

## **Finnwatch opinion on the conclusions of the OECD complaint process against Pöyry Oyj**

*Sonja Vartiala, Finnwatch's executive director and member of the Finnish Committee on Corporate Social Responsibility (YHVA) delivered the following dissenting opinion to the Committee's statement regarding the OECD complaint against Pöyry Oyj.*

The information that has been made available to the members of the Committee on Corporate Social Responsibility does not support the view that Pöyry has acted in accordance with the OECD Guidelines for Multinational Enterprises in its collaboration with the Lao government on the Xayabur dam project. I base this opinion on the following facts that have emerged during the complaint process:

- In its report prepared for the Lao government, Pöyry presented its own interpretation of the conclusion of the Mekong River Commission's consultation process. This was not included in the terms of reference of the report, nor did Pöyry conduct appropriate stakeholder consultations prior to forming and expressing its interpretation.
- The Lao government has used Pöyry's report to convince the dam project's funders of the conclusion of the Mekong River Commission's consultation process. Pöyry appears to have been aware of this but has not acted to clarify the situation.
- It seems plausible to assume that Pöyry had an economic motive to prepare a report supporting the construction of the Xayabur dam, a position that contrasted with scientific analysis. According to a compliance report submitted by Pöyry to the Lao government on 9 August 2011 (page 15), the government had chosen Pöyry as its engineering agency in the dam project as early as 2011.
- Pöyry has not been able to prove that its report is in accordance with the prevailing scientific understanding of the dam's negative impacts.
- In contrast to Pöyry's claims, Compagnie Nationale du Rhone, an external consultant, has not verified Pöyry's report in its entirety.
- In the course of the OECD complaint process, Pöyry has not been able to clarify the due diligence measures it has applied when cooperating with the Lao government. Finnwatch maintains that such mechanisms should have been in place when collaborating on a highly contested project that is believed to have significant negative impacts on human rights and the environment. Together with Libya and Congo DRC, Laos ranks 160th on Transparency International's 2012 Corruption Perceptions list. Appropriate human rights due diligence mechanisms would have enabled Pöyry to minimise the direct and indirect negative impacts of its activities.
- Pöyry has failed to engage stakeholders in its operations in Laos. It also rejected all efforts to engage in constructive dialogue during the OECD complaint process.

The Committee's opinion is based on the statements of both parties as well as government ministries. No new information was produced during the process. It is my view that the above-mentioned factors, which were of central importance to the conclusions to be drawn from the

complaint process, should have been investigated and assessed more thoroughly. A key impediment to proper assessment has been the fact that the most important document (Pöyry's response to the complaint) has been classified as strictly confidential. The Committee also lacked access to some of the materials submitted by the organisations filing the case to support their case.

The most serious shortcoming in the Committee's statement is the complete absence of any type of evaluation of the existence or adequacy of Pöyry's due diligence mechanisms. Nor does it mention the potential conflict of interest arising from Pöyry's double role as feasibility evaluator and executing engineer.

The Committee holds that Pöyry should have acted in the dam project in a more responsible manner. Yet the statement fails to suggest any concrete measures that the company should implement to improve its responsibility.

It is my opinion as the representative of Finnwatch in the Committee that Pöyry should

- publicly clarify its role in the preparation of the consultation report, recognising the fact that it was not mandated to assess whether the Mekong River Commission's consultation process had concluded or not and that its view on this issue was not based on appropriate stakeholder consultations;
- conduct an internal evaluation on potential conflicts of interests related to the dam project and investigate if economic interests or motives served as an incentive to prepare a report favouring the construction of the dam;
- create and implement human rights risk assessment mechanisms and report on them in a public corporate responsibility report.

Helsinki, 3 June 2013

Sonja Vartiala  
Executive Director  
Finnwatch