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The Counter Balance coalition together with Eurodad, Tax Justice Network and Friends of the Earth announces:

1. it will rally in front of the Council of the EU (175 rue de la Loi) in Brussels in a symbolic action to further support its STOP EIB LOANS TO TAX HAVEN-BASED MULTINATIONALS campaign, launched last May 25th.
2. On 9th June, the day of the EIB Annual General Meeting in Luxembourg, Counter Balance will publish a Eurodad study on the EIB and its shadowy relationship with Tax Haven- based companies.

This research reveals that there is a long list of EIB clients and projects in developing countries which use tax havens and similar secrecy jurisdictions. One of the most used tax havens in the African region is Mauritius. This is particularly contradictory to the development purposes the EIB claims to have in poor countries because secrecy jurisdictions foster tax competition, allow bank secrecy and therefore corruption, and facilitate tax evasion and tax avoidance.

Study's Executive summary

The fight against tax evasion and tax avoidance, as facilitated by tax havens, has been put at the forefront of the political agenda in the aftermath of the global financial and economic crisis. European leaders have increased the public pressure on tax havens and offshore financial centres. French Prime minister François Fillon has said that tax havens are "black holes that should no longer exist". Swedish Finance Minister Anders Borg has said "tax parasites" must be seriously dealt with.

In 2008 the EU Council committed, *"to implement the principles of good governance in the tax area"* and to *"improve international cooperation in the tax area (…) and develop measures for the effective implementation of the above mentioned principles."*[1] These principles are "*transparency*, *exchange of information* and *fair tax competition"*.

The Council added *"the need to include in relevant agreements to be concluded with third countries by the Community and its Member States (...) a specific provision on good governance in the tax area"*.[2]

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1 See: www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ecofin/100339.pdf
2 See: www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ecofin/100339.pdf

These principles have been ratified by the European Parliament's report on tax fraud where it says that Europe should take the lead and make the elimination of tax havens worldwide a priority, and *"invites the Council and the Commission to use the leverage of EU trade power when negotiating trade and cooperation agreements with the governments of tax havens, in order to persuade them to eliminate tax provisions and practices that favour tax evasion and fraud".* [3]

The European Investment Bank (EIB), the EU's house bank whose role in developing countries is to be increased in the coming years, should therefore comply with these commitments and implement clear regulations in order to prevent tax evasion and foster good governance in tax matters.

Yet this study shows that many projects and beneficiaries funded by EIB money involve tax havens and transnational companies that use them for tax purposes.

Despite the strong statements from some EU leaders and commitments from EU institutions, action on tax havens is moving much more slowly than the political rhetoric would imply. In October 2008, Jean-Claude Juncker, Luxembourg's prime minister, ironically announced as his country was declared to be a potential tax haven: "I look forward to many years of fascinating and fundamental discussion".[4] The passivity of the EIB when it comes to tax havens and the tax evasion industry may have been encouraged by the difficulties connected with achieving a strong international consensus on robust measures to target tax havens.

The EIB remains an obscure institution little known to parliamentarians, NGOs and others who track development spending. But the bank is taking a prominent role in the European Union's response to the financial and economic crisis. The EIB will, for example, allocate EUR 2 billion to support Africa in the context of the financial crisis over the next three years, mainly for investments in infrastructure, energy projects and the financial sector.[5]

Much EIB lending outside the EU, in accordance with the Cotonou Agreement, is directed towards African, Caribbean and Pacific (ACP) countries. Even though the EIB has no explicit development mandate and does not consider itself a development bank, it has much in common with other international financial institutions such as the World Bank. It uses budget resources from EU Member Countries classified as development assistance, such as under the Cotonou Agreement. The Cotonou Agreement states that the EIB shall "act in accordance with the objectives of this Agreement" – defined as "reducing and eventually eradicating poverty consistent with the objective of sustainable development and the gradual integration of ACP countries into the world economy."

In recent years the EIB has been trying to improve its policies and procedures. Following the start of the so-called "war on terror" at the beginning of this decade, the EIB introduced a new policy prompted by an international clampdown against money-laundering. This is reflected in the bank's development of an internal policy on "Preventing and Deterring Corruption, Fraud, Collusion, Coercion, Money Laundering and the Financing of Terrorism in EIB Activities".

Now that political attention has turned to the regulation of private finance, in particular the fight against tax evasion and other practices, the EIB is relying on the same policy to guard against allegations that it is complicit in supporting private companies to evade their public duty to pay taxes. The EIB is making efforts to upgrade and improve its policies, but its reforms are so far insufficient.

