



Project Complaint Mechanism

Ms. Anoush Begoyan, PCM Officer

European Bank for Reconstruction and Development

One Exchange Square London

EC2A 2JN

United Kingdom

pcm@ebrd.com

17 January 2012

**Complaint regarding the Sostanj Thermal Power Plant project**

Dear Ms Begoyan,

We would like to bring to your attention the following deficiencies in relation to the EBRD's assessment of the Sostanj Thermal Power Plant<sup>1</sup> (hereinafter "TEŠ") project. As laid out in more detail below, the project threatens to prevent Slovenia from contributing to the EU's 2050 climate targets and threatens to perpetuate current or near-current levels of CO<sub>2</sub> emissions, thus contributing to dangerous global climate change. However in our opinion this was insufficiently addressed during the project appraisal by the bank.

We therefore ask the Project Complaint Mechanism to undertake a compliance review of whether the bank has complied with its Environmental and Social Policy 2008 in relation to the following:

1. Insufficient claims by the EBRD that the project in question is „CCS ready“ and that the assessment submitted by the operator fulfils the criteria set up by Directive 2009/31/EC<sup>2</sup> (hereinafter "CCS Directive"), Article 33.1.
2. Insufficient assessment by the EBRD of whether Slovenia can fulfil its obligations in meeting long-term EU climate goals if it undertakes the project.

According to Performance Requirement 3.5 of the EBRD's Environmental and Social Policy 2008: "Subject to paragraph 6 below, projects will be designed to comply with relevant EU environmental requirements as well as with applicable national law, and will be operated in accordance with these laws and requirements". It is with this understanding that we argue that the TEŠ project does not meet 'relevant EU environmental requirements' and that the EBRD's assessment of the project was insufficient to confirm this and to take appropriate action based on this finding.

---

<sup>1</sup> <http://www.ebrd.com/pages/project/psd/2009/40417.shtml>.

<sup>2</sup> Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006.

## 1) CCS Readiness

### The Bank's position on the alleged CCS readiness of TEŠ

In the Board Document of the EBRD, Slovenia, Šoštanj Thermal Power Plant Project, within the President's recommendations it is stated that: *"The new unit is also designed to be Carbon Capture Storage ready (CCS-ready), and will be the Bank's first project able to apply CCS technology"*. The section on the Rationale for the Construction of a Coal-Fired Unit reads as follows: *"In addition, preliminary studies requested by the Bank confirm that the new Unit 6 is Carbon Capture Storage ready (CCS-ready) and it is possible to install post combustion systems for the removal of CO<sub>2</sub> from the exhaust gases when this technology becomes commercially available"*. Moreover, it is added, that the Project would be *the Bank's first project that will be available to apply CCS technology, setting the standards for similar projects in the region*<sup>3</sup>.

Further, in the document "TEŠ Power Plant and Premogovnik Coal Mine Environmental Impact Assessment Addendum", from October 2009, part 5, the following claim is made: *"The possibilities offered by the CCS technology are already being examined in that respect; Unit 6 is designed as CCS Ready and in the spatial plans for the construction of Unit 6, there is also a location for the completion of the carbon capture technology."*<sup>4</sup>

A similar claim is presented in the project summary document on the Bank website<sup>5</sup>: *"The new unit will be designed to be "carbon capture ready", and initial studies indicated that carbon storage may be possible in the area"*. A press release from June 2010 repeats the aforementioned allegations that *"The new unit is also designed to be Carbon Capture Storage ready (CCS-ready), and will be the Bank's first project able to apply CCS technology"*<sup>6</sup>.

