



Европейска инвестиционна банка
Evropska investicni banka
Den Europæiske Investitionsbank
Europäische Investitionsbank
Euroopa Investimispank
Eupwaukij Ipmeča Enevdueaw
European Investment Bank
Banco Europea de Inversiones
Banque européenne d'investissement
Banca europea per gli investimenti
Eropas investicju banka
Europos investicijų bankas
Európai Beruházási Bank
Bank Ewropew tal Investment
Europese investeringsbank
Europejski Bank Inwestycyjny
Banco Europeu de Investimento
Banca Europeană de Investiții
Európska investičná banka
Evropska investicijska banka
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Europiska investeringsbanken

Secretary General

EL CASO CÁDIZ

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info@elcasocadiz.es

EXP BEI - EIB
012837 28.NOV 13

Luxembourg, 27 November 2013

Dear Madam,
Dear Sir,


I refer to our letter of 22 July 2013 informing you of the launch of the review into your confirmatory complaint concerning the Cadiz Container Port Terminal Project.

The EIB Complaints Mechanism has now completed its inquiry into the matter. I am therefore providing you with its letter summarising the conclusions of the enquiry.

Additional information about the Complaints Mechanism is available at the following webpage: <http://www.eib.org/about/accountability/complaints/index.htm>

I trust the reply is helpful in clarifying the issue raised in your message.

Yours sincerely, 

A. Querejeta 

Enclosure: 1



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Luxembourg, 21 November 2013

IG/CM/2013/AA/ad

Case of Reference: Confirmatory Complaint SG/E/2013/03
Terminal de Contenedores de Cádiz

Dear
Dear [REDACTED]

Further to our previous communications, including your emails of 29/10/2012, 02/08/2013, 09/08/2013, 11/08/2013, 14/08/2013, 23/08/2013, 02/09/2013 and 06/09/2013, our letters of 23/07/2013 and 16/09/2013, and subsequent phone calls, we are pleased to submit to you the findings of the Complaints Mechanism (EIB-CM) concerning the case of reference.

The complaint filed with the EIB-CM on the 16/07/2013 makes references to 3 main allegations:

1. Allegations concerning the financing by the European Investment Bank (EIB or the Bank) of the new lock of the port of Seville and its potential environmental implications;
2. Allegations concerning the financing by the EIB of the container terminal located in the Bay of Cádiz;
3. Allegations concerning the activities of the Vice President of the Bank, [REDACTED]

We would like to point out to you that the allegations (1) and (2) refer to two different projects financed by the Bank that followed separate approval processes in different years. Given that a report has already been published on the 2nd October 2012 concerning the allegations of the Cádiz Container Port Terminal, the new environmental allegations on the financing of the Puerto de Sevilla will be addressed in a separate report. This request will be processed under the extended procedure in accordance to article 10.2 of the Rules of Procedure of the EIB Complaints Mechanism Policy as already indicated in our holding letter of 16/09/2013. As indicated in the letter, you may expect a formal reply from the EIB as soon as possible and by no later than 11 February 2014. For future references, this complaint has been registered as SG/E/2013/09.

As regards allegation (3) the EIB Compliance Office (OCCO) examined the part of the documentation you submitted related to the activities of Vice President [REDACTED]. The documentation does not appear to contain any further substantial elements compared to the previous allegations you had put forward by your letter dated 27. December 2011, to which OCCO had already replied in detail by letter of 16th January 2012. Therefore OCCO confirms the conclusion expressed in its first reply whereby no indication of a possible violation of rules and procedures of the EIB is given.

