Comments on the EIB Statement of Environmental and Social Principles and Standards
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The Statement

Fundamental human rights are the essential priority for public institutions so we think that it should be specifically mentioned in para 4 that “EIB will not finance projects that harm human beings, violate human rights…”

In para 5 the Bank states that the monitoring on the compliance of the project to environmental and social obligations rests with the Bank itself. We believe that this is an essential moment in relations Bank – Promoter, and taking into account the volume of operations and projects the Bank supports it is difficult to expect that all of the operations will be properly monitored as the Bank has limited stuff capacity. We think that the 3rd independent party should be involved in monitoring; in most controversial cases the NGOs and other stakeholders. As well it should be defined more precisely what is the “timely” corrective action.

Maximizing Benefits

The EIB claims in its Statement that its aim is to fight the problem of climate change (para 6) and to support projects in field of carbon sequestration as well in the para 7 it is stated that the Bank “proactively seeks to identify and finance projects that add value through the protection and improvement of the natural environment and promotion of sustainable communities” in particular in transport sector. Such approach deserves the highest compliment; however it doesn’t comply with reality as the Bank supports the airports extension and aviation in general. That is the great source of carbon emissions and should not be an object for public finance support. This leads to conclusion that the Statement should be more binding.

Minimizing Harm

It is worth to mention that as the “Maximizing Benefits” contains 7 paragraphs, the “Minimizing Harm” section contains only one and quite vague paragraph. The development is very important in our world, but we don’t have to forget that precautionary principle is the best one (and the Bank agrees on that), in order to avoid environmental and social catastrophes. In particular we believe that the cost – benefit analysis of the controversial projects should be made available for the public, especially for the affected communities and be a subject of public consent.

Environmental and Social Principles

Para 17. It is not clear how to measure the “acceptable degree” to which the promoter should reduce the risk of the damage that the controversial project can cause. To our opinion this degree should be a subject to consultations and consent of affected communities. As well it should be stated in the Statement.

Para 19. The EIB states that it is committed to the principle that environmental damage should be “rectified at source” (being the EU body the EIB commits to all the EU laws), but in the same para the Bank admits that the promoter can be asked only to “at least to reduce point source pollution”. This wording is too weak to our view, it should be clearly stated that all the projects sponsored by the EIB should comply with the highest environmental norms.
The issue of human rights is covered in the EIB’s Statement however it is quite vague and not clearly stated to which human rights the Bank is ready to commit. The EIB should refer to the UN Norms on Responsibilities of Transnational Corporations and other Business Enterprises with Regard to Human Rights and elaborate a separate binding policy on Human rights, as now it can partially found in the Social Assessment Guidelines. Consequently the Bank should specify how the compliance and grievance from the stakeholders will be dealt with (para 21).

Taking into account the level of EIB’s involvement in operations on Global South (ACP and ALA countries) and the amount of money that according to its external mandate the EIB’s is supposed to invest there need to be more elaborated section on the indigenous people and their rights.

**Environmental standards**

Para 23. We believe that the environmental standards applied by the Bank in all its operations should be fixed and not be a subject for discussion between the Bank and the promoter.

Despite that the Bank claims in the Statement that it has developed “a set of environmental and social requirements” that are applicable to the projects “regardless of where the project is located” it is indicated in the Handbook that projects inside EU must comply with the EU legislation, and those that are outside are only benchmarked against it. We believe that the EIB should promote the EU norms and standards and require the projects to comply with it even if they are situated outside EU. Moreover we think that the Bank should indicate in the Statement that it will reject the financing of the project if it doesn’t legally comply or violate human rights (see para 1). The point about non compliance to the law should be added to the list of exclusions in para 24.

Para 24. The EIB states that it will not finance projects that “have significant unmitigated negative impacts on the “red list” of species and their associated habitats”. However the “red list” species are highly vulnerable ones and any negative impact could be destructive for them, not saying about “significant” one. Moreover it is difficult to imagine how such damage could be mitigated, we believe, that this should be explicitly explained in the Statement, so that promoters have clear vision and understanding.

**Emission Standards**

Para 27. The EIB states that the projects that it supports financially should “include measures to prevent, reduce or eliminate pollution that arise directly from their activities”. As the Bank claims its commitment to the principle “polluter pays” and that a promoter should reduce the risk of the damage to the environment caused by the project “even where there are may not be conclusive evidence of a casual link between the project and its potential negative consequences” (see para 17), we believe that above mentioned wording should contain word “indirect” and look like: “include measures to prevent, reduce or eliminate pollution that arise directly or indirectly from their activities”.

Para 28. We welcome the willingness of the Bank to use more stringent standards of EU in non-EU countries; however to our mind such wording leaves too much room for exceptions that are unappropriate as we believe that the Bank should mainstream the EU norms and standards in our countries. So we think that final version of the sentence should not contain mentioning about phased approach.
“informing” stakeholder, but it doesn’t require any “consent” of the affected communities. We believe that this is an essential part of the practices when dealing with indigenous communities when all the livelihood of people is depending on the project implementation, as well as this is relevant when dealing with projects listed under Annex I of the EU EIA Directive. So the Bank should make stronger commitment for the protection of indigenous peoples’ rights, especially if the project includes involuntary resettlements.

It is not clear from the Statement to which category do the loans to financial intermediaries belong.

Para 32. If the promoter is required to make an Environmental Management Plan for the project outside of EU and its environmental impacts are likely to be significant it is crucial to our mind to make the EMP available for the public, in particular for the affected communities.

According to the best international practice (namely one of the World Bank), the Environmental Impact Study for the investment projects outside the EU should be made public in 120 days in advance of the relevant meeting of the EIB Board of Directors for projects in public sector, and 90 days for projects in private sector. (para 36). The finance of the Bank should not be given to the project unless the proper EIS is delivered.

Para 38-39. The Bank indicates that non-EU citizens or firms can not submit the complaints about the EIB activities to the European Ombudsman and it is the good will of the European Ombudsman to use its own power in order to handle it. This issue should be clarified in line with the memorandum of understanding between the EBRD and European Ombudsman.

Social Standards

Para 40. As soon as the Bank aims to “protect and where possible to enhance the livelihoods of individuals and communities directly and indirectly affected by projects financed by the Bank” it is crucial that the Bank have a strong mechanism to make the promoter responsible and to monitor whether the livelihoods of peoples are restored and/or adequately compensated.

As well please see the comments to para 31.

All four core labor standards should be formally adopted by the Bank as it is not clearly stated in the Handbook.

Para 42. We welcome the position of the Bank not to finance the project if it threatens the integrity of sites protected for special cultural or other significance. However the argument for benefits outweighing the costs should be approved by the stakeholders, as well as the plan for the restorations measures should be a subject for public consent. As well a clear set of criteria for the “no-go zones”, i.e. sites that can not be used for the project purposes at any time.

General conclusions

- The Statement contains very good ideas and principles however it should be more binding and explicit.
- The Bank should use EU norms and standards in all countries of operations. In case if the local norms and standards are higher than the European ones they should be used in the operations.
- The Bank claims that if fights against climate change and is responsible for direct and indirect harm that project might cause. Than it has to review its transport policy and to stop financing of expanding aviation all other the world.
- In order to mainstream the principles and norms of EU it is essential for the Bank to make stress on human rights and to adopt UN Norms on Responsibilities of Transnational Corporations and other Business Enterprises with Regard to Human Rights
- Free, prior and informed CONSENT principle should be adopted when dealing with indigenous communities.
- The separate part of the Statement should be dedicated to the indigenous people and their rights