The Final Technical Due Diligence Report<sup>7</sup>, Revision 2, from December 2009 concluded that *"the plant is prepared for the installation of a later CO<sub>2</sub> abatement, should the future legislation require. Next to the plant there is extra space for construction of a facility for extraction of CO<sub>2</sub> from the flue gases at the location of the existing cooling tower of Unit 4, which will be obsolete after shutting down the unit in 2016. In the documents reviewed, there are no more references made to the provisions for later CO<sub>2</sub> abatement systems. The plant plot for the new unit is not provided with a lot of spare space. Therefore this potential future project will have to be investigated in more detail."*

From the e-mail communication with the Bank we have learnt that there is no established EBRD policy regarding CCS technology, however, as part of the technical due diligence and depending on the specific project situation, the Bank's team always examines the possibility for new fossil fuel power generation units to be CCS-ready, as this term is defined by the International Energy Agency (IEA). For new units that claim to be CCS-ready, the technical due diligence is performed by independent consultants to verify the validity of the technology.<sup>8</sup> In relation to TEŠ, the EBRD's technical due diligence consultant independently confirmed the general appropriateness of the unit, the compatibility with future installation of carbon capture, etc<sup>9</sup>.

In respect to what is mentioned above it is obvious that the Bank maintains the position that the project is CCS ready and presents it as a milestone – the first supported project able to apply the CCS technology. However it is not clear what CCS-readiness means in this particular case, nor on what basis the Bank adopted its position, nor what are the requirements for fulfilling the claim that the project is CCS-ready.

---

<sup>3</sup> Document of the EBRD, Slovenia, Šoštanj Thermal Power Plant Project, p.22.

<sup>4</sup> TEŠ Power Plant and Premogovnik Coal Mine Environmental Impact Assessment Addendum, October 2009, Part 5: Assessment of alternatives and whether the project is carbon capture ready and is carbon capture feasible in this area, p. 94.

<sup>5</sup> <http://www.ebrd.com/pages/project/psd/2009/40417.shtml>.

<sup>6</sup> <http://www.ebrd.com/pages/news/press/2010/100721c.shtml>.

<sup>7</sup> ŠOŠTANJ THERMAL POWER PLANT, Due Diligence Services, Investment of New Lignite-fired 600 MW Power Generation Unit, European Bank for Reconstruction and Development (EBRD), December 2009, p.26.

<sup>8</sup> E-mail from 23/8/2011, EBRD Communications Department to Ms Kristína Šabová.

<sup>9</sup> E-mail from 7/10/2011, E.Smith, Senior Environmental Advisor, EBRD to Ms Kristína Šabová.

## **Carbon Capture Readiness of the Unit 6 of the Šostanj Power Plant subject to the CCS Directive**

The principle of carbon capture and storage method is to reduce CO<sub>2</sub> emissions from power generation from fossil fuels. At the EU level, the CCS method is regarded as one of the future potential techniques for the mitigation of climate change. On these grounds, the CCS Directive was adopted<sup>10</sup>.

Article 33.1 of CCS Directive obliges EU Member States to ensure that applicants for new thermal power stations above 300 megawatt electric capacity carry out an assessment of whether suitable CO<sub>2</sub> storage sites are available as well as of the technical and economic feasibility of CO<sub>2</sub> transport and retrofitting CO<sub>2</sub> capture technology, prior to the issuing of a construction permit for the power plant. There is no commonly agreed standard for these assessments, nor are exact requirements set forth concerning the quality, method, expertness or other prerequisites of such an assessment.

Nevertheless, we are persuaded that the essential requirements of such an assessment are implicit and necessarily result from an interpretation compliant with the *acquis communautaire* of Article 33 of the CCS Directive. In order to fulfil the aim and objective of the Directive the assessment of the feasibility of a CCS retrofit should be interpreted in a meaningful way conforming with the objectives and purpose of the EU legislation. In line with the doctrine of “effectiveness”, which provides that once the purpose of a provision is clearly identified, its detailed terms will be interpreted so “as to ensure that the provision retains its effectiveness”, we cannot be satisfied with only a “pro forma” assessment of the CCS feasibility in large projects such as TEŠ.

