

CORPORATE

# European Investment Bank

## **Environmental and Social Standards**



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## ENVIRONMENTAL AND SOCIAL STANDARDS

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

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## TABLE OF CONTENT

<b>GLOSSARY .....</b>	<b>1</b>
<b>LIST OF ACRONYMS AND ABBREVIATIONS .....</b>	<b>4</b>
<b>1. ASSESSMENT AND MANAGEMENT OF ENVIRONMENTAL AND SOCIAL IMPACTS AND RISKS.....</b>	<b>6</b>
<b>2. POLLUTION PREVENTION AND ABATEMENT .....</b>	<b>18</b>
<b>3. EIB STANDARDS ON BIODIVERSITY AND ECOSYSTEMS.....</b>	<b>24</b>
<b>4. EIB CLIMATE-RELATED STANDARDS .....</b>	<b>35</b>
<b>5. CULTURAL HERITAGE .....</b>	<b>37</b>
<b>6. INVOLUNTARY RESETTLEMENT.....</b>	<b>42</b>
<b>7. RIGHTS AND INTERESTS OF VULNERABLE GROUPS .....</b>	<b>53</b>
<b>8. LABOUR STANDARDS.....</b>	<b>60</b>
<b>9. OCCUPATIONAL AND PUBLIC HEALTH, SAFETY AND SECURITY .....</b>	<b>67</b>
<b>10. STAKEHOLDER ENGAGEMENT.....</b>	<b>75</b>

# 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 (i) 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

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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

# 1. ASSESSMENT AND MANAGEMENT OF ENVIRONMENTAL AND SOCIAL IMPACTS AND RISKS

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## 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 hierarchy<sup>1</sup> 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 assessment<sup>2</sup> 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 conflict<sup>3</sup> 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.

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<sup>1</sup> See definition of the mitigation hierarchy for environment and human rights.

<sup>2</sup> 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.

<sup>3</sup> 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;<sup>4</sup>
  - 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;
  - Maintaining a constructive relationship with stakeholders on an ongoing basis through meaningful engagement throughout the planning, implementation, monitoring and decommissioning of the project.

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<sup>4</sup> 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.

### 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 overlap<sup>5</sup>.

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.

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).

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

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;<sup>6</sup>
  - 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,<sup>7</sup> contribution of the project to improved resilience, and the impacts of climate change on the project;
  - impacts of the project on the environment;<sup>8</sup>
  - 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 resources<sup>9</sup> in the area;
  - the absorption capacity of the natural environment;<sup>10</sup>
  - areas in which there has already been or is likely to be a failure to meet the environmental quality standards;
  - densely populated areas;

<sup>6</sup> In particular land, soil, water, and biodiversity, including hydromorphological changes.

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

<sup>8</sup> 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).

<sup>9</sup> Including soil, land, water, and biodiversity.

<sup>10</sup> 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.

- 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 project<sup>11</sup> 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 resources<sup>12</sup>, 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;
- 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

<sup>11</sup> 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.

<sup>12</sup> 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.

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,<sup>13</sup> 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.

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 approach<sup>14</sup> 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.

<sup>13</sup> 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

<sup>14</sup> 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.

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.<sup>15</sup>

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.

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

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<sup>15</sup> 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 option, 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.

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 ESMP 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 safeguarded<sup>1</sup>;
- 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.

<sup>1</sup> [http://ec.europa.eu/environment/newprg/pdf/7EAP\\_Proposal/en.pdf](http://ec.europa.eu/environment/newprg/pdf/7EAP_Proposal/en.pdf)

### 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 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;<sup>2</sup>
- 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.

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

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.

### **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.<sup>3</sup>

15. Where historical pollution such as soil or ground water contamination exists and/or any environmental damage<sup>4</sup> 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.

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<sup>3</sup> 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)

<sup>4</sup> As defined within EU legislation

### 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 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.<sup>5</sup>

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.

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<sup>5</sup> Disposal in landfills is a practice that should be gradually phased out.

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 Regulation<sup>6</sup>.

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 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,

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<sup>6</sup> The REACH Regulation contributes to the fulfilment of the International Strategic Approach to International Chemicals Management.

- 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.<sup>7</sup> 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.

