



CAO ASSESSMENT REPORT

**Complaint Regarding IFC's Cambodia Airports project (21363)
Phnom Penh, Cambodia**

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. 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

CAO	Office of the Compliance Advisor Ombudsman
EC	Equitable Cambodia
ICAO	International Civil Aviation Organization
IFC	International Finance Corporation
LC	Land Committee
MIGA	Multilateral Investment Guarantee Agency
PPIA	Phnom Penh International Airport

1. Overview

In June 2013, CAO received a complaint from 59 households from Thmor Korl and Prey Chisak villages (“Complainant”), with the support and assistance of Equitable Cambodia (EC), a Cambodian NGO. The complaint raises concerns about threatened land acquisition and possible forced evictions in relation to the development of Phnom Penh International Airport by Société Concessionnaire de l’Aéroport (“Company”). CAO determined that the complaint met its three eligibility criteria, as per its Operational Guidelines, and began an assessment of the complaint. During CAO’s assessment, key stakeholders¹ agreed to participate in a collaborative dispute resolution process. This Assessment Report provides an overview of the assessment process, including a description of the project, the complaint, the assessment methodology, and next steps.

2. Background

2.1. The Project²

Société Concessionnaire de l’Aéroport (“SCA”) holds a 25-year concession (from 1995) from the Royal Government of the Kingdom of Cambodia (“RGC”) to design, finance, construct, maintain, and operate the Phnom Penh International Airport (“PPIA”), the Siem Reap-Angkor International Airport (“SRAIA”) in Cambodia and Sihanouk International Airport (SIA). PPIA is located 10 km west of the capital city of Phnom Penh and serves as the main gateway to Cambodia.

The recent growth in traffic at PPIA, SRAIA and SIA has created the need for substantial expansion of the airport facilities to allow the airports to operate at international standards of safety and efficiency. Expansion and modernization of the airports’ infrastructure is viewed to be critical to the RGC’s efforts to grow the tourism industry in Cambodia for which the major attraction is the Angkor Temples. Hence, SCA is required under the concession, to carry out additional investments in the for a five year period. The project was estimated to cost US\$72.0 million, includes: (i) the financing of the 2003-2007 capital expenditure program for a total amount of US\$47.1 million, including US\$23.2 million to upgrade the facilities of PPIA (runway lengthening and widening, extension of the taxiway, expansion of apron and warehouse facilities and modernization of the airport operating equipment) and US\$23.9 million for SRAIA (major repairs of the runway and taxiway, extension of the taxiway and aprons, expansion of the terminal building, modernization of the airport operations equipment and construction of a new cargo warehouse); (ii) the financing of US\$8.2 million due to the construction contractor for past capital expenditures; and (iii) the refinancing of US\$16.7 million of the existing shareholders’ loan and a commercial bridge loan. IFC’s investment consisted of a loan of up to \$10 million. The loan to SCA has been fully disbursed and utilized. The project is currently in the monitoring phase.

2.2. The Complaint

In June 2013, 59 households from Thmor Korl and Prey Chisak villages, with the support and assistance of a Cambodian NGO, Equitable Cambodia, lodged a complaint with CAO. The complaint raises concerns over threatened land acquisition and possible forced evictions in connection with the development of Phnom Penh International Airport. Issues around community consultation and due process were also raised in the complaint. The complainants requested that CAO keep their identities confidential.

Community members state that they received eviction notices³ from Por Sen Chey district authorities³, although no forced evictions have yet occurred. According to stakeholders and news accounts⁴ provided

¹ For the purposes of this report, “stakeholders” refers to the CAO complainants, Royal Government of Cambodia, SCA, and Equitable Cambodia. This does not preclude other stakeholders from potentially participating in a CAO dispute resolution process, if needed to resolve the issues.

² IFC Project Documentation - PDS Early Review & Summary of Project Information
<https://ifcndd.ifc.org/ifcext/spiwebsite1.nsf/78e3b305216fcd8a85257a8b0075079d/ada895bf55cf98ff852576ba000e2572?opendocument> (Accessed June 27, 2013)

by complainants, on May 22, 2013 demonstrators protested in front of the Phnom Penh International Airport, temporarily blocking the entrance, and were eventually removed by police. SCA asserts that some settlements are located within the airport “security zone” and that this potentially violates international airport security and safety regulations and poses potential risks to passengers and the households themselves. The Cambodian Office of the Council of Ministers has established a Land Committee which is working with SCA to assess compliance with International Civil Aviation Organization (ICAO) standards and to assess the need for possible resettlement. The complainants informed CAO that they filed their complaint because their local efforts to obtain adequate information and get their issues addressed had not been successful.

3. Assessment Summary

The purpose of this 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 SCA would like to pursue a dispute resolution process under the auspices of CAO Dispute Resolution or the complaint should be transferred to CAO Compliance for appraisal. The CAO does not gather information to make a judgment on the merits of the complaint during its assessment.

