



STATEMENT

Brazil: Power Plant Construction in Amazon Violates Freedom of Expression and Information of Affected Communities

São Paulo, April 20 2011 – ARTICLE 19 welcomes the decision of the Inter-American Commission on Human Rights to grant provisional measures against Brazil. The decision concerns the case of 10 indigenous groups who have asked the Brazilian authorities to halt the construction of the Belo Monte Power Plant, in the Amazon. The Commission has ruled that Brazil had not conducted an adequate consultation process with those groups before authorizing the construction of the plant.

The Belo Monte Dam is a proposed hydroelectric dam complex on the Xingu River in the state of Para in Brazil that will generate allegedly 11.233MW. The construction is said to threaten the land of several indigenous tribes and their vital food supplies. It is argued that if built, the Belo Monte Dam would flood 516 square kilometres of an area inhabited by a number of indigenous communities, bring huge devastation to the rainforest and reduce fish stocks upon which the indigenous populations rely for their survival. The project has been repeatedly criticized for the structural lack of transparency throughout the whole review and assessment process.

After more than 17 years of discussions and controversies, the plant was approved by the Brazilian Congress in an exceptionally speedy process in 2005. Since then, a number of judicial avenues have been used by different groups to halt the construction of the dam. Traditional communities, indigenous leaders and environmental organizations have continuously opposed the project because of its dramatic and unjustifiable impact on the local communities and the environment. They have also argued that the plant will be located too far away from the urban and industrial centres it will serve.

Some experts also noted that that the size and capacity of the plant are technically outdated. They deem the plant to be in contradiction with the findings of recent studies and best-practice which recommend the use of smaller facilities and dams. The project will require the removal of 60 million cubic meters of rock and 150 million cubic meters of earth.

In February 2010, the Brazilian Institute for the Environment and Renewable Natural Resources (IBAMA) issued the Preliminary License for the construction of the power plant.

According to IBAMA's Preliminary License, the entrepreneurs in charge of the project had to comply with a list of 40 conditions in order to continue the work. These conditions included, for example the development of plans for the environmental recovery of degraded areas; the creation of an inter-ministerial working group to follow up the project; the development of programmes for the urban centres around the project so that they could support the new population expected to move to the region as a result of the new plant; measures to assist in the expansion of monitoring schemes to prevent environmental crimes in the region; ensuring that traditional communities relying on the Volta do Xingu for their subsistence would not have their productive activities jeopardized by the construction; ensuring that indigenous communities would not be forced to replace traditional fluvial transportation routes for terrestrial ones.

On January 26, 2011, IBAMA issued a Partial Installation License approving the continuity of the project. The approval followed the resignation of IBAMA's President and rumours that the government and construction companies had pressured IBAMA into issuing the license, despite the fact that all the preventive and mitigation requirements listed in the Preliminary License had not yet been fully observed.

According to the Public Prosecutor's Office in the State of Para which reviewed the files of the license procedure, only 11 out of the 40 conditions listed in the 2010 license had been implemented and an additional 2 had been only partially observed. There was no information about the remaining 27 conditions. The Prosecutor's Office also established that there was no information available about 6 of the 26 additional conditions established by the indigenous rights body (FUNAI – National Indigenous Foundation).

Under the Public Prosecutor's request, a Federal Judge of the 1st Circuit cancelled the Partial Installation License. IBAMA appealed and the Federal Court of the 1st Circuit modified the decision, re-validating the license. The case continues to be discussed in the Judiciary.

Affected groups complained to ARTICLE 19 about a range of other violations to the right to freedom of expression and information. Their critiques include:

- **Lack of public participation in the process**

In September 2009, four public hearings were held in the municipalities of Novo Brasil, Vitória do Xingu, Altamira and Belém to allegedly promote local participation in the licensing process. Local groups have complained that four hearings for such a vast project are insufficient. They also reported to ARTICLE 19 that these public hearings were not adequately publicized and that they were difficult to access. In some cases, communities had to travel up to two days by bus or boat to take part in the debates. No means of transportation or lodging were provided.

These hearings were also partial in that the majority of the invited panellists put forward a point of view in favour of the Belo Monte dam and the viability of the project. Different opinions had to be presented by members of the audience through short oral interventions.

- **Lack of available information**

The 20,000-page report on the environmental impact of the dam, including on the situation of indigenous peoples, was released only two days before the first public hearing in September 2009. The document was written in a technical language, and no efforts to communicate its content in a simpler, easier way have been made. During the September 2009 public hearings, when doubts on impacts and mitigation measures were raised, panellists suggested that people should read the recently-disclosed report and had no other concern but to inform the audience about the opportunity and adequacy of the project.

According to a panel of specialists¹ that reviewed the official Environmental Impact Assessments, key information was not disclosed or produced. There remains till this date many questions and uncertainties regarding the impact of the project on health, fluvial transportation, fishery, aquatic animals and the quality of water, among others

- **Failure to make information available in indigenous languages**

All documents and presentations were produced in Portuguese, ignoring traditional languages and regional particularities. The lack of translation during public hearings jeopardized the

¹ Magalhães, S. e Hernandez, F. (orgs). 2009. Painel de Especialistas: análise crítica do Estudo de Impacto Ambiental do Aproveitamento Hidrelétrico de Belo Monte. Belém, 29 September 2009. Available in Portuguese at http://boelllatinoamerica.org/downloads/Painel_de_especialistas.pdf

possibility of indigenous peoples to express freely their concerns and doubts, and also to be properly informed.

- **Excluded voices and improper consultation**

According to international standards and Brazilian legislation, indigenous peoples had to be consulted before the National Congress passed the dam's clearance, as well as during the whole licensing process. However, no public hearing or other public consultations were held before the Lower House and the Senate discussed the legislative decree authorizing the dam.

On the other hand, studies assessing impacts and viability of the project have failed to include the point of view of ethnic communities. Because the Environmental Assessment Reports underestimate the number of those affected, the views of thousands of people inhabiting the Xingu basin have not been heard.

Additionally, according to indigenous leaders and the Prosecutor's Office, meetings held in August and September 2009 were not proper consultations. Indigenous groups were not informed that those meetings were, in fact, consultations and they were not conducted as consultations. On the contrary, indigenous groups were allegedly misled to believe that those were informal meetings aimed to provide preliminary information to the groups and that formal consultations would be organized later. It was only after a couple of months that the groups were informed that those meetings were the only opportunity they had to express their views, concerns and doubts about the project and that authorities considered the consultation process to be finalized. The August and September 2009 meetings were all recorded in audio and video.

A Technical Opinion issued by FUNAI after these meetings already pointed out that there were diverse opinions among the indigenous peoples about the construction of the dam, but no other effort to build on their views and reach a consensus took place after that.

- **Intimidation of indigenous communities**

Heavily-armed members of the National Force of Public Safety, Federal Police and Military Police controlled the access to the public hearings, and banned traditional ornaments. Armed Officials were present throughout the hearings, supposedly to ensure its safety. Those present have affirmed, however, that the main objective was to intimidate the audience and suppress strong demonstrations against the project.

On April 1st, the Inter-American Commission granted provisional measures to the 10 indigenous groups against Brazil. The decision requests the Brazilian Government to (i) organize a free, informative, culturally adequate and good-faith consultation processes with each of the traditional communities; (ii) ensure that affected communities have access to the Environmental Assessment Report in an accessible format and in their own languages; (iii) safeguard these communities' life style, health and physical integrity.

Following the granting of the provisional measures by the Inter-American Commission, many members of the Brazilian government have publicly expressed strong dissatisfaction and opposition to the Commission's decision which it considered "precipitated and unjustifiable."

ARTICLE 19 welcomes the decision of the Inter-American Commission to grant the provisional measures and calls on the Brazilian government to fully respect and implement the decision.

In particular, ARTICLE 19 calls on the Brazilian government to stop putting pressure on the local authorities so that they give their immediate approval to the Belo Monte.

ARTICLE 19 asks from the Brazilian Government that it enters into a good faith dialogue and consultation with the communities that will be affected by the Belo Monte plant and to fully uphold their right to receive information and to freely form their opinions about the project.

The Brazilian Government should also ensure that these opinions are seriously taken into consideration when determining the environmental and social feasibility of the project and identifying the mitigation measures.

Exhaustive information about the Belo Monte approval process must be available not only to those directly affected, but to all Brazilians interested in learning about the government's plans for the energy sector, and all those concerned with the Amazon environment and rights of the Xingu communities.

In 2012, Brazil will host the Earth Summit, also called Rio 20 due to the initial conference held in Rio in 1992. The Summit is designed to set the agenda for the future relating to sustainable development and to "secure renewed political commitment for sustainable development, assessing the progress to date and the remaining gaps in the implementation of the outcomes of the major summits on sustainable development and addressing new and emerging challenges."

Principle 10 of the 1992 Rio Declaration on Environment and Development sets out the necessary elements for sound environmental governance - the rights of access to information, public participation, and access to justice. It states:

"Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided."

ARTICLE 19 calls on the Brazilian government to abide by the decision of the Inter-American Commission, to honour the commitments of the 1992 Rio Declaration and thereby set a more coherent and consistent basis for its leading role in Rio 2012.

NOTES TO EDITORS:

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- ARTICLE 19 is an independent human rights organisation that works around the world to protect and promote the right to freedom of expression. It takes its name from Article 19 of the Universal Declaration of Human Rights, which guarantees free speech.