



January 30, 2020
Office of the Compliance Advisor Ombudsman (CAO)

COMPLIANCE APPRAISAL: SUMMARY OF RESULTS

Enso Albania (IFC Project #30979)

Albania

Complaint 02

In September 2011, IFC approved an early stage equity investment of up to EUR 6 million (US\$8.66 million equivalent) in Enso Hydro Energji sh.p.k., an Albanian holding company established by Enso Hydro GmbH (referred to jointly as “Enso” or “the client”). The investment was to provide support for the client to construct of the Lëngarica and Mati hydropower projects (HPPs), as well as future envisaged projects. At the time of IFC’s investment, the Mati hydropower project (“Mati HPP” or “the Project”) was still at the concept stage without detailed design specifications.

This compliance appraisal relates to Mati HPP - a concession for a cascade of five small hydropower projects with a total installed capacity of 29.8MW located in the downstream area of Mati river basin, Northeast of Tirana, Albania.

On March 20, 2019, CAO received a complaint about the project by an individual on behalf of community members from various villages surrounding the town of Klos, in the province of Mat, Albania. The complaint raises concerns about potential E&S impacts of the project including water shortage and agricultural activity. It also raises concerns regarding inadequate consultation and lack of community development projects.

The purpose of a CAO compliance appraisal is to ensure that compliance investigations are initiated only in relation to projects that raise substantial concerns regarding E&S outcomes and/or issues of systemic importance to IFC. In deciding whether to initiate an investigation, CAO weighs factors including the magnitude of the E&S concerns raised in a complaint, results of a preliminary review of IFC’s E&S performance in relation to these issues, and a more general assessment of whether a compliance investigation is the appropriate response in the circumstances.

As the Mati project was in the concept stage at the time of IFC’s E&S review, IFC’s due diligence was limited in relation to the screening of the project’s potential future impacts. Consequently, IFC’s review focused on the client’s corporate level ESHS management capacity and practices. Based on this review, IFC concluded that the client’s ESMS, policies and procedures were adequate for the identification and management of potential project impacts of future HPPs.

IFC’s review highlighted potential issues relating to hydropower projects relevant to this complaint, including: (i) the need for the client to align its ESIA process with IFC’s PS and GIIP to ensure adequate identification and mitigation of E&S risks and impacts, as well as (ii) the need for community engagement and disclosure of information. To this end, relevant requirements were included in an ESAP agreed on by IFC and the client.

Relevant to the question of whether there are substantial concerns regarding the E&S outcomes project, CAO notes that the development of the Mati HPP has not progressed significantly due to uncertainty about the technical and financial feasibility of the project, as well as administrative issues, such as water rights and other permitting and concession issues needing clearance by the regulatory authorities. These issues were still pending and yet to be resolved at the time of writing this report. Additionally, the client does not have in place the studies needed to proceed with the project and to raise financing for the project to move forward.

Following a preliminary review of IFC's E&S performance in relation to the Mati HPP, CAO has decided not to open a compliance investigation. In reaching this conclusion, CAO considered the depth of IFC's pre-investment E&S review of the project, whether it adequately considered client commitment and capacity to meet IFC's Performance Standards, and IFC's supervision of the client's actions in relation to the Mati HPP given its stage of development. The aforementioned uncertainties as to the likelihood of the Mati project to be developed and constructed also contributed to this decision.

In this context, CAO concludes that IFC's approach to the review and supervision of this project in relation to the issues raised in the complaint, does not meet the threshold of raising substantial concerns regarding E&S outcomes and/or issues of systemic importance to IFC that would warrant a compliance investigation at this stage. In accordance with its Operational Guidelines, CAO has thus decided to close this case.

Should the project proceed toward construction in the future, the E&S framework for the investment would require the client to produce an ESIA in accordance with IFC standards. CAO's decision to close this complaint at appraisal does not preclude the complainants from filing a new complaint should their concerns not be adequately addressed through a future ESIA.

About CAO

CAO's mission is to serve as a fair, trusted, and effective independent recourse mechanism and to improve the environmental and social accountability of IFC and MIGA.

CAO (Office of the Compliance Advisor Ombudsman) is an independent post that reports directly to the President of the World Bank Group. CAO reviews complaints from communities affected by development projects undertaken by the two private sector arms of the World Bank Group, the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA).

