



## Comments on the EIB Environmental, Climate and Social Guideline on Hydropower Development (Draft - April 2018)

10 July 2018

Joint submission by CEE Bankwatch Network<sup>1</sup>, Wetlands International<sup>2</sup> and International Rivers<sup>3</sup>

### (1) Summary:

**CEE Bankwatch Network, Wetlands International, and International Rivers** welcome the publication of the Guideline. The proposed text outlines well the risks and impacts that the hydropower schemes have on people and the environment. We think that the text could be improved in several areas to ensure that such impacts are avoided, particularly by focusing on the early stages of project and sectoral planning, as well as by taking into account the particular risks of investments in non-EU countries.

### What is missing from the Guideline:

- The Guideline rightly points out that hydropower projects are often located in remote areas inhabited by indigenous people or ethnic minorities that are culturally and economically tied to the land, and the loss of this relationship exacerbates the negative impacts of construction. However, the text in Guideline **does not** highlight other social impacts related to the influx of workers, which may result in the loss of language and culture, health problems, and sexual abuse. Very specific mitigation measures need to be established for these impacts.
- We want to emphasise the importance of ensuring the protection and fulfilment of human rights in hydropower project development. Similarly, promoters must ensure meaningful public participation, protection of the right to property, and

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<sup>1</sup> CEE Bankwatch Network is today the largest network of grassroots environmental groups in countries of central and eastern Europe and since 1995 a leading force in preventing dubious public investments that harm the planet and people's well-being in this region and beyond.

<sup>2</sup> Wetlands International – European Association and its members aim to improve, conserve and restore rivers and other wetlands across Europe, as a means to enhance biodiversity and mitigate water-related hazards such as floods and droughts.

<sup>3</sup> International Rivers is a global campaign organization dedicated to protecting rivers and defending the rights of the communities that depend on them.

economic and cultural rights which can often be impacted by such projects. Although human rights impacts are not specific to hydropower schemes, in the past, EIB projects such as [Bujagali](#) in Uganda and [Nam Theun 2](#) in Lao or [Nenskra in Georgia](#) have caused great controversy regarding their human rights impacts. Therefore, a human rights impact assessment (HRIA) should be a prerequisite of EIB financial support for hydropower projects that fall under the International Commission on Large Dams (ICOLD) definition of a large dam and/or where the Screening for Social Issues 1) establishes a presence of vulnerable groups, 2) identifies potential water conflicts or 3) implies involuntary resettlement (economic and physical).

- In addition, the Guideline only *recommends* the promoter to comply with the EIB Gender Strategy, while it should be *required* as the strategy was adopted by the EIB Board as applicable to the Bank.
- Information disclosure requirements are missing, as well as a requirement for the project promoter to inform stakeholders about the available grievance mechanisms, including the EIB Complaints Mechanism.
- There is no reference to Pollution Prevention and Abatement requirements (Standard 2). This is implicitly integrated in some of the requirements on *Reservoir Water Quality and Sedimentation, including Eutrophication* as well section on *Public Health, Safety and Security*, however it should be included as a separate requirement, in particular regarding the construction phase. For instance, during the construction phase, the machinery can emit toxic substances into rivers.

## OUR MAIN RECOMMENDATIONS:

### **1) Taking the strategic approach to hydropower planning seriously**

- The Guideline emphasises the strategic approach, but this should not turn into a box-ticking exercise: sustainable alternatives to hydropower have to be assessed first to justify any construction of new dams. This is also the main finding and proposal of the Dutch Sustainability Unit of the Netherlands Commission for Environmental Assessment, whose paper “Better Decision-Making about Large Dams with a View to Sustainable Development” prepared at the request of the Dutch Ministry of Foreign Affairs speaks to the need to make a frank assessment of the factors that bias decision-makers towards large dams, and proposes a process to avoid this bias.<sup>4</sup> The findings of the paper can be easily transposed to smaller hydropower schemes, as there is growing evidence of the significant impacts of small schemes with gaps in their regulation.<sup>5</sup>

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<sup>4</sup> [http://api.commissiemer.nl/docs/os/i71/i7199/7199\\_revised\\_advice\\_on\\_better\\_decision-making\\_about\\_large\\_dams\\_1june2017.pdf](http://api.commissiemer.nl/docs/os/i71/i7199/7199_revised_advice_on_better_decision-making_about_large_dams_1june2017.pdf)

<sup>5</sup> Kelly-Richards, S., Silber-Coats, N., Crootof, A., Tecklin, D., & Bauer, C. (2017). Governing the transition to renewable energy: A review of impacts and policy issues in the small hydropower boom. *Energy Policy*, 101, p. 257

Also: <https://www.washington.edu/news/2018/01/22/small-hydroelectric-dams-increase-globally-with-little-research-regulations/>

