



Equator Principles

Compliance Complaint

Regarding Proposed Pulp Paper Mill Investment in Fray Bentos Uruguay

From

**The Center for Human Rights and Environment (CEDHA) - ARGENTINA
Eco La Paz – Argentina - Amigos de la Tierra - ARGENTINA**

Banktrack – NETHERLANDS

Maan Istavaat – Friends of the Earth – FINLAND

Guayubira - REDES – Movimiento Mundial p/los Bosques - Amigos de la Tierra - URUGUAY

Amis de la Terre – FRANCE

Friends of the Earth International

To

Calyon of Crédit Agricole - FRANCE

May 18th, 2006

Complaint Summary

The Center for Human Rights and Environment (CEDHA)-Argentina, Banktrack-Netherlands, Redes-Amigos de la Tierra-Uruguay, Guayubira-Uruguay, Movimiento Mundial por los Bosques-Uruguay, Amigos de la Tierra Argentina, Friends of the Earth International, Amis de la Terre-France, Maan Istavaat-Friends of the Earth Finland, denounce the violation of international human rights and international environmental law, violations of international bilateral law, violations to International Financial Corporation (IFC) Environmental and Social Safeguard Policies, violations of IFC Disclosure Policy, violations to national and regional laws in Uruguay and in Argentina, **violations to the Equator Principles** and other procedural violations (especially with respect to environmental impact studies and stakeholder consultation) regarding the design, preparations and construction of a cellulose industry sponsored by Botnia (Finland) in Fray Bentos (Uruguay), on the River Uruguay, forming the natural waterway border between Argentina and Uruguay.

Many of the legal and procedural policy violations committed by Botnia, the project sponsor, as well as by the IFC, that are outlined in this Complaint, in addition to serious gaps that exist in Botnia's Environmental Impact Studies, have been denounced by tens of thousands of stakeholders as well as by the Argentine government and numerous civil society organizations, including the undersigned. CEDHA, in representation of nearly 40,000 affected stakeholders, including local communities and civil society organizations in both Uruguay and Argentina, filed a complaint¹ in September of 2005 to the IFC's independent Compliance Advisory Ombudsman (CAO), and to the Inter-American Commission on Human Rights grounded on these violations. The CAO received and admitted this complaint, and has since made two visits to the project sites, to interview stakeholders, review IFC policy and procedure compliance, and investigate the allegations made in the complaint to the CAO against the IFC. In its Preliminary Assessment Report,² the CAO expresses its serious concern for the rights and expected impacts on local stakeholders which were not properly consulted, and explicitly recognizes not only the deficient nature of the Environmental Impact Assessments (EIAs) as well as the "questionable" nature of IFC's due diligence in complying with policy, but also the legitimate and coherent position of the claimants in the case. The CAO later went on to conduct a *Full Compliance Audit* of the Botnia project and confirmed many of the allegations made in the original complaint. The CAO informed CEDHA of conclusion of its investigative process on May 10, 2006. All CAO documentation can be found on the CAO's website.³ The key violations are cited below, as well as other violations and deficiencies in environmental and social impact assessments reviewed by consultants hired by the World Bank to assess the quality of existing information upon which the various Environmental Impact Assessments (EIAs) are constructed. It is clear from the evidence available, that these projects are not in compliance with IFC policy, as many gaps still exist casting doubt as to the true social, economic, and environmental negative externalities that will be caused by Botnia's cellulose production site in Uruguay.

The Botnia project (commonly referred to as the Orion Project) is additionally the subject of numerous judicial and non-judicial complaints, including a recent filing by the Government of Argentina against Uruguay at the International Court of Justice and by community stakeholders against Uruguay at the Inter-American Commission on Human Rights. Additionally there are at least two national level law suits pending against Botnia (a criminal complaint in Argentina against company executives of Botnia, and a civil suit in Uruguayan courts for irregularities by Uruguayan officials in handling of permit issuance).⁴

Finally, it is worth noting that ING Group, a leading Equator Bank from the Netherlands, which received a similar Equator Principles Compliance Complaint in December of 2005, recently chose to withdraw its pledge of US\$480 million to Botnia, clearly due to: the increased risk this project has on its investment; to the escalating conflict this project is causing between Argentina and Uruguay; and to reports by the CAO of the IFC and by IFC-hired consultants as well as World Bank agency doubts confirming many of the allegations made in this complaint with respect to IFC/World Bank policy compliance.

Given the large amount of publicly available evidence and information regarding the many shortcomings of this project, the persistent doubt from the World Bank as to the environmental soundness of this project, and the serious conflict this investment is causing between nations and in the region, **any support from Calyon to Botnia for this investment would imply Calyon's knowing complicity in the many violations cited and a violation of its commitments to uphold the Equator Principles.** Calyon's support would also further aggravate the impacts this project is having in the financial and political instability it has caused and continues

¹ For full complaint see: www.cao-ombudsman.org/html-english/complaint_cmb.htm

² for CAO report see: www.cao-ombudsman.org/html-english/complaint_cmb.htm

³ see: <http://www.cao-ombudsman.org/html-english/complaintOrionandCMB.htm>

⁴ see: http://www.cedha.org.ar/en/initiatives/paper_pulp_mills/denuncia-uruguay-viana.pdf and http://www.cedha.org.ar/en/initiatives/paper_pulp_mills/denuncia-penal-botnia-ence-spa.pdf

to cause in the region and in EU-MERCOSUR trade relations. In this respect, Calyon could be held legally responsible for its complicity in promoting severe human rights violations and its executives could be tried in national and international courts. The information published on Botnia's website, as of May 16th, 2006, indicates "that Calyon is acting as main arranging bank for the financing of Botnia's pulp mill projects in Uruguay", thereby confirming its relationship with Botnia, and subsequently Calyon's complicity with the violations cited in this complaint.⁵

This **Equator Principles Compliance Complaint** presents to Calyon the accusations made in the original complaint filed by CEDHA to the CAO in September of 2005, as well as new evidence that has appeared since that complaint, and identifies **corresponding violations to the Equator Principles** informing Calyon of other legal and procedural complaints and actions that are underway and/or imminent against the government of Uruguay, against the IFC, and against sponsor-company representatives, and in the defense of affected stakeholders relative to violations of human rights and environmental law.

This complaint is submitted to Calyon citing Calyon's moral, ethical and professional obligation to uphold its commitments to the Equator Principles and ensure that as a financial supporter of such an investment, Calyon is "promoting responsible environmental stewardship and socially responsible development" which is incompatible with any support to Botnia.

The complaint also highlights the enormous risks with Calyon involvement in Botnia's project in terms of legal process, public opposition, and mounting international advocacy against the types of unsustainable development promoted by the project sponsor.

This complaint is presented by 9 institutions from 6 countries and two continents, representing extensive advocacy networks that will tirelessly pursue Calyon and expose its complicity in Botnia's violations to Human Rights, to International Environmental Law, and to the Equator Principles, until it withdraws all support to this project.

