

CAO ASSESSMENT REPORT

**Regarding a Complaint Received in Relation to
IFC and MIGA Investments in Nachtigal Hydropower Company (IFC #37673; MIGA
#13075) in Cameroon**

October 2022

Office of the Compliance Advisor Ombudsman
for
the International Finance Corporation and the
Multilateral Investment Guarantee Agency
www.cao-ombudsman.org

About 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), members of the World Bank Group. CAO reports directly to the IFC and MIGA Boards of Executive Directors. CAO's mandate is to facilitate the resolution of complaints from people who may be affected by IFC and MIGA projects in a manner that is fair, objective, and constructive; enhance the environmental and social outcomes of projects; and foster public accountability and learning to enhance the environmental and social performance of IFC/MIGA and reduce the risk of harm to people and the environment.

For more information, see www.cao-ombudsman.org

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LIST OF ACRONYMS

AFD	Agence Française de Développement
AfDB	African Development Bank
CAO	Office of the Compliance Advisor Ombudsman
DEG	German Investment Corporation
DFI	Development Finance Institution
EDF	Électricité de France
EIB	European Investment Bank
ESIA	Environmental and Social Impact Assessment
FMO	Dutch Entrepreneurial Development Bank
GBVH	Gender-based Violence and Harassment
GRM	Grievance Redress Mechanism
IAM	Independent Accountability Mechanism
IBRD	International Bank for Reconstruction and Development
IFC	International Finance Corporation
IRM	Independent Review Mechanism
LRP	Livelihood Restoration Plan
MIGA	Multilateral Investment Guarantee Agency
NHPC or “Company”	Nachtigal Hydropower Company
NHPP or “Project”	Nachtigal Hydropower Project
OPEC	Organization of the Petroleum Exporting Countries
RAP	Resettlement Action Plan
SEP	Stakeholder Engagement Plan
WBG	World Bank Group

1. SUMMARY

In April 2022, IFI Synergy Platform lodged a complaint on behalf of communities living near the Nachtigal Hydropower Project (“the Complainants”) in Cameroon. The Nachtigal Hydro Power Company S.A. (“NHPC” or “the Company”), a public limited company under Cameroonian law, is in charge of the construction and operation of the project. The Nachtigal Hydropower Project (“the project” or “NHPP”) is a greenfield 420-megawatt run-of-river project on the Sanaga river, near Yaoundé, Cameroon. The project is expected to provide 30 percent of national electricity production in the long term and displace more expensive and polluting thermal sources of energy. Of note, the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA) are supporting the project. IFC supports NHPC through equity and a senior loan. MIGA supports the project through guarantees covering Électricité de France (EDF) and STOA equity and quasi-equity investment in NHPP. The project is currently under construction. NHPC reported that, as of the end of September 2022, the progress rate of the Nachtigal Project is 73.5 percent. The full commissioning is expected in September 2024.

The complaint raises multiple environmental and social concerns. The social concerns include loss of livelihood; inadequate grievance mechanisms; insufficient and late compensation; improper implementation of physical resettlement; relocation and destruction of sacred sites; and an increase in social problems. The environmental concerns include those associated with reduced water flow resulting from water diversion, such as scarcity of fish, reduced downstream movement of soil, and impacts on crop production.

CAO found the complaint eligible for further assessment on May 6, 2022. In accordance with [CAO Policy](#) and with the explicit consent and request of the Complainants, CAO shared the complaint with the Independent Accountability Mechanisms (IAMs) of other Development Financial Institutions (DFIs) financing the Project.¹ These include the International Bank for Reconstruction and Development (IBRD), African Development Bank (AfDB), European Investment Bank (EIB), German Investment Corporation (DEG), Proparco and Agence Française de Développement (AFD), and the Dutch Entrepreneurial Development Bank (FMO).² The Complainants filed similar complaints with the CAO, the World Bank’s Accountability Mechanism, and the Independent Review Mechanism (IRM) of the AfDB. Another similar complaint was filed with the EIB’s Complaints Mechanism as CAO was finalizing the current assessment report.

¹ CAO Policy, paragraph 169 indicates that, “If CAO is aware that other organizations with IAMs have financed or guaranteed a Project that is the subject of a complaint to CAO, CAO will notify those IAMs of the existence of the complaint, subject to the Complainant’s consent to this notice and applicable provisions to protect confidentiality”.

