



Fern Briefing Note

www.fern.org

January 2003

Page 1 of 5

Responsibility abroad: How Export Credit Agencies impact on biodiversity

Export credit and investment insurance agencies, commonly known as ECAs, provide the largest source of government support to large infrastructure projects in the South and the East. By supporting many destructive projects, from oil palm plantations to large mines and dams, ECAs contribute to biodiversity loss. To ensure the sustainable management and conservation of biodiversity, the European Union (EU) cannot limit its activities to the national level but must also address the impacts of EU-based ECAs on biodiversity loss in the South and East. ECAs need to be subjected to strict social and environmental guidelines, which must be in keeping with commitments made by the EU and its member states to the Convention on Biological Diversity (CBD). Without action to address the negative impacts caused by ECAs, the EU will continue to apply double standards, protecting the area within its borders while permitting destruction abroad.

What are ECAs?

ECAs were set up in most of the OECD¹ countries to promote national exports and help national industries abroad. Specifically, they are public or para-statal agencies that provide companies with government-backed loans, guarantees and insurance against the commercial and political risks of doing business abroad, especially of not being paid by their creditors. Thus the services ECAs provide include unconditional guarantees to banks that make loans available for overseas purchases of goods and services, underwriting

the losses of commercial banks if the agreed interest rates for loans seems insufficient to cover their costs plus a reasonable rate of return, and covering losses for overseas projects resulting from risks such as nationalization or expropriation without compensation, war or civil conflict and inability to convert or transfer profits and dividends. ECAs gained all the more importance when private infrastructure development and public services around the world that accompanied trade liberalization replaced public planning and financing. Indeed few of these projects would go forward without these ECA services as private sector banks and insurance firms would not underwrite the high financial risks involved.

Today, ECAs provide the single largest source of public support for projects in the South and in Eastern Europe, underwriting projects several times greater in value than the combined annual funding of all multilateral development banks. However, unlike these banks, the EU ECAs² are not subject to any binding environmental, human rights or development guidelines and even lag in this respect behind the United States, Australia and Japan. In addition, in spite of being backed by public money, ECAs operate in almost total secrecy, are not accountable even to national parliaments and are heavily influenced by industry lobbies. Not surprisingly perhaps, ECAs are involved in many environmentally and socially destructive projects in the South and in Eastern Europe, which undermine their governments' international commitments to sustainable development. The conflict between the impacts of ECA-backed projects and the obligations undertaken by EU countries under the Convention on Biological Diversity is a case in point.

¹ The Organization for Economic Co-operation and Development, which associates the 30 richest countries of the world.

² With the exception of Ireland, all EU member states have at least one ECA.



Published by Fern, the international forest campaign group focusing on EU policy.
For other Fern Briefing Notes visit our website at www.fern.org.

Fern Brussels, 20 Avenue des Celtes, 1040 Brussels, Belgium.

Tel: +32 2 742 2436. Fax: +32 2 736 8054. E-mail: info@fern.org

Fern UK, 1c Fosseyway Business Park, Stratford Road, Moreton-in-Marsh, GL56 9NQ, UK.

Tel: +44 1608 652 895. Fax: +44 1608 652 878. E-mail: info@fern.org



The Solomon Islands is one of the few places where local land rights are legally recognised.

Nonetheless commercial logging is having a powerful negative impact on society and the environment. Photo: O Tickell.

Biodiversity loss

The world's biological diversity is a vast and undervalued global resource. It comprises every form of life, from the smallest microbe to the largest animal, and the ecosystems of which they are part. Humans, with their cultural diversity, are an integral component of these ecosystems, and therefore dependent upon them. Biodiversity's role in sustaining the web of life goes largely unrecognised; public messages tend to focus mainly on mega-fauna and conservation issues rather than to communicate the vital goods and the social, cultural, environmental, and economic services biological diversity provides to the world.

The number of species on Earth has been estimated at about 15 million, although only 1.75 million of them have been described so far.³ Some 100 species are being lost every day.⁴ The current extinction rate is far higher (1,000 to 10,000 times) than the rate at which species evolve and is at a historically high level.⁵ According to experts, the animal and plant species suffering the greatest rates of extinction are those living in forests ecosystems.⁶

The major direct causes of biodiversity loss include the fragmentation, degradation or loss of habitats; the exploitation of natural resources, pollution, the introduction of non-native (alien or exotic) species, and climate change. In addition to these direct causes there are various underlying causes⁷ that encourage or allow the direct loss of biodiversity. Among the most important underlying causes of biodiversity loss are ill-considered policies, perverse incentives and subsidies for agriculture and forest commodities that have an adverse impact on forest and natural resources; the lack of recognition of land and resources rights; and the macroeconomic policies that affect peoples and ecosystems alike.

