



Compliance Advisor/Ombudsman
2121 Pennsylvania Ave., N.W.
Washington, D.C. 20433
U.S.A.

CAO PROGRESS REPORT

Cambodia: VEIL II-01/Ratanakiri Province

July 2016

BACKGROUND TO THE COMPLAINT

The IFC investment

Vietnam Enterprise Investments Limited (“VEIL” or “the Fund”) is a closed-end investment fund which has been in operation since 1995. The Fund has a capital base of just over US\$500 million and is managed by Dragon Capital Management Ltd., a subsidiary of Dragon Capital Group (DCG). IFC has invested US\$16.4 million in the Fund. The Fund aims to invest in publicly or privately issued securities of Vietnamese companies, with the stated aim to provide incentives for the development of Vietnamese capital markets by increasing liquidity of Vietnamese securities. One of the companies DCG invests in through the Fund is Hoang Anh Gia Lai (HAGL).

The Complaint

In February 2014, local villagers of 17 villages in Ratanakiri Province, Cambodia lodged a complaint with CAO with the support and assistance of five NGOs. The complaint raises a range of environmental and social concerns about HAGL’s Cambodia operations, including impacts on water sources and fish resources, loss of land, lack of compensation, lack of information disclosure and engagement with the local people, threat to spiritual, cultural and indigenous practices, as well as use of child labor. The complaint alleges non-compliance with IFC policies and procedures and with Cambodian laws. The complainants requested that CAO keep their identities confidential.

CAO PROCESS

Assessment

The complaint was deemed eligible for further assessment in February 2014 and the CAO team travelled to the field in March to meet with the relevant stakeholders to explore options for a collaborative solution of the issues raised in the complaint. The communities voiced concerns about current and future impacts on their livelihoods and rights. HAGL committed to resolving the matters of concern, and making the communities’ interest a priority. In April 2014, the parties indicated their willingness to engage in a voluntary CAO-convened dispute resolution process.

A DISPUTE RESOLUTION PROCESS COMMENCES

Moratorium on further land clearances

At the outset of the process, HAGL agreed to stop clearing any further land within its concession for a period of six months, to allow the dialogue process to advance. After the six months, the company committed to extending this moratorium until they were able to resolve the dispute with its neighbouring communities.



Preparing for Mediation

Between May and August 2014, CAO conducted pre-mediation sessions for the parties in preparation for dialogue. During this time, the



Compliance Advisor/Ombudsman
2121 Pennsylvania Ave., N.W.
Washington, D.C. 20433
U.S.A.

parties worked on community representation, as well as establishing ground rules and how to engage with relevant levels of government.

Securing government support

The support of the Royal Government of Cambodia for the process was sought and desired by both parties. Consequently, CAO met with key personnel at the Ministry of Land Management, Ministry of Environment, Ministry of Agriculture, Ministry of Interior, Provincial Office and relevant provincial departments to inform about the process and seek their support. In November 2014, CAO received a letter from the interior ministry expressing its support for the CAO process.



Capacity Building

With this government support, the dispute resolution process began in November 2014 with capacity building training provided to parties on dispute resolution mechanism and negotiation techniques. In parallel, and throughout the process, the communities' NGO advisors supported the community representatives and helped them participate in the process.

Representation

In December 2014 the affected communities each selected representatives from their respective villages in a series of village meetings attended by the CAO team. Each village selected a broader group of around nine representatives as well as two core representatives to attend meetings.

Ground Rules

The first joint meeting between parties to design a negotiation process took place in January 2015, during which the parties agreed and signed off on a set of ground rules to guide the process.

Agreeing on process structure

As the mediation process progressed, the parties were able to provide more clarity on actual villages affected by the HAGL project. As such, the communities were organized into 3 groups:

- Group 1: 3 villages not affected by HAGL and located outside its economic land concessions.
- Group 2: 3 villages found to be within the HAGL concession, but not yet affected.
- Group 3: 11 villages that were already affected by the HAGL activities.

In March 2015, the parties adopted a mediation agreement and issued their first Joint Statement regarding the mediation process.

