

urgewald



FORTUM FOR FUTURE?

Finland and the Finnish state-owned energy company at the crossroads

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In December 2019, the newly elected Finnish Prime Minister Sanna Marin declared that “climate change is the greatest challenge of our future” and confirmed Finland’s commitment to become carbon-neutral by 2035.¹ While the country has traditionally been a timid actor in EU climate politics, it has now set an ambitious goal to become the first “fossil-free welfare society in the world”.² At the same time, Finland’s state-owned energy company Fortum presents itself as a forward-thinking and sustainable company with a vision “for a cleaner world” and plans to “decarbonize society”. Unfortunately, the reality behind these promising announcements looks quite different.

It is true that the company has undertaken significant steps to reduce its CO₂ emissions in the last few years. Nevertheless, Fortum still produced 41 % of its electricity and 80 % of its heat with fossil fuels in 2018.³ The most significant problem however, is the takeover of the German energy company Uniper. Uniper’s enormous coal and gas assets put an immense question mark on the Finnish utility’s vision of becoming a frontrunner in climate friendly energy production. And the upcoming plans of the German utility will unquestionably lead to the exact opposite of a “cleaner world”. Among those plans are the commissioning of the highly controversial coal plant Datteln 4, the threat

to take the Netherlands to court for its timely decision to phase out coal and the plans for Germany’s first Liquid Natural Gas Terminal in Wilhelmshaven. Uniper’s actions show that the company is still on collision course with climate science and the goals of the Paris Agreement. And the responsibility for these actions are now on Fortum’s plate.

This briefing sheds light on the inconsistencies between Fortum’s self-ascribed green image and its actual portfolio and formulates demands by civil society organizations towards the Finnish government, Fortum and its investors.

I. Fortum’s Fossils

Fortum is the third largest power producer in the Nordic region with additional significant operations in the Baltics, Poland and Russia. Despite investing in solar, wind and other renewables, the utility company is also the sole owner of eight coal power plants in Finland, Poland and Russia with a combined electrical and thermal capacity of 4.735 MW⁴. Two additional, jointly-owned power plants in Sweden and Finland complete the company’s polluting coal portfolio. Despite its sustainability

claims, Fortum is still heavily invested in fossil fuels and produces 41% (38% fossil gas, 3% coal) of its power and 80% (64% fossil gas, 16% coal)⁵ of its heat by burning non-renewable energy sources.

Whereas its Finnish coal plants will retire in 2029 due to the country’s ban on burning coal for energy⁶, Fortum has not announced a comprehensive decommissioning plan for its remaining coal plants. To be in line with the Paris Agreement and the

1.5°C goal, coal, however, must be phased out by 2030 in OECD countries, Eastern Europe and the former Soviet countries.⁷ Despite its promise to decarbonise society, Fortum has still not articulated a Paris-aligned roadmap for its coal fleet. And with the takeover of Uniper, Fortum is drifting even further away from a necessary 1.5C° trajectory. Uniper’s portfolio is a veritable carbon bomb and its actions and investment plans pose a major threat to the European Union’s climate goals.

II. What has Fortum Bargained for?

In September 2017, Fortum’s CEO Pekka Lundmark announced that the state-owned energy company would acquire 46.7% of shares in the German utility company Uniper. This offer was met with criticism as both companies’ strategies differ markedly. Uniper’s energy generation is 80%

fossil-based and rather than looking to decarbonize its portfolio, it relies on keeping most of its coal assets and expanding its gas activities.⁸ To the general bewilderment of the Finnish media and public, Fortum nevertheless decided to increase its stake in Uniper even further to 49.99% in

February 2019.⁹ At the time of writing, it is set to become the majority stakeholder in Uniper by acquiring additional shares from the investors Knight Vinke and Elliott – thus totaling at a 70.5 – 73 % stake.¹⁰ Uniper will become a subsidiary of Fortum once this transaction is finalized. As



Hundreds of students protesting Uniper's new coal-fired power plant at the German parliament. „Datteln 4 nicht mit mir – Datteln 4 not with me”. Photo: snapshot-photography / F.Boillot

the majority shareholder with a stake of more than 70%, Fortum must now be held responsible for its subsidiary's climate impacts.

