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COMPLAINTS MECHANISM

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CURTIS BIOMASS POWER GENERATION PLANT

6 September 2021

European Investment Bank Group

Curtis Biomass Power Generation Plant Conclusions Report

6 September 2021

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Disclaimer

The conclusions presented in this report are based on the information available to the EIB Group Complaints Mechanism up to 9 July 2021. The conclusions are addressed solely to the EIB.

The EIB Group Complaints Mechanism

The EIB Group Complaints Mechanism is a tool enabling resolution of disputes in case any member of the public feels that the European Investment Bank (EIB) might have done something wrong, i.e. if it has committed an act of maladministration. The Complaints Mechanism is not a legal enforcement mechanism and will not substitute the judgement of competent judicial authorities.

Maladministration means poor or failed administration. It occurs when the EIB fails to act in accordance with a rule or principle that is binding upon it, including its own policies, standards and procedures. The concept of maladministration includes failure by the EIB to comply with human rights, with applicable law, or with the principles of good administration. Maladministration may relate to EIB's Group decisions, actions or omissions. This may include the environmental or social impacts of the EIB's projects and operations.

One of the main objectives of the EIB Group Complaints Mechanism is to ensure the right to be heard and the right to complain. For more information on the EIB Group Complaints Mechanism please visit: https://www.eib.org/en/about/accountability/complaints/index.htm.

CONTENTS

GLOSSARY

BoD	EIB Board of Directors, a governing body of the EIB approving projects submitted to the EIB for financing
EIA	Environmental Impact Assessment
EIB	European Investment Bank
EIB-CM	EIB Group Complaints Mechanism Division
ESCS	Environmental and Social Completion Sheet
ESDS	Environmental and Social Data Sheet
ESPS	EIB Statement of Environmental and Social Principles and Standards
EUR	Euro
FSC	Forest Stewardship Council
GF	Greenalia Forest, a company supplying forest residue to the plant
IED	Industrial Emissions Directive
kt/a	Kilo tonnes per annum
LTA	Lenders technical advisor
MoEEI	Ministry of Economy, Employment and Industry of Galicia
MoESP	Ministry of Environment and Spatial Planning of Galicia
NGO	Non-governmental organisation
PEFC	Program for the Endorsement of Forest Certification
Project	Curtis Biomass Power Generation Plant project
Promoter	Greenalia Biomass Power Curtis Teixeiro S.L.U.

EXECUTIVE SUMMARY

This EIB Group Complaints Mechanism Division (hereinafter: EIB-CM) compliance review responds to a complaint in relation to environmental and social impacts of the Curtis Biomass Power Generation Plant. The project submitted for financing by the EIB in April 2018 involves the construction of a 50 MWe electricity-only biomass plant located in Galicia, Spain. The project promoter is Greenalia Biomass Power Curtis Teixeiro S.L.U, a subsidiary of Greenalia Power S.L., a Spanish company focusing on renewable energy production and sustainable forestry management.

In March 2019, EIB-CM received a complaint regarding the project from two local non-governmental organisations on a number of overlapping grounds. The EIB-CM's Initial Assessment Report, dated July 2019, concluded that issues raised by the complainants warranted a compliance review into the allegations. The EIB-CM's analysis relative to the allegations has resulted in the following:

1. **Insufficient public engagement and availability of project-related information**: The complainants allege that there was insufficient public engagement and project information available over the course of the public consultation process.

   Outcome: **No grounds**.

2. **Insufficient availability of forest residue**: The complainants challenge the availability of forest residue in terms of its characteristics and sourcing area.

   Outcome: The EIB-CM **suggests** that:

   a. Concerning this project:
      i. the EIB operational services liaise with the promoter with a view to obtain more information on the nature of feedstock used since launch of the operation in March 2020 in order to verify that the plant used forest residue from forest operations consisting of firewood with a small diameter, bark and other biomass waste that cannot be used in the industry and hence, is currently not collected from the ground.
      ii. the EIB operational services clarify in the Environmental and Social Completion Sheet (ESCS) that, while at the moment the forest residue is likely to be sourced from within maximum 213 km transport distance from the plant, in practice, in line with EU law, it may come from further away in the EU.
   b. Concerning future projects:
      i. the EIB operational services develop their procedures further within one year after the closure of the case to include paying particular attention during appraisal to the fuel characteristics in biomass-related projects.
      ii. the EIB operational services use the term “average transport distance” instead of the term “radius”.

3. **Appropriateness of certification schemes**: The complainants are concerned about the forest residue certification. The complainants consider that a minor percentage of area is suitable for certification. The complainants also allege that the Program for the Endorsement of Forest Certification (PEFC) is a form of greenwashing created by the forest industry, without credibility.

   Outcome: **No grounds.**

4. **Negative environmental impact of the forest residue used**: The complainants allege that instead of forest residue, the promoter will rely on biomass from eucalyptus plantations. Subsequent prioritisation of planting of eucalyptus plantations will have a negative impact on the environment (e.g. biodiversity, water, climate, fire).

   Outcome: **No grounds.**

5. **Economic sustainability of the project**: The complainants raise concerns about the economic sustainability of the project.

   Outcome: The EIB-CM **suggests** that the EIB operational services clarify in the ESCS that, while one of the objectives of the regional law is to prevent forest fires, the law does not contain an exact provision requiring collection of forest residue following forest operations with the aim of preventing fires, apart from some specific cases (e.g. along highways).

1 BACKGROUND

1.1 Object of the Complaint

1.1.1 In 2018, the EIB signed €60 million in financing for the Curtis Biomass Power Generation Plant project (hereinafter the project) in Galicia, Spain[1]. The total project cost stands at €130 million[2]. The financing for the project is provided by a group of lenders, including the EIB, which have concluded a Common Terms Agreement. The lenders are assisted by a lenders technical advisor (LTA). A majority of the loan has been disbursed.

1.1.2 The project promoter is Greenalia Biomass Power Curtis Teixeiro S.L.U. (hereinafter the promoter)[3], a subsidiary of Greenalia Power S.L., a Spanish company focusing on renewable energy production and sustainable forestry management.

1.1.3 The project concerns construction of a 50 MWe electricity-only biomass plant[4]. According to the information available on the EIB's website, the plant uses 100% forest residues sourced from a 100 km radius around the plant[5]. The support fuel is natural gas and light fuel oil may also be used during start-up. The plant is located in an existing industrial estate in the north-west of Teixeiro[6], Curtis in the Spanish region of Galicia.

1.1.4 The electricity produced will be fed into the public grid. The plant is expected to produce and sell approximately 324 GWh per year.

1.1.5 The plant went into operation in March 2020[7], after a 19-month construction phase[8].

1.2 Complaint

1.2.1 In March 2019, the EIB Group Complaints Mechanism Division (hereinafter EIB-CM) received a complaint regarding the project from the complainants, two local non-governmental organisations (NGOs)[9]. The allegations from the complainants are presented in Table 1.

[1] The financing is provided as part of the investment loans for a total of €60 million signed on 25 July 2018 and 26 October 2018 - CURTIS BIOMASS POWER GENERATION PLANT (eib.org), accessed on 6 September 2021.
[2] CURTIS BIOMASS POWER GENERATION PLANT (eib.org), accessed on 6 September 2021.
[3] More information about the promoter is available at: Energía Eléctrica – Greenalia, accessed on 6 September 2021.
[4] CURTIS BIOMASS POWER GENERATION PLANT (eib.org), accessed on 6 September 2021.
[5] CURTIS BIOMASS POWER GENERATION PLANT (eib.org), accessed on 6 September 2021.
[6] Section B.2 of May 2017 Curtis Biomass Project application for the integrated environmental permit, available at: GUION PARA EL DISEÑO DEL (eib.org), accessed on 6 September 2021.
[7] GREENALIA'S FIRST 135 M€ BIOMASS PLANT GOES INTO OPERATION – Greenalia, accessed on 6 September 2021.
[8] GREENALIA'S FIRST 135 M€ BIOMASS PLANT GOES INTO OPERATION – Greenalia, accessed on 6 September 2021.
[9] Asociación ambiental y cultural Petón do Lobo and Asociación Amigos y Amigas de los Bosques "O Ouriol do Anllóns".

