

February 11, 2021

James Cruse
Acting Vice Chairman and First Vice President
Export-Import Bank of the United States
811 Vermont Avenue, NW
Washington, D.C. 20571

Judith Pryor
Member of the Board of Directors
Export-Import Bank of the United States

Spencer Bachus
Member of the Board of Directors
Export-Import Bank of the United States

Cc: Sherrod Brown, Chairman, Senate Banking Committee
Patrick J. Toomey, Ranking Member, Senate Banking Committee
Maxine Waters, Chairwoman, House Financial Services Committee
Patrick McHenry, Ranking Member, House Financial Services Committee

Re: Potential EXIM involvement in the East African Crude Oil Pipeline

Dear Mr. Cruse, Ms. Pryor, and Mr. Bachus,

We are in a historic moment as we face both a global pandemic and a runaway climate emergency. We can no longer afford to invest in any new oil, gas, or coal projects, at home or abroad. It is well past time to end financing for fossil fuels and to support renewable, clean, rights-compatible alternatives. Therefore, we write to urge you to reject any applications to the U.S. Export-Import Bank (EXIM) seeking financing for the East African Crude Oil Pipeline (EACOP) or associated infrastructure and services in Uganda and Tanzania.

The EACOP is a proposed 1,445-kilometer heated oil pipeline that would connect oil fields in Hoima, Uganda to the coast at Tanga, Tanzania. The upstream oil fields are held by two multinational oil companies, Total SA of France and China National Offshore Oil Corporation (CNOOC), both of which are also invested alongside the Ugandan and Tanzanian state-owned oil companies in the project vehicle that will construct and operate the EACOP.¹ CNOOC, one of the project's key shareholders, was recently sanctioned by the US Department of Defense as a result of its alleged ties to the Chinese military.²

The planned pipeline and associated upstream oil development pose significant threats to human rights and the environment. Adverse effects include, among others: (1) the massive climate impacts of producing and exporting hundreds of thousands of barrels of crude oil per day, the burning of which will unleash millions of tons of carbon dioxide each year; (2) harms to local people from large-scale land acquisition and resettlement in the oil development area and along the pipeline corridor, including loss of property, housing, livelihood and food security; (3) repression of human rights and environmental

¹ The East African Crude Oil Pipeline, [About Us](#).

² US Department of Defense, [DOD Releases List of Additional Companies, In Accordance with Section 1237 of FY99 NDAA](#) (Dec. 2020); US DOD, [Qualifying Entities Prepared in Response to Section 1237 of the National Defense Authorization Act for Fiscal Year 1999 \(PUBLIC LAW 105-261\)](#).

defenders; (4) risks to critical freshwater supplies, including Lakes Albert and Victoria as well as numerous rivers and streams; and (5) threats to biodiversity in the region, including endangered animals.

Immense Threats to Water Resources and Biodiversity

The pipeline threatens one of the world's most ecologically diverse, wildlife-rich regions, and the communities that live there and rely on the local environment and natural resources. Nearly one-third of the proposed pipeline would be constructed in the Lake Victoria freshwater basin, which supports the livelihoods of over 40 million people.³ The planned route would also cross numerous watercourses, utilizing a low-cost method to do so that does not meet industry best practice.⁴ An oil spill or leak could have catastrophic and irreversible effects on these vital freshwater resources.

The pipeline poses extensive biodiversity risks. Renowned American ecologist Bill McKibben commented in 2020 that “the proposed route looks almost as if it were drawn to endanger as many animals as possible.”⁵ On its way from Uganda to the Tanzanian coast, the pipeline will disturb nearly 2,000 square kilometers of protected wildlife habitats, including among others the Murchison Falls National Park and multiple forest reserves, critical to the preservation of vulnerable species like the Eastern Chimpanzee and the African Elephant.⁶ The pipeline is also slated to run near or through several legally protected biodiversity areas, including several Ramsar Wetland of International Importance protected under international law.⁷ The likelihood of a spill or leak impacting these areas is high, given that the pipeline will traverse an active seismic zone.⁸

Negative Impacts on Local Communities

As currently planned, the EACOP will pass through 178 villages in Uganda and 231 in Tanzania, leading to massive physical and economic displacement.⁹ An estimated 14,000 households across Uganda and Tanzania have lost or will lose land as a result of the pipeline and oil development, [and hundreds of families will need to be resettled](#).¹⁰ Since the commencement of the land acquisition and resettlement processes for the upstream oil development and infrastructure projects related to the pipeline, communities report a lack of transparency and delays in compensation, which have impacted livelihoods,

³ Oxfam Int'l et al., [Empty Promises down the Line? A Human Rights Impact Assessment of the East African Crude Oil Pipeline](#) (Sept. 2020), p. 71 & n.340.

⁴ Netherlands Commission for Environmental Assessment (NCEA), [Advisory Review of the Environmental and Social Impact Assessment for the East Africa Crude Oil Pipeline \(EACOP\) Uganda](#) (27 June 2019), sections 2.3 & 3.3 (discussing water and wetlands crossing and water use).

⁵ Bill McKibben, [With a New Pipeline in East Africa, an Oil Company Flouts France's Leadership on Climate](#), New Yorker, 10 Sept. 2020.

⁶ WWF & Civil Society Coalition on Oil and Gas in Uganda, [Safeguarding people & nature in the East Africa crude oil pipeline project: A preliminary environmental and socio-economic threat analysis](#) (2017), p. 1; Les Amis de la Terre & Survie, [A Nightmare Named Total: An Alarming Rise in Human Rights Violations in Uganda and Tanzania](#) (Nov. 2020), p. 24; NCEA, Advisory Review of EACOP ESIA (Uganda), *supra* note 2, at section 3.4; NCEA, [Advisory Review of the resubmitted Environmental and Social Impact Assessment for the East Africa Crude Oil Pipeline \(EACOP\)](#) (Oct. 2020), section 3.7.

⁷ Banktrack, [Crude Risk: Risks to banks and investors from the East African Crude Oil Pipeline](#) (Nov. 2020), at 2, 8. *See also* [Ramsar Sites Information Service](#) (last accessed Jan. 14, 2021) (filtered to show Ramsar sites in Uganda and Tanzania); Total, [Tilenga ESIA Non-Technical Summary](#) (Feb. 2019), at pp. 8, 71 (“The Project Area . . . includes the Murchison Falls-Albert Delta Wetland System Ramsar site along the Victoria River Nile. . . . Potential impacts to the Murchison Falls–Albert Delta Wetland System Ramsar site were assessed to be High Adverse to Critical for all Project phases.”); Total East Africa Midstream BV, [East African Crude Oil Pipeline, Tanzania: Environmental Impact Statement Non-Technical Summary](#) (Aug. 2019), at p. 12, (describing legally protected, internationally or nationally recognized areas affected by the pipeline, including forest reserves).

⁸ The pipeline will cross the Rift Valley, one of the world's most geologically active regions, with over 300 seismic events with a magnitude greater than 4.5 having been registered in this region in the last 20 years. See USGS, [Earthquake Hazards Program](#) (last accessed Jan. 13, 2021).

⁹ Les Amis de la Terre & Survie, [A Nightmare Named Total](#), *supra* note 4, at p. 4.

¹⁰ Oxfam, [Empty Promises Down the Line](#), *supra* note 1, at p. 5 & n. 3 (citing Total/EACOP response to Oxfam questions).

exacerbated food insecurity and disrupted school attendance.¹¹ Independent assessments have also documented intimidation and manipulation of local landowners in the valuation of property for calculating compensation.¹² These impacts have gendered effects, disproportionately harming the rights of women and girls in the region.¹³

Lack of Meaningful Community Consultation, Disclosure and Transparency

We are also concerned that vital documents, including environmental and social impact assessments, land acquisition and resettlement plans, and oil spill contingency plans, have either not been published in full or in advance of project-related approvals, have not been provided to affected communities and civil society in an accessible form, or have been determined inadequate upon independent examination.¹⁴ None of the assessments has been accompanied by meaningful community consultation and consent processes.¹⁵ In November 2020, a coalition of civil society organizations brought a case to the East African Court of Justice alleging that Uganda's and Tanzania's signature of host government and intergovernmental agreements concerning EACOP prior to the proper submission and approval of the requisite environmental and social impact assessments violates national law and the East African Community Treaty.¹⁶ The case also alleges that the environmental assessments conducted by Total did not include necessary human rights or climate impact assessments.¹⁷

By contrast, two recent community-based human rights impact assessments of EACOP and associated oil developments reveal profound ongoing and potential human rights abuses.¹⁸ These include violations of land and property rights, the destruction of livelihoods, the degradation of the local environment, and adverse health impacts already being experienced by local communities. They also document a lack of transparency and access to information about the project and its impacts.

Repression of Human Rights & Environmental Defenders

In addition to these significant deprivations of social and economic rights, and the denial of access to information and consultation, human rights defenders and journalists who have criticized the project and associated facilities have faced harassment, intimidation, and retaliation, or threats thereof. In September 2020, for example, nine Ugandan environmental and human rights defenders were arbitrarily arrested and detained by authorities for challenging oil development in the country and other threats to local forests and biodiversity.¹⁹ The significant security and human rights risks surrounding the oil development and

¹¹ *Ibid* at pp. 10-16. See also Liam Taylor, Reuters, "[Families left in limbo as Uganda oil project earmarks land](#)" (2020).

¹² FIDH & FHRI, [New Oil, Same Business? At a Crossroads to Avert Catastrophe in Uganda](#) (September 2020), section III.2; FIDH et al., [Oil in East Africa: Communities at Risk](#) (2020), at pp. 10-13.

¹³ See generally Oxfam, [Gender Analysis of East Africa Crude Oil Pipeline Environmental and Social Impact Assessment](#) (Aug. 2019); see also FIDH et al., *Oil in East Africa: Communities at Risk*, *supra* note 10, at 11.

¹⁴ Independent reviews of the ESIA for the EACOP and related oil developments raised numerous concerns. See Netherlands Commission for Environmental Assessment advisory reports and documents related to EACOP and developments in Uganda and Tanzania. NCEA, [Project 7228: ESIA EACOP Oil Development - Uganda. Civil society organizations have highlighted the inadequacy of public consultation processes in Uganda and Tanzania—including the lack of any public consultations on the ESIA for the Tanzania section of the EACOP—and deficiencies in the scope and content of the studies. See, e.g., Africa Institute for Energy Governance \(AFIEGO\), Monthly Newsletter November 2020, "NEMA Violated Environmental Laws in EACOP ESIA Decision-Making! Ugandans Must Act to End Violations!", at 2-6; Les Amis de la Terre & Survie, *A Nightmare Named Total*, *supra* note 4, at p. 24.](#)

¹⁵ AFIEGO monthly newsletter, *supra* note 12; see also AFIEGO et al., [Open Letter to the Presidents of Uganda and Tanzania: Champion Environmental Conservation and Community Livelihoods Over the EACOP](#) (Sept. 2020); AFIEGO, [Petition to Total and other EACOP project developers to safeguard people and nature over the EACOP](#) (Nov. 2020).

¹⁶ Natural Justice, [Natural Justice joins legal challenge against the East Africa Pipeline](#) (Nov. 25, 2020).

¹⁷ *Ibid*.

¹⁸ Oxfam, *Empty Promises Down the Line*, *supra* note 1; FIDH & FHRI, *New Oil, Same Business?*, *supra* note 10.

¹⁹ FIDH, [Uganda: Arbitrary detention and subsequent release of nine environmental human rights defenders](#) (Sept. 18, 2020).

pipeline project have attracted international scrutiny, including from UN Special Rapporteurs on human rights.²⁰

Despite these risks, local groups remain vocally opposed to the project.²¹ The pipeline has increasingly garnered public attention, with a transnational network of civil society groups raising awareness of its risks and publicly challenging its development. As of December 2020, a petition to stop the pipeline has over 1 million signatures.²² Nearly 25,000 signatories support a separate call for private banks to refrain from financing the project.²³ The Total-led oil development and EACOP project are subject to multiple ongoing legal challenges in Ugandan court,²⁴ French court,²⁵ and at the East African Court of Justice.²⁶

In the face of all these risks and legal challenges, EXIM should bear in mind that Shell Nigeria was recently held liable for the consequences flowing from leakage of two pipelines at Oruma and Goi in Nigeria.²⁷ This case further demonstrates the high-risk profile of fossil fuel investments of this nature.

Counter to International Climate Goals

The construction of EACOP will unlock commercial exploitation of multiple oil fields in landlocked Uganda. Further expansion of the fossil fuel industry, including the construction of new oil pipelines and related infrastructure, is incompatible with the goals of the Paris Climate Agreement and manifestly irresponsible at a time when the catastrophic impacts of global warming are becoming increasingly clear.²⁸ As such, we consider the project to present unacceptable risks to people and the planet.

President Biden's executive order on climate change and the recent announcement by Special Envoy for Climate John Kerry commit EXIM and other U.S. agencies to end their support for overseas fossil fuel projects.²⁹ A decision by EXIM to support oil production in Uganda and/or associated infrastructure, including EACOP and related transport, refining, service or export projects, would stand directly at odds with that commitment. According to the project's website, the EACOP will carry 216,000 barrels of crude oil per day at 'plateau production.'³⁰ The emissions from burning that oil would release an estimated 34.3 million metric tons of CO₂ equivalent (CO₂e) per year,³¹ an amount that dwarfs the current annual fossil

²⁰ [Letter](#) from Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; and the Special Rapporteur on the situation of human rights defenders to Mr Patrick Pouyanné, the CEO of Total (Apr. 20, 2020).

²¹ Open Letter, *supra* note 13; AFIEGO, "[Total, Stop Land and Other Rights Abuses Against the EACOP-Affected People! Urgently Pay the People Their Compensation!](#)", The Energizer: AFIEGO's Monthly Newsletter, Issue 10 (Oct. 2020).

²² Avaaz, [Stop This Total Madness: To Total CEO Patrick Pouyanné and all backers of the EACOP project](#) (last accessed Jan. 13, 2021).

²³ 350.org, [Standard Bank and Sumitomo Mitsui Banking Corporation: Don't finance the East Africa Crude Oil Pipeline](#) (last accessed Jan. 13, 2021).

²⁴ AFIEGO, [Youth and CSO Case Against Tilenga EIA Certificate Set for Hearing Today](#) (Oct. 1, 2019); [Tilenga ESIA certificate: CSOs want court to strike out NEMA's evidence](#), Oil in Uganda (Nov. 22, 2019).

²⁵ Amis de la Terre & Survie, [Total Uganda: A first lawsuit under the duty of vigilance law: an update](#) (Oct. 2020).

²⁶ Natural Justice, [Natural Justice joins legal challenge against the East Africa Pipeline](#) (Nov. 25, 2020).

²⁷ Business and Human Rights Resource Centre, [The Shell Nigeria Cases – an important precedent for transnational liability claims](#) (Jan 29, 2021)

²⁸ *See generally* Intergovernmental Panel on Climate Change (IPCC), Global Warming of 1.5°C: [An IPCC Special Report](#) on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty (2018).

²⁹ President Biden, [Executive Order on Tackling the Climate Crisis at Home and Abroad](#), sec. 102(h), Jan. 27, 2021; John Kerry remarks, World Economic Forum, [Mobilizing Action on Climate Change](#), time 13:03, Jan. 27, 2021.

³⁰ East African Crude Oil Pipeline, <https://eacop.com/> (last accessed Jan. 14, 2021).

³¹ ELAW Evaluation of the ESIA for the East Africa Crude Oil Pipeline Tanzanian Span, at p. 9.

fuel emissions of Uganda and Tanzania combined, and is roughly equivalent to Denmark's annual emissions,³² or the carbon footprint of nearly nine coal-fired power plants.³³

We need decisive action to shift public finance away from fossil fuels and towards a green, healthy, and globally just recovery from COVID-19 and the ensuing economic crises. As the Communiqué of the 2020 Africa Energy Leaders Summit stated, we need governments “[t]o put an end to fossil fuel development; to manage the decline of existing production of oil, gas, and coal; and to rapidly initiate a transition to clean and safe renewable sources of energy that fully supports access to energy for those who currently lack it.”³⁴

Conclusion

Climate leaders do not bankroll fossil fuel projects. In 2021, as the climate crisis mounts and communities across the globe face its dire consequences, EXIM should refuse to use U.S. taxpayer dollars to pay for oil development. New oil production will only exacerbate global warming and lock-in dangerous fossil fuel infrastructure at a time when the world needs to be shifting decisively away from carbon-based fuels. Given the gravity of the risks posed by the EACOP and associated oil developments and the harms already manifesting, it is apparent that compliance with national laws and international standards, including the Equator Principles required by EXIM, will be extremely challenging if not impossible, especially in unstable and high-risk contexts where civil society actors are not able to freely express their views.

In accordance with your human rights obligations as a government agency, as well as the OECD Common Approaches,³⁵ the information we have provided should inform your human rights due diligence, which we believe should result in a decision to reject any potential applications for support related to the EACOP or associated activities. We urge you to instead seek opportunities to support the development of renewable infrastructure to meet communities' energy needs in a clean and human rights-compatible manner. We welcome the opportunity to discuss these matters further and look forward to receiving a response from you. Please contact Kate DeAngelis, Friends of the Earth US, with your response and to arrange a virtual meeting.

Sincerely,

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³² Denmark's annual emissions in 2017 were 34.79 million metric tons. For a comparison of the annual CO₂ emissions of Uganda, Tanzania and Denmark, see: Hannah Ritchie and Max Roser (2017) - "[CO₂ and Greenhouse Gas Emissions](#)". Published online at OurWorldInData.org. Source data retrieved from Global Carbon Project; Carbon Dioxide Information Analysis Centre (CDIAC) (2017).

³³ 34.3 million metric tons of CO₂/CO₂e is roughly equivalent to the emissions of 8.8 coal-fired power plants in one year: See US Environmental Protection Agency (EPA), [Greenhouse Gas Equivalencies Calculator](#) (2020).

³⁴ [Communiqué of the 2020 Africa Energy Leaders Summit on Climate Change, Energy, and Energy Finance](#) (Jan. 2020), at p. 2.

³⁵ Organisation for Economic Co-operation and Development Working Party on Export Credits and Credit Guarantees, Recommendation of the Council on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence (The “Common Approaches”) (2016).

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