Uniper is the fifth largest coal plant operator in Europe, with power plants in Germany, Russia, the United Kingdom and the Netherlands. The company owns more than 9 GW of coal-fired assets in Europe and

Russia. Uniper's CO₂ emissions alone amounted to 59.5 million tons in 2018¹¹, more than the entire country of Finland was responsible for in the same time period. Together with Fortum's own carbon dioxide emissions of 20.1 million tons in 2018¹², this adds up to a staggering 79.6 million tons. While Fortum's leadership claims that both companies, with their complementary competences,

can become leading actors in the energy transition¹³, it seems to overlook the fact that the acquisition has just turned Fortum into one of the most polluting utility companies in Europe. Rather than setting the benchmark for clean energy production, state-owned Fortum is now following in the footsteps of Europe's biggest CO₂ emitter RWE.

III. Datteln 4 – Responding to the Climate Crisis with a New Coal Plant?

While more and more countries and companies are making plans to phase out coal as quickly as possible, Uniper still adheres to the plan of opening the highly controversial coal plant Datteln 4 in the summer of 2020. This stands in sharp contrast to the recommendations of the German Coal Commission¹⁴ and would send a disastrous signal to the rest of the world.

The scientific community is very clear about the future of coal. If we want to stand a chance of meeting the Paris Agreement's goal of limiting warming to 1.5°C, existing coal power plants will need to be retired as soon as possible and no new coal-fired power plants can go online.¹⁵ In Germany, the federal government established the Coal Commission to develop a

strategy to phase out the country's coal fired-power generation. In its final report, the commission explicitly recommends that no new coal power plants should go online.¹⁶ Nevertheless, Uniper decided to ignore the proposal of the Coal Commission and is set to connect the 1.1 GW Datteln 4 plant to the grid in 2020.

Bringing Datteln 4 online also sends a disastrous signal to other countries. In 2019, the UN secretary General Antonio Guterres travelled around the world asking countries to stop building new coal plants by 2020. If Uniper and Fortum ignore this message by bringing a new coal plant online in one of the richest countries in the world, how can anyone expect that countries like India will heed the Secretary General's call? If Datteln 4 is connected to the grid in 2020, it undermines the efforts of the international community to convince coal-heavy countries to adhere to the Paris Agreement and stop the further buildout of coal power plants.

“Germany’s Largest Illegal Construction”

Uniper’s predecessor E.on started the initial construction of Datteln 4 in 2007 with the commissioning planned for 2011. These dates were pushed back as environmental organizations and local residents filed numerous lawsuits against the power plant’s construction and emission control plans. In 2009 and 2011, German courts came to the conclusion that the permit for Datteln 4 was unlawful and construction came to a halt.¹⁷ As of now, a pending lawsuit against the plant filed by Friends of the Earth Germany renders Uniper’s construction and operational plans illegal. Consequentially, the plant received the nickname of “Germany’s largest illegal construction”.¹⁸

Disregarding the suspension of permits, a strong opposition by civil society and E.on’s unlawful conduct, the coal friendly state government of North-Rhine Westphalia continued to drive the project forward. It did so not by requesting E.on to amend their faulty plans, but by amending the local state zoning laws and the climate protection paragraph of the

state constitution to enable further construction of Datteln 4. It became known as “Lex E.on” in Germany¹⁹. As a shameful consequence, the power plant received a new permit in 2017.

Construction was further delayed when the welding seams of the boiler of the plant showed numerous flaws during testing. Newly developed T-24 steel had been used as building material in order to ensure an improved efficiency of the plant. As with other power plants using this new kind of steel, the material turned out to be less durable than expected and had to be replaced with conventional, less efficient steel – thereby reducing the intended efficiency gains. Replacement work on the 35,000 welding seams²⁰ further delayed the finalization of the plant, making Datteln 4 the only coal power plant under construction in Western Europe in 2019.²¹

It Doesn’t Add Up!

