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EIB template contractual clauses on environmental matters

Important note

The template clauses referred to below are for reference purposes only and may not reflect the precise terms concluded under specific operations. Individual finance contract provisions may vary as a function of the nature and characteristics of the operation and the findings of the appraisal carried out by EIB staff for the purpose of the financing. For additional information on specific environmental contractual conditions of individual operations, please refer to the operation's Environmental and Social Data Sheets (ESDS) available on the Bank's Public Register (http://www.eib.org/infocentre/register/index.htm)

- 1. <u>Operations in the European Union</u>.
- (a) An EIB borrower that receives financing from the EIB for a project undertakes to (i) implement and operate the project in compliance with Environmental Law, (ii) obtain and maintain requisite Environmental Approvals for the project, and (iii) comply with any such Environmental Approvals.
- (b) An EIB borrower also represents that (i) it has obtained all necessary Authorisations in connection with the Finance Contract and in order to lawfully comply with its obligations under such Finance Contract, (ii) the project and all such Authorisations are in full force and effect and admissible in evidence, (iii) it is in compliance with Article the obligations set out under (a) and (iv) to the best of the borrower's knowledge and belief (having made due and careful enquiry) no Environmental Claim has been commenced or is threatened against it (unless it has been previously disclosed to and accepted by EIB).
- (c) An EIB borrower is obliged to provide to EIB information which is tailor-made for the project in question, throughout the life of the loan and with a pre-set regularity. The borrower should also provide any information or further document concerning environmental matters of the project as EIB may reasonably require. If such information or document is not delivered to the EIB on time, and the borrower does not rectify the omission within a reasonable time set by the EIB in writing, the EIB may remedy the deficiency, to the extent feasible, by employing its own staff or a consultant or any other third party, at the borrower's expense, and the borrower shall provide such persons with all assistance necessary for the purpose.
- (d) An EIB borrower also undertakes to provide information on (i) any action or protest initiated or any objection raised by any third party or any genuine complaint received by the borrower or any [material] Environmental Claim that is to its knowledge commenced, pending or threatened against it with regard to environmental or other matters affecting the project, (ii) any non-compliance by it with any applicable Environmental Law (iii) any suspension, revocation or modification of any Environmental Approval, and to and set out the action to be taken with respect to such matters.
- (e) Finally EIB also reserves the right to visit the sites, installations and works comprising the project and to interview representatives of the borrower,

- (f) The above obligations are valid throughout the life of the EIB loan. In addition, there may be ad hoc obligations imposed on a project under the respective finance contract, as a condition precedent to disbursement or during the life of the loan, as well as additional information obligations.
- (g) Capitalized terms appearing above have the following meanings:

"Environment" means the following, in so far as they affect human health and social well-being:

- (a) fauna and flora;
- (b) soil, water, air, climate and the landscape; and
- (c) cultural heritage and the built environment,

and includes, without limitation, occupational and community health and safety.

"Environmental Approval" means any Authorisation required by Environmental Law.

"Environmental Claim" means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law.

"Environmental Law" means:

- (a) EU law, including principles and standards;
- (b) [the host state]/[national] laws and regulations; and
- (c) applicable international treaties

of which a principal objective is the preservation, protection or improvement of the Environment.

2. Operations outside the EU

Obligations under (a) to (f) of section 1 above apply in operations outside the EU with the following adjustments:

- (a) where the terms "Environmental Approval", "Environmental Claim" or "Environmental Law" are mentioned under 1(a)-(f) above, they should be replaced by "Environmental or Social Approval"; "Environmental or Social Claim" or "Environmental and Social Standards" respectively; and
- (b) the following definitions shall apply to the above capitalized terms:

"EIB Statement of Environmental and Social Principles and Standards" means the statement published on EIB's website that outlines the standards that the Bank requires of the projects that it finances and the responsibilities of the various parties.

"Environment" means the following, in so far as they affect human health and social well-being:

- (a) fauna and flora;
- (b) soil, water, air, climate and the landscape; and
- (c) cultural heritage; and
- (d) the built environment.

"Environmental and Social Impact Assessment Study" means [the environmental and social impact assessment [*insert reference to any specific document*]][a study as an outcome of the environmental and social impact assessment identifying and assessing the potential environmental and social impacts associated with the proposed project and recommending measures to avoid, minimise and/or remedy any impacts. This study is subject to public consultation with direct and indirect project stakeholders].

"Environmental and Social Documents" means (a) the Environmental and Social Impact Assessment Study; (b) [Non-Technical Summary and the Stakeholder Engagement Plan], and (d) [other relevant documents to the extent required].]

"Environmental and Social Standards" means:

- (a) Environmental Laws and Social Laws applicable to the Project [or the Borrower];
- (b) the EIB Statement of Environmental and Social Principles and Standards;
- [(c) the Environmental and Social Documents;] [and],
- [(d) [other requirements]

"Environmental or Social Approval" means any permit, licence, authorisation, consent or other approval required by an Environmental Law or a Social Law in connection with the construction or operation of the Project.

"Environmental or Social Claim" means any claim, proceeding, formal notice or investigation by any person in respect of the Environment or Social Matters affecting the Project including any breach or alleged breach of any Environmental and Social Standard.

(for candidate or potential candidate countries)

"Environmental Law" means:

(a) EU law, including principles and standards save for any derogation accepted by the Bank for the purpose of this Contract based on any agreement between [the host state] and the EU;

(b) [the host state]/[national] laws and regulations; and

(c) international treaties and conventions signed and ratified by or otherwise applicable and binding on, *[host country]*,

of which a principal objective is the preservation, protection or improvement of the Environment.

(for third countries)

"Environmental Law" means:

[(a) insert reference to any specific areas of EU environmental law that the Borrower is to comply with;]

(b) [the host state]/[national] laws and regulations; and

(c) international treaties and conventions signed and ratified by or otherwise applicable and binding on, *[host country]*

of which a principal objective is the preservation, protection or improvement of the Environment.]

"ILO" means the International Labour Organisation.

"ILO Standards" means any treaty, convention or covenant of the ILO signed and ratified by or otherwise applicable and binding on the *[host country]*, and the Core Labour Standards (as defined in the ILO Declaration on Fundamental Principles and Rights at Work).

"Social Law" means each of:

- (a) any law, rule or regulation applicable in the [host country] relating to Social Matters;
- (b) any ILO Standards;

(c) any United Nations treaty, convention or covenant on human rights signed and ratified by or otherwise applicable and binding on the *[host country]*.[and]

[(d) [insert any other requirements if applicable]

"Social Matters" means all, or any of, the following: (i) labour and employment conditions, (ii) occupational health and safety, (iii) protection and empowerment of rights and interests of indigenous peoples, ethnic minorities and vulnerable groups, (iv) cultural heritage (tangible and intangible), (v) public health, safety and security, (vi) involuntary physical resettlement and/or economic displacement and loss of livelihood of persons, and (vii) public participation and stakeholder engagement.