- Finding the optimal balance between financial return and environmental and social costs should be a critical requirement for investment in hydropower project (also in order to comply with the EU Water Framework Directive which is a central theme running through the requirements, according to the Guideline).
- The EIB states that it is technologically neutral in its lending, so adequate strategic planning (including energy planning) should be a prerequisite to EIB consideration of possible investments in the first place. The investment decisions on hydropower projects should be assessed on a basin scale - not merely on a case-by-case basis - taking into account existing and planned dams in the basin and their contribution to the fragmentation of rivers and cumulative impact. Authorities should include the project that is being appraised in the River Basin Management Plans (RBMP) and ensure that the RBMPs are of appropriate quality, clearly setting the limitations regarding hydropower development.
- The quality of the strategic studies needs to be established first, before looking into project level studies (e.g EIA). While it is commendable that “alignment with the EU Water Framework Directive principles...demonstrated through the implementation of a strategic study (Cumulative Impact Assessment, Strategic Environmental Assessment, Integrated Water Resources Management Plan or similar)”<sup>6</sup> is mentioned, this needs to be genuine, and not, as practice showed so far, only formal acceptance of whatever fits the definition of ‘a strategic study’.
- Based on a Strategic Impact Assessment (SEA) of the RBMP, “no-go zones” should be created (notably freshwater areas of high significance and protected areas such as Ramsar designated wetlands). Water body status has to be determined (from high status to heavily modified) in order to define Environmental Flow Releases (EFRs) downstream from the water intake.
- We recommend to include in the Guideline one or more good practice examples (according to EIB) of hydropower project developments following the phases of the EIB project cycle. These examples should illustrate the strategic approach as well as the correct fulfilment of the Guideline’s requirements. They should include cases where the EIB refrained from investment in hydropower development to meet environmental or social objectives.

## 2) Same standards for EU/non EU countries

- **We demand from the EIB to organise a consultation with civil society from non-EU countries.** We also recommend another round of consultation on the Guideline with relevant Directorates of the European Commission, in particular with DG NEAR and DG DEVCO to safeguard the principle of equal treatment of EU and non-EU investments.
- In the introduction of the Guideline, it is acknowledged that “outside the European Union and candidate countries, issues such as resettlement, social problems resulting from population influx, and disturbance of critical habitats are more likely to occur.” However, the corresponding requirements are weaker for non-EU countries that are not in the Accession process.

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<sup>6</sup> Requirement 57 of the Guideline

- The EIB should make additional effort as “the EU bank” to apply EU standards to jurisdictions that have weaker governance capacities. For instance, the EIB should require an EIA to be done even if a project belongs to the Annex II list of the EIA Directive and the host country’s legislation does not require it. This is of particular importance for hydropower projects, given the growing body of evidence of the adverse effects of hydropower plants no matter their size. Also, most diversion projects with a smaller planned power capacity do not pass the Environmental Impact Assessment.
- National legislative requirements outside the EU are usually insufficient to ensure adequate environmental safeguards as evidenced by [Bankwatch’s Broken Rivers](#) report. The quality of environmental studies needs to be ensured via independent review, for instance, using the official European Commission Guidance on Review of Environmental Impact Statements<sup>7</sup>. Independent review should lead to the avoidance of accepting low quality EIA and SEA studies.<sup>8</sup>
- The EIB should ensure here that the EIB, EU and relevant international environmental and social standards are applied in both EU and non-EU countries. For instance, national legislative requirements outside of the EU are usually insufficient to ensure adequate determination of the EFR. The EIB should ensure that the adequate international standards are applied, and require from the project promoter that the EFR determination is consulted with local communities and other relevant stakeholders. See our more detailed comments next to requirement 7 in the table below.

### 3) Early and genuine consultation and information disclosure

- Currently most of the requirements for **prior** consultation are placed in the section related to *Physical and Economic Displacement and Loss of Access* while other requirements are mostly related to post-festum consultation. It is important to get broad community support and provide channels for communities to raise other concerns aside those related to displacement and loss of access, and also say “no” to the project if necessary. This is particularly relevant when the Bank is engaging with indigenous peoples, but *free, prior and informed consent* is not mentioned in the Guideline. Moreover, the provisions on grievance mechanisms are weak, mentioned indirectly in requirements on ‘benefit sharing.’
- This is further exacerbated by the absence of provisions on information disclosure, which is in particular important for projects funded through financial intermediaries. The EIB Handbook contains provisions stating that information disclosure is the responsibility of the intermediary. Research by Bankwatch has shown that passing on this responsibility does not work at all to ensure suitable information disclosure.<sup>9</sup> Therefore, the EIB should either start publishing information itself, or guarantee that the intermediary does it. Whatever option is chosen it needs to be incorporated in the Guideline.

<sup>7</sup> <http://ec.europa.eu/environment/archives/eia/eia-guidelines/g-review-full-text.pdf>

<sup>8</sup> Peter J. Nelson et al for WWF (2015), EIA/SEA of Hydropower Projects in South East Europe [https://d2ouvy59p0dg6k.cloudfront.net/downloads/hidro\\_v6\\_webr.pdf](https://d2ouvy59p0dg6k.cloudfront.net/downloads/hidro_v6_webr.pdf)

<sup>9</sup> <https://bankwatch.org/wp-content/uploads/2017/06/outsourcing-accountability.pdf>

## (2) Specific Recommendations

The following comments refer to the Guideline’s proposed specific requirements and recommendations. We omit sections that repeat existing requirements within the EIB Social and Environmental Handbook or areas where we do not have specific comments.

