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la riforma della
banca mondiale

Beyond our borders

**A critique of the external dimension
of the EU energy policy and its financing mechanisms**



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Acknowledgments

Our thanks to energy and EIB campaigners of the CEE Bankwatch Network for their valuable inputs, as well as to Desislava Stoyanova and Berber Verpoest of Counter Balance.

Published by

CRBM - Mani Tese

in collaboration with

Hnuti DUHA - Friends of the Earth Czech Republic, CEE Bankwatch Network, Les Amis de la Terre France, Urgewald, The Corner House, Counter Balance.

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Text closed at the end of January 2012



This publication has been produced with the financial assistance of the European Union. The contents of this publication are the sole responsibility of CRBM and can in no way be taken to reflect the views of the European Union.

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1. Introduction: origins and context

Energy is getting higher and higher on the EU agenda, as well as financial regulation and the euro crisis.

Tensions with Russia and Eastern neighbours concerning energy transit throughout the last decade as well as rapidly changing political landscape in the Mediterranean region have moved the European Commission to advance a broader European energy agenda which aims to a certain extent to increase European integration and collective political action on this matter.

In November 2010 the European Commission operationalised the objectives of the Lisbon Treaty regarding EU energy policy by adopting the communication “*Energy 2020: A strategy for competitive, sustainable and secure energy*”¹. The Communication defines the energy priorities for the next ten years and sets the actions to be taken in order to tackle the challenges of saving energy, achieving a market with competitive prices and secure supplies, boosting technological leadership, and effectively negotiate with European partners. On the basis of these priorities and the actions presented, the Commission committed to come forward with concrete legislative initiatives and proposals in the following 18 months.

Just a week after the launch of the first communication, the European Commission made public a new one on “*Energy infrastructure priorities for 2020 and beyond*”, in which the Commission identifies key energy corridors to be consolidated in Europe. With the 2014 deadline set by the European Council² to complete the internal market for electricity and gas, the Commission has recognised that “*it is urgent to fully unfold the [energy market] external dimension*”³, establishing a strategic relationship with key partner countries, in particular in the Eastern and Southern neighbouring region, as a key element of the new EU energy strategy given the high energy dependan-

In November 2010 the European Commission operationalised the objectives of the Lisbon Treaty regarding EU energy policy by adopting the communication “Energy 2020: A strategy for competitive, sustainable and secure energy”



cy of the EU from abroad. This approach has been made even more compelling by events in 2011, including the Arab Spring, the military conflict in Lybia - which split key European countries on the decision of intervention - and the growing instability in the Middle East. As admitted by the Commission: “*It is evident that the EU cannot reach the [EU energy policy] objectives without adequately addressing the external dimension*”⁴.

After the European Council emphasised again this message in February 2011, at the occasion of the European Council summit defined by some as the first “EU Energy Summit”, the European Commission decided to elaborate further on the issue by launching a public consultation and then issuing a new communication on security of energy supply and international cooperation in September 2011. This communication gives some clear directions for future

EU action in this field as well as the establishment of a new European legal framework to allow the Commission to act more energetically for implementing its energy security strategy.

In this last communication – analysed in Chapter II of this briefing – the Commission highlights the link between

1 http://ec.europa.eu/energy/strategies/2010/2020_en.htm

2 http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/119175.pdf, European Council, Conclusions, 4th February 2011

3 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on security of energy supply and international cooperation - “The EU Energy Policy: Engaging with Partners beyond Our Borders”, COM(2011) 539 final, 7th September 2011, p. 2

4 *Ibidem*

the energy strategy and other issues on which the EU has been building other sectoral strategies, namely investment and trade, security, development as well as the overall framework for financing the EU external action. As stated clearly by the Commission, *"This Communication proposes concrete ways to extend energy cooperation beyond the mere physical security of imports"*. In this way, *"the policy should help strengthen the EU's resistance to external energy events"*.

In short the new communication raises a crucial need to improve policy coherence for "competitive, sustainable and secure energy" for the EU, with the risk of undermining progress achieved in other policy areas (see the ongoing policy coherence for development debate) and further reorienting the priorities of key European financial institutions and mechanisms – above all the European Investment Bank – before any final and new configuration of the overall external action financing is decided in line with all objectives defined in the Lisbon Treaty. In fact, in late 2010 the European Commission itself promoted a public consultation on how to finance the EU External Action in the EU budget financial period (2014-2020) and is about to produce specific legislative proposals in this regard.

Therefore today is more crucial than ever to question some assumptions behind the new EC communication and to highlight the risks associated with the application of the new EU energy strategy outside the Union, in particular as concerns development policies and practices. The centrality of energy security – both in terms of supply of physical energy security to Europe as well as building market infrastructure to secure existing and new foreign energy markets to European interests – risks to contradict key horizontal objectives of the European Union as enshrined in the Lisbon Treaty, and in particular on democracy, human rights and development. As raised by many⁵, it is legitimate to wonder whether this is an energy security approach or instead an energy grab theorisation generating more insecurity in the long run and at the disadvantage of neighbouring and developing countries.

The origin of the EU Energy Security Strategy

It is important to recall the origin of the process which led to current legislative proposals and actions by the European Commission, and in particular how the overarching goal of the EU to lead the fight against climate change

⁵ Counter Balance submission to the Public Consultation on the external dimension of the Energy policy, "Energy Security or Energy Grab?", March 2011

has been progressively sidelined to give space to the energy security narrative. In fact, January 2007's "An Energy Policy for Europe" sets future needs in a clear context of the unsustainable environmental impact of current energy usage. The policy emphasises on how much our fossil fuel economy makes us insecure, in terms of reliance on foreign energy sources. *"With 'business as usual' the EU's energy import dependence will jump from 50% of total EU energy consumption today to 65% in 2030. Reliance on imports of gas is expected to increase from 57% to 84% by 2030, of oil from 82% to 93%."*⁶ The EC then laid out a series of solutions to the energy and climate issues it diagnoses: the development of an internal energy market; the construction of new inter-European energy infrastructure; commitment to the EU Emissions Trading System (carbon trading); upgrading energy efficiency measures; and raising targets for both renewable and nuclear energy supplies.

Even though some of these solutions remain problematic both from a development and climate perspective, at that point in time global warming and human needs were taking a high priority in EC policy: *"The point of departure for a European energy policy is threefold: combating climate change, limiting the EU's external vulnerability to imported hydrocarbons, and promoting growth and jobs"*⁷.

In the light of the second point, avoiding overseas hydrocarbon dependency, it is curious that the policy also talks about using the full force of EU political muscle to establish *"international agreements, whether bilateral or with several countries at a time... to establish legally binding commitments"*⁸ to provide the EU with energy. What the EC clearly meant, then, is not so much *"limiting the EU's external vulnerability to imported hydrocarbons"* per se, but avoiding dependency on politically unreliable Russian supplies.

That started to become apparent in November 2008's *"EU Energy Security and Solidarity Action Plan"*. The EC proposed then a series of massive trans-continental energy infrastructure projects, including a *"southern gas corridor for the supply of gas from Caspian and Middle Eastern sources."* *"This is one of the EU's highest energy security priorities"*⁹, and is intended to include not only

⁶ Communication from the Commission to the European Council and the European Parliament: An Energy Policy for Europe, 10 January 2007, p.3

⁷ *Ibidem*, p.5

⁸ *Ibidem*, p. 19

⁹ Communication from the Commission to the European Parliament,

gas from the Caspian region via the existing Baku-Tbilisi-Ceyhan (BTC) and much-mooted Nabucco pipelines, but from sources such as Uzbekistan and Iran.

As well as links to the Caspian and beyond, the Commission recommended that, *“a Mediterranean energy ring now needs to be completed, linking Europe with the Southern Mediterranean through electricity and gas interconnections. In particular the Ring is essential to develop the region’s vast solar and wind energy potential.”* It is also notable that the ring is intended to connect Europe not only to the Maghreb but further afield, expediting *“key projects important for diversifying the EU’s external energy supplies in further away regions, such as the future links from Iraq, the Middle East and Sub-Saharan Africa.”*¹⁰

Some of these energy mega-projects immediately seem both overly ambitious and ill-thought out, such as a gas pipeline across the Sahara. But it is only with publication of November 2010’s *“Energy 2020”* strategy that the EC’s plans became truly worrisome. The tone of Energy 2020 is messianic: *“The price of failure is too high. Energy is the life blood of our society,”* it begins dramatically, before setting out quite a different definition of EU energy goals than the 2007 paper: *A common EU energy policy has evolved around the common objective to ensure the uninterrupted physical availability of energy products and services on the market, at a price which is affordable for all consumers (private and industrial), while contributing to the EU’s wider social and climate goals*¹¹.