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

### 3. BIODIVERSITY AND ECOSYSTEMS

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#### Introduction

1. Biodiversity and healthy ecosystems are necessary for human survival and a good quality of life, but are being lost and degraded at a greatly accelerated rate because of human activities. The planet's biodiversity, ecosystems and their associated services (provisioning, regulating, supporting, and cultural) are under threat from climate change, accelerated development and pollution.
2. The EIB is committed to development that is compatible with maintaining the resilience of ecosystems and their functions and processes in order to achieve at least no net loss of biodiversity and ecosystem services.
3. When supporting development affecting or located within areas qualifying as "critical habitat" according to the criteria set out in this standard, the EIB requires efforts to achieve positive outcomes, or net gain, for the biodiversity and ecosystem services that depend on these areas, to improve their ability to persist in a favourable condition.
4. To provide the necessary assurance that biodiversity, ecosystems and their associated services, will be sustained when projects supported by the EIB are designed, implemented and decommissioned, promoters are expected to follow the principles set out in this standard, to identify risks to biodiversity and ecosystems following a credible and evidence-based process of impact assessment and to incorporate effective mitigation and management measures in their management systems, plans and procedures.

#### International Commitments and Legal Requirements

5. The EIB is committed to:
  - Respect all relevant instruments of European and international law;
  - Conform with the EU environmental legislation for projects in the EU, candidate and potential candidate countries;
  - Respect the spirit or intent of EU environmental legislation where it is supporting developments in countries outside the EU;
  - Respect international conventions and agreements and act in conformance with their intent and the relevant provisions and standards within them. This includes obligations under the Convention on Biological Diversity (CBD):
    - The European Union and all its Member States are party to the CBD, which seeks to protect and sustain the rich diversity of life forms at the genetic, species and ecosystem levels. The CBD has adopted a strategic plan for Biodiversity 2011-2020, with the associated Aichi Biodiversity targets, which parties to the Convention should strive to meet. The EU has adopted its own biodiversity strategy for 2020, which includes 6 targets and 20 actions. The EIB's Standard 3 is intended to strengthen efforts to implement this 2020 strategy.
    - Art. 6 of the CBD states that its parties shall develop national strategies, plans or programmes for the conservation and sustainable use of biological diversity, as well as integrate this objective into relevant sectoral or cross-sectoral plans, programmes and policies. Strategic and project-level impact assessments are important implementation mechanisms.

#### Principles and Objectives

6. Underpinning the Biodiversity and Ecosystem Standard of the EIB is the overall goal of maintaining the integrity of areas important for biodiversity as well as the natural functions, processes, and resilience of ecosystems, with the aim of achieving no net loss or a net gain of biodiversity and ecosystem. The rationale

is that for any given environment, it is possible to compare current biodiversity values with those that would occur in an ideal state of conservation. All projects should seek to contribute towards this state, avoid or minimise further losses and finally compensate for any residual impact.

7. The EIB acknowledges the fact that its operations may have adverse impacts on biodiversity, ecosystems and their associated services. To secure favourable economic, environmental and social outcomes from its operations, it is committed to the following key principles:

- Apply the precautionary principle<sup>8</sup> to avoid or prevent irreversible impacts on biodiversity and ecosystems in cases where the consequences of damage or loss are potentially significant and the knowledge needed to manage risks and impacts is lacking;
- Encourage early considerations of risks to biodiversity and ecosystems from the first stages of project development and design;
- Conduct biodiversity-inclusive impact assessments that consider direct, indirect, cumulative and induced impacts on biodiversity using credible, evidence-based approaches, best available data and an early screening and scoping process to determine the biodiversity footprint of the project and whether there are no-go areas;
- Follow the mitigation hierarchy to avoid, minimise, restore and as a last resort compensate for adverse impacts on biodiversity and ecosystems. This applies to all biodiversity in all ecosystems, regardless of its formal conservation status;
- Use an ecosystem approach to assess biodiversity-related risks and impacts, ensuring that the interdependencies between people, biodiversity and ecosystems are recognised. Project site boundaries are often meaningless in ecological terms and implications for biodiversity and ecosystems should be considered across the landscape at the scale needed to understand ecological functions, processes and interdependencies as well as induced, indirect, and cumulative effects;
- Seek opportunities to enhance biodiversity and ecosystems whenever possible in line with broader conservation efforts in the region or landscape where the project is located. Ensure that mitigation strategies align with regional-level conservation goals and do not solely address site-level impacts;
- Use an adaptive management approach supported by monitoring so that corrective actions can be taken if needed to achieve biodiversity actions and targets;
- Ensure transparent engagement with stakeholders regarding implications for biodiversity and ecosystems and appropriate participation of local communities in the decision-making process. This is especially important where impacts on biodiversity or ecosystem services could affect human rights or the livelihoods, wellbeing or culture of indigenous people.

### **Application of the Standard in Natural, Semi-Natural, and Urban Habitats**

#### **Definition of natural, semi-natural and urban habitats**

8. For the purpose of this Standard, the EIB recognises the need to establish the extent of human-induced disturbance that has occurred prior to a planned development. Specifically, the project promoter should determine whether a project will affect urban areas or areas that retain natural or semi-natural habitats. This is important because natural and semi-natural habitats typically support higher levels of biodiversity than urban or degraded habitats. Developments may affect all these categories of land.

9. Project promoters are expected to identify, classify and map habitats, partitioning them into natural, semi-natural and urban categories, taking into account the following considerations:

- Natural habitats retain ecological assemblages, functions and species composition that are attributable to natural evolutionary processes and have not been substantially modified by human

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<sup>8</sup> 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 principle.

activities. Truly natural and unaltered habitats are increasingly rare and those that remain are likely to be a high priority for conservation.

- Semi-natural habitats have ecological assemblages that have been substantially modified in their composition, balance or function by human activities. They may have evolved through traditional agricultural, pastoral or other human activities and depend on their continuation to retain their characteristic composition, structure and function. Despite not being natural, these habitats and ecosystems often have high value in terms of biodiversity and the services they provide.
- Urban habitats are essentially altered or transformed by human use. Land may be predominantly occupied by constructions or infrastructure and the ecosystems and species assemblages that occurred there previously may be completely or almost completely lost. As well as grey space, brownfield sites, roofs and balconies, urban areas may also include elements of greenspace. Not only can these areas support surprisingly rich and diverse rich ranges of plants and animals, they also offer great potential for biodiversity enhancement and ecological restoration.

### **Critical Habitat Determination**

10. More stringent requirements apply where projects are located in areas or ecosystems that are considered to represent “critical habitat”, including a presumption in favour of avoidance and a requirement to demonstrate positive outcomes (net gain) of biodiversity in cases where projects do take place. Promoters are therefore required to determine through an assessment whether their projects are located within, or could affect any areas of critical habitat.

11. For the purpose of this Standard, an area will be considered “critical” if it supports any of the following features, and is needed to sustain them in a viable state:

- Highly threatened or unique ecosystem;
- Population of critically endangered, endangered or vulnerable species, as defined by the IUCN Red List of threatened species and in relevant national legislation;
- Population, range or distribution of endemic or restricted-range species, or highly distinctive assemblages of species;
- Habitat required for the survival of migratory species and/or congregatory species;
- Biodiversity and/or ecosystem with significant social, economic, or cultural importance to local communities and indigenous groups;
- Habitat of key scientific value and/or associated with key evolutionary processes.

12. Given that biodiversity has an intrinsic value, for all types of habitats, there is a presumption of criticality if one or more of these criteria are met, and the burden of proof is on the promoter to characterise the absence of critical habitat in the project’s area of influence, even in urban habitats. Each criterion should be screened in consultation with relevant stakeholders (e.g. local communities and conservation experts), whose opinions and conclusions should be attached to the assessment.

13. There are no fixed quantitative thresholds for the fulfilment of each criterion, and they should be evaluated on a case-by-case basis, taking into account the specificities of the area under consideration. Reliance on qualified expert advice and association with recognised independent NGOs and institutions will ensure the robustness and objectivity of the results.

14. Development within or affecting a critical habitat should be avoided and can only go ahead if:

- a) No other viable alternatives for the project exist both in terms of location and design, and there is a rigorous justification for overriding public interest;
- b) Further studies are carried out on the critical habitat features affected by the project, to show that impacts will not result in any measurable decline in status of the feature or of the area needed to sustain the features in a viable state;
- c) Impacts will be avoided and minimised to the extent possible through changes in footprint or design;

- d) Positive conservation outcomes (net gain) are achievable through appropriate compensation or offset measures for residual impacts that would otherwise occur despite impact avoidance and minimisation measures; and,
- e) A robust, appropriately designed, and long-term biodiversity monitoring and evaluation programme aimed at assessing the status of the critical habitat is integrated into the promoter's adaptive management programme.

15. The significance of impacts on natural features is strongly influenced by their relative irreplaceability and vulnerability. Features which are highly rare, unique and irreplaceable as well as very vulnerable to a project's impacts are less likely to recover, requiring compensation or offsets to achieve not net loss or net gain in a critical habitat. In some cases, impacts on highly irreplaceable and vulnerable features may be impossible to compensate or offset, or the necessary techniques may be uncertain. To avoid risk of irreversible impacts on highly irreplaceable and vulnerable features, the EIB will not finance projects likely to have significant adverse effects on such features, regardless of compensation or offset measures.

16. The EIB will not finance a project with significant impacts on nationally or internationally recognised highly threatened or unique species and ecosystems<sup>9</sup>, nor will it finance a project with significant impacts on any UNESCO World Heritage Site.

### **Application of the Standard in Legally Protected Areas or Internationally Recognised Areas for Biodiversity Conservation**

17. The EIB will only finance a project within a protected area, or within a nationally or internationally designated or recognised area for biodiversity conservation<sup>10</sup>, if the promoter is able to demonstrate that the development is legally permitted and that the design of the project is consistent with any management plan for such areas that is recognised by the relevant authorities. In the absence of a recognised plan, projects should be compatible with the achievement of the relevant conservation objectives used to designate the area in question.

### **Appropriate Assessment**

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

19. The promoter will ensure that the assessment is able to demonstrate, with supporting evidence, that:

- 1) There will be no significant effects on a Natura 2000 site (Stage One: Screening); OR
- 2) There will be no adverse effects on the integrity of a Natura 2000 site (Stage Two: Appropriate Assessment); OR
- 3) 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); AND
- 4) 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. As defined in the EU Habitats Directive, the latter include only reasons relating to public health or public safety, or with beneficial consequences of primary importance for the environment. Other imperative reasons of overriding public interest are subject to an opinion from the European Commission.

<sup>9</sup> This includes habitats and species of community interest listed in Annex 1 and Annex 4 respectively of the EU Habitats Directive (92/43/EEC); unless the project must be carried out for imperative reasons of overriding public interest as per Article 6(4) of the Habitats Directive.

<sup>10</sup> EIB applies the protected area definition provided by the International Union for the Conservation of Nature (IUCN): a clearly defined geographical space, recognised, dedicated and managed through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values. This includes sites protected as part of the Natura 2000 network (including Special Areas of Conservation and Special Protection Areas), potential Natura 2000 sites, sites of the Emerald Network, Ramsar sites, UNESCO Natural World Heritage sites, UNESCO Man-and-Biosphere Reserves, Important Bird and Biodiversity Areas (IBAs), sites from the Alliance for Zero Extinction (AZE), and others as relevant.

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

### Assessments of Risks and Impacts on Biodiversity and Ecosystems

21. To conform with this Standard, the environmental assessments carried out for a proposed development must include a consideration of impacts on biodiversity, ecosystems and their associated services, as well as a critical habitat assessment (as described above). It is highly recommended that those assessments should form an integral part of the overall environmental and social impact assessment (ESIA) process (if and when applicable); but certain national regulations may require free-standing analysis with a separate approval process.

22. An explicit scoping stage should be used to identify likely risks to biodiversity at an early stage. Early consideration of risks to biodiversity and ecosystems is considered necessary to allow them to be identified and integrated efficiently and cost-effectively into the crucial early stages of development planning. Biodiversity scoping should be carried out for all projects regardless of the *prima facie* perceived biodiversity importance of the affected area.

23. Assessments of impacts on biodiversity must offer, to the extent possible, a comprehensive picture of the likely direct, indirect, induced and cumulative impacts of the development on habitats, species and ecosystems.

24. No impact assessment will be considered valid unless the following biodiversity-focused assessment steps have been completed, in the following order:

- 1) Establishment of an adequate baseline indicating the ecological state of the project site and its area of influence as it is now and as it would develop in the absence of the planned development.
- 2) An assessment of the construction and operation impacts of the various alternatives against the benchmark of the “without-project scenario” (as established above). This includes direct, indirect, cumulative and induced impacts.
- 3) Consideration of alternative project designs, including a “without-project scenario” (see below), indicating if these would result in improved outcomes for biodiversity, ecosystems and their services.

25. 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) and creation of an edge effect;
- b) Introduction or spread of invasive alien species;
- 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, sometimes referred to as induced development (development of infrastructure encourages further development, that is not directly connected with the project).

26. If critical habitats have been identified, it is recommended that the promoter seek an external review of the impact assessment by a qualified, recognised and independent organisation in the field.

27. Particular requirements apply for projects requiring an Appropriate Assessment under the EU Habitats Directive (see above). In such cases, the Appropriate Assessment should be carried out in parallel or as an integral part of impact assessments as required by regulations of Member States.

### **Analysis of Alternatives**

28. To conform with this Standard, it is necessary to demonstrate that there are no alternatives to development affecting natural, semi-natural or critical habitats. This requires explicit assessment of alternatives from a biodiversity perspective and their inclusion in any decision on project alternatives. Different alternatives have to be sufficiently analysed with regards to their impacts on biodiversity, ecosystems and their associated services. The reference parameters for such comparisons are the conservation of biodiversity and maintenance of the integrity of habitats. Economic criteria cannot be seen as overruling the ecological criteria.

29. Alternatives may include variations in the location 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 and social risk management systems.

30. A 'without-project' scenario must be established and included in the assessment of alternatives. The 'without-project' scenario—also referred to as a reference scenario, a baseline scenario, or a business-as-usual scenario—is a narrative that describes what is expected to happen to 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, which will allow a better impact assessment of the project over time.

### **Ecosystem Services**

31. EIB aims to ensure that the capacity of ecosystems to supply their associated services is maintained and that people are able to continue to access the services on which they depend for their livelihoods and wellbeing when projects are developed. This is particularly important in cases where ecosystem services are critical to the provision of human rights, where they are essential to support life or livelihoods and where they have strong cultural significance to indigenous or traditional cultures.

32. Ecosystem services affected by a proposed project should be identified in collaboration with stakeholders, including the ecosystems that supply them and the specific values and benefits derived from them. Where practical and feasible, a screening of the levels of dependence on these services should be included. Ecosystem services critical to the viability of a proposed project should also be identified.

33. Impact assessments should consider the extent to which a proposed project will affect the supply of ecosystem services or the ability of beneficiaries to access them to obtain the values and benefits they depend on. 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.

34. Where practical and feasible, an economic assessment of the biodiversity and the ecosystem services provided by a site and the larger region in which it is integrated should be carried out. Where possible, or if necessary to quantify benefits derived from ecosystem services, a monetary valuation of benefits should be included.<sup>11</sup>

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<sup>11</sup> 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.

### **Cumulative Impacts Assessment**

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

- a) Between the different elements of the projects (no 'salami-slicing'<sup>12</sup> of impacts);
- b) With regards to other projects in the same area likely to have similar impacts; and,
- c) With regards to other activities, threats and pressures in the wider landscape, that might have similar or related impacts on biodiversity and ecosystems

36. If the project is located in an area with a formal conservation regime, the promoter should consult with the authorities responsible for its designation in order to gather information on all projects developed or planned that might affect its viability and support them in conducting a cumulative impact assessment that take these into consideration.

### **Assessment of Supply Chains**

37. Projects may have significant effects on biodiversity, ecosystems and their associated services that are associated with their procurement policies and supply chains. The risk of such effects should be considered as part of the biodiversity assessments carried out for a project, and mitigation measures should be recommended to ensure sustainable outcomes.

38. In cases where living natural resources represent a significant part of the procurement budget, 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.

39. 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.<sup>13</sup>

40. In the absence of a credible and recognised standard, the promoter should commit to applying good international industry operating principles, management practices, and technologies.

41. If the promoter is purchasing living natural resources known to be produced in regions with a risk of significant conversion of natural and/or critical habitats, systems and verification practices should be included in the biodiversity management plan to evaluate the primary suppliers. It should be specified that only living natural resources of a legal and sustainable origin can be purchased, with their sourcing monitored and documented to ensure it does not adversely impact core ecological functions of the natural and/or critical habitats.

42. 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.<sup>14</sup> 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.

### **Stakeholder Engagement**

43. The promoter should consider the differing values attached to particular biodiversity, ecosystems and their associated services by relevant local, national, and international stakeholders. The perspectives to be taken in account include those of local communities, indigenous groups, governmental officials, academic and research institutions, recognised experts for the biodiversity features of concern, and national and international conservation NGOs, as appropriate.

44. 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 as part of

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<sup>12</sup> For the purpose of this Standard, 'salami-slicing' is defined as artificially dividing a project into distinct sub-projects for the purpose of legal procedures, such as an ESIA.

<sup>13</sup> A list of recognized standards and management practices by sectors is managed by the International Trade Centre's Standards Map [www.standardsmap.org](http://www.standardsmap.org) and the Practitioners Network [www.tradestandards.org](http://www.tradestandards.org)

<sup>14</sup> The Natural Value Initiative developed by Fauna & Flora International in association with other organisations, provides a methodology for assessing such risks.

the stakeholder engagement plan, which can be integrated in the ESIA or separated where justified by the features of the site and impacts of the project (see Standard 10 on Stakeholder Engagement).

### **Mitigation Hierarchy**

45. Working towards a policy of no net loss of biodiversity (inherent in the EU Birds and Habitats Directives), requires that impacts on biodiversity, ecosystems and their associated services be mitigated. This applies to all sites where biodiversity is measurable.

46. The EIB requires promoters to develop mitigation strategies appropriate to the threats (including non-project related), sensitivity and biodiversity importance of the landscapes within which projects are located and commensurate with anticipated impacts.

47. The mitigation strategy of a project should be developed to follow the mitigation hierarchy. The priority should be avoidance of impacts on biodiversity, ecosystems and their associated services. If this is not possible, measures to minimise those impacts and restore the biodiversity and ecosystems should be implemented. Compensation measures should come only as a last resort, if residual impacts remain.

### **Avoidance**

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

49. 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 measures.

### **Minimisation and Restoration**

50. The promoter should take adequate measures to reduce the duration, intensity, and extent of impacts that cannot be avoided.

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

52. When a project is located in an expanse of relatively 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.

### **Compensation or offsets**

53. Residual impacts should be evaluated, taking into account the uncertainty of outcomes due to mitigation measures. A conservative approach should be taken when quantifying residual impacts and ascertaining their significance.

54. Responding to these residual impacts, compensation or offset measures should be implemented to reach a minimum of no net loss of biodiversity overall. If the project is taking place in an area of critical habitat, net gain of biodiversity and ecosystem services must be achieved. Offsets should not be used as a mechanism to achieve “no net loss” or “net gain” until other forms of mitigation have been implemented to the fullest extent possible.

55. In line with international best practice principles for biodiversity offsetting<sup>15</sup>, biodiversity offsets are expected to:

- a) Be designed and implemented to complement and contribute to biodiversity conservation priorities identified at the landscape, eco-regional and national levels;
- b) Be based on best available information and knowledge;
- c) Achieve “like for like” or better outcomes (for example not exchanging habitats that are difficult to restore with types that are easy and therefore less rare);
- d) Achieve conservation outcomes above and beyond results that would have occurred if the offset had not taken place;
- e) Avoid displacing activities harmful to biodiversity to other locations;
- f) Be designed in an equitable manner, involving stakeholders in an open and transparent process; and,
- g) Achieve long term or lasting gains and be supported by a project for the duration of the impacts it seeks to compensate.

56. Recognising that there are limits to the impacts that can be offset, EIB will not finance projects expected to have impacts that would compromise the viability of critical habitat or its associated features (at the scale of the area of influence or greater) regardless of any proposed offset unless or until an offset that can be shown to be effective has been provided. In other cases, uncertainty and time-delays could make offsets unacceptable.

57. On-the-ground offsets are the only form of compensation admitted for significant residual impacts. Designing and delivering effective offsets may require an element of capacity building or research, but these must be used to enhance positive outcomes from offsets and translate into tangible outcomes “on the ground”.

58. Offsets should take the form of:

- a) Positive conservation management interventions, such as the creation, restoration or enhancement of biodiversity features at suitable locations; and
- b) 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).

Averted risk offsets are normally considered acceptable only if risks can be shown to be inevitable without the offset and it is possible to quantify threats and pressures so that offsets deliver gains sufficient to counter them.

59. An offset implementation and management plan must be developed, providing the rationale and associated evidence base for offsets and setting out the actions that will be taken to implement them and monitor their outcomes. The plan should also make provision for any necessary financial and institutional arrangements needed to achieve effective offsets in line with the objectives and to support them for the duration of the impacts they are designed to compensate.

60. For offsets intended to address residual impacts on critical habitat, the promoter should seek external review of the management plan designed by a qualified, recognised and independent organisation in the field.

61. If significant residual impacts on an area with a formal conservation regime remain, promoters should seek to implement additional programmes, as appropriate, to promote and enhance the conservation objectives of the area.

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<sup>15</sup>The Business and Biodiversity Offsets Programme (BBOP) has published a list of principles on biodiversity offsets, available here: [http://bbop.forest-trends.org/documents/files/bbop\\_principles.pdf](http://bbop.forest-trends.org/documents/files/bbop_principles.pdf).

### **Biodiversity Management Plan**

62. A Biodiversity Management Plan should be elaborated and integrated in the E&S management system associated with the project. Its biodiversity-related commitments should also be linked and/or included in other relevant management plans and procedures.

63. 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. 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.

### **Monitoring**

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

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

- 1) In-field monitoring of relevant biodiversity features;
- 2) 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; and,
- 3) 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).

66. 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 of the mitigation measures (e.g. viability of the offset) should be developed. In particular, where a project is affecting a critical habitat, indicators for each applicable criticality criterion have to be established with the external specialists and relevant stakeholders. Acceptable ranges of variability should be established for each indicator, with qualified experts identifying such thresholds.

### **Invasive Alien Species**

67. The promoter should take into consideration risks associated with alien species throughout the project's design, implementation and operation; and reflect those risks into the biodiversity impact assessment and the biodiversity management plan.

68. The risk of accidental transfer and release of alien species should be assessed along with their potential impacts on the local biodiversity, ecosystems and their associated services.

69. The intentional introduction of alien species into areas where they are not normally found can only be carried out following the adequate regulatory framework. Species known to be invasive cannot be introduced under any circumstances.

70. Mitigation measures should control, or attempt to control, the spread of invasive species into areas where they have not already been established.

71. In areas over which the promoter has management control, measures should be implemented to limit the spread of invasive species or, if possible, to eliminate them.

### Climate Change

72. The promoter should consider risks associated with climate change impacts on biodiversity and ecosystems throughout the project's design, implementation and operation in the biodiversity impact assessment; and include any measures needed for climate adaptation in the biodiversity management plan.

73. When establishing the biodiversity baseline and assessing impacts, the scope for sensitive species to migrate to more suitable climatic conditions and the resulting future home ranges of species should be taken into account. This is particularly important where areas designated to protect climate-sensitive species may be affected.

74. The potential for ecosystem-based adaptation to climate change through the preservation or enhancement of ecosystem functions present on the site (e.g. watershed restoration) should be assessed and integrated in the biodiversity management plan, where applicable.

75. To the extent possible, biodiversity management plans should be designed for climate resilience.

## 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 CO<sub>2</sub>-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 CO<sub>2</sub>eq/yr in absolute terms or leading to an emission variation of more than 20kt CO<sub>2</sub>eq/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 Heritage<sup>31</sup> and the Convention for the Safeguarding of Intangible Heritage<sup>32</sup>, 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 Development<sup>33</sup>.

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.

<sup>31</sup> <http://whc.unesco.org/en/conventiontext/>

<sup>32</sup> <http://www.unesco.org/culture/ich/index.php?pg=00006>

<sup>33</sup> <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.<sup>1</sup>

## 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;<sup>2</sup> and,

<sup>1</sup> "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](http://www.ohchr.org/Documents/Issues/Housing/Guidelines_en.pdf)

<sup>2</sup> 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.<sup>3</sup>

### Definitions

5. *Adequate housing*, according to human rights law, must at minimum meet the following criteria<sup>4</sup>:

- (i) *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.
- (ii) *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;
- (iii) *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;
- (iv) *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;
- (v) *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;
- (vi) *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
- (vii) *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.<sup>5</sup>

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

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

<sup>4</sup> 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](http://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf)>.

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

## EIB ENVIRONMENTAL AND SOCIAL STANDARDS

reside or work in a particular dwelling, residence or location, without the provision of, and access to, appropriate forms of legal or other protection".<sup>6</sup> 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 fail<sup>7</sup>.

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.<sup>8</sup>

<sup>6</sup> 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.

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

<sup>8</sup> 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.<sup>9</sup> It specifically supports the right to property, to adequate housing and standard of living and food.<sup>10</sup> 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 requirement to give

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<sup>9</sup> 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/>

<sup>10</sup> 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.

special consideration to the position of groups at risk of vulnerability or marginalisation such indigenous and tribal peoples and pastoralists.<sup>11</sup>

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 Standard, if they occupy the project area prior to a cut-off date established by the promoter and acceptable to the EIB. Such

<sup>11</sup> See EU Guidelines on Land (2004):

<[http://ec.europa.eu/development/icenter/repository/EU\\_Land\\_Guidelines\\_Final\\_12\\_2004\\_en.pdf](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>>

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.<sup>12</sup> 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.

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

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

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.<sup>13</sup>

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.<sup>14</sup>

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.<sup>15</sup>

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.

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

<sup>14</sup> 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%20sourcebookWB.pdf>

<sup>15</sup> 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

### **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;<sup>16</sup>
- (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.<sup>17</sup>

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.

<sup>16</sup> 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>.

<sup>17</sup> The UN Basic Principles and Guidelines on Development-based Evictions and Displacement. See <[http://www.ohchr.org/Documents/Issues/Housing/Guidelines\\_en.pdf](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 issues<sup>18</sup> 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.

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<sup>18</sup> 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

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### 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 resources<sup>19</sup>. As a result, they risk being disproportionately affected by project-related risks and adverse impacts.<sup>20</sup>

### Objectives

4. Standard 7 sets out to avoid or minimise, or otherwise mitigate and remedy<sup>21</sup>, 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.

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

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

<sup>21</sup> 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.<sup>22</sup>

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:<sup>23</sup>

- 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;

<sup>22</sup> 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.

<sup>23</sup> 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)<sup>24</sup> is the guiding document of reference in this respect for the EIB.<sup>25</sup> 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 duty

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<sup>24</sup> [http://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf)

<sup>25</sup> 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.

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)<sup>26</sup> 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,<sup>27</sup> are:

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

<sup>27</sup> 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>

## EIB ENVIRONMENTAL AND SOCIAL STANDARDS

- 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 countries<sup>28</sup>; stricter thresholds are set for hazardous labour;
- 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.<sup>29</sup>

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

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

<sup>29</sup> 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>

## EIB ENVIRONMENTAL AND SOCIAL STANDARDS

Agenda, as well as the UN Guiding Principles on Business and Human Rights. With the present Standard 8, in compliance with ILO's Core Labour standards and the aforementioned EU Guidelines<sup>30</sup> 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,<sup>31</sup> 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 operations<sup>32</sup> 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
<b>Hazardous work</b> 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.	<b>18</b> <b>(16 under strict conditions)</b>	<b>18</b> <b>(16 under strict conditions)</b>
<b>Basic Minimum Age</b> The minimum age for work should not be below the age for finishing compulsory schooling, which is generally 15.	<b>15</b>	<b>14</b>
<b>Light work</b> 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.	<b>13-15</b>	<b>12-14</b>

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

<sup>31</sup> Useful indications for the promoter may be found here [http://www.ilo.org/public/libdoc/ilo/2008/108B09\\_260\\_engl.pdf](http://www.ilo.org/public/libdoc/ilo/2008/108B09_260_engl.pdf), pp. 27-30.

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

21. Further to the above minimum age requirements, in compliance with the list of activities excluded from EIB lending<sup>33</sup> 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.<sup>34</sup> 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.

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

<sup>33</sup> Link to Activities excluded from EIB lending: [http://www.eib.org/attachments/documents/excluded\\_activities\\_2013\\_en.pdf](http://www.eib.org/attachments/documents/excluded_activities_2013_en.pdf)

<sup>34</sup> 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.

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.<sup>35</sup>

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.<sup>36</sup> It is good practice to establish a specific grievance mechanism to deal with claims related to collective dismissals (see below).

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<sup>35</sup> See below on collective dismissal.

<sup>36</sup> 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 cycle<sup>37</sup> 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 systems<sup>38</sup>, the EU's decent work agenda<sup>39</sup>, the OSH Framework Directive<sup>40</sup> 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;<sup>41</sup> 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.

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

<sup>38</sup> Guidelines on occupational safety and health management systems:

[http://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms\\_publ\\_922116344\\_en.pdf](http://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_publ_922116344_en.pdf)

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

<sup>40</sup> 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>

<sup>41</sup> 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 promoter<sup>42</sup>.

### 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 requirements will be best addressed and managed as part of the promoter's overall environmental and social management plan

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<sup>42</sup> 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>

(ESMP)<sup>43</sup>. 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 question<sup>44</sup>. 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.<sup>45</sup>

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)<sup>46</sup>, the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials<sup>47</sup>, the UN Code of Conduct for Law Enforcement Officials<sup>48</sup> and the International Code of Conduct on Private Security Providers<sup>49</sup>, 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 practice<sup>50</sup>, 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.

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

<sup>43</sup> Please see Annex 11 of the Handbook.

<sup>44</sup> For example OSHA and ISO 9000.

<sup>45</sup> 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.

<sup>46</sup> The Voluntary Principles on Security and Human Rights: [http://www.voluntaryprinciples.org/files/voluntary\\_principles\\_english.pdf](http://www.voluntaryprinciples.org/files/voluntary_principles_english.pdf)

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

<sup>48</sup> The UN Code of Conduct for Law Enforcement Officials:

[<http://www.ohchr.org/EN/ProfessionalInterest/Pages/LawEnforcementOfficials.aspx>](http://www.ohchr.org/EN/ProfessionalInterest/Pages/LawEnforcementOfficials.aspx)

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

<sup>50</sup> 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.

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 chain<sup>51</sup>. 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 discrimination<sup>52</sup>, 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 consultation<sup>53</sup>, 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 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

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<sup>51</sup> 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.

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

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

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)<sup>54</sup>, 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 mechanism<sup>55</sup>. 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 hazards<sup>56</sup> 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 workers<sup>57</sup>.

### **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.

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

<sup>55</sup> 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](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf). See also Standard 10.

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

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

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 required<sup>58</sup>.

38. Workers' accommodation quarters must meet minimum size<sup>59</sup> 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;
- 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

<sup>58</sup> This includes awareness-raising on communicative diseases, if relevant.

<sup>59</sup> 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

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 practice<sup>60</sup> 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.

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<sup>60</sup> 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)<sup>61</sup> and ILO Convention 169/1989.<sup>62</sup> It is triggered by specific circumstances and strictly defined project impacts, as elaborated in Standard 7.<sup>63</sup>

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.<sup>64</sup> 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 good governance are reflected in the White Paper on European Governance,<sup>65</sup> which acknowledges the need for greater citizen involvement and openness, and sets out the minimum standards for consultations on EU policies,

<sup>61</sup> [http://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf)

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

<sup>63</sup> 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.

<sup>64</sup> 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](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)>

<sup>65</sup> [http://eur-lex.europa.eu/LexUriServ/site/en/com/2001/com2001\\_0428en01.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/com/2001/com2001_0428en01.pdf)

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;<sup>66</sup>
- 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.

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<sup>66</sup> 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.

### 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 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.<sup>67</sup> 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,<sup>68</sup> 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

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<sup>67</sup> 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.

<sup>68</sup> As defined in Annex I and Annex II of the EU EIA Directive.

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' on-going interests and concerns about the project.

### **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 Peoples<sup>69</sup> 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<sup>70, 71</sup>

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

<sup>69</sup> [http://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf)

<sup>70</sup> 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.

<sup>71</sup> 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.

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 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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# European Investment Bank Environmental and Social Standards



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