



CAO ASSESSMENT REPORT

**Regarding Concerns in Relation to
IFC's Investment in Condor Gold Plc (Project #32519) in Nicaragua**

March 2019

Office of the Compliance Advisor Ombudsman
for
the International Finance Corporation and the
Multilateral Investment Guarantee Agency
www.cao-ombudsman.org

About the CAO

The Office of the Compliance Advisor Ombudsman (CAO) is the independent accountability mechanism for the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA), the private sector arms of the World Bank Group. CAO reports directly to the President of the World Bank Group, and its mandate is to assist in addressing complaints from people affected by IFC/MIGA-supported projects in a manner that is fair, objective, and constructive, and to enhance the social and environmental outcomes of those projects.

For more information, see www.cao-ombudsman.org

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LIST OF ACRONYMS

AIM	Alternative Investment Market
CAO	Office of the Compliance Advisor Ombudsman
CARE	CARE International
CIEL	Center for International Environmental Law
EIA	Environmental Impact Assessment
IFC	International Finance Corporation
MARENA	Ministry of Environment and Natural Resources
MONAFMI	National Environmental Movement for Industrial Mining (Movimiento Nacional Ambientalista Frente a la Minería Industrial)
MIGA	Multilateral Investment Guarantee Agency
PFS	Pre-Feasibility Study
TSX	Toronto Stock Exchange
UNICEF	United Nations International Children's Emergency Fund

1. OVERVIEW

In July 2018, CAO received a complaint from 11 members of the Santa Cruz de la India community (the “Complainants”), in León, Nicaragua, organized as a Communal Movement (the “Movimiento Comunal” or “MC”). In their complaint, the Complainants state that they are represented by the Alexander von Humboldt Center and supported by the Nicaraguan Center for Human Rights (CENIDH), and the Center for International Environmental Law (CIEL). The complaint relates to IFC’s equity investment in La India mining project (the “Project”) owned by Condor Gold Plc. (the “Company”), which is currently in the exploration phase. The Complainants raised concerns regarding actual and potential negative social and environmental impacts related to the Project, lack of consultation on the Project by the Company and claims of threats of reprisals by the police. CAO found the complaint eligible in August 2018. During CAO’s assessment, the Company indicated a willingness to engage in a dispute-resolution process, while the Complainants preferred that the complaint be handled by CAO’s Compliance function. Since no consensus was reached on a dispute-resolution process, which is voluntary, the complaint will be referred to CAO Compliance for appraisal of IFC’s performance, in accordance with CAO’s Operational Guidelines.

2. BACKGROUND

2.1 The Project

According to IFC’s disclosures, Condor Gold Plc is a dual-listed Alternative Investment Market (AIM) and Toronto Stock Exchange (TSX) junior exploration company based in London and focused on gold exploration in Nicaragua. The Company holds a total of 313 km² of licensed concessions in Nicaragua, with ten concessions that comprise La India Mining District, the Company’s flagship project. According to the IFC, the Company holds its Nicaraguan concessions through two wholly owned subsidiaries incorporated in Nicaragua, Condor S.A. and La India Gold S.A. According to IFC Disclosure page, IFC approved an equity investment in the Company of up to US\$10 million in 2014, to support its exploration program at La India, and to fund studies required to advance the La India Project from Pre-Feasibility Study (PFS) to Bankable Feasibility Study. The Project is classified as Category B, denoting potential limited adverse environmental and social risks, that relate to the Project’s exploration activities.

2.2 The Complaint

The complaint was filed by 11 members of the Santa Cruz de la India community organized as the Movimiento Comunal in León, Nicaragua. In their complaint, Complainants claim to be represented by the Alexander von Humboldt Center and supported by CENIDH and CIEL. The complaint raises concerns regarding actual and potential negative social and environmental impacts related to the Project, including lack of consultation and information regarding the Project, depletion of underground water sources and reduced access to water for part of the affected community, risk of involuntary displacement, risk of seismic activity, and potential impacts to biodiversity and the ecosystem. The complaint also claims that the Project is in violation of national and international laws and IFC’s performance standards and access to information policy and cites intimidation and threats of reprisals by police and Company representatives, as well as criminalization of community actions in response to the Project.

