



GARDE
Global Alliance for Responsibility, Democracy and Equity



**Raising awareness of CSR instruments and building capacity in CSOs and
Trade Unions in selected new member states**

CSR convergence monitoring

Case study report:

AS Estonian Cell

Elaborated in co-operation with Estonian Fond for Nature - Eestimaa Looduse Fondi

July 2006

© GARDE (Global Alliance for Responsibility, Democracy and Equity)
The Environmental Law Service - Ekologický právní servis

1. Description of the company

1.1. Company name

AS Estonian Cell (public limited company)

1.2. Is it a daughter company? If yes, what is a mother company?

Until beginning of 2004, the company was a daughter company of Larvik Cell Holding AS (Norway). In beginning of 2004, Austrian group Heinzl Holding GmbH (hereinafter referred to as Heinzl Group) and European Bank for Reconstruction and Development (EBRD) joined the project.

1.3. Who owns the company?

Until beginning of 2004, the company belonged to Larvik Cell Holding AS.

Since beginning of 2004, AS Estonian Cell is owned by Heinzl Group, Larvik Cell Holding, and EBRD. According to information, published in media¹, the share of all partners in the company is equally 1/3.

1.4. Is this company contractor, subcontractor, supplier, licensee or distributor of transnational corporation?

Estonian Cell is producing pulp as raw material for Heinzl Group paper mills.

1.5. Subject of company's business

The Estonian Cell operates an aspen pulp mill in North-Western coast of Estonia, designed to produce raw material for paper mills. Construction of the pulp mill was started in the end of September 2004; presently the mill is in the trial production stage which will probably end by autumn 2006.

The cost of whole project is about 2,4 milliard Estonian kroons (EEK); according to company's information, it is second biggest foreign investment in Estonia. Besides the owners, the pulp mill project is being financed by Austria Raiffeisen Zentralbank with 108 million EUR.

The mill is designed for an annual capacity of 140 000 tons of aspen pulp. This pulp is raw material for high quality paper and tissue. The wood pulp production, about 400 000 solid cubic meter of aspen logs, would be acquired in Estonia, from State Forest Management Centre (Riigimetsa Majandamise Keskus, RMK) and other sources.

¹ Baltic News Service, 05.05.2004 "Kunda puitmassitehase ehitus algab lähiajal" ("The construction of Kunda aspen pulp mill starts in near future")

2. Positive or negative company behaviour

Please mark one of the two possibilities according to what the case is about. In case of company pro active implementation of CSR and behaviour with legal conformity, select “positive”. In opposite case, please select negative.

positive **negative**

2.1. In case you ticked off “positive”, please describe, what kind of positive impact the company has.

2.2. In case you ticked off “negative”, please describe, what kind of negative impact the company has.

The aspen pulp mill is presumably with high negative environmental impact. There are two main issues, concerning the environmental impact – possible deterioration of condition of marine environment (as the waste water will be discharged to Baltic Sea) and negative impact to aspen woods (the old aspen woods are main habitats of flying squirrel). Wood production by using bad forestry practices, including violation of legal provisions, is big problem in Estonia. Therefore, great risk for deterioration of habitats of flying squirrels was anticipated by the environmental NGOs.

An environmental impact assessment was carried while the company applied for the integrated environmental permit (IPPC permit), but in the application for IPPC permit, the EIA report was quoted incorrectly and the proposed measures would not have been sufficient in order to prevent possible damage.

Although the company agreed to complement its IPPC permit with additional conditions in the beginning of year 2003, half year later it started to negotiate about the conditions, stating that these conditions are too burdening for the company.

However, it must be noted that presently the company is principally fulfilling the conditions of renewed IPPC permit and is planning to develop CSR strategy (see p 11.1 and 11.2).

3. Geographic dimension

local regional **state-wide**
 international EU-wide

4. Short description of the case

In December 2001 AS Estonian Cell decided to build a pulp mill in Kunda on Estonia's northern shore. In order to start the construction, AS Estonian Cell needed an integrated environmental permit (IPPC permit) which should have determined the conditions to prevent pollution. The permit was issued in January 2003, but was challenged by the Estonian Fund for Nature (ELF) in administrative court because of containing false information about the impacts of the plant and not determining adequate measures to prevent pollution. According to opinion of ELF, but also some independent marine scientists there was serious threat to the marine environment of the Baltic Sea. After negotiations between ELF and Estonian Cell with participation from the Norwegian parent company of Estonian Cell (Larvik Cell), an agreement was made to change the conditions of the IPPC permit.

