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cc.

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Notification about report by the Minister of Economy to the Government of Slovenia in relation to the “TEŠ – Thermal Power Plant Šostanj” project

Dear Mr Puliti,

we would like to bring to your attention the fact that on April 14 2011 the Minister of Economy of Slovenia, Ms Darja Radić, presented a report on the management of the TEŠ 6 project to the Government of Slovenia. In the report many shortcomings of the project are highlighted, which led the Government to state that it will only support a state guarantee for the EIB loan amounting to EUR 440 million if the economic efficiency of the project can be improved. The Minister of Economy also declared that because of findings from the reports she will send them to the Commission for the Prevention of Corruption, the General Police Directorate and the public prosecutor. We believe this has important implications for the EBRD's involvement in the project and we would ask you to review the situation.

The report by the Minister of Economy highlights the following important findings:

- The construction of TES has not been managed transparently, in accordance with the principles of good management. The project has not been run in line with the rules for project decision making. The decisions were made by a circle of people, who presented those that actually had to decide on the project with a 'fait accompli'. Strong suspicions exist that the TES management has breached legislation in carrying out individual acts in connection with the project (as outlined below). It is a fact that important decisions were made, such as signing contracts with suppliers amounting to hundreds of millions of euros, without having conducted a proper investment study and analyzing the effects of the project. Investment programmes were made, but only after signing some of the contracts. The information on the investment was never presented in a way that would enable decision makers (supervisors or even the government) to find the optimal solutions from an economic, technological and environmental point of view.
- The siting of Unit 6 was not conducted in line with legislation. Siting should be based on a Strategic Environmental Assessment, which would search for the optimal variant of possible solutions, taking into account environmental impacts and space. Instead, the decision was based on pre-selected technology and an environmental report that merely outlined the advantages such a solution instead of examining any

alternatives. Furthermore, TES 6 was never included in the energy policy of the country. Unit 6 is, even at this stage of implementation, not included in the currently valid Resolution on the National Energy Programme, Official Journal of the Republic of Slovenia no. 57/2004.

- The construction of Unit 6 is a high-risk project for economic and financial efficiency. Even minor changes in input data may cause a significant reduction in the internal rate of return and cause the project to have a negative net present value. The investment is very sensitive to the price of coal and price of coal is, in the current investment programme, very low. There is high risk that the Velenje mine will not be able to guarantee such a price. The current price in the investment plan is 2.25 EUR/GJ, while today the lignite is already sold at 2.7 EUR/GJ. If the price increases by 10 %, the investment is negative. A second important element is the price of emission allowances. The investment programme estimates it to be 20 EUR/t CO₂. If the price of allowances is only 10 % higher, the investment is again negative. The third element is electricity sales price and if this price is only 10% lower than currently planned, the investment is not profitable. The last element is the total amount of investment: if it goes up by 100 million EUR, the investment is negative. If more than one of these elements change for the worse – and by a relatively small margin - the investment may be uneconomical.
- HSE and TES do not have the status of being exempted from the EU and Slovene public procurement rules, which means that they severely breached the legislation by issuing calls for suppliers without following the rules of public procurement.

Based on the findings of the report, the Government made the following decisions in relation to TES 6:

- The Government calls on HSE to appoint a special auditor to comprehensively audit the individual management activities of TES and initiate all other appropriate verification procedures of infringements with the competent authorities.
- Given the high degree of risk of the project and considering the high exposure of the state as the owner of HSE regarding the construction of Unit 6, the Government is not prepared to take on additional risk by issuing a state guarantee for TES 6 of 440 million, except if the investor makes a new investment programme that takes into account all project costs (including the costs of decommissioning facilities blocks 4, 5, 6 and the gas turbines), with a thorough analysis of the potential to achieve reasonable prices for coal at 2.25 EUR / GJ, as well as a thorough analysis of all other input parameters of the investment. This programme must prove that all the conditions are fulfilled to achieve a return on investment in accordance with the sectoral policy for the energy sector (which is 9%).
- HSE and TES have to ensure that they carry out procurement procedures in line with the rules for public procurement as outlined in the Law on Public Procurement in the water, energy, transport and postal services (UIRS, No. 128/06, 16/08 and 19/10).

We call on the EBRD to also undertake a thorough review of its involvement in the project, as it seems that when approving the projects, some relevant facts were omitted by the bank. We also urge the EBRD to ask TEŠ and the Slovene government to make all the recent reports on TEŠ6 publicly available.

We thank you for examining this notification and look forward to your response and actions in reviewing the EBRD's involvement in the project.

Yours sincerely,

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