each and every operation, referred to as the Note to the Commission (as foreseen by Art. 19 of the EIB's Statutes). The environmental section of the Note to the Commission is normally taken directly from the PJ OA and should be to the point and factual. It should refer to both legal form as well as environmental substance.

81. The environmental text will be circulated to DG ENV, in line with Commission internal procedures, and it is important that legal, regulatory, as well as matters of substance are dealt with in a clear way. In particular, specific location references, names of nearby protected areas, assessment of alternatives, cumulative impacts assessment, public consultation and similar information are requested by DG ENV so as to assist them in identifying the project and giving useful feedback, if any, to the EIB.

PROJECTS IN THE EU

For projects in the EU, the EIB should:

- Either confirm at the time of the Note to the Commission, on the basis of the EIB's prior environmental and social screening, that the operation complies with EU policy and legislation in the field of the environment; or
- Indicate that such a confirmation will be given at the time appraisal has been concluded and the operation is submitted to the EIB Board of Directors; or
- Exceptionally, indicate that such a confirmation will be given at a later date, but before disbursements for project components concerned. This would be the case when the EIB financing may include preparation of an environmental/social impact assessment or in the case of framework and multi-sector loans where the information only becomes available at a later date.

82. Reference should be made to the EU SEA Directive 2001/42/EC when applicable. Particular reference should also be made to the EU EIA Directive 2011/92/EU stating whether the project falls within Annex I or Annex II. Particular reference should be made when projects have, in addition, to comply with the EU Habitats 92/43/EEC and the EU Birds Directive 79/409/EEC. Reference should also be made to the Water Framework Directive, when applicable. Table E provides examples of text for use in the Note to the Commission.

²³EIB Methodologies for the Assessment of Project GHG Emissions and Emission Variations: http://www.eib.org/attachments/strategies/eib_project_carbon_footprint_methodologies_en.pdf

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Table E: Assessments of Compliance with EIA and Nature Directives²⁴ for information to the Commission

<p>Plan or programme falls under SEA Directive (or project derives from a plan or programme that falls under the SEA Directive).</p>	<ul style="list-style-type: none"> • The Competent Authority has decided on the basis of the screening that no SEA is required. • An SEA is required in compliance with the requirements of the EU SEA Directive 2001/42/EC. • Compliance with the SEA Directive 2001/42/EC has been verified and the status of the environmental studies, consultations and authorisations reviewed.
<p>Project falls under Annex I of EIA Directive.</p>	<ul style="list-style-type: none"> • An EIA is required in compliance with the requirements of the EU EIA Directive 2011/92/EU. • Compliance with the EIA Directive 2011/92/EU has been verified and the status of the environmental studies, consultations and authorisations reviewed.
<p>Project falls under Annex II of EIA Directive.</p>	<ul style="list-style-type: none"> • The Competent Authority has decided on the basis of Annex III of the EU EIA Directive 2011/92/EU, that a formal EIA is required. The required assessments and components as listed for Annex I projects should therefore be checked. • The Competent Authority has decided on the basis of Annex III of the EU EIA Directive 2011/92/EU that no EIA is required (but they may or may not require specific environmental studies). The decision was made available to the public. The basis of the screening decision has been reviewed.
<p>Project falls under Habitats and/or Birds Directives.</p>	<ul style="list-style-type: none"> • Compliance with the EU Habitats Directive 92/43/EEC, in particular Articles 6(3) and (4) of the Directives has been met, and appropriate assessment has been carried out for Natura 2000 areas as well as bird areas and the Competent Authority for Nature Conservation has recorded its assessment and conclusions. • The Competent Authority has decided that the project is not likely to have significant effect on a Natura 2000 site and therefore an appropriate assessment required by Art. 6 (3) of the EU Habitats Directive 92/43/EEC was not deemed necessary. The basis of the screening decision has been reviewed. The screening decision should be justified, recorded and made available to the public. • Provision of Article 5 of the Birds Directive and 12 of the Habitats Directive related to species protection need to be respected.
<p>Project falls under Art. 4(7) of the Water Framework Directive – exemptions for new modifications and new sustainable human development activities</p>	<ul style="list-style-type: none"> • Compliance with the Water Framework Directive, in particular the criteria for derogation laid down in Art. 4 (7) has been met and the studies assessing the impact of the modification/new activity on the status of water body verified. • The project does not entail new modifications to the physical characteristics of surface water body or alterations to the level of bodies of groundwater resulting in the failure to achieve the relevant environmental objectives, therefore the analysis for obtaining an Art. 4(7) derogation was not initiated.

²⁴ Once this screening has been carried out by the EIB, this information should be passed to the Commission/DG Environment in the Note to the Commission.

83. EIB can only confirm compliance of the operation with Community policy and with legislation to the best of its knowledge. Amongst other things, its confirmation should be based on its appreciation of the principal features of relevant legislation and information provided by DG ENV (e.g. on infringement proceedings), knowledge about the promoter and any other relevant evidence. In all cases, it has been clarified with DG ENV that the “EIB cannot give assurance about the behaviour of the promoters once equipment is installed”.

PROJECTS IN CANDIDATE AND POTENTIAL CANDIDATE COUNTRIES

84. Particular reference should be made to the SEA and EIA Directives. The Team will carry out a quick gap analysis of relevant local legislation and procedure applicable to the particular project/operation against the relevant EU Directives such as the SEA, EIA, Habitats and Birds directives. Should any of the studies or procedures fall short of what would be required by the EU directives, the Team will ensure that extra steps are taken in order for the project/operation to comply with these directives.

85. All projects should meet the biodiversity requirements of the EIB, in this case with particular reference to the biodiversity assessment required outside of protected areas, the EU Nature Directives, and the international conventions ratified by the EU and the appropriate assessment carried out under Articles 6.3 and 6.4, which outside the EU will take account of local specificities and will apply the principles and approach to the biodiversity assessment.

86. For other EU directives, where the relevant requirements have not yet been fully transposed and implemented, national standards may be exceptionally accepted, subject to the EIB confirming - prior to a decision by the Board of Directors - that three requirements have been met:

- Immediate compliance with EU standards is not feasible for socio-economic reasons;
- Phased compliance with EU standards is consistent with agreed transition periods; and,
- The project is designed for future upgrading to EU standards.

OUTSIDE THE EU, CANDIDATE AND POTENTIAL CANDIDATE COUNTRIES

87. For all other countries, operations supported by the EIB are expected to follow the relevant EU environmental and social principles, standards and practices, taking into account such aspects such as affordability, local environmental considerations, and international best practice and with reference to such factors as the costs of application. Where there are gaps between national and EIB E&S standards and requirements, the EIB E&S standards will bridge these gaps.

88. In all cases, the Note to the Commission should also refer to the acceptability - or subsequent verification of the acceptability - of the operation to the EIB in terms of likely environmental and/or social impacts and proposed mitigation and compensation measures.

89. Further communication with DG ENV:

- In some cases it may be useful to follow up directly and informally with DG ENV on specific matters relating to a project, prior to writing the Note to the Commission. Typical situations where this would be useful are, for example, if a Commission opinion is required under Article 6 of the Habitats Directive, or if a complaint to the Commission is known to exist. If this informal discussion is expected to be useful, it should normally be done with the input from ENVAG and/or ECSO, and whilst keeping Ops informed.
- Occasionally, questions are raised by the Commission on environmental matters once they have received the Note to the Commission. Responses should be discussed carefully by the Project Team and ENVAG, with input from ECSO if needed. Issues raised by DG ENV can also be informally discussed with the relevant DG ENV desk officer responsible for the operation prior to sending the formal response.

B.2 Appraisal Stage

B.2.1 Main task in the E&S Due Diligence

90. PJ carries out the following main environmental and social due diligence tasks:

- Defines the scope of the EIB project, wherever possible, including specific mitigation or compensation measures. The Team should discuss and agree with promoters, borrowers and intermediaries: the project definition, the assessment area, the environmental and social conditions ([Section B.2.11](#)), the environmental and social reporting in progress and completion reports from the promoter/borrower to the EIB ([Section B.3.1](#)).

ENVIRONMENTAL DUE-DILIGENCE

- Identifies the main environmental legal and regulatory framework relating to the project/promoter during implementation and during operation (for example SEA/EIA applicability, noise/emissions limits),²⁵ plus any actual or foreseen legal requirements or legal issues;
- Establishes whether an SEA is needed and ensures that the promoter, if applicable, is fully aware of its obligations in this regard;
- Identifies EIB procedural requirements and standards on environment that may differ from the country's legal requirements (for example application of the principles of the EIA Directive to projects financed by EIB in all countries). Where the EIB is co-financing, ensures coherence of its requirements with those of its co-financiers;
- Identifies and assesses potential E&S impacts and risks, both adverse and positive, associated with the proposed project/operation;
- Establishes whether the project/operation is also subject to other assessment procedures required by EU legislation (e.g. assessment required by Art. 4(7) of the WFD) and ensures that the promoter is fully aware of its obligations in this regard;
- Where an EIA/ESIA is required, confirms the boundary of the project and the area of influence to be covered by the EIA/ESIA. Confirms that the EIA/ESIA is in line with the EIA Directive. Confirms that the main stages of the EIA/ESIA have been completed to the satisfaction of the EIB and documented (screening, scoping, studies, impact assessment, public consultation and engagement, environmental management/action plan, planning/development consent/authorisation, and public informed of decision);
- Ensures that the findings of the EIA/ESIA, where required, are taken into account in the EIB appraisal and reflected in the work on risk assessment and mitigation, the cost-benefit analysis, the design and costing of the project and project management during implementation and operation;
- Reviews the environmental and social substance of the project using ESIA documents and additional studies or, where an ESIA is not required or is not yet completed, whatever sources of information are available, including appropriate site visits, if practicable; and,
- Considers whether and how to include environmental externalities in calculations of a project's ERR.

SOCIAL DUE-DILIGENCE

Compliance assessment:

- Identifies the main social legal and regulatory framework relating to the operation/promoter during both implementation and operation (e.g. expropriation laws, labour standards...). Carries out a gap analysis to define the areas of project non-alignment with EIB Social Standards and applicable EU environmental, health and safety²⁶ and social directives; and,
- Identifies the institutional set-up and responsibilities from the promoter, and all other relevant stakeholders (e.g. the national authorities/agencies responsible for revision and approval of the social documentation).

²⁵EIB Sourcebook on EU Environmental Law : <http://www.eib.org/infocentre/publications/all/sourcebook-on-eu-environmental-law.htm>

²⁶EIB Sourcebook on EU Environmental Law : <http://www.eib.org/infocentre/publications/all/sourcebook-on-eu-environmental-law.htm>

Impact assessment:

- Verifies that the socio-economic baseline and assessment is adequate;
- Ensures that all social aspects of the project (not just those that are part of the social standards) have been integrated into the assessment, as triggered by the project/operation ([Section B.2.3](#));
- Where the EIB is co-financing, ensures that all EIB's social standards are part of the common assessment to be carried out with the partner financiers, and complements the due diligence if required; and,
- Ensures that the findings of the social assessment are taken into account in the EIB appraisal and reflected in the work on risk assessment and mitigation, the cost-benefit analysis, the design and costing of the project and project management during implementation and operation.

BIODIVERSITY DUE-DILIGENCE

- For projects/operations located in the EU Member States as well as Candidate and potential Candidate countries, verifies that the biodiversity impact assessment for the project has been carried out in accordance with EIB biodiversity standards and requirements. Verifies that the assessment of impacts on European Sites has been carried out in accordance with the Habitats 92/43/EEC and Bird 79/409/EEC Directives, and that the applicable procedural requirements under Articles 6 (3) and (4) have been applied and the conclusions endorsed by the relevant authority responsible for the monitoring of such sites through the signing of Forms A or B or equivalent. Forms A/B are provided in [Annex 9](#) and their use is discussed in [Section B.2.4.1](#);
- Outside the EU, the EIB verifies that a biodiversity assessment has been carried out as part of the ESIA or separately, where necessary, to identify, mitigate and compensate significant adverse and residual impacts on biodiversity and ecosystems. In both instances, the Team clarifies what, protected areas, critical habitats, areas of important biodiversity value or priority areas for conservation are nearby or may be affected by the project/operation. The Team shall receive confirmation from the relevant authorities that such protected areas, critical habitats, areas of important biodiversity value or priority areas for conservation have not been significantly impacted upon; and,
- Provides, as part of the adaptive management plan, details and links to the methodology which is appropriate so that the biodiversity and ecosystems at the site are adequately assessed and monitored during the construction and operation.

CLIMATE MITIGATION AND ADAPTATION DUE-DILIGENCE

- Determines the increase or reduction of greenhouse gas emissions resulting from the project (if above the thresholds) and identifies any specific effects on, or risks to, the project from predicted climate change impacts, as well as the need for adaptation. Where appropriate, follows up any climate change financing options that were identified at the OA stage. Details are in [Section B.2.4.2](#).

STAKEHOLDER ENGAGEMENT AND PUBLIC CONSULTATION

- Reviews the stakeholder analysis and the stakeholder engagement plan developed for the project/operation;
- Reviews the consultation carried out under the EIA/ESIA process and stakeholder engagement plan and determines if further consultation and/or engagement is required by the promoter with direct and indirect stakeholders; and,
- Determines if any issues have been, or are being raised by direct and indirect stakeholders and how these are being dealt with in the project design, implementation and operation.

DUE-DILIGENCE ON THE CAPACITY OF THE PROMOTER

- Assesses the commitment and the capacity of the promoter to manage identified impacts and define mitigation and remedial measures as needed; and,
- If in place, assesses the quality and adequacy of the promoter's E&S management systems and practices to avoid, minimise, mitigate or remedy/compensate for adverse impacts on the environment, workers and affected individuals and communities.

ASSESSMENT OF THE INSTITUTIONAL CAPACITY

- Assesses the capacity and expertise of the prevailing institutional framework and set-up to deal with E&S issues; and,
- Assesses the capacity of the relevant national agencies in implementing and monitoring applicable measures of the ESMP.

E&S MANAGEMENT/ACTION PLAN

- Identifies opportunities to improve E&S performance (e.g. community development programmes, resource efficiency programmes, etc...);
- Reviews the environmental and social management plan (ESMP), and assesses the environmental and social experience and competence of the promoter to implement and manage the project, including the mitigation measures for environmental and social impacts ([Annex 11](#)); and,
- Develops an Environment and Social Action Plan (ESAP), if needed, for monitoring purposes (which will be part of the ESMP), addressing all the gaps and non-compliance identified during appraisal containing specific tasks designed to close all significant gaps.

E&S RATING

- Determines an overall environmental and social impact rating for the project ([Section B.2.9](#)), based largely on residual environmental and social impacts and risks to the project after mitigation. The rating shall also include the promoter's capability ([Section B.2.7](#));
- Takes into account the overall E&S sustainability in the evaluation of the overall quality and soundness of the project. For projects in the EU-28, includes the results of the assessment in the Three Pillar Assessment; and,
- For projects outside of EU-28, includes the appropriate E&S REM (Results Measurement Framework) rating taking into account the positive impacts of the project. In addition defines the project-specific E&S indicators and records them in the REM;

MONITORING

- Where required, determines what physical environmental and social monitoring for both implementation and operation shall be carried out and by whom. The monitoring may be a requirement from an ESMP of an ESIA and other additional plans such as the biodiversity action plan (BAP) or resettlement action plan (RAP). Where this is not so, the EIB will have to determine what physical monitoring by the promoter or other entity it deems necessary to manage environmental and social impact measures; and,
- Determines what information, reports and visits will be necessary for the EIB to monitor the environmental and social aspects of the project implementation and/or operation ([Section B.2.10](#)).

RECORDING

- Records the E&S due diligence at the time of appraisal using the E&S Data Sheet (ESDS) and the Forms D1, D2, D3 and D4. These working documents/forms provide a checklist of all the environment and social-related issues for due diligence during the appraisal stage of the project cycle. They also provide a framework in which to record in a transparent, consistent and coherent way the findings, conclusions and recommendations of the environmental and social assessment itself. The templates can also be applied as a working document at other stages of the project cycle; and,
- Records the overall E&S assessment, proposed finance contract conditions, and the progress and completion reporting requirements in the E&S Data Sheet and Flysheet and verifies that this has been correctly transposed by Ops into the financing proposal and draft Board Report.

FINANCE CONTRACT CONDITIONS

- Ensures that the finance contract appropriately reflects, in substance, the environmental and social conditions approved by the Board and contains all relevant definitions, clauses and

reporting obligations to obligate the promoter to comply with EIB's standards, the ESIA, ESMP/ESAP, the RAP, the BAP and any other relevant document or plan.

B.2.2 SEA and ESIA Assessment

THE STRATEGIC ENVIRONMENTAL ASSESSMENT (SEA)

91. The SEA is a tool, which can be applied to higher levels of decision-making hierarchy than an EIA (which is more suitable for an individual project). The SEA is a process for analysing environmental and social consequences (positive and negative) of proposed policies, plans, major investment decision and other strategic interventions.

92. An SEA is therefore relevant for policies, plans and programmes that have the potential to significantly influence a geographic region or area, a particular sector, and/or particular biodiversity or ecosystem services within a region/area. In addition, where there is a major risk of cumulative impacts in a sector or a region/area arising from repeated projects of similar nature, it is appropriate to take a broader view and carry out a strategic level assessment.

93. At EU level, the SEA Directive 2001/42/EC²⁷ and the SEA Protocol to the Espoo Convention²⁸ set out specific obligations for carrying out an SEA for plans and programmes and, if appropriate, in the preparation of policies²⁹. The above instruments do not prescribe who should carry out an SEA. SEAs are usually commissioned by a government authority or authorities and are predominantly funded by the government. In some circumstances, a particular industry or sector may commission or fund an SEA where it is seen to be an advantage to its strategic direction, mainly to facilitate an integrated approach in planning and investment strategies³⁰.

94. It is important to keep in mind that the SEA is not an add-on process, but one linked with the on-going economic and social analyses underway, providing for a holistic approach in relation to environmental and social issues within a sustainability framework. An effective SEA cannot be performed in isolation or after the fact. The analysis of the environmental and social considerations should be undertaken on an iterative basis throughout the planning process and be fully integrated into the analysis of each of the options developed so that the alternative proposal can be compared. The final recommendations should be informed by the results of the SEA.

95. In the EU-28, Candidate and potential Candidate countries, if the project forms a part of a plan or a programme, the relevant plan or programme may fall within the scope of the SEA Directive (See Annex 5 on Criteria for the application of the SEA Directive).

96. An SEA is mandatory for plans and programmes, which are likely to have significant effects on the environment (including on issues such as biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural heritage including architectural and archaeological heritage, landscape and the interrelationship between the above factors). There are cases when plans and programmes are automatically deemed to have such effects (see below). However the requirements and guidance of an SEA should be taken to include all relevant plans or programmes regardless of their formal title.

- plans and programmes prepared for agriculture, forestry, fisheries, energy, industry, transport, waste/water management, telecommunications, tourism, urban planning or land use and which set the framework for future development consent of projects listed in the EIA Directive; or
- plans and programmes that require an assessment under specific articles of the Habitats Directive 92/43/EEC.

²⁷ The SEA Directive: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:197:0030:0037:EN:PDF>.

²⁸ The protocol on Strategic Environmental Assessment to the UNECE Espoo Convention signed by 35 governments and the European Community back in May 2003 in Kiev, Ukraine, entered into force on July 2010.

²⁹ According to Article 13 of the SEA Protocol, "Each Party shall endeavour to ensure that environmental, including health concerns are considered and integrated to the extent appropriate in the preparation of its proposals for policies and legislation that are likely to have significant effects on the environment, including health".

³⁰ The SEA Directive's definition of "environment" includes not only the natural environment and the historic environment, but also some human effects such as health and material assets. It also requires a thorough analysis of a plan's effects including secondary, cumulative and synergistic effects.

97. For those plans and programmes referred to above which determine the use of small areas at local level, as well as for their minor modifications, the need for undertaking an environmental assessment is determined on a case by case analysis and/or by specifying certain types taking into account the criteria set out in Annex II of the SEA Directive (e.g. characteristics of plans and programmes and the characteristics of the effects and of the area likely to be affected).

98. For a plan or programme to fall under the scope of the SEA Directive, it also must be:

- prepared and/or adopted by an authority at national, regional or local level;³¹ and,
- required by legislative, regulatory or administrative provisions. According to the relevant case-law, plans and programmes whose adoption is regulated by national legislative or regulatory provisions, which determine the relevant authorities for adopting them and the procedure for preparing them, must be regarded as “required” within the meaning, and for the application, of the SEA Directive³².

99. When the EIB receives an application for a project, which may form part of such a plan or programme, it should be clarified during appraisal whether the plan or programme has been screened by the relevant authority, as being subject to an SEA. This may involve discussions not only with the promoter but also with the competent authority and other bodies. Where an SEA is judged necessary on the basis of the above, it should be completed in all material aspects and its main findings and recommendations must satisfy the requirements of the EIB, prior to disbursement.

100. The SEA Directive defines “environmental assessment” as a procedure comprising:

- The preparation of an Environmental Report which identifies, describes and evaluates the likely significant effects on the environment of the plan/programme as well as the reasonable alternatives taking into account the objectives and geographical scope of the plan/programme;
- The carrying out of public consultation on the draft plan/programme and the accompanying environmental report with the relevant authorities and with the public. In the case of transboundary impacts, the applicable consultation in accordance with the requirements under the Espoo Convention should be carried out;
- The taking into account of the recommendations and conclusions of the environmental report and the results of consultation in the decision-making process; and
- The provision of information when the plan is adopted and showing how the results of the SEA have been taken into account, providing information on monitoring requirements.

101. Outside the EU-28, Candidate and potential Candidate countries, the SEA is a more flexible process. There is no template of procedures and methodologies such as those available in the application of the EIA. However there are a set of evolving principles that help describe the SEA process in the guidance developed by the OECD³³ and DG ENV³⁴ for example. In this context, the SEA Protocol under the Espoo Convention is also relevant. The SEA Protocol, which also applies to national plans and programmes, requires its parties to evaluate the environmental consequences of their official draft plans and programmes and basically provides for the same process as the SEA Directive.

102. Some examples of circumstances outside the EU-28, Candidate and potential Candidate countries where an SEA would be usefully applied are:

- Macro-policy initiatives;
- Sectoral investment programmes (e.g. sector-wide approaches in energy, transport, water resources);
- Sub-national strategic planning and policy formulation (e.g. coastal zone management, urban or industrial development plans, regional development plans);
- Programmes with numerous small-scale development or community projects (where individual appraisal would not be cost-effective); and

³¹ First formal act of preparation after July 2004.

³² C-567/10

³³ OECD's Good Practice Guidance for Development Co-operation: <http://www.oecd.org/dac/environment-development/37353858.pdf>

³⁴ EC's Strategic Environmental Assessment: <http://ec.europa.eu/environment/eia/sea-support.htm>

- Cumulative or in-combination impacts: situations where the effect of individual developments may be limited, but could be significant when considered together. The development concerned should be considered with other existing or proposed activities in the same sector, region or catchment (e.g. projects to be developed under a new economic zone).

103. An SEA should address the following considerations: (i) main objectives of the plan/programme and relationship with other relevant plans or programmes; (ii) the current state of the environment and the likely evolution thereof without the implementation of the plan/programme; (iii) environmental objectives which are relevant to the plan/programme; (iv) scope and nature of potential effects on the environment, including scope and nature of residual effect, (v) the need for mitigation or opportunities for enhancement, (vi) monitoring and follow-up, (vii) public and stakeholder concerns.

104. There may be a plan or programme proposal for which no strategic environmental assessment according to the SEA Directive will be required. These special cases are: (i) proposals prepared in response to a clear and immediate emergency where time is insufficient to undertake an SEA and (ii) national defence plans or programmes (iii) financial or budget plans and programmes.

105. The Team should confirm, in the ESDS and Appendix D1:

- Whether the project is part of a plan or programme that requires an SEA;
- That the critical stages of the SEA have been carried out. The corresponding documents – the environmental report, evidence of consultation, information on the decision when a plan/programme is adopted; and,
- For plans or programmes having been screened out, the basis for the relevant authority not to require an SEA.

THE ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT (ESIA)

106. The ESIA is a predictive tool that is normally applied at the early planning stages of development proposals in order to assess the environmental and social acceptability and what conditions, if any, should be applied to control potential risks and impacts so that the community and the relevant authorities can form a view on the project/operation. Although the focus is on biophysical issues, social, economic and cultural heritage (both tangible and intangible) impacts are also considered.

107. The ESIA, where required, plays a key role in the EIB due diligence as the EIB Environmental and Social Statement requires that all projects/operations, irrespective of location, comply with the process and content consistent with the requirements of the EU EIA Directive.

108. For purpose of an ESIA, projects are screened into a number of categories, according to the guidelines of the EU EIA Directive.

109. Within the EU, the E(S)IA is legally governed by the EU Directive on EIA. Outside the EU, the EIB refers to EU law as the benchmark of its ESIA requirements. The EU approach is determined by the scale, nature and location of the project and the policy, institutional and socio-economic framework that is in place.

110. There are four categories that result from screening against the EIA Directive requirements:

Table F: Categories³⁵ for EIA Project Screening

Category	Comments
Full E(S)IA	Annex I projects
Full E(S)IA	Annex II projects screened in (i.e. E(S)IA required)
E(S)A	Annex II projects screened out (i.e. E(S)IA not required)
E(S)A	All other projects

³⁵ When completing the ESDS for Investment Loans (multi-scheme projects), Investment Programmes, or Framework Loans, it is advisable to indicate that the ESIA category may vary by scheme. However if one component overall clearly is identified as requiring an ESIA, then it is preferable to indicate that the project requires a full SIA.

111. This screening is carried out for all Investment Loans, in most cases for individual components of Investment Programmes and Framework Loans and may be used selectively for other loan types.

112. However as indicated in the above Table, not all projects require a full ESIA in the sense defined by the EU Directive. Therefore according to the categories above, projects require:

- a full ESIA, including public consultation according to the requirements of the EIA Directive (the first two categories of Table E) and an ESMP to cover the needs of the EIB;
- a limited form of environmental and social assessment, scoping or very specific studies (not regulated or required by the EIA Directive); or even
- no environmental and social assessment but certain conditions may need to be adhered to for the other two categories.

113. Examples of projects by category, from experience gained in the EU are as follows:

- Projects requiring a full ESIA: All projects listed in Annex I of the EIA Directive 2011/92/EU (see Annex 3);
- Projects screened in (full ESIA) or screened out (ESA):³⁶All projects listed in Annex II of the EIA Directive 2011/92/EU, (see Annex 4); also extensions to Category I projects; and
- Projects requiring a limited form of ESA: Renovation of buildings (non-historical), in-plant modernisation in non-polluting industry, rehabilitation of roads without widening, minor works within an existing port not linked to traffic increases, upgrading of computer equipment, most research and development activities, most investments in rolling stock and mobile equipment, renewal of water and sewage networks.

114. The promoter or the borrower is responsible for ensuring that an ESIA/EIA is carried out according to national and other applicable environmental law, with reference to the EU EIA Directive, the Habitats 92/43/EEC and Bird Directives 79/409/EEC, and the Water Framework Directive, where applicable, as well as the requirements of the EIB.

115. In the exceptional cases where the EIB project cycle does not coincide with the ESIA process, the ESIA process (granting of development consent or approval of the ESIA outside the EU) may not have been completed at the time of appraisal. However, if the ESIA is not complete, the Team must have sufficient information to carry out its own environmental and social due diligence and beyond this, formally, the ESIA process should be completed to the satisfaction of the EIB prior to submission of the project to the Board. In exceptional cases the finalisation of the ESIA process (e.g. multi-stage development consent procedure when an ESIA was carried out but the development consent was not yet granted and the need for an additional ESIA for the subsequent stages is still to be determined – see explanation below) can be a condition of loan signature or disbursement, normally by the EIB to the promoter, exceptionally by the promoter to the individual scheme (e.g. in the case of an investment programme).

116. In the EU and Candidate, potential Candidate countries, in order to determine whether an ESIA process has been completed or not at the time of appraisal, the following should be taken into account:

- The ESIA process is completed when, according to the EU EIA Directive, a development consent is granted, the term “development consent” remaining a Community concept which falls exclusively within Community law;
- The EU EIA Directive defines only a single type of consent – the development consent – namely the decision by the competent authority or authorities which entitles the developer to proceed with the project while the term “project” refers to works or physical interventions;
- There are Member States where the development consent may be part of a combination of several distinct decisions, where the national procedure authorises the developer to start works;
- A distinction should be made between the one stage and multi-stage development consent procedure, and as a consequence, in a consent procedure comprising several stages, the ESIA must, in principle, be carried out as soon as possible, in order to identify and assess all the effects which the project may have on the environment;

³⁶ Referring to the precautionary principle, for projects outside the EU, Annex II projects tend to be more screened “in” than “out”. Even if the project would fall under Annex II if located in EU and the relevant authority of the project country would screen out the project, the EIB may nevertheless require that an ESIA be carried out for the project as a condition for providing finance.

- In the case that the granting of consent comprises more than one stage, and it becomes evident that in the course of the second/further stage that the project is likely to have significant effects on the environment by virtue inter alia of its nature, size or location, an additional environmental impact assessment may be required to be carried out.

117. In certain cases the EIB may finance the ESIA through the loan, or under technical assistance, in order to facilitate project preparation and design. But the EIB itself does not carry out an ESIA.

118. For projects under Annex II of the EU EIA Directive that have been screened out by the relevant authority, in all cases but particularly outside the EU-28, the EIB must determine whether it agrees with the decision, issued by the authority, not to require an ESIA. In determining the need to carry out an ESIA, the criteria laid down in Annex III of the EU EIA Directive should be considered. Should the EIB determine that an ESIA would normally have resulted from the application of the criteria in the EIA Directive, then the completion of a full ESIA or the remaining steps to complete an ESIA must be a condition of the EIB's financing of the project. In this instance, it may also be necessary for the Team to identify and agree with the promoter the specific steps and the requirements for technical assistance, consultants or other environmental/social experts to assist with the process. In addition, the Team may give concrete suggestions on public participation and stakeholder engagement that it would expect to take place (see Standard 10). In these instances, early discussion with ENVAG and with Ops is required so as to present a clear picture to the promoter of the EIB's requirements.

119. The EIB requires the promoter to make any environmental and social studies, in local language, available to the public in a suitable form and place, reinforced by the EIB's disclosure requirements with respect to its website Project List. Refer to Section D for details.

120. The following are guiding principles for the ESIA

- The assessment is not restricted to "site-specific" environmental and social impacts and risks but takes into account the project's ancillary/associated infrastructure and area of influence;
- The assessment must examine reasonable alternative courses of action and their environmental and social significance, even if the promoter does not have the power to implement these alternatives;
- Alternative courses of action include the option of doing nothing;
- The assessment must be a real analysis and not merely dispose of alternatives in favour of a decision that has already been reached;
- Greater plans must be assessed in addition to the sequence of single phases that execute them;
- Projects must not be segmented in ways that disguise the scale of environmental and social impacts and retract the viability of alternatives to the total project;
- Projects must be assessed in the light of technologies available in the time-frame of the project's construction;
- The environmental and social impacts are not to be disregarded merely because they are difficult to identify or quantify;
- The assessment must take a "hard look" at the environmental and social consequences of the project; and
- The finding must be presented in clear language and methodologies explained.

121. PJ should confirm, in the ESDS and the Overall Environmental and Social Assessment Form (D1):

- Whether the project requires an EIA/ESIA;
- For projects requiring a full EIA/ESIA, that the critical stages in the ESIA process have been carried out. The corresponding documents - the EIS, the NTS, evidence of consultation and consents - should be obtained and placed on file; and
- For projects having been screened out, the basis for the relevant authority not to require an ESIA, which should be on the basis of the criteria detailed in Annex III of the EU EIA Directive.

B.2.3 Appraising Social Issues

122. The EIB has the obligation to make the rights and provisions of the EU Charter and the UNGPs as effective as possible in the context of its operations. For so doing, it is to be guided by the principle of

proportionality, a human rights mitigation hierarchy and the notion of access to remedy. Contrary to an environmental mitigation hierarchy, a human rights mitigation hierarchy is premised on the principle of remedy³⁷ rather than compensation. It is therefore guided by considerations of likelihood, severity and frequency of human rights impacts, accordingly ordering the prioritisation of mitigation measures.

123. Based on the information gathered during the screening phase, the Team needs to further appraise and record the social issues relevant to the project/operation. At minimum, the Team shall appraise the core issues set out in the five Social Standards (i.e. Standards 6 to 10 – see Volume I). Depending on the context and type of project/operation, the Team may also need to assess other relevant issues necessary for the carrying out of a comprehensive social appraisal. These may relate to, for example, governance, transparency and capacity issues; conflict potential and sensitivity related to access to resources or allocation of project benefits; exacerbated inequalities; and complex institutional environments and social dynamics.

124. In line with the five Social Standards, the below summarises the key social aspects to be addressed during appraisal. The Team will fill out Form D3 accordingly (see Annex 13 – Social Impact Form).

INVOLUNTARY RESETTLEMENT

125. On the basis of the initial screening and in line with Standard 6, should project activities and/or associated facilities entail physical and/or economic displacement, the Team will determine, in consultation with the promoter, the approach (i.e. the production of a resettlement policy framework/plan according to which resettlement will be dealt with, or an approved course of action for the displacement of small numbers of people or where no physical displacement takes place), implementation and monitoring arrangements to be adopted for handling the involuntary resettlement. These respective agreements should be clearly recorded by the Team in the project documentation.

126. This implies that the Team should typically request the receipt of a satisfactory resettlement policy framework/plan during appraisal (i.e. prior to Board approval). This is especially important in cases where:

- (1) there are identified gaps between national land-acquisition, expropriation and compensation standards and practices and EIB Standard 6;
- (2) the institutional responsibilities regarding resettlement are unclear or complex with several different governmental or non-governmental agencies involved in the process;
- (3) there is a risk of underestimating the scope of the required resettlement; and/or
- (4) no sufficient resources, i.e. budget, time and/or competent staff, are set aside for resettlement planning and implementation.

127. In cases where the screening process and discussions with the promoter have revealed a satisfactory approach and capacity to handle involuntary resettlement, the appropriate conditionality can be set for the receipt of a satisfactory resettlement action plan (RAP). However should a resettlement policy framework (RPF) be required, this should be prepared and consulted upon to the satisfaction of the EIB, prior to Board approval.

128. In line with Standards 6 and 10, for a RPF/RAP to be satisfactory to the EIB, the RPF/RAP will need to have been *inter alia* subject to prior informed consultation and participation with all relevant stakeholders, be publicly disclosed by the promoter (disclosure in full on the promoter's website) and endorsed by the relevant public authority as legally required. The RPF/RAP also requires the establishment of an adequate grievance and redress mechanism open to stakeholders affected by the involuntary resettlement, i.e. project-affected persons and members of host communities.

129. Moreover, in line with Standard 7, for a RPF/RAP to be satisfactory to the EIB, the RPF/RAP(s) is to duly address the case of vulnerable groups impacted by involuntary resettlement within the context of the EIB operation.

³⁷ A focus on the materiality of risk to affected persons, i.e. risk to rights-holders, constitutes a cornerstone principle that calls for sound and meaningful stakeholder engagement and guaranteed access to remedy.

130. When to request a RAP: A RAP, or abbreviated RAP (in instances where project-affected people are less than 200), is typically required for all components of EIB-financed operations that result in involuntary resettlement. It may also be required in cases of involuntary resettlement which result from other activities that are (a) directly and significantly related to the EIB-assisted project; (b) necessary to achieve the project's objectives as set forth in the project documents; or (c) carried out, or planned to be carried out, contemporaneously with the project.

131. When to request an RPF: In projects where exact project design and respective footprint and associated impacts have not been determined (e.g. segments of a road design takes place in stages) or several sub-projects are involved (e.g. Investment Programmes, Framework Loans or other intermediated financing), the Team may want to consider that the promoter submits an RPF. An RPF will eventually evolve into a precise and specific RAP. Requiring an upfront RPF may be especially useful in the context of weak legal and organisational capacity.

132. When resettlement has taken place prior to the EIB's involvement, all relevant information in relation thereto should be requested and reviewed by the Team during appraisal, as part of the E&S due diligence process.

133. No involuntary resettlement or forced evictions shall take place before the promoter has addressed the involuntary resettlement in a manner consistent with these Standards and satisfactory to the EIB.