For more information about CAO, please visit www.cao-ombudsman.org

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Acronyms

Acronym	Definition
CAO	Office of the Compliance Advisor Ombudsman (IFC and MIGA)
E&S	Environmental and Social
EHS	Environmental, Health and Safety
ESIA	Environmental and Social Impact Assessment
ESAP	Environmental and Social Action Plan
ESHS	Environmental, Social, Health and Safety
ESMS	Environmental and Social Management System
ESRS	Environmental and Social Review Summary
ESRP	Environmental and Social Review Procedures
GIIP	Good International Industry Practice
HPP	Hydropower Project
IFC	International Finance Corporation
MIGA	Multilateral Investment Guarantee Agency
PS	Performance Standards (IFC)
S&EA	Social and Environmental Assessment

I. Overview of the Compliance Appraisal Process

When CAO receives a complaint about an IFC or MIGA project, the complaint is referred for assessment. If CAO concludes that the parties are not willing or able to reach a facilitated solution, the case is transferred to the CAO compliance function for appraisal and potential investigation.

A compliance appraisal also can be triggered by the CAO vice president, IFC/MIGA management, or the president of the World Bank Group.

The focus of the CAO compliance function is on IFC and MIGA, not their client. This applies to all IFC's business activities, including the real sector, financial markets and advisory. CAO assesses how IFC/MIGA assured itself/themselves of the performance of its business activity or advice, as well as whether the outcomes of the business activity or advice are consistent with the intent of the relevant policy provisions. In many cases, however, in assessing the performance of the project and IFC's/MIGA's implementation of measures to meet the relevant requirements, it will be necessary for CAO to review the actions of the client and verify outcomes in the field.

In order to decide whether a compliance investigation is warranted, CAO first conducts a compliance appraisal. The purpose of the compliance appraisal process is to ensure that compliance investigations are initiated only for those projects that raise substantial concerns regarding environmental and/or social outcomes, and/or issues of systemic importance to IFC/MIGA.

To guide the compliance appraisal process, CAO applies several basic criteria. These criteria test the value of undertaking a compliance investigation, as CAO seeks to determine whether:

- There is evidence of potentially significant adverse environmental and/or social outcome(s) now, or in the future.
- There are indications that a policy or other appraisal criteria may not have been adhered to or properly applied by IFC/MIGA.
- There is evidence that indicates that IFC's/MIGA's provisions, whether or not complied with, have failed to provide an adequate level of protection.

In conducting the appraisal, CAO will engage with the IFC/MIGA team working with the specific project and other stakeholders to understand which criteria IFC/MIGA used to assure itself/themselves of the performance of the project, how IFC/MIGA assured itself/themselves of compliance with these criteria, how IFC/MIGA assured itself/themselves that these provisions provided an adequate level of protection, and, generally, whether a compliance investigation is the appropriate response. After a compliance appraisal has been completed, CAO can close the case or initiate a compliance investigation of IFC or MIGA.

Once CAO concludes a compliance appraisal, it will advise IFC/MIGA, the World Bank Group President, and the Board in writing. If a compliance appraisal results from a case transferred from CAO's dispute resolution, the complainant will also be advised in writing. A summary of all appraisal results will be made public. If CAO decides to initiate a compliance investigation as a result of the compliance appraisal, CAO will draw up terms of reference for the compliance investigation in accordance with CAO's Operational Guidelines.

II. Background

Investment

IFC's Investment in Enso Albania

In September 2011, IFC approved an early stage equity investment of up to EUR 6 million (US\$8.66 million equivalent) in Enso Hydro Energji sh.p.k., an Albanian holding company established by Austrian asset manager Enso Hydro GmbH (referred to jointly as “Enso” or “the client”). IFC’s investment represented up to twenty percent of the client’s outstanding share capital.¹ The investment was to provide support for the client to construct the Lëngarica and Mati hydropower projects (HPPs), as well as future envisaged projects. An investment agreement was signed between the client and IFC in February 2012 and IFC’s first disbursement was completed in March 2013. The investment was classified as Category B, meaning that IFC expected it to have potential limited adverse environmental and social (E&S) impacts that are few in number, generally site-specific, largely reversible, and readily addressed through mitigation measures.²

