Counter Balance

Challenging the European Investment Bank

Corporate welfare and development deceptions

Why the European Investment Bank is failing to deliver outside the EU

February 2010

The mission of Counter Balance: Challenging the EIB is to make the European Investment Bank an open and progressive institution delivering on EU development goals and promoting sustainable development to empower people affected by its work.

The Counter Balance coalition consists of the following NGOs:

This report has been written by Alex Wilks. Now a consultant, Wilks has monitored and advocated on aid and the IFIs for 16 years, first at The Ecologist magazine, then at Bretton Woods Project and the European Network on Debt and Development. He is the founder of Bretton Woods Project, and directed Eurodad, both specialised NGO policy networks which focus on the World Bank, IMF and other North-South financial flows.

The report has benefited from active contributions by Counter Balance members, under the coordination of Antonio Tricarico of CRBM, and from presentations and discussions at the "European Investment Bank: Ready for Development?" conference held in Brussels, November 2009.

The case studies from various countries included in the report are available in full on the Counter Balance website: www.counterbalance-eib.org

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Abbreviations

ACP	African Caribbean and Pacific countries
AFD	Agence Française de Développement
CAF	Credito Andino de Fomento
DRC	Democratic Republic of Congo
EBRD	European Bank for Reconstruction and Development
EIB	European Investment Bank
EU	European Union
EURODAD	European Network on Debt and Development
IFC	International Finance Corporation
KfW	Kreditanstalt für Wiederaufbau
MDGs	Millennium Development Goals
NGOs	Non Government Organisations
OCTs	Overseas Countries and Territories
OECD	Organisations for Economic Cooperation and Development
TA	Technical Assistance
TFM	Tenke Fungurume Mining

Executive summary

The European Investment Bank (EIB) has a small staff, and an enormous task. It was founded to fund projects across the European Union (EU), but has expanded its financing worldwide. It was established to invest in large infrastructure, but now also has to cater for small and medium enterprises as well as environmental projects. It is supposed to secure markets and raw materials for European companies, while ensuring that its money contributes to poverty reduction and human rights goals.

This multi-tasking is very difficult to accomplish successfully.

Until the last decade the EIB received relatively little scrutiny from parliamentarians and citizens groups. This allowed it to pay lip service to achieving multiple goals, while leaning heavily towards supporting European commercial and foreign relations objectives. In recent years scrutiny has increased – with the European Parliament and NGOs challenging the Bank on its strategies, procedures and results.

This scrutiny clearly showed that the EIB's policies and practices lag far behind those of other international institutions, and are not properly integrated and coherent with European Union approaches.

The final element of this external challenge to the Bank was provided in late 2008 when the European Court of Justice ruled that the Bank had to implement the anti-poverty and sustainable development provisions of the EU treaty. The new Lisbon treaty now sets out even more clearly that all EU international financing must apply these principles.

This report – which reviews evidence and analysis from official and independent sources, including new case studies – details the concerns about the EIB. It covers the Bank's objectives, strategies, instruments, project identification, and results relating to its work outside the EU. It finds that the Bank is under severe strain and faces hard choices. The Bank is spread too thinly across objectives and geographical areas. EIB financing in Asia, Africa and Latin America is incoherent, incomplete and incompetent:

- **incoherent** with European development, environment and human rights policies;
- **incomplete**, as it overlooks opportunities for positive contributions;
- **incompetent**, as the EIB has the wrong staff with the wrong incentives.

The EIB does not perform sufficient due diligence on clients' track records and capabilities on tax affairs, environmental or social protection. The Bank does not have the staffing or procedures that would be needed to remedy this.

Unless it can dramatically overhaul its global work, the EIB should not continue to fund outside the EU, and the resources that it has been provided for this development role must be channelled through another institution. The European governments that make up its board must face up to these decisions, which will also require reforming the institution's board to make it more transparent and multi-disciplinary.

The board of the EIB must then rewrite financial and staff management procedures. These should remove the harsh emphasis on cost recovery and instead embrace broader social and environmental goals. Among many other elements that this report recommends are clearer impact assessments and detailed covenants with clients on the benefits they are supposed to achieve.

More than a decade of reform efforts by civil society, governments and European institutions aimed at putting in place the measures and mechanisms to turn the Bank into a recognisably development-oriented institution have proved that this is still a very difficult task, one very nearly impossible to achieve. In this case the EIB should revert to being an organisation providing support for infrastructure within the EU, leaving other institutions to channel scarce development grants. With public finances hard hit by the worst recession for eighty years and an acute awareness of reaching our environmental limits, the time to change the EIB is now. Fortunately an official review of the EIB is currently under way and a proposal for a revised external mandate for the EIB is being prepared for Spring 2010.

The EU will then deliberate before reaching decisions by early 2011. This opportunity should not be missed.

Several proposals, including mergers or the re-constitution of existing European development bodies, are being discussed. The final decisions on the EIB in the context of the broader European architecture will prove a vital test of whether the European Union is serious about aid effectiveness and about policy coherence for development.

Introduction

What the EIB does

For over 50 years the European Investment Bank (EIB) has financed infrastructure and other projects in the European Union. In recent years its financing outside the European Union has grown steadily, starting with EU neighbour and accession countries, and beyond to countries across Asia, Africa and Latin America. Between 2007 and 2013 the EIB is set to lend at least €25.8 billion outside the EU, an amount that exceeds the €22.7 billion that the European Development Fund will spend over the same period.[1]

The EIB now considers itself "the privileged financial partner for EU external relations", according to its president, Philippe Maystadt.[2] The bank provides loans to projects ranging from transport to mining, through water to banking. Project sponsors comprise a roll call of European finance and industry, including Société Générale, ING, Unicredit, Barclays Bank, Commerzbank, Volkswagen, Scania and Pirelli.

There are significant tensions and debates surrounding what the EIB aims to achieve outside the EU, how it does so and what have been its results. The EIB often appears to favour the interests of European exporters over those of impoverished citizens in other regions. The bank has been criticised for many years for specific harm done by projects it has supported. These include the Tenke Fungurume copper mine in the Democratic Republic of Congo, where workers rioted in protest at conditions, or the Mopani copper mine in Zambia, which polluted local water supplies, poisoning hundreds of local residents.

This major NGO report summarises the evidence and analysis from official and independent sources and demands a series of major reforms. Significant structural and procedural reforms are essential if the EIB is to continue operating in developing countries. European governments – who are the shareholders of the EIB – have to concede that this one institution cannot do everything at once. They must spell out what the Bank is to achieve, removing unneeded objectives so that there can be a real prioritisation.

There has been an ongoing dispute between the European Council, European Commission and European Parliament about exactly what are and should be the objectives of the EIB. In 2008 the European Court of Justice intervened to clarify the issue, annulling the legal basis for EIB lending outside the EU. The Court found that the EIB was basing its activities on a narrow interpretation of the European Union treaty and made it crystal clear that the Bank is obliged to fulfil a poverty and sustainable development mandate.

The European Parliament has long insisted that the EIB apply a developmental, poverty reduction mandate in its lending to Asia, Africa and Latin America.[3] The new Lisbon treaty – which came into effect in December 2009 – reinforces this, spelling out that poverty reduction must be the focus of all EU policies which are likely to affect developing countries.

The European Council built a mid-term review exercise into the EIB's 2007-13 mandate. The European Commission is due to produce a new proposal for a revised external mandate by the end of April 2010. Two main processes have been established to help guide this decision: a "wise persons panel" and an external evaluation. The wise persons are European officials, former executives or board members of international organisations, plus two academics, one parliamentarian and one civil society representative.[4] Their mission is to review the EIB's work under its external mandate and make recommendations for change. The panel is due to report in March.

The European Commission has also hired consultants to assess the EIB's external funding and make recommendations. The evaluation covers many aspects of the EIB, from its mandate and objectives to the instruments at its disposal and its internal culture. Its specific focus is on the EIB's work in EU accession and EU neighbour countries, as well as in Asia and Latin America. It does not cover the EIB's work in low-income countries under the Cotonou Agreement. The lessons of the evaluation are, however, extremely relevant for all EIB operations.

The mid-term review represents a real opportunity to change the EIB's external mandate. In the coming weeks the European Commission must present a new proposal for a revised external mandate, including how the Commission will collaborate with the EIB, a proposal that

1 The European Development Fund, European Commission, 2009. At: http://ec.europa.eu/development/how/source-funding/edf_en.cfm.

2 The EIB and the European Commission sign MoU on coordination of external lending policy, EIB, 2008. At: www.eib.org/about/press/2008/2008-038-eib-commission-sign-mou-on-coordination-of-external-lending-policy.htm?lang=-en.

3 On the proposal for a decision of the European Parliament and of the Councilgranting a Community guarantee to the European Investment Bank against losses under loans and loan guarantees for projects outside the Community, European Parliament, 2009. At: www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A6-2009-0109&language=EN

4 Decision of the European Parliament and the Council No 633/2009/EC of 13 July 2009 on the EIB external mandate 2007-2013 mandated a mid-term review of the EIB external mandate, and an independent external evaluation of the EIB external operations. A Steering Committee of "wise persons" was appointed by the EIB Board of Governors. It was composed of: Mr Michel Camdessus (chair), Mr Kemal Dervis, Mr Norbert Kloppenburg, Ms Manana Kochladze (CSO), Mr Richard Manning, Mr Luis Martí Espluga (vice-chair), Mr Sauli Niinisto, Ms Ewa Osniecka-Tamecka, Mr Mario Sarcinelli, Mr Jean-Louis Biancarelli (EIB representative), Mr David McGlue (Commission representative). The Steering Committee worked with the support of external experts contracted by the Commission and supported by representatives of Commission and EIB services. The Steering Committee organised hearing sessions with the Commission and EIB Senior Management as well as with representatives of the Civil Society, European Parliament, and think tanks. The Steering Committee also visited Poland, Morocco, Turkey, Senegal, and Russia.

must focus on development cooperation objectives.

Public money is going to be increasingly scarce as European governments pay down the massive deficits they have incurred following the financial crisis. Several governments are likely to make massive cuts in public spending in the next few years. This means that all official agencies are going to have to inform decision-makers and the public why they should continue to receive the amount of money they currently do. With pressing domestic needs, agencies providing external finance will have to justify their work in comparison with creating jobs and promoting environmental objectives within Europe.

The EIB will face significant pressure to change its ways, and this at a time when aid effectiveness and climate change are growing concerns among citizens and parliamentarians. If it is to continue to provide finance outside the European Union, let alone further expand this role, the EIB has to prove that it does something above and beyond what other international financial institutions, bilateral aid agencies and private banks can do.

At the moment this case is anything but clear. Eva Joly, chair of the European Parliament's Development Committee, commented recently that the EIB uses aid money to finance "mineral extraction that is particularly polluting and does not respect core workers' rights: these funds should be spent elsewhere".[5]

About this report

This report is by Counter Balance, a coalition of development and environment NGO networks from across Europe working together to scrutinise and challenge the EIB. It assesses the evidence of the impacts of the EIB and sets out conclusions and recommendations. It is based on the evidence and documentation of the official process outlined above, also on the work by the NGOs over the last several years – including project visits and discussions with officials, as well as new evidence generated through eleven case studies produced as part of this exercise.

It asks and answers the following questions:

- Is the EIB the right European institution for development lending?
- Are EIB policies and objectives in its development lending coherent with European development policies and objectives?
- Is the EIB using development friendly instruments?
- Which governance and internal organisation changes should the EIB adopt to make its lending more effective and in line with European development objectives and policies?

Part I - policy and institutional analysis - assesses the EIB's performance against its goals, whether it is achieving what European politicians, parliamentarians and citizens have demanded of it, and what needs to be changed. It examines the EIB's effectiveness and impact on its own terms, and also assesses whether the EIB is contributing positively to European Union development objectives. It examines in particular the EIB's:

- objectives and strategies;
- instruments;
- organisational culture and staff incentives;
- external accountability.

Part II - project selection, management and development impact – looks at how the EIB chooses which projects to back, how it appraises their social, environmental and other aspects, and how it monitors and evaluates achievements. This section shows who makes key decisions about project selection and design, who benefits, who loses out. This section contains evidence from case studies by local NGOs that Counter Balance commissioned in 2009. These case studies cover the following EIB-backed projects:

- Gilgel Gibe dam and downstream impacts, Ethiopia and Kenya;
- Bujagali dam, Uganda;
- Hydropower projects, Turkey;
- Tenke mine, Democratic Republic of Congo;
- Inga dam, Democratic Republic of Congo;
- Hapoalim Bank, Israel and West Bank;
- Corporación Andina de Fomento - Latin America;
- Zambia copper mining;
- Montevideo harbour, Uruguay;
- Veracel Pulp project, Brazil;
- Gazela Bridge, Serbia.

Part III - conclusions and recommendations for change - spells out the challenges the EIB faces if it is to take seriously the task of getting into line with European Union development objectives. The needed changes cover clarifications of the EIB's mission and objectives, internal structural and procedural changes, and measures to improve external accountability.

Counter Balance expects that the Wise Persons' Panel will take these into account in its final deliberations up till March 2010 and that officials and politicians in European Member States and European Union institutions will use them in deciding what instructions, finance and other support to give to the EIB in the coming years.

5 L'Europe et le développement : questions à Eva Joly, ACCUEILLIR No 252 • décembre 2009, p. 24. At : http://www.revues-plurielles.org/_uploads/pdf/47/252/p023_025.pdf. Author's translation.

Part I EIB objectives, instruments and focus

This section reviews the EIB's:

- objectives and strategies;
- instruments and funding streams;
- organisational culture and staff incentives;
- public accountability and adherence to EU policies.

The EIB's objectives – too many, too confusing

European Union governments have made the EIB's task difficult by adding layer upon layer of demands that it must attempt to meet simultaneously. There has been an ongoing institutional dispute between the European Council, European Commission and European Parliament about what exactly should be the objectives of the EIB.

The Parliament has demanded that the EIB apply a developmental, poverty reduction mandate, in its lending to Asia, Africa and Latin America.[6] Members of the Parliament – who have co-decision power on the EIB – have asked the European Commission to present a new proposal for an EIB guarantee taking into account the work of the current mid-term review of the external lending mandate. This is to be done by 30 April 2010. EIB president Philippe Maystadt told the Parliament's Budget Control Committee in December 2009 that a new protocol amending the EIB's status was being prepared that will align the EIB statute to the new EU external action framework as defined under the EU's new Lisbon Treaty.

