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## European Civil Society concerns about inadequate policies and practices of the European Investment Bank

Memo for European Parliamentarians in the run-up to the discussion of EIB Annual Report 2006 (CONT committee)

February 2008

*Counterbalance* is a new European civil society coalition, featuring partner groups in Belgium, Germany, France, Italy, the Netherlands and Central and Eastern Europe. These, led by the CEE Bankwatch Network, have been monitoring EIB activities in the last decade and contributed to foster a reform process that is finally affecting the institution.

It is key that, as happened in the last years in the Budget Committee, the European Parliament will closely monitor EIB operations and raise its voice about the need to step up reform to make the EIB more coherent with all European policies and to make the Bank more accountable and environmentally and socially sustainable. This is particularly important regarding the EIB operations outside the EU, which are making the Bank de facto a development bank, managing to a certain extent also European Commission funding in the ACP region.

The following memo will focus on main processes going on in the Bank, which requires to be addressed by the European Parliament in the context of the evaluation of the Bank's Annual Report for the year 2006.

### 1. Upcoming Board decision on the new EIB anti-fraud and anti-corruption policy

Our organizations have been actively engaging in the EIB review of its anti-fraud and anti-corruption policies. We attended the two consultation meetings in 2007 and submitted at both rounds specific comments to the draft policy. We welcome the fact that finally the EIB management has agreed in principle to adopt several of our concerns. In particular, we welcome the decision by EIB management to adopt a specific administrative debarment mechanism for those companies judged by the EIB itself guilty of corruption in EIB-financed operations outside of the EU – and possibly including also an MDB cross-debarment procedure and the extension to parent companies too. Similarly we deem it appropriate that the EIB develops and publishes standards terms of the Finance Contract and reviews accordingly its procurement guide too. Finally, we welcome the EIB's recognition of the need to adopt a comprehensive whistleblower protection policy in line with international best practice.

However, so far we have not seen these reflected adequately in the final draft of the policy to be approved by EIB Board on March 13<sup>th</sup>, 2007 and we are concerned that the final draft could be approved without a binding commitment for EIB's management to develop soon all this additional set of related policies and procedures.

We suggest that the European Parliament calls upon the EIB Board to make the approval of the new policy conditional to the definition maximum by September 2008 of all other related policies, which should be approved, after effective stakeholders' consultation, by the end of 2008.

At the same time, we consider that the final draft is still inadequate in addressing emerging and key issues in the fight against corruption. In particular, we suggest that the final policy should include:

- a clear requirement for the borrowers of disclosure of agents' fees and publication of representation agreements; this emerges as a key lesson learned from the unprecedented corruption scandal which tainted the EIB financed Lesotho Highlands Water Project;
- given the increasing use of global loans lending by the EIB, also outside of the EU, a specific due diligence procedure for financial intermediary, including adequate monitoring of the disbursement of the loans;
- the definition of an external oversight mechanism for the Inspector General, beyond the Audit Committee, involving specialized stakeholders through an advisory function to the Board;
- the commitment to use a dedicated agency for certification of the "paper trails" which are created during the procurement process for major projects involving huge sums of money.

Finally, we would like to point out that in our view the Bank does not have enough human resources available in-house to tackle the challenge of implementing a proactive approach to tackle corruption. The board should carefully consider the new needs arising for the Bank from its new international commitments on this matter.

## **2. No mention of the new EIB external mandate in the Annual Report: Inadequate policy to tackle the development challenge in coherence with the European Consensus on development**

We are amazed that the Budgetary Control Committee's draft report on the EIB's Annual Report 2006 fails completely to mention the activities that the EIB implements outside EU. We believe that the report should acknowledge the importance of the EIB's involvement in developing regions, and encourage the EIB to adopt clear and binding standards, policies and procedure in its extra EU activities.

The EIB received an increased new External Lending Mandate (ELM) to increase lending outside the EU with €27.8 billion to spend from 2007-13, focusing particularly on Eastern Europe and Russia (where its budget has gone up six times), the Mediterranean (budget doubled) and Asia and Latin America (increased with 53%). The ELM is quite explicit that the objective is "energy security", along with the promotion of the private sector.

Similarly in the ACP countries, under the Cotonou Agreement, whose mandate is "reducing poverty with the objective of sustainable development", the Bank is now allowed to loan up to €3.5 billion of public money and an equal amount of its "own resources". The EU-Africa Infrastructure Trust Fund, administered by EIB, will also get an almost tenfold increase to €5.6 billion in the next European Development Fund.

Despite EU stronger commitments to development and aid is welcome - generally speaking - by European civil society, the specific EIB institutional focus in supporting private sector development requires sufficient safeguards to make its lending instrumental to the achievement of the MDGs, according to European development goals, as recently confirmed in the European Consensus.

