



APPRAISAL REPORT

CAO Appraisal for Audit of IFC

CAO Compliance

C-I-R7-Y08-F104

November 2008

Georgia
Baku-Tbilisi-Ceyhan (BTC) Pipeline

Case of
Villagers of Naokhrebi

Summary

This appraisal report responds to a complaint about the Baku-Tbilisi-Ceyhan (BTC) Pipeline (the Project), an IFC investment. The complaint was filed by villagers in Naokhrebi, Georgia. The CAO Ombudsman concluded that the parties were not willing to engage in a facilitated solution. The case was therefore transferred to CAO Compliance for an appraisal to determine whether the complaint fulfilled the criteria for the next step in the CAO's investigative process, an audit of IFC. The complaint raised concerns about their rights to land acquired by the Project, and claimed that the Project disposed of their land and livelihood without compensation for either.

Office of the Compliance Advisor/Ombudsman (CAO)
of the
International Finance Corporation (IFC) and
Multilateral Investment Guarantee Agency (MIGA)
Members of the World Bank Group



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About the CAO

The 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.

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

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



1. Overview of the CAO Compliance Appraisal Process

When the CAO receives a complaint about an IFC or MIGA project, it is first referred to the CAO Ombudsman, which works to respond quickly and effectively to complaints through facilitated settlements, if appropriate. If the CAO Ombudsman concludes that the parties are not willing to reach a facilitated solution, the CAO Vice President has the discretion to request the compliance arm of CAO, CAO Compliance, to appraise the concerns raised in the complaint for a compliance audit of IFC or MIGA. Alternatively, a compliance audit can be initiated by request from the President of the World Bank Group or the senior management of IFC or MIGA.

A CAO Compliance appraisal is a preliminary investigation to determine whether the CAO should proceed to a compliance audit of IFC or MIGA. Through CAO Compliance appraisals, the CAO ensures that compliance audits of IFC or MIGA are initiated only for those cases with substantial concerns regarding social or environmental outcomes.

A compliance audit is concerned with assessing the application of relevant policy provisions and related guidelines and procedures to determine whether IFC and MIGA are in compliance. The primary focus of compliance auditing is on IFC and MIGA, but the role of the sponsor may also be considered.

A compliance audit appraisal, and any audit that ensues, must remain within scope of the original complaint or request. It cannot go beyond the confines of the complaint or request to address other issues. In such cases, the complainant or requestor should consider a new complaint or request.

CAO compliance appraisal will consider how IFC/MIGA assured itself/themselves of compliance with national law, reflecting international legal commitments, along with other audit criteria. The CAO has no authority with respect to judicial processes. The CAO is not an appeals court or a legal enforcement mechanism, nor is the CAO a substitute for international courts systems or court systems in host countries.

The appraisal criteria are set forth in CAO's Operational Guidelines. The criteria are framed as a series of questions to test the value of undertaking a compliance audit of IFC or MIGA. The criteria are as follows:

- Is there evidence (or perceived risk) of adverse social and environmental outcomes that indicates that policy provisions (or other audit criteria) may not have been adhered to?
- Is there evidence of risk of significant adverse social and environmental outcomes that indicates that policy provisions, standards, guidelines, etc., whether or not complied with, have failed to provide an adequate level of protection?



- Is there evidence (or perceived risk) of significant adverse social and environmental outcomes where policy provisions, standards (or other audit criteria) were not thought to be applicable but perhaps should have been applied?
- Is there evidence that the application of some aspect of a policy, standard, guideline or procedure resulted in adverse social and environmental outcomes?
- Can the cause of adverse social and environmental outcomes not be readily identified and corrected through the intervention of the project team without a detailed investigation of the underlying causes or circumstances?
- Could a compliance audit yield information or findings that might better inform the application of policies (or other audit criteria) to future projects?

During appraisal, CAO Compliance holds discussions with the IFC or MIGA project team and other relevant parties to understand the validity of the concerns and to explore whether an audit would be warranted.

After a compliance appraisal has been completed, the CAO can choose only one of two options: to close the case, or to initiate a compliance audit of IFC or MIGA.

The CAO will report and disclose the findings and decision of the CAO compliance appraisal in an appraisal report in order to inform the President of the World Bank Group, the Boards of the World Bank Group, senior management of IFC or MIGA, and the public in writing about its decision.

If the CAO decides to initiate a compliance audit, as a result of the compliance appraisal, the CAO will draw up a terms of reference for the audit in accordance with CAO's operational guidelines.