The initial line of argument for Datteln 4 in 2007 was that it would replace four older coal-fired power plants and that its electricity would be necessary for the operation of the German railway operator Deutsche Bahn.²² However, all of the four older power plants were already retired in 2013 and 2014 and neither did any lights go out nor did any trains stop running in Germany as a result. The new plant is also not likely to reduce CO₂ emissions by replacing older and less efficient coal power plants as Uniper argues. Instead, Datteln 4 will likely compete with costlier, but more climate-friendly gas-fired power plants. According to projections, Datteln 4 would lead to additional CO₂ emissions of 2 to 4 million tons annually.²³ In the end, even the German government had to admit that Datteln 4 would lead to higher CO₂ emissions, and not reductions. While the government is still intent on enabling Datteln 4, the plant faces broad-spread public

opposition throughout Germany as no one can understand why the promised coal phase-out should begin with the initiation of a new coal plant.

But Datteln 4 is not only a climate and a reputational risk, it is also likely to become a financial liability. Both Deutsche Bahn and RWE secured power purchase agreements with Uniper in the early development stages of the plant. Since the signing of these agreements, market prices have plummeted and due to the massive delay and complications in the construction of the power plant, neither of the companies feel bound to the former contracts anymore. In its annual report, Uniper has already acknowledged that it will have to sell its electricity at a much lower price than initially anticipated, leading to massive write-offs in the company’s books. Adding aforementioned legal and technical risks, Uniper’s own calculations value Datteln 4 in the lower triple-digit million sum which stands in stark contrast to the 1.5 billion € it initially invested.²⁴ It is therefore highly unlikely that the company will be able to even amortize the plant. Fortum however, is set on the premise that it will receive a good return on its investment into Uniper.²⁵ But considering the financial risks associated with Datteln 4, Fortum’s calculations might not add up.

At the same time, the new coal plant is set to become ‘ground zero’ for the German climate movement. Fridays for Future and other globally networked climate justice movements have already staged protests. They have announced²⁶ that the site will remain the focal point of public opposition until it is certain that Datteln 4 will not be connected to the grid. Whether Fortum likes it or not, the company will have to bear the brunt of an ever-growing climate movement that is not willing to accept the inauguration of a new coal power plant in Western Europe.



Uniper's Maasvlakte 3 coal plant will have to retire early by 2030. Subsequently, the company threatens to sue the Netherlands for its timely coal phase-out law. Photo: Rudmer Zwerver

IV. Undermining Climate Action Across Europe – Uniper's Threat to Sue the Netherlands

Unfortunately, the story of Fortum's investment does not stop here. Uniper's plans do not only undermine climate ambition in Germany, but endanger progressive climate decisions of governments all across Europe. The company has publicly threatened to sue the Dutch government, after it had announced a law to phase out the burning of coal for electricity generation by 2030.²⁷ The Dutch law is actually quite similar to the Finnish law, which will end coal-fired electricity generation by 2029. Uniper is now seeking up to €1 billion Euros in compensation from the Dutch government for the early retirement of its coal-fired power plant in the Netherlands.

Construction for Uniper's coal plant in the Netherlands, Maasvlakte 3, began in 2008 and the plant was only brought online in 2016. Technically,

the plant is identical to the Datteln 4 power station. A year before the construction of Maasvlakte began, the Intergovernmental Panel on Climate Change (IPCC) published its 4th Assessment Report. This report left no doubt that urgent and meaningful measures to lower CO₂ emissions would be required. Furthermore, three years earlier, the EU had already established the Emissions Trading Scheme with the aim of reducing CO₂ emissions. In complete ignorance of the ever worsening climate crisis, Uniper claims that its plant should be able to run for 40 years and that the new law will cost the company hundreds of millions of Euros. Consequentially, Uniper is now threatening to file an Investor-State Dispute Settlement (ISDS) claim within the framework of the Energy Charter Treaty (ECT) against the Netherlands.

An Outdated Agreement

The Energy Charter Treaty (ECT) is an obscure multilateral investment agreement signed in 1994. It was originally intended to overcome the political and economic divisions between Eastern and Western Europe by protecting Western investments in fossil fuels in the former Soviet Union after years of state control.²⁸ However, today more than 80% of investments protected by the ECT are made within the EU and the ECT is increasingly being used to protect fossil fuel investments and infrastructure. The agreement provides fossil companies, such as Uniper, with a powerful tool to sue governments if new and progressive climate or environmental laws threaten the profits of big oil, coal or gas.