Requirements/Recommendations	Comments
1. Introduction	<p><b>General comment on the section:</b> It is good that the section includes a checklist for financial intermediaries. It would be better if it clarified how it triggers the EIB’s involvement in the appraisal of the project. For example, is meeting any one of the criteria sufficient to trigger full appraisal? Will this determination be disclosed? Does EIB consider whether the FI has the capacity to apply the full suite of requirements to their projects when deciding whether to invest? We maintain that the level of risk involved in hydropower projects, as well-described in the text of the Guideline, should prohibit EIB financial intermediaries from investing when the listed criteria from the Box 2 apply (e.g no RBMP or project site situated within or in close proximity or in the protected area and so on)</p> <p>This section should also clarify how compliance with the Guideline will be monitored and assessed.</p> <p>Potential hydropower investments should be treated on a basin scale not just case-by-case.</p> <p>Regarding the ‘Applicability’ it is unclear whether the requirements could be subject to the EIB complaints mechanism. In addition, the text should clarify that requirements carry the weight of EIB policy.</p>
2. Environmental Issues and Impacts	<p><b>General comment on the section:</b> Additional analysis/explanation needed to demonstrate the reasoning and assumptions behind the flowchart of assigning different EFR methodologies to different types of projects.</p> <p>The Reference to Standard no. 2 Pollution Prevention and Abatement is missing and this is relevant at the construction phase of hydropower projects in particular.</p>

i. Natural Habitat and Biodiversity Degradation and Loss	
<p>1. All hydropower projects financed by EIB <b>must meet the Environmental and Social Standards, and more specifically Environmental and Social Standard 3: Biodiversity and Ecosystems.</b> Opportunities for ecological restoration and enhancement should also be considered wherever possible in accordance with WFD objectives, for example with respect to hydropower rehabilitation projects.</p>	<p>WFD objectives should be first and foremost mentioned in the context of <b>avoiding detrimental impacts</b> not only restoration and enhancement.</p>
<p>2. For projects located in EU member states or candidate countries (depending on their transition agreements) that are likely to have a significant effect on one or more Natura 2000 sites (with the area of influence determined under condition 5 below), <b>an Appropriate Assessment must be included in the overall assessment in accordance with Article 6(3) of the Habitats Directive.</b></p>	<p>“Depending on their transition agreements” is a potential loophole. It should apply no matter what is written in the agreement with the country. Moreover, <b>if the project is being created in an area that is an equivalent of Natura 2000 (ie. Emerald site), an Appropriate Assessment should be done.</b></p> <p>Compliance with EU legislation will in some cases lead to the “no go” option; Art. 6.3 of the Habitats Directive sets the “no go” criteria for proposed hydropower projects in relation to N2000 and similar sites. If the Appropriate Assessment concludes that the proposed project will adversely affect the integrity of the N2000 site(s), the project will not be financed. The EIB should add this to the requirement.</p>
<p>3. For projects located outside the EU, and where EIB is not the lead investment partner, common approaches to <b>biodiversity</b></p>	<p>“where this meets the requirements of EIB’s own standards” is the key phrase and should be emphasised, as “common approaches” is vague. <b>Genuine alignment with the EU legislation should be mentioned.</b></p>

<p>conservation and management must be applied based upon good international practice where this meets the requirements of EIB's own standards.</p>	
<p>4. Notwithstanding the above, <b>EIB will not finance any projects that will have a potential measurable adverse impact on any UNESCO World Heritage Site.</b></p>	<p>We very much welcome this provision. Heritage sites are already on <a href="#">the exclusion list</a> and so are other categories such as Critical Habitats.</p> <p><b>The same requirement should be applicable to protected areas, Ramsar sites, N2000 etc. with the “potential measurable adverse impact” preferably triggering the no-go option.</b></p>
<p>5. In all of the above cases, of key importance for hydropower projects is that <b>the assessment of potentially affected habitat must consider not just the footprint of the reservoir or project infrastructure (powerhouses, roads, transmission lines etc.), but also downstream flow and/or water quality effects.</b></p>	<p><b>Not clear why downstream and not also upstream, given that migration goes both ways.</b> Also, The EIB Environmental and Social Handbook (the Handbook) mentions “downstream and upstream ecosystems” in the section B.1.7 Screening for Biodiversity (page 112).</p>
<p>6. <b>Mitigation must follow the hierarchy principle</b>, whereby avoidance, minimisation and restoration measures are applied in that order of preference, with compensatory (e.g. offset) measures considered as a last resort. The single most effective</p>	<p>“The single most effective mitigation measure for hydropower projects is the avoidance of biodiversity-related impacts through careful and effective site selection at the strategic planning stage” <b>and thorough examination of the alternatives including the no-go option.</b> We strongly believe that biodiversity offsets are an inappropriate tool for managing the impacts of large dams. The government of Uganda began development of an additional dam months after the Bujagali Dam was commissioned, that <a href="#">will submerge the Kalagala Offset</a> that was set aside as part of the Bujagali deal. This points to inefficacy of such measures to guarantee that equivalent biodiversity sites are maintained. Because enforcement mechanisms are so weak in the case of dams, EIB should prohibit the use of offsets in large hydropower projects.</p>