2. Background and Concerns that Led to the Appraisal

1. The 1,760 km Baku–Tbilisi–Ceyhan (BTC) Pipeline, an IFC investment, starts in Azerbaijan at the Sangachal Terminal near Baku, passes through Georgia, and ends in Turkey at a new marine terminal at Ceyhan on the Mediterranean coast.

2. Residents of the villages of Naokhrebi, Georgia filed a complaint with the CAO concerning consequences for the villages as a result of the BTC pipeline project. The issues concern their rights to land acquired by the Project, and the claim that the Project disposed of their land and livelihood without compensation for either.

2008	
February 28	Residents of the village of Naokhrebi, Georgia, file a complaint with the CAO.
April 29	The CAO Ombudsman discloses its assessment report and the finding that the stakeholders are unwilling to engage further in a process of facilitated dispute resolution.
June 4	CAO Compliance receives the case for appraisal.



3. Scope of the Appraisal for an Audit of IFC

3. The complainants have raised specific issues in their complaint. The complainants claim:
 - actions taken by BTC (the company) in the process of acquiring land for the construction of the pipeline were in gross violation of Georgian property legislation.
 - the company ignored their legal and rightful claim to land acquired by the company for the construction of the project and therefore disposed them of their land and livelihood without compensation for either. The complainants state that regional and local state authorities acknowledge their rightful claim to the land.
 - the company misled them in relation to their land and is hindering them from obtaining suitable redress for their loss.
4. The complainants seek compensation for all of the above,.

4. Policy Provisions Identified as Relevant

5. CAO Compliance identified the following policy provisions as the basis for evaluating the issues raised:

World Bank Operational Directive 4.30 Involuntary Resettlement. This operational directive is reflected in the BTC Resettlement Action Plan (BTC RAP). The BTC RAP also outlines provisions of other relevant regulatory framework such as Host Government Agreement, National legislation, Land ownership and property rights, and Power of eminent domain. The Social and Resettlement Action Plan (SRAP) Monitoring Implementation Terms of Reference then outlines how the implementation and monitoring of the BTC RAP is followed up.

6. The by BTC prepared Guide to Land Acquisition and Compensation (GLAC) provides a summary of the BTC RAP, and is the main document providing land and crop compensation information to affected people along the pipeline corridor.



5. CAO Findings

7. From a CAO Compliance perspective, the question is how has IFC assured itself that the concerns of project-affected people are addressed, and that they are compensated in a way that meets IFC's overall policy objectives. In order for IFC to assure itself of this, provisions are given in the BTC RAP. The BTC RAP provisions are there to protect the interests of landowners and users who suffer a genuine and unavoidable loss as a result of pipeline construction. The provisions in the BTC RAP are consistent with the World Bank OD 4.30.

8. IFC assured itself of making the provisions in the BTC RAP accessible and understandable for affected people by ensuring that the GLAC was produced and distributed along the pipeline corridor. The engagement of the independent land rights non governmental organization (NGO) Georgian Association for the Protection of Landowners (APLR) further strengthened the information outreach to affected people.

9. IFC conducted several site visits along the pipeline to follow up the implementation of the BTC RAP, although not specifically to the village of Naokhrebi. IFC also used the SRAP Panel biannual reporting, as well as all other layers of monitoring that are in operation for the Project.

10. IFC assured itself that the Project established a grievance mechanism for complainants to seek redress. IFC became aware that there were capacity issues regarding the grievance mechanism in 2004, at the peak of the land acquisition process. The capacity of the grievance mechanism was then substantially improved to accommodate the case load.

11. IFC states that the SRAP Panel Monitoring Report from April 2008 reports that in respect of land registration and titling issues in Georgia, ten out of seventeen disputed ownership cases raised by APLR have been resolved. However, it is expected that the remaining seven cases will be dependent on either a State Authority's determination, or a court decision, to resolve them. This is consistent with the BTC RAP and GLAC which states that land issues that cannot be resolved through negotiation or through the grievance mechanisms should be resolved through the Georgian court system.

12. CAO finds that IFC assured itself that relevant policy provisions were reflected in the applicable documentation guiding the Project, and that IFC assured itself of their implementation at Project level. CAO finds that IFC monitored the outcome and reacted on monitoring results.

6. The CAO Decision

13. The CAO concludes that this case does not fulfill the criteria for further investigation in the form of an audit of how IFC assured itself that it adhered to its social and environmental policy provisions. The CAO closes the case.