3. ASSESSMENT SUMMARY

3.1 Methodology

The aim of the CAO assessment is to deepen CAO's understanding of issues and concerns raised by the Complainants, by gathering information and views from different stakeholders without making a judgment on the merits of the complaint. The assessment also seeks to determine whether the Complainants and the Company would like to pursue a dispute-resolution process facilitated by CAO, or whether the complaint should be handled by CAO's Compliance function for appraisal of IFC's performance (see Annex A for CAO's complaint-handling process).

In this case, CAO's assessment of the complaint included:

- a review of IFC Project documentation;
- meetings and calls with the IFC Project team;
- a meeting in Managua with representatives of the Humboldt Center;
- a meeting in Managua with representatives of the Company;
- two meetings in Santa Cruz de la India with the leadership of the Communal Movement, and a meeting with their Assembly (consisting of approximately 150 people);
- six meetings in Santa Cruz de la India and Agua Fría with diverse community groups who support the Project, including artisanal miners, organized by the Company;
- a Company-organized community assembly of over 500 villagers who expressed their support for the Project;
- a meeting in León with Company's representatives;
- meetings with two Catholic priests who work or have worked in the area, including one who was a mediator in the failed dialogue table with Movimiento Comunal in 2017; and
- a meeting with MONAFMI (National Environmental Movement for Industrial Mining)

3.2 Summary of views

Complainants' perspective

Water quantity and quality

The Complainants claim that exploration activities by the Company have dried out wells from which they used to get drinking water and have caused water aquifers to drop to deeper levels, resulting in water scarcity for the community. They also caution that an open-pit mine, like the one proposed by the Project, may further limit the capacity of aquifers to recharge and may threaten access to water for 16 communities in the mine's proximity. Additionally, the Complainants claim that poor water quality in the area is the result of irresponsible industrial mining practices carried out in the past, prior to the Company's involvement, which have affected peoples' health. They foresee that a new project would aggravate the situation. They believe that the government is refraining from implementing water projects in the area, so as to force the community off their land and make way for mining.

Land acquisition and resettlement

The Complainants state that the Company's original intention was to involuntarily resettle the entire community of La India, including its cemetery, and that threats were used to force families to accept resettlement. According to the Complainants, opposition by the community against resettlement forced the Company to change their plans and redesign the Project.

However, the Complainants expressed that despite communications issued by the Company that resettlement would not take place, there is still some uncertainty as to whether or not the Company will resettle them and relocate the local cemetery.

Impact on local economy

The Complainants believe the Project is incompatible with artisanal mining and will deprive the local community of the only source of livelihood they have. They claim that the local economy is growing, thanks to the local miners, but that the Project will put an end to this growth. According to the Complainants, the pit will be opened in the same area where local artisanal miners currently work, resulting in economic displacement for them and the owners of small processing plants.

Information and consultation

The Complainants claim that the Company did not consult the community when they were granted the concessions. They further claim that the Environmental Impact Assessment (EIA) was not made fully accessible to the community for thorough analysis. According to the Complainants, consultations regarding the Project purposefully excluded them and were carried out with people who were not from the community and who were paid by the Company to attend the consultations. The Complainants therefore stated that the scope of the Project is unknown to the community. Additionally, they claim that they were not invited to the public consultation events about the Project, organized by the Company in 2016 and 2018, and were subject to violence when they tried to attend.

