



TO:
Philippe Maystadt
President
European Investment Bank
100, boulevard Konrad Adenauer
L-2950 Luxembourg

23rd March, 2009, Brussels

Dear President Maystadt,

Re: EIB policy on fighting tax avoidance and the off-shore financial industry

We are sending you an activist kit "fight capital flight" that tackles tax havens and off-shore financial industry. This kit has been produced by the European Debt and Development (EuroDAD) Network and has been sent to all key decision-makers in European capitals and European institutions.

Off-shore financial centres have played a key role in the unprecedented financial crisis. As you will be aware, most hedge funds and special investment vehicles for securitisations are based in well-known tax havens. Conservative estimates point to approximately USD 1,000 billion – ten times global Official Development Assistance – leaving developing countries, mostly via tax havens. This happens through illicit financial flows, but the bulk of the problem is related to the practice of abusive transfer pricing by multi-national companies. Such extensive capital flight totally undermines the potential for sustainable development for the world's poor.

As networks of European civil society organisations, in recent years we have raised the impacts of tax avoidance not just on the European economy but in particular on developing countries' economies. Many governments have recently recognised this evident black hole in the global economy and have started debating which measures are needed at the multilateral level to bring a timely end to such dubious practices.

Dominique Strauss Kahn, head of the IMF, has recently joined other leaders such as the German Chancellor Angela Merkel in making an explicit appeal for a clampdown on tax havens. UK Prime Minister Gordon Brown has joined them too, recently calling for the need to outlaw offshore tax havens. Today's new political climate vindicates our stand to fight the tax avoidance industry and legitimises our requests to public financial institutions, such as the EIB, to participate in this fight.

Moreover, during France's presidency of the EU last year, President Sarkozy took a strong stand to fight – with all means necessary – tax havens. This intent was also communicated to the European Parliament last September. In this context, the Counter Balance coalition asked EIB representatives earlier this year at a public event in Berlin whether the bank has policies in place

to tackle potential tax evasion and avoidance via tax havens from companies that receive EIB finance.

According to what we heard in Berlin from EIB staff, the EIB management performs an extra due diligence where operations financed or beneficiaries of these are linked to suspicious jurisdictions, and the board of the bank is directly informed about these specific cases. It is also important to recall that in the context of the public consultation carried out by the EIB on its new anti-fraud and anti-corruption policy in 2007, the EIB addressed in written form a specific concern of civil society about the EIB policy on preventing beneficiary companies from operating in tax havens. In particular, the EIB made clear that *"it checks there is no abuse of tax havens and evaluates this prior to the conclusion of the operation"*.

However, this issue is not reflected in the final draft of the policy as approved by the Board. And, since then, the EIB and, in particular, the internal Corporate Compliance Unit has not further made public more precise details about its policy on the topic and the way it is operationalised in practice.

On the basis of these previous exchanges with the EIB on the matter, we would be grateful to hear from you what is the precise EIB policy on ensuring that the companies which receive EIB support do not participate in tax evasion via offshore financial centres.

We also seek clarification on whether the EIB is planning to improve the policy to match the expectations and goals recently outlined by major European leaders and EIB shareholders.

As well as this general query on policies we have specific questions on certain specific EIB operations approved in recent years, projects that have been co-financed by the EIB. The main sponsors of these projects appear to operate through vehicles registered in tax havens, most notably:

- the West African Gas Pipeline from Nigeria to Ghana, financed by the EIB with EUR 75 million in December 2006; the sponsor WAPCo. is incorporated in Bermuda;
- the Tenke Fungurume copper/cobalt mining project in the Democratic Republic of Congo, for which the EIB agreed a preliminary commitment up to EUR 100 million in August 2007, which is partly owned by Tenke Holding Ltd/Lundin Holding, registered in Bermuda;
- the Mopani Copper Project in Zambia, financed by the EIB with EUR 48 million in February 2005, whose sponsor Mopani Copper Mines plc is majority owned by Carlisa Investments Corporation, which is incorporated in the British Virgin Islands;
- the Bujagali Hydroelectric Dam project, in Uganda, for which the EIB extended a USD 136 million loan to Bujagali Energy Limited in December 2007. As reported in the EIB press release of 07.01.2008, "BEL is owned by Industrial Promotion Services (Kenya) an investment company of the Aga Khan group, and by Bujagali Holdings Ltd., a special purpose affiliate of the US-based power plant developer Sithe Global Power, LLC, majority owned by Blackstone SGP Capital Partners (Cayman) IV L.P., an affiliate of The Blackstone Group."

We would therefore like to request detailed information on:

1. What specific due diligence did the EIB perform on these projects and their sponsors' apparent use of – and reliance on – tax havens?
2. Was any such due diligence carried out by EIB staff, or by consultants?
3. What were the results of any due diligence exercises carried out by the EIB?

4. Will you publish your due diligence results?

We believe that, as stated by President Sarkozy and also President Obama, economic actors benefiting from public support should not operate through offshore financial centres. The EIB has been asked by EU governments to play a particular role to help European economies face and overcome the unfolding financial and economic crises. Approximately EUR 20 billion in additional loans will be disbursed by the EIB for this purpose in 2009.

We believe that, today, there is a clear and wide political support in European capitals to move concrete steps towards fighting tax avoidance. We therefore suggest that you table a proposal to ECOFIN coinciding with the upcoming EIB AGM in Luxembourg in early June for the exclusion from EIB support of all those corporations/investors and banks/financial intermediaries directly based or operating through offshore financial centres, whether in the context of operations financed by the EIB or through their general business.

We believe that such a proposal would be a clear sign of responsibility and leadership.

We hope our activist kit will inspire you to take the manifestly necessary action on this pressing matter.

In the meantime we would be most grateful if you could kindly respond in written form to our requests for clarifications on the relevant EIB policies.

With our best regards

Desislava Stoyanova
Coordinator
Counter Balance

Alex Wilks
Director
Eurodad

John Christensen
Director
Tax Justice Network