

The East African Crude Oil Pipeline: New risk developments

While plans to build the East African Crude Oil Pipeline (EACOP) through Uganda and Tanzania are progressing, major regulatory and financial hurdles for the project remain. Human as well as environmental impacts and risks remain unaddressed, and are in many cases worsening.

This briefing paper sets out key new developments since our the November 2020 Finance Risk Briefing on the EACOP project.¹

1. Project updates

Agreements signed but not disclosed

During the first half of 2021, several project agreements were signed to progress the EACOP, although the project has not yet reached financial close. On April 11th, the Host Government Agreement (HGA) with Uganda; the Shareholders Agreement as well as Tariff and Transportation Agreement were signed.² On April 23rd, the Resettlement Action Plan (RAP) for the Ugandan part of the pipeline was approved by the Ugandan government.³ On May 20th, the HGA with Tanzania was signed.⁴

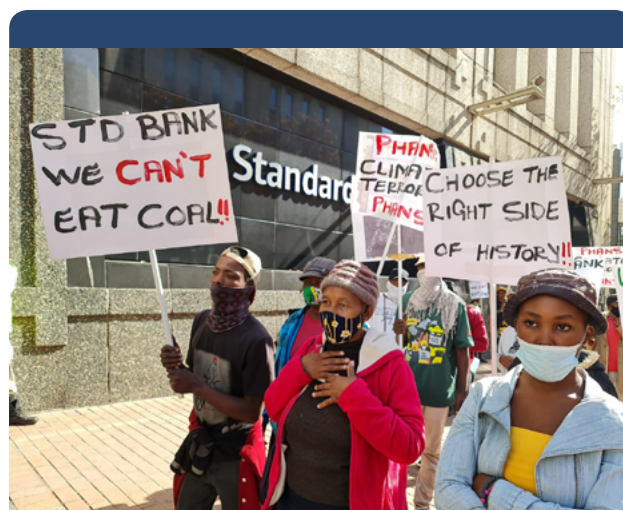
With the exception of the RAP, these agreements have not been made public. This lack of transparency was condemned in an open letter from Africa Institute for Energy Governance (AFIEGO) and a coalition of civil society organisations, including for non-adherence to the Extractive Industries Transparency Initiative (EITI) commitment to contract transparency. Both Uganda and Tanzania are signatories to the EITI.⁵ AFIEGO further noted a failure to process the RAP report alongside the Environmental and Social Impact Assessment (ESIA) report, as required under local law.⁶

Project costs grow

Information from TotalEnergies provided in response to questions at its Annual General Meeting (AGM) reveals that the costs of the EACOP have grown from a previously expected \$3.5 billion to \$5 billion.⁷ The project sponsors plan to finance the project with \$2 billion of equity from the shareholders (TotalEnergies, CNOOC Ltd, Tanzania Petroleum Development Corporation (TPDC) and Uganda National Oil Company (UNOC)) and \$3 billion of external financing.

Growing reluctance among potential financiers

A growing list of financiers have distanced themselves from the EACOP, with at least seven commercial banks now having declared that they will not join the project finance loan.⁸ News that French banks would not finance the project was welcomed by the French Minister of the Ecological Transition.⁹



Protests outside Standard Bank's 2021 AGM
Credit: Earthlife Africa

The project has also been refused support from insurers and export credit agencies. In July, AXA made clear it would not support the EACOP, stating: “The underlying project is not compatible with our climate commitments.”¹⁰ The UK export credit agency, UK Export Finance (UKEF), has also turned down an application for finance following a UK government decision to cease finance for fossil fuel projects overseas.¹¹ In April 2020, the African Development Bank declared that it would not finance the pipeline.¹²