The Convention on Biological Diversity

The CBD is one of the two Conventions signed at the 1992 United Nations Conference on Environment and Development (UNCED) in Rio. A general consensus that the Earth's biological diversity could be saved only through

international cooperation and funding led to the adoption of this legally binding instrument, the first global agreement to cover all aspects of biological diversity from genetic resources to species, and ecosystems.

The Convention's objectives include the conservation of biological diversity, the sustainable use of biological resources, and the fair and equitable sharing of the benefits arising from utilisation of genetic resources. It provides a comprehensive approach to the conservation and sustainable use of biodiversity.

To date, 181 countries and the EU have ratified the Convention. Only a few countries, such as the United States, Afghanistan, Iraq, and Somalia, have not become Parties. By signing the Convention, EU member states have committed themselves not only to conserve and manage sustainably biodiversity at home but also to support developing countries in implementing the Convention.

Parties to the CBD have agreed upon good, progressive texts that provide a framework for the development of standards and policies. These include:

- The development of national biodiversity strategies and action plans to be integrated into relevant sectoral and cross-sectoral plans and policies;
- The use of the precautionary principle in managing biodiversity;
- The conservation of ecosystems, natural habitats and species in their natural surroundings (protected areas networks);
- The participation of stakeholders, including the involvement of indigenous peoples, local communities, and environmental NGOs in the various CBD-related processes at national and international levels;
- The protection of customary use of natural resources in accordance with traditional practices compatible with conservation, sustainable use and benefit-sharing;
- The promotion of environmental impact assessment (EIA), introduction of appropriate measures to avoid adverse impact of activities on biodiversity, and guidelines for incorporating biodiversity-related issues into EIA legislation or processes and in strategic environmental assessment (SEA);
- Guiding principles concerning the prevention of introduction and mitigation of the impacts of invasive alien species.

At its last meeting, the sixth Conference of the Parties,⁸ governments adopted an 'expanded programme of work on Forest Biological Diversity'. This work programme⁹ calls

³ "Sustaining life on Earth: The Convention on Biological Diversity," UNEP, 2000.

⁴ *Ibid.*

⁵ UNEP/CBD/SBSTTA/7/6, Report of the Ad hoc technical expert group on forest biological diversity, the Convention on Biological diversity, 2001.

⁶ *Ibid.*

⁷ *Ibid.*

⁸ CBD COP 6, The Hague, The Netherlands, April 7-19, 2002.

⁹ CBD Decision VI/22 on forest biological diversity.

Responsibility abroad: How ECAs impact on biodiversity

on Governments and all relevant implementing actors to take into account:

- The need to facilitate adequate participation of indigenous and local communities and the need to respect their rights and interests;
- The need for urgent conservation of forests that are ecologically significant and/or most important for biological diversity and the need to enhance the conservation of all types of forests, both within and outside protected areas.

10 years after Rio

Almost ten years after the CBD has entered into force, all the factors that have led to the extinction of species in recent decades continue to operate with ever-increasing intensity.¹⁰ A recent study (*The implementation of forest related commitments in the CBD*)¹¹ based on 20 country reports on the implementation of CBD obligations relating to forests, confirms that the CBD has potentially a large role to play in the protection and sustainable use of the world's forests. However, in most countries the implementation of the CBD has only just started. The study emphasizes that the integration of biodiversity conservation in other policies and sectors is essential but that the political will to achieve this is lacking. For example, when infrastructure projects such as the mine and pipeline described below are being planned, forests and biodiversity almost certainly lose out.

The EU's footprint

The country reports mentioned above highlight the need for more challenging questions to be put to the EU governments regarding their impact on other countries, through excessive consumption and a permissive attitude to the overseas activities of their companies backed by their ECAs. This is particularly relevant for the EU, whose member states have enacted and implemented policies to meet their CBD commitments at home. Companies, backed by ECAs from EU member states, continue to damage biodiversity and natural resources outside the EU in ways that would be prohibited within EU territory.

Under the CBD, the EU and its member states have committed to integrate biodiversity issues into all their relevant sectoral and cross-sectoral policies. Moreover, the

integration of environmental protection, including biodiversity, in the definition and implementation of the EU's internal market and trade and development policies, is mandatory under the Amsterdam Treaty¹², the legal foundation of the EU. However, these legal requirements are not enforced against European companies operating abroad – a double standard that benefits big companies at the expense of biodiversity and peoples worldwide.

Although many ECAs operate with the backing of public (taxpayer) money, EU governments – bound by the Amsterdam Treaty¹³ – turn a blind eye to the impacts of ECA-supported activities. The commitments they made under the CBD, such as: the precautionary principle, benefit-sharing, the rights of indigenous and local communities, EIA and SEA, are all brought to nought by the ECAs' overseas operations. The following case studies illustrate how ECA-backed projects contribute to biodiversity loss.

