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World Bank: Bujagali Hydropower Project

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Abstract. In 2001, the World Bank approved and then postponed assistance for a dam at Bujagali, Uganda. Allegations of corruption have arisen. Some misbehavior seems to have occurred but not reportedly in connection with the Bujagali project itself. The U.S. Department of Justice is considering the case.

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World Bank: Bujagali Hydropower Project

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Summary

In 2001, the World Bank approved and then postponed assistance for a dam at Bujagali, Uganda. Allegations of corruption have arisen. Some misbehavior seems to have occurred but not reportedly in connection with the Bujagali project itself. The U.S. Department of Justice is considering the case. This report will be updated as needed.

In 2001, the World Bank executive board considered a proposal that its subsidiaries, the International Finance Corporation (IFC) and International Development Association (IDA) help finance construction of a hydropower project at Bujagali, Uganda. The Bujagali project has engendered considerable controversy. This report discusses the issue of corruption. It does not discuss other issues, such as the environment or pricing.

Basic Information

The Bujagali project involves construction of a dam and 200 megawatt (MW) power plant on the Victoria Nile. AES Corporation of Virginia, the sponsor, reportedly has been discussing the project with Uganda since 1994. President Museveni strongly supports the project. The total cost is over \$550 million. Funding is to come from a variety of sources. According to the World Bank, the AES Corporation will invest \$111 million in the project. Other financing will come from the World Bank, the African Development Bank (\$55 million) and several Nordic export credit agencies (\$220 million).

On December 18, 2001, the World Bank executive board approved a \$115 million partial risk guarantee to AES Nile Power, the prospective owner/operator, from its concessional aid facility, the International Development Association (IDA). It approved a \$60 million direct loan from the International Finance Corporation (IFC) to AES Nile Power, plus a \$40 million "B" loan (for syndication) and a \$10 million IFC risk management facility. Later, the World Bank's risk insurance affiliate, the Multilateral Investment Guarantee Agency (MIGA), was asked to consider providing \$250 million for breach-of-contract coverage for the Nordic export credit agencies. No final action has been taken on that proposal. The project reportedly cannot go forward without this coverage.

The Bujagali project is expected to be the key element of a broad scheme for expanding electrical generation in the region. According to *African Business*,¹ the East African Power Master Plan involves a series of improvements and new facilities in Uganda, Kenya, and Tanzania that will substantially increase the available electric power in the region and lay a foundation for further industrial development. If the Bujagali dam proves commercially viable, a new dam to be built at Karuma Falls and other locations in the broader region. With connections to power facilities in Zambia, some envision a power network stretching from South Africa to Mombasa, Kenya, by 2005. The Bujagali project would be the largest private investment in Eastern Africa if built.

The Bujagali project involves other firms in addition to AES. In November 2000, AES awarded the construction contract to the Bujagali EPC Consortium, led by Veidekke International ASA of Oslo Norway.² Before Veidekke became prime contractor on Bujagali, it was involved in efforts to promote the construction of a hydroelectric facility at Karuma Falls. It withdrew from that initiative before joining the Bujagali project.

In late 2000, the World Bank's Department of Institutional Integrity (INT) received complaints about possible corruption in the Bujagali project. At the time, the Bujagali project was being examined by IFC and World Bank/IDA staff to see whether it complied with Bank guidelines, to determine whether the technical, operational, and financial aspects of the plan were sound, and to assess its potential developmental impact. The INT investigation of the corruption complaints and the preparation of the proposed project went forward simultaneously. As noted below, the INT presented its findings to the World Bank's senior managers who made a presentation to the Bank's executive board at the time the IFC loan proposal was approved by the Board.

The first public notice outside Uganda of allegations of corruption in the project came in an IFC press release issued after the Board approved the Bujagali loan. It noted that INT had investigated "as fully as possible within its power" allegations of corruption concerning the Bujagali project.³ It said the Bank had "concluded that there is no corroborated evidence of corruption that directly affects the merits of the Bujagali project." At the direction of the Bank president, INT referred the data it had discovered to legal authorities in Norway, Uganda, the United Kingdom, and the United States.

In mid-2002, Veidekke announced that company officials had found that the manager of a U.K. subsidiary, Norcil Ltd., had made a \$10,000 payment to a Ugandan official in 1999. It said it had not been authorized and the U.K. subsidiary had been closed in 2000. Published reports later indicated that the payment was made to Richard Kaijuka, who was the Ugandan energy minister in 1999. At the time the information became public, he was serving as Alternate Executive Director of the World Bank, representing the English and Portuguese speaking countries of Africa. The information released by Veidekke and the

¹ Neil Ford. "Pooling Power in East Africa," *African Business*. September 2002, pp. 34-5.

² Thomas Armistead. "Bujagali Hydropower Project Gets Caught in Rough Waters," *ENR* (New York) September 16, 2002.

³ International Finance corporation. World Bank's Board Responds to Uganda's Energy Needs – Approves Support for Bujagali Hydropower Project. December 19, 2001. PR 01/159

allegations concerning Kaijuka were consonant with information the INT had provided to the Bank's executive board and submitted to governments the previous year.

Veidekke has not said what the purpose of the \$10,000 payment was in 1999. Kaijuka said that the money had been paid to his son, for work done for Norcil in Uganda, and had been deposited in his account as a convenience to his son. Reportedly, Kaijuka has not presented documentation to support his claim. He was later recalled by President Museveni and the head of the Ugandan central bank was sent in his place.

Action on the Bujagali project is currently suspended while AES, the World Bank and legal officials in the United States and other countries examine the case. According to press reports, Veidekke announced in 2002 that it is quitting the Bujagali project, taking a \$3 million loss on its claims for work done to date, and concentrating its new operations in Scandinavia.⁴ World Bank officials report, however, that Veidekke has not given them any notice of withdrawal. AES meanwhile has had serious financial difficulties, to which the delays at Bujagali have contributed.

In early 2002, concerned about risk, several of the Nordic export credit agencies withdrew from the project. This left a \$180 million gap in funding for the project. To assure their continued participation in the project, MIGA was asked to provide loan guarantees to help offset the perceived increased risk. In June 2002, the World Bank postponed consideration of the possible MIGA guarantee for the Bujagali project and announced that further action was suspended pending completion of the corruption investigation by national authorities. AES announced that it was suspending activity pending action by the U.S. Department of Justice on the case.

The Bujagali power project is controversial within Uganda as well as internationally. President Museveni is strongly supportive. In 1999, *Uganda Confidential* alleged that Kaijuka had been paid \$240,000 to support the Bujagali project. Evidence was lacking, however, and the issue was not pursued.⁵ Several members of the Ugandan parliament have been outspokenly critical. One alleged that more than \$10,000 had changed hands in the Bujagali project. An employee of AES Nile Power reportedly claimed in 2002 that a former director of the firm had authorized a \$400,000 inducement fund.⁶ The director claimed his signature was forged. The former employee has since fled the country and no further information is available on the issue. In November 2002, the Ugandan High Court declared that the power purchase agreement between AES and the Ugandan government was a public document. It rejected arguments by the government that the terms of the agreement should be kept confidential for reasons of national security.

⁴ Badru Mulumba. "NORPAK Now Deny Bujagali Bribe Links," *The Monitor* (Uganda), from the *Asia Africa Intelligence Wire*, September 14, 2002. NORPAK is the main sponsor of the proposal for construction of a dam at Karuma Falls. Veidekke was working with NORPAK on that project until it switched to the Bujagali project.

⁵ Stephen Linaweaver, "Falling for AES's Plan?" *Multinational Monitor* 20:6 (June 1999.)

⁶ "Bujagali Dam: Fresh Claims Could Stall Project." *Africa News Service*, July 9, 2002.

Action by the World Bank

INT Investigations. According to INT officials, the department has investigated over 1,400 allegations of misconduct. It has 17 full time investigators, most of whom have prosecutorial experience. The department is headed by a director who reports directly to the President of the Bank. The INT functions much like a prosecutor's office, except that it has no subpoena authority. According to investigators, they make a preliminary inquiry on all complaints and ascertain the credibility and seriousness of the issue and its importance to the Bank. In every case, the investigators say they also attempt to identify the motive which prompted the complaint. INT must judge how important an allegation is and how one case should be prioritized against other pending cases.

When a complaint is found to be substantiated, the INT submits its findings to the Bank's Sanctions Committee. The Sanctions Committee has the authority to recommend to the president that firms or individuals be debarred from participation in future Bank procurement. Since the Sanctions Committee was created in November 1998, 81 firms and individuals have been debarred. INT may recommend to the general counsel that the case be referred to appropriate national authorities. The Bank can also institute a civil suit against alleged perpetrators. Also, the Bank can – as authorized by provisions in its standard loan contracts – require the borrower country to return all the money lent for a project which has been tainted by corruption.

The Bujagali case was unusual. Usually, INT investigates instances where the alleged corruption has already occurred. In this case, however, the potentially corrupt situation was uncovered before any diversion of funds actually occurred. The World Bank Group has not disbursed any money as yet for the Bujagali project, and it appears that the work to-date on the project is not covered by the IFC loan or the IDA guarantee. The overt act – the alleged \$10,000 payment in 1999 to Mr. Kaijuka by the Veidekke subsidiary – occurred before the Norwegian firm was associated with the Bujagali project, when it was promoting a competitive project.

INT made legal referrals of the information it had uncovered to law enforcement officials in the four countries involved. No action seems to have been taken in the U.K. or Norway. Ugandan officials report that they are pursuing a case against Mr. Kaijuka, but progress has been complicated by difficulties acquiring evidence from Norway. The U.S. Department of Justice has not reported the status of the case.

Outstanding Questions. In terms of the World Bank, there seem to be two outstanding questions. First, should Veidekke ASA be debarred from future participation in World Bank procurement? Second, should the World Bank proceed with the Bujagali project in light of the continuing concerns and suspicions about possible corruption?

On debarment, the World Bank appears to have no basis for sanctions against Veidekke. There is no procedure allowing it to debar a firm doing business with the IFC. Under IFC rules, the borrower company has full discretion over the way funds are used to implement the approved project, since it presumably will wish to protect itself against illicit practices. Problems with IFC loans are not referred to the Bank's Sanctions Committee. The IFC has other mechanisms and remedies it can use – such as covenants in the contract – to address possible instances of corruption. The IDA guarantee is also not a sufficient link for the Bujagali issue to be referred to the Bank's Sanctions

Committee. The Bank's procurement rules do not apply directly to the activities covered by the guarantee. Hence, this case has not been referred to the Sanctions Committee.

The other question is whether the Bujagali project can proceed in the face of concerns about potential corruption. Bank officials say it is important to distinguish between corrupt practices which compromise the merits of a project and corrupt practices which do not. The merits of the project would not be adversely affected by corrupt practices which influence a country's decision to seek a loan or its choice among equally good alternatives. By contrast, the merits of the project could be seriously compromised by corrupt practices which influence the technical design or adversely affect the technical, financial, institutional or operational analysis underlying the Bank's approval of the project plan. Bank officials say there is no evidence that the alleged bribe to a Ugandan official had any effect on the design or the Bank's analysis of the Bujagali loan proposal.

Findings of the Inspection Panel. In October 2001, several months before it approved the Bujagali project, the World Bank executive board asked the Bank's independent Inspection Panel to analyze the Bujagali plan. Final action was suspended pending receipt of the Panel's report. The report was submitted to the board in June 2002. It was critical of many of the procedures and the analysis used in assessing the Bujagali project and related projects the Bank had funded in Uganda previously⁷

The Panel found that the environmental assessments underlying the Bujagali project were of high quality. It said, however, that some of the IFC's other Bujagali environmental studies were inadequate and stronger steps should be taken to protect and conserve another site (the Kalagala Falls offset). It confirmed that the Bujagali site was "the most desirable site on the Victoria Nile" for the next hydropower development. It said, though, that more attention might have been given to alternatives such as geothermal generation rather than construction of an additional dam on that stretch of the Nile.⁸ The Panel found that IFC's economic and financial appraisal of the Bujagali project had been "carried out with considerable technical skill." It questioned, though, if enough attention had been paid to alternatives and downside risks of the project and their mitigation. The Panel asked whether the relatively high price of the power to be generated by Bujagali was consistent with the Bank's poverty reduction goals. It also questioned whether the power purchase agreement with the Ugandan government was soundly conceived, since the price of power to consumers in Uganda could increase substantially if the value of the country's currency were to fall in future years. The Panel identified several steps which might be taken to mitigate the risks associated with the project and to provide more flexibility in tariff rates for the Bujagali project's electrical output.

Bank management responded to the Inspection Panel report, expressing strong confidence in the Bujagali project.⁹ Management noted that the Inspection Panel agreed that the basic environmental impact assessments done in connection with the Bujagali

⁷ World Bank. Inspection Panel. *Investigation Report : UGANDA Bujagali Project*. June 17, 2002. The report is available from the Bank web site at [<http://www.worldbank.org>].

⁸ In some instances, paragraphs 52 and 53 for example, the Panel seems to believe that the project must comply with operational rules that were applicable to IDA but not (apparently) to the IFC. This is despite the fact that IDA's participation only took the form of a guarantee.

⁹ World Bank. *UGANDA: Third Power Project, Fourth Power Project, and Bujagali Hydropower Project; Management Report and Recommendations in Response to the Inspection Panel Report*. INSP/R2002-0002/1, June 7, 2002. Considered June 17, 2002.

project were adequate. It noted several other instances where the Inspection Panel found deficiencies, however, and it recommended to the executive board that certain actions be taken to meet those concerns. The Bank executive board accepted the management report and approved the proposed remedial actions on June 17, 2002.

None of the problems in the Bujagali project identified by the Inspection Panel seems relevant to the issue of corruption or alleged bribes. The Panel seemed most concerned with questions of whether the IFC and IDA complied with relevant Bank rules in their preparation of the Bujagali project. It said that alternatives (geothermal, etc.) to some provisions of the Bujagali plan should have been considered. There is no suggestion, however, that corrupt practices were involved or that the strength or the integrity of the basic project design was compromised by corrupt practices or illicit concerns.

It is doubtful that the Bujagali project can proceed without the MIGA guarantee for the export credit agencies. In terms of the corruption issue, however, Bank officials seem to believe that the project could go forward if stronger than normal requirements for financial oversight and more rigorous warranties against corrupt practices are added to the IFC and IDA contracts. According to INT, the Bank included these in draft contracts and AES reportedly agreed to them in January 2002. The final contracts have not yet been signed due to the delay in the MIGA proposal and the current uncertainties.

Actions by the U.S. Government

The World Bank executive board was originally scheduled to consider the Bujagali loan and guarantee proposal on December 13, 2001. Consideration was postponed until the 18th, however, to facilitate confidential discussions by the Bank's executive board. On December 18, the Bank executive board considered the Bujagali project and approved the proposed IFC loans and IDA guarantee. The INT subsequently briefed the U.S. executive director and U.S. officials concerning its investigation. In January and February 2002, the World Bank referred the corruption allegations to the U.S. Department of Justice and to legal officials in Norway, Britain, and Uganda.

Treasury officials say that they received assurances from World Bank management in December 2001 that the Bank had investigated the corruption allegations and determined that (1) no actionable evidence of corruption had been found, (2) the alleged corruption did not affect the merits of the projects, in particular the selection of the site or developer or the price to be paid for electricity, and (3) contracts and payments in connection with the project would be monitored carefully.

MIGA became involved in discussions about the Bujagali project in January 2002, after the Nordic export credit agencies withdrew. Treasury officials say the MIGA project was scheduled for board consideration on June 18, 2002. However, they report, consideration was postponed in light of the uncertainties of the situation. AES subsequently made a public announcement that it wanted to do more due diligence on the project. According to U.S. Treasury sources, the company also said it was concerned about corruption issues unrelated to the World Bank financing of the project. It is unclear whether the U.S. Government had any role in these events.