One shocking example is the 2009 legal claim against Germany by Vat-

tenfall over environmental standards for its coal-fired power plant in Hamburg.²⁹ The Swedish utility company demanded €1.4 billion in compensation for, what it believed, were disproportionately high environmental restrictions which would have rendered its project unprofitable. Intimidated by the high compensation demands, the local government yielded, settled the case with Vattenfall, and weakened its environmental regulation. In a second case, which is not public, opaque and still ongoing, the Swedish company expects €6.1 billion in compensation from the German government for the country's accelerated nuclear phase-out plans following the Fukushima disaster.³⁰

At a time when numerous European countries are announcing carbon neutrality goals and coal exit plans, Uniper's threat to sue the Netherlands sets a dangerous precedent. If the company follows through with its claim, the case could precipitate a "regulatory chill" throughout Europe, discouraging governments from taking necessary climate action in order to avoid massive compensation

claims by foreign energy companies. Accordingly, a network of 278 environmental, climate, consumer and development civil society groups have urged the members of the European parliament to withdraw from the Energy Charter Treaty if no steps are taken to amend its current undemocratic and fossil fuel friendly provisions.³¹ Even the German government has signed a political declaration wherein it is committed to inform the investor community not to introduce new intra-EU arbitration proceedings, including under the ECT.³²

The Double Standard of the Finnish Government

Fortum, and by extension the Finnish government, are now in an indisputably awkward position. The state-owned energy company plans to drive "*the change for a cleaner world*" and the Finnish government has set a coal phase-out date for 2029. Fortum's future subsidiary Uniper however, now plans to sue a government, whose coal-phase-out date is one year later than Finland's. At the same time, both Finland and the Netherlands are members of the

Powering Past Coal Alliance (PPCA), a network of progressive governments, businesses and organizations that explicitly endorse the Paris Agreement and aim to accelerate the transition from coal to clean power generation.³³ Surely, members of the Finnish government have to realize that the threat of one member's state-owned company suing another member state will erode the very credibility of the alliance.

Finland is on track to damage its reputation as a climate leader in Europe if it does not stop the absurd legal claims against the Netherlands. The Finnish government holds a 51% stake in Fortum and has the responsibility to intervene in the actions of its flagship company, which will soon own over 70% of Uniper. Up to now, the government has not reacted and consequentially finds itself in a situation where it operates on a double standard: striving for carbon neutrality by 2035 at home and looking the other way while a subsidiary of its flagship company undermines Europe's climate goals.

V. Creating Dangerous Lock-in Effects: The Gas Infrastructure Expansion Plans

While the previous examples relate to wrong investment decisions in the past, it is worth mentioning Uniper's questionable future strategy: The company is intent on expanding its activities in the gas sector. One important project in this context is the construction of Germany's first Liquefied Natural Gas (LNG) Terminal in Wilhelmshaven. The floating storage and regasification unit would be connected to land by a 30 km pipeline and is planned to be operational by 2023.

The company argues that a landing terminal will significantly improve the security of supply and contribute to the reduction of greenhouse gas emissions. In reality, these claims could not be further from the truth.

The terminal would be used for the import of fossil gas, which would most likely be comprised of fracking gas from the USA and also Canada. Fracking is an extremely dirty gas extraction technique, which turns local water

toxic, pollutes the air and often leads to earthquakes. The German Federal Ministry for Environment considers imported fracking gas to be as damaging to the climate as coal.³⁴ The planned capacity of 10 billion cubic meters per year would translate into at least 17 million tons of CO₂ emissions³⁵ –and to massive methane emissions connected to fracking. According to Uniper the project could even be expanded in the future to transport up to 40 billions cubic meters a year.³⁶



Massive LNG Vessels would transport fracked gas across the Atlantic to supply Uniper's planned gas infrastructure. Photo: The Mariner 2392

Uniper's new LNG terminal would have disastrous consequences for the climate, and it would be completely expendable as Germany already has sufficient import capacities for fossil gas. The terminal is in direct conflict with Germany's 2050 decarbonisation target and will most likely become a stranded asset due to its long amortization time of at least 30 years. Uniper's planned gas infrastructure therefore poses a risk of becoming its compensation claims of tomorrow.

Furthermore, the coastal region around Wilhelmshaven is already projected to be highly susceptible to climate change induced sea level rise and extreme storm floods. A number of protected nature reserves and a Special Area of Conservation, the Lower Saxon Wadden Sea, would be endangered due to close proximity to the planned terminal. Consequentially, a legal report by the NGO Environmental Action Germany (DUH)³⁷ considers the planned terminal to be

ineligible for approval due to environmental and safety concerns.