Case Studies**The Antamina Copper and Zinc Mine, Peru**

Antamina is reportedly the third largest undeveloped copper-zinc deposit in the world. Approximately 500 million tons of ore and 1.36 billion tons of waste rock will be mined¹⁴. This US \$2.3 billion mining project, currently under construction, is located at 4,300 meters above sea level in the Cordillera Blanca in Peru, about 300 km north of the capital, Lima, and 20 kilometres outside of the 340,000 ha Huascarán National Park. The mine, operated by Compañía Minera Antamina, has gathered US\$1.32 billion in international financing from the World Bank's Multilateral Investment Guarantee Agency (MIGA). Of the US\$1.32 billion of project financing gathered by the project, US\$680 million will be provided by a group of five import and export-credit agencies, including the Belgian ECA, Office National du Ducroire. The latter is providing a twelve-year guarantee to cover the project's commercial bank loans against war and civil disturbance, transfer restriction and expropriation.

The mine is located under a 32-hectare lake, Laguna Antamina, which is to be drained to extract the ore. The drainage of the lake will affect the flow of underground and surface waters during the project's life span and beyond. Although the closure plan proposes to fill in the pit and form a 'new' lake, 20 percent of the waste rock show high

¹⁰ The Global Environment Outlook-3 (Geo-3), UNEP 2002

¹¹ "Status of implementation of Forest-Related Clauses in the CBD- An independent review and recommendations for action," Fern-Global Forest Coalition, March 2002.

¹² Articles 3 and 3c, Amsterdam Treaty.

¹³ Environment Title, Title XIX

¹⁴ Compañía Minera Antamina S.A. Antamina March 1998 Environmental Impact Assessment

Responsibility abroad: How ECAs impact on biodiversity

levels of sulphur. Filling in the pit would make the lake highly acidic, endangering the neighbouring populations and the environment.

The United Nations Organization for Education and Culture (UNESCO) has classified Huascarán National Park as a Biosphere Reserve and since 1985 inscribed it in its Natural World Heritage List. It is considered an IUCN category II protected area. This National Park has gained national and international recognition for being the most important representative example of Peru's Andean landscapes and mountain plant biodiversity in the national system of protected areas, and containing the world's highest tropical cordillera. The wide topographic range supports an equally wide range of vegetation types, including humid forests in the valleys, alpine fluvial tundra and very wet sub-alpine paramo formations.¹⁵ Relic forests of *Polylepis* and *Gynoxys* species are also present.¹⁶

To transport the ore to the port facilities currently under construction, three alternative routes have been assessed. Two routes, the north and the central roads, cut right through the Huascarán National Park. The central road cuts through thirteen different ecosystems including two types of forests: very humid forests and humid forests. The southern road circumvents the National Park through its buffer zone. The mining company first agreed to transport ore via the southern route, outside the Park and then decided to build a pipeline instead. It still needed to use the central route for a year until the construction of a by-pass along the southern road was completed and maintains it as an emergency access road. Considerable disturbance on the Park and its buffer zone from road use, increased access and accidents including pipeline leakage is inevitable.

In addition to the impacts on the local and regional biodiversity, local communities are also seriously affected. Despite the claim that the mining operation will create 1,400 new jobs, it has brought considerable hardship, notably to the community of Llata, which is now cut off from its farming areas since the access routes have been barred by the company or that of Huarmey which can't reach its fishing areas on the other side of the company's pier.

The lack of consultation and engagement of the appropriate stakeholders in the decision-making process, the fast-track construction mode, the underestimation of the efforts required to address particular issues linked to the park are all contributing factors to these deleterious impacts.

For more information see www.eca-watch.org.

2. The Camisea LPG project, Peru

The Camisea Liquid Petroleum Gas (LPG) project in Peru A US\$ 2.7 billion gas project, Camisea, involves the construction of wells, a processing plant and two parallel pipelines to the Peruvian coast. Preliminary construction has begun, and the project is expected to be on line by December 2003. This project, the first major gas development in Peru, is located in one of the world's most ecologically prized rainforests in the remote Lower Urubamba Valley of the Peruvian Amazon, between the Alpurimac Reserve and the Manu National Park. According to the biological inventory of the Smithsonian Institute, the biodiversity of the Camisea region is unsurpassed in the world; the Netherlands Committee of IUCN stated that, in view of the global uniqueness of the Camisea region, the latter should be one of the last places on earth from which to extract fossil fuels.¹⁷ Moreover, the gas development area covers the legally titled territory of several isolated and uncontacted indigenous peoples.

Citigroup, the project's financial advisor, is arranging financing. Currently the Inter-American Development Bank and three ECAs are implicated: the Belgian Office National du Ducroire, the US Export-Import Bank (Ex-Im) and the Italian SACE are supporting or reviewing application for support. Ducroire awarded in May 2002 a US\$170 million in investment insurance to Tractebel, one of the companies involved.