### **Transposition deadline in respect of Art. 33 of the CCS Directive**

As has been confirmed by DG Climate Action, the general transposition deadline of the Directive, i.e., 25 June 2011, does not apply to Art. 33. The provisions introduced by Art. 33 are applicable to “operators of all combustion plants with a rated electrical output of 300 megawatts or more for which the original construction licence or, in the absence of such a procedure, the original operating licence is granted after the entry into force of Directive 2009/31/EC”. Directive 2009/31/EC entered into force on 25 June 2009. Consequently, according to the DG Climate Action, Art. 33 has hence applied ever since then, and should have been transposed by this date. In this respect, the provision of Art. 33 of the CCS Directive should have been followed since 25 June 2009.

### **TEŠ 6 subjected to CCS assessment**

The CCS Directive came into force on 25 June 2009. Pursuant to Art. 33 of the CCS Directive, those “combustion plants with a rated electrical output of 300 megawatts or more for which the original construction licence or, in the absence of such a procedure, the original operating licence is granted after the entry into force of Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide” fall within its scope. This is also the case with the proposed Unit 6 of Šostanj Thermal Power Plant:

- a) TEŠ 6 shall be of rated electrical output of 600 megawatts and
- b) the original construction licence (Construction permit) for TEŠ 6 was issued on 16/3/2011.

Consequently, TEŠ 6 is subject to a CCS assessment.

---

<sup>10</sup> See Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020 or Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the regions: A Roadmap for moving to a competitive low carbon economy in 2050 (COM/2011/0112 final), further EU Climate and Energy Package [http://ec.europa.eu/clima/policies/package/index\\_en.htm](http://ec.europa.eu/clima/policies/package/index_en.htm).

## **Insufficient review and lack of standards for the CCS assessment under the Bank's policy**

The project promoter has developed two studies concerning the CCS-readiness of TEŠ and has submitted these documents to the EIB and presumably also to the EBRD.<sup>11</sup>

We have been concerned that the studies provided by the project operator do not comply with what should be reasonably expected by the provisions of Art. 33.1 of the Directive and we have carried out a review of these documents<sup>12</sup>. The assessment of the documents shows that the submitted documents fail to comply with Art. 33.1 of the Directive because of:

1. the absence of project-specific assumptions concerning economic feasibility, including lack of evaluation of economic feasibility of the capture, transport (in particular by sea) and storage;
2. the lack of consideration of local geographical conditions' impact on technical feasibility, in particular for building pipelines;
3. the absence of any information beyond already available data from GeoCapacity on suitability of storage sites;
4. the lack of consideration of the impact on protected areas and NATURA 2000 areas of transport and storage locations.

In sum, the information contained within the documents does not exhaust what can reasonably be expected under Art. 33.1 of the Directive. It does not allow for the assessment of the feasibility of the project – neither technical nor economic feasibility, nor the availability of suitable storage sites, thus the project was not subject to an appropriate carbon capture readiness assessment as required under the CCS Directive and therefore it is not possible to sufficiently examine its carbon capture readiness. As a result, the project cannot be considered “carbon capture ready”.

Though it is primarily the duty of the Slovenian authorities to ensure the compliance with the CCS Directive and Art. 33.1<sup>13</sup>, we are persuaded that the Bank is under an obligation to require a sufficient CCS assessment, to thoroughly review and assess the submitted documents and to carefully establish a quality threshold for such an assessment.

From the available information it is not clear on what basis the Bank has concluded that the project is CCS ready and what methodology it has applied. Moreover, it seems that the allegations are not supported by sufficient evidence. Therefore, we call for the release of the Bank assessment and appraisal documents concerning the alleged CCS-readiness of TEŠ.

We consider that the failed CCS assessment may cause harm with regard to false expectations that the project is CCS-ready, and could thus reduce its greenhouse gas emissions in the future by this method. Whether the project is CCS-ready or not may also have an impact on the economic viability of the project in its lifetime and could have a huge impact on the Slovenian climate targets agreed under EU climate policy.

