CEE bankwatch network

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FROM:
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TO:
Mr. Grzegorz Zieliński
Operations Leader
European Bank for
Reconstruction and
Development

Dear Mr. Zieliński,

I am writing in reference to the project of a maximum of PLN 800 million senior unsecured long-term (up to 15 years) corporate loan to ENEA, to finance the investment programme of ENEA Operator (http://www.ebrd.com/pages/project/psd/2012/43001.shtml).

As we are both aware ENEA is preparing a PLN 5,2 billion investment in a coal-fired power unit in Swierze Gorne that will increase the capacity of its only major coal power plant in Poland – Kozienice. In a serious of conversations we had during the course of 2011 and 2012 you have assured me that the EBRD is not going to provide financing for any of the major power plants in Poland.

I would like to enquire what conditions will be placed on the EBRD loan to ENEA Operator to make sure that the money provided by the EBRD do not free ENEA's assets that the company would need to invest in it's distribution network in order to allow it to finance Kozienice coal-fired unit number 11.

As we know for the last year ENEA S. A. has repeatedly stated that it will seek financing for its new coal-fired unit by issuing corporate bonds in Poland worth up to PLN 5 billion. The new coal – fired unit is estimated to cost PLN 5,2-5,4 billion. The first tranche of PLN 1 billion is due to be issued in 2012.

There are many reasons why investment in new coal power units should be discouraged especially by a public bank:

In its new analysis[1] the British NGO – Carbon Tracker discovered that:

Only 20% of the total reserves can be burned unabated, leaving up to 80% of assets technically unburnable

1 http://www.carbontracker.org/wp-content/uploads/downloads/2011/07/Unburnable-Carbon-Full-rev2.pdf

Already in 2011, the world has used over a third of its 50 - year carbon budget of 886 $GtCO_2$, leaving only 565 $GtCO_2$ available until 2050

All of the proven reserves owned by private and public companies and governments are equivalent to 2,795 $GtCO_2$

Fossil fuel reserves owned by the top 100 listed coal, oil and gas companies represent the total emissions of 745 $GtCO_2$

The International Energy Agency (IEA) arrived at the same conclusion.

According to the calculations of the IEA; 80 per cent of the cumulative CO_2 that can be emitted between 2010 and 2035 to achieve the `2°C Scenario`, has already been „locked-in" by existing capital stock. This fact limits the time for action and leaves no space for misplaced investments in fossil fuels, heavily polluting coal in particular. For a 2°C scenario, all energy production investments after 2017 will have to be in zero-carbon utilities, unless existing infrastructure is scrapped before the end of its economic life-span[2].

For every dollar not spent on a sustainable energy future before 2020, an additional four dollars will have to be spent after 2020 to compensate for the higher emissions[3].

The most carbon intensive fossil fuel, such as coal is clearly exposed to investment risks due to the EU`s ambition to shift towards a low carbon economy by 2050. Conventional energy production is not always addressed directly on a carbon emission basis. For instance, the Environmental Protection Agency (EPA) in the USA has raised its mercury - emissions standards, which lead to the increase in the costs of producing electricity from coal in the US. These changing market factors have left the brand new Spiritwood lignite - fired power plant[4] in Minnesota, USA mothballed before it even started supplying electricity.

The EU legislation on mercury is being revised and the `Ambient Air Quality and Cleaner Air for Europe` (CAFE) Directive (2008/50/EC) upcoming implementation into the Polish legal system will have long-lasting effects on the costs of producing electricity from coal.

That has direct consequences for the feasibility of the coal-fired new power unit number 11 at Kozinice power plant and as such for the financial results of ENEA thus posing a threat for EBRD as ENEA's minority shareholder.

Moreover Kozienice unit 11 is listed in the National Investment Plan as projects applying for free CO_2 emission allowances during the III. Phase of the EU`s Emission Trading Scheme (ETS) in line with the Article 10c of the ETS Directive 2003 / 87 / EC. However Kozienice new power was not in possession of a building permit (as of from 31/12/2008) nor a Green House Gases permit

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2 The World Energy Outlook 2011 can be found at http://www.iea.org/weo/

3 *Ibidem*, http://www.iea.org/weo/

4 http://www.startribune.com/business/134647533.html

(as of from 30/06/2011) in line with the new Act on the System of Greenhouse Gases Emission Trading entered into force on June 21, 2011[5].

CEE Bankwatch Network, together with other European NGOs has already informed the European Commission in July 2011 of the possible breach of acquis communautaire by the Polish legislator. Given such circumstances the EBRD may also have to face reputational damages should these political and legal matters set obstacle in the way of the development of this dubious coal power plant project. As shown by a recent Polish veto to the 9th March Environment Minister's EU Council Poland is attempting to weaken the EU European Trading System (ETS) and with this is undermining the flagship climate measure of the EU putting at risk the effectiveness of the EU climate and energy policy.

I would like to request the following documents from the Bank and if they are not finished yet information on when they are planned to be completed:

a) Initial Environmental and Social Examination (IESE)
b) An assessment of the investment plan for the construction of the Kozienice unit 11 in accordance with the EBRD's Environmental and Social Policy for A Category projects.

CEE Bankwatch Network also demands that the Environmental and Social Due Dilligence includes checking the compliance of all ENEA's operations with EU law as part of the legal compliance including specifically the granting of the GHG permit to ENEA for the Kozienice 11 unit with the requirements of the ETS Directive 2003/87 /EC and feasibility of the overall investment plans of the company as part of economic due diligence.

I would also want to have clarity what is the EBRD's position as a minority stakeholder in ENEA on the planed Kozienice unit 11 coal-fired unit.

Yours sincerely,

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5 This act has been published in the Official Journal of 2011, No 122, item 695 (Dz.U. 2001, Nr 122, poz. 695) and the 2009/29/EC directive.
See: http://dokumenty.rcl.gov.pl/D2011122069501.pdf.