<p>mitigation measure for hydropower projects is the avoidance of biodiversity related impacts through careful and effective site selection at the strategic planning stage (see page 16).</p>	
<p>ii. Downstream Hydrology and Limnology (including Environmental Flows)</p>	<p><b>General comment on the section:</b> the EFR flowchart requires more detailed explanation.</p> <p>This section is hindered by the lack of acknowledgement that environmental flows regimes, no matter how well designed, are rarely implemented. This is caused by a number of factors, but chiefly that environmental releases directly compete with profit and energy targets. In the absence of close monitoring to ensure compliance, project operators are incentivized to operate hydropower projects to maximize power generation, thus undermining environmental goals. By acknowledging this upfront, the Guideline should then detail the ways in which EIB can ensure that eflows regimes are respected. One way to assess the likelihood of a borrower to respect eflows regimes is to assess its track record elsewhere in successfully implementing eflows regimes. <b>Borrowers that cannot demonstrate a positive track record in this regard should be excluded from consideration of EIB support.</b></p>
<p>7. All hydropower projects financed by EIB <b>must assess and make provision for an appropriate downstream environmental flow release (EFR) and any additional mitigation measures that may be required (at a minimum these would normally include measures for fish passage) in order to maintain the current status of freshwater and estuarine ecosystems and support existing socio-economic uses of the water resource.</b> These measures must meet national legislative requirements, but in many cases will require additional features such</p>	<p>National legislative requirements outside of the EU are usually insufficient to ensure adequate determination of the EFR. The EIB should ensure here that the adequate international standards are applied and require from the project promoter that the EFR determination is consulted with local communities and other relevant stakeholders.</p> <p>Regarding the section “but in many cases will require additional features such as varying flow releases at different times of year in response to seasonal habitat requirements, or the periodic release of flood pulses (freshets) to promote downstream sediment or nutrient transport”, the text “in many cases will require additional features” should be replaced with “<b>and</b> will require additional features.”</p> <p>Varying flow releases is always required, as no river has constant flow. A core principle of eflows is that they must mimic the natural flow regime. One way to do so is to measure the inflow into the reservoir/weir and the eflow release/outflow should be proportional to the inflow. Hence, incorporate the provision of measuring inflows into the reservoir and outflows from the dam/weir (as stipulated).</p> <p><b>"Information on the inflows and outflows must be available free of cost and in the public domain."</b> should be added.</p> <p>Existence of a fish passage is not sufficient to be counted as a proper mitigation measure. Appropriate</p>



<p>as varying flow releases at different times of year in response to seasonal habitat requirements, or the periodic release of flood pulses (freshets) to promote downstream sediment or nutrient transport.</p>	<p>design and testing the effectiveness should be incorporated in instructions to the project promoters.</p> <p>For rivers that are already degraded, maintaining the current status of ecosystems is a very low bar that could absolve project developers from any responsibility. A good eflows regime can improve the status of a degraded river. Stakeholder consultation should be done to determine what class/category the river will be, post-project, and an eflows regime prepared on that basis.</p> <p><b>A River Basin Management Plan should be the basis for establishing EFR. The RBMP should define a goal for each stretch that afterwards determines the EFR.</b></p>
<p>8. Any proposed mitigation measures to <b>adapt the EFR must be properly costed within the project design</b>, which may require flexibility to incorporate future adjustments as part of an adaptive EFR strategy.</p>	<p>The emphasis should be placed on the costs of the sound planning of the EFR and of mitigation measures, not on the adaptive strategies when the damage is already done.</p>
<p>9. The method used to determine the EFR should at a minimum be consistent with national standards or approaches, but <b>must be appropriate to the scale and complexity of the project and risks involved (e.g. presence of protected areas, critical habitats, high water-use intensity)</b>. A process for deciding on the appropriate resolution of assessment method to be used is presented in Figure 1, and further details can be found in Section 7.2 of CIS Guidance Document No. 31. 7</p>	<p><b>If the project assessment according to Figure 1 results in the 'high resolution' Environmental Flow Assessment Method, the project should be rejected by EIB.</b></p> <p>National legislative requirements outside of the EU are usually insufficient to ensure adequate determination of the EFR. The EIB should ensure here that the adequate international standards are applied, and preferably require from the project promoter that the EFR determination is consulted with the local community.</p> <p>Reference to Brown, C. 2016 not clear and missing from the reference list.</p> <p><b>“Appropriate to the scale and complexity” phrase might be misleading, as even the smallest projects can cause irreversible damage if, among other things, the EFR is not adequately determined.</b></p>
<p>10. In cases where low resolution</p>	<p>There is no single standard for the EFR in the EU, so this looks vague and should be clarified e.g. through</p>

<p>methods apply outside of the EU, <b>the applied method must be comparable in approach to those used by EU member states.</b></p>	<p>elaboration of the EFR flowchart (Figure 1 of the Guideline)</p>
<p>11. For projects located in EU member states or candidate countries (depending on their transition agreements), <b>the above EFR must support the achievement of good status in the affected water bodies (or good potential in the case of HMWBs) as defined in the RBMPs prepared under the WFD, and ensure that no deterioration in status occurs</b> (unless explicitly approved under the Article 4(7) process – see Box 3). The EFR must also ensure compliance with any additional standards or objectives for water bodies that form part of a Natura 2000 Network.</p>	<p>“depending on their transition agreements” to be deleted. The EIB should expect transposition of the WFD into national law in Accession countries no matter what is the content of the transition agreements.</p>
<p>12. For projects located elsewhere, in addition to meeting the requirements under 7 above, <b>the EFR must support any defined water quantity or quality objectives or conservation plans or priorities that apply to the water body</b> (e.g. as part of an RBMP,</p>	<p><b>The lack of baseline data</b> such as current status of downstream ecosystems <b>should automatically trigger higher resolution methods and, if coupled with any measurable impacts on protected areas or biodiversity, lead to rejection of the project by the EIB (precautionary approach).</b></p>

