



CAO ASSESSMENT REPORT

**Complaint regarding IFC's Axzon A/S Project (#31990)
Kalush and Galych Districts, Ivano-Frankivsk region, Ukraine**

August 2014

Office of the Compliance Advisor Ombudsman (CAO)
for the International Finance Corporation (IFC) and
Multilateral Investment Guarantee Agency (MIGA),
Members of the World Bank Group
www.cao-ombudsman.org

About the Compliance Advisor Ombudsman

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	Compliance Advisor Ombudsman
IFC	International Finance Corporation
MIGA	Multilateral Investment Guarantee Agency
NECU	National Ecological Centre of Ukraine

1. OVERVIEW

In February 2014, CAO received a complaint from affected members of communities in the Ivano-Frankivsk region of Ukraine, with the support of a national NGO, raising a number of concerns about the impacts of Axzon/Danosha pork production operations, which is supported by IFC. CAO determined that the complaint met its three eligibility criteria, and undertook an assessment of the complaint. During the assessment, the parties¹ agreed to engage in a dispute resolution process to address the issues raised in the complaint. 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

According to IFC, Axzon is a private Danish holding company that has the second largest pork operation in Poland and the third largest pork operation in Ukraine. The IFC Project is supporting Axzon in (i) extending operations to southern Russia where it plans to acquire, refurbish, and expand an integrated pork and crop farm and (ii) increasing its pork production capacity in Ukraine.

The company currently has seven pig production farms (see map below), a biogas plant and over 12,000 hectares of farming land in the Ivano-Frankivsk region of Western Ukraine through its Ukrainian subsidiary, Danosha. The total Project cost is estimated at EUR148 million. IFC is providing an investment of EUR36 million loan and EUR16 million in equity. The project is classified as a Category B project.

2.2 The Complaint

A complaint was lodged with CAO in February 2014 by members of communities from Deliyeve and Lany of Halych district and Sivka-Voynylivska of Kalush district of the Ivano-Frankivsk region, with the support of the National Ecological Centre of Ukraine (NECU). The complainants raise concerns regarding odors, land and water pollution related to the project's use of manure, improper use of and compensation for land, lack of information disclosure and consultation, impacts to road infrastructure, and environmental impacts to natural parks and other areas. The complainants also claim that the project is in violation of national law as well as IFC Performance Standards.

¹ For the purposes of this report, "parties" refers to the CAO complainants and Axzon/Danosha (the "company"). 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/4d5642e14f4cfe4485257b13005dadb?opendocument> (Accessed July 14, 2014)

