ECA Brief
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Pulp Mills in Uruguay - February 2006

Project Background

Two proposed pulp mills located on the international waterway between Argentina and Uruguay are currently under construction whilst the IFC considers providing US$200 million in direct loans and the equivalent via syndicated funding to. Combined, the projects will form the largest pulp producing facility in the world. Botnia S.A., a conglomerate of three Finnish Companies, along with ENCE (Spain), will sponsor the two factories that represent a US$2 billion dollar investment, the largest foreign investment in the history of the small South American country of Uruguay. Both plants will use second-rate Elemental Chlorine Free technology, explicitly against world bank recommendations, causing an estimated $1.3 billion[1] damage to local economies, harming the delicate aquatic environment, destroying fisheries that sustain local livelihoods, and obliterating the well-established tourist industry in the neighbouring town of Guayleguaychú. In addition, poisonous discharges will expose local populations to chorine contamination resulting in irritations to skin, eyes, and possibly malformations at birth, respiratory complications and disease, inhibition to the immune system, allergies, complications to the endocrine system, diabetes, low weight at birth, locomotion deficiencies, cancer and death.[2] Never the less, 300 hundred permanent low paid jobs will be created, whilst all of the profits will be shipped back overseas from the specifically created tax exempt zone.[3]

Project Problems

Most of the issues have arisen from the poor environmental impact assessment undertaken by the IFC, which has been deemed in contravention of IFC operational policies and environmental and social safeguards by the Compliance Advisor Ombudsman (CAO). The CAO published recommendations for policy compliance which were largely ignored, as stakeholders were continually shut out by the IFC when, in an attempt to incorporate previous oversights, the highly irregular and ad-hoc Cumulative Impact Statement was produced. The IFC is currently considering loan approval on the merits of documents based on faulty procedure and unsound scientific practice.

The projects are under investigation by the Inter American Commission on Human Rights for a number of alleged human rights abuses and Argentine courts are considering indicting the executives of the two companies for knowingly causing damage to the environment. Meanwhile, international financiers are violating the Equator Principles, self appointed human rights obligations and a legion of United Nations and corporate social responsibility initiatives as they partake in project finance. As a final indication of

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[1] Sejenovich Report, estimates economic loss over a 25 year period, www.cedha.org.ar/en/initiatives/paper_pulp_mills/sejenovich-report-spa.zip
[2] CEDHA, CIS Comment on Compliance with IFC Operational Policy, p23, http://www.cedha.org.ar/en/initiatives/paper_pulp_mills/denuncia-cis-violaciones-procesos-cfi-eng.pdf
[3] Tax exempt status has been negotiated for a period of 25 years

the projects' grave and foreseeable consequences, The Republic of Argentina is preparing to take Uruguay to the International Court of Justice at the Hague over breaches of the River Uruguay treaty.

Protectionism by the Finnish State

Orion is the largest of the two factories, producing more pulp per annum than the 60 paper-pulp mills in neighbouring Argentina combined. The project sponsor, Botnia S.A., was created in Uruguay by Oy-Metsa Botnia, Metsaliitto and UPM, all of which are experienced Finnish pulp and paper players, backed on numerous levels by the state of Finland. The northern European nation has negotiated a contract with Uruguay establishing equal or preferential treatment for Botnia S.A by the Uruguayan government, and guaranteeing future income in the case of civil disturbances.[4] Political risk has also been underwritten by Finnvera, the official, state-owned export credit agency of Finland.

The role of Export Credit Agencies (ECAs)

Finnvera is a profit orientated, 100% state owned organization that seeks to implement objectives Finland's industrial policy. It provides export credit guarantees to Finnish companies that undertake business in countries considered to have risks resulting from unstable political situations or weak institutional frameworks, and has done such with Orion.[5] Finnvera is rewarded by subsidies from the Finnish government by achievement of policy objectives, additionally half of its credit guarantee losses are indemnified by the Finnish state, and the ECA is able to take advantage of subsidies provided by the European Regional Development Fund.[6] Multinational enterprises now consider ECAs as a necessary part of the risk sharing strategy, resulting in uncanny situation where a state owned enterprise guarantees corporate interests, a circumstance that places corporations above governments in fiscal hierarchy. The question must be asked 'why should tax dollars be disposed to the risk of reimbursing private financial losses resulting from natural business risks?'

Finnvera

ECAs have been accused of participating in the 'race to the bottom', sidestepping environmental and social safeguards resulting from their ubiquitous unclassifiable business status. However, with the advent of new guidelines and legislation, operational leeway is tightening for ECAs, yet Finnvera continues to operate in clear defiance of national legislation and international regulations. In its role with Orion, Finnvera appears to violate Finland's Export Guarantee Act[7] which specifically applies to environmental and social assessment provisions of Finnvera's projects. Furthermore, Finnvera acknowledges obligations that arise from the OECD, crystalised on the ECA's website

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[4] www.cedha.org.ar/en/initiatives/paper_pulp_mills/contrato-finlandia-uruguay.pdf
[5] www.finnvera.fi/index.cfm?id=1720
[6] www.eastwest.be/east_west/finnvera.html
[7] The Export Guarantee Act, which entered into force on 1 July 2001, brings an environmental perspective to Finnvera's operating policies as follows: (§7 of the Act on the State's Export Credit Guarantees):
The following factors shall be taken into account when export credit guarantees are granted and when the terms and conditions of the guarantees are confirmed:
1.International rules and regulations applied to export credit guarantees and binding on Finland
2. Factors related to international competitiveness
3. The environmental impacts of the project to be guaranteed, as part of the total risk assessment of the project
source: www.finnvera.fi/index.cfm?id=3163

substantiating that 'when granting export credit guarantees, Finnvera adheres to the regulations issued by the OECD and the EU.'[8]

The 2004 OECD "Annual Report on the OECD Guidelines for Multinational Enterprises" (p.16) it says the following about export promotion in Finland:

> "This programme, adopted in July 2001, introduces 'environmental and other principles' for 'export credit guarantees'. It calls the 'attention of guarantee applicants' to the Guidelines."

Although the "calling the attention of" language is typically vague, it states the intention to incorporate Finland gather Finland's the clients export credit agencies under the umbrella of the Guidelines. ([9]) Thus, *ipso facto*, Finnvera must adhere to the Guidelines.

It also is worth noting that Finland's OECD National Contact Point automatically deems companies receiving export credit guarantees as subject to the OECD Guidelines on Multinational Enterprises, creating a de-facto obligation on Finnvera to rectify the profuse human rights and environmental trespasses to this document. Finnvera is supporting a Greenfield pulp mill that, relying on available evidence, appears to breach the OECD Guidelines for Multinational Enterprises as a result of faulty environment assessment, insufficient stakeholder consultation and human rights concerns.[10]

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[8] www.finnvera.fi/index.cfm?id=1793. It is worth noting that Finnvera is bound by the OECD Arrangement on Officially Supported Export Credits and must take into account the OECD Recommendation on Common Approaches on Environment and Officially Supported Export Credits of which Chapter III, paragraph 12.1 refers to Environmental Impact Assessment requires adherence to standards of the World Bank Group, which clearly has been breached by project sponsors.

[9] TUAC trade union advisory committee to the OECD organisation for economic cooperation and development
TUAC Survey of the functioning of OECD Multinational Guidelines National Contact Points
www.union-network.org/unimultinationals.nsf/0/98bdbef03c0cbb9cc1256a6a00530f50?OpenDocument

[10] OECD Guidelines for Multinational Enterprises, Chapter II and Chapter V