



Ombudsman Assessment Report

**Complaint Regarding the BTC Pipeline Project
And Residents of Naokhrebi Village – Akhaltsikhe District, Georgia**

April 29, 2008

**Office of the Compliance Advisor/Ombudsman
International Finance Corporation and
Multilateral Investment Guarantee Agency**

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Summary

The signatories to this complaint sought assistance from CAO to offer an out-of-court settlement to BTC Co., to resolve a grievance regarding a land claim and implementation of the project's purchase agreement procedures.

A CAO Ombudsman team met with the complainants in April 2008 to discuss the issues in detail, and with representatives of the project to discuss the complainants' offer.

In this case, BTC Co. was not willing to work with the parties to reach an out of court settlement, citing specific terms of its purchase agreement with the Georgian government.

Therefore, in accordance with its Operational Guidelines, the CAO Ombudsman has concluded its assessment of the complaint and transferred it to CAO Compliance for appraisal.

This report summarizes the context of the dispute, the perspectives of the parties, and the Ombudsman assessment findings.

Project Background

This is the 33rd complaint filed to CAO regarding the Baku-Tbilisi-Ceyhan (BTC) Main Export Pipeline project. The 1,176 km pipeline passes through Baku (the capital of Azerbaijan), Tbilisi (the capital of Georgia), and Ceyhan (a port on the south-eastern Mediterranean coast of Turkey where the pipeline terminates).

The BTC pipeline project involves the development, financing, construction, and operation of a dedicated 1,760-kilometer crude oil pipeline system to transport oil from the existing Sangachal oil terminal near Baku, Azerbaijan, through Georgia to an export terminal at Ceyhan, Turkey, on the Mediterranean Sea.

The project sponsor is BTC Co., a consortium of 11 partners, established in August 2002. British Petroleum (BP), the largest shareholder in the project, lead the project design and construction phases and currently operates the pipeline.

The IFC's gross investment in the project is US\$250 million, US\$125 million of which is for IFC's own account (referred to as an A loan), with an additional US\$125 million in syndicated loans, (or so-called B Loans).

The Complaint

On February 28, 2008, CAO received a complaint filed on behalf of villagers in Naokhrebi, Akhalsikhe District, by two representatives – the head of a community association called “Pobresi”, and a legal representative of the population. The complaint raises issues about residents’ land rights and describes a long-running dispute over registration of lands and implementation of a purchase agreement.

On March 5, 2008, the CAO determined the complaint meets its eligibility criteria for further assessment. In April, the CAO Specialist Ombudsman traveled to Naokhrebi to work with the parties and discuss options for resolution.

CAO OMBUDSMAN ASSESSMENT

I. Rational

CAO Ombudsman assessments seek to clarify issues and concerns raised by complainants, to gather information on the perspectives and interests of other impacted stakeholders who may not have signed the complaint, and to assist the parties in determining their best alternatives for resolving the issues. It does not gather information to determine fault or make judgments on the merits of a complaint.

To be eligible for CAO assessment, complaints must demonstrate that:

- The complaint pertains to a project that IFC/MIGA is participating in, or is actively considering.
- The issues raised in the complaint pertain to the CAO's mandate to address environmental and social impacts of IFC/MIGA investments.

- The complainant may be affected if the social and/or environmental impacts raised in the complaint occurred.

The CAO determined that the eligibility criteria were met in this case, and initiated an Ombudsman assessment in March 2008.

II. Methodology

The CAO Specialist Ombudsman and a Georgian co-facilitator met with the complainants in Naokhrebi, in the Akhaltsikhe District, to discuss the case in detail. The meeting was held in the office of one of the signatories to the complaint, who filed on behalf of the 15 (?) land owners who were in attendance.

Prior to the meeting, the Georgian facilitator worked with the Ombudsman specialist and the complainants to gather pertinent background information and set the agenda for the meeting.

At the meeting in Naokhrebi, the Ombudsman team described the CAO complaint handling process, and gathered information about the history of the complaint and steps they had taken to date to resolve it. The complainants produced maps and documentation in support of their claim, some of which were copied for the Ombudsman team to present to BTC Co. during its subsequent meeting with them.

III. Perspectives of the Complainants

According to the complainants, certain land users were never compensated for land purchased from the state by BTC Co. for the construction and permanent operation of a gas treatment facility. They dispute the terms of the purchase agreement between the state and BTC Co., saying they were the rightful owners and users of the land. During CAO's visit, the complainants produced maps and other land ownership documents which they say contradict BTC Co's assertion that the land was owned by the state.

When the conflict arose in 2005, the complainants sued BTC Co., and a local court ruled in their favor, ordering BTC Co. to compensate the land users. BTC Co. appealed the ruling, and the case was reviewed by a higher court, which again ruled in favor of the complainants. BTC Co. once again appealed and is awaiting a ruling.

The complainants are concerned that BTC Co.'s continued appeals constitute a stalling strategy, and ultimately will result in a dismissal of the case by the Georgian High Court, which they believe rules consistently in favor of large corporations, including BTC Co.

The complainants requested that the CAO Ombudsman assist them in making an out-of-court settlement offer to finally resolve the matter. The Ombudsman team agreed to discuss the proposal with BTC Co and, in the event that BTC was amenable to the offer, to then assist the complainants in drafting a detailed written settlement offer.

IV. Response and Perspectives of BTC Co.

BTC Co. claims it purchased the land legally and at fair market price from the appropriate Georgian government authorities, whose maps and pre-purchase documentation confirmed the land was state-owned and not in use for agricultural or other purposes.

The company has been involved in this dispute for nearly three years, when the complainants first began disputing the terms of the purchase agreement.

According to BTC Co., the government, which sold the land to BTC Co., should distribute that money to any impacted land users if in fact the government sellers fraudulently or inadvertently failed to acknowledge such land users prior to finalizing the purchase agreement. Although it disputes the existence of active private land holdings in that area, BTC Co. maintains that if the allegations are true, it is the Georgian government's responsibility to either pay the land owners the money it received during the purchase agreement, or return it in full to BTC so the company can perform the required due diligence and compensate the individual land owners in accordance with required policies and guidelines

The case is currently being considered in the Georgian courts, and BTC Co. says it is awaiting a ruling from the high court.

During the April 2008 assessment trip, the CAO Ombudsman team relayed the complainants' desire to settle the matter out of court. BTC Co. said it would decline such an offer on grounds that the case would set a precedent for other similar claims which they believe are matters for the Georgian government to settle. They also believe the case underscores a lack of accountability within the Georgian government regarding titling, regulation and compensation on public and private land sales.

V. CAO Assessment and Next Steps

Because BTC Co. is unwilling to pursue a negotiated settlement through the CAO Ombudsman, the Naokhrebi complaint has been transferred to CAO Compliance for appraisal to determine whether an audit is warranted.

The CAO Ombudsman has concluded its involvement in the case.

Both the complainants and the sponsor were notified of CAO's intention to transfer this complaint to CAO Compliance.