Table 1 - Summary of allegations

Allegation	Description of the Allegation
Insufficient public engagement and availability of project-related information	The complainants allege that there was insufficient public engagement and project information available over the course of the public consultation process[10].
Insufficient availability of forest residue	The complainants challenge the availability of forest residue in terms of its characteristics and sourcing area[11].
Appropriateness of certification schemes	The complainants are concerned about the forest residue certification[12]. The complainants consider that a minor percentage of the area is suitable for certification[13]. The complainants also allege that the Program for the Endorsement of Forest Certification (PEFC) is a form of greenwashing created by the forest industry, without credibility[14].
Negative environmental impact of the forest residue used	The complainants allege that instead of forest residue, the promoter will rely on biomass from eucalyptus plantations[15]. Subsequent prioritisation of planting of eucalyptus plantations will have a negative impact on the environment (e.g. biodiversity, water, climate, fire)[16].
Economic sustainability of the project	The complainants raise concerns about the economic sustainability of the project[17].

1.2.2 Finally, the complainants allege that the project information on the EIB website presents information that does not reflect realities on the ground. Based on the above, the complainants are asking the EIB to reconsider its decision to finance the project.

2 WORK PERFORMED

2.1.1 As part of its initial assessment, the EIB-CM conducted meetings with (i) the EIB operational services concerned[18] and (ii) the complainants[19]. In April 2019, the EIB-CM transferred the complainants' request for access to information to the competent EIB services, which provided the EIB's response in May 2019[20].

2.1.2 This compliance review was conducted in follow to the EIB-CM's Initial Assessment Report, dated July 2019[21].

2.1.3 During its compliance review, the EIB-CM reviewed available information and documents and liaised with relevant stakeholders (e.g. complainants, EIB operational services). The EIB-CM also took into account request for access to information from the complainants and other interested parties.

2.1.4 On the basis of the collected and analysed information, the EIB-CM prepared this conclusions report.

[10] § 6.1 of the Initial Assessment Report available at: 2019-07-16-complaint-sg-e-2019-04-curtis-biomass-power-generation-plant-initial-assessment-report-en1.pdf (eib.org), accessed on 6 September 2021.
[11] §§ 5.2.1, 6.1, item (ii) of the Initial Assessment Report.
[12] § 5.2.4 of the Initial Assessment Report.
[13] § 5.2.3 of the Initial Assessment Report.
[14] §§ 5.2.6 and 5.2.14 of the Initial Assessment Report.
[15] §§ 5.2.1 and 5.2.4 of the Initial Assessment Report.
[16] §§ 5.2.4, 5.2.5 and 5.2.14 of the Initial Assessment Report.
[17] § 6.1. (ii) of the Initial Assessment Report.
[18] § 3.3 of the Initial Assessment Report.
[19] § 3.2 of the Initial Assessment Report.
[20] § 3.4 of the Initial Assessment Report.
[21] The Initial Assessment Report is available at: 2019-07-16-complaint-sg-e-2019-04-curtis-biomass-power-generation-plant-initial-assessment-report-en1.pdf (eib.org), accessed on 6 September 2021.

3 REGULATORY FRAMEWORK

3.1 The EIB Group Complaints Mechanism

3.1.1 The EIB Group Complaints Mechanism Policy[22] tasks the EIB-CM with handling complaints concerning alleged maladministration by the EIB[23]. Maladministration means poor or failed administration[24].

3.1.2 The Policy specifies that the EIB-CM review the EIB's activities with a view to determining whether maladministration attributed to the EIB has taken place[25].

3.2 Project Applicable Standards

3.2.1 The project must comply with the project applicable standards. The project applicable standards include EU and national law[26], EIB standards and financing provisions.

3.2.2 The relevant EU and national laws include: (i) Environmental Impact Assessment (hereinafter EIA) Directive[27], as transposed into Law 21/2013[28]; (ii) Industrial Emissions Directive[29] (hereinafter IED), as transposed into a number of acts such as Law 16/2002 and Royal Legislative Decree 1/2016[30]; (iii) Renewable Energy Directive[31], which had to be transposed into national legislation by 30 June 2021[32]; and (iv) Timber Regulation[33].

3.2.3 The EIA Directive requires the competent authorities to determine whether the plant[34] requires a full EIA[35]. In Spain, this is done through the preparation of a simplified EIA[36], which is made publically available[37] for consultation by the public administrations and persons concerned[38].

3.2.4 The IED requires the competent authorities[39] to issue a permit for the plant[40]. The IED requires the competent authorities to carry out a public consultation procedure before issuing a permit[41].

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[22] Available at: https://www.eib.org/attachments/strategies/complaints_mechanism_policy_en.pdf, accessed on 6 September 2021.
[23] § 5.1.3 of the EIB Group Complaints Mechanism Policy.
[24] § 3.1 of the EIB Group Complaints Mechanism Policy.
[25] § 5.3.3 of the EIB Group Complaints Mechanism Policy.
[26] Paragraphs 6 and 36 of the EIB Statement of Environmental and Social Principles and Standards (ESPS), available at: https://www.eib.org/attachments/strategies/eib_statement_esps_en.pdf, accessed on 6 September 2021; Section 26, Volume II of the 2013 v. of the Handbook.
[27] Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment, available at: EUR-Lex - 02011L0092-20140515 - EN - EUR-Lex (europa.eu), accessed on 6 September 2021.
[28] https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32011L0092, accessed on 6 September 2021. A copy of the law is available at: BOE.es - BOE-A-2013-12913 Ley 21/2013, de 9 de diciembre, de evaluación ambiental, access on 6 September 2021.
[29] Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control), available at: EUR-Lex - 02010L0075-20110106 - EN - EUR-Lex (europa.eu), accessed on 6 September 2021.
[30] EUR-Lex - 32010L0075 - EN - EUR-Lex (europa.eu), accessed on 6 September 2021.
[31] Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (recast), available at: EUR-Lex - 02018L2001-20181221 - EN - EUR-Lex (europa.eu), accessed on 6 September 2021.
[32] Article 36 of the Renewable Energy Directive.
[33] Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market, available at: EUR-Lex - 02010R0995-20200101 - EN - EUR-Lex (europa.eu), accessed on 6 September 2021.
[34] As a combustion installation with a heat output of less than 300 MW, the plant is EIA Directive Annex II project for which Member States are required to determine whether the project must be subject to an EIA. The Member States are required to determine this through: (a) a case-by-case examination; and/or (b) thresholds or criteria set by the Member State - Article 4(2) of the EIA Directive.
[35] Article 4 and Annex II, Section 3(a) of the EIA Directive.
[36] Articles 7(2) and 45 – 48 and Annex II of Law 21/2013.
[37] Articles 47(3) and 48(4) of Law 21/2013.
[38] Article 46 of Law 21/2013.
[39] Environmental authority of the relevant autonomous region - Law 16/2002.
[40] Articles 4 and 5, Annex I, section 1.1 of the IED.
[41] Article 24(1) and Annex IV of the IED.

3.2.5 The Renewable Energy Directive lays down sustainability criteria for eligible biomass (e.g. forest residue) based on its origin and production schemes[42].

3.2.6 The Timber Regulation aims at combating illegal harvesting and preventing trade in illegally harvesting wood in order to reduce illegal logging by ensuring that no illegal timber or timber products can be sold in the EU. The Timber Regulation contains a broad definition of timber and timber products which includes prefabricated buildings[43]. Timber, including forest residue, is a tradeable good that can be traded freely on the EU market in line with EU law.

3.2.7 The following national and regional acts hold importance: (i) Royal Decree 947/2015; (ii) Galician Law 7/2012[44] on forests; and (iii) Galician Decree 52/2014 on forest management[45]. According to the LTA, the national and regional legislation does not require a stakeholder engagement plan.

3.2.8 The Royal Decree 947/2015 provides premium tariff for new biomass plants located in Spain. This premium tariff aims to allow renewable technologies to compete with traditional technologies in the energy market.