<p>IWRM Plan, or similar). In situations where the current status of downstream ecosystems is not defined, this will need to be determined in accordance with the selected EFR method in 9 above (i.e. higher resolution methods will require more extensive ecological baseline survey).</p>	
<p>13. The EFR regime <b>must include a continuous programme of monitoring (including both flow and biological indicators), evaluation, and adjustment</b> - commonly referred to as adaptive management - so that it can be periodically reviewed and where necessary modified in response to increased understanding or changes in downstream ecosystem or socio-economic conditions.</p>	<p><b>Suggestion:</b> use an approach in line with the EBRD Environmental and Social Guidance Note for Hydropower - require automatic release of data on residual flow on the Internet.</p>
<p>iii. Reservoir Water Quality and Sedimentation, including Eutrophication</p>	<p><b>General comments on the section:</b> Water quality assessments are only <i>recommended</i>. Moreover, the requirements for diversion hydropower plants that also create small reservoirs and influence water quality and sediment transport are missing.</p>
<p>14. All storage-based hydropower projects that introduce a significant Degree of Regulation (DOR) in the river system (see Box 1) <b>must include an assessment of the eutrophication potential of the</b></p>	<p>Vegetation clearance prior to inundation is already done as business as usual. It can be a source of problems as the biomass collected is an asset that attracts corruption.</p> <p><b>The risk of eutrophication could be also a reason for a no-go option, in particular in tropical areas.</b></p>

<p>reservoir, either as a standalone assessment or as part of the E(S)IA, and mitigation measures incorporated into the project design where the risk of eutrophic conditions is assessed as significant. The assessment should consider existing and potential future nutrient inflows from the upstream catchment (e.g. in relation to agricultural runoff). Mitigation measures may include vegetation clearance prior to inundation, nutrient flushing and/or upper watershed management measures.</p>	
<p>15. In cases of large reservoirs with potentially long water residence times (of the order of several months or more), i.e. where there is a significant risk of seasonal thermal stratification, it is <b>recommended that a detailed reservoir water quality assessment is carried out</b> using hydrodynamic (rather than empirical) modelling approaches to assess and mitigate the risks of eutrophication and/or accumulation of pollutants.</p>	<p>Not clear why is this a recommendation and not an obligation.</p>
<p>16. All storage-based hydropower</p>	<p><b>Mitigation measures for sedimentation also need to be devised.</b></p>

<p>projects with large reservoirs <b>must include an assessment of existing and potential future reservoir sedimentation</b>, with ongoing monitoring of sediment influx throughout the reservoir life (see also 54).</p>	
<p>17. It is <b>recommended that an ongoing programme of reservoir water quality monitoring is undertaken post-construction</b>, focusing on any water quality parameters that are identified as significant during the E(S)IA process. For projects in the EU/candidate countries, this would include the monitoring of performance against any water quality objectives established for the new reservoir as part of the WFD Article 4(7) process or otherwise (see Box 3). The programme may also include periodic fish tissue sampling to monitor the potential bio-accumulation of pollutants in the reservoir.</p>	<p>Not clear why is this only recommended and not obligatory.</p>
<p><b>3. Social Issues and Impacts</b></p>	<p><b>General comments on the section:</b> The Guideline lists some potential impacts of hydropower projects, yet indicates that other impacts (e.g. labour standards, human rights) are not covered because they are not specific to hydropower projects. This seems an arbitrary exclusion, considering that many impacts covered by this guideline are not specific to hydropower projects, and that there is a track record of EIB-financed</p>

	<p>hydropower projects that caused issues with human rights.</p> <p>The Guideline rightly points out that hydropower projects are often located in remote areas inhabited by indigenous people or ethnic minorities that are culturally and economically tied to the land, and the loss of this relationship exacerbates the negative impacts of construction. However, they ignore other social impacts related to the influx of workers, which may result in the loss of language and culture, health problems, and sexual abuse. Very specific mitigation measures need to be established for these impacts.</p> <p>p. 9 The sentence “The following text summarises EIB’s various requirements and recommendations for development of hydropower projects in relation to the above issues.” should be rephrased to: “The following text summarises EIB’s various requirements and recommendations in order to avoid the above issues in the development of hydropower projects.”</p>
<p>i. Physical and Economic Displacement and Loss of Access</p>	
<p>18. For any resettlement that is required to remedy displacement and loss of access caused by a hydropower project, <b>promoters must fulfil the requirements of the Bank’s <i>Environmental and Social Standard 6: Involuntary Resettlement.</i></b></p>	<p>To add: <b>Promoters also must fulfil the requirements of the Standard 7, which covers the Rights and Interests of Vulnerable Groups</b></p>
<p>20. Promoters <b>must demonstrate that a robust and realistic identification and assessment has been carried out to delineate the full area of influence where impacts relating to displacement and loss of access could occur.</b></p>	<p>This requirement is in our view equal to the requirement of demonstrating the quality of the ESIA in which the displacement impacts are assessed.</p> <p>Downstream impacts (p11) is given very little attention and just included among others. We know from experience that downstream communities and users can be worst hit and given least attention. Specific attention and requirements should be included for mitigating/compensating risks to downstream users.</p>
<p>21. Promoters <b>must identify all communities and/or other groups that might be affected, and undertake informed and</b></p>	<p><b>Meaningful and early stakeholder consultation needs to be done not only in connection to Physical and Economic Displacement and Loss of Access but also as a general recommendation.</b> Should be moved or repeated in the section on iii. Governance and Community Support</p>

