



Fatal Transaction's second submission on the EIB Statement of Environmental and Social Principles and Standards

Prepared by Jan Cappelle

Fatal Transactions is an international campaign that strives for a just and fair exploitation of Africa's natural resources. It was launched in October 1999 by a consortium of European civil society organisations working in close collaboration with African partners, to increase public awareness of the funding of rebel armies across Africa through the trade in so-called 'conflict' or 'blood' diamonds. Such 'fatal transactions' directly link Western consumer goods to armed conflict and human rights violations in Africa. The campaign aims to transform these fatal transactions into fair transactions that truly benefit the people by fostering growth, alleviating poverty, and help build a just and equitable society, and has since acted as a critical watchdog of governments, international institutions and extractive industries.

www.fataltransactions.org

IPIS (International Peace Information Service) is one of the members in the Fatal Transactions network. IPIS, based in Belgium, is an independent research institute which focuses on Sub-Saharan Africa. Its studies concern three core themes: arms trade, exploitation of natural resources and corporate social responsibility. www.ipisresearch.be





Amsterdam/Antwerp, November 11th, 2008

Dear Ms Khayat,

Fatal Transactions supports the initiatives of the European Investment Bank to revise its “Statement of Environmental and Social Principles and Standards”. We applaud the realisation of this revision in an open and transparent consultative process. This has without any doubt positively contributed to the revised draft Statement that has been presented by the Bank on 1 October 2008.

The revised Statement is an improvement to the version that has been in place since 2004. In our memorandum “From conflict resources to sustainable development”, we have shown the consequences of the shortcomings of the 2004 Statement. The 2004 Statement lacks clear procedures and the Bank uses a set of terms that leaves too much space for a discretionary approach.

The 2008 revised draft of the Statement is an improvement to the 2004 version. Various human rights and environmental principles have been elaborated or further clarified. This is an important first step forward. The elaboration of these principles demands cautious actions and should be based on objective and fundamental criteria. The wording in the text should be chosen carefully in order to avoid a discretionary approach. We regret however that all of those elements are not met by the Bank. We identify six serious shortcomings that should be resolved in the final version of the Statement:

1. the revised Statement does not meet many of the European Commission’s values and objectives, particularly those in the sphere of sustainable natural resources management (good governance, protection of human rights, assessment of conflict sensitivity, etc.). The Bank’s procedure is therefore not in line with the European Commission’s demand that projects “eligible for bank financing outside of the European Community is only possible when the Bank participates in implementing the Union’s development aid and cooperation policies.”¹ The mandate was adopted by the Council in December 2006, which authorises the EIB to lend up to € 27.8 billion with an EU guarantee. The Council Decision requires: a/ the consistency of the Bank’s external actions with the external policies and objectives of the Community to be strengthened. and b/ a substantive mid-term review of EIB external financing which will be conducted by 2010.
2. the draft revision does not provide a clear set of consultation procedures with affected people; and a clear set of monitoring procedures that need to be applied by 1/ the promotor and 2/ the Bank itself in monitoring the promotor’s activities. The procedures constitute fundamental elements in a process of integrating a project in a society and should therefore be worked out in detail in the Statement.

¹ Council 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.

3. The Bank does not apply fundamental international human rights and environmental law (as defined in various treaties) as the primary source of its human rights and environmental principles. When there are references to international principles, the wording is vague and this leaves room for a discretionary approach. We recommend the EIB to prepare and discuss a vision on this issue. The following report provides a clear set of procedures that should be followed in order to correctly implement international human rights law in practise: Jan Cappelle, A Practical Guide about the International Human Rights Frameworks and how Business fits into it, IPIS, 13 March 2008.²
4. The text does not define free, prior and informed consent of indigenous people as a fundamental element that needs to be respected. It only requires including the concept in a Resettlement Action Plan.
5. The Bank leaves room for deviation procedures of its own fundamental environmental and social policies (see for example in para 30, 36, 38 and 39).
6. The text does not provide a clear definition of “conflicts” (para 45), of “intensify existing conflicts” (para 45) and of “social standards” (as stipulated in para 48). Again, this leaves room for a discretionary approach.

We urge the Bank to resolve the different issues in order to confirm compliance with EU Community policy and with EU and international legislation. We believe that otherwise the revision ends where it started: “the EIB can only confirm compliance with Community policy and with legislation to the best of its knowledge.”³

Kind Regards,

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² The report can be found at : <http://www.ipisresearch.be/download.php?id=213>.

³ Council 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, page 22.



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