



CAO ASSESSMENT REPORT

**Regarding community concerns in relation to
IFC's CAMIF project (#26590)**

January 2014

Office of the Compliance Advisor Ombudsman
for
International Finance Corporation
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. The 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

CAMIF	Central American Mezzanine Infrastructure Fund
CAO	Office of the Compliance Advisor Ombudsman
COPINH	Consejo Cívico de Organizaciones Populares e Indígenas de Honduras (Civic Council of Popular and Indigenous Organizations of Honduras)
DESA	Desarrollos Energeticos S.A.
IFC	International Finance Corporation
MIGA	Multilateral Investment Guarantee Agency

1. OVERVIEW

In October 2013, CAO received a complaint from local indigenous communities who believe they are impacted by a sub-project of the Central American Mezzanine Infrastructure Fund (CAMIF) in Honduras. The primary focus of the complaint is issues relating to land and indigenous peoples. CAO determined that the complaint met its three eligibility criteria at a time when the sub-project in question was actively being considered by CAMIF, and an assessment of the complaint was initiated. After learning from the IFC and CAMIF that the sub-project was no longer being considered for investment, CAO is concluding its involvement in the case as it no longer falls within CAO's mandate.

2. BACKGROUND

2.1 The Project

The Central American Mezzanine Infrastructure Fund (CAMIF) is a mezzanine fund that invests in operating and new medium-sized companies/projects in infrastructure and related sectors in Central America, Dominican Republic, Mexico and Colombia. The Fund is managed by EMP Latin American Management LLC, part of the network of EMP Global, an independent private equity fund manager based in Washington, DC. The target size of the first fund was \$150 million, and in August 2009, IFC made an initial \$40 million investment. As of the date of this report, IFC was also considering a \$30 million investment in a follow-up fund with CAMIF, which is known as CAMIF II (#32338). The projects were categorized as FI and FI1, respectively.

As part of its portfolio, CAMIF had approved and was actively considering an investment in the Agua Zarca hydroelectric project in Honduras. Agua Zarca is owned by the Honduran company Desarrollos Energéticos S.A (DESA). The hydroelectric project is located between the departments of Santa Barbara and Intibucá.

2.2 The Complaint

In October 2013, a Honduran indigenous movement known as the Consejo Cívico de Organizaciones Populares e Indígenas de Honduras (COPINH) filed a complaint with the CAO regarding the Agua Zarca hydroelectric project in Honduras. The complainants claimed that the ancestral lands of the Lenca community were improperly seized to make way for the construction of the hydroelectric project, and that lack of consultation with indigenous people meant the concession has been granted illegally. The complainants believe their land, water resources, livelihood and culture are in jeopardy, and have not been properly considered. They further contend that since voicing their opposition to the project, the area has been militarized and the Lenca communities and their leaders have been forcefully persecuted, criminalized and suppressed – often with the involvement of security forces.

3. ASSESSMENT SUMMARY

The purpose of a 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 the company would like to pursue a dispute resolution process under the auspices of CAO Dispute Resolution, or whether the complaint should be appraised by CAO Compliance (see Annex B for CAO's complaint handling process). CAO does not gather information to make a judgment on the merits of the complaint during its assessment.

The CAO assessment of the complaint consisted of:

- reviewing project documentation;
- holding telephonic meetings with the lead complainant; and
- holding telephonic meetings with the IFC team.

Based on the discussions maintained and the information received from the IFC and its client during the assessment, CAO learned that as of December 2013, CAMIF was no longer actively considering an investment in the Agua Zarca project under the CAMIF I or CAMIF II project. This change in the status of the sub-project means that IFC is no longer actively involved, and CAO does not have a mandate to further assess or handle the case. CAO can find no other link between the DESA project and the IFC. The case is therefore being closed at assessment.

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,¹ 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 affected².

OR

¹ 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

² 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.

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**