3.1. Methodology

The CAO assessment of the complaint consisted of:

- reviewing project documentation as well as documentation in support of the complaint submitted by the complainants and Equitable Cambodia (EC);
- conducting meetings with complainants, Equitable Cambodia, IFC project team, SCA, and Office of the Council of Ministers Land Committee (LC); and
- visits to the potentially affected villages.

3.2. Findings

3.2.1. Summary of Issues

This section summarizes the issues laid out by different stakeholder groups. It does not comprise a judgment from CAO about the merits of the complaint.

Based on the original complaint and further stakeholder discussions undertaken as part of the CAO Assessment, the primary issues that would need to be addressed to resolve the complaint are:

1. How can local residents of Thmor Korl, Prey Chisak, and Kok Chambork⁵ villages engage with SCA and relevant government authorities to determine impacts to people and property as a result of Phnom Penh Airport facilities upgrading and/or security improvements?
2. How might feasible alternative designs be considered to avoid physical displacement? If necessary, how will compensation and/or relocation of affected people be managed and implemented?

³ Complainants cite eviction notice No.078SCN of July 25, 2012, and an additional eviction letter from Por Sen Chey governor dated August 11, 2012.

⁴ Please see Cambodia Daily, *Eviction Protesters Block Phnom Penh International Airport*, by Aun Pheap, 23 May 2013, <http://www.cambodiadaily.com/archive/eviction-protesters-block-phnom-penh-international-airport-26147/>

⁵ Although there were no formal complaints from Kok Chambork village, the complaint to CAO did raise concerns that families from that village could also be impacted.

3. How might relevant stakeholders work together to address safety and security concerns for the airport and residents living near the airport fence?

3.2.2. Summary of Stakeholder Goals and Interests

Based on the discussions with key stakeholders described above, the CAO team heard and understood the following shared key goals and interests:

- Resolving complaint issues in a collaborative and peaceful way
- Learning from Sihanoukville Airport experience with relocation and compensation of locally affected people and applying relevant lessons in Phnom Penh
- Keeping all stakeholders informed on airport expansion and improvement plans

In meeting with complainants and potentially affected people, CAO noted the following additional interests and concerns expressed by them:

- Avoiding relocation as much as possible
- Conducting a fair and transparent compensation process, if there are no feasible alternatives to resettlement.
- Ensuring legal land title
- Accessing information about aspects of the airport project that affect them
- Having a voice and influence in decisions that affect them regarding the airport and possible resettlement
- Holding constructive dialogue in a safe environment without fear of retribution

4. Next Steps

The complainants, SCA, and LC have agreed to work with the CAO Dispute Resolution team to try to resolve the issues raised in the complaint using a collaborative approach. During CAO's dispute resolution processes, the CAO provides neutral mediation/facilitation and convenes separate and joint meetings as needed. CAO will work with the parties to assist them in agreeing on a timeline, process and schedule for meetings.

Annex A. CAO Complaints Handling Process

The Office of the Compliance Advisor Ombudsman (CAO) is the independent accountability and recourse mechanism for the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA), the private sector arms 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 CAO assessment is conducted by CAO's Ombudsman 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) to help the CAO Ombudsman and the stakeholders determine whether and how they might be able to resolve the issues raised in the complaint.

This document is a preliminary record of the views heard by the CAO team, and explanations of next steps. *This report does not make any judgment on the merits of the complaint.*

As per CAO's Operational Guidelines,⁶ 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: **Ombudsman assessment:** Assessment of the issues and provide support to stakeholders in understanding and determining whether a collaborative solution is possible through a facilitated process by CAO Ombudsman, or whether the case should be transfer to CAO Compliance for appraisal of IFC's/MIGA's social and environmental performance. The assessment time can take up to a maximum of 120 working days.
- Step 4: **Facilitating settlement:** If the CAO Ombudsman process continues, this phase involves initiation of a dispute resolution process (typically based or initiated by a Memorandum of Understanding and/or a mutually agreed upon ground rules between the parties) through facilitation/mediation, joint fact-finding, or other agreed resolution process, leading to a settlement agreement or other mutually agreed and appropriate goal. The major objective 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 problem-solving process, in a way that is acceptable to the parties affected⁷.

OR

⁶ For more details on the role and work of the CAO, please refer to the full Operational Guidelines: <http://www.cao-ombudsman.org/about/howweare/index.html>

⁷ Where stakeholders are unable to resolve the issues through a collaborative process within an agreed time frame, the CAO Ombudsman will first seek to assist the stakeholders in breaking through impasse(s). If this is not possible, the CAO will inform the stakeholders, including IFC/MIGA staff, the President and Board of the World Bank Group, and the public, that CAO Ombudsman has concluded its involvement in the complaint, and that it is being transferred to CAO Compliance for appraisal.

Compliance Appraisal/Audit: If a collaborative resolution is not possible, CAO Compliance will initiate an appraisal of IFC's/MIGA's social and environmental due diligence of the project in question to determine whether a compliance audit of IFC's/MIGA's involvement in the project is merited.

Step 5: **Monitoring** and follow-up

Step 6: **Conclusion**/Case closure