Furthermore, the Slovenian case may recur in relation to other combustion plants in other countries, thus it is necessary to set forth clear limits and requisites concerning CCS assessment best practice. The EU sees CCS as a strategic technology that may be widely used in future in order to prevent further air pollution and related climate change. It is therefore important that the CCS assessment is done correctly and sufficiently

---

<sup>11</sup> Study *CO2 Capture Readiness of Unit 6 in Thermal Power Plant Šoštanj*, Paper nr: 2034 Ljubljana, May 2010 concludes that: „The evaluation of the possibility of retrofitting carbon capture plant to the new Unit 6 of the Thermal power plant Šoštanj examines above all the space, technical, environmental and safety aspects. It passes an estimation of »capture readiness« of the new Unit 6. The study »CO2 capture readiness of Unit 6 in Thermal power plant Šoštanj« passes the estimation of the possibility of retrofitting of carbon dioxide capture plant to Unit 6 of the Thermal power plant Šoštanj. It establishes that the new Unit 6 is capture ready from the technical as well as from the space point of view. “Study *CO2 Capture Readiness of Unit 6 in Thermal Power Plant Šoštanj (Addition)*, Paper nr: 2034 Ljubljana, September 2010 states that the study from May „confirms that Unit 6 of Power plant Šoštanj fulfils requirements of capture readiness defined in European legislation and that an addition to the study in greater detail analyzes availability of CO2 storage sites in Slovenia, nearby countries and North Sea, it analyses economical parameters of retrofitting carbon capture and storage technology to Unit 6 like investment cost, operational and maintenance cost, transport and storage cost.

<sup>12</sup> CCS readiness at Šoštanj: Ticking boxes or preparing for the future? Bellona Foundation, Environmental Law Service, November 2011.  
[http://aa.ecn.cz/img\\_upload/a6fff2d4939ff74268dd80e1c2102b42/Ticking\\_boxes\\_or\\_preparing\\_for\\_the\\_future\\_2.pdf](http://aa.ecn.cz/img_upload/a6fff2d4939ff74268dd80e1c2102b42/Ticking_boxes_or_preparing_for_the_future_2.pdf).

<sup>13</sup> The Bank has been already informed about the Complaint to the European Commission in relation to the CCS-assessment. See Letter from 17/11/2011 from Ms. Živčič to Mr. Puliti - Two TES 6 Complaints to the European Commission.

right from the beginning as regards large combustion plants in progress. Although we are sceptical about the potential of CCS technology to significantly reduce CO<sub>2</sub> emissions in a timely manner, the CCS Directive is a valid law and therefore should be respected. Therefore the term “carbon capture ready” should be used responsibly and in line with existing standards. In this context, we would like to ask the Bank, in line with the prevention principle, to give some instructions or issue guidelines concerning the CCS assessment pursuant to Art. 33 of the CCS Directive best practice. This is strongly desirable as it would avert other malpractice in connection with CCS assessments and it would contribute to the attainment of the aims of the EU legislation and EU climate policy in general and on the other hand would contribute to achievement of the Bank's own objectives and lending requirements.

### **Obligation of the Bank in relation to the CCS-readiness assessment**

In respect of the TEŠ project the Bank should ensure that the allegations of the CCS-readiness of the project are properly examined and supported by feasibility studies that comply with the EU up-to-date legislation and best practice requirements. This obligation is set up by its policy documents as shown below.

The EBRD is committed to promoting “environmentally sound and sustainable development” in the full range of its investment and technical cooperation activities pursuant to its constituent treaty, the Agreement Establishing the EBRD<sup>14</sup>. The Bank believes that sustainable development is a fundamental aspect of sound business management.