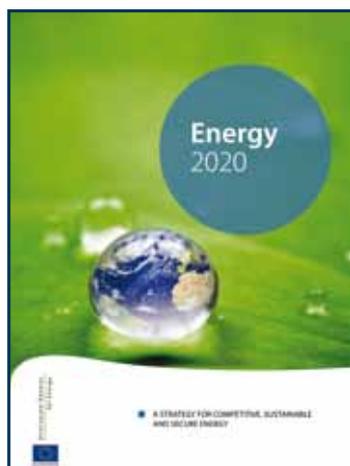
This is a totally different definition given just three years earlier. Climate change, originally the first priority, has been relegated to the back of the queue under the vague heading of *“wider social and climate goals”*, there to be joined by jobs, which no longer even get a mention.

the European Council, the European Economic and Social Committee and the Committee of the Regions: Second Strategic Energy Review, An EU Energy Security and Solidarity Action Plan, 13 November 2008, p.5

10 *Ibidem*, p.6, emphasis added

11 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Energy 2020, A strategy for competitive, sustainable and secure energy, 10 November 2010, p.3

“Limiting vulnerability to imported hydrocarbons” has also bitten the dust of history. This change of priority is quite shocking, in light of recent warnings by the International Energy Agency at the occasion of the launch of its World Energy Outlook 2011 last November, that if fossil fuel infrastructure is not changed in the next five years, the world will lose forever the chance to avoid dangerous climate change¹².



“Energy infrastructure priorities for 2020 and beyond” - cover

Instead, today the focus of the EU energy strategy is almost entirely on *“the uninterrupted physical availability of energy products and services”* and the marketisation of European energy supplies, whether EU citizens want a market in energy or not (*“many consumers do not perceive that they are better off as a result of market opening and competition among different suppliers. Individual consumers must be aware of, and exercise, their rights under EU legislation”*)¹³

The vision of the European Commission raises important questions about the role that the EU should play for promoting sustainable energy access in Europe and in neighbouring countries as well as in Sub-Saharan Africa. The ideas that energy should be traded on larger markets, predominately

produced from fossil fuels, and that centralised, private production and management of energy infrastructures is the way forward should be deconstructed and challenged before it is too late. Europe and the world are at a turning point in terms of what needs to be done to lead to a sustainable and more equitable future.

Is the EU energy policy really reflecting the vision that EU citizens have today about their and others world citizens’ sustainable future? When hundreds of billions euro are channelled into larger fossil fuels based infrastructures, what is left then to boost an immediate reduction of greenhouse gas emissions inside the EU before reaching the point of non return in 2015 – as stated by the international scientific community - and to start the transition that will allow the EU to reduce the internal emissions by at least 30% by 2020? What are the human rights implications and the real social costs of the planned EU energy security strategy, and who will ultimately pay these?

12 <http://www.iea.org/weo/docs/weo2011/pressrelease.pdf>

13 See footnote 11, p.13, for the full reference, emphasis added

2. Why “engaging with partners beyond our borders”?

“A coherent, dynamic and pro-active external energy policy is vital to enable the EU and its Member States to establish a lead position in energy geopolitics, to effectively promote both EU and national energy interests beyond EU’s borders, and to contribute to the competitiveness of the European industry”

Excerpt from Conclusion of the EC Communication on “Engaging with Partners beyond our borders”

Reading the conclusions of the new communication on the external dimension of the EU Energy policy sounds we are far away from the moral suasion approach and discrete and soft policy making promoted in the past by the EU in international relations. In fact the tone and scope of the exercise to define the external dimension of the EU energy policy is primarily driven by a pure internal objective of the Union – increasing its energy security as a pillar of the overall security strategy – thus promoting a subordination of the existing external objectives – i.e on development and human rights – to this, with severe and worrisome implications.

However a more careful reading of Commission’s proposal shows that a defensive objective is transformed in a very articulated external and offensive agenda which aims to promote a new policy coherence in the overall EU external action, thus influencing as well the ongoing debate about how the financing instruments of the external action should converge and be used at best. Beyond energy, this approach is the same which led the Commission in formulating its aggressive “*Global Europe: Competing in the World*”¹⁴ strategy on international trade and investment and which dominated the recent definition of the first ever EU investment policy¹⁵.

In the last years civil society groups and some trade unions have expressed their strong concerns about how negotiating proposals tabled by the European Commission *vis a vis* developing countries are fully reciprocal and do not take into account social, environmental and development priorities. New trade and investment agreements will

¹⁴ European Commission, DG External Trade, “Global Europe. Competing the World”, 2006 http://trade.ec.europa.eu/doclib/docs/2006/october/tradoc_130376.pdf

¹⁵ European Commission, DG External Trade, New EU Investment package set to boost trade and underpin investor rights, 7th July 2010, <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/907>



photo Counter Balance

primarily benefit large European multinational companies, while generating deeper regional and global imbalances and making poorer developing countries more and more dependent on their export of raw materials and import of European goods and services. In short, this approach will lock in for decades unfair trade rules and dependency from global markets in partner countries at the detriment of their sustainable, local and democratic development. Furthermore, this approach could also generate a race to the bottom regarding social and environmental rights within Europe due to the harsh competition moved today by emerging economies and new export powerhouses¹⁶.

The following short analysis tries to highlight what are the key interests and instruments moved by the EU in framing its new external energy policy, both regarding the security of physical energy supplies from outside the EU - what we might define the “*energy resources grab*” - and the

¹⁶ EU Investment Agreements in the Lisbon Treaty Era: A Reader, Seattle to Brussels network, July 2010, http://www.s2bnetwork.org/fileadmin/dateien/downloads/eu_investment_reader.pdf

structuring of broad international energy markets - what we might call the “*economic market grab*”. Both dimensions of the offensive European stand have deep implications for the policy coherence between EU energy and investment objectives on one hand and EU development, human rights and democracy objectives on the other. A policy coherence that some observers and analysts believe to be more and more an impossible task of reconciling in practice the co-existence of several diverging and contradictory objectives in the Lisbon Treaty.

The Communication identifies four key areas of work: Building up the external dimension of EU internal energy market; Strengthening partnerships for secure, safe, sustainable and competitive energy; Improving access to sustainable energy for developing countries; and, Better promoting EU policies beyond its borders. From the headings themselves of the strategy, it is clear that the emphasis is not just on building infrastructure and energy corridors, but more on developing a broader international economic, regulatory and political frame which would benefit the EU energy policy and the security of the Union. The Commission clearly states that “*Supply security in one part depends on security across the market as a whole*”¹⁷ and on this assumption urges to move from a defensive stand aimed just to secure physical supplies to the EU toward an offensive stand, aimed at locking European energy and corporate interests into energy market infrastructure to be built and strengthened outside the EU.

Negotiating EU project agreements

*“The leverage of the EU internal energy market should be better used to facilitate large-scale infrastructure projects linking the EU network to third countries, particularly ones with political, commercial or legal uncertainties.”*¹⁸ Under this approach the European Commission is ready to offer its legal support to Member States negotiating agreements that directly touch upon internal market legislation, as well as calls for an information exchange mechanism about inter-governmental agreements between Member States and these countries in the field of energy.

However some further steps have been taken in terms of common European energy policy: The Commission

has advanced a single EU approach to reduce risks, by proposing that it would negotiate on behalf of the whole Union project agreements having a large bearing on the EU energy policy objectives and a clear common EU added-value – as in the case of the Trans-Caspian gas pipeline for which last September the Commission got a mandate from the Council to negotiate an agreement for the project legal framework with Azerbaijan and Turkmenistan¹⁹. Next in the row could be a framework agreement for the import of renewable electricity from the Southern Mediterranean, notably linked to the Desertec large scale solar project in the Sahara. More generally the Commission has outlined a masterplan for building an integrated energy network taking into account key inter-connections with third countries.

Securing gas supply is a top priority for the EU, both in terms of new gas pipelines as well as Liquefied Natural Gas (LNG) terminals

In this regard, it is evident that securing gas supply is a top priority for the EU, both in terms of new gas pipelines as well as Liquefied Natural Gas (LNG) terminals, among which the Southern Gas Corridor, as well as the support to develop the sector in Central Asian countries and Iraq, and the rehabilitation of Ukraine’s gas transmission system.

Concerning oil the implementation of the Euro-Asian Transportation Corridor is of high priority for importing Caspian crude oil. Finally concerning the development of energy infrastructure in the Mediterranean region, the focus is both on fossil fuels and electricity from renewable sources.

The new approach promoted by the Commission bears untold implications associated to the bad record and planned risky operations of European energy companies and multinationals outside the European territory. Companies are part of the race to control conventional and unconventional fossil fuels reserves, including exploration of fields beyond the current technologies and capacities of the industry, with untested impacts on human lives and the environment. Energy companies are benefiting from increased political and economic support from the EU and Member States to guarantee energy supply to the European market, while European citizens and peoples in neighbouring and developing countries are asked to pay environmental, social and human rights costs associated to this energy resources exploitation.