This study – based on research of EIB documents, plus accompanying analysis of companies and procedures – shows that there is substantial cause for concern, and identifies:

- Serious loopholes
- Lax implementation
- Specific suspicious projects and transactions.

A public bank should not facilitate private tax avoidance. The EIB should ensure that recipients of its loans do not avail themselves of tax havens or use other practices such as abusive transfer pricing which may lead to tax evasion or avoidance.

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3 See: www.europarl.europa.eu/oeil/file.jsp?id=5597642

4 Declaration by Prime Minister Jean-Claude Juncker before the Chamber of Deputies regarding banking secrecy, 21/10/2008. See: www.gouvernement.lu/salle_presse/discours/premier_ministre/2008/10-octobre/21-juncker/21-chd-eng/index.html

5 www.eib.org/about/press/2009/2009-079-at-least-an-additional-ususd15-billion-to-respond-to-financial-crisis-in-africa.htm

Yet in the last five years the EIB has loaned EUR 5.66 billion to the top tax haven users from the UK, France and the Netherlands, while EUR 210 million has gone to African funds using tax havens in their strategies. Furthermore, some of the major infrastructure projects financed by the EIB in the name of development happen to have close links with tax havens, which is also the case with financial intermediaries benefiting via the EIB's Global loans.

This research reveals that there is a long list of EIB clients and projects in developing countries which use tax havens and similar secrecy jurisdictions. One of the most used tax havens in the African region is Mauritius. This is particularly contradictory to the development purposes the EIB claims to have in poor countries because secrecy jurisdictions foster tax competition, allow bank secrecy and therefore corruption, and facilitate tax evasion and tax avoidance.

The study reveals also that the EIB's capacity to assess its clients is limited. The EIB is to be congratulated for successfully screening out four projects in recent years, but the concern is that this represents just the tip of the iceberg.

The EIB is particularly unconvincing in its answers on global loans – which are provided on trust to Europe's biggest banks, the largest users of tax havens.

And on its monitoring of clients and projects following project approval – where again companies receiving EIB money are relied on to report against themselves if there is a significant change, a concept open to broad interpretation.

Combined with the dramatic lack of transparency in the EIB which prevents concerned citizens' groups checking up on the due diligence procedures or the evidence that is used, the EIB fails to make a convincing case that its money is all well-used according to its policy on fraud and corruption.[6]

Even in the rare instances where the EIB does identify tax evasion practices, its sanctions are weak. There is no public announcement of companies that are excluded from finance, and no debarment from tendering for other EIB projects unless or until a final criminal conviction has been achieved. This does little to discourage companies, and is a far weaker approach than that being taken by the World Bank and other similar institutions.

Thus we must conclude that the EIB continues to finance companies that evade taxes. This is problematic not only for European taxpayers who finance the institution but also, most acutely, for developing country citizens who are landed with debts and other liabilities while their states do not build up their fiscal capacity.

Public opinion and political opinion have swung more solidly than ever in recent years behind bold moves against tax evasion and for progressive taxation. The EIB should take the opportunity of updating its policy to ensure that it closes the loopholes identified in this report and ensures that greater transparency and a stronger threat of punishment are used to demonstrate to clients that the EIB is serious about this agenda, and not merely defensive.

On May 27, as a follow up to the G20 summit conclusions on the fight against tax havens and tax evasion, the EIB issued a press release announcing it strictly enforces procedures in this respect but is undertaking a review to ensure its policy is up to date.

Commenting on the Bank's offshore financial centres policy, EIB president Philippe Maystadt said, "The EIB is committed to ensuring that its loans are used for the purposes intended, the promotion of European Union priority objectives".[7] The review "will aim to ensure that the EIB's lending activities continue to mitigate against lost income from assets that are kept hidden in tax havens in developed and developing countries. It will be undertaken in close cooperation with other international financial institutions to ensure that EIB continues to comply with the latest requirements".

It is welcome that the EIB is planning to update and upgrade its policies; it has a long way to go.

This study is structured as follows:

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[6] Counter Balance (2009). The Long Struggle for Accountability of IFIs – the case of the EIB and the World Bank. Available at: www.counterbalance-eib.org/EIB-transparency/.

[7] EIB reinforces efforts to fight tax avoidance. Available at: www.eib.org/about/news/eib-reinforces-efforts-to-fight-tax-avoidance.htm

Section 1: Illicit capital flows: a developing country and European problem
Section 2: Dubious clients, offshore links: who is the EIB bankrolling?
Section 3: Mind the gaps: assessing EIB policies and procedures to guard against tax evasion.
Section 4: Conclusions and recommendations.