



## **Assessment Report**

### **Complaint filed to the CAO regarding the Uganda Bujagali Hydropower Project**

September 2001

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

The Complaint dated 19 June 2001 was filed by National Association of Professional Environmentalists (NAPE) regarding the Bujagali Hydropower Project, and received by the CAO office on June 20, 2001.

The CAO appraised and accepted the Complaint and thereby informed the Complainant by way of facsimile, Mr. Muramuzi Frank, President of NAPE on the June 28, 2001.

## 1. The Complaint

The Complaint raised issues that the CAO viewed as complex and interrelated. The CAO concluded several issues fall under the Ombudsman role, and the other issues would be better dealt with under the Advisory role.

Several issues raised by the Complainant referred directly to the activities of IDA. CAO suggested that these matters could be best referred to the Inspection Panel.

The Complaint also referred to issues of corruption and bribery. The CAO referred the Complainant to the World Bank's Fraud and Corruption Unit.

The CAO attended as an observer, the Public Consultations on the EIA, held at Jinja, Uganda on June 12, 2001. The CAO had met with NAPE during the visit to Uganda to discuss concerns of civil society. Therefore, no site visit was made after receiving the Complaint.

The CAO response to NAPE on the June 28, 2001 referred specifically to each issue raised and identified under which role the CAO would consider the issue. In total, 6 issues would be considered under Ombudsman, and the outstanding issues under its Advisory role.

In its Ombudsman role, the CAO has formally raised nine issues with IFC, and has met with the Project Team to go through the issues. The CAO has read the summary of the public consultation at Jinja, Uganda on June 12, 2001, and the summary of the Second International Forum on the Proposed Bujagali Hydropower Project, Washington, DC, July 17-18, 2001, relevant portions of the EIA, and related documents

The Complaint focuses on broader issues related to the economic viability of the project, the cost to consumers, and the benefit to the people of Uganda. It also raises key issues raised by the World Commission on Dams (WCD) guidelines. The CAO has asked the IFC to comment and reply directly to the Complainant.

## 2. Background

The Complaint arises from citizens' concerns about the proposed Bujagali Hydropower project, a 250 MW hydropower facility being proposed on the Victoria Nile River, near Jinja, Uganda. Key features of the project include a power station housing five 50 MW turbines, with a 30 meter high dam and associated spillway works. At its full supply level, the project's reservoir will inundate 80 hectares of land and 308 hectares of area presently occupied by the Victoria Nile River. (EIA Executive Summary)

The project sponsor is AES Nile Power (AESNP), a company formed by the AES Corporation of USA and Madhvani International of Uganda, a company incorporated for the purpose of planning

and implementing the Bujagali project. AESNP will own and operate the hydropower facility for 30 years, after which the facility will be transferred to the Uganda Electricity Board (UEB) or its successor organization.

As part of the Bujagali project, electrical transmission facilities are proposed, to enable connection to the Ugandan electrical grid.

The World Bank Group's involvement in this project will be through the IFC providing finance and IDA providing credit guarantees. The environmental and social "safeguard" policies of the IFC are therefore applied. Supervision of the implementation of the safeguard policies will be the responsibility of the officers of the Technical and Environment Department at IFC. Review of the environmental and social issues of Bujagali hydropower project began in 1998.

The EIA was released in April 2001, locally and in Washington, DC. There have been public consultations held before and after the release of the EIA. Post-EIA release public consultations were held in Jinja, Uganda on 12 June 2001, and the consultations held in Washington, DC, on 18 and 19 July 2001. This project has aroused serious interest by many stakeholders, from industry, NGO, Government of Uganda (GOU), civil society and impacted persons.

As the World Commission on Dams (WCD) report has been released, the Bujagali project is seen as a benchmark for the construction of dams.

### 3. Situation Assessment

*IFC in Uganda:* There are 31 current active projects in which IFC is invested in Uganda. IFC first invested in the country in 1971.

*IFC project preparation:* The Bujagali project was created in 1997. Bujagali is the first hydropower project in Uganda in which IFC has been involved. There is general agreement among NGO's and other stakeholders that Uganda needs power—and no one disagrees that affordable and accessible power is integral to alleviating poverty and driving development.

Issues of finding best, least-cost, options for developing power in Uganda are at the core of project debate. Questions exist as to how IFC assessed and screened alternatives, especially vis-à-vis how "least cost" was defined, and how affordability was determined for poorer sectors of Ugandan society, 90% of whom would still not have direct access to electricity ten years from when the dam is completed.