According to this agreement, AS Estonian Cell undertook some obligations in order to reduce its environmental impact and prevent pollution (see p 9.3). The conditions were applied to a new IPPC permit that was issued in April 2003.

However, already in September 2003 Estonian Cell turned to ELF in order to start another round of negotiations about the conditions of IPPC permit because a consultant had stated that the new conditions might contain too much obligations. It has to be noted that by that time, EBRD had announced its readiness to finance the project and to be a partner in it. Nevertheless, ELF agreed to make only some changes in the permit.

As of July 2006, the plant construction has ended and the production is in the trial phase. Ordinary production will likely be started in autumn 2006.

5. Company CSR policy

5.1. What proclaims the company

Estonian Cell does not have official CSR policy. On its present webpage² there is subsection "Environment", under which the company describes its production and wastewater cleaning technology and gives a list of advantages of the technology, regarding environmental impacts. However, at the time of negotiations about the IPPC permit, the company did not have even a webpage.

5.2. What proclaims the mother company

Unfortunately there is little information about Larvik Cell Holding AS, except that the company has one large pulp mill in Norway.

However, since beginning of 2004, AS Estonian Cell has two other owners – European Bank for Reconstruction (EBRD) and Development and Heinzl Group. As these companies declared their willingness to finance the project before the second round of

² <http://www.estoniacell.ee>

amendment negotiations of IPPC permit, their strategies are relevant, regarding the present case.

EBRD has adopted an [Environmental policy](#)³, in which it proclaims that:

- EBRD recognizes that sustainable development is a fundamental aspect of sound business management and that the pursuit of economic growth and a healthy environment are inextricably linked. The EBRD further recognizes that sustainable development must rank among the highest priorities of the EBRD's activities;
- The EBRD will seek to ensure through its environmental appraisal process that the projects it finances are environmentally sound, designed to operate in compliance with applicable regulatory requirements, and that their environmental performance is also monitored;
- it will pay particular attention to requiring appropriate and efficient mitigation measures and management of environmental issues, which may have legal, financial and reputational implications, as well as environmental implications;
- it will seek to realize additional environmental benefits through the projects it finances, in particular if the projects also provide economic benefits;
- EBRD also clearly establishes the principle that a proposed project can be rejected on environmental grounds, when there are major environmental problems, or when a proposed project fails to address environmental issues in a satisfactory way.

In order to comply with its environmental mandate, policy objectives and general principles, the EBRD will pursue four strategic directions:

- (i) integrating environmental considerations into the project cycle;
- (ii) promoting environmentally oriented investments across all sectors;
- (iii) mainstreaming environmental considerations through the EBRD's sectoral and country strategies and technical cooperation activities; and
- (iv) building partnerships to address regional and global environmental issues.

In order to achieve these strategic goals, EBRD has developed more concrete measures (e.g. environmental appraisal process, evaluation and reporting system of the projects etc).

Heinzel Group proclaims in their [environmental policy](#) that for all their activities in all fields of business operations the main emphasis, in addition to the highest efficiency, is put on protecting the environment and minimizing the impact of their operations on the environment.

The group has an Environmental, Quality and Safety Policy as a part of the Group Strategy and is regarding the environmental responsibility to be one of the key factors of all group activities⁴.

