



CAO ASSESSMENT REPORT

**Complaint regarding
IFC's United Ashuganj Energy Ltd. Project (#33479) in Bangladesh**

December 2016

Office of the Compliance Advisor Ombudsman
for the
International Finance Corporation and
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 President of the World Bank Group, and its mandate is to assist in addressing complaints from people affected by IFC/MIGA projects in a manner that is fair, objective, and constructive and to enhance the environmental and social 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
IFC	International Finance Corporation
MIGA	Multilateral Investment Guarantee Agency
UAEL	United Ashuganj Energy Ltd.
APSCL	Ashuganj Power Station Company Ltd.
BPDB	Bangladesh Power Development Board

1. Overview

In May 2016, CAO received a complaint related to a power plant constructed and operated by United Ashuganj Energy Ltd (UAEL) with the support of the International Finance Corporation (“IFC”) (the “Project”). The complaint was filed on behalf of residents in the vicinity of the power plant (“the Complainants”). The complaint alleges that the power plant is causing air and noise pollution and subsequent health issues for residents, and raises concerns related to the management of hazardous waste. CAO found the complaint eligible in June 2016 and began an assessment of the issues raised in the complaint. During the assessment process, the Complainants and UAEL agreed to engage in a voluntary dispute resolution process facilitated by CAO. 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

The IFC project consists of the development, construction, operation, and maintenance of a 195 megawatt (MW) combined cycle reciprocating gas engine power plant, under an Implementation Agreement with the Government of Bangladesh and a 15-year Power Purchase Agreement with the Bangladesh Power Development Board (BPDB). The Project is green field, being developed by UAEL, a special purpose vehicle owned by United Group (71 percent), and Ashuganj Power Station Company Ltd (APSCL) (29 percent), a company owned by BPDB and the Government of Bangladesh. IFC committed to providing a US\$20.5 million loan to UAEL, which has yet to be disbursed. The UAEL power plant is located within an existing power generation complex in Ashuganj, the APSCL complex (see Figure 1).

IFC conducted a supervision visit to UAEL in early September 2016, prior to CAO’s assessment trip. IFC is working with UAEL to agree on steps to enhance and improve implementation of UAEL’s Environmental and Social Action Plan, including but not limited to, further noise reduction.



Figure 1.

2.2 The Complaint

In May 2016, CAO received a complaint filed on behalf of five residents of the APSCL residential colony (i.e. a compound of buildings where APSCL workers reside, that is located within the APSCL complex, see Figure 1). The complaint relates to a power plant run by UAEL which was built in the vicinity of the APSCL residential area. The Complainants raise concerns about excessive noise generation and steam emissions from the UAEL plant, as well as dumping of hazardous waste by UAEL in a field adjacent to a road used by the community. During the assessment trip, ten additional residents of the APSCL main residential colony added their names to the complaint, bringing the total to fifteen. Furthermore, the Complainants noted that they are representing concerns of many more APSCL employees and their families who live in the residential colony, as well as other community members who do not live in the colony.

3. Assessment Summary

The purpose of CAO's assessment is to clarify the issues and concerns raised by the Complainants, to gather information on how UAEL and other stakeholders see the situation, and to determine whether the Complainants and UAEL would like to pursue a dispute resolution process facilitated by CAO or whether the complaint should be referred to CAO Compliance for appraisal of IFC's performance (see Annex A for CAO's complaint handling process). CAO does not gather information during its assessment to make a judgment on the merits of the complaint.

3.1 Assessment Method

CAO's assessment of the complaint consisted of:

- a desk review of project documentation;
- bilateral and confidential meetings with the Complainants;
- meetings with other residents of the APSCL residential colony;
- meetings with IFC's project team, UAEL representatives, as well as Managing Directors for both APSCL and United Group; and
- a visit to the power plant complex by CAO (September 25–29, 2016), including a visit to UAEL power plant and the sites around the power plant.

3.2 Summary of Issues

This section gives a broad overview of the issues as expressed by the Complainants and UAEL. It does not comprise a judgment by CAO about the merits of the complaint.

