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Letter of complaint re: IFC Orion Project no. 23817 and Celulosas de M'Bopicua, IFC Project no. 23681

This complaint is lodged by the Center for Human Rights and Environment, ("CEDHA"), on behalf of the Governor of the province of Entre Rios, Mr Jorge Busti and the Vice Governor, Mr Guillermo Angel Guastavino and stakeholders and victims of two proposed IFC projects to be undertaken near Fray Bentos, Uruguay: the Orion project undertaken by Botnia (IFC project number 23817), ("the Botnia project") and the Celulosas de M'Bopicua project undertaken by ENCE (IFC project number 23681) ("the ENCE project").

We are at your disposition should you need any further information regarding this complaint. A multi-volume Evidence Annex will be forthcoming shortly.

Respectfully,

Jorge Daniel Taillant
Executive Director
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LIST OF SIGNATORY STAKEHOLDERS SUPPORTING COMPLAINT:

- Governor of the province of Entre Rios, ARGENTINA, Mr Jorge Busti
- Vice Governor of the province of Entre Rios, ARGENTINA, Mr Guillermo Angel Guastavino
- Asamblea Ciudadana Ambiental de Gualaguaychu (Assembly of Citizens of the Environment of Gualaguaychu) – ARGENTINA-URUGUAY
- Mo.Vi.T.De.S, Movimiento por la Vida, El Trabajo y un Desarrollo Sostenible (Movement for Life, Work and Sustainable Development) - URUGUAY
- Grupo Ecológico de Young (Ecological Group de Young, - URUGUAY)
- Asociación de Maestros de Rio Negro (Association of Teachers of Rio Negro - URUGUAY)
- A further 39,633 individuals have signed their names in support of this complaint.
- Coordinadora de Vecinos Contra las Plantas Celulosa Mercedes Uruguay.

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I. Rationale for Combined Nature of Filing and General Project Characteristics

While this filing represents two separate projects, we suggest that they be considered as a single complaint due to:

- their similarity in production processes, characteristics and objectives;
- complimentary nature of both investments;
- the single location of the proposed paper mills;
- the use in both projects of similar or identical polluting technology and similar or identical toxic discharge into the same geographical environment and resources;
- the concerns both projects raise for a unique set of stakeholders and victims, namely, those living in the vicinity of the mills (stakeholders include communities from both Argentina and Uruguay);
- that both projects violate the same IFC policy, national, bilateral and international law and human rights;
- that together, the projects will have similar (as yet unmeasured and misrepresented) negative social, economic, and environmental impacts that will be cumulative and irreparable to local residents;
- that both projects are progressing through the IFC approval process at similar stages, at the date of this complaint.

Each project involves the construction of a paper mill adjacent to, and contaminating the pristine Uruguay River, an internationally protected natural resource forming the border between Uruguay and Argentina, respectively around 5 and 12 kilometers upstream of the town of Fray Bentos (population 23,000). The Argentine town of Gualeguaychu with a population of over 86,000 is located approximately 33 kilometers from the plant location.

The projects will affect over 110,000 residents of Fray Bentos and Gualeguaychu, as well as the residents of Las Cañas, numerous islands located in the Uruguay River and riparians further downstream. 300,000 people live within a 50 kilometer radius of a point between the two plants, and around 400,000 people live downstream from the projects and are provided with water from the Uruguay River.¹

References to “projects” or “project” are to be understood as involving both projects, unless a single project is specified.

II. Procedure and Legal Grounds for the Complaint

This complaint is grounded on violation of numerous existing IFC Policy, as well as obligations of Uruguay to international law, particularly geared to ensure minimum economic, social, and environmental impacts of IFC sponsored projects, including Category A projects (deemed to have significant adverse environmental impacts that are sensitive, diverse, or unprecedented). These include but are not limited to:

- the violation of IFC policy, particularly with regards to:
 - IFC Operational Policy OP7.50 *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
- specific environmental, social and disclosure policy considerations for Category A projects;
- the violation of international, bilateral, and national laws in the assessment, planning, and implementation of the 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.

A more detailed complaint, evidence and reference to project characteristics follows.

III. Representation of Victims

This complaint is made on behalf of stakeholder victims and communities from the Fray Bentos, Uruguay and Gualeguaychu, Argentina areas. In localities in each country, a **great** number of communities, civil society

¹ <http://www.guayubira.org.uy/celulosa/cronologia.html>

organizations, as well as public officials have mobilized in opposition to the projects. In addition local public officials at the highest level (including the President of Argentina), and the Argentine Ambassador in Washington DC, have expressed to Uruguay as well as to the World Bank Group, their concern over the installation of the two IFC co-financed paper mill plants and are seeking local, national, regional, and international assistance from the Compliance Advisor Ombudsman (CAO) and other entities, to ensure that these projects do not bring harm to the health, lifestyles and livelihoods of local residents, as well as irreparable environmental damage to the areas surrounding the future paper mills. The Argentine complainants are further concerned that, although the projects will cause contamination to the environment in Argentina, including the air and waters of Argentina, consultation was not undertaken in Entre Rios (the Argentine province in which Gualeguaychu is located), nor were the likely effects in Argentina investigated in the environmental impact assessments, while the highest environmental authority of the government of Uruguay has officially recognized that the environmental, social, and economic effects of the projects to the local populations, have been misrepresented by the project sponsors. For this reason, this complaint also includes representation of affected communities, stakeholders and civil society groups in Uruguay.

Given the widespread opposition to the paper mills that is growing daily in many local and national sectors of Uruguayan and Argentina societies, and the many groups and identifiable and specific residents of the respective locations, CEDHA was approached by a number of these victims, seeking technical assistance to lodge a complaint to the CAO. Included in this group are individuals and community groups from the localities of Fray Bentos and Gualeguaychu; civil society organizations convened under the Consultative Council of Civil Society Organizations which maintains dialogue with the Argentine Foreign Ministry on environmental and social impacts and concerns and Mr. Busti, resident of Gualeguaychu and democratically elected governor of the province of Entre Rios, who is a signatory to this complaint.

Mr. Busti has personally taken upon himself to organize public fora to discuss the concerns of local residents over the installation of the paper mills. He acts, in consequence, not only as a concerned citizen of Gualeguaychu, but also as an elected representative of an entire province of Argentina, expressing its extreme concern over the installation of the paper mills. CEDHA has received a power of attorney from Mr. Busti to represent his interests before the CAO and from local groups, which have also sought CEDHA's support in representing their interests before the CAO.

IV. Request of Complainants to the CAO

The complainants request:

1. That the Compliance Advisor Ombudsman (CAO) use all of its powers and faculties to ensure that the IFC Board of Directors cease all further consideration of financing these projects;
2. That the CAO investigate and ensure consultation with **all** affected communities and individuals, who have expressed their **extreme** concern with the environmental, social and economic risks of these projects in their communities in both affected territories (Argentina and Uruguay) guaranteeing a fair and transparent consultation process with the opportunity of all stakeholders to raise concerns and have those concerns effectively addressed;
3. That the CAO specifically investigate whether the projects sponsors, as mandated by the relevant and various IFC policy, properly conducted, in a serious manner, and presented to IFC, to Uruguayan and Argentine government authorities, as well as to Uruguayan and Argentine stakeholders, the qualitative financial, technical, environmental, economic and social impacts of the paper mills (including severe risks to the environment and to human health), and not merely gathered environmental statistics summarizing quantitative externalities, as has been suggested was done by Uruguayan environmental authorities;
4. That the CAO investigate whether the project sponsors and the IFC considered if these projects would be detrimental to, or place at risk, the way of life, quality of life and livelihoods of the Fray Bentos and Gualeguaychu communities, and that the CAO give its opinion on this matter;
5. That the CAO investigate whether the IFC, as suggested by IFC policy for Category A projects, called for an independent international panel to study and offer expert advise on the impacts of these projects, and if not, that it recommend to the IFC to do so;
6. That the CAO investigate and transmit to the IFC the unmentioned (in project sponsor or IFC documents) extreme public concern (particularly of non-consulted Argentine stakeholders) over the social, economic and environmental impacts that the projects will have, and which is presently misrepresented in the environmental assessment reports falsely suggesting that the projects enjoy "wide public support";
7. That the CAO consider auditing this project to evaluate project sponsor and IFC compliance with IFC Environmental Safeguard Policy, Disclosure Policy, International Waterways Policy, Pollution Prevention and Abatement Handbook on Pulp and Paper Mills, International and Bilateral Laws between Argentina and Uruguay, and other policy deemed by the CAO to be relevant to the nature of these projects.