Unfortunately, the EIB is unique among development institutions in lacking the following basic features:

- Any binding operational standards, protocols or guidelines. EIB makes frequent but tellingly abstract commitments to the 'highest possible standards', but lacks concrete commitments or benchmarks, or even a culture of public disclosure of substantive information relating to projects. In its work inside the EU, EIB must operate within the framework of EU law, but of course this doesn't apply to lending *outside* the EU.

- Democratic accountability: there is little or no oversight by MEPs, national parliaments, the European Commission or even the Member States—EIB often flatly refuses to pass basic information on to its own shareholders.
- Capacity and function: projects are evaluated almost entirely by economists, with a minimal sustainable development unit that is marginalised within project design and appraisal. Rate of return and other econometric criteria still dominate project selection.

The upcoming mid-term review of the EIB external mandate, in particular on Asia and Latin America and for the period 2000-2009, offers an important opportunity for civil societies and national and European parliaments to give clear inputs for promoting a change in EIB policies and practices. According to the Council decision 19.12.2007, aim of the review is the evaluation of the EIB's external financing activities and an assessment of the wider impact of the EIB's external lending on interaction with other IFIs and other sources of finance. The Commission will present the mid-term review to the European Parliament and to the Council by 30 June 2010, as the basis for any proposal for the amendment of the mandate. The Council will decide as appropriate after consulting the European Parliament.

We believe it crucial that the European Parliament calls soon on the European governments to set up an high profile review steering committee which will reflect adequately and fairly in its composition views of all European stakeholders, including Parliamentarians and CSOs. A decision on the establishment of the steering committee is due in the very next weeks.

### **3. On-going negotiations for the establishment of an internal grievance mechanism and an appeal function at the European Ombudsman**

We regard the decision by the EIB to establish an internal grievance mechanism to allow affected communities in developing countries to redress EIB's responsibilities in implementing its policies as a significant step forward in terms of increasing the Bank's accountability towards the final beneficiaries of its external lending, and in line with what civil society has long been asking for, drawing on international best practice and experience of other Multilateral Development Banks. Furthermore, we consider as crucial the role that also the Ombudsman could play in this regard and as is being discussed between the two European bodies, and should be formalised in a memorandum of understanding in the next months.

We call on the European Parliament to ask the EIB to implement a meaningful consultation process with all interested stakeholders on this important matter, before a final proposal will be presented and voted by the Board. In particular, we believe that the recent stakeholders consultation conducted by the Bank in the case of its anti-fraud and corruption policy review is a right step into the direction of finally meeting some of civil society expectations about being included in EIB policy setting.

*Counterbalance* has accumulated much valuable experience in participating in public consultations concerning various policies of International Financial Institutions (IFIs). For instance, last December the European Bank for Reconstruction and Development has announced consultations on its Independence Recourse Mechanism (IRM), which has been a subject of NGOs criticism. We believe that there are many lessons to learn from four years of IRM experience which can help EIB to anticipate possible problems.

### **4. Upcoming review of EIB environmental and social policies and the need to define innovative development indicators for EIB external lending**

The EIB has recently announced the review of its Environmental Statement (2004) which will take place in 2008 involving and will involve a public consultation, as long requested by European civil

society. We believe this to be a crucial opportunity to involve all interested stakeholders, including the European Parliament, in the definition of a detail set of clear and binding standards, policies and procedure in its extra EU activities to be adopted by the EIB, while currently the Bank refers to national legislation compliance only. We also consider important that the EIB address both environmental and social safeguards in this review.

In its normative documents, the EIB claims that it applies “core environmental and social safeguard measures that are, as a minimum, equivalent to international good practice” (EIB’s Environmental Statement, 2004, p.3), referring to international legislation without spelling out their actual requirements. Currently, the EIB does not have sufficient and clear policies and standards to ensure environmental and social sustainability of projects in particular in countries outside the EU where EU legislation is not applied. Additionally, the Bank does not have the necessary tools to ensure that these policy and standards are actually implemented in practice, with no sound monitoring of projects financed, and with no mechanism in place in case of non-compliance.

In the current statements there is a lack of horizontal and social policies that we believe should be in place too, among these issues, resettlement, indigenous peoples, core labour standards, human rights, gender. Regarding sectoral policies, there is a need that the EIB develops specific sectoral policies, such as policies on mining, forests, water, biodiversity, infrastructure, oil and gas, etc.

We call upon the European Parliament to request the EIB to clearly spell out the detailed and precise policies and standards they use in the sectors they finance, both making clear references to specific European policies and regulations, other IFIs norms, and *ad hoc* bodies, as well as international laws; how these are combined in specific operations supported by the Bank and how all these are operationalised in practice.

In this context we also deem it necessary that in particular for its external lending the EIB defines innovative project-based development indicators, going beyond current best practices, in order to make EIB intervention more effective and accountable, as requested under the Paris Declaration on Aid-Effectiveness. This is particularly needed in sensitive sectors, such as extractives, energy and large-scale infrastructure, where past record of the EIB is questionable and in which the Bank should adopt too a rigorous screening of corporations’ past record, given the frequent human rights violations affecting projects in these fields.