3.2.9 Article 6(2) and (16) of Galician Law 7/2012 sets fire prevention as one of the objectives of the Law. Article 95(1) of the Law requires forest managers to collect or shred forest residue after harvesting of a forest. The same provision lists exceptions to this rule, such as difficulties in accessing the forest residue, environmental reasons and erosion. A failure to do so results in an offence, in line with Article 128. Article 95(2) requires the Forest Administration to regulate use of forest residue, aimed at substituting fossil fuels with biomass. The regional legislation does not contain an exact provision requiring collection or shredding of forest residue after harvesting timber with the aim of preventing fires apart from some specific cases (e.g. along highways)[46].

3.2.10 Article 77(4) and (7) of Galician Law 7/2012 and Articles 7, 8 and 9 of Galician Decree 52/2014 require owners of forest to obtain an instrument of forest management, or, in the case of forests smaller than 15 ha, plan forest management in line with good practices and models. A certificate can be one of the instruments of forest management according to Article 105 of Galician Law 7/2012.

3.2.11 The project must comply with the EIB standards as well. The EIB standards are set in the EIB's 2013 Environmental and Social Handbook and include standards on stakeholder engagement (Standard 10), EIA (Standard 1) and biodiversity (Standard 3).

3.2.12 Standard 10 on stakeholder engagement expects promoters to uphold an open, transparent and accountable dialogue with all relevant stakeholders[47]. The Standard requires the promoter to engage in a preliminary scoping process with identified affected individuals, communities and other relevant stakeholders to ensure the identification of all key issues[48].

3.2.13 Standard 1 on assessment and management of environmental and social impacts and risks requires the project to be subjected to an assessment according to the EIA Directive[49].

3.2.14 Standard 3 on biodiversity and ecosystems requires the project to comply with EU nature legislation[50]. Standard 3 requires biodiversity scoping for all projects as part of the overall EIA

[42] Article 29(6) of the Renewable Energy Directive.
[43] Article 2, item (a) and the Annex of Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market.
[44] Available at LEY 7/2012, de 28 de junio, de montes de (juridicas.com), accessed on 6 September 2021.
[45] https://www.xunta.gal/dog/Publicados/2014/20140508/AnuncioG0165-250414-0003_es.html, accessed on 6 September 2021.
[46] See amendments to Law 3/2007 of 9 April of prevention and defence against forest fires in Galicia, included in the final provisions of Law 7/2012.
[47] Section 3, Standard 10 of the 2013 v. of the Handbook.
[48] Section 28, Standard 10 of the 2013 v. of the Handbook.
[49] Sections 8, 20 and 29, Standard 1 of the 2013 v. of the Handbook.
[50] Section 63, Standard 3 of the 2013 v. of the Handbook.

process[51]. In the EU, the biodiversity assessment looks primarily into compliance with EU nature legislation[52]. The EIA, which takes into account the location and scale of project activities, the types of technology used, and the project's proximity to areas that have important biodiversity values, should flag any potential impacts and risks the project may have regarding biodiversity and ecosystems[53].

3.3 Responsibilities of the EIB

3.3.1 In line with the EIB Statement of Environmental and Social Principles and Standards (ESPS)[54], the responsibility for compliance with the project applicable standards lies with the promoter and local authorities[55]. For example, the promoter is responsible for carrying out any stakeholder engagement and consultation required, and/or verifying that any project-related stakeholder engagement and consultation activities carried out by third parties (e.g. host government agencies) meet the standards expected by the EIB[56]. In addition, the promoter is responsible for ensuring that an EIA is carried out according to national and other applicable environmental law, with reference to the EIA Directive[57].

3.3.2 However, the EIB will not finance projects that do not meet project applicable standards[58]. Whether the projects meet the project applicable standards is established as part of the EIB's project appraisal and monitoring.

3.3.3 The ESPS requires the EIB to appraise projects it finances[59]. The appraisal takes place prior to signature of the finance contract[60]. During the appraisal, the EIB is required to satisfy itself that the project complies with the EU environmental law and that is in line with the EIB's standards[61]. For example, the EIB is required to verify that the biodiversity assessment for the project has been carried out in accordance with EIB standards[62]. The EIB also conducts a financial and economic appraisal of the project. The EIB carries out a cost-benefit analysis which relies on a number of sources, including documentation provided by promoters, widely available statistical tools and information, and the EIB's own expertise and databases[63]. The cost-benefit analysis includes, wherever quantifiable, expected environmental externalities such as the costs/benefits of security of energy supply[64]. For some biomass projects, additional benefits may include fire prevention[65]. The appraisal also aims at assessing the project's impact[66].

3.3.4 During appraisal, the EIB may require the promoter to carry out supplemental studies to the satisfaction of the EIB[67]. Sometimes, the appraisal results in conditions for disbursement. The promoter must meet these conditions to the satisfaction of the EIB prior to the disbursement of the EIB financing[68].

3.3.5 The promoter's obligations are described in the finance contract[69] and other terms of financing, such as the Common Terms Agreement. Once the promoter and the EIB sign the finance contract, the EIB is required to monitor the project[70]. The monitoring aims at ensuring

[51] Section 3, Standard 3 of the 2013 v. of the Handbook.
[52] Annex 8 and Section 281, Volume II of the 2013 v. of the Handbook.
[53] Section 177, Volume II of the 2013 v. of the Handbook.
[54] Available at: https://www.eib.org/attachments/strategies/eib_statement_esps_en.pdf, accessed on 6 September 2021.
[55] Paragraph 2 of the ESPS Statement.
[56] Section 6, Volume II of the 2013 v. of the Handbook.
[57] Section 114, Volume II of the 2013 v. of the Handbook.
[58] Paragraph 6 of the ESPS Statement.
[59] Paragraph 17 of the ESPS Statement.
[60] https://www.eib.org/en/projects/cycle/index.htm, accessed on 6 September 2021.
[61] Section 27, Volume II of the 2013 v. of the Handbook.
[62] Section 90, item 17, Volume II of the 2013 v. of the Handbook.
[63] § 9 of the 2013 Energy Lending Criteria.
[64] § 9 of the 2013 Energy Lending Criteria.
[65] § 67 of the 2013 Energy Lending Criteria.
[66] Section 8, Volume II of the 2013 v. of the Handbook.
[67] Section 6, Volume II of the 2013 v. of the Handbook.
[68] Section 256, indent 2, Volume II of the 2013 v. of the Handbook.
[69] §7 ESPS.
[70] §8 of the Statement section of the ESPS and section 270, Volume II of the 2013 v. of the Handbook.

compliance of the project with the EIB's approval conditions[71]. In particular, monitoring aims at verifying the actual implementation and initial operation of the project[72]. The EIB monitors projects on the basis of reports provided by the promoter, as well as EIB site visits, information provided by the local community, etc.[73]. The promoter is required to provide periodic environmental and social reports to the EIB[74]. The promoter is also required to comply with the contractually agreed project applicable standards and requirements to the satisfaction of the EIB, and to monitor the project's performance against these requirements as part of the promoter's environmental and social management system[75]. The promoter is responsible for achieving compliance with relevant legal standards and policies and managing the environmental and social impacts and risks associated with its project to this end[76].

3.3.6 15 months following the end of works, the promoter is required to submit its project completion report[77]. EIB operational services will then prepare EIB's project completion report summarising environmental aspects of the project[78]. The Environmental and Social Completion Sheet (ESCS) will be part of the EIB's project completion report and will be published on the EIB's website.

4 ANALYSIS, FINDINGS AND CONCLUSIONS

4.1 Insufficient Public Engagement and Availability of Project-Related Information

Analysis and findings regarding the project applicable standards

4.1.1 The public consultation procedure concerning the project took place as part of the (i) simplified EIA and (ii) integrated environmental/construction permitting process.

