



FACT FILE

Wednesday 4 June 2003

EU public hearing on corrupt Lesotho dams project

A public hearing at **10.30 on Thursday 12 June 2003** at the European Parliament¹ will raise questions about the European Union's and member states' involvement in financing the Lesotho Highlands Water Project – a project that has led to European corporations being implicated in bribery and corrupt practices in the Lesotho High Court and will probably face prosecution.¹ Organised by Richard Howitt, MEP, the hearing will include witness statements from:

- Guido Penzhorn, the lead Counsel on behalf of the Lesotho Government
- Karten Großimlinghaus, of Hermes, the German Export Credit Agency
- Antonio Tricorico, of Campagna per la Reforma del Banco Mundial.
- Fiona Darroch, UK Barrister, author of *The Lesotho Corruption Trials - a case study*

The European ECA Reform Campaign² is calling for the EU to set clear and binding standards and procedures for European corporations as well as the export credit agencies that support corporate investments. The campaign also supports the April 2003 Joint ACP-EU Resolution³ calling on the Commission to keep its promise to provide financial support to the Lesotho government to enable it to pursue justice.⁴ So far no funding has been delivered.

Bribery conviction

In September 2002 the Canadian consulting firm, Acres International, was convicted of paying bribes to win contracts on the multi-billion dollar Lesotho Highlands Water Project (LHWP).⁵ Acres was the first of several companies of consortia involved, including many European firms (including Lahmeyer International of Germany, Italy's Impregilo, UK's Balfour Beatty and France's Dumez International), to face charges in the High Court of Lesotho.⁶

EU financial support

The EU and its member governments supported European companies involved in the project through loans from the European Investment Bank (122.5m Euros) and aid grants from the European Development Fund (59.8m Euros), and through guarantees from several European Export Credit Agencies (ECAs) including COFACE from France, Hermes from Germany, ECGD from Great Britain and SACE from Italy.⁷

European institutions under pressure

- MEP Antonio Di Pietro submitted a written question⁸ to the European Commission asking it to clarify its response to the case and exclude companies found guilty of corruption from EU financial backing.
- The EU-ACP Joint Parliamentary Assembly asked questions of the Commission and the ACP Council regarding among other issues the due diligence followed by the EDF and the EIB in scrutinizing loans and grants for the project and debarring the convicted companies.⁹
- OLAF, the European Commission's anti-fraud office, is considering whether to conduct an audit on the public money spent helping the accused companies to win contracts.
- The Council Working Group on Export Credit Agencies will meet the European ECA Reform Campaign on 16 June 2003 to discuss NGO proposals for binding standards and procedures of these agencies and ensure that they contribute to the member states and the EU's commitments and legal obligations towards sustainable development.¹⁰

¹ Brussels, Room ASP 1 G 2

EU action

In 1999 the EU promised to provide financial assistance to Lesotho, one of Africa's poorest countries, towards the costs of trials. ECA reform campaigns across Europe are calling for the EU to keep this promise and assist Lesotho in upholding the rule of law.

In addition, the European ECA Reform Campaign is urging European ECAs to exercise due diligence to ensure the companies they underwrite are free of corruption. If evidence of bribery is uncovered, ECAs should publicly disclose details of transactions and should impose sanctions on those companies involved, including disqualification from ECA support for ten years.¹¹

The Lesotho Highlands Water Project (LHWP) and its problems

Scheduled for completion by 2020, the LHWP is a huge water transfer scheme comprised of five dams, 200 kilometres of tunnels and 72 Megawatt power plant. One of the world's largest infrastructure project under construction today, its primary purpose is to transfer water to Gauteng Province, the industrial heartland of South Africa. The first dam, 182-meter-high Katse dam is complete and the second one, the 145 meter-high Mohale dam is still under construction. The project has cut social ties and increased the AIDS, alcoholism and prostitution in the area affected by the project; no or inadequate environmental impact assessments have been conducted even though the project diverts 40% of the river's flow, substantially reducing fisheries, wetland habitats and flooding as well as threatening several endangered species.

Further information:

Emilie Thenard, FERN, +32 (0)2.735.2500 (email: emilie@fern.org)

1 Masupha Sole, the former chief executive of the LHWP, was sentenced last year to 18 years in prison for receiving bribes from Acres and a number of other multinationals, including the consortium of which Balfour Beatty, the UK construction giant, was a part. Spie Batignoles, the lead company in the consortium, is due to appear in court on bribery charges this year.

2 The European ECA Reform Campaign brings together a coalition of organisations including Both Ends (The Netherlands), The Cornerhouse (UK), ECA Watch (Austria), FERN (EU), Les Amis de la Terre (France), Reform the World Bank Campaign (Italy), Urgewald (Germany), WEED (Germany) and WWF (UK). The Campaign is co-ordinated by FERN, the EU forest campaign, at 20 avenue des Celtes, 1040 Brussels, Belgium.

³ ACP-EU 3554/03/fin. Adopted on April 3, 2003 in Brazzaville (Republic of the Congo).

⁴ Business Day, 30 November 1999, Cape Town.

5 The LHWP project is a series of large dams. It directly affects approximately 27,000 people and has displaced hundreds of subsistence farmers, many of which have never been properly compensated.

6 Acres was found to have paid \$266,000 in bribes to Masupha Sole, the former chief executive of the LHWP. Earlier this year, Sole was sentenced to 18 years in prison for receiving bribes from Acres and other multinationals, including consortiums of which European companies – underwritten by EU ECAs – were a part. Acres' defence was that it was not responsible for the payments made to Mr Sole, since these were made by an intermediary, was rejected by the judge.

7 Susanne Moxon, Water Power & Dam Construction, 'Hydro finance; Heart of the Matter', 28 February 1999, London.

8 Question reference: P-3211/02.

9 Question references: QO\490657cons02EN.doc and QO\49067com22EN.doc of the 5th Session, 31 March to 3 April 2003

10 See 'NGO Amendments to OECD Draft Recommendation on Sustainable Development and Export Credit Agencies' activities'.

11 For full details of the Key Reforms for Export Credit Agencies, see www.fern.org.