17 COM(2011) 539 final, page 4. See footnote 3 for the full reference
18 *Ibidem*, page 4

19 European Commission, Press release, EU starts negotiations on Caspian pipeline to bring gas to Europe, 12th September 2011; <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/1023&format=HTML&aged=0&language=en&guiLanguage=en>

Negotiating market opening for EU interests

Besides negotiating project agreements, the Commission is very proactive in building market infrastructure through regulatory convergence and enshrining energy agreements under existing and new trade and investment liberalisation agreements. This aims at achieving an integrated energy market with all countries of EU neighbourhood and generating competitive advantage for European corporations in a single liberalised market (i.e. *“to implement carbon pricing as an element of a level playing field for power producers”*²⁸). Therefore the Commission puts upfront the idea of *“Widening the Energy Community*

28 COM(2011) 539 final, page 6. See footnote 3 for the full reference

[based on the Energy Community Treaty²⁹] to countries that have concluded or envisage to negotiate a Free Trade Agreement with the EU and demonstrate both willingness and ability to implement relevant EU legislations”. Among these countries Turkey is quite relevant given its growing role as a regional energy hub. Furthermore,

29 The Energy Community (also referred as Energy Community of South East Europe (ECSEE) and European Energy Community (EEC) is a community established between the European Union (EU) and a number of third countries in order to extend the EU internal energy market to South East Europe and beyond. The Treaty establishing the Energy Community was signed in Athens, Greece, on 25 October 2005, and entered into force on 1 July 2006. The Energy Community aims at establishing a common regulatory framework for energy markets in contracting parties by extending the *acquis communautaire* of the European Union to the territories of participating countries. It covers the relevant fields of energy, environment, and competition of the EU legislation. The Energy Community deals with electricity, natural gas, and petroleum products.

EU support to gas flaring reduction projects and new gas exploration outside Europe

The European Commission listed Nigeria as one of a number of countries that are considered of “strategic” importance for the EU’s energy security²⁰. EU oil corporations like Shell and Eni have communicated their plans to increase investments in Nigeria in the coming years in the scale of billions of euro, including for new gas fields and offshore deepwater exploration²¹. New energy infrastructure projects in Nigeria, politically backed by the EU, are under discussion. These projects aim at increasing the capacity of Nigeria to export hydrocarbons (especially natural gas) to European and global markets²². Planned projects include the expansion of the LNG export terminal on Bonny Island and the multi-billion Trans-Saharan gas pipeline project, that should transport Nigerian natural gas across Niger and Algeria to the European market²³.

20 EC communication, “The EU Energy Policy: Engaging with Partners beyond Our Borders”, September 2011, page 10 http://ec.europa.eu/energy/international/security_of_supply/doc/com_2011_0539.pdf

21 Platform, 2011. Counting the Cost: corporations and human rights abuses in the Niger Delta. <http://www.platformlondon.org/carbon-web/showitem.asp?article=392&parent=39>

22 <http://allafrica.com/stories/200907040003.html>

23 <http://online.wsj.com/article/BT-CO-20110306-702033.html>

Meanwhile, many Nigerians continue to live in poverty, without clean water and electricity – while oil corporations like Eni, Total and Shell continue to make billions of dollars in profits that do not contribute to the local development of people. The companies operate in violation of national law with continued flaring of gas, inadequate maintenance of equipment and lack of adequate response measures to recurrent oil spills. The more oil and gas that is extracted, the more that environmental degradation, conflict and human rights violations will occur in the Delta²⁴.

EU authorities and Member States are among the most active supporters of the inclusion of gas flaring reduction projects in the Clean Development Mechanism (CDM) under the Kyoto Protocol, assuming that additional financial support for these offset projects is needed for European corporations in order to stop the practice of gas flaring that is prohibited by law in Nigeria since 1979. Moreover, the Kwale Okpai gas power plant, registered since 2005 as CDM project for gas flaring reduction in Nigeria,

24 CRBM, The Corner House, Les Amis de la Terre, CEE Bankwatch Network, Platform, November 2011. *The reality behind EU “energy security”. The case of Nigeria*. <http://blog.platformlondon.org/2011/11/15/eni-misled-shareholders-over-gas-flaring-in-nigeria/>

has failed to deliver any benefit to the local communities that live nearby the project and the Kwale oil and gas gathering and processing plant. Evidence shows that the facility is using natural gas aside the associated gas, while gas flaring have continued constantly through the years²⁵. The project developer failed also to deliver electricity to the local communities as recommended in the project EIA and agreed in a Memorandum of Understanding signed between Eni and the Ndokwa communities in 2000²⁶.

The EU supports gas flaring reduction projects through the Joint Implementation (JI) mechanism under the Kyoto Protocol in Eastern Europe as well. In 2009, the EIB and EBRD’s first venture in Russia was to generate carbon credits under the JI mechanism by utilising gas that would otherwise be flared at Yakarta, an oilfield in Eastern Siberia, involving Irkutsk Oil. The carbon credits beneficiary is Irkutsk Oil’s subsidiary, UstKutNefteGas (UKNG)²⁷.

25 *Ibidem*

26 *Ibidem*

27 Counter Balance, December 2011. *Banking on Carbon Markets. Why the European Investment Bank got it wrong in the fight against climate change*. <http://www.counterbalance-eib.org/?p=1551>

concerning other neighbours not yet at the stage of entering the Energy Community, the EU is ready to work on developing a “EU-Southern Mediterranean Energy Partnership” focussed primarily on the development of renewable energy.

At the same time the Commission is willing to include the energy issue within the existing trade and investment liberalisation framework: “The EU should continue to include key principles for trade and investment such as non-discrimination and market access and make them enforceable through effective dispute settlement procedures both in bilateral agreements as well as in multilateral legal frameworks... These principles have to be complemented with rules concerning reciprocal and equivalent access to energy resources and networks in these countries, as well as investment protection and regulatory convergence regarding pricing policies, sustainability criteria and crisis prevention mechanisms”³⁰. In this regard the European Commission sees the Energy Charter Treaty³¹ as a key instrument to focus on trade, transit and investment issues and proposes to extend membership soon toward North Africa and Far East.

Specific attention is devoted to investment in sustainable energy where the EU should promote a level playing field “by addressing the increasing number of trade and investment barriers in this sector by using the tools of the Market Access Strategy”³². It is highly questionable the argument of the Commission that the removal of such barriers is important also for developing countries, “in order to increase the affordability of the technologies and to encourage long-term investment, with appropriate protection for investors and rewards for innovation, so as to render technology transfer and deployment a reality”³³. In fact, such an approach enshrined in binding investment agreements for decades to come would pre-empt the possibility for EU neighbouring countries to develop their own domestic renewable and low-carbon

technology industry and thus generate distributed industrial production capacity to ensure long-term sustainable and economic development processes.

Finally the Commission highlights the third instrument of cooperation partnerships with industrialised and fast-growing economies (with which it is much harder nowadays for the EU to negotiate binding agreements securing a significant competitive advantage for the European industry). Also in this case the very offensive and corporate driven stand of the EU is very clear: “To maintain Europe’s position in energy research and innovation, technology cooperation with our partners should be reciprocal notably in terms of access to research and development programmes, as well as equal treatment and protection of intellectual property rights”³⁴. And in this context strong emphasis is put on specific technologies, such as Carbon Capture and Storage (CCS) on which the EU is leading at international level despite its still questionable applicability and effectiveness on the ground. In this regard, it should be noted that at the recent climate summit in Durban the EU has been the main driver pushing for the inclusion of CCS projects in the Clean Development Mechanism of the Kyoto protocol as a mitigation measure, and possibly in future long-term global agreements on mandatory climate reductions.

Specific Memorandums of Understanding and energy partnerships are envisaged with selected countries, such as Algeria and Saudi Arabia, going beyond just the oil and gas sectors. Furthermore the Commission is committed to facilitate Libya’s full integration in regional and EU-Mediterranean energy cooperation structures. Besides a long list of selected countries and regions with whom to further engage in terms of energy cooperation - including the Arctic region – specific attention is posed to LNG supplier countries to the EU, including countries in Sub Saharan Africa like Nigeria (see box page 7), as well as to development and trade of renewable energy.

Undermining policy coherence for development and human rights

The strong alignment of the external dimension of the energy security strategy with the trade and investment policy pursued by the EU in the last years raises several concerns regarding the integrity of the policy coherence for development and human rights.

30 COM(2011) 539 final, pages 12-13. See footnote 3 for the full reference

31 The Energy Charter Treaty (ECT) is an international agreement which provides a multilateral framework for energy trade, transit and investments. Originally, the Energy Charter process based on integrating the energy sectors of the Soviet Union and Eastern Europe at the end of the Cold War into the broader European and world markets. The treaty (The Hague, December 1991) and the protocol (Lisbon, December 1994) came into effect in April 1998; and then an amendment to the trade-related provisions reflecting the change from the General Agreement on Tariffs and Trade (GATT) to World Trade Organization (WTO) processes was also agreed.