## **5. Challenged with the extractive industry and climate change**

The EIB has a notable inclination to large infrastructure projects. In particular, it is *the key buttress for the global extractives industry*, providing nearly half of total IFI financing for extractive industries globally in 2006, and 58% of total IFI funding for fossil fuel projects. In the last five years, EIB put four times as much into oil and gas as into all forms of renewables. It’s also huge in the transport sector, lending nearly €60 billion from 1995-2004 for road building and the aviation industry. Needless to say, EIB is deeply implicated in climate change, whose fight has become a key overarching policy priority for the EU at regional and global level.

Recent commitments to tackle climate change and foster sustainable renewable energy by European governments open the way to stricter and more ambitious commitments, than those already taken by the EIB in support to renewable energy and energy efficiency. In particular, the EIB does not perform so far a greenhouse gas accounting for all specific operations supported by the Bank inside and outside the EU.

At the end of last November in the context of a resolution on trade and climate change the European Parliament “29. Calls for the discontinuation of public support, via export credit agencies

and public investment banks, for fossil fuel projects and for the redoubling of efforts to increase the transfer of renewable energy and energy efficient technologies; 30. Asks the Commission and the Member States to propose legislative instruments in order that Member State Export Credit Agencies and the European Investment Bank take account of the climate change implications of the funded projects when making or guaranteeing loans and impose a moratorium on funding until sufficient data are available, in accordance with advice from the OECD, G8 and the Extractive Industries Review”.

We believe it important that the specific request to the EIB will be reiterated, including the adoption of a greenhouse gas accounting system for all Bank-supported specific operations, in the context of the assessment of EIB annual report.

## **6. Implementation of the new EIB transparency and disclosure policy: no progress on global loans**

*Counterbalance* acknowledges the effort of the EIB to implement its new disclosure policy, but raises its frustration in detecting how the EIB is not actively disclosing information yet, as exemplified by the inadequate use of the official web-site of the Bank. At the same time, civil society experienced difficulties and delays in obtaining the information requested to the Bank.

Furthermore, the new disclosure policy framework does not address the outstanding issue of global loans transparency. These operations represent up to 30 per cent of Bank lending and so far very little is known about how the financial intermediaries spend this significant portion of EIB portfolio and for which specific operations. The European Parliament should request the Bank to update its disclosure policy by extending it to all global loans too, going far beyond the mere publication of the list of intermediaries which managed EIB funding and at the same time encourage the Bank to be more proactive and timely in disclosing information related to financing individual projects.

## **7. Need to review the EIB transport policy in a participatory manner**

After pressure from civil society groups the Bank published in October 2007 its renewed transport lending policy. The policy is the first step towards more transparent and responsible lending in the sector, however, the Bank should elaborate further on criteria and priorities that will ensure that the EIB no longer finances projects with high climate impacts or that the climate impact of the Bank transport portfolio will improve.

An analysis of the EIB’s transport investments between 1996-2005 shows strong support for environmentally damaging transport modes, which perversely fuel – rather than cool – climate change. For example the total likely annual CO2 emissions from selected EIB-financed airport expansion projects such as Heathrow Terminal 5, Schiphol 5th runway and Madrid Bajas Terminal 4, if the new capacity is fully used (45.15 mt), is more than the individual total annual CO2 emissions of New Zealand, Switzerland, Ireland, Norway or Slovakia. (For more details please see CEE Bankwatch report “Lost in transportation: the EIB’s bias towards road and air transport” [http://bankwatch.org/documents/lost\\_in\\_transport.pdf](http://bankwatch.org/documents/lost_in_transport.pdf).) We consider this unacceptable in view of the EU’s 2007 commitment to reduce greenhouse gas (GHG) emissions by 20-30 per cent by 2020, which requires not only avoiding increases in GHG emissions, but significantly decreasing them.

We also consider that the renewed EIB transport lending policy should be acknowledged in the EP report as an important step for the development of the Bank sectoral policies. However the Bank should be strongly advised to carry out a proper public consultation of its policy involving the EP and EC and all interested shareholders as stipulated by EC Directive 1367/2006.

We appeal to you to reconsider the text of paragraph 22 and from p.12 from the draft report on the Annual Report 2006 on the European Investment Bank (EIB) that provides for unconditional support for the Bank's investment in infrastructure (new roads and airports) and particularly the Trans European Transport Network (TEN-T). We believe the EIB should be strongly advised to confine its investments to transport infrastructure projects with a low or negative carbon footprint, which has not been the practice so far.

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*Counterbalance: challenging the European Investment Bank* is a European civil society coalition of environmental and development groups that involves CEE Bankwatch Network (Central and Eastern Europe), les Amis de la Terre (France), urgewald and WEED (Germany), Campagna per la Riforma della Banca Mondiale (Italy), BothEnds (Netherlands), Bretton Woods Project (United Kingdom)