Mati Hydropower Project

At the time of IFC’s investment, the Mati hydropower project (“Mati HPP” or “the Project”) was still at concept stage without detailed design specifications. Mati HPP is a concession for a cascade of five small hydropower projects with a total installed capacity of 29.8MW located in the downstream area of Mati river basin, Northeast of Tirana, Albania.³

According to publicly available information, a concession agreement for the construction of eight HPPs on the Mati River was signed between the Albanian Ministry of Energy and a group of companies in September 2012. This concession was later sold Enso Albania, making the client a ninety percent shareholder. In 2016, the client requested an amendment to the concession contract for the renewal of time schedules for required licenses, and amendment of the project from eight to three HPPs – Mati 1, Mati 2 and Mati 3.⁴

A preliminary feasibility study and some E&S studies had been conducted and documented in a draft E&S impact assessment (ESIA) prior to the client coming on board.⁵

Complaint and CAO Assessment Report

On March 20, 2019, a complaint relating to the Mati HPP was filed with CAO by an individual on behalf of community members from various villages surrounding the town of Klos, in the province of Mat, Albania. The parties to the complaint did not agree to address the concerns through a CAO facilitated dispute resolution process. Hence, the complaint was referred to CAO’s compliance function for appraisal in October 2019. CAO’s Assessment Report provides details as to the complainants’ concerns regarding the Mati project, as well as the company’s perspective on the issues raised.⁶

¹ IFC, Summary of Proposed Investment, Enso Albania, September 2011 - <https://bit.ly/36abhUp>

² IFC, Policy on Social and Environmental Sustainability, April 2006, para. 18.

³ IFC Environmental and Social Review Summary (ESRS), August 2011 - <https://bit.ly/39yD042>

⁴ Assessment Study 2017: Identification of water related conflicts linked to hydro power plants in Albania. <https://bit.ly/2QIWL1z>

⁵ IFC Environmental and Social Review Summary (ESRS), August 2011 - <https://bit.ly/39yD042>

⁶ CAO Assessment Report, Enso Albania-02, September 2019 - <https://bit.ly/2rMHZ00>

Complainants' perspective

The complainants' concerns relate to three areas: 1) Water shortage, 2) Inadequate consultation, and 3) Lack of community development projects.

1) Water shortage

According to the complainants and based on their understanding of the project design, the river will dry up in sections where water is to be diverted into tunnels, most especially during the dry season when the community needs water the most. They are particularly concerned about the possibility of wells drying up in the village of Fullqet resulting from the Mati 2 tunnel, which will run under the village. They are further concerned that the "ecological flow" left in the river will be insufficient to prevent the decrease in the river's water level, which would negatively impact the river's ecosystem. Concerns were also raised about the water reservoirs at the three intake points. They claim that the reservoirs will create fogs in the morning and raise humidity levels, which would have a negative impact on crop planted close to the reservoirs. They also allege that the accumulation of waste and gravel in the river will cause the reservoirs to overflow and flood the area. Lastly, the complaints are concerned about the potential cumulative impacts of seven hydropower projects on the Mati river.

2) Inadequate consultation

The complainants maintain that consultation regarding the project has been inadequate. They claim that the company has never shared an ESIA with them. Though, some project information was received in 2016 and prior, they assert that details about various components of the project and their specific impacts were not disclosed and that no additional information has been received since 2016. The complainants note that the company tried to hold a public consultation in December 2016, but this was disrupted by the villagers staging a protest.

The complainants allege that the company has had closed meetings with some community members whilst excluding others. They further allege that their signatures on attendance sheets for meetings with the company have been considered by the latter as agreement to the project. They indicated that they would like to know more about the project and its status.

3) Lack of community development projects

The complainants expressed frustration about projects such as the Mati HPP, which they claim use their resources without developing the communities within which they operate. They allege that those who work on these projects are brought in from Tirana and not locally hired. Further, they claim that the company promised to build roads, but construction is yet to commence. The complainants stressed their opposition to the project and indicated that they aim to block its construction.

