

16 November 2017

FMO Management Response to the Independent Expert Panel's Compliance Review Report regarding the Complaint on the investment in Sendou 125 MW coal-fired power plant

On 12 October 2017, the Independent Expert Panel (IEP) issued its report (available [here](#)), concluding the investigation of a complaint issued by Lumière Synergie Pour le Développement and Takkom Jerry on 9 May 2016, as well as a second complaint issued by the Collectif des communautés affectées de Bargny on 15 July 2016, under the Complaint Mechanism of FMO (the Lender). These complaints refer to the Lender's decision to finance a 125 MW coal-fired power plant located in the Bargny district in Senegal. The scope of work of the IEP comprised of a compliance review, i.e. a review of how the Lender assessed and monitored the project, by comparing its methods with the environmental and social policies to which the Lender had committed itself in 2012, when the first credit agreement with the client was signed.

In response to this report, the Management Board of FMO recognizes that the Sendou project is a complex project with a complicated history, and wishes to express its appreciation for the efforts made by the IEP in researching and understanding the project and for the elaborated report that they have produced. We also wish to express our appreciation to the client for their co-operation and information sharing with the IEP. Finally, we thank the complainants for their patience, as the complaints process has taken more time than was foreseen.

When FMO decided to invest in the Sendou project, our motivation was and, going forward, remains to improve access to electricity for Senegal. This motivation fits with our mandate and ambition to invest in projects that propel local prosperity. The Sendou power plant will increase Senegal's electricity supply by 30%, enabling economic growth and improvement of livelihood in Senegal. The plant adds much needed base load capacity and contributes to stabilizing the energy system, which enables the growth of intermittent, renewable power production, like wind and solar. Sendou plant will make the energy supply less dependent on Heavy Fuel Oil (HFO) power generation, a more polluting, costly and CO₂-inefficient source of energy, and will provide Senegal with its largest and most modern substation, significantly improving grid management. Moreover, the high number of direct and indirect jobs the project will create during both construction and operation, are particularly significant in view of the high youth unemployment in this area.

In 2015 FMO introduced its no-coal policy, which means that FMO no longer directly finances any new coal-fired power generation, nor coal mining projects. FMO's decision to invest in the Sendou project was taken in 2012, preceding the adoption of this policy, although the plant design would allow for conversion to accept gas from domestic offshore gas fields once this becomes available. FMO cannot change existing commitments. We care deeply about climate action. In January 2017 FMO pledged that through our investments in developing countries, we contribute to limiting global temperature increase to 2°C and preferably 1.5°C, as agreed at the Paris Climate Summit in 2015. Moreover, our strategy towards 2025 specifically steers on three Sustainable Development Goals, of which SDG 13 (Climate Action) is one. To that end, FMO intends to grow its green portfolio, has a target and reports on the GHG avoidance linked to its investments, and will publish a thought paper on climate change shortly.

FMO acknowledges that, during the due diligence phase held during 2009, several key Environmental & Social (E&S) items, especially community engagement, should have been considered more carefully and contextual risk should have been better analyzed. FMO has incorporated the **lessons learned** from this and other projects into our policies with the purpose of improving our appraisal of E&S risks and impacts. Since entering this project, FMO has adopted the latest IFC Performance Standards (2012) and updated our Sustainability Policy, including position statements on Human Rights, Land Governance, and Gender. The Human Rights position statement explicitly mentions that FMO will strengthen its approach to verifying broad community support. Furthermore, FMO has implemented the practice of publicly disclosing the high E&S risk transactions before contracting. FMO agrees with the IEP's conclusion that a 'new wind is blowing through the project' and positive developments did, and continue to take place since the involvement of the new

controlling shareholder. At present, we believe that the project company is on the right track with strong support of its shareholders, the Senegalese Government and the Lenders, and is taking the necessary actions to make the project, once operational, fully compliant with the applicable standards including those related to the engagement with local stakeholders and communities.

FMO recognizes that thorough **community engagement** across the entire investment process is of the utmost importance; we acknowledge that during the first stages of project development, increased efforts should have been made to provide additional information to the local communities and take their views into account to a larger extent. Understandably, insufficient engagement contributed to uncertainty, misunderstandings and resistance to the project from some community members. FMO and the project company are determined to address these concerns as much as possible. Community engagement improved significantly after the entry of the new controlling shareholder, and was further reinforced when the project company appointed a qualified community development specialist in April 2017. With regards to the IEP's first recommendation, we would like to clarify that stakeholder engagement is the responsibility of the project company, which committed to implement an engagement plan aligned with the requirements of the applicable standards. At the moment, FMO trusts that a cooperative relationship is being successfully built between the company and the affected communities.

The IEP comments on the quality of the **Environmental and Social Impact Assessment (ESIA)** produced in 2009, which secured the required environmental licenses by the Senegalese authorities. In this regard, we would like to clarify that it is common practice for projects of this nature to make an investment decision despite existing gaps in the ESIA, as long as an E&S action plan (ESAP) intended to address these gaps is mutually agreed between the borrower and the financing organizations. Also in this case, an ESAP was developed by an independent advisor, agreed between FMO and the company, and has been updated regularly throughout FMO's involvement as a lender.