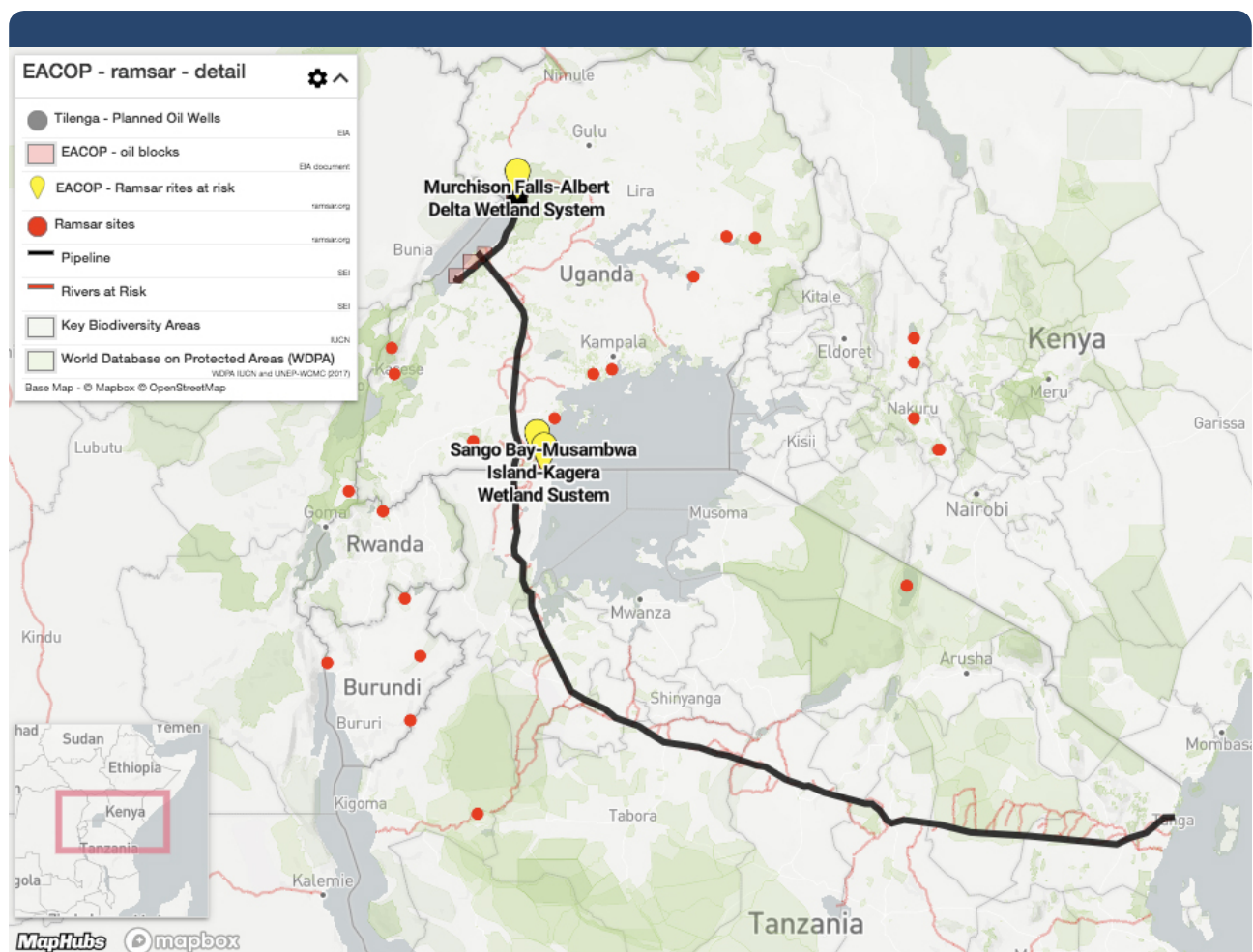
International opposition builds

The opposition to the EACOP project internationally is growing. The annual general meetings of Standard Bank, a potential major financier of the project, and TotalEnergies in May 2021 saw protests in front of bank headquarters, of Total gas stations and other locations in many countries around the world. Grassroot activists from Manila to Johannesburg, and Berlin to Kampala joined the call to #StopEACOP, and globally-known climate

justice advocates Greta Thunberg and Vanessa Nakate voicing opposition to the project.¹³ This growing attention on the project from international campaign groups poses a significant reputational risk, not just to project sponsors but also to prospective financiers of the project.