V. Description of the Complaint Representative

CEDHA is a non governmental organization working in the area of human rights and environmental protection based in Argentina and can be contacted at the address, telephone number and email address indicated on this letterhead. The complainants live respectively in the areas shown on the map that is attached labeled **Attachment A**. The complainants can be contacted through CEDHA. CEDHA also encourages and can facilitate direct contact by CAO with the victims, at the CAO's request.

VI. General Description and Reflections on Project and Project Sponsors

The sponsor of the Botnia project (IFC project number 23817) is Metsa Botnia, owned by three Finnish companies, which are very significant companies in the European paper industry with 5 pulp mills in Finland. The total value of the project is approximately \$US 1.2 billion of which \$100 million is sought in the form of an "A" loan from the IFC as well as a further \$US 100 million syndicated "B" loan.

The sponsor of the ENCE project (IFC project number 23681) is a Spanish company operating 3 paper mills in Spain and is the second largest producer of eucalyptus pulp in the world. The total value of the project is around \$660 million, including an IFC "A" loan of \$US50 million and a syndicated "B" loan of \$US150 million.

The combined investment of the projects would be the largest foreign direct investment in Uruguay's history, although economists related to the project have indicated that only a small portion of this amount (less than 20%) would actually be spent in Uruguay as much of the investment is in machinery purchased outside of the country. Further, benefits resulting from the sale of the product (pulp) are largely reaped outside of Uruguay, as most of the product is slated for export; the companies have negotiated duty free status, so that even local taxes benefiting Uruguay are to be minimal compared to the magnitude to the investment.

The records of the project sponsors in their home countries raise considerable doubt in terms of the social, environmental and economic risks, as well as moral and professional guarantees they offer to local communities concerning the negative externalities that can be expected from the paper mills, as well as their ability to manage and mitigate these impacts.

Botnia's Record in Finland

Two of the Botnia's five (5) plants in Finland discharge toxic waste into lakes. These discharges have resulted in the emission of pungent foul odors affecting nearby communities (Aanekoski) and, in 2003, the contamination of Lago Saimaa with 7500 cubic meters of black liquor causing a large fish kill, increasing acute respiratory infections, difficulties with vision and neuropsychological disorders.²

ENCE's record in Spain

ENCE officials have been convicted of civil and criminal offences concerning the contamination of the Ria de Pontevedra in Galicia, Spain over a period of 30 years. The case took over 12 years and comprised 12,000 volumes. Several of the company's top executives received jail sentences due to their improper conduct regarding contamination from the paper mills operated by ENCE, while the company was forced to pay an indemnity of 433,000 Euros for the damage caused by the company's actions. The environmental impact report for the project in Uruguay admits that ENCE in Pontevedra used the same technology as will be employed in the proposed Uruguay project.³ The proposed Uruguayan project will have a capacity that is 80% of the *combined* capacity of ENCE's three plants in Spain. Further to the experience in Spain, the programmed capital-intensive plant provides relatively little in terms of local employment, and is actually detrimental to employment in the tourism, fishing and shellfish industries,⁴ which are central to the livelihoods and very identify of the Fray Bentos and Gualeguaychu regions.

This case essentially involves two European-based paper pulp production companies which have exhausted their welcome in their own countries of operation, due to their poor and criminal track record of using second-class contaminating technology (while better technology is available and already mandated by industry and European Union standards on Best Practices of the Paper and Pulp industry). The repeated deceit and a substantiated criminal track record these companies have shown in the past suggest that they are willfully and intentionally taking advantage of less stringent investment atmosphere and conditions in Latin America and are effectively exporting this outdated contaminating technology to the developing world. Further, both companies have chosen a site location for

² <http://www.olca.cl/oca/uruguay/fraybentos05.htm>

³ page 7 Executive Summary to the Environmental Impact Assessment provided to IFC

⁴ http://letras-uruguay.espaciolatino.com/cabrera_miguel/plantas_de_celulosa_en_fray_bent.htm

these plants that are dangerously ill- placed, just a few kilometers upstream from two important Uruguayan and Argentine populations. In the case of Fray Bentos Uruguay, the municipality takes its potable water directly from the Uruguay River just downstream from where environmentally contaminated water from the plants will flow into the river. This ill-choice of site is apparently due to that project sponsors already owned lands at these locations, had already invested in, and constructed a pier adjacent to these lands to export wood chips for production of pulp in Europe, and that when the decision was made to transfer processing to Uruguay (due to growing opposition and judicial problems of production in Europe) it was more economically convenient for the project sponsors to consider location at this site, despite the many environmental and social risks this site represented for local populations.

Both the Uruguayan and Argentine territories in the immediate influence zone of the proposed plants are dependent on tourism, water sports, commercial and sport fishing, and gain their reputation as highly livable and natural resource rich enclaves in Argentina and Uruguay. Evidence shows from other paper mill plant investments, that the arrival of paper mill industries (including communities where both project sponsors have invested), radically transforms communities into industry-associated sites with the common externalities of such communities including, visual, odorous (rotten egg smell), and health-related impacts and risks caused by environmental degradation.

The systematic presentation by these companies of doubtful, narrow, non-integral, superficial and sometimes false analysis of the social, economic, and environmental impacts that these mills will cause for local communities (which is officially commented on by the Uruguayan environmental agency's comments to the EIAs of the projects), and the withholding of environmental and health risk-related information relevant to potential victims and stakeholders, suggests that a highly precautionary approach much be employed to review the processes and information presented by these project sponsors.

Communities of Uruguay which have been only superficially consulted and affected communities and stakeholders in Argentina, which have been largely ignored in the consultation and environmental evaluation processes simply because they live across the river (in another country), have not had their say and/or have not been allowed to express their opinion and their opposition to the installation of the paper mills in a meaningful, nor have their concerns been sufficiently addressed by the project sponsors, or by the IFC. In fact, as the evidence shows, their opinion has been purposefully skewed and misrepresented. Testimony of other communities around the world and in the region that have previously been affected by similar paper mill industries, (or by the very same companies that are sponsoring these projects), has alerted the community as to the false promises of these companies which suggest that the paper mills will bring sustainable and progressive economic development, but which in fact bring little in the way of cash injections into the local economy (since most of the expenses in machinery and profits from production take place abroad). Instead such investments, everywhere they have taken place, have caused tragic environmental degradation, health problems and collapse of local industries, tourism and deterioration of quality of life. Thousands of affected stakeholders have been mobilizing over several years, both in Argentina and in Uruguay to widely oppose the installation of the paper mills at the site identified. Nearly 80,000 people have repeatedly blocked international passes, while many thousands of signatures against the plants have been collected (including in support of this complaint). Not surprisingly, this opposition is not only from community groups and civil society, but also from unorganized local residents, public officials (ranging from local officials on up to the president of Argentina), and other environmental and human rights groups nationwide and regionally which have a vested stake in the sustainable development of the region and that work to protect the lives of local communities. Shortly before this complaint was filed, the Province of Entre Ríos ratified a new provincial law, declaring the province "free of pulp cellulose production" and all of the types of contamination this sort of production causes to the air, local environment, to waterways, ecosystems, and tourist industry. The opposition to the installation of these paper mills has even resulted in the government of Argentina making official representations to the Government of Uruguay and to the World Bank, representations that have not so far been successful in eliciting a favorable response.