4.1.2 In 2017, the Ministry of Environment and Spatial Planning of Galicia (MoESP) required that the project be made subject to a simplified EIA[79]. The promoter submitted a simplified EIA study[80]. The MoESP provided the relevant information on its website and carried out a public consultation during which it received a number of comments, including from the complainants[81]. The complainants' comments referred to the project's impact on the environment[82]. In July 2017, the MoESP issued a simplified EIA decision which, on the basis of submitted documentation and sectoral reports received, concluded that a full EIA was not required[83].

4.1.3 The same year, the Ministry of Economy, Employment and Industry (MoEEI) conducted an integrated environmental/construction permitting procedure. The promoter submitted an

[71] Section 270, Volume II of the 2013 v. of the Handbook.
[72] Section 270, Volume II of the 2013 v. of the Handbook.
[73] Paragraph 8 of the ESPS Statement.
[74] Section 7, Volume II of the 2013 v. of the Handbook.
[75] Section 7, Volume II of the 2013 v. of the Handbook.
[76] Section 6, Volume II of the 2013 v. of the Handbook.
[77] Section 273, Volume II of the 2013 v. of the Handbook.
[78] Section 276, Volume II of the 2013 v. of the Handbook.
[79] 13 July 2017 Resolution 2017/0053, available by typing 2017/0053 under the field: "Clave Expediente" under the following link: Resoluciones de la avaliación ambiental de proyectos - CMAOT (xunta.gal), accessed on 6 September 2021.
[80] Available at: https://cmatv.xunta.gal/c/document_library/get_file?uuid=36927fbf-769e-491c-9315-6f856ba1fabb&groupId=436858, accessed on 6 September 2021.
[81] Section 2 of the 13 July 2017 Resolution 2017/0053, available by typing 2017/0053 under the field: "Clave Expediente" under the following link: Resoluciones de la avaliación ambiental de proyectos - CMAOT (xunta.gal), accessed on 6 September 2021.
[82] 13 July 2017 Resolution 2017/0053, by typing 2017/0053 under the field: "Clave Expediente" under the following link: Resoluciones de la avaliación ambiental de proyectos - CMAOT (xunta.gal), accessed on 6 September 2021.
[83] Section 5 of the 13 July 2017 Resolution 2017/0053, available in Spanish by typing 2017/0053 under the field: "Clave Expediente" under the following link: Resoluciones de la avaliación ambiental de proyectos - CMAOT (xunta.gal), accessed on 6 September 2021.

application for the permit[84]. In June/July 2017, the MoEEI carried out a public consultation[85] during which it received a number of comments. The comments referred to inter alia, availability of biomass and economic sustainability of the project. The promoter provided responses to the comments made[86]. The promoter submitted studies[87] and copies of preliminary forest residue supply contracts that demonstrate sufficient amount of forest residue near the project as well as a report and accompanying plan substantiating the project's economic and financial viability[88]. In January 2018, the MoESP granted the integrated environmental permit for the project[89]. In February 2018, the MoEEI issued the construction permit[90].

4.1.4 In response to a petition[91] submitted by the complainant to the Committee on Petitions of the European Parliament, the European Commission notes that the members of the public concerned have access to a review procedure before a court of law or another independent and impartial body established by law to challenge the simplified EIA decision[92]. There is no evidence to suggest that the complainants have ever initiated the review procedure of the simplified EIA.

Analysis and findings regarding the role of the EIB

4.1.5 In 2018, during its appraisal, the EIB requested and received a copy of the integrated environmental permit and simplified EIA decision. In July 2019, the EIB published on its website the application for the integrated environmental permit[93] and its non-technical summary[94].

4.1.6 On the basis of the above, the EIB concluded that a mandatory public consultation was carried out as part of the permitting process[95]. As described in the EIB's Environmental and Social Data Sheet (ESDS)[96], some third party queries were received during that period which were satisfactorily addressed by the stakeholders concerned.

Conclusions

4.1.7 The reviewed evidence shows that the project complies with the applicable standards. The competent authorities carried out two public consultation procedures. The public had access to the relevant documents. The promoter provided its responses to the comments received. As noted by the European Commission in its response to a petition submitted by the complainant to the Committee on Petitions of the European Parliament, there are specific means of redress

[84] May 2017 Curtis Biomass Project application for the integrated environmental authorisation, available at: CURTIS BIOMASS POWER GENERATION PLANT - Memoria Ambiental (eib.org), accessed on 6 September 2021. The MoEEI submitted the relevant information for publication in the Official Gazette and Official Journal of Galicia.
[85] Section A of the Resolution in file IN408A 2017/001-1 available at: Resolución DOG Martes, 27 de marzo de 2018 (xunta.gal), accessed on 6 September 2021.
[86] Resolution in file IN408A 2017/001-1 available at: Resolución DOG Martes, 27 de marzo de 2018 (xunta.gal), accessed on 6 September 2021.
[87] Technical reports titled: (i) “Estimation of biomass for supply to a thermal power plant of 49.913 MW Municipality of Curtis, A Coruña”; (ii) “Analysis of the capacity of companies supplying forest residue”.
[88] Section A of the Resolution in file IN408A 2017/001-1 available at: Resolución DOG Martes, 27 de marzo de 2018 (xunta.gal), accessed on 6 September 2021.
[89] January 2018 Integrated Environmental Permit, 2017-IPPC-I-42.
[90] Resolution in file IN408A 2017/001-1 available at: Resolución DOG Martes, 27 de marzo de 2018 (xunta.gal), accessed on 6 September 2021.
[91] Page 4 of the September 2019 Notice to Members Petition No 0145/2019 by Ismael Antonio López Pérez (Spanish) on behalf of the ‘Petón do Lobo’ Environmental Association, requesting information on a review of the loan granted by the EIB to the company Greenalia Biomass Power Curtis-Teixeiro (La Coruña, Galicia), PETI_CM(2019)641199, available at: Notices to members: NOTICE TO MEMBERS Petition No 0145/2019 by Ismael Antonio López Pérez (Spanish) on behalf of the ‘Petón do Lobo’ Environmental Association, requesting information on a review of the loan granted by the EIB to the company Greenalia Biomass Power Curtis-Teixeiro (La Coruña, Galicia) | polit-x.de (polit-x.de), accessed on 6 September 2021.
[92] Page 4 of the September 2019 Notice to Members Petition No 0145/2019 by Ismael Antonio López Pérez (Spanish) on behalf of the ‘Petón do Lobo’ Environmental Association, requesting information on a review of the loan granted by the EIB to the company Greenalia Biomass Power Curtis-Teixeiro (La Coruña, Galicia), PETI_CM(2019)641199.
[93] May 2017 Curtis Biomass Project application for the integrated environmental authorisation, available at: CURTIS BIOMASS POWER GENERATION PLANT - Memoria Ambiental (eib.org), accessed on 6 September 2021.
[94] Available at: CURTIS BIOMASS POWER GENERATION PLANT - Resumen No Técnico (eib.org), accessed on 6 September 2021.
[95] ESDS.
[96] ESDS.

provided for under Spanish law. There is no evidence to suggest that such redress was sought by the complainants.

4.1.8 The reviewed evidence shows that the EIB has carried out its role as required. The EIB reviewed the available information and confirmed that the public consultation process was carried out and that the comments were addressed. However, at the start of this compliance review, it was noted by the EIB-CM that, with respect to project-related documents disclosed on the EIB website, the integrated environmental permit and its non-technical summary were mistitled. It is acknowledged that, during consultation of this report, the EIB operational services rectified this matter.

4.2 Insufficient Availability of Forest Residue

Analysis and findings regarding the project applicable standards

4.2.1 The plant relies exclusively on forest residue, i.e. waste biomass left on the ground after timber harvest, clearing, tending, thinning and pruning[97] (hereinafter forest operations). The LTA puts the plant's forest residue consumption at 497 kilo tonnes per annum (kt/a). The LTA notes that the forest residue ranges from 15%-20%, in the case of eucalyptus trees, to 20%-30%, in the case of pine trees, of the total wood extracted during timber harvest[98]. The plant will mainly rely on forest residue from two species of eucalyptus (globulus and nitens) and pine, in similar mass shares[99].

