

# Oil Drilling in the Guatemalan Rainforest: A Skeleton in the IFC's Closet<sup>1</sup>

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### Introduction

The Maya Biosphere Reserve extends over 2.1 million hectares in the Peten region of northern Guatemala and contains primary tropical forests and wetlands. It is biologically diverse and rich in archeological sites such as the famous Tikal. The core of the reserve is a protected area of 800,000 hectares, which includes the 340,000 hectare Laguna del Tigre National Park and Biotope. Laguna del Tigre has been recognized as a "wetland of international importance" by the Ramsar Convention on Wetlands of International Importance 1971, ratified by Guatemala in 1990.

The International Finance Corporation (IFC) granted two loans to the US oil company BASIC to support the construction of an oil pipeline and the expansion of the company's activities in the Maya Biosphere Reserve in 1994 and 1996 respectively. These loans were made at a time when there was a great deal of confusion about what environmental and social policies applied to the IFC. Prior to 1998, the IFC claimed to apply World Bank policies as appropriate, but provided no further detail. The BASIC Oil Loan and others – such as the loan for the Pangué Dam on the Bio Bio River in Chile – demonstrated the need for the IFC to adopt its own policies and finally forced the IFC to do so in 1998. Thus, the IFC policy framework has adapted since the events described in this case study.

This case raised many issues, only some of which were addressed by the IFC's subsequent policy reforms. The comment period for environmental assessments (EA) remains too short (60 days), EAs are still released too late for stakeholders to have an input in project design, the IFC's new manual, *Doing Better Business Through Effective Public Consultation and Disclosure: A Good Practice Manual*, remains non-binding, the environmental conditions and covenants in the loan agreement are

still not made public, and monitoring reports from the project sponsor to the IFC are still not made public.

In addition, BASIC decided in 1999 to prepay the whole IFC loan, and therefore IFC no longer has any direct relationship to the project. Nonetheless, it is worthwhile analyzing the details and history of IFC involvement, especially in the light of the growing campaign against the project by Guatemalan non-governmental organizations (NGOs).

The IFC arguably still has a certain degree of responsibility for the damage caused by BASIC operations, because the project might not have been undertaken without IFC support. Many of the problems associated with BASIC operations in Laguna del Tigre might have been avoided if IFC had complied with the World Bank's operational policies at the very inception of the project. The situation on the ground fully vindicates the concerns voiced by NGOs at that time.

### The first loan

IFC was approached by BASIC in 1993 to finance the expansion of production at the Xan field – located in the northwestern corner of the Peten within the Laguna del Tigre National Park – from 8500 barrels per day (bpd) to 11,200 bpd and build a pipeline (120 km) to La Libertad. The lending package was approved in May 1995. It totaled US\$20 million, including a \$10 million loan directly from IFC, a syndicated loan of \$6 million from international commercial banks, and an equity investment by IFC of \$4 million, which made the IFC a 5% shareholder.

The intent of building a pipeline was ostensibly to minimize the impact of oil transportation via trucks which the company said were subject to accidental spills and attacks from local guerrillas. In reality, BASIC wanted to reduce transportation costs: transporting oil via the pipeline would have saved the

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company as many as \$5 million a year. The project design did little to protect the surrounding lands from oil accidents, as the pipeline was not built underground, but rather on a cement sleeper, thus exposing it to the risk of sabotage and other disruptive elements. IFC financing allowed BASIC to increase oil production by 30% and reduced transportation costs from \$4 per barrel to \$1.63 per barrel.

Perhaps the project's most serious impacts came from the clearcutting of primary rainforest for a maintenance road along 70% of the overall pipeline route, (which could have been sited along an existing road to minimize impacts), thus opening pristine areas to settlement and catalyzing further forest loss.<sup>2</sup>

The route of the pipeline was in clear violation of the Master Plan for the conservation of the Maya Biosphere Reserve. This Master Plan, approved in March 1992 by the National Council on Protected Areas (CONAP) banned oil exploration and extraction in zones such as Laguna del Tigre. BASIC's concession agreement, which was awarded in 1985, however, was grandfathered into the park. BASIC justified its activities in a protected area on this basis.

## NGO Concerns

The Environmental Assessment produced by the company was insufficient. According to US NGO Conservation International, IFC did not guarantee the proper public consultation and participation in the approval process in spite of the fact that IFC categorized the project as a Category "A", requiring a full EA and public participation.

Furthermore the EA did not include on-the-ground archeological analysis, consideration of potential sabotage of the pipeline, adequate socioeconomic and baseline biodiversity studies, nor sufficient provisions for local consultation and public disclosure.<sup>3</sup>

According to local NGOs and communities, project details were not disclosed until after IFC loan approval and after the pipeline construction was well underway.<sup>4</sup> NGOs also state that IFC paid little or no attention to comments and concerns voiced by NGOs and civil society.

The US-based group Conservation International (CI) first learned about the project in mid-1994 after the loan had already been approved by the IFC Board of Directors. CI met with IFC twice in November 1994 and early 1995 to voice its concerns over the pipeline route and the lack of consideration of alternate routes, and of the project's indirect impacts in a colonization-prone area. The organization recommended changes in the pipeline route and the creation and implementation of an environmental mitigation plan. IFC replied that no changes in the route were possible and that environmental mitigation measures were sufficiently addressed in the EA.<sup>5</sup>

Nevertheless CI presented its own plan in May 1995 to address uncontrolled colonization that could result from the pipeline, but it was rejected by BASIC. The pipeline construction was completed in July 1995 and in August 1995 CECON (the Center for Conservation Studies of the University of San Carlos) wrote to the IFC to convey its concerns over illegal hunting, forest fires and the lack of mandatory monitoring activities within the park.

## The Second loan

In 1996, BASIC asked for a second loan of \$24 million from the IFC to finance the expansion of oil drilling activities and pumping operations in the Laguna del Tigre park and the construction of a second pipeline. The pipeline was to be constructed outside of the Maya Biosphere Reserve.

CI, IFC and BASIC agreed to conduct a joint field assessment in January 1996. According to CI, the Environmental Assessment and Environmental Management Plan (EMP) were unsatisfactory. Among other things, CI pointed out that the EMP gave no guidance on alternatives nor did it adequately address the indirect impacts of increased access to the Park. Nevertheless, the timeline proposed for public comments was insufficient, so CI called on the World Bank US Executive Director to postpone the Board decision until a new EMP was completed and made public for comments, and until BASIC had agreed to fund environmental mitigation actions. Following a letter from CI to World Bank President James Wolfensohn, the Board date was further postponed. IFC approved the project in July 1996 and the final EMP included provisions for BASIC to allocate \$130,000 per year for conservation programs and to carry out semiannual project supervision missions.

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## Policy violations

This project had a number of serious violations of World Bank policy, particularly the Natural Habitat Operational Policy (OP 4.04).<sup>6</sup> Laguna del Tigre should have been considered as a "critical natural habitat", which the OP defined as "an existing protected area, and/or a site that is critical for rare, vulnerable, migratory or endangered species". Accordingly, the Bank was expected to fund projects only when "comprehensive analysis demonstrates that overall benefits from the project substantially outweigh the environmental costs". The Bank should have refrained from funding projects "involving the significant conversion of natural habitats", namely the elimination or severe diminution of the integrity of a critical or other natural habitat caused by a major long-term change in land or water use. This policy was violated for both loans: in the 1994 loan because it financed the construction of the pipeline through a protected area, thus contributing to forest clearing and settlement; and for the 1996 loan, because the expansion of oil exploration led to further conversion in the park.

The Natural Habitat OP also mandates a proper consultation process. The consultation for the second loan was reportedly better than the first, but affected communities were not involved in the discussion and formulation of the EA and Management Plan as required for Category A projects. BASIC and IFC did not consult with communities, officials and NGOs, and made no effort to guarantee public access to the EA and EMP. Their only copies, written in English, were located in BASIC's Headquarters in Guatemala City. Additionally, the timeframe set by the IFC and BASIC for feedback on the two documents was not of sufficient duration, thereby making it difficult for stakeholders to provide significant input.

However, some NGOs managed to access the EA and EMP and formulate a series of recommendations that were eventually considered by BASIC in a revised version of the two documents. Although a better EMP was produced, BASIC had already started construction activities before the IFC Board had approved the loan in July 1996.

**Recent developments: Guatemalan NGOs ask for an end to oil drilling in the Maya Biosphere Reserve**

In July 2000 the Guatemalan Congress was still revising one of the contracts granted to BASIC, while many NGOs and government officials were calling for a suspension of BASIC operations in the Peten. BASIC has already drilled 32 wells in Laguna del Tigre National Park and built 120 kilometres of pipeline.

In a letter sent to the Court of Supreme Justice on March 9, 2000, 50 affected Guatemalan citizens denounced the current environmental impacts of BASIC operations in the Laguna del Tigre National Park.<sup>7</sup> They referenced a series of satellite images produced by Conservation International (CI) that clearly showed the extent of forest degradation resulting from the construction of roads for the project. A field investigation subsequently carried out by CI proved that BASIC oil drilling activities are causing genetic malformations and deformities in the fish population of Laguna del Tigre.

Another Guatemalan NGO, Colectivo Madre Selva, had denounced earlier in the same year the degradation of the area, saying that it "is suffering the effects that oil company activity provokes: opening of roads, dynamite explosions, chemical mud, poisonous gases, contamination of water, soil and air, colonization of the area and environmental, social and sanitary degradation". Local people expected to be hired by the company, but their poor conditions worsened due to the lack of water and electricity. Therefore these people had no alternative but to start slashing and burning the forest to grow corn and beans to survive.

On February 15, 2000 GuaUnidos sent a message, signed by 200 groups, to Guatemalan President Portillo asking him to stop the destruction of the National Park, and stating that the contracts awarded to BASIC in the Park are illegal. Also on that day, 32 leaders of Peten communities issued a declaration that challenges the assumption that oil exploration would benefit the poor population in the area: "The rational and sustainable use of natural resources offers, with very rough numbers, more than \$10 million, benefiting more than 60,000 people. In 1994, the Minister of Energy and Mines reported receiving \$1 million from petroleum activities, benefiting one thousand people."

## Lessons learned

The case provides an example of the shortcomings of the old IFC policies and practices for public

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consultation in EAs and also highlights where the 1998 policies did not go far enough. Information on the first loan was available only after the loan had been approved. Moreover, it is significant in terms of the timing and the integrity of the public consultations. NGOs maintain that discussions on the impacts of oil extraction expansion were held while expansion of oil production had already started, although IFC denies this took place.

The comment period for the EA of the first loan and the EMP for the second loan was too short. The 60-day comment period, which has been retained in the revised IFC Operational Policies approved in 1998, was, and still is, insufficient.

Consultation with local stakeholders was also inadequate. During the review of its Environment and Access to Information Policy, IFC adopted *Doing Better Business Through Effective Public Consultation and Disclosure, a Good Practice Manual* that contains a series of important improvements vis-a-vis the old policy. However, the *Manual* is unfortunately not binding on project sponsors. IFC should introduce a series of incentives for staff to implement the requirements contained in the *Manual* and publish a progress report on the status of implementation, while expanding the period for public consultation to 120 days.

Public access to documentation and loan documents was also inadequate. In particular, the environmental loan conditions were not made public and, therefore, it remained unclear what environmental commitments BASIC had made to the IFC. Moreover, BASIC social and environmental progress reports to the IFC were not disclosed, making it difficult for the public and stakeholders to assess the level of implementation of the original loan commitments. Despite the urging of NGOs, the new

Operational Policies approved by the IFC in 1998 still do not require the disclosure of either the environmental covenants in loan agreements, or the social and environmental reports submitted to the IFC during the life of the project.

Finally, the IFC had no contingency plan in place to stay involved after BASIC prepaid the loan. One of the rationales for IFC involvement in projects is that IFC involvement will improve the environmental and social performance of the sponsors – making a bad project better. As the BASIC case demonstrates, however, sponsors may prefer to prepay loans rather than comply with the IFC's required safeguards. Given that project sponsors can prepay a loan to avoid social and environmental conditions, IFC involvement may simply enable a bad project to go forward, without necessarily improving its environmental or social performance. This fact is particularly troubling when, as in the BASIC case, the negative impacts of a project are severe and irreversible.

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This case study is based on a much longer study prepared by Conservation International, with supplemental information provided from Witness for Peace, Oilwatch Resistance Bulletin and the World Rainforest Movement:

- Ian A. Bowles, Amy B. Rosenfeld, Cyril F. Kormos, Conrad C.S. Reining, James D. Nations & Thomas Ankersen, *The Environmental Impacts of International Finance Corporation Lending and Proposals for*

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*Reform: a Case Study of Conservation and Oil Development in the Guatemalan Peten*, 29 ENVIRONMENTAL LAW 103 (1999).

- *A Crude awakening: The World Bank, US Policy and Oil in Guatemala*, Witness for Peace, 1998.
- *Oilwatch Resistance Bulletin*, number 4, June 2000.
- *World Rainforest Movement (WRM) Bulletin* no. 21, July 2000.

<sup>2</sup> Witness for Peace, 1998.

<sup>3</sup> Ian A. Bowles, Amy B. Rosenfeld et al. 1999, page 117.

<sup>4</sup> Witness for Peace, 1998.

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<sup>5</sup> Ian A. Bowles, Amy B. Rosenfeld et al. 1999, page 117.

<sup>6</sup> World Bank OK 4.04 was adopted in 1995, but existed in another form as OPN 11.02 prior to 1995. Therefore, the relevant provisions apply to both the 1994 and 1996 loans.

<sup>7</sup> Oilwatch Mesoamerica, 8/3/99.