Box 1. The EIB's objectives for lending outside the EU

The EIB defines its objectives outside the EU as ranging from "pre-accession support, to private sector, financial sector and infrastructure development, security of energy supply, environmental sustainability and support for an EU presence".[7] The Bank describes itself as "the EU bank" and "the Bank promoting European objectives". These multiple and varied objectives are set out in the EIB's mandates and in a series of other policy documents and agreements. These include EU treaties, EU accession agreements, the European Consensus for Development, the Cotonou framework, EU-Africa Energy Partnership, EU Energy Security Strategy, and the EU Neighbourhood Strategy.

The Lisbon Treaty governing the European Union (article 208) states that: "Union development cooperation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty. The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries. The Union and the Member States shall comply with the commitments and take account of the objectives they have approved in the context of the United Nations and other competent International organisations".[8]

The amended EIB general mandate 2007-2013 adopted in July 2009 states that: "in relation to developing countries in particular, EIB financing operations should foster: sustainable economic and social development of these countries, more particularly in the most disadvantaged amongst them; their smooth and gradual integration into the world economy; the campaign against poverty; the general objective of developing and consolidating democracy and the rule of law; the general objective of respecting human rights and fundamental freedoms; as well as compliance with objectives approved by the Community in the context of the United Nations and other competent international organisations".[9]

The European Consensus on Development sets out a primary objective of "eradication of poverty in the context of sustainable development". The fundamental objective of poverty reduction is closely associated with the complementary objectives of promotion of good governance and respect for human rights, these being shared values underpinning the EU. The fight against poverty also implies achieving a balance between activities aimed at human development, the protection of natural resources and economic growth and wealth creation to benefit the poor.[10]

The EU Sustainable Development 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".[11]

The European Union likes to speak in the language of "mutual interest", as if multiple objectives and stakeholders can be satisfied simultaneously without making hard choices. A good example is the EU's Energy Strategy which has a section titled "Integrating Europe's Energy and Development Policies: a win-win game". This document indicates that "the EU should focus on the delivery of

6 Report on the proposal for a decision of the European Parliament and of the Council granting a Community guarantee to the European Investment Bank against losses under loans and loan guarantees for projects outside the Community, February 2009. At: www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A6-2009-0109&language=EN

7 European Investment Bank Annual Report, 2008. At: www.eib.org/about/publications/annual-report-2008.htm.

8 Treaty of Lisbon, European Union, December 2007. At: http://europa.eu/lisbon_treaty/full_text/index_en.htm.

9 Decision No 633/2009/EC of the European Parliament and of the Council of 13 July 2009 granting a Community guarantee to the European Investment Bank against losses under loans and loan guarantees for projects outside the Community, July 2009. At: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:190:0001:01:EN:HTML.

10 The European Consensus on Development, December 2005. At: http://europa.eu/legislation_summaries/development/general_development_framework/r12544_en.htm.

11 European Consensus on Development, 2005, p. 4. Sustainable development is itself defined in more detail in European Council, 2006, Renewed EU Sustainable Development Strategy, 10917/06.

affordable, reliable and sustainable energy services to the poor", yet dilutes this focus with an additional emphasis on supply of energy to Europe. The policy urges "the use of financial instruments, via enhanced co-operation with the EIB and EBRD and a Neighbourhood Investment Fund, to enhance the EU's energy security". A "Comprehensive Africa-Europe Energy Partnership" is proposed, on the basis that "the importance of Africa as an energy supplier [to the EU] has increased greatly in recent years, but its potential is still greater".[12]

This is muddled policy-making, with wishful win-win thinking replacing the hard choices that are needed. One current example of how the European Investment Bank interprets these conflicting instructions and makes hard choices in practice is the Grand Inga hydroelectricity project in Democratic Republic of Congo (DRC). This project is a 40,000 megawatt dam that would be built in the heart of Africa at a cost of some $80 billion.

Although fewer than 7% of the population of the DRC have access to electricity, this project aims to export most of its power. The main export market would be Europe – via a 6,000 kilometre transmission line. In a recent study Counter Balance analyst Anders Lustgarten concludes that this is not a development project at all. He writes: "what is really motivating Grand Inga is the terror of the leaders of the European Union at running out of energy. The project fits into a web of colossal gas and oil pipelines, solar energy rings and high voltage electricity grids, altogether costing in the hundreds of billions, that the EU is seeking to construct in Africa, Central Asia and the Caucasus to keep energy flowing into Europe".[13]

Box 2: Which way to turn? Conflicting objectives for the EIB

Development objective	EU self-interest objective
The sustainable economic and social development of the developing countries, and more particularly the most disadvantaged among them.	Support EU presence through Foreign Direct Investment.
The campaign against poverty in the developing countries.	Cost recovery and rapid financial return.
The improvement or protection of the environment.	Energy security for the European Union and raw material supply for the EU.

The economic and financial crisis have simply added to the confusion. The European Council and European Commission have invoked the EIB as a key financial instrument for a whole series of additional tasks. These are mainly framed as sectoral measures but many are in fact designed to support struggling European exporters. They fit more with the "Global Europe: competing in the world" strategy which aims to increase the presence of European Union corporations in other regions, than with its development objectives.[14]

Box 3: European Commission proposed crisis-response actions concerning the EIB

In April 2009 the European Commission added further demands onto the EIB. The Bank was urged to:

- Focus on counter-cyclical actions in areas such as infrastructure, including energy and climate change-related activities, and the financial sector.
- Frontload commitments in the framework of ACP Partnership Agreements and under other external mandates.
- Use on-lending agreements with regional development banks and domestic financial intermediaries for local infrastructure.
- Establish regional transport and energy infrastructure in the Mediterranean.
- Invest in renewable energy and energy efficiency, including through regional energy transmission, gas pipeline and distribution projects.
- Support the transfer of environmentally friendly and sustainable technologies to developing and transition countries.
- Consider supporting multilateral initiatives on trade finance.
- Increase guarantees for investment, step up its support to microfinance institutions as well as to the banking sector.[15]

With a limited supply of public funding, hard choices have to be made between backing larger and smaller companies, European and non-European ones, and between different sectors and project types. However the EIB's board, management and staff are clearly having difficulty determining what the institution should focus on. In their 2009 assessment – which included interviews and surveys with EIB staff, external evaluators are also understood to have found that the Bank has too many objectives.[16] Manana Kochladze, founder of Georgian NGO Association Green Alternative and member of the wise persons' panel set up to make recommendations about the EIB, comments that in the absence of clear guidelines "often public banks are pushed to do a political job".[17]

12 European Commission, An Energy Policy for Europe, pp.19-20. At: http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=COMfinal&an_doc=2007&nu_doc=1.

13 Conrad's Nightmare: the World's Biggest Dam and Development's Heart of Darkness, Counter Balance, 2009, p. 5. At: www.counter-balance-eib.org/component/option,com_datsogallery/Itemid,98/func,detail/id,128/

14 Global Europe : competing in the world. A Contribution to the EU's Growth and Jobs Strategy, European Commission, 2006. At: http://trade.ec.europa.eu/doclib/html/130376.htm.

15 Supporting developing countries in coping with the crisis, European Commission, 2009. At: http://ec.europa.eu/development/icenter/repository/COMM_PDF_COM_2009_0160_F_EN_COUNCIL_CONCLUSIONS.PDF. See also EURODAD's briefing on this at: www.eurodad.org/uploadedFiles/Whats_New/News/Eurodad_analysis_EC_Development_Finance_Communication_April2008.pdf.

16 Mid-term evaluation of EIB's external mandate, final report, DG ECFIN, forthcoming. For similar difficulties at the World Bank see: Overstretched and Underloved: the World Bank faces strategy decisions, Wilks, A., 2001. At: www.brettonwoodsproject.org/art.shtml?x=4415.

17 Speech at European Parliament conference "The European Investment Bank: ready for development?", 19 November 2008. At: www.counterbalance-eib.org/component/option,com_datsogallery/Itemid,98/func,detail/id,124/.

Many companies apply for funding claiming that their projects will not go ahead without EIB backing. To judge between possible clients the EIB needs clear operational strategies, priorities and processes. These - discussed in more detail in the following sections – are currently far too weak, and distorted in favour of larger projects sponsored by major European companies.

It is not sufficient for the EIB to state in defence of the status quo: "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)".[18]

Box 4. Tenke Fungurume Mine, DRC

In July 2007 the EIB agreed a €100 million loan for the Tenke Fungurume Mining (TFM) Project in the Democratic Republic of Congo (DRC). Tenke Fungurume is one of the largest unexploited seams of copper and cobalt in the world. The mine's major shareholder is Freeport McMoran, the world's largest publicly traded copper company. Also involved is Congolese parastatal company Gécamines.

The TFM project is based on a contract originally signed in 1996 during the civil war. It was then reconfirmed by the transition government in 2005. During the first contract negotiation Swedish business magnate Adolf Lundin offered to finance president Mobutu's election campaign. The Congolese counterpart company Gécamines signed up because it had severe cash flow problems.

The EIB justified its financing for the project on the basis that "the DRC absolutely needs this investment and the tax revenues it will bring". The TFM project contract accords the international investors tax exemptions for a 16 year period and very generous "consultancy contracts". The inequity of the contracts has been confirmed by a Congolese parliamentary commission, and two World Bank-backed studies carried out by international consultants.

In 2007, when the EIB was considering its finance for the project, a Congolese commission was undertaking a review of the contracts. NGOs and others argued that the EIB should not approve the project until this was finalized. Despite these warnings the EIB approved the loan to the project, subject to the condition that the DRC authorities send a no-objection letter to the Bank after the review of the commission, giving the go-ahead for disbursements. In late 2007 the Congolese commission found nine major problems with the TFM contract and concluded that it must be renegotiated. Discussions on the revision of the contract had still not been concluded in early 2010 and Congolese civil society groups are criticizing the renegotiation process for being non-transparent and unclear.

The consultations with local communities in the mining areas were also problematic. Documents were provided in French for people who are mostly illiterate and speak Swahili. Insufficient time was allowed for affected communities to properly assess and discuss the project.

People have been displaced without being resettled. They have had to live under tents for months until deciding to leave the area. The wages for workers in the mine are very low, overtime is not paid, and most workers are not declared to the administration. Some social projects have been implemented - including renovation of schools and wells, but these are token and inadequate.[19]

EIB mandates and funding instruments

Outside the EU the EIB operates under various mandates and facilities, covering four different country groupings. These are: countries in pre-accession negotiations with the European Union; neighbouring countries in the Mediterranean region, the Balkans, Eastern Europe, Russia and Central Asia; Asia and Latin America; and African, Caribbean and Pacific countries, plus the Republic of South Africa with a different status. The EIB's External Lending Mandate covers the period 2007-2013.[20] The mandate – amended in 2009 – provides up to €27.8 billion of EU guarantees for EIB loans to projects in countries outside the EU, an increase of €7 billion compared to the previous mandate.[21] This report specifically covers the EIB's work in Asia, Africa and Latin America, where 150 countries are eligible for its finance.

The EIB's shareholders are EU governments. The shareholders provide some money directly and enable the EIB to raise money cheaply on the bond markets. This means the EIB can provide loans at subsidised interest rates and with longer repayment periods than commercial banks. Where the EIB commits its own funding outside the European Union, repayment risks are covered by a guarantee from EU Member States. When funding projects in the 79 African, Caribbean and Pacific (ACP) countries, as well as 20 Overseas Countries and Territories (OCTs), it may also use a limited amount of grant funds to offer interest rate discounts and provide technical assistance. Similarly in the last three years new similar financial instruments have been established for the neighbouring regions (Southern and Eastern).

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

19 Soul mining: the EIB's role in the Tenke-Fungurame mine, DRC, Counter Balance, 2008. At: http://www.counterbalance-eib.org/Tenke/?full=1.

20 Decision of 19 December 2006 granting a Community guarantee to the European Investment Bank against losses under loans and loan guarantees for projects outside the Community, European Council, 2006. At: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:414:0095:0103:EN:PDF

21 Decision No 633/2009/EC of the European Parliament and of the Council of 13 July 2009 granting a Community guarantee to the European Investment Bank against losses under loans and loan guarantees for projects outside the Community. http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:190:0001:0010:EN:PDF.

The EIB lent €59.3 billion in 2008 €6.1 billion of this finance - some 11% - went to fund projects outside the Union. The EIB lent €561m in 2008 to support 26 development projects in Africa, the Caribbean and the Pacific and the Overseas Countries and Territories under the Cotonou Agreement. To provide loans, guarantees and risk capital to ACP and OCT projects, the Bank manages the EU's aid from the European Development Fund – the Investment Facility.

The EIB's clients are public sector bodies and private companies. As a rule, the EIB will not lend more than 50% of the funds required for the implementation of a project. About 70% of the EIB's finance is provided directly to companies or public authorities to invest in specific projects. The remainder – close to one third of the EIB's funding – is provided via intermediaries. These so-called "global loans" are provided to banks and other finance companies which then on-lend to smaller enterprises or public bodies. From the EIB's point of view they can reach multiple borrowers without having to establish a direct relationship with them. However the EIB is unable to verify in detail how its money is used and whether the spending fits with its mandate.

Behind the curve: the EIB and aid effectiveness

A recent study by the European Commission has identified significant waste in current international development spending. It estimates that fully adopting agreed aid effectiveness measures would enable between €3 and €6 billion extra a year to be spent on improving peoples' livelihoods. This means that 5-10% of current European aid spending is being used for unnecessary practices and procedures that are preventing money reaching those who need it most. EU Commissioner for Development and Humanitarian Aid Karel De Gucht said that reducing donor proliferation, fragmentation and funding volatility would "free up funds to be re-invested in better quality aid with concrete development outcomes and reduce the bureaucracy burden for our partners".[22]

The principles and targets for aid effectiveness are outlined in the Paris Declaration on aid effectiveness, and updated in the Accra Agenda for Action (see **Box 5. Official aid effectiveness principles and targets**). These commit development finance organisations to obtain increased results by allowing developing countries to draw up and implement their own development policies, by aligning their interventions to recipient countries' systems, by harmonizing procedures, and reducing overlap and duplication of effort. The EIB has signed the Declaration, as have all European Union governments.[23] The European Union has also agreed to further measures beyond those outlined in these global agreements, for example on division of labour.

22 European approach to development aid could bring at least €3 to 6 billion a year in gains, European Commission, 2009. At: http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1571&format=HTML&aged=0&language=EN

23 Paris Declaration on Aid Effectiveness, 2005. At: www.accrahlf.net/WBSITE/EXTERNAL/ACCRAEXT/0,,contentMDK:21690889~isCURL:Y~menuPK:64861438~pagePK:64861884~piPK:64860737~theSitePK:4700791,00.html.