<p>meaningful stakeholder consultation with them from the early stage of the project development and preferably during pre-feasibility stage, throughout the area affected.</p>	
<p>22. Stakeholder consultation <b>must collect information to assess impacts and identify how users – including groups such as women, and vulnerable groups such as the elderly and those with different abilities - will be affected</b>, and use this information to develop and implement robust mitigation in all areas where impacts will be experienced. With respect to women who may be vulnerable, promoters are recommended to take account of <i>The EIB Group Strategy on Gender Equality and Women’s Economic Empowerment</i>. 8</p>	<p>“With respect to women who may be vulnerable, promoters are recommended to take account of <i>The EIB Group Strategy on Gender Equality and Women’s Economic Empowerment</i>.” - <b>since the strategy has been adopted by the EIB Board and is valid, it should be mandatory for the promoter to comply with the strategy.</b></p>
<p>ii. Economic Development, Employment and Livelihoods</p>	
<p>27. The promoter is <b>recommended to encourage the participation of local companies and individuals in the project construction and operation</b>, notably through appropriate job and contract</p>	<p>Jobs for locals are usually a part of ESIA mitigation measures and benefit sharing/ positive impacts. <b>This should be a requirement.</b></p>

<p>opportunities advertisement. The promoter shall not allow any local content requirements (either de jure or de facto) or any discrimination based on nationality that are in breach of the Bank's Guide to Procurement.</p>	
<p>28. The promoter is <b>recommended to support an appropriate and timely education programme relevant to the project implementation.</b></p>	<p>This requirement is not clear. What does the education programme mean in this context? <b>If this is part of the livelihood restoration measures, then it is already required by the Handbook.</b></p>
<p>29. The promoter is <b>recommended to use an appropriate construction contract template that comprises adequate social provisions.</b></p>	<p><b>The Handbook already applies standards also for subcontractors. This should be obligatory not only a recommendation.</b></p>
<p>30. The promoter is <b>recommended to implement employment and supply chain opportunities that demonstrate the inclusion of specific parts of the community,</b> such as women and potentially vulnerable groups, within the measures implemented. These measures should take account of <i>The EIB Group Strategy on Gender Equality and Women's Economic Empowerment.</i></p>	<p><b>Since the strategy has been adopted by the EIB Board and is valid, it should be mandatory for the promoter to comply with the strategy.</b></p>



iii. Cultural Heritage	
33. EIB will not finance any projects that will have a potential measurable adverse impact on any UNESCO World Heritage Site	In the Guideline this is only <i>recommended</i> which does not suit the phrase. Probably a typo.
34. Promoters are recommended to carry out cultural heritage surveys and studies as part of site selection and identification of alternatives so that feasible measures to avoid cultural heritage sensitivities can be incorporated at the earliest stages, and not to leave consideration of cultural heritage until the subsequent E(S)IA and development of mitigation.	It is a requirement of EIA and ESIA to look for alternatives in order to prevent impacts, including on cultural heritage. <b>This should be a requirement.</b>
35. Promoters are recommended to make use of best practice interpretative and predictive techniques, including remote	It is a very unclear recommendation, use best practice for what, in what process?

sensing interpretation and statistical analysis.	
iv. Public Health, Safety and Security	<b>General comments on the section:</b> The lack of recognition of health and safety issues for the community related to the influx of workers, Influx Management Plan is already a part of Standard 9. The Guideline describes impact of diseases but no requirements/recommendations about how to manage/mitigate.
iv. Ecosystem services	<b>General comment on the section:</b> on p. 13 replace “protection from natural <u>disasters</u> ” by “protection from natural <u>hazards</u> ”
<b>4. Climate Resilience and GHG Emissions</b>	
i. Factoring Climate Change into Hydrological Assessment	<b>General comments on the section:</b> this section only focuses on design and operation and financial viability in relation to climate change. However, these requirements should play a significant role in the very early stage of the EIB’s decision-making process and be assessed in relation to the requirements on environmental and social issues to justify the investment decision and the location of the HPP.
49. A climate risk and vulnerability assessment (CRVA) <b>must be carried out as part of the project feasibility study, either as a standalone assessment or as part of the E(S)IA</b> which should include the integration of likely climate change scenarios into the hydrological analysis for the scheme. The results should then be applied to the power generation model to assess its sustainable long-term energy yield for design purposes. This would not only apply to new hydropower developments, but should also be applied retrospectively to existing schemes that are being rehabilitated or	No. 49 and 50: the CRVA and hydrological model of the catchment should be used as a basis for the investment decision, i.e. in the earliest stage of the process, not just for the design of the scheme. Climate scenarios should help weigh the short term adverse effects (environmental costs) of the hydropower plants against the expected lifetime and energy yield. For example, if in the likely climate scenario the catchment runoff will decrease significantly within a few decades, the benefits of the HPP will not outweigh its (environmental and social) costs.