In this regard, the IEP critically reviews the environmental and social (E&S) **appraisal and decision-making** process of FMO. FMO believes that our disbursement decisions need to be considered in the context of arduous shareholder disputes, shareholder and lender changes that the project has undergone since its inception in 2010, which in the early stages resulted in a lack of leadership at project level. It was only when the current controlling shareholder entered that a real start of the implementation of the project and the ESAP could be made. It was not an easy decision for FMO to honor the request by the new shareholder for a temporary waiver of the ESAP action items due prior to the second disbursement, but this was approved in view that this disbursement was absolutely necessary in order to guarantee the project's continuance at the time, and the negative consequences of a failed project were deemed to exceed those of a temporary delay in satisfying pending ESAP items. FMO is constantly improving its investment process, and whilst noting that Sendou has proven one of the most complex projects in our portfolio, we do acknowledge that lessons can be learnt. We are pleased that the panel notes FMO's continued efforts since the new shareholder stepped into the project in 2015. FMO and the company are committed to make the project fully compliant upon delivery.

Since the E&S due diligence was undertaken, the project's **impacts on air quality** remained an open item due to the lack of quality baseline data and accuracy of the first air dispersion model. However, based on the results of a second air dispersion model undertaken by an independent E&S advisor, which considers recent baseline data, we are pleased that environmental and health impacts from the flue gas discharge are not predicted to be significant.

With regards to **marine impacts**, FMO welcomes the project company's decision to replace the direct seawater cooling system with a cooling tower discharging into a cooling basin, in order to avoid marine impacts potentially arising from the thermal discharge. As a result, no significant impact from seawater intake and discharge and temperature differences on the livelihood of the communities who depend on the fishery resources is envisaged.

Regarding **land rights issues**, it must be noted that the project acquired the land in full compliance with Senegalese law, and the three individuals who had invested assets within the footprint of the project were duly compensated. FMO is fully aware of the threat that sea encroachment poses on the residents of Minam

village and other coastal communities in the area. However, resettlement due to this occurrence is beyond the responsibility of the project company or the Lenders as defined in the IFC Performance Standards. FMO encourages the responsible parties to find a suitable solution for the communities affected by coastal erosion, and welcomes SENELEC's initiative to offer compensation to individuals claiming land use rights on the project site. While taking into account limitations as it is a government-led process, FMO is committed to playing a stimulating role in this process, and as such, will offer the services of an independent facilitator to the affected parties in order to support the right and fair distribution of the committed funds among the different claimants. FMO is pleased to see the cooperation and support of the project company in this process where appropriate.

With regards to the **cultural issues** discussed, the local communities have expressed their wish to be able to continue to access the only baobab tree within the project premises, but they do not want the tree to be translocated. We would like to emphasize that the project site has been and will remain open for any community members to visit this tree should they wish to. Nevertheless, FMO is not aware of any attempt by local community members to access the tree for cultural practice reasons since project implementation.

Based on the absence of significant safety risks of the project to the economic activities conducted within its buffer zone, FMO learned that fish-drying activities will not need to be interrupted, and therefore the project will not result in any **economic displacement**. As recommended by the IEP, FMO will offer the relevant parties support on delivering a safeguard decree that guarantees the right of the fish-drying community ("khelkom") to continue their activities. We are pleased to report that, after the complaint was lodged, the project company has satisfactorily re-engaged with the fish-drying women and has committed to undertake a number of community development actions targeting this stakeholder group. Therefore, we are confident that the project will result in positive socio-economic impacts on the khelkom, which FMO will monitor during FMO's involvement in the project.

FMO's responses to the IEP's recommendations are summarized as follows:

- **Recommendation 1 – Develop transparent rules and procedures aimed at ensuring that there is near real-time appropriate information provided to the inhabitants in a project area:**
Stakeholder engagement is the responsibility of project companies, which are required to develop and implement a Stakeholder Engagement Plan in compliance with FMO standards. FMO aims to support its clients where it can, e.g. by offering advice based on best practices.
- **Recommendation 2 – Active support by appointing an independent facilitator:**
FMO will offer the services of an independent facilitator to the affected parties in order to support the right and fair distribution of the committed funds among the different claimants.
- **Recommendation 3 – Support the delivery of safeguard decree for fish drying communities:**
FMO will offer the relevant parties support on delivering a safeguard decree that guarantees the right of the fish-drying community ("khelkom") to continue their activities.

In conclusion, FMO would like to re-emphasize our appreciation for the work done by the IEP and express our commitment to continuously improve the way investment decisions are made and ensure projects are executed in a sustainable and responsible manner. FMO also believes that it is part of our role to guide and support the projects we finance to achieve compliance with international E&S standards and best practices, above and beyond the host country regulatory requirements. We are fully committed to continue monitoring the E&S performance of the project throughout FMO's involvement and are working pro-actively with the project company in order for it to operate in full compliance with the most stringent E&S standards.

Yours sincerely,

Jurgen Rigterink
Chief Executive Officer FMO