The complaint requests Calyon to follow in the steps of its Equator Bank colleague, ING Group, and cease any and all consideration of financing Botnia.

⁵ <http://www.metsabotnia.com/en/default.asp?path=204;208;210;211;1097;1261>

Background of Projects

The Orion project (as it is commonly referred to) by Botnia is located in the town of Fray Bentos, Uruguay, on the Uruguay River which forms the international waterway border between Argentina and Uruguay. This town's location is in the heart of one of Argentina's and Uruguay's most prominent tourist regions, surrounded by pristine riverside beaches, natural environment and one of the cleanest rivers in Argentina and Uruguay as well as being situated on one of the world's most important freshwater resources, the Guaraní Aquifer.

Botnia's Orion project, a mega-sized cellulose production scheme, comes on the heels of another, nearly equally large investment by ENCE of Spain, which has chosen to build a similar mill just upstream from Orion, making a combined investment of nearly US\$2 billion of foreign direct investment (FDI), the largest in Uruguayan history, while Botnia's portion of the investment amounting to US\$1.2 billion, is the largest single FDI investment ever of a Finnish company abroad. The combined production of Botnia and ENCE would be one of the world's largest production of Kraft System paper pulp, utilizing Elemental Chlorine Free technology, a second-rate technology which both European Union and World Bank best practice policy recommend should be replaced by the best technology available, which is a Total Chlorine Free process (TCF). Claims by Botnia and ENCE that their ECF technology meets the highest standard existing for ECF (which is preferred for the type of pulp desired by Botnia), have been questioned by recent reports by IFC-hired consultants, indicating that neither Botnia nor ENCE have provided any evidence that they have incorporated latest industry standards, cited in IPPC (accepted European standards on cellulose production), which call for recuperating up to 50% of waste emissions, as well as using less chlorine-based elements, such as ozone bleaching.

The Botnia and ENCE industries will produce 1.5 million tons of pulp, utilizing 4 million tons of wood per year. The plants are sited in Uruguay across the river from Gualaguaychú, a tourist driven city and region (Entre Rios province) of Argentina. The plants are expected to employ 3,000 short-term workers during construction and 300 low-paying long-term wage workers in a region that is extremely rich in natural resources and heavily reliant on tourism and fisheries for local livelihoods.

The site choice and location was unfortunate and does **not respond** to a site study for the best location of a contaminating industry⁶ as is mandated by Uruguayan law and by the IFC's Environmental Safeguard Policies for Category A projects (the highest environmental risk category). Botnia offers only **one half page** to the analysis of site location, offering **no** information about the very severe social, economic and environmental risks to local stakeholders related to site choice.⁷ Botnia's site choice corresponded rather to Botnia's previous history and economic investments in the region, as Botnia *already* owned land and had invested in a portside facility where Botnia was already chopping eucalyptus trees into woodchips and loading product onto freight ships in Fray Bentos for shipment and processing into cellulose in Europe. It is clear to stakeholders, that cellulose production is entirely incompatible with the region's identify and lifestyles, in addition to presenting a serious risk to the health of local communities.

With industry trends favoring Total Chlorine Free technology, ozone treatment, as well as new standards (post 2001) in ECF to reduce environmental impacts of the pulp and paper industry, and with plants in Finland reaching their lifelong utility particularly with the exhaustion of natural resources in Europe as well as growing intolerance with contaminating industries, companies like Botnia and ENCE are starting to look south to continue operations where natural resources are still in stock, labor is cheaper, environmental controls are less strict and contamination more tolerated. To this end, they are closing plant sites in Europe, laying off expensive European workers, and heading south, where for the mentioned reasons, investment climates are, in the word's of one of the Project Sponsors CEO's, more environmentally flexible.⁸ The site was selected by Botnia despite the fact that the location was *not* suitable for cellulose production, given its location **immediately** above the potable water intake for the local community of Fray Bentos, and that its very close proximity to important tourist locations such as popular tourist beaches (Nandubaysal beach, for example), would negatively impact the local tourism industry. In fact **no study** was done by Botnia to determine where the best

⁶ Information available on the IFC's website from Botnia's own Assessment documents suggest in ONE PAGE that Botnia considered four sites and found Fray Bentos to be the most suitable taking into account factors such as conflicting uses and problems with residential areas. Located less than 5 kilometres from the residential town of Fray Bentos and in the sphere of influence of a major Argentine tourist destination conflicts with this assessment. Uruguay EIA, Capitulo 3, Ubicación y descripción, p2
[www.ifc.org/ifcext/lac.nsf/AttachmentsByTitle/Uruguay_EIA_chapter3_Spanish/\\$FILE/Uruguay_EIA_chapter3_Spanish.pdf](http://www.ifc.org/ifcext/lac.nsf/AttachmentsByTitle/Uruguay_EIA_chapter3_Spanish/$FILE/Uruguay_EIA_chapter3_Spanish.pdf)

⁷ see page 2 of
[http://www.ifc.org/ifcext/lac.nsf/AttachmentsByTitle/Uruguay_EIA_chapter3_Spanish/\\$FILE/Uruguay_EIA_chapter3_Spanish.pdf](http://www.ifc.org/ifcext/lac.nsf/AttachmentsByTitle/Uruguay_EIA_chapter3_Spanish/$FILE/Uruguay_EIA_chapter3_Spanish.pdf)

⁸ see: http://www.cedha.org.ar/en/initiatives/paper_pulp_mills/denuncia-uruguay-viana.pdf

site would be relative to contamination. Both companies only looked at economic benefits of the site chosen relative to proximity to international roads, port facilities and tree stocks.

Botnia approached the International Finance Corporation (IFC), the branch of the World Bank that provides loans to multinational enterprises, which deemed the project a *Category A Project*, indicating the *highest level* of environmental risk. As such, Botnia had to produce an Environmental Impact Assessment (EIA) for the Orion project, which it did, but which left out critical elements (such as an adequate site study-since it had already chosen its site-confirmed by a recent IFC report), stakeholder consultations which it did not properly conduct in Argentina (the CAO confirms this shortfall), and which failed altogether to consider host government obligations under international bilateral law (as pertains to the Uruguay River Treaty-which has now resulted in a complaint at the International Court of Justice), as well as obligations under its environmental and human rights obligations for which now Uruguay is facing a complaint to the Inter-American Human Rights Commission.⁹ Further, the study was riddled with errors and shortsights, which the IFC later needed to correct and update, and which have to date, NOT been resolved.

The IFC and both company sponsors grossly omitted comprehensive impact studies, which are crucially important since a second **massive** cellulose production scheme sponsored by ENCE¹⁰, the Spanish cellulose-producing company that has received fines and whose top executives have received jail sentences for violating Spanish and European laws protecting the environment and human rights, in Pontevedra a short time ago, is only six kilometers away. Despite that the combined effect of the Botnia and ENCE ventures would make this one of the largest cellulose production sites in the world, neither company offered comprehensive cumulative impact studies for their environmental and social impacts nor have they considered existing toxic elements in currently in the river or the environment. The IFC failed to request cumulative impact studies until well after it had considered elevating the project to the Board for approval, but eventually had to delay the Board vote to look closer into the cumulative impacts of the mills. The World Bank, which has not yet approved the pending loan to Botnia, and has recently, and after a long period of silence waiting for IFC results, expressed doubts about financing this project, due to massive social mobilization (including the largest known environmental march bringing together over 100,000 people) and protest against the investments, and mounting diplomatic conflict between Argentina and Uruguay (including a complaint filed by Argentina at the International Court of Justice), has recognized the many faults of the EIAs, and has on several occasions, suspended board vote on the project, commissioning a Cumulative Impact Study, which has yet to be concluded and which an IFC-hired consultant has already indicated, is inconclusive on many of the concerns expressed by Argentine and Uruguayan stakeholders opposing the Botnia and ENCE cellulose projects.

Botnia's EIA not only failed to take into account cumulative impacts, but since the project was formally located in Uruguay (literally on the border), Botnia failed to consider and consult stakeholders or take into account serious concerns of local industries (particularly tourism) on the Argentine side of the river, which are clearly within the projects sphere of influence and that will be equally impacted by the industry's water, air and land contamination. Following a complaint to the IFC's CAO Ombudsman submitted by nearly 40,000 Argentine stakeholders in communities across the river, as well as concerned environmental and agricultural organizations in Uruguay¹¹, the CAO found that the project not only breached the World Bank's Environmental and Social Safeguards as well as its Disclosure Policy, but that it also ignored Uruguay's obligations under bilateral international law governing the border use of the Uruguay River.¹² The CAO Compliance Audit found that Botnia's original EIA was 'based on obsolete data' and 'the IFC's due diligence to satisfy itself that the EAs were complete in all material respects ... was inadequate and not in compliance with the organization's Disclosure Policy'.¹³

Since the CAO complaint, Argentina has repeatedly approached Uruguay to discuss its serious concerns over the installation of these mills and the urgent need to conduct further studies to assess impact and guarantee the human rights of local communities and ensure the protection of the natural resources at risk. Uruguay and

⁹ see: http://www.cedha.org.ar/en/initiatives/paper_pulp_mills/peticion-cidh-final.doc

¹⁰ CAO Preliminary Assessment Report p7, states that 'At some point – after the release of the Orion EIA but before the release of the CMB EIA – the IFC recognized its requirement to conduct a cumulative impact study (CIS) that would take into account the possible additional impact of having two projects operate in close proximity', www.cao-ombudsman.org/html-english/documents/preliminary_assessmentFINAL.pdf

¹¹ CAO Complaint to the Compliance Advisor Ombudsman

www.cedha.org.ar/en/initiatives/paper_pulp_mills/cao-complaint-letter.doc

¹² CAO Preliminary Assessment Report

www.cao-ombudsman.org/html-english/documents/preliminary_assessmentFINAL.pdf

¹³ CAO Audit of IFC's and MIGA's Due Diligence for two Pulp Mills in Uruguay Final Report, p22 and 1

[http://www.cao-ombudsman.org/html-](http://www.cao-ombudsman.org/html-english/documents/CAOInformeFinaldeAudienciaDeDiligenciaDebidadeCFIOMGSPANISH.pdf)

[english/documents/CAOInformeFinaldeAudienciaDeDiligenciaDebidadeCFIOMGSPANISH.pdf](http://www.cao-ombudsman.org/html-english/documents/CAOInformeFinaldeAudienciaDeDiligenciaDebidadeCFIOMGSPANISH.pdf)

Argentina had agreed to a tentative plan to address such concerns, however, due to Botnia's refusal to collaborate with the Argentine and Uruguayan presidents request to cease construction for a 90-day period (a request agreed to by ENCE in this case), diplomatic negotiations completely collapsed, and Argentina chose to elevate a complaint against Uruguay (the first ever between two Latin American countries over an environmental dispute) at the International Court of Justice, grounded on this project's violations of the Uruguay River Treaty. Uruguay, meanwhile has already initiated its own complaint process both before MERCOSUR and before the International Court of Justice against Argentina for the economic instability and presumably nearly US\$400 million in economic losses due to international roadblocks by concerned Argentine citizens against the Botnia project.

Public opposition to the mills has precipitated into numerous protests and road blockages preventing construction supplies reaching the mills. The latest international road block to traffic between Argentina and Uruguay by concerned citizens, ran for over 40 consecutive days and culminated on April 30, 2006 at the one-year anniversary of public opposition to the pulp mills, with over 100,000 people peacefully marching from Gualeguaychú to the international bridge that unites Argentina and Uruguay, a few kilometers from the Botnia construction site. Protesters agreed to remove themselves from the international roadblock on the condition that Argentina submit the complaint to the ICJ, however they remain on the side of the road, awaiting developments of the case, and will take to the bridge again if they feel their concerns have not been justly addressed. To our knowledge, the 100,000 person march this is the world's largest known march for an "environmental" cause, a sad record for Botnia and its financial backers.¹⁴

In latest developments in the case, the President of Uruguay visited with Paul Wolfowitz, the World Bank President, requesting acceleration of the Bank's approval process of the loans to both Botnia and ENCE, however, following new reports by the IFC suggesting that not enough information is available yet to determine the true environmental and social impacts of these projects, and in fact showing that the concerns and many of the claims presented in the original CAO complaint were in fact true, the World Bank President stated that **no loan monies** would be considered until a full study had been completed, and suggested furthermore, that Uruguay and Argentina should try to resolve their conflict to create a proper investment climate. Clearly, until Uruguay and Argentina sort out this conflict, it is very unlikely that the World Bank will support this investment.

Summary of Complaint to the CAO - Violations of IFC Environmental and Social Policy

CEDHA's complaint to the CAO in September of 2005, filed on behalf of nearly 40,000 stakeholders including the Environmental Citizen's Assembly of Gualeguaychú, as well as on behalf of civil society organizations in both Argentina and Uruguay, and in representation of the governor of the Argentine province of Entre Ríos, outlines the following violations of IFC Operational and Safeguard Policies and procedures:¹⁵

- The violation of IFC operational policy, particularly with regards to:
 - IFC Operational Policy IOP7.50 *Projects on International Waterways*, including violations to paragraphs 3, 4, 5, 8 of this policy
 - IFC Operational Policy OP4.01 *Environmental Assessment*, including violations to paragraphs 2, 3, 4, 6, 7, 8a, 11, 12, 14, 15; Annex B paragraphs b, c, d, e, f, g of this policy
 - IFC Disclosure Policy
- the violation of international, bilateral and national laws in the assessment, planning, and implementation of the projects;
- specific environmental, social and disclosure policy considerations for Category A projects;
- the failure to adopt the least environmentally damaging technology mandated by the World Bank *Pollution Prevention and Abatement Handbook (Pulp and Paper mills)*,
- the likely grave social, economic, and environmental harm that the projects will have on local residents in both Uruguay and Argentina

¹⁴ For example, see local newspaper article: EL CONFLICTO CON URUGUAY: SE EXTIENDE LA PROTESTA EN ENTRE RIOS, <http://www.clarin.com/diario/2006/02/17/elpais/p-00401.htm>

¹⁵ The IFC recently underwent a revision of its Environmental, Social and Transparency Safeguard Policies and a new set of policy were adopted in April of 2006. This complaint, as well as the corresponding CAO Preliminary Report and Full Compliance Audit, are based on compliance with the previous policy which was the policy in effect at the time of the establishment of the Botnia Orion Project. Since the IFC loans have not yet been approved by the Board, and are still being reviewed, and considering that the IFC new Safeguard Policy may apply to some issues pertinent to the Orion Project, we will refer in this Complaint to previous IFC policy. If in the future, it is shown that new policy may apply to the Botnia Orion project, particularly if one policy proves to be stricter than another, measurement of compliance should fall to the "highest" standard of compliance between the former and new policy.

Violations to Equator Principles¹⁶

Calyon states on its website that it is one of the first French banks to sign up to the Equator Principles Charter, to ensure compliance with these principles in project finance, committing Calyon to undertake financing to “only those projects which comply with a set of environmental and social requirements based on the rules of the IFC”.¹⁷ As an Equator Principles bank, Calyon has the moral, ethical, and professional obligation to “promote responsible environmental stewardship and socially responsible development” and has promised to finance projects that are “socially responsible and reflect sound environmental management practices”. In this context, the independent control and report of the CAO offers critical independent and internal review information regarding the allegations made in this complaint, of environmental and social policy compliance which must be taken into account by Calyon assessing project compliance both with IFC Environmental and Social Safeguards and with the Equator Principles.

These projects violate the following Equator Principles:

Violations to Equator Principle 1

1. We have categorised the risk of a project in accordance with internal guidelines based upon the environmental and social screening criteria of the IFC as described in the attachment to these Principles (Exhibit I).

The corresponding environmental and social screening and assessment criteria mandated by IFC categorization of the project as Category A, is clearly deficient in this project, and several issues not addressed, as many of these criteria *have not* been contemplated in IFC procedures. This is substantiated in the CAO Preliminary Assessment Report which states that:

- Feasible alternatives were not addressed
- EIA consultation was inadequate
- Cumulative impacts were not measured
- Relevant stakeholders were not identified or consulted

The CAO proceeded to a Full Compliance Audit, and concluded that:

The IFC’s due diligence to satisfy itself that the Environmental Assessments (EAs) were complete in all material respects prior to disclosure **was inadequate** and **not in compliance** with the organization’s Disclosure Policy, resulting in disclosure of EAs that were not complete.¹⁸

The CAO further states that IFC procedures were “not rigorous” enough to “sufficiently support” outcomes of the EAs. The CAO also finds that IFC and MIGA offered cluttered, confusing and contradictory information about project compliance and cumulative impacts of the mills, perhaps owing to the “Chinese Wall” constructed by IFC between the two mega projects, on the grounds of avoiding “all possibilities for exchange of sensitive business information”, despite the fact that the combined impact of these projects would be the world’s largest production of cellulose and pose severe risks to the health and livelihoods of local communities.

The CAO also states that as late as April of 2005, “the IFC was working from incomplete versions of the Environmental Assessments”, and “should have clearly signaled this to stakeholders”, which it never did.

The CAO Full Compliance Audit reveals that IFC already new by June of 2005, that cumulative impacts of the Orion and CMB projects (the ENCE project) were “based on obsolete technical data”, and that the IFC was aware “of concerns that communities in Argentina perceived the pulp mills as threatening to their quality of life”.

The Full Compliance Audit also sites MIGA’s (the World Bank’s loan guarantee agency which has also suspended loans to Botnia for the time being) recognition that the projects sphere of influence, particularly with respects to economic impacts includes a 60km radius around the project site (which would include the city of

¹⁶ As the IFC recently revised its Environmental and Social Safeguard Policies, and considering that the Equator Principles are grounded on IFC policy, the Equator Banks have also had an ongoing discussion on procedures and time frame to officially adopt a new generation of Equator Principles, in line with the new IFC policy. At the time of this complaint, the EBs had not yet adopted these new Principles, however, as in the footnote above relating to possible conflicting or differing degrees of principle standards, it will be assumed that the highest standard will be chosen should a conflict arise.

¹⁷ checked May 16th: <http://www.calyon.com/news-zooms/project-finance-commitment.html>

¹⁸ see: <http://www.cao-ombudsman.org/html-english/documents/CAOAuditofOrionandCMBPulpMillsFinalReportENGLISH.pdf>

Gualeguaychú), which the IFC and project sponsors have repeatedly stated would not be impacted, and a 200km radius with respect to eucalyptus tree harvesting impacts, which has also been minimized by project sponsors and the IFC. MIGA documents also show that “socioeconomic impacts on the Argentine province of Entre Rios was limited by data availability” and recommends “that deeper assessment are needed”.

With regards to the very controversial Cumulative Impact Study (CIS), commissioned by the IFC when Environmental Assessment deficiencies became apparent in mid 2005, the CAO concludes that the “IFC gave no public clarity about the extent to which the CIS might influence project decision-making, neither acknowledging that there had been a short-coming in its earlier due diligence, nor by making a clear commitment to consultation on the CIS”, all points local communities have complaining to the World Bank president about since the CIS was launched in December of 2005.

The CAO concludes that “IFC’s due diligence ... was inadequate and not in compliance with the organization’s Disclosure Policy”.

Violations to Equator Principle 2

2. For all Category A and Category B projects, the borrower has completed an Environmental Assessment (EA), the preparation of which is consistent with the outcome of our categorisation process and addresses to our satisfaction key environmental and social issues identified during the categorisation process.

The EIA is not consistent with the outcome of the Equator Principle’s categorization process and does not address the most sensitive social and environmental concerns expressed by stakeholders. The CAO report sustains this allegation indicating that

- The borrower has not sufficiently addressed cumulative environmental impacts and impacts to local livelihoods of affected stakeholders;
- Due diligence was not followed by the IFC in the handling and quality control of the EIAs and consultation process in the projects.

The CAO’s critiques of this project are further confirmed and specified by the later IFC-contracted independent consultant (Hatfield) report which led to the supplementary IFC Plan of Action,¹⁹ which shows clear gaps, missing evidence and uncertain information respective of issues such as:

- Lack of information in order to confirm use of Best Available Technology;
- Lack of information regarding impacts on drinking water intake for the city of Fray Bentos;
- Lack of information regarding impacts to tourism;
- Lack of information regarding contamination of river (odor, color, on biodiversity, etc.)
- Lack of information regarding to subterranean waterflows (as a result of overharvesting of Eucalyptus trees needed for the plants);
- Lack of information regarding air contamination;
- Lack of information regarding factory site choice (in terms of environmental and social impacts);
- Lack of technical information regarding possible recuperation of toxic waste up to European industry standards;
- Lack of information regarding impacts to fisheries and fish stock;
- Lack of information regarding impacts to Guaraní Aquifer;

Violations to Equator Principle 3

3. In the context of the business of the project, as applicable, the EA report has addressed:

- a) assessment of the baseline environmental and social conditions*
- b) requirements under host country laws and regulations, applicable international treaties and agreements*
- c) sustainable development and use of renewable natural resources*

¹⁹

see:

[http://www.ifc.org/ifcext/lac.nsf/AttachmentsByTitle/Uruguay_ActionPlan_English/\\$FILE/Uruguay_ActionPlan_May2006.pdf](http://www.ifc.org/ifcext/lac.nsf/AttachmentsByTitle/Uruguay_ActionPlan_English/$FILE/Uruguay_ActionPlan_May2006.pdf)

- d) protection of human health, cultural properties, and biodiversity, including endangered species and sensitive ecosystems
- e) use of dangerous substances
- f) major hazards
- g) occupational health and safety
- h) fire prevention and life safety
- i) socioeconomic impacts
- ...
- m) cumulative impacts of existing projects, the proposed project, and anticipated future projects
- n) participation of affected parties in the design, review and implementation of the project
- o) consideration of feasible environmentally and socially preferable alternatives
- ...
- q) pollution prevention and waste minimization, pollution controls (liquid effluents and air emissions) and solid and chemical waste management

Note: In each case, the EA will have addressed compliance with applicable host country laws, regulations and permits required by the project. Also, reference will have been made to the minimum standards applicable under the World Bank and IFC Pollution Prevention and Abatement Guidelines (Exhibit III) and, for projects located in low and middle income countries as defined by the World Bank Development Indicators Database, the EA will have further taken into account the then applicable IFC Safeguard Policies (Exhibit II). In each case, the EA will have addressed, to our satisfaction, the project's overall compliance with (or justified deviations from) the respective above-referenced Guidelines and Safeguard Policies.

The CAO has identified many deficiencies within the EA reports, and found that many issues pertinent to the project are not properly addressed. In reference to the above, similarly the Hatfield Report cited under violations to Principle 2 as well as the new IFC Plan of Action confirms many of these. These combined critiques show that:

- 3(a) baseline assessment of environment and social conditions are inadequate;
- 3(b) inadequate communication in compliance with the Rio Uruguay Treaty;
- 3(c) project technology, pollutants, the forestry industry are not sustainable;
- 3(d) human health is at risk from carcinogens and toxins discharged by the plants;
- 3(e) the risk of dangerous substances used and produced on site to operate facilities;
- 3(f) major hazards exist from the use of dangerous substances and the discharge of contaminants, also subterranean aquifers are at risk of contamination;
- 3(g) doubts exist over current OH&S standards management plans are non-existent;
- 3(h) emergency response procedures are non-existent;
- 3(i) tourism, fisheries and overall economy will be adversely affected by pollutants;
- 3(m) during the EA process cumulative impacts were not taken into account (by the same consultant producing reports for two companies constructing large scale pulp-paper mills at the same time on the same stretch of river);
- 3(n) stakeholder parties were not identified by EA, consultation was inadequate with little stakeholder input into design, review and implementation of the project;
- 3(o) feasible environmentally and socially preferable alternatives were not considered;
- 3(q) second-tier technology will be used; no evidence of use of latest European BATs, resulting in that pollution and waste will not be minimized;
- EA has not complied with laws and regulations required by the project;
- Exhibit II refers to the *IFC International Waterways OP* of which paragraphs 3, 4, 5 and 8 has been violated, and;
- Exhibit III refers to the *World Bank Guidelines on Pulp and Paper Mills*, of which the best practice guidelines have been violated by using second-tier technology with inconclusive evidence on use of BATs.

It is important to stress, that relative to Uruguay's obligations under international law, particularly relative to the Uruguay River Treaty, and to OP 7.50 on International Waterways, which protects and governs the sustainable use of the river's resources, Argentina has presented a claim against Uruguay to the ICJ based on the Botnia and ENCE projects due precisely to violations of the binational treaty, caused by this investment.

Violations to Equator Principle 4

4. For all Category A projects, and as considered appropriate for Category B projects, the borrower or third party expert has prepared an Environmental Management Plan (EMP) which draws on the conclusions of the EA. The EMP has addressed mitigation, action plans, monitoring, management of risk and schedules.

The borrowers have not prepared an Environmental Management Plan (EMP), and thus have not addressed issues concerning mitigation, action plans, monitoring, management of risk and schedules. Even if they were to do so, the EMP would be based on EA conclusions produced by a process non-compliant with IFC Safeguards and the Equator Principles.

Violations to Equator Principle 5

5. For all Category A projects and, as considered appropriate for Category B projects, we are satisfied that the borrower or third party expert has consulted, in a structured and culturally appropriate way, with project affected groups, including indigenous peoples and local NGOs. The EA, or a summary thereof, has been made available to the public for a reasonable minimum period in local language and in a culturally appropriate manner. The EA and the EMP will take account of such consultations, and for Category A Projects, will be subject to independent expert review.

During the EA process, no meaningful consultation occurred between the proponents and directly affected community and particularly Argentine stakeholders, as well as deficient and inadequate consultation with Uruguayan stakeholders. The same IFC appointed consultant, devoid of legitimacy due to faults in the EIAs was used to conduct the individual EAs of both Botnia and ENCE, and did not take into account cumulative impacts. In addition, the EAs were not subject to independent expert review as suggested by IFC policy, which given the highly contentious situation lived by the project, is absolutely necessary. The cumulative impact assessment (CIS) was conducted by the same illegitimate and discredited consulting group, while an ill-devised stakeholder engagement generated great resistance and concern amongst local stakeholders. The conclusions of reviews of the CIS process (by IFC-hired consultants) have confirmed the large gaps that studies have left unattended, while many of the concerns manifested by stakeholders to the IFC well over a year ago, and in the complaint filed to the CAO in September of 2005, now appear in the IFC's Plan of Action, as issues needing further investigation, further attesting to the legitimacy of stakeholder opposition and concerns. However we look at these projects, they cannot be considered to be in compliance under any definition or criteria.

Findings of the CAO – The CAO Preliminary Assessment Report and Compliance Audit

The *CAO Preliminary Assessment Report*²⁰ and the subsequent full Compliance Audit²¹, lend uncontested validity to a great number of the allegations set forth in this complaint to Calyon, and to the many complaints filed in other forums, and transmits to the IFC the same concerns expressed by local community stakeholder groups both in Uruguay and in Argentina. The Preliminary Report states that:

- the Environmental Impact Assessments (EIA) did not adequately identify people potentially affected,
- cumulative impacts were not considered,
- stakeholder consultation was inadequate,
- the IFC's due diligence and appraisal process were questionable, and permitting procedures for projects on international waterways were not followed

The CAO has, based on the evidence gathered during its two site visits, and based on growing allegations and concerns in these projects, not only decided to move to a full audit of these projects, but has also extended its audit to cover operations of MIGA, which is planning to provide guarantee loans to these projects.

The CAO's Full Compliance Audit goes on to state:

²⁰ www.cao-ombudsman.org/html-english/complaint_cmb.htm

²¹ see: <http://www.cao-ombudsman.org/html-english/documents/CAOAuditofOrionandCMBPulpMillsFinalReportENGLISH.pdf>

The IFC's due diligence to satisfy itself that the Environmental Assessments (EAs) were complete in all material respects prior to disclosure **was inadequate** and **not in compliance** with the organization's Disclosure Policy, resulting in disclosure of EAs that were not complete.²²

More information regarding the CAO's Full Compliance Audit, sustaining allegations made in this complaint can be found in the section above on violations to Principle 1 of the Equator Principles.

The role played by the CAO in the control and evaluation of IFC and project sponsor compliance with Social and Environmental Safeguard Policy and Disclosure Policy serves as a legitimate and independent expert reference for third party actors to understand how IFC projects comply or fail to comply with mandatory environmental and social protection policy. The CAO has provided legitimate and conclusive documentation proving evidence and opinion on substantive violations of the Equator Principles as well as to IFC policy by these projects.

Reactions of the IFC and Current State of the Projects

In response to CAO investigations, and more recently to the findings of the independent expert reviewing the Cumulative Impact Study, the IFC has had to recognize shortfalls, deficiencies and omissions of project design and implementation with respect to social and environmental safeguard policies. As a first response to these shortfalls the IFC launched an ad-hoc Cumulative Impact Study (CIS) to assess the combined impacts of the projects which was not taken into consideration in the original Environmental Impact Assessments (EIAs), however, the CIS process was plagued with widespread doubt amongst stakeholders due to the IFC's unwillingness to publicly share the design of the CIS. A new stakeholder consultation process to consult affected communities, especially in Argentina, which have been ignored to date by the EIAs in the original consultation process also was largely botched by the IFC, who in the end, was unable to conduct transparent consultation with any clear rules of engagement; in fact, rules of engagement, to the great surprise even of the CAO, were NEVER offered. This was manifest by the Assembly of Gualeguaychú, which comprises over 40,000 stakeholders, and by the Government of Argentina, which under such conditions of NO RULES, refused to participate in the consultation. Also of great concern from Uruguayan stakeholders were denunciations from stakeholders opposing the industries of harassment and threats from unidentified sources.

Clearly a deep divide and distrust exists between stakeholders and the IFC, the Uruguayan government and project sponsors. Many questions remain un-answered and un-responded by the project sponsors and/or by the IFC. Among these, questions about cumulative sector regional impacts of massive pulp production, citing alternative questions (which were also mandated but NOT addressed in the original EIAs), questions on production technology, and impacts on the local businesses and livelihoods of the communities in the regional economy.

Legal and other Access to Justice Actions at alternative forums

Numerous other legal recourse mechanisms are being considered or have been already utilized by stakeholders to seek redress. These include local and international legal recourse mechanisms. Botnia's investment and project has already gained the attention of global civil society defending human rights and enforcing environmental protection in the defense of victims affected by these projects. The case has resulted in an unprecedented submission to an international human rights tribunal before the Inter-American Commission on Human Rights, which is also drawing close attention, public scrutiny and global concern.

Some of alternative recourse mechanisms that have already been triggered include:

Inter-American Commission on Human Rights (IACHR)

CEDHA, on behalf of the nearly 40,000 stakeholders, has lodged a submission before the Inter-American Commission on Human Rights (IACHR) denouncing violations of the following human rights, which are occurring, and will occur as a result of the advancements of these projects and the production paper pulp in the region:

- Articles 1(1), 2, 4, 5, 19, 25, 26 of the *American Convention on Human Rights*²³

²² see: <http://www.cao-ombudsman.org/html-english/documents/CAOAuditofOrionandCMBPulpMillsFinalReportENGLISH.pdf>

- Articles 1, 10, 11 of the *Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights* "Protocol of San Salvador"²⁴
- Articles I, VII, XI of the *American Declaration of Rights and Duties of Man*²⁵

The IACHR received the complaint filed by CEDHA on behalf of local stakeholders, and elevated requests to the Uruguayan Government, initiating the investigation process in the case. It is important to mention that this is the first time an IFC-sponsored project is entering into an international human rights tribunal, adding publicity and significant global legal implications for this case.

Recently, additional evidence was gathered and verified by CAO staff during the CAO site visit, consisting of threats and harassment by unidentified individuals who are taking secret photos of Uruguayan advocates against the mills, as well as of gun shot fire and damage to the vehicles of such advocates by unknown sources. This evidence was submitted to the human rights tribunal in the case.

International Court of Justice

This case first gained international and diplomatic attention when Argentina threatened Uruguay that it would file a complaint to the International Court of Justice in the Hague (the dispute resolution mechanism established by the Rio Uruguay Treaty for violations of the treaty), if adequate social and environmental assessments of impacts to Argentine stakeholders were not considered (as mandated by the treaty), and if Uruguay did not seek explicit approval of the projects by Argentina.

In the midst of bilateral negotiations to seek a solution to the growing dispute, Botnia's declaration that it would ignore Uruguayan and Argentine presidents' request to cease construction of the mill so that the countries could seek an agreement, and informed by Uruguay that it could do nothing to stop construction so that remaining impact studies could be carried out, Argentina chose to elevate a complaint to the ICJ, which it did on May 4th, 2006, and for which the case will have its first oral hearing on June 8th, at which time the ICJ will address a request by Argentina for an injunction against Uruguay to force Botnia to halt construction so that further environmental studies can be carried out.

OECD Specific Instance Complaints

On April 18th, CEDHA filed an *OECD Specific Instance Complaint* against Botnia in Finland to the National Contact Point in Helsinki for failure of Botnia to comply with the OECD Guidelines for Multinational Enterprises.²⁶ Following a letter of concern sent by CEDHA to CESCE²⁷ sent on the 5th of April, 2006, regarding CESCE's involvement as Spain's official Export Credit Agency, the National Contact Point in Spain monitoring OECD Multinational Compliance, took it upon itself to contact CEDHA, treating the letter, in effect, as an OECD Complaint, and has subsequently helped arranged a future meeting between CEDHA and CESCE staff. Additional complaints are imminent against Finnvera, the State owned Finnish Export Credit Agency as well as against ENCE of Spain, BBVA of Spain, and the Spanish ECAs (CESCE and ICO).

European and Foreign National Courts

Legal action is also being studied and prepared against the company sponsors before national court systems in Finland and in Spain, as well as actions before the European Commission.

Issues Relative to Corruption and Bribery Accusations Involving Botnia

While a final judicial verdict has not been reached on allegations of bribes taken by Uruguayan officials to approve installation permits to the project sponsors, it should be brought to the attention of Calyon that an Argentine prosecutor handling the criminal complaint brought against Botnia executives, suggests that an Uruguayan official may be involved in illicit handling of project permits. An open Uruguayan civil suit filing now being handled by a Uruguayan Prosecutor, is also grounded on such claims.²⁸

²³ Art. 1 – Obligation to Respect Rights; Art.2 – Obligation to Adopt Internal Measures; Art. 4 – Right to Life; Art. 5 – Right to Physical Integrity; Article 19 – Rights of the Child; Art.25 – Right to Judicial Protection; Art. 26 – Progressive Realization of Economic, Social and Cultural Rights.

²⁴ Art. 1 – Obligation to Adopt Measures, Art. 10 – Right to Health, and Art. 11 – Right to a Healthy Environment

²⁵ Art. I – Right to Life, Liberty and Security of Person; Art. VII – Right to Protection of Mothers and Children; Art. XI – Right to Preservation of Health and Well Being

²⁶ http://www.cedha.org.ar/en/initiatives/paper_pulp_mills/oecd-specific-instance-botnia-eng.pdf

²⁷ <http://www.cedha.org.ar/es/iniciativas/celulosa/carta-cedha-cesce-5-abril-2006.pdf>

²⁸ see: http://www.cedha.org.ar/en/initiatives/paper_pulp_mills/denuncia-uruguay-viana.pdf

Further, a recent national television broadcast was offered by Channel 9 in Argentina, showing Botnia's Director in Uruguay, Carlos Faroppa in a conversation, allegedly with an Uruguayan environmentalist Marcel Cayrus, from Fray Bentos, who brought the claim to Channel 9, discussing an alleged payment of 60,000 pesos each to two environmentalists (including himself) by Faroppa of Botnia to subdue protests against the installation of the plants in Fray Bentos. Botnia has rejected these allegations however images of the meeting have circulated widely in local media.

Growing International Press Coverage to the Case

The local, bi-national and international conflict caused by the Botnia Project, and particularly due to the reaction of Botnia refusing to collaborate with ongoing Argentine-Uruguayan negotiations, has had significant and growing press coverage. This includes:

- Strong local and international press coverage due to the taking of the bridge and roadblocks on bridges uniting Uruguay and Argentina. See New York Time: Feb 13 2006 y Int'l Relations Center Mar 13, 2006;²⁹
- Press coverage increased dramatically after the Sophie Award for outstanding environmental achievement was awarded to the principle papermill conflict attorney, Romina Picolotti of CEDHA announced on Mar 30, 2006;³⁰
- International complaints filed against Botnia and ENCE picked up by European media: Dec/Jan/Feb/Mar/April 2006;³¹
- The withdrawal of ING Group as principal private sponsor to Botnia announced APR 12 2006;³²
- The birth of a European movement against ENCE, led by *Ecologistas en Acción*;³³
- Other Environmental groups in Europe such as Friends of the Earth and Banktrack of the Netherlands involvement in the case;
- The breaking of silence by Botnia claiming *it would not* cease construction of its plant as per Argentina and Uruguay's request;³⁴
- Growing media sympathy to the Argentine position particularly with respect to the need for more studies;³⁵
- A change of Uruguay's position respective to Botnia, showing distaste for Botnia's decision NOT to cease construction and collaborate in the international bilateral negotiations process;
- The reluctant entry of the Finnish government into the conflict, pressed by Argentina, both as a shareholder in Botnia's investment, as a possible (not yet confirmed) supporter of guarantee loans to Botnia, and the cancellation of the visit of the Finnish Trade and Commerce Minister (week of April 24th) to promote Argentine-Finnish trade;
- The newly adopted position of Argentina to defend South American countries from contaminating industries of the industrialized world, choosing to export such industries to the global south.

The attitude of Botnia refusing to cease construction of its mill to allow for bilateral negotiations to advance towards a solution marks a critical juncture in the conflict, since Botnia went from being a silent actor (a company from a country – Finland- with a positive and clean environmental image) defended by European media and state actors, and by the Uruguayan government, to being seen as a corporate renegade causing the collapse of diplomatic relations between Argentina and Uruguay.

²⁹ see: <http://select.nytimes.com/gst/abstract.html?res=F10C14FD395A0C708DDDAB0894DE404482>

<http://americas.irc-online.org/am/3155>

³⁰ see: <http://www.sophieprize.org/>

³¹ Helsingin Sanomat (<http://www.hs.fi/talous/artikkeli/1135219592028>)

on ING see:

http://www.paperloop.com/inside/stories/wk04_10_2006/104.html

http://www.duurzaam-ondernemen.nl/index.html?http://www.duurzaam-ondernemen.nl/detail_press.phtml?act_id=6395

http://www.mallenbaker.net/csr/CSRfiles/page.php?Story_ID=1597

³² see:

<http://zoek.volkskrant.nl/artikel?text=botnia&FDOC=0&SORT=date&PRD=20y&SEC=%2A&SO=%2A&DAT=%2A&ADOC=0>

³³ see: http://www.ecologistasenaccion.org/article.php3?id_article=4633

³⁴ see on Botnia's breakdown of negotiations: <http://today.reuters.com/News/CrisesArticle.aspx?storyId=N04187548>

³⁵ see:

<http://www.ipsnews.net/news.asp?idnews=32786>

<http://www.hs.fi/english/article/Pulp+mill+dispute+between+Argentina+and+Uruguay+intensifies/1135219507760>

<http://news.tradingcharts.com/futures/1/6/77686961.html>

European opinion, particularly coming from Finland and Spain, but also from individuals like the European Trade Minister Peter Mendelson, is slowly shifting from being pro-Botnia and pro-Kraft mill investments, to questioning Botnia's investment legitimacy, largely grounded on ING Group's pull out from the investment taking with US\$480 million, following the Equator Principles Compliance Complaint, Botnia's refusal to cease construction, and recent reports from the World Bank indicating that all of a sudden, the Bank is not so sure of existing Environmental Impact Assessments.³⁶

The case is also resulting in increased press coverage from US based media, including the NY Times, Financial Times (USA/UK) and others, that have focused on and are giving more and more column space to the escalating conflict and ever-increasing public protest.³⁷

EU-Latin America Summit

The recent European Union – Latin American Summit focusing on EU-Latin American Relations, held this past week in Vienna Austria, showed growing instability relative to EU-MERCOSUR relations, directly a result of growing conflicts in the MECOSUR trade block stemming from the escalating conflict between Argentina and Uruguay. As Mendelson, the Trade Minister of the EU has stressed, this conflict is placing at risk other EU investments in the region. It is known that Mendelson traveled personally to Buenos Aires to armtwist the Argentine government into dropping the case against the papermills, however President Kirchner's speech at the EU-Latin America summit was a clear indication that Argentina and the region would not stand for pressure to accept contamination in return for FDI and trade opportunities. President Kirchner's speech before other heads of state in Vienna stressed the growing trend of the export of contaminating industries from industrialized nations to the developing world. Kirchner made reference to the "large papermills being installed in our region which have avoided compliance with the standards that you have imposed on them in Europe" ... calling on European governments to "abandon double standards".³⁸ Kirchner has chosen the "environment" as a new political trump card, and is now turning inwards to look at Argentine contaminating industries, seeking to clean up local problems as a way to legitimize claims against Uruguay, but also set the tone for a new, environmentally sustainable region.

Destabilization of MERCOSUR Regional Trade Block

We have already mentioned the enormous impact this investment is having on the bilateral relationship between Argentina and Uruguay. More surprisingly however, is that as a corollary to this conflict, Uruguay has raised serious discord with its neighboring MERCOSUR partners, Brazil, Paraguay, Chile, Bolivia and Argentina, suggesting that MERCOSUR is not providing the benefits that it had anticipated, and that this may lead to Uruguay's unilateral decision to withdraw from the trade block and the sign a free trade agreement with the US. This has not surprisingly resulted in serious concerns of Argentina and Brazil, as well as EU trading countries with the region who fear that this conflict will lead to increased investment risk in the region.

Withdrawal of ING Group Support to Botnia

The withdrawal in April of ING Group of US\$480 million must be heralded as **a critical victory** of the Equator Principles initiative. While ING Group will not *and surely cannot* publicly recognize that their withdrawal is due to IFC policy violations of the Botnia project, or to the Equator Principles Compliance Complaint, as this would surely result in potential lawsuits against ING by Botnia, we are clear that the extensive evidence provided by the CAO, as well as by independent reviews of the EIAs, and by the Equator Principles Compliance Complaint shows beyond a doubt that these projects are in direct violations of IFC policy, and as a consequence, violate the Equator Principles. The Compliance Complaint filed in December to ING Group on this investment, and the subsequent results following the CAO Preliminary Report and Full Compliance Audit, and the use of this information and process to push for upholding the Equator Principles, is a test case that shows to the public the power of the Equator Principles to uphold and guarantee responsible investments. ING Group's pulling of support to Botnia, is a brave and responsible act, which shows that ING, in this case, is sending a message to the world, to its shareholders and to other Equator Banks, that it is fully behind its corporate responsibility

³⁶ on European Commission:

<http://today.reuters.com/News/CrisesArticle.aspx?storyId=L21152720>

<http://www.alertnet.org/thenews/newsdesk/L21152720.htm>

³⁷ see:

http://www.hemisferio.org/al-eeuu/boletines/01/11/bil_05.pdf

<http://www.hemisferio.org/al-eeuu/boletines/01/11.php#5;>

http://www.americas.org/item_26124

<http://www.newsdesk.org/archives/000518.php>

³⁸ for analysis of speech see <http://www.ipsnews.net/news.asp?idnews=33221>

commitments and its obligations under international law, and especially its commitments as established by the Equator Principles.

The Role of the Equator Banks and of Calyon in Promoting Sustainable Development

As an Equator Bank, Calyon is committed to promote responsible environmental stewardship and socially responsible development and has promised its clients, its customers and society that Calyon will not provide loans directly to projects where the borrower will not, or is unable to comply with its environmental and social policies and processes.

Given the clear violations of IFC policy of Botnia's investment, by financing Botnia's Orion pulp mill, Calyon would be investing in projects not only that violate the Equator Principles, but also face ever escalating risk uncertainty as well as mounting international social and diplomatic conflict. This conflict cannot be possibly more evident than the recent massive 100,000 person public protest and blocking of an international roadway and bridge, as well as Argentina's complaint filing to the International Court of Justice. Calyon would be placing its reputation and investments in immense financial risk by supporting Botnia and exposing itself to the serious repudiation that the concerned public is showing over this particular investment. It has already achieved notorious international proportions.

It is fundamental that Calyon take the findings, conclusions and recommendations of the CAO very seriously, as well as the studies recently published by the IFC's own consultants, in addition to numerous other studies by international experts that are showing the many gaps and uncertainties existing in the EIAs pertinent to this investment. Calyon should follow the example of its colleague ING Group, and take **full responsibility** of its investment decisions and in so doing guarantee above all, full Equator Principle policy compliance, the respect for human rights, the promotion of sustainable development and of the environmental and social protection policies enshrined in the Equator Principles.

As cited in the Banking on Responsibility Report,³⁹ a corporate publication summarizing Equator Principle dimensions, Equator Banks should initiate internal screening processes, and rely on expert technical advice, such as that given by the CAO to inform themselves on project circumstances. Internal audits of compliance are critical to compliance control and stakeholder conformity with Equator Bank commitment to the principles. Compliance should include compliance with stipulated national, transnational and international environmental social protection laws and treaties, and the agreed environmental and social guidelines and policies applicable to the IFC Safeguard Policies and the World Bank. Irrespective of whether or not Botnia is claiming to use Best Available Technology (which it has yet to prove), and whatever opinion one might have of the innocuousness of the cellulose industry, the fact remains that this project fails to comply on all too many policy counts, and is specifically in violations of the IFC's Environmental, Social and Disclosure policies, which are central to the Equator Principles.

It is critical that Calyon realize that **public opposition, local and international, to the Botnia project is growing and will continue to grow**, which also means that Calyon's financial risk exposure will also grow, as will the risk to its public image and reputation if it is to proceed to support Botnia in this investment. Calyon, as an Equator Bank, must follow the honorable and brave steps taken by ING Group by withdrawing its support to this project, as anything short of this that would result in a public image fiasco, and serve as a severe blow to Calyon's corporate responsibility credibility before the global public, its shareholders and fellow Equator Banks.

We are available to meet with Calyon staff and management to provide you with any and all relevant information and evidence that Calyon staff may need to bring clarity to any of the issues presented in this and other legal and/or procedural complaints brought against these projects and/or project sponsors which have been cited throughout.

Respectfully, (see signatures/names below – next page)

³⁹ Banking on Responsibility. By Freshfields Bruckhaus Deringer. July 2005. This publication summarized consultations with numerous Equator Banks, non-Equator Banks, project sponsors, NGOs, socially responsible investment funds, law firms, accountancy firms, engineering and environmental consultants, trade associations, public bodies, and multilateral and bilateral lenders.

Jorge Daniel Taillant
Executive Director,
CEDHA, Argentina
jdtailant@cedha.org.ar
(54) 3541 494 162
cel. (54) 9 351 625 3290

Johan Frijns,
Coordinator BankTrack,
Netherlands
(31) 30 233-4343
coord@banktrack.org

Anna Petra Roge de Marzolini
Coordinadora Federación
Amigos de la Tierra, Argentina
ecolapaz@lapazcoop.com.ar
54 343 748 3296

María Selva Ortiz
Coordinadora de Campañas
REDES-Amigos de la Tierra,
Uruguay
(59) 82 908-2730
aqua@redes.org.uy

Guayubira
Uruguay
info@guayubira.org.uy
(59) 82 413 2989

Movimiento Mundial por los Bosques
Uruguay
wrm@wrm.org.uy
(59) 82 413 2989

Riitta Savikko
Chair, Friends of the Earth
Finland
riitta.savikko@gmail.com
(35) 2 231-0321

Sebastien Godinot
Amis de la Terre, France
finance@amisdelaterre.org
(33) 66 898 8341

Paul de Clerck
Friends of the Earth Int'l
Corporate Campaign
Belgium
(32) 2 542-0180 or 542-6107
paul@milieudefensie.nl