



CAO ASSESSMENT REPORT

**Regarding environmental concerns in relation to
IFC's Alqueria project (#28492) in Cajica, Colombia**

August 2013

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. The 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

TABLE OF CONTENTS

TABLE OF CONTENTS3

LIST OF ACRONYMS4

1. OVERVIEW5

2. BACKGROUND.....5

 2.1. Project.....5

 2.2. Complaint.....5

3. ASSESSMENT SUMMARY5

4. NEXT STEPS6

LIST OF ACRONYMS

CAO	Office of the Compliance Advisor Ombudsman
CAR	Regional Autonomous Corporation (<i>Corporación Autónoma Regional</i>)
IFC	International Finance Corporation
MIGA	Multilateral Investment Guarantee Agency

1. OVERVIEW

In April 2013, CAO received a complaint from a legal family association, owners of the farm called *Finca Golpe de Agua*, neighbouring Alqueria's plant in Cajica, Colombia. Complainants raised concerns about alleged environmental impacts due to Alqueria's operations in relation to *Golpe de Agua*. The CAO determined that the complaint met its three eligibility criteria and began an assessment of the complaint. After conducting an assessment including a field visit from July 15 - 17, 2013, CAO has heard from parties that they are willing to try to resolve the issues raised in the complaint through a 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 Project

According to IFC, Productos Naturales de la Sabana S.A. Alqueria ("Alqueria" or the "Company") is the second largest milk company in Colombia. The Company processes milk and a wide range of dairy products such as UHT milk, flavored liquid milk, cream and yoghurt – through a joint-venture with Danone (Danone Alqueria Limited) - as well as fruit beverages from concentrate.

IFC approved a \$15 million loan and \$5 million in equity to help the Company implement its 2010 – 2012 investment program, involving expanding production capacity across the company's plants; generating incremental working capital aimed at gaining efficiencies and cost reduction through investments.

According to IFC, its investment on the company will enable Alqueria to (a) continue improve product quality and safety standards enabling the Company to keep diversifying into new products; (b) benefit from the implementation of IFC's environmental and social performance standards; (c) strengthen its corporate governance and improve its financial indicators; and (d) maintain its competitive position by reducing costs.

2.2 The Complaint

In April 2013, a complaint was lodged with the CAO by owners of a farm, *Finca Golpe de Agua*, adjacent to the company's plant in Cajica raising concerns related to various environmental impacts of Alqueria's operations, namely pollution, including industrial discharges to the Frio river and to *Golpe de Agua*, soil pollution, noise pollution, inadequate disposal of toxic residues, and air emissions, without pertinent environmental and urban permits.

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 the company would like to pursue a dispute resolution process under the auspices of CAO Dispute Resolution, or whether the complaint should be appraised by CAO Compliance (see Annex B for CAO's complaint handling

process). The CAO does not gather information to make a judgment on the merits of the complaint during its assessment.

The CAO assessment of the complaint consisted of:

- reviewing project documentation;
- holding meetings with the complainants and their legal advisors;
- conducting field visits to *Finca Golpe de Agua*;
- holding meetings with Company's personnel;
- conducting field visit to Alqueria production plant;
- holding a meeting with Polo Club's Operational Manager and field visit;
- conducting telephone interview with Polo Club's General Manager;
- holding meetings with the IFC team.

See Annex A for an itinerary of meetings during the field visit in July.

Based on the original complaint and further discussions with the complainants, the company and IFC undertaken prior to and during CAO's assessment trip, CAO identified the issues for discussion about which the parties have different points of view. These issues include the following:

- noise produced by Alqueria's plant
- residual water discharges in the river and in the soil of *Golpe de Agua*
- solid residual into the ground
- procedures to manage residual elements
- air emissions produced by Alqueria's plant
- information about follow up on water systems – drainage, pipes, connecting boxes, reservoirs, irrigation and canals
- existence of pertinent urban and environmental permits
- adequate communication mechanisms to seek solution to complaints
- acknowledgement of measures taken to address environmental issues

While the parties have differing views on the issues outlined above, there are also several areas of commonality which may be summarized as follows:

- There is a desire to resolve the issues raised in the complaint and to participate in a dispute resolution process without impacting negatively on each others' activity.
- The parties acknowledge the historically respectful relationship between them as neighbors.
- The parties are concerned about long-term consequences if issues are not addressed.
- Both parties face challenges when looking for guidance before the Regional Autonomous Corporation (CAR) to address environmental issues of concern to both of them, due to the dynamical changes to the legal framework in Colombia.
- The parties acknowledge the company's social commitments to the community at large, economic achievements and successful innovation approaches in the company's products.