The types of violations described in this filing, are not only evident to even a lay reader, but are clearly a result of violations to existing IFC policy designed to protect communities, stakeholders and the environment, potentially affected by IFC investments and projects, and clearly result from the IFC's cursory review of the assessments presented by the project sponsors as well as the sponsors' haste to bring the projects to the IFC board's consideration. The CAO has a unique opportunity to act on behalf of these communities and is entirely within its powers to review the types of violations that have been committed in these projects to date, with respect to the IFC's various environmental and disclosure safeguard policies and is in a critical position to halt the advancement of these projects and their presentation to the Board of Directors.

The affected communities wish to express their concern for the grave risks that these projects present to their livelihoods, to their environment and to their health, and are calling on the CAO to act quickly and incisively to ensure that all the necessary steps to guarantee the safety and health of all of the persons at risk from the advancement of the projects to construct these paper mills.

VII. Status at IFC and Characteristics of Projects

Both projects are Environmental and Social Review Category A projects.

Botnia project

Documents purporting to fulfill the requirements of Environmental Impact Assessment were provided to the IFC in April 2005. The project has not yet been approved by the IFC Board for financing, however its consideration seems imminent. The project sponsor has commenced preparatory construction works at the premises.

ENCE project

Documents purporting to fulfill the requirements of Environmental Impact Assessment were provided to the IFC in July 2005. The project has not yet been approved by the IFC board for financing, however the project is recorded as being "pending approval".

VIII. Stakeholder Opposition to Projects

a) Official Opposition by the Argentine Government

On 26 June 2005 the Argentine Ambassador in Washington, Mr. Jose Bordon sent a letter to the World Bank President, Paul Wolfowitz, expressing the grave concerns of the Argentine Government concerning the construction of the paper mills, due to the unsatisfactory environmental impact assessment and the non-fulfillment of the requirements of a bilateral agreement between Argentina and Uruguay regarding the joint management and protection of the Uruguay River. The IFC answered the request informing governments involved that the IFC would not approve the loans until the Environmental Assessment Evaluations have been done. Neither of Argentina's concerns have been resolved to date, nor do the questionable "final" environmental impact assessments fulfill the necessary policy conditions to guarantee safe implementation of the projects or public support for them.

Additional official opposition to the Projects has been manifested by various Argentine public agencies, including the Environmental Ministry, the Foreign Relations Ministry, the Government of the Province of Entre Rios, and others. Government officials have been very active and public in their official opposition to the projects, and have even outreached to civil society groups (such as CEDHA,) to help gather information, build pressure and channel opposition to relevant institutions and parties.

A Bi-National Expert Technical Group (Commission) which met to discuss issues arising from the proposed paper mills for the first time on 3 August 2005 pursuant to an Argentine–Uruguayan treaty for the use of the Uruguay River has 180 days in which to conduct and consider social and environmental impacts of the proposed projects. On the 24th of August 2005 the Argentine Government requested the cessation of all works on the project pending the outcome of the Commission's deliberations. Construction of the mills in Uruguay nonetheless continues, while the conclusions of the Commission have been labeled, "unbinding". The project, the protests and the political discussions have been the subject of extensive interest and almost daily coverage in the Argentine and Uruguay national press.

b) Community Stakeholder Groups Opposition

Numerous stakeholder groups both in Argentina and Uruguay have growingly expressed their concern and outright opposition over the past 2 years to the installation of the paper mills in Uruguay, and have even built communication networks with other communities of Finland, Spain, Chile, Brazil and other countries where ENCE and Botnia, as well as other similar companies are processing pulp. Stakeholder communities from these other countries are providing real-life testimony and evidence from their own experience with Botnia and ENCE showing how their quality of life has rapidly deteriorated, and are strongly and emphatically encouraging their Uruguayan and Argentine counterparts to beware of the false promises of economic growth, indirect benefits, employment opportunities and industrial growth, made by the project sponsors.

Residents of the Gualeguaychu, Argentina area and nearby Fray Bentos in Uruguay, have been demonstrating their opposition to the project since September 2003, emphasizing the risks of contamination of the river and atmosphere which greatly outweigh the purported economic and employment benefits claimed by the assessments and project sponsors. *The Declaration of Gualeguaychu* signed in September of 2003, stated absolute community opposition to, in particular, the ENCE project. Residents groups have met nationally and internationally at least twice weekly since organized opposition began, and have carried out many highly visible protests, signed petitions against the projects,

while tens of thousands of Uruguayan and Argentine stakeholders blocked an international bridge uniting Uruguay and Argentina adjacent to the project to repudiate the construction of the plants, as well as holding numerous protests and consultations with public authorities in both Argentina and Uruguay. Opposition in Argentina has even led to *unusual* collaborative civil society-national government alliances, as has occurred through the Argentine Foreign Ministry, and the Consultative Council for Civil Society, which meets regularly with the Foreign Ministry to discuss civil society concerns pertinent to Foreign Affairs related activity. It should be noted that CEDHA is the interior representative on the steering committee of this Consultative Council, and has helped coordinate several Council meetings, discussing this paper mill case, which has been on the Council's regular agenda for much of this year.

For more information see the website of the Argentine Foreign Ministry:
<http://www.mrecic.gov.ar/>

The outcome of an opinion poll conducted among Uruguayans on 16-18 July 2005 indicated that only 39% were in support of the paper mills while 51% were opposed to the projects, largely countering the official assessment of the hired consultants which claimed wide support. While the projects directly affect very distinct and identifiable stakeholder groups on the ground, the nature of public concern has reached far greater national and even international levels. See: <http://www.miercolesdigital.com.ar/notacompleta.asp?ID=2130>

Further, the Professional Council of Economic Sciences of Entre Rios (the province adjacent to the Uruguay River on the Argentine side) has passed a resolution opposing the installation of the projects or any step to facilitate their construction, indicating that even considered on a purely economic basis, the projects are not sustainable and should not be supported.

In relation to the **Botnia** project, the summary of environmental information on the IFC's website states that "Consultations to date indicate that the project enjoys broad public support". The Executive summary of the ENCE environmental assessment states that there is "acceptance of the proposed industrial concern by most of the area's inhabitants". However the information above indicates that this depiction is entirely false, and that in fact, there is widespread opposition to the project both among Uruguayans and among Argentines.

On 30 August 2005 CEDHA sent a letter to the IFC's Mr Dimitri Tsitsiragos seeking a meeting with IFC staff to discuss the project. To date no response has been received to that request. We were informed by telephone by the IFC office in Buenos Aires, that Mr. Tsitsiragos' team did not have room on their agenda to meet with us, and that they could not even give us any information about Mr. Tsitsiragos' whereabouts during the mission, counter to the IFC' position of being a transparent and institution open to public consultation.

IX. Stakeholder Impacts

This section summarizes the environmental and social effects on the complainants. Voluminous information is available establishing the types of social, economic and environmental impacts these projects will likely have on stakeholder communities, some of which will be provided in an annex to this complaint. It should be noted that despite the wide range of effects that can be expected from the project, neither projects' environmental assessment assesses the environmental effects on Argentine territories or residents, and in relation to the effects that are covered, these suffer from numerous flaws, shortsightedness and failure to properly comply with policy and mandatory consultation processes.

A. Environmental Impacts

a) General Environmental Impacts

The environmental impacts of the projects include:

- the extraction of extremely large quantities of water from the Uruguay River;
- the generation and spillage of waste products from the pulping and bleaching stages of paper production;
- the contamination of waters used for drinking;
- the death of and risk to the sustainability of fish populations of the Uruguay River critical to the local environment and to the livelihoods of a great many fisherman of the region;
- the emission of odorous gases;
- noise pollution from the construction and operation of the plant and from vehicle movements;
- the high risks of spillage or explosion of chlorine products for use in the paper making process;
- great risks to the tourism industry, central to the identity and livelihoods of local populations.