Box 5. Official aid effectiveness principles and targets and EIB performance

Over 100 governments and international organisations have committed to an official aid effectiveness process as enshrined in the Paris Declaration of 2005 and the Accra Agenda for Action of 2008. At its core is an understanding that aid works better when:

- Donors coordinate, simplify procedures and minimise costs (harmonisation).
- Developing countries set the agenda and take the lead (ownership).
- Donors use recipient countries' systems (alignment).
- Aid is geared towards results.
- Both the funder and recipient are mutually accountable.

Signatories to the Paris Declaration – including the EIB – have agreed to a series of targets and are committed to report on their progress in meeting them. The Accra Agenda for Action that was signed in September 2008 lists 48 commitments to demonstrate progress on the 12 indicators of the Paris Declaration. These include improving mutual accountability between donors and recipient countries, making disbursements more predictable, and enhancing the transparency of development assistance. Donors committed to use developing countries public financial management and procurement systems to a maximum extent possible.

As it does not get involved in national or sectoral policy debates with recipient governments the EIB has some claim to be a good performer on government ownership – a major component of aid effectiveness. The EIB merely ensures that the overall governance of the recipient country means that it is not excluded from European Union funding. Yet the EIB currently falls far short on many aid effectiveness measures.

Aid Effectiveness measure	EIB performance	Notes
Harmonisation	Poor	Some co-financing but little effort to agree joint strategies or joint procedures with others. Experimental initiatives such as a Memorandum of Understanding with KfW of Germany and AFD of France, and other agreements such as with the African Development Bank have so far yielded little. There is talk of encouraging 'mutual recognition' of other agencies' standards, but details are sketchy.
Alignment	Poor	Often funds outside national development plans. Provides project, not sectoral or budget, support, with frequent use of Project Implementation Units.
Ownership	Poor	Government ownership of EIB projects is often very limited. Citizen ownership is all the more so.

Results-based approach	Poor	The EIB has no adequate framework for reporting on development and environment results. It emphasises cost recovery and rate of return over other impacts.
Mutual accountability	Poor	The EIB has no developing country representation in its governance and very limited provision for citizen engagement on the ground.

Rather than allocating funding to countries where it is likely to have the most significant development impact, official evaluators found that the EIB's capital allocation across the Africa, Caribbean, and Pacific regions "was clearly biased towards 'bankable' countries in the Caribbean and Southern Africa."[24] And the EIB does not do enough to consider whether proposed projects fit sufficiently with national development plans or with the country strategies of the European Commission and other European funding bodies. The EIB is also not participating actively in the "division of labour" discussions that the European Commission has initiated to encourage different public finance bodies to prioritise particular countries and sectors.[25]

Southern civil society representatives interviewed by EURODAD in 2009 had clear views on the role of the EIB. Uruguayan aid effectiveness expert Cecilia Alemany, representing the Association of Women in Development, said "focal sectors for each region should be determined by local recipient governments, identifying common interests with the EIB, as well as EIB added value. This added value should be defined by the recipient government in consultation with beneficiaries ". And Vitalis Meja, policy director of the African Network on Debt and Development, added: "it is up to the recipient government to define in what sectors it wants to engage the EIB. The bank should not be selling bad investment loans to poor countries without putting in place measures that will prevent the investment from becoming a bad debt to the recipient countries."[26]

Indeed it is particularly important that the EIB – which provides quasi commercial loans – ensures that it does not contribute to unsustainable and unpayable developing country debts. This requires a careful prior assessment of any operation and contracts in which private companies also bear some liabilities for potential defaults caused by their own mistakes.

Staff incentives and board oversight

Misaligned objectives

The European Investment Bank is a public institution. Yet it is run too similarly to the private banks which caused the financial crisis through their overreach. It does not seek to make a profit that can be returned to shareholders, yet its staff are told that each project must meet cost recovery criteria, and that they must spend as little time and money as possible on project preparation and supervision.

The prioritisation of loan volume over loan quality has long been a key problem with public development agencies.[27] The institutions as a whole, and departments and individuals within them, are judged on whether they meet budget targets for financial commitments and disbursements, rather than on outcomes on the ground. A major World Bank review in 2006 found, for example, that "in many countries, giving in to the pressure to lend produced a number of unsatisfactory outcomes".[28] The EIB appears to have done even less than other public banks to try to tackle the problem.

The EIB's risk management department imposes conservative interest rate and loan loss policies. Little risk-taking is possible because of staff constraints, incentives and rate of return calculations. There have in fact been far fewer losses than predicted even at this time of crisis. The main difficulties with the EIB organisational and individual incentives are that:

- Cost recovery policies apply to every single project (no cross-subsidies are possible).
- A minimum transaction size of €20 million is sought in most cases.
- Outside the EU there is a bias against complex projects - including environmental ones - and towards cookie cutter transport and similar projects.

The EIB's organizational culture is well reflected in its staffing. The EIB has 1500 staff. This compares with the 10,000 who work at the World Bank and the 1,400 who work at the French aid agency AFD. This problem is going to increase dramatically in the coming years as the EIB's corporate plan indicates that the institution will expand its loan volume by 30% in 2009 and again by 30% in 2010, followed by a further increase of 15% in 2011 compared to the previous organizational plan.[29] This will be financed

24 Operations Evaluation Overview Report 2006 - EIB financing in the ACP countries under the Lomé IV Convention, Operations Evaluation, European Investment Bank, 2006.
25 Code of Conduct on Complementarity and the Division of Labour in Development Policy, European Commission, 2007. At: http://europa.eu/legislation_summaries/development/general_development_framework/r13003_en.htm
26 EURODAD (2009). Reforming the European Investment Bank in the Context of a Changing Development Architecture.
27 Effective Implementation: Key to Development Impact: Report of the World Bank's Portfolio Task Force, (The Wapenhans Report), World Bank, 1992. At: http://info.worldbank.org/etools/docs/library/37494/FinancialAnalysisPractice.pdf.
28 Improving the World Bank's development effectiveness: what does evaluation show?, World Bank, 2006. At: http://siteresources.worldbank.org/INTOEDDEVEFF/Resources/development_effectiveness_chapter_2.pdf.
29 EIB 2008 Annual report, 2009, p. 6.

by the capital increase agreed by European Union governments in 2009 which will bring the institution's capitalisation to €67 billion.

This will put dramatic further strain on the institution's internal systems and staff, which are already swamped following the institution's previous rapid expansion. Between 1990 and 2007 EIB lending volume increased by a multiple of three and a half, while staff numbers only doubled.[30]

One result may be further pressure to increase the minimum and average sizes of individual transactions, and to make more finance available via intermediaries rather than directly. Financing through intermediaries is set to rise by 50% in just two years, raising further concerns about accountability and standards.[31]

The EIB staff association has formally testified that if the Bank is to increase its activities in this way" the Board must be prepared to increase the staff budget in proportion, to cover additional staff, additional work by existing staff, and necessary training".[32] Providing a proportional increase will not be sufficient, however, as the EIB only has 200 staff to cover its work in over 150 countries and territories. The Bank is also woefully understaffed in key areas, for example social and environmental expertise.

If the EIB is to gain credibility as an institution working on environmental and poverty issues it needs to recruit staff with an understanding of and experience working on these issues. Currently the vast majority of the EIB's staff have financial, engineering or administrative backgrounds. Without dedicated staff who have appropriate knowledge and training it is hard to see how the EIB can meet expectations as a development institution. Such staff would also need adequate budgetary support, clear lines of accountability, and an internal incentive structure that rewards environmental and social excellence. This means that such staff should be involved sufficiently early in the project cycle that they can intervene to ensure that the EIB selects the right sort of projects, rather than merely helps make the best of wrong choices. Leadership from senior management and the board would be required to ensure that such staff do not consider themselves subordinate to the engineers and finance specialists.

Wrong boards, wrong oversight

The EIB is a European Union institution, yet it has substantial autonomy in its day to day decision-making. It has a Board of Governors, composed of Member State finance ministers, which meets once a year to lay down the Bank's general credit policy, decide on capital increases and approve the Bank's balance sheet and annual report.

Day to day leadership is delegated to a Board of Directors which has the sole power to take decisions in respect of loans, guarantees and borrowings. Board members – European Union Member State finance officials - travel to Luxembourg for around 10 meetings per year. At these meetings they review EIB strategies and reports and also approve over 300 projects.

In practice once a project gets into the EIB's funding pipeline, it is virtually guaranteed support unless it stalls from the promoter's side. The board very rarely turns down projects or demands significant project redesigns. This is even the case where there are major problems that have been pointed out to the board, as for example with the Tenke mine in Democratic Republic of Congo and the Bujagali dam in Uganda.

In both cases civil society groups urged the EIB board to wait for the results of reviews that were being undertaken (by a parliamentary commission and the World Bank inspection panel, respectively). The EIB turned down these requests and agreed its financial support. Although it did so claiming that it would take review findings into consideration, the practical effect was to endorse the projects and ensure that they would go ahead.

Growing external scrutiny

Due to the fact that the boards of the bank have not proved adequate custodians of the public interest, other institutions have had to get more involved. They include the European Court of Justice (ECJ), the European Commission, European Parliament, and the European Ombudsman. The ECJ has consistently overruled the EIB, clarifying in 2003, for example 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."[33]

The EC is pre-consulted about projects and has a formal opportunity to tell the EIB not to go ahead. The EC has given some comments on occasion, but is not known to have vetoed any projects.

The EIB should have a more accountable and transparent board of directors that is able to design the Bank's longer-term strategies in ways that engage and inform all relevant stakeholders. The current non-resident board has not managed to guide the management of the Bank in a transparent, coherent accountable and strategic manner, in coherence with sustainable development and poverty eradication priorities. As with the EIB staff, the board lacks expertise to determine appropriate interventions to fulfil the EIB's social and environmental mandates.

The EIB should also consider establishing specific sub-committees with representation from development and environment ministries to take responsibility for overseeing EIB lending in their areas of expertise. These should bring in relevant external views where necessary,

30 „The Bank of the European Union. 1958-2008", European Investment Bank, 2008.
31 EIB 2008 Annual Report, 2009, p. 6.
32 Mid-term evaluation of EIB's external mandate, final report, DG ECFIN, forthcoming., p. 112.
33 Commission v. European Investment Bank, 2003.

for example through advisory boards which could include representatives from Asia, Africa and Latin America. This is one way to involve civil society in the global South, as well as their roles in drawing up national development strategies that the EIB must respect. The board also needs to set out a better set of indicators by which it will judge the success of its projects and its overall strategy. It will be vital to introduce greater transparency of official documents submitted to the board, and of board discussions and decisions.[34]

The role of the European Ombudsman has also grown stronger. Although the Ombudsman's mandate gives no legal standing to affected people outside the EU to file complaints, it can itself initiate cases outside the EU on grounds of maladministration. This could be done, for example, when a European institution fails to comply with European laws and policies. This accountability mechanism must be made accessible to communities affected by EIB projects. Its decisions are not binding, but occasional Ombudsman investigations will help shine a light on whether the EIB and its clients are taking decisions or engaging in practices that are contrary to EU law.

Under civil society pressure, in 2008 the EIB adopted a new complaints policy. This establishes an EIB Complaints Office as an operationally independent internal unit of the Bank to which citizens may file a complaint regarding maladministration by EIB staff. The policy was improved in 2009 to further strengthen its internal independence in the organisational structure of the EIB. The complaints may be filed by any person or group with an interest in the environmental, developmental or social impacts of the EIB Group's activities. They may cover alleged instances where the Bank "fails to act in accordance with the applicable legislation and/or internal policies, fails to respect the principles of good administration or violates human rights".[35]

Additionally the EIB has signed a Memorandum of Understanding with the European Ombudsman. This gives European Union citizens an opportunity to take their issue to this external body if they consider the EIB Complaints Office's reply to be unsatisfactory. The Ombudsman may use its own initiative to examine complaints by non-EU citizens.[36] There is not yet sufficient experience to judge the operation of these mechanisms in full, but they should help strengthen public accountability.

In the last decade the European Parliament has also played a positive role as watchdog of the EIB by repeatedly recommending EIB reform on the occasion of the discussion of the Annual Report of the EIB. This is usually scheduled either in the Parliament's budget control committee or budget committee. Since 2005 the development committee has also closely overseen the EIB's external lending, including through the routine assessment of the implementation of the Cotonou Agreement dealing with ACP countries plus an own initiative report and an external study.

Guaranteeing what? EIB needs a new approach

The EIB currently benefits from a European Community guarantee and the use of EC grants for external projects. The logic of extending this support to the EIB is that the Bank will support European Union development goals. This has been confirmed by the European Court of Justice and by the Lisbon Treaty. However the EIB's guarantee and grants are mainly used to support private sector operations with little social or environmental value-added. There is little hope that the EIB's existing instruments, staff and set-up can deliver against the mandate that the European Court of Justice has said it must do. The EIB will need a major transformation if it is to contribute meaningfully to the EU's poverty and environmental goals.

European Union governments must set a clear, limited, set of objectives for the EIB, differentiate the instruments and approaches to be adopted in each region, and ensure that the EIB is appropriately structured and equipped to make progress towards these objectives.

Once this is in place the EIB will need to prioritise sectors and intervention types that are appropriate for each region and country where it operates. This prioritisation should be driven by needs on the ground, as set out in national development plans and similar country-led strategies. At present the EIB does not even have country strategies for Brazil, a country to which it has lent €1.6 billion since 1997.[37] The EIB should also take account of what other official development agencies are planning or offering in that country, so that it can reduce duplication and add specific value, principles set out in the EU's division of labour approach to external assistance.

With the correct strategy in place the EIB would then be able to focus its negotiations with potential project sponsors, and ensure that all companies or public authorities that it funds commit specifically to achieve certain developmental objectives, and avoid specified negative social and environmental impacts. The contracts between the Bank and its clients should be tightened to ensure that sponsors are incentivised to implement these points, rather than just a narrow set of financial and legal obligations. These points are developed further in the following section.

If the EIB cannot be transformed in the ways that are outlined in this section, then the European Union should redirect its money and guarantee.

34 See, for example: www.freedominfo.org/ifti/20030100a.htm REF setting out transparency gaps.

35 The EIB Complaints Mechanism Policy, 2008, p. 3. At: http://www.eib.org/about/documents/complaints-mechanism-policy.htm.

36 Memorandum of Understanding between the European Ombudsman and the European Investmetn Bank, July 2008. At: http://www.eib.org/about/documents/memorandum-of-understanding-between-the-eo-and-the-eib.htm.

37 Brazil country case study report. COWI, 2010, forthcoming.

One option would be to divide up the EIB, setting up a separate institution within the EIB Group that can specialise in development (as IDA operates within the World Bank Group). But the history of reforming international financial institutions such as the World Bank and IMF to increase their development effectiveness shows us how transforming the internal culture of these institutions can be a Sysiphean task.