Fear of reprisals

The Complainants stated that they feel at risk of reprisals for speaking up against the Project. They reported incidents of threats and intimidation by the police against them and other community members. They believe they are subject to such threats and intimidation from the police, who want to protect the Company's interests and suppress any opposition to the Project. The Complainants have reported police searches of some of the community members' homes without an official warrant as well as threats of arrest. The Complainants also reported to CAO that the threats and intimidation escalated during the CAO's assessment trip in November 2018 and have continued after the CAO visit. The Complainants shared videos with CAO of heavily armed police patrolling the area where the meeting with the CAO team was due to be held on November 22, 2018, and said they interpreted the police presence as intimidating. They also informed CAO that, as soon as the CAO team left town, the police went to their homes and threatened to detain some of them.¹

Several additional issues were raised in the written complaint submitted to the CAO but not raised or discussed by the Complainants during the CAO's assessment. These include:

- *IFC categorization and cumulative Project impacts.* The complaint notes that IFC has categorized the Project as Category B (denoting lower risk), due to the fact the Project is in the exploration, not exploitation, phase. However, the Complainants believe this classification is incorrect, given that exploitation is planned (albeit at Pre- Feasibility Study level), and the exploration phase has already caused serious environmental and social

¹ In response to allegations of threats and reprisals raised by the Complainants prior to and during the assessment, CAO planned and conducted the assessment trip in line with its Approach to Threats and Reprisals http://www.cao-ombudsman.org/newsroom/documents/documents/CAOApproachtoThreatsandIncidentsofReprisals_October2017.pdf

impacts. The complaint claims that IFC also did not include in their review process the cumulative impacts that will exist in the mining district in which the Project is located (which could cover up to 313 km² and grow to 13-17 times larger in terms of gold production).

- *Impacts on flora and fauna.* The complaint claims that open pit exploitation would have significant impacts on wildlife and surrounding ecosystems, specifically dry tropical forest, which is nationally threatened. The Complainants believe that mining would impact the biological connectivity between habitats within the ecosystem, deplete vegetation cover, hinder the flow of birds and small mammals between habitats, and compromise the conservation of these ecosystems on which many species depend.
- *Risk of seismic activity.* The complaint notes that the area where the community is located is an area of high seismic activity that is susceptible to landslides. The Complainants believe that the process of blasting could increase this risk, causing landslides that would jeopardize the community and workers in the area.
- *Other social impacts.* The complaint cites a number of additional social impacts including: lack of supervision of mining activities by competent authorities leading to community dissatisfaction, and concerns regarding whether people's houses will be adequately valued in the case of resettlement.

Company's Perspective

Water quantity and quality

The Company claims that water scarcity and poor water quality have been long-standing problems in the area and cannot be attributed to their exploration activities. The Project is located in the internationally recognised 'Dry Corridor' of Nicaragua, which experiences low rainfall. According to the Company, reports by UNICEF from 2003 documented a natural presence of arsenic in the water, making it unsafe for drinking purposes. They explained that this is borne out by water quality analyses which the Company has carried out since 2006 and more frequent monitoring, since 2013, in the Agua Fría micro-basin which contains seven villages, including La India. The Company further explained that sampling is done twice a year at 12 sites and this has demonstrated the presence of arsenic in the area. The sampling is carried out in the presence of government institutions and villagers representing the seven villages and results are presented to each village. According to the Company, the previous village well for La India, was closed due to high arsenic levels and replaced by one located 5km away. This new well was drilled in 2008 by CARE.

The Company also explained that in 2014 it engaged SRK Consulting (UK) Limited to conduct independent hydrogeological studies according to the PFS standard of the Canadian Institute of Mining, Metallurgy and Petroleum (CIM) for Mineral Resources and Mineral Reserves. Hydrogeological pump tests were conducted continuously for a 3-week period by lowering a pump down a disused mine shaft (monitored by an SRK consultant). The Company stated that the study demonstrated that there is 8 times more water than required to operate a 2,300tpd processing plant, which forms the basis for the PFS. The pump tests were monitored from 12 piezometers and 8 hand dug wells and demonstrated limited draw down during the pump tests. According to the Company, surface water management studies were also carried out during the PFS and for the EIA and levels of ground and surface water continue to be monitored, where access is available.

The Company explained that they are providing safe drinking water in five-gallon containers which are distributed weekly to around 350 households who wish to accept it, in the communities of El Bordo, Agua Fría, Nance Dulce and Santa Cruz de la India. They further explained that there is a plan to develop a more sustainable solution to water supply as part of the Company's social programme, when it is clear that mine development is going ahead.