What is certain is that a new LNG Terminal has no place in Germany's decarbonisation strategy. However, Wilhelmshaven is only on the receiving end for LNG. On the other side of the Atlantic, Uniper is involved in the creation of more new LNG infrastructure: The Canadian company Pieridae Energy wants to build the LNG export terminal Goldboro in Nova Scotia. Crucial for its construction is a long term (20 years) supply agreement between Pieridae and Uniper, which might be supported through German state guarantees. The agreement with Uniper is for half the liquefied natural gas produced at Goldboro or 5 mtpa (million tonnes per annum). The project is supposed to start shipping LNG by 2024/25, meaning that Uniper would buy fossil gas until 2044/45 despite all its talk about new gas infrastructure being used for "renewable" gas in the future.

Beyond the LNG business, Uniper is involved in the contested gas pipeline North Stream 2, set to bring Russian gas to Germany. Uniper is one of the financial investors in the pipeline, together with Wintershall, Shell, Engie and OMV.

Uniper is also involved in the Southern Gas Corridor, a pipeline from Azerbaijan to Italy, which will bring Azeri gas to Europe. Here the involvement is via purchase contracts for gas from the Shah Deniz gas field in the Caspian Sea, which will feed the pipeline.

While gas is often promoted as a bridging fuel to a carbon neutral future, the projects Uniper is pursuing will lead to a prolonged fossil fuel lock-in with dire consequences for our climate, the environment and the transition towards a genuinely clean energy system. Uniper and Fortum have to put an immediate stop to this expansion of new fossil fuel infrastructure.

Dirty coal for Fortum's and Uniper's coal plants

Fortum sources its hard coal for the Finnish and Russian power plants from mining companies in Russia and Kazakhstan, while Uniper imports mainly from Russia, Colombia and the USA. Especially Russian and Colombian coal has a devastating human rights and environmental track record.

RUSSIA: Cheap coal for Europe, black snow for the Kuzbass

The coal imported from Russia comes almost entirely from the Kuzbass Region, located between the cities of Kemerovo and Novokuznetsk. Kuzbass is the largest coal basin in Russia. At present, there are 120 underground and opencast mines in operation here. The coal is transported 4,000 km by train to the Baltic ports and then distributed all over Europe.



Photo: Ecodefense

The big coal mining companies SUEK, Kuzbassrazrezugol (KRU) and Siberian Business Union (SDS) are the most important exporters to Europe, but there are also more than a dozen smaller companies mining coal in the region. There is a high probability, that the big companies trade coal of the smaller companies as well.

Coal mining has wreaked havoc on the environment in Kuzbass. Rivers, ground water and air are heavily polluted, with devastating impacts on the health and the livelihoods of people living in the region. The land rights of local communities are frequently violated; regulations on the minimum distance between opencast mines and inhabited areas are ignored and pollution levels exceed the allowed limits.^I In the winter months, large parts of the coal mining regions

are frequently covered with black dust. "Black snow" has become a common phenomenon.^{II}

In February 2019, the Swedish television SVT published a documentary, in which it showed, that Carbo One, the coal trading company of KRU, was involved in a huge money laundering and tax evasion scandal.^{III} Even though Fortum and Uniper are well aware of the accusations against their coal supplier, they haven't questioned the business relationship to this day. Both companies frequently refer to the Bettercoal Initiative and its assessments of the coal mining companies. In fact, assessments are far from being transparent and comprehensive. To this day, even predominantly negative assessment results have never led to any serious consequences for the assessed supplier.

COLOMBIA: Blood coal for Europe

Urgewald and other NGOs have informed Uniper and its predecessor E.ON since 2009 about the terrible situation in the Colombian coal mining regions. In 2014, the Dutch peace organization PAX issued the report "The Dark Side of Coal – Paramilitary Violence in the Mining Region of Cesar, Colombia".^{IV} The report investigates the involvement of the mining companies Drummond (USA) and Prodeco (Glencore, Switzerland) in the paramilitary violence in the Cesar region. The report cites several testimonies that were made under oath by former paramilitary leaders. According to these testimonies both Drummond and Prodeco allegedly fi-

nanced the paramilitary "Juan Andrés Alvarez" front (JAA), which spread terror across Cesar and especially in the coal mining region between 1996 and 2006. During this time, the front grew from 60 to 600 men under arms, before it was demobilized. The JAA was responsible for more than 3,100 killings and displaced more than 55,000 people. The victims wait for justice and remedy to this day.