32 COM(2011) 539 final, page 13. See footnote 3 for the full reference

33 *Ibidem*, page 13

34 *Ibidem*, page 11

In fact the experience so far with the European trade strategy has been the one of significant conflicts between trade and investment priorities on one hand and development goals of the EU on the other. Lately these conflicts strongly emerged in the public domain at the occasion of negotiations promoted by the EU with Africa-Caribbean-Pacific countries for the definition of Economic Partnership Agreements between the two blocks, to the point that the European Commission has been forced by partner countries to slow down negotiations and review part of its ambition of liberalising ACP countries' markets³⁵.

In the case of regional priorities associated with the EU energy policy concerns are even higher as regards the promotion and respect of human rights, given that the majority of countries in the neighbouring region (both Eastern and Southern) are still fragile democracies and in some cases host few of the remaining dictatorships in the world – in particular in Central Asia and the Middle East.

According to the European Commission, energy partnerships should complement hard law agreements (on energy and trade) to “ensure that efforts to improve security and sustainability of the EU energy supply are consistent with the development of political and economic cooperation that is based on, and wherever possible enhances, democratic values and respect of human rights”³⁶. (It should be noted that this is the only mentioning of the term ‘human rights’ in the 19-page-long Communication of the European Commission). This approach remains questionable and elusive, and as said the history of free trade agreements promoted by the EU shows that reference to human rights promotion and development goals and policies remain just occasional and on paper without orienting the overall EU action on economic cooperation.

The specific articulation of the communication on “improving access to sustainable energy for developing countries” sounds even more surreal. The overall narrative is centred on the access to modern energy services, more than to energy resources, for the poor in order to help achieve the millenium development goals. It should be recalled that already in 2002 at the World Summit on Sustainable Development in Johannesburg the EU Energy Initiative for Poverty Reduction and Sustainable Development was launched to increase energy development coordination among the EU Member States. Similarly the Joint Africa-EU Energy Partnership (AEEP) – targeting access to modern and market-based energy services,

regional inter-connections and renewable energy – was launched in December 2007 and specific EU-Africa 2020 energy targets of reliable and secure supply of energy and increased access to sustainable energy services have been drawn in September 2010³⁷.

However all these initiatives have not changed the pattern of European investments in the region, which focus on large scale infrastructure for export of energy resources and liberalising domestic energy markets at the advantage of foreign investors. Notably, the AEEP aims at: “Doubling the capacity of cross-border electricity inter-connections both within Africa and between Africa and Europe” and “Doubling African gas exports to Europe”³⁸. As clearly stated by the Commission in the key follow up actions “mobilise regional level action in developing countries, particularly in Africa, to reform legal and regulatory frameworks with a view to creating market based conditions that attract private sector investments and enhance regional power trade”³⁹. This approach would aim to mainstream energy security issues within the EU development policy in order to leverage EU development assistance to catalyse foreign investment projects. However beyond general statements it remains unclear how the EU will balance between small scale projects for increasing access to energy in rural areas and large scale energy projects to improve energy competitiveness and export of energy resources.

Finally, a specific mention deserves the issue of access to and control of land, given that most energy projects heavily affect land and territories on which most of local communities in developing countries depend for their livelihoods and subsistence. Both the dispossession of land for making space to new large-scale energy infrastructure projects and the pollution of land due to energy resource extraction or power generation represent two major contradictions between the practice encouraged by the EU energy policy outside the EU and development and climate goals set by the Union. The idea that among many other priority issues, the EU will push the adoption of higher environmental and social standards by partner countries remain naive given the lack of pressure exercised so far by European institutions on European energy companies concerning their operations outside of the EU⁴⁰.

37 <http://www.africa-eu-partnership.org/node/68/>

38 Declaration First High-Level Meeting of EU-Africa Energy Partnership, Wien, 14-15th September 2010

39 COM(2011) 539 final, page 15. See footnote 3 for the full reference

40 Extractive industries - Blessing or Curse?, Friends of the Earth Europe, <http://www.foeeurope.org/corporates/news/dextractives.html>

35 http://www.traidcraft.co.uk/get_involved/campaign/stop_epas

36 COM(2011) 539 final, page 19. See footnote 3 for the full reference

3. Financing the energy and market grabs

Making the external dimension of the energy policy reality requires a significant amount of financial resources at a time that Member States' national budgets are severely constrained due to the crisis and there is little appetite to increase the EU budget by the Member States.

Building gigantic infrastructures such as oil and gas pipelines, underwater power connections and long-distance power lines necessitates long-term capital investment covered as well with sufficient commercial and political guarantee in particular when these projects are implemented in countries with an unstable political environment, such as most of those in the neighbouring region and Central Asia at the moment. Not to mention ordinary commercial, safety and security risks associated with these type of projects.

Therefore it is inevitable that high priorities stated in the EU energy policy will significantly drive the allocation of next EU budget for the period 2014-2020. And it will also influence the priorities and portfolio of European financial institutions, such as the European Investment Bank, the European Bank for Reconstruction and Development and bilateral European Development Financial Institutions, at a time that the overall financing of the EU external action is being reorganised.

In particular, based on the recommendations of the Steering Committee of "wise persons" in the context of the mid-term review of the EIB external lending mandate⁴¹, the European Commission is currently promoting the establishment of an "EU platform for external cooperation and development". This should become a central coordination mechanism for blending of European Commission grants and European banks' loans, building on principles of mutual reliance between financing institutions and openness to participation by all regional banks and European bilateral financing institutions⁴².

The European Commission has recently announced to its first ever plan for energy infrastructure by earmarking 9.1



billion Euro in the new EU budget period⁴³. Money will be available under the proposed EU budget in the form of newly-minted project bonds, grants and loan guarantees. The grants will be awarded to a select group of "common interest" projects which will benefit from a fast-track permit granting procedure. Projects eligible for EU funding – such as the Southern Gas Corridor to bring gas from the Caspian basin to Europe – could then receive between 50-80% of their funding from the EU.

At the same time the European Investment Bank's external lending mandate will be reviewed in 2013 and it is likely that its core interest in the neighbouring region and growing intervention in Central Asia will be confirmed. Concerning the period 2007-2013, the EIB received a plafond of 8.7 billion Euro for the Mediterranean region – then increased to 9.7 billion by the European Council in March 2011⁴⁴ - and 3.964 billion Euro per Eastern Europe, Southern Caucasus and Russia⁴⁵.

The EIB is the EU in-house bank and the only banking mechanism of the EU. The EIB focuses primarily on lending to the private sector and has been growing significantly its lending outside the EU in the last two decades without a clear and explicit development mandate. Apart of the Africa-Caribbean-Pacific region where the Bank is supposed to operate under the Cotonou Agreement and its objectives of reducing and eventually eradicating poverty as well as promoting sustainable development and gradual integration of the ACP countries into the world economy.

The EIB acts as a policy driven bank working to achieve European policy objectives, so that it is likely that the new

43 <http://www.euractiv.com/energy/eu-launches-9-energy-infrastructure-plan-news-508430>

44 http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/123926.pdf

45 European Parliament, Granting an EU guarantee to the EIB against losses under loans and guarantees for projects outside the EU, 17.02.2011, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2011-0062+0+DOC+XML+V0//EN#BKMD-5>

41 Report and recommendations of the Steering Committee of "wise persons". European Investment Bank's external mandate 2007-2013. Mid-Term Review; February 2010

42 Counter Balance and Eurodad meeting with DG DEVCO officials, Brussels, November 2011

EU energy policy will have a significant impact on the EIB portfolio. The EIB has also adopted its own specific energy policy in 2007 and is planning to review it in mid-2012 to align it to new EU objectives defined in this field. Despite the EIB has reduced in the last years its support for fossil fuel projects comparing with an increased support of renewable energy projects, also thanks to civil society is public pressure, still the Bank is a key financiers of highly destructive fossil fuel projects and has increased its support for fossil fuels in absolute terms in the last year⁴⁶. At the same time the EIB is a key financier of large-scale infrastructure projects, such as large dams in sub-Saharan Africa, and its support for large scale wind and solar energy projects might bring severe local environmental and social impacts if not carefully planned and implemented.

At the same time the EIB President, Philippe Maystadt, has been a strong advocate for the immediate establishment of EU project bonds⁴⁷, aimed at enhancing credit for large scale private sector infrastructure bonds within and outside the EU, with the involvement of the EIB as a key issuer and partial sovereign guarantor of these bonds. Despite the European Commission has advanced a proposal in this regard in 2011⁴⁸, it is likely that only pilot projects will be implemented soon while a final decision will be part of the agreement on the next EU budget from 2014 on. At the same time the EIB is at the forefront in the definition of blending of European Commission grant money with EIB loans – financed through resources raised by the EIB on capital markets – in order to generate innovative concessional lending for the private sector, as already experimented in the ACP-EU Water Facility⁴⁹.