Company perspective

As summarized in CAO's Assessment Report,⁷ the company stated that the project license was obtained in 2012. Thereafter, the company claims to have consulted with the community members and Klos Municipality between 2013 to 2016. These consultations were conducted to assess the feasibility of the project and to inform the project design. It is also claimed that various hydrological and geological studies have been conducted. Regarding the project design, the company explained that the project would consist of three water intakes (Mati 1, 2, 3), where water would

⁷ CAO Assessment Report, Enso Albania-02, September 2019 - <https://bit.ly/2rMHZ00>

be diverted into tunnels and pipelines up to the powerhouse, where water would then be released back into the river.

Regarding the status of the project, the company confirmed that construction has not commenced as there are competing projects that are compromising its feasibility and viability. They further noted that the company is currently in talks with the contracting authority to resolve pending issues that might impact their concession and the future of the project.

The company addressed the three areas of concerns raised by the complainants as follows:

1) Water shortage

The company notes that the project is designed such that the “ecological flow” (water that will remain in the river) would always be sufficient to cover the community’s needs and protect the river’s ecosystem. The company refers to hydrological studies that show that the Mati 2 tunnel will not negatively impact water in village wells because: i) the wells are surface wells which do not use underground water, and ii) the tunnel will impermeable, made of concrete and located 100 meters below the surface.

In relation to the fog and humidity concerns, the company stated that the project would not be using large reservoirs and thus would not create humidity or fog.

Regarding waste and gravel, the Company indicated that there would be a system to flush them out in case they accumulate in the basins.

2) Inadequate consultation

The company maintained that they consulted with community members and their inputs were considered in the project design. It indicated that project information leaflets were distributed in Klos and surrounding villages. The company explained that they have not engaged with the community members since 2017 as the project is halted and construction pending. However, the company plans to reengage once there is more clarity about the future of the project.

3) Lack of community development projects

The company noted that project construction would span over three years, during which the community would benefit economically from provision of food and accommodation for project workers. The company added that they would ensure that local hires make up at least thirty percent of the project workforce during construction, and they aim to also employ locals for the operational phase. The company also stated that some community development projects have been discussed with community members. However, nothing is being implemented yet until there is confirmation of the feasibility and viability of the project.

Previous CAO Compliance Investigation

A CAO compliance investigation of IFC’s investment in Enso Albania was released in October 2018, in response to an earlier complaint - Enso Albania-01 - filed with CAO.⁸ However, the focus of the Enso Albania-01 case was on the client’s Lengarica HPP project, located in southern Albania. Therefore, while some aspects of the investigation are relevant to this case, such as IFC’s general due diligence and supervision of the client, the scope of the investigation was specific to the Lengarica HPP project.

⁸ More information on the Enso Albania-01 case is available on CAO’s website at <https://bit.ly/3018kJH>

CAO's conclusions and findings in relation to the Enso Albania-01 case are documented in the October 2018 investigation report,⁹ and the subsequent CAO monitoring report released in December 2019.¹⁰

III. Analysis

This section outlines IFC's applicable E&S policies and procedures for this project. It then provides a preliminary analysis IFC's performance against these standards during preparation and implementation of the project, given the issues raised by the complainants.

IFC Policy Framework

IFC's investment in the client was made under its 2006 Policy on Social and Environmental Sustainability ("the Sustainability Policy") and Performance Standards (PS), together referred to as the Sustainability Framework. IFC's 2006 Policy on Disclosure of Information also applies.

The Sustainability Policy provides that, as part of its due diligence, IFC will conduct an E&S review of the project that is "appropriate to the nature and scale of the project, and commensurate with the level of social and environmental risks and impacts."¹¹ In conducting the E&S review IFC considers the E&S risks as assessed by the client and the "the commitment and capacity of the client" to manage these risks.¹² A key requirement of the Sustainability Policy is that "IFC does not finance new business activity that cannot be expected to meet the Performance Standards (PS) over a reasonable period of time".¹³

As described in IFC's E&S Review Procedure (ESRP) the E&S review should result in an Environmental and Social Action Plan (ESAP) addressing all deficiencies and non-compliances discerned during the appraisal.¹⁴

This section considers IFC's E&S performance in relation to the above requirements. In the context of the issues raised by the complainants, it focuses on:

- a. IFC's pre-investment E&S review and whether this was commensurate to risk;
- b. IFC's supervision of the project against the requirements of the PS and the ESAP; and
- c. IFC's application of its consultation and disclosure requirements to the project.