Furthermore, the Bank is committed to promoting European Union (EU) environmental standards as well as the European Principles for the Environment, to which it is a signatory<sup>15</sup> – a declaration presenting a common approach to environmental management associated with the financing of the projects. On basis of this declaration the Bank shall engage with project sponsors in addressing environmental issues, thus contributing to good environmental management of the projects and sustainable development. The European Principles for the Environment are defined as the guiding environmental principles in the EC Treaty and the practices and standards incorporated in EU secondary environmental legislation. In the EU Member States, the Signatories thereby agreed to provide financing to public or private sponsors of projects only where the projects comply with the principles and the relevant secondary EU legislation. The CCS Directive is among the legislation that promotes environmentally sound and sustainable development and it is part of EU secondary environmental legislation.

Under its Environmental and Social Policy from May 2008, the Bank shall review the clients’ assessment; shall assist clients in developing appropriate and efficient measures to avoid or, where this is not possible, minimise, mitigate or offset, or compensate for adverse environmental impacts consistent with the Performance Requirements.<sup>16</sup>

In its own words, the Bank “recognises the importance of climate change mitigation and adaptation and their high priority for the Bank’s activities in the region. It intends to further develop its approach towards climate change, notably as regards the reduction of greenhouse gases, adaptation, promotion of renewables and improvement of energy efficiency, in view of strengthening the treatment of these elements in its operations”<sup>17</sup>. Under the Environmental and Social Policy, PR 3: Pollution Prevention and Abatement: “projects will be designed to comply with relevant EU environmental requirements as well as with applicable national law, and will be operated in accordance with these laws and requirements”.<sup>18</sup>

Although it is the responsibility of the client to ensure that the required due diligence studies are carried out in accordance with PRs 1 through 10, the Bank should review the information provided, and provide guidance to the client on how the project can meet the Bank’s requirements. On the other hand, the Bank should not knowingly finance projects that would contravene country obligations under relevant international treaties and agreements related to environmental protection, sustainable development, as identified during

---

<sup>14</sup> See Article 2.1 (vii) of the Agreement Establishing EBRD.

<sup>15</sup> <http://www.eib.org/about/press/2006/2006-052-the-european-principles-for-the-environment-adopted-by-five-european-multilateral-financing-institutions-.htm>.

<sup>16</sup> Environmental and Social Policy, May 2008, p.3., <http://www.ebrd.com/pages/about/principles/sustainability/policy.shtml>.

<sup>17</sup> Environmental and Social Policy, May 2008, p.3., <http://www.ebrd.com/pages/about/principles/sustainability/policy.shtml>.

<sup>18</sup> Ibid, p.26.

project appraisal.

We believe that the Bank has failed to ensure that the TEŠ project complies with the EU legislation, more specifically, the Bank did not ensure that CCS Directive was properly implemented in this project. Furthermore, the Bank shall not present the argument that the TEŠ will be CCS-ready without either proper evidence available or a thorough assessment. More importantly, the Bank cannot provide support for a project that is in breach of the relevant EU legislation and undermines the Bank's own policy and objectives.

## 2) Slovenia's ability to fulfil its EU climate obligations

Claiming that TEŠ will be CCS-ready without an adequate basis is all the more serious considering that unless CCS technology becomes commercially viable and technically effective, the new unit at TEŠ would emit almost or even more than the whole of the country's allowed greenhouse gas emissions in 2050, if Slovenia reduces its emissions by 80-95 percent as required by EU climate goals (see below).

The Intergovernmental Panel on Climate Change has no doubt that, in order to keep the global temperature increase below 2° Celsius compared to pre-industrial levels and avoid catastrophic, runaway climate change, a dramatic reduction of emissions must happen very quickly: 80-95 percent reductions in the developed countries by 2050 compared to 1990 levels and a substantial decrease compared to business as usual in the rest of the world.<sup>19</sup>

