

Counter

Balance

Challenging
the European
Investment
Bank

The background of the entire page is a collage of images. At the top, there are dark, billowing clouds. Below them, several industrial smokestacks are visible, some emitting thick white smoke. In the middle ground, there is a large dam with water cascading over its spillways. In the foreground, there is a flooded area where several people are wading through the water. Some people are carrying items on their heads, and one person is holding a large container. The overall color palette is dominated by dark, moody tones, with a yellowish-brown hue that suggests a hazy or polluted atmosphere.

Citizens' Guide to the European Investment Bank

This is a publication by:

Counter Balance: Challenging the European Investment Bank,

a coalition of development and environmental non-governmental organisations.

Counter Balance comprises members from:

CEE Bankwatch Network (Central and Eastern Europe)

France: Les Amis de la Terre

Germany: urgewald and WEED (World, Economy, Ecology & Development)

Italy: Campagna per la Riforma della Banca Mondiale (CRBM)

Netherlands: Both ENDS

United Kingdom: Bretton Woods Project

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List of abbreviations

ACP	Africa, Caribbean and the Pacific countries
ALA	Asia and Latin America
CEE	Central and Eastern Europe
COP	Corporate Operational Plan
CONT	Committee on Budgetary Control
DG	Directorate General of European Commission
EC	European Commission
ECOFIN	Economic and Financial Affairs Council
ECJ	European Court of Justice
EIA	Environmental Impact Assessment
EIB	European Investment Bank
EIF	European Investment Fund
EMAC	Economic and Monetary Affairs Committee
ELM	External Lending Mandate (of the EIB)
EO	European Ombudsman
EP	European Parliament
EU	European Union
FI	Foreign Investment
IFIs	International Financial Institutions
RSFF	Risk-Sharing Finance Facility
SDIs	Sustainable Development Indicators
SFF	Structured Finance Facility
SMEs	Small and Medium-sized Enterprises
TENs	Trans-European Networks of transport and energy
WCD	World Commission on Dams

A bank unlike any others?

It is the world's biggest public lender and one of the largest development financiers operating in the Global South. It is an EU institution, but is almost totally unknown to EU politicians and the public, and virtually unaccountable to other EU institutions. It operates under an anachronistic ideology of 'balance sheet growth' and support for massive Western private corporations that is reminiscent of the worst aspects of the World Bank thirty years ago. Welcome to the European Investment Bank.

It is quite extraordinary, given the scale and nature of its operations, that the EIB has traditionally enjoyed such a low profile among politicians, the public and development NGOs alike. This is perhaps because up to now most of its work has been of a kind that doesn't attract wider attention: infrastructure projects in the poorer states and regions of the EU.

But this is changing: an ever increasing percentage of the EIB's operations now take place outside the EU, where its absence of binding operating standards is compounded by the non-applicability of the EU laws that guide the EIB in Europe. Essentially, the EIB is becoming a major EU development body, without any of the expertise, capacity or operating principles that such a body must have.

This guide is for anyone who is concerned by this state of affairs. It starts by laying out the basic facts about the EIB: who owns it, where its money comes from, how it operates and what it does. In Section 2, it moves on to look at what it should be doing: the obligations of the EIB under EU law and EU development goals and treaties. The guide concludes with a brief look at areas the EIB needs to begin to consider.

This theme of critique and alternative continues throughout the guide. Section 3 analyses how the EIB is (or is not) accountable as an EU body in a framework of democratic institutions, and to whom. It then goes on to



EIB in the South – in whose interest?

look at the regions, sectors and interests that primarily benefit from EIB support – and whether this is really the most appropriate use of public resources. Section 4, by contrast, provides alternatives: the human rights, environmental and sustainable development cases for a different approach to development by the EIB.

Finally, Section 5 is a short practical guide, for people affected by EIB-backed projects and the interested public alike, on how to deal with the EIB. It gives details of how to contact the EIB on a range of issues, including information disclosure, filing a complaint and corruption allegations. Under the Aarhus Convention, the EIB has active obligations to inform the wider public of the nature of its operations, and we encourage all interested parties to take advantage of these opportunities.

This guide is a publication of **Counter Balance: Challenging the European Investment Bank, a newly formed campaign** involving a range of developmental and environmental NGOs. We have come together out of a shared concern about the impacts and procedures of the Bank. We intend to challenge the EIB to deliver on its obligations to EU development policies, the EU public and project-affected people alike, and we welcome contact from anyone who shares these aims.

1. Introduction

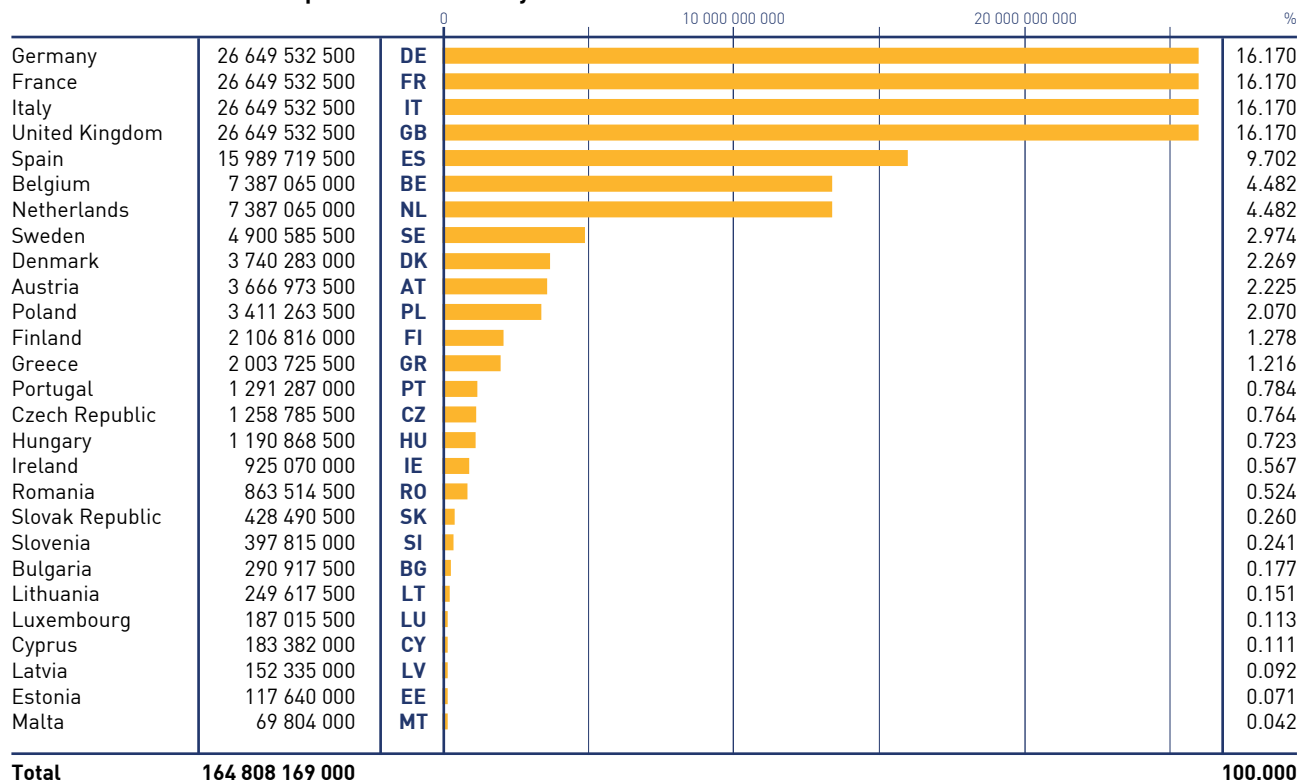
1.1 Basic facts about the EIB

Set up in 1957 under the Treaty of Rome, which established the European Economic Community (later the European Union), the European Investment Bank is the house bank of the European Community. With more than EUR 53 billion of approved loans in 2006 the EIB is also the biggest international public financial institution operating globally. The EIB is headquartered in Luxembourg with an increasing number of regional offices set up in recent years.

As a body of the European Union, the EIB states that its mission is to further the objectives of the EU by

'making long-term finance available for sound investment'. This suggests that at least two principles should be at the core of the EIB's lending policies. The first is that of meeting EU objectives, which more and more revolves around promoting sustainable development inside the EU and out. The second is that of additionality: the EIB should use its resources to arrange loans for projects that although financially and socially viable, have associated risks that make them unappealing to more commercial lenders. In other words, to make worthy projects happen that otherwise would not happen. As you will see from the guide, the EIB consistently fails to deliver on either of the two obligations.

Breakdown of the EIB's capital as at 1 January 2007



Source: EIB Annual report 2006

The EIB is financed by the EIB's shareholders – the 27 member states of the European Union that jointly provide the EIB's capital, their respective contributions reflecting their economic weight within the Union. The direct contribution of the member states, about EUR 8 billion, is significant, but the bulk of public support to EIB comes in the form of subscribed capital (around EUR 160 billion), underwriting its investments.

Due to the fact the EIB is owned by the EU member states, which contribute to and guarantee its capital, the EIB is rated as a very solid financial partner and receives AAA rate from rating agencies (Moody's/Standard and Poor's/Fitch). It is this that permits the EIB to undertake work on the financial markets such as borrowing and floating bonds, and which generates most of its liquidity.

Governing and decision making structure – facts and deficiencies

The EIB's decisions are taken by the following bodies:

The EIB Board of Governors - The Board is composed of Ministers from the Member States (normally from the Ministries of Finance, Economic Affairs or the Treasury). The Board lays down general directions on credit policy, decides on capital increases, and authorises EIB activities outside the Union. Having EU member state ministers as Governors is one of the key reasons why the EIB has been able to function as it does. The very status of the Governors lends legitimacy to EIB operations and lending procedures, supporting it against criticism while simultaneously not pushing for any fundamental change.



Board of Directors – Appointed by the Board of Governors, the BoD approves lending and borrowing operations, authorises guarantees and borrowing, and recommends changes in the EIB's credit policy to the Board of Governors. It consists of 28 Directors – one nominated by each EU member state and one by the European Commission, and 18 Alternates – all appointed by the Board of Governors usually for a period of five years. **The Board has the crucial role of approving projects, yet it is non-resident and only meets 10 times per year to review over 300 projects. This means that the majority of the projects are not as carefully scrutinised as they should be, given the implications for affected communities and the environment.** Executive Directors are not even full-time staff, but officials who usually remain civil servants in their respective ministries, where they are primarily concerned with domestic issues.

Management Committee – a body of eight Vice-Presidents under the authority of the President (currently Belgian Philippe Maystadt) - this is the EIB's full-time executive body and oversees day-to-day business. The committee members are appointed for a period of six years, but it is possible for them to be nominated for a second term, giving them a long-term influence on policy and direction. The Management Committee has an immensely powerful role within the EIB, as they recommend decisions to Directors, notably on borrowing and lending decisions, which means that they can influence projects' environmental and social scrutiny as well as access to information.

The Audit Committee is another of the EIB's bodies and is responsible for verifying that the operations of the EIB have been conducted and its books have been kept in a proper manner

The EIB – An unusual creature

The European Investment Bank is a very strange animal indeed: a public bank that tends to act as a private lending institution, which gets the benefits of public support, its own legal personality and autonomy within the Community system, without paying the price of accountability or of binding operating standards. The EIB grants loans mainly from the proceeds of its borrowings¹ which, together with 'own funds' (paid-in capital and reserves), constitute its 'own resources'. Yet the EIB's legal status and its obligations with respect to the EU have never been properly clarified. Rightly treated as a European body, the EIB is subject to European law. It is legally bound to act within the limits of the EC Treaty and its own statute, and it is also obligated to adhere to EU development goals and objectives. However, while the EIB should only operate within the boundaries of EU policy and laws, there is confusion over how exactly it can be held responsible with regard to these laws, and made accountable for its failures to abide by relevant laws, policies and regulations.

Equally problematically, **the EIB is alone among the major international financial institutions (IFIs) that fund development projects in the Global South in having no binding formal environmental and social standards for the projects it supports.** This causes a whole range of problems: lack of accountability and transparency over decisions, major problems in mitigating damage to local ecosystems and economies, difficulties for affected people to ensure they receive benefits and overwhelmingly econometric decision-making. As an institution, it is fair to say that the EIB is primarily set up to make loans on the basis of a simplistic 'bottom-line' growth ideology, and lacks the capacity and inclination to properly consider wider environmental and social consequences.

1. The EIB raises money on the capital market.

EIB borrowing and lending procedures

The EIB has several financial mechanisms through which it provides support for projects:

- * Individual loans - provided for concrete projects in both the public and the private sector, including banks.
- * Global loans - credit lines provided to intermediaries (banks, leasing companies, or financial institutions), which in turn give loans for local authorities or SMEs for new capital investment projects worth up to EUR 25 million. The application is made directly to one of the intermediary banks and financing institutions, which operate on a national, regional or local level.
- * Venture capital - activities concentrated within the European Investment Fund, which together with the EIB constitutes the 'EIB group'.

The EIB also has a range of specialised lending instruments:

- * Structured Finance Facility: to provide funding to projects with a high-risk profile and to pursue equity financing and guarantee operations in favour of large-scale infrastructure schemes.
- * Risk-Sharing Finance Facility: created in conjunction with the European Commission, to expand the EIB's basis for providing higher-risk financing for innovative projects in the sectors of technology platforms and research & development.
- * Carbon Credit Funds: created in collaboration with institutions such as the EBRD and World Bank to develop the carbon market in transition countries and to encourage private sector participation.



EIB Annual Meeting in 2004 watched by taxpayers

The EIB's lending priorities

- * Within the EU and Candidate countries² the EIB has six priority objectives set out in the EIB's Corporate Operational Plan (COP).
- * Cohesion and convergence
- * Support for small and medium-sized enterprises (SMEs)
- * Environmental sustainability
- * Implementation of the Innovation 2010 Initiative (i2i)
- * Development of Trans-European Networks of transport and energy (TENs)
- * Sustainable, competitive and secure energy

2. At of the time of publication, Croatia, Turkey and FYROM

The EIB outside the European Union

Outside the EU, EIB lending is based on EU external cooperation and development policies (further details in the next chapter). **The money loaned outside the EU amounted to EUR 5.9 billion in 2006.**

EU Mandates are:

- * Pre-Accession under the new external lending mandate: Candidate and potential candidate countries in the Enlargement region
- * European Neighbourhood under the new external lending mandate: Mediterranean Neighbourhood, Russia and Eastern Neighbours
- * Development – under Cotonou Agreement: Africa, Pacific and Caribbean (ACP) and Republic of South Africa
- * Economic Cooperation under the new external lending mandate: Asia and Latin America (ALA)

The external lending objectives of the EIB are focused mainly on private sector and infrastructure development, support of EU presence with ensuring Foreign Direct Investment and transfer of know how, environmental protection and improvements, and increased focus on energy security.



1.2 Get to know us – Counter Balance

Counter Balance: Challenging the European Investment Bank is a newly established coalition of development and environmental non-governmental organisations. The groups involved have extensive experience working on development finance, international financial institutions (IFIs) and the impacts of major infrastructure projects. Several of the NGOs involved, in particular CEE Bankwatch Network, have been critiquing the EIB's involvement in socially and environmentally contentious projects for many years.

Counter Balance challenges the free-market ideology and aims to make the European Investment Bank an open and progressive development institution and a political priority in Europe, and to empower people affected by its work. We would like to see a fundamental change **within the EIB to be a public interest driven bank and a tool for achieving the Millennium Development Goals, playing a role in the fight against climate change.** We want to see the EIB operating as a **truly accountable institution, lending in a responsible manner, and bringing value added, rather than giving public subsidies for private companies.** Moreover, we want to build up awareness among various civil society groups on the **impacts of EIB operations outside the EU and on the environmental, social and human rights impacts of the EIB's activities.**

Counter Balance comprises members from:

CEE Bankwatch Network
France: Les Amis de la Terre
Germany: urgewald and WEED (World, Economy, Ecology & Development)
Italy: Campagna per la Riforma della Banca Mondiale (CRBM)
Netherlands: BothEnds
United Kingdom: Bretton Woods Project

and cooperates with groups in Central and Eastern Europe, Africa, Latin America and Asia.

The EIB is unique among IFIs in being situated within a framework of democratic institutions. The EIB is also owned entirely by the 27 member states of the European Union. The mandates under which it operates involve issues of interest to numerous EU citizens, including 'reducing poverty' as part of the Cotonou Agreement, environmental sustainability and infrastructure development (although these all too often play a secondary role to the EIB's preoccupation with private sector development and security of energy supply).

Thus, **the EIB can benefit from pressure from a multiplicity of concerned stakeholders, affected communities and people exercising their democratic rights as European citizens. We seek to galvanise and focus some of that pressure into achieving effective and necessary reform.**

We would like to encourage groups that have experience of working with, for or around the European Investment Bank as well as those in the sectors relevant for the EIB's operations outside the EU, such as environment, development and human rights organisations, to join our efforts. We welcome questions and requests for help on the EIB financed projects from groups, especially those from the Global South, who seek help with addressing the institution.

2. The EIB in the framework of European development policies

2.1. EIB obligations under EU Law

The European Investment Bank occupies a curiously ambiguous legal position. The EIB was founded in 1957 under the Treaty of Rome, but it is not a formal Community 'institution' like those listed under Article 7 of the Treaty; it is not named as an institution with a legislative or enforcement task, nor is it a policy maker. Instead, the EIB was created as an independent financial body with its own legal personality and administrative structure, in order to be able to function effectively as a financial institution.

This independence means that the EIB has a large amount of legal latitude. **The EIB has consistently endeavoured to apply much of EU legislation as infrequently and as lightly as possible, to the extent that other EU bodies, notably the Commission, have been forced to take the EIB to the European Court of Justice [ECJ] on several occasions.** The ECJ has consistently ruled, in opposition to the EIB's claims, that "it is clear...that the EIB is intended to contribute towards the attainment of the European Community's objectives and... [is therefore] exceeding its margin of autonomy of organisation." (*Commission v. European Investment Bank, 2003*)

The problem is that, as keen as the ECJ has been to let the EIB know it has to listen to other EU institutions, it has been equally unwilling to give the public any control over the EIB. Thus when a group of French citizens took the EIB to court for funding a ring road around Lyon, the Court found in effect that the group had to take their problems to the government, not the EIB. "Only the decisions taken by the various French authorities...are liable to affect the applicant's legal situation," (*Etienne Tete and other v EIB, 1993*). In other words, the EIB has little or no legal accountability to the people affected by its decisions; they have to go to the member states, which in many cases are unwilling or even unable to challenge the EIB.



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And the problem of lack of legal accountability is getting worse, as the EIB's portfolio gets wider. The EIB was originally established to carry out a specific task: "to contribute, by having recourse to the capital market and utilising its own resources, to the balanced and steady development of the common market in the interest of the Community." When the EIB was founded, "steady development" was envisaged in the "less-developed regions" of the EU: the poorer member states and poor areas within wealthier states.

Over time, though, the EIB's remit has steadily extended to include an ever larger commitment to lending outside the EU, notably in Africa (since 1975), Eastern Europe (since 1989), and Latin America and Asia (since 1993). The EIB has now overtaken the World Bank to become the world's largest public lender, with annual lending operations in the region of EUR 45 billion. In 2006, projects financed outside the EU, primarily in developing countries, amounted to EUR 5.9 billion of extra-EU investments. And in none of those extra-EU regions is the EIB constrained by European law.

Given the expanded scope of the EIB, it should be asked whether the powers and responsibilities conferred by its statute and the Treaty of Rome of 1957 are appropriate today, or if they perhaps need drastic revision. In some respects, however, things are getting better, and perhaps the most notable improvement comes in the form of the **Aarhus Convention**.

The Aarhus Convention, one of the few pieces of EU legislation to which the EIB is subject, gives the public rights of access to information, participation in decision-making and access to justice in environmental matters. It remains to be seen how much the Convention, which was only applied through EC regulation in 2006, changes the EIB's approach to policy and project decisions, which have been notoriously insular and short on publicly available information.

The interesting aspect of Aarhus, however, is that it is *pro-active*: it requires the EIB and the companies who take money from it to actively disseminate information on projects and to make a positive effort to engage affected people and communities. Failure to do so could leave the EIB open to a reasonably clear process of legal redress. Given its ferocious commitment to maintaining a low profile, this puts the EIB in something of a quandary: talk to people or perhaps end up in court.

2.2. EIB obligations under EU Development policy

So, if it's not clear what the EIB is *obliged* to do under European law, is it any easier to pin down what the EIB is *supposed* to do under EU development and other policies?

The EIB is very insistent that it is mainly a bank, and that its competence is primarily financial. However, by virtue of its lending overseas, the EIB also plays an increasingly central role in EU development policy, a role it at times disputes and at other times acknowledges.

However, the EIB accepts that "Our Mission is to further the objectives of the European Union," and it is quite clear that EU objectives in the Global South are heavily influenced by development concepts. For instance, the *European Community Development Policy Statement* says that "Community development policy is grounded on the principle of sustainable, equitable and participatory human and social development... The main objective of Community development policy must be to reduce and eventually to eradicate poverty."



These principles are also clearly enshrined in the two main agreements under which the EIB lends outside Europe. In Africa, Caribbean and Pacific (ACP) countries, the EIB operates under the **Cotonou Agreement**, whose explicit aims include “reducing poverty with the objective of sustainable development.” (As the EIB website clearly states: “The European Investment Bank has been a development partner in most ACP countries for some 30-40 years.”)

Similarly, according to its new **External Lending Mandate** (ELM), under which it operates in Eastern Europe, Asia and Latin America (ALA), “EIB Financing Operations should be consistent with and support EU external policies including specific regional objectives, ensuring overall coherence with EU actions.” (The ELM also predicates “protection of the environment” and the somewhat more ominous “energy security of the Member States” as aims the EIB must meet.)

So, if it's fairly clear that the EIB is obliged to lend in harmony with EU development goals, the big question is: does the EIB promote development, sustainable or otherwise, and poverty eradication in the Global South through its investments? The answer, to our mind, is a clear no.

In recent years, the EIB has been implicated in some of the most egregious and destructive infrastructure projects on the planet. The Chad-Cameroon Pipeline, the Lesotho Highlands Water Project, the Nam Theun II Dam and the West African Gas Pipeline (see Boxes 2 and 3 for more on these) are just a few of the contentious schemes that have been made possible through EIB loans. These projects have caused widespread displacement and impoverishment of local people, massive environmental damage, and minimal benefit for local communities and states, as the vast majority of profits are taken by the large Western conglomerates that operate them.

This problem is only going to get worse. Under the ELM, issued by the Council of Europe in December 2006, the EIB enjoyed a rise in the overall level of its guarantees from EUR 20.7 billion to EUR 27.8 billion. The largesse will apply to both the EIB's operating mandates outside the EU: the 53 percent increase in planned ALA lending is noteworthy, while in the ACP region available funds have virtually doubled, including more than EUR 2 billion extra from the EIB's own funds.

And the list of dubious projects lining up for EIB backing gets longer still: the Tenke Fungurume copper mine in the Democratic Republic of Congo, for example, where workers recently rioted in protest at conditions, whose concession contract was signed during the civil war and which has been denied support by multiple other IFIs; the Gilgel Gibe III dam in Ethiopia, dogged by corruption allegations; or the Mopani copper mine in Zambia, which recently poisoned 800 people through pollution of local water supplies and constantly breaches its environmental conditions.

So why is the EIB so inclined to back projects like these, which cause large-scale social and environmental damage and seem manifestly not to meet its developmental obligations? Part of the problem lies in the EIB's structure: the EIB's major investment decisions are taken by a non-resident Board of Directors, made up of officials from EU finance ministries, which meets 10 times a year, reviewing an average of 30 projects in a single sitting. This rushed process means that once a project gets into the EIB's funding pipeline, it is virtually guaranteed support. Projects are also brought to the EIB primarily through the member states (as well as the European Commission), which leads to frequent 'pork barrel politics' and reciprocal favours between states.

The EIB, which has only 1300 staff compared to over 10,000 at the World Bank, also lacks the capacity and expertise to analyse projects in a consistently pro-developmental manner. Projects are evaluated almost entirely by economists or engineers, with a minimal sustainable development unit that is not able to follow all the projects and is commonly marginalised within project design and appraisal. Rate of return and other econometric criteria dominate project selection.



A channel discharging effluent from Mopani Copper Mines, Zambia.

However, the problem is mainly ideological. The EIB is committed to an anachronistic ideology of bottom-line economic growth, which in its own words “can only be driven by the private sector”. The private sector result is a marked tendency to support large-scale projects undertaken by large-scale corporations. For example, more than 80% of the Investment Facility, the main fund for ACP projects, goes to the private sector, which often requires the money more for political risk insurance than cash flow. The proponents of the Tenke mine in the DRC, for instance, are Freeport McMoran, the world’s largest mining conglomerate; it is difficult to see why a massive private company (with a track record of environmental and social errors) is deserving of public subsidy from the EIB, or what the public gets for its money.

Large corporations do not have to be inherently inimical to development. But time after time, experience shows that they are unaccountable, seek to maximise their profits at the expense of local communities and the environment, and compound tendencies to political instability and authoritarianism. The ‘growth ideology’ ignores the social implications of growth in real human societies – a rising tide does not lift all boats, but improves the lot of some sectors and classes noticeably, while having limited or even negative impacts on others. The results can often be social polarisation and conflict and the withering away of industries that require long-term investment as immediate cash cows flourish.

So what should the EIB be supporting? Cutting-edge analysis of development now focuses on the *distributional* impacts of economic growth – who benefits and who loses, and how to make sure both profits and costs are spread more equally across a range of social groups. It also supports greater project ownership: the involvement of affected communities in project design and operation, so projects are more likely to benefit local people and ultimately have a greater chance of success. Finally, long-term development requires industries that generate good value-added, develop skills and encourage fiscal autonomy – essentially the opposite of the ‘low-skilled, export-driven extraction of raw materials’ model often promoted by the EIB.

3. Why the EIB needs to be reformed

3.1. Democratic deficit

– Who is the EIB accountable to, who does it serve?

Taking a closer look at how the EIB operates in practice, it is important to raise the questions: *who is the* EIB is accountable to and through *which mechanisms?* Is it the European Commission, the European Parliament, the European Council, the Ombudsman, the responsible national governments, or the ordinary citizens? How they can scrutinise the EIB's lending and can they have an impact on it? And what about project affected people?

It is difficult to find a definite answer to all of these questions, as the way the EIB is set up shows considerable weakness in the mechanisms through which the EIB can be held accountable.

Cooperation with EU institutions

Cooperation with the EU institutions is managed by the EIB mainly through: i) its Brussels office – under the EIB's General Secretariat – in charge of liaising with EU institutions on political issues and; ii) its Policy Support Department – within the EIB's Project Directorate – based in Luxembourg and in charge of liaising with EU institutions on more technological grounds.

The role of the European Commission

The current set up of the institutions limits control of the EIB's activities by the Commission (EC). One way that the EIB claims to cooperate with the European Commission is through the latter's representative on its Board of Directors. The precise mechanisms, for ensuring that this representative raises concerns on behalf of the EC, and how the EC opinion is reached, still remain unknown to the wider public.

The EC can also scrutinise the EIB's project lending through an internal procedure – “inter-service consultation” – with the EIB providing information to the EC through the different Directorate Generals (DGs), which may oversee the projects and comment on them.



The inputs from the different DGs are coordinated by the DG for Economic and Financial Affairs (ECOFIN). However, this practice is highly inefficient, as representatives of the EC very rarely raise any concerns. The reasons for this range from EC's limited capacities in terms of staff designated to oversee the EIB, the low quality and insufficient volume of project information provided by the EIB, and the short time period available for comments.

Ultimately, despite the EIB's frequent claims that its connection to the EC amounts to EU sanction of its investments, the EC simply issues an “opinion of conformity”, which only indicates the opinion of the Commission. **Thus, the EC plays a minor role within the EIB's project cycle with no power of veto: a project can go ahead despite concerns raised by the Commission.**

The role of the European Council

The EIB attends the meetings of the ECOFIN Council, providing its expertise on economic issues. On the other hand, the European Council often requests the EIB to implement new Community initiatives by providing appropriate financial instruments. In principle, the European Council can give proposals to the EIB, but that does not in any way ensure effective control over the EIB. The members of the ECOFIN are also members of the EIB's Board of Governors, which should supposedly ensure consistency between EU policies and EIB objectives.

The role of the European Parliament

Cooperation between the European Parliament (EP) and the EIB is minimal. The Parliament scrutinises the EIB's activities solely through their own initiative and reports on the EIB's Annual Report. The EP report is usually voted on in the first half of the second year after the publication of the EIB report (thus the first half of 2008 for the EIB Annual report of 2006). On the basis of the annual report the Economic and Monetary Affairs Committee (EMAC), and recently the Committee on Budgetary Control (CONT), issues comments and recommendations of the impact of the EIB's lending³ and in relation to the EIB's operations and performance.

The EP reports have often been critical of the EIB, calling for better integration between the EC and EIB institutions and for more transparency on project lending. They have also called on the EIB to have more and better dialogue with civil society organisations, and to monitor how global loans are used. However, these recommendations are not binding and it is hard to assess how much they are considered by the EIB, as many of them have been reiterated over and over again in the EP's yearly reports, while the EIB still fails to implement them.

The role of national governments

National governments have limited influence on the EIB's decisions. The Board of Governors comprises financiers from each member state and is responsible for setting the overall guidelines for the EIB's policy. However, they meet only once a year, which is clearly insufficient for carrying out control over the EIB's activities. The political profile of the EIB in the domestic systems of the member states has traditionally been relatively low. The access to cheap money the EIB provides and its consistent reluctance to share information on its lending even with its own shareholders has generally meant that Member States have not always applied the pressure they can to the EIB. However, this is changing as the EIB broadens its reach and becomes better known; increasingly, national governments are asking the EIB for greater evidence of additionality and for proof that the projects it supports are worthy of public money.

The role of civil society and project impacted people

** Disclosing information*

In order to achieve reforms at the EIB, civil society has played a significant role, in particular in pressuring the EIB to open up to the public. As a result, the EIB produced a Public Disclosure Policy, released in 2006 after holding a public consultation process. In this policy the EIB claims to be "accountable to the citizens of the Union" through the EU Member States. This represented some progress, considering that in 1998, the EIB's Director of Communications claimed the EIB was accountable only to the market. On the positive side, the policy gives more clarity to the EIB's institutional framework and its relations to the Court of Justice, the European Court of Auditors, the European Anti-Fraud Office and the European Ombudsman. The policy further provides for disclosure of information in the areas of policies, strategies, lending and borrowing operations of the EIB. This is however, much limited by some of the exemptions, mainly for information which

3. The EIB's Annual Reports are available on their website: www.eib.org, in three language versions – English, French and German.

predictably remains 'commercially confidential'. The EIB is also subject to the regulations of the Aarhus convention, which provides for right to access to information, public participation in decision-making and access to justice in environmental matters to EU institutions and bodies.⁴

In practice, however, **obtaining relevant information from the EIB and, more importantly, in sufficient time prior to the approval of financing for many projects is still quite difficult.** The practice shows that it is difficult to understand what the EIB's plans are and thus raise concerns. In some cases, the projects published on the EIB's website appear only after they have already been approved. In addition, the issue of public consultations on the project level is left unresolved and the EIB does not have any procedures and means for genuine consultation with impacted communities relying fully on the project promoter.

* *Affected citizens and the European Ombudsman (EO)*

Time and time again the EIB supports projects in areas outside of the EU where project affected citizens have limited freedom of expression and political rights to be able to raise their concerns. Examples of such projects are the Tenke Fungurume mining project, one of the largest copper mines in the Democratic Republic of Congo; the series of Gilgel Gibe projects in Ethiopia; the Chad-Cameroon oil and gas pipeline; and the Nam Theun II dam in Laos.

The role of the European Ombudsman has been strengthening over the years, although a real change for project affected people has yet to be seen. Although the Ombudsman can carry out investigations when approached by individuals, its decisions are not binding on the EIB. The EO mandate is mainly to deal with cases within the EU, thus giving no legal standing to affected people from projects funded outside of the EU to file complaints. **Recently however, the EO announced it can on its own initiative take on cases outside of the EU on grounds of maladministration, which is non-compliance of an institution with its laws and policies.** How this will be implemented in practice remains to be seen.

4. For more information, see EIB, "Access to environmental information", and press release "EIB applies the Aarhus Regulation on public access to environmental information" from 27.06.2007.

3.2. Where exactly is your EUR 50 billion going?

In its lending, the EIB provides various loans – *individual*, financing specific projects and programmes (above EUR 25 million); *intermediated loans* (or *global loans*), distributed as credit lines to banks and financial institutions to support small and medium-sized enterprises (with projects below EUR 25 million); and the *Structured Finance Facility* for senior loans and guarantees for high risk projects, mainly infrastructure.

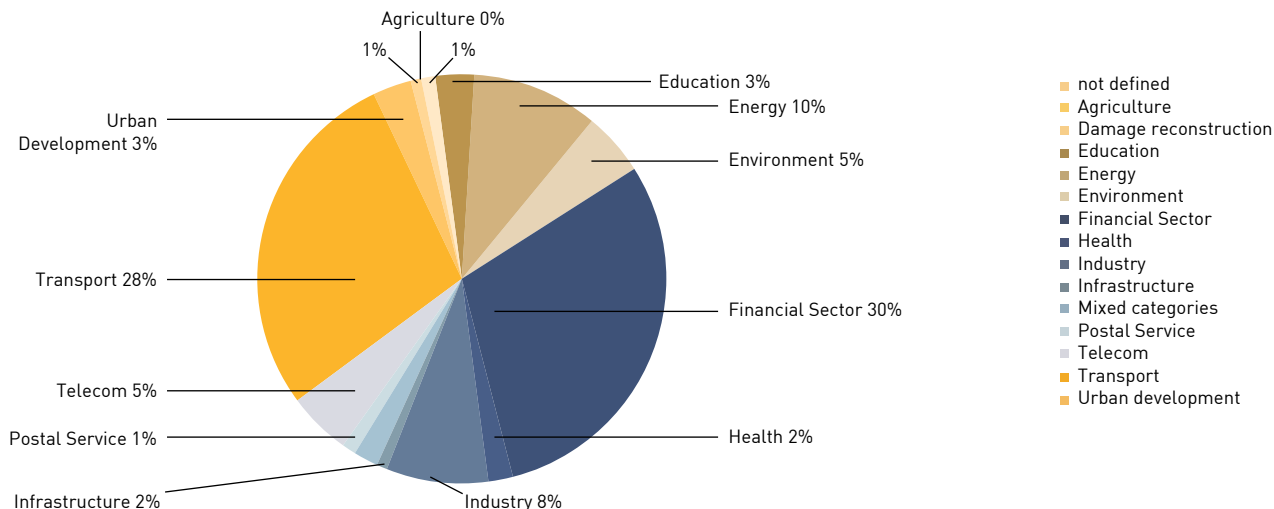
Concerning the *individual loans*, the EIB finances projects across most sectors, which in principle should comply with the set objectives of the EIB to contribute to EU economic and policy objectives, as well as to the mandates given to the EIB by the Union in non-EU countries to support its “development and cooperation policies in partner countries”. Defined quite broadly, the interpretation of its objectives tends to be vague and open-ended, allowing the EIB a great deal of leeway in what it funds.

Where the EIB actually finances

The major part of the EIB’s portfolio goes to EU member states with about 87 percent in 2006. The amount which the EIB lends to non-EU or the so called *Partner countries* is a comparatively small but ever rising percentage which amounted to more than EUR 5.9 billion (for 2006), making the EIB one of the largest public lenders operating in the Global South

The EIB provides lending in various sectors with the largest portion going into the financial sector, more than 50 percent of which is made up of global loans, followed by lending for large scale projects in the transport sector, energy, industry and telecom. (See Figure 1). Only a small fraction of the EIB’s loans for the last 10 years were dedicated to education, health and agriculture projects.

Figure 1. Statistics of the EIB’s overall lending by sector for the period 1995 – 2006



Focusing on various sectors where the EIB is providing lending, questions arise whether the EIB indeed follows its objectives and set policies, and even more, whether financing in the countries outside of the EU contributes to EU development objectives.

* *The EIB and mining:*

One of the areas that the EIB has been actively engaged in is the mining sector (classified by the EIB under lending for the Industry sector), particularly in the ACP countries. While the EIB claims that the mining sector contributes to development, in reality, loans in this sector primarily benefit large multinational companies that systematically extract the natural resources of Africa to export them to Europe, the United States, or emerging countries (such as China, which massively exports manufactured goods made of imported raw materials to rich countries). Moreover, the contribution of the mining sector to poverty alleviation and economic development is extremely questionable (see Box 1 on the question). Under the terms of the contract for the EIB-backed Mopani copper mine in Zambia, for example, the Zambian government receives just 0.6% of royalties.

While the wealthy countries of the North are the main beneficiaries from mining, the host countries sustain the heavy environmental and social impacts resulting from large scale mines, including population displacement, deforestation, pollution of air and water, corruption, violation of human rights, conflicts, etc.

Between 2000 and 2006, over 80 percent of the EIB's lending in Zambia was in mining projects, including EUR 188 million invested in copper and cobalt projects.

This is despite the fact that the EU finances a Mining Diversification Program in Zambia to diversify the mining sector away from the traditional emphasis on copper and cobalt⁵

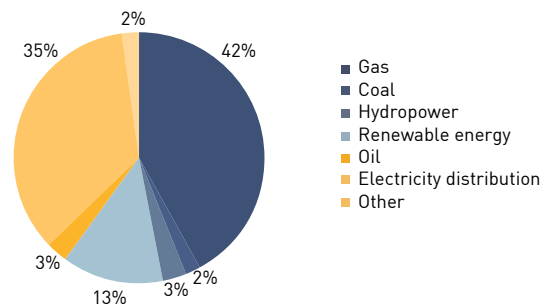
* *The EIB and energy lending:*

One of the primary objectives of the EIB has become lending for projects in the energy sector, focusing specifically on increased financing for “sustainable, competitive, and secure energy”.

Despite its high targets for renewables, the EIB is actively increasing its lending for fossil fuel projects [see Figure 2], financing the construction of oil and gas pipelines in regions marked with political instability and high degrees of poverty, low respect for human rights and high levels of corruption. Problematic EIB-backed energy projects include the Chad-Cameroon oil pipeline, the West African Gas Pipeline, bringing gas from the unstable Nigerian delta, as well as pipelines in Mozambique and Egypt.

While the EIB's increasing awareness of the need for renewable projects is to be applauded, in the period 2002-2006 it lent nearly FOUR TIMES as much to the oil and gas sector as to the renewable sector. Out of total energy investments of EUR 23.7 billion during this period in all regions, EUR 11.3 billion went for fossil fuels, while only between EUR 3.0 and 3.6 billion went for renewable energy, depending on whether hydropower is included as renewable. It is impossible to quantify the energy efficiency investments, apart from one or two specific projects, as they are mainstreamed into other projects.

Figure 2: EIB global energy investments 2002 – 2006

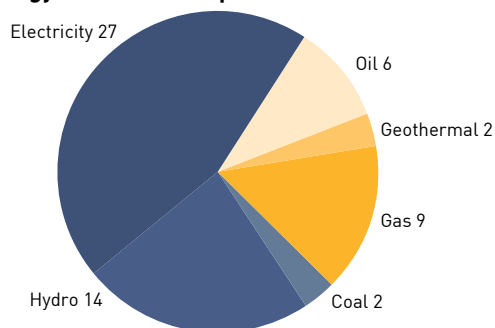


5. For more information on EIB lending for the mining sector, see the report “European Investment bank: six years financing the plundering of Africa”, November 2007 by Friends of the Earth France. The report is available at: <http://www.amisdelaterre.org/Nouveau-rapport-des-Amis-de-la.html>.

An analysis of the EIB lending for the energy sector in the ACP for the period 1994 – 2007 countries shows that, apart from significant investments in the electricity sector, in addition to gas and oil, most emphasis is given to hydropower (See Figure 3). While small hydropower projects can be considered as a renewable source of energy, **the EIB's funding in the ACP countries goes mainly to large dams that have devastating environmental and social impacts including forced resettlement of local populations.** Moreover, large scale dams commonly provide expensive energy that is thus not accessible for the local population (or its poorer sections) and mainly benefit industrial projects, such as mining.

There are various examples of the EIB's financing for highly controversial dam projects where the EIB clearly fails to follow the recommendations of the World Commission on Dams, which currently serve as recognised international best practice. Such projects include the USD 1.45 billion Nam Theun II hydropower project in Laos which forcibly displaced 6,200 indigenous people and impacted 120,000 farmers, the highly controversial USD 799 million Bujagali dam in Uganda, or the Gilgel Gibe dams in Ethiopia, which are currently under investigation for corruption.

**Figure 3:
Number of EIB funded projects in ACP countries
in the energy sector for the period 1994 – 2007**



*** The EIB and the "environmental" sector**

While the EIB reports that a large percentage of its lending comes into the category of "environmental" projects, we should look in more detail into what the EIB defines as "environment". *Environmental sustainability* refers to the EIB's five areas of environmental interest – urban quality of life, "addressing environmental and health issues," "tackling climate change," "protecting nature and wildlife," and "preserving natural resources and managing waste." In its lending the EIB classifies projects for the "urban environment" as "environmental", which is quite misleading.

It is for example disturbing to see that waste incineration plants fall into the "environmental" category, given that they emit carcinogenic dioxins and produce highly toxic waste products. Another striking example is the plantation of eucalyptus and the construction of a eucalyptus- based pulp mill in Brazil, the impacts of which bring major environmental problems.

*** Global loans**

One of the most mysterious aspects of the EIB are the so called global loans, which represent one of the largest sectors of the EIB's lending portfolio. The EIB provides financial intermediaries (FIs), which are often large private banks, with funds that they then distribute to local promoters. The objective is to serve Small and Medium-sized Enterprises (SMEs), which require numerous smaller loans that the EIB is too unwieldy to handle. However, there is a complete lack of transparency in how this money is further distributed and used.⁶

⁶ Global loans accounted for more than 28 percent of the EIB's portfolio for the period 2002-2006 in EU countries, and represented the largest share in EIB lending in the so called "partner countries" in 2006 (equal to 18%). Source: EIB Annual Report 2006. Volume III. Statistical report: Table E: Loans provided within the European Union in 2006 and from 2002, p.36; Table H: Financing provided in the partner countries in 2006, p. 41.

While the EIB provides a list of intermediaries that have received the credit lines, in practice global loans are almost impossible to track not only by ordinary citizens but also by responsible national decision makers.

The EIB gives out almost no information on how funds invested by FIs, referring inquiries to the FI itself, which is under no obligation to disclose information. Given the limited capacity of the EIB, it is highly questionable whether the EIB itself is capable of following the disbursement of global loans in any detail. **Global loans, moreover, are notorious as perhaps the single largest source of corrupt activity in development finance, and anti-corruption campaigners have been warning against them for many years.**

3.3 Corporate welfare – Helping the rich get richer

The EIB provides lending to both the public and private sector; however, the EIB prioritises large corporations from the North, acting rather as a client driven bank than serving its development objectives. Statistics show that between 1993 and 2004, more than 90 percent of EIB loans to Latin America were given to businesses whose headquarters are in Europe, or to large transnational corporations. Companies such as Gas de France, Repsol, British Gas and Shell received millions of Euros in contracts in the oil and gas sectors. In Latin America local private businesses received around two percent of EIB loans for individual projects.

There are numerous further examples of the EIB financing corporate welfare such as loans given to Esso for the construction of the Chad Cameroon Oil Pipeline, Suez for water privatisation in the Philippines, or the UK EasyJet Airbus for development of their fleet. Large mining corporations also largely benefit from the EIB's favourable loan terms: Freeport McMoran, FirstQuantum, Glencore – first Swiss company in terms of profits, and winner of a Public Eye award in 2008⁷ – are all majority shareholders in EIB backed projects.

They have also all been reproached for their irresponsible behaviour in Southern countries, notably their lack of concern for human rights.

3.4. Useless projects – Are your taxes really paying for this?!

One of the key objectives of the EIB's lending is that of "additionality" and "sustainability": to use its resources to fund projects that otherwise would not have been developed, that bring added value both economically and socially and promote long-term development. In practice, however, the EIB often provides loans to projects based solely on short-term profit-making. It is questionable whether loans for huge shopping centres and hypermarkets bring real regional development, as is claimed by the EIB. Similarly, it is worth questioning how the EUR 21.4 million loan given to TUI Hotels to construct hotels in the Canary Islands and Algrave cohere with the EIB's objectives.

Even more striking are the examples of projects outside of the EU, such as the Westin Roco Ki Beach and Golf Resort in the Dominican Republic, or the Albion Resort and the Bel Ombre Hotel in Mauritius which received more than one loan. It is unclear how the EIB can justify the added value of such projects, and how they contribute to poverty eradication in these countries. Financing big hotels simply cannot be seen as promoting sustainable development.

Similarly, it has given loans to Kenya Geraniums, Fabulous Flowers of Botswana and the Seph-Nouadhibou seafood-packing plant in Mauritania. These are all classic export-oriented industries, making intensive and inefficient use of local raw materials, while creating small numbers of unskilled jobs with little or no value-added or wider economic benefits.

7. The public eye awards are granted every year by the NGOs Bern Declaration and Pro Natura to the multinational corporations with the worst environmental and social behaviour. Glencore won the Public Eye Swiss award in 2008. Glencore benefited from a EUR 48 million loan from the EIB to the Mopani copper Project in 2005, of which the Swiss company is the majority shareholder.



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BOX 1: Damaging projects – Is this development? Does EIB's financing for the mining sector bring sustainable development to Africa?

Most of the financing provided by the EIB goes to subsidiaries of large multinational corporations based in rich countries outside Africa. It means that the loans granted do not contribute to the development of the African private sector. Besides, bearing in mind the increase in raw materials prices on financial markets and the profits of mining companies since 2002, it is clear that these companies do not need the EIB's favourable loans. Though the mining sector is very profitable for these foreign multinational corporations, financial benefits for the host country are far more questionable:

- * The mining sector offers few jobs, mainly only for men, often hires precarious labour forces and puts an end to traditional activities in the area of the deposit (small scale mining, as well as agriculture, fishing, breeding...) without replacing all of the job losses.
- * Most African states, influenced by the World Bank and the IMF, have low tax rates for foreign investors, and thus do not profit from the income of the exploitation of their raw materials. A survey of 40 mining companies operating worldwide showed that the companies increased their profits eight-fold between 2002 and 2005, while in Zambia, the share of the government's profit was halved.





BOX 2: Damaging projects – Is this development?

The EIB's large dam projects: the Lesotho Highlands Water project

The EIB is involved in several large-scale dam projects in Africa – they are often characterised as ‘clean energy’ projects – but the ecological and social costs are often very high, and the economic benefits have often been elusive.

The Lesotho Highlands Water Project (LHWP) is Africa’s largest inter-basin water transfer scheme and consists of a system of large dams and tunnels to store and transfer water from the catchment of the Orange river in the highlands of Lesotho to the industrial heartland of South Africa, the Gauteng / Johannesburg area; it also comprises a hydropower plant at Muela, which was meant to supply electricity to Lesotho.

Phase 2 of the project – which would build an additional three dams in the Lesotho Highlands – is in the planning stages but there is no firm agreement in place to proceed with it.

Back in 1986, the Apartheid government in South Africa and the military government in Lesotho signed the treaty establishing the Lesotho Highlands Water Project. Shortly before the signing of the treaty, a military government came to power in Lesotho through a military coup, which reportedly was engineered by the Apartheid regime. The severity of repression in the last years of old South African regime is well known, in Lesotho too, all internal political activity was banned following the 1986 coup.

Given this political context, the LHWP was conceived in secrecy and decisions were taken without transparency or public debate. Also hidden from public view was the rather interesting story of the financial arrangements that made this multi-billion dollar project possible. Although South Africa’s apartheid regime was subject to international economic sanctions at the time, the South African government was seeking ways to raise capital abroad. Since international financial institutions could not be seen as funding the Apartheid regime, they portrayed the project as a poverty reduction project for Lesotho.

The EIB joined other financial institutions in financing the project with the stated goal of supporting the Lesotho government’s strategy to export ‘excess water’. Apparently a win-win situation, Lesotho would export water and use the receipt of water royalties to invest in development programmes while South Africa would be grateful to receive the additional water in its dry industrial heartland around the Johannesburg region, Gauteng province. This is where the World Bank took the lead and the EIB followed, providing lending of USD 20 million for Katse Dam/Phase 1A (1993) and USD 99 million for Muela Dam/Phase 1B (1998).

Project Impacts on Lesotho

The project is often described as a world-class engineering marvel and has won several South African engineering/ construction awards by institutions such as the Concrete Society of South Africa. But outside of the engineering components, the poverty reduction, environmental and public health impacts of the project have been nothing short of disastrous.

Lesotho is now exporting water to South Africa, but the small mountain kingdom suffers from severe recurrent droughts and a majority of its inhabitants lack access to clean water.

On July 18, 2007 the U.N. Office for Coordination of Humanitarian Affairs launched an emergency appeal for Lesotho: "In the wake of the most severe drought in 30 years, the Kingdom has declared a state of emergency and appealed for international assistance for over 400,000 people in need of urgent food aid." This figure represented more than 20% of the country's population. Besides food shortages, there was also a critical shortage of water for human and livestock consumption. The UN Food and Agriculture Organisation and the World Food Programme confirmed the existence of the crisis.

More than 27,500 people upstream and an estimated 152,000 Lesotho villagers living along the Senqu River below the Katse and Mohale Dams have been adversely affected to varying degrees by the LHWP. To date the problems of loss of livelihood have not been adequately addressed. Highland people have lost land, water sources woodlands to the project – Mohale has flooded some of the most arable land in the country – yet compensation programmes have not restored lost livelihoods. With regard to compensation for the downstream communities, no decision has yet been made.

Corruption

There is another extraordinary aspect to the Lesotho Project. The Lesotho government has rightly been widely acclaimed on taking a stance against corruption. The Lesotho High Court convicted the chief executive (now in prison) of the Lesotho Highlands Water Authority in charge of the project as well as several well-known international companies who paid bribes. In 1999 more than 12 multinational firms and consortia were found to have bribed the CEO of the project. After the CEO himself was found guilty, three major European firms were also charged and found guilty. Two of them, Acres International and Lahmeyer, have been debarred at the World Bank. Lahmeyer International was then blacklisted by the European Bank for Reconstruction and Development

The EIB's reaction to the corruption has puzzled many observers. Not only did it conduct an internal audit and find that no misuse of EIB funds had taken place – thus leading it to take no further action – but has subsequently gone on to lend to Lahmeyer.

*by Korinna Horta, October 2007,
Environmental Defense Fund*

BOX 3: Damaging projects – Is this development? The CHAD - CAMEROON OIL AND PIPELINE PROJECT

“The project will have a positive economic impact on Cameroon and will constitute a real breakthrough for Chad, one of the least developed countries in the world.

EIB press release 22.6.2001

This 1070 kilometre pipeline project stretches from three oil fields in the Doba Basin in southern Chad through Cameroon to the Atlantic and represents the single largest on-shore investment in Africa today. The project is estimated to cost USD 4.2 billion, involving the drilling of 300 oil wells in the Doba fields of southern Chad and the installation of an offshore terminal facility – a marine terminal at Kribi and a marine pipeline to a floating storage off-loading vessel.

The project was promoted with claims of eventual poverty reduction and millions of dollars in revenues for Chad from oil exports. The World Bank Group first gave the green light to the project in 2000, followed by the EIB, in order to clear the way for the financial involvement of Exxon Mobil (40 percent), Malaysia’s state oil company Petronas (35 percent) and Chevron US (25 percent). The EIB provided total lending of EUR 144 million both to Chad, Cameroon and the three-member oil consortium.

Interestingly, most of the funds went directly to the oil consortium. Since it is not in the EU mandate to support the world’s large oil companies be they European or not – all non-European in this case – there must have been a strong conviction that oil companies can double as development agents. Yet there was no previous record of oil or other extractive industry projects fulfilling this role in poorly governed countries. On the contrary, the result has usually been one of poisoned landscapes, destroyed livelihoods, human rights violations, corruption and sometimes armed conflict.

In order to cover their own risks of investing in an unstable region that has suffered from a decade-long civil war, the WBG and EIB found something closely akin to a foolproof system of getting their loans repaid: The oil consortium deposits the Chadian share of the oil revenues in a London-based account. The EIB and the WBG take their loan repayments from this account before the remaining funds are made accessible to the government of Chad.



© Korinna Horta

Despite all the promises, since the project's completion in 2003 and the commencement of oil flows making Chad the youngest African oil export country, the project has proved to have only further aggravated the problems of the country. It has fuelled violence, impoverished people in the oil fields, and along the pipeline route it has exacerbated pressures on indigenous peoples and created new environmental problems. At the same time, with about 118 million barrels of oil produced by September 30, 2005, ExxonMobil, the leader of the oil consortium and the world's largest oil company, has registered record profits.

The EIB had stated that its financing was conditional on the fulfilment of the social and environmental conditions established for the project. The problem is that governments – especially dictatorial ones – can make all the promises in the world and then forget about them as soon as the money is flowing. And the promises have indeed been largely broken.

In southern Chad, the Exxon-Mobile led consortium is taking much more land from subsistence farmers than had been initially estimated. The regional development plan that had been promised for the region is nowhere to be seen seven years after the project was begun. Desperation has become a way of life and people have become even more impoverished – especially in the oil-producing region. In recent years Chad has further slipped on the United Nation's Human Development Index which measures basic indicators of human well-being such as health and education and on September 25, 2007, the U.N. Security Council approved the sending of peacekeepers to Chad and the Central African Republic: 3000 EU troops (mostly French) and 300 U.N. police.

In the IAG Report, July 18, 2007, the IMF and the World Bank mentioned that a significant amount of exceptional expenses had been allocated to national defence.

In Cameroon, even close to the country's capital you can visit communities that suffer greatly because of environmental problems created by the project. Instead of bringing economic development and improved living conditions for impoverished regions with dismal governance conditions, the financing of this oil project has brought only an armed conflict and more misery to people.

*by Korinna Horta, October 2007,
Environmental Defense Fund*



4. Reforming the EIB

4.1 A sustainable development based approach

Since the Brundtland Commission first defined sustainable development in its report “Our Common Future” (1987), the concept has had a remarkable career. It has been taken up by a large number of national, international and non-governmental organisations, has been refined, adapted and adopted by various actors from governance, institutions, business and civil society. Despite its ambiguity and openness to interpretation, sustainable development has evolved a core set of guiding principles and values to meet the needs – now and in the future - for human, economic and social development within the restraints of the ecological system of the planet. A sustainable development approach demands that economic, social and environmental issues are addressed together. It attempts to couple development aspirations with the need to preserve the planet’s ecological richness.

Sustainable development implies a broad view of human welfare and a long-term perspective about the consequences of today’s activities.

However, at the same time as the concept of sustainable development has gained widespread acceptance around the world, the model of unsustainable development has expanded globally. The needs of the present are not even met let alone the consideration of those of future generations.

According to the UN Millennium Ecosystem Assessment (2005) – the most comprehensive assessment of the consequences of ecosystem change for human well-being to date – in the past 50 years, “humans have changed ecosystems more rapidly and extensively than in any comparable period of time in human history, largely to meet rapidly growing demands for food, fresh water, timber, fibre and fuel. This has resulted in a substantial and largely irreversible loss in the diversity of life on Earth.” In addition, today’s global economic system is characterised by huge and growing inequality. More than 2.5 billion people live on less than two dollars

a day, while global wealth accumulation has accelerated tremendously in the last decade. Inequality is now greater than it was 10 years ago.

In light of ongoing negative global trends, the EU revised its Sustainable Development Strategy (EU SDS) and came up with a renewed version in 2006. The EU states that sustainable development is “about safeguarding the earth’s capacity to support life in all its diversity and is based on the principles of democracy, gender equality, solidarity, the rule of law and respect for fundamental rights, including freedom and equal opportunities for all. It aims at the continuous improvement of the quality of life and well-being on Earth for present and future generations.”⁸

The EU’s Sustainable Development Strategy aims at bringing about a high level of environmental protection, social equity and cohesion, economic prosperity and active promotion of sustainable development worldwide. This strategy declares that all EU institutions should ensure that major policy decisions are based on proposals that have undergone high quality impact assessments, assessing in a balanced way the social, environmental and economic dimensions of sustainable development and taking into account the external dimension of sustainable development and the costs of inaction. **It gives the EIB a clear mandate to “assess its lending against the contribution to achieving the Millennium Development Goals and sustainable development” and to support – via its investments – sustainable development.**

8. European Council, 2006, Renewed EU Sustainable Development Strategy, 10917/06.

But despite describing sustainable development as a “core requirement” across all its activities, the EIB continues to be part of the problem rather than part of the solution to unsustainable development. A lot of lip service is paid to sustainable development in various EIB documents, including the paper on “The EIB and its Contribution to Sustainable Development” (2001), the Corporate Social Responsibility Statement (May 2005) and the Corporate Operational Plan (2007-2009) (COP). It claims that its lending orientations in the EU match those of the EU’s sustainable development strategy (EU-SDS). Outside Europe the EIB says it makes “major contributions” to sustainable development through its “strict application of its rigorous project selection criteria” for “sustainable development”.

We learn that “in most cases, EIB-financed projects – by encouraging growth – have an indirect but quite substantial positive impact on the achievement of the MDGs, particularly Goal 1 (eradication of extreme poverty).”⁹

Given the lack of binding operational performance criteria, impact assessment and social and environmental standards at the EIB, it is doubtful that there is evidence for this argument. Often, empirical evidence gathered on the ground has shown the opposite, which means economic benefits at large do not outweigh negative local and larger economic and non-economic impacts in a development perspective.

9. European Investment Bank 2006: The EIB - a development partner and the Millennium Development Goals; 19/06/2006; <http://www.eib.org/about/news/the-eib-a-development-partner-and-the-millennium-development-goals.htm>.



In practice we can see hardly any evidence of the EIB contributing to sustainable development. As has been shown throughout this citizens' guide, **the EIB, with its project finance, is contributing to unsustainable development, by fuelling environmental destruction, climate change, depletion of natural resources, impoverishment, social conflicts, etc.** Just to name a few of the problems:

- * **EIB = Extractive Industries Bank:** While the world is challenged by climate change due to human activity, biodiversity loss, abject poverty and environmental degradation, the EIB continues to be the leading international public lender for projects in the extractive industries (oil, gas and mining) which have devastating environmental and social impacts.¹⁰



Gas flaring in the Niger Delta

© Elizabeth Bast

- * **Outdated “development model”:** With its simplistic “development approach” the EIB is far behind current debates about the complex linkages between growth, poverty and ecological sustainability. For the EIB, the development contribution of its lending is basically achieved by promoting growth, in particular through private sector development. It simply equates “growth” and “income generation” with “development benefits”, which is an ineffective way of achieving development, as empiric evidence has shown recently in several country contexts.
- * **Supporting the winners of globalisation:** Rather than being helpful for the poor the EIB turns out to be a “development partner” for its favourite clients – the big corporations.

What the EIB needs to do

Pressures on ecosystems will grow significantly worse during the first half of this century, un-less human attitudes and actions change. According to the EU renewed Sustainable Development Strategy, the main challenge is to gradually change our current unsustainable consumption and production patterns and the non integrated approach to policy-making.¹¹ The EIB has very little to offer to meet this challenge. In order to actively promote development that is environmentally and socially sound the EIB has to drastically change.

First of all, it has to take on a pro-active stance. Rather than minimising harm by “managing environmental and social risks” (“doing no harm”) a sustainable development based approach requires “doing good”. A human rights based approach and an environmental based (4.3 and 4.4.) approach are integral parts of the sustainable development based approach.

10. According to Bank Information Center, the EIB provided USD 1.1 billion to extractives in 2006. This was 49 percent of total global funding provided by all the international financial institutions for extractives in the same year.

11. European Council, 2006, Renewed EU Sustainable Development Strategy, 10917/06.

To guide its project selection and operation in developing countries the EIB needs to develop a clear “sustainable development strategy”. There needs to be one coherent approach that replaces the various mandates under which the EIB operates in developing countries. Part of this new approach needs to be a shift away from the traditional thinking of “unlimited growth”.

Current indicators used to guide development decisions – national accounts figures, such as Gross Domestic Product (GDP) – ignore depletion of resources and damage to the environment. New measures of wealth which take into account resource depletion and environmental damage are urgently needed to make economic growth “sustainable”. Furthermore, the EIB should review its key priority to support economic growth and development at large just through private sector development. The EIB should conceive new instruments which support public policies oriented to sustainability as a main leverage for a harmonious development, both within and outside EU.

In order to ensure that all future projects financed by the EIB contribute to sustainable development, it has to drastically change its lending operations, practices, project appraisal procedures and redirect its portfolio. The EIB needs to take urgent steps to address the effectiveness of its operations. A sustainable development approach involves the **adoption of the highest international social and environmental standards** concerning the environment, human rights and social protection. The systematic and expanded use of **social and environmental impact assessments**, integrating the various aspects of sustainable development in a coherent manner, must become a mandatory part of the EIB’s decision-making process prior to the Board’s approval of a project.



The EIB needs to develop **sustainable development goals, indicators and reporting systems for its project finance**. As strategic policy tools, sustainable development indicators (SDIs) can turn the general concept of sustainability from theory into action by combining economic, social and environmental data in a consistent fashion. The challenge for the EIB is to ensure that sustainable development indicators (SDIs) are integrated into mainstream policy mechanisms, instead of being an environmental and social “add-on” to already existing and used statistical, measurement and reporting systems. SDIs need to have a bearing on key policy decisions.

In addition, the EIB needs to develop **clear exclusion criteria** for its investment lending. The EIB must not support and finance projects that are likely to contribute to or increase social tensions or even armed conflicts, to climate change and environmental destruction or to human rights violations. The EIB must finance infrastructure projects which are environmentally responsible and socially acceptable. Scarce public resources need to be directed into projects that change the patterns of unsustainable use of natural resources and reverse the trend of deepening global inequality. In this context it is desirable that the EIB adopts a no-go zone policy, which prohibits the financing of operations within ecologically pristine or at risk zones as defined by authoritative international institutions – i.e. IUCN and UNEP.

The EIB needs thorough **institutional reorganisation** to build up the capacity needed to transform itself into a bank for sustainable development.

In light of the EU’s adoption of the renewed EU-SDS, the EIB is “refining its project identification, appraisal and monitoring techniques to ensure that sustainability is sufficiently and consistently considered when the value

added of a project is assessed”. This process needs to be transparent and conducted in a participatory manner, including a variety of stakeholders. Sustainable development is defined in practice. And **broad public participation** in decision making, in particularly of those directly affected by the specific projects the Bank intends to finance, is a fundamental prerequisite for achieving sustainable development. The EIB should establish effective mechanisms for **independent monitoring and oversight**, enforcing compliance, and taking corrective action. This is particularly important to prevent the EIB from further using the term to disguise or “greenwash” socially or environmentally destructive activities.

4.2 Reforming the EIB: A human rights based approach

Twenty years ago few companies had environmental policies. Today the environment is unquestionably a mainstream business issue. So it should be with human rights. Having a strong human rights policy and a sound implementation strategy is about risk management and reputation assurance. Human rights is a bottom-line issue.”

*Mary Robinson,
UN High Commissioner for Human Rights, 2000*

The EU and human rights

When the European Community was founded, the emphasis was on economic rights rather than human rights. The Treaty of Paris in 1951 and then the Treaty of Rome in 1957 – by which the EIB was established – covered well-defined economic spheres. The economic has often been both the justification and the objective of much EU activity. Yet there is an equally long-standing commitment to human rights within the EU, following on from the Universal Declaration of Human Rights of 1948 that has grown ever stronger.

Citing article 220 of the Treaty, the European Court of Justice argued that fundamental human rights were core principles of the European legal system. These principles were grounded, it said, in the constitutional traditions of Member States, and in the international treaties to which the Member States belonged. The most important of these was the European Convention on Human Rights. In 1977, the European Parliament, the European Commission and the EU Council of Ministers signed a joint declaration vowing to respect fundamental rights, as defined by the Court of Justice.

Successive Acts and Treaties have made the EU commitment to fundamental human rights ever clearer.¹² Most recently, in December 2007 the EU adopted the European Charter of Fundamental Rights and Freedoms, which sets out the range of civil, political, economic and social rights of EU residents. It is divided into six sections, dealing with dignity, freedoms, equality, solidarity, citizens' rights and justice. Under the Treaty of Lisbon, the Charter will gain legally binding force.

12. The 1986 Single European Act referred for the first time, in its preamble, to promoting democracy and fundamental rights. However the European Union could not become party to the European Convention on Human Rights. The Treaty of Amsterdam amended Article 6 of the EU Treaty, making it explicit that the European Union is founded on the principles of liberty, democracy, human rights, fundamental freedoms and the rule of law. In Article 7, it laid down a political mechanism for preventing violations of the principles mentioned in Article 6 by the Member States. This mechanism is reinforced under Article 7 of the Treaty of Nice which gives a greater role to the European Parliament.



European development policies and human rights

All the EU declarations and agreements in the field of development make reference to the importance of human rights. The **European Consensus of Development** states “all people should enjoy all human rights in line with international agreements”. The **EU Sustainable Development Strategy** identifies the promotion and protection of human rights as one of the EU’s guiding policy principles, to be achieved “by combating all forms of discrimination and contributing to the reduction of poverty”. Article 9 of the *Cotonou Agreement*, the main pillar of the EU partnership with the African, Caribbean and Pacific countries, says that, “Respect for human rights, democratic principles and rule of law, which underpin the ACP-EU Partnership, shall underpin the domestic and international policies of the Parties and constitute the essential elements of the agreement”.

Despite these strong political commitments, **guaranteeing and adequately ensuring respect for human rights within EU development operations remains difficult, due to prevailing economic and political interests reflected in European foreign policy and the lack of specific operational human rights policies for implementing a human rights based approach to development.**

The EIB and human rights

Epitomising this problem, under its external mandate the EIB still lacks appropriate standards in assessing human rights and continues supporting projects causing a variety of human rights violations (e.g.: forced displacement of people, impoverishment of local communities, significant degradation of social and cultural environments, worsening of health and living conditions).

In the EIB internal procedure it is possible to find only general commitments for the protection and promotion of human rights, but the EIB does not have a separate policy on human rights and it is not clear which international standards, laws and conventions the EIB refers to in its operations.

With regard to the EIB approach in assessing projects outside the European Union: *“Human rights and their associated responsibilities are an integral element of the concerns for both the mitigation of adverse impacts as well as the promotion of positive outcomes. The EIB encourages adherence to the various international conventions, and other laws governing the protection and promotion of human rights in the countries in which it operates, and will not disburse funds in a country that has been declared “off-limits” for EU financing”*¹³.

This seems to be a very poor statement and the language used is very general considering the complexity of the issue, and in particular the need to identify all responsibilities for human rights violations in the context of economic and financial operations which see multiple actors involved with different functions associated with funding management and implementation.

It should be noted that EIB lending is mainly to private sector entities and project-based. In comparison to other international financial institutions, this restricts significantly the scope of EIB financial support and generates the need for the EIB to introduce an appropriate human rights due diligence in assessing companies and financial intermediaries looking for its support.

13. “The Social Assessment of Projects outside the European Union 1: the Approach of the European Investment Bank”, approved by the EIB, October 2, 2006.

Project financing and human rights

In the current global financial system, to determine the precise responsibilities for human rights violations associated with operations supported by international financing remains one of the biggest challenges in the human rights doctrine. The mega-projects in the field of energy or infrastructure, which often lead to considerable environmental degradation and human rights violations, involve several actors: international financial institutions, national state agencies, private banks, private companies acting as contractors and subcontractors. In this long chain it is often very difficult to identify responsibilities for specific violations. While national states may be those ultimately responsible for ensuring the respect and promotion of human rights, it is clear that the EIB should adopt a pro-active approach involving the EU Human Rights commitments enshrined in European treaties and agreements.

An important step in this field was made in 2003 with the approval of the **UN Norms on the Responsibilities of Trans-national Corporations and Other Business Enterprises with Regard to Human Rights**. Although these norms have been developed mainly for multinational corporations, they usefully introduce the concept of *sphere of influence*, stating that “within their respective spheres of activity and influence” each actor has the obligation “to promote, secure the fulfilment of, respect, ensure respect of and protect human rights”. The concept of sphere of influence is particularly important regarding the public and private financial institutions, which do not *directly* violate human rights but whose money makes it possible for violations to take place on the ground.

Using the sphere of influence concept, it is indeed possible to introduce the concept of complicity: international legislation foresees the concepts of *beneficial complicity* and *silent complicity*. The first case suggests that a company benefits directly from human rights abuses committed by someone else, while silent complicity refers to a company’s (or a financial actor) failure to raise human rights violations with the appropriate authorities and to exercise what influence it has towards preventing them.

The EIB needs to develop a clear human rights operational policy in order to avoid the risk of silent complicity through its involvement in projects in partner countries outside the EU. The reference just to compliance with host country law is not enough given the lack of capacity or will by some of these countries to implement international human rights law commitments and/or commitments in their own national legislation.



Best practices on human rights

In recent years different attempts, other than the UN Norms, have been made in reemphasising the role of business in promoting human rights. The most well known are the **UN Global Compact**, the **OECD guidelines for multinational enterprises**, the **Performance Standards** promoted by the IFC, the World Bank Group's institution lending to the private sector, and the **Equator Principles** signed already by 51 of the world's biggest banking groups.

These initiatives have so far shown many limits: some of them are voluntary initiatives, others are ineffective, badly implemented and developed through a top-down process, but at least they raise the expectations about the conduct of private companies and financial backers beyond merely complying with host country laws and regulations.

It should be added that unprecedented multi-stakeholder consultations in recent years, such as the World Commission on Dams and the Extractive Industries Review, included in their recommendations a strong reference to the respect and promotion of human rights. **In particular, participation in decision-making processes has been identified as one of the key elements to pro-actively prevent human rights violations.**

Setting a precedent in global public finance

The EIB should incorporate these practices and their results into its own policies and wherever possible, encourage and promote similar multi-stakeholder initiatives. But this will not be enough to fulfil EU commitments on human rights deriving from the Treaty and European development policies. The fact that EIB shareholders are just European Member States' governments and the European Commission – in

comparison to other multilateral development banks whose membership consists of countries adopting quite different legislation – lays the ground for a unique opportunity to enshrine international human rights law principles and obligations into day to day EIB operations.

The EIB should be comprehensively reformed following a human rights based approach. With this purpose the EIB should adopt the following recommendations:

- * Adopting a binding operational policy incorporating and implementing its human rights obligations into existing social assessment practices. In particular, the EIB should include a human rights impact assessment for each of its operations, on the basis of existing and innovative models for such an assessment. This assessment should carefully screen past records of companies benefiting from EIB support.
- * To include in the loan's contracts provisions and norms to help ensure that the contractors and subcontractors of the projects respect human rights, defining its right as financier to suspend the contract and apply sanctions in case these provisions are not fulfilled.
- * To exclude from project agreements, such as host government agreements, power purchase agreements and production sharing agreements, and any kind of stabilisation clauses affecting human rights legislation in the project context;
- * Categorical prohibitions must prevent EIB support for all projects in areas where infringements of freedom of expression and other civil and political rights deny affected communities the possibility of raising concerns about the project or of participating in its planning and implementation.

- * To include the respect of core labour standards in all of the EIB's operations, through a careful ex-ante assessment of labour rights' implications of any loan to be carried out in consultation with the International Labour Organisation;
- * At present, only citizens of the European Union are granted the possibility of complaining about the activities of the EIB through the European Ombudsman. The EIB should adopt a full-fledged accountability and compliance mechanism, which provides equal access for citizens from outside the European Union who are affected by EIB operations. The mechanism should: be fully independent in its fact-finding tasks; ensure that activities supported by the EIB abide by all human rights, social and environmental policies; provide affected communities with effective remedies; have the right to apply to client companies a range of sanctions, including blacklisting, for a certain period of time to stop them from benefiting from EIB-backed contracts.
- * The EIB should fully adopt the recommendations put forward in the World Bank commissioned "Extractive Industry Review" published in 2004 and reject projects involving construction of large dams that do not comply with the World Commission on Dams criteria.

4.3 Reforming the EIB: an environmental based approach

Infrastructure and energy projects, which represent an important part of the EIB portfolio, have huge potential to cause environmental and social damage. On paper, the EIB is unequivocal about its support for and promotion of EU objectives, including the protection and improvement of the environment as spelled out in Article 2 of the Treaty on European Union¹⁴.

Yet in practice the EIB does not have a satisfactory environmental and social policy. The EIB separates projects inside the European Union from those outside. Inside the Union it says that all projects it finances have to "comply with EU environmental policies and standards"¹⁵. Outside the EU it has adopted a more flexible, guidance-based approach, where projects are only "benchmarked" against EU laws and standards, subject to local conditions such as affordability, local environmental conditions, international good practice, and costs of application.

14. The Community shall have as its task, by establishing a common market and an economic and monetary union and by implementing the common policies or activities referred to in Articles 3 and 3a, to promote throughout the Community a harmonious and balanced development of economic activities, sustainable and non-inflationary growth respecting the environment, a high degree of convergence of economic performance, a high level of employment and of social protection, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States.'

15. EIB Environmental Statement 2004.

The environmental management system, outlining the general remarks of the environmental statement, was not available to the public for a long time. However, the EIB did publish its Environmental and Social Practices Handbook last summer. It is for internal staff, containing a series of guidance notes on a variety of environmental and social topics and thereby can be seen as a sort of environmental management system, yet it lacks clearness and a binding character.

The exceptional internal governance structures of the EIB with only EU member states and the European Commission on its board provides the EIB with distinct responsibilities to promote European sustainable development and social justice goals and offers the opportunity to define more advanced approaches to safeguard the environment and beneficiaries' rights.

This could be done through the following activities¹⁶:

The EIB should clarify which EU and international laws it is prepared to honour in its non-EU projects, and how it plans to monitor compliance with these laws in projects financed by the EIB.

The EIB should translate the guidance notes as spelled out in the Handbook into clear binding operational policies that are enforceable, so as to communicate to internal staff, promoters and stakeholders that it is fully committed to complying with well-recognised international laws and norms, notably human rights. **Clear standards would provide staff with an important counterweight to the institutional incentives to lend.** Therefore it is important to have the explicit presumption that the standards will apply in the absence a compelling reason not to enforce them in a given

circumstance and a clear definition of these exceptional circumstances. Most importantly, clear, verifiable standards provide a basis for possibly affected people to hold the EIB and project promoters to account if they fail to fulfil their commitments.

Within the EU "the EIB applies a presumption of legality and that national legislation conforms with EU legislation, where appropriate. The promoter is responsible for compliance, whilst regulatory and enforcement tasks are the responsibility of the competent authorities."¹⁷ With this approach the EIB escapes its responsibility for checking law abidance by its clients. At the very least the EIB should inquire into indications of problems on this point brought forward by NGOs or affected people.

It is important for an environmental based approach that the EIB obtains the consent of local communities and indigenous peoples before proceeding with any new project and establishes clear and transparent procedures on public consultation with affected people and civil society in accordance with international best practices, like the recommendations of the World Commission on Dams or the UN law on Free Prior Informed Consent.

Today, the EIB approves projects before the completion of the Environmental Impact Assessment (EIA). And, moreover, when it comes to EIB projects, the full responsibility for carrying out the EIA procedure lies with the project promoter, who inherently has an interest in passing the EIA. Independently verified Environmental Impact Assessments should become a mandatory part of the EIB's decision-making process prior to the Board's approval of a project.

16. For further elaboration of the proposals see also: Christopher Wright "European Investment Bank: promoting sustainable development, "where appropriate", November 2007 and Steven Herz "An Environmental Policy Framework for the European Investment Bank for Non-EU Lending: The Need for Clear, International Standards-based Approach", November 2006.

17. Environmental Statement 2004.

Given that some sectors have their specific problems and requirements, the EIB should develop sector specific policies in areas as climate and energy, dams, biodiversity, forests, fisheries, extractive industries, sustainable agriculture and chemicals.

In order to follow a truly environmental based approach the EIB should commit not to finance certain things. It should define “No go areas” and “No go technologies”. This would include:

- + projects that involve significant conversion or degradation of critical natural habitats, support the destructive exploitation of natural resources, or involve the production of substances that are banned or scheduled to be phased out of production
- + large mining projects that do not comply with the World Bank’s Extractive Industries Review recommendations
- + large dams that do not comply with the World Commission on Dams recommendations
- + fossil fuel projects as well as aviation projects
- + nuclear power plants as well as the nuclear fuel cycle
- + large scale industrial tree and agro-fuel plantations.

The contracts between government and promoting companies in extractive sector projects should be routinely checked for the content of these contracts whether they have undue exemptions on environmental matters as well as on how much they are to the disadvantage of the country in terms of production sharing and royalties.

The EIB should hire dedicated staff with appropriate knowledge to deal with environmental issues, and provide effective training, adequate budgetary support, clear lines of accountability, and an internal incentive structure that rewards environmental excellence

By investing its money in a project, the EIB bears responsibility all along its implementation. The EIB should thus establish effective mechanisms for monitoring and oversight, enforcing compliance, and taking corrective action.

The EIB is spending a considerable amount of money for global loans over which it has very little control and information. Therefore, the EIB should give more attention to this area of lending. **At the moment, according to the Handbook, EIB staff assesses environmental impacts only occasionally.** The EIB should develop mandatory environmental guidelines for global loans, requiring the systematic assessment of possible environmental impacts; the guidelines should contain requirements for the financial intermediaries about how to assess the environmental impacts of their respective lending and requirements for transparent reporting about global loans and their use.

The EIB is also involved in equity financing, where compliance with international finance institutions is an indicator according to EIB staff. It is unclear, however, whether the highest or lowest IFI standards are taken as reference. The EIB should commit itself to ensuring that the highest environmental standard is always taken as reference and that transparent reporting on this area of lending is guaranteed.

5. Practical short guide to approaching the EIB

5.1. Navigating the EIB website – where to look for EIB financed projects, data and other useful information

As with everything in the EIB its website is a strange animal that you need to domesticate slowly. The EIB runs its website in a way which means it is not possible to rely on web links that you have found, as explained in a direct quote from correspondence with the EIB: “These web-references remain valid until the next information-update of our web-site (daily)”...

Therefore, to find information you need to follow the site structure – some useful tips below:

The site address: www.eib.org

From the main site you can also change the language into French or German

The main site features:

'About' – here you can find general information on the EIB's mission, organizational structure including governing bodies, strategy, key figures and main contact details. It is worth checking the structure to see who is in the Management, on the Board of Executive Directors and Board of Governors. It also shows which EIB departments you can find.

'Products' – describes the type of financial products and services the EIB offers

'Projects' – describes the project cycle and the topics and regions the EIB covers. Here you can also check if the project you are interested in is in the pipeline – look into **'Projects to be financed'** – you can search there by country or by sector as well as by project status: under consideration, approved or signed.

Note the fact that a project you are interested in is not there does not mean the EIB is not assessing it – the EIB reserves the right to keep information confidential in case of commercial interest. It should in principle relate only to private sector projects but in practice can happen also with the public sector.

Once the project is listed in the Annual report (released yearly around the Annual meeting in June) it is moved to the **'Projects financed'** category.

If you are not sure of the project status it is always advisable to search for the project in both categories.

While the description of projects to be financed includes about a page of information, the description of projects already financed only mentions the country, project title and the amount.

'Capital Markets' – cover the area of the EIB as a borrower on capital markets

'Info Centre' – includes often useful sections covering news, events, press releases and publications.

5.2. How to ask for information – test the EIB

According to the EIB Public Disclosure Policy, published 12 April 2006, you can request information about projects.

Routine disclosure of information on projects

- * Advance information on projects considered for financing should be posted on the EIB website as a Project Summary about two months in advance of the Board's decision. However, this timeline is often breached. Certain private sector projects may not be published before Board approval and, in some cases, not before loan signature. According to the EIB this provision will apply very rarely to protect commercial interest. Therefore, please inform us whenever you notice such a case.
- * Non-Technical Summary (NTS) of an Environmental Impact Assessment (EIA), if applicable, should be attached or linked to the Project Summary published on the website. For projects outside the EU an equivalent of a NTS along with an Environmental Impact Statement needs to be disseminated. Again it is not always followed in practice.

- * Topical Projects Briefs are prepared and published in cases where projects raise considerable public interest, though often after project approval.

Information on projects/documents available on request

To better understand the EIB's appraisal process note that each project usually generates the following documents which play a key role in its decision making processes. Some of them are kept confidential (covered by constraints provisions), while others should be provided on request or their disclosure needs to be tested against the EIB principle on presumption of disclosure (see the table below).

The EIB's rules for information disclosure on request (in principle)

Step 1 Request

- * Applications for access can be made in written form or orally.
- * They should be addressed to the Communication & Information Department or info@eib.org. Of course you can also approach individual staff/management. Whenever a request is delivered to the wrong person within the EIB, the staff should forward it to the competent department without delay.

Step 2 Reply

- * Requests should normally be processed by the EIB and replied to without delay and in any event not later than 15 working days following receipt. However, if the issue raised is complex and the EIB can not keep to the prescribed time limit, they should inform you about it not later than 10 working days following receipt. A reply to a complex request should not exceed 30 working days.

Name of document	State of access
Preliminary Information Note	Document is confidential, but you can request information from the EIB if the project promoter has asked for financing
Proposal to authorise appraisal	Document is confidential, however you can ask the EIB what the project appraisal stage is
Request for Opinion of European Commission and EU Member State(s)	Document itself is confidential, however you can ask the EIB what the project appraisal stage is
European Commission's opinion	It is considered as a third-party document. The EIB consults with the third party to assess whether information in the document is confidential. It has not yet been properly tested if and what the EIB or the Commission would release.
Member State(s)' opinion	It is considered as a third-party document. The EIB consults with the third party to assess whether information in the document is confidential. It has not yet been properly tested if and what the EIB or the Member States would release.
Proposal to negotiate the operation, including opinions from EIB's various services	Document is confidential, however you can ask for social and environmental information from the EIB's appraisal report.
Proposal from the Management Committee to the Board of Directors for financing a project	Proposals from the Management Committee to the Board of Directors are disclosed on request only for public projects and after approval – however in some cases the Board might refuse disclosure. For private projects they are not disclosed but it may still be useful to request it just to show bigger interest to the EIB and test their response.
Formal financing request from the project promoter	Confidential
Finance Contract	The EIB does not object to project promoters, borrowers, or other competent parties making information available on their relationship and arrangements with the EIB. However, the EIB itself does not disclose loan pricing information and the Finance Contract.

Step 3 Confirmatory application if necessary

- * In the event of a total or partial refusal, or failure by the EIB to reply to a request within the prescribed time limit, the applicant may, within 15 working days of receiving the EIB's reply, make a confirmatory application.
- * The EIB shall handle a confirmatory application as soon as possible and in any event no later than 15 working days following receipt. In exceptional cases, for example in the event of an application relating to a very complex document or question, the time limit may be extended by another 15 working days, provided that the applicant is notified in advance and that reasons are given.

5.3. How to complain to/about the EIB:

Complaint to the Secretary General

- * If your request for information is not dealt with by EIB staff according to the standards and procedures you can lodge a formal appeal with the EIB's Secretary General. Note - appeals must be made in writing, within 20 working days of the date of the correspondence, which is the subject of the complaint. The EIB should acknowledge receipt of the appeal without delay and the Secretary General's reply will be provided no later than 20 working days following receipt of the appeal.

Appeals should be addressed to the Secretary General, 100 boulevard Konrad Adenauer, L-2950 Luxembourg. e-mail: complaints@eib.org

Complaint to the European Ombudsman

In the event of a total or partial refusal, or failure by the EIB to reply to a request you may appeal to the European Ombudsman, which examines all possible maladministration in the activities of EU institutions and bodies and reports to the European Parliament. You can make a complaint at any stage; however, going on previous experience the Ombudsman prefers

the public to explore all possible established procedures of the EIB first.

European Ombudsman website:
www.ombudsman.europa.eu
Complaint might be submitted by regular mail, email or electronic form posted on the Ombudsman website. Complaint form is available at:
www.ombudsman.europa.eu/form/en/default.htm

For non-EU citizens or residents

- * In accordance with the EC Treaty, the European Ombudsman deals with EU citizens or residents. However the Ombudsman has agreed, on his own initiative, to look into complaints against EIB maladministration¹⁸ from outside the EU.
- * The Bank itself has established an additional appeal
- * body for non-EU citizens or residents in case the complaint is rejected by the Ombudsman 'on the sole basis of their non-EU origin'. A complaint can be lodged with the Bank to the EIB's Inspectorate General under the Independent Recourse Mechanism (Inspector.General@eib.org) but it is not yet clear how reliable this mechanism is.

Inspector General, 100 boulevard Konrad Adenauer, L-2950 Luxembourg.
E-mail address: Inspector.General@eib.org

¹⁸. Maladministration is a broad concept that includes not only unlawful behaviour but also, for example, failure to act in accordance with established policies and procedures. Source: European Ombudsman, Internal note to the European Ombudsman concerning a possible Memorandum of Understanding with the European Investment Bank, 30 November 2007.

5.4. How to report fraud or corruption?

To report allegations of fraud or corruption in EIB-financed projects you should contact the Inspectorate General (IG).

The EIB promises that all complaints will be treated strictly confidentially.

You can contact the IG in a number of different ways with your allegations.

by email: investigations@eib.org
by fax: +352 43 79 42 97
by mail (mark correspondence 'Strictly confidential':
Inspectorate General, Fraud Investigations
European Investment Bank
100 boulevard Konrad Adenauer, L-2950 Luxembourg

Alternatively, you may contact OLAF
(the EU anti-fraud office) directly
phone: +32 2 29 84 940 or +32 2 29 55 944
fax: +32 2 99 33 42
http://europa.eu.int/comm/anti_fraud/contact_us/index_en.html

5.5. Where to find the EIB's offices

The EIB's headquarters are located in Luxembourg:
100, boulevard Konrad Adenauer, L-2950 Luxembourg
Tel: (+352) 43 79 1 (switchboard), Fax: (+352) 43 77 04

The EIB now also has external offices located in Vienna (Austria), Brussels (Belgium), Paris (France), Berlin (Germany), Athens (Greece), Rome (Italy), Warsaw (Poland), Lisbon (Portugal), Bucurest (Romania), Madrid (Spain), London (UK), Fort-de-France (Caribbean), Giza (Egypt), Nairobi (Kenya), Rabat (Morocco), Sydney (Australia), Dakar (Senegal), Tshwane (Pretoria, South Africa), and Tunis (Tunisia).

You can find the addresses of the above offices in the 'Info Centre' part of the website under 'Contact'.

"The EIB doesn't have the capacity to assess projects internally - and the consequence is that taxpayers' money is going to private companies, to fund oil pipelines and major infrastructure projects in the developing world, where there can be no assurance that there's no breach of labour standards, or environmental damage."

*Richard Howitt MEP,
Socialist Group in the European Parliament*

Counter

Challenging
the European
Investment
Bank

is promoted by:

CEE Bankwatch Network (Central and Eastern Europe)
Both ENDS (Netherlands)
Bretton Woods Project (UK)
Campagna per la Riforma della Banca Mondiale (Italy)
Les Amis de la Terre (France)
urgewald (Germany)
WEED (Germany)

Contact:

Email: info@counterbalance-eib.org
www.counterbalance-eib.org

CEE Bankwatch Network
Jicinska 8
Praha 3, 130 00
Czech Republic
www.bankwatch.org



Both ENDS
Nieuwe Keizersgracht 45
1018 VC Amsterdam
The Netherlands
www.bothends.org



Bretton Woods Project
c/o Action Aid
Hamlyn House
Macdonald Road
London N19 5PG
United Kingdom
www.brettonwoodsproject.org



Campagna per la Riforma della
Banca Mondiale (CRBM)
Via Tommaso da Celano 15
00179 Roma
Italia
www.crbm.org



Les Amis de la Terre
2B rue Jules Ferry
93100 Montreuil
France
www.amisdelaterre.org



Urgewald
Prenzlauer Allee 230
D-10405 Berlin
Germany
www.urgewald.de



Weltwirtschaft, Ökologie & Entwicklung
(WEED)
Eldenaer Str. 60
D-10247 Berlin
Germany
www.weed-online.org