It should be noted that most of the assessments that have been made to evaluate the environmental, social and economic impacts of these projects (this is also stated by the official Uruguayan Environment Ministry, DINAMA), have considered the projects independently of one another and have also failed to consider the impacts of the projects in an environmentally integrated fashion and in the context of a greater social and environmental "ecosystem".

b) Extraction of Water from the Uruguay River

The Botnia project alone will draw an average of 86 million cubic meters of water per day from the Uruguay River, which is equivalent to the monthly consumption of the town of Fray Bentos. A further 2275 cubic meters per hour will be extracted by the ENCE project. Large quantities of water will also be required to ensure the rapid growth of trees to supply the paper mill, around 3 tons of wood is required to produce each ton of pulp. These latter water needs are not taken into account in the environmental assessment of the project. Since the majority of the volume of water extracted from the river will be returned in the form of polluted waste water, the environmental assessment reports (EA) do not consider the effect *per se* of the removal of such a large quantity of water, which would be clearly necessary if the waste waters were to be disposed of in some other manner which would not directly affect the quality of the river water, such as by disposal to a liquid waste facility.

c) Discharge of Waste Liquids from Pulp and Bleaching

Both mills propose to use the Elemental Chlorine Free (ECF) method (a "second tier" environmental quality of available technology) of bleaching pulp, which is not the method of paper bleaching preferred by the World Bank.⁵ The Botnia project will process between 500,000 and 1,000,000 tons of pulp per year and the ENCE project a further 400,000 tons per year. The plants will dispose of their waste liquids (around 80% of the volume drawn from the river, and including the wastes of chemicals added during the production process) to the river upstream of the town of Fray Bentos (as well as the other neighboring towns of Las Cañas and Nueva Palmira), although the Botnia project will draw its water from upstream of its discharge point. Accordingly those responsible for the project provide assurances that the discharges from the plant are suitable for human consumption and safe for fish and other aquatic organisms, but draw water from upstream of the project. The Uruguay River in the Fray Bentos area is known to be a breeding ground for fish and several threatened species have been observed in the area.⁶

The liquid wastes from the projects will contain Absorbable Organic Halogens (AOX). AOX is a manner of expressing the collective quantity of organochlorines. AOX are known to biodegrade slowly and to bioaccumulate. The Botnia plant is estimated to release an average of 430 kilograms of AOX each 24 hours and the ENCE plant a further 16 kilograms per hour. It should also be noted that, although the Fray Bentos water purification plant adds some AOX to the river, these processes take place at low temperatures. The high temperatures of the paper production processes will cause the production of dioxins. The Botnia project alone will dispose of 29 kilograms per day of dioxins.

Dioxins are extremely toxic, persistent and carcinogenic and exposure to minute quantities can have the effects set out below. Furans are chemically similar but an order of magnitude less toxic and less persistent than dioxins. The known effects of dioxins and furans on fish and mammals are wide-ranging and they are suspected of causing miscarriages, birth defects, liver damage, skin complaints and behavioral and neurological problems in humans. Certain of the substances to be discharged in waste water, are fat soluble so that they accumulate in the tissues of living creatures and pass through the food chain including through bioconcentration in fish.⁷ They are known to have effects on the nervous system as well as on immunological and reproductive functions, are mutagenic and carcinogenic.⁸

Further, the increased emission of dioxins that is estimated for the pollution of just the ENCE plant (which will produce one third of Botnia's production) will increase Uruguay's emissions by more than 1%, contrary to Uruguay's commitments under the Stockholm Convention on Persistent Organic Pollutants (POPs) which requires the reduction of annual emissions of POPs including dioxins and furans. Neither EA addresses this issue.

⁵ World Bank Group *Pollution Prevention and Abatement Handbook, Pulp and Paper mills*, July 1998 page 2

⁶ letter dated 29 December 2004 from lawyers representing Friends of the Earth Network, Uruguay, Worldwide Movement for Tropical forests (WRM) and Guayabira Group, to Uruguay's Minister for the Environment and National Director of Environment, prepared with the assistance of a team of engineers, biologists and other scientists, at page 6.

⁷ http://www.foe.co.uk/resource/briefings/consequence_pulp_paper.html

⁸ Medio Ambiente Y Calidad De Vida, Volume 2 No. 13, Jan-Abril 2005, Biblioteca Del Congreso Nacional, Departamento De Estudios, Extensión Y Publicaciones, Unidad De Extensión Y Publicaciones

Chlorophenolics are probably the most hazardous chemical group in pulp and paper mill effluents, being present in higher concentrations than more toxic compounds such as dioxins. Not only are they themselves toxic, persistent and bio-accumulative, but they can transform into other compounds which are even more so. The substitution of chlorine dioxide for elemental chlorine in some bleaching process stages significantly increases chlorophenolic production.⁹ Chlorate is a powerful herbicide which can severely affect waterborne algae.

Botnia Environmental assessment report¹⁰

The EA for the project acknowledges the potential effects of discharges from the project on fish, however it relies on dilution to support the assumption that the effects of the project will be minimal. This approach is contrary to the approach required in Europe (the home of the project sponsors), where the Integrated Pollution Prevention and Control Directive, which applies to paper mills, requires that dilution be ignored.¹¹ No limit for AOX has yet been set by Uruguayan authorities. Since no legal parameters will be breached, the EA assumes that these contaminants will have no environmental effects. The expected discharges and addition of AOX to the river is expressed in milligrams per liter whereas, for example, the United States Environmental Protection Agency limits quoted in the EA are expressed as kg/Adt so that comparison is difficult. As a result any potential health effects of AOX (which would be far more important than those of suspended solids, the effects of which are discussed in the EA), are not discussed in the EA.

In response to concerns by the residents of Fray Bentos that their water supply will be extracted downstream of the plant, Botnia has suggested that it might be possible to move the town's intake upstream of the plant. This "possible solution" ignores the needs of other downstream users as well as the ecology and sustainability of flora and fauna of the river, which are not only critical to the region's ecosystem, but also critical to the livelihood of fisherman and other tourist operators who depend on the river's good quality. The proposed solution also seeks to place the responsibility and cost of securing the town's water supply, endangered by Botnia, onto others.

In relation to the use of water for domestic purposes, the Botnia project's EA reports that the use of receiving waters downstream from paper mills is common in the United States. However such studies are related to water users between 90 and 800 kilometers downstream, far greater than the geographical proximity (less than 20 kilometers) of water users in Fray Bentos and Las Cañas. Nor is it clear to the reader, whether such studies are based on chlorine based or less polluting TCF technology.

ENCE Environmental Assessment Report¹²

The ENCE environmental assessment report also relies on dilution of the discharges and that the substances to be discharged will form a small proportion of the volume of the river to conclude that there will be no significant effect on the quality of the waters of the river, without considering the toxicity of the substances to be discharged and the significant gross volume of those discharges.

The Uruguay River is the second largest river in the River Plate basin, and the discharge of effluents from the plants will affect water quality further downstream in this important basin. Even in the event that regular discharges from the plants were tolerable, the discharge of two such significant projects immediately upstream of Fray Bentos does not allow for the contingency of accidents and spillages from the plants entering the river and the risks these mills present to the town's drinking water supply. Nor are the combined effects of both plants to the general ecosystem and water quality, effectively addressed.