If the EIB continues to prove reluctant to reform, it would be better to give the money and mandate currently allocated to the EIB to other institutions. As there are already several regional development banks and creating more would increase fragmentation of the aid system it will be better to capitalise existing institutions that can specialise in their regions. Most logically the European funds should go to build up regional bodies in the South – such as the Banco del Sur, and African Development Bank, in return for some further reforms to increase their accountability and effectiveness.

Part II EIB project selection, management and development

This section of the report outlines how the EIB currently selects sectors and projects it will support, how it negotiates with potential clients, and how it monitors, evaluates and reports on the results it achieves.

The EIB does not select its projects according to how it can best use public money to maximise poverty reduction and environmental protection for those who need it most. There is significant evidence that EIB-backed projects have negative impacts on the ground. Many people living in the project areas feel marginalised from decision-making and are not benefiting from the projects. Case studies commissioned by Counter Balance during 2009 and in previous years have shown the extent of the problem, as has the European Court of Auditors and other independent assessors.

Selecting and appraising projects

The EIB does not have a clear understanding of development effectiveness or of the specific contribution it can make. It therefore lacks sufficiently clear and proactive lending strategies and is often at the mercy of whatever private sector project promoters happen to bring to its attention. Companies want EIB finance both because it is cheaper and longer-term than most market finance and because it provides a badge of respectability that the companies can use to approach other lenders and investors. Especially when credit is scarce, the EIB is in a position to determine what kinds of projects and technologies to support.

Project promoters – private companies and public authorities – approach the EIB for funding, making the case that their project is viable yet would find it hard to get sufficient support without the Bank. EIB staff are then supposed to consider the project in relation to their priorities and to their "economic, technical, environmental and financial" viability.[38] However the EIB takes too many ad hoc project decisions as it lacks a sufficiently clear way to assess projects' likely impacts. Combined with the multiplicity of mandates and objectives that European governments have given the Bank, this can cause substantial confusion.

The Bank says it has been introducing improvements in project appraisal. It claims that – for low-income countries – it "carefully balances financial and economic considerations with the project's expected social and development impact". As well as the standard financial checks these aim to determine:

- consistency with the objectives of the Bank's mandate under the Cotonou Agreement;

38 The Project Cycle at the European Investment Bank, 2001, p. 2. At: www.eib.org/projects/publications/project-cycle.htm.

- quality and soundness of projects (economic, environmental, social, financial and institutional);
- EIB contribution or additionality (both financial and non-financial).

The Bank spells this out in an Economic and Social Impact Assessment Framework (ESIAF). The Bank claims that "starting in 2008, ESIAF has been systematically applied to benchmark all operations appraised, whether investment loans or financial sector operations."[39] However it implicitly recognises that there is room for improvement: "a more focused implementation of ESIAF is planned in 2009. This should result in selective, early-stage project screening, more consistent monitoring of the Bank's operations and ex-post project evaluations. Such an approach should enable an adequate balance to be struck between increased risk-taking, the overall long-term financial sustainability of the IF and achieving a development impact".[40]

The Bank also has other relevant documents, for example the Development Impact Assessment Framework which applies to its Investment Facility projects in ACP countries. This requires the EIB project appraisal team to provide a development impact assessment which analyses "the distribution of project effects and the project social acceptability, who benefits and who pays the costs.[41]

Yet there are several examples of projects where these processes have not worked. In 2007 the EIB lent €95 million to build the Bujagali dam in Uganda. It claimed that the project would contribute to make electricity affordable for ordinary Ugandans.[42] It is unclear how the EIB reached this conclusion in its economic analysis, because analyses by independent and official bodies have indicated that the dam will not provide no affordable power for low-income households.[43] Only 5% of Ugandans are connected to the electricity grid and the amount of power that the dam will produce has been overestimated (see Box 6. Bujagali dam shows project appraisal weaknesses) to help justify the project.

A report for the World Bank – which co-financed the project - agreed that "much of expected direct benefit from Bujagali, especially in the early years, is likely to be experienced by the better-off urban households".[44]

Box 6. Bujagali dam shows project appraisal weaknesses

The Bujagali project was approved by the World Bank, European Investment Bank and African Development Bank in April-May 2007. The EIB provided a €95 million loan. The project is being developed by a joint venture between Kenya-based Industrial Promotion Services and US-based Sithe Global Power. Construction is contracted to Salini, an Italian firm.

The National Association of Professional Environmentalists and other Ugandan organizations have filed complaints with the World Bank Inspection Panel and with the European Investment Bank raising concerns about violations of these institutions' policies. One of the objectives of the Bank's energy sector support is supposed to be "to improve access of the population of [developing countries] to modern sources of energy, particularly the poorest segments of the population".[45]

The complaint points out that there is a high risk that the project will produce less power than predicted, and at a higher price. Overestimation of the dam's capacity, combined with the disadvantageous terms of the Power Purchase Agreement mean that the electricity produced will only be affordable to the wealthiest segments of the Ugandan population. The World Bank Inspection Panel noted problems with the Power Purchase Agreement and found that "the tariff figures provided in the Economic Study are likely to be based on an underestimate of the project's cost of electricity". Ugandan Energy Minister Hilary Onek recently recognised that the Bujagali project is delayed and overpriced.[46]

The Bujagali project's economic and environmental soundness were not properly assessed. In particular, neither the effect of climate change on the project nor the impact of the project on the environment and on biodiversity were subject to proper assessment and due consideration. The project thus violates the principles stated in EIB policies including its Environmental Statement and the climate change provisions outlined in the Environmental and Social Practices Handbook.

According to the EIB's Environmental and Social Practices Handbook, it is the duty of the Project Directorate to "signal, as early as possible in the appraisal cycle, if [...] [the project] might be seriously adversely affected by the results

Community affected by Bujagali.

39 EIB Investment Facility 2008 annual report, p. 24.
40 EIB Investment Facility 2008 annual report, p. 53.
41 Development Impact Assessment Framework of Investment Facility Projects (2005), p.6.
42 Proposal from the Management Committee to the Board of Directors, section 6.
43 Social Assessment of Projects outside the EU (2006), p.2.
44 World Bank Inspection Panel, Investigation Report – Uganda: Private Power Generation (Bujagali) Project, August 2008, page xiii.
45 Eligibility Guidelines, EIB2007, p.46.
46 As quoted in « Bujagali dam to raise power costs », The Vision, 25 September 2009.

of climate change".[47] Yet the dam design does not take into account the impact of climate change on precipitation and water levels. Overestimation of rainfall has caused two existing Ugandan dams, Nalubaale and Kiira, to produce less than half of the power that was predicted during their appraisal. Kenya and Tanzania have already complained to the East African community about the impact of Ugandan dams – especially the Bujagali project – on the water level of Lake Victoria, an impact which was not properly assessed prior to EIB project approval.

The Bujagali falls will be completely submerged by the dam's reservoir. By drowning Bujagali Falls – a spectacular series of cascading rapids which Ugandans consider a national treasure – the dam will submerge a place with great cultural and spiritual importance for the Busoga people. The falls site is one of the main national tourist attractions of the country and generates significant income.

According to the EIB Group's Statement on Corporate Social Responsibility (2005), "the EIB carefully assesses the environmental impact of all projects that it finances, ensuring that the necessary mitigating measures are in place"[48]. Also "[e]ach individual project design should [...] be screened against the alternatives (including renewable energy ones) on the basis of defined criteria".[49]

According to a policy statement that dates back to 2002 the EIB must "ensur[e] that poor groups in society are at least no worse off after an EIB project than before".[50]

A 2005 policy takes this further, asserting that "the EIB's approach to social issues in developing countries aims to ensure that projects protect the interests of affected people. The Bank is required by its external mandates to take social issues into account in its project financing. Attention is also increasingly being paid to exploring opportunities to enhance social well-being, notably through income-earning opportunities and improved access to social and economic services for the poor. Linked to its environmental responsibilities, the Bank's Projects Directorate is responsible for the social assessment of EIB projects in developing countries."[51]

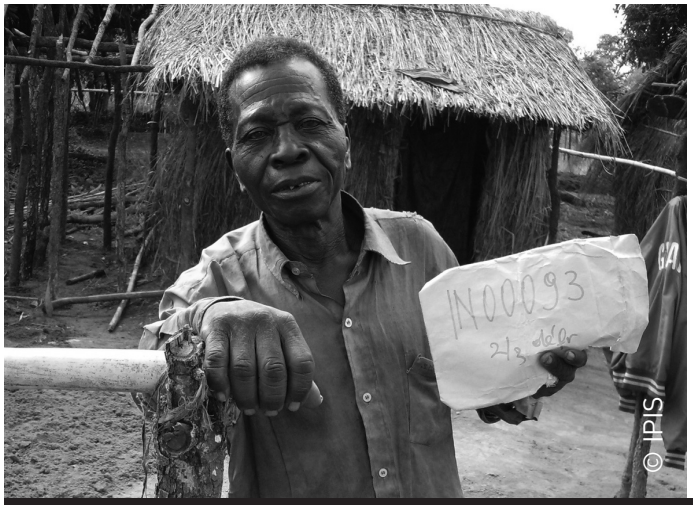
Yet many people affected by the Bujagali project have not been compensated in a fair and adequate way, in violation of the Bank's policies. Most affected people consented to the project on the promise that their lives would be better off, but many of them have seen their living conditions worsen due to the implementation of the Bujagali project. Many promises made by the project promoter have not been fulfilled. The project not only failed to improve the livelihoods of the affected people but it had negative social and economic impacts that were not at all or not fully mitigated.

47 Environmental and Social Practices Handbook, EIB, 2007, p.44.
48 EIB Group Statement on Corporate Social Responsibility (2005), p.4.
49 EIB Support to Renewable Energies, in Sustainable Development and Environment Documents (2002), p.24.
50 The EIB and its Contribution to Sustainable Development, EIB, 2002. At: http://www.eib.org/attachments/strategies/susdev_en.pdf.
51 EIB Group's Statement on Corporate Social Responsibility (2005), p.7.

EU environmental policies have also been neglected. In support of the general approach described in the sixth Environmental Action Programme and the principles of Directive 92/43 (Habitats), the Bank requires an appropriate assessment of the biodiversity effects of a project, including a detailed assessment of any likely significant effect on protected sites and/or species.[52] The Project is flooding important natural habitats including the Bujagali Falls, parts of the Jinja Wildlife Sanctuary and the Nile Bank Central Forest Reserve. To compensate for the loss of Bujagali Falls, the Government of Uganda is committed to protecting the Kalagala falls. Yet the sustainable management plan for this area in insufficient and has still not been adopted.

Ignoring EU priorities: the EIB in Zambia and DRC

EIB financing in Zambia falls under the Cotonou Agreement. This means that the Bank is supposed to support the local private sector as a means to promote the "social, economic, political, cultural and environmental aspects of sustainable development" as a contribution to poverty reduction.[53] The European Union's country strategy paper for Zambia, as with other countries, identifies the actions and sectors in need of priority support. Zambia and the EU signed a new Country Strategy Paper for 2008-13 with a budget of nearly €500 million. The strategy lists transport, infrastructure and human development - with an emphasis on health - as the key areas for action. Nowhere does the country strategy mention support for mining as a strategic priority. Yet this is what the EIB has chosen to fund – providing over €150 million in loans to the mining sector between 2005 and 2008, an amount representing three quarters of its active portfolio in Zambia.[54]



A displaced man shows envelope of documents regarding land appropriation and compensation.

52 Environmental Statement (2004), p.4.
53 Partnership Agreement ACP-EC, European Commission, June 2005. At: http://ec.europa.eu/development/icenter/repository/Cotonou_EN_2006_en.pdf
54 For a breakdown of EIB funding to Zambia, see: www.eib.org/projects/loans/regions/acp/zm.htm.

The EIB's support for the Tenke Fungurume mine in the DRC is another example of policy incoherence. This project does not help the EU make progress on its Cotonou objectives or on the Millennium Development Goals. It violates EIB (and EU) policies on people's displacement, consultation, and human rights, notably because of poor working conditions and eviction of people living near the mines. The project certainly also runs counter to the Aarhus Convention, an agreement which governs access to information, public participation in decision-making and access to justice in environmental matters. The opaque project, which disadvantages the DRC, also makes a mockery of the EIB's claims to support poverty reduction, as well as its commitments under the Extractive Industry Transparency Initiative, an official international effort to make oil, gas and mineral companies reveal what they pay to governments.

Which sectors, what results?

In the ACP countries the EIB's financing breakdown in 2008 had the following sector profile. Some 63 per cent of signed loans were in the economic infrastructure sectors of water, energy, telecommunications and transport. A further 30 per cent of loans went to the financial sector, notably global loans, with the remaining 7 per cent being invested directly in the local industrial sector in the beneficiary countries.[55] For its Asia and Latin America financing the EIB's priority sectors are industry and energy loans, with only a small fraction to be allocated for water, infrastructure, transport and agriculture.

A forthcoming study by academic Chris Wright at the University of Oslo finds that "Multilateral Development Banks promote private sector financing with a clear ideological perspective - as if expanding private investment, ownership, and participation in the economy were an end in itself". It repeats the finding that large corporations, which are the main beneficiary of private sector lending arms of MDB support, are frequently unaccountable in their operations in developing countries, seek to maximise their profits at the expense of local communities and the environment, and compound tendencies to political instability and authoritarianism.[56]

Box 7. Not so sparky: the EIB and energy lending

Since 2002, for every million euros spent on sustainable renewable energy, the EIB has provided 3.3 million to gas, oil, coal, nuclear or large hydro. Between 2002 and 2008 the EIB lent over €37 billion for energy projects. 50% was comprised of fossil fuel lending (gas, oil or coal). Lending for power transmission received a 30 percent share, nuclear and large hydropower projects took 4 percent, while renewables accounted for roughly 16 percent.

Of this energy finance €7 billion went outside the EU Member States between 2002-2008. In developing countries non-renewable energy and large transmission projects received 93 percent of the EIB's energy finance, or some €6.5 billion. Renewable energy projects outside the EU received a mere €321 million.

