



October 22, 2015

Office of the Compliance Advisor Ombudsman (CAO)

---

---

## COMPLIANCE APPRAISAL: SUMMARY OF RESULTS

*IFC Investment in Lydian International Ltd. (Project #27657), Armenia*

*Complaint 02*

---

---

Lydian International Limited (“the company”), is a listed junior mining exploration company based in the UK and focused on its Amulsar Gold Project in Armenia (“the project”). IFC first invested in the company in 2007 to finance exploration activities and feasibility studies around Lydian’s mineral resource properties in Kosovo, Armenia and Turkey. This initial investment was followed by 6 additional investments and 5 warrants exercises. To date, IFC holds a 7.9% equity share in Lydian, corresponding to CAD 17.3 million invested.

At the time of writing, the project was at an advanced feasibility stage. A bankable feasibility study and a national EIA were completed in July 2014, and a mining license was granted to the company in November 2014. An international ESIA was disclosed in May 2015. The project is expected to move into the development and construction stage late 2015, targeting first full gold production in 2017.

A complaint was lodged with CAO in July 2014 by 148 local residents of Gndevaz in Vayots Dzor province raising concerns about project impacts on livelihoods, the environment and on community health. Specifically, the complaint alleges lack of adequate project information, including information about land acquisition and resettlement plans; potential environmental contamination from the project’s cyanide leaching system; dust pollution affecting fields, livestock and farmland; employee and community health issues; and insufficient community engagement.

In the course of the CAO assessment phase, the complainants and the company requested a CAO dispute resolution process to try to resolve the issues raised in the complaint using a collaborative approach. Although this process was initiated in February 2015, the complainants and the company did not manage to reach an agreement and the case was thus transferred to the CAO compliance function for appraisal of IFC’s performance in relation of the issues raised in the complaint and the CAO assessment report.

This compliance appraisal builds on an April 2015 compliance appraisal in relation to the same project triggered by a complaint from two villagers of Gndevaz and Jermuk, with the support of nine local NGOs. At that point CAO decided that a compliance investigation of IFC’s Environmental and Social (E&S) performance in relation to this investment was warranted.

The scope of the current appraisal is therefore limited to: (a) the issues raised in the Lydian-02 complaint to CAO (read together with CAO’s assessment report in relation to this complaint); and (b) additional supervision activities undertaken by IFC since the publication of CAO’s April 2015 appraisal report in relation to the Lydian-01 complaint.

As set out in CAO’s April 2015 compliance appraisal, CAO concluded that the Lydian-01 complaint raised substantial concerns regarding the E&S outcomes of the project as well as questions as to the implementation of IFC’s policies, procedures and standards. Through the current appraisal process, CAO has identified additional questions regarding IFC’s review and

supervision of its E&S requirements in relation to the project, in particular with regard to land acquisition (PS5).

In this context, CAO has decided to consider the issues raised by both the Lydian-01 and Lydian-02 complaints together. The two cases will thus be merged with Terms of Reference issued in accordance with CAO's Operational Guidelines.

## **About CAO**

*CAO's mission is to serve as a fair, trusted, and effective independent recourse mechanism and to improve the environmental and social accountability of IFC and MIGA.*

CAO (Office of the Compliance Advisor Ombudsman) is an independent post that reports directly to the President of the World Bank Group. CAO reviews complaints from communities affected by development projects undertaken by the two private sector arms of the World Bank Group, the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA).

For more information about CAO, please visit [www.cao-ombudsman.org](http://www.cao-ombudsman.org)

## Table of Contents

Acronyms.....	5
I. Overview of the compliance appraisal process .....	6
II. Background.....	7
Investment.....	7
Complaint.....	7
CAO dispute resolution process .....	7
Scope of appraisal.....	8
III. Analysis.....	8
Supervision of international ESIA process .....	8
Land acquisition .....	8
Occupational Health and Safety .....	8
Conclusion .....	9
IV. Decision .....	9
Annex – Summary of issues raised in Lydian-01 and Lydian-02 complaints.....	10

## Acronyms

<b>Acronym</b>	<b>Definition</b>
CAD	Canadian dollars
CAO	Office of the Compliance Advisor Ombudsman (IFC and MIGA)
E&S	Environmental and Social
EIA	Environmental Impact Assessment
ESAP	Environmental and Social Action Plan
ESIA	Environmental and Social Impact Assessment
ESMS	Environmental and Social Management System
IFC	International Finance Corporation
NGO	non-governmental organization
OHS	Occupational Health and Safety
PS	Performance Standards
TOR	Terms of Reference
TSX	Toronto Stock Exchange

## **I. Overview of the compliance appraisal process**

When CAO receives a complaint about an IFC or MIGA project, the complaint is referred for assessment. If CAO concludes that the parties are not willing or able to reach a facilitated solution, the case is transferred to the CAO compliance function for appraisal and potential investigation.

A compliance appraisal also can be triggered by the CAO vice president, IFC/MIGA management, or the president of the World Bank Group.

The focus of the CAO compliance function is on IFC and MIGA, not their client. This applies to all IFC's business activities, including the real sector, financial markets and advisory. CAO assesses how IFC/MIGA assured itself/themselves of the performance of its business activity or advice, as well as whether the outcomes of the business activity or advice are consistent with the intent of the relevant policy provisions. In many cases, however, in assessing the performance of the project and IFC's/MIGA's implementation of measures to meet the relevant requirements, it will be necessary for CAO to review the actions of the client and verify outcomes in the field.

In order to decide whether a compliance investigation is warranted, CAO first conducts a compliance appraisal. The purpose of the compliance appraisal process is to ensure that compliance investigations are initiated only for those projects that raise substantial concerns regarding environmental and/or social outcomes, and/or issues of systemic importance to IFC/MIGA.

To guide the compliance appraisal process, CAO applies several basic criteria. These criteria test the value of undertaking a compliance investigation, as CAO seeks to determine whether:

- There is evidence of potentially significant adverse environmental and/or social outcome(s) now, or in the future.
- There are indications that a policy or other appraisal criteria may not have been adhered to or properly applied by IFC/MIGA.
- There is evidence that indicates that IFC's/MIGA's provisions, whether or not complied with, have failed to provide an adequate level of protection.

In conducