

PER E-MAIL AND FACSIMILE

To:

ERG – Schweizer Exportrisikogarantie
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Cc:

Members of the Export Credit Working Party via the ECG Secretariat
European Commission, General-Directorates Trade, Environment, Enlargement
Finnish EU Presidency
Hans-Joachim Henckel, Ministry for Economy and Technology, Germany
Jean-Daniel Gerber, Secretary of State for the Economy, Switzerland
Thomas Wieser, Finance Ministry

Brussels, 26 September 2006

Pending decision on proposed Ilisu Dam: violations of the 2005 Statement on Export Credits and Hydro-power Projects and implications for the ongoing review process of the OECD Common Approaches

Dear Mr. Sievers, Mr. Janus and Mr. Scholten,

We understand that you will soon take a decision whether or not to extend export credit insurance to companies with contracts for the planned Ilisu hydroelectric project, Turkey. As you are aware, the Ilisu Dam project is highly contentious because of its expected environmental, social and human rights impacts; there are also fears that it will increase the potential for conflicts around water in the region. Importantly, as you have been informed by your own consultants and staff the current project plans fail to meet accepted international standards, including the 2005 Statement on Export Credits and Hydro-power Projects. To breach this agreement within scarcely a year of signing it would be to send a disastrous message to non-OECD ECAs at a time when it is commonly agreed that their adoption of environmental standards is of the utmost importance to securing a level playing field for ECAs.

The Ilisu dam project proposal is a decades-old plan (previously considered for ECA finance in 2002) to build a hydroelectric power plant on the river Tigris in the Kurdish region of Southeast Anatolia, Turkey. Concerns about deficiencies in planning, and extensive social, environmental and cultural impacts, together with contention over the project's failure to adequately take account of the region's long history of conflict and human rights violations, became so serious

that the business consortium seeking ECA support eventually collapsed. An analysis of the new impact assessment and resettlement plan by international experts but also by your own agencies has shown that the underlying flaws and inadequacies leading to the project's original failure have not been addressed.

The Common Approaches require ECAs to benchmark projects against three World Bank Group Safeguard Policies¹. The application of the Common Approaches to hydro-power projects has been confirmed by the OECD in its 2005 'Statement on Export Credits and Hydro-power Projects'. The statement goes even further than the Common Approaches in acknowledging 'that the standard practice is that such projects should in all material respects meet the requirements of the relevant aspects of **all** the World Bank Group Safeguard Policies'.² This commitment is not discretionary and does not allow, as the Common Approaches does, for derogations; to breach it would thus severely undermine the credibility not only of the Statement itself but, more broadly, of the signatories as a group.

Already the planning of the dam is in clear and unambiguous violation of the following World Bank Group Safeguard Policies, two of which are also directly referenced in the OECD Common Approaches, **thereby breaching both the OECD statement on hydro-power and the spirit, if not the letter, of the Common Approaches:**

- **OP 4.01 on Environmental Assessment**, notably through failure to consult affected communities and to disclose relevant material in form and language accessible to project affected groups;

The Environmental Impact Assessment (EIA) commissioned by the consortium is inaccurate, incomplete and in some cases contradictory. The public concerned in the project region has not been systematically and fully informed or consulted about the project plans. No credible examination of project alternatives has been carried out.

- **OP 4.12 on Involuntary Resettlement**, i.e. through failure to consult with affected communities, failure to put in place a comprehensive budget for income restoration or compensation measures and to include resettlement cost in total costs of the project, failure to accurately identify persons who will be affected by the project, failure to ensure land-for-land based resettlement;

Between 50,000 and 78,000 people – mainly ethnic Kurds - are expected to be directly affected by the project. With no comprehensive budget for income restoration or compensation measures in place³, no adequate resettlement sites available⁴ and with no clarity as regards the number of affected individuals - many of whom have neither be

¹ These are the safeguard policies relating to involuntary resettlement (OP/BP 4.12 and OD 4.30), indigenous peoples (OD 4.11) and cultural property (OP 4.11).

² OECD: Statement on Export Credits and Hydro-Power Projects, November 2005: http://www.oecd.org/document/41/0,2340,en_2649_34169_35688937_1_1_1_1,00.html. Highlighting by the author

³ ECAs have explicitly asked the project developer that all legal costs and other expenses for expropriation be fully reflected in the resettlement budget, in line with OP 4.12. The project developer has failed to comply with this request. Just as staff and consultant costs of expropriation are not reflected in the revised resettlement plan, the legal costs are also excluded.

⁴ Most of the sites listed as potential resettlement sites are not appropriate for agricultural use. Efforts to encourage land-based resettlement as required in OP 4.12 are therefore missing.

*informed nor consulted on the project, let alone given their consent – destitution will most certainly follow the dam construction.*⁵

- **OP 7.50 on Projects on International Waterways**, through failure to fulfill obligation to notify downstream states;

Together with other dams planned as part of the Southeast Anatolia Regional Development Project (GAP), the Ilisu dam could reduce summer flows in Syria and Iraq below historic levels with the possibility of the water completely drying up during drought periods.⁶ This has very serious potential for fuelling tensions, and possibly conflict over control of water resources in the Middle East. Yet, Turkey has failed to notify or consult with either of the two downstream riparian states and no political agreements on water sharing exist with them.

- **OP 4.04 on Natural Habitats**, through irreversible and severe impacts on natural habitats (classified as of European Community importance) specifically of four protected ‘important bird areas’ (IBAs);

OP 4.04 states that ‘the Bank does not support projects involving the significant conversion of natural habitats unless there are no feasible alternatives for the project and its siting’. No credible assessment of alternatives has been undertaken for the Ilisu Dam project and therefore, the necessity of the conversion of natural habitats has not been demonstrated.

- **OP 4.11 on Physical Cultural Resources**, through failure to develop a realistic physical cultural resources management plan and for failure to comply with notification and consultation requirements.

An assessment of the technical feasibility and practicability of the cultural salvage plans for the Ilisu Dam project contained in the project’s EIA, showed that the salvage plan is unrealistic and inaccurate in its assumptions and does not reflect internationally accepted practice. The archaeological salvage plan makes incorrect assumptions about timing and resource demands, fails to address structural deficits in the practical context of salvage work in the region, miscalculates labor requirements and lacks budgetary items for hardware. The plan further fails to take into account the problematic security situation in the region, which makes it impossible to carry out any work at many archaeological sites of the Ilisu Reservoir.⁷

As you know, our view is that the provisions contained in the World Bank Safeguard Policies alone are inadequate for managing the environmental and social challenges of large dams and that more industry specific guidance is required for hydro-power projects. The OECD ECAs too, have gone some way in acknowledging this. The above mentioned Statement on hydro-power

⁵ For a full review of the resettlement plan as submitted to the ECAs in July 2005 see: Michael Cernea: Comments on the Resettlement Action Plan for the Ilisu Dam and HEPP Project, February 2006.

⁶ For a comprehensive assessment of the hydrologic impacts see: Philip Williams & Associates: A Review of the Hydrologic and Geomorphic Impacts of the proposed Ilisu Dam, February 2006.

⁷ For a comprehensive review of the cultural salvage plans see: WEED/Bern Declaration/ECA-Watch: Notes on the Feasibility of the Archaeological Salvage Plan. Review of the EIAR for the Ilisu Dam and HEPP, February 2006. The report is based on interviews with Turkish and international archaeological experts who either worked or will work in the project region.

‘recognizes the value of the relevant aspects of other international sources of guidance, [...] such as the Core Values and Strategic Priorities of the World Commission on Dams Report’⁸.

The WCD recommendations lay particular emphasis on the decision-making for dam projects and the meaningful inclusion of affected people as stakeholders in this process. As demonstrated above, the Ilisu Dam Project has utterly failed to comply with obligations on information, consultation and negotiation both with affected communities and with riparian states. Anything less than the clear rejection of the applications for export credit cover by OeKB, EulerHermes and ERG would mean that your expressed intent to avoid the mistakes of the past in the financing of large dams, is revealed as nothing more than lip service at the first opportunity to validate those intentions.

The undersigned civil society organizations see your handling of the Ilisu Dam project as a litmus test of your ECA’s commitments to corporate social responsibility and human rights and to abiding by the standards you have committed yourself to follow as a signatory to the 2005 Hydropower Statement and a member of the Export Credit Group. If such commitments are to have value – and if other signatories to the Statement are not to be disadvantaged – then they cannot be sidestepped or discarded whenever it is politically expedient to do so. The Hydropower Statement stands or falls on its being honoured.

This is even more pertinent at a time when the ECG is in the process of revising its Common Approaches, during which the OECD committed to ‘undertake to consider [...] the extent to which it [the Common Approaches] may need to be complemented with reference to other international sources of guidance’⁹ [as regards large hydro-power projects]. **Should you approve support for the proposed Ilisu Dam, in our view, your credibility as negotiating parties in the Common Approaches review process would be irreversibly damaged.** Junking standards to which you are committed when it does not suit you to abide by them would be to exhibit – and encourage - the kind of ‘free rider’ behaviour that the ECG usually fears from non-OECD member ECAs. Nor would the damage be limited to your own credibility: that of the entire ECG would be undermined by your actions.

So far we have been contributing to the Common Approaches revision process in good faith by providing assistance and extensive input in writing and through our participation in stakeholder consultations at the international and national level. If however, three ECG members chose to support a project such as Ilisu which so blatantly violates in letter and spirit literally all applicable guidelines, we would deem the credibility of this review damaged to an extent that it would make it difficult for us to continue our engagement in this process any further.

We, the undersigned civil society organizations, therefore urge the ECAs of Austria, Germany and Switzerland not to extend any financial support to the proposed Ilisu dam project.

Yours sincerely,

Judith Neyer, FERN

⁸ World Commission on Dams: Dams and Development. A New Framework for Decision-Making, November 2000.

⁹ OECD Statement on Export Credits and Hydro-Power Projects, November 2005

On behalf of:

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ANNEX A

Other relevant international standards that appear to be violated by the Ilisu Dam Project include:

- *Article 6 of the Nice Treaty on European Union*, which declares the EU's foundation on the principles of liberty, democracy, respect for human rights and fundamental freedoms;
- *The European Convention on Human Rights and Fundamental Freedoms* (signed by Turkey in May 1954), specifically those obligations which protect against unjust expropriation of property;
- *The EU Accession Partnership between the European Union and Turkey* (of May 2003), notably with respect to the failure to meet the EC Directive on Environmental Impact Assessment and the EC Water Framework Directive;
- *Directive 97/11/EC on the assessment of the effects of certain public and private projects on the environment* (EIA Directive), inter alia through failure to consult and inform the public concerned and allow for reasonable time for the public to express an opinion as well as through failure to meet trans-boundary requirements;
- *Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment* (SEA Directive), notably for inadequacy of EIA prepared and for failure to allow the public concerned to express its opinion on the draft plans for the GAP development programme;
- *Directive 2003/35/EC providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment*, through failure to provide for public participation in decision-making relating to the environmental impacts of the GAP development programme;
- *EU Directive 2000/60/EC establishing a framework for Community action in the field of water policy* (Water Framework Directive), specifically the part that concerns trans-boundary cooperation;
- *Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora* (EC Habitats Directive), through irreversible and severe impacts on species and natural habitats classified as of European Community importance;
- *Directive 79/409/EEC on the conservation of wild birds* (EC Wild Birds Directive), through negatively affecting four protected 'important bird areas' (IBAs);
- *UN Convention on the Non-Navigational Uses of Transboundary Waterways*, to which the EC is a party, through Turkey's failure to notify, consult and negotiate with Iraq and Syria, its downstream riparian neighbours;
- *The UNECE Convention on Environmental Impact Assessment in a Transboundary Context* (Espoo, 1991), to which the EC is a party, through Turkey's failure to consult with Iraq and Syria on cross-border impacts;
- *The policy principles and strategic priorities of the Recommendations of the World Commission on Dams and the guidelines of the International Hydropower Association (IHA)*, inter alia through failure to conduct adequate assessment of alternatives, failure to consult and to conclude benefit sharing arrangements with affected communities.