² Other DFIs financing the project include Africa Finance Corporation (AFC), British International Investment (BII, formerly CDC), Emerging Africa Infrastructure Fund Limited, and OPEC Fund for International Development. The complaint was not shared with these institutions as they are not part of the Independent Accountability Mechanisms network.

From May 6 to October 31, CAO and IRM conducted a joint assessment of the complaint. During the assessment, NHPC and the Complainants expressed an interest in engaging in a dispute resolution process facilitated by CAO and IRM to resolve the issues raised in the complaint.

2. BACKGROUND

2.1 The Project

The NHPP is a greenfield 420-megawatt run-of-river hydropower project located on the Sanaga River, north of Yaoundé, Cameroon. The site is located downstream from the Lom Pangar regulating dam. The project will be the most important independent power producer on the Sanaga River when commissioned. It diverts most of the water of the river for 3.5 kilometers to generate electricity. The Main Roller Compacted Concrete dam is 1,455 meters long and 13.6 meters high, with a reservoir area of approximately 4 km² at full supply level. NHPC's mission is to design, finance, build, and operate the Nachtigal upstream hydroelectric development and a power transmission line between Nachtigal and Nyom 2. The construction of the hydroelectric development began in February 2019 and is due to be completed in September 2024. Following completion of the construction phase, NHPC will embark on the operational phase for 35 years. The Republic of Cameroon granted NHPC a concession for this period to operate the hydroelectric dam.

According to [IFC disclosures](#), the total project cost is estimated at EUR 1.3 billion, financed with EUR 0.9 billion in debt and EUR 0.3 billion in equity. IFC supports the NHPP through an equity investment of EUR 60 million and an A-Loan of EUR 110 million to NHPC.³ IFC holds a 20-percent share in the company.

MIGA is supporting the project through guarantees of up to EUR 164.5 million, covering the equity and quasi-equity investments of EDF International S.A.S. (a subsidiary of Electricité de France) and STOA SA (a French investment fund) in the project. MIGA Guarantees were issued for up to 15 years against the risk of breach of contract.⁴

2.2 The Complaint

In April 2022, Green Development Advocates (GDA), a nongovernmental organization (NGO) serving as the secretariat of IFI Synergy Platform, a network of NGOs based in Cameroon, lodged the complaint on behalf of communities living near the Nachtigal Hydropower Project. The complaint, which was signed by 99 individuals, indicates that since project construction began, the communities and socio-professional associations (more than 500 individuals) living and working in the vicinity of the project are facing multiple difficulties.

The Complainants presented the following concerns:

³ [IFC Disclosures](#)

⁴ [MIGA Website](#)

- inadequate stakeholder consultations;
- loss of income-generating activities for fishermen, sand extraction workers, and fish traders;
- insufficient and late compensation to the people in the affected communities that were compensated;
- improper and inadequate implementation of physical resettlement;
- relocation and destruction of sacred sites;
- increase in negative social issues, including theft, juvenile delinquency, gender violence, and certain diseases associated with construction workers working on the project;
- environmental impacts (scarcity of rain, fish, and medicinal plants; and temperature increases);
- inadequate grievance mechanism; and
- impacts on crops outside of the initially designated project area covered by the environmental and social impact assessment, for which neighboring communities have not been compensated.

The issues raised during the assessment are described in more detail in Section 3.2.

3. ASSESSMENT SUMMARY

3.1 Methodology

The aim of the CAO assessment is to clarify the issues and concerns raised by the Complainants, gather information on the views of different stakeholders, and determine whether the Complainants and the Company would like to pursue a dispute resolution process facilitated by CAO, or whether the complaint should be handled by CAO's Compliance function for appraisal of IFC's and MIGA's performance (see Annex A for CAO's complaint-handling process).

In this case, CAO's assessment of the complaint was closely coordinated with IRM and included:

- a desk review of project documentation;
- virtual and in-person meetings with the Complainants and supporting NGOs;
- virtual and in-person meetings with NHPC and their shareholders;⁵
- virtual meetings with the IFC and MIGA project teams; and
- a joint assessment trip to Cameroon with IRM from July 30 to August 6, 2022.

