



European Investment Bank

**Strategy and Corporate Centre
EIB Complaints Office**

CONCLUSIONS REPORT

Complaint SG/E/2008/03

**Sonae Novobord
White River, South Africa**

10 November 2008

External Distribution

Complainants:

Project Promoter:

WSP Environmental:

SA Authorities (MDALA):

IAPs: | _____

Internal Distribution

President

Vice Presidents Brooks, Da Silva Costa, Sakellaris

Secretary General, DG Strategy and Corporate Centre

EIB services concerned

CONCLUSIONS REPORT Summary

Sonae Novobord – expansion factory and dryer, White River, South Africa

Complainants: [REDACTED]

Date received: 14 April 2008

1. Complaint

- 1.1. Complainants express concern about Sonae Novobord (Sonae Novobord) attitude towards the surrounding community. They state that Sonae Novobord is arrogant and ignore environmental laws of the country in order to meet their expansion goals to the health detriment of thousands or mainly poor people (and children) living close to the plant. Complainants are very concerned to see that EIB is assisting Sonae Novobord by funding the investments concerned.
- 1.2. Complainants inform EIB that full EIA was withdrawn due to local interest groups pressure, that Sonae Novobord illegally completed the expansion and that local authorities gave Sonae Novobord an environmental fine and refused authorisation for the operation of the dryer. According to the complainant after the fine Sonae Novobord applied for a section 24 G rectification of the EIA to try to get retroactive permission to operate the new dryer that will allow Sonae Novobord to double production capacity.
- 1.3. Complainants allege that Sonae Novobord has fully commissioned and finished the expansion of the plant. Furthermore the complainant alleges that the formaldehyde discharge from the plant is a serious concern for public health as well as other toxic substances such as isocyanides, nitrous oxide, sulphur, carbon dioxide and wood dust effecting thousands of workers, residents and children in the vicinity of the plant. A school, Penryn College seems to claim that students have higher occurrence of respiratory disorders and that those high emissions of formaldehyde can cause cancer.
- 1.4. Complainants believe that Sonae Novobord is operating without valid Air Emissions License. Complainants believe that the EIB is irresponsible for financing such an expansion which contravenes a variety of IFC regulations and that by funding the plant the EIB therefore has racial and geographical double standards. The complainants urge the EIB to investigate Sonae Novobord carefully in a pro-active way to have pollution stopped before it becomes a public health outrage. They say that technical solutions exist to mitigate pollution and the complainants demand that they be investigated and the most effective possible solutions be installed.

2. Allegations

- 2.1. Promoter, Sonae Novobord, ignores environmental laws of South Africa
- 2.2. Promoter commenced works before a full EIA was completed (original EIA withdrawn after pressure from local residents)
- 2.3. Promoter illegally completed the expansion and local authorities gave then a fine and refused Sonae Novobord to commission the new dryer
- 2.4. Formaldehyde discharge from the plant is a serious health concern because they are allegedly too high. A local school also complained to Sonae Novobord
- 2.5. Other toxic substances (isocyanates, nitrous oxide, sulphur, carbon dioxide) and wood dust effects thousand of workers, residents and children
- 2.6. Promoter does not have appropriate air emission license
- 2.7. Promoter does not want to install a technical device (WESP) to reduce air pollution
- 2.8. After 2 years of engaging with promoter complainants are not seeing responsible or satisfactory attempts to reduce pollution thus address issue to the EIB. Complainants state that EIB has racial and geographical double standards if it funds the Sonae Novobord plant in South Africa

3. Claim

- 3.1 Complainants *"urge the responsible people in the Bank for the Sonae Novobord loan to investigate Sonae Novobord very carefully, and to make sure that they deal with this in a pro-active way to have the pollution stopped before it becomes a public health outrage. Technical solutions do exist that can mitigate the pollution, we demand that they be investigated and the most effective possible solutions be installed"*.

4. Sonae Novobord Project

- 4.1 Design, construction and operation of the expansion of the existing Particle Board (PB) and Medium Density Fibreboard (MDF) factory in White River, Mpumalanga, South Africa. The project's additional production capacity of PB will fulfil the promoter's perceived capacity shortfall in a growing market. Promoter: - Borrower:

5. Findings and Conclusions

- 5.1. The Complaints Office (CO) concludes that regarding the Sonae Novobord project, the EIB services have acted in accordance with the Bank's policies and procedures.
- 5.2. At project appraisal, no problem was found by the Bank's competent services regarding legal permits and specific licensing issues. Furthermore, legal compliance of Sonae Novobord in this respect has never been challenged by the competent South Africa authorities, apart from the installation of the new dryer (§ 5.6 below). Throughout our review, we also understand that South Africa legal framework is complex and going through structural changes. In this context and regarding this particular point, the CO is not in a position to comment further. However, should the legal compliance of Sonae Novobord permits and licences be further challenged by, or in front of the South African authorities, the Bank will closely monitor the outcome.
- 5.3. The CO identified serious environmental and social concerns that need to be addressed by the project Promoter. The problems found are neither in line with commitments taken by Sonae Novobord at project appraisal time with the EIB services, nor with responsibility and environmental policies.
- 5.4. Indeed, EU Member States regulation for dust emissions vary from as high as 300 mg/Nm³ to as low as 20 mg/Nm³, depending on the country and specific local conditions. However, at appraisal time it was understood that Sonae Novobord would adhere to the European reference on emissions of pollutants given by the EU Directive 2001/80/CE Emissions of pollutants to the atmosphere by large combustion plants (50mg/m³ for dust emissions)
- 5.5. The CO also concludes that, according to all publicly available information, does not down-grade their project design for facilities outside the EU and that the expansion of Sonae Novobord in White River forms an integral part of the Group's strategy.
- 5.6. Sonae Novobord received a fine from the South Africa environmental authorities because the new dryer was installed without proper authorisation. According with Sonae Novobord, the dryer was never put into operation and only mechanical and equipment tests were made at the dryer.
- 5.7. The EIA process was conducted by an independent consultant (WSP) following the South Africa applicable regulations. A key element for consideration, complementary to the draft Section 24G Rectification EIA and in line with international best practices, is the forthcoming EIA "peer review". The terms of reference proposed by the IAPs (Annex 6) are important in challenging and clarifying the alleged controversial elements of WSP work.

- 5.8. The complainants' allegations, as well as the vast majority of the concerns expressed by IAPs, are in relation with legacy issues and overall factory impacts (including new production lines). On this basis, compliance with Section 28 Duty of Care as requested by the South Africa environmental authorities is of utmost importance in addressing current problems.
- 5.9. In a context of lack of trust, implementation follow-up must be ensured in a credible and participative manner.
- 5.10. The overall production of the Sonae Novobord White River factory may increase due to the commissioning of the second production press allowing for concurrent production of Particle Board and MDF. The total aggregate environmental impact may therefore increase due to these concurrent production lines as well as the recent commissioning of a melamine line.
- 5.11. There are 6 main areas of concern which have been raised by the complainants and which were confirmed during the CO mission to South Africa. Most issues are legacy issues and not all of these are directly linked to the new dryer: 1 environmental impacts relating to air emissions (formaldehyde, wood dust and others); 2 noise; 3 odour; 4 health risk; 5 dangerous road situation due to logs falling from trucks; 6 complete breakdown of trust between IAPs and Sonae Novobord. The Conclusions Report will not go into detail but will concentrate on the main issues. More detailed information can be found in the Section 24G Rectification application documents and will therefore not be reiterated here.
- 5.12. Air emission
- 5.12.1. According to the Section 24G Rectification application EIA there are indeed issues relating to the air emissions. Independently from the new dryer some of these are linked to legacy issues.
- 5.12.2. Obviously the commissioning of the new dryer, using recent technology, will reduce the air emissions. The new dryer working at full capacity will account for dust emissions of 80 mg/Nm³. However, the EIB was subsequently informed by Sonae Indústria, that the production line of Sonae Novobord will use the new dryer at 65-70% of its maximum capacity. Dust emissions of that particular dryer are therefore expected to be lower than 50 mg/Nm³, the reference EU limit. However, cumulative dust emission from other equipment (such as the MDF dryer) must be taken into account when assessing allowed emission levels.
- 5.12.3. Housekeeping / factory management issues responsible for unacceptable level of peak emissions (under stress conditions) also need to be addressed. In this context, a closed loop system with filters would be installed to cover all cyclones.
- 5.12.4. A wet scrubber is installed by the project, which reduces formaldehyde emissions. The draft EIA confirms that formaldehyde emissions are now well below the limits, even considering EU standards. Reliability of the data and appropriateness of the measure points is to be confirmed by the EIA peer review.
- 5.12.5. The Duty of Care Environmental Management Plan foresees other mitigating measures which Sonae Novobord is committed to investigate, for example to move the chip piles to a closed building.
- 5.13. Water treatment
- 5.13.1 Waste water treatment concerns have also been expressed by some IAPs. In this context, it seems appropriate that a comprehensive specialist study to be made of the adequacy of the wetlands for pollution attenuation, and if necessary a solution recommended that will prevent pollution of the surface water resource and ground water that is consistent with maintaining the aquatic reserve.

5.14. Noise

5.14.1. Sonae Novobord already started, albeit with temporary structures, to install mitigating measures in the 6 places identified that produce unacceptable levels of noise. The CO saw indeed that some work was done in this area and the Duty of Care Environmental Management Plan confirms Sonae Novobord's commitment to further enhance this and look for permanent solutions.

5.15. Odour

5.15.1. Odour is an issue and is related to air emission levels (see above) and consequent mitigation measures.

5.16. Health risk

5.16.1. Around 70 community members informed Sonae Novobord and the WSP consultants during the Public participation Process that their health was in some way or another affected as a result of the factory's emissions. There is not enough information and data to make a qualified judgement and there seem to be conflicting views on this. Further research on declared health impacts seems necessary, with the assistance of health professionals and in a manner acceptable to the IAPs.

5.17. Dangerous road situation

5.17.1. From evidence provided by the complainants and from site verification by the CO there seems to be a real issue regarding spillage from the trucks that deliver the raw materials. This corroborated in the Duty of Care Environmental Management Plan wherein Sonae Novobord commits to evaluate the current situation and to take appropriate remedial action. With around 80 vehicle movements (trucks) per day, which will increase once the new dryer is commissioned, it looks imperative that factory management improves the road safety issues.

5.18. Trust

5.18.1. A history of perceived arrogant attitudes from Sonae Novobord, long time ignoring IAPs expressed concerns and refusing to communicate has exacerbated IAPs, and clearly worsened the perception of all negative impacts generated by the factory. It is however positive to acknowledge the recent and gradual change manifested by the factory management.

5.18.2. A joint committee created in November 2007 only convened 3 to 4 times but never managed to get firmly established also due to lack of clear terms of reference. The engagement of a communications consultant by Sonae Novobord did not perform as expected and was badly perceived by IAPs. Other efforts which Sonae Novobord claims to have made were apparently unsuccessful. As such there is at present no communication forum to enhance communication and trust between IAPs and Sonae Novobord.

5.18.3. All of this has led to a situation of mistrust and poor communication between the various parties involved. During the meetings held it was apparent that there is a breakdown of trust on all levels and that a lot of work will have to go into regaining trust between all parties.

6. Actions to take and way forward

6.1. Commitments by

6.1.1. Sonae Novobord commits to address and re-evaluate the emissions after starting production with new dryer and, if necessary, to implement required mitigation measures.

6.1.2. Sonae Novobord commits to implement, within 12 months, a closed loop dust collection system for the other cyclones including filters. This will reduce dust emissions of the other dryer (MDF).

- 6.1.3. commits to implement the factory management measures as per Section 24 G Rectification according to the Environmental management Plan and Section 28 Duty of Care.
- 6.1.4. ⁴ totally supports the constitution of a Monitoring Committee, which should use the EIA specialist studies information as a starting point for the definition of its terms of reference and subsequent discussions.
- 6.1.5. Sonae Novobord has established a Complaints mechanism¹ (hotline) for registering and addressing complaints from affected parties. Sonae has agreed to further ensure that the availability of this hotline is advertised adequately, so as to ensure its effectiveness.

6.2. EIB Complaints Office Recommendations

- 6.2.1. The CO acknowledges the commitments above, which are considered as very positive in addressing IAPs concerns.
- 6.2.2. It is in the best interest of all the parties concerned that a decision is taken as soon as possible on Section 24 G Rectification process. In this context, the EIA peer review should be addressed as a matter of urgency².
- 6.2.3. The EIB requires that, whenever feasible, EU standards are applied outside of the EU. In view of the particular aspects of the Sonae Novobord White River factory (adjacent to residential and business areas), the CO recommends Sonae Novobord to take the necessary measures to bring the overall White River factory emission levels below the reference EU limit of 50mg/m3 for dust emissions. The identification of such appropriate measures could be done in collaboration with the EIB Technical Services.
- 6.2.4. The environmental impacts to be considered and mitigated must relate to the overall production facilities, and not be restricted to a specific production line nor to specific equipment.
- 6.2.5. Once a decision is taken by MDALA, in relation with 24G rectification EIA application as well as the Section 28 duty of care, Sonae Novobord must promptly comply with the Record of Decision including the appropriate mitigating measures as mentioned in the Environmental management Plan and Duty of Care documents.
- 6.2.6. A key element in re-establishing trust is the (re-)creation of the Monitoring Committee. Such Monitoring Committee should have representation of Sonae Novobord and elected affected parties and include all the different relevant authorities. Proper terms of reference, based on best practice, including the responsibilities and functioning of this committee should be established in acceptable terms for all parties involved, including the IAPs.
- 6.2.7. The work of this Monitoring Committee should be supported by a continuous monitoring station to monitor the ambient emissions around the plant to be installed by Sonae Novobord This will be an important element of trust building and will allow for the appropriate monitoring by the Bank's services.
- 6.2.8. The CO considers that notwithstanding the health studies performed a so large number of complaints about possible health impacts must be taken seriously and urges Sonae Novobord to undertake further research on declared health impacts with the assistance of health professionals and in a manner acceptable to the IAPs. The CO strongly advises Sonae Novobord to carefully consider health related issues, which could be pivotal in order to re-establish trust with the surrounding local community.

¹ On 17 October 2008 the CO received the following comment from the complainants: "we have seen no advertising of this hotline and have not noticed anything in the local media there has also been no direct communication from Sonae ² regarding this hotline. Most of the complaints recently sent by regarding the waste on roads have not been responsea to by of Sonae (apparently appointed as the

² The EIA peer review started on

6.2.9. Independently of the Record of Decision, which is out of control of Sonae Novobord factory management, there are measures, which can and should be implemented without delay:

- All housekeeping and factory management improvements as per the Environmental Management Plan;
- The closed loop dust collection system for the other cyclones;
- The effective addressing of health concerns;
- The newly established complaints mechanism to ensure adequate and timely treatment of complaints regarding factory impacts;
- Transformation of the temporary noise abatement structures into permanent ones;
- Addressing and keeping abreast of dangerous road conditions.

6.2.10. The CO urges all parties concerned to focus on the objective of achieving an acceptable healthy and safe living environment concurrent with the existence of a thriving factory.

6.3. EIB Loan Conditions

6.3.1. The CO expects that the measures mentioned above as well as those that will be part of the Record of Decision concerning the Section 24 G Rectification are implemented for the EIB to proceed with disbursement of the loan part relating to the dryer in accordance with the Finance Contract.

6.3.2. Failing this implementation, at least 12 months after the Record of Decision, and in view of the reputational risk of being involved in this project, the EIB should seriously consider the options open to it pursuant to the provisions of the Finance Contract.

6.4. Follow-up

6.4.1. The EIB Complaints Office in collaboration with other relevant EIB services will ensure follow-up on the progress of the recommendations and remedial actions no later than 6 and 12 months after the date of this Conclusions Report.

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20/11/2008

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20/11/2008

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20/11/2008

Annex: Conclusions Report – Supporting information
Programme of Complaints Office Mission
List of Contacts
List of documents
Extract from NEMA information booklet
Terms of Reference from IAPs on Peer Review