*How thoroughly were alternate energy sources examined?* Acres International was commissioned by the WBG to undertake a comprehensive assessment and least-cost analysis of all practical alternatives for meeting Uganda's future power requirements, results of which were published in the July 2001 draft report "Economic Review of the Bujagali Hydroelectric Project. The alternatives studied included hydroelectric potential, thermal generational alternatives, as well as a variety of renewable energy technologies. Acres' analytical process identified a 200 MW hydroelectric plant at Bujagali as the least cost power generation option investment. Given that the economic analysis of the project is still ongoing, the question remains whether Bujagali can really be considered the least cost option. Of concern to some stakeholders is that the comparison of alternatives was done by Acres, a company with vested interests in hydropower on the Nile.

Related to the examination and assessment of alternative energy sources is the issue of hydrological flow rates and risk, and their role in ranking alternatives; if water flow in the Victoria Nile River is below a certain level, payment during the first 12 years, when debt is outstanding, are

reduced. However, if water flow rates drop significantly, but don't drop far enough to trigger the hydrological force majeure protections, then the Ugandan government would still be forced to pay AES for far less electricity than originally foreseen.

Another issue relates to determining the best, least-cost alternative involving tourism on the Nile, especially white water rafting. The Ugandan Tourism Association insists that the EIA severely underestimates the size of the rafting enterprises in particular, and tourism activities in general, on the local economy. Therefore they agree another economic aspect of building a dam at Bujagali has been underreported. The end result of both hydrological risk analysis and tourism income is that the EIA does not include a true picture of the costs and benefits of a major hydroelectric installation at Bujagali.

*Comprehensive study of cumulative impact of a cascade of dams along the Nile?* Acres May 2000 Final Report concluded that of the hydro options the most economic would be at Bujagali, Kalagala or Karuma. An EIA was completed for each to demonstrate compliance for lending consideration to the World Bank Group. Cumulative impacts for the hydropower facility were modeled in the March 2001 EIA; conclusions were that two scenarios including a Kalagala plant had the highest cumulative impacts, and that location was dropped as a potential site for a dam. An ESG International study done in 2000, "Victoria Nile Strategic Impact Assessment – Uganda," built upon Acres work, and developed a methodology for assessing cumulative effects from additional hydroelectric plants on the Nile. This "Limits of Acceptable Change" (LAC) approach was based on consultations with Ugandan stakeholders, and used criteria against which to assess the acceptable levels of change to the Victoria Nile.

One observation from this study was that there is a desire in Uganda to use the Victoria Nile to attract tourism in addition to using it to produce electricity. This provided part of the rationale for the Kalagala offset. However, LAC is not quantitative or statistical in nature—it is based on public consultation and perceptions, not modeling of potential environmental impacts.

*What is the rationale behind the Kalagala offset?* The Bujagali reservoir would permanently inundate Bujagali Falls on the Nile River. As an environmental "offset" or mitigation, the project proposes a set of actions that the Government of Uganda has agreed on with the WBG: (1) to establishment and maintain Kalagala Falls as a protected site in perpetuity; and (2) to make development of the Kalagala site extremely unlikely through WBG veto, as well as investment programs that promote its value for tourism/recreation. As mentioned above, the ESG International 2000 study, using its LAC methodology, observed that Ugandans want to use Victoria Nile resources for purposes other than energy production—namely, for tourism.

*How exhaustive was the consultation process with local communities?* AES Nile Power has carried out 254 meetings with local residents from affected areas; 61 meetings with representatives of cultural institutions; 354 meetings with local and GOU representatives; 146 meetings with stakeholders; 139 meetings with environmentalists and NGOs; 32 meetings with lenders; and 159 meetings with others, plus 185 consultations with national media. Stakeholder forums were held in Washington, in June 2000 and July 2001, and in Jinja, Uganda, in June 2001.

In-country consultations were "witnessed" by a third-party NGO, InterAid. InterAid Uganda began as an independent observer of AESNP activities in September 2000. Its role has been to examine, analyze and make independent reports on the work of AESNP regarding its commitment to provide training to community members affected by the project. As part of its evaluation process, InterAid determines whether the information being presented in the training is relevant to the affected people and aids in the development of future training programs. Questions have been raised,

however, about the Interaid's ability to maintain its independent status, given that it is now being paid by AESNP.

*Does compensation and resettlement of project-affected people carried out by AES pre-empt decision-making processes by IFC, WBG, & GOU?* According to IFC, commencement of implementation of the Resettlement and Community Development Action Plan (RCDP) does not pre-empt IFC decision-making. AES has made the decision to implement the RCDP on the basis of National Environment Management Authority (NEMA) approval; IFC has provided a list of resettlement consultants and reviewed drafts of the RCDP. IFC advised AES that implementation of the RCDP **before** issuance of IFC's Environmental and Social Clearance would be done at AES' own risk. This is confusing to outside parties, contradicts IFC's assertion of its leverage at this stage of a project, and reveals a weakness in the IFC system.