4.2.2 With regard to supply of the forest residue, Greenalia Forest (GF) supplies 100% of forest residue to the plant under a biomass purchase agreement. GF, a Galician company, manages and cuts forests and delivers raw wood materials to its clients such as power plants, paper mills, board factories, and sawmills. According to the LTA, GF obtains the forest residue through: (i) management of own or third party forest residue (175 kt/a)[100] and (ii) purchase of forest residue from other companies (371 kt/a)[101,102]. In terms of the latter, in 2018 GF concluded biomass supply contracts with 27 waste forest residue suppliers with supply volumes between 2 kt/a and 50 kt/a. These contracts are renewable up to 25 years. The LTA considers that through contracted and own GF supplies, the total annual forest residue requirement for the Curtis power plant is sufficiently well covered. The delivered forest residue is certified (see section 4.3).

4.2.3 With regard to characteristics of the forest residue, the LTA defines the forest residue as: (i) wood with a small diameter (smaller than 7 cm); (ii) bark; and (iii) other biomass waste that cannot be used in the industry[103] (e.g. stumps). While the biomass supply contracts allow for wood with diameter of up to 50 cm, the LTA considers that the use of wood with diameter larger than 7 cm is unlikely because of its higher costs due to its use in the industry. However, the plant is equipped to handle tree logs. Relevant to the complaint, a Spanish environmental

[97] Resolution in file IN408A 2017/001-1 available at: Resolución DOG Martes, 27 de marzo de 2018 (xunta.gal), accessed on 6 September 2021; Annex II of January 2018 Integrated Environmental Permit, 2017-IPPC-I-42;
[98] § 5.2.9 of the Initial Assessment Report.
[99] Annex II of January 2018 Integrated Environmental Permit, 2017-IPPC-I-42.
[100] This biomass will be collected, packed and transported to the plant by personnel and machines of GF. In addition, there are forest owners who transfer all the waste biomass in their forestry exploitations to GF (inter-suppliers). These waste biomass is also managed (collected and transported) by GF. The amount of waste biomass produced in the GF's activity (including inter-suppliers) in 2017 was 140 488 t.
[101] GF has signed waste biomass supply agreements with other forest companies that generate waste biomass in their activity. There are two possibilities:
a. Type 1 suppliers: Purchase of packed biomass. There are biomass purchase agreements signed with forest companies who can transport the waste biomass to the plant. The amount of biomass committed under this type of agreements accounts for 370 000 t/year.
b. Type 2 suppliers: Purchase of biomass on site. GF has also signed agreements with biomass suppliers who can collect but not transport the waste biomass to the plant. In these cases, GF will purchase the waste biomass harvested on site and will assume its transportation to the plant. The amount of biomass committed under this type of agreements accounts for 86 000 t/year.
[102] The total amounts to 546 kt/a.
[103] § 5.2.9 of the Initial Assessment Report.

NGO[104] sighted logs with a diameter of 20 – 100 cm on site in February 2020[105]. According to the promoter, these were used at the beginning of the plant's operation to test the equipment to ensure it meets technical specifications[106].

Picture 1 – Tree logs on the plant's site – February 2020[107]

4.2.4 With regard to the sourcing area, the forest residue should come from Galicia, in line with the relevant permits[108]. According to the promoter, it should come within the radius of 100 km from the plant[109]. 100 km radius means an average real transport distance to the plant which could range from 47 km to 213 km (see § 4.2.13). In addition, all the suppliers under the biomass supply contracts are registered in places within a radius of 100 km from the plant and their biomass supply contracts indicate the transport price for up to 213 km. In addition, the LTA analysed the forest residue availability within the transport distance of 213 km from the plant within. The radius of 100 km encompasses most of Galicia. In 2020, according to the promoter, the forest residue was sourced from a 70 km radius around the plant[110].

4.2.5 While the finance contract prohibits the plant from using forest residue from outside of the EU, there are no additional restrictions on where the forest residue must come from. However, the price of transport increases with distance. Therefore, long distance transport may not be economically feasible.

4.2.6 All of the studies carried out demonstrate that forest residue is available in sufficient quantities to support bioenergy generation. Curtis municipality concluded that there is 1.6 times the amount of forest residue within a 62 km radius than the plant requires[111]. Similarly, a study carried out in March 2017 concluded that there is sufficient – 1.49 and 3.1 times – forest residue

[104] Salva la Selva.
[105] September 2020 report by Salva la Selva and Biofuel Watch titled: European Investment Bank's loan for Greenalia's Curtis Biomass Plant: A failure of due diligence?, available at: EIB-Curtis-biomass-report.pdf (biofuelwatch.org.uk), accessed on 6 September 2021.
[106] EIB Response to Biofuelwatch's and Salva la Selva's Curtis Biomass report – biofuelwatch, accessed on 6 September 2021.
[107] Page 5 of the September 2020 report by Salva la Selva and Biofuel Watch titled: European Investment Bank's loan for Greenalia's Curtis Biomass Plant: A failure of due diligence?, available at: EIB-Curtis-biomass-report.pdf (biofuelwatch.org.uk), accessed on 6 September 2021. Additional photos are available on websites of two different technology providers for the plant: BMH Technology - Biomass Fuel Handling solution delivered to Curtis, Spain and CURTIS-TEIXEIRO BIOMASS PLANT - Vilfer Electric EN, accessed on 6 September 2021.
[108] Section 3 of the 2017 Environmental Impact Statement. Section B.1 of May 2017 Curtis Biomass Project application for the integrated environmental permit, available at: GUION PARA EL DISEÑO DEL (eib.org), accessed on 6 September 2021.
[109] GREENALIA'S FIRST 135 M€ BIOMASS PLANT GOES INTO OPERATION – Greenalia, accessed on 6 September 2021.
[110] Pages 23 and 47 of the 2020 Greenalia Sustainability Report, available at: UV_Informe_sostenibilidad_INGLES.PDF (greenalia.es), accessed on 6 September 2021.
[111] Section 9 on p. 4 of the Resolution in file IN408A 2017/001-1 available at: Resolución DOG Martes, 27 de marzo de 2018 (xunta.gal), accessed on 6 September 2021.

required within a 62 and 99 km radius, respectively[112]. The LTA places forest residue availability at two times the requirement within 100 km radius.

Analysis and findings regarding the role of the EIB

4.2.7 During its appraisal, the EIB operational services noted that the plant will use forest residue. The EIB operational services made a conservative estimate that forest residue constitutes 20% of total wood extracted during timber harvest.

4.2.8 With regard to supply of the forest residue, during its appraisal, the EIB operational services noted that GF has signed a biomass purchase agreement with the promoter to supply all of the forest residue needed. The EIB operational services noted that GF is experienced in managing large-scale wood harvesting supply chains including harvesting residue production for the bioenergy plant and pulp log deliveries to the pulp mills in the region. The EIB operational services noted that GF will provide forest residue (i) from its exclusive suppliers (about 150 kt/a) and from (ii) 27 additionally contracted suppliers (about 425 kt/a) with whom GF signed biomass supply contracts. The EIB operational services concluded that overall, through contracted supplies and own GF deliveries, the total annual forest residue requirement for the Curtis power plant is well covered.

4.2.9 As part of the terms of financing, the promoter is required to ensure availability of forest residue supply for the entire economic life of the project. The first disbursement was conditional on a biomass supply plan. The biomass supply plan means a plan for each calendar year of operation of the plant, as well as any updates thereof, which may be carried out on an annual basis. The promoter is required to comply with the provisions of the biomass supply plan. The promoter is required to provide the biomass supply plan to the lenders annually including the information on the biomass supply contracts. If the contracts do not comply with the plan, and therefore do not ensure required forest residue, the lenders may propose adjustments and corrections. In August 2018, the EIB checked that the biomass supply plan had been provided.

4.2.10 With regard to the characteristics of the forest residue, the EIB operational services informed the EIB Board of Directors (BoD), a governing body of the EIB approving projects submitted to the EIB for financing, that the forestry residue will consists of firewood with a small diameter, bark and other biomass waste that is otherwise not used in the local industry and hence, is currently not collected from the ground.