As a result, the present communication will only address issues concerning the allegation on the project of the Container Terminal of the Port of Cádiz, which will be treated as a Confirmatory Complaint in accordance to the Rules of Procedure of the EIB Complaints Mechanism. In this regard, the assessment has been carried out taking into consideration (i) the Findings and Conclusions of the EIB-CM Conclusions Report dated 2 of October 2012; and (ii) the Bank's relevant documents for the Bank's decision-making process. The EIB-CM has also liaised with the Bank's services as appropriate as well as with the concerned services of the European Commission that dealt with the complaint that you lodged with them concerning the same project. Following your request, we asked the EC / Directorate General Regional and Urban Policy / Policy / Legal Affairs a copy of the letter of 10 June 2013 (Subject CHAP 92012) 197) that addressed the complaint lodged by you with the European Commission.

Based on the information gathered, the EIB-CM has carried out an independent assessment of the issues raised in your complaint. A summary of the allegations, the findings of the EIB-CM and the main conclusions are presented below.

Summary of the Allegations concerning the Cádiz Container Terminal Project:

During our phone conversation of 6 September 2012 the allegations of the different documents submitted were summarised as follows:

- a) The EIB would have failed to assess the regional impact of the project. According to your allegations, the project would not bring regional benefits – as claimed by the promoter – and would penalise the economic development of Cádiz. In addition, the declaration of the Port of Seville as a new Free Trade Area would incentivise the development of the logistics and transformation industries of Seville in detriment of Cádiz.
- b) You also claim that the EIB has failed to assess the proper location of the project: Cádiz bay is unsuitable for bulk-handling because of the strong winds and the risks associated to solid and liquid bulk handling; the location of the container terminal should be changed;
- c) In addition, and according to your letter, the EIB would have failed to assess the environmental impact of the project because the promoter had not carried out an environmental assessment on the impact of dust related to the bulk-handling terminal
- d) Finally, the EIB would have failed to carry out a proper Cost Benefit Analysis of the project. According to your claim, part of the costs of the bridge that crosses the Bay of Cadiz should have been included as part of the investment cost of the project financed by the Bank. You therefore request us to review the Cost Benefit analysis carried out by the Bank.

Findings of the allegations concerning the Cádiz Container Terminal Project

Issues concerning the regional impact of the project (a), the location of the project (b) and the environmental impacts (b and c) were analysed in the EIB-CM Conclusions report of 2 October 2012. The report concluded that there was not maladministration from the EIB. For ease of reference we are reproducing the relevant paragraphs.

Concerning the regional impact of the project, the findings of the EIB-CM report (§10.1) indicated that "The port is located in a Convergence Region (Andalucía) and Cohesion country and.... is considered in the Trans European Transport Networks (TENs)". The report continues saying "the construction of the new container terminal will improve the competitiveness of the port and will release berth capacity for cruise traffic. Additionally, the project will contribute to a better integration of the urban environment with the cruise terminal, strengthening the attractiveness of the port as a key port of call for many Atlantic cruise routes...". The EIB-CM concluded (§11.1) that "the project does not contradict the EIB's core criteria nor is blatantly detrimental to the regional development of Cádiz as claimed by the complainants" (Emphasis added).

Allegations concerning the location of the container port terminal were addressed already in the report of 2 October 2012. We noted that in your original complaint, the allegations related to the space available for the location of the Port Terminal in Las Cabezuélas. At that time, the EIB-CM concluded that "... it seems that the claim from the complainants that this available land is six times greater than the 380,000 m2 under consideration for the New Container Terminal in the Eastern Dock is incorrect". In your new allegation, you add environmental considerations related to the location of the terminal. In this regard, we would like to draw your attention that section 6 of the EIB-CM Conclusions Report of 2 October 2012 makes reference to the main environmental impacts Identified during Project Appraisal. Based on those findings, the EIB-CM concluded that "Various studies were conducted regarding the environmental impact an alternatives performed and upon which the competent authorities based their subsequent approval of the EIA and the environmental permit". The same conclusion would apply to reply to your claim (c) related to the absence of environmental assessment on the impact of dust related to the bulk-handling terminal.

Concerning points (b) and (c) we also note that no objections were raised by the EC from the environmental point of view in their communication sent to you on the 10 June 2013.

