



## **CAO ASSESSMENT REPORT**

### **Complaint Regarding MIGA's Rajamandala Hydropower Project (11862)**

August 2016

Office of the Compliance Advisor Ombudsman  
*for*  
the International Finance Corporation and  
Multilateral Investment Guarantee Agency  
[www.cao-ombudsman.org](http://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](http://www.cao-ombudsman.org)

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## LIST OF ACRONYMS

CAO	Office of the Compliance Advisor Ombudsman
IFC	International Finance Corporation
JBIC	Japan Bank for International Cooperation
MBL	Mizuho Bank Ltd
MIGA	Multilateral Investment Guarantee Agency
PT REP	PT Rajamandala Electric Power

## **1. OVERVIEW**

In May 2016, CAO received a complaint from a local village youth organization on behalf of a local individual and his family in Bantarcaringin Kampong, Cihea Village, Rajamandala, West Java, Indonesia. The complaint raises concerns regarding impacts to a farmer's land from tunnel construction related to the Rajamandala Hydropower Project in West Java, Indonesia. . CAO determined that the complaint met its three eligibility criteria and began an assessment of the complaint. During the assessment process, the Complainants and PT Rajamandala Electric Power (PT REP) agreed to engage in a voluntary dispute resolution process facilitated by CAO. This Assessment Report provides an overview of the assessment process, including a description of the project, the complaint, the assessment methodology, and next steps.

## **2. BACKGROUND**

### **2.1 The Project**

According to MIGA documentation, the Rajamandala Hydropower Project (Rajamandala) consists of the development and operation of a 47 megawatt run-of-the-river hydropower plant near Bandung in West Java, Indonesia, on a build-operate-transfer basis. The project is being developed by PT REP and is co-financed by Japan Bank for International Cooperation (JBIC) and Mizuho Bank Ltd (MBL). MIGA has issued guarantees of up to \$200 million covering non-shareholder loans by JBIC and MBL to the Rajamandala project. The coverage is for a period of up to 19 years against the risks of transfer restriction, expropriation, war and civil disturbance, and breach of contract.

### **2.2 The Complaint**

In May 2016, a complaint was filed with CAO by a local village youth organization on behalf of a local individual and his family in Bantarcaringin Kampong, Cihea Village, Rajamandala, West Java, Indonesia. The Complainant alleges that the tunnel construction associated with the Rajamandala Hydropower Project has negatively impacted the family's paddy field.

## **3. ASSESSMENT SUMMARY**

The purpose of this CAO assessment is to clarify the issues and concerns raised by the Complainants, to gather information on how other stakeholders see the situation, and to determine whether the Complainants and Rajamandala Hydropower Project would like to pursue a voluntary dispute resolution process under the auspices of CAO Dispute Resolution or if the complaint should be transferred to CAO Compliance for appraisal of IFC's performance (see Annex A for CAO's complaint handling process). The CAO does not gather information to make a judgement on the merits of the complaint during its assessment.

### **3.1 Assessment Method**

CAO's assessment of the complaint consisted of:

- A desk review of project documentation;
- Calls and meetings with Complainants, MIGA's project team, and Company staff;
- Visit to project site and the village of the Complainants, during August 7-9, 2016;

- A first joint meeting of the parties on August 9, 2016.

### **3.2 Summary of Issues**

This section gives a broad overview of the issues as expressed by the Complainants and discussed with the PT REP. It does not comprise a judgment from CAO about the merits of the complaint. During CAO's assessment, the Complainants highlighted the following areas of concern:

*Land impacted by tunnel construction:*

The construction of a tunnel as part of the project affected four landowners with lands above the tunnel. One of these land parcels was furthermore impacted by concrete having spilled onto the land during construction, and the land owners claim that water has drained from their land since the construction began, leaving the land drier and less productive.

*Communication between community members and the company:*

The Complainants raised concerns about the company's responsiveness not just to the Complainants' and the land owners', but also to the community's concerns, such as noise and traffic disturbances, impacts on the local road, or availability of work opportunities for community members. The company and its contractors are alleged to respond to concerns only slowly and after protests, leaving the community with the perception that only a more forceful approach will receive a response from the company. The Complainants are concerned that this is causing a shift in mentality of an otherwise peaceful and harmonious community.

The company maintains that it enjoys a good relationship with the community, but has expressed its openness to dialogue.

### **4. NEXT STEPS**

Areas of agreement

During a first joint meeting of the parties, which also included representatives of local government and the village's religious leader, the parties agreed:

- To develop good communication and cooperation between the company and the community to jointly resolve problems;
- To resolve the land dispute between affected land owners and the company through direct negotiation between the families and the company.

PT REP, the land owners and their families, and members of the community have started negotiations about how to address their concerns. This process will continue. CAO will provide support to this process as needed and requested by the parties. CAO will facilitate a dialogue between the community and PT REP to help them achieve good communication and cooperation, to address any outstanding issues and agree how to address future concerns jointly.

## ANNEX A. CAO COMPLAINTS HANDLING PROCESS

The Office of the Compliance Advisor Ombudsman (CAO) is the independent recourse mechanism for the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA) 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.

The initial assessment is conducted by CAO's Dispute Resolution function. 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.

This document is a preliminary record of the views heard by the CAO team, and explanations of next steps depending on whether the parties choose to pursue a Dispute Resolution process or prefer a CAO Compliance process. *This report does not make any judgment on the merits of the complaint.*

As per CAO's Operational Guidelines<sup>1</sup>, the following steps are typically followed in response to a complaint that is received:

- Step 1: **Acknowledgement** of receipt of the complaint
- Step 2: **Eligibility**: Determination of the complaint's eligibility for assessment under the mandate of the CAO (no more than 15 working days)
- Step 3: **CAO assessment**: "Assessment of the issues and provide 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 or initiated by a Memorandum of Understanding and/or a 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 goal. 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<sup>2</sup>.

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<sup>1</sup>For more details on the role and work of CAO, please refer to the full Operational Guidelines: [http://www.caombudsman.org/documents/CAOOperationalGuidelines\\_2013.pdf](http://www.caombudsman.org/documents/CAOOperationalGuidelines_2013.pdf)

<sup>2</sup>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.

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