4.2.11 Apart from an indirect reference to timber and timber products, contained in the Timber Regulation (see § 3.2.6), the financial clauses do not specify what exactly constitutes forest residue (e.g. whether tree logs are allowed).

4.2.12 After the start of the operation, the promoter informed the EIB that it used tree logs at the beginning of the operation of the project[113]. The EIB operational services noted that there is no EU or Spanish regulation stating the maximum diameter of logs that can be burned for bioenergy purposes. According to the EIB, at the EU level, there is a general common sense principle known as a “cascading principle” (a) sawmilling; b) wood based panel production; c) pulp and paper production; d) bioenergy production). The EIB operational services noted that in certain cases, for small amounts of larger diameter logs, it would not be economical to transport them long distance to the respective industry (e.g. sawmill, pulp and paper mill, wood based panel factories) and they may be used locally as fuel sources. The EIB operational services consider that in general there is no economic incentive to use branches with a diameter of more than 7 cm.

[112] When calculating the availability of biomass in 2017, the equations used correspond to the fraction branches of different sizes and which generally have an established top limit of 7 cm of thickness with bark, even though with some species there are equations for thickness greater than 7 cm, and therefore, those equations have been used in certain cases.
[113] EIB Response to Biofuelwatch’s and Salva la Selva’s Curtis Biomass report – biofuelwatch, accessed on 6 September 2021.

Picture 2 - Tree logs on the plant's site – March 2020

4.2.13 With regard to the sourcing area, during the appraisal, the EIB operational services noted in the project description that the forest residue will be sourced from the region in a 100 km radius around the plant. The EIB operational services considered a 100 km radius around the plant as an average real transport distance to the plant which could range from 47 km to 213 km.

4.2.14 When seeking approval for the project, the EIB operational services informed the EIB Management Committee and the EIB BoD that the forest residue will be sourced from a radius of 100 km around the plant. The EIB made information on 100 km radius publicly available on its website[114].

Conclusions

4.2.15 The reviewed evidence shows that the supply of forest residue can be considered secure. The biomass purchase agreement ensures full coverage of the plant's annual forest residue requirements. However, the characteristics of the forest residue are not fully clear. (i) Contracts with suppliers, (ii) technical specifications of the plant and (iii) commencement of operations show that tree logs could and have been used. In respect to the sourcing area, (i) there is sufficient amount of forest residue within the 100 km average transport distance (radius) around the plant; (ii) a distance that is reflected in the contracts with suppliers; (iii) and that could be monitored with precision (see § 4.3.4).

4.2.16 The reviewed evidence shows that the EIB put in place project undertakings to ensure full coverage of the plant's annual forest residue requirements. The arrangements were included in the finance contract and the EIB has a possibility to ensure compliance with the project undertakings. The EIB established that the forest residue will come from within the 100 km average transport distance (radius) around the plant, although in line with EU law, it may come from further away in the EU, and has a possibility to monitor this. However, the EIB operational services did not include in the finance contracts specifications of the forest residue characteristics which they presented to the EIB BoD. While this does not constitute a breach of project applicable standards or EIB procedures, nevertheless, this implied that the EIB has not been systematically liaising with the promoter to verify that the plant used forest residue consisting of firewood with a small diameter, bark and other biomass waste that cannot be used in the industry.

[114] CURTIS BIOMASS POWER GENERATION PLANT (eib.org), accessed on 6 September 2021.

4.3 Appropriateness of Certification Schemes

Analysis and findings regarding the project applicable standards

4.3.1 According to the promoter, the plant will burn forest residue collected from woods that have certificates under Forest Stewardship Council (FSC) or PEFC schemes[115].

4.3.2 The LTA considers that FSC and PEFC guarantee that the forest residue burned by the plant fulfils FSC and PEFC sustainability criteria. Both FSC and PEFC establish rules to develop a responsible forest management system. FSC and PEFC differ to a certain degree[116]. For example, while FSC system is based on principles and criteria, PEFC is based on criteria and indicators. However, according to a consultancy that prepared a project-related study, both systems aim for the same results. In respect to forest management, both FSC and PEFC focus on developing environmentally responsible, economically viable and socially beneficial forest management. In respect to chain of custody, both FSC and PEFC provide for traceability of products' journey from the forest to its final destination.

4.3.3 GF is certified under FSC and PEFC[117] in chain of custody category[118]. According to the LTA, this means that both, GF and all its wood suppliers, are required to operate in line with FSC and PEFC and that all wood supply is constantly monitored and registered. This prevents any illegalities in forest management and/or exploitation and endangering areas of high natural value.

4.3.4 The sourcing area of the forest residue provided by GF could be known at any moment. The LTA considers the GF's chain of custody to be in line with the Timber Regulation. This means that wood and wood products comply with the Timber Regulation in terms of their origin. Related to this, the Galician (and Spanish) forest sector regulations require strict control of the origin of the wood, requiring an administrative authorisation to carry out each exploitation review. These authorisations require an express identification of the origin of the wood, usually reaching the level of detail of the cadastre plot. These authorisations are the most plausible evidence of traceability control.

4.3.5 Finally, the European Commission did not find evidence of a breach of Renewable Energy Directive which contains the biomass sustainability criteria[119].

Analysis and findings regarding the role of the EIB

4.3.6 During its appraisal, the EIB operational services noted that 100% of the forest residue used by the plant would be certificated by FSC or PEFC[120] and informed the BoD accordingly. The EIB operational services also noted that GF chain of custody is in line with the European Timber Regulation in terms of the origin of the wood and wood products.

4.3.7 The EIB included these requirements in the terms of financing. Therein, the EIB required the promoter to ensure at all times that the forest residue used by the plant comes from forest areas with FSC and PEFC certifications, or if it comes from forest areas that do not have FSC and PEFC certifications, that it complies with the requirements, conditions and principles of

[115] GREENALIA'S FIRST 135 M€ BIOMASS PLANT GOES INTO OPERATION – Greenalia, accessed on 6 September 2021; ESDS.
[116] For an overview of the two certification schemes, see General characteristics of the two major systems for forest certification | Sustainable Forest Products and f66b926f-destruction_certified_09_03_21.pdf (greenpeace.org), both accessed on 6 September 2021.
[117] ESDS.
[118] The BM Trada Certification Entity holds the following certificates: o TT-COC-004049 o TT-CW-004049 o PEFC/14-31-00025.
[119] Pages 3 and 4 of September 2019 Notice to Member]s Petition No 0145/2019 by Ismael Antonio López Pérez (Spanish) on behalf of the 'Petón do Lobo' Environmental Association, requesting information on a review of the loan granted by the EIB to the company Greenalia Biomass Power Curtis-Teixeiro (La Coruña, Galicia), PETI_CM(2019)641199.
[120] This could be as either 100% FSC, 100% PEFC, FSC Mixed, FSC Controlled Wood or PEFC Controlled Sources - § 5.2.12 of the Initial Assessment Report; ESDS.

certification from FSC and PEFC[121]. Moreover, therein, the EIB required the promoter to ensure at all times that the forest residue used by the plant complies with Timber Regulation, that it has been provided through a transparent and credible chain of custody and complies with the biomass sustainability criteria set out in the Renewable Energy Directive[122].

Conclusions

4.3.8 The reviewed evidence shows that the project is in line with the project applicable standards. The plant is expected to burn FSC and PEFC-certified forest residue. While FSC and PEFC differ, both aim for the same results. The rationale behind certification is to ensure specific sustainability criteria. The system put in place ensures that the origin of forest residue is known. In addition, the European Commission did not find evidence of a breach of the Renewable Energy Directive.

4.3.9 The reviewed evidence shows that the EIB has carried out its role as required. During its appraisal, the EIB has noted that the 100% of forest residue will be certified by FSC and PEFC. The EIB also included the relevant provisions in the terms of financing to ensure that the forest residue is certified and that is in line with the Timber Regulation, that it has been provided through a transparent and credible chain of custody and complies with the biomass sustainability criteria set out in the Renewable Energy Directive.