This document is a record of the views heard by the CAO team and explanations of next steps based on the Parties' choices. In the CAO process, the Parties are the

⁵ NHPC shareholders, including MIGA's Guarantee Holders, participated in a virtual information sharing session held by CAO on September 14, 2022.

Complainants and the Company. For the purposes of the CAO process, “the Company” refers to NHPC.⁶

This report does not make any judgment on the merits of the complaint and was shared with NHPC, EDF, STOA, the Complainants, and IFC and MIGA for factual review.

3.2 Summary of views

This section presents a broad overview of the issues and perspectives expressed by the Parties during CAO’s assessment phase. IRM is publishing its own independent report.

Complainants’ perspective

The CAO assessment team, accompanied by IRM, met in-person with approximately 850 men and women from the affected communities mentioned in the filed complaint. The complainants and the supporting NGO indicated that further details of the issues identified will be discussed during the dispute resolution process. Their concerns can be grouped as follows:

Resettlement, Compensation, and Livelihoods

The Complainants indicated that specific occupational groups in the communities have been economically impacted since construction of the dam began and that NHPC’s response was inadequate. The Complainants explained that compensation, resettlement action plans (RAP), livelihood restoration plans (LRPs), and NHPC’s Local Economic Development Action Plans (PADEL, for its acronym in French) are available but are not being adequately or appropriately implemented and are insufficient and ineffective in compensating for the losses incurred. The Complainants indicated that they were promised benefits from the project but did not get preferential treatment for jobs or services with the project. They alleged that Cameroonians who work on the project are not native to the project-affected communities and that those who are employed by NHPC only carry out manual labor tasks, despite their technical capacities.

Social and cultural impacts

The Complainants claimed that loss of income-generating activities resulted in an increase in the number of thefts, youth crimes, gender-based violence, prostitution, and divorces. According to the complaint, the project caused an upsurge in diseases in the area, especially onchocerciasis (also known as River Blindness), and there was a lack of adequate medical resources to treat the diseases. The Complainants added that sacred sites were relocated without proper compensation or destroyed without any compensation or relocation.

Environmental impacts

According to the Complainants, the project has destroyed more than 2,000 hectares of forest, which has resulted in the destruction of medicinal plants and food insecurity. They believe that NHPC should compensate for these losses. They added that other

⁶ According to NHPC’s website, it was created on July 16, 2016, to design, finance, build, and operate the Nachtigal hydroelectric development. Its shareholders are EDF (40%), IFC (20%), the Republic of Cameroon (15%), Africa 50 (15%), and STOA (10%). NHPC is IFC’s direct client/borrower; its shareholders are MIGA’s clients/guarantee holders.

environmental impacts are already felt, such as lower rainfall, more heat, violent winds, scarce fish, loss of forests and medicinal plants, and air, soil, and water pollution. The Complainants alleged that the project would result in much higher CO₂ emissions than was previously estimated in the Environmental and Social Impact Assessment (ESIA).

Stakeholder engagement

According to the Complainants, the Company's communication is unilateral and does not foster constructive engagement with the community members. They added that there is no formal consultative forum or commission.

Company's perspective

The Company indicated the following in relation to the concerns raised by the Complainants:

Resettlement, Compensation, and Livelihoods

The Company explained the methodology used to survey the project-affected people, how compensation amounts were calculated and paid, and how LRPs are being implemented. NHPC indicated that it is committed to a continuous evaluation of the effectiveness of the LRPs to ensure that the economic situation of the project-affected persons improves. The Company indicated that continuous evaluations are carried out independently through quarterly visits by the lenders' independent engineer. On the issue of resettlement, NHPC noted that physically displaced persons chose the construction sites themselves, validated the plans for their new homes, and have been adequately relocated.

NHPC informed CAO that 94 percent of jobs are held by Cameroonians, and 61 percent of jobs in construction are locally sourced from within a 35 km radius.

Social and cultural impacts

NHPC provided an overview of its PADEL, which includes nine programs: support for rural electrification, support for access to potable water, support for improvement of agricultural tracks, strengthening support for education infrastructure, support for professional education, strengthening support for social infrastructure, support for income- and job-generation activities, support for cultural activities, and institutional support. NHPC also mentioned its efforts to mitigate the risk of gender-based violence and harassment (GBVH), including a Code of Conduct put in place by the main project contractor, GBVH training for all workers on the construction site, GBVH awareness-raising campaigns at the community level, assignment of a social worker at the local health center, and a telephone hotline to support GBVH survivors.