The impacts on biodiversity and on uncontacted indigenous peoples in the Camisea region have been documented¹⁸ in detail. Camisea is home to Machiguenga, Yine, Nanti, Nahua and possibly Kirineri peoples, including indigenous populations living in voluntary isolation. Each one of these peoples has their distinctive identity, language, culture, socio-economic practices and geographic territories. While they subsist almost entirely from the forest, some Nahua and Nanti engage in the market economy by voluntarily trading forest goods to acquire medicines, outboard motors and other products. However, for both semi-contacted and uncontacted peoples, when the outside world begins to intrude aggressively upon their territories and reduce their natural resource base, the pace of socio-economic and cultural change spins out of control, leaving isolated peoples to suffer the effects of cultural dislocation and to grapple with social and health problems, such as introduced illnesses and malnutrition. Clearly, the Camisea

¹⁵ http://www.wcmc.org.uk/protected_areas/data/wh/huascara.html

¹⁶ <http://www2.unesco.org/mab/br/brdir/directory/>

¹⁷ Netherlands Committee for IUCN, Position on Camisea, 1998.

¹⁸ Patricia B. Caffrey in 'An Independent Environmental and Social Assessment of the Camisea Gas Project,' April 2002.

Responsibility abroad: How ECAs impact on biodiversity

Gas Project will bring factors into play that will trigger such consequences.

The project's gas exploration, extraction and processing are situated in primary forest – mostly tropical moist forest. This area is a critical natural habitat, due to the very high levels of biodiversity and endemism, pristine state of conservation and proximity to several national parks.¹⁹ Inevitably, degradation and significant conversion of this area will occur. Primary forest is being destroyed and wildlife, including endangered species, affected. The pristine habitat and delicate balance of forest and aquatic ecosystems will be damaged unless zero contamination is achieved. The migration of people to the area and the construction of a pipeline that will give access to Las Malvinas will in all likelihood lead to conversion of the forest over the long term.

It is ironic that the protected areas, established to preserve critical natural habitats and the indigenous cultures and livelihoods of the people who live within them are themselves unprotected in the face of this massive development project. The Camisea Gas Project, designed to benefit the few at the expense of the many, gravely threatens these valuable natural resources – directly and indirectly.

For more information see: www.eca-watch.org

Recommendations

There are no insurmountable technical obstacles to overcome in order to make ECAs accountable. A detailed list of demands to reform ECAs has been developed by the EU ECA campaign.²⁰ If met these demands would ensure that ECAs would not contribute to serious biodiversity loss and social disruption but promote sustainable development. Increasing transparency and eliminating corruption are significant first hurdles; addressing social issues, such as full prior informed consent and land rights, present a second hurdle.

Under the CBD, the EU and its member states, have committed themselves to integrate biodiversity issues into all relevant (cross) sectoral²¹ policies. Furthermore as per

Decision VI/ 7 of the CBD,²² the EU and its member states need to ensure that their ECAs must adopt EIA and SEA procedures to incorporate biodiversity considerations into their procedures. The functions of biodiversity and its values that could be affected by the proposed project or programme must be made public, as well as the type of mitigation/rehabilitation measures required and the exact procedures for ensuring the participation of local communities and indigenous peoples in decision making.

Last, the integration of environmental protection, including biodiversity issues, in the definition and implementation of the EU's trade, internal market and development policies is mandatory under the Amsterdam Treaty.²³

None of these requirements is enforced against European companies operating abroad – a double standard that benefits big companies at the expense of biodiversity and peoples worldwide.

Conclusion

For EU member states to implement the requirements of the CBD, they must address the impact of the activities of EU-based ECAs. The wider application and enforcement of existing rules to ECAs, and the development of stringent social and environment guidelines based on existing guidelines endorsed by these governments as parties to the CBD is needed for the EU to avoid the hypocrisy of elaborating rules to protect its own environment while taking a permissive attitude to the destruction its industries cause abroad.

Authors: Chantal Marijnissen, Bérénice Muraille, Nicole Gérard and Emilie Thenard.

¹⁹ Manu National Park, Santuario Machiguenga Megantoni, Reserva del Estado al Favor de las Poblaciones Nativas Nomade Kugapakori y Nahua and the Zona Reservada de Apurimac.

²⁰ Available at www.fern.org.

²¹ Such as: CBD Article 6.b.on the integration of conservation and sustainable use of biological diversity into relevant cross-sectoral policies, CBD Article 10.a. to integrate consideration of conservation and sustainable use of biological resources into national decision making.

²² <http://www.biodiv.org/decisions/default.asp?lg=0&dec=VI/7>

²³ Articles 3 and 3c, Amsterdam Treaty.