New spatial mapping of EACOP risks

A new spatial risk analysis of the EACOP by Stockholm Environment Institute (SEI) brings new clarity to the potential environmental impacts and risks that this project could pose to local communities. SEI performed a spatial overlay of the planned pipeline trajectory and biodiversity and conservation, water resources, communities and seismic zones. The analysis shows Ramsar wetland sites, population centers and rivers and lakes at risk.¹⁴



The EACOP: Ramsar sites at risk

Map: Stockholm Environment Institute

2. Human rights impact updates

The human rights risks of the EACOP project and the related Lake Albert oil extraction projects, Tilenga and Kingfisher, have been extensively documented, for example in Community Human Rights Impact Assessments by Oxfam and the International Federation for Human Rights (FIDH).¹⁵ As recently as March 2021, FIDH, cautioned that a large proportion of its concerns remain unaddressed and the situation for impacted communities “remains dire.”¹⁶

“In both Uganda and Tanzania, a large portion of our core recommendations are still unaddressed and the situation for impacted communities remains dire.” - FIDH

Although pipeline construction has not yet commenced, route planning and land acquisition have already caused adverse human rights impacts on communities along the pipeline’s route. Banks and other financiers that provide finance or advisory services to the EACOP project are linked to these impacts, leading to responsibilities under the UN Guiding Principles and OECD Guidelines.¹⁷ These impacts may also contribute to risks of financial overruns and further legal claims.

Communities still not compensated as adverse impacts continue

Communities have faced restrictions on the use of their land since as early as March 2018, and are still awaiting the compensation they are due. As an April 2021 journal paper concluded, with reference to IFC Performance Standard 5 on Land Acquisition and Involuntary Resettlement:

“[I]t is very evident that the EACOP project has failed in relation to its obligations to minimise the time between cut-off date and compensation/resettlement.”¹⁸

Ugandan civil society has continued to engage project-affected people. A report from AFIEGO, based on interviews with people from 87 communities affected by the EACOP project’s land acquisition processes in April 2021, shows the multiple impacts that project-affected people (PAPs) are facing.¹⁹ These include, among others:

- Land acquisition and cut-off dates: PAPs have been prevented from growing perennial crops, refurbishing their properties and setting up any new developments. People report frustrations ranging from being unable to choose where to bury family members, to being unable to “do little things such as rebuilding their families kitchens”.
- Intimidation: PAPs with disputes around property valuations report ongoing intimidation from security agents, including Resident District Commissioners and District Police Commanders (DPCs).
- No consultation on compensation rates: Uganda’s 1998 Land Act requires consultation on compensation rates, but PAPs say they have not been consulted, facilitating the under-valuation of property in several districts.

Alongside these impacts, the engagements showed communities’ widespread and well-founded fears of negative impacts from the pipeline on people’s health and other human rights, on wildlife and on critical biodiversity.

New arrests of human rights defenders

People whose land is being compulsorily acquired for the EACOP project continue to face intimidation from people associated with the project while seeking to register compensation-related challenges.²⁰ May saw the arrests of a Ugandan human rights defender and an Italian journalist in Uganda’s Buliisa district, while they documented the human rights abuses meted out against the Tilenga oil project-affected communities.²¹

Those arrested were AFIEGO's Buliisa district Field Officer Maxwell Atuhura and the Italian freelance journalist Federica Marsi. Ms. Marsi was released on May 25th, 2021, while Mr. Atuhura was detained for two nights, first in Buliisa on May 25th and then in Hoima on May 26th. He was released on police bond in the evening of May 27th, 2021 after being charged with 'unlawful assembly', a trumped-up charge often used against human rights defenders. The arrest was both arbitrary and unlawful.²² This follows previous arrests noted in the November 2020 Finance Risk Briefing, and is a further sign of the challenges that local civil society faces in defending their rights and livelihoods.

“It is very evident that the EACOP project has failed in relation to its obligations to minimise the time between cut-off date and compensation/resettlement.”

- Tom Ogwang, Frank Vanclay,
“Cut-off and forgotten?”, 2021

3. Legal and stranded asset risk updates

New legal challenge at EACJ

In November 2020, a new court case was filed at the East African Court of Justice (EACJ), aiming to nullify the agreements for the EACOP's construction.²³ The petitioners, including Center for Food and Adequate Living Rights (CEFROHT), AFIEGO, Natural Justice and the Center for Strategic Litigation in Tanzania, are seeking a declaration that the EACOP is a violation of the fundamental rights of the people of East Africa. They claim that the pipeline will endanger lives and livelihoods along its path, as it traverses forests, lakes, wildlife habitats, farmlands and settlements. The first hearing was held on 2nd July 2021. Recently, the petitioners also filed an application for a temporary injunction to stop the project.