Land acquisition and resettlement

The Company states that they engaged in constructive dialogue with the community regarding resettlement and that, in response to their concerns, the length of the open pit was reduced from 1800m to 1300m to avoid relocating the town of Santa Cruz de la India and as a waste rock dump was eliminated from the design, it will also avoid the relocation of 11 houses in El Carrizal. The Company believes that most community members welcomed this change in the mine development plan because it is their understanding that the resettlement of the village was the principal cause of complaint regarding the initial design. The Company also clarified that, from the outset the cemetery was never to be affected.

Impact on local economy

With regards to claims of economic displacement, the Company says there is no such incompatibility between the mine development plan and artisanal mining. Rather, they believe it will be beneficial to artisanal miners, because the Company expects that the mine will process 10,000 ounces of gold from artisanal mining. This is based on examples from elsewhere in Nicaragua where industrial and artisanal mining co-exist and make commercial alliances that benefit both parties. The Company explained that industrial processing techniques allow for local miners to process low grade (less than 10 g/t) material that is discarded by artisanal processing plants ("rastras"), which typically have recoveries of 45/60% using mercury, and heap leaching which uses cyanide. Therefore, according to the Company, local miners could continue to process higher-quality material in the rastras (which produces amalgam, a mixture of gold and mercury), and take the lower-quality material to the mine processing plant against payment by the Company. This also means that artisanal miners could work in areas of lower grade material which is not suitable for processing in the rastras. The Company expressed that they have allowed 200 artisanal miners to work in a section of their Espinito-Mendoza concession, known as La Mestiza, and are looking for other areas with good potential for artisanal mining. The Company stated that, according to the last artisanal mining census carried out by them, there are only 42 artisanal miners who work in the area where the pit will be located, and that, since it has been worked for 50 years, the rock is harder, and it is increasingly difficult for them to extract material there. They added that there are also significant health and safety risks associated with the underground mining. The Company informed the CAO that negotiations will take place with these 42 artisanal miners so that they can move to a new location with better conditions, in line with IFC's guidance on livelihood restoration.

Information and consultation

The Company provided a detailed explanation of a three-year process they had to follow, as required by the Ministry of Environment and Natural Resources (MARENA), to submit their EIA and conduct public consultations, along with the extra internationally recognized requirements applied by IFC's Performance Standards. They also explained that the change in Project design required additional documents, resources, and time. Per MARENA's requirements, the

EIA is required to be made available for public consultation in at least three locations, including MARENA's Managua office, MARENA's Leon office and the municipalities. In the case of the Project, the Company explained that there were two municipalities involved, Santa Rosa del Peñón and El Jicaral. According to the Company, the EIA was made available in the required locations for a week, during which time it was available to anyone to read and provide comments.

Additionally, the Company claims to have sent invitations to all groups within the community including local leaders, government representatives, religious representatives, local NGOs and government institutions as established by law. They added that other means of communication used to publicise the public consultations were newspapers, radio spots, banners in the village, loud speakers in the villages surrounding the Project and Mina La India. The Company expressed that, further to these obligations, it conducted a communication campaign and invited people through house to house visits, where the social team delivered the brochure with all relevant information of the La India Project. Regarding claims that the Complainants were subject to violence when they tried to access public consultation events in 2016 and 2018, the Company states that it was the Complainants who barged into the public consultation meeting in 2018, using violence against other community members and Company's staff who were present, to disrupt the process. The Company said that, in 2016, the public consultation was suspended without any violence.

Fear of reprisals

The Company says the Complainants resorted to aggressive behavior on several occasions to disrupt public consultation meetings or to stop the progress of the Project, which led to police presence to preserve the peace in the area. According to the Company, the police were present due to a 3-month long blockade of a public road by the Complainants, which affected community members and their legitimate business activities as well as the Company's activities. The Company rejected any association with threats, intimidation, or reprisals and stated that they have always attempted to engage with the Complainants through dialogue, including with the help of local priests who, they believe, are seen by the community as respected third parties.