³ <http://www.ebrd.com/about/policies/enviro/policy/policy.pdf>, approved by the EBRD Board of Directors on 29 April 2003

⁴ <http://www.heinzelgroup.com/> (Activities/Environment)

The more concrete promises are connected to:

1. **production:** minimizing the influences on the environment, reducing the emission of air and water pollutants etc.;
2. **raw materials and energy:** decreasing continuously consumption of them, committing to sustainable forest management and give preference to certified pulpwood as the basic raw material for production (supporting Pan European Forest Certification scheme, but being open for other certifications);
3. **products:** considering economical as well as environmental aspects during selection of raw materials and sources for production; using bleaching facilities that utilize Totally Chlorine Free and Elementary Chlorine Free technologies;
4. **management:** Heinzl Group companies have implemented quality control system certified in accordance with the norms of ISO 9002 and also to a certain extent with the norms of ISO 14001;
5. **employees:** they are acquainted with the environmental goals and requirements of Heinzl Group; the group motivates its employees to search for new ways to minimize its mills' activities on the environment and rewards these activities appropriately; regular environmental trainings at all management level are an inseparable part of group's personnel development programme;
6. **business, partners, public:** the group will intensify cooperation with its customers and suppliers following the group's Environmental Policy; the groups goals and troubles will always be made public not only for the media, but also for representatives of local authorities, state institutions and organisations. The group is ready to discuss the environmental issues with residents and will inform them of any steps it realizes and plans in this area.

6. Breach of CSR policy

In case you ticked off "positive" at question number 2. of this form, please jump to the question number 11. of this form

6.1. Does company breach its own CSR policy?

Please, be specific. Make a list and describe what is the reason, the company is breaching the CSR policy.

The company does not have a CSR policy.

However, as the investor Larvik Cell Holding was a foreign company, Estonian NGOs were expecting some kind of respect towards Estonian laws and environmental values. These were not taken fully into account in the first activities the company.

In the later stage of case when an agreement was concluded between the company and ELF (see p 9.3), the company was willing to withdraw several of the obligations agreed upon, including use of FSC certification system, stringent monitoring obligations etc.

6.2. Have you asked the company to fulfill its CSR provisions?

Not specifically. ELF and other environmental NGOs participated in EIA proceedings, making suggestions about more environmental-friendly ways to establish and operate the pulp mill, but at the time, these suggestions were not taken into account.

7. Breach of OECD Guidelines

In case you think that the company doesn't breach OECD Guidelines, please jump to the section 6 of this form.

7.1. Does the company breach OECD Guidelines for Multinational Enterprises?

No.

7.2. What article was breached?

7.3. Did you file a complaint to the National Contact Point?

No.

7.4. Do CSO-s in your country know about existence of National Contact Point?

No.

7.5. Does National Contact Point have a web site?

No.

7.6. In case of positive answer to previous question, please make a list of information published on the National Contact Point web site.

7.7. Have you asked the company to respect OECD Guidelines?

No.

8. UN Global Compact

Please, be specific. Make a list and describe what is the reason for the company to breach the UN Global Compact.

**8.1. Does the company or its mother company supports the UN Global Compact?
means: is listed as a company supporting the UN Global Compact?**

No.

8.2. Does company breach the UN Global Compact?

9. Legal aspects of the case

9.1. Is there any breach of national law?

Several breaches of national law were committed when initial IPPC permit was issued:

- 1) Estonian Cell presented false information in the application for IPPC permit, stating there is no impact of cleaned wastewater to the surrounding areas (marine environment) (the EIA report did not contain such statements);
- 2) Estonian Cell has presented a false presumption in the application for IPPC permit, stating that the production process will cause no harm even in case of accidents (again, there was no information in EIA report to support this statement);
- 3) The planned activity would have been in controversy with environmental standards (the rate of COD (Chemical Oxygen Demand) in the sea would have been 6 times over permitted rate).

As the IPPC permit was issued by an environmental authority, the main accusations were directed to breaches, committed by this authority. These breaches concerned mainly the Integrated Pollution Prevention and Control Act.

Later activity of Estonian Cell, regarding the IPPC permit, cannot be regarded as serious breach of any national laws (in this regard, see p 9.5).

9.2. Are there any legal steps that your organization or any other organization or individual person have done to oppose the unlawful behaviour of the company?

On 3rd of February 2003, ELF disputed the initial IPPC permit in court, claiming that the permit is illegal and can cause serious environmental damage (see the reasoning in p 9.1). ELF applied for nullification of the IPPC permit.

Regarding construction of plant, the local people have carried out little campaign against the project (including articles in newspaper etc.).

9.3. Have you been already successful with your legal objections?

The court case, initiated by ELF, was ended before the court sessions because of out-of-court settlement between ELF and Estonian Cell, concluded on 20th February 2003.