At the same time the European Bank for Reconstruction and Development, on the wave of the Arab Spring and

The EIB President, Philippe Maystadt, has been a strong advocate for the immediate establishment of EU project bonds, aimed at enhancing credit for large scale private sector infrastructure bonds within and outside the EU

political developments in the Mediterranean region, has agreed to expand its lending mandate to this region in May 2011. In October 2011 the Bank's Board of Governors has approved amendments to EBRD statute that will allow the Bank to invest in the Southern and Eastern Mediterranean region, primarily in Egypt, Morocco, Tunisia and Jordan⁵⁰. The Bank – within whose 62 countries' membership the European Union and European Commission play a dominant role – is willing to use its expertise in financing "democracy transition" in Eastern Europe and Central Asia for operating in this additional region too.

The EBRD claims to have the capacity to invest, eventually, as much as 2.5 billion Euro a year across the Southern and Eastern Mediterranean region⁵¹. In the second half of 2012 the EBRD is about to review its energy policy and the expansion of its operations to the Middle East and North Africa might affect the definition of its new policy.

In this context it is useful to review EIB energy portfolio in the last decade, in particular as concerns Sub-Saharan and the Mediterranean region. In fact, these have been two regions where the EIB developed two specific facilities, the Investment Facility (IF) in Sub-Saharan Africa and the Facility for Euro-Mediterranean Partnership and Investment (FEMIP), which have developed for the first time new instruments of the European External Action Financing, today seen as a possible model for reorganising the whole European external action financing framework.

EIB lending to Sub-Saharan Africa

Financing in the ACP region is provided from EU Member States' budgets – the European Development Fund – alongside EIB own resources, which the Bank manages on a broadly self-financing basis by borrowing on the capital markets. Within this framework the EIB is entrusted with the management of the Investment Facility, a revolving fund which meets the financing needs of investment projects in the regions with a broad range of flexible risk-bearing instruments. The EIB concentrates its efforts on fostering private sector-led initiatives that promote economic growth and consequently – and presumably – might impact on the wider community and region. It also supports public sector projects, typically in infra-

46 CEE Bankwatch, Carbon Rising. European Investment Bank Energy Lending 2007-2010, December 2011. <http://bankwatch.org/news-media/for-journalists/press-releases/world%E2%80%99s-largest-public-lender-almost-doubles-support-fossil>

47 Infrastructure Investor, It's a mistake to wait until 2014 for project bonds", 30.06.2011, <http://www.infrastructureinvestor.com/Article.aspx?article=61854&hashID=C02F7E3F465753AD40EA2F95C0A3F60EF908383F>

48 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee of the Regions on A pilot for the Europe 2020 Project Bond Initiative, 19.10.2011

49 European Commission, EuropeAid Development and Cooperation, ACP-EU Water Facility. Pooling Mechanism Guidelines, May 2011 http://ec.europa.eu/europeaid/where/acp/regional-cooperation/water/documents/acp_eu_water_facility_pooling_mechanism_guidelines_en.pdf

50 <http://www.ebrd.com/pages/news/press/2011/111005a.shtml>

51 <http://www.ebrd.com/pages/news/press/2011/111213.shtml>

structure, that are critical for private sector development and the creation of a competitive business environment. Despite the clear development mission for EIB financing in this region, it is still unclear how much EIB lending has produced measurable and verifiable positive development impacts⁵².

Searching through the energy portfolio backed by the EIB in Sub-Saharan Africa since 2001 it clearly emerges that energy represents about a quarter of EIB 6 billion overall lending to the region⁵³. Within this sector the Bank focused a significant part of its resources on passively co-financing some of African largest energy infrastructures, whose assessment had been driven by other international financial institutions, such as the World Bank Group. This has been the case of the Chad-Cameroon Oil Pipeline in 2001, the West-Africa-Gas-Pipeline (WAGP) from Nigeria to Ghana in 2006, the Bujagali Hydro Dam in Uganda in 2007 and the Inga Dam Rehabilitation in DRC in 2008. These four projects – whose total EIB funding amount to 427 million Euro, that is nearly 30 per cent of the overall energy portfolio for the region of last decade - have catalysed international civil society attention and critique. Despite some mitigation actions have been put in place they still produced significant environmental, social, human right and corruption impacts on the ground. Still today several communities still wait for proper compensation due to the construction of the WAGP and the Bujagali dam. In the first case several complaints against project sponsors and financiers have been moved by affected communities; in the latter case a complaint is still pending at the newly established EIB internal grievance mechanism.

In DRC, the Inga dams have been recognised as the main projects that led to the spiralling increase of external debt in 1980s and 1990s⁵⁴. The EIB engaged in the rehabilitation of turbines installed in the Inga 1 and 2 dams, that suffered spiralling cost increase and time delay due to mismanagement of subcontractors and alleged corruption scandal⁵⁵. A lack of adequate oversight and monitoring by project financiers failed to ensure a positive development outcome of the overall rehabilitation project.

52 Counter Balance, Corporate Welfare and development deceptions: Why the European Investment Bank isn't fit for EU development work; February 2010; <http://www.counterbalance-eib.org/?p=364>

53 Analysis of data available on EIB web-site regarding projects of the entire ACP region (the total amount of lending refers to the whole region despite the large majority of lending has been in Sub-Saharan African countries).

54 Counter Balance, November 2009. Conrad's Nightmare. The World's Biggest Dam and Development's Heart of Darkness. <http://www.counterbalance-eib.org/?p=107>

55 CRBM letter to the Italian government, June 2010.

Concerning the rest of financing, the EIB concentrated in extending the power grid through adequate regional high-voltage interconnections.

The only exemptions to this trend have been EIB geothermal power financing in Kenya and EIB operations in Nigeria, where several intermediated loans have been given by the Bank to financial institutions active also in infrastructure finance and more specifically in financing the energy sector expansion.

EIB lending to the Mediterranean region

FEMIP brings together the whole range of services provided by the EIB to assist the economic development and integration of the Mediterranean partner countries. Operational since October 2002, FEMIP is now a key player in the financial partnership between Europe and the Mediterranean.

As part of the European Neighbourhood Policy and of the Union for the Mediterranean, FEMIP encourages the modernisation and opening-up of the economies of the Mediterranean partner countries. Activities are focused on two priority areas: support for the private sector and creating an investment-friendly environment. A quick analysis of EIB portfolio in the region show that about 6 out of 15 billion Euro lent to the region since 2001 went to the energy sector, that means about 40 per cent. The Bank supported primarily large scale energy infrastructure projects, in particular in the power generation, liquefied natural gas and the sector at large.

Two specific international pipelines have been supported by the EIB: the Transmed pipeline expansion connecting Tunisia with Italy in 2007 – to which the EIB contributed 185 million Euro - and more recently the Medgaz gas pipeline linking Algeria and Spain, whose 1 billion cost has been cover for half by the EIB. The Bank depicts this latter project as a “win-win project for the Mediterranean”⁵⁶. It should be also noted the significant financing by the EIB for LNG terminals in Egypt in the last decade.

Beyond its project portfolio, the EIB is also engaging very much in lending through financial intermediaries – primarily international and national banks – and participates directly into private equity funds supposed to finance local companies in targeted countries.

56 Medgaz: A win-win project for the Mediterranean, EIB, October 2011, <http://www.eib.org/projects/news/medgaz.htm>

Sannazzaro heavyoil refinery

The EIB support for fossil fuel energy projects includes the construction of refining facilities in Europe processing oil imports, including the construction of a refining unit for the treatment of super heavy oil. Between November 2010 and March 2011 the EIB gave a loan of 435 million euro to Eni, the major Italian oil company, for the "construction and operation of oil processing unit in Sannazzaro refinery, Northern Italy".

The 1 billion euro project is aimed at enlarging a refining plant among the largest in Europe, located in the territory of Sannazzaro De Burgoundi, in Northern Italy. The existing Eni facility is already treating a large variety of oil (from light to heavy) imported from Russia, Asia and Africa. It is located along the Central European Pipeline [CEP] Genoa Ingolstadt, a 753km pipeline that transports to Switzerland and Germany refined oil arriving to Sannazzaro both via tanker - through the commercial port of Genoa - and via land from the Caspian region, through the CPC pipeline.

The new unit, financed by the EIB, will be located close to the existing plant, in the territory of Ferrera Erbognone. It will specialise in super heavy oil - developing the EST (Eni Slurry Technology) technology of Eni, which has been experimented until 2009 in Taranto.

In the project description⁵⁷, it is stated that the aim of the new plant will be to take best advantage of "bottom of the barrel" oil and super-heavy oil that in the coming years will have increased importance as energy supply for the European market. The description of super-heavy oil includes tar sands, which the plant will be suitable to treat. Eni and its controlled companies already operate in the development of heavy oil and tar sands, among others in the Orinoco Belt in Venezuela, the largest heavy oil deposit in the world with oil reserves of 1,300 billion barrels⁵⁸, and in the Alberta region in Canada⁵⁹. Eni has been exposed by international civil society groups for the potential threats to the environment and human rights of local communities related to its exploration of tar sands in the Congo Basin⁶⁰.