Following this, in 2009 the European Council, the highest decision-making body of the EU, called for at least 50 percent worldwide reductions and aggregate developed country emission reductions of at least 80-95 percent by 2050.<sup>20</sup> Under the Environmental and Social Policy, PR 3: Pollution Prevention and Abatement: “projects will be designed to comply with relevant EU environmental requirements as well as with applicable national law, and will be operated in accordance with these laws and requirements”. Such a high-level commitment to these targets in our opinion clearly constitutes an 'EU requirement' that the EBRD needs to take into account when making decisions on carbon-intensive infrastructure that will be operating for around the next 40 years.<sup>21</sup>

In the case of Slovenia, a small country that in 1990 emitted 20.2 million tonnes of CO<sub>2</sub> per year,<sup>22</sup> an 80 percent reduction means that by 2050, Slovenia can emit only around 4 million tonnes of CO<sub>2</sub> – from all sectors - annually. A 95 percent reduction means that Slovenia can emit only around 1 million tonnes of CO<sub>2</sub> by 2050.

Among the claims that are made regarding TEŠ's greenhouse gas emissions are as follows<sup>23</sup>:

- “Unit 6 will utilise state of the art high energy-efficient technology and will lead to significant carbon emissions reduction of around 1.2 million tonnes CO<sub>2</sub> p.a. in the long run. This carbon reduction represents around 8% of the total GHG emissions of Slovenia.”<sup>24</sup> However it is not clear whether this relates to 1990 levels or the most recent levels of emissions - there is a difference of nearly a million tonnes of CO<sub>2</sub> in these estimates.<sup>25</sup>

---

<sup>19</sup> Fourth Assessment Report Working Group III Report „Mitigation of Climate Change. Intergovernmental Panel on Climate Change, 2007, Chapter 13.

<sup>20</sup> Council of the European Union, Presidency Conclusions 1 December 2009 (15265/1/09).

<sup>21</sup> Further EU policy documents such as the European Commission's Roadmap for moving to a low-carbon economy in 2050 and Energy Roadmap 2050 have since followed this goal and shown that the energy, industrial and residential sectors will need to be almost completely decarbonised by 2050.

<sup>22</sup> UNFCCC: GHG Data 2006 – Highlights from Greenhouse Gas (GHG) Emissions Data for 1990-2004 for Annex 1 parties submitted under the United Nations Framework Convention on Climate Change (UNFCCC), p.16  
[http://unfccc.int/files/essential\\_background/background\\_publications\\_htmlpdf/application/pdf/ghg\\_booklet\\_06.pdf](http://unfccc.int/files/essential_background/background_publications_htmlpdf/application/pdf/ghg_booklet_06.pdf)

<sup>23</sup> It is widely claimed, for example in the EBRD Board Document, and the project Environmental Impact Assessment, that the carbon emission factor of the plant will be reduced from 1.2 to 0.9 tonnes CO<sub>2</sub>/MWh. However, for the purposes of this discussion, we can disregard the information on specific emissions or emissions per MWh, as what counts is the total amount of greenhouse gases in the atmosphere, not whether they come from efficient or less efficient coal plants.

<sup>24</sup> EBRD Board Document: Slovenia: Šoštanj Thermal Power Plant Project, 20.07.2010, p.5 and 11

<sup>25</sup> 1990 = 3 981 053 tonnes; 2007 = 4 906 889 tonnes. Environmental Impact Assessment, p.319

- In the 4<sup>th</sup> version of the Investment Plan CO2 emissions for unit 6 range between 3 Mt in 2015 and 2.2 Mt in 2054 per year.<sup>26</sup> The latter figure is based on an unproven assumption that the plant will decrease its operations towards the end of its lifetime.
- *With the beginning of operation of Unit 6 and by taking account of the planned use of coal, the emission of carbon dioxide will not be reduced and will stay at the same level (approximately 4 million tonnes of CO2)<sup>27</sup>* (A table also appears on p.356-358 with various scenarios that suggest lower emissions however there is no accompanying comment about which is the most likely so it is not clear whether it concurs with the information given on p.530).