➤ See First Joint Statement (available at www.cao-ombudsman.org)

EARLY AGREEMENTS

First group of villages not directly affected by HAGL's Economic Land Concessions (ELCs)

In July 2015, exchange of information between the parties helped to establish that three villages that were part of the complaint were not directly affected by HAGL's operation. Consequently, they no longer participated in the CAO process.

➤ See Second Joint Statement (available at www.cao-ombudsman.org)

HAGL makes a series of commitments

In September 2015, the company made a series of commitments, including not to engage in any further clearance or development of its concessions, so as not to cause any further adverse impacts on the eleven villages. These



Compliance Advisor/Ombudsman
2121 Pennsylvania Ave., N.W.
Washington, D.C. 20433
U.S.A.

commitments paved the way for further agreements with an additional three villages that are located within its concessions, but will not be affected due to the company's commitment not to clear and develop any further land.

The agreement between the parties sets out plans for a joint field trip so the communities and company could clarify the boundaries of their land, and HAGL's commitment to establish a community grievance mechanism for its Cambodia operations.

➤ See Third Joint Statement (available at www.cao-ombudsman.org)

Also in September 2015, at a joint meeting that took place in Siem Reap, the company and the 11 most directly affected communities founded a set of agreements for this group of villages, including a plan to carry out a joint trip to the villages, restoration of water sources, road and bridge repairs, and the agreement to either compensate for or return land should HAGL have cleared or developed community land.

➤ See Fourth Joint Statement (available at www.cao-ombudsman.org)

Siem Reap Agreements

- HAGL will only use chemical products that comply with environmental regulations;
- HAGL will repair and maintain any roads and bridges that villagers use which have been affected by HAGL's operations;
- Parties and other stakeholders, including NGO advisors, CAO and local authorities will visit jointly each of the eleven affected villages in order to identify the boundaries of HAGL's plantations and the boundaries of the affected villages for the purposes of demarcation;
- If through the joint visit it is ascertained that HAGL has cleared and developed land that belongs to the villagers, then the company will (a) offer compensation to the villagers for this land; and (b) if the villagers do not accept compensation, HAGL will return the land to the villagers; and
- HAGL agrees to support the villagers in securing title to their land.
- HAGL will restore affected water sources

including any depleted fish resources for all fourteen villages engaged in the CAO dispute resolution process (including the above eleven villages and Ket, Nay and Kachout villages).

- In recognition of the impacts caused by the rubber plantation projects of the company, HAGL offered its sincere apologies to the fourteen villages and offered as a gift one cow (400 kg in weight) and 500 USD to each of the villages for use in their spirit ceremonies.

IMPLEMENTATION OF EARLY AGREEMENTS

An apology and support for ceremonies

To kick off the implementation of interim agreements, the parties, NGO advisors, and representatives of the Provincial Government, as well as the CAO team, participated in a spiritual ceremony on November 13, 2015. HAGL publicly apologized to the indigenous communities for its impacts on their traditions.

Field visits to clarify land boundaries

In January 2016, company and community representatives, members of the Provincial Government, NGO advisors and the CAO team carried out joint trips for the first three villages. Each party provided their own mapping experts.

In June 2016, company and community representatives, NGO advisors, CAO team and members of the government working group visited another village.

Government Working Group

The government has established a working group to assist the parties to identify the alleged overlapping areas between HAGL's ELC and indigenous communities' customary land. The Government will participate in the Dispute Resolution Process, at the request of both parties, and help them find an amicable solution.



Compliance Advisor/Ombudsman
2121 Pennsylvania Ave., N.W.
Washington, D.C. 20433
U.S.A.

Next steps

CAO has been facilitating a dialogue among all stakeholders on a monthly basis. The CAO mediation process is currently ongoing.

Further information about CAO is available at www.cao-ombudsman.org.

The Cambodia/VEIL case page can be directly accessed via - http://www.cao-ombudsman.org/cases/case_detail.aspx?id=212 or <http://bit.ly/2acRXwl>