In conclusion, the allegations concerning issues (a), (b), and (c) have been adequately and extensively treated both by the Bank and the EC-DG Regio.

Concerning your claim (d) – the failure of the EIB to carry out a proper Cost Benefit Analysis – and the specific remark that the EIB should have included, total or partially, the costs of the bridge that crosses the Bay of Cádiz, we would like to inform you that the said bridge is not part of the Technical Description of the project financed by the Bank. The bridge is developed by a different authority with different sources of funds and it therefore falls outside the scope of intervention of the Bank. In any case, and for the sake of transparency, the EIB-CM has reviewed and discussed with the Bank's services the main aspects of the Financial and Economic Due diligence carried out by the Bank and we would like to present for your consideration our main findings and conclusions:

- As a general rule, the Bank conducts economic appraisal across all the sectors of the economy where it operates. According to the Bank's guide for Economic Appraisal of Investment Projects at the EIB, the Bank uses standard economic appraisal techniques, including Cost Benefit Analysis and Cost Effectiveness Analysis¹.
- The standard economic appraisal technique, which helps assess the socio-economic desirability of the project, is cost-benefit analysis (CBA). It is designed to produce a measure of project returns corrected for the various distortions and constraints to markets. The outcome of a CBA is normally summarised in two complementary figures – the economic rate of return and the economic net present value.
- Concerning the case under consideration, the Bank's Board report presented a summary of the Financial Profitability and the Economic Profitability of the project. Both analyses were based on Cash Flows projections.
- The Economic and Financial Internal Rate of Returns (IRRs) were calculated for each Cash Flow. Whilst there is a single economic rate of return for the project, the financial analysis distinguished between "the Project" and the "Operator" returns. The financial analysis was extended to the global financial rate of return of the project (that combines financial profitability of the Port authority and the Operator)
- Analysis was carried out taking into consideration the costs associated to the investment financed by the Bank (as afore-mentioned, it does not include the bridge of the Cádiz Bay).
- The CBA for the project resulted in a positive but low economic return; in addition, the financial cash flow analysis justifies the need to access sources of funding whose terms would be commensurate with the prospective low returns.

¹ <http://www.eib.org/infocentre/publications/all/economic-appraisal-of-investment-projects.htm>

- The economic analysis of the cash flow projections take into consideration the several economic benefits, such as (i) the accommodation of future traffic growth; (ii) the provision of facilities to accommodate bigger container vessels; and (iii) the release of capacity at the current container terminal to be used by the cruise sector.
- The Bank also extended its qualitative economic analysis to other benefits that are difficult to quantify such as: (iv) segregation of the operation of container traffic and passenger, releasing port surface that can be used for recreational purposes, helping to a better integration of the cruise terminal within the city; (v) the release of traffic congestion in the urban area of Cádiz; (vi) by increasing the capacity of the cruise terminal, the project will help to the development of the economic activities linked to the tourist sector in the region.

In light of the above, the EIB-CM concludes that the Bank carried out an adequate Cost Benefit Analysis of the investment project under consideration (The Cádiz Container Port Terminal). The outcome of the analysis was presented to the Board members, who were able to take a decision with sufficient knowledge of the main economic and financial considerations of the project.

After analysing the relevant information concerning your complaint, the EIB-CM has not found any evidence of maladministration by the Bank concerning the processing of the Cádiz Container Port Terminal Project. We will therefore close this Confirmatory Complaint. We would also like to remind you that this is a Confirmatory Complaint and consequently complainants who are not satisfied with the outcome of the procedure before the EIB-CM, have the right to lodge a complaint of maladministration against the EIB with the European Ombudsman.

Yours sincerely,

Felismino Alcarpe
Head of Division
Complaints Mechanism

Alfredo Abad
Deputy Advisor
Senior Complaints Officer

Cc: DG Regio – Brussels