RIGHTS AND INTERESTS OF VULNERABLE GROUPS

134. On the basis of the initial screening and in line with Standard 7, the Team will determine, in consultation with the promoter, the approach to be adopted to appropriately manage the potential adverse impacts resulting from project activities and/or associated facilities on vulnerable groups, including on indigenous populations and minorities. Where relevant and feasible, such an approach should also seek to promote inclusive development and benefit-sharing.

135. Types of harmful impacts

- Land invasions by external groups;
- Adverse health impacts of in-migration;
- Exclusion from receipt of development benefits;
- Increased divisions within minority groups;
- Unequal receipt of royalties in favour of particular groups; and
- Creation of dependent communities.

136. Types of benefits to enhance minority interests

- Provision of better educational and health facilities;
- Creation of particular employment opportunities;
- Development of indigenous technical knowledge and cultural programmes; and
- Community development work to increase self-sufficiency and sustainability (provision of micro-finance, development of indigenous crafts).

137. Particular attention is to be given to vulnerable groups' cultural rights to maintain control over ancestral territory and to secure access to culturally appropriate sustainable livelihoods. A focus on, for instance, indigenous groups, like the focus on women, is of particular importance in the wider EU policies supporting social inclusion, non-discrimination and the rights of indigenous peoples expressed in the UN Human Rights Conventions.³⁸

138. Special attention is to be paid to the rights and interests of vulnerable groups especially in :

- (1) situations where governance is poor or protection of minority rights is weak;
- (2) potential conflict or post-conflict zones; and/or
- (3) areas where the influx of workers (during construction and, especially, during operation) or the tourist development focuses on distinct local cultural features.

139. Based on the initial screening, where potential adverse impacts on vulnerable groups are present and/or relevant additional information is required, the Team should request the receipt of a satisfactory social assessment. When projects involve indigenous populations, a social assessment duly tailored to

³⁸ For information on the UN Permanent Forum on Indigenous Issues see: <http://www.un.org/esa/socdev/unpfii/index.html>.

the cultural and socio-economic specificities and sensitivities of indigenous communities would need to be provided by the promoter to the satisfaction of the EIB.

140. Where the EIB operations and/or components thereof impact or threaten the customary rights and interests of indigenous peoples or ethnic minority groups, the development of an ethnic minority development plan or an indigenous peoples development plan is deemed necessary and should be duly followed up. The Ethnic Minority Development Plan (EMDP) or Indigenous Peoples Development Plan (IPDP) may be free-standing or a component of a broader social management plan in cases where indigenous communities co-exist in the same area with other affected communities.

141. The EMDP or IPDP shall ensure that appropriate arrangements for mitigating adverse impacts on indigenous peoples or ethnic minorities are put in place and that their customary claims are fairly addressed. This is a particularly difficult area often complicated by the approach of the respective state in the pursuit of either assimilation and integration policies, or the recognition of the rights of minority groups. Where the EIB is one of the co-financing partners it may be possible to build on the other lenders' existing social safeguard policy frameworks.

142. In line with both Standards 7 and 10, local priorities will be determined in direct informed consultation with minorities and/or their representatives. The development of appropriate consultation and participation mechanisms with vulnerable groups will be one feature that the Team will wish to see in place. Assurances over the timely disclosure of the EMDP/IPDP, including outputs linked to the Free Prior Informed Consent process, should be provided.

143. The promoter is expected to publicly disclose the final draft of the IPDP to the affected Indigenous Peoples' communities in an appropriate form, manner, and language. Once adopted and agreed upon by the Indigenous Peoples and the EIB alike, the promoter will make these documents available to the affected Indigenous Peoples' communities in the same manner as the earlier final draft documents.

144. The appropriate conditionality will be included in the finance contract for the receipt of an acceptable IPDP. If an Indigenous Peoples' Planning Framework (IPPF) is required, this document should ideally be submitted prior to Board Approval. The promoter will also have to provide assurances that funding for the implementation of the IPDP will be secured.

LABOUR STANDARDS

145. Where the screening process determines that additional information is needed and/or reveals significant labour-associated risks, whether concerning workers directly contracted by the promoter and/or workers contracted by primary contractors and/or first-tier suppliers, the Team is to carry out a more comprehensive labour assessment of the promoter's current employment policies and labour practices as well as of the agreed mitigation and monitoring requirements.

146. The labour assessment should, at minimum, include a review of the promoter's human resources policies, their adequacy, and the management capacity to implement and monitor these, including for primary contractors and first-tier supplier, as well as relevant management systems and procedures. This information is usually included in a comprehensive ESIA. If further information is required, the EIB may consult relevant stakeholders such as workers organisations, government agencies, local government officials, and civil society organisations among others, to ensure the appropriate local support for the project.

147. When relevant, based on the specific risk profile, an assessment may be further required to include the descriptions and analysis of:

- The workforce (numbers, skills, types of jobs, composition);
- Current working conditions (hours, physical amenities, forms of discrimination, attitudes of staff as well as health and safety and privacy standards for company provided facilities) and terms of employment (including entitlement to wages, overtime arrangements and compensation, leave, illness absences, benefits, training, capacity building and skills development; freedom of association and collective bargaining rights, staff representation and organisation), the national labour regulations, including decent work country programmes;
- The state of compliance with the International Labour Organisation's Core Labour Standards, and national employment and labour laws;

- Types of employment relationships (wage levels, contracts, status of temporary workers, outsourcing, disciplinary procedures and dismissals, policies for dealing with retrenchment);
- The promoter's policy for dealing with contractors and supply chain;³⁹
- The promoter's approach to sustainability and social responsibility reporting;
- General conditions in the sector or the surrounding environment that might pose risks of non-compliance with existing laws (e.g. corruption, rule of law);
- The way by which information relating to the human resources policy is documented and disseminated to all workers; and
- The grievance and redress mechanism available to workers (and their organisations, where they exist) to raise workplace concerns.

148. Based on this assessment, the Team should exercise an informed judgement as to the appropriateness of any proposed operation. If necessary, the Team should recommend areas where improvements are needed and identify appropriate mitigation measures to address perceived inadequacies, as well as indicators for measuring and reporting on improvements (e.g. improved working conditions, support for vulnerable groups, provisions for worker welfare, representation). Special attention may need to be given to the ways that contractors and/or suppliers treat their labour force.

149. Arrangements for ensuring minimum acceptable standards should be agreed between the EIB and the promoter before disbursement and inserted to the satisfaction of the EIB into the project ESMP and ESMS (see Standard 1 and Annex 11).

150. If the identified risks (either during the appraisal or the monitoring phase) are moderate to significant, the promoter may be further asked to undertake an independent labour audit. The exact scope of this labour audit will be discussed and agreed with the EIB (during appraisal or monitoring phase, as deemed necessary).

151. In cases where the risk of labour rights and standards violations is high or where the EIB appraisal established a steep learning/compliance curve ahead for the promoter, the promoter should be required to directly undertake a labour audit by commissioning an independent third-party specialist.

152. In the instances where the EIB is in partnership with other IFIs, the due diligence on labour standards can be based on an examination of the assessments carried out by other IFIs.

OCCUPATIONAL AND PUBLIC HEALTH, SAFETY AND SECURITY

153. All projects located in EU, Candidate and potential Candidate countries will be designed and will operate in compliance with the applicable EU requirements as laid down in the different EU Directives on Occupational and Community Health and Safety as well as with relevant international standards and best practices,⁴⁰ unless the national standards and requirements are more stringent than those contained in EU legislation.

154. Projects outside of the EU, Candidate and potential Candidate countries will be designed and will be operated in compliance with EU Occupational and Community Health and Safety requirements, where practical and feasible. However the promoter will adhere to international best practice and to any obligations and standards to which the host country is party to. Where EU standards are more stringent than national standards, the higher EU standards are required if practical and feasible. However any deviation from EU standards will have to be duly justified by the promoter.

155. Mindful of the above, during appraisal, the Team is to agree with the promoter on (i) the level of comprehensiveness of the assessment of the health, safety and security risks and (ii) how occupational and public health and safety requirements will be best addressed and managed as part of the promoter's overall ESMP, both in terms of managing the promoter's own activities as well as that of its primary

³⁹ Where low labour costs are a factor in determining competitiveness and securing supplies, the EIB should assure itself wherever possible that minimal standards apply to its supply chain, especially those related to child and forced labour and to the circumstances governing downstream marketing activities.

⁴⁰ Such as ILO's Guidelines on occupational safety and health management systems, the EU's decent work agenda, the OSH Framework Directive as well as the UN Guidelines on Business and Human Rights.

contractors and first-tier suppliers. The effort devoted to planning and managing environment health and safety will be in proportion to the risks and complexity associated with the project/operation.

156. During appraisal, the Team will assess all necessary health and safety management plans (including emergency prevention, preparedness and response and disease prevention and containment plans, traffic management and security management plans) included in the overall project ESMP. Where the operation financed is likely to involve significant numbers of labourers arriving on site from beyond the local context, the ESMP will also need to comprise an influx management plan.

157. The Team will further assess the environmental and social management system (ESMS)⁴¹ upon which the implementation of the ESMP rests. The ESMS should govern the promoter's own and outsourced/supplied activities. The ESMS should be supported by a qualified person/team to supervise the implementation of all health and safety management plans, monitor the effectiveness of mitigated risks and remedies, and identify any new risks and impacts as they arise throughout the project.

158. In line with Standard 10, the Team will further assess the way by which the promoter has identified, informed and consulted affected/potentially affected stakeholders within the project's area of influence on the health, safety and security risks and impacts arising from project activities as well as on the proposed health and safety management plans. In line with Standard 7, due attention should be paid to assess the way by which vulnerable groups in the local population have been consulted. The Team will also assess the adequacy of the grievance and redress mechanism open to all project workers and members of the public in cases of violations of their rights falling within the scope of Standard 9.

159. Where the screening determines that the nature of the operation entails significant and/or cumulative public health risks and that the ESIA is not fit to adequately analyse or to propose satisfactory mitigation measures, the promoter will be required to undertake an environmental, social and health impact assessment (ESHIA).

STAKEHOLDER ENGAGEMENT

160. The purpose of public consultation and stakeholder engagement in the EIA process, and more generally throughout the lifecycle of the project, is to allow the promoter to identify and address public⁴² concerns and issues, and to provide the public with an opportunity to receive information and contribute meaningful input into the project assessment, development and implementation.

161. The EU EIA Directive and the UN Convention on Transboundary EIA – the Espoo Convention – provide the framework for engaging in the consultation process of the public concerned in the territory of any Member State or party to the Convention likely to be significantly affected, in the case of projects that are likely to have transboundary effects on the environment of another country.

162. The choice and form of consultation will depend on the nature, issues and complexity of the project as well as on the interests of different stakeholders. The interests of those most likely to be significantly impacted by the project should be addressed during the public consultation associated with the ESIA, public hearings, via the media, or be drawn to the EIB's attention by the promoter, a civil society organisation, or a government body.

163. For projects located in the EU-28, especially in the case of complex and/or sensitive projects, it is recommended that a Stakeholder Engagement Plan (see Annex 6) be developed as part of the ESIA process. Such a Plan would include the regulatory requirements for public consultation and disclosure under the EU EIA Directive. Beyond the regulatory requirements for public consultation and disclosure, further consultation and engagement with project-affected communities and other relevant stakeholders may be required.

164. For projects located outside the EU 28, including in Candidate and potential Candidate countries, a Stakeholder Engagement Plan, including a grievance mechanism, is mandatory as part of the ESIA

⁴¹ Health and Safety management plans are a part of the ESMS (see Standard 1).

⁴² The EU EIA Directive defines the term "public" as: "one or more natural or legal persons and in accordance with national legislation or practice, their associations, organisations or groups", and "public concerned" as: "the public affected by, or having an interest in, the environmental decision-making procedures referred to in Article 2(2); for the purposes of this definition, non-governmental organisations promoting environmental protection and meeting any requirements under national shall be deemed to have an interest".

process. In line with Standards 7 and 10, where the EIB operation and/or components thereof impact or threaten the customary rights and interests of indigenous communities, the Team is to ascertain that a satisfactory FPIC process has been carried out.

165. During appraisal, stakeholders' concerns or complaints should be established through EIA/ESIA documents, i.e. stakeholder engagement report and discussions with the promoter. If necessary the mission should be organised to include meetings with concerned parties and understand better their issues regarding the project. Such meetings should be arranged through or in cooperation with the promoter, if possible. There may also be positive stakeholder opinions regarding the project and appropriate meetings may be held with such groups as well in order to get both views.

166. Once it has been established what the main concerns are, the promoter should be asked to explain how these will be dealt with in terms of mitigation or compensation measures and how these will be monitored during project implementation and operation.

167. The promoter should clarify if any legal proceedings are on-going against the project as part of the EIA process or separately. If complaints have been made to the EU Commission then the service, having received the complaint may be contacted to determine at what stage their analysis of the complaint has reached.

168. If there are significant third-party concerns about the project or related issues, then this should be discussed with ENVAG, the assigned social development specialist and ECSO to determine how to follow up the concerns. The civil society organisations (CSO) unit handles formal NGO-EIB communications, including complaints to EIB, on individual projects.

169. If the proposed project or the project promoter is subject to a negative campaign, it should be noted in the Overall Environmental and Social Assessment Form and the ESDS.

170. When reviewing the public consultation process carried out for the project/operation, the Team should verify that:

- Engagement with the stakeholders and relevant authorities has begun early in the process;
- That timeframes for consultation are proportionate and realistic to allow stakeholder sufficient time to provide a considered response;
- That the time required for public consultation is commensurate to nature and impact of the project/operation (e.g. the diversity of interested parties or the complexity of the issues);
- That the capacity of the groups being consulted to respond is taken into consideration;
- That information has been disseminated and presented in a way that is accessible and useful to all stakeholders with a substantial interest in the project/operation.
- That consideration has been given to more informal ways of engaging stakeholders such as web-based forums, focus groups, surveys – rather than always reverting to a written consultation and public meetings; and,
- That sufficient information has been made available to stakeholders to enable them to make informed comments. Relevant documentation should be easily accessible.

171. The Team will review the results of the stakeholder identification and the Stakeholder Engagement Plan, assess the adequacy of the project grievance mechanism and assess the adequacy of the planned stakeholder engagement during project implementation. Continuous stakeholder engagement is expected throughout the lifecycle of the project, as laid out in the Stakeholder Engagement Plan.

B.2.4 Appraising the effects of biodiversity and climate change in the EIA

172. Climate change and biodiversity loss are amongst the most important environmental challenges we face today. Both are complex and cross-cutting issues, which impact nearly all human activity. However climate change and biodiversity issues are not effectively integrated into practice as these issues are not yet fully incorporated into the formal requirement or EIA/ESIA procedures. Due to their complexity– particularly when considered in terms of ecosystems – both biodiversity and climate change

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do not lend themselves to simple or quick analysis. The following points highlight the specific issues to look out for in an EIA/ESIA so as to make certain that climate change and biodiversity have been integrated into the EIA/ESIA process. The assessment should:

- Consider climate change scenarios at the outset of the EIA, including the extreme climate situations and “big surprises” that may either adversely affect implementation and operation of the project or may also worsen its impacts on biodiversity and other environmental factors.
- Analyse the evolving environmental baseline trends, including trends in key issues over time, drivers for change, thresholds and limits, areas that may be particularly adversely affected and the key distributional effects.
- Take an integrated and “ecosystems” approach to planning and investigate relevant thresholds and limits.
- Look for opportunities for enhancement and ensure proposed projects are consistent with wider relevant policy objectives, policies and priority actions for climate change mitigation and adaptation and biodiversity conservation, protection and sustainable use.
- Assess alternatives that make a difference in terms of climate change and biodiversity impacts using a hierarchical approach (i.e. that review the need for the project, the process for its implementation, locations, timings, procedures, etc. and enhance ecosystem services).
- Consider alternative approaches that result in no net loss to biodiversity and/or seek to restore biodiversity; and consider the context of different climate change scenarios and climate impacts, and possible alternative futures.
- Use vulnerability assessment to help assess the evolution of the baseline environment and identify the most resilient alternative(s).
- Assess climate change and biodiversity cumulative effects, as these effects can be particularly significant for these issues. Causal chains/network analysis can be particularly helpful in trying to understand the interactions and associated cumulative effects between specific elements of the project and aspects of the environment.
- Seek to avoid adverse impacts: the EIA Directive establishes a clear hierarchy in the way in which impacts should be first avoided and then mitigated (reduced or remedied).
- Monitor the effectiveness that adaptive management has been built into the project, supported by the EIA process, and whether it is being delivered.

Source: EU Guidance on Integrating Climate Change and Biodiversity into the EIA

B.2.4.1. Biodiversity Assessment

GENERAL PRINCIPLES

173. The EIB recognises the significant value of biodiversity in terms of ecological services, economic and social values and that protecting biodiversity and ecosystems are key elements in supporting sustainable development.⁴³

174. Acknowledging that its projects may have a potential impact on biodiversity and ecosystems, the EIB has taken a balanced approach to managing its operations in order to avoid and minimise any negative impacts on biodiversity and ecosystems by applying the precautionary principle⁴⁴ and by enhancing positive impacts on biodiversity and ecosystems whenever practicable, so as to secure favourable economic, environmental and social outcomes.

175. The EIB’s approach and commitment to nature and biodiversity are grounded in the principles and practices contained in the EU Nature Biodiversity Policy, namely the EU Biodiversity Strategy, the Birds (79/409/EEC) and Habitats Directives (92/43/EEC), and in international treaties and conventions ratified by the EU, such as the Convention on Biological Diversity (CBD), the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Bonn Convention on Migratory Species (CMS) and the Ramsar Convention on Wetlands amongst others.

⁴³ The legal basis for the conservation and sustainable use of biodiversity at the EU level is provided by Article 191 TFEU, which states that Community policy on the environment shall contribute to “preserving, protecting and improving the quality of the environment”, based inter alia on the precautionary principle.

⁴⁴ The Precautionary Principle states that “where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation” (The Rio Declaration (1992) and the Preamble of the Convention on Biological Diversity (1992)).

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176. The EIB promotes, to the extent possible, the integration of biodiversity and ecosystem services into the impact assessment process. This “biodiversity-inclusive” impact assessment should be applied to projects/operations through the ESIA and to plans and programmes through the SEA.⁴⁵ See Standard 3 on the Biodiversity Assessment Thought Process.

177. Therefore, for the effective integration of biodiversity into EIB operations, all projects, irrespective of their location, have to be screened for their potential impact on biodiversity and ecosystems. The initial environmental and social assessment, which takes into account the location and scale of project activities, the types of technology used, and the project’s proximity to areas that have important biodiversity values,⁴⁶ should flag any potential impacts and risks the project may have on biodiversity and ecosystems.

The following table provides basic questions to assist in the screening and identification of biodiversity and ecosystem concerns:⁴⁷

Main concerns related to:	Key questions that could be asked at the screening stage of the ESIA
<p>Degradation of ecosystem services (including impact on processes important for creating and / or maintaining ecosystems)</p>	<ul style="list-style-type: none"> • Will the proposed operation directly or indirectly lead to serious damage or total loss of ecosystem or land-use type, thus leading to a loss of ecosystem services? Will it affect the exploitation of ecosystems or land-use type so that the exploitation becomes destructive or unsustainable? • Will the proposed operation damage ecosystem processes and services, particularly those on which local communities rely? • Is the operation in any way dependent on ecosystem services? • Can increased supply of ecosystem services contribute to the operation’s objectives? • Will the proposed operation result in emissions, effluents, and/or other means of chemical, radiation, thermal or noise emissions in areas providing key ecosystem services? • As regards processes important for creating and/or maintaining ecosystems: • Will the proposed operation change the food chain and interactions that shape the flow of energy and the distribution of biomass within the ecosystem? • Will the proposed operation result in significant changes to water level, quantity, quality, and or the environmental flow? • Will the proposed operation result in significant changes to air quality or pollution?
<p>Loss and degradation of habitats (including the Natura 2000 network, habitat fragmentation and isolation)</p>	<ul style="list-style-type: none"> • Will the operation lead to damage or loss of protected habitats or habitats of protected species? If so, what is the scale and character of damage? Can this damage be minimised? • If habitats are lost or altered, are there alternatives available to support the species populations concerned? • Will the proposed operation adversely affect any of the following: protected areas; threatened ecosystems outside protected areas; migration corridors identified as being important for ecological or evolutionary processes; areas known to provide important ecosystem services; or areas known to be habitats for threatened species or priority areas for conservation? • Will the proposed operation involve creating linear infrastructure and

⁴⁵ Convention on Biological Diversity (2006): Voluntary Guidelines on Biodiversity-Inclusive Impact Assessment.

⁴⁶ Areas of important biodiversity include amongst others world heritage sites, key biodiversity areas, biodiversity hotspots, high conservation value areas, alliance for zero extinction areas, and areas where the assessment has determined that the biodiversity value is important and significant.

⁴⁷ This initial screening table has been adapted from the EU Guidance on Integrating Climate Change and Biodiversity into Environmental Impact Assessment, 2013, page 32: <http://ec.europa.eu/environment/eia/pdf/EIA%20Guidance.pdf>

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	<p>lead to habitat fragmentation in areas providing key and other relevant ecosystem services or create barriers to movement of fauna?</p> <ul style="list-style-type: none"> • How seriously will this affect habitats and corridors, considering that they can also be adversely affected by climate change? • Is the habitat traditionally used by local communities for natural goods or services? • Are there opportunities to establish or further develop green infrastructure as a part of the operation to support the operation's non-environmental and environmental goals (e.g. adaptation to climate change or increasing connectivity of protected sites)?
<p>Loss of species diversity (including species protected under the Habitats Directive and the Birds Directive)</p>	<ul style="list-style-type: none"> • Will the proposed operation have direct or indirect negative impact on the species of Community interest listed in Annex II and/or Annex IV or V, in particular, priority species from Annex II of the Habitats Directive or on the species covered by the Birds Directive? • Will the proposed operation have direct or indirect negative impact on species listed in the IUCN Red Lists of Threatened Species and Ecosystems, the OSPAR List of threatened and Declining Species or the host country national red lists? • Will the proposed operation cause a direct or indirect loss of a population of a species identified as priority in National Biodiversity Strategies and Action Plans (NBSAPs) and/or other sub-national biodiversity plans? • Will the proposed operation alter the species-richness or species composition of habitats in the project footprint and area of influence? • Will the proposed operation affect sustainable use of a population of a species? • Will the proposed operation surpass the maximum sustainable yield, the carrying capacity of a habitat/ecosystem or the maximum allowable disturbance level of populations, or ecosystem? • Will the proposed operation increase the risk of invasion by alien species?
<p>Loss of genetic diversity</p>	<ul style="list-style-type: none"> • Will the proposed operation result in the extinction of a population of a particularly rare species, declining species or a species identified as one of Community interest or national interest, in particular of priority species from Annex II of the Habitats Directive, IUCN and OSPAR lists? • Will the proposed operation result in the extinction of a population of a particularly rare species, declining species or those identified as priorities in NBSAPs and/or sub-national biodiversity plans? • Will the proposed operation result in the fragmentation of an existing population leading to (genetic) isolation?

Source: Adapted from the EU Guidance on Integrating Climate Change and Biodiversity into EIA

178. To assess the potential significant impact on habitat and species, the Team will be guided by the International Union for Conservation of Nature (IUCN)⁴⁸ classification of protected areas and species, the management regulations applicable to them as well as sector recommendations/guidelines from established institutions and organisations such as Conservation International, Fauna Flora International, the CBD, and Birdlife International. The areas of biodiversity importance can be found on the A-Z Areas of Biodiversity Importance developed by UNEP-WCMC.⁴⁹ The Team may also use the Integrated

⁴⁸ International Union for Conservation of Nature (IUCN): <http://www.iucn.org>

⁴⁹ UNEP A-Z Areas of Biodiversity Importance: http://www.unep-wcmc.org/a-z-areas-biodiversity-importance_531.html

Biodiversity Assessment Tool⁵⁰, the World Database on Protected Areas⁵¹ and the Biodiversity Information System for Europe (BISE).⁵²

179. When the screening carried out by the Team has identified that there are potential adverse impacts on biodiversity and ecosystems (primary and secondary effects), the Team must verify that the promoter has applied the mitigation hierarchy, in particular avoidance and minimisation of impacts so as to ensure that there is no net loss⁵³ of biodiversity in order to maintain the integrity and natural functions and processes of the ecosystems, as well as their resilience. The mitigation hierarchy is applied in order of priority as follows:

- Avoid
- Minimise
- Restore on-site
- Compensate and/or offset (off-site or on-site)

180. Generally the “higher” the priority of the ecological value, the more protective the mitigation measures (Guidance on the mitigation hierarchy is in Annex 7). The Team will review how the mitigation hierarchy was considered and applied by the promoter⁵⁴. The EIB may request that further specific studies be undertaken by experts in the field, in consultation with national and local authorities as well as affected communities. In the case of Natura 2000 sites, biodiversity compensation/offsets have to be preceded by the application of requirements specified in the Habitats Directives (impact assessment, analysis of alternatives, test of “imperative reasons of overriding public interest”). In other cases, biodiversity offsets should only be used for residual impacts, after all avoidance and minimisation measures have been considered. Since the outcome of offsets cannot be guaranteed, they may not be possible for certain natural features that are highly vulnerable and irreplaceable. Should offsets be required, the Business and Biodiversity Offset Programme (BBOP)⁵⁵ is one set of internationally recognised methodology that can be applied.

181. Compensation and offset measures may include:

- Restoring impacted areas with species consistent with local ecological conditions;
- Offsetting biodiversity losses through the creation of ecologically comparable areas elsewhere that are managed for biodiversity; and,
- Financial or in-kind compensation to direct users of biodiversity.

182. In areas where the intended project may modify the habitat, the promoter must ensure minimal degradation of habitat. Opportunities to enhance habitat and conserve biodiversity must be sought as part of the operational stage. If the proposed project impacts is located in or adjacent to a protected, legally sensitive biodiversity area or a priority area for conservation or impacts on it, the promoter shall consult protected area managers and potentially affected local communities and ensure the project is consistent with defined protected area management plans.

183. The promoter will be responsible for carrying out a detailed biodiversity assessment of all impacts, mitigation measures, monitoring and reporting plan, if no alternative is feasible, duly approved and signed by the relevant authority for Nature.

184. If quantifiable, the economic value of the likely impact of the project on biodiversity and ecosystems, where significant, should be as far as practical internalised into the Economic Rate of Return (ERR) calculation of the project.

185. Whenever a project has been screened for its potential vulnerability to climate change, the inter-linkages between climate change and biodiversity (e.g. issues related to adaptation) should be assessed. The project must address specific criteria or quantifiable links the project is having with regards to adaptation.

⁵⁰ Integrated Biodiversity Assessment Tool (IBAT): <https://www.ibatforbusiness.org>

⁵¹ World Database on Protected Areas (WDPA): <http://www.wdpa.org/>

⁵² Biodiversity Information System for Europe (BISE): <http://biodiversity.europa.eu/>

⁵³ The concept of No Net Loss is implicit in the EU Habitats Directive

⁵⁴ Mitigation measures should be designed to maintain the coherence of the ecosystem and favour impact avoidance and prevention over reduction and compensation.

⁵⁵ Business and Biodiversity Offsets Programme (BBOP): <http://bbop.forest-trends.org/>

186. A sensitivity analysis of the project with respect to adaptation⁵⁶ may be carried out. Analysis of adaptation of a project needs to distinguish between projects building in adaptive capacity and anticipatory adaptation whereby capacity is transformed into positive action. Adaptation decisions must be within the context of the project and be site specific and cognisant of the ecological status of the area.

187. If there is scope within the contract for some form of hazard impact mapping using remote sensing and satellite imagery for mitigation monitoring, this should be built in.

188. Where a significant impact is likely, the project should be monitored during implementation and operation, as appropriate. This monitoring plan should include a remediation plan for long term biodiversity stabilisation and promotion on the project site and importantly in the secondarily affected adjacent areas.

189. The conclusions of the biodiversity assessment should be recorded in the ESDS as well as in the Overall Environmental and Social Assessment Form (D1), i.e. whether a nature conservation site or an area with important biodiversity has been identified, whether or not there may be a significant effects on the site/area as well as the type of site, how the mitigation hierarchy was applied. A map should be obtained to confirm the location of the project in respect of any conservation site.

PROJECTS WITHIN THE EU, CANDIDATE AND POTENTIAL CANDIDATE COUNTRIES

190. In addition to the assessment described above, for all projects in the EU, Candidate and potential Candidate countries, the promoter is required to consider the potential effects on a designated and/or in the process of being designated Natura 2000⁵⁷ site, applying the assessment procedures under EU legislation (particularly the assessments required under art. 6(3) and art. 6(4) of the Habitats Directive 92/43/EEC). The assessment required is applicable for plans and projects individually or in combination with other plans or projects and will follow a stage-by-stage approach taking into account the recommendations provided by the relevant EC guidelines and international good practice, the information provided in Standard 3 being also relevant.

191. The Habitats Directive applies to classified SPAs, and to SACs as well as to the sites which have been identified as potential Natura 2000 sites (even if they have not been officially designated). However, as a matter of policy, projects affecting non-designated areas of high biodiversity value are to be considered the same way, i.e. as if they had been designated. These measures aim to maintain or restore the extent and quality of rare habitat types and to ensure that rare species can survive and maintain their populations and natural range on a long-term basis.

192. The stages and recommendations proposed by the EC relevant guidelines⁵⁸ could be summarised as the following:

- Stage one; Screening – the process which identifies the likely impacts on a Natura 2000 site of a project or a plan, either alone or in combination with other projects or plans, and considers whether these impacts are likely to be significant;
- Stage Two: Appropriate assessment – the consideration of the impact on the integrity of the Natura 2000 site of the project or plan, whether alone or in combination with other projects or plans, with respect to the site's structure and function and its conservation objectives. Additionally, where there are adverse impacts, an assessment of the potential mitigation of those impacts;
- Stage Three: Assessment of alternative solutions – the process which examines alternative ways of achieving the objectives of the project or plan that avoid adverse impacts on the integrity of the Natura 2000 site;
- Stage Four Compensation: Assessment where no alternative solutions exist and where adverse impacts remain – an assessment of compensatory measures where, in the light of an assessment of imperative reasons of overriding public interest (IROPI), it is deemed that the project or plan should proceed (in certain cases a prior European Commission opinion about the project may be required).

⁵⁶ IPCC definition of adaptation: an adjustment in ecological, social or economic systems in response to observed or expected changes in climatic stimuli.

⁵⁷ Member States have an obligation to apply all nature legislation not only in territorial waters but also in waters where sovereign rights are exercised.

⁵⁸ Managing Natura 2000 Sites – The provisions of Article 6 of the "Habitats" Directive 92/43/EEC

193. The appropriate assessment (AA) is not the same as an EIA under the provisions of the EIA Directive 2011/92/EC. In many cases, projects that will be subject to an AA will need an environmental study to be prepared. The study will address all the significant environmental effect. It will be appropriate to use the information assembled in the study when carrying out the AA under the Habitats Directive. In view of this it would be helpful if the relevant study clearly identified, under a specific subject heading, the likely significant effect on the important habitats and/or species.

194. However, the EIA and the AA have different approaches to decision making:

- The environmental study informs the decision (its findings must be “taken into consideration”), whereas
- The development consent can only be issued if the competent authority has followed the stages prescribed by the Habitats Directive.

195. Following the nature screening process and the determination of whether an AA is required or not, Forms A/B or equivalent will have to be completed and signed by the competent Authority for Nature. No further assessment under the Habitats Directive is required should the screening process determine that a project of a type does not impact a conservation site either on its own or in combination with other plans or projects. However, due to the fact that often the relevance of biodiversity information provided in the EIA studies is not made explicit and that the timing of biodiversity input is often too late in the impacts assessment process to influence the project, the promoter is required to submit to the EIB a declaration and the supporting assessment (or Form A) from the competent authority for nature that the project will have no impact on any nationally or internationally classified conservation sites.

196. Forms A/B are a confirmation that the competent authority, based on the environmental study, other relevant information, consultation with experts and stakeholders has been satisfied in carrying out its AA and that it can:

- Identify the likely significant effects i.e. what the effects of the project are likely to be, either alone or in combination with other projects, and how these affect the site's conservation objectives;
- Consider how to avoid and then mitigate the effects i.e. if the proposal adversely affects the integrity of the site, the competent authority must consider how the scheme has been modified to the conditions proposed avoids the effects;
- Determine adverse effect on integrity of site, either alone or in combination with other projects;
- Decide whether the project would adversely affect the integrity in view of the site's conservation objectives,
- Consider whether there are any alternative solutions to the project proposal;
- If there are no alternative solutions, consider whether there are imperative reasons of overriding public interest for the project to go ahead; and
- Consider the compensatory measures put forward in the development consent and consult the Commission.

197. Forms A/B (or equivalent) are non-statutory forms, developed by the Commission and adopted by the EIB in fulfilment of its agreements with DG Environment. They provide a checklist for the assessment of projects in compliance with Article 6 of the Habitats Directive. The relevant competent authority for nature may provide an alternative declaration that also meets the requirements of the Directive. The EIB shall check that the requirements of the Directive have been met and where required, should be provided prior to Board approval and no later than first disbursement.

198. When assessing the impact of a project on Natura 2000, existing shadow lists (i.e. lists of potential Natura 2000 sites necessary to be designated) should be consulted and information from nature conservation NGOs as well as DG Environment should be obtained, as the provisions and requirements of both Directives apply even if there is no official (national) designation or classification of a qualifying site. Early consultation with ENVAG and ECSO may be necessary.

PROJECTS IN THE REST OF THE WORLD

199. The CBD specifically requires that the EIA consider impacts on biodiversity (Article 14, CBD). The biodiversity screening process will determine whether a detailed biodiversity and ecosystem assessment

is required to ensure that projects take into account the conservation of biodiversity for legally protected areas under international⁵⁹ and local law, for sites that are officially proposed as nature reserves or conservation sites and for unprotected areas which are known to be of high conservation value, whether or not these habitats have been previously disturbed. The biodiversity assessment should be based on the mitigation hierarchy and should take into account the views, roles and rights of groups, including Indigenous Peoples groups, NGOs and local communities, affected by the projects involving natural habitats and to involve such people to the extent possible in the management of the site.⁶⁰

200. In addition, an assessment of the promoter's ability to implement necessary conservation and mitigation measures is required. The promoter will then prepare a biodiversity action plan,⁶¹ acceptable to the EIB, highlighting the issues and the mitigation measures that will be put into place, such as avoiding and reducing the negative impacts on the loss of habitat and establishing and maintaining an ecologically similar protected area.

201. If the environmental and biodiversity assessments indicate that a project would significantly alter or degrade or convert natural habitats, the promoter has to:

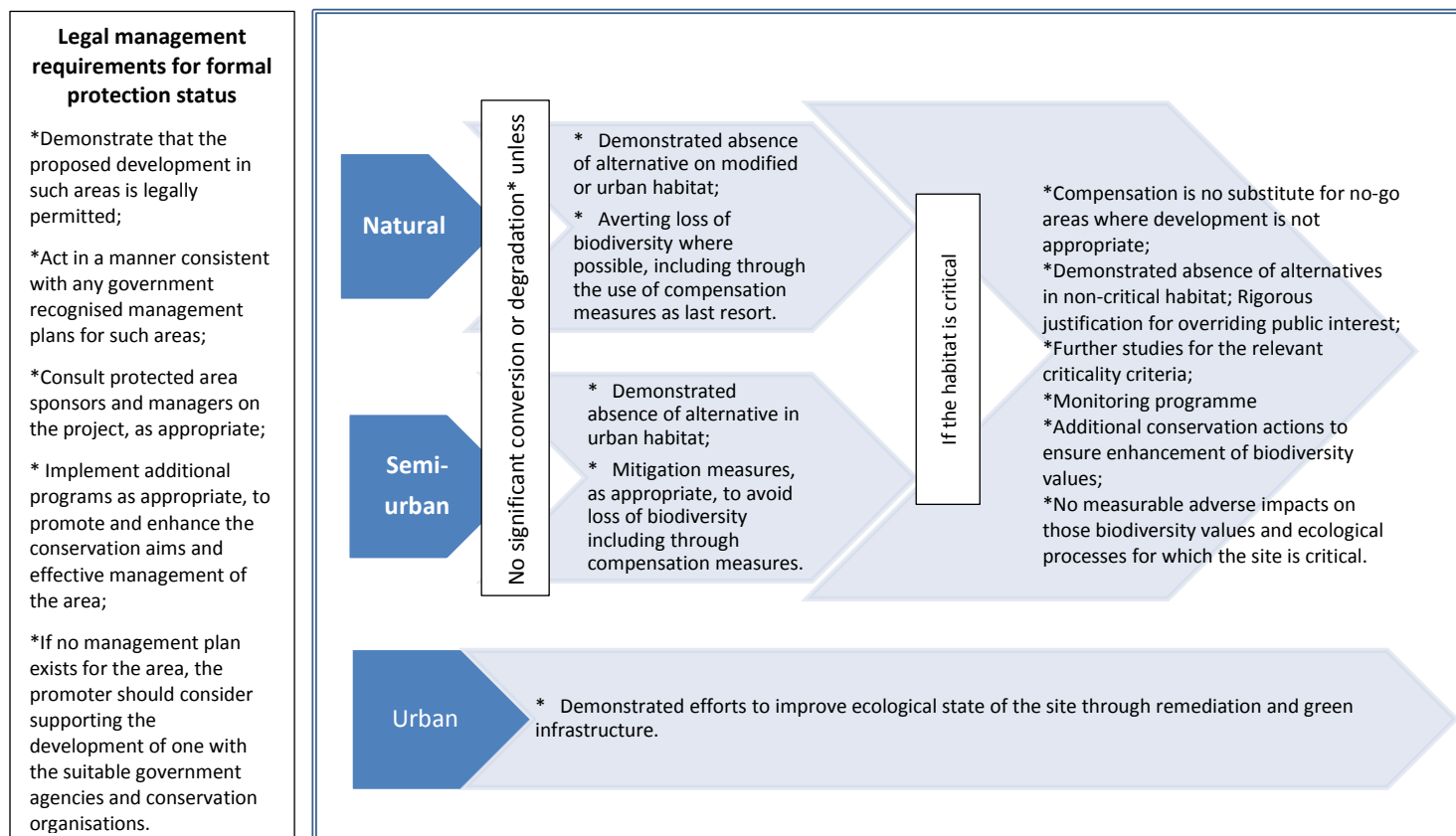
- Demonstrate that there are no alternatives within the region to develop the project on project areas that are not critical;
- Demonstrate that all measures to fully avoid, minimise impacts and restore on-site the biodiversity have been duly considered,
- Conduct stakeholder consultation to establish the views of stakeholders on conversion/degradation;
- The project does not lead to significant residual impacts on identified biodiversity values or ecological processes
- The project does not lead to a net reduction on the global and/or national/regional population of any Critically Endangered or Endangered species over time (mainly IUCN Red List);
- Mitigation measures will be designed to achieve no net loss, where feasible, includes (i) protection of areas within the concession ("set asides"); (ii) measures to minimise habitat fragmentation (corridors); (iii) habitat restoration; and (iv) biodiversity offsets/compensation.
 - A biodiversity monitoring and evaluation programme based on a biodiversity adaptive management plan is developed.

⁵⁹ Convention on Biological Diversity www.biodiv.org; Ramsar Convention www.ramsar.org; Bonn Convention www.cms.int.

⁶⁰ As information about biodiversity is rarely complete, stakeholder involvement may identify additional, unofficial resources and help ensure that all relevant biodiversity concerns are noted.

⁶¹ In countries outside the EU, Forms A and B may be used as guidance for drawing up the biodiversity action plan. Forms A and B are in [Annex 9](#).

Figure 1: Summary of the requirements for areas with formal protection status and by habitat category



* significant conversion or degradation is (i) the elimination or severe diminution of the integrity of a habitat caused by a major and/or long term change in land or water use; or (ii) a modification that substantially minimizes the habitat's ability to maintain viable populations of its native species)

When is an Assessment Not Required

202. A project that requires an ESIA will de facto require a biodiversity assessment. However, an activity not requiring an ESIA but involving construction works or an intervention in the natural environment may still require a separate biodiversity assessment. The requirements detailed in the Section General Principles apply to all types of investments, including Framework and Global Loans. However, certain types of projects do not, in general raise nature conservation issues and, therefore do not require a biodiversity assessment:

- Certain types of investments in urban areas (e.g. civil works in appropriately zoned locations);
- Investments in moveable assets, e.g. train sets, computers, etc.; and,
- Investments involving rehabilitation of existing fixed assets.

B.2.4.2 Climate Assessment

203. The Appraisal stage of the EIB Project Cycle provides the PJ Team with an opportunity to carry out an in-depth assessment of a project's characteristics related to climate change.

204. The EIB operations in the field of climate change aim at making the EIB's lending portfolio more climate friendly both in areas of mitigation and adaptation. There are three interlinked components to the EIB's approach:

VULNERABILITY ASSESSMENT

205. The PJ Team may include in the questionnaire to the promoter specific questions directed to clarify a) the vulnerability to climate change of the project and/or b) whether the project may upset the resilience to climate change of the area where the project takes place. In cases where the assessments reveal that the project is at high risk of climate change, design or management changes may be required from the promoter.

CARBON FOOTPRINT

206. The EIB is committed to support the EU leadership role in combating climate change and recognises the need for an appropriate response. Measurement of the carbon footprint of the projects it finances is part of the EIB's commitment towards this objective. A systematic assessment of the absolute and relative carbon emissions of all new single scheme investment loans is carried out and the carbon footprint is calculated for projects above the thresholds mentioned in section B 1.9. A carbon footprint methodology has been developed, tested and mainstreamed.

COST OF CARBON

207. The economic value of the likely impact of the operation on climate change, where significant, should be as far as practical internalised into the Economic Rate of Return (ERR) calculation of the operation.

CLIMATE ACTION IDENTIFICATION

208. As a result of the above assessment and/or the sector/project type, the financing may be identified in part or all as "Climate Action (Mitigation or Adaptation)".

CARBON CREDIT POTENTIAL

209. In cases when at Pre-appraisal the assessment regarding the project's potential to generate carbon credits has been inconclusive, the PJ Team may include in the Questionnaire to the promoter specific questions to clarify the carbon credit issue. These questions may concern regulatory, additionality or methodological aspects of the potential carbon component of the project. The Team can seek the assistance of a PJ/ECSO climate change expert at this stage both in the assessment of the carbon credit potential and in the preparation of the questions to the promoter.

B.2.5 Site visits

210. Depending on the nature of the project and the information received from the promoter, the social development specialist and/or environment specialist from ECSO may require a site visit to the project at this stage. This may be in addition to an earlier visit made at the pre-appraisal stage. Specific objectives for such visits should be defined and communicated to the promoter so that the necessary arrangements can be made.

B.2.6 Request for additional studies

211. Based on the desk review of available documentation and the appraisal mission, the Team will determine if the promoter is to carry out additional studies in order to comply with EIB E&S standards. Additional studies are often needed to address larger issues such as transboundary issues, cumulative impacts, threats to critical habitat or ecologically sensitive areas, natural resources or legally protected area, development of a RAP and indigenous peoples.

212. In the eventuality where a promoter lacks adequate financial resource, TA funds could be sought to finance the necessary E&S supplementary studies.

B.2.7 Environmental and Social Capacity of the Promoter

213. The environmental and social capacity of the promoter is reviewed to determine whether the promoter has the capacity and capability to manage the environmental and social aspects, including impacts and risks, arising from its activities within the policy and legal context in which it operates. For operations in all regions, the EIB will assess the capacity and capability of promoters to identify and manage environmental and social impacts and risks.

214. The environmental and social performance of the promoter in terms of assessing and addressing (avoiding, minimising, mitigating and compensating/remediating) project impacts shall be tracked over time. In addition, the Team can use the information regarding a particular project to inform the EIB due diligence and appraisal processes for other projects carried out by, or related to, the same promoter.

215. The capacity assessment shall be based on evidence, obtained from the promoter and other reliable sources. Previous EIB experience will also be relevant.

216. The environmental and social capacity of the promoter should be considered *for example* in terms of the following parameters:

- Does the promoter have a sound approach to environmental and social issues? What is the level of understanding and competence to identify and address environmental and social impacts?
- Does the promoter have a clear policy commitment on environmental protection, efficient use and management of natural resources, management of social issues and respect for human rights, as well as sustainable development? Is the policy commitment agreed by its board? What are the objectives and targets?
- Does the promoter have in place due diligence steps to implement the policy commitments? That is, provision for: assessment of project's environmental and social impacts, integrating and acting upon findings, monitoring and reporting? Does the promoter ensure access to effective grievance resolution and remedy for project-related adverse impacts, for example, through a project-level grievance mechanism that meets the UN Guiding Principles on Business and Human Rights effectiveness criteria?⁶²
- Does the promoter adhere to internationally recognised standards and frameworks, e.g. EMAS,⁶³ ISO 14001⁶⁴/ AA1000⁶⁵/Extractive Industry Transparency International (EITI)⁶⁶/World Commission on Dams⁶⁷/Global Compact⁶⁸/Equator Principles⁶⁹/UNEP FI⁷⁰/UN Guiding Principles on Business and Human Rights and international human rights standards?
- What resources (expertise, capacity, and systems) are available to implement the promoter's environmental and social policies and procedures?
- Have lines of responsibility and accountability been clearly established?
- Are the environmental and social due diligence provisions of the promoter sufficient (i.e. proportionate to the severity of impacts and significance of risks) for the type of operations financed by the EIB?
- Does the promoter have a good track record on environmental and social issues? Does the Promoter report on its environmental and social performance? Does an independent third party validate the report?
- What resources (expertise, capacity, systems) are available to implement its environmental and social policies and procedures?
- Does the EIB have previous experience with the promoter? Are there any relevant environmental and social compliance issues concerning the promoter (past or present)?

⁶² UN Guiding Principles on Business and Human Rights effectiveness criteria

⁶³ EMAS: http://ec.europa.eu/environment/emas/index_en.htm.

⁶⁴ ISO 14001: http://www.iso.org/iso/catalogue_detail?csnumber=31807

⁶⁵ AA1000: <http://www.accountability21.net/default.aspx?id=228>

⁶⁶ EITI: <http://www.eiti.org/>

⁶⁷ World Commission on Dams: <http://www.dams.org>.

⁶⁸ Link to Global Compact: <http://www.unglobalcompact.org/>.

⁶⁹ Link to Equator Principles: <http://www.equator-principles.com/>.

⁷⁰ Link to UNEP FI: <http://www.unepfi.org/>.

Box A: Actions that can be taken by the Promoter to Demonstrate Environmental and Social Capacity.

Before and During Appraisal

- Providing a copy of its environmental, social, corporate report or any other relevant published report and other documentation;
- Evidencing and describing its internal environmental and social management system;
- Making a general assessment of the likely environmental and social impacts of the project, and proposed measures to avoid, minimise, mitigate and compensate/remedy any potential project-related impacts;
- Undertaking an EIA/ESIA, where applicable;
- Undertaking appropriate consultation and stakeholder engagement;
- Developing and implementing a comprehensive stakeholder engagement plan for the project life-cycle, developed in dialogue with impacted individuals and communities, as well as other relevant stakeholders;
- Undertaking any studies that may be required on specific social issues;
- Agreeing with the EIB appropriate environmental and social performance indicators; and
- Developing the required environmental and social management/action plan, in consultation with impacted individuals and communities, as well as other relevant stakeholders.

During Implementation and Operation

- Reporting on the environmental and social impacts of the project on a regular basis, including any breach of environmental and social legislation, regulation and relevant international standards and frameworks;
- Fulfilling any environmental and social conditions as stipulated in the finance contract; and,
- Periodically evidencing that the project is being implemented in accordance with the environmental and social management/action plan, including information about the effectiveness of environmental and social management measures.

B.2.8 E&S Management Plans (ESMP)

217. Environmental and social management⁷¹ define the agreed programmes, standards and actions to be carried out by the promoter in order to achieve and maintain compliance with EIB E&S standards. The ESMP is a key tool to address the environmental or social impacts that have been identified during due diligence, and to ensure that projects comply with national laws, relevant international standards and frameworks and meet the EIB E&S standards. Components of such plans may include a resettlement action plan, a livelihood restoration framework, a biodiversity action plan, an indigenous peoples plan, a community development plan, a cultural heritage management plan and/or other specific plans and agreements.

218. Underlying projects that do not require an EIA/ESIA may not have an ESMP. In these cases, specific actions will be included in the environmental approvals and/or as stand-alone conditions in the finance contract and agreements.

219. The Team shall ensure a sufficient level of detail is included into the management plans and agreements to allow, as part of the finance contract, on-going monitoring and assessment of the implementation and effectiveness of the activities stipulated in the plans. This includes information on: allocation of responsibility for implementation of actions to specific persons, assignment of overall responsibility to senior management, allocation of financial and other resources, timelines, intended outcomes and measurement indicators. Some management plans may have substantial costs associated with them, and it is important that these costs are taken into account when assessing the overall structure and viability of the operation (e.g. with respect to certain biodiversity or cultural heritage compensation measures) and agreed between the Team and the promoter. The implementation of the ESMP will be integrated into an environmental and social management system (ESMS).

⁷¹ Sometimes the ESMP is also referred to as the environmental and social action plan by other institutions

B.2.9 Final Environmental and Social Impact Rating

B.2.9.1 Assessing and addressing environmental and social impacts

220. When assessing and addressing environmental and social impacts the following parameters need to be included: scope, scale, remediability. The severity of the impacts needs to be assessed according to these parameters following which the identification of risks based on likelihood of occurrence should be added. This will determine the significance and potential consequence of the risks to the operation:

- Adverse impacts need to be considered independently of positive contributions, including compensation for environmental impacts;
- All impacts need to be addressed but the actions can be prioritised according to the severity of the impacts.

B.2.9.2 Residual Environmental and Social Impact Assessment

221. The residual impacts are those adverse environmental and social impacts caused by the operation and related activities that will remain after mitigation and impact management measures have been applied. The categories in Table H should be used when assessing each type of environmental or social impact.

Table H: Criteria for Assessing the Residual Environmental Impact (Form D2)

Acceptability of degree of residual impacts, ex ante, measured in absolute terms			
Positive or no negative residual impacts	Minor negative residual impacts	Major negative residual impacts	Not acceptable, due to major negative residual impacts - a project of this type will usually have been "screened-out" before full appraisal.
I	II	III	IV

222. Appendices D2/D3 should be completed for all projects or groups of similar sub-projects (except where the project involves a large number of individual schemes of different types) and should consider in detail the environmental and social impact (both temporary and permanent effects) of the project in terms of:

- Areas of impact (location, construction, operation and products in terms of air, water, land, health, human rights, flora & fauna and cultural heritage);
- Main impacts and emissions (direct/indirect, timing and location);
- Mitigation and remedial measures. Compensation and/or remedial measures should be included;
- Scale/significance of residual impacts; and,
- Comments/project risks (including technical/economic/political issues).

223. The information contained in Appendices D2/D3/D4 should be taken into account in judging the overall acceptability of the project (Section B.2.9.3). The residual impact summaries in D2 and D3 are only a part of the assessment of the project. However, the findings in D2 and D3 may be linked to either loan conditionality and/or monitoring requirements for significant adverse impacts.

B.2.9.3 Project Environmental Risk

224. Following the full assessment of environmental and social issues, the Team may determine that there remain potential environmental and social effects or public concerns that require further assessment

and resolution, thereby determining the potential risk a project may still pose during construction and operation.

225. “High Project Risks” refer to the possibility that, either the project and/or stakeholders (and perhaps also the EIB) could be at risk for reasons of an environmental or social nature. The “Environmental and Social Risk Rating” is a qualitative judgement.

226. The environmental and social risk rating of a project should be determined according to the possibility of unanticipated changes in environmental and social factors (e.g. natural events, policy, changes in the law, civil activity) constituting a risk either to the project (e.g. in terms of cost, timing and environmental and social impacts) and/or to the EIB (e.g. in terms of reputation) during either construction and/or operations. A “high” rating signifies a project with a high risk.

227. Where risk is determined to be medium or high, methods to monitor the implementation of the mitigation, remedial and compensation measures established in the environmental and social management plans should be detailed.

228. Many environmental and social risks cannot be quantified easily. Risk mitigation efforts to address them should be focussed on the development of an effective stakeholder engagement process (which is carried out throughout construction and operation of the project) which brings the perspectives of the different stakeholders together (in particular the project-affected people). Effective community and public participation is one way of ensuring that all relevant perspectives are included and generally results in more informed risk assessment and better project planning and design as well as operational efficiency.

229. Risks to a project may also arise from direct or indirect impacts of climate change. Direct impacts are for instance damage to infrastructure from increased frequency and intensity from extreme weather events. An example of an indirect impact is the change of availability of water resources due to changes in the ecosystem and the water balance of the area.

230. Reputational risks to the EIB as a result of proposed projects in sensitive sectors and countries will need to be addressed through the development of an appropriate outreach strategy for distributing and obtaining relevant information and for responding to concerned stakeholders and shareholders.

231. The level of environmental and social risk is part of the overall acceptability of the project in environmental and social terms. In deciding the level of risk posed by a project the following questions may be considered by the team:

- The success of attempts to minimise effects through the selection of site, the technology, the facility design, or through the use of reasonable mitigation and impact management;
- How effectively the promoter can, or is prepared to, manage any negative effects or resolve issues and address concerns;
- The significance of any residual impacts;
- How commitments to future actions are accepted by government agencies, NGOs, the community and affected project stakeholders; and,
- Whether additional studies and analysis are likely to provide tangible results.

B.2.9.4 Final Overall Environmental and Social Rating

232. The overall environmental and social assessment should indicate the acceptability of the project for EIB financing. It should summarise the findings and conclusions of the environmental and social assessment, including the residual impacts identified in Appendices D2 and D3, legal compliance, significant environmental and social issues, environmental and social management, , etc.

233. The acceptability of the project in these terms may change during the period of the project cycle.

234. The overall assessment should also consider the perceived degree of environment and social-related risk associated with the project ([Section B.2.9.2](#)).

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235. The Environmental and Social Impact Rating for the project as given in Appendix D1 and as presented in the AFS, should be determined as A, B, C, or D. This rating is largely derived from the impact ratings from D2 and D3 but may be downgraded should there be a major concern, for instance, concerning the environmental or social risk or promoter capability. See Table I.

Table I: Criteria for Assessing the Overall Environmental and Social Impact Rating

<u>E&S Impact Rating</u>	<u>Residual Impacts</u>	<u>Risk Rating</u>	<u>Global Impact*</u>	<u>Comments</u>
A Acceptable, insignificant residual impacts; low risks, neutral or positive global impacts.	Insignificant	Low	Neutral or positive	An operation of this type may require specific environmental and social loan conditions and /or monitoring
B Acceptable; medium residual impacts; low to moderate risks, low adverse global impacts.	Medium	Moderate	Low adverse impact	An operation of this type will generally attract environmental and social loan conditions; it will also require a high degree of monitoring for environmental and social reasons.
C Acceptable; high residual impacts; moderate to high risks; moderate to high adverse global impact.	High	High	Moderate adverse impact	
D Not acceptable; very high residual impacts; very high risks; high negative global impact..	Very High	Very High	High adverse impact	

*The global impact is to be used as a basis for the sustainability and REM ratings and takes into account the beneficial, positive aspects of impact and aspects of the project. The REM and Three Pillar E&S Sustainability ratings are separate from the Overall E&S Impact Rating.

B.2.10 Identification of Monitoring Requirements

236. The extent and type of monitoring carried out by the EIB on the underlying projects individual projects varies according to different types of operations. In addition, the different operations require different reporting from the promoters and intermediaries to the EIB. For each operation, the conclusions of the environmental and social assessment should result in identification of the information that the EIB will require during the implementation of the operation, underlying projects, sub-projects, allocations or fund investments.

237. For all investment loans and for all large sub-projects in framework loans, the monitoring requirements for each project should be identified at appraisal and agreed with Ops and the promoter/intermediary. This should include decisions on what environmental and social information will be required by the EIB, who is to provide it and how often. In cases where the borrower is not the promoter or where environmental and social mitigation or reporting will be performed by an independent third party, this should be taken into account when determining the monitoring information requirements of the EIB.

238. The Team should define the format, actions, resources and schedules for monitoring environmental and social issues and should align its own requirements with these so as to receive the most appropriate and useful environmental and social monitoring information and reporting. The emphasis should be on the EIB receiving adequate information to establish that actions to address any identified adverse environmental and social impacts, including actions to mitigate, remedy and/or compensate have been implemented as required, and have been effective in addressing the impacts identified.

239. Monitoring requirements may include:

- Key performance indicators and/or baseline indicators which will be monitored by the promoter or an independent third party, to assess the project's environmental and social impact and performance, including data input for REM and the Three Pillar Assessment;
- Monthly and annual environmental and social reporting by the promoter to the EIB including contents, format performance indicators and aspects of the ESMP/ESAP that require progress reports;
- Particular additional requirements for monitoring of activities and outcomes associated with the management of impacts with a high significance rating such as payment of compensation to vulnerable groups, or impacts on sensitive ecosystems;
- The promoter evidencing efforts to involve local individuals and communities, civil society or other relevant stakeholders (including government actors) in monitoring;
- For very large complex projects, procedures for an independent panel of E&S experts, for independent monitoring of project implementation.

240. Specific monitoring requirements must be designed to address the environmental and social impacts identified during due diligence including any emerging impacts identified throughout the course of EIB-support to the operation.

241. When considering what monitoring will be carried out by the promoter, with reporting to the EIB, and what monitoring should be done by the EIB directly, or by consultants, one aspect of the decision should be the promoter's capability and past performance on environmental and social matters. Another aspect would be the identification of an operation for which potential environmental risks are relatively high, for instance due to the regulatory framework, or other specific risks.

242. For investment and framework loans, the Team, having decided on what monitoring has to be done by the EIB itself and the extent of reporting to the EIB on project implementation and monitoring (including environmental and social due diligence) that will be made the responsibility of the promoter, will assign to each project at appraisal, a Category A or B.

CATEGORY A AND CATEGORY B (EX C.12.1)

243. In accordance with PJ monitoring procedures, PJ assigns to all projects one of two monitoring categories – A or B – reflecting both the level of risk of the project not being realised in-line with assumptions made at appraisal and/or the expected level of effort required by PJ to perform post signature due diligence. The monitoring category A or B is chosen by the Team based on what frequency

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of project reporting it deems appropriate to require from the promoter, taking into consideration the project, promoter, risks, and any relevant issues.

244. Category A - a project completion report will be required from the promoter to the EIB. Monitoring for these projects is in general delegated to promoters and the EIB will rely on the promoter's information for its own reporting on environmental and social impact managements.

245. Category B - project progress reports will be required from the promoter to the EIB, plus a project completion report. Normally the EIB will also expect to carry out physical monitoring of the project by one or more visits for Category B projects, and this may include on-site follow up of environmental and social impact management. Framework loans, requiring identification and appraisal of components after signature of the framework agreement, are also assigned monitoring Category B as environmental and social information will be submitted to the EIB for individual sub-projects.

246. Any project that has no environmental or social (or other) matters requiring regular reporting during implementation will be given Category A. All Category A projects will require a project completion report from the promoter and this will include coverage of all relevant environmental and social impact management.

247. A project with a competent experienced promoter, that will not require regular progress reporting to the EIB, may have a specific environmental and social condition, which once achieved would no longer require the project to be actively followed up. This project could have a loan condition that must be fulfilled such as provision of a particular report, Form A or an environmental consent, but still be categorised as Monitoring Category A.

248. Any project deemed by the Project Team to require reporting to the EIB on environmental, social and other matters, on a regular basis⁷² during implementation will be given Category B.

249. All Category B projects will require from the promoter the regular reporting on the fulfilment of the potential conditions, plus a project completion report and all these reports should include coverage of all environmental and social impact management steps planned, implemented and monitored as part of the environmental and social management plan, as well as any other significant environmental and social impacts arising throughout the project lifecycle.

250. If the project is foreseen to involve one or a number of the following features or environmental social impacts this may contribute to a project being given monitoring Category B:

- a large number of environmental and social conditions;
- a weak environmental and social management capacity of the promoter;
- weak regulatory framework associated with compliancy issues regarding the environmental and social legislation;
- An environmental and social management plan containing several and/or complex measures; and,
- any special undertaking needing follow-up.

251. In all cases, whatever monitoring category is chosen, the promoter should promptly inform the EIB in case of "significant changes" that may imply non-compliance with EIB environmental and social policy and standards, and/or that may negatively impact the project implementation and expected outcomes from an environmental and social point of view.

252. Once all the monitoring and reporting requirements are clarified, they should be clearly identified in the Appraisal Report and will then be itemised in the Finance Contract. See following section on loan conditions.

⁷² The frequency of reporting will be determined as part of the appraisal and could be annual, quarterly, or in some unusual cases monthly. In cases where there will be external technical assistance consultants, or in other situations where a regular report is already to be provided to other parties involved in the project, efforts should be made to align the EIB's requirements with this other reporting.

253. Where investment loans or framework loans are signed with intermediary borrowers the monitoring requirements will be itemised in the finance contract and project agreements signed with the promoter.

B.2.11 Environmental and Social Finance Contract Conditions

254. EIB procedures are derived from the premise that promoters are fully responsible for implementing projects financed by the EIB, including all environmental and social aspects, such as studies, EIA/ESIA processes, the implementation of environmental and social management measures and monitoring the success/effectiveness of these measures after implementation.

255. The EIB's role is to satisfy itself that the promoter has met the EIB E&S requirements and to monitor and verify that the project is being implemented in accordance with the conditions attached to its financing. At the appraisal stage, the EIB must therefore determine, and recommend to the Board of Directors, the level of checking on environmental and social impact management of the promoter that should be undertaken by the EIB and how this should be controlled.

256. There are, in general, three stages where these checks could be made and these are covered by three different types of control by the EIB:

- Conditions for signature - meaning these environmental and social matters must be completed to the satisfaction of the EIB prior to signature of the finance contract between the EIB and the borrower. Non-compliance with this condition would block signature of the finance contract;
- Conditions for disbursement - meaning these environmental and social matters must be completed to the satisfaction of the EIB prior to any funds being disbursed by the EIB on either the whole operation or a part of the operation.⁷³ Non-compliance with this condition would block disbursement of the EIB's funds; and,
- Particular undertakings - meaning these environmental and social matters must be completed to the satisfaction of the EIB during the implementation and sometimes operation of the project. Non-compliance with these conditions would be an important consideration should the promoter wish to receive further funding from the EIB on a subsequent project, but could also in an extreme case result in the EIB recalling its funds from an operation.

257. In determining the contractual conditions, the EIB needs to take into consideration who will be party to the contract i.e. borrower, promoter, guarantor, fund manager or other. The proposed conditions for environmental and social matters must be appropriately worded and related to the roles and responsibility of the party signing the document. It is therefore important to discuss these matters during appraisal, with the promoter and other parties, to ensure that all parties have understood where the responsibilities lie. For example, are the mitigation measures being implemented and monitored by the borrower or by the promoter, or perhaps by the city or region? In general, PJ, in discussion with Ops, should propose contractual conditions whilst making clear what controls and conditions are related to which parties and JU should then word them accordingly in the appropriate document.

258. Specific finance contract conditions, in addition to the general conditions that are part of the Master Finance Contract wording should be composed to target: a) legislative compliance, such as ESIA completion, or Habitats Directive assessments, subsequently, b) project implementation and completion requirements, including all mitigation and compensation measures, and, finally c) reporting required by the EIB as part of its monitoring of environmental and social impact management.

259. For investment loans, a project cannot be submitted to the Board of Directors for approval until all aspects of the EIA/ESIA process and in the case of involuntary resettlement the RPF have been completed to the satisfaction of the EIB, nevertheless, if this is not the case, the EIB should have received sufficient information to allow PJ to complete its environmental and social due diligence. Under exceptional circumstances, where it is neither possible nor material for the full ESIA process to be

⁷³ If a disbursement condition is to apply to only part of an operation, then the operation must be clearly defined as being in separate tranches or parts. It must also be verified that the part of the operation not covered by the environmental and/or social disbursement condition is a standalone part, not dependent in any way on the satisfactory completion of the environmental and/or matters covered by the disbursement condition on the other tranche.

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completed at this stage, Board approval may be given subject to the EIA/ESIA being completed prior to signature, prior to disbursement or subject to an appropriate finance contract condition.⁷⁴

260. The Nature Conservation Forms A/B or equivalent, where applicable, should be received with a copy of the development consent and at the latest prior to Board approval. Where Form A or B or equivalent, confirming that the procedures under the appropriate assessment have been carried out, is still outstanding at signature, the confirmation should be received prior to first disbursement.

261. Where adverse environmental or social impacts and risks are anticipated, the ESMP/ESAP for mitigating and managing the E&S impacts shall be written into the finance contract.;

262. PJ should make it clear, when drafting the environmental and social conditions, what is required and why and also at whom the condition is aimed - promoter, borrower, Environmental Authority, Ministry etc.

263. In some cases, environmental and social conditions will need to be separate legal agreements in order to be applicable to the third party who will fulfil the environmental and/or social condition.

264. Environmental and social clauses do not just lead to the protection of the environment and project-affected people but also reduce the risk and protect the interests of the EIB. Monitoring is therefore required of those conditions.

265. The EIB's Finance Contract contains environmental and social undertakings for a typical Investment Loan.:

266. If required, additional contractual conditions or undertakings may be proposed by Team adapted to the project, which take account of certain legislation that the Team feels it necessary to draw to the borrowers' attention. In particular, beyond the EU, the Candidate and potential Candidate countries, such undertakings may reflect the principles and standards of the EIB to assess projects. They might, for instance, be in the fields of:

- Standards/best practice: Reference to standards set within legislation or statutory guidance. This may include reference to BREF⁷⁵ (Best Available Technology Reference) notes in respect of IED (Industrial Emissions Directive), water standards and emissions to air, regional or sectorial best practice standards and such standards under EITI, FLEGT, etc.
- Measures of environmental and social mitigation, remedy and compensation that the EIB deems necessary to ensure the impact of the project is acceptable.
- Environmental and social management issues: Including reference to Environmental Management Systems (e.g. EMAS, ISO 14001, AA1000 /Global Compact/Equator Principles/UNEP FI/UN Guiding Principles on Business and Human Rights)⁷⁶ and/or any project-specific environmental and social management plan, for instance, resulting from the ESIA.
- Social and human rights issues: The Team will ensure that the relevant social standards (Standards 6-10), in order to protect the rights of the project-affected communities and people are being adhered to. The Team will ensure that the appropriate arrangements for effective consultation and engagement with stakeholders, including grievance mechanism are put in place.
- Natural and physical aspects of the environment: Including compliance with the EU Nature legislation and the EIB's standards on biodiversity and climate.
- EIB standards: Reference to particular aspects of EIB environmental and social standards that the Team may wish to draw particular attention to, e.g. biodiversity, climate change.
- Matters arising from EIB assessment: In particular related to incomplete studies, public consultation and permits/authorisations.

267. Examples of specific environmental or social disbursement conditions or undertakings:

⁷⁴ Where there is a sub-component in the Project which is unrelated to the EIA, or which consists of the financing of the EIA itself, then a disbursement for this could be made prior to the EIA being completed. This disbursement should be limited to 50% of the total costs of components not covered by, or dependent on, the EIA completion.

⁷⁵ Link to Best Available Technology Reference Documents (BREF): <http://www.sca.com/en/Pages/Glossary/Best-Available-Technology-Reference-Documents/>

⁷⁶ Link to UNEP FI: <http://www.unepfi.org/>.

- Appointment of independent environmental and/or social consultants to review the environmental and social impact studies to date and recommend any further actions necessary to ensure completion of an ESIA to EIB standards, or appointment of a panel of E&S experts, and/or independent engineer;
- Completion of public consultation and implementation of stakeholder engagement to the satisfaction of the EIB;
- Incorporation of all impact management measures identified in the ESIA into the project design and construction contracts; and,
- Receipt of amongst others of the:
 - Environmental and social management/action plans;
 - Management plans for nature conservation areas or areas of important biodiversity (biodiversity action plans);
 - Appropriate assessment in line with Articles 6.3 and 6.4 of the EU Habitats Directive (Forms A/B);
 - Plans to monitor and mitigate downstream impacts on a recipient;
 - Environmental and social management plans;
 - Stakeholder engagement plans and evidence of their implementation and effectiveness;
 - Evidence of the establishment of environmental and social management systems;
 - Health and safety plans in critical industries;
 - Resettlement policy framework or resettlement action plans;
 - Indigenous Peoples development plans;
 - Monitoring reports on the implementation and effectiveness of the environmental and social management plans of promoters;
 - Livelihood restoration plans;
 - Monitoring reports on the progress in achieving social inclusion in socially complex projects;
 - Monitoring reports on the compliance with ILO core labour standards; and
 - Community development plans.

268. Environmental and social information concerning the operation as well as reporting requirements to be delivered to the EIB are incorporated in the Master Finance Contract.

269. Details of the reporting requirements for the project are defined in Appendix A.2 of the Appraisal Report for inclusion into the finance contract. The standard template should be adapted to the reporting requirements of each project with regards to environmental and social information required by the EIB for each project.

B.3 Monitoring

B.3.1 Follow-up during Implementation and during Operation

270. Monitoring aims at ensuring compliance of the operation with the EIB's approval conditions and monitoring plan and verifying that the expected outputs and impacts are actually delivered throughout the project cycle, as required to fulfil the EIB's obligations and meet its objectives. In particular, physical monitoring aims at verifying the actual implementation and initial operation of the underlying project itself. Specific environmental and social indicators may be chosen for this purpose and detailed in the REM as well as in the ESDS and Appendix D1.

271. On top of the general requirements, environmental and social requirements include evidence on:

- Compliance with of applicable environmental and social legislation;
- Respect of contract conditions and undertakings related to the environment and social matters;

and,

- Implementation of agreed impact management measures.

272. Close follow up of environmental and social actions that are required as part of the finance contract (in particular those related to disbursement conditions) is essential, since it is at this stage that the EIB can have most impact in ensuring that any outstanding environmental and social issues are thoroughly and correctly followed by the promoter, in compliance with the EIB's requirements. Where these issues are particularly sensitive, or where the Team deems it requires specialist support, this can be provided by ENVAG and ECSO, such as a review of environmental or social impact studies or other specific documentation submitted by the promoter or borrower.

273. The promoter shall provide:

- During project implementation, evidence to the EIB that any specific environmental and social conditions/undertakings have been fulfilled;
- Regular promoter progress reports including general and specific information requested such as results of environmental and social monitoring (noise, dust, health, traffic etc.) and implementation of impact management measures and stakeholder engagement activities (monitoring category B projects);
- Information to the EIB in case of any complaint or litigation about environmental and/or social issues, even if not addressed to the EIB; and,
- At completion, a report on environmental and social legal compliance and implementation of impact management measures including the effectiveness of implementation of the ESMPs.

274. For all projects where an on-site EIB mission is performed, it shall include the collection wherever possible of evidence of compliance with environmental and social requirements from the promoter, project stakeholders, civil-society and relevant governmental authorities. Projects with significant implementation problems including non-compliance with the environmental and social requirements shall be included in the Project Watch List and reported to the Management Committee.

275. If a project includes the implementation of mitigation measures, then it should not normally be considered complete until these measures are implemented, even if the remainder of the project is complete. The EIB's monitoring should continue until all mitigation and compensation measures, as detailed in the ESMP, are implemented, i.e. may continue after the promoter provides the "Project Completion Report". When appropriate, the reports should refer to evidence of compliance with post construction, completion, decommissioning and rehabilitation requirements.

276. Environmental and social aspects of the project shall be summarised when the EIB Project Completion Report is completed. The environmental and social section shall summarise due diligence issues such as compliance with environmental and social covenants and reporting requirements, completion and effectiveness of the impact management and should in addition, where required, add further information to focus on aspects important for the EIB internal learning process.

B.4 Specific Operations

B.4.1 Investment Programmes

277. The E&S approach to investment programmes can be compared to the approach taken for framework loans (see B-4.2) however with specificities of an investment loan. Investment programmes are designed for networks such as for transport, electricity and gas transmission/distribution. Even though these programmes may not require an SEA in accordance to the EU SEA Directive, an SEA is recommended to determine whether important environmental and social impacts and risks are likely to arise from implementing the programme. The focus should be on identifying consideration areas at a strategic or conceptual level, rather than evaluating quantitative, detailed environmental and social impacts and risks, as in a project-level assessment.

278. For investment programmes the due diligence on the capacity and capability of the promoter to manage the environmental and social aspects, including impacts and risks, arising from its operations is critical. This will include an assessment of the adequacy and effectiveness of the environmental and social system the promoter has in place.

279. For investment programmes outside the EU, the selected approach needs to be particularly justified and substantiated on the grounds of a comparable or stronger environmental and social framework being in place to credibly achieve similar objectives as in the EU.

280. The promoter undertakes not to allocate the EIB's funds to programme components that require an E(S)IA until the E(S)IA and/or the necessary social (such as an RPF), biodiversity assessments as well as stakeholder engagement plans have been finalised and approved or endorsed by the relevant competent authorities. Once the E(S)IA is made available to the public, an electronic copy of all E&S documents must be placed on the website of the promoter and maintained until completion of reporting as required in Appendix A2, or made accessible to interested parties via a web-link on the EIB website. Such web-link is to be provided to the EIB before signature of a finance contract.

281. The promoter undertakes to ensure that all programme components will undergo a biodiversity screening according to the requirements of the EIB and in the EU, Candidate and potential Candidate countries in accordance with the EU Habitats and Birds Directives. Should a component have a potential impact on a site of nature conservation, the undertaking is extended to inform the relevant authority and implement the procedures under Articles 6(3) and (4) of the Habitats Directive.

282. The promoter shall store and keep up to date all documents relevant for the programme supporting the compliance with the provisions of EU environmental legislation, including Habitats and Birds Directives (Form A/B or equivalent declaration by the competent authority), permits and environmental and social approvals and, where required, social studies, and shall promptly upon request deliver such documents to the EIB.

283. In view of the nature, complexity and duration of the project, the promoter undertakes to timely provide detailed annual progress reporting, including update on the status of environmental and social approvals, as required in Appendix A2. The following documents should be in EIB's files:

- Sample E(S)IA, biodiversity assessment, RPF, if available at appraisal,
- Environmental and Social approvals, permits, development consent, if available at appraisal
- Web link to the promoter's project website (make sure the link "links" properly to the right information);
- Monitoring information from progress and completion reporting as per A2.

284. The ESDS will state that the environmental and social due diligence has followed the programme lending approach according to the EIB's procedures and standards, i.e. the due diligence focussed on the promoter's capacity and capability to implement the programme in line with EIB environmental and social standards and requirements.

285. It is important to review at least 2 E(S)IAs and the RPF (if required) to get a feeling of the promoter's work quality in this regard, discuss any gaps with the promoter and to record the assessment.

B.4.2 Framework loans

286. The EIB pre-appraisal for framework loans⁷⁷ starts with an assessment of the approach and capacity of the promoter/intermediary and the context in which it operates, followed by an assessment whether the projects, known at the time of pre-appraisal involve any environmental and social impacts and risks which will require special considerations according to the definition and criteria of EIB E&S standards and requirements and the relevant EU Directives. In such cases, the PJ contact person should discuss these potential issues with the ENVAG and ECSO. Typically at the time of pre-appraisal, there is only limited information, if any, on individual schemes. In this case the screening should focus on the type of scheme planned to be included in the framework loan.

287. At appraisal, an environmental and social assessment will be carried out overall for all schemes within a framework loan that are expected to have a significant impact on the environment and on human

⁷⁷ For Framework Loan Procedures inside the EU please see Note to CD 2009-1347 from 21/10/2009: <https://ged.beilux.eib.org/ged/ged.dll/open/37605248>

rights, according to the definitions and criteria contained in the relevant EU Directives and the EIB environmental and social standards and requirements.

288. Typically at the time of the PJ Appraisal for framework loans, there is only limited information, on individual investments. Therefore there is a need to follow-up the initial appraisal with an E&S assessment of individual sub-projects (allocations). In such cases, environmental and social information on individual projects should be presented by the promoter/intermediary in a standard form ("fiche" or "list"), agreed with the EIB.

289. Where provided, such information is designed to provide the EIB with the necessary environmental and social information, as specified in the finance contract (normally as an information requirement in Schedule A.2 of the finance contract). In addition to such information, the EIB may request supporting documents. It may also use the results of its assessment to request one project be replaced by another.

290. However, when evaluating the environmental and social impacts and risks associated with the framework loan the Team should consider amongst others, a number of factors:

- The nature of the proposed operation under the framework loan;
- The financing arrangements (e.g. whether or not there is European Commission co-financing, whether or not the promoter is engaged with other IFIs?);
- The policy, institutional and legal framework of the host country (e.g. implementation and enforcement of national, EU and international environmental and human rights law, national climate adaptation strategies);
- Does the operation/programme have a sectoral/regional focus or any particular exposure that present increased environmental, social and/or climate risks?
- The nature, size and complexity of the project (e.g. whether or not either an ESIA is required or a site of important biodiversity value is likely to be affected, the project involves involuntary resettlement or impacts on vulnerable groups);
- What are the current environmental and social policies and procedures/systems of the promoter and track record, if any?
- The environmental and social management capacity and approach of the promoter (e.g. adoption of environmental and social management practices, such as ISO 14000/EMAS/UN Guiding Principles on Business and Human Rights); and,
- Does the EIB have current or past projects with the promoter?

291. In the EU, Candidate and potential Candidate countries, the task of verifying environmental obligations, such as ESIA, Forms A/B or their equivalent in natural reserve/protected areas is normally delegated to the promoter, who for each scheme is responsible to verify compliance with all EU and national laws. The key due diligence documents for EIB purposes, such screening decision by the relevant authorities for Annex II projects, screening for the appropriate assessment under the Habitats Directive (such as Forms A/B or equivalent), the NTS and ESIS where appropriate and all environmental permits should be placed on EIB files.

292. Upon finalising the assessment, the Team will be able to determine:

- if there is a need for additional requirements for sub-projects other than those already stated;
- if there is a need for training to strengthen the environmental and social and/or human resources management capacity of the promoter; and,
- the nature of the reporting and monitoring requirements.

293. Where the EIB relies upon the environmental and social assessment of the promoter/intermediary, the EIB's environmental and social due diligence should focus on this process and the promoter/intermediary's competence to carry it out. This due diligence should take account of the promoter's track record on environmental and social management, its capacity to evaluate an EIA/ESIA to EIB requirements, where required, and to implement the recommendations and mitigation measures from EIA/ESIAs. The due diligence should also take account of whether the host country, through its competent authorities, has a good record of EIA implementation and enforcement according to EU principles and practices. The EIB verifies that the method and content of the promoter's assessment is satisfactory and meets the objectives of the EIB.

294. The ESDS and the Overall Environmental and Social Assessment Form D1 are filled out for Framework Loans and the Residual Environmental and Social Impact Assessment D2 and D3 respectively, selectively for individual projects or groups of projects. D2 and D3 are applicable for large schemes incorporated into framework programmes and those frameworks where all or some of the schemes are of similar types. It is not practical to complete D2 and D3 where there is a large mix of schemes by size and nature. The ESDS should contain information on:

- The nature of due diligence studies undertaken;
- A summary characterisation of key significant environmental and social impacts, relevant safeguard standards triggered, mitigation and monitoring measures and timeframe for achieving compliance with relevant EU directives or EIB E&S standards;
- The nature and significance of the residual impacts;
- A statement on conformity with EIB's environmental and social principles and standards established under relevant EU environmental and social legislation.

295. For guidance on completion of the ESDS, Forms D1, D2 and D3 see [Section D](#) Project Documentation for the social assessment: see [Section B.2.3](#) Appraising Social Issues.

ROLE OF THE PROMOTER

- The promoter will undertake to ensure compliance of the sub-projects with appropriate EU, national and/or international environmental and human rights laws;
- Compliance with applicable EU, national and/or international environmental human rights legislation as well as EIB environmental and social practices and standards will be made a condition for each sub-project under the framework loan;
- All sub-projects financed under a framework loan will be required to comply with the relevant national legal framework, to be acceptable in environmental and social terms to the EIB and in line with EU environmental and social policy and law as well as EIB environmental and social standards; and,
- Following the special EU procedures for structural programme loans (SPLs), the task of verifying environmental obligations, such as EIA, Forms A/B or their equivalent in sites of Community importance, special protection areas (SPAs) or and/or special area of conservation sites (SACs) reserve areas is delegated to the Member State and more precisely to the certifying officer, who for each measure is responsible for verifying compliance with EU environmental legislation. However the EIB reserves the right to carry out ad hoc reviews to verify the quality and substance of the documentation. Where climate issues are identified as relevant and included in the FL documentation, reporting on climate elements may be required.

B.4.3 Structural Programme Loans

296. Apart from the general provisions on framework loans, the specific aspects of the environmental and social assessment of an SPL are as follows:

297. For environmental due diligence purposes, the EIB will align with Commission procedures and the E&S screening and appraisal will focus on the type of investment planned to be included in the SPL. For schemes falling within the "Major Project" definition according to the relevant Structural Funds regulations, it will accept the judgement of the Commission that the scheme complies with EU environmental law based on standard forms completed by the Competent Authority of the Member State and forwarded by the European Commission's Regional Policy Directorate-General (EC DG REGIO) to the EC's Environmental Directorate-General (DG ENV) for scrutiny. For all other schemes, the EIB will rely on the Member State and the EC process and systems, unless there is evidence to the contrary, based on the Commission's positive assessment of the environmental policy, legal and institutional framework of the Member State.

298. The task of verifying environmental obligations, such as EIA, Forms A/B or their equivalent in SCAs/SPAs and sites of Community importance, is normally delegated to the Member State and more precisely to the certifying officer, who for each sub-project is responsible for verifying compliance with all EU requirements and requesting the payment of Community grants. The key due diligence documents for EIB purposes, such as Forms A/B, the NTS where appropriate and all environmental permits and

development consents should be either placed on EIB files or ready access to their location elsewhere must be confirmed (e.g. Commission/promoter/certifying officer files).

299. Where the EIB relies upon the environmental assessment of the certifying officer, the EIB's environmental assessment should focus on this process and the certifying officer's competence to carry it out. This assessment should take account of the capacity to evaluate an EIA to EIB requirements, where required, and of the promoters' track record of environmental management, including implementing the recommendations and mitigation measures from EIAs. The assessment should also take account of whether the host country, through its Competent Authorities, has a good record of EIA implementation, public consultation and enforcement according to EU principles and standards. The EIB verifies that the method, content and quality of assessment is satisfactory and meets the objectives of the EIB. Where climate issues are identified as relevant and included in the SPL documentation, reporting on climate elements may be required.

300. The ESDS as well as the Overall Environmental and Social Assessment Form D1 are completed for all SPLs and the Residual Impact Assessment Sheet D2 selectively for individual or groups of projects. D2 is applicable for large schemes incorporated into SPLs and those SPLs where all or some of the schemes are of similar types. It is not practical to complete D2 where there is a large mix of schemes by size and nature.

B.4.4 Mutual Reliance Projects

301. In the specific cases of projects co-financed under the Mutual Reliance Initiative (MRI) when the lead financier is the Agence Française de Développement (AFD) or the Kreditanstalt für Wiederaufbau (KfW), the level of due diligence with regards to environmental and social standards shall be agreed upon within the PrepCom Meeting prior to Appraisal. Depending on the nature, complexity and potential E&S issues of the project, it is advisable that the ENVAG and/or a social development specialist be present at the PrepCom meeting so as to ensure that any additional E&S requirements for the EIB are addressed and incorporated into the Lead Financier's appraisal. More information on the MRI can be accessed on <http://www.eib.org/infocentre/events/all/the-mri-effective-partnering-for-growth-development.htm>.

302. Following appraisal, the Lead Financier is required to provide all information which is deemed material by the EIB for its decision-making process. The Project Team will have to fill out the ESDS as well as the REM sheet. Together with the Lead Financier, the E&S conditions that would be required to be included in the Finance Contract should be discussed and aligned.

C. INTERMEDIATED FINANCING

C.1 Introduction

303. Intermediated financing projects generally follow the same project approval process as investment and framework loans. However, the nature of environmental and social due diligence is different, as outlined below.

C.2 Mid-Cap Loan (ML)

304. The EIB pre-appraisal starts with an assessment of the approach and capacity of the intermediary and the context in which it operates. An environmental and social screening should be carried out for all schemes, known at the time of pre-appraisal within the ML that are expected to have a significant environmental and/or social impacts and risks, according to the definitions and criteria contained in the EIB E&S standards and requirements and in the relevant EU directives. Typically at the time of the EIB pre-appraisal for MLs there is only limited information, if any, on individual investments. In this case the screening should focus on the type of investment planned to be included in the ML.

305. In the case of Mid-Cap Loans, approval of individual allocation between EUR 25m and 50m is the responsibility of the EIB's services, based on a fiche submitted by the intermediary, which includes environmental and social information.

306. The assessment of the intermediary focusses on the on the capacity and capability of the intermediary to manage the environmental and social aspects, including impacts and risks, arising from its operations. This will include an assessment of the adequacy and effectiveness of the environmental and social system, the intermediary has in place. The assessment of the project portfolio follows the same requirements as for framework loans.

307. The EIB retains the right to ask for additional environmental and social information or to do a partial or an in-depth appraisal of any sub-project if judged necessary.

ROLE OF THE INTERMEDIARY

- In the EU, Candidate and potential Candidate countries, the intermediary will undertake to ensure compliance of the projects with appropriate national and/or EU and international environmental and human rights laws;
- Outside the EU, Candidate and Potential Candidate countries, the intermediary will undertake to ensure compliance of the projects with appropriate national and/or international environmental and human rights conventions and agreements ratified by the host country as well as EIB E&S standards;
- Compliance with applicable EU, national and/or international environmental and social legislation and guidelines and EIB E&S standards will be made a condition for the project; and,
- The underlying projects will be required to comply with the relevant national legal framework, to be acceptable in environmental and social terms to the EIB and aligned with EU environmental and social principles and standards, as well as EIB environmental and social standards. Where climate issues are identified as relevant and included in the ML documentation, reporting on climate elements may be required.

C.3 Global Loans

308. Generally, the schemes to be financed under global loans (GLs) are not known at the time of submission to the Board, and GLs are not normally appraised by PJ. The Board of Directors approves the GLs and/or global authorisations on the basis of the objectives sought (e.g. financing of SMEs, infrastructure, the environment, etc.) and the project selection criteria (e.g. regions concerned, excluded sectors, etc.), which are then reflected in the contract(s) signed.

309. On the request of Ops, PJ may carry out an environmental and social review of a particular GL operation, including an assessment of the environmental social risk management capacity of the intermediary. It may also carry out an environmental and social review of a particular sub-project (allocation) when requested by Ops. All projects financed through financial intermediaries are covenanted to comply with appropriate environmental and social legislation; within the EU, EU legislation, outside the EU, national legislation, with reference where appropriate to alignment with EU legislation and EIB environmental and social standards.

310. The appraisal and approval of GL allocations is generally the responsibility of the intermediary institution. If PJ carries out an assessment of a GL then D1 should be completed.

311. When evaluating the environmental and social risks associated with a GL, the following should be considered:

- What is the nature of the FI's business (e.g. SME, Microfinance)?
- What are the typical subprojects and what are their amounts?
- Does the FI have a sectoral/regional focus or any particular exposure that present greater environmental and social risks?
- What are the current environmental and social policies and procedures of the FI and track record?
- Does the EIB have current or past projects with the FI?
- What are the FI's current human resource management policies and practices?

- Are there any other international institutions engaged with this FI?
312. Based on the above mentioned information the EIB will decide:
- If there is a need for additional requirements for sub-projects;
 - If there is a need for training to strengthen the environmental and/or social capacity of the FI;
 - If there is a need for technical assistance to the FI to set up an E&S assessment and management system;
 - The nature of the reporting and monitoring requirements.
313. Specific monitoring requirements must be designed to address the environmental and social impacts identified during the due diligence including any emerging impacts identified during the course of EIB-support to the operation. Where climate issues are identified as relevant and included in the GL documentation, reporting on climate elements may be required.

ROLE OF THE INTERMEDIARY

- The financial intermediary shall undertake to promote compliance of the sub-projects with relevant national and EU law;
- In the EU, candidate and potential Candidate countries, compliance with EU, national and international environmental and human rights legislation will be made a condition for each sub-project under the global loan, as well as EIB environmental and social standards;
- In the rest of the world, all sub-projects financed under the proposed loan will by conditions in the loan contract be required to comply with the relevant national legal framework, to be acceptable in environmental and social terms to EIB and in line with EU environmental and human rights principles and standards;
- In the case of microfinance, all sub-projects will comply with internationally accepted standards such as the Universal Standards for Social Performance Management⁷⁸; and,
- The borrower/promoter has a proven track record of good environmental and social management, including the capacity to evaluate an E(S)IA, where required, according to the environmental and social assessment principles, standards and practices applied by the EIB.

C.4 Funds

314. EIB may participate as an investor in funds, premised on the assumption that a significant portion of the underlying investments made by that fund into individual companies (and the projects it finances) would be eligible for EIB finance under the term of its mandate or if the investment had otherwise been made directly by the EIB.

315. Therefore, in addition to, and separately from, any role it may have, as an investor in the decision-making process of the fund, the EIB will need to validate this underlying assumption.

316. At the request of Ops, PJ may carry out an environmental and social due diligence of a particular fund operation, including an assessment of the environmental and social risk management capacity of the promoter and/or fund manager. It may also carry out an environmental and social assessment of a particular sub-project investment when requested by Ops. All projects financed through funds are covenanted to comply with appropriate environmental and social legislation; within the EU, EU legislation, outside the EU, national legislation with reference where appropriate to EU legislation as well as the EIB's environmental and social standards and requirements. The EIB should reserve the right to receive supporting environmental and social documents on request (e.g. copies of E&S procedures and policies, NTS/ESIS, resettlement action plan, indigenous peoples plan, etc.).

317. If PJ is part of the team and carries out an assessment of the fund then D1 should be completed.
- The fund manager will undertake to ensure that all portfolio investments comply with national, EU and international environmental and social legislation, including in particular compliance with EU EIA Directive 1997/11/EC, amended by Directives 97/11/EC and 2003/35/EC, the EU Habitats

⁷⁸ <http://www.sptf.info/sp-standards-2>

Directive 1992/43/EC and sector specific environmental Directives as well as EIB E&S standards;

- In countries outside the EU, the principles and standards of the EU Directives on environment should be followed (with the necessary procedural adaptations);
- EIB will require a description of how the fund will appraise investment opportunities on environmental and social aspects. The EIB will verify that all procedures are consistent with the requirements set out in the EIB's 10 Environmental and Social Standards; and,
- Details of the due diligence procedures to be carried out by the fund prior to authorising allocation of funds for individual investments will be determined during appraisal.

318. Due diligence is carried out on the level of environmental and social risks associated with a fund's investment policy. Depending on the level of risk, the following due diligence will be carried out:

- Assessment of the E&S risk assessment tools of the fund and internal capacity to identify and manage these risks;
- Presence of an environmental and social management system(ESMS) in place which includes integrating E&S risk assessment into the financial institution's overall credit and risk management process;
- Assessment of the E&S procedures that are to be implemented throughout the transaction appraisal and monitoring process to understand the E&S risks associated with client/investee operations.

319. According to the level of potential environmental and social risk in its portfolio, the Team may require the fund to:

- Establish and maintain an ESMS;
- Designate an ESMS Officer;
- Report annually to EIB; and
- Comply with EIB's environmental and social policies.

320. The Team may also identify potential opportunities to help the financial institution enhance positive environmental and social outcomes which may include technical assistance. It is important to note, that where climate issue are identified as relevant and have been included in the Fund documentation, reporting on climate elements may be required.

C.5 Request for the Opinion of the Commission – Article 19 Procedure

321. For intermediary financing operations, Ops should confirm the use of contractual obligations in the intermediaries to verify conformity by the final beneficiaries with the relevant environmental and social standards (EU for projects in the EU, Candidate and potential Candidate countries, EU or national, with EU standards as the benchmark for outside of the EU Candidate and potential Candidate Countries).

322. In all cases, the Note to the Commission should also refer to the acceptability – or subsequent verification of the acceptability – of the project to the EIB in terms of likely environmental and social impacts and proposed impact management measures.

D. DISCLOSURE AND PROJECT DOCUMENTATION

D.1 Disclosure of Information and Documents

323. The EIB has a Transparency Policy that is in line with international best practice and transparency standards of other EU bodies and institutions. As an EU body, the EIB has a particular responsibility to be open and transparent towards its shareholders, the EU Member States and, ultimately, towards the citizens of the EU.

324. The Policy gives the public the right to request disclosure of all information and documents held by the EIB. At the same time, the Policy ensures the protection of confidential information that the EIB holds from its clients and project partners.

325. The principle of openness of EU institutions, bodies, offices and agencies is laid down in Article 1 of the Treaty on the European Union and Article 15(1) of the Treaty on the functioning of the European Union (TFEU). In addition, as an EU body, the EIB has to comply with specific EU regulations, such as Regulation (EC) No 1367/2006 on the application of the provision of the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters to Community institutions and bodies.

D.1.1 Website Publication

326. In line with the EIB Transparency Policy, the EIB discloses on its website advance information on projects it considers for financing, on a Project List, the so-called “project pipeline”, with associated project summaries. The project summaries provide short descriptions of the projects, as well as the potential environmental, social impacts of the projects.

327. Although the publication on the Project List is the responsibility of Ops and SCC/COM (specifically the webmaster), Ops will send a draft website text to the PJ Contact Person, who must review it prior to publication. The environmental and social sections of the text for the website, generally taken from the Note to the Commission, will be updated if more information is available at this stage. Revised wording needs to be checked with ENVAG, and if applicable, with the social development specialist assigned to the Project Team.

328. Short and clear text should be used as much as possible. Specific confirmations regarding legal compliance should be made where appropriate and the following examples give suggestions of typical wording. Where the project’s environmental and social aspects need more detailed explanation on substance, text should be added to clarify the environmental and social impacts expected, mitigation and/or monitoring to be carried out, limits or emissions if relevant. However, this additional text should be brief and to the point.

INVESTMENT LOANS

(a) Projects with minimal environmental and social impacts:

- The project has positive impacts and no significant adverse environmental and/or social impacts.

(b) Projects with adverse environmental or social impact:

- Environmental and/or social impact studies will be carried out as required and measures to avoid, reduce, mitigate and remedy will be included in an ESMP and effectiveness monitored and reviewed at regular intervals;;
- An ESIA will be carried out in accordance with applicable legislation in line with the EU EIA Directive; or,

The project will have significant adverse environmental and/or social impacts. The EIB will ensure that appropriate measures are taken to protect the environment and the rights of the project-affected people and avoid, reduce, mitigate, compensate and remedy the impacts. The promoter has identified all relevant environmental and social impacts and risks and has developed and ESMP to manage the impacts, according to EIB E&S standards and requirements.

(c) Reference to EU legislation:

- The project promoter where applicable is required to respect the requirements of the EU Directive 2001/42/EC concerning the Strategic Environmental Assessment (SEA) of plans and programmes;
- The project falls within a plan or a programme subject to the EU SEA Directive 2001/42/EC, which requires a SEA;
- Compliance with the EU SEA Directive 2001/42/EC will be verified during appraisal and the status of any environmental studies and public consultations will be reviewed;
- The project promoter is required to respect the requirements of the EU EIA Directive 2011/92/EU;

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- The project falls under Annex I of the EU EIA Directive 2011/92/EU which requires an EIA;
- Compliance with the EU EIA Directive 2011/92/EU will be verified during appraisal and the status of any environmental studies and public consultations will be reviewed;
- Compliance with the EU Habitats Directive 92/43/EEC, in particular Articles 6 (3) and (4), of the Directive, which require an assessment of the impacts of the investment on habitats and species of community importance ;
- The project promoter is required to comply with the EU Birds Directive 79/409/EEC, for the protection of wild birds and their habitats, which requires an assessment of the impacts of the investment on the bird species and their habitat;
- The project falls under Annex II of the EU EIA Directive 2011/92/EU, and the Competent Authority has decided on the basis of Annex III of the Directive that an EIA will be required. The screening decision will be verified during appraisal; and,
- The project falls under Annex II of the EU EIA Directive 2011/92/EU, and the Competent Authority has decided on the basis of Annex III of the Directive that no EIA is required. The screening decision will be verified during appraisal.

(d) Reference to EU, national and international legislation:

- The project complies with relevant EU and national environmental legislation; and,
- The project's compliance with all applicable EU and national environmental and social legislation as well as the applicable principles of international Conventions ratified by the EU and the host country, will be verified during appraisal.

FRAMEWORK LOANS

- The promoter will undertake to ensure compliance of the sub-projects with relevant national, EU, national and international law as well as EIB E&S standards and requirements;
- Compliance with EU, national and international environmental and social legislation as well as EIB E&S standards and requirements will be made a condition for each sub-project under the framework loan;
- All sub-projects financed under the framework loan will be required to comply with the relevant national legal framework, to be acceptable in environmental and social terms to the EIB and in line with EU environmental and social policy and law as well as EIB environmental and social standards; and
- Following the special EU procedures for Structural Programme Loans, the task of verifying environmental obligations, such as the EIS, Forms A/B or their equivalent in sites of Community importance, special protection areas (SPAs) or and/or special area of conservation sites (SACs) reserve areas is delegated to the Member States and more precisely to the certifying officer, who for each measure is responsible for verifying compliance with EU environmental legislation.

MID-CAP LOANS

- The promoter will undertake to ensure compliance of the project with relevant national, EU and international law;
- Compliance with EU, national and international environmental and social legislation and guidelines will be made a condition for the project; and,
- The project will be required to comply with the relevant national legal framework, to be acceptable in environmental terms to EIB and in line with EU environmental policy and law and EIB environmental and social standards.

GLOBAL LOANS

- The financial intermediary will undertake to promote compliance of the sub-projects with relevant national, EU law and EIB E&S standards and requirements;
- Compliance with EU, national and international environmental and social legislation will be made a condition for each sub-project under the Global Loan;
- All sub-projects financed under the proposed loan will by conditions in the loan contract be required to comply with the relevant national legal framework, to be acceptable in environmental

and social terms to EIB and in line with EU environmental and social policy and law EIB environmental and social standards; and

- The borrower/promoter has a proven track record of good environmental and social management, including the capacity to evaluate an E(S)IA, where required, according to the environmental and social assessment principles, standards and practices applied by the EIB.

FUNDS

- The fund manager will undertake to ensure that all portfolio investments comply with national, EU and international environmental and social legislation, including in particular compliance with the EU EIA Directive 2011/92/EU, the EU Habitats Directive 1992/43/EC, sector specific environmental directives and/or any other EIB E&S environmental and social standards and requirements.;
- EIB will require that the fund's documentation include a description of how the fund will appraise, manage and monitor investment opportunities on environmental and social aspects. The EIB will ensure that all fund procedures comply with the requirements set out in the EIB's environmental and social standards and ,
- Details of the due diligence procedures to be carried out by the fund's investment committee prior to authorising allocation of funds for individual investments will be determined during appraisal.

D.1.2 Disclosure of E&S Documents

329. The PJ will need to inform Ops as soon as possible if they consider the project to have significant adverse environmental and/or social impacts as, as this will affect the timing of publication and Board Presentation.

330. Requests from the public for access to the NTS/E(S)IS are handled by the Communications Department in accordance with procedures in the EIB Public Transparency Policy. Any requests from third parties outside the EIB should therefore be passed to the Communications Department.

331. The EIB releases project-related environmental and social information to members of the public in accordance with its Transparency Policy.

332. All public sector projects are included on the Project List on the EIB's website prior to Board approval, as are all private sector projects when there has been a call for international tender published in the Official Journal of the European Union and/or which have been subject to an environmental and social impact assessment (ESIA). EIB exercises disclosure according to a presumption towards transparency. However, certain private sector projects are not published before Board approval and, in some cases, not before loan signature, to protect justified commercial interest.

333. For all projects on the Project List, both in the EU and outside the EU, where an ESIA is required (according to applicable EU and/or national legislation or as a prerequisite for the EIB's financing or at the initiative of the promoter), the EIB makes the NTS (or equivalent) of the study of the ESIA available to the public, where possible through electronic links in the EIB's Project List, to the promoter's website.

334. For projects on the Project List, outside the EU, where an ESIA is required, the environmental and social impact study (ESIS) of the ESIA will also be made available in the same way.

335. PJ should identify as early as possible in the project cycle, whether an ESIA is required or, if outside EU, would have been required by EU law.

336. The promoter shall prepare both an ESIS and an NTS for any project that requires an ESIA according to EU, national legislation and/or EIB environmental and social requirements.

337. The promoter is responsible for making the documents available to the public in a language appropriate for local consultation and stakeholder engagement. The required documents should be provided as early as possible to the EIB, i.e. when the documents are provided to the Competent Authority and made available to the public.

338. **For framework loans**, the promoter will supply NTS or ESIS documents where applicable for all sub-schemes, for review and EIB website publication. However, in the context of FL in the EU, the requirements to supply environmental documents to the EIB may be waived in certain circumstances, however a link to the promoter's website where all the documents are stored shall be provided:

- a) The borrower/promoter has a proven track record of good environmental management, including the capacity to evaluate an EIA, where required, according to the environmental assessment principles and practices applied by the EIB;
- b) The host country through its competent authorities has a good record of EIA implementation and enforcement, according to the principles and practices of EU law;
- c) Where a waiver is justified, the borrower/promoter should be required to undertake not to allocate EIB resources to any scheme before a satisfactory EIA including public consultation has been carried out, where required. The borrower/promoter should also undertake to make the EIA documentation publicly available, again according to EU and national requirements; and,
- d) Similar considerations apply to schemes located in or impacting on nature conservation areas or sites of Community importance, which may require an impact analysis. Again, should a waiver be justified, the borrower/promoter is required to arrange for completion of Forms A/B, or an equivalent, an appropriate before allocation of EIB funds.
- e)

339. **For SPLs**, when EIB environmental due diligence is aligned with the Commission, the verification of any NTS, EIS and other environmental documents is not normally carried out by the EIB nor are these documents published on its own website. However, if the due diligence is not aligned, then the procedures for framework loans apply.

340. **For mid-cap and global loans** and for **funds** the EIB normally delegates the verification of any NTS and ESIS and other environmental and social documents to the intermediary or fund manager and does not publish such documents on its own website but requires the intermediary or fund manager to do so.

341. Ops is responsible for obtaining the NTS (and ESIS where applicable). Once received these should be sent directly to the webmaster by PJ as soon as they are received and once the PJ contact person has verified that they are the correct documents. This should be done by email, addressed to "webmaster" and copied to Ops to ensure they are informed that the documents are now with the webmaster. The email "subject" must contain the project or framework title and SERAPIS⁷⁹ number.

342. A link to the NTS or ESIS on the promoter's website is the first choice for website publication. If this is not possible, the promoter/intermediary should be asked for a digital version and this should be stored in GED (Electronic Documents Management System) with specific naming convention given in Box C below and the GED link sent to the webmaster. If a paper copy is the only available version, this should be sent to the webmaster. The promoter will have to be advised to maintain and manage the link to the website until full implementation of the ESMP and the E&S conditions in the finance contract,

343. Where the NTS or ESIS is for a sub-project or scheme under any type of loan with multiple components, then information must be provided to the webmaster to clearly define the sub-project, scheme or allocation covered by each document.

Box C: GED Naming Convention for Environment Documents

The final environmental documents for each project, sub-project or allocation should be stored in GED, in the Knowledge Centre under the respective operation or project in Lending Operations; "folder 5 - Supporting Documents".

The documents should be stored in this subfolder with the following naming convention:

Operation N° ENVIRO NTS Free text
or
Operation N° ENVIRO EIS Free text

⁷⁹ SERAPIS (Système Efficace et Rapide d'Accès aux Prêts et aux Informations de Support) is the web-based Front Office working tool of the EIB.

Example for an NTS: 20070123 ENVIRO NTS Toscana Bridge
Example for an EIS: 20071234 ENVIRO EIS Rome Metro line 10, final version

If many separate documents make up the NTS or EIS, then a new subfolder should be created using the same naming convention, and the documents stored in that subfolder⁸⁰.

344. Timing of publication and any scanning or translation required is the responsibility of the Communications Department (SCC/COM).

345. Outside the EU there are timing requirements for publication:

Box D: 30-day Rule

The Non-Technical Summary (NTS) and the Environmental and Social Impact Study (ESIS) for all investment loan projects (excluding multi scheme projects (programmes)) located outside the EU-28, Candidate and potential Candidate countries, and requiring an ESIA, will be made publicly available at a minimum of 30 days before the project is presented to the Board.

For “projects with significant adverse environmental and social impacts, which may have undue difficulties during project implementation and/or operations, which may pose high risks to the EIB and which may attract significant external scrutiny adversely affecting the reputation of the EIB, the EIB would aim for a longer lead-time. Sectors that are most associated with such projects include large dams, nuclear, extractive industry projects, certain forms of waste plants and long pipelines.

If the project will be presented to the Board under written procedures, the 30-day rule should count back from the cut-off date for Board approval.

It should be noted that the EIB project cycle differs in some detailed respects from that of other MFIs, such as EBRD, in that loan negotiation and the subsequent signature normally take place after approval by the Board of Directors. This allows for public consultation either side of Board discussions and explains the different pre-Board consultation periods applied by the different MFIs (generally 30 days for EIB cf. 60-120 days for other MFIs). Obviously, any significant change in project design (e.g. as a result of enhanced mitigation) must be agreed by an appropriate level of the EIB’s decision making bodies, and disbursement should not take place until the EIB is satisfied with the content of the ESIS and ESMP where required.

D.2 Project Documentation

D.2.1. PJ Appraisal Report – PJ Environmental and Social Due Diligence

346. The PJ environmental and social due diligence is recorded in the Environmental and Social Data Sheet (ESDS) of the PJ Appraisal Report: Environmental and social impacts and risks should be based on the findings and judgements in Forms D1/2/3. The environmental and social content of the ESDS shall be reviewed by ENVAG but remains the responsibility of the PJ Project Team. ENVAG should initial the ESDS as well as the flysheet to confirm that consultation has taken place.

347. For a project that is "eligible" on environmental grounds: the contribution of the project to Community environmental policy objectives should be indicated. This information should be included in the Flysheet and in the section on Value Added in PJ Appraisal Report.

⁸⁰ The subfolder must first be stored in the Working Area and a request should be made to the Livelink team to move the subfolder to the Knowledge Centre. Once in the Knowledge Centre, a link can be sent to the Webmaster. If in addition to the NTS or EIS documents, the EIB receives other documents relating to the EIA process e.g. notes on public consultations, then a similar convention can be used as follows: **Operation nr ENVIRO EIA Free text example 20080123 ENVIRO EIA public consultation Jan 2008**

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348. PJ should verify where appropriate, the application of the SEA Directive and compliance with the EIA Directive, including a clear statement as to whether the project falls under Annex I or II of the EIA Directive. Any other EU law compliance aspects should also be summarised.

349. The ESDS shall contain a description of the environmental and social impacts of the project as well as proposed measures to manage such impacts in accordance with the standard EIB mitigation hierarchy. Both positive and negative environmental and social impacts should be considered.

350. Where practical, the economic value of any environmental and social external costs and benefits should be included, where they are likely to have a major influence on the project financing decision.

351. There should be an indication of the eligibility of the project for climate change financing and its climate change impacts, if significant.

352. There should be an indication whether the project has an impact on protected nature conservation sites, protected species or on areas of important biodiversity, including information on assessments carried out in compliance with the Habitats Directive Article 6 or any other international convention. The location of any nearby or affected protected areas or species should be indicated on the Map (Appendix B of the PJ Appraisal Report)

353. Environmental management capability of the promoter and arrangements for environmental and social management (such as EMAS⁸¹, ISO⁸² 14001, AA1000⁸³ /Global Compact⁸⁴/Equator Principles⁸⁵/UNEP FI⁸⁶, UN Guiding Principles on Business and Human Right⁸⁷s.) should be assessed. Past experience on EIB projects or recent past projects implemented by the Promoter would be relevant in this assessment.

354. The PJ environmental and social due diligence should conclude with a judgement about overall acceptability of the project in E&S terms (overall E&S impact rating).

355. The main findings and conclusions (specifically the overall E&S rating and the conditions) of the environmental and social due diligence t shall also be reflected in the PJ Appraisal Report Flysheet (see below) and in the Appraisal Fact Sheet. The main findings and the overall E&S Impact Rating must be consistent.

356. The PJ Environmental and Social due diligence should be written in two section as follows (Box E):

- Key issues (paragraph 5 of the Board report). A summary of all the key issues needed for Board decision
- ESDS. This should contain further details on key issues, and other background information.

357. Key Issues

The key issues to be covered briefly are the following items:

- Environmental and social situation with/without the project (quantify and value, to the extent possible);
- Compliance of the project with EU principles, practices, standards and law) where appropriate - indicate any actual or anticipated (e.g. due to higher standards) compliance issues, if any;
- Significant climate change or biodiversity issues;
- Screening category for EIA/ESIA;
- Environmental and social impact(s) (both negative and positive); and proposed measures to manage these (including cost, if known); and,

⁸¹ EMAS: http://ec.europa.eu/environment/emas/index_en.htm.

⁸² ISO 14001: <http://www.iso.org/iso/en/iso9000-14000/index.html>

⁸³ AA1000: <http://www.accountability21.net/default.aspx?id=228>.

⁸⁴ Global Compact: <http://www.unglobalcompact.org/>

⁸⁵ Equator Principles: <http://www.equator-principles.com/>

⁸⁶ UNEP FI: <http://www.unepfi.org/>.

⁸⁷ UN GPBHR: http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

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- For projects specifically outside the EU, any significant social issues and their proposed treatment to include:
 - Involuntary resettlement;
 - Rights and interests of vulnerable groups;
 - Labour standards;
 - Occupational Health and Public Health, Safety and Security; and
 - Stakeholder engagement.

358. Any supporting information on environmental and social matters may be included in the E&S Data Sheet, together with other information such as:

- Environmental and social management capability of the promoter and arrangements for environmental and social management;
- Environmental and social performance indicator(s) and monitoring arrangement, ; or
- Significant impacts identified (environmental, social, financial, technical, etc.), if any.

Box E: Examples for ESDS and the Key Issues for the Board Report

Even though the ESDS is the only document that pulls together and summarises EIB's environmental and social due diligence, it is a document that is written for the general public and therefore should present a succinct overview and analysis of the environmental, social and climate risks and impacts associated with the project, its associated/ancillary facilities and its area of influence. It describes and explains the key measures identified to manage those risks and impacts and concludes on the acceptability of the project in E&S terms taking into account the residual impacts and the positive effects of the project.

Each "issue" paragraphs should be a concise summary highlighting any specific impacts, risks or opportunities and how these will be managed. The text is not to be written in future tense but is to reflect the current status of the project, thereby avoiding any ambiguity. The recommended length of a standard project in the EU is 2 pages and for projects outside the EU, an ESDS can be up 4 pages long.

Summary of Environmental and Social Assessment, including key issues and overall conclusion and recommendation

The text, to be identical to point 5 of the Board report, should indicate key issues - both positive and negative - of the project, residual risks and opportunities, adequacy of action/management plans and results of stakeholder engagement, and highlight any areas of non-compliance with applicable legal framework and/or EIB E&S standards and how these issues are being addressed. The paragraph would also include a recommendation to the effect that the project is acceptable for EIB financing.

Environmental and Social Assessment

Environmental and Social Assessment: Before going into the details of the E&S impacts and mitigation it is important to summarise the E&S assessment carried out by the promoter as well as the due diligence carried out by the EIB. Mention:

For all regions:

- The project components and if there are any associated facilities and the area of influence of the project,
- When did the EIB first engage with the project and how it continued to engage with the project (site visits, regular conference calls with promoter and lenders, communication with stakeholders, government agencies, specialists and civil society organisations, other IFIs,
- When, if required, the E(S)IA(s) was or will be (in the case of multi-component projects) carried out and by whom,
- Whether any international conventions were triggered such as the Espoo Convention with regards to transboundary impacts,
- If there were any additional specific studies carried out such as biodiversity/appropriate assessments,

- When the ESIA process was completed for the national permitting process,
- If the EIB is co-financing with other institutions, against which standards is the project being reviewed?
- State how the promoter performed or is performing against the project standards required by the EIB.

In the EU, Candidate and potential Candidate countries:

- If a project has been screened out according to the EU EIA Directive and does not require an EIA, mention the screening decision, the basis for the screening decisions and the date this decision was made public. These decisions may come with certain conditions and can be specified with the related impacts in the Section on Environmental Impact and Mitigation,
- Whether the project is part of a plan or programme and if an SEA was carried for that particular plan or programme, this is particularly relevant for projects in the EU,
- Whether an Appropriate Assessment under the Habitats/Birds Directives was required and the conclusion of the Competent Authority for Nature.
- Whether compensation measures were required under the Appropriate Assessment and whether the Commission was informed and has agreed to the measures,

Outside the EU

- Which of the social standards has been triggered by the project,
- The documents and studies produced under the ESIA (this includes the stakeholder engagement plan, ESMP/ESAP, RPF/RAP, labour audits) and their implementation status.

Environmental and Social Impacts

In this section, the following four aspects of the ESIA process should be summarised for all regions. As they pertain to both environmental and social issues they are described prior to going into the E&S details:

- Strategic Environmental Assessment
- Assessment of alternatives
- Cumulative impacts assessment
- Trans-boundary impacts (if the project entails activities that may cause adverse effects, if the affected communities, regions, countries have been informed and consulted and the conclusions of the agreements)

Environmental Impact and Mitigation

In this section describe the key environmental risks and impacts of the project and the key mitigation measures as well as key aspects of the Environmental and Social Impact Study. If the mitigation measures for all phases of the project have been captured in an ESMP/ESAP then it is sufficient to describe how the ESMP/ESAP or similar document addresses the mitigation measures and how these will be managed.

As in Annex D2 it is worth, when going through the impacts to differentiate between impacts during construction and impacts during operation and post-construction.

Going through the main significant issues, risks and impacts indicates to the general public that EIB has been satisfied that all material environmental and social issues associated with the project have been identified, whether any gaps were identified and how these would be closed out and, that the status of compliance with EIB E&S standards is understood.

Though not exhaustive, sector and region dependent here is a list of environmental issues to address in this section:

- Environmental impacts during construction, post-construction and operation,
- Noise
- Vibration
- Ambient air quality which includes dust
- Water quality

- Erosion control
- Hazardous waste management
- Pest Management
- Environmental Health and Safety (including training in EHS)
- Construction ESMP, if applicable

If there are significant impacts on biodiversity, cultural heritage and vulnerability of the project to climate change these need to be treated separately from the “standard” environmental impacts.

Cultural heritage: mention the state of the area in terms of cultural heritage significance, the assessment carried out, if the competent authority responsible for cultural heritage and the relevant stakeholders have been consulted, the outcomes of the consultation, mitigation measures put in place and the implementation of a chance find procedure and programme. Mention if there is any intangible cultural heritage and how the impacts have been addressed and will be managed.

Biodiversity assessment: In the EU, Candidate and potential Candidate countries, describe the impacts and the mitigation measures, the process of the appropriate assessment as well as the decisions taken by the competent authority for nature. If compensation measures are required, describe the overriding public interest process, the communication with the Commission and the consultation with the relevant authorities and relevant stakeholders.

Outside of the EU, Candidate and potential Candidate countries, describe the impacts on biodiversity, the process for managing the impacts (application of the mitigation hierarchy) and the biodiversity action plan to be implemented if required. Should compensation or offsets be required, describe the compensation measures and/or the offset and the plan developed to implement the compensation measures and/or the offset as well as the consultation process required – i.e. in the case of impacts on Indigenous Peoples then free prior informed consent may be required.

Vulnerability of the project to climate change:

Environmental and Social Management Systems: In this section first describe the ESMP/ESAP and then the system to be put into place to implement it.

- ESMP/ESAP (can be a stand-alone document): describe how the proposed mitigation measures to address issues arising from the relevant stages of the project (pre-construction, construction, operation, decommissioning, reinstatement) and from the ESIA process, from the EIB due diligence have been structured to ensure compliance with national law and regulations, EIB requirements and mention that the ESMP/ESAP is for the duration of the project and a living document and that the promoter commits to its implementation through the finance contract. The ESMP defines specific mitigation tasks or measures or corrective actions to be undertaken, has an indicator for completion and provides deadlines for completion for each task.

- Environmental and Social Management Systems: The capacity of the promoter to manage the E&S risks and the implementation of the ESMP/ESAP have to be briefly described here, what kind of actions within the organisational structure and system he/she is planning on taking, what kind of system is required (policy, hiring or appointment of key E&S staff), PIU required, etc. Also mention if the promoter is putting in place a management system that is accredited by internally recognised certification systems/organisation.

In the EU:

- Within the EU the ESMP is currently not a requirement under the EU EIA Directive (however as soon as the revised EU EIA Directive comes into force, the ESMP will be a requirement). Therefore it is important to note that the mitigation measures or corrective actions are included in the EIS or in the permit issued by the consenting authority and to determine how the promoter will monitor the implementation. With regards to environmental management systems, review the systems the promoter has in place, the corporate policy statements or procedures related to sustainable development if any and whether the promoter is certified under any of the international accredited certification schemes.

EIB Carbon Footprint Exercise

If the project is not included in the Carbon Footprint Exercise, delete this section including this heading. In this case any emissions information may, if wished, should be included in the above section Environmental Assessment. In the section on Environmental Assessment, there is an option to highlight other emissions savings information that is currently outside the scope of the carbon footprint exercise e.g. savings gained through the use of the product (such as double glazed windows).

If the project is included:

- Estimated annual emissions of project in a standard year of operation: – absolute (gross) and relative (net) figures in kT CO₂e/year. (Text style should target a non-technical audience, e.g. "estimated emissions savings are xxx tonnes of CO₂ equivalent per year" rather than "relative emissions = -xxx tonnes CO₂e/yr".) Include definition of boundary related to these emissions and an explanation of choice of baseline.
- Include the following sentence in the text: 'For the annual accounting purposes of the EIB Carbon Footprint, the project emissions will be prorated according to the EIB lending amount signed in that year, as a proportion of project cost'.

Social Assessment

The social assessment is applicable to all regions outside of the EU. However certain aspects such as occupational health and safety and stakeholder engagement apply as well to EU MS.

Land acquisition and involuntary resettlement and loss of livelihood: mention the direct and land take and if this is permanent or not as well as what it will be used for and the number of potentially affected households and/or businesses. Describe if a RFP, RAP or RAPs have been produced to avoid, reduce, mitigate, and remedy the negative social impacts and to strengthen the positive impacts on the communities in the project area. If the RAP is still to be developed, describe the RFP process as well as the national institutional process and any gaps the project has to fill to ensure compliance with EIB standards, the key principles used in formulating the RFP and the measures that will be taken to compensate the project-affected persons/households for their losses, including the implementation of a grievance and redress mechanism. Mention whether the RFP is acceptable in form and substance to the EIB.

Vulnerable Groups and Indigenous People: Based on the social assessment mention whether any indigenous peoples or vulnerable and minority groups were identified and how they were adversely affected by the project. Mention whether the impacts on these individuals and groups required a supplementary study or an indigenous peoples plan and which mitigation and compensation measures and support to the various groups have been included in the ESMP and the RAP. At this point, community development programmes can be mentioned, if any.

Occupational Health and Safety: In the EU this usually falls under the category of environmental health and safety and the associated EHS management plans. Both EHS and occupational health and safety can be combined. In addition to the establishment of EHS plans, describe how the construction activities could potentially have negative impacts on the workers and how these issues will be captured in the Construction ESMP. Give an indication of the type of E&S clauses on the contracts of the contractors and sub-contractors. If there is the presence of a workers' camp, mention the potential impacts and management issues to deal with social and health consequences of migrant workers coming into the communities

Labour and Working Conditions: State whether the country has subscribed to ILO core labour standards and if not how at project this will be addressed. Describe employment conditions with respect to working hours, compensation policies etc., the implementation of a comprehensive HR policy and procedure promoting a non-discriminatory and equal opportunity working environment and hiring policies. It is good to mention training programmes and how the project will promote local access to employment, if applicable and if the promoter has a policy addressing supply chain issues.

Community Health, Safety and Security: Based on the location of the project, its activities during construction and operation, describe the likely impacts on the surrounding communities and the programme of measures to attenuate the impacts, strengthen and improve health for example and

provision of sensitisation and training to the local community. Community development programmes can also be mentioned here. . If there are security arrangements, mention the potential impacts and how the security issues are dealt with within the context of the project.

Public Consultation and Stakeholder Engagement

In the EU:

- Mention the public consultation carried out under the EIA process, (publication, date of consultation meetings and quality) and also whether the promoter has held separate information and consultation with different stakeholders either through the EIA process and/or appropriate assessment stage.

Outside the EU:

- A Stakeholder Engagement Plan including grievance mechanism is a requirement. Describe the plan, the stakeholder analysis and the engagement processes, including all formal consultations (dates, at which stage of the project, stakeholders consulted, type of consultation) carried out under the plan so far as well as summarise the main issues raised to date through the engagement and consultation activities. . Explain how project information was disseminated, and how stakeholder views, in particular those of project-affected individuals and communities have influenced the design and the formulation and implementation of the ESMP/ESAP, the level of project support or opposition among the affected communities and what on-going community engagement and communication strategies are in place.

For all regions, state where the key documents are disclosed (promoter's website, EIB website).

Conclusion: the conclusion should state the acceptability of the project to the EIB in terms of E&S issues taking into consideration the E&S impacts, the management plans, the capacity of the promoter to implement the ESMP/ESAP, any residual impacts, and the if the project has overall positive benefits.

359. The PJ Appraisal Report includes a front page, or Flysheet, the PJ Opinion, for submission to the Management Committee.

360. Any environmental and/or social conditions should be consistent with the identified remaining environmental and social risks and the proposed environmental and social mitigating measures and clearly stated in the Flysheet as well as in the E&S Data Sheet.

361. The Flysheet to the PJ Appraisal Report summarises the key issues detailed in the Key Issues to be included in Point 5 of the Board Report and the E&S Data Sheet and forms part of the information submitted to the Management Committee with the Ops.

362. Financing Proposal: it should give the environmental and social impact rating (with an explanation where thought necessary, particularly in the case of a C rating) and should incorporate reference to any significant environmental issues under the headings of:

- "justification", where, for instance, a project contributes to the implementation of EU policy;
- "conditions", where any environmental condition is necessary to ensure project success and/or compliance with EIB environmental and social requirements; and,
- "other comments", for instance, in respect of outstanding environmental studies, authorisations, etc.

363. The Technical Description of the Project included in the Appraisal Report (Appendix A.1) should normally define the project to include all mitigation and compensation measures and the costs of these should be included in the total project costs.

364. The information requirements on environmental matters listed in Appendix A.2 of the Appraisal Report should be as project specific as possible so as to focus the reporting from the Promoter on the key environmental issues and risks, and the implementation and results of any mitigation carried out.

E. ANNEXES

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Annex 1 – Environmental and Social Data Sheet

*Complete as attachment to Board report (i.e. not a numbered annex).
Drafting should be clear and objective.*

The document will be made available to the public (on request) by SCC/COM.

Please ensure consistency of project description provided for in the present Environmental & Social Data Sheet with the one of the Board report.

Environmental and Social Data Sheet

(Further guidance is contained in the Environmental and Social Practices Handbook)

Overview

Project Name: same as info in Serapis
Project Number: idem
Country: idem
Project Description: same as info in Serapis (please check/update in line with description in Board Report)

EIA required: yes/no delete as necessary

(If EIA required by EU law or by the EIB, ensure that NTS (and EIS for outside EU) is on EIB website or provide [here](#) the necessary explanatory information, such as condition for 1st disbursement, other...)

Project included in Carbon Footprint Exercise¹: yes/no delete as necessary

(Details for projects included are provided in section: “EIB Carbon Footprint Exercise”)

Summary of Environmental and Social Assessment, including key issues and overall conclusion and recommendation

The text, to be identical to point 5 of the Board report, should indicate the major impacts - both positive and negative - of the project, as well as any noteworthy issues and confirm that such issues have been/are being addressed. It would also include a recommendation to the effect that the project is acceptable for EIB financing.

Key E&S Contractual Conditions that have been included in the Report to the Board of Directors need to be properly reflected here.

The indication “NA” should be avoided in all cases. Standardised texts will be proposed for cases with very limited or no environmental implications.

Environmental and Social Assessment

Environmental Assessment

For example

- *Compliance with applicable Environmental Legislation (national, EU and International), including SEA and EIA legislation, where appropriate.*
- *Environmental Impacts - both positive and negative; and, for the latter, proposed mitigation and compensation. Remaining impacts, if any, and why acceptable.*
- *Biodiversity issues, if any, and proposed mitigation and compensation/offsets of adverse impacts. Remaining impacts, if any, and why acceptable.*

¹ Only projects that meet the scope of the Pilot Exercise, as defined in the EIB draft Carbon Footprint Methodologies, are included, provided estimated emissions exceed the methodology thresholds: above 100,000 tons CO₂e/year absolute (gross) or 20,000 tons CO₂e/year relative (net) – both increases and savings.

- *Climate change mitigation - sector issues, energy efficiency and emissions savings (for projects or other financing, e.g. FLs, fund, not included in the EIB Carbon Footprint Exercise) and carbon credit potential. Any necessary follow-up. Climate change adaptation (climate risk profile, risk assessments undertaken and results).*

EIB Carbon Footprint Exercise *If project not included, delete this section including this heading (in this case any emissions information may, if wished, be included in the above section Environmental assessment)*

If project is included:

- *Estimated annual emissions of project in a standard year of operation: – absolute (gross) and relative (net) figures in kT CO₂e/year. (Text style should target a non-technical audience, e.g. "estimated emissions savings are xxx tonnes of CO₂ equivalent per year" rather than "relative emissions = -xxx tonnes CO₂e/yr".) Include definition of boundary related to these emissions and an explanation of choice of baseline.*
- *Include the following sentence in the text: 'For the annual accounting purposes of the EIB Carbon Footprint, the project emissions will be prorated according to the EIB lending amount signed in that year, as a proportion of project cost'.*
- *Option to highlight other emissions savings information that is currently outside the scope of the carbon footprint exercise e.g. savings gained through the use of the product (such as double glazed windows), avoidance of transport emissions.*

Social Assessment, where applicable

For example

- *Involuntary Resettlement - short description of issues and measures adopted/proposed follow-up*
- *Rights and Interests of Vulnerable Groups - short description of issues and measures adopted/proposed follow-up*
- *Labour Standards - description of key issues at regulatory and/or project level, and measures adopted/proposed follow-up*
- *Occupational and Community Health and Safety - description of key issues at regulatory and/or project level, and measures adopted/proposed follow-up*

Public Consultation and Stakeholder Engagement, where required

For example

- *Consultation carried out under the EIA process or equivalent - possible shortcomings, mitigants and follow-up*
- *Consultation related to nature assessment, resettlement action plan, indigenous peoples plan, etc. - possible shortcomings, mitigants and follow-up*
- *Meetings with project-affected people and civil society organisations, public administrations, etc. Conclusions, if any.*

Other Environmental and Social Aspects

For example

- *Summary of E&S management arrangements*
- *Specific E&S monitoring arrangements: identification of any E&S performance indicators*

Annex 2 – Overall Environmental and Social Assessment Form (D1)

Overall Environmental Assessment

Project Operation n°	<input type="text"/>		
Type of EIB financing	<input type="text"/>		
Promoter	<input type="text"/>		
Enviro. Capacity	<input type="text"/>		
Project Description	<input type="text"/>		
SEA carried out	<input type="text"/>	Comment	<input type="text"/>
EIA Screening	<input type="text"/>	Enviro. Eligibility Code	<input type="text"/>
EIA Stages			<i>Documents obtained</i>
"A" & "B" Projects	<i>Studies</i> (incl. non-technical summary)	<input type="text"/>	<input type="text"/>
	<i>Consultation</i> (public, enviro. authority, transboundary)	<input type="text"/>	<input type="text"/>
	<i>Planning consent or authorisation granted</i> (permit, etc.)	<input type="text"/>	<input type="text"/>
	<i>Public informed of decision</i>	<input type="text"/>	<input type="text"/>
	3rd Party concerns	<input type="text"/>	<input type="text"/>
	Comments	<input type="text"/>	
"C" Projects	<input type="text"/>		
Environmental Legal Framework	National	<input type="text"/>	
	EU	<input type="text"/>	
	International	<input type="text"/>	
Social Assessment	Comment	<input type="text"/>	
Nature Conservation Sites	Significant effect	<input type="text"/>	For EU/Acceding/Accession/Candidate countries:
	If no significant effect, Form A	<input type="text"/>	If significant effect, Form B <input type="text"/>
	Type of site	<input type="text"/>	Map <input type="text"/>
Climate Change Aspects	CCFF <input type="text"/>	CCTAF <input type="text"/>	Carbon Funds <input type="text"/>
Site Visit and any other Observations	<input type="text"/>		
Major Project Risks	Risk rating <input type="text"/>	<input type="text"/>	
Overall Assessment	<input type="text"/>		
Enviro. Monitoring	Required <input type="text"/>	Performance indicator(s)	<input type="text"/>
Conditions	<input type="text"/>		
Stage	<input type="text"/>	ENVAG Member	<input type="text"/>
		Completed by	<input type="text"/>
		on	<input type="text"/>

Annex 3 – Annex I of the EIA Directive 92/2011/EC

PROJECTS SUBJECT TO ARTICLE 4 (1)

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. (a) Thermal power stations and other combustion installations with a heat output of 300 megawatts or more;
(b) Nuclear power stations and other nuclear reactors including the dismantling or decommissioning of such power stations or reactors¹ (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. (a) Installations for the reprocessing of irradiated nuclear fuel;
(b) Installations designed:
 - (i) for the production or enrichment of nuclear fuel;
 - (ii) for the processing of irradiated nuclear fuel or high-level radioactive waste;
 - (iii) for the final disposal of irradiated nuclear fuel;
 - (iv) solely for the final disposal of radioactive waste;
 - (v) solely for the storage (planned for more than 10 years) of irradiated nuclear fuels or radioactive waste in a different site than the production site
4. (a) Integrated works for the initial smelting of cast iron and steel;
(b) 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 of finished products, for friction material, with an annual production of more than 50 tonnes of finished products, and for other uses of 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:
 - (a) for the production of basic organic chemicals;
 - (b) for the production of basic inorganic chemicals;
 - (c) for the production of phosphorous-, nitrogen- or potassium-based fertilisers (simple or compound fertilisers);
 - (d) for the production of basic plant health products and of biocides;
 - (e) for the production of basic pharmaceutical products using a chemical or biological process;
 - (f) for the production of explosives.
7. (a) Construction of lines for long-distance railway traffic and of airports² with a basic runway length of 2 100 m or more;
(b) Construction of motorways and express roads³;
(c) Construction of a new road of four or more lanes, or realignment and/or widening of an existing road of two lanes or less so as to provide four or more lanes, where such new road or realigned and/or widened section of road would be 10 km or more in a continuous length.

¹ Nuclear power stations and other nuclear reactors cease to be such an installation when all nuclear fuel and other radioactively contaminated elements have been removed permanently from the installation site

² For the purposes of this Directive, 'airport' means an airport which complies with the definition in the 1944 Chicago Convention setting up the International Civil Aviation Organisation (Annex 14 of the DIRECTIVE 2011/92/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment).

³ For the purposes of this Directive, 'express road' means a road which complies with the definition in the European Agreement on Main International Traffic Arteries of 15 November 1975.

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8. (a) Inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1 350 tonnes;
(b) 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.
9. Waste disposal installations for the incineration, chemical treatment as defined in Annex I to Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste⁴ under heading D9, or landfill of hazardous waste, as defined in point 2 of Article 3 of that Directive.
10. Waste disposal installations for the incineration or chemical treatment as defined in Annex I to Directive 2008/98/EC under heading D9 of non-hazardous waste with a capacity exceeding 100 tonnes per day.
11. Groundwater abstraction or artificial groundwater recharge schemes where the annual volume of water abstracted or recharged is equivalent to or exceeds 10 million cubic metres.
12. (a) Works for the transfer of water resources between river basins where that transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 100 million cubic metres/year;
(b) In all other cases, works for the transfer of water resources between river basins where the multi-annual average flow of the basin of abstraction exceeds 2 000 million cubic metres/year and where the amount of water transferred exceeds 5 % of that flow.
In both cases transfers of piped drinking water are excluded.
13. Waste water treatment plants with a capacity exceeding 150 000 population equivalent as defined in point 6 of Article 2 of Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment⁵.
14. Extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tonnes/day in the case of petroleum and 500 000 cubic metres/day in the case of gas.
15. Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres.
16. Pipelines with a diameter of more than 800 mm and a length of more than 40 km:
(a) for the transport of gas, oil, chemicals;
(b) for the transport of carbon dioxide (CO₂) streams for the purposes of geological storage, including associated booster stations.
17. Installations for the intensive rearing of poultry or pigs with more than:
(a) 85 000 places for broilers, 60 000 places for hens;
(b) 3 000 places for production pigs (over 30 kg); or
(c) 900 places for sows.
18. Industrial plants for the production of:
(a) pulp from timber or similar fibrous materials;
(b) paper and board with a production capacity exceeding 200 tonnes per day.
19. Quarries and open-cast mining where the surface of the site exceeds 25 hectares, or peat extraction, where the surface of the site exceeds 150 hectares.
20. Construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 km.

⁴ OJ L 312, 22.11.2008, p. 3

⁵ OJ L 135, 30.5.1991, p. 40

21. Installations for storage of petroleum, petrochemical, or chemical products with a capacity of 200 000 tonnes or more.
22. Storage sites pursuant to Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide⁶.
23. Installations for the capture of CO₂ streams for the purposes of geological storage pursuant to Directive 2009/31/EC from installations covered by this Annex, or where the total yearly capture of CO₂ is 1,5 megatonnes or more.
24. Any change to or extension of projects listed in this Annex where such a change or extension in itself meets the thresholds, if any, set out in this Annex.

⁶ OJ L 140, 5.6.2009, p. 114.

Annex 4 – Annex II of the EIA Directive 92/2011/EC

PROJECTS SUBJECT TO ARTICLE 4 (1)

1. AGRICULTURE, SILVICULTURE AND AQUACULTURE
 - (a) Projects for the restructuring of rural land holdings;
 - (b) Projects for the use of uncultivated land or semi-natural areas for intensive agricultural purposes;
 - (c) Water management projects for agriculture, including irrigation and land drainage projects;
 - (d) Initial afforestation and deforestation for the purposes of conversion to another type of land use;
 - (e) Intensive livestock installations (projects not included in Annex I);
 - (f) Intensive fish farming;
 - (g) Reclamation of land from the sea.

2. EXTRACTIVE INDUSTRY
 - (a) Quarries, open-cast mining and peat extraction (projects not included in Annex I);
 - (b) Underground mining;
 - (c) Extraction of minerals by marine or fluvial dredging;
 - (d) Deep drillings, in particular:
 - (i) geothermal drilling;
 - (ii) drilling for the storage of nuclear waste material;
 - (iii) drilling for water supplies;with the exception of drillings for investigating the stability of the soil;
 - (e) Surface industrial installations for the extraction of coal, petroleum, natural gas and ores, as well as bituminous shale.

3. ENERGY INDUSTRY
 - (a) Industrial installations for the production of electricity, steam and hot water (projects not included in Annex I);
 - (b) Industrial installations for carrying gas, steam and hot water; transmission of electrical energy by overhead cables (projects not included in Annex I);
 - (c) Surface storage of natural gas;
 - (d) Underground storage of combustible gases;
 - (e) Surface storage of fossil fuels;
 - (f) Industrial briquetting of coal and lignite;
 - (g) Installations for the processing and storage of radioactive waste (unless included in Annex I);
 - (h) Installations for hydroelectric energy production;
 - (i) Installations for the harnessing of wind power for energy production (wind farms);
 - (j) Installations for the capture of CO₂ streams for the purposes of geological storage pursuant to Directive 2009/31/EC from installations not covered by Annex I to this Directive.

4. PRODUCTION AND PROCESSING OF METALS
 - (a) Installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting;
 - (b) Installations for the processing of ferrous metals:
 - (i) hot-rolling mills;
 - (ii) smitheries with hammers;
 - (iii) application of protective fused metal coats;
 - (c) Ferrous metal foundries;
 - (d) Installations for the smelting, including the alloyage of non-ferrous metals, excluding precious metals, including recovered products (refining, foundry casting, etc.);
 - (e) Installations for surface treatment of metals and plastic materials using an electrolytic or chemical process;
 - (f) Manufacture and assembly of motor vehicles and manufacture of motor-vehicle engines;
 - (g) Shipyards;
 - (h) Installations for the construction and repair of aircraft;
 - (i) Manufacture of railway equipment;
 - (j) Swaging by explosives;

- (k) Installations for the roasting and sintering of metallic ores.
- 5. MINERAL INDUSTRY
 - (a) Coke ovens (dry coal distillation);
 - (b) Installations for the manufacture of cement;
 - (c) Installations for the production of asbestos and the manufacture of asbestos products (projects not included in Annex I);
 - (d) Installations for the manufacture of glass including glass fibre;
 - (e) Installations for smelting mineral substances including the production of mineral fibres;
 - (f) Manufacture of ceramic products by burning, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain.
- 6. CHEMICAL INDUSTRY (PROJECTS NOT INCLUDED IN ANNEX I)
 - (a) Treatment of intermediate products and production of chemicals;
 - (b) Production of pesticides and pharmaceutical products, paint and varnishes, elastomers and peroxides;
 - (c) Storage facilities for petroleum, petrochemical and chemical products.
- 7. FOOD INDUSTRY
 - (a) Manufacture of vegetable and animal oils and fats;
 - (b) Packing and canning of animal and vegetable products;
 - (c) Manufacture of dairy products;
 - (d) Brewing and malting;
 - (e) Confectionery and syrup manufacture;
 - (f) Installations for the slaughter of animals;
 - (g) Industrial starch manufacturing installations;
 - (h) Fish-meal and fish-oil factories;
 - (i) Sugar factories.
- 8. TEXTILE, LEATHER, WOOD AND PAPER INDUSTRIES
 - (a) Industrial plants for the production of paper and board (projects not included in Annex I);
 - (b) Plants for the pre-treatment (operations such as washing, bleaching, mercerisation) or dyeing of fibres or textiles;
 - (c) Plants for the tanning of hides and skins;
 - (d) Cellulose-processing and production installations.
- 9. RUBBER INDUSTRY
 - Manufacture and treatment of elastomer-based products.
- 10. INFRASTRUCTURE PROJECTS
 - (a) Industrial estate development projects;
 - (b) Urban development projects, including the construction of shopping centres and car parks;
 - (c) Construction of railways and intermodal transshipment facilities, and of intermodal terminals (projects not included in Annex I);
 - (d) Construction of airfields (projects not included in Annex I);
 - (e) Construction of roads, harbours and port installations, including fishing harbours (projects not included in Annex I);
 - (f) Inland-waterway construction not included in Annex I, canalisation and flood-relief works;
 - (g) Dams and other installations designed to hold water or store it on a long-term basis (projects not included in Annex I);
 - (h) Tramways, elevated and underground railways, suspended lines or similar lines of a particular type, used exclusively or mainly for passenger transport;
 - (i) Oil and gas pipeline installations and pipelines for the transport of CO₂ streams for the purposes of geological storage (projects not included in Annex I);
 - (j) Installations of long-distance aqueducts;
 - (k) Coastal work to combat erosion and maritime works capable of altering the coast through the construction, for example, of dykes, moles, jetties and other sea defence works, excluding the maintenance and reconstruction of such works;
 - (l) Groundwater abstraction and artificial groundwater recharge schemes not included in Annex I;
 - (m) Works for the transfer of water resources between river basins not included in Annex I.

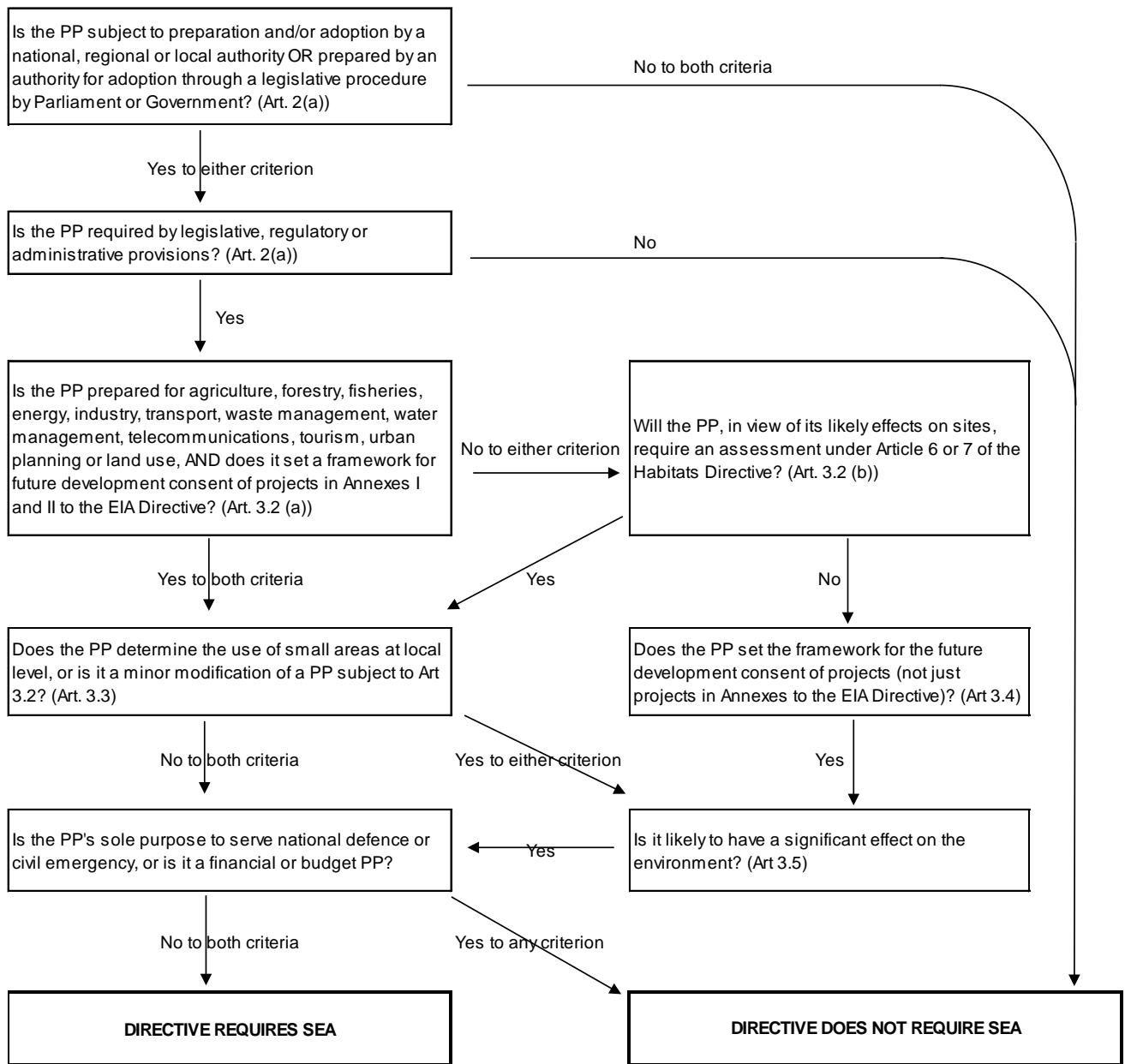
11. OTHER PROJECTS

- (a) Permanent racing and test tracks for motorised vehicles;
- (b) Installations for the disposal of waste (projects not included in Annex I);
- (c) Waste-water treatment plants (projects not included in Annex I);
- (d) Sludge-deposition sites;
- (e) Storage of scrap iron, including scrap vehicles;
- (f) Test benches for engines, turbines or reactors;
- (g) Installations for the manufacture of artificial mineral fibres;
- (h) Installations for the recovery or destruction of explosive substances;
- (i) Knackers' yards.

12. TOURISM AND LEISURE

- (a) Ski runs, ski lifts and cable cars and associated developments;
- (b) Marinas;
- (c) Holiday villages and hotel complexes outside urban areas and associated developments;
- (d) Permanent campsites and caravan sites;
- (e) Theme parks.

Annex 5 – Criteria for Application of the SEA Directive to Plans and Programmes



Annex 6 – Stakeholder Engagement Plan

Suggested Table of Contents

1.0 Introduction

- 1.1 Project Description
- 1.2 Public Consultation and Project Design, Construction and Operations
- 1.3 Project Purpose and Objectives
- 1.4 Total Project Cost and Associated Financiers and Lenders

2.0 Public Consultation Regulations and Requirements

- 2.1 Local Regulations and Requirements
- 2.2 International Best Practice

3.0 Previous Public Consultation and Disclosure Activities

- Summarize all public consultation and information disclosure activities to date. This should include the types of information disseminated, the locations and dates of meetings, descriptions of those individuals/groups involved.
- An overview of issues discussed, how they were responded to and how they were communicated back to the concerned publics.

4.0 Stakeholders

- Provide an inventory of key stakeholder groups who will be informed and consulted about the project.
- Account for inter- and intra- social dynamics across all stakeholders, identifying under-represented and vulnerable groups.

5.0 Stakeholder Engagement Plan

- 5.1 Goals of the Plan
- 5.2 Methods for Information Dissemination and Public Consultation
- 5.3 Information Disclosure and Public Consultation
 - 5.3.1 Issues Scoping
 - 5.3.2 ESIA Review
 - 5.3.3 Construction and Operations

6.0 Schedule and Timetable

- Provide a schedule detailing when public consultation and information disclosure will occur, with which stakeholder groups, at what stages of the project's process/project cycle, and through what formats.

7.0 Resources and Responsibilities

- Indicate budgets allocated to the realisation of all activities foreseen in the Plan
- Indicate management and expert staff devoted to, and responsible for, the public consultation and disclosure programme.

8.0 Grievance Mechanism

- Describe how the operation- affected people can bring their concerns to the project authority and how they will be considered and addressed.

9.0 Monitoring and Reporting

- Identify where and when the results of public consultation and information disclosure will be reported. This should include at a minimum reporting on the results of consultations at the draft ESIA stage and annual monitoring reports.

Annex 7 – Mitigation Hierarchy¹

LEVEL 1: AVOID

Principles

- The first priority for application of mitigation measures is to avoid impacts on environmental values and associated components occurring within the footprint and area of influence – before considering “minimise”, “restore on-site”, and/or “offset”.
- Mitigation measures to “avoid” impacts are particularly important for higher priority environmental values and associated components.
- Avoidance may be a required measure for environmental values and associated components in some circumstances, including where legal requirements to avoid impacts have been established.

Considerations

- To what degree or extent can the impacts of the proposed project be avoided?
- Can the impacts on the environmental values and associated components be fully avoided (“avoid”) or only partially avoided (“minimised”)?

Procedures: Ways to Avoid Impacts

Determine the specific procedures to avoid impacts from the list of categories below when planning a project or activity:

1. Location,
2. Means,
3. Timing, and,
4. Not proceeding with the proposed project.

Location: Altering or adjusting the location of a project or activity to fully avoid impacts on one or more environmental values and associated components.

Considerations:

- Is there an alternative location for the proposed project or activity?
- Is it practicable to relocate?

Means: Avoiding impacts on environmental values and associated components within the footprint and area of influence of a project through application of alternative project methodologies (including tools, techniques, actions, or measures).

Considerations:

- Can alternative development approaches or alternative technology be used to avoid impacts on environmental values and associated components?
- Can the promoter collaborate with another developer in the same area to reduce the project footprint?
- Can the promoter use existing roads or other infrastructure to avoid impacts on environmental values and associated components?
- Will a measure to fully avoid impacts on one environmental value or associated component impact another one?

Timing: Avoiding impacts on environmental values and associated components on the footprint and area of influence of a project or activity through application of alternative timing of the project or specific elements of the project.

Considerations:

- Can project-related activities (e.g., construction) be rescheduled to fully avoid impacts on the environmental values and associated components in the footprint and area of influence of a project or activity?

¹ Adapted from Draft Policy for Mitigating Impacts on Environmental Values, Ministry of Environment, British Columbia

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- Can short-term timing measures be used, e.g., to avoid sensitive periods within a season, or within a diurnal period through use of instream work windows?
- Can the frequency of activity be modified to allow for hydrologic recovery in a watershed?

Not proceeding with the proposed project: Fully avoiding impacts on environmental values and associated components on the site of a project by not proceeding with the proposed project as proposed.

Considerations:

Avoiding impacts on environmental values and associated components by not proceeding with the proposed project should be considered when the answer to any of these questions is yes:

- Is the environmental value rare, and the reversibility of the impact and/or replaceability of the value, unlikely?

Rationale for Moving from Avoid to “Minimise” and/or “Restore On-Site”

Document the reasons for the need to move from “avoid” to “minimise” and/or “restore on-site”, including addressing the following questions:

- How were measures to avoid impacts on environmental values and associated components considered?
- Why was it deemed not practicable to avoid impacts on environmental values and associated components?
- What impacts on environmental values and associated components in the footprint and area of influence could not be avoided? Identify these.
- What unavoidable impacts will need to be considered under:
 - Minimise; and/or,
 - Restore on the site of the impacts (i.e., within the footprint/permit area)?

LEVEL 2: MINIMISE

Principles

“Minimise” may be appropriate after all measures to fully avoid impacts on environmental values and associated components have been duly considered.

Considerations

Measures to minimise should consider the scope, scale, and duration of the impacts on environmental values and associated components within the footprint and area of influence.

- Although avoid and minimise are two distinct steps within the mitigation hierarchy, they are often considered at the same time. See the first three considerations outlined above for avoid (i.e., for location, means, and timing). These same considerations generally apply when considering ways to minimise, i.e., partially avoid impacts.
- Guidance may be available in the form of land-use plans and other higher-level plans, park plans, strategic restoration plans, or best management practices. These documents may help to establish whether restoration is suitable, and may provide guidance for establishing restoration objectives for the site.

Procedures: Ways to Minimise Impacts

Can the impacts of the proposed project or activity only be partially avoided (i.e. minimised)?

The considerations and mechanisms for minimising are very similar to those for avoiding impacts. See above, under “Avoid” for descriptions the three main categories of measures to minimise, i.e.:

1. Location,
2. Means, and
3. Timing.

LEVEL 3: RESTORE ON-SITE

“Restoration” is treated as a separate level or step in the mitigation hierarchy. Compared with “minimising” impacts, measures to “restore on-site” differ largely in timing, in that restoration activities may be implemented or completed at a future date. While planning for restoration, and implementing

some restoration measures, may begin at the present time, the impacts on environmental values and associated components will persist until the restoration is completed.

Restoration focuses on establishing appropriate composition, structure, pattern, and ecological processes necessary to make terrestrial and aquatic ecosystems sustainable, resilient, and healthy under current and future conditions.² In simpler terms, restoration attempts to make up for what was lost as a result of impacts on ecological systems.

“Restoration” is considered broadly here, as encompassing a continuum of degrees or stages of restoration, covering the various terms in different statutes and other legal mechanisms, e.g., “restoration”, “rehabilitation”, “remediation”, and “reclamation”. Measures to remedy impacts on environmental values and associated components range from measures that immediately stabilise the site of the impacts, to measures that bring a site back to full ecosystem structure and function as existed prior to the project or activity, or historically. Restoration measures are carried out within the footprint of the project or activity, specifically within the area of the permit or other form of authorisation.³

Principles

- An ecosystem is considered “restored” when it contains adequate biotic and abiotic resources to continue to develop without further assistance, sustaining itself structurally and functionally. The ecosystem is resilient to environmental stress and disturbance, and its biotic and abiotic elements interact and flow with contiguous ecosystems. The many features of restored ecosystems are context-dependent.
- Restoration can be conducted at a wide variety of scales; however, it should be approached from a landscape perspective to ensure the suitability of flows, interactions and exchanges with contiguous ecosystems.
- Restoration measures must be well-planned and implemented, and then monitored for effectiveness, using a scientific approach.
- Monitoring and evaluation are integral to keeping a restoration project in check and assessing whether it is achieving what it set out to do. Properly-planned restoration projects attempt to fulfil clearly stated goals that reflect important attributes of the restored ecosystems.
- Costs of planning, implementing, and monitoring the restoration measures are the responsibility of the proponent.

Considerations

- Although it is best to replace what was taken away as a result of disturbance, this is not always possible or practicable.
- Restoration targets represent the point of advancement along the ecological trajectory intended for restoration. It is anticipated that the restored ecosystem will emulate the attributes of the desired benchmark or policy or management target, which drives restoration goals and planning.
- It is usually much more expensive to restore environmental values than it would be to conserve them (by avoidance) or by minimising impacts. Where restoration will be needed and appropriate, thought should be given early in the project design and planning process to determine what will be needed to achieve restoration objectives.
- Guidance may be available in the form of land-use plans and other higher-level plans, park plans, strategic restoration plans, or best management practices. These documents may help to establish whether restoration is suitable, and may provide guidance for establishing restoration objectives for the site.
- More specific considerations include the following questions:
 - Are transformer (or ecosystem engineer) species involved?
 - How can restoration replace the pre-existing biomass at the site?
 - How can restoration bring back the site productivity?
 - Ecological resources adjacent to the damaged site may contribute to effective restoration. Restoration work that is well-planned in advance of work on the project or activity can facilitate this.
 - What are the temporal considerations that will affect restoration?

² US Forest Service 2010

³ Restoration measures implemented *off-site* may be used as environmental offsets, for example, at a location, where another, previously-conducted project or activity has impacted a component associated with an environmental value.

- Recovery of habitat for some species (e.g., species suited to conditions) may take decades to centuries to achieve. In these situations, it is particularly important to consider the temporal effects of climate change, invasive non-native species, and altered successional pathways that may have resulted from past management (e.g., grazing, fire exclusion, timber harvest, and road access).
- Is restoration to a pre-existing or historic condition possible? Consider the technical feasibility given the impacts of invasive species, changing climate, etc.

Procedures

Restoration success can be evaluated using the nine attributes of restored ecosystems listed below. Each attribute should demonstrate the appropriate trajectory of ecosystem development towards the restoration goal(s) or restoration target as identified in the specific plan, but does not need to be fully expressed. Restoration takes time, and not all attributes can be measured readily, while most ecosystem functions can only be measured indirectly.

- **Assemblage of species:** The ecosystem contains a characteristic representation of species and the degree of community structure that occurs in the restoration target;
- **Indigenous species:** The ecosystem contains native species to the greatest practicable extent;
- **Functional groups:** The ecosystem contains the functional groups necessary for the continued development and/or stability of the system. This can include the potential for functional groups to colonise naturally;
- **Sustainable populations:** The ecosystem is capable of sustaining reproducing populations of the species necessary for its continued development and/or stability along the desired trajectory;
- **Function:** The ecosystem functions normally for its stage of development and signs of dysfunction are no longer present;
- **Integration:** The ecosystem is integrated into the larger ecological landscape, interacting through biotic and abiotic flows and exchanges;
- **Ecological Integrity:** Threats to the ecosystem's health and integrity have been eliminated or reduced as much as possible;
- **Resiliency:** The ecosystem is sufficiently resilient. The system can endure appropriate levels of stress in the local environment and maintain health and integrity;
- **Self-sustaining:** The ecosystem is self-sustaining, and can persist indefinitely under existing environmental conditions, similar to the restoration target. This does not negate the fact that ecosystems are dynamic: species composition, structure, and function evolve, and periods of environmental stress and disturbance occur naturally. Restoration focuses on re-establishing the successional trajectory that will sustain the ecosystem into the future.

Additional attributes can be added based on specific restoration goals. For example: where appropriate, restored ecosystems will support local social and economic interactions. Most importantly, restoration can be evaluated based on the success of creating ecosystems that provide the appropriate structures and functions that will ensure sustainability.

Rationale for Moving to “Offset”

Following consideration of “minimise” and “restore on-site”, document the reasons for the need to move to offsetting, including addressing the following questions:

- Have the impacts on environmental values and associated components at all scale levels (spatial and temporal) been considered?
- How were measures to “minimise” impacts on environmental values and associated components, or to “restore on-site” the impacted environmental values and associated components, considered?
- Why was it deemed not practicable to minimise all impacts on environmental values and associated components, or to fully restore environmental values and associated components on the site of the impacts?
- What are the residual impacts on environmental values and associated components on the footprint and area of influence? (Identify and describe these.)

LEVEL 4: OFFSETS – GENERAL

Offsetting is the last step in mitigation, to be taken only after measures to avoid and minimise impacts, and/or restore on-site the environmental values and associated components, have been duly considered.

VOLUME II: EIB ENVIRONMENTAL AND SOCIAL PRACTICES AND PROCEDURES

Offsetting is the responsibility of the person whose project or activity impacts environmental values and associated components. The principles and considerations were developed to address the general questions below in thinking about offsetting impacts on environmental values and associated components:

- What are offsets, generally?
- How much offsetting is appropriate or needed?
- Which offset measures – which conservation mechanisms – will achieve the best outcomes in making up for environmental values and associated components that have been impacted?
Conservation mechanisms are:
 - Restoration (in the broad sense) implemented off-site (or potentially through additional measures on-site);
 - Land securement, e.g., land acquisition, land lease, and conservation covenants; and
 - Other types of conservation mechanisms
 - Who will implement the offset measures, and where?

What are Offsets?

Principles (General)

- “Offset” may be appropriate after all measures to fully avoid, minimise and restore on-site have been duly considered and where residual impacts remain;
- Offsets deliver tangible, measurable, on-the-ground conservation outcomes for environmental values and associated components;
- Offsetting measures will be designed to obtain the best result for environmental values and associated components in the shortest timeframe practicable, considering the effort and resources expended;
- Offsets will deliver conservation outcomes that are additional to what otherwise would be achieved through existing natural resource management programs or activities;
- Offsets need to be legally secured for the duration of the offset commitment;
- All offsetting-related costs are the responsibility of the promoter whose project or activity results in the impact on the environmental values and associated components; and,
- For large projects or offset funds with multiple contributors, a governance structure is needed to oversee strategic delivery of offsets over time to achieve the best conservation outcomes.

Considerations (General)

Selection of offsetting measures should first consider like-for-like and on-site or in-proximity offsetting. Implementation of offsets should minimise the time-lag between the occurrence of the impact on the environmental values and associated components and the delivery of the offset measures.

How Much Offset?

Principles (Offset Amount)

- Determining the ecological equivalency (i.e., between the environmental values and associated components that will be impacted and the offset that would make up for the impact) is the basis for deciding on the type and amount of offsetting needed;
- Ecological equivalency must be evaluated within one environmental value and its associated environmental associated components;
- The offset should address the nature and extent of the residual impact(s) remaining after “minimise” and “restore on-site”;
- The offsetting needed to mitigate residual impacts will increase in accordance with either the degree of uncertainty of the effectiveness of the offset measures, the risk to the environmental value or both; and,
- The amount of funds for offsetting will include the full costs of implementation for the duration of the offset.

Considerations (Offset Amount)

- Considerations for ecological equivalency and amount of offsetting:
 - The environmental values and associated components that will be impacted;
 - The nature and extent of the impacts (scope, scale, and duration) and the associated residual impacts;
 - How the proposed offset will be equivalent to the impacted environmental values and associated components (using the same measurement unit); and,

- Uncertainty and risk associated with the offsetting measures taken. For example, as the uncertainty of the effectiveness of the offsetting measure(s), or the time over which they are delivered, increases, additional degrees or levels of offsetting measures needs to be implemented to buffer against these uncertainties.

Which Offset Measures (Conservation Mechanisms) Will Deliver the Best Outcomes?

Principles (Best Outcomes)

Offset measures that will deliver the best outcomes will be determined based on an assessment of feasibility of recovery or protection of the impacted environmental values and associated components; uncertainty of implementation of the offset measures; and methodological uncertainty for different actions and their potential positive contribution to the environmental value.

Considerations (Best Outcomes)

Like-for-like:

- A like-for-like offset is an action that improves outcomes within the same environmental component as the one that is impacted;
- In the case of habitat or ecosystems, the offset will result in structure and function as close to the impacted habitat or ecosystem as possible; and,
- Any deviations from like-for-like should outline the associated assumptions and describe uncertainties.

On-site or off-site:

- Locating offsets on areas with similar ecological capability will aid in attaining longer-term equivalency for a functioning ecosystem. In some instances, current suitability will be low. However, over the longer term, those sites provide the best opportunity to provide a similar function.
- Ensure that the offset location contributes to a functioning ecosystem, providing similar ecosystem goods and services as the soon to be impacted site at both the site level and within the landscape context.
- When determining the location where the conservation offset measures will be applied, consider the potential impacts of the offset on other environmental values located at the potential offset site.

General considerations:

In determining which specific offsetting measures to use, consider the following:

- The expected environmental effectiveness of the offsetting measure(s);
- The cost-effectiveness of the offsetting measure(s);
- The likelihood of the offsetting measures being successfully implemented; and,
- Other social and political factors, including potential jurisdictional issues, local communities and indigenous groups concerns, lack of public support or stakeholder conflicts.

Who Will Implement the Offset Measures?

Principles

Depending on the circumstance, the promoter or another party may actually implement the offsetting measures. In all cases, the promoter is responsible for all costs of offsetting. Promoters whose project impacts environmental values or associated components may implement offset measures themselves.

Considerations

In determining whether the promoter will carry out the offsetting or provide an in-lieu payment, consideration should be given to whether the party responsible for offsetting will have:

- The capability to see the offsetting measures through to the “end”, the point at which conservation outcomes expected for which the offset was intended will be achieved; and,
- The ability to fund effective management and monitoring of the footprint and area of influence for the duration of the offset, and monitoring to determine effectiveness of the offsetting measures.

In situations when a party other than the promoter will actually physically carry out the offsetting measures:

- The promoter will provide an in-lieu payment in accordance with the planning regulation (e.g. UK, Germany); and

- The 3rd party will apply the offsetting funds to carry out offsetting measures through conservation mechanisms implemented (e.g. Germany):
 - on-site (within the footprint and area of influence of the impacts on environmental values and associated components); and/or off-site (at a location other than the footprint and area of influence of the impacted environmental values and associated components).

Land Securement

Land securement may be considered as offsetting measures to make up for impacts on environmental values and associated components by providing substitute areas of land (e.g., wildlife habitat).

Land securement may be achieved by various means, e.g.:

- Land acquisition: Lands may be acquired (e.g., by purchase, exchange, or donation) to the extent necessary to offset impacts on environmental values and associated components resulting from project.
- Land Lease: Lands may be leased to the extent necessary to offset impacts on environmental values and associated components resulting from a project.
- Rezoning and transfer of development rights.

Principles

- The purpose of land securement is to secure capable and/or suitable habitat for the environmental values and associated components that would otherwise be threatened by activities outside the footprint of the proposed project;
- The amount of land to be acquired for an environmental offset should be commensurate with the impact of the proposed project and its residual impacts on environmental values and associated components;
- Consultation with Indigenous Groups and with local communities and conservation groups is required where acquisitions involve a land exchange which will result in government land being transferred to private ownership (this is specifically for projects outside of the EU);
- Determine who (promoter, national agency) is responsible for the costs and payments, including for administration and on-going maintenance, and monitoring to ensure effectiveness of the offset;
- Land will not be expropriated for use as an environmental offset;

Considerations

- Partnerships may be useful to increase the conservation benefit of the land securement, but do not negate the promoter's responsibility for offsetting costs;
- Consultation with local communities and Indigenous groups may lead to other assessment requirements such as traditional use studies or archaeological assessments;
- Properties should be independently valued by accredited appraisers. This may require timber valuation, for example, as well as land appraisals;
- Technical requirements to meet legal agreements may include environmental site assessments, archaeological assessments.

Procedures

- Determine the land securement budget based on ecological equivalency and valuation methodology for the residual impact. Document all assumptions and uncertainty related to methodology used.
- Identify potential lands and partners that may contribute to an improved conservation outcome.
- Determine if land surveys are required (e.g., when subdivision of a property is required, if boundaries are not well enough defined, if easements or right of ways are involved, or any trespass needs to be resolved).
- Complete all required assessments on lands identified for securement.
- Complete technical assessments as required.
- Determine whether or not there are consultations requirements with local communities and Indigenous groups or accommodation requirements and complete those requirements.
- Determine if there are other stakeholder interests in the lands proposed for securement and complete consultation requirements if appropriate.
- Complete legal transactions.

Conservation Covenants

The use of a conservation covenant is less desirable as it does not fully address offsetting and is difficult to enforce, e.g., when situations such as sale of the land arise. There are other legal tools to apply on private land.

Considerations

- Lands for conservation covenants need to include higher-value areas (e.g., wetlands, riparian, or other features) of ecological significance.
- The land placed into a conservation covenant will be deemed as part of the offsetting to meet the needed level (amount) of mitigation.
- As with all offsets, all of the legal, maintenance, or other costs incurred are the responsibility of the proponent.
- Where possible, management responsibility for conservation covenants should be assigned to a conservation organisation.

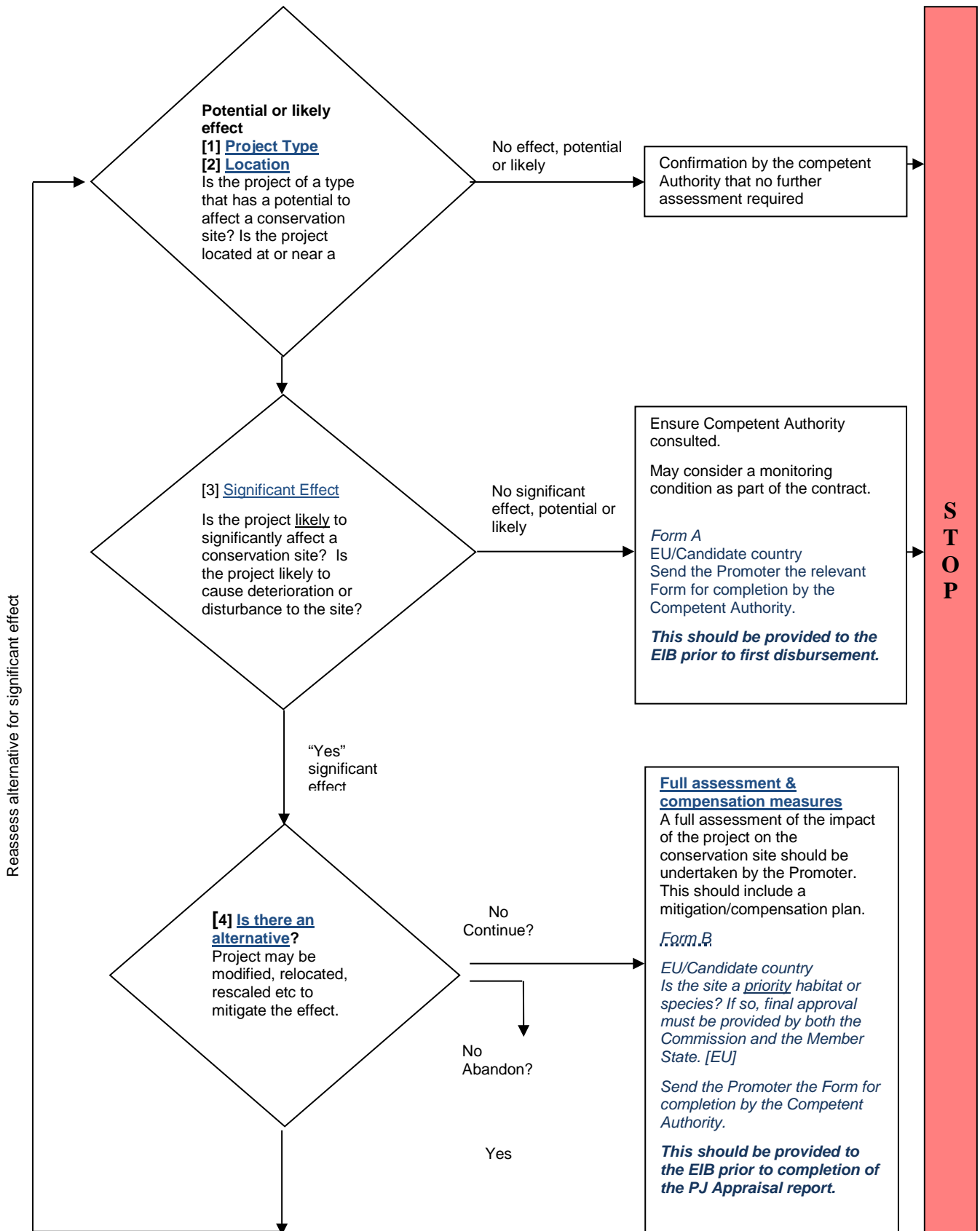
Procedures

- The promoter needs to determine the level of contribution of the conservation covenant to the offsetting target. This needs to be acceptable to the competent authorities.
- Where a covenant is proposed, the proponent should obtain conservation organisation participation.
- The promoter should obtain an agreement-in-principle with the partner conservation organisation.
- The parties will sign-off on the contract.
- A performance bond may be necessary.
- Signing and fencing may be required as deemed appropriate.
- Encroachments on land covenants are to be dealt with immediately by the promoter
- Maintenance of the land under conservation covenant is the responsibility of the landowner (e.g., fence repair).
- Covenants should allow for the competent authority and 3rd-party entry onto land for monitoring and other activities relevant to the use and effectiveness of the covenant as an environmental offset.

Annex 8 – Step-by-Step Guide for the Biodiversity Assessment

The general approach to biodiversity assessment in the EU has been developed by DG ENV for the EIB and is outlined in the flowchart. Key steps are indicated (shaded) as well as additional requirements for projects in the EU (*italics*). Links to the Environmental Summary (D1) are highlighted in underlined text. The PJ assessment should be modulated. Most projects will require little additional work. Only where the effect of the project is likely to be significant is additional input necessary.

Biodiversity Assessment - Overview



Annex 9 – Declaration Forms for Sites of Natural Conservation (Forms A and B)

If a project will potentially have significant negative impacts on sites included or intended to be included in the Natura 2000 Network then the promoter is required to attach a copy of Form B or equivalent, duly signed by the Competent Authority responsible for monitoring Natura 2000 sites, including information on projects significantly affecting Natura 2000 sites as notified to the Commission (DG ENV) under Directive 92/43/EEC.

If the project will not potentially have significant negative effects on sites included or intended to be included in the Natura 2000 Network, then the promoter is required to attach a copy of Form A part I of an appropriate assessment required by Article 6(3) was not deemed necessary or Form A part II or equivalent, if an appropriate assessment under Article 6(3) was carried out and duly signed by the Competent Authority responsible for monitoring Natura 2000 sites.

PART I

Form A – No Appropriate Assessment required by Article 6(3) was required

DECLARATION BY THE AUTHORITY RESPONSIBLE FOR MONITORING SITES OF NATURE CONSERVATION IMPORTANCE¹

Responsible Authority:.....

Having examined the project application²

Which is located at:.....

Declares that the project is not likely to have significant effect on a NATURA 2000 site on the following grounds:

Therefore an appropriate assessment required by Article 6(3) was not deemed necessary.

A map at scale of 1:100.000 (or nearest possible scale) is attached, indicating the location of the project as well as the NATURA 2000 sites concerned, if any.

Date (dd/mm/yyyy):.....

Signed:.....

Name:.....

Position:.....

Organisation:.....
(Authority responsible for monitoring NATURA 2000 sites)

Official Seal:

¹ This includes sites protected as part of the Natura 2000 network (including Special Areas of Conservation and Special Protection Areas), potential Natura 2000 sites, Ramsar sites, International Bird Areas, sites of the Emerald Network, or others as relevant.

² Taking into account the requirements of Art. 6(3) of Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.

PART II

Form A – Assessment of Effects on NATURA 2000 - No risk of significant effect

DECLARATION BY THE AUTHORITY RESPONSIBLE FOR MONITORING SITES OF NATURE CONSERVATION IMPORTANCE¹

Responsible Authority.....

Having examined² the project application

which is to be located at

we declare that following an appropriate assessment required by Article 6(3) of Directive 92/43/EEC, the project will not have significant effects on a site of nature conservation importance¹.

Please provide a summary of the conclusions of the appropriate assessment carried out according to Article 6(3) of Directive 94/43/EEC:

Please provide a summary of the mitigation measures required for the project:

A map at scale of 1.100.000 (or the nearest possible scale) is attached, indicating the location of the project as well as the site of nature conservations importance.

Signed:

Name and Position:

Organisation (Authority responsible for monitoring NATURA 2000 sites)

Official Seal:

¹ This includes sites protected as part of the Natura 2000 network (including Special Areas of Conservation and Special Protection Areas), potential Natura 2000 sites, Ramsar sites, International Bird Areas, sites of the Emerald Network, or others as relevant.

² Taking into account the requirements of Art. 6(3) of Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.

Form B - Risk of significant effect

INFORMATION FROM THE AUTHORITY RESPONSIBLE FOR MONITORING SITES OF NATURE CONSERVATION IMPORTANCE¹

Responsible Authority.....

Having examined² the project application

(title).....

which is to be located at

provides the following information to be sent to the European Commission for (tick the appropriate box):

information (Art. 6(4).1)

opinion (Art. 6(4).2)

Country:

Competent national Authority:

Address:

Contact person:

Tel., fax, e-mail:

Date:

¹ This includes sites protected as part of the Natura 2000 network (including Special Areas of Conservation and Special Protection Areas), potential Natura 2000 sites, Ramsar sites, International Bird Areas, sites of the Emerald Network, or others as relevant.

² Taking into account the requirements of Art. 6(4) of Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.

1. PROJECT

Name of the plan/project:

Promoted by:

Summary of the plan or project having an effect on the site:

Description and location of the elements and actions of the project having potential impacts and identification of the areas affected (include maps):

Name of the site affected:

This site is (please tick):

a site identified by the national Competent Authority as qualifying under Art. 4(1) and (2) of the Birds directive (79/409/EEC) (Special Protection Area equivalent to Natura 2000)

a site identified by the national Competent Authority as qualifying under Art. 4 (1) of the Habitats directive (92/43/EEC) (Special Area of Conservation equivalent to Natura 2000)

For European Union Member States only, does the site concern a priority habitat or species?

yes no

a site listed in the latest inventory on Important Bird Areas (IBA 2000) or (if available) in an equivalent more detailed scientific inventories endorsed by national Authorities

a wetland of international importance designated under the Ramsar Convention or qualifying for such protection

a site to which the Bern convention on the conservation of European Wildlife and Natural Habitats (Art. 4) applies, in particular a site meeting the criteria of the Emerald network

are areas protected under national nature conservation legislation

Summary of the project having an effect on the site :

2. ASSESSMENT OF NEGATIVE EFFECTS³

Name and code of Natura 2000 site(s) affected:

Please tick as appropriate

- a **SPA** under the Birds Directive
- A **SCI/SAC** under the Habitats Directive
- Hosting** a **priority** habitat/species
- Priority** habitats/species are **affected**
- A wetland of international importance designated under the **Ramsar Convention** or qualifying for such protection
- A site listed in the latest inventory on **Important Bird Areas** (IBA 2000) or (if available) in an equivalent more detailed scientific inventory endorsed by national authorities
- A site to which **the Bern Convention** on the conservation of European Wildlife and Natural Habitats (Art.4), in particular a site meeting the criteria of the **Emerald Network**
- Areas protected under national nature conservation legislation

Site's conservation objectives and key features contributing to the site integrity:

Habitats and species that will be adversely affected (e.g. indicate their representativity, if applicable their conservation status according to Art.17 on national and biogeographic level and degree of isolation, their roles and functions in the site concerned).

Importance of the site for the habitats and species that will be affected (e.g. explain the role of the site within the national and biogeographical region and in the coherence of the Natura 2000 network).

Description of adverse effects expected (loss, deterioration, disturbance, direct and indirect effects, etc.), extent of the effects (habitat surface and species numbers or areas of occurrence affected by the project), importance and magnitude (e.g. considering the affected area or population in relation to the total area and population in the site, and possibly in the country) and location (include maps).

Potential cumulative impacts and other impacts likely to arise as a result of the combined action of the plan or project under assessment and other plans or projects.

Mitigation measures included in the project (indicate how these will be implemented and how they will avoid or reduce negative impacts on the site).

³ NB: focus on the adverse effects expected on the habitats and species for which the site has been proposed for the Natura 2000 network. Include all the information that may be relevant in each case, depending on the impacts identified for the species and habitats affected.

3. ALTERNATIVE SOLUTIONS

Identification and description of possible alternative solution, including the zero option (indicate how they were identified, procedure, methods)

Evaluation of alternatives considered and justification of the alternative chosen (reasons why the competent national authorities have concluded that there is absence of alternative solutions)

4. IMPERATIVE REASONS OF OVERRIDING PUBLIC INTEREST

Reason to carry out this plan or project in spite of its negative effects:

- Imperative reasons of overriding public interest, including those of a social or economic nature (in the absence of priority habitat/species)
- human health
- public safety
- beneficial consequences of primary importance for the environment
- other imperative reasons of overriding public interest

Description and justification and why they are overriding⁴:

⁴ Different level of detail may be required depending on whether the notification is submitted for information or for opinion.

5. COMPENSATORY MEASURES⁵

Objectives, target features (habitats and species) and ecological processes/functions to be compensated (reasons, why these measures are suitable to compensate the negative effects)

Extent of the compensatory measures (surface areas, population numbers)

Identification and location of compensation areas (including maps)

Former status and conditions in the compensation areas (existing habitats and their status, type of land, existing land uses, etc.)

Expected results and explanation of how the proposed measures will compensate the adverse effects on the integrity of the site and will allow preserving the coherence of the Natura 2000 network.

Time schedule for the implementation of the compensatory measures (including long-term implementation), indicating when the expected results will be achieved.

Methods and techniques proposed for the implementation of the compensatory measures, evaluation of their feasibility and possible effectiveness.

Costs and financing of the proposed compensatory measures.

Responsibility for implementation of compensatory measures.

Monitoring of the compensatory measures, where envisaged (e.g. if there are uncertainties concerning the effectiveness of the measures), assessment of results and follow-up

⁵ Different level of detail may be required depending on whether the notification is submitted for information or for opinion.

Annex 10 – Proposed Questions for Promoters to Address Social Issues

1. Population Movements

- Is the proposed investment likely to involve any significant involuntary resettlement and/or significant migration in/out of the project area?
- Is significant land or other asset acquisition likely? If so, is compensation proposed and on what basis? Is it adequate to restore livelihoods?
- Has the promoter, where appropriate, prepared a Resettlement Action Plan and consulted with affected populations?
- Where appropriate, has the promoter developed action plans for managing especially the in-migration of official and casual or contract labour?

2. Vulnerable Groups, Minority Rights, Women

- Will the proposed investment have particular impacts on vulnerable groups (these include women, minorities resident in the area, and indigenous peoples)?
- What form are such impacts, if any, likely to take (e.g. restricted access to resources, discrimination against particular groups by default rather than design, exacerbation of relationships of inequality)?
- Is there an appeals procedure in place?
- Is there an action plan where impacts are obvious and direct?
- Has the promoter worked with local governments and civil society organizations where such issues exist?

3. Labour Standards

- Does the promoter have policies that respect adherence to the ILO's Core Labour Standards?
- What is the promoter's policy when it comes to labour recruitment and retention?

4. Occupational and Community Health and Safety

- Does the promoter have a policy in place for ensuring the health and safety of its workforce?
- Is HIV/Aids a significant issue in the project area, and if, so, what measures are in place that seek to address it?
- Does the promoter have an 'outreach' programme that seeks to promote the health and well-being of the communities likely to be significantly affected by the project (e.g. are their anti-pollution measures in operation, are there health initiatives to tackle communicable diseases, do surrounding communities have access to the health facilities provided to workers)?

5. Public Consultation and Participation

- Does the promoter have a policy and/or programme of action for engaging local communities and affected civil society organizations?
- Are there arrangements in place to ensure regular and comprehensive information flows between local communities and the promoter?
- Does the promoter subscribe to international voluntary reporting initiatives, such as the UN's Global Reporting Initiative²²⁵

²²⁵

Link to Global Reporting Initiative: <http://www.globalreporting.org/>.

Annex 11 – Environmental and Social Management Plan

While it is important to identify environmental issues (scoping), and then to analyse and quantify in detail (ESIA), this effort is of little value unless the management and mitigation measures are implemented on the ground through a well formulated Environmental and Social Management Plan (ESMP). An ESMP can follow a decision based on scoping or after a full ESIA.

The aims and objectives of the ESMP are:

- To provide a detailed action plan for the implementation of the recommendations made in the impact assessment report;
- To provide goals and targets for environmental control that are measurable and auditable;
- To provide a basis on which the prospective contractor can accurately price for environmental management in the tender document;
- To specify particular roles, responsibilities and time scales;
- To provide a basis for monitoring compliance; and
- To provide a site management tool.

A meaningful ESMP cannot be developed until the design and layout of the project have been finalised. The specified actions within the ESMP must relate to definite project activities and not concepts or vaguely stated alternatives. In other words, both the impact assessment and project stages must be aligned at the same level of detail. It is essential to include the signed off and approved SMP in the invitations to tender for construction, otherwise it is both difficult and expensive to get the contractor to implement any of the required environmental management measures retrospectively.

Checklist for an ESMP

General

Preamble setting out:

- The structure of the document
- Useful contacts
- A summary of applicable legislation and permits
- Table showing applicable quality standards, guidelines and limits of acceptable change
- Glossary of terms
- List of abbreviations
- Background information on the project and affected environment

Relevant environmental policy of the proponent and contractor

Specification of roles and responsibilities

Reporting structure (organogram) and frequency

A statement as to whether the ESMP forms part of a larger management system, e.g. ISO 14001

Layout

For each impact identified in the impact assessment report, the EMP must provide the following:

- A management objective
- The management action to achieve the objective
- The target, standard, guideline to be achieved
- The person responsible for carrying out the action
- The frequency of the action (if repeated) or the date for completion of the action.

Separate sections must be devoted to each stage of project execution:

- Construction
- Commissioning
- Operations
- Decommissioning
- Closure

Content

The ESMP should include:

- Code of conduct, induction and environmental awareness training programmes;
- Specified ESMP compliance auditing programme, including checklists;
- Specified programme for ESMP review and update;
- Document distribution and control methodology;
- Schedule of incentives and penalties that will be applied;
- Procedures to be followed for corrective actions, complaints and environmental incidents;
- Specific plans to control a range of environmental issues by area of activity ;
- Resettlement plan (if required);
- Compensation plan (if required);
- HIV/AIDS awareness and prevention plan;
- Health and safety awareness programme for the local community;
- Emergency procedures for a range of identified risks; and
- Public communication and disclosure plan.

Monitoring Programme

For each element to be monitored e.g. water quality, the ESMP should specify:

- What has to be monitored e.g. pH, SO₄, NO₃, PO₄, Fe, Mn, EC and suspended solids;
- Where the monitoring stations should be e.g. provide map and precise coordinates of all sampling points;
- Who is responsible for monitoring e.g. Environmental Control Officer or external consultancy;
- Monitoring frequency e.g. monthly.

The ESMP should provide monitoring/sampling protocols, chains of custody and the accredited laboratories that will be used for specific analyses.

The ESMP should include an outline of the monitoring report formats to be used.

Annex 12 – Residual Environmental Impact Assessment (D2)

Residual Impact Assessment

Project	0
Operation n°	0






AREAS OF IMPACT	MAIN IMPACTS / EMISSIONS	MITIGATION MEASURES	ACCEPTABILITY (of residual impacts)				COMMENTS / PROJECT RISKS
			I	II	III	IV	
Location							
Air			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Water			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Land			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Humans			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Flora, Fauna and Other Natural Assets			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Cultural Heritage			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Other			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Other			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Construction							
Air			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Water			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Land			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Humans			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Flora, Fauna and Other Natural Assets			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Cultural Heritage			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Other			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Other			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Operation							
Air			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Water			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Land			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Humans			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Flora, Fauna and Other Natural Assets			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Cultural Heritage			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Other			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Other			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Products							
Air			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Water			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Land			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Humans			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Flora, Fauna and Other Natural Assets			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Cultural Heritage			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Other			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Other			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Annex 13 – Social Impact Form (D3)

SOCIAL ASSESSMENT SUMMARY¹

Residual Impact Assessment

Project		
Operation n°	20080196	

Nr.	Area of impact	Acceptability	With Conditions	Comments on project risks
1	Population Movements - including resettlement and migration. (see SAGN 1)	<input type="checkbox"/> 		
2	Vulnerable Groups - including women, minorities and indigenous peoples. (see SAGN 2)	<input type="checkbox"/> 		
3	Compliance with ILO core labour standards and impacts on employment. (see SAGN 3)	<input type="checkbox"/> 		
4	Attention to occupational and community Health & Safety. (see SAGN 4)	<input type="checkbox"/> 		
5	Outreach - consultation & participation with shareholders and stakeholders. (see SAGN 5)	<input type="checkbox"/> 		

¹ This summary sheet should be completed with reference to the Social Assessment Standards, following discussions with the promoter (and others if necessary) about the 5 principal issues.

Annex 14 – GHG Footprint Assessment

GHG Footprint Assessment

Please consult the EIB Carbon Footprint Manual for guidance when completing the footprint calculation

Section 1

PROJECT INFORMATION

Project

Operation n°

20080196

Section 2

ABSOLUTE EMISSIONS

Description of source	Activity data	Units	Emission factor	Absolute Emissions kt CO2e/a
			Absolute Emissions	0

Section 3

BASELINE EMISSIONS

Description of source	Activity data	Units	Emission factor	Baseline Emissions kt CO2e/a
			Baseline Emissions	0
			Relative Emissions	0

Section 4

CALCULATION JUSTIFICATION

e.g. explanation of baseline choice, calculation inputs or reference to a more detailed calculation if necessary



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8 September 2021

Complaint no.:1065/2020/PB

Case title: How the European Investment Bank discloses environmental information in relation to projects that it finances directly

Comments on the preliminary findings of 8 June 2021

1. We would first like to express our sincere thanks and appreciation for the Ombudsman's handling of our complaint. The Ombudsman's preliminary findings are a good reflection of the concerted effort of the Ombudswoman, and her services, to find a workable and practicable solution.
2. We further note that we have not been formally invited to comment on the Ombudsman's preliminary findings. We understand that this may be because the EIB is meant to provide comments first, by the end of September. In line with this, we are not going to comment on any aspects that appear to first require a reply from the EIB. We will also not ask the Ombudsman to amend the preliminary findings, even if, as it is naturally the case on some points, we assess the situation differently. Nonetheless, we would like to provide a few comments on certain statements made in the preliminary findings as well as ask for certain clarifications. We hope that these comments can facilitate the finalization of this inquiry.
3. Unless otherwise indicated, all paragraph references below are to the preliminary findings on this complaint.

Requests for clarification & further information

4. Paragraph 21 states that the Ombudsman has, as part of its investigation, "*asked the EIB to provide a list of all the documents on which it had based the project summaries for a number of large projects with a significant impact on the environment.*" The Ombudsman further indicated that "*considerable amount of those documents and information was indeed published on websites of national public bodies or organisations.*" To better understand the Ombudsman's preliminary findings, it would be very useful to know which documents these were and where they were published.

5. In paragraph 23, the Ombudsman indicates that it will further follow-up with the EIB in relation to timely responses to access to information requests. If possible, it would be highly appreciated if we could be kept up-to-date about any steps taken by the Ombudsman in this regard. The complainant organizations do frequently request information from the EIB and it would greatly aid our work if the EIB would take additional steps to disclose information in a timely manner.

Comments

Comparison to disclosure practices of other International Financial Institutions (IFIs)

6. In paragraph 22, the Ombudsman states that comparisons between the disclosure practices of the EIB and those of other finance bodies “*may indeed be relevant*” but that it “*would need more factual information in order to assess these arguments*”. In the associated footnote (no. 21), the Ombudsman indicates that it is, separately from this inquiry, looking into “*whether and how this issue can be usefully examined, for example via an expert study.*”
7. In our complaint, we compare the practices of the EIB with those of the World Bank and those of the International Finance Corporation (IFC).¹ These comparisons were made to illustrate that the EIB’s practice of not disclosing any appraisal documents, nor summaries thereof (the ESDS), prior to the approval of a project by the Board of Directors amounts to maladministration.
8. The argument made in the complaint was that prior to the Board Approval, the IFC will for instance make the Summary of Investment Information (SII) and the Environmental and Social Review Summary (ESRS) “*publicly available no later than sixty days, in the case of Category A projects, and thirty days, in the case of all other projects, **prior** to consideration of the investment for approval by IFC’s Board of Directors (or other relevant internal authority)*” (emphasis added).² In practice, this means that the IFC will publish *inter alia*: a summary of its review findings and recommendations, the Environmental and Social Review Summary (ESRS), guidance on how and where information about the proposed project can be obtained locally; the Summary of Investment Information (SII), including among others information about the shareholders of the project or investee company, the projected date for a decision on the investment by the IFC’s Board of Directors, the expected development impact of the project or investment, the categorization of the project or investment for environmental and social purposes and the rationale for such categorization. Where applicable, the IFC will also disclose a summary of the process outlining how it determined “Broad Community Support” prior to consideration of the investment by the IFC’s Board of Directors. It will

¹ Complaint, paras 68-69.

² <https://disclosures.ifc.org/#/accessInfoPolicy> . A link to the full document can be found on the right of the webpage. The quoted passage can be found in para. 34.

also indicate where access to project information can be locally obtained well ahead of the decision on the project.

9. A similar comparison can be made with the European Bank for Reconstruction and Development (EBRD). The EBRD publishes Project Summary Documents (equivalent to the EIB's ESDS) at least 30 or 60 calendar days (for private and state projects respectively) before scheduled Board approval. In the case of a project subject to environmental assessment, the ESIA is also published by the EBRD at least 60 and 120 calendar days (for private and state projects respectively) before scheduled Board approval. The EBRD publishes ESIA's and other environmental and social documents for the purpose of public disclosure and consultation, irrespectively of its client's obligation to conduct public consultations.
10. The resulting difference is readily apparent when one considers the information on projects under appraisal that is contained in the project databases established by the EIB, EBRD and IFC respectively. For this purpose, we have included in Annex 1-3 a comparison of the information that each of these institutions make available in relation to the most recent projects' pending approval, as of 13 August 2021.
11. As shown in Annex 1, the EIB website includes a list of "projects to be financed".³ There is no possibility to filter this list based on projects that may have a significant effect on the environment, it is only possible to sort by "sector". This makes the identification of projects relevant to the environment more difficult. Moreover, there is no indication for any of the projects under appraisal when they will be presented to the Board of Directors for approval. When considering the 10 most recent projects as of 13 August 2021 based on a filter of some categories that may usually result in significant environmental effects, the information that the EIB itself considers environmental for any of them consist of three sentences (see copied text under Annex 1). These sentences moreover mostly state that it will need to be checked whether certain pieces of EU environmental law may apply; there is no information on any appraisal documents that the Bank holds, information received from the project promoter or any information about specific factors that play a role for these projects. For none of the 10 projects there are any attachments or further information. As a result, the information included is rather generic; they could be written by an expert of EU environmental legislation based on minimal information about the project and without undertaking any specific appraisal.

³ See: <
<https://www.eib.org/en/projects/pipelines/index.htm?q=&sortColumn=releaseDate&sortDir=desc&pageNumber=0&itemPerPage=25&pageable=true&language=EN&defaultLanguage=EN&yearFrom=2000&yearTo=2021&orCountries.region=true&orCountries=true&orSectors=true&orStatus=true>>.

12. The EBRD website has a list of Project Summary Documents that is comparable to the EIB's list of projects to be financed.⁴ There is equally only a possibility to filter by sectors, not based on the environmental risk category. However, when one considers the 10 most recent projects awaiting approval as of 13 August 2021 (see Annex 2), it is readily apparent that the EBRD provides significantly more information. For each project, the website indicates when approval is foreseen and the environmental risk category (on the top of the project site). The descriptions under the "Environmental and Social Summary" is a lot more elaborate, for both Category A and B projects. Moreover, for all Category A projects, the website provides the ESIA disclosure package, consisting out of the Environmental and Social Impact Assessment (ESIA); Non-Technical Summary or Executive Summary (NTS); Stakeholder Engagement Plan (SEP); Environmental and Social Action Plan (ESAP); and Land Acquisition and Resettlement Framework (LARF), all downloadable as a zip file in English and the local language, as well as a reference to where this information can be accessed locally (see Annex 2). For both Category A and B projects, the information included is highly project-specific, includes information on specific planned mitigation measures and provides information about the appraisal process and the documents received and prepared by the EBRD, thus also facilitating targeted access to information requests in case these documents are not anyway disclosed.
13. The IFC website allows for a filtering based on the Environmental Category applicable to the Investment in question and indicates the foreseen board approval date.⁵ An analysis of the two currently pending Category A projects and the 5 most recent Category B projects demonstrates that the IFC is disclosing for each of these projects an Environmental & Social Review Summary including E&S Project Categorization and Applicable Standard; Environmental and Social Mitigation Measures, Stakeholder Engagement, Broad Community Support and Environmental & Social Action Plan (see Annex 3). The only exception is a category A project for which there is no board approval date set yet. For this project, the IFC states that early disclosure applies and the draft Environmental and Social Impact Assessment, which is currently being updated, is disclosed. This is a very good practice as it gives a very early insight into the IFC's decision-making procedure. For both Category A and B projects, there is a great amount of environmental information provided, including specific information on the appraisal process, project-specific information and mitigation measures. As for the EBRD, it also includes information on the documents received and prepared by the Bank, thus facilitating targeted access to information requests in case these documents are not anyway disclosed.

⁴ See: <https://www.ebrd.com/work-with-us/project-finance/project-summary-documents.html>.

⁵ See: https://disclosures.ifc.org/enterprise-search-results-home?f_type_description=Investment.

14. The information on the practices by both the EBRD and the IFC clearly demonstrate that disclosure of relevant environmental assessment information prior to Board approval is a normal practice at other IFIs and does not undermine the work or decision-making of these institutions. There can be no doubt that the disclosure of appraisal information while the appraisal is still ongoing is possible to a much greater degree than it is currently done by the EIB.
15. We hope that this comparison will assist the Ombudsman in preparing its final decision on this complaint.

Active dissemination of environmental information in ongoing decision-making procedures

16. In paragraphs 28-29, the Ombudsman makes a number of observations in relation to the obligations of public authorities to publish environmental information while decision-making procedures are ongoing. As stated above, we will not question any of the conclusions of the Ombudsman even if we assess the situation differently. Nonetheless, we would like to note that these preliminary observations, especially when taken out of context, could be interpreted to imply a very low standard of disclosure requirements for environmental information.
17. Specifically, paragraph 28 seems to suggest that the Aarhus rules never require active dissemination of information during an ongoing decision-making procedure. Paragraph 29 seems to go even further by stating that it is “not clear” whether preliminary and purely deliberative content could constitute environmental information.
18. Art. 4(3)(c) Aarhus Convention allows to withhold environmental information if it amounts to “*material in the course of completion or concerns internal communications of public authorities where such an exemption is provided for in national law or customary practice.*” This exception is implemented under EU law in Ar. 4(3) Regulation 1049/2001, in conjunction with Art. 6(1) Regulation 1367/2006, and, as regards Member State authorities, Art. 4(1)(c) and (d) Directive 2003/4. If merely “preliminary and purely deliberative” content could never amount to environmental information, these provisions would be redundant. This is confirmed by the judgement of the CJEU Case C-60/15 P *Saint-Gobain Glass Deutschland v Commission*, which confirms that information which formed part of an ongoing administrative procedure aimed at a harmonised allocation of free emission allowances amounted to environmental information.⁶ As opposed to paragraph 29, it is therefore clear that such preliminary and deliberative content can amount to environmental information.

⁶ ECLI:EU:C:2017:540.

19. Moreover, both the CJEU and the Ombudsman have already recognized that information that forms part of ongoing decision-making procedures amounts to environmental information and that, in this specific context, this information had to be proactively disseminated. In Case C-57/16 *ClientEarth v Commission*, the CJEU also suggested that there may be a duty to publish information that relates to an ongoing decision-making procedure, when it stated that impact assessment documents related to an ongoing legislative procedure are documents which, “*in view of their purpose, are among those covered by Article 12(2) of Regulation No 1049/2001*”,⁷ i.e. they should be made directly accessible to the public.⁸ The Ombudsman has moreover held that documents pertaining to the ongoing process of setting of Total Allowable Catches by the Council amounted to environmental information.⁹ The fact that these cases relate to legislative procedures, which the Ombudsman finds not comparable to the present context (see para. 30), does not change the fact that there are situations in which the Aarhus rules require active disclosure at a stage where decision-making procedures are ongoing. Since para. 28 seems to suggest otherwise, there is a danger that it may be read in a way that will diminish a full understanding of the Aarhus rules.
20. For the foregoing reasons, we would appreciate if these paragraphs were amended in the final decision. It appears that this could be done without changing any of the suggestions. This is simply to ensure that the Ombudsman’s conclusions are not misread and, albeit their non-binding nature, relied on by EU bodies and institutions to defend practices that stand in the way of the transparency and openness intended by the Treaties.

The complexity & regular evolution of the EIB’s decision-making

21. In paragraph 46, the Ombudsman considers that it would not be appropriate to make detailed suggestions regarding the possible active publication of some of the specific documents referred to by the complainants. The Ombudsman states that this “*is because the EIB’s internal working methods and decision-making documents/information are relatively complex and evolve regularly.*” Instead, the Ombudsman suggests certain openness/transparency by design measures.
22. We appreciate that the Ombudsman has taken a practical approach which aims at the effective solution of the complaint. Nonetheless, we see one challenge and one problem with this approach.

⁷ ECLI:EU:C:2018:660, para. 93.

⁸ *Ibid.*, para. 85.

⁹ Recommendation of the European Ombudsman in case 640/2019/FP on the transparency of the Council of the EU’s decision-making process leading to the adoption of annual regulations setting fishing quotas (total allowable catches), para. 35.

23. First, by not suggesting that the EIB publish specific documents, it becomes more challenging for us as the complainants and for the Ombudsman to monitor and assess whether the suggestions have indeed been implemented. It appears particularly important to review the actual document templates and forms that the EIB would prepare to implement this suggestion (see para. 50).
24. Second, this approach does not address the failure by the EIB to inform the public about the decision-making procedures and associated documents that it uses. Evidently, the EIB is and should be free to change its decision-making procedure and adapt them to current developments as it deems useful. Nonetheless, as an element of the principle of good administration, the public must be in a position to understand how the EIB is taking its decisions. Equally, it is an elementary part of the access to information regime applicable to the EIB that the public knows what documents the EIB holds so that they can request them. As pointed out in the comments on the meeting report in this case,¹⁰ this is also reflected in the “Points of Principle” contained in the Memorandum of Understanding between the EIB and the Ombudsman, which states that the “*EIB should inform the public about the policies, standards and procedures that apply to the environmental, social and developmental aspects of its activities.*”¹¹ It does not concord with these requirements that the documents on the EIB’s website meant to inform the public are either outdated or have been removed altogether.
25. As further explained in the comments on the meeting report, the fact that the EIB stops using forms, such as the D1 Form, and removed its Environmental and Social Handbook (‘the Handbook’) from its website already in 2018, amount to maladministration.¹² As mentioned in our comments, the EIB website stated and still states that: “*The Handbook is a “live” document that undergoes continuous improvement with the evolution of knowledge and experience, as well as changes in policy and practices.*”¹³ Moreover, in an email of December 2019 the EIB had indicated to one of the complainants that the procedures as contained in the Handbook continued to apply.¹⁴ Subsequently, on 6 June 2021, the EIB re-uploaded the 2013 version of the Handbook substantively unchanged as a background document to its public consultation on its Environmental and Social Sustainability Framework (the first page indicates that it is version 9.0 of 02/12/2013).¹⁵ The D1 Form is still included as Annex 2 of the Handbook and referred to throughout the text.

¹⁰ Comments on the meeting report of 15 October 2020, dated 13 January 2021, para. 10.

¹¹ Memorandum of Understanding between the European Ombudsman and the European Investment Bank, 9 July 2008, available at: <<https://www.eib.org/en/publications/memorandum-of-understanding-between-the-eo-and-the-eib>>.

¹² Comments on the meeting report of 15 October 2020, dated 13 January 2021, paras 6-11.

¹³ See: <<https://www.eib.org/en/publications/environmental-and-social-standards>>.

¹⁴ Annex 1 to the comments on the meeting report of 15 October 2020, dated 13 January 2021.

¹⁵ See the table of consultation documents here: <<https://consult.eib.org/consultation/essf-2021-en/>>. The Handbook is referred to as “2013 EIB Environmental and Social Practices and Procedures”. Here is the link to the document itself: <https://consult.eib.org/consultation/essf-2021-en/user_uploads/eib-environmental-and-social-handbook.pdf>. We have also sent the Handbook as Annex 4 in case the Bank decides to remove it again.

26. To summarise the facts: There is only one comprehensive document that explains the EIB environmental and social standards and procedures (the Handbook). This is acknowledged by the EIB (see email of December 2019 to the complainant)¹⁶ and also follows from the simple fact that it is the only document to explain these procedures over a total of 113 pages. This document has been updated the last time in December 2013. It is outdated (as demonstrated for instance by the fact that the Bank does no longer use the D1 Form). The Bank has removed this document from the website in 2018. However, it has not updated it since. Rather, it has uploaded in June 2021 the old, outdated version to its website.
27. The public has therefore no possibility to know what environmental and social procedures the EIB uses in its appraisal. The public can also not request appraisal documents because the Bank can simply reply that such documents do no longer exist (as it did in the context of this complaint with regard to the D1 Form). The Bank could decide from one day to another to significantly alter the way it assesses or whether it assesses certain environmental and social aspects of financing proposals and there would be no way for the public to know.
28. As mentioned above, we fully support the transparency by design measures suggested by the Ombudsman. There is no doubt that, if done right, this will significantly increase the environmental information that will be available in relation to the EIB's appraisal of financing proposals. However, it will not facilitate the understanding of the public as to the actual procedures applied by the Bank in its appraisal. It will therefore also not address the above mentioned Point of Principle included in the Memorandum of Understanding between the Ombudsman and the EIB.
29. We therefore call on the Ombudsman to at least recall in its decision this Point of Principle agreed between the EIB and the Ombudsman and to thereby emphasize that a constant evolution of the decision-making procedure must be combined with constant information of the public of how these decision-making procedures have changed. Given the fact that this is a core point of the Memorandum of Understanding, and thus goes to the heart of the relationship between the two institutions, we would also encourage the Ombudsman to raise this point as an inter-institutional matter with the EIB.

Project promoter's reports

30. In paragraph 64, the Ombudsman suggests that the EIB actively and rapidly publish its monitoring reports. We welcome this very concrete suggestion as we believe that this would significantly improve the transparency of the EIB's monitoring process. However, as noted in paragraph 54, the complaint related to the publication of not only the monitoring reports but also the project promoter's reports.

¹⁶ Annex 1 to the comments on the meeting report of 15 October 2020, dated 13 January 2021.

31. Access to project promoter's reports in addition to the monitoring reports is crucial because they constitute first hand materials which are key to inform the EIB's due diligence and monitoring processes. The reports are referred to in the 2013 Handbook on Environmental and Social Issues, which (as mentioned above) still appears to be the only authoritative source on the Bank's procedure. Point 273 states: "*Regular promoter progress reports including general and specific information requested such as results of environmental and social monitoring (noise, dust, health, traffic etc.) and implementation of impact management measures and stakeholder engagement activities (monitoring category B projects)*" (see Annex 4, p. 149). As such, the project promoter's monitoring reports are likely to contain environmental information. Given that they are regularly sent to the EIB, they are a very reliable source of relevant environmental information evidencing implementation of environmental or social conditions, information on emissions to the environment and compliance with environmental legislation. The EIB's monitoring reports are no substitute especially since they are more infrequent, for instance following field missions. Thus, only publication of the promoter's reports can ensure transparency of whether the project is implemented according to the environmental and social management plans, action plans and conditions established in the finance contract. Such publication would also allow the public, including civil society, to verify the accuracy of the information provided by the promoter for the benefit of the Bank.

32. It is therefore surprising that the Ombudsman's suggestions do not further address the publication of the project promoter's reports and do not seem to address this point in the argumentation. It would therefore be appreciated if we could receive additional clarity on this point, in particular in case this has been an oversight.

Documents to be held by the EIB which are available elsewhere


33. In suggestion 4(g), the Ombudsman states that "*the complainants request that the EIB itself should hold all possible 'environmental information'*". This sentence misconstrues our complaint.

34. We fully acknowledge that, where information is otherwise publicly available, the EIB can refer applicants to these sources. There are, however, two important caveats to this. For one, the EIB must be in the possession of the necessary information to discharge its statutory duties, including to ensure that the project it finances comply with the EU Treaties and other applicable rules. Second, such information must indeed be accessible elsewhere, hence it does not suffice for the EIB to defer to other institutions, who neither publish the information nor disclose it on request.

35. It is therefore not correct to state that the "complainants request that the "*should hold all possible environmental information*" and it would be appreciated if the final decision would not restate this point. We also kindly request to highlight the two caveats included in the previous paragraph in its decision.

Annex 1 – European Investment Bank (EIB) appraisal information

Latest projects in the 7 selected sectors¹⁷ as of 13 August 2021:



PROJECTS TO BE FINANCED PROJECT LIST RECENTLY APPROVED BREAKDOWN BY REGION BREAKDOWN BY SECTOR EXPLANATORY NOTES

25 of 1373 results [Share results](#) [Export to Excel](#)

Release date	Title	Country	Sector	Status
2 August 2021	IBERDROLA GREEN ELECTRICITY DISTRIBUTION NETWORK	Spain	Energy	Signed
2 August 2021	TOURS TRANSPORTS URBAINS	France	Transport	Under appraisal
30 July 2021	EDERLAN SUSTAINABLE RDI & DIGITAL TRANSFORMATION	Spain	Industry	Under appraisal
30 July 2021	BUNIEL WIND FARM	Spain	Energy	Under appraisal
29 July 2021	PORTS OF GENOA - NEW INVEST PROGRAM FL	Italy	Transport	Under appraisal
28 July 2021	DYEMANSION (EGFVD)	Germany	Industry	Under appraisal
26 July 2021	ELECTRICA DISTRIBUTION NETWORK UPGRADE	Romania	Energy	Signed
19 July 2021	FRANFINANCE ENERGY EFFICIENCY PF4EE FL	France	Energy	Under appraisal
19 July 2021	FRANFINANCE ENERGY EFFICIENCY PF4EE CA	France	Energy	Under appraisal
16 July 2021	CLIMATE ACTION PROGRAMME LOAN AUSTRIA	Austria	Energy	Under appraisal
16 July 2021	CEPS TRANSMISSION NETWORK UPGRADE	Czech Republic	Energy	Under appraisal
15 July 2021	TRIFYL VALORISATION MATIERE&ECONOMIE CIRCULAIRE	France	Solid waste	Under appraisal
15 July 2021	THE URBAN RESILIENCE FUND (TURF) B LCFP		Water, sewerage, Solid waste, Industry, Urban	Under appraisal
15 July 2021	ENERGIEFONDS OVERIJSEL	The Netherlands	Energy, Industry	Under appraisal
15 July 2021	KLAIPEDA SEAPORT III	Lithuania	Transport	Under appraisal

¹⁷ The sectors were selected based on their likely environmental impact to make the selection more representative of the environmental information that the EIB discloses. The selected sectors are: "Agriculture fisheries, forestry", "Energy", "Industry", "Solid Waste", "Transport", "Urban development" and "Water, sewerage".

Information related to the 10 most recent projects under appraisal:

1. Tours Transports Urbains:
 - Hyperlink: <https://www.eib.org/en/projects/pipelines/all/20210127>
 - Environmental aspects (translated from French): “The Project may include components that fall under Annex II of the EIA Directive (2011/92/EU), which requires the competent national authority to determine the need for an environmental impact assessment (EIA). The impacts that can be typically expected for some schemes relate to visual impact, impact on flying vertebrates, electromagnetic fields, noise nuisance, and disturbances during construction, as well as the possible impacts on protected fauna and flora (Habitats 92/43/EC and Birds 2009/147/EC). This operation is expected to contribute towards climate action objectives, and is aligned with EIB commitments as the EU Climate Bank.”
2. Ederlan Sustainable RDI & Digital Transformation:
 - Hyperlink: <https://www.eib.org/en/projects/pipelines/all/20210498>
 - Environmental aspects: “The project concerns investments in research, development and innovation that are expected to be carried out in already existing and authorised facilities. The project does not fall under any Annexes of the Environmental Impact Assessment Directive 2014/52/EU amending Directive 2011/92/EU. The Bank's services will however review any environmental details of the project during the due diligence. The results of this project are expected to contribute to the development of a more sustainable European transport system, through the development and deployment of lightweight metal components and components for electric vehicles, as well as energy- and resource-efficient manufacturing technologies.”
3. Buniel Wind Farm:
 - Hyperlink: <https://www.eib.org/en/projects/pipelines/all/20210147>
 - Environmental aspects: “As requested by the client, Ops proposes to label this operation as an "EIB Green Loan," as it is fully eligible under the Climate Action and Environmental Sustainability. The "EIB Green Loan" is a labelling formally created by Ops and PJ for investments that are fully in-line with the Bank's Climate Awareness Bonds (CAB) eligibility, as updated from time to time. The label only applies to the portion of the projects that are 100% CAB eligible. This product was created in 2018 in response to increasing demand for corporates, who would like to highlight their decarbonisation investments and strategies. The Bank, as a pioneer and leading player in the green bond market, was well positioned to leverage its technical due diligence to provide this labelling also for its lending product, enhancing the effect of its seal of approval.”
4. Ports of Genoa – New Invest Program FL:
 - Hyperlink: <https://www.eib.org/en/projects/pipelines/all/20200263>
 - Environmental aspects: “Compliance with the SEA Directive 2001/42/EC, the EIA Directive 2014/52/EU amending the EIA Directive 2011/92/EC, the Habitats Directive 92/43/EEC, the Birds Directive 2009/147/EC, the Water Framework Directive 2000/60/EC, as well as biodiversity assessment requirements, climate change adaptation issues, mitigation/compensation measures and environmental and social monitoring plans, will be assessed during appraisal and/or allocation phase for each project component, whenever applicable..”

5. Dyemansion (EGF VD):
 - Hyperlink: <https://www.eib.org/en/projects/pipelines/all/20200876>
 - Environmental aspects: “The project activities do not fall under the Annexes I or II of the EU Directive 2014/52/EU amending the EIA Directive 2011/92/EU. The project will be carried out in existing facilities, already authorised, that will not change their scope due to the project. As such, the project activities are not subject to a mandatory environmental impact assessment (EIA).”
6. Franfrinance Energy Efficiency PF4EE FL:
 - Hyperlink: <https://www.eib.org/en/projects/pipelines/all/20210142>
 - Environmental aspects: “The project is aligned with EU and French national policy and regulation regarding environmental sustainability and more specifically with the Energy Efficiency Directive (2012/27/EU and as amended 2018/2002/EU), the Energy Performance of Buildings Directive (2010/31/EU and as amended 2018/844/EU), and the Renewable Energy Directive (2009/28/EC and as recast 2018/2001/EU). The Promoter will be required to adhere to any other environmental regulation affecting the operation such the Environmental Impact Assessment (EIA) Directive 2014/52/EU amending the EIA Directive 2011/92/EU.”
7. Climate Action Programme Loan Austria:
 - Hyperlink: <https://www.eib.org/en/projects/pipelines/all/20210036>
 - Environmental aspects: “The assessment of the environmental and social impacts and risks will be part of the standard due diligence process that the Promoters will have to carry out for each underlying investment. The Promoters will have to ensure that the portfolio and the underlying investments are in compliance with national law, EU environmental legislation as well as with the EIB's Environmental and Social Standards. Details of the Promoters' capacity to ensure compliance of investments with relevant EU and national regulation and the EIB's Environmental and Social Standards will be reviewed during appraisal of the individual sub-operations. If an underlying investment is subject to an environmental impact assessment (EIA), the Promoters will be required to obtain the non-technical summary of it, and, where relevant, written confirmation from the competent authority that the investment will not have any significant negative impact on sites of nature conservation.”
8. CEPS Transmission Network Upgrade:
 - Hyperlink: <https://www.eib.org/en/projects/pipelines/all/20210496>
 - Environmental aspects: “The project comprises electricity transmission schemes (overhead lines and works in existing substations), some of which will fall under Annex I of the Environmental Impact Assessment (EIA) Directive and will have to undergo an obligatory environmental impact assessment, while most of the schemes will fall under Annex II, thus requiring the competent national authority to determine the need for an EIA. The main impacts that can typically be expected for a project of this nature relate to visual impact, vegetation clearance, electromagnetic fields, noise nuisance, impact on flying vertebrates and disturbance during construction.”
9. Trifyl Valorisation Matière & Economie Circulaire:
 - Hyperlink: <https://www.eib.org/en/projects/pipelines/all/20210384>
 - Environmental aspects (translated from French): “The two sorting stations and the mechanical biological treatment plant are subject to a mandatory

environmental impact assessment, including public inquiries. The installations mentioned above are likely to be the subject of annex II of the EIA directive 2014/52 / EU amending directive 2011/92 / EU, of the ESE directive (2001/42 / EC), of the Habitats Directive (92/43 / EEC) and Birds Directive (2009/147 / EC). The Bank will assess the proponent's capacity to appraise the sub-projects in order to verify their compliance with national regulations and EU environmental standards.”

10. Energiefonds Overijssel:

- Hyperlink: <https://www.eib.org/en/projects/pipelines/all/20210427>
- Environmental aspects: “The investments in renewable energy and energy efficiency projects aim at achieving TeraJoule savings in the province of Overijssel. Projects to be financed by the fund are not expected to have a negative environmental impact. Some projects however may fall under Annex II of Environmental Impact Assessment (EIA) Directive 2011/92/EU, in which case the national competent authority determines whether the projects are subject to an EIA based on Annex III of the directive. During appraisal, the fund manager's environmental and social management capacity and due diligence procedures will be reviewed to ensure compliance with the Bank's standards and the principles of EU environmental directives (including the EIA Directive, Habitats Directive and Birds Directive, Water Framework Directive and Industrial Emissions Directive), as applicable.”

Annex 2 – European Bank for Reconstruction and Development (EBRD) appraisal information

Latest projects in the 6 selected sectors¹⁸ as of 13 August 2021:

ACTIVE FILTERS: Agribusiness Energy Manufacturing and Services Municipal and environmental infrastructure Natural resources **Transport** APPLY
CLEAR ALL FILTERS

Date ↓↑	Project ID ↓↑	Location ↓↑	Project Title ↓↑	Sector ↓↑	Public/Private ↓↑	Status ↓↑
09 Aug 2021	53042	Turkey	Aydem Renewables Green Bond (f. Project Vega)	Energy	Private	Signed
09 Aug 2021	52568	Turkey	Ford Otosan EV Syndicated Loan	Manufacturing and Services	Private	Signed
09 Aug 2021	52749	Bulgaria	Sofia airport: SOF Connect equity	Transport	Private	Signed
06 Aug 2021	51583	Kazakhstan	GrCF2 W2 - Almaty Electric Public Transport	Municipal and environmental infrastructure	State	Concept Reviewed
06 Aug 2021	52642	Serbia	Serbian Solid Waste Programme	Municipal and environmental infrastructure	State	Passed Concept Review, Pending Final Review
02 Aug 2021	52698	Turkmenistan	DFF - Gercek Expansion	Manufacturing and Services	Private	Approved
28 Jul 2021	49905	Egypt	GrCF2W2 - Alexandria Metro	Municipal and environmental infrastructure	State	Passed Final Review, Pending Approval
26 Jul 2021	51830	Egypt	6th of October Dry Port	Transport	Private	Approved
21 Jul 2021	52265	Croatia	RF - Coast Working Capital	Agribusiness	Private	Signed
20 Jul 2021	51703	Romania	GrCF W2 - Iasi Green Buildings	Municipal and environmental infrastructure	State	Approved
12 Jul 2021	52728	Mongolia	DFF-Tavan Bogd 2	Manufacturing and Services	Private	Approved
12 Jul 2021	52729	Mongolia	DFF-Tavan Bogd International	Manufacturing and Services	Private	Approved
02 Jul 2021	52900	Ukraine	DFF - Nibulon Trade WC Finance	Agribusiness	Private	Disbursing

Continued on next page.

¹⁸ The sectors were selected based on their likely environmental impact to make the selection more representative of the environmental information that the EIB discloses. The selected sectors are: "Agribusiness", "Energy", "Manufacturing and Services", "Municipal and environmental infrastructure", "Natural resources" and "Transport".