Impacts on flora and fauna

The Company says that the ecosystem where the Project will be built is highly degraded and that Project activities will not represent significant risk for local flora and fauna. The Company further stated that the mine plans include a reforestation programme which will see 200,000 trees planted over an area of around 500ha in 8 years. This is in addition to the 20,000 trees they claim to have already planted during the exploration phase.

The additional issues listed at the end of the Complainants' Perspective section above, which were raised in the written complaint submitted to the CAO, but not raised or discussed by the Complainants during the CAO's assessment, were not addressed with the Company.

4. NEXT STEPS

During CAO's assessment of the complaint, the Complainants conveyed to CAO that they wished for the complaint to be addressed by CAO's Compliance function. While the Company expressed their openness to dispute resolution, a dispute-resolution process is voluntary for both sides, and thus mutual agreement must be present in order to proceed with such a process. The complaint is therefore being referred to CAO's Compliance function for an appraisal of IFC's environmental and social due diligence, in accordance with CAO's Operational Guidelines.

ANNEX A. CAO COMPLAINT HANDLING PROCESS

Once CAO declares a complaint eligible, an initial assessment is carried out by CAO Dispute Resolution specialists. The purpose of CAO's assessment is to: (1) clarify the issues and concerns raised by the complainant(s), (2) gather information on how other stakeholders see the situation, and (3) help stakeholders understand the recourse options available to them and determine whether they would like to pursue a collaborative solution through CAO's Dispute Resolution function, or whether the case should be reviewed by CAO's Compliance function.

As per CAO's Operational Guidelines,² the following steps are typically followed in response to a complaint that is received:

- Step 1: **Acknowledgment** of receipt of the complaint.
- Step 2: **Eligibility**: Determination of the complaint's eligibility for assessment under the mandate of CAO (no more than 15 working days).
- Step 3: **CAO assessment**: Assessing the issues and providing support to stakeholders in understanding and determining whether they would like to pursue a consensual solution through a collaborative process convened by CAO's Dispute Resolution function, or whether the case should be handled by CAO's Compliance function to review IFC's/MIGA's environmental and social due diligence. The assessment time can take up to a maximum of 120 working days.
- Step 4: **Facilitating settlement**: If the parties choose to pursue a collaborative process, CAO's Dispute Resolution function is initiated. The dispute-resolution process is typically based on or initiated by a Memorandum of Understanding and/or mutually agreed-upon ground rules between the parties. It may involve facilitation/mediation, joint fact finding, or other agreed resolution approaches leading to a settlement agreement or other mutually agreed and appropriate goals. The major objective of these types of problem-solving approaches will be to address the issues raised in the complaint, and any other significant issues relevant to the complaint that were identified during the assessment or the dispute-resolution process, in a way that is acceptable to the parties affected.³

OR

Compliance Appraisal/Investigation: If the parties opt for a Compliance process, CAO's Compliance function will initiate an appraisal of IFC's/MIGA's environmental and social due diligence of the project in question, to determine whether a compliance investigation of IFC's/MIGA's performance related to the project is merited. The appraisal time can take up to a maximum of 45 working days. If an investigation is found to be merited, CAO Compliance will conduct an in-depth investigation into IFC's/MIGA's performance. An investigation report with any identified non-compliances will be made public, along with IFC's/MIGA's response.

Step 5: **Monitoring and Follow-up**

Step 6: **Conclusion/Case Closure**

² For more details on the role and work of CAO, please refer to the full Operational Guidelines: http://www.cao-ombudsman.org/documents/CAOOperationalGuidelines_2013.pdf

³ Where stakeholders are unable to resolve the issues through a collaborative process within an agreed time frame, CAO Dispute Resolution will first seek to assist the stakeholders in breaking through impasse(s). If this is not possible, the Dispute Resolution team will inform the stakeholders, including IFC/MIGA staff, the President and Board of the World Bank Group, and the public, that CAO Dispute Resolution has closed the complaint and transferred it to CAO Compliance for appraisal.