4.4 Negative Environmental Impact of the Forest Residue Used

Analysis and findings regarding the project applicable standards

4.4.1 According to the LTA, the plant will mostly rely on forest residue from eucalyptus and pine. GF mostly deals with pine and eucalyptus trees, both with a strong presence in Galicia. According to the Galician administration, the region has 433 954 hectares of pine plantations, 307 984 hectares of eucalyptus plantations, and 250 934 hectares of "mixed plantations"[123]. In 2015, 58% of felled trees in Galicia were eucalyptus, 39% were pine and 3% were hardwood. An incentive for producing eucalyptus trees could be that its price per tonne of material is 30-40% higher than the price of pine and hardwood. Eucalyptus plantations have a 12-year rotation cycle and usually after three to four rotation cycles, the eucalyptus plantations are replaced with other tree species.

4.4.2 According to NGOs, presence of non-native eucalyptus and pine trees increases the likelihood of fires[124]. Galicia represents only 6% of Spanish territory but had 40% of the wildfires in the period 2001 – 2010[125]. The NGOs argue that the data on forest fires in Galicia (years 2001-2010) shows that the incidence of fires in eucalyptus and pine plantations is more than three times higher than in natural deciduous forests with oak and other native species[126]. However, the assumption is that the plant should not burn logs but forest residue left on the ground (see section 4.2).

[121] ESDS; P. 2 of September 2019 Notice to Members Petition No 0145/2019 by Ismael Antonio López Pérez (Spanish) on behalf of the 'Petón do Lobo' Environmental Association, requesting information on a review of the loan granted by the EIB to the company Greenalia Biomass Power Curtis-Teixeiro (La Coruña, Galicia), PETI_CM(2019)641199.
[122] ESDS; P. 2 of September 2019 Notice to Members Petition No 0145/2019 by Ismael Antonio López Pérez (Spanish) on behalf of the 'Petón do Lobo' Environmental Association, requesting information on a review of the loan granted by the EIB to the company Greenalia Biomass Power Curtis-Teixeiro (La Coruña, Galicia), PETI_CM(2019)641199.
[123] Mixed plantations are plantations where eucalyptus, pine and other vegetation are spreading into or have been established on what used to be agricultural land; EIB-Curtis-biomass-report.pdf (biofuelwatch.org.uk), accessed on 6 September 2021.
[124] September 2020 report by Salva la Selva and Biofuel Watch titled: European Investment Bank's loan for Greenalia's Curtis Biomass Plant: A failure of due diligence?, available at: EIB-Curtis-biomass-report.pdf (biofuelwatch.org.uk), accessed on 6 September 2021.
[125] Human dimensions of wildfires in NW Spain: causes, value of the burned vegetation and administrative measures, María Calviño-Cancela and Nuria Cañizo-Novelle, available at: Human dimensions of wildfires in NW Spain: causes, value of the burned vegetation and administrative measures (nih.gov), accessed on 6 September 2021.
[126] September 2020 report by Salva la Selva and Biofuel Watch titled: European Investment Bank's loan for Greenalia's Curtis Biomass Plant: A failure of due diligence?, available at: EIB-Curtis-biomass-report.pdf (biofuelwatch.org.uk), accessed on 6 September 2021.

4.4.3 In respect to biodiversity, the LTA has concluded that the project is in line with the European Commission's non-binding recommendation on sustainability criteria for biomass. The sustainability criteria prohibits the use of biomass from land converted from forest, and other high carbon stock areas, as well as highly biodiverse areas. The LTA claims that GF will rely exclusively on forest residue. The National Forest Inventory has identified all highly biodiverse areas and these have been excluded from potential commercial harvesting areas.

4.4.4 Relevant studies and permits do not address the issue of impacts of collection of forest residue on the environment. The simplified EIA study does not examine the project's impact on biodiversity outside of the plant's site[127], including the soil[128]. The application for the integrated environmental permit identifies collection of biomass as one of the impacts of the project[129] and presents it as a positive thing considering that it will result in the recovery and recycling of waste from forest operations[130]. The integrated environmental permit is focused on the plant's operation and includes only plant specific monitoring plan.

4.4.5 The European Commission examined the compliance of the project with the EIA Directive and the IED and concluded that there were no breaches of the EU law[131].

Analysis and findings regarding the role of the EIB

4.4.6 During its appraisal, the EIB operational services noted that the project has a high visibility due to use of eucalyptus forest residue, which is often paid a great amount of attention by NGOs. The EIB operational services received confirmation from the promoter that, while it will rely on eucalyptus and pine, it will use only its forest residue left after forest operations.

4.4.7 In the terms of financing, the EIB required the promoter to obtain, maintain and comply with all the relevant environmental permits and to operate the project in line with the environmental law. Prior to the first disbursement, the EIB checked that the promoter obtained all the relevant permits.

4.4.8 In its final reporting to the EIB, the promoter is required to provide a final update on the status of the EIA process, describe main environmental impacts during implementation and residual impacts, measures included in the simplified EIA decision and the integrated environmental permit.

Conclusions

4.4.9 The reviewed evidence shows that the project complies with the project applicable standards. The project is expected to use forest residue, therefore, it should not incentivise planting of new eucalyptus and pine plantations. As such, the project should not have a negative impact on fire, climate and water. The European Commission has concluded the EIA and IED processes were carried out correctly.

4.4.10 The reviewed evidence shows that the EIB has carried out its role as required. The EIB carried out an appropriate appraisal, included relevant conditions in financing and checked their implementation prior to the first disbursement.

[127] Sections 6.3.7, 6.3.8 and 6.3.9 of the February 2017 simplified EIA study, available at: ESTUDIO DE IMPACTO AMBIENTAL SIMPLIFICADO PARA UNA PLANTA DE PRODUCCIÓN ELÉCTRICA A PARTIR DE BIOMASA EN CURTIS (A CORUÑA) (xunta.gal), accessed on 6 September 2021.
[128] Section 6.3.5.2 of the February 2017 simplified EIA study, available at: https://cmatv.xunta.gal/c/document_library/get_file?uuid=36927fbf-769e-491c-9315-6f856ba1fabb&groupId=436858 accessed on 6 September 2021.
[129] Section I.2.1 of May 2017 Curtis Biomass Project application for the integrated environmental permit, available at: GUION PARA EL DISEÑO DEL (eib.org), accessed on 6 September 2021.
[130] Section I.3.2 of May 2017 Curtis Biomass Project application for the integrated environmental permit, available at: GUION PARA EL DISEÑO DEL (eib.org), accessed on 6 September 2021.
[131] P. 5 of September 2019 Notice to Members Petition No 0145/2019 by Ismael Antonio López Pérez (Spanish) on behalf of the 'Petón do Lobo' Environmental Association, requesting information on a review of the loan granted by the EIB to the company Greenalia Biomass Power Curtis-Teixeiro (La Coruña, Galicia), PETI_CM(2019)641199.

4.5 Economic Sustainability of the Project

Analysis and findings regarding the project applicable standards

4.5.1 The overall economic sustainability of the project relates to a number of economic and financial aspects, such as: (i) economic analysis; (ii) cost-benefit analysis; (iii) price of forest residue; (iv) electricity feed-in-premiums; and (v) additional project's benefits (e.g. prevention of fires).

4.5.2 An independent expert carried out an economic analysis of the project. In the February 2018 construction permit[132], the MoEEI confirmed that the promoter submitted the economic analysis carried out by the independent expert to the MoEEI[133].

4.5.3 The promoter has taken into account the requirement in the Energy Efficiency Directive to undertake a cost-benefit analysis. Consequently, Royal Decree 56/2016 exempts the requirement for a detailed cost-benefit analysis.

4.5.4 The LTA examined the price of forest residue and concluded that the price is very attractive and affordable.

4.5.5 The electricity feed-in-premium is subsidised by wider electricity system users, therefore, making energy production from biomass more profitable. The premium is paid for an electricity production equivalent to 6 500 full-load-hours for 25 years. The premium is subject to regular reviews and potential adjustments[134]. The EIB noted that in 2016, the Spanish government awarded the project with the premium. In line with the requirement, the project was completed, tested and operational by March 2020[135]. According to the promoter, in the next 25 years, the plant is expected to generate an income of over €1.05 billion in energy sales, including the subsidies[136].