IFC's Pre-investment review and Supervision: Analysis and Discussion

Pre-investment Review

IFC's E&S Review Summary (ESRS) for the project was disclosed in August 2011.¹⁵ The ESRS was prepared on the basis of a review of "internal documents associated to the Sponsor's environmental, social, health and safety (ESHS) program," Enso's preliminary feasibility report for Mati project, interviews with client staff and visits to the project site in Albania. The ESRS notes the Mati project as one which the client may develop and still in the concept stage with no detailed design specifications.

⁹ CAO Compliance Investigation Report, Enso Albania-01, October 2018 - <https://bit.ly/2MFGK9t>

¹⁰ CAO Compliance Monitoring Report, Enso Albania-01, December 2019 - <https://bit.ly/38rjTYh>

¹¹ IFC, Policy on Social and Environmental Sustainability, April 2006, para. 13.

¹² *Ibid.*

¹³ IFC, Policy on Social and Environmental Sustainability, April 2006, para. 17.

¹⁴ IFC, ESRP 3, para. 3.1.1, version 1, April 2006 - <https://bit.ly/2GxLVW5>

¹⁵ IFC Environmental and Social Review Summary (ESRS), August 2011 - <https://bit.ly/39yD042>

The E&S review focused on the client's corporate level ESHS management capacity and practices especially in relation to Performance Standard 1 (PS1) on Social and Environmental Assessment and Management Systems. IFC's review generally focused on the client's capacity to:

*undertake adequate environmental and social impact assessments and manage the ESHS risks and impacts associated to the **acquisition, engineering, construction and operation phases** of hydropower projects and associated facilities (e.g. access road, transmission line), particularly those related to construction management, determination of ecological flow and biodiversity impact mitigation; and effectively consulting and engaging with project-affected communities.*

IFC explains that this approach was taken because the client was expected to develop multiple hydropower projects, to which it would apply the PS. Thus, IFC also acknowledged that the small hydropower projects may have potential impacts which would have to be managed in compliance with not only PS1 but relevant PSs such as PS3: Pollution Prevention and Abatement, and on a case-by-case basis, PS4: Community Health, Safety and Security, and PS6: Biodiversity conservation and Sustainable Natural Resource Management; amongst others. IFC noted that the client's ESMS would include a framework and procedures necessary to ensure that all the applicable PSs would be met. The ESRS also notes the client's commitment to compliance with "Albanian Law and IFC PS on Social and Environmental Sustainability, and relevant IFC Environmental, Health and Safety (EHS) Guidelines."¹⁶

The ESRS documents IFC's review of the client's environmental standards for both direct impacts and indirect impacts of hydropower projects; the client's environmental principles for four investment process stages (acquisition, engineering, construction and operation); and the preliminary feasibility report for Mati HPP. Based on this, IFC concluded that the client had a functional internal environmental process manual which was used to identify key potential impacts of hydropower plants. For potential direct impacts, the client identified issues such as flood water, sanitation, water quality and drinking water supply, and indirect impacts such as flood protection, habitat, and recreation were taken into consideration.

PS1 requires that IFC clients conduct a process of Social and Environmental Assessment (S&EA) that considers in an integrated manner the potential E&S risks and impacts of a project.¹⁷ PS1 notes that this S&EA may be a full-scale E&S impact assessment or a simpler assessments, depending on the nature and risk profile of the project.

Regarding the ESIA for Mati HPP, IFC acknowledges a preliminary assessment (February 2009) was prepared as part of the license application prior to the client's involvement in the project. The ESRS further notes that the client planned to update the ESIA "[...] to ensure the mitigation measures and quality of assessment be in line with good international industry practice, Enso's E&S policy and IFC Performance Standards."¹⁸

Based on IFC's review, the ESAP included an action item (No.6) that required the client to conduct an ESIA consistent with IFC PS to ensure impacts of yet to be implemented projects were identified and addressed. The action item also required the client to retain an independent environmental expert to review and certify that the project complied with the PS, six months prior to the start of construction.¹⁹ Though the Mati HPP was still in the concept stage at the time of IFC's review, these ESAP requirements were expected to apply to the project.