The EIB has set targets for itself, including an annual target of €600 million for renewable energy that was set in 2007, and now a target of at least 20% of all energy of lending in the EU. These targets are welcome but are not ambitious enough. Even if fully implemented they will change the EIB's portfolio too slowly. A more ambitious target of 50 percent renewable generation should be introduced.[57] Outside the EU there are as yet too few positive examples in the field of renewable energy, such as an energy sector loan in Latin America . The EIB has been catching up with other international financial institutions on energy efficiency, but still lacks clear targets in this area.[58]

Despite the near universal recognition of the dramatic impacts of climate change, the EIB is only at the stage of conducting a pilot exercise to measure the carbon footprint of the projects that it finances. After testing "the practicality and appropriateness of footprint measures" it will prepare a proposal for a comprehensive system of measurement and reporting for implementation in 2010.[59]

Project selection problems

The EIB is under fire for supporting projects with little obvious developmental, poverty reduction benefits. These include the Westin Roco Ki Beach and Golf Resort in the Dominican Republic, or the Albion Resort and the Bel Ombre Hotel in Mauritius. The Dominican Republic project targets the "the upper upscale" tourism sector and will provide "every luxury and necessity required to enrich body, mind, and spirit" of the visitors, yet luxury hotels are not most people's idea of sustainable development and the benefits for local people are likely to be minimal.[60] Other projects such as the Lesotho Highlands Water Project, and the Chad Cameroon oil pipeline appear to be classic development megaprojects which will do little for the populations in the countries concerned.

Similarly projects such as Kenya Geraniums, Fabulous Flowers of Botswana and the Seph-Nouadhibou seafood-packing plant in Mauritania are export-oriented industries which make intensive use of local raw materials, while creating small numbers of unskilled jobs with little or no value added or wider economic benefits. A further example is the EIB's support for a wholly owned subsidiary of the Italian Riva Group in a free trade zone in Tunisia. Raw materials are imported, and the steel and related products that are produced are exported.

55 EIB Annual Report 2008.
56 Bretton Woods Project, 2010, forthcoming.
57 Change the lending, not the climate, CEE Bankwatch Network, 2009, p. 5-6. At: http://www.bankwatch.org/publications/document.shtml?x=2207396.
58 See http://www.eib.org/projects/topics/environment/renewable-energy/index.htm.
59 EIB 2008 annual report, p. 21. At: www.eib.org/about/publications/annual-report-2008.htm.
60 See: www.starwoodhotels.com/westin/property/overview/index.html?propertyID=1527.

Even some projects that the EIB labels "environmental" have caused controversy. The EIB gives this appellation also to projects such as waste incineration plants - which emit carcinogenic dioxins and usually burn recyclable materials – and to eucalyptus plantations and a eucalyptus-based pulp mill in Brazil. EIB staff also consider the expansion of the Panama Canal to be an environmental project, rather than an infrastructure one.

These examples – which are just a snapshot of the EIB portfolio - show that the EIB does not have a comprehensive, clear and consistent way to determine which projects it will support and what results it hopes to achieve by doing so.

Weak standards: limited social and environmental screening

A 2007 study by Oslo University academic Dr Christopher Wright found that "compared to other lenders, the scope, depth and clarity of the EIB's environmental and social policies leave a lot to be desired".[61] He suggested that the EIB put too much faith in voluntary commitments by companies, and allowed social and environmental standards to be at the mercy of officials determining where and when it was "appropriate" to enforce them. Responding to such criticisms, the Bank released a new Statement of Environmental and Social Principles and Standards in 2009.[62]

This revision was supposed to tighten the EIB's policies, and the document indeed contains some improvements. It indicates, for example, that European Union standards and approaches will apply to EIB projects wherever they take place. There are some clear and categorical statements including that "the EIB restricts its financing to projects that respect human rights and comply with EIB social standards, based on the principles of the Charter of the Fundamental Rights of the European Union and international good practices. The Bank does not finance projects located in countries declared 'off-limits' by the European Council for EU financing, particularly due to violations of human rights. Similarly, the EIB does not finance projects that give rise to conflicts or intensify existing conflicts".[63]

However many passages are too loosely phrased, leaving substantial room for interpretation, and too few clear binding commitments. The more detailed handbook that the EIB staff need to interpret the new 2009 policy and make it fully operational has not yet been produced, many months after the standards were issued. At present, therefore, EIB staff have substantial room for manoeuvre.

One element of the new EIB policy that is particularly unclear is the notion of "socio-economic viability" which is raised several times, though without adequate definition or explanation. The EIB's new policy says "in the case of ambient standards, outside the EU, EU standards applied to a specific project may not be the most cost-effective solution in socio-economic terms in order to protect the natural environment and/or to promote social well-being". A further example is that "further design changes may be justified if the socio-economic benefits of the change exceed the costs; any significant residual negative impact should be, in order of preference, mitigated, compensated or offset".[64]

On environmental standards to be followed for projects outside the EU the document states that "the Bank requires that all projects comply with national legislation, including international conventions ratified by the host country, as well as EU standards. Where EU standards are more stringent than national standards the higher EU standards are required, if practical and feasible".[65] Again the test of practicality and feasibility is not adequately clarified. In short the document appears to echo the "economic logic" of moving dirty industries to countries where poorer people live, infamously expressed by Larry Summers when World Bank chief economist.[66]

Box 8. Veracel Pulp mill, Brazil

The EIB strategy for Asia and Latin American (ALA) emphasises environmental sustainability and supporting EU presence in ALA countries through FDI and technology transfer. The Veracel project in Brazil shows the realisation of the first objective needs to be much better monitored and evaluated by the EIB. This monitoring should be done in cooperation with Brazilian NGOs and CSOs to ensure local community participation.

The EIB has provided two loans to Veracel, a Brazilian-Finnish joint venture company. The first – for US$ 30 million - covered eucalyptus plantation activities over the period 2001-2004. This was followed by a US$ 80 million loan in 2003 to build an industrial site and a terminal at the port of Barcaças.

Brazilian social and environmental groups criticise the development model represented by this project. It is based on intensive use of natural resources (tropical forests, water, biodiversity) as well as the concentration of land in a few hands, and monoculture.

The Mata Atlântica (Atlantic forest) is a tropical forest with a high degree of biodiversity, comparable to that of the Amazon. Vast areas of monoculture plantations,

61 Promoting sustainable development, "Where appropriate". A survey of the EIB's social guidelines for project financing outside the European Union, 2007, p. 5.
62 EIB Statement of Environmental and Social Principles and Standards, 2009. Available at: www.eib.org/about/news/eib-statement-of-environmental-and-social-principles-and-standards.htm?lang=-en.
63 EIB Statement of Environmental and Social Principles and Standards, 2009, p. 17. Available at: www.eib.org/about/news/eib-statement-of-environmental-and-social-principles-and-standards.htm?lang=-en.
64 EIB Statement of Environmental and Social Principles and Standards, 2009, p. 17. Available at: www.eib.org/about/news/eib-statement-of-environmental-and-social-principles-and-standards.htm?lang=-en.
65 EIB Statement of Environmental and Social Principles and Standards, 2009, p. 16. Available at: www.eib.org/about/news/eib-statement-of-environmental-and-social-principles-and-standards.htm?lang=-en.
66 See: http://en.wikipedia.org/wiki/Summers_memo.

stimulated by the presence of paper and pulp companies including Veracel, have led to a loss of this biodiversity in the region. The government has prohibited plantations in areas with original forest cover, but such areas are still being cut and sold to Veracel among others.

The plantation of eucalyptus, a fast growing tree, requires a lot of water and can deplete groundwater levels. In Southern Bahia, communities have noticed that several rivers, swamps and lakes have rapidly dried up after eucalyptus was planted in the area. The Public Ministry of State commissioned a study on this in February 2009, which is yet to report. Veracel's use of agrochemicals such as Roundup, a pesticide, on the plantations, may also be reducing water quality in the surrounding areas.

The Veracel plantation leads to the concentration of large areas of land in the hands of a few companies. In eight locations owned by Veracel disputes with local people over land have led to land occupations. One of these cases is the occupation of the Fazenda Queimadinha, at about 10 km from the city of Eunápolis, where 8.707 hectares of eucalyptus are planted. About 400 families connected to the Movimento da Luta pela Terra (MLT), a land rights movement, occupy this area. The protestors argue that Veracel obtained this land in an irregular manner. Moreover, MLT and MST, another national movement, have asked the Bahia state government to investigate the titling of 20,000 hectares of land where Veracel has planted eucalyptus. The movements claim that this land is supposed to be reserved for agricultural reform.

When Veracel first started its activities in the south of Bahia in the 1990s, there was a promise of huge job creation. Veracel's management claimed that 20,000 jobs would be created, both directly and indirectly. In fact the company announced in 2008 that it provides just 4,022 jobs. Of these only 764 (19%) are employees hired by Veracel, while 3,258 (81%) are contractual labourers with fewer rights and lower job security.[67]

The EIB refers to guidelines such as the World Commission on Dams, Extractive Industries Review, and the Forest Stewardship Council as supplementary good practices, but again does not specify exactly when and how the EIB will require clients to use these.

It is too early to say how much of a difference the EIB's 2009 social and environmental policies will make, especially as detailed guidance has yet to be issued to EIB staff. However the bank's track record in project implementation gives substantial cause for concern.

For EIB projects the full responsibility for carrying out the environmental impact assessment lies with the company or authority that is promoting the project. This can introduce a conflict of interest, and disadvantage local communities. The EIB does not do enough to cross-check studies and permits, almost always waving through whatever is produced by the project sponsor and national authorities.

The EIB sometimes approves projects before the completion of the Environmental Impact Assessment (EIA) and before relevant approvals have been granted by national authorities. An example is the Gilgel Gibe II dam in Ethiopia where construction started before the environmental licence was released by the Ethiopian Environmental authority. This licence was subsequently provided to the bank as a mere box ticking exercise, to ensure that the loan was retrospectively in order.[68]

Reportedly, in early February 2010, a critical water-passage tunnel in the newly inaugurated Gilgel Gibe 2 hydropower project in Ethiopia collapsed, shutting down operations for an extended period.

Box 9. The Gilgel Gibe projects in Ethiopia

In 2005 the government of Ethiopia released an ambitious 25 year national energy master plan. One of its main aims was to exploit the country's large hydroelectric potential, estimated at 45,000 MW. The government wanted to obtain a leading role in energy generation for the region. Over 300 sites have been identified for possible future hydropower development.

Gilgel Gibe is the name for a series of hydroelectric plants in the Omo river basin in South-western Ethiopia. Project development is to be undertaken by the EEPCo, the state-owned electric utility in Ethiopia. Gilgel Gibe I is a 40 metre high dam that generates 183 MW. It has been operational since 2004. Gibe II is a 25 km long tunnel generating power exploiting the drop between the basin created by the Gilgel Gibe I dam and the Gibe river. Gibe II is not yet fully in operation. Gilgel III would be the biggest hydro project in Ethiopia, with a 240-metre dam wall, at

Displaced communities around the Gilgel Gibe reservoir

67 Impactos socioambientais dos investimentos do Banco Europeu De Investimento na Bahia – Brasil estudo de caso Veracel Celulose, Gambá Grupo Ambientalista Da Bahia, 2008.

68 The Gilgel Gibe affair: an analysis of the Gilgel Gibe hydroelectric projects in Ethiopia, Counter Balance, 2008. At: www.counterbalance-eib.org/component/option,com_datsogallery/Itemid,86/func,detail/id,44/..

an estimated total cost of €1.5 billion. The 1870 MW of electricity that the dam is said to be capable of producing would be fully exported to Kenya. Downstream, in the same basin, Gilgel Gibe IV and V are also planned.

Almost half a million people, mostly living in tribal remote and marginalised communities, will be affected both in Kenya and Ethiopia. In Ethiopia most of the people live along the river banks growing their food on the river's floodplain. This agriculture will be ruined by the dam construction. In Kenya, the Turkana region is a semi-desert area, and Lake Turkana is the only source of clean water for the people and the cattle. Fishing is the main income generation activity for thousands of people. Withholding water in dams upstream of the lake is expected to reduce its level from 7 to 10 metres. This retreat will have several impacts on the quality of water, fisheries, and may foster tribal conflicts. A civil society campaign aims to stop the dam construction and save the population of the Omo valley.

The Gilgel Gibe dam (already built, and known now as Gibe I) displaced 1964 households, a total of 10,000 people. Displaced communities and the communities in the areas where they have relocated have had their lives negatively affected. Families were resettled on swampy land of poor agricultural quality. Both displaced people and their host communities where they were resettled lost grazing lands without compensation, and conflicts arose over land use. Villagers reported a decrease in cattle and other livestock numbers. Food production went up in the first year due to fertilizers provided by the project, but this has since decreased. The resettlement sites have no electricity despite being crossed by high voltage transmission lines. The incidence of malaria and typhoid has increased around the reservoir, which provides ideal breeding conditions for mosquitoes.

The EIB lent €41 million for Gibe I and €50 million for Gibe II. Yet the EIB has not carried out an evaluation of the development impact, the implementation of mitigation measures and contractors' fulfilment of their commitments under the existing project. Neither the government nor the EIB have put measures in place to monitor the situation of the resettled people.

The construction company for both projects is Salini Costruttori S.p.A, an Italian firm. It was awarded the contract for Gibe II through direct negotiation, without public tender procedure. This appears to conflict with EIB rules. The Italian Directorate General also contributed €220 million to this project. As the Directorate overrode or ignored negative assessments by both its own technical unit and the Italian Ministry of Economy and Finance allegations of maladministration have been raised and the loan has been investigated by the Tribunal of Rome. The Italian export credit agency SACE turned down a guarantee application for the same project, citing major risks.

The environmental impact assessments provided by Salini are poor and inconsistent. Due to the lack of feasibility studies and the poor quality of EIA's the Gilgel Gibe II project was delayed for over two years due to geological problems encountered while drilling the tunnel. A high-profile January 10 2010 inauguration of the project was attended by Prime Minister Meles Zenawi and Italian government officials. "It is possible to speed up development without polluting the environment," Zenawi declared as he cut the ceremonial ribbon. Just two weeks later, the project's core component, a 26 kilometre-long tunnel, collapsed. It is still not clear if this has been caused by a new geological problem or there are additional problems with the quality of the infrastructure.

Despite these recent controversial developments which further discredit the project and the record of its main sponsor, the EIB is highly interested in financing Gilgel Gibe III and in 2009 financed – with European Commission Technical Assistance money – a "technical and financial feasibility study" and a new Environmental and Social Impact Assessment. In 2006, Salini and EEPCo signed a new contract for the building of Gilgel Gibe III, again without open tender procedures.[69]

Towards strengthened, externally-validated policies

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 manner. The EIB should ensure that sustainable development indicators are integrated into mainstream policy mechanisms, instead of being an environmental and social "add-on" to core statistical, measurement and reporting systems. Such indicators need to have a bearing on key policy decisions. 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.

Box 10. Hydropower in Turkey

Turkey's energy policy, which is set out in 5-year development plans, permits private companies to build, own and operate power generation facilities. There is a rush to build hydroelectric dams to increase power generation.