Based on the original complaint and information received through the assessment process, the primary topics and issues that would need to be addressed to resolve the complaint are summarized below:

1. How might local residents and UAEL work together to reduce noise levels and impacts for the APSCCL residential colony and nearby community?
2. How can the parties address community concerns about steam emissions, solid waste management, and storm water management?
3. How will local residents and UAEL engage and interact over the long term to build relationships, address community concerns, maintain harmony, and support effective operation of the UAEL plant?

Complainants' perspective

1. High noise levels

According to the Complainants, the noise emitted by the UAEL plant exceeds permissible limits, which has an adverse effect on 600 families living, studying, and working in the area. The effects allegedly felt include headaches, disorientation, vibration of windows and buildings, and disturbance to daily life.

The Complainants claim that the noise is not a temporary issue, and that remedial measures UAEL has taken only block the steam, but do not sufficiently block the noise.

2. Steam emissions

The Complainants allege that the steam emitted by the UAEL plant above the road and in front of the APSCCL residential colony occasionally obscures visibility and increases the likelihood of road accidents; that there are frequent loud noises accompanying the steam emission; and that the steam emitted is yellow instead of white, which indicates the presence of harmful chemicals.

The complainants acknowledge that UAEL has taken steps to partially address this issue, but would like to make sure that it is completely resolved.

3. Disposal of solid waste

According to the Complainants, hazardous materials such as glass wool and other materials were disposed of by UAEL in an open field adjoining a road being used by the local community, causing health hazards to the community from air blown material from the field.

The Complainants acknowledge that UAEL has taken steps to completely resolve this issue, but would like to make sure that it does not reappear in the future.

4. Storm water management

The Complainants claim that the drainage system outside the UAEL plant is causing a severe drainage problem when it rains. According to them, the drains are not properly maintained and as a result, the road between the power plant and the residential area submerges due to rain.

On all of these issues, the Complainants want to find a solution together with UAEL whereby they can live peacefully as neighbors.

UAEL's perspective

1. High noise levels

Representatives of UAEL acknowledged that the modification works carried out on the boilers during the warranty period (in the first quarter of 2016) caused elevated levels of noise, but emphasized it was a temporary phenomenon, which will not happen again during the normal operation and maintenance of the power plant.

They also pointed out that UAEL has taken further steps to reduce noise levels, such as building a wall along their compound where it faces the APSCCL main resident's colony, installing silencers on boilers, and planting trees along UAEL's compound wall.

UAEL claims that with so many power plants operating in the same vicinity, other plants also contribute to noise levels and this cannot be attributed to UAEL alone.

2. Steam emissions

According to UAEL, emission of steam onto the road was a temporary occurrence during the warranty period while modification work was carried out on the boilers. UAEL claims that since then, there has been no steam released into open air, and that steam is only released through silencers and/or drains. According to UAEL, steam would only be released into open air in an event of *force majeure* and, in such a case, the 12-foot wall they built along the road would prevent the steam from being released onto the road.

3. Disposal of solid waste

UAEL claims that the area where the waste was dumped is UAEL's area and that UAEL allowed APSCCL's contractor to use it upon request from APSCCL. According to UAEL, the waste was dumped by APSCCL contractor. Regardless, UAEL claims to have cleaned up the materials kept there and taken control of the area in order to prevent any further dumping of waste.

4. Storm water management

UAEL claims that the storm water management system referred by the Complainants is out of their boundary. They mentioned that their drainage is inside the UAEL plant premises and the drainage system outside their boundary wall is solely under APSCCL's control.

UAEL's representatives indicated that they were willing to discuss these issues with the Complainants with a view to resolving them. They are already working with IFC to see what further measures can be implemented by UAEL with regard to issues raised.

3.3 Summary of Stakeholder Goals and Interests

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

- avoiding negative impacts on local residents' health;
- ensuring the Project's compliance with IFC standards and policies;
- creating and maintaining long-term harmonious relations between local residents and UAEL;
- supporting safe and efficient power generation for Bangladesh; and
- engaging more proactively with all stakeholders for appropriate flow of accurate information regarding the UAEL plant.

4. NEXT STEPS

The Complainants and UAEL have agreed to engage in a voluntary dialogue process convened by CAO's Dispute Resolution function. CAO will facilitate this process including assisting the parties to prepare for dialogue, agreeing on ground rules, and working together in a collaborative way to try and reach resolution of the issues.

Annex A. CAO Complaints Handling Process

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 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 environmental and social 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**