57 Eni Innovative Refining Technology, EIB, June 2010, <http://www.eib.org/projects/pipeline/2010/20100027.htm>

58 http://www.eni.com/en_IT/eni-world/venezuela/eni-business/eni-business.shtml

59 <http://www.saipem.com/site/it/Home/Press/Attivita/articolo6134.html>

60 "Energy Futures? Eni's investment in tar sand and palm oil in the Congo Basin". Heinrich Boell Foundation, 2009. <http://www.boell.de/ecology/climate/climate-energy-7775.html>



Sannazzaro Refinery, 2009. Photo Alessandro Vecchi, Creative Commons Share Alike 3.0 (Wikimedia Commons)

Given the lack of disclosure of ultimate beneficiaries to whom banks lend EIB money on it is impossible to understand how much intermediated lending ends up into the energy sector as well. The growing use of intermediated lending has been strongly criticised by civil society for its dubious development impact and systematic use by several financial intermediaries of offshore financial centres for their operations⁶¹.

At the same time some of the private equity funds participated by the Bank are specific infrastructure funds which are clearly investing also in the energy sector. This is the case, for instance, of the Argan Infrastructure Fund, which is managed by Infra Invest, a wholly subsidiary of Argan Invest. According to the EIB the Fund primarily invests in energy, ports, transportation, logistics, waste management and telecom infrastructures. In June 2010 the EIB invested 15 million Euro in the North African compartment of the fund covering Morocco, Algeria, Tunisia, Libya and Egypt. A smaller compartment will be created for investments in projects located in Sub-Saharan

61 'Hit and run development – Some things the EIB would rather you didn't know about its lending practices in Africa, and some things that can no longer be covered up http://www.counterbalance-eib.org/wp-content/uploads/2011/01/Hit-run-development_WEB.pdf



Africa⁶². It should be noted that no website for the fund appears to be available on the internet.

Also the InfraMed Infrastructure Fund is worth of mention. This is co-sponsored by InfraMed Management and EFG-Hermes Private Equity and is participated by the EIB with 50 million Euro⁶³. The Fund was launched in May 2010 with 375 million Euro at first close and has been targeting commitments of 1 billion Euro⁶⁴, which would make it the "largest infrastructure fund" in the MENA region⁶⁵. It represents a major contribution to the Union of the Mediterranean project strongly promoted by the French government. The fund will invest primarily in greenfield projects including urban, energy, and transport infrastructure projects. It is unclear how the investment strategy of this large fund is being affected by the Arab Spring in the region. Also in this case it should be noted that, despite most of funds partners are public financial institutions, neither the fund manager, not the fund appear to have a website.

The active support by the EIB for financial intermediaries in the region, including private equity infrastructure funds, raises several concerns about how a financial infrastructure is built through this support in the region which

primarily serves highly profitable investment in large scale energy projects at the advantage of those European companies which already enjoy a dominant position in the market and own the technology needed to carry out those type of projects.

This approach, often combined with political support for privatisation of the energy and other strategic sectors in the region – as happened in Egypt at the time of the Mubarak era - lays the ground for what is a lock in in the future of a certain economic structure of the region favouring European investors and companies and preventing the development of domestic economic actors. This could be seen as a grab of future markets with severe implications for access to energy of the poorest sectors of society in the Mediterranean.

For instance this critique could be moved against the massive large-scale photovoltaic project Desertec, aiming at producing electricity in the Sahara to be transferred to Europe via power lines crossing the Mediterranean. Not simply local people would not benefit from such electricity, but the whole renewable sector in the region would be developed around a large-scale, oligopolistic and Euro-centric approach thus penalising in the long-run the development of a domestic industry in Northern Africa.

62 <http://www.eib.org/projects/loans/2009/20090398.htm>

63 <http://www.eib.org/projects/pipeline/2009/20090618.htm>

64 <http://www.eib.org/about/press/2010/2010-078-lancement-du-fonds-dinfrastructure-inframed.htm>

65 EFG-Hermes, "EFG-Hermes Private Equity will play key role in MENA's largest infrastructure fund", 27 May 2010, <http://www.efghermes.com/userfiles/image/Press%20Release%20%2827%20May%202010%29.pdf>

Conclusions

Which transition?

On February 7th 2012, the Commission has presented the Energy 2050 roadmap, a communication that includes five possible scenarios to lead energy transformation in Europe by 2050⁶⁶.

The Communication contains some interesting elements regarding some possible energy mix that could take Europe towards decarbonization and reducing the use of fossil fuels. However the paper assumes that the use of fossil fuels will remain dominant even after 2050.

This is the case in particular with gas, envisioned as a “transition fuel” in a more integrated market, where liquefied natural gas and unconventional shale gas play an important role. The Commission does not analyse what will be the human, environmental and climate costs of such an option. It looks at the possibilities of companies to hedge risk related to the variations of gas price, sidelining the massive environmental and social costs of gas extraction – both conventional and unconventional – for the communities where the resource is located. From Nigeria to Poland to Canada and the United States, to the Mediterranean Sea, communities are on the frontline against pollution of water, loss of land and environmental degradation caused by large scale extraction.

The infrastructures planned to secure the supply of gas to Europe and guarantee the commercialization of gas within the European market are functional to today's society, in terms of organisation of economic and production relations. Moving away from European dependency on fossil fuels in a transformative way will need much more than a different mix of energy sources. The environmental, economic and social cost of keeping the same economic model of production and organisation of European cities and society will be far too high to make it a viable option for the next future.

Regional interconnections for electricity production and commercialisation may pose the same questions. Even more when you look at the hard core demand of the

Commission to “ensure that policy developments in Member States do not create new barriers to electricity - or gas - market integration”⁶⁷. This position is assuming that market-based management of energy will be the only option for Member States, excluding the possibility for citizens to opt for a public and more democratic management of energy production, and for different rules and tariffs for distribution and use in a context where a different way of managing the commons is high on citizens' discussions and organising agenda. The outcome of the popular referendum on nuclear energy in Italy in June 2011 – which restated the ban for nuclear production on the Italian territory – has proved how ordinary people do care about how energy is produced and managed and are willing to define energy as a public good to be decided upon in a democratic manner.

The interconnection system planned to scale up electricity production in neighbouring countries – including the Balkans, North Africa and the Sahara Desert – in order to serve the energy needs of Europe does not seem to be a model matching the needs of a sustainable transition, but only guaranteeing the creation of markets for the interest of few energy and financial giants.

Energy infrastructures in Europe demand investments in the scale of billions. The question to ask is: what kind of economy will these infrastructures serve? The EU energy strategy is leading towards a direction that is neither transformative nor decarbonizing for Europe. It is draining billions in public resources towards private managed infrastructures for energy supply, mostly gas and electricity, for the interest of the few and against those of citizens of Europe and its neighbouring countries.

We finally got at a crossroad. Defining the energy future of Europe means deciding today what type of infrastructures needs to be built that will be useful in the foreseen future, for supporting a truly transformative agenda. This means defining the role of Europe vis a vis neighbouring countries, redefining priorities in respect of the external objectives of the Lisbon Treaty, opening up a space to discuss what are the actual needs in Europe and how the society needs to be reorganised to overcome the current energy, climate and economic crises and to guarantee a different management of the commons, including energy.

Energy infrastructures in Europe demand investments in the scale of billions. The question to ask is: what kind of economy will these infrastructures serve?

⁶⁶ Energy Roadmap 2050, http://ec.europa.eu/energy/energy2020/roadmap/index_en.htm

⁶⁷ Ibidem, page 14

Which policy coherence?

The case of the new EU energy policy and its external dimension is a very telling example of the structural problem of interpreting and implementing policy coherence in European decision-making processes given recent developments incorporated in the Lisbon Treaty.

The plan to strongly align the EU energy security policy with similarly offensive trade, investment and security policies of the EU, will have deep implications for reaching European development, environmental, democracy and human rights objectives, themselves enshrined in the same European Treaty. The new EU energy security policy will inevitably lead to egemonic practices, including both physical resources and energy market grabs, with irreversable damages in the neighbouring region. Such an attitude by the EU would set unproductive and risky relations with neighbouring countries at a time of profound transformations in these, thus fostering possible unpredictable conflicts and tensions in the region in the years to come.

The escalating climate crisis and ongoing turmoils in the Mediterranean region as well as Eastern Europe and Central Asia urge European decision-makers to critically review proposals on the common European energy policy advanced by the European Commission and make a U-turn for affirming the supremacy of development, environmental, democracy and human rights objectives on any other economic objectives and policy of the Union. In short, a different policy coherence has to be formulated and implemented, by including a fundamental precautionary principle in policy making as concerns European economic and financial operations and interventions outside of the EU.

The ruling by the European Court of Justice in 2008 concerning the definition of the external lending mandate of the European Investment Bank and its nature⁶⁸ offers an interesting guidance. The Court made it very clear that the European Parliament enjoys co-decision powers regarding the definition of the lending mandate of the EIB outside the EU given that any Bank operation has development impacts and thus has to comply with EU development objectives and policies which have been decided with the involvement of the Parliament too. Furthermore,

68 European Court of Justice, ruling C-155/074, 6th November 2008

the Court added that more generally any economic cooperation agreement signed by the EU with partner countries bear development implications so that all EU development objectives and policies have to be taken in full account in the definition of these agreements.