The EIB is to lend €135 million to support the construction of eight hydroelectric power plants in Seyhan and Ceyhan rivers by EnerjiSA A.Ş. The EnerjiSA Group is 50:50 jointly owned by Sabancı Group and Verbund, a Turkish and Austrian company respectively. Sabancı and Verbund signed a joint venture agreement in May 2007. The EIB financing concerns only the renewable energy part of EnerjiSA's programme and complements total finance facilities arranged by the International Finance Corporation, Akbank and WestLB.

69 The Gilgel Gibe affair: an analysis of the Gilgel Gibe hydroelectric projects in Ethiopia, Counter Balance, 2008. At: www.counterbalance-eib.org/component/option,com_datsogallery/Itemid,86/func,detail/id,44/.

The EnerjiSA project consists of relatively small hydroelectric projects. Individually their effects will not be that large but their cumulative effects may be significant. Some 22 kilometres of Ceyhan River riparian habitat will be turned into reservoirs. EnerjiSA has an insufficient Environmental and Social Management System, only 3 of the ten dams have an Environmental Impact Assessment and no cumulative impact assessment has been carried out. The project review states that "Flora and fauna surveys conducted to date for project ESIAs found no endangered, threatened, or rare species that would be affected." However the Seyhan River dams will affect the Feke Key Biodiversity Area which is very rich in terms of flora, with many species that are endemic to Turkey.

The social effects of the projects will not be high and many local people support the dam building. They complain, however, about problems regarding consultation and information disclosure. Residents of Hacininoglu and Demirlik villages that will be affected by Hacininoglu and Sariguzel dams said "no proper information was given to the villagers".[70]

Box 11. Gazela Bridge Rehabilitation Project, Serbia.

With a population exceeding one and half million people and an outdated urban plan that is unable to absorb increasing volumes of passenger and cargo transport, Belgrade faces a critical traffic situation. The Gazela bridge which crosses the River Sava is more than 30 years old and in desperate need of repair. The bridge was originally designed to handle 30,000 vehicles per day, but currently has over 150,000. The project aims to rehabilitate a motorway and ring road to ease traffic congestion at this crossing.

Eastbound on the Gazela bridge in Belgrade, with the razed location of the former Roma settlement in the foreground. The EIB approved a loan of up to 25 million euros in May 2007 for rehabilitation works on the bridge, yet a resettlement action plan in line with EIB policies and standards is still not in place, even though 175 families have been displaced from the area.

The project has displaced 178 mostly Roma families living in an informal settlement underneath the bridge. In August 2009, some 114 families were moved to temporary container accommodation in four locations on the outer edges of Belgrade, and 64 families were transported to their towns of origin in southern Serbia.

The project environmental assessment concludes that: "the project will require the relocation of Project Affected Persons living illegally in temporary and informal settlements underneath and in the direct vicinity of both ends of the bridge (...). The concerned persons face a variety of obstacles associated with their inclusion into normal social life such as missing administrative papers, citizenship identity documents, access to social security, education and health facilities. These affect different families in different ways and will require close attention if resettlement is to be managed effectively."

In its proposal to the Board of Directors, the EIB Management Committee committed that "the bank will work with the appropriate authorities and co-financers to ensure that such resettlement is undertaken using international good practice". The EIB's Environmental and Social Practices Handbook states that "prior to approval Bank staff should be in receipt of a satisfactory resettlement plan/framework". Yet the Bank approved and signed the contract for the bridge rehabilitation in July 2007 before a resettlement action plan was ready.

The Resettlement Action Plan (RAP) was not discussed with the affected people prior to the resettlement and was disclosed to NGOs only after several attempts at obtaining it, in January 2010, several months after the families were moved. At the time of writing the EIB and EBRD, which is also involved in the project, have not yet accepted the RAP, as it does not provide long term solutions for housing or employment of the displaced people. Those displaced to the edge of Belgrade have signed contracts for up to five years for the use of the containers but plans for long-term accommodation have been limited to vague discussions of applying for social housing.

CEE Bankwatch Network and CEKOR have called on the EIB to become more active in ensuring sustainable resettlement solutions. Yet so far the EIB has passively waited for completion of the RAP and did not properly ensure with the borrower that all social issues would be properly addressed in line with EIB policies and commitments. The EIB must consult project-affected people and host communities and ensure that a revised RAP contains time-bound commitments for the permanent and satisfactory resettlement of all the eligible Gazela inhabitants.[71]

70 Research Report on the Enerjisa Hydropower Project, Nuri Özbağdatlı, 2009. The EIB's project documentation is at: www.eib.org/projects/loans/2007/20070437.htm.

71 Research by CEE Bankwatch Network and Centre for Ecology and Sustainable Development (CEKOR), January 2010.

Towards exclusion criteria and no go sectors

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 to projects that change the patterns of unsustainable use of natural resources and reverse the trend of deepening global inequality. The EIB should adopt a no-go zone policy, which prohibits the financing of operations within ecologically pristine or at risk zones as defined by authoritative international institutions. This should include organisations such as United Nations Environment Programme, United Nations High Commission for Refugees, and the International Union for the Conservation of Nature, all of which can be considered "competent international organisations" as indicated in the EU's mandate language.

The EIB should also develop sector specific policies covering areas such as climate and energy, dams, biodiversity, forests, fisheries, extractive industries, sustainable agriculture and chemicals. It should also set out "no-go" sectors, excluding those sectors whose development and climate impact have been repeatedly detrimental—primarily the extractive sector. Furthermore, all European lending should include human rights criteria which establish that if fundamental norms are not respected, then finance will be halted.

Human rights

In 2003 the UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights were approved. These set out that multinational corporations are obliged "to promote, secure the fulfilment of, respect, ensure respect of and protect human rights ... within their respective spheres of activity and influence".[72] This concept of sphere of influence is important for both public and private financial institutions whose money may make it possible for human rights violations to take place.

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 factor) 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.

Taking account of these developments in international law, and the strong human rights elements enshrined in the EU Treaty, the EIB should:

- adopt 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;
- 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;
- 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;
- categorically prohibit 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;
- 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 according to International Labour Organisation conventions.

At present, only citizens of the European Union are allowed to complain about the activities of the EIB through the European Ombudsman. Recent agreements between the EIB and the Ombudsman allocated the latter only a review function of decisions taken by the internal grievance mechanism of the Bank concerning complaints filed by non-EU citizens affected by operations taking place outside of the EU. The EIB should adopt a fully-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.

72 Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights, UN Commission on Human Rights, 2003. At: www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/E.CN.4.Sub.2.2003.12.Rev.2.En.

Financial probity and tax avoidance

Capital flight through tax evasion is a major problem for developing countries, provoking outflows that are eight times aid inflows.[73] The average tax revenue in low-income countries is less than half of the average for OECD countries as a percentage of GDP, and direct taxes comprise only a small part of their tax take. It is widely agreed, for example in the United Nations Financing for Development process, that poorer countries need to mobilise taxes if they are to build effective states and create the conditions for sustained poverty reduction.

A major way in which this is achieved is the deliberate mis-pricing of transactions between subsidiaries, and the shifting of profits and losses between jurisdictions to minimise tax exposure.[74] Problems occur when transfer pricing becomes a tool to set artificially high or low prices to minimise taxes. In a survey of 476 transnational companies, nearly 80% acknowledged having transfer pricing at the heart of their tax strategy.[75]

The EU has made a series of announcements on this issue in recent years, and the G20 has also agreed measures. In 2008 the European Council committed „to implement the principles of good governance in the tax area" and to "improve international cooperation in the tax area (...) and develop measures for the effective implementation of the above mentioned principles." These principles are "transparency, exchange of information and fair tax competition". The Council added "the need to include in relevant agreements to be concluded with third countries by the Community and its Member States (...) a specific provision on good governance in the tax area".[76]

These principles have been ratified by the European Parliament. In a report on tax fraud it says that Europe should make the elimination of tax havens worldwide a priority. It invited the Council and the Commission "when negotiating trade and cooperation agreements with the governments of tax havens ... to persuade them to eliminate tax provisions and practices that favour tax evasion and fraud".[77]

Yet in the last five years the EIB has lent €5.66 billion to major corporations from the UK, France and the Netherlands which use tax havens. An additional €210 million of EIB money has gone to African investment funds based in tax havens, notably Mauritius. Furthermore, some of the major infrastructure projects financed by the EIB in the name of development happen to have close links with tax havens, which is also the case with financial intermediaries benefiting via the EIB's Global loans.[78]

The EIB has taken some welcome steps to ensure it is not facilitating tax evasion and other forms of capital flight, but these do not yet go far enough. The EIB has updated its policies on fraud and procurement indicating that it will take a stricter line on clients based in suspicious jurisdictions.[79] The EIB has only turned down four potential loans on the basis of suspected tax evasion practices. This shows what is possible, but represents just the tip of the iceberg. Other clients such as Lundin holdings, one of the shareholders of Tenke Fungurume mine in DRC, is based in Bermuda: probably not coherent with anti tax evasion policies.

Under pressure from the G20, Counter Balance and others the EIB updated its policy in summer 2009. Now companies registered in OECD „grey-listed" jurisdictions must move their registration before signing the contract. They also have a clause in the contract that if a jurisdiction becomes „grey-listed" after the signing of a contract, the company is obliged to either change their registration, or give the money back.

However the EIB's updated policies are still not clear enough and its enforcement procedures are not strict enough.[80] The Bank should not just rely on the OECD's lacklustre listing process, self reporting by corporate clients, and a limited screening by EIB staff. The OECD has now taken all jurisdictions off its black list, even if they have only signed 12 weak bilateral information sharing agreements with other similar territories. This is absolutely the wrong measure of success, as it makes no difference whatsoever to the vast majority of developing countries.[81]

The EIB should develop its own more stringent analysis of whether companies are paying adequate taxes in the countries in which they operate: and that will require companies to provide break downs of profits, losses and tax payments per country. Regarding the Bank's approach to prevent beneficiaries from operating via offshore centres, a more stringent list than the OECD one about

73 Global Financial Integrity: Illicit Financial Flows from Developing Countries 2002-2006, 2009. At: www.gfip.org/index.php?option=com_content&task=blogsection&id=11&Itemid=75.
74 Taxation and Finance for Development, SOMO, 2008, p. 8. At: http://somo.nl/publications-en/Publication_2955/view.
75 Les paradis fiscaux, Chavagneux C. and Palan R., 2007, p. 65.
76 Economic and Financial Affairs European Council meeting, 2008. At: www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ecofin/100339.pdf.
77 Coordinated strategy to improve the fight against fiscal fraud, European Parliament, 2006. At: www.europarl.europa.eu/oeil/file.jsp?id=5597642.
78 Flying in the face of development. How European Investment Bank loans enable tax havens, Counter Balance/EURODAD, 2009. www.counterbalance-eib.org/component/option,com_datsogallery/Itemid,98/func,detail/id,119/.
79 EIB publishes interim revised policy on Offshore Financial Centres, EIB, August 2009. At: www.eib.org/about/news/eib-publishes-interim-revised-policy-on-offshore-financial-centres.htm. Counter Balance asks the EIB to do more and soon on cracking down tax havens, Counter Balance, August 2009. www.counterbalance-eib.org/component/option,com_datsogallery/Itemid,98/func,detail/id,120/.
80 Flying in the face of development. How European Investment Bank loans enable tax havens, Counter Balance/Eurodad, 2009. At: www.counterbalance-eib.org/component/option,com_datsogallery/Itemid,98/func,detail/id,119/.
81 Tax Information Exchange Agreements, Tax Justice Network, 2009. At: www.taxjustice.net/cms/upload/pdf/Tax_Information_Exchange_Arrangements.pdf.

prohibited and monitored jurisdiction should be adopted, as recently requested by the European Parliament.[82] The Financial Secrecy Index could be the basis for development of this advanced list.[83]

Appraising global loans – a carte blanche

About one third of the EIB's lending is in the form of global loans. These are loans that the EIB provides to private banks or public agencies not for specific projects but to increase their ability to on-lend. The EIB is thus financing projects at one remove, with very limited ability to see how its money is spent or whether it is contributing to the Bank's objectives. In principle it can be good to delegate on the ground spending decisions, but the EIB takes a big risk by effectively contracting out project appraisal for global loans.

As an attempt to minimise its risks the EIB mainly funds large global financial groups as these are able to prove their credentials for its global loans. The EIB does not sufficiently support local banks or other financial intermediaries from the countries where the economic activity is to take place.[84] This is contrary to the 'ownership' approach that is widely accepted as the only way to create sustained economic development. It also means that banking profits are being repatriated out of Asia, Africa and Latin America on an ongoing basis, enriching European shareholders rather than impoverished stakeholders.

Box 12: Major European banks that have received EIB global loans 2008-2009

Beneficiary	N° of EIB loans over the past 5 years	Amount in €
Barclays Bank	9	1.5 billion
Royal Bank of Scotland	4	813 million
PNB Paribas	8	1.6 billion
Société Générale	10	1.55 billion
ING	1	200 million

Source: EIB Project Database.

In Zambia the leader of the country's largest private sector business association has raised concerns that multilateral lending there strengthens economic priorities for the North without recognition of the reality of smaller entrepreneurs on the ground. He said that lending for small and medium enterprises (SMEs) is approached as, „'what does the EU need, and how can we promote these types of activities in places like Zambia?' There is a big rift in what the EU and Zambia believe should be the priorities for development."

82 European Parliament resolution of 20 January 2010 on the second revision of the ACP-EC Partnership Agreement (the „Cotonou Agreement"). At: www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2010-0004+0+DOC+XML+V0//EN&language=EN.

83 Financial Secrecy Index, 2009. At: www.financialsecrecyindex.com/2009results.html.

84 Mid-term evaluation of EIB's external mandate, final report, DG ECFIN, forthcoming., p. 130.

The EIB's guidelines state that it examines the intermediary bank's "financial robustness and ability to channel EIB funds swiftly to customers targeted by the global loan". EIB staff are supposed to consider the intermediaries' "appraisal methods for this type of project, procedures for monitoring borrowers and projects", but the guidelines do not clearly specify how this is to be done.[85] There have certainly been problems in the past.

The European Court of Auditors has found that the EIB has not always received sufficient evidence from financial intermediaries/promoters regarding environmental compliance. This was the case for two projects (nitrogen fertilizers and pharmaceuticals) included in the list of sectors requiring detailed description and an analysis of the environmental measures. The environmental monitoring performed by the EIB was limited to documentary checks, which did not constitute a comprehensive environmental monitoring exercise. For intermediated operations, the financing contracts and the practical provisions did not require environmental monitoring by the financial intermediaries after the investment screening and approval phases".[86]

There are some apparently positive examples, for example the EIB's support to small Tunisian businesses by channelling a €200 million loan to five local banks. But in general the EIB seems to be getting the worst of both worlds: its transaction sizes and procedures mean that it is mostly large transnational banks which apply for its money, meaning that it is very distant from the decisions about funding allocation on the ground. This could be addressed through the EIB assessing the recipient bank's social, environmental and other procedures, but the EIB lacks capacity to do so properly.