IEA calls time on new oil developments

The International Energy Agency (IEA) published its Net Zero by 2050 roadmap in May 2021, the agency's first ever effort to model a comprehensive energy pathway towards limiting global warming to 1.5 degrees Celsius. The scenario finds “no need for investment in new fossil fuel supply”, and shows clearly that new oil infrastructure like Tilenga and EACOP is incompatible with the global climate goals established by the Paris Climate Agreement.

4. New disclosures from TotalEnergies downplay impacts

On March 8th, 2021, TotalEnergies issued a series of statements and disclosures on its website describing its environmental and social risk assessment and mitigation strategies as “rigorous”, and claiming to be acting “responsibly and transparently” on the social and environmental issues related to the projects.²⁴ However, reports published by FIDH and Oxfam, as well as external reviews of the Tilenga and EACOP projects in Uganda conducted by E-Tech International, refute this claim.²⁵

The #StopEACOP Alliance examined TotalEnergies' claims and the previously confidential reports and released a detailed statement in response.²⁶ The statement details how Total has downplayed the scale of land loss resulting from the EACOP project, showing that around 13,000 households across Uganda and Tanzania - accounting for more than 86,000 individuals - have lost or will lose land as a result of the EACOP, and a further 4,865 households (31,716 individuals) are affected by the related Tilenga oil project. In contrast, Total claims that "the Tilenga and EACOP projects require the acquisition of 6,400 hectares of land, on which the primary residences of 723 households are located."

Total also claimed that it has restricted the footprint of the Tilenga project within Murchison Falls National Park (MFNP) to only 1% of park land and limited the number of "well locations" to ten. However, of the total number of 400 oil wells to be drilled under the Tilenga project, 132 wells will be drilled within MFNP (with an additional 39 potentially added later).²⁷ These impacts cannot be separated from the construction of the EACOP, without which the Tilenga project cannot proceed.

Conclusion

Some nine months after the publication of the Finance Risk Briefing on the East African Crude Oil Pipeline in November 2020,²⁸ problems abound with the proposed pipeline, while there is little sign of any meaningful steps being taken by the project sponsors to address any of the major risks identified. On the contrary, impacts on communities along the pipeline's route are growing, as project-affected people continue to await compensation, while those opposing the project face threats, intimidation and arrest.

Further, the IEA's modelling concludes that reaching net zero by 2050 does not require any new investments in fossil fuel projects. This makes clear that banks committed to support the aims of the Paris Agreement, for example under the Principles for Responsible Banking or the Net Zero Banking Alliance, have no option but to avoid finance for this project, and should rather take steps to support clean energy alternatives for East Africa.

Contact

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This update has been written by BankTrack and is endorsed by the Africa Institute for Energy Governance (AFIEGO), Both ENDS, Just Share and Inclusive Development International.

Endnotes

- 1 BankTrack, “[Crude Risk: Risks to banks and investors from the East African Crude Oil Pipeline](#)”, November 2020
- 2 “[Joint Communiqué](#) Between the President of the Republic of Uganda and the President of the United Republic of Tanzania on the implementation of the East African Crude Oil Pipeline (EACOP) Project on the 11th April 2021 at the State House Entebbe, Uganda”, April 2021
- 3 Petroleum Authority of Uganda, “[Government approves Resettlement Action Plan for EACOP](#)”, 23 April 2021. The Resettlement Action Plan is available on the EACOP project website [here](#).
- 4 EACOP, “[Project Brief: Host Government Agreement - Tanzania](#)”, 20 May 2021
- 5 AFIEGO, “[Ugandan and DRC CSOs’ Communiqué Rejecting Secret Agreements Signed For The Lake Albert Oil Project in Uganda](#)”, April 2021
- 6 AFIEGO, “[The Energiser](#)” newsletter, April 2021, page 7. While Uganda’s laws provide that Uganda’s National Environment Management Authority (NEMA) can only make a decision approving or rejecting an ESIA report based on a complete report, NEMA approved the EACOP ESIA report and issued the project developers with an ESIA certificate of approval in December 2020, yet this was based on an incomplete ESIA as the RAP was missing at the time.
- 7 TotalEnergies, “[Responses to written questions](#)”, June 2021, page 37. Note Total rebranded itself as TotalEnergies following approval from shareholders at the AGM.
- 8 The seven banks are ANZ, Barclays, BNP Paribas, Crédit Agricole, Credit Suisse, Société Générale and Unicredit. ANZ, Barclays, Credit Suisse all confirmed to BankTrack that they do not intend to finance the pipeline. See sources on <https://www.stopeacop.net/banks-checklist>.
- 9 Radio Classique, “[Sommet de Joe Biden sur le climat : « Les Etats-Unis doivent jouer un rôle fédérateur » selon Barbara Pompili](#)”, 22 April 2021. Pompili said the move “sends an important signal. We need banks, which are obviously the largest creditors, to set an example and show that investments of the future are investments that protect the climate.”
- 10 Energy Voice, “[AXA opts out of role in TotalEnergies’ EACOP](#)”, 9 July 2021
- 11 Climate Home News, “[UK rules out public subsidy for East African oil pipeline](#)”, 26 March 2021
- 12 African Development Bank, “[African Development Bank strongly rebuts claims that it plans to provide financial support to the East African Crude Oil Pipeline Project](#)”, 18 April 2020.
- 13 For example see Common Dreams, “[Despite Risks, Climate Activists Lead Fight Against Oil Giant’s Drilling Projects in Uganda](#)”, 28 May 2021
- 14 Stockholm Environment Institute, “[The East African Crude Oil Pipeline – a spatial risk perspective](#)”, April 2021
- 15 Oxfam et al. “[Empty Promises Down the Line? A Human Rights Impact Assessment of the East African Crude Oil Pipeline](#)”, September 2020; and FIDH et al., “[New Oil, Same Business? At a Crossroads to Avert Catastrophe in Uganda](#)”, September 2020
- 16 FIDH, Oxfam, “[Oxfam and FIDH respond to new disclosures by Total in East Africa, urge caution](#)”, 17th March 2021
- 17 See United Nations, “[Guiding Principles on Business and Human Rights](#)”, 2011, and OECD, “[OECD Guidelines for Multinational Enterprises](#)”, 2011
- 18 Tom Ogwang, Frank Vanclay, “[Cut-off and forgotten?: Livelihood disruption, social impacts and food insecurity arising from the East African Crude Oil Pipeline](#)”, Energy Research & Social Science, Volume 74, 2021, 101970, ISSN 2214-6296, <https://doi.org/10.1016/j.erss.2021.101970>
- 19 AFIEGO, “[The Energiser](#)” newsletter, April 2021, pages 4-7
- 20 Uganda Radio Network, “[CSOs Decry Intimidation of EACOP Affected Persons in Masaka](#)”, 10 April 2021
- 21 For example see FIDH, “[Uganda: Arbitrary detention of a HRD and a journalist working on impacts of Total projects](#)”, 26 May 2021
- 22 Mr. Atuhura’s arrest was arbitrary, since he was not made aware of the charges against him, and unlawful, as he was detained for 50 hours when Ugandan law specifies that he should have been presented to a judge after 48 hours
- 23 East African Court of Justice, [Application No. 29 of 2020](#). See also Natural Justice, “[Natural Justice joins legal challenge against the East Africa Pipeline](#)”, 25 November 2020
- 24 See, e.g., TotalEnergies, “[Tilenga & EACOP: Two Projects Rigorously Researched and Assessed](#)” and TotalEnergies, “[Tilenga and EACOP: Acting Transparently](#)”, both March 2021
- 25 See FIDH, Oxfam (op.cit.); E-Tech International, “[Review of Adequacy of Environmental Mitigation in the ESIA for the Tanzania Section of the East Africa Crude Oil Pipeline](#)”, Jun 2019; and E-Tech International, “[Review of Adequacy of ESIA for the TEP Uganda Tilenga Oil Development Project](#)”, November 2019
- 26 StopEACOP, “[Statement in Response to Total’s Recent Disclosures](#)”, April 2021
- 27 Ibid., p6
- 28 BankTrack, “[Crude Risk: Risks to banks and investors from the East African Crude Oil Pipeline](#)”, November 2020