The choice of the project sponsors of a technology that *is not* the "least polluting" available option is contrary to the World Bank's own guidelines, which recommend the usage of least contaminating technologies.¹³ Further, the Environmental Assessment of the project failed to assess all available alternatives, which would have included the "no project" option (see below breaches of IFC guidelines). Both Botnia and ENCE are already exposed to and accustomed to European Community regulations stipulating the requirement to "promote the environment as a whole", "promote the use of 'clean technology', and "encourage innovation",¹⁴ yet it is clear that in this case, when

⁹ The Technical and Economic Aspects of Measures to Reduce Water Pollution Caused by the Discharges From the Pulp and Paper Industry, Final Report, Commission of European Communities, November 1989, P.70

¹⁰ <http://www.ifc.org/ifcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/a1e079e436dc248085256fe900791306?OpenDocument> Chapter 6 Identification and evaluation of impacts

¹¹ "emission limit values for substances shall normally apply at the point where the emissions leave the installation, any dilution being disregarded when determining them, article 6 Integrated Pollution Prevention and Control Directive 96/61/EC,

¹² <http://www.ifc.org/ifcext/spiwebsite1.nsf/2bc34f011b50ff6e85256a550073ff1c/8d217311de565d558525704d0075680f?OpenDocument> EIA chapter 4 Environmental impacts

¹³ "The trend is to avoid the use of any kind of chlorine chemicals and employ "total chlorine free" (TCF) bleaching...Only ECF processes are acceptable and, from an environmental perspective, TCF processes are preferred." *World Bank Pollution Prevention and Abatement Handbook, Pulp and Paper Mills*, July 1998

¹⁴ see IPPC S6.01: Sector Guidance Pulp and Paper

operating in a developing country with less stringent rules and regulations, they are not adhering to any of these critical best practice standards and are actively seeking to avoid the requirement that permits in Europe be based on Best Available Technology from 2007¹⁵. The Environmental Assessments fails to comply with a broad range of IFC policy designed to protect the environment in such environmentally sensitive projects, fails for example to consider mandatory siting analysis, no-project options, treatment of wastewater, etc. which ultimately has led to serious flaws in the project design and extreme risks to the environment and local populations.

d) Emission of Gases and Odors

Independent scientists estimate that atmospheric discharges from the project will affect an area with a radius of up to 50 kilometers¹⁶ with carbon monoxide, sulphur dioxide and chlorine dioxide which produce dioxins. Further, the use of ECF technology does not guarantee that chlorine gas will not be created, which was the reason international tendencies have moved away from chlorine based production.

Pulp plants produce extremely unpleasant odors which will severely reduce the amenity of the area, which is especially concerning that the area is recognized as a tourist region, and thrives off of water related activities including commercial and game fishing, riverside and water sports and other water related recreation. In fact, the Kraft (sulphurous) process to be used in both projected was prohibited in certain areas in the United Kingdom due to the sulphurous smell associated with the mills.¹⁷ During a visit to Finland in August 2004 by a Representation of the Government of Entre Rios and other Uruguayan institutions at the invitation of Botnia, 4 kilometers from the Botnia plant of Anekoski, the delegation experienced such strong sulphurous odors that it was difficult to breathe. The group's questions concerning this issue were not responded to.

In addition to being unpleasant, sulphurous gases are toxic and increase the risk of acute respiratory infections, problems with vision and neuropsychological disorders. As for the emissions to waters, dioxins are acutely toxic persistent and carcinogenic.

The mixture of sulphurous gases and oxygen is responsible for the production of acid rain which risks affecting the surrounding agricultural and livestock production areas including the bee-keeping and dairy industries, whose products face rejection for contamination with toxic substances. It has even been mooted that acid rain generated by the projects could affect the paint work essential for aircraft performance at Buenos Aires' airports.

Botnia environmental assessment

The environmental assessment does not allow for full critical analysis of the likely gaseous emissions from the project because the document indicates that the system by which the plant will be operated has not yet been designed, so that important factors such as the type and efficiency of any scrubbers, cannot be assessed with precision. This incomplete picture of such important and significant parameters provide an insufficient basis on which to seek approval of the project.

ENCE Environmental Assessment

The ENCE environmental assessment assumes that the area of influence of the gaseous emissions from the project will be only 14 kilometers by 23 kilometers which underestimates the area of influence. It does not discuss the possible health effects of the discharges from the project, nor any social effects that are likely to occur as social habits are changed to avoid exposure to the unpleasant odors.

e) Solid Waste

Hazardous substances will also be created in the process including oils and solvents.

Botnia environmental assessment

The Botnia project proposes to dispose of solid waste at the premises. Issues surrounding the proximity of the premises to the river and the risk of groundwaters being contaminated by liquids escaping from the solid waste disposal site are not dealt with in the Environmental Assessment. Further there is concern that heavy metals including lead, cadmium, chromium and arsenic could accumulate in the food chain. The most important fishing resource in the Uruguay River feeds on organic material present in sediments and therefore has a propensity to bioaccumulate toxic substances. The Botnia EA assumes, without basis, that the organisms in the river will not consume these "trace elements."¹⁸

¹⁵ European Integrated Pollution Prevention and Control Bureau <http://eippcb.jrc.es/pages/FAactivities.htm>

¹⁶ http://www.barrameda.com.ar/dp/index.php?option=com_content&task=view&id=36&Itemid=2

¹⁷ The Greenpeace Guide to Paper, 1990

¹⁸ Botnia EA provided to the IFC, chapter 6, page 19

f) Risks from the Production of Chlorine Products

Chemical bleaching agents including chlorine and reactive and dangerous to transport, and so will be produced on-site. Chlorine dioxide is extremely dangerous for workers and nearby residents due to its high explosive risk and even low exposure to chlorine or chlorine dioxide can trigger the development of asthma and other respiratory problems that can persist for many years after exposure. As gassing of workers is a common form of injury associated with chlorine bleaching, there are strong occupational health and safety arguments for the use of oxygen bleaching / ozone to reduce the threat to workers as well as avoiding the creation of persistent chlorinated organic wastes.¹⁹

Neither project's environmental assessment deals expressly with the risks of chlorine products. In particular the Botnia project is to be located immediately adjacent to and presents a danger to the Uruguay River, an international road route and bridge and the town of Fray Bentos.

g) Noise Pollution

The construction and operation of the projects including the movement of trucks to provide wood inputs will entail significantly increased noise pollution and road congestion and deterioration.

Botnia environmental assessment

While acknowledging the increased traffic, the Botnia project environmental assessment does not take into account the effect on the road capacity and congestion as well as wear and tear on road infrastructure, which are significant externalities of the project.

Apart from construction noise which will be temporary, around 45 trucks movements per hour an estimated 20 hours per day will significantly affect the amenity of the area.

ENCE Environmental Assessment

The traffic that will be created by the project is not dealt with in the environmental assessment, neither in relation to noise or the social effects of increased circulation.

h) Risk to Guarani Aquifer

The Guarani Aquifer is a transboundary aquifer with a surface area of over a million square kilometers and an important freshwater resource in South America. Neither of the projects' environmental assessment reports deals with the risk of contamination of the Guarani Aquifer.

The importance of the protection of the Guarani Aquifer is underlined by the current \$US 27.24 million Guarani Aquifer System Project which includes a \$13.4 Global Environment Facility grant to Argentina, Uruguay, Brazil and Paraguay to protect what has been identified by the World Bank as a critical natural resource for the Uruguay / Argentine region. An extensive study undertaken by the National University of Cordoba into the geology and hydrology of the region as well as the proposed production methods and discharges from the Botnia project, confirms that, despite the thick layer of basalt rock in the region, due to geological faults and other formations, permeable rocks have become saturated with surface waters from rivers and rainwaters, allowing the slow percolation of these liquids to recharge the aquifer. Accordingly the report concludes that impacts on the Guarani aquifer from the contamination of the surface waters are inevitable.²⁰

It would be perverse if one agency of the World Bank Group funded a project to preserve the aquifer as an important natural resource while another agency funded projects with the potential to undermine the same natural resource. Accordingly it is imperative that the environmental assessment reports for both projects consider potential effects on the aquifer in the same detail as surface waters. Far from taking account of possible effects on the Guarani Aquifer, the environmental assessment report of ENCE lightly dismisses such risks, stating (paraphrasing) "there is such an abundance and distribution of surface waters and groundwaters in Uruguay that it is not considered a fragile resource."²¹

¹⁹ National Toxics Network *Submission on Review of Environmental Guidelines for New Bleached Eucalyptus Kraft Pulp mills in Tasmania*, Australia

²⁰ Head of the Departments of Environmental Engineering and Hydrology, National University of Cordoba, 12 September 2005 "Paper mills on the Uruguay River".