Box 13. Global loans: the black hole of EIB lending

Global loans to financial intermediaries remain one of the most obscure financial mechanisms used by the EIB to channel resources to small and medium enterprises both in the EU and in partner countries. A significant part of EIB lending goes through financial intermediaries, yet the Bank has not so far failed to improve the environmental, social and human rights due diligence of these financial institutions, or introduce adequate monitoring procedures to verify that operations backed by financial intermediaries contribute in real terms to poverty reduction and sustainable development in developing countries, in line with overall objectives of the EU.

This shortcoming – including a lack of transparency about how global loans are used by financial intermediaries – appears to be valid for both public and private financial intermediaries as the following two cases show.

85 The Project Cycle at the European Investment Bank, 2001, p. 6. At: www.eib.org/projects/publications/project-cycle.htm.

86 European Court of Auditors (2009). Banking Measures in the Mediterranean area in the Context of the MEDA Programme and the Previous Protocols, p.15. At: http://eca.europa.eu/portal/pls/portal/docs/1/2434296.PDF.

In 1997 the EIB lent €40 million to the Credito Andino de Fomento (CAF) – the sub-regional development bank in the Andean region – to finance medium size projects with European involvement in the five Andean Pact countries. In 2005 the EIB board agreed a new €40 million global loan to support eligible projects and help CAF diversify its sources of funding. Latin American civil society groups have complained about the limited access to information regarding operations funded with this money[87]. Although the CAF has quite inadequate social and environmental safeguards compared with other IFIs, EIB support has not been linked to a strengthening of CAF due diligence and transparency. The EIB reportedly cancelled the CAF II loan in the end. However no specific details are available about the reasons for this decision, including whether the decision might have been taken because CAF would not have met the conditions attached to the EIB's loan.

In the case of the €75 million global loan that the EIB provided to Bank Hapoalim – one of the largest banks in Israel – at the end of 2006, the lack of transparency about the use of the loan has raised similar concerns within civil society. The intended purpose of the Hapoalim Global Loan was to give long term financing for small and medium sized enterprises in the Israeli private sector, in particular in industry, services and infrastructure sectors. Civil society groups feared that the EIB could also support controversial projects through intermediaries active in the West Bank. Research commissioned by Counter Balance to independent researchers in the country showed that in the last years Bank Hapoalim has repeatedly supported both major Israeli construction companies which operate in the West Bank occupied territories and help build and expand illegal settlements, as well as small and medium size Israeli activities within the same illegal settlements.[88]

It has to be pointed out that these illegal settlements are in direct violation of international law, as declared by the United Nations and the European Union.[89] The fact that money is fungible and the lack of public information about which specific operations Bank Hapoalim intended to support with the EIB global loan raised serious concern about the possibility that the EIB could become complicit in supporting activities which are in violation of international law. It is not known, as with most EIB-backed operations, if any social or human rights clause was included in financial contracts with the beneficiary – in this case the private financial intermediary.

Following repeated questions from civil society, including Counter Balance members, the EIB announced in January 2010 that the loan was never disbursed and has been finally cancelled. Although the decision has been welcomed by concerned stakeholders, the Bank has not informed so far about the reasons for its decision nor about its environmental, social and human rights due diligence of the specific financial intermediary involved.

The EIB needs to reconsider its goal to increase its global loan portfolio by 50% between 2008 and 2010. It should ensure that the intermediaries which it supports sign agreements guaranteeing to apply covenants to their on-lending so that the environment and the interests of local people can be protected. It should also urgently consider ways to support a different type of financial intermediary.

Support for locally established but mostly foreign controlled financial intermediaries in the existing highly liberalised context for international movements of capital and financial services could easily lead to local savings and profit repatriation at any time, thus contributing to capital flight from poorer to richer countries, against the intrinsic rationale of ODA. Instead of European or global transnational banks it would be better to support regional or national intermediaries. including mutuals and cooperatives.

These would stand a far better chance of financing development at the grassroots. In particular, European aid mechanisms should support the development of strong, locally owned, financial intermediaries that are focussed on responsibly providing financial services to the poor, or supporting sustainable development – i.e. microfinance institutions, rural banks, mutuals, cooperatives, ethical financial mechanisms which would stand a better chance of financing development at the grassroots. Consideration should be given to support the start-up of such bodies and possibly an equity participation for a limited time if needed.

All these local intermediaries should have sustainable development, poverty reduction or providing services to benefit the poor as one of their core goals, as well as should act as responsible taxpayers by complying in both letter and spirit with the tax laws and regulations of the country. However in any of these cases a stringent environmental, social and development assessment and monitoring is needed, as well as a cost-benefit analysis vis a vis possible direct interventions with the same long-term development goals.

Towards corporate, sanctioned, responsibility

Project agreements should include explicit positive clauses detailing expected positive development outcomes associated with the specific operation supported.

These impacts should be inherently connected with the core of the project and not include side safeguards measures (such as additional social interventions promoted by project sponsors to mitigate environmental and social impacts). The delivery of these precise project-specific development outcomes (i.e. regarding number of jobs to be created, increase in average per capita income in project area, increase of standard of living in project area, increase of security and safety in project area, etc.)

87 Caso de acceso a la información pública sobre fondos BEI con un énfasis en obras de infraestructura, vía BID y CAF, M'Biguá, 2009.
88 Information Concerning the involvement of Bank Hapoalim in Financing Occupation-Related Commercial Activity, Coalition of Women for Peace, 2009.
89 Among others see UN resolution 51/133. At: www.un.org/documents/ga/res/51/ares51-133.htm. For an overview of EU positions on this issue see: http://ec.europa.eu/external_relations/mepp/eu-positions/eu_positions_en.htm.

should be covenanted in project agreements in order to make project sponsors liable in case of failure due to their mismanagement or lack of capacity to achieve stated objectives.

In the case of a large power project, for example, the covenanted benefits that the EIB could insist that the project promoters agree to might include:

- Connecting X million households to the domestic electricity grid and guaranteeing continued provision at affordable rates.
- Guaranteeing electrical supplies at a subsidised rate to local schools, hospitals and small businesses.
- Ensuring a certain percentage of revenues is earmarked for local and regional, as well as national, infrastructural investment.
- Giving local and national citizens both active involvement in and information about decisions on spending using project revenues.[90]

The social and environmental damage limitation commitments associated with projects must also be made public. An external verification of the achievements of these objectives should take place and be transparent and open to all stakeholders.

One of the principles of EU external cooperation policies is good governance and the rule of law in recipient countries. The EIB – which is supposed to support EU cooperation policies – continues to support projects which directly or indirectly undermine good governance and the rule of law. Examples of projects where contracts have been awarded without open competitive tender include the Gilgel Gibe II dam and the Tenke Fungurume mine.

EIB loans are normally made available in Euros, and this can make it hard for borrowers to repay when the local currency they are earning in depreciates against the Euro, as has occurred to almost all currencies. in the last two years. In some exceptional cases the EIB lends in other hard currencies and very rarely in local currencies for some Small and Medium Enterprise initiatives.[91] This practice should be extended.

The EIB does not match up to the standards of other international institutions, nor the best practices that are emerging from civil society and official circles. The most relevant comparator for the EIB is the World Bank's private sector arm the International Finance Corporation (IFC). Long under fire for inadequate standards, the IFC has made a series of improvements in recent years. These apply to its safeguard policies and to the measurement of results from its loans.[92]

The Responsible Finance Charter published by EURODAD in 2008, following consultation with different experts and stakeholders, goes further, offering a template for public financial institutions. It recommends a series of specific recommendations relating to:

A. Technical and legal terms and conditions.
B. Protection of human rights and the environment.
C. Public consent and transparency.
D. Procurement.[93]

Co-financing with other banks: efficient or deficient?

The EIB now says it "can agree to apply the standards of other international financial institutions, as far as they are equivalent to the requirements of the Bank". This can be applied where the EIB is co-financing with another institution such as the World Bank. Some joint appraisals are now taking place with other funders. And there is discussion of a so-called mutual reliance, where different banks will not each appraise projects they are co-funding. Instead they will recognise and use appraisals carried out by other similar international institutions. The EIB already relies heavily on sectoral and technical studies carried out by the World Bank.

In principle joint appraisals and accepting appraisals done by others are positive moves as they would reduce confusion, double work and transactions costs for the recipient country. This is part of the proposals towards an enhanced, better-planned European approach to international cooperation finance which could yield savings of between €3 and €6 billion per year. It could, however, also lead to a dilution of responsibility and accountability if not done correctly. It is important that any such joint work be done against the highest standards of the different participating agencies. And some early analysis shows that joint appraisals can take three times the amount of time and energy that a single agency appraisal would.[94] These costs may, however, to be transitional while organisations work out joint procedures and approaches.

At the moment the EIB is doing too little co-financing, and it is not growing fast. Looking at ACP and OCT countries, the 2009 external evaluation found that of 26 projects in 2008, 13 were co-financed by international development finance institutions, bilateral and/or multilateral donors.[95]

90 For more on this approach, see Conrad's Nightmare: the World's Biggest Dam and Development's Heart of Darkness, Counter Balance, 2009, p. 19. At: http://www.counterbalance-eib.org/component/option,com_datsogallery/Itemid,98/func,detail/id,128/.

91 Loans are extended, where feasible, in local ACP currencies, in line with the provision of the Cotonou Agreement which enables the Bank to bear the forex risk on local currencies, notably for supporting SMEs. The IF's ability, in certain circumstances, to provide local currency financing is a major value added in meeting the requirements of SMEs and other companies with very little, if any, foreign exchange revenues. Local currency operations totalled the equivalent of EUR 207.5m for 23 operations in the following currencies: CFA franc, Dominican peso, Fiji dollar, Kenyan shilling, Mauritanian ouguiya, Rwandese franc, South African rand and Ugandan shilling.

92 See, for example: www.ifc.org/results.

93 Responsible Finance Charter, Eurodad, 2008. At: www.eurodad.org/whatsnew/reports.aspx?id=2060.

94 Mid-term evaluation of EIB's external mandate, final report, DG ECFIN, forthcoming.

95 Investment Facility Annual Report, p. 11.

Co-financing is not growing much with other finance agencies, but the EIB does have some agreements in place. It is supposed to co-finance with the EBRD, as a general rule' in the countries where both operate, for example in Central Asia. Yet it only does so in some countries, not in others. The EIB also has agreements with the World Bank, the Inter American Development Bank and the African Development Bank, and with KfW and with Agence Francaise du Developpement. These Memoranda of Understanding with other international financial institutions are a worthwhile step forward, but have not yet yielded significant results. Worryingly some relevant officials do not even seem to know of their existence.[96] The EIB must find ways to change its procedures and practices to encourage more co-financing, while ensuring that adequate standards are met.

EIB president Philippe Maystadt is championing a process of "mutual reliance" to take this further. He explains this as "establishing a common approach towards harmonisation of procedures and partial or full delegation of project appraisal and monitoring".[97] Under this approach a lead financial institution will undertake project assessment and monitoring on behalf of all participating banks. Reducing repetition of environmental, social, procurement, sectoral, procurement and other analyses and dialogues can save significant time and costs for both borrowers and lenders. This can only be done, however, if banks analyse and validate each others' procedures and practices so that they can have confidence in them. To be successful mutual reliance must entail harmonisation upwards to the best procedures and practices, rather than a race to the bottom, compromising the approaches taken by leading institutions.

And only with an upwards harmonisation will parliaments and civil society groups be persuaded that mutual reliance is not undercutting the drive towards accountability and results.[98] It is not clear where the EIB stands on this point – just two years ago its president Philippe Maystadt told European finance ministers he was concerned about competition from Chinese banks and wanted to ensure his bank did not require "excessive conditions".[99]

Monitoring and evaluation

The importance of checking up on project progress and publishing assessments of results is well understood. It is also recognised in the Paris Declaration on Aid Effectiveness and in the European Consensus on Development, which says that "the Community's approach will be based on results and performance indicators".

96 The AfDB office in Cairo was not aware of the existence of the MoU. Mid-term evaluation of EIB's external mandate, final report, DG ECFIN, forthcoming.

97 Statement by Philippe Maystadt to the Annual Meeting of the EIB Board of Governors, June 2009, p. 6.

98 Statement of Reality of Aid at the conclusion of the 3rd High Level Forum on Aid Effectiveness. At: http://betteraid.org/index.php?option=com_content&task=view&id=228&Itemid=2.

99 EIB accuses Chinese banks of undercutting Africa loans, Financial Times, November 2007. At: www.ft.com/cms/s/0/added3c2-7f4e-11db-b193-0000779e2340.html?nclick_check=1.

Yet the EIB's monitoring and evaluation of projects outside the EU has been limited and piecemeal. The EIB's website shows extremely few evaluations of its work in Asia, Africa and Latin America. The only one published in the last two years is one on water and sanitation projects, and that only covers projects up until the end of 2007. Prior to that there are two general evaluations – published in 2006.[100]

Other EIB reports also contain limited elements of assessments. For example the Investment Facility 2008 annual report says "the IF portfolio was characterised by a concentration of so-called 'satisfactory' and 'acceptable' risk operations, with predominance of the latter".[101] But there is very little information or data to back up these judgements.

An electronic survey of EIB staff carried out in 2009 showed that 52 per cent of operational staff and 66 per cent of technical experts argue that time constraints often or very often affect their ability to monitor and follow up projects. Staff point out that with the pressure to achieve productivity increases measured by signed operations per staff member leaves them no other choice than to reduce monitoring to fulfil the productivity targets.[102]

The water and sanitation sector evaluation mentioned above finds that "all 11 projects evaluated were consistent with EU development objectives and in most cases made an important contribution towards achieving the MDGs". Also "they were in line with partner country priorities and also fully in line with EIB mandates and policy objectives". And "water demand development, tariff policy and operational efficiency have improved, impacting positively on [the majority of] projects' performance". For a minority of projects "the economic impact was lower than anticipated, due to low implementation performance, institutional weaknesses, non-reduction of inefficiencies and unsatisfactory tariff increases". Overall in terms of effectiveness the EIB's own evaluators found "poor implementation, implying cost overruns and delays, and only partial achievement of the specific outputs and outcomes have led to negative ratings for the majority of projects evaluated".[103]

From this one and only evaluation of EIB activities outside Europe in the last few years we see a mixed picture. This surely shows the necessity of more, and more comprehensive, regular evaluations. Without this board members, parliamentarians and taxpayers cannot determine whether the EIB is doing a sufficiently good job as custodian of public finance, and whether goals are being achieved.