Even the largest of these possible reductions comes nowhere close to what is needed in order for Slovenia to fulfil its part in the EU's 2050 targets, if extrapolated from the level of a whole block to individual countries. On a common sense level it is clear that if 80-95 percent reductions are to be achieved, the energy sector needs to be almost totally decarbonised. This was confirmed by recent policy documents of the European Commission<sup>28</sup>. Even if the emissions are 2 248 000 tonnes by 2050 – a scenario we find rather unlikely as it would require the plant to voluntarily work at less than full capacity - this single unit would at best emit more than 56 percent of Slovenia's total emission quota. In the worst case it would emit 300 percent. In both cases it would be virtually impossible for the country to meet the EU targets as even in the best case Slovenia would have to make extremely large emissions reductions in areas such as transport where it is much harder to reduce emissions than in the energy sector.

The EBRD was aware of these 2050 targets before it approved the project, as for example representatives from Focus discussed the issue with the staff and President at the bank's annual meeting in Zagreb in May 2010. The bank has never offered any satisfactory explanation of how the project could be compatible with the 2050 targets. The only solution implied in the project documents is CCS, however it is far from clear whether this will be a commercially viable and environmentally effective option within the necessary timeframe and it is unacceptable to rely on it as a means of meeting EU requirements. Even in the case that CCS technology does become available, there are a number of factors affecting its use, such as cost and the suitability of storage locations in or near Slovenia.

In approving this project, the EBRD has failed to ensure that TEŠ meets relevant EU environmental requirements as stipulated by the EBRD Environmental and Social Policy 2008 PR 3.5.

## Conclusion

In relation to this project, the complainant asks the following:

We expect the Bank to undertake a compliance review of the EBRD's assessment of the TEŠ project with relation to the EU legislation and the objectives of the EU Community, namely the review and revision of the CCS assessment delivered by the project promoter and the assessment of the project's compatibility with Slovenia's ability to meet its 2050 greenhouse gas emissions reductions commitments. If the CCS and climate assessments for the project are found not to be in line with the EU requirements, the Bank shall cancel its support as otherwise it will undermine its own policy. Secondly, we call for the Bank to establish a methodology and best practice guidelines on the basis of which future projects falling under the “carbon capture ready” obligation will be assessed.

We also note that the PR 3 paragraphs 17-19 on greenhouse gas emissions are currently very weak and do not prevent projects with high climate impacts from being financed. They merely require project greenhouse gas levels to be predicted and ways to be sought to reduce them. This is not sufficient to ensure that the EBRD does not finance projects which prevent the necessary greenhouse gas reductions from being made through locking countries (especially small ones like Slovenia) into carbon-intensive energy generation or transport means. We therefore also invite the Project Complaint Mechanism to comment on how these

<sup>26</sup> Amended Investment Plan, Rev. 4, 18 August 2011. Unofficial translation, page 140-1.

<sup>27</sup> Environmental Impact Assessment: p.530

<sup>28</sup> European Commission: A Roadmap for moving towards a low-carbon economy in 2050, 08 March 2011; European Commission: Energy Roadmap 2050, 15 December 2011.

provisions could be strengthened in line with climate science in order to prevent cases like TEŠ from being repeated.

Please note that in relation to these issues, the following complaints have been submitted to other bodies:

- Request to the EC for an infringement procedure regarding Slovenia's failure to correctly apply the CCS Directive in the case of TEŠ
- Complaint to the EIB on the climate assessment of TEŠ
- Complaint to the EIB on the CCS assessment for TEŠ

Please do not hesitate to ask if you have any questions,

Yours sincerely,

Lidija Živčič, Focus Association for Sustainable Development, lidija@focus.si, +386 1 515 4080



Kristina Šabova, Environmental Legal Service, kristina.sabova@eps.cz, +420 545 575 229



Piotr Trzaskowski, CEE Bankwatch Network, piotr@bankwatch.org, +48 228920086