²¹ Page 43 Environmental and Social Action Plan

j) Measures to Mitigate Environmental Effects

While both projects propose to include environmental control measures such as gas scrubbing (at the request of the Uruguayan environmental authorities) and waste-water treatment, significant doubts remain about the effects and social and environmental impacts of the discharges from the projects.

Botnia environmental assessment

The EA for the Botnia project contains, in relation to a wide range of issues, assurances that, for example, the industrial installations will be designed and operated in a manner such that potential contaminants cannot escape, and that it is not expected that there will be significant changes to the landscape of the riverbanks of the Uruguay River, and that it is not expected that there will be any effects on the Argentine coast line. There is an excess of assurances and a shortage of detail as to the measures that the project would incorporate in order to ensure that environmental effects are minimized.

Comparative studies of the various methods of paper production have noted that while all paper manufacture causes harm to the environment, the location, mill practice and mill operator are more important factors in a paper mill's environmental performance than the process, paper type or fiber source.²² Accordingly it is extremely important that more extensive study of the proposed methods of production, discharges and health effects be completed and made public before approval is considered.

Nor does the environmental record of the project sponsors in their country of origin, set out above, give rise to confidence in the face of these doubts. The Uruguayan environmental authority has repeatedly stated in its evaluation of the EIA, that the project sponsor systematically fail to provide clear and convincing information about doubts generated concerning the project.

B. Social Impacts

The following summarizes the social effects anticipated from both projects. While the Botnia project information assesses the social effects, subject to the criticisms below, the social impact assessment (SIA) of the ENCE project undertaken by Tea Deloitte Touche consultants, does not appear to be available on the IFC site. However a summary of the report contained in the Executive Summary of the EA, indicates that the SIA dealt only with claimed positive effects of the project, that is, employment, export opportunities, excess energy creation, and did not explore the likely social negative impacts of the project.

a) Effects on Usage of the Area for Recreation

The projects are to be located in the vicinity of the town of Fray Bentos in Uruguay. The General San Martin Bridge joins Fray Bentos with Gualaguaychu in Argentina. The Uruguay River adjacent to Fray Bentos is currently an attractive area providing opportunities for aquatic activities and relaxation. Further south, the resort of Las Cañas enjoys river beaches and substantial tourism during the holiday season, where Argentine and Uruguayan families have constructed homes.

The experience in other parts of the world in which paper mills have been constructed using the proposed ECF technology, including plants constructed in Finland (the origin of the Botnia project sponsor) is that fish disappear due to the deoxygenation of the receiving waters due to the high pulp content of the mill's wastes and that the odors emitted by the plants changes the nature of the area from leisure based activities to industrial ones. The strong foul odors emitted from the Botnia plant in Aankoski, discussed above, indicate that this is likely to be the case with the current project.

Further, the continued operation of the paper mill will require the development of further eucalyptus plantations in the area of the mill. To create 1,500,000 tons of pulp requires more than 4,000,000 tons of wood and the eucalyptus trees require around 10 years to reach maturity. Neither environmental assessment report has taken into account further possible social effects of the expansion of eucalyptus groves to meet the plants' needs which could result in the displacement of native vegetation and habitat, or the resettlement of local communities.

Botnia environmental assessment

²² http://www.foe.co.uk/resource/briefings/consequence_pulp_paper.html

The EA notes that the increased traffic activity occasioned by the project will affect the use of the roads for cycling and other sports and that there is no shoulder or other paths that could be used. In response to this issue the EA proposes that such activities be undertaken during off peak periods. However since the daily traffic load has been divided by 20 to determine the hourly traffic, suggesting that project traffic will be spread over 20 hours per day, leaving very few hours in the day when trucks will not be using the roads.

b) Employment Effects

The largest number of jobs (3000+) that will be created by the projects will be for the purpose of construction and will be limited to the term of construction. Further, the few permanent jobs that will be created at the project of a highly skilled nature will likely be filled by technical staff to be brought from plants in Europe while very few continuing jobs will be created for workers without tertiary education (about 300). Therefore the project will not create significant employment opportunities for local workers. Both environmental assessments exaggerate the employment to be created by the project (as employment in the agro forestry industry can occur irrespective of the project) while the project evaluation does not take account employment losses in the tourist sector due to the loss of amenity in the area. An estimated 1300 people in Fray Bentos gain employment from the tourism industry (of a total workforce of around 8500).

Further, as neither EA considers that there will be an effect on the Argentine side of the river neither does not take account of the risk to the tourism industry in of Gualeguaychu and the nearby Nandusbaysal coastal area, attracting 100,000 persons and valued at 30 million pesos per year (US\$10,000,000), without considering future proposed thermal resorts.

In addition the negative effects of the emission of toxic gases are likely to affect the market for and employment in the agriculture and livestock industries particularly the dairy and beekeeping industries.

c) Other Social Effects

As well as the direct effects of the projects, other related social effects have not been considered in the Environmental Assessment Report. These issues include consideration of the effects of truck movements to deliver wood to the mill which may be required to travel increasing distances as the wood supplies close to the mill are exhausted; the loss of employment in other agricultural industries through the establishment of a eucalyptus monoculture to provide supplies to the mill.

While the projects are estimated to cost \$US 1.2 billion (Botnia project) and \$US660 million (ENCE project), a large part of these funds will be consumed on equipment and technology coming from abroad, reducing the touted positive social effects of this injection of funds to the region. It is expected that less than 20% of project investments will enter the Uruguayan economy. Furthermore, as the project sponsors will produce in a tax free zone (to be created solely for these plants), even production and export taxes benefiting Uruguay will be minimal, as most of the product will be exported to external markets. Due to increasingly strict regulations in Europe, European paper producers have already recognized the need to relocate to locations in which environmental standards are less strict. This essentially is producing a highly undesirable transfer of polluting technology to the developing world. Net gains are further reduced by the diminution in the volume of wood available for export as logs.

It is also ironic that although the environmental assessments make inflated claims about benefits from the projects to the whole Uruguayan economy, the assessment of environmental effects and public consultation has been limited to the area of Fray Bentos, Uruguay.

X. Related Press Coverage of Paper Mill Case

Argentine Press:

<http://www.clarin.com/diario/2005/07/24/sociedad/s-05001.htm>

<http://www.clarin.com/diario/2005/08/24/sociedad/s-03401.htm>

<http://www.clarin.com/diario/2005/07/29/sociedad/s-04503.htm>

<http://www.clarin.com/diario/2005/07/16/sociedad/s-05101.htm>

<http://www.clarin.com/diario/2005/07/29/sociedad/s-04503.htm>

Uruguay Press:

http://www.elpais.com.uy/05/08/26/ultmo_170555.asp

http://www.elpais.com.uy/05/08/15/ultmo_168716.asp
http://www.elpais.com.uy/Registro/Login.asp?refacc=3&vurl=%2F05%2F08%2F09%2Fpecono%5F167549%2Easp&erracc=11&url_qs=

There is also a website <http://www.noalapapelera.com.ar> which brings together some of the extensive civil society concerns about the projects.