100 Operations Evaluation, EIB, 2010. At: http://www.eib.org/projects/evaluation/reports/index.htm.

101 Investment Facility annual report, 2008, p. 60.

102 Mid-term evaluation of EIB's external mandate, final report, DG ECFIN, forthcoming, p. 91.

103 Evaluation of EIB Financing of Water and Sanitation Projects outside the European Union, EIB, June 2009. Available at: www.eib.org/projects/publications/evaluation-of-eib-financing-of-water-and-sanitation-projects-outside-the-european-union.htm.

The EIB introduced a new evaluations procedure in September 2009.[104] This states that the Bank's evaluation department "independently and systematically evaluates both public and private sector operations supported by all types of financial resources as well as related policies and strategies". It remains to be seen whether this will in fact be the case.

In 2009 the European Commission's Directorate General for Economic and Financial Affairs also commissioned a mid-term evaluation of the EIB's external mandate. The contract to carry out the evaluation was won by Danish consultancy COWI, a consultancy company that is involved in infrastructure projects worldwide. The evaluators visited several countries where the EIB has operations, but were mostly unable to carry out detailed field visits and assessments.

In Laos this meant that evaluators did not visit the controversial Nam Theun II dam project, merely reviewing documents forwarded by the EIB, publications available on the internet including the World Bank's official internet site for the project, and interviews with EIB staff involved in the project. The evaluation "does not include an analysis related the social and environmental impact of the project".[105]

In Brazil the consultants had a 6 day visit to look at the EIB's portfolio which is worth €1.6 billion. The consultants are generally impressed with the EIB's portfolio there. They caveat their conclusions by saying that "a more in-depth analysis of the environmental impact of the EIB supported operations would however be required to assess whether the EIB lending operation in any way jeopardises the EU objectives related to environment and sustainable development".[106]

Technical assistance: who is it helping, should it expand?

The EIB currently has a limited budget for technical assistance (TA), mainly derived from the European Commission. TA funding in ACP countries comes from the Cotonou framework, the EU-Africa Infrastructure Trust Fund and the EU-ACP Water Project Preparation Facility.[107] Many officials argue that the EIB needs extra money to pay for technical assistance which would allow the Bank to support more complex projects by building the capacity of client public authorities and private companies. Adding more TA to the Bank is not the right way to go, however, as the international community is already spending far too much TA money. Roughly one third of Official Development Assistance flows in this form.[108]

The EIB's record with technical assistance spending is very mixed, and the history of development more generally is littered with failed attempts to use technical assistance to overcome strategic problems. A major study series by UNDP laid out concerns about technical assistance, otherwise known as technical cooperation (TC). It found, for example that "the record of TC in delivering on its capacity-development mission is problematic at best. It has been argued that the dominant roles of donors (and some forms of TC) have actually led to the destruction of emergent national capacities. Often, the transfer of developed country expectations onto a developing country environment has meant that tasks or conditions were disproportionately placed on poorer, less capable governments".[109]

Cecila Alemany, a Uruguayan aid effectiveness expert working with Association for Women in Development, explained some of the problems with TA. She argued that "technical assistance is usually used as a way to pay consultants from the providers and not as real funding mechanism to pay for owned expertise. Usually the consultants paid from the EC and EIB are from European consultancy business without knowledge of the recipient reality. Know-how import cannot be done automatically and the technical assistance is not always sustainable after the consultants' missions. Technical assistance can also be used as another tool to tie aid."

Alemany suggests using less technical assistance, but where it is necessary sourcing more local, intra-regional or cross-regional technical assistance from people with more understanding of the context.[110]

The European Court of Auditors have found some of these problems with EIB technical assistance to date. Examining EIB work in the Mediterranean region they found that six technical assistance projects out of 30 reviewed "did not achieve all their objectives". This was primarily because the local authorities either did not accept or utilise the findings of the studies produced by the external consultants.[111]

For the Gilgel Gibe III dam project in Ethiopia the EIB approved a grant under the Technical Assistance budget line for a "financial and technical feasibility study". The TA came from the European Commission. Yet civil society groups have been denied access to terms of reference, the name of the firm appointed, commissioning date of the study and of course the study itself.[112]

104 Operations evaluation terms of reference, September 2009. Available at: www.eib.org/projects/publications/operations-evaluation-terms-of-reference.htm.
105 Laos COWI case study.
106 Brazil case study, COWI for DG ECFIN, forthcoming.
107 Investment Facility Annual Report, 2008, p.50.
108 Real Aid 2: Making Technical Assistance Work, ActionAid, 2006. At: http://www.actionaid.org.uk/doc_lib/real_aid2.pdf.
109 Malik, K. 'Towards a Normative Framework: Technical Cooperation, Capacities and Development', in Capacity and Development, UNDP (2002), p. 36. At: http://content.undp.org/go/cms-service/download/asset/?asset_id=1636487.
110 Eurodad. Reforming the European Investment Bank in the Context of a Changing Development Architecture, 2009.
111 European Court of Auditors (2009). Banking Measures in the Mediterranean area in the Context of the MEDA Programme and the Previous Protocols, p.15. At: http://eca.europa.eu/portal/pls/portal/docs/1/2434296.PDF.
112 The Gilgel Gibe Affair. An analysis of the Gilgel Gibe hydroelectric projects in Ethiopia. www.counterbalance-eib.org/component/option,com_datsogallery/Itemid,86/func,detail/id,44/.

Section conclusion

The EIB does not currently have anything like sufficient procedures or safeguards to ensure that its money will be spent on projects selected to maximise development and environment results. This is the case both for direct project lending by the EIB and all the more so for its global intermediary loans. The planned increase in the EIB's portfolio following its recent capital increase is only likely to extend the pressure on staff to issue more loans, with less scrutiny. However simply increasing staff without changing targets, incentives and internal culture will do little good. A root and branch overhaul of the EIB's systems and procedures would be required if the Bank is to continue financing in developing countries.

Part III – conclusions and recommendations for change

When people hear that the EIB invests in projects all across the world they are often astonished. When they hear that it only has 1,500 staff they are amazed. It is deeply counter-intuitive that the EU's house bank should be told that the EU twenty-seven countries, plus those wanting to enter the Union, is not a sufficient a challenge: go and spread your financial favours to Africa, Latin America and Asia.

This report has shown the strain the institution is under as a result. Spreading an institution thin across objectives and geographical areas is a recipe for tension, under-performance and even schizophrenia. The EIB shows clear signs of all of these symptoms.

This report finds that the EIB's financing in Asia, Africa and Latin America is incoherent, incomplete and incompetent. That is:

- incoherent with European development, environment and human rights policies;
- incomplete as it overlooks opportunities for positive contributions;
- incompetent as the EIB has the wrong staff with the wrong incentives.

This diagnosis is shared by official documents. The official evaluation of the EIB's external mandate concludes that European Union development policies "cannot feasibly be achieved" by the EIB as it is currently set up and working.[113] It therefore urges "more clarity on which EU external policy objectives the EIB should support".[114]

Achieving change in the EIB should be simpler than in other multilateral institutions - with only 27 member governments, rather than 190 as is the case with the World Bank and other bodies. Yet the EIB was founded as an investment bank and it is difficult to change its culture to focus on development, as the example of the IMF in the last ten years clearly shows us.

European governments – who comprise the board of the EIB – must clarify and streamline the conflicting and sprawling mandates that the institution has been given. These currently range from improving Europe's energy security, through increasing the presence of European companies, to environmental protection and contributing to reach the Millennium Development Goals.

This partly reflects the multiple and often contradictory goals of the EU's external policy agenda -policies such as Global Europe are in some tension with the European Consensus for Development.

113 Mid-term evaluation of EIB's external mandate, final report, DG ECFIN, forthcoming, p. 121.
114 Mid-term evaluation of EIB's external mandate, final report, DG ECFIN, forthcoming, p. 114.

Giving the EIB an even stronger mandate for lending outside of the EU to make it a key instrument of the EU external action as defined under the Lisbon Treaty would be a mistake. This is because the internal culture of the Bank would endorse the commercial, energy and raw materials priorities of the EU agenda rather than the promotion of global public goods – such as climate stability and poverty reduction.

In the short term, rigorous do-no-harm policies (including mere development aspects) have to be put in place to align EIB lending to cross-cutting EU development and human rights objectives. This is needed to minimise negative impacts on the ground and to align the EIB with the Lisbon Treaty's requirements for EU external action.

The economic and financial crises are having dramatic impacts on developing countries. Given that EU Member States were not keen to increase their ODA contributions in response to the crisis, the EIB remained the only European institution that could easily increase its lending. Civil society is extremely concerned that the EIB is being asked to fulfil the development role that EU MS have failed to provide in the crisis context. The EIB lends Member States at quasi commercial rates, thus generating new foreign debt. Moreover, as an investment bank, the EIB is not best placed to provide a meaningful response for developing countries in times of crisis. Grants rather than loans are what are required to meet the needs generated by the crisis – a crisis for which developing countries are not responsible.

It would be a further mistake to let EIB lend for climate change mitigation and adaptation. Developing country governments and civil society groups have made clear their position that climate change actions must be funded only by grants financing to compensate them for the historical responsibility of rich countries – including the EU - in causing climate change. They have also insisted on the point already enshrined in the UN Framework Convention on Climate Change that climate financing must be governed under the auspices of the United Nations.

Equally the EIB should not expand its role in other development finance roles, such as technical assistance, which has often been highly ineffective.[115] Technical assistance should be rare, demand-driven, tailored to recipient countries' needs and integrate a strong capacity building component.

European Union governments must resource and empower other institutions than the EIB to make progress on poverty reduction and environmental goals. There is a need to redraw the overall EU development finance architecture. This approach is in line with the key priority of the aid effectiveness agenda to reduce fragmentation and duplication among institutions.

In short the EIB's scope of action outside the EU should be progressively restricted (both geographically and sectorally) and eliminated over time, during which more effective institutional alternatives be built up.

Trying to force the EIB to collaborate better with the EU aid system (EDF, DCI and EuropeAid) may be too risky if done in a rush and without the appropriate guarantees that the EIB will live up to the standards of EU aid. Indeed there is a danger that this collaboration might roll back hard won progress on European aid effectiveness. The intrinsically different nature of these institutions and mechanisms would put at risk nascent reforms towards recipient country ownership, alignment to recipient country developing strategies and systems, and transparency.

The EU does not need to establish its own development bank. Adding another MDB to the existing global and regional ones would increase rather than diminish complexity and confusion. The EU could consider transferring more resources to existing IFIs instead, if appropriate reforms are put in place in the IFIs. In this regard, IFIs should at a minimum implement strict standards of responsible finance and European governments should provide more coordinated and effective inputs to their boards. At the same time, new regional institutions are emerging which are fully owned by developing countries and fostering regional financial integration. The EU should support this trend.

On this basis, Counter Balance urges the European Council and the European Parliament that the new "interim" mandate covering EIB external lending from 2011 to 2013 should make the topping up of €2 bn. of the external guarantee conditional to the transfer of EIB profits to other mechanisms and institutions with a clear development mandate and for clear development purposes.

This would require, as a minimum, the following amendments to the existing mandate and operational policies:

Regarding sectoral and regional interventions

- few clear priority sectors in line with overall EU objectives should be identified for EIB action in the different regions;
- in line with EU climate change cross-cutting priorities, the Bank should not support fossil fuel projects;
- concerning the possibility for the EIB to get involved in climate finance: the EIB should stay out of adaptation funding. Some of EIB revenues could eventually reflow, together with EC and MS resources, into the UN Adapatation Fund;
- regarding mitigation actions, the EIB should prioritise support within the EU which remains a major emitters comparing with neighbouring countries;
- new lending to the Asia and Latin America region should be stopped as a first step in the direction of restricting EIB lending outside of the EU;

115 Special Report 6/2007 of the European Court of Auditors on Effectiveness of technical assistance in the context of capacity development.

- in the context of the IF review in 2010 dealing with lending to the ACP region – thus beyond the remit of the current mid-term review - the EC and MS should explore all possible alternatives for the management of the EDF resources currently administered by the EIB, including regional IFIs, existing EU mechanisms and eventually new mechanisms to be established in the medium-term.

Regarding financing instruments

- the EIB Group should not be equipped with a concessional finance window blending loans and grants and thus perfoming concessional lending. At the same time a clear management line for the EIB external lending (including ACP regions), different from the one dealing with the lending within the EU, should be put in place within the Bank;
- profits generated by the EIB lending could be allocated into other European institutions for development finance or in other IFIs;
- concerning technical assistance, it should be used only when explicitly requested by the partner country and provided externally only if expertise is unavailable from that region. In the context of EIB-backed operations technical assistance should support the implementation of EU social and environmental standards when these are higher than host country standards;
- support for financial intermediaries should be restricted only to institutions not operating in offshore financial centres and which have a substantial local ownership and are equipped to implement a pro-development approach supporting SMEs in their country.

Regarding due diligence and project assessment and monitoring

- the EIB should implement an enhanced development due diligence, including transparent and verifiable project-based development indicators, to be covenanted in project agreements - in particular in sectors with high impacts such as infrastructure, energy and extractives;
- the EIB should implement a human rights due diligence for its operations, including human rights impact assessments and conflict sensitivity assessments;
- the EIB operations should comply with national development strategies, and project agreements should comply with principles of responsible finance included in Eurodad's Responsible Financing Charter[116];
- beneficiaries and all stakeholders (in host countries and the EU) should be involved in ex-ante project assessment, including option assessments;
- The EIB should update its transparency policy to introduce a strong presumption of disclosure, with limited exceptions. This should also apply to board documents, and should use the approach in the World Bank's December 2009 revised policy;
- adequate tax due diligence should be put in place, including prohibition of support for entities based in secrecy and non-cooperative jurisdictions, and the requirement of reasonable national taxation compliance for corporations to increase income for national budgets and mobilise domestic resources for development;
- the EIB should adopt a public registry of financial intermediaries which comply with criteria proving their capacity to perfom pro-development interventions in recipient countries;
- the EIB should implement a preferential treatment for recipient country suppliers for projects that it finances, to improve its support for job creation in recipient countries;
- the EU should ensure that its Ombudsman has sufficient staff and financial resources to properly respond to submissions from European citizens and affected communities from non-EU countries alleging harm from the actions of EIB staff.

With the debates about how to justify public finance becoming louder and harsher across the EU, the time for European governments to call the EU's self-styled "house bank" to order is now.

116 http://www.eurodad.org/whatsnew/reports.aspx?id=2060

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www.counterbalance-eib.org
e-mail: info@counterbalance-eib.org

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Challenging the European Investment Bank