refurbished	
iii. Reducing Reservoir GHG Emissions	<p><b>General comments on the section</b> (this section does not have corresponding requirements)</p> <p>Reporting on GHG emissions is insufficient and plans must be prepared and implemented on steps to reduce project's GHG footprint, at least for reservoir dams.</p> <p>p. 15 “Moreover, both small and large-scale schemes alike would be anticipated to reduce net GHG emissions (compared to non-renewable alternatives) by more than 20kt CO<sub>2</sub>eq/yr,”</p> <p>The carbon footprint assessment should also compare hydropower schemes to other renewable alternatives (solar, wind) as part of the strategic approach.</p>
5. Strategic and Basin-Wide Issues	
i. Cumulative Basin-Level Impacts	
55. EIB will only consider financing hydropower projects where an appropriate Cumulative Impact Assessment or equivalent study has been undertaken that identifies and addresses any significant regional or basin-level environmental and social impacts, preferably at the strategic planning stage (see below). Such a study must consider all of the planned infrastructure developments in the basin, for example as part of a hydropower cascade.	<p><b>“Equivalent study” is vague. Should be deleted and supplemented by clear quality criteria for such study.</b></p> <p>Also clarification is needed on how the results of the cumulative impact assessment will inform the EIB’s decision, .i.e. what are the criteria for EIB to approve or not approve a project for financing?</p>
56. In the case of EU member states and candidate countries (depending on their transition agreements) the	<b>“depending on their transition agreements” to be deleted.</b>

<p>project must be included within the relevant River Basin Management Plan under the EU WFD (or set for inclusion in the next iteration of the plan) and in so doing subject to economic analysis in accordance with WFD CIS Guidance Document No. 1 10 and where necessary to an Article 4(7) process (see Box 3). The project should also have been subject to a Strategic Environmental Assessment (SEA) under the EU SEA Directive as part of the RBMP and/or a regional energy plan or programme, and the results and conclusions of this SEA carried forward into the project design process as appropriate.</p>	<p>“(or set for inclusion in the next iteration of the plan)” to be deleted.</p>
<p>57. For projects located outside of the EU, <b>alignment with the EU Water Framework Directive principles must be demonstrated through the implementation of a strategic study (Cumulative Impact Assessment, Strategic Environmental Assessment, Integrated Water Resources Management Plan or similar) that includes proper consideration and mitigation of any significant impacts on river flows, quality and morphology at the basin-scale in order to protect ecological flows</b></p>	<p>It’s not clear what "proper consideration and mitigation" assumes, would be good to have a reference to certain quality criteria.</p> <p><b>The study should also define sites where construction is not allowed. It should not be done ad-hoc just to justify the project.</b></p>

<p><b>and water users.</b> It would also need to incorporate a consultation process that includes the full range of basin stakeholders (it may also in some circumstances include transboundary consultation, as discussed below).</p>	
<p>58. In line with the requirements of Standard 1 (and the EIA Directive) for analysis of alternatives, within the E(S)IA the promoter <b>must: a) evaluate decommissioning as an alternative option when rehabilitation of an existing hydropower project is considered,</b> and present a robust justification for the option selected; and <b>b) justify proposals for a new, greenfield hydropower project</b> in river basins where old hydropower projects exist against the alternative of rehabilitating or refurbishing those existing hydropower plant(s).</p>	<p><b>Proposals for a new, greenfield hydropower project</b> should also be justified against other renewable electricity production technologies (wind, solar) as well against the ‘do-nothing’ alternative.</p>
<p>59. It is <b>recommended that strategic studies are conducted at the earliest possible stage during project planning such that the optimal balance between financial return and environmental and social costs can be achieved between different hydropower options in a river basin or region.</b></p>	<p>Only recommended. <b>Should definitely be required.</b> And not just between different hydropower options in a river, but between alternative energy sources.</p> <p>An analysis of costs and benefits is a <b>requirement</b> under the WFD. To comply with art. 4.7 the benefits of the modification of the water body have to be analysed versus foregone (env. and social) benefits and opportunities.</p>

<p>Strategic and system-wide planning tools are emerging to support this integrated assessment and scheme optimisation process to be carried out (e.g. TNC's Hydropower By Design approach<sup>11</sup>). The aforementioned <i>CIS Guidance Document No. 1</i> also provides detailed guidance on economic analysis in support of integrated water resources planning.</p>	
<p>ii. Potential Transboundary Impacts</p>	
<p>60. In accordance with Standard 1, all projects financed by the EIB <b>must identify and address any transboundary impacts as applicable</b> as part of the E(S)IA process. In assessing whether transboundary impacts may occur from a hydropower development, <b>the E(S)IA process must include a robust assessment of the potential area of influence of the project</b>, including the potential downstream influence on flows, sediment and nutrient transport</p>	<p>Upstream influence should be also mentioned</p>
<p>61. Regardless of whether parties are signatories, the above assessment and associated consultation process <b>must be consistent with the principles of</b></p>	<p>We welcome this provision reference to the ESPOO Convention.</p>

<p><b>the UNECE Convention on EIA in a Transboundary Context</b> (the ‘ESPOO Convention’). These include that all appropriate and effective measures are taken to prevent, reduce and control significant adverse transboundary impacts, and that best efforts are made to undertake an effective and early process of stakeholder identification and engagement with affected transboundary parties using a conflict sensitive approach. This would include the preparation of a cadastre of downstream water users.</p>	
<p>iii. Governance and Community Support</p>	<p><b>General comments on the section:</b> Problems with corruption can arise around permitting process of hydropower schemes. The importance of good governance is acknowledged in this section (“The long construction and operational life of hydropower projects: good governance principles and structures must be able to withstand changes of political regime, reassessment of strategic priorities, and the exit of funders.”) BUT good governance does not have corresponding requirements, for identifying or dealing with potential corruption. As a minimum, investors should check the rating of a particular country on Transparency International’s Corruption Perception Index. Furthermore, we recommend to consult the framework provided in the report “Better Decision-Making about Large Dams with a View to Sustainable Development” by the Dutch Sustainability Unit of the Netherlands Commission for Environmental Assessment.</p> <p><a href="http://api.commissiemer.nl/docs/os/i71/i7199/7199_revised_advice_on_better_decision-making_about_large_dams_1june2017.pdf">http://api.commissiemer.nl/docs/os/i71/i7199/7199_revised_advice_on_better_decision-making_about_large_dams_1june2017.pdf</a></p>
<p>62. All hydropower projects must meet the requirements of EIB</p>	<p>Stakeholder engagement should start from the strategic planning phase, not only from the project design</p>