Article 194 of the new Treaty on the Functioning of the EU made the energy matter a shared competence between the Union and the Member States.⁶⁹ And in particular the Union gained the competency to direct the energy policy objectives through ordinary legislative procedure, even though the European Council still retains decision-making power (at unanimity) on specific issues affecting the energy security of individual member states or primarily concerning fiscal issues.

Thus the European Parliament is called to play a key role in reshaping the EU energy security policy and its implementation. Even in the case that the Council claims to retain powers to decide on specific mandate to be given to the Commission for negotiating agreements with partner countries about international energy projects bearing a pan-European significance – as happened for the first time in the case of the Trans Caspian Gas Pipeline connecting Turkmenistan and Azerbaijan in September 2011 – the European Parliament should be informed early in advance and have the possibility to condition the negotiating mandate and eventually reject the final agreement if this will not be in compliance with the EU horizontal objectives on

development, environment, democracy and human rights. Despite the public statement by the European Commission about the opening of these negotiations last September, the negotiating mandate and its specific objectives have not been made public and submitted to the Parliament.

At the same time, the European Parliament should get copies of all international energy agreements signed by EU member states with partner countries and screen their compliance with EU horizontal objectives on development, environment, democracy and human rights. In this regard current negotiations between the European Parliament and the Council offers an important opportunity to significantly increase transparency about energy contracts and agreements.⁷⁰

69 http://www.inforse.dk/europe/eu_table_lisbon.htm

70 DRAFT REPORT on the proposal for a decision of the European Parliament and of the Council setting up an information exchange mecha-

Reclaiming public finance for an energy democratic transformation

De-carbonise the European economy

In order to promote an urgent transition toward a low-carbon economy, the European Union should concentrate its financial resources in its Member States, in particular at a time of still severe economic crisis and difficulties for national governments to mobilise additional public resources. Therefore the European Investment Bank should significantly redirect its energy lending into the European Union, instead of concentrating more and more on lending for large-scale fossil fuel infrastructure in neighbouring countries and sub-Saharan Africa, planned for boosting energy resources export to Europe.

The upcoming EIB energy policy review offers a significant opportunity to stop this physical grab of resources and redefine key priorities for energy lending within the EU in order to promote a just transition toward a decarbonised European economy, through a support for more democratic, sustainable and small-scale production systems as well as more democratic, effective and controllable distribution networks.

De-marketise European energy systems

The EU obsession to establish a single energy market to be extended into the neighbouring region remains a myth and a misleading ideology despite emphatic statements by European leaders and institutions in this regard. Few large European energy companies occupy dominant positions in this market together with a limited number of few speculative investors. Furthermore several European energy giants enjoy direct equity participations or controls by Member States. In short, such companies will have larger and larger competitive advantages in a broader and deeper single market.

Action should be taken to prevent that the European Investment Bank become a pivotal mechanism for exporting this wrong, fossil-fuel addicted and market-based model to the neighbouring region and African countries at the only benefit of European multinational companies and financial institutions. Opaque intermediated lending should be questioned when related to the infrastructure

nism with regard to intergovernmental agreements between Member States and third countries in the field of energy (COM(2011)0540 – C7-0235/2011 – 2011/0238(COD)) http://www.europarl.europa.eu/meet-docs/2009_2014/documentss/itre/pr/882/882629/882629en.pdf



and energy sectors and, in the case of private equity funds, should be stopped soon. Despite EIB lending in the sub-sector of renewable energy has increased in the last years, the overall “gigantic” approach – as symbolised by the Desertec project - should be reviewed to avoid that in the end renewable energy will be just the next frontier of market fundamentalism at the expenses of communities’ rights and their local environment.

Moving beyond their current ideological approach to the energy matter, European governments and the EIB should address in a different logic few fundamental questions which remain unanswered so far:

Why the free market approach to energy is the best way to benefit all and produce a low-carbon transformation? How is it possible to guarantee access to energy when its price and conditions of supply are defined just by the market?

Can the Europeans choose a right-based “green economy” centred on the promotion of the commons and thus show for once a truly alternative path to their neighbouring peoples?

Before it is too late European decision-makers should work to give European citizens new and innovative answers to these questions.

ANNEX I - EIB lending to the Sub-Saharan Africa (2001-2011)

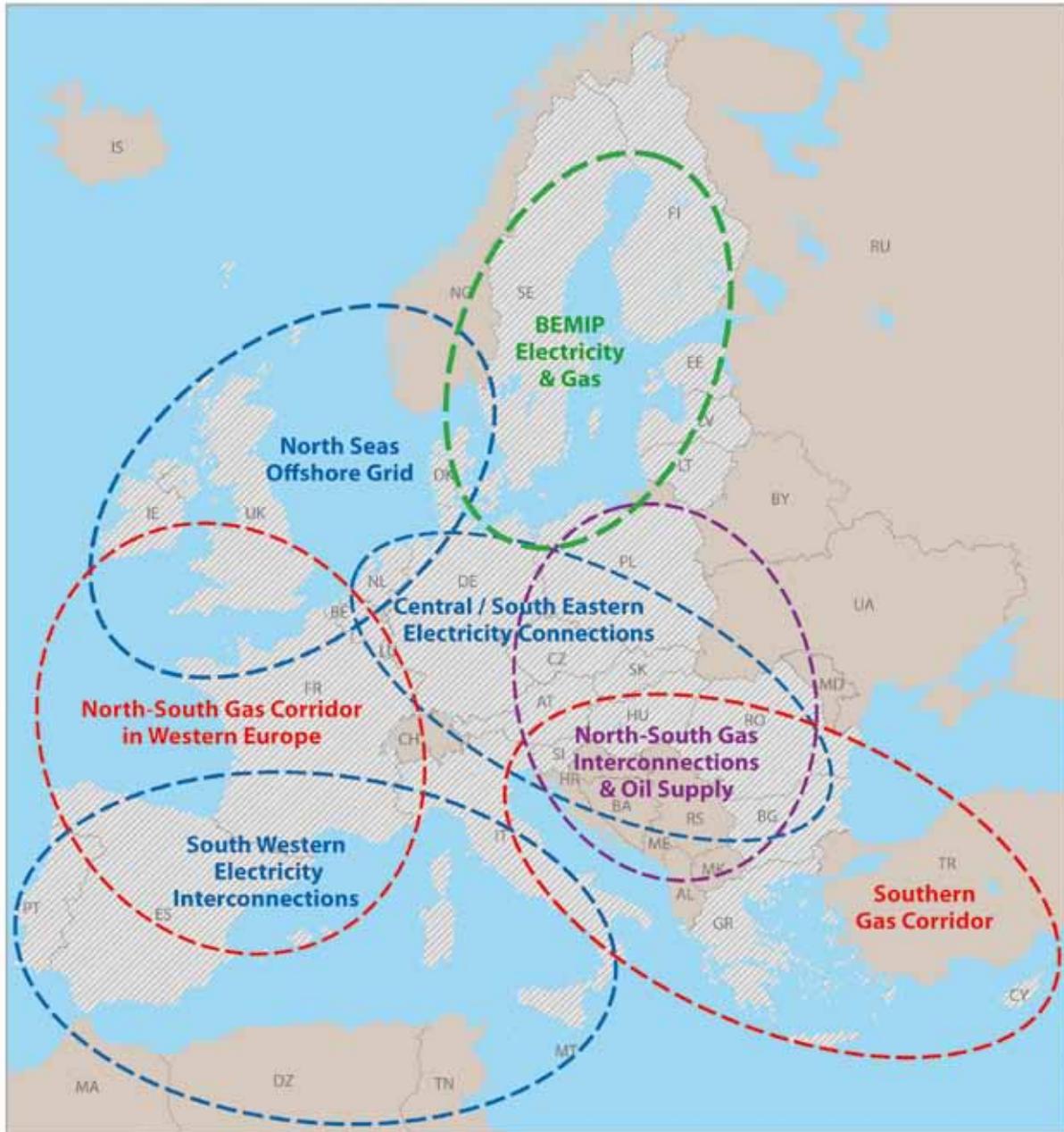
Name	Description	Country	Signature date	Signed Amount (€)
INTERCONNEXION BOLGATANGA-OUAGADOUGOU	Power grid	Burkina Faso	21/12/2011	23.000.000
ENERGY DEVELOPMENT AND ACCESS PROJECT	Power grid	Mozambique	10/01/2011	33.885.542
OLKARIA I & IV GEOTHERMAL EXTENSION	geothermal	Kenya	15/12/2010	119.000.000
TANZANIA BACKBONE INTERCONNECTOR	Power grid	Tanzania	14/12/2010	100.652.000
CAPE VERDE WIND POWER PPP	Wind	Cape Verde	14/12/2010	30.000.000
ETED POWER TRANSMISSION	Power grid	Dominican Republic	01/11/2010	26.800.000
BENIN - TOGO POWER REHABILITATION	Power grid	Togo	22/12/2009	3.000.000
BENIN - TOGO POWER REHABILITATION	Power grid	Benin	22/12/2009	32.000.000
MOMBASA-NAIROBI TRANSMISSION LINE	Power grid	Kenya	21/12/2009	60.000.000
OLKARIA II EXTENSION	geothermal	Kenya	19/11/2009	3.947.563
CAPRIVI INTERCONNECTOR	Power grid	Namibia	19/12/2008	35.000.000
INGA POWER REHABILITATION	Hydro	Congo (Dem. Rep.)	10/12/2008	55.000.000
INGA POWER REHABILITATION	Hydro	Congo (Dem. Rep.)	10/12/2008	55.000.000
JIRAMA ANDEKALEKA HYDRO	Hydro	Madagascar	06/06/2008	24.500.000
BUJAGALI HYDROELECTRIC PROJECT	Hydro	Uganda	14/12/2007	92.134.679
WEST AFRICAN GAS PIPELINE (WAGP)	Gas	Ghana	14/12/2006	75.000.000
AES SONEL-ELECTRICITY SUPPLY	Power grid	Cameroon	08/12/2006	55.000.000
AES SONEL-ELECTRICITY SUPPLY	Power grid	Cameroon	08/12/2006	10.000.000
AMENAGEMENT HYDROELECTRIQUE DE FELOU - 1	Hydro	West Africa	23/11/2006	11.000.000
AMENAGEMENT HYDROELECTRIQUE DE FELOU - 2	Hydro	West Africa	23/11/2006	11.000.000
AMENAGEMENT HYDROELECTRIQUE DE FELOU - 3	Hydro	West Africa	23/11/2006	11.000.000
KPLC GRID DEVELOPMENT	Power grid	Kenya	16/12/2005	43.000.000
VRA VII	Power grid	Ghana	15/12/2005	10.500.000
ZESCO KARIBA NORTH II	Hydro	Zambia	09/12/2005	7.600.000
MOZAMBIQUE-SOUTH AFRICA NATURAL GAS	Gas	Mozambique	15/11/2005	35.000.000
GILGEL GIBE II HYDROPOWER PLANT	Hydro	Ethiopia	31/10/2005	50.000.000
OLKARIA II EXTENSION	geothermal	Kenya	31/05/2005	34.080.117
SONABEL III	Power grid	Burkina Faso	28/12/2004	15.250.000
SNIM VII	Oil	Mauritania	27/11/2004	22.500.000
MOZ/RSA NATURAL GAS-UPSTREAM COMPONENT	Gas	Mozambique	22/10/2004	10.000.000
MOTRACO II	Power grid	Mozambique	02/07/2003	1.750.000
MOTRACO II	Power grid	Swaziland	18/06/2003	1.750.000
SEB III MAGUGA HYDROPOWER	Hydro	Swaziland	18/06/2003	7.000.000
MOZAMBIQUE-SOUTH AFRICA NATURAL GAS	Gas	Mozambique	28/03/2003	50.000.000
MOTRACO II	Power grid	Mozambique	20/12/2002	10.000.000
EEPCC URBAN PWR DISTR. & LOAD DISPATCH	Power grid	Ethiopia	09/12/2002	25.000.000
RODRIGUES POWER STATION	Oil	Mauritius	18/02/2002	2.000.000
NAMPOWER II	Power grid	Namibia	14/11/2001	35.000.000
SONGO SONGO GAS DEVELOPMENT	Gas	Tanzania	11/10/2001	50.000.000
SONGO SONGO GAS DEVELOPMENT	Gas	Tanzania	11/10/2001	5.000.000
FEASIBILITY STUDY EDM BEIRA	Power grid	Mozambique	20/09/2001	1.000.000
SEB II TRANSMISSION	Power grid	Swaziland	18/07/2001	5.000.000
CHAD-CAMEROON OIL EXPORT SYSTEM	Oil	Central Africa	15/06/2001	54.000.000
CHAD-CAMEROON OIL EXPORT SYSTEM	Oil	Chad	15/06/2001	5.000.000
CHAD-CAMEROON OIL EXPORT SYSTEM	Oil	Cameroon	15/06/2001	29.000.000
CHAD-CAMEROON OIL EXPORT SYSTEM	Oil	Cameroon	29/03/2001	35.700.000
CHAD-CAMEROON OIL EXPORT SYSTEM	Oil	Chad	29/03/2001	20.220.000
CHAD-CAMEROON OIL EXPORT SYSTEM	Oil	Chad	29/03/2001	80.000
Total:				1.432.349.901