XI. Further Considerations

The following are general observations that merit close attention in the analysis of this case:

- The Environmental Impact Assessment is more a report on environmental statistics generated by the project than a real evaluation of the social, economic, and environmental impacts the plants will have. This observation was made by DINAMA see annex p. 29/36, which acknowledges that the project will have social, economic and health impacts;
- Project model calculations on contamination systematically exceed accepted limits; this is especially concerning due to the fact the estimates in the ENCE EIA are for one plant only;
- *Soluzionaria*, the company that conducted the ENCE EIA, rather than presenting an independent study, presented findings to stakeholders speaking in the first person plural “we” etc. When presenting the EIA to the public, its representative essentially defended the project and focused solely on the benefits of the plant, without discussing project negative externalities;
- There are no studies showing the combined effect on air, land, water, health, noise, fish populations, native species, etc. of the two plants (contamination limits is strictly presented one plant at a time, and is already close to or over industry limits);
- In choosing a site location for these two highly contaminating plants, in the immediate vicinity of two important human settlements, the project sponsors have clearly demonstrated that they place their personal economic interests above the public interest, and above the environmental and health interests of the local communities;
- Local law establishes Fray Bentos as a “tourist zone” (see annex DINAMA p. 22/36); The plants will transform the nature of the community, altering that which the area is known for, and essentially affects the livelihoods of residents of Fray Bentos and Gualaguaychu and their surrounding areas. There is a high risk of the collapse of its attraction for tourism, fishing, retirement purposes, etc.
- DINAMA states that the environmental impact assessment fails to consider the projects in the context of a greater ecosystem;
- Results of polls contained in the EIA show doubtful data, while no technical specifications are available to evaluate the accuracy and seriousness of the polls; (see annex DINAMA p. 25/36)
- Because of negative track record of companies, there should be a presumption of likely environmental, economic, and social contamination and high risk, and the two companies should be obliged to offer evidence to prove the contrary;
- Failure of project sponsors to offer satisfactory detailed information about public consultation including, place, date, description of parties consulted, general panorama of environmental issues examined and results, and necessary measures taken to address them;
- Failure of project sponsor to provide real environmental action plan including environmental and social measures to remedy, attenuate, and supervise environmental risks and impacts;
- Failure of IFC to provide evidence of accord with “society of the project” (translated from Spanish “sociedad del proyecto”);
- The IFC should recognize that advancing with these IFC projects threatens the important political stability of the region. The projects have caused not only controversy at a local level, but significant aggravation to the otherwise cordial relations between Argentina and Uruguay and substantial political tension between these two countries which have significant historical links;
- While the Bi-National Technical Commission for the Uruguay River is currently convening, it is a process will not determine whether the projects proceed, that is, the Bi-National Technical Commission will generate information concerning the effects of the projects but does not make any form of binding decision.

XII. Non-Compliance with IFC Policy

IFC operational, safeguard and disclosure policies are designed to ensure that all considerations (economic, social, and environmental), of IFC sponsored projects, that feasible alternatives are assessed, that stakeholders, potential victims and civil society have an opportunity to comment on projects and that an appropriate level of information and substantive consultation process takes place to ensure that projects are desirable in the communities they will impact.

This complaint is grounded on violation of various existing IFC Policies, as well as obligations of Uruguay to international law, particularly geared to ensure minimum economic, social, and environmental impacts of IFC sponsored projects including Category A projects (deemed to have significant adverse environmental impacts that are sensitive, diverse, or unprecedented). These include but are not limited to:

- the violation of IFC policy, particularly with regards to:
 - **IFC Operational Policy OP7.50 Projects on International Waterways** including violations to paragraphs 3, 4, 5, 8 of the 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 the policy and the **World Bank Pollution and Prevention Handbook (Pulp and Paper Mills)** paragraph 6, incorporated by OP4.01;
 - **IFC Disclosure Policy**
- specific environmental, social and disclosure policy considerations for Category A projects;
- the violation of international, bilateral, and national laws in the assessment, planning, and implementation of the projects;
- the likely grave social, economic, and environmental harm that the projects will have on local residents in both Uruguay and Argentina.

a) Project Violations in terms of Specific IFC Environmental Assessment policy (OP 4.01)

- (paragraph 2 of policy, stated hence forth in the format of “P. 2”
 - Project does not properly consider its “area of influence” completely ignoring impacts on Argentine territory;
 - Project fails to consider siting risks;
 - Does not contemplate compensation for environmental degradation;
 - Does not consider the breadth of impact of pouring contaminated water into river at point where local communities downstream source water;
 - Does not consider effects on tourist industry that will be affected by foul odors; of fishing industries that will be affected by reduction of fish stock; or rare native species in the area; for example;
- P.3
 - No consideration for trans-boundary aspects of environmental contamination;
 - No consideration for country obligations under international law (POPs reductions under the Stockholm Convention) and Rio Uruguay Treaty with Argentina;
 - No integrated approach including social, environmental, and economic impacts, as observed by the DINAMA (Uruguay’s environmental ministry);
- P.4
 - The supposed independent expert conducting EIA defends project and speaks as project owner to local populations, ignoring presentation of negative externalities;
 - Given the controversial nature of the project, that it is a Category A that is highly risky or contentious or that involves serious and multidimensional environmental concerns, no international advisory panel constituted;
- P.6
 - Violates the World Bank Group *Pollution Prevention and Abatement Handbook*, with respect to type of technology selected, nor does the Environmental Assessments provide “full and detailed justification” for the divergence from this standard as required by the EA Policy. This is particularly egregious given that the project has been identified as falling within the most environmentally sensitive category;
 - Pollution levels exceed systematically those stipulated by national laws and industry standards in pulp and paper industry;
- P.7
 - No environmental action plan was provided;
 - No serious or founded assessment of environmental risks were made;
- P.8a
 - Project does not contemplate feasible alternatives (including the no-project alternative),
- P.11
 - Project sponsors have shown poor capacity, irresponsibility, confusing and incomplete portrayal of environmental impact information, as well as criminal liability (resulting in criminal convictions in its home country for the implementation of a similar project);
- P.12
 - No consultations have taken place with Argentine communities involved;

- o Limited information has been made available to interested parties;
 - o Opinions and concerns of stakeholder communities have been misrepresented in reports to the IFC (suggesting “wide public support”, when in fact there is wide public opposition to the paper mills);
- P.14
 - o Consultation have NOT been meaningful, as they have taken concerns lightly, written off as negligible, or they have been entirely ignored;
 - o No significant consultations have been organized with Argentine stakeholders;
- P.15
 - o No presentation of information has occurred with Argentine stakeholders;
- Annex B-Content of an Environmental Assessment Report for Category A Projects
 - o b) No policy, legal and administrative framework, explaining the environmental requirements, relevant international agreements, etc.;
 - o c) Failure to include Argentine relevance in area of influence; focus only on Uruguayan side;
 - o d) Assessments fail to link both Botnia and ENCE projects (stated in annex as “activities within the project area but not directly connected to the project”);
 - o e) Assessments fail to ascertain “uncertainties associated with predictions”, particularly as relate to the assessments own conclusions showing systematic excess in environmental contamination as per model used to predict impacts;
 - o f) Failure of the project to calculate no-project alternatives especially considering the existing grave environmental impact, siting risks, long-term and sustained environmental degradation, and other aspects of the project which clearly represent hindrances to local social, environmental and economic sustainability;
 - o g) Failure to produce an environmental action plan covering real and meaningful mitigation, measures, monitoring and institutional strengthening.

Further related concerns:

Botnia environmental assessment

The personnel acknowledged to have prepared the EA are of Finnish and Uruguayan origin (no Argentine authorities or stakeholder were involved, or Argentine dimensions of the expected social and environmental considered), and there is no indication in the material disclosed by Botnia that a panel was engaged in accordance with the special requirements of paragraph 4, and the nature of the information disclosed in the EA which ignores flow on effects of the project, indicates that such a panel was not engaged.