*Who was consulted on the spiritual significance of the Bujagali Falls, and transferring of shrines to other sites?* IFC doesn't intercede directly in such determinations, but IFC staff have reviewed the RCDP, including the Cultural Properties Management Plan, and concluded that the plan complies with IFC safeguard policies. A house-by-house consultative process was undertaken on the spiritual significance of Bujagali Falls, as well as natural elements which comprise the "spiritual landscape" of the area. Preceding consultation on spiritual issues, AES undertook some detailed studies of traditional religions by two professors from Makerere University, to identify spiritual custodians and identify cultural aspects of the site. Consultations were also held with traditional healers and with Christine Kisamba Mugerwa on the issue of moving spirits. Synergy Consulting Firm met with 16 diviners, traditional herbalists and households with graves and shrines in order to prepare and approve its report. There was also held a national consultation with religious leader The Living Budhagali Nabamba (July 30, 2000) on Radio Simba, as well as meetings with him to negotiate appeasement requirements for the Bujagali spirits. On the question of how can spirits be moved, some tribal groups' cosmologies don't allow that moving spirits and shrines is possible, and questions remain as to what kinds of mitigation and/or compensation can be possible in such a situation. .

*Has there been a comprehensive management plan done for the Nile?* There has been no such plan produced, however the WB is planning to undertake a comprehensive management plan, to be known as the Nile Basin Initiative.

*Will there be a separate approval process for the transmission lines before the project is approved?* IFC insists that the decision to have separate public hearings on the transmission lines was fully NEMA's decision. Some stakeholders feel that IFC's release of the transmission line EIA before NEMA's approval of that document put pressure on NEMA to approve it. (NEMA approved the Transmission Line EIA on July 18, 2000). However, IFC release of the EIA does not indicate WBG approval of the project, and the WBG is obligated to measure the EIA against its own safeguard policies.

*Will the PPA for the project be made available to the public, and what is IFC's position about a public release of the PPA?* IFC insists that the PPA is a confidential agreement between AES Nile Power and the GOU—and IFC is not a party to this agreement. IFC's position is that its release of the PPA to the public would violate the IFC information disclosure policy. NGO's point out that it is difficult if not impossible to have a useful discussion regarding the economic implications of Bujagali without access to the PPA. Furthermore if AES wants to maintain a degree of secrecy consistent with a private sector project, perhaps public institutions should not be asked to provide guarantees for or subsidize the undertaking.

#### 4. CAO Conclusions

The CAO assessment is limited to the issues raised and accepted in its Ombudsman role, however it is aware of the broader concerns that relate to the Bujagali Hydropower project. The EIA has provided the substance for comment and questions by the stakeholders both in and outside of Uganda.

The CAO is satisfied that whilst the project is still in the pre-Board approval stage, and the sponsor is awaiting a decision by the IFC regarding its involvement in this project, the staff of the IFC's Environment Department have maintained a close watch, and have been diligent in ensuring that the sponsor complies with the IFC safeguard policies.

There remain outstanding issues:

1. The lack of a conclusive economic analysis of the project by the WBG/IFC continues to raise doubts about the economic viability of the project, and the answers provided on the environmental/social issues are subsumed by the overarching question of economic viability.
  2. At a time when IFC has no direct financial interest in this project, IFC has little leverage over the implementation of the resettlement program by the sponsor.
  3. The issue of the hydrological flow rates risks and the cost to Uganda remains an issue.
  4. The question of affordability of electricity to the poorer sectors and the least cost alternative remains.
  5. A comprehensive study of the cumulative impact of a cascade of dams along the Nile remains a problem, because those impacts have only been partially addressed in the EIA for the hydropower facility and technical appendices. In addition, the use of the LAC approach in the Strategic Impact Assessment remains a problem because of its methodology.
  6. With regard to the moving of spirits, whilst the IFC may be satisfied that the Cultural Properties Management Plan complies with IFC safeguard policies, the traditional understanding and practice of "moving spirits" has its own deeper cultural dimensions which remain an issue for many in the community.
  7. The lack of a comprehensive management plan for the Nile raises long-term management issues for the river, people and environment.
5. Suggested path forward or recommendations

The CAO is aware that there is a request to the Inspection Panel.

The CAO now needs the Complainant to consider the assessment of the Ombudsman and comments by IFC management [under the CAO's Advisory role] and request further intervention, if necessary. The CAO does not see a role for facilitation or mediation at this stage because the IFC has not made a final decision to participate in the project.