¹⁶ *Ibid.*

¹⁷ IFC Performance Standard 1: available at <https://bit.ly/2tCt3SK>

¹⁸ *Ibid.*

¹⁹ ESAP available at <https://bit.ly/39yD042>

In relation to the three areas of concerns raised by the complainants:

i. Water Shortage

The ESRS notes that the client has an ESMS in place to facilitate identifying their projects' impacts including through the conduct of international standard ESIA's. Potential direct impacts of HPP projects such as access to water, would be expected to be considered and reflected as part the ESIA process. The ESRS also highlights, amongst other items, flood protection and perpetuation of irrigation and drinking water measures as a basic requirement in the client's contracts for the execution of the project, particularly for the construction phase of the HPP.

Further, the ESRS recognizes that fishing is conducted by local villagers at the Mati river. Hence, IFC noted that the client's updated ESIA for Mati HPP would also need to analyze the biodiversity value of the project area and design the project to avoid or minimize project impacts.

ii. Information Disclosure and Consultation

According to PS1, the disclosure of E&S assessment documents and action plans, as well updates and progress on action plans are client requirements.²⁰ In addition, IFC must disclose "electronic copies of [...] any relevant E&S impact assessment documents prepared by or on behalf of the client [...]" prior to IFC's disclosure of the project.²¹

In relation to community engagement, PS1 para.19 stipulates that community engagement should be conducted on the basis of "[...] timely, relevant, understandable and accessible information". The process of consultation must provide "affected communities with opportunities to express their views on project risks, impacts, and mitigation measures [...]".²² Effective consultation, PS1 provides "[...] should be based on the prior disclosure of relevant and adequate information including draft documents and plans [...]" and should be "tailor[ed] [...] to the language preferences of affected communities."²³

The ESRS notes that, "in developing hydropower projects, Enso will work with Special Purpose Vehicles (SPVs) to ensure that project affected communities are fully informed and consulted about each project, the mitigation measures being adopted, monitoring programs to be implemented, grievance mechanism, and benefits of the project to local communities."²⁴ IFC further notes that there would be a designated community liaison officer to effectively implement community engagement for each project.

Also, IFC notes that the client's environmental principles which are part of their environmental process manual state that public consultation and project information service would be one of the company's key principles to follow during the four stages of their projects. Thus, the ESRS documents that the proper dissemination of project information to affected communities would be a key priority for the client.

iii. Community Development Project

There is no documentation of specific planned community development projects in IFC's E&S review documents. However, the ESRS notes that hiring local workforce especially during the project construction phase is a priority for the client.

IFC Supervision

²⁰ IFC Performance Standard 1, paras. 20 & 26, April 2006

²¹ IFC, Policy on Disclosure of Information, para. 13, April 2006

²² IFC Performance Standard 1, para. 21, April 2006

²³ *Ibid.*

²⁴ IFC Environmental and Social Review Summary (ESRS), August 2011 - <https://bit.ly/39yD042>

Although the Mati HPP has not commenced, IFC's documentation and conversations with CAO indicate that there has also been regular communication with the client regarding Mati.

IFC supervision documentation notes that, in anticipation of developing Mati HPP, the client hired relevant specialists to manage E&S aspects of the project as required by the ESAP. IFC also reviewed and confirmed the specialists' work complied with PS requirements. More generally, IFC acknowledges that not much progress was being made in implementing the project and the client was experiencing challenges in moving the project forward. IFC notes the uncertainty about implementation of the project mainly because of pending administrative issues to be cleared with regulatory authorities and issues with the client securing necessary financing for the project.

During discussions with CAO, the IFC team reiterated that the potential site for the Mati project was visited and preliminary project documentation were reviewed during the E&S review. Besides the need for an updated comprehensive ESIA and consultation with surrounding communities, IFC noted that no other key issues were identified as the project was still in the concept phase. IFC also informed CAO that the client's public consultation session with the affected communities in 2016 was halted by a protest by community members opposed to the project. IFC relayed that the protest was not exclusively because of E&S issues but other concerns relating to communication with the local communities, shareholding opportunities and conflicting share of water rights. No further consultation has been conducted since then.

Regarding the ESIA for the project, IFC's documentation indicates that the client initially commenced with the ESIA process. IFC notes that this process was being conducted in line with international standards, but the process was suspended because of uncertainty about the technical and financial feasibility of the project. This was due to competing issues, water rights and other concession and permitting issues needing clearance by the government regulatory authorities. With these pending issues and the communities' protest, there has been no traction on the project since 2016.