4. NEXT STEPS

The complainants and Alqueria have agreed to engage in a voluntary CAO facilitated dispute resolution process. The CAO in its role of facilitator of this dialogue process and, as a

preliminary step, will engage with the parties on setting ground rules to guide the process. This will include agreement regarding, inter alia, representation and the role of potential observers and/or advisors. The parties will also need to agree on the issues which the dispute resolution process will be designed to address.

Annex A. Schedule of meetings and site visits in Colombia

Date	Participants	Location
7/15/13	Complainants and CAO Field visit	Bogota and Cajica, Colombia
7/15/13	Alqueria and CAO	Bogota, Colombia
7/16/13	Alqueria and CAO Field visit	Cajica, Colombia
7/17/13	Operational Manager of Polo Club and CAO	Cajica, Colombia
7/17/13	Manager of Golpe de Agua and CAO Field visit	Cajica, Colombia
7/17/13	IFC project team and CAO	Bogota, Colombia
7/17/13	Complainants and CAO	Bogota, Colombia
7/22/13	General Manager of Polo Club and CAO (conference call)	Bogota, Washington and Lima

Annex B. CAO Complaints Handling Process

The Office of the Compliance Advisor Ombudsman (CAO) is the independent recourse mechanism for the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA) 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 initial assessment is conducted by CAO's Dispute Resolution 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) help stakeholders understand the recourse options available to them and determine whether they would like to pursue a collaborative solution through CAO's Dispute Resolution function, or whether the case should be reviewed by CAO's Compliance function.

This document is a preliminary record of the views heard by the CAO team, and explanations of next steps depending on whether the parties choose to pursue a Dispute Resolution process or prefer a CAO Compliance process. *This report does not make any judgment on the merits of the complaint.*

As per CAO's Operational Guidelines,¹ 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: **CAO assessment:** "Assessment of the issues and provide support to stakeholders in understanding and determining whether they would like to pursue a consensual solution through a collaborative process convened by CAO's Dispute Resolution function, or whether the case should be handled by CAO's Compliance function to review IFC's/MIGA's environmental and social due diligence. The assessment time can take up to a maximum of 120 working days."

Step 4: **Facilitating settlement:** If the parties choose to pursue a collaborative process, CAO's dispute resolution function is initiated. The dispute resolution process is typically based or initiated by a Memorandum of Understanding and/or a mutually agreed upon ground rules between the parties. It may involve facilitation/mediation, joint fact-finding, or other agreed resolution approaches leading to a settlement agreement or other mutually agreed and appropriate goal. The major objective of these types 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 dispute resolution process, in a way that is acceptable to the parties affected².

OR

¹ For more details on the role and work of CAO, please refer to the full Operational Guidelines: http://www.cao-ombudsman.org/documents/CAOOperationalGuidelines_2013.pdf

² Where stakeholders are unable to resolve the issues through a collaborative process within an agreed time frame, CAO Dispute Resolution will first seek to assist the stakeholders in breaking through impasse(s). If this is not possible, the Dispute Resolution team will inform the stakeholders, including IFC/MIGA staff, the President and Board of the World Bank Group, and the public, that CAO Dispute Resolution has closed the complaint and transferred it to CAO Compliance for appraisal.

Compliance Appraisal/Investigation: If the parties opt for a Compliance process, CAO's Compliance function will initiate an appraisal of IFC's/MIGA's environmental and social due diligence of the project in question to determine whether a compliance investigation of IFC's/MIGA's performance related to the project is merited. The appraisal time can take up to a maximum of 45 working days. If an investigation is found to be merited, CAO Compliance will conduct an in-depth investigation into IFC's/MIGA's performance. An investigation report with any identified non-compliances will be made public, along with IFC's/MIGA's response.

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

Step 6: **Conclusion/Case closure**