4.5.6 In addition to electricity production, the project may have additional benefits. The LTA claims that Law 7/2012 requires forest owners to collect forest residue after forest operations in order to use it as a source of energy to reduce the use of fossil fuels and avoid forest fires. The LTA argued that prior to the project, there was no market for forest residue and no collection was done. However, some NGOs[137] claim that Law 7/2012 leaves a possibility to either remove or shred forest residue[138] and that the applicable regulatory framework does not require removal of forest residues with the objective to reduce the use of fossil fuels and avoid forest fires.

4.5.7 According to media articles, the promoter claims that, if not properly managed, the forest residue may cause a number of problems such as fires[139].Therefore, according to the promoter, clearing of forest residue reduces chances of forest fires[140].

Analysis and findings regarding the role of the EIB

4.5.8 As part of its appraisal, the EIB took note of the economic analysis and the requirements under the Energy Efficiency Directive concerning the cost-benefit analysis.

[132] Resolution in file IN408A 2017/001-1 available at: Resolución DOG Martes, 27 de marzo de 2018 (xunta.gal), accessed on 6 September 2021.
[133] Sections A and 8 of the Resolution in file IN408A 2017/001-1 available at: Resolución DOG Martes, 27 de marzo de 2018 (xunta.gal), accessed on 6 September 2021.
[134] Every three years based on, among others, electricity and biomass market price developments.
[135] GREENALIA'S FIRST 135 M€ BIOMASS PLANT GOES INTO OPERATION – Greenalia, accessed on 6 September 2021.
[136] GREENALIA'S FIRST 135 M€ BIOMASS PLANT GOES INTO OPERATION – Greenalia, accessed on 6 September 2021.
[137] ClientEarth, Salva la Selva and Biofuel Watch.
[138] September 2020 report by Salva la Selva and Biofuel Watch titled: European Investment Bank's loan for Greenalia's Curtis Biomass Plant: A failure of due diligence?, available at: EIB-Curtis-biomass-report.pdf (biofuelwatch.org.uk), accessed on 6 September 2021.
[139] Article published in La Voz de Galicia on 27 August 2020.
[140] GREENALIA'S FIRST 135 M€ BIOMASS PLANT GOES INTO OPERATION – Greenalia, accessed on 6 September 2021.

4.5.9 The EIB analysed capital and operational expenses of the project[141]. The EIB reviewed the forest residue costs and concluded that they are within the usual market range.

4.5.10 The EIB has also carried out a detailed analysis of feed-in-premium. The EIB noted that the Spanish government awarded a feed-in-premium for the plant in 2016. The EIB noted that the plant is expected to receive more than €430 million in subsidies over the next 25 years, in addition to the income that will be generated from the sales of electricity.

4.5.11 When analysing project benefits, the EIB focused on the economic value of electricity produced and benefit of avoiding forest fires. Considering the Spanish electricity system overcapacity, the EIB did not attribute any value to additional electricity generation capacity.

4.5.12 The EIB noted that the project will contribute to prevention of forest fires[142]. The EIB operational services informed the EIB governing bodies and the public that regional Law 7/2012 obliges collection of forest residue following forest operations (subject to penalties) with the objective to reduce the use of fossil fuels and avoid forest fires[143]. The EIB noted that prior to the project, there was no market for forest residue[144] and that no collection was done. The EIB's operational services informed the EIB governing bodies and the public that the purpose of the plant is to better use this forest residue and ensure compliance with the regional law[145]. However, the EIB operational services also reviewed a number of studies on economic impacts of forest fires[146] and forest fire prevention[147]. The EIB operational services counted forest fire prevention as a project benefit.

Conclusions

4.5.13 The EIB-CM concludes that while the regional legislation does not directly link the collection of forest residue in all forests and the aim of preventing forest fires (see § 3.2.9), the project does not contradict the legislation. Furthermore, (i) the independent expert referred to in § 4.5.2 carried out the economic analysis of the project; (ii) the cost-benefit analysis was not required under the relevant legislation; (iii) the price of forest residue is appropriate; (iv) the feed-in-premium was secured.

4.5.14 The EIB operational services informed the EIB governing bodies and the public that the regional legislation requires collection of forest residue following forest operations in order to avoid forest fires. The EIB-CM concludes that the regional legislation does not directly link the collection of forest residue in all forests and the aim of preventing forest fires (see § 3.2.9). However, this does not impact the economic sustainability of the project. The EIB operational services calculated forest fire prevention as a project benefit based on the studies they reviewed (see § 4.5.12) and EIB standards (see § 3.3.3). Furthermore, the EIB operational services: (i) noted the economic analysis carried out by the independent expert; (ii) analysed the costs and benefits of the project; (iii) considered price of forest residue to be within the usual market range; (iv) analysed the feed-in-premium.

[141] The information reviewed during the inquiry of the EIB-CM indicates that the EIB conducted a more detailed analysis during Stage II appraisal, where the EIB further assessed the financial and economic justification for the project. The EIB concluded that due to an increase in the project cost of 6%, the economic rate of return drops from 5%, as indicated in Stage I, to a level of ca. 4%. The financial internal rate of return is accordingly reduced from 11%, as indicated in Stage I, to 9%. In the event of higher costs, the economic rate of return would drop to below 1% and the financial internal rate of return would drop to 6%.
[142] ESDS.
[143] ESDS; EFSI Scoreboard, available at: 20170647 EFSI SCOREBOARD V1 2018-03-27.pdf (eib.org), accessed on 6 September 2021; § 5.2.11 of the IAR.
[144] § 5.2.11 of the IAR.
[145] EFSI Scoreboard, available at: 20170647 EFSI SCOREBOARD V1 2018-03-27.pdf (eib.org), accessed on 6 September 2021.
[146] E.g. 2017 Joint Research Centre - Modeling the impacts of climate change on forest fire danger in Europe Sectorial results of the PESETA II Project, available at: JRC Publications Repository - Modeling the impacts of climate change on forest fire danger in Europe: Sectorial results of the PESETA II Project (europa.eu), accessed on 6 September 2021.
[147] E.g. Targeted fuel treatments as a way to prevent forest fires in 2017 Joint Research Centre - Modeling the impacts of climate change on forest fire danger in Europe Sectorial results of the PESETA II Project), available at: JRC Publications Repository - Modeling the impacts of climate change on forest fire danger in Europe: Sectorial results of the PESETA II Project (europa.eu), accessed on 6 September 2021.

5 OUTCOMES

Suggestions for improvement

5.1.1 With respect to Allegation 2: Insufficient availability of forest residue, the EIB-CM suggests that:

a. Concerning this project:
   i. the EIB operational services liaise with the promoter with a view to obtain more information on the nature of feedstock used since launch of the operation in March 2020 in order to verify that the plant used forest residue from forest operations consisting of firewood with a small diameter, bark and other biomass waste that cannot be used in the industry and hence, is currently not collected from the ground..
   ii. the EIB operational services clarify in the ESCS that, while at the moment the forest residue is likely to be sourced from within maximum 213 km transport distance from the plant, in practice, in line with EU law, it may come from further away in the EU.

b. Concerning future projects:
   i. the EIB operational services develop their procedures further within one year after the closure of the case to include paying particular attention during appraisal to the fuel characteristics in biomass-related projects.
   ii. the EIB operational services use the term “average transport distance” instead of the term “radius”.

5.1.2 With respect to Allegation 5: Economic sustainability of the project, the EIB-CM suggests that the EIB operational services clarify in the ESCS that, while one of the objectives of the regional law is to prevent forest fires, the law does not contain an exact provision requiring collection of forest residue following forest operations with the aim of preventing fires, apart from some specific cases (e.g. along highways).

Complaints Mechanism

Available remedy:

Complainants that are not satisfied with the conclusions report may file a complaint of maladministration against the EIB Group with the European Ombudsman[148].

[148] Available at: https://www.ombudsman.europa.eu/en/home.