During all these years, Uniper sourced coal from Drummond and Prodeco. The company has never seriously considered interrupting its business relation with these companies. In January 2020, the Colombian Newspaper El Espectador reported, that Colombian prosecutors have started a criminal investigation

against six Drummond managers. It also reported twelve new testimonies of Drummond workers against the company.^V

Russian and Colombian coal will fuel Uniper's new Datteln 4 coal plant. It is the people in the mining regions, who are paying the price for cheap and dirty energy.



A mother holding her son's ID card who was murdered by the JAA. Photo: Daniel Maissan

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VI. “For a Cleaner World?”

Fortum presents itself as a company with an ambitious vision: The utility wants to “*reshape the energy system*” and become the “*leading clean-energy company that drives the change for a cleaner world*”.

The company website is laden with news and reports outlining the energy producer’s sustainability targets, plans for reducing greenhouse gas emissions and its self-ascribed position as a circular economy champion. An emotional company advertisement video named “*Mother*”³⁸ calls on the viewer to join the movement and to look after Earth as she has looked after us. In a post on Fortum’s own *ForTheDoers* blog³⁹, the company’s CEO Pekka Lundmark explicitly calls for an immediate and strict reduction of greenhouse gas emissions in order to limit global warming to 1.5°C. Indeed, he also acts as a board member of the Finnish Climate Leadership Coalition, which actively engages itself in pushing forward

climate ambition.⁴⁰ On numerous accounts the company has stated the following: “*Decarbonisation is deeply embedded in our DNA*”.⁴¹

Naturally, the question arises of how the acquisition of a fossil fuel laden company like Uniper fits into Fortum’s vision of decarbonization and overall sustainability? According to the company’s head Pekka Lundmark, Uniper’s fossil-based assets will provide the important security of supply while the share of renewables increases in the energy system.⁴² However, this reasoning stands on shaky ground. Fossil gas, and especially its expansion, is in direct conflict with a low-carbon energy system as it creates long-term dependencies and resource allocation conflicts with renewable energy sources. Any new fossil fuel infrastructure is incompatible with reaching the 1.5°C goal outlined in the Paris Agreement.⁴³ Nonetheless, Uniper is expanding its gas activities on a major scale and

still bets on bringing the highly controversial Datteln 4 coal power plant online in 2020.

Interestingly, this does not seem to concern Fortum. Pekka Lundmark has even gone on record saying that Datteln 4 should be allowed to operate until 2038, the current coal phase-out date in Germany. This date and the associated phase-out pathway is completely out of step with climate science – and the Finnish government’s own coal ban by 2029.

Endorsing an utterly inadequate 2038 coal phase-out timeline and supporting the commissioning of a new coal-fired power plant are not the steps that take us towards “a cleaner world”. In reality, Fortum still has a long way to go if it wants to transform itself into a leading clean energy company. And the Uniper takeover has just made that journey significantly longer.

VII. Time to Take Charge – Uniper is Fortum’s Responsibility

Fortum has undoubtedly made a questionable deal with its investment in Uniper. This investment puts the Finnish government in a credibility quandary and severely erodes the sustainability claims made by Fortum. But so far, the Finnish utility does not seem to have realized the implications of its takeover of Uniper.