Source: www.bei.org

ANNEX II - EIB lending to the Mediterranean region (2001-2011)

Name	Description	Country	Signature date	Signed Amount (€)
GIZA NORTH POWER PLANT II	Gas	Egypt	29/12/2011	50.000.000
STEG CENTRALE DE SOUSSE	Gas	Tunisia	11/12/2010	194.000.000
MEDGAZ PIPELINE	Gas	Algeria	23/11/2010	500.000.000
EGYPTIAN POWER TRANSMISSION	Power grid	Egypt	24/10/2010	260.000.000
GIZA NORTH POWER PLANT	Gas	Egypt	24/10/2010	300.000.000
STEG IV TRANSPORT ELECTRICITE	Power grid	Tunisia	15/10/2010	185.000.000
WIND FARM GULF OF EL ZAYT	Wind	Egypt	30/09/2009	50.000.000
STEG - CENTRALE DE GHANNOUCH	Oil and Gas	Tunisia	30/12/2008	86.000.000
DEIR ALI II POWER PLANT	Gas	Syria	08/12/2008	275.000.000
ONE - RESEAUX ELECTRIQUES II	Power grid	Morocco	05/12/2008	170.000.000
EGAS GAS GRID REINFORCEMENT	Gas	Egypt	09/10/2008	250.000.000
STEG GAZ II	Gas	Tunisia	24/04/2008	60.000.000
ONE - PROJETS HYDROELECTRIQUES II	Hydro	Morocco	27/12/2007	150.000.000
EL ATF AND SIDI KRIR POWER PLANTS - 1	Has	Egypt	06/12/2007	130.000.000
TRANSMED PIPELINE EXPANSION	Gas	Tunisia	28/11/2007	185.000.000
EL ATF AND SIDI KRIR POWER PLANTS - 2	Gas	Egypt	21/12/2006	130.000.000
UPPER EGYPT GAS PIPELINE	Gas	Egypt	21/12/2006	50.000.000
STEG - CENTRALE DE GHANNOUCH	Oil and Gas	Tunisia	15/12/2006	114.000.000
ONE - ELECTRIFICATION RURALE II	Power grid	Morocco	14/12/2006	170.000.000
ELECTRICITY NETWORK UPGRADING	Power grid	Gaza / West bank	13/12/2005	45.000.000
DEIR AZZOUR POWER PLANT	Gas	Syria	25/11/2005	200.000.000
GASCO GAS PIPELINES III	Gas	Egypt	06/07/2005	50.000.000
IDKU LNG PLANT II - 1	LNG	Egypt	05/07/2005	117.210.070
IDKU LNG PLANT II - 2	LNG	Egypt	05/07/2005	117.210.070
TALKHA & EL KURIEMAT POWER PLANTS	Gas	Egypt	17/12/2004	160.000.000
DAMIETTA LNG PLANT - 1	LNG	Egypt	16/12/2004	94.211.650
DAMIETTA LNG PLANT - 2	LNG	Egypt	16/12/2004	94.211.650
ONE PARC EOLIEN DE TANGER	Wind	Morocco	04/11/2004	80.000.000
ONE- DEPOLLUTION CENTRALE MOHAMMEDIA	Oil and Gas	Morocco	04/11/2004	40.000.000
DEIR ALI POWER PLANT	Gas	Syria	01/11/2004	200.000.000
REGIONAL GAS PIPELINE	Gas	Jordan	05/06/2004	100.000.000
IDKU LNG PLANT - 1	LNG	Egypt	19/12/2003	152.234.400
IDKU LNG PLANT - 2	LNG	Egypt	19/12/2003	152.234.400
STEG GAZ	Gas	Tunisia	10/11/2003	55.000.000
NUBARIYA POWER PLANT II	Gas	Egypt	15/07/2003	150.000.000
ONE INTERCONNEXIONS II	Power grid	Morocco	16/10/2002	120.000.000
NUBARIYA COMBINED CYCLE POWER PLANT	Gas	Egypt	10/09/2002	150.000.000
STEG III TRANSPORT D ELECTRICITE	Power grid	Tunisia	05/07/2002	150.000.000
CAIRO NORTH POWER PLANT	Gas	Egypt	01/10/2001	150.000.000
ONE CENTRALE POMPAGE AFOURER	Hydro	Morocco	16/07/2001	90.000.000
ELECTRICITY DISTRIBUTION	Power grid	Syria	05/02/2001	115.000.000
Total:				5.891.312.240

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