Environmental impacts

NHPC noted that, in collaboration with the competent administrative authority, it had elaborated a development plan for the Mpem and Djim National Park and defined actions to improve and protect the local environment. The Company said that specific studies concerning biodiversity have enabled the development of compensation strategies for particular species and that it commits its contractors to control the environmental impacts of site activities, including water quality and waste management, in accordance with international best practices.

Stakeholder engagement

NHPC provided a detailed explanation of its Stakeholder Engagement Plan (SEP), which includes, among others, the establishment of Community Consultation Forums (CCF) with representation from community chiefs, notable persons, women, young people, and members of occupational groups, as well as the establishment of a framework for communal cooperation that comprises sub-prefects, mayors, municipal and regional councilors, and community sector chiefs. NHPC also informed CAO that it has engaged community liaison officers to maintain a constructive dialogue with communities.⁷

Additionally, NHPC mentioned that it has implemented its Grievance Redress Mechanism (GRM) since 2015 through a consultative process. The Company also explained additional steps Complainants could take if dissatisfied with the outcome of the GRM process

4. ASSESSMENT OUTCOME AND NEXT STEPS

Both the Complainants and NHPC have agreed to participate in a dispute resolution process. CAO will therefore transfer the complaint to CAO's Dispute Resolution function, as per CAO's policy. CAO will facilitate the dialogue process, including assisting the Parties to prepare for dialogue, agreeing on ground rules and a framework for mediation, and working together in a collaborative way to resolve the environmental and social issues raised in the complaint and contribute to improved outcomes on the ground. In doing so, the CAO will closely coordinate with IRM and the World Bank Accountability Mechanism.

⁷ According to IFC and MIGA, the SEP is revised every six months and is subject to feedback and reviews through quarterly monitoring and corrective action put forward by lenders, which allows for continued improvements. NHPC also added that factual and quantifiable monitoring of its different action plans are carried out quarterly by the lenders' independent engineer.

ANNEX A. CAO COMPLAINT-HANDLING PROCESS

Once CAO declares a complaint eligible, an initial assessment is carried out by CAO dispute resolution specialists. 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.

As per the IFC/MIGA Independent Accountability Mechanism (CAO) Policy,⁸ the following steps are typically followed in response to a complaint that is received:

Step 1: **Acknowledgment** of receipt of the complaint.

Step 2: **Eligibility:** Determination of the complaint's eligibility for assessment under the mandate of CAO (no more than 15 business days).

Step 3: **Assessment:** Assessing the issues and providing 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 90 business days, with the possibility of extension for a maximum of 30 additional business days if after the 90-business day period (1) the Parties confirm that resolution of the complaint is likely; or (2) either Party expresses interest in dispute resolution, and there is potential that the other Party will agree.

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 on or initiated by a Memorandum of Understanding and/or 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 goals. 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 affected.⁹

OR

Compliance Appraisal/Investigation: If the Parties opt for an investigative process, the complaint is transferred to CAO's Compliance function. The complaint is also transferred to the Compliance function when a dispute resolution process results in partial or no agreement. At least one Complainant must provide explicit consent for the transfer, unless CAO is aware of concerns about threats and reprisals. CAO's Compliance function reviews IFC/MIGA's compliance with environmental and social policies, assesses related harm, and recommends remedial actions where appropriate following a three-step process. First, a compliance appraisal determines whether further investigation is warranted. The appraisal can take up to 45 business days, with the possibility of extending 20 business days in exceptional circumstances. Second, if an investigation is warranted, the appraisal is followed by an in-depth

⁸ For more details on the role and work of CAO, please refer to the IFC/MIGA Independent Accountability Mechanism (CAO) Policy: <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/889191625065397617/ifc-miga-independent-accountability-mechanism-cao-policy>

⁹ 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 concluded the dispute resolution process and transferred it to CAO Compliance for appraisal.

compliance investigation of IFC/MIGA's performance. An investigation report will be made public, along with IFC/MIGA's response and an action plan to remediate findings of noncompliance and related harm. Third, in cases where noncompliance and related harm are found, CAO will monitor the effective implementation of the action plan.

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

Step 6: **Conclusion/Case Closure**