According to this agreement, AS Estonian Cell undertook following obligations in order to reduce its environmental impact and prevent pollution:

- I. to erase false information in the IPPC permit about missing impact of the plants wastewater to surrounding areas;
- II. to enable control of legality of the timber used in production;
- III. within 3 years to certify at least 50% of the timber with FSC certificate;
- IV. within 1 year to implement an environmental management system conforming to the ISO 14001 standard;
- V. in case the monitoring reveals significant deterioration of the condition of marine environment, take immediate measures to prevent such deterioration;

- VI. within 3 years to prepare and implement a development programme for improvement of technologies, aimed at reducing the impact of emissions;
- VII. to carry out monitoring of condition of marine environment monthly (instead of annually as stated in the initial IPPC permit) and to take additional monitoring obligations, regarding some elements (fauna, flora etc.).

The conditions were applied to a new IPPC permit that was issued in April 2003.

However, already in September 2003 Estonian Cell turned to ELF in order to start another round of negotiations about the conditions of IPPC permit because a consultant had stated that the new conditions might contain too much obligations. Estonian Cell wished to:

- postpone the obligation to develop measures for enabling control of legality of raw material for 2 years;
- not to use FSC as wood certification system;
- to procure certified wood raw material from domestic sources at least 70% of the certification degree of Estonian total productive forest area (instead of certifying at least 50% of its annual production with FSC Chain-of-custody certificate);
- to postpone the implementation of ISO 14000 standard for 3 years (instead of 1 year as agreed before);
- in case the monitoring shows deterioration of marine environment, to present a plan to the authorities to mitigate the harmful effects (instead of taking immediate measures as agreed before);
- to prepare a development programme for improvement of technologies only in condition that the programme is aimed at reducing the impact of emissions at reasonable costs and verifiable benefits in environmental protection;
- to carry out monitoring during ice and frost period only when it's safe;
- to carry out monitoring of condition of seabed flora and fauna and fish communities only for 2 years (no time limit was agreed before);
- as a bonus for environmentalists – to do its best efforts to save 5 oak trees of the 11 oak trees growing at the site of plant, but only in case the trees are “not causing any unreasonable cost, operational or quality problems to the mill or providing any safety hazards”.

Nevertheless, in result of negotiations ELF only agreed to 3 changes:

- to allow implementation of other forest certification system than FSC, but only if the system is in accordance to the criteria of FSC;
- to postpone the implementation of ISO 14000 standard for 3 years (instead of 1 year);
- to allow not to take samples for monitoring when it is not safe (because of the whether conditions).

As of July 2006, the plant construction has ended and the production is in the trial phase. Ordinary production will likely be started in autumn 2006.

9.4. What was the company's reaction to the legal steps that have been done?

The company started negotiations about out-of-court settlement 2 weeks after ELF had turned to court. In course of negotiations, Estonian Cell did not acknowledge the breaches of law, but nevertheless took substantial additional obligations, in order to prevent environmental damage in future.

However, the later request of the company to change the conditions of the IPPC permit (see p 9.3) was a bad surprise for ELF as there was no apparent reason to change the agreement. Therefore, ELF hold on to most of the conditions and the company was forced to fulfill them.

9.5. Are there any other occurrence of violations of the legal framework besides of the description of the case?

Until now, ELF has been monitoring fulfillment of the conditions of IPPC permit, especially regarding the conditions, agreed upon in the settlement between ELF and Estonian Cell. It has been turned out that there are still some deficiencies in the company's activities, regarding primarily monitoring of its possible impact to the marine environment. However, as the company promised to settle these problematic issues and the real production period has not been started yet, ELF does not consider these deficiencies as major violation of law.

9.6. In case of positive answer to your question, please specify if there had been any judicial or administrative proceedings against the company?

The Estonian Environmental Inspectorate and Regional Department of Ministry of Environment have inspected the company recently (in June 2006) and found also some deficiencies, regarding fulfillment of the permit. However, according to information in our disposal, the Environmental Inspectorate indicated rather for the need to complement the permit than for real violations of law.