IFC further noted that for the project to proceed, the aforementioned issues would have to be resolved with relevant authorities, and the client would also need to: (i) renew/update their licenses and permits, and (ii) obtain water rights from Tirana Municipality.

As of the time of writing this report, IFC reported to CAO that, in order to proceed with the project, the client would need to secure additional funding. IFC also stated that, based on discussions with the client, there is uncertainty as to the likelihood for the project to move forward.

Conclusion

CAO notes that IFC's review of the Mati project was limited during its E&S review as the project was in the conception stage. As such, the E&S review focused on the client's corporate level ESHS management capacity and practices. IFC concluded that the client's ESMS, policies and procedures were adequate for the identification and management of potential project impacts. Considering the early stage which the project was at, IFC and the client agreed on an ESAP that included requirements to: (i) conduct ESIA's consistent with IFC's PS for all new HPPs, (ii) to effectively consult and engage with affected communities, and (iii) to ensure the disclosure of information related to the client's projects.

During supervision of the investment, IFC regularly engaged with the client regarding the status of Mati HPP. IFC noted that the feasibility study had not commenced thus the client did not proceed with the updated ESIA, especially as there were a number of pending administrative issues to be cleared with the Government regarding the project. As of the writing of this report, the Mati project was yet to move beyond the concept stage.

IV. CAO Decision

The purpose of a CAO compliance appraisal is to ensure that compliance investigations are initiated only in relation to projects that raise substantial concerns regarding E&S outcomes and/or issues of systemic importance to IFC. In deciding whether to initiate an investigation, CAO weighs factors including the magnitude of the E&S concerns raised in a complaint, results of a preliminary review of IFC's E&S performance in relation to these issues, and a more general assessment of whether a compliance investigation is the appropriate response in the circumstances.

This complaint to CAO raises concerns about potential E&S impacts of the Mati HPP project on water shortage, agricultural activity, inadequate consultation and lack of community development projects.

As the project was in the concept stage at the time of IFC's E&S review in 2011, IFC's due diligence was limited in relation to the screening of the project's potential future impacts. Consequently, IFC's E&S review focused on the client's corporate level ESHS management capacity and practices. Based on IFC's review of the client's systems, processes, procedures and preliminary project documents, IFC concluded that the client's ESMS, policies and procedures were adequate for the identification and management of potential project impacts of future HPPs such as Mati HPP.

IFC's review highlighted potential issues relating to hydropower projects relevant to this complaint, including the need for the client to – (i) align its ESIA process with IFC's PS and GIIP to ensure adequate identification and mitigation of E&S risks and impacts, as well as (ii) the need for community engagement and disclosure of information. To this end, relevant requirements were included in an ESAP agreed on by IFC and the client.

During the period of IFC's financing, the client did not undertake significant activities to proceed with Mati HPP due to uncertainty about the technical and financial feasibility of the project, as well as administrative issues, such as water rights and other permitting and concession issues needing clearance by the regulatory authorities. These issues were still pending and yet to be resolved at the time of writing this report. The client also does not have in place the studies needed to proceed with the project and to raise financing for the project to move forward.

Following a preliminary review of IFC's E&S performance in relation to Mati HPP, CAO has decided not to open a compliance investigation. In reaching this conclusion CAO took into consideration the depth of IFC's pre-investment E&S review of the project, whether it adequately considered client commitment and capacity to meet IFC's Performance Standards, and IFC's supervision of the client's actions in relation to the Mati HPP given its stage of development. The aforementioned uncertainties as to the likelihood of the Mati project to be developed and constructed, also contributed to this decision.

In this context, CAO concludes that IFC's approach to the review and supervision of this project in relation to the issues raised in the complaint, does not meet the threshold of raising substantial concerns regarding E&S outcomes and/or issues of systemic importance to IFC that would warrant a compliance investigation. In accordance with its Operational Guidelines, CAO has thus decided to close this case.

Should the project proceed toward construction in the future, the E&S framework for the investment would require the client to produce an ESIA in accordance with IFC standards. CAO's decision to close this complaint at appraisal does not preclude the complainants from filing a new complaint should their concerns not be adequately addressed through a future ESIA.