

Need for ECA transparency

The case of pulp and paper in
Indonesia followed by general
remarks on why and how

Regine Richter - Urgewald, Germany
IV Workshop on the Environment
Rome, September 29th-30th, 2004

Forest destruction in Indonesia

- Indonesia loses more than 2 Mio. ha of forests annually, timber, palm oil and pulp and paper industry being the main consumers of wood
“Pulp and Paper industries in Indonesia destroy forests and communities livelihood, and bring disaster and hard suffering for future generations. The pulp industry has increased the financial debt of Indonesia and made our country poorer.” Rivani Noor, Community Alliance for Pulp and Paper Advocacy

Situation in Sumatra

- 60% of the lowland tropical forests have been destroyed (between 1990 and 2002), pulp industry accounts for the majority of these losses
- Science magazine & WB analyses warned in 2001 that “if the current state of resource anarchy continues, the lowland forests ...will be destroyed by 2005 in Sumatra)”

- Pulp industry on Sumatra destroyed at least 835.000 ha of tropical rainforests, between 1988 and 2000 were processed into pulp - only 10 % of this wood came from plantations
- „*We are in no rush to switch our mill to acacia if there are still cheap supplies of mixed tropical hardwood available. Why should we do? As it stands, we have access to a very low cost supply of raw materials.*” Anonymus staff of wood supplier

APP and APRIL

- APP and APRIL are the main consumers of wood on Sumatra, of the tropical rainforest destruction taking place in Sumatra, each of them accounts for around 300.000 ha destroyed rainforest
- Both have an annual production capacity of nearly 2 Mio. tons of pulp each, two thirds of this out of tropical rainforests

Problems: Forest destruction

- In 2000 estimation that 30-40% of the wood processed in Indonesian pulp mills are likely to be illegal
- In concession areas, cleared forests are not re-timbered as demanded legally
- Despite end of contract with most dubious wood brokers, at least APP apparently has no clear system of control to rule out illegally logged wood

- APRIL plans to alter 200.000 ha of tropical rainforest into plantations till 2009
- APP plans till 2007 to clear 180.000 ha more of tropical rainforests without checking the conservation value of the forests
- After that time both companies should use only wood out of plantations, yet doubts whether the companies will follow their own timetable (as they have never met their targets before)

- As well in concession areas the companies have to follow legal restrictions that ECAs should be aware of:
 - * on areas to become plantations 20% of the vegetation have to stay
 - * the tree species “Ramin” is protected and shall not be cleared at all
 - * bank vegetation shall not be cleared nor vegetation at special slopes
 - * productive areas carrying more than 20m³ of economically usable wood shall not be cleared
 - * forests on peat soils of more than 3 m depth shall not be cleared

- Environmental organisations observe that APP is not always following these restrictions and that staff lacks knowledge on the restrictions
- In order to better protect the tropical forests the national government annulled concessions the district government had allocated to APP, this is relevant for about 30% of APP concessions; clearing on these areas means acting illegally

Problems: Land rights conflicts

- Concessions were allocated sometimes without taking into consideration the traditional land rights (“adat”) and common land
- Only after end of Suharto’s era people are ready to claim the land that has been taken from them => leads to partly violent conflicts (2001 private security forces working on behalf of APP finished violently protests: 5 people heavily injured, houses destroyed, 58 people arrested)

- Fires are put on community land in order to alter rainforests in plantations
- On 50.000-60.000 ha of APP's concession areas open land rights conflicts remain
- Destruction of forests destroys employment possibilities for local population and leads to impoverished population

Problems: corruption

- Network between wood suppliers, governmental bodies and parts of the local population assured supply of illegally logged wood
- Misuse and mismanagement of money led to the financial failure of APP, stop of debt repayment in 2001, accumulated debt is 7 Bio. US \$, long lasting restructuring negotiations one of largest defaults ECAs were ever facing

How could transparency had made a difference in APP case?