10. Public awareness to negative impacts

10.1. Is general public informed about the case, about the company?

Yes. Due to the size and importance of the investment, the case has been in attention of media and several articles were published about it. When concluding the out-of-court settlement, ELF also made a press release about the event. (Press release of Estonian Fund for Nature on 12th of March 2003: ELF and Estonian Cell concluded an out-of-court settlement)

10.2. Who oppose the company activities (local community, NGOs, TUs)?

During the period of environmental impact assessment and construction, the main opponents were environmental NGOs, but presently only part of local habitants continue opposing the project.

However, the environmental NGOs are still keeping an eye on the construction and preparation works, in order to make sure that everything is done according to laws and environmental standards.

10.3. What are the results of NGOs, TUs or local community advocacy?

The results for NGOs, regarding the operation of the plant in Kunda, consist mainly in the fact that a business company with great negative environmental impact was willing to conclude an agreement with an NGO and take obligations which will hopefully take its negative impacts to minimum.

10.4. What was the attitude of public authorities?

The local municipality (town of Kunda) has been supporting the project since beginning because of its positive socio-economic impacts.

The Regional Department of Ministry of Environment was rather reluctant to admit that mistakes had been made while issuing the IPPC permit, but the authority was nevertheless ready to participate in the negotiations between ELF and Estonian Cell and was in fact one party of the concluded agreement.

11. Socially or environmentally responsible behaviour

In case you ticked off "negative" at question number 2. of this form, please jump to the question number 13. of this form

11.1. Is the positive activity done according to what the company officially proclaims as general CSR policy valid for or its activities, or does the company do it only in your case?

It has to be noted that at the present time, Estonian Cell is fulfilling the conditions of the agreement, concluded with ELF, and is about to develop its environmental policy. The main positive aspects of the company's behaviour are following:

- in June 2006 the company obtained a FSC chain-of-custody certificate (valid until 12 June 2011). The company also informed ELF that their main suppliers of wood also have FSC certificates. This will hopefully reduce the risk to habitats of flying squirrels as these habitats should be protected under principles of FSC;
- the company is planning to obtain ISO 14001 certificate for environmental management system by the end of 2006 and is currently making necessary preparations (as the ISO 14001 certificate is part of environmental policy of Heinzl Group);
- within preparations for ISO 14001 certificate a thorough environmental policy will be prepared, including environmental trainings for employees etc.

11.2. Was there any pressure from outside (NGOs campaign, community resistance, governmental initiative?) to develop CSR strategy in this case?

The plan of the company to create an environmental policy is most likely initiated by the mother companies. However, NGOs definitely have had a part in changing the IPPC permit to a more environmental-friendly document.

12. Benefits for the company

In case it is easy for you to ask directly company's representatives to help you to answer this questions, please do it... In case, you don't have enough information, please try to estimate and add to your answer: "estimation".

12.1. Is there any direct benefit for company from having higher standards?

12.2. Is there any indirect benefit for company from having higher standards?

12.3. Is there any positive reaction from the site of general public, state representatives, communities, individuals?

13. Relation to public authorities

13.1. Does local, regional, national government or EU Commission support the company in activities happening in your country?

No data available.

13.2. Is there any connection between the company and local, regional or national government?

No data available.

:::

© GARDE (Global Alliance for Responsibility, Democracy and Equity)
The Environmental Law Service (ELS) - Ekologický právní servis
Dvořákova 13, 602 00 Brno, Czech Republic
tel: +420 545 575 229, fax: +420 542 213 373
e-mail: brno@eps.cz URL: <http://www.responsibility.cz/>

Elaborated in co-operation with Estonian Fond for Nature - Eestimaa Looduse Fondi
Address: Magasini 3, Tartu, Estonia
P.O. Box: Pk 245, Tartu 50002, Estonia
tel: +372 7 428 443, fax: +372 7 428 166
e-mail: elf@elfond.ee URL: <http://www.elfond.ee/>

This case study report has been made possible through funding from the European Commission – DG Employment, Social Affairs and Equal Opportunities; and International Visegrad Fund (www.visegradfund.org). The sole responsibility of this material lies with the author (ELS). The European Commission is not responsible for any use that may be made of the information contained therein.