On several occasions in the past, Fortum and its CEO Pekka Lundmark have shied away from taking responsibility for Uniper’s actions by arguing that they don’t hold a majority stake in the company. In February of 2018 for instance, following the initial pur-

chase of over 46% of Uniper shares, an open letter⁴⁴ by 15 European Environmental NGOs urged Fortum to develop a credible closure plan for Uniper’s coal power fleet in line with the Paris Agreement. At the time, Fortum replied that due to their minority ownership they weren’t in a position to make decisions over Uniper’s assets.⁴⁵

The situation now is a different one. Since the original acquisition, all of Uniper’s board members have been replaced and it seems unlikely that the new CEO and his colleagues were elected against the will of the company’s biggest shareholder. Further-

more, Fortum is on track to become the majority shareholder with a stake of at least 70.5% in Uniper after closing transactions by the end of the first quarter 2020.⁴⁶ The Finnish utility company has announced that it intends to be represented on Uniper’s supervisory board in accordance with its ownership stake.⁴⁷ Uniper’s carbon footprint is now indisputably Fortum’s responsibility and Fortum can and must make decisions regarding its subsidiary’s fossil business. Those decisions – or indecisions - will show us whether Fortum is willing to take responsibility for the impact its actions are having on our future.

VIII. What Fortum Should do now

- Fortum should commit to closing (and not selling) its coal assets, including Uniper's. It should develop and publish a decommissioning plan to retire its coal power plants – Uniper's included – by 2030 in accordance with the Paris Agreement.
- In the meantime, Fortum and Uniper need to clean up their coal supply chains. Suppliers that are accused of human rights and environmental violations or corrupt practices should be investigated and excluded until cleared.
- Fortum should stop the commissioning of Datteln 4. It would be a disastrous signal to the world if Fortum allows a new coal plant to go online in 2020.
- Fortum needs to ensure that Uniper respects the Netherlands' coal exit decision and withdraws its absurd compensation claim. Putting forward a legal threat under the ECT is undemocratic and endangers European climate ambition.

IX. The Role of Finland: Will the Marin Government Walk the Talk?

The Finnish government can play a very progressive and pro-active role in the fight against climate change – not only in Finland, but also in Germany and the Netherlands with positive effects on a European or even a global level.

If the Marin government stops Fortum's plans of opening the last new coal plant in Western Europe, it would send a strong signal to the European Union and the world. A signal that cements the fact that the time for coal in Europe is definitely over. In doing so, it would prevent the additional

import of millions of tons of dirty coal from coal mining regions in Russia, Colombia or elsewhere.

Furthermore, the Finnish Government should ensure that the subsidiary of its flagship company refrains from legal threats against an EU partner country for passing a progressive coal phase-out law. ISDS arbitration procedures within the EU are uncalled for and a disparagement of the functioning EU legislative framework. And this particular claim is especially harmful as it could deter governments from considering new climate legislation.

The Finnish government should also position itself against Fortum's and Uniper's plans to build new gas infrastructure like the planned LNG terminal in Wilhelmshaven. This would only create lock-in effects for fossil gas, which are grossly incompatible with the Paris Agreement.

With the mentioned steps the Finnish Government could multiply its leverage and become a real leader for coherent and ambitious climate action in Europe.



Activists holding a peaceful demonstration outside the Fortum headquarters in Espoo, Finland. Photo: Martin Snellman / Greenpeace

X. The Role of Fortum's Investors

There is a growing global consensus among leading financial institutions that as the world is moving irreversibly towards a low carbon economy, coal power assets and new fossil infrastructure are going to become stranded investments, which constitute growing financial risks. The profitability of hard coal plants has been collapsing and it can be expected that, due to an increased carbon price, fossil fuel-heavy companies such as Uniper will be facing further significant losses.

The inauguration of Datteln 4, the only new coal-fired power plant in Western Europe, is already becoming the focal point of the German and European climate movement. Nu-

merous environmental organizations and climate movements, such as Fridays For Future, have been and will continue protesting the plant's commissioning. The approval of Datteln 4's commissioning by the German Federal Ministry for Economic Affairs and Energy has been met with fierce criticism by media and the public alike. Datteln 4 constitutes a major liability and is likely to seriously damage Fortum's reputation.

Both companies will be subject to further reputational damage if Uniper decides to follow through on its threats to file a claim against a timely coal phase-out in the Netherlands.

Furthermore, the Dutch case highlights the exposure to policy risks of Fortum and Uniper.

As it was only connected to the grid in 2016, Uniper's Maasvlakte plant will operate less than half of its lifetime due to the Dutch coal exit in 2030.

Investors of Fortum and Uniper have to take additional action in order to fully align Fortum and Uniper's business model with the climate science based 1.5°C target of the Paris Agreement. They should require both companies to adhere to the requirements as outlined in Section VIII.

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Whoever gives the money bears the responsibility for the business.

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