ENCE environmental assessment

The environmental assessment report indicates that it was prepared by Uruguayan experts, which confirms that the independent international panel was not engaged. The absence of international input is reflected in the results of the EA, which ignores Argentine law or effects on Argentine territory, including the river and riparian water users. A familial connection between the consultancy that prepared the EA, Soluziona, and the ENCE group has also been suggested in certain quarters. If true, the consultancy’s lack of independence would further undermine the credibility of the report.

As set out above in relation to the Projects on International Waterways Policy, the process created by the Treaty between Uruguay and Argentina for the use of the Uruguay River has not yet been completed, nor has Argentina agreed to the pollution of the waterway which falls in part within its territory. Accordingly for the IFC to approve funding of the project at this time would contravene paragraph 3 of its policy, which unequivocally states that the IFC will not finance projects in contravention of countries’ treaty obligations.

Botnia environmental assessment

The EA report is vague and not scientifically rigorous. It does not characterize the possible impacts of the project as positive, negative or indeterminate, it does not grade the importance, reversibility, probability of occurrence or duration of the effects of the project.

Nor does the EA report consider who may be potentially affected by the impacts of the project, nor set out clearly what the possible physical, biological, social or health effects of the project could be.

ENCE environmental assessment report

The ENCE environmental assessment report purports to assign numerical values to parameters such as the importance, degree, reversibility of environmental and social effects of the project without scientific

justification for how these figures are arrived at. For example, the categorization of the effects of discharge of liquid wastes to the river as “secondary” or as “reversible” (simply because the river waters flow downstream and out of range), each judgment implying a lower score, is not supported by scientific evidence. Accordingly the conclusions of this “scientific” process, that the positive effects of the project are “very significant” while the adverse environmental impacts are described as merely “significant”.

b) Project Violations in terms of Specific IFC International Waterways (OP 7.50)

- P.3
 - The projects have clearly demonstrated that they violate this policy in their failure to foster “collaboration and goodwill” between “riparian states” as well as violating agreements between these states (see below: Violations of the Rio Uruguay Treaty);
- P.4
 - Failure to address riparian agreements at an early stage of the project;
 - Failure of beneficiary state to notify other riparian state of the project and its potential social, environmental and water quality impacts;
 - Failure of the project sponsor to notify impacted riparian state when they realized that the beneficiary state had not done so;
- P.5
 - Failure of the IFC to identify riparian state agreements and their significance respective to the anticipated environmental (and specifically, water quality) impacts of the proposed projects;
 - Failure of the IFC to appoint independent expert once the objection of the impacted riparian state (Argentina) was made clear; instead, the World Bank Group responded to the Argentine complaint that the environmental impact assessment showed no violations of the CARU commission, and that the project would not have any adverse effects on the quality of water of the Uruguay River, nor to Argentina, and requested that the Argentine Republic respond to the enormous task of conducting its own EIA, in only 30 days, or it would be assumed they had no objections to the project;
- P.8
 - Failure of the IFC to prepare a IFC Board Report dealing with the international aspects of the project;

Further Considerations

The IFC cannot be satisfied that its policy relating to international waterways (PIW) has been respected, as is clear from the evidence arising from the dispute between Argentine and Uruguay regarding the installation of the plants and related issues arising from the Uruguay Treaty. The stipulated process as stated by this treaty, and the obligations to the riparian states, have not been complied with, and are undermined by the projects. The Treaty for the Uruguay River between Uruguay and Argentina creates an Administrative Commission for the Uruguay River to deal with issues arising in relation to the use of the Uruguay River. Article 12 provides a method for resolution of such disputes in accordance with Chapter 15 of the treaty. This process has not yet been completed as the Bi-National Technical Commission appointed in relation to the issue is currently meeting and has the most part of 180 days in which to consider the issues.

The other riparian state (Argentina) has not given its consent to the project, nor confirmed that the project will not harm its interests.

It cannot be concluded by IFC staff that the project will not cause appreciable harm to other riparian or their water use, because of the environmental impacts set out above in this submission.

Accordingly the preconditions set out in the PIW have not been fulfilled such that the IFC board can be satisfied that the issues between Argentina and Uruguay concerning the use of the river have been completed such that the project can be approved.

We can also site violations to the Uruguay Treaty, which include but are not limited to:

- Violation of Art. 1 Observe obligations under international law for each country
- Violation of Art. 6, inform other party on public works; w/180 days commentary period
- Violation of Art. 35, should not use natural resources in a way that will affect the quality of the waters
- Violation of Art. 36, the Commission will determine measures to avoid ecological disequilibrium
- Violation of Art. 41, the parties will protect the aquatic medium and prevent its contamination, in conformity with international law

- Violation of Art. 56, the commission introduces regulations on environmental preservation, prevention, and control

c) Project Violations in terms of IFC Disclosure Policy

The projects result in important violations to the IFC's Disclosure Policy including but not limited to:

- Failure of project sponsor and IFC to foster real public consultation of stakeholders in Argentine territories;
- Failure of project sponsor and IFC to ensure public access to information about likely environmental, economic, and social impacts (negative) by stakeholders in Argentine territories;
- Failure of project sponsor and IFC to publish environmental and social information about project impact at the locality and surrounding of affected stakeholders in Argentina for all category A projects;

Further Clarity on Disclosure Policy Violations and Implications of Projects

The IFC disclosure policy is intended to ensure transparency and accountability of IFC processes. In relation to environment related information for Category A projects, the policy makes explicit what is implicit in paragraphs 12 and 13 of the IFC Environmental Assessment Policy regarding Public Consultation, that is, that the public consultation must be real consultation. As proof of this, the environmental assessment report is required to indicate, not only that public consultation took place, but which issues were discussed and further action required. In three important respects the EIAs do not fulfill these requirements.

First, as with the assessment of environmental effects, all public consultation sessions set out in the respective Public Consultation plans for the projects took place in Uruguay, totally ignoring the impacts on, and views of the public in Argentina. As Argentina will incur the impacts without the purported economic benefits, the project sponsors would have encountered even greater public opposition to the projects had consultation taken place in Argentina.

Second, the information provided to the IFC, to the extent that it outlines the matters of concern to the public does not indicate how these matters have been taken into account and addressed in the project.

Third, and most importantly, the information provided by the project sponsors to the IFC, far from fulfilling the objectives of public disclosure, *misrepresents* that the projects have community support.

Botnia environmental impact report

The environmental assessment report for the Botnia project provided to the IFC indicates that various press releases were prepared and information meetings were held for the public and non government organisations (NGO's). It outlines with whom consultation sessions took place but omits the details of what views were expressed and what follow up that the consultations gave rise to, and whether or how those views were taken into account in the project. Accordingly it is not possible to assess to what extent the consultation was able to achieve its purpose of improving decision making.

ENCE environmental impact report

The material provided to the IFC in relation to the ENCE project dated 15 July 2005 entitled "Public Consultation and Disclosure Plan" purports to comply with the IFC guidelines on this issue. The document outlines a series of actions to be taken to provide information concerning the project to affected persons. However, the document does not indicate what the result of those consultations was, nor if or how the results of those consultations was incorporated in the project.

In relation to both projects it can be assumed, due to the recent public protests that the project sponsors have misrepresented public opinions concerning the planned installation of the paper mills, and that views concerning the project in fact **not** been incorporated into the project assessment.

The above breaches of policy are serious because they not only reflect an absence of transparency in relation to affected populations and civil society organizations who are entitled to receive, assess and comment on all the information required to be included in the EIA, but also an absence of respect for the sovereignty of Argentina in relation to the use of the shared waters of the Uruguay River. They also reflect, on the part of the project sponsors, an opportunistic attitude to seek profit in a developing country, with investments grounded on technology which is increasingly strictly regulated in their countries of origin, and for which one of the project sponsors has been condemned in its home courts. The IFC should not be complicit in these actions, and should not advance any consideration of approval of these projects.