02 Jul 2021	52031	Turkmenistan	DFF Tach Hil Expansion	Manufacturing and Services	Private	Signed
29 Jun 2021	52456	Romania	GrCF2 W2 Medias Infrastructure Loan	Municipal and environmental infrastructure	State	Passed Final Review, Pending Approval
28 Jun 2021	52565	Georgia	GrCF2 W2 - Tbilisi Bus Phase III	Municipal and environmental infrastructure	State	Passed Final Review, Pending Approval
28 Jun 2021	52459	Poland	Polpharma R&D	Manufacturing and Services	Private	Disbursing
25 Jun 2021	52457	Turkmenistan	DFF - Parahat	Agribusiness	Private	Signed
23 Jun 2021	52549	Georgia	SC Georgian Railway Green Bond	Transport	State	Signed
22 Jun 2021	52492	Turkmenistan	DFF - Altyn Yunus	Agribusiness	Private	Approved
22 Jun 2021	50170	Kyrgyz Republic	KTJ climate resilient rail infra	Transport	State	Concept Reviewed
21 Jun 2021	49119	North Macedonia	Road Corridor VIII - Phase I	Transport	State	Passed Final Review, Pending Approval
17 Jun 2021	52896	Regional	DFF - Mlinar	Agribusiness	Private	Approved
17 Jun 2021	51960	Romania	Project AI Dahra Romania	Agribusiness	Private	Concept Reviewed
17 Jun 2021	51961	Serbia	Project AI Dahra Serbia	Agribusiness	Private	Concept Reviewed
16 Jun 2021	52746	Poland	Grajewo and Sulmierzyce wind farms	Energy	Private	Approved
15 Jun 2021	52825	Georgia	GrCF2 W2 - Tbilisi Solid Waste Extension	Municipal and environmental infrastructure	State	Signed
14 Jun 2021	51879	Latvia	Latvenergo Green Bonds	Energy	State	Signed
11 Jun 2021	52868	Armenia	GrCF2 W2 - ENA Investment Program	Energy	Private	Signed
11 Jun 2021	52886	Armenia	VISP - Armenian Air Navigation	Transport	State	Concept Reviewed
09 Jun 2021	52922	Bulgaria	Eurohold CEZ Acquisition and Modernisation	Energy	Private	Disbursing
08 Jun 2021	50141	Kazakhstan	GrCF2 W2 - Ust-Kamenogorsk Solid Waste Management	Municipal and environmental infrastructure	State	Signed

Information related to the 10 most recent EBRD projects under appraisal:

- GrCF2 W2 - Almaty Electric Public Transport:
 - Hyperlink: <https://www.ebrd.com/work-with-us/projects/psd/51583.html>
 - Approval date: 12 October 2021
 - Environmental category B
 - Environmental and Social Summary: "Categorised B in accordance with the EBRD's 2019 Environmental and Social ("E&S") Policy. Key E&S impacts/risks to consider include overall EHS management capacity and performance, labour, health & safety and road safety practices and standards. Environmental and Social Due Diligence ("ESDD") is currently being undertaken by an independent consultant as part of the Feasibility Study and includes a review of the current status of the Client's existing management systems and operations with specific attention to the maintenance depots, electrical safety issues, road safety and driver training, labour practices, equal opportunities and gender, waste management and disposal of the old fleet, accessibility and mobility for all user groups, affordability issues, stakeholder engagement and grievance mechanism. It also includes an analysis of the E&S benefits and impacts associated with the Project. An Environmental and Social Action Plan will be developed to structure

- the Project to meet the EBRD PRs, as well as a Stakeholder Engagement Plan. This section will be updated upon completion of ESDD.”
- No ESIA disclosure package because category B.
2. Serbian Solid Waste Programme:
- Hyperlink: <https://www.ebrd.com/work-with-us/projects/psd/52642.html>
 - Approval date: 24 November 2021
 - Environmental category: A
 - Environmental and Social Summary: “Categorised A, 2019 ESP and High-Medium risk. This Project involves the financing of a number of separate solid waste management sites, one of which, Kalenic, is categorised A due to its size. This sub-project requires a gap analysis of the national EIA, preparation of any required supplementary assessments and disclosure of ESIA for 120 days. The EIA, NTS, SEP, ESAP and LARF have been released for comment locally and at <https://www.ebrd.com/esia.html>. The other sub-projects financed by this loan are categorised B and the scope of the required environmental and social appraisal will be defined after the AFD-funded scoping study. Environmental and social due diligence will be undertaken by an independent consultant. The overall Project is High-Medium risk as it involves greenfield developments with the potential for involuntary resettlement and has a number of different operators. Key risks and impacts to consider include the need to ensure that the sub-projects are aligned with the new National Waste Strategy of Serbia and designed in accordance with EU standards and applicable BAT, that existing dump sites are properly closed and any livelihood restoration issues are addressed, and that impacts on local communities are minimised. The introduction of improved waste management practices and the upgrading of landfill provision is expected to result in significant environmental benefits. TC support will be provided for capacity building and ESAP implementation support.”
 - ESIA disclosure package available here in Serbian and English & information where the information can be accessed locally: <https://www.ebrd.com/work-with-us/projects/esia/serbian-solid-waste-programme-kalenic-subproject.html>
3. GrCF2W2 – Alexandria Metro:
- Hyperlink: <https://www.ebrd.com/work-with-us/projects/psd/49905.html>
 - Approval date: 10 November 2021
 - Environmental Category: A
 - Environmental and Social Summary: “Categorised A (2014 ESP). The Project involves the upgrade and electrification of the 22km existing rail line connecting downtown Alexandria (Misr Station in the west) and the north-eastern town Abu Qir into the first high capacity metro system in this coastal city. This will result in a number of environmental and social (E&S) benefits, including: increased safety and reliability of the public rail service, removal of level-crossings and thus eliminating collision risks, jobs creation and reduced GHG emissions. The Project is expected to result in an average savings of 21,930 tonnes of CO2 per annum due to the modal shift of road vehicles and the diesel train to the electrified metro system. While the Project is expected to result in E&S benefits, it is significant linear infrastructure in an urban environment and its construction and operation has the potential to be associated with significant E&S impacts, including impacts related to physical and economic displacement. The Project has therefore been categorised A, requiring a comprehensive and participatory

ESIA and disclosure thereof for 120 days. An ESIA disclosure package has been developed in accordance with the EBRD Performance Requirements (PRs) and other co-lender E&S standards and, following independent review, has been publically disclosed in English and Arabic in line with the Bank's Directive on Access to Information.

The EISA disclosure package includes the following: an Environmental and Social Impact Assessment Report (ESIA), including E&S Management Plans (ESMPs); a Non-Technical Summary (NTS); a Resettlement Framework (RF); a Stakeholder Engagement Plan (SEP); and a draft E&S Action Plan (ESAP).

The alignment of the Project is within the current railway corridor, owned by ENR and it is anticipated that all construction works will take place on ENR's land, except for additional land needed for a depot and the new stations at Bab Sharq and Sporting. A ministerial decision was issued in 2020 transferring the ownership of land required to develop the Project to NAT, excluding the lands for Bab Sharq and Sporting stations as the final designs have not been developed yet and the exact locations are not yet finalised. The area required for the depot is owned by the AlNahass Company, where decommissioned copper factories are located. The transfer of ownership from AlNahass to NAT is based on a willing buyer i willing seller transaction.

The Project, as currently proposed, consists of an elevated viaduct from Toson to AlZahiria (13 elevated stations) and 8 at-grade stations from Abu Qir to Toson and from Kafr Abdou to Misr stations. The proposed design was suggested based on an effort to minimise to the extent possible physical and economical resettlement, while maintaining traffic flow and technical and cost considerations. A Resettlement Framework (RF) and associated Guide to Land Acquisition and Compensation has been developed to inform mitigation, compensation and livelihood restoration measures in line with national law and lender requirements. Detailed compensation, assistance and livelihood restoration measures will be developed once the final design is completed and will be included in a detailed Resettlement Action Plan (RAP) that will be disclosed publicly, including on EBRD's website. The implementation of the RAP will be verified through internal and external monitoring activities and a RAP completion audit.

The Project will be fenced along its entire alignment and all crossings will pass either under or over the metro line, which provides significant mitigation of current community health and safety impacts. An occupational health and safety plan will be developed for the construction and operation phases.

Noise and vibration impacts have the potential to be significant in certain locations during construction and operation and will be managed in line with the national and international standards and with good practice mitigation measures such as noise barriers and restriction on working times, which is included in the Environmental and Social Management Plans ("ESMPs") and ESAP.

The Project does not cross, and is not close to any key biodiversity areas or areas with ecological value. Asbestos has been found in the proposed EInahass depot land, and measures to adequately manage and dispose of asbestos containing material have been added to the ESAP.

As Alexandria is an ancient and culturally-rich city, the potential for archaeological findings is high during excavation works along the existing line to erect the viaducts. The Ministry of Antiquities has already been consulted and

further coordination will take place prior to Project mobilisation. A chance find procedure and training of personnel will be undertaken prior to construction commencing.

A set of ESMPs have been prepared including mitigation measures and roles and responsibilities between NAT, its contractors and the line operator. The ESMPs also establish a defined process for managing any Project changes during the detailed design. The EPC Contractor will further detail the ESMPs to implement the mitigation measures identified as part of ESIA in line with lender requirements. NAT and any project contractors are required to manage potential impacts to workers and communities through the development of a number of policies and procedures that include code of conduct, child and forced labour, Gender Based Violence and Harassment (GBVH), wages and benefits, occupational and community health and safety, etc. The Project will establish and implement an internal grievance mechanism in line with the Bank requirements.

A draft ESAP has been developed and agreed with NAT and will be finalised following the ESIA disclosure period. The Project will be monitored regularly by independent E&S consultants to ensure compliance with the ESAP and lender requirements, while the final design and construction will be reviewed by an independent technical consultant to verify compliance with the required environmental, safety and technical standards.

A SEP has been prepared defining stakeholder engagement and information disclosure activities during the Project lifecycle, including during ESIA disclosure. The SEP will be updated as required as the Project progresses. A Project grievance mechanism has been established for external stakeholders, including the public, to raise concerns, comments and questions about Project.”

- ESIA disclosure package available here in Arabic and English, including information where the information can be accessed locally:

<https://www.ebrd.com/work-with-us/projects/esia/grcf2w2-alexandria-metro.html>

4. GrFC2 W2 Medias Infrastructure Loan:

- Hyperlink: <https://www.ebrd.com/work-with-us/projects/psd/52456.html>
- Approval date: 8 September 2021
- Environmental category: B
- Environmental and Social Assessment: “Categorised B (ESP 2019). The Project involves continued support to EU-funded projects of energy efficiency improvements in urban infrastructure through an existing client, the City of Medias. Their past E&S reporting and ESAP implementation under the Medias Urban Infrastructure Rehabilitation project was satisfactory. The new project is part of a broader programme aiming to improve the City's sustainability and serves as a trigger project under EBRD Green Cities that will support the development of a Green City Action Plan (GCAP) for Medias.

The City's priority investment programme includes co-financing of several priority investments already approved under the EU Regional Operational Programme. This involves rehabilitation of several local city streets (including provision of LED lighting and safe pedestrian sidewalks and modernisation of underlying utility networks for sewerage), rehabilitation and modernization of several public buildings (including thermal insulation and LED lighting), and modernisation and extension of electric public transport infrastructure. The E&S risks and impacts

associated with all components of the proposed project will be temporary and mostly construction-related, site-specific, easily assessed and manageable through relevant mitigation measures in the contract requirements.

Environmental and Social Due Diligence (ESDD) for the new project was undertaken in line with the ESD ESDD response to COVID 19, initially through ESDD questionnaire and review of the EU Grant applications and other available documentation, which was thereafter supplemented by the project due diligence exercise from the independent consultant. ESDD confirmed that the project would not involve any land acquisition, involuntary resettlement or significant economic displacement. The project will not affect any sensitive locations, protected areas or cultural heritage sites. Most of the rehabilitation works will be taking place along the already existing roads. For the construction phase of the street rehabilitation works in the historical city centre, a chance finds procedure will be adopted and implemented by the contractors.

The proposed EU-EBRD investments have already undergone the corresponding screening procedure by the competent environmental authority Environmental Protection Agency (EPA) Medias in line with the EU EIA Directive requirements, and it concluded that no EIA is required for the project components. EPA has imposed some additional measures for carrying out the works and taking additional precautions in the respective permitting documents. Project impacts on soil, water bodies and biodiversity from construction have been assessed to be not significant.

The City of Medias has an established environmental policy and procedures, which are part of its existing Quality Management System. The City will further ensure that there is an integrated Environmental and Social Management System (ESMS) in place in line with the best international practice, including ISO 14001 for environmental, ISO 45001 for occupational health and safety, and ISO 39001 for road traffic safety management. This requirement is included in the project ESAP. The City's HR policies and procedures for their workforce fully comply with PR2 requirements related to labour and working conditions, including the national laws, international labour standards and gender equality. Majority of employees are women, including many in management positions. Staff are represented by own trade union that is proactively handling any health and safety, labour and working conditions issues and grievances. The collective work agreement covers all contractual direct employees, and the staff grievance mechanism is adequate.

The Project will provide GHG emissions reduction by 4,760 t/year of CO₂ equivalent due to significant energy savings and improved energy efficiency of the public buildings and rehabilitation of electric transport infrastructure. Other air emission reduction will include NO_x by 3.5 t/year and PM by 24 kg/year.

The City has developed overall occupational health and safety (OHS) procedures and work instructions which are monitored to assess OHS performance in relation to national legal requirements. Adequate OHS requirements will be included within the tenders and contract packages, and the contractor must develop site-specific safety plans upon contract award. The contractors will follow adequate management of hazardous materials and wastes, including asbestos waste management procedures. Contractor management plans will also include electrical safety, earthworks and trench

safety procedures among others. Traffic management procedures and road safety requirements will also be included with the tenders and contract packages. The City will supervise and monitor the OHS performance of the works contractors. The City already has emergency plans in place, including for fire, flooding, storms and heavy snowfall, and these emergency plans will be further updated to cover project investments.

ESAP includes further requirements for the City to pay attention to further gender-specific inclusion opportunities, road safety management and COVID 19 crisis related response plans including labour, worker and community health and safety issues and stakeholder engagement. Adequate ESAP provisions included for management of E&S issues during construction works. Contractors will be required to develop and implement project-specific Construction EHSS management plans, asbestos management plans and provisions for building rehabilitation, adequate waste management, noise/vibration and dust mitigation procedures for all works. Site-Specific H&S Plans are also developed and subject to approval and supervision by the City's H&S manager.

Stakeholder Engagement Plan (SEP) including a grievance mechanism has been prepared for implementation during the project. The City publishes all information on its website regarding the City's activities with particular emphasis on the status of implementing ongoing projects, including information regarding environmental, social and safety aspects. Grievance mechanism for external stakeholders is deemed adequate.

Company will provide the Bank with annual environmental and social reports, including updates on the implementation of the ESAP. The Bank may also conduct monitoring visits, as required.”

- No ESIA disclosure package because category B.
5. GrGF2W2 – Tbilisi Bus Phase III:
- Hyperlink: <https://www.ebrd.com/work-with-us/projects/psd/52565.html>
 - Approval date: 29 September 2021
 - Environmental category: B
 - Environmental and Social Assessment: “Categorised B (ESP 2019). Environmental and social impacts associated with the purchase and operation of the new low emission CNG buses of EURO VI standard and construction of the new bus depot will be mainly beneficial. Any potential adverse environmental and social impacts will be site-specific and manageable through implementation of good management practices. The Project will contribute to improving accessibility and mobility for all user groups, air quality in the City, safety and efficiency of urban transportation. An Environmental and Social Due Diligence (ESDD) has been undertaken by an independent consultant and included analysis of the existing Environmental and Social Management Systems and performance, status of implementing ESAP actions for the previous transactions; as well as assessment of the impacts associated with the new Project. Assessment also included an analysis of environmental and social impacts and benefits associated with the Project to ensure the proposed specification for the buses will meet EU requirements, considering the findings of the independent technical assessment. Company is an existing Client of the Bank and the ESDD has confirmed that over the past years the Company has made a substantial progress in implementing E&S improvements and has institutional and technical

capacity to deliver the Project according to the Bank requirements. The Bank has been also supporting the Company through a number of TCs, specifically, Safety Management System Implementation, Traffic and Driving Safety Management, Gender and PIU TC support. The Company has addressed community safety and OHS risks linked to the COVID-19 response in line with Government guidelines through the Infectious Diseases Management Plan (COVID Management Plan) and the drivers are instructed to follow related procedures. The due diligence has indicated that current environmental, occupational health and safety, and stakeholder engagement practices are in line with the national legislation. TTC continues to duly implement actions agreed with EBRD under previous ESAP. Gender assessment was done for the previous projects, based on which a TC aimed at equal opportunities and training of female bus drivers has been implemented. To further enhance gender component of the Project the Bank will support the Client in development of the Gender Action Plan through post-signing TC. ESDD has identified potential gaps associated with the new Project, which include, inter alia, historical contamination of the proposed bus depo site with biological and other waste, community impacts, air pollution and needs in additional environmental surveys and permitting. The ESAP has been updated to include further improvements and enforcement of safe labour practices, traffic and fire safety, waste management, regulatory permitting compliance, stakeholder engagement. ESAP has been fully agreed with the Client. The Bank will monitor the Company's activities through annual E&S monitoring reports.”

- No ESIA disclosure package because category B.
6. KTJ climate resilient rail infra:
- Hyperlink: <https://www.ebrd.com/work-with-us/projects/psd/50170.html>
 - Approval date: 8 September 2021
 - Environmental Category B
 - Environmental and Social Summary: “With renewal of the rolling stock and rehabilitation of railway infrastructure were assessed through an independent Environmental and Social Due Diligence (ESDD) and are expected to be site-specific and mitigated via the implementation of control measures formulated in the Environmental and Social Action Plan (ESAP) agreed with the Client. The Project will have beneficial effects resulting from the improved reliability and safety of the rail infrastructure and improved climate resilience. The environmental and social due diligence was undertaken in 2019 by an independent consultant and included an analysis of the proposed Project, review of the Company's current operational activities, regulatory compliance status and E&S management systems, social, labour and safety risks associated with rehabilitation works, contractor management, infrastructure and public safety. It has been established that the company is compliant with national E&S regulations and has the institutional capacity to implement the Bank's Performance Requirements. Environmental and Social management systems are in place, with roles and responsibilities assigned, documentation and procedures in place and training & internal audits conducted. Some improvements will be required to bring the E&S management system into full conformance with Bank's PRs. The major risks will be associated with construction labour and Health and Safety management and will require

contractor management that ensures EHSS requirements in line with the Banks PRs are addressed for the construction and operation phases of the Project. A Stakeholder Engagement Plan inclusive of a Grievance Redress Mechanism has been developed as well.

Due diligence also included a Climate resilience assessment to evaluate infrastructure vulnerability to climate change. The Bank will assist the Client through a TC on Climate Change Adaptation Support to support development and adoption of climate change adaptation management practices across the railway network.

An Environmental and Social Action Plan ("ESAP") has been developed for the Project and agreed with the Client. It includes further improvement of the E&S management system, supply chain management, management and monitoring of the contractors, strengthened health and safety requirements, implementation of the SEP and other corrective measures. PIU support will also be provided by the Bank to assist the Client, with, inter alia, implementation of the ESAP."

- No ESIA disclosure package. Summary of project in local language under hyperlink above

7. Road Corridor VIII – Phase I:

- Hyperlink: <https://www.ebrd.com/work-with-us/projects/psd/49119.html>
- Approval date: 8 September 2021
- Environmental category: A
- Environmental and Social Summary: "Category A (2014) and rated high-medium risk. The Project consists of a 10.7 km long section of new motorway running from Bukojchani to Kichevo, and will extend the existing Corridor VIII motorway in North Macedonia. The Environmental and Social Impact Assessment ("ESIA") for this project was completed by a local company and reviewed by an international consultant on behalf of EBRD for this project. The international consultant worked with the local consultant and prepared the following documents for disclosure: ESIA (English, Macedonian); Non-technical summary ("NTS") (English, Macedonian, Albanian); Stakeholder Engagement Plan ("SEP") (English, Macedonian, Albanian); Environmental and Social Action Plan ("ESAP") (English, Macedonian, Albanian); Land Acquisition Framework ("LAF") (English, Macedonian, Albanian); Framework Biodiversity Management Plan ("FBMP") (English, Macedonian, Albanian).

These documents were disclosed on 11 December 2020. Following this disclosure and based on additional consultations during January 2021, it was decided to adjust the route to avoid residential areas and a cemetery resulting in a micro realignment near village Dolno Strogomiste. This work is being completed in accordance with the Design Change Management Procedure as required in the ESAP. An addendum is being prepared as a result of these changes including a revised SEP. The national Environmental Impact Assessment ("EIA") preparation, consultation and submission process is underway, utilising the ESIA documentation and to reflect the alternatives considered for the Project and the recent design change. PESR has already proven a commitment to the ESIA and ESAP in the recent hiring of an environmental specialist to oversee implementation of the project and in increasing its stakeholder engagement.

The Project is located approximately 50 kilometres southwest of Skopje. The majority of the alignment is situated in an intermountain valley with agricultural and urban development with the settlements surrounding the Project alignment including Bukojchani, Gorno Strogomishte, Dolno Strogomishte, Oslomej, Osoj, Trapchin Dol, Rashtani, Crvivci, Kolibari, and Zajas. The mountainous areas include habitats of typical Italian and Turkish oak forest, and the Riparian habitats (adjacent to the Zajaska River and its tributaries) include riparian black alder woodland and willow belts. Most of the local habitats, especially those in the valleys, have experienced anthropogenic degradation associated with agricultural and urban development. The Project design includes a tunnel to avoid the main forested area along the alignment. The ESIA includes details of the alternatives considered for the alignment and supplementary information will be included in the Addendum.

PESR and their designers are seeking to minimise physical resettlement as part of the finalisation of the detailed design, which is anticipated to be completed by August 2021. A Land Acquisition Plan ("LAP") is required to be prepared based on the alignment selected to take into account the impacts to people living and working in the 40m safety buffer zone, informal land users (potentially requiring the displacement 8 Roma households) in Pevci and economic displacement to directly affected farmers and businesses. Given the potential vulnerability of some of the project affected people additional targeted stakeholder engagement and support will be provided as part of the LAP preparation and implementation. The main risks posed by this Project relate to the construction activities to be performed by contractors and therefore contractor management is of paramount importance. The main risks relate to potential impacts to local water quality, habitats and biodiversity, nuisances caused to the local population during construction and possible impacts to local community and their livelihood associated with land acquisition. The Environmental and Social Management Plan ("ESMP") for the project requires a range of plans with defined mitigation measures to be implemented during the construction and operational phases. A road safety audit will be required with design amendments and mitigation measures incorporated into the project as appropriate.

This Project has been structured to be compliant with the Performance Requirements through the implementation of the commitment contained in the ESIA, ESAP, SEP and FBMP. This Project is adopting the application of the mitigation hierarchy with a preference of avoidance. This is demonstrated through the use of an expensive tunnel to avoid a stretch of forested natural habitat immediately north of the village of Kolibari.

Some of the mitigation measures included in the ESAP as follows: develop and implement a comprehensive Environmental and Social Management System along with adequate resources; implement labour, health and safety and social standards/procedures compliant with EBRD PRs into the project Human Resources policies and standards; appoint a safety specialist to interact with local communities during construction on items relating to community safety, especially temporary road and rail crossings; implement a road safety audit; develop and implement a Land Acquisition Plan consistent with the Land Acquisition Framework and PR 5; implement the Biodiversity Management Plan to ensure no net loss to sensitive habitats including the oak forests and riparian

habitats; and, implement and regular updates to the Stakeholder Engagement Plan and community engagement. The Bank will monitor the Project's environmental and social performance and implementation of the ESAP through active monitoring during the construction phase including monitoring site visits when necessary.

- ESIA disclosure package in English, Macedonian and Albanian (see text above), including where information can be accessed locally, under:
<https://www.ebrd.com/work-with-us/projects/esia/road-corridor-viii-phase-i.html>

8. Project Al Dahra Romania:

- Hyperlink: <https://www.ebrd.com/work-with-us/projects/psd/51960.html>
- Approval date: 15 September 2021
- Environmental category: B
- Environmental and Social Summary: "Categorised B (2019 ESP). The construction of new storage and processing facilities within the existing footprint of the company's agricultural land lease is not associated with any significant environmental and social (E&S) risks or impacts. An independent assessment of Agricost's current E&S performance and project E&S risks and impacts was carried out in line with the Covid-19 approach through remote documentation review and interviews with company management. It confirmed that the project impacts are limited and readily addressed through standard mitigation measures and that the company is in the process of rolling-out their corporate environmental and social management system to their Romanian operations and are proactively addressing E&S impacts in line with the Bank's requirements. The ESDD included a review of the loan to Al Dahra Morocco signed in December 2019 and found that progress made in the implementation of the corporate-level ESAP measures has been swift and extensive.

Agricost borders on natural protected areas to the east, south and west, including two Ramsar sites, making the larger project area significant for biodiversity conservation. The project area comprises a `priority biodiversity feature` under PR6, the red-breasted goose, which uses the farmland for foraging purposes during migration and wintering. However, no significant biodiversity risks or potential adverse impacts were identified in connection with present and planned activities. Both the Romanian Nature Park Administration and the National Agency for Protected Natural Areas (ANANP) issued permits with a set of conditions that the company complies with and that do not hinder the present and proposed activities of the Company.

The company is undertaking a range of measures to reduce its carbon footprint. This includes good practices of crop rotation and the cultivation of energetic willows, which are transformed into pallets and used as biofuels. The new alfalfa crops will contribute to carbon and nitrogen sequestration in soils and therefore result in the increase of soil productivity and a reduction of GHG emissions. The project will generate up to a hundred new jobs in the local communities.

Potential adverse impacts are mainly associated with the construction works, related to increased air emissions, traffic, pollution of ground- and surface water and soil contamination, as well as occupational health and safety, all of which will be addressed through relevant management measures. During operations, emissions to air, water and soils will also need to be managed continuously and

risks to workers and local communities minimized. Explosion risks in storage facilities will need to be addressed and continuously monitored.

An environmental and social action plan (ESAP) has been drafted and will need to be agreed with the company prior to Board approval. It includes, inter alia: individual E&S assessments for each proposed facility in line with the Bank's requirements and national law, once location and designs are finalized; development of all outstanding environmental, health and safety management plans and procedures, and additional training to ensure their effective implementation; additional biodiversity management and monitoring measures, including baseline data collection and partnering with local conservation NGOs. A stakeholder engagement plan and grievance mechanism will need to be implemented.”

- No ESIA disclosure package because category B.

9. Project Al Dahra Serbia:

- Hyperlink: <https://www.ebrd.com/work-with-us/projects/psd/51961.html>
- Approval date: 15 September 2021
- Environmental category B
- Environmental and Social Summary: “Categorised B (2019 ESP). The expansion of irrigation systems and modernisation of dairy operations is not anticipated to be associated with any significant environmental and social (E&S) risks or impacts. An independent assessment of ADS' current E&S performance and project E&S risks and impacts, including an animal welfare assessment, are currently underway, carried out in line with the Covid-19 approach through remote documentation review, interviews with company management and review of video footage and photographs provided by the company. The company's operations have been identified as having greenhouse gas emissions in excess of 100,000 of CO₂-equivalent annually, and therefore a separate assessment of current and future GHG emissions is also ongoing.

The company is in the process of rolling-out their corporate environmental and social management system to their Serbian operations and a review of the loan to Al Dahra Morocco, signed in December 2019, has confirmed that progress made in the implementation of the corporate-level ESAP measures has been swift and extensive.

Early findings from the animal welfare assessment indicate that ADS currently has just over 7,000 milking cows and a total number of 16,800 cattle. Operations are conducted on five separate farms in the same local area, including one large and modern facility, and four smaller, more traditional operations. The project includes the development of new facilities for 5,000 milking cows at one of the smaller operations where there are currently 1,400 cows. All cattle are housed permanently indoors with no outdoor access for grazing. Animal feed is from the company's own feed mill and fodder crops, and water is from borehole sources. The farms maintain good records on medicines, and biosecurity measures are in place. The company has experienced leadership, though recruitment and retention difficulties have resulted in a shortage of qualified staff. Although not prohibited by EU legislation, an issue arises from the tethering system for cattle on the four smaller farms, which is not in line with good practice. This will need to be addressed through appropriate plans for phasing out such practices in due course.

An environmental and social action plan will be developed based on the findings of the assessment and the PSD will be updated to provide more details of the outcomes of the E&S appraisal process and GHG assessment in due course.”

- No ESIA disclosure package because category B.
10. VISP – Armenian Air Navigation:
- Hyperlink: <https://www.ebrd.com/work-with-us/projects/psd/52886.html>
 - Approval date: 8 December 2021
 - Environmental category: B
 - Environmental and Social Summary: “Categorised B (2019 ESP) and Low-Medium risk. Financing the liquidity needs under the VISP for an air traffic navigation and monitoring services provider is associated with site-specific Environmental and Social (“E&S”) risks that can be readily assessed and mitigated via good management practices. Environmental and Social Due Diligence (“ESDD”) will be undertaken in line with the ESD ESDD response to COVID-19 and will be conducted in-house. It will comprise the review of a completed E&S questionnaire, available E&S documentation and follow up on line discussions with the Company. Key E&S risks and impacts to consider include occupational health and safety, supply chain and contractor management, ground fleet and traffic management. Specific attention will be paid COVID-related response plans including labour and the potential for retrenchment, worker and community health and safety issues and stakeholder engagement.”
 - No ESIA disclosure package because category B.

Annex 3 – International Finance Corporation (IFC) appraisal information

Latest Environmental Category A projects as of 13 August 2021:

Filtered By	Reset	Search Results : 488 Documents		
Project Type: Investment	x	Project Name	Country	Disclosure Date
Environmental Category: A	x			
Refine By				
<ul style="list-style-type: none"> > Project Disclosure Date > Project Type > Region > Country > Document Type ▼ Environmental Category A (488) > Product Line > Project Status > Broad Community Support > Industry > Development Impact > Blended Finance > Public-Private Partnerships > COVID-19 Response 				
		Zarafshon Wind 44364 Investment		
		Document Type	Country	Disclosed Date
		Early Disclosure	Uzbekistan	Jul 20, 2021
		CIMAF West Africa 42046 Investment		
		Document Type	Country	Disclosed Date
		Environmental Documents	Western Africa Region	May 28, 2021
		CIMAF West Africa 42046 Investment		
		Document Type	Country	Disclosed Date
		Summary of Investment Information (AIP Policy 2012)	Western Africa Region	May 28, 2021
		ETG RSE Medium Term Loan 44363 Investment		
		Document Type	Country	Disclosed Date
		Summary of Investment Information (AIP Policy 2012)	Africa Region	May 27, 2021
		Agila 44179 Investment		
		Document Type	Country	Disclosed Date
		Environmental Documents	Philippines	Apr 19, 2021
		Agila 44179 Investment		
		Document Type	Country	Disclosed Date
		Summary of Investment Information (AIP Policy 2012)	Philippines	Apr 19, 2021
		VA Tech - HAM Projects 42588 Investment		

Information related to the 2 Category A projects currently awaiting approval

1. Zarafshon Wind:
 - Hyperlink: <https://disclosures.ifc.org/project-detail/ED/44364/zarafshon-wind>
 - Early Disclosure to the Draft Environmental and Social Impact Assessment;
 - Relevant part of the Project Description: “The project has developed an preliminary environmental & social impact assessment titled “Zarafshan Wind Farm - Preliminary Environmental & Social Impact Assessment” dated “July 2021” to address E&S risks, impacts and mitigations for the project which is currently being updated to meet IFC’s Performance Standards.”
 - Preliminary Environmental & Social Impact Assessment available under the hyperlink above (including 2 Annexes);
 - No projected board date yet.
2. CIMAF West Africa:
 - Hyperlink: <https://disclosures.ifc.org/project-detail/ESRS/42046/cimaf-west-africa>
 - Environmental & Social Review Summary including E & S Project Categorization and Applicable Standard; Environmental and Social Mitigation Measures,

- Stakeholder Engagement, Broad Community Support and Environmental & Social Action Plan under link above;
- Environmental and Social Impact Study in French prepared by the client available under same link;
- Projected board date: 6 August 2021 (see separate Summary of Investment Information page: [Disclosure - CIMAF West Africa \(ifc.org\)](#))

Latest Environmental Category B projects as of 13 August 2021:

Filtered By	Reset	Search Results : 5043 Documents		
Project Type: Investment x		Project Name	Country	Disclosure Date
Environmental Category : B x				
Refine By				
<ul style="list-style-type: none"> > Project Disclosure Date > Project Type > Region > Country > Document Type > Environmental Category > Product Line > Project Status > Broad Community Support > Industry > Development Impact > Blended Finance > Public-Private Partnerships > COVID-19 Response 				
		KICT 45328 Investment		
		Document Type	Country	Disclosed Date
		Environmental Documents	India	Aug 11, 2021
		KICT 45328 Investment		
		Document Type	Country	Disclosed Date
		Summary of Investment Information (AIP Policy 2012)	India	Aug 11, 2021
		Brimore 45574 Investment		
		Document Type	Country	Disclosed Date
		Environmental Documents	Egypt, Arab Republic of	Aug 9, 2021
		Brimore 45574 Investment		
		Document Type	Country	Disclosed Date
		Summary of Investment Information (AIP Policy 2012)	Egypt, Arab Republic of	Aug 9, 2021
		RMI4P Scatec 1 45423 Investment		
		Document Type	Country	Disclosed Date
		Environmental Documents	South Africa	Aug 2, 2021
		RMI4P Scatec 3 45425 Investment		
		Document Type	Country	Disclosed Date
		Environmental Documents	South Africa	Aug 2, 2021
		RMI4P Scatec 2 45424 Investment		
		Document Type	Country	Disclosed Date

Information related to the latest 5 Category B projects pending approval:

1. KICT:
 - Hyperlink: <https://disclosures.ifc.org/project-detail/ESRS/45328/kict>
 - Environmental & Social Review Summary including E & S Project Categorization and Applicable Standard; Environmental and Social Mitigation Measures, Stakeholder Engagement and Environmental & Social Action Plan under link above;
 - Final Environment and Social Due Diligence report from client available for download under same link;

- Projected board date: 21 September 2021 (see separate Summary of Investment Information page: <https://disclosures.ifc.org/project-detail/SII/45328/kict>)
- 2. Brimore:
 - Hyperlink: <https://disclosures.ifc.org/project-detail/ESRS/45574/brimore>
 - Environmental & Social Review Summary including E & S Project Categorization and Applicable Standard; Environmental and Social Mitigation Measures, Stakeholder Engagement and Environmental & Social Action Plan under link above;
 - Projected board date: 13 September 2021 (see separate Summary of Investment Information page: <https://disclosures.ifc.org/project-detail/SII/45574/brimore>)
- 3. RMI4P Scatec 1:
 - Hyperlink: <https://disclosures.ifc.org/project-detail/ESRS/45423/rmi4p-scatec-1>
 - Environmental & Social Review Summary including E & S Project Categorization and Applicable Standard; Environmental and Social Mitigation Measures, Stakeholder Engagement and Environmental & Social Action Plan under above;
 - Projected board date: 23 September 2021 (See separate Summary of Investment Information page: <https://disclosures.ifc.org/project-detail/SII/45423/rmi4p-scatec-1>)
- 4. RMI4P Scatec 3:
 - Hyperlink: <https://disclosures.ifc.org/project-detail/ESRS/45425/rmi4p-scatec-3>
 - Environmental & Social Review Summary including E & S Project Categorization and Applicable Standard; Environmental and Social Mitigation Measures, Stakeholder Engagement and Environmental & Social Action Plan under link above;
 - No projected board date on the separate Summary of Investment Information page yet (<https://disclosures.ifc.org/project-detail/SII/45424/rmi4p-scatec-3>)
- 5. RMI4P Scatec 2:
 - Hyperlink: <https://disclosures.ifc.org/project-detail/ESRS/45424/rmi4p-scatec-2>
 - Environmental & Social Review Summary including E & S Project Categorization and Applicable Standard; Environmental and Social Mitigation Measures, Stakeholder Engagement and Environmental & Social Action Plan under link above;
 - No projected board date on the separate Summary of Investment Information page yet (<https://disclosures.ifc.org/project-detail/SII/45424/rmi4p-scatec-2>).