- APP excellent case to show that ecological & social risks bear economical risks as well:
 - * bad environmental behaviour hint to dubious economic practise - good to assess before pumping money into a mega-project (resulting in 7 Bio. US\$ debt)
 - * Transparency broadens the base of information => makes an assessment more reliable

Examples

- Knowledge of reasons why other financiers decreased financing of pulp mills would have helped to assess the general problems
- Knowledge of special government structure in Indonesia would have helped to assess the difficult governmental surrounding
- Knowledge of lack of secure wood supply and lack of strategy to assure legal wood supply would have helped to assess the reliability of APP
- Knowledge of existing land rights conflicts would have helped to assess the reliability of APP

- Knowledge of widespread corruption within APP would have helped to assess their reliability and possible legal implications if ever they were taken to court
- Knowledge of destructive effects of supporting the pulp and paper sector would have helped to assess the risk of contradicting national development policies in ECA home country
- Knowledge of solvable and unsolvable problems would help to assess the reputational risk of supporting projects

- More recent: Knowledge of all legal requirements to be followed e.g. on concession areas is a precondition to follow the minimum obligation of the common approaches: “...*projects should in all cases, comply with the standards of the host country...*”(12.2)

- For ECA staff on their own it might be difficult to gather all these information, including details of national legislation, the extent to which partners of ECAs clients follow it, problems on the ground, track record of companies, etc. Transparency broadens the data base!

Make use of different levels of transparency

- Within administration - use routinely knowledge of other parts of the administration
- With public as well in ECA home country as in host country - as lessons learnt from the APP case ABN Amro makes in its forest policy a criteria that their clients provide for informed consultations with affected local peoples this can only be granted with transparency on the ground

General remarks on transparency

- The reason to act

- New legal obligations in Europe:
- The directive on public access to environmental information as transposition of the Aarhus convention intends to create a new era of openness and informed decision making

- In the new directive the term of public authority is broadened in a way that ECAs will be considered as part of the administration that should disclose environmental information
- The directive demands for a narrow interpretation of business confidentiality - so far the knock-out criteria against transparency

The added value

- Broaden the base of information beyond the facts a project sponsor can provide and ECAs are able to find out themselves; this will give a more accurate picture and will allow for a better assessment of the proposed project => this minimises risks and costs

Get an early impression of problems

- incorrect information about people that need to be resettled/will be affected by a project
- land rights / resettlement conflicts that may even result in occupation of plantations/working sites
- fierce opposition on the ground that might lead to severe conflicts impacting the continuance of the project

- lack of wood/fiber supply leading to the need for illegal logging, followed by forest destruction and land rights conflicts
- corruption resulting in exploding costs and questionable viability of projects
- projects not being in line with ECA's own guidelines/standards
- incorrect estimation of demand (as in case of electricity or water need)

- unprofitable contracts that might lead to non-payment and financial failure of projects
- => as the case of APP has shown these kinds of environmental and social problems just as well as corruption problems may show a lack of credibility of project sponsor and lead to an economic failure of the project
- => transparency can minimise ECA's risk!

- identify the really “contagious” projects / “uncontrollable” countries in which one would rather not be involved
- => this helps to reduce the reputational as well as economic risks

Achieve transparency - how?

- Being a European ECA: use the obligation deriving from the EU directive on public access to environmental information - as trigger for developing an pro-active disclosure policy. First start with co-operating with other ministries that might provide additional information in order to share costs

- Make publication of basic project information such as name, short description of project, potential environmental and social impacts as well as the impact category a precondition of appraisal for all projects - this allows to get different stakeholders involved that might be of help in identifying problems

- Applicants acceptance of the publication of EIAs, SIAs, RAPs and Indigenous Action Plans (where they are required) should be made a precondition of accepting the application. In accordance with the directive on public access to environmental information ECAs should consider to disclose at least partial documents, or an authorised version (in which parts may be blackened) where legitimate concerns over business confidentiality are brought forward by the applicants

- Ask for justification of the “business confidentiality” argument, simply claiming a competitive environment should not be an excuse for denying all information. If local newspapers report about all bidding companies, the confidentiality can’t be claimed anyway

- Ensure a 120-day public consultation period following the disclosure before taking a decision so that interested groups and potentially affected communities in the countries are able to pronounce their concerns. Where due to bidding timelines this period can't be kept, support should be conditional to no serious concerns coming up. The disclosure should take place in local languages in order to assure that local population can actually use the information

- In order to be transparent: disclose as well the decisions taken on supporting projects, the result of the environmental review with reference to comments provided by stakeholders and at least those conditionalities, that don't fall under strict business confidentiality - this would ease monitoring as well!