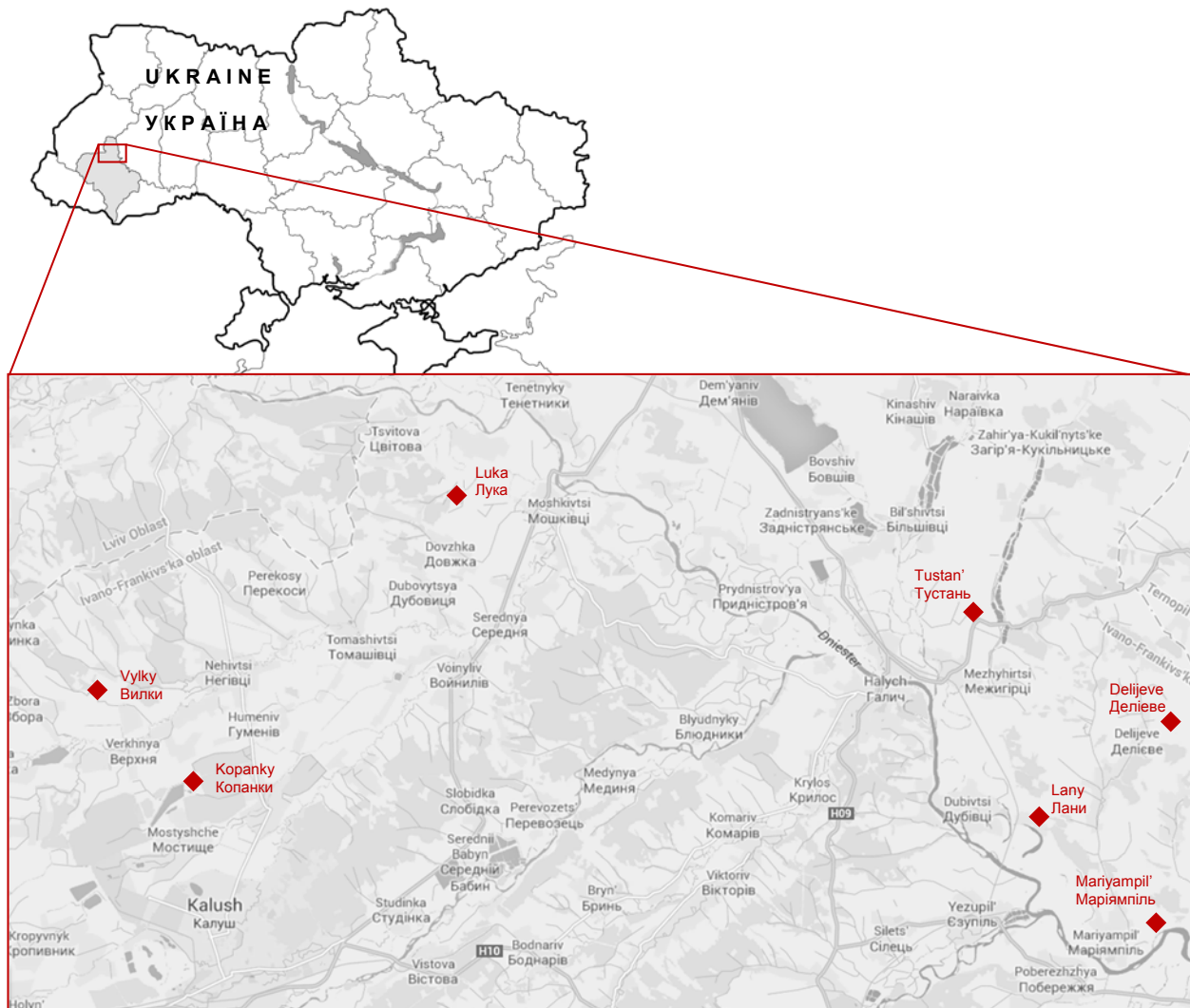


Figure 1. Map shows location of Axzon A/S project in the Ivano-Frankivsk region of Western Ukraine

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 Axzon/Danosha would like to pursue a CAO Dispute Resolution process or the complaint will proceed to CAO Compliance for appraisal of IFC.

3.1. Methodology

During assessment, CAO does not gather information to make a judgment on the merits of the complaint. (See Annex A for a complete description of the CAO complaint handling process.)

During this Assessment of the complaint, CAO conducted:

- a review of project documents;
- a project site visit;

- meetings with members of the affected communities, company representatives and NECU; and
- discussions with the IFC project team.

In April and May 2014, CAO conducted two trips to Kalush and Halych districts to meet with various stakeholders, including:

- Approximately 200 community members from Delievo, Lany, Sivka-Voinylivska, Meduhy, Mariyampil, Dovge, Strygantsi and Poberezhzhia.
- Danosha and Axzon representatives
- Volodymyr Klisch, Head, Delieve Village Council
- Volodymyr Puchko, Deputy Director, Galych National Park
- Oksana Galka, Head, Sivka-Voinylivska Village Council
- Yaroslav Bilan, Head, Mariyampil Village Council
- Roman Chervak, Head, Dovge Village Council
- Lesia Ivankiv, Head, Poberezhzhia Village Council
- Ostap Prodan, Head, Strygantsy Village Council
- Galina Lazarchyk, Head, Lany Village Council
- Natalia Kolomiets and Iryna Holovko, National Ecological Center of Ukraine
- Representatives of Galychyna newspaper
- Abramiv Vasyl, Regional Head, “Right Sector” Party
- Maria Antoniv, Head of territorial community³ of Sivka-Voinylivska Village
- Dudchack Petro Stepanovych, Head of territorial community of Delievo Village
- Dovbenchuk Myhailo, Head of “Zelenyj Ruh Karpaty» NGO

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 affected communities and Axzon/Danosha work together to identify and prevent and/or mitigate negative impacts of Axzon/Danosha agricultural production activities?

Potential impacts of concern to complainants and local communities include:

- local water supplies and the Dniester River
- air pollution and odor

³ A “territorial community” is a self-government body consisting of residents of a village or a voluntary association of residents of several villages into one village community, residents of a settlement, and of a city — to independently resolve issues of local character within the limits of the Constitution and the laws of Ukraine (Art. 140, Constitution of Ukraine).

- land and soil
- local roads and village structures
- human and animal health

- (2) How can parties determine whether Axzon/Danosha operations have caused any environmental and/or individual harm to date? How might any mutually-identified harm be addressed and repaired?
- (3) How might the villages of Dovge, Poberezhia, and Strygansty engage with Axzon/Danosha to discuss and address their concerns related to the Mariampyl pig farm?
- (4) How can affected communities, Axzon/Danosha, and other stakeholders work together to improve project-related information access, dissemination and understanding, community engagement, and public consultation?
- (5) How might complainant land/lease disputes with Axzon/Danosha be resolved?

3.2.2 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:

- Ensuring project compliance with IFC/MIGA standards and policies, international best practices, and Ukrainian law;
- Avoiding or minimizing environmental damage;
- Ensuring critical information about Danosha farms and operations is timely, understandable, clear, accurate and available in Ukrainian;
- Creating/maintaining good, constructive relationships among key stakeholders (e.g. Danosha, local communities, and government authorities);

As part of its assessment, CAO does not evaluate to what extent these goals are currently being achieved and various stakeholders may have differing views in this regard.

4. NEXT STEPS

The affected community members and Axzon/Danosha have requested a CAO Dispute Resolution process to try to resolve the issues raised in the complaint using a collaborative approach. During CAO's Dispute Resolution processes, 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 COMPLAINT 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,⁴ 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:** CAO conducts an assessment of the issues and provides 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 affected⁵.

⁴ For more details on the role and work of CAO, please refer to the full Operational Guidelines: http://www.cao-ombudsman.org/documents/CAOOperationalGuidelines2013_ENGLISH.pdf

⁵ 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

OR

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. If an investigation is found to be merited, CAO Compliance will conduct an 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**

of the World Bank Group, and the public, that CAO Dispute Resolution has closed the complaint and transferred it to CAO Compliance for appraisal.