

Complaint against Pöyry for it's
role in Xayaburi:
Corporate responsibility and
Finnish development cooperation
at odds in the Mekong



SIEMENPUU

Liisa Uimonen

Siemenpuu Foundation Mekong Group

NGOs: Pöyry breaches the OECD Guidelines for Multinational Enterprises in Xayaburi



- 15 NGOs from 7 countries submitted a specific instance in June 2012 to the Ministry of Employment and the Economy (MEE)
- OECD National Contact Point (NCP) to promote and implement the Guidelines for multinational enterprises, but also to act as a mediation platform in specific instances
- No binding principles, no means to give sanctions, but only to give statements on whether or not there has been a breach of the Guidelines, and recommendations
- In Finland, NCP is under the MEE
- Process was finished in June 2013



NGOs: Pöyry had leverage over the project through its business relationship with Laos

- In the complaint, Pöyry was accused for
 - Stepping into a situation, where there was a disagreement over the PNPCA, without consulting even the MRC
 - Downplaying the impacts of the dam
 - Undermining the right of the neighbouring countries for additional information and consultation
 - Undermining the Finnish development and cooperation
 - Not taking any actions to correct the use of its services even though it was aware of the way they were used
 - Possible conflict of interest guiding its work and recommendations

Pöyry's response



- Main counterarguments include:
 - Not the leading developer of the project
 - Is only a consultant and thus not responsible for how its services are used
 - It's all about scientific disagreement
 - The ToR didn't include EIA
 - Pöyry made the project more environmentally friendly
 - Pöyry's work has been verified by another consultant
 - It is only natural that Pöyry continues with the project also after the compliance review
- Strict confidentiality of Pöyry's response

The Outcome

- The complaint was taken into investigation in October 2012, as it was seen sincere, material and substantiated.
- Ministries for Foreign Affairs and of the Environment gave statements that were critical of Pöyry

The Final Statement

- The Guidelines are applicable to consulting companies such as Pöyry – an important precedent
- Criticism towards Pöyry was presented
- Recommendation for similar projects and settings in the future
- However:
“Pöyry cannot be considered to have violated the OECD’s Guidelines”

Criticism of the statement

- A dissenting statement from inside the NCP:
Based on the information available, Pöyry cannot be said having acted in compliance with the OECD Guidelines
 - Pöyry has not intervened in how its services have been misused despite being aware of the misuse
 - Pöyry has not been able to demonstrate that its compliance review was in line with the prevalent scientific understanding on the adverse impacts of dams
 - Some issues raised in the complaint were not investigated:
What were Pöyry's due diligence measures in acting with a client like Laos?
Were there a conflict of interest that lead into a positive review?
- OECD Watch: No NCP decision should be based on information that was not accessible for both parties in the process

Pöyry's interpretation of the statement



- The MEE “has verified Pöyry acted in compliance with the OECD Guidelines in the Xayaburi hydropower project in Laos”
 - Not citing of the given criticism, but: “Pöyry agrees with the Ministry's statement concerning the recommendations for responsible business conduct and continues to operate according to these recommendations. Pöyry is committed to economic, social and environmental responsibility and ethical compliance in all its operations.”
- The MEE’s own press release: “Pöyry has acted in compliance with the OECD Guidelines”
 - More in Pöyry’s favour than the actual statement: “Pöyry cannot be considered to have violated the OECD's Guidelines, but---”

Was there any effect?

- Case Don Sahong
 - Even more contradictory than the Xayaburi dam?
 - No PNPCA
 - Pöyry's role?
- Burma / Myanmar
 - Shown interest in taking part in developing Myanmar's hydropower industry
 - Citing Knut Sierotzki, Director for Hydropower in Asia and Russia for Pöyry: Decentralized renewable energy minigrids are "a good addition... but will not solve the electrification of the country."

Was there any effect?

- An important precedent for the Finnish NCP
 - Lessons learned and a need for improvement was acknowledged by the MEE
 - Note: acting in the frames set by the OECD Guidelines
- A part of the on-going discussions on how to improve the Finnish CSR policies and practices
 - The Finnish Government Programme (2011-)
 - Implementation of the United Nations Guiding Principles on Business and Human Rights

United Nations Guiding Principles on Business and Human Rights (“Ruggie Principles”)

- First implementation plan finished by a working committee under the MEE and being commented by Finnish NGOs
- To some extent, lacks ambition in finding legally binding standards and measures
- Lack concrete measures to improve the OECD NCP, such as outsider evaluation
- Lack of enhancing policy coherence

Is it possible to avoid contradictions between the Finnish development policy programs and the ambitions for Finnish-based multinational companies?



Thank you!

More information on the Pöyry case at

www.vapaamekong.net

liisa.uimonen@gmail.com