<p><b>Environmental and Social Standard 10: Stakeholder Engagement: identification and effective engagement with a diverse variety of institutions and representational groups must be undertaken throughout,</b> starting from the project design process. Communities that are directly impacted will be a priority focus for engagement.</p>	<p>phase.</p> <p>Stakeholder engagement should explicitly mention downstream communities and users (vs. “directly impacted”), who are often not meaningfully consulted.</p>
<p>63. <b>Promoters must identify and evaluate opportunities to implement equitable benefit sharing based on robust and transparent governance and stakeholder engagement processes,</b> developing mechanisms to identify affected communities’ needs and concerns, to track them, and enable effective responses to how they evolve over time to avoid conflict between those benefiting from energy generated and directly affected communities. The above engagement process will be continued throughout the life of the project, providing relevant information (including summaries of monitoring, and conclusions reached about monitoring data) to affected communities and other stakeholders in a transparent</p>	<p>Potential loophole: engaging communities and <b>identifying</b> opportunities for equitable benefit sharing is insufficient. The requirement should be: <b>achieving equitable benefit sharing.</b></p>



manner.	
64. It is recommended that promoters analyse and understand ongoing and potential conflicts that might be exacerbated by a hydropower project, and which have the potential be a risk to the security and sustainability of the project itself. If a conflict risk exists such that mitigation is required, the promoter <b>must apply a conflict sensitive approach</b> , i.e. i) to mitigate risks to the project; ii) to do no harm; and iii) to do good if possible in terms of contributing to peace.	“a risk to the security and sustainability of the project itself” should be supplemented with “and the adjacent affected communities.”
6. Reservoir and Dam Safety Issues	
ii. Risks Associated with Dam Operation	<b>General comments on the section:</b> Should not only address river users but also ecological impact (wildlife)
7. Monitoring Requirements	
72. <b>The Environmental Flow Release (EFR) regime established for the hydropower project must include a continuous programme of downstream monitoring</b> (including both flow and biological indicators as appropriate), evaluation, and adjustment during operation - commonly referred to as ‘adaptive	The main loophole is “adaptive management”. It is not possible to make significant changes in the technical features of the plant once it is constructed. <b>So it is highly necessary to define the environmental flow properly at the beginning and the technical parameters of the hydropower plant should be defined only after determination of the EFR in line with the goals of the River Basin Management Plan and the WFD. EFR itself should be defined based on a holistic approach and not using only hydrological or hydraulic methods.</b>

<p>management’ - so that it can be periodically reviewed and where necessary modified in response to increased understanding or changes in downstream ecosystem or socio-economic conditions.</p>	
<p>73. All hydropower projects <b>must include the long-term hydrological monitoring of inflows to the scheme in order to facilitate the periodic review of hydrological design conditions and assumptions</b> (including with respect to future climate change resilience). This information would also feed into the adaptive EFR strategy described above. The monitoring may be undertaken directly, or the data collected from a national or river basin authority gauging station if present.</p>	<p>To the fragment “National or river basin authority gauging station if present”, “<b>and adequately situated.</b>” should be added.</p>
<p>74. For hydropower projects that have potentially significant environmental and social impacts the EIB <b>recommends the establishment of an independent panel of environmental and social experts.</b></p>	<p>Not clear if this is a recommendation or requirement.</p>

<p>76. All storage-based hydropower projects with large reservoirs <b>must include the long-term monitoring of sediment inflows and reservoir sedimentation rates</b> in order to facilitate the periodic review of associated engineering design considerations and assumptions, including with respect to flushing regimes. It is also recommended that regular inspection of shoreline stability is carried out to monitor and control erosion.</p>	<p>Need to define an action plan if the monitoring results triggers recommendations. Monitoring of sediment inflows and outflows should be also recommended for smaller schemes.</p>
<p>77. All potentially ‘carbon-intensive’ storage-based hydropower projects (e.g. those with large reservoirs and/or emissions greater than 20kt CO<sub>2</sub>eq/yr) <b>must carry out direct monitoring and reporting of reservoir CO<sub>2</sub> emissions during operation</b>. This is primarily to verify project design assumptions and (where possible) facilitate interventions to improve GHG performance in future. It will also enhance the general body of knowledge for future project design.</p>	<p>Monitoring/reporting is wholly insufficient. Missing requirements to <b>minimize</b> GHG footprint.</p>
<p>78. For hydropower projects that involve significant hydropeaking operations, in addition to the EFR monitoring described above, it is</p>	<p>Questionable effectiveness as this is just a recommendation.</p>

**recommended that periodic stakeholder engagement surveys and grievance monitoring should be undertaken with affected downstream communities,** to include users groups such as those with established fishing rights (commercial and recreational), riparian farmers, and other recreational users such as canoeists. The purpose of this engagement will be to ascertain the effectiveness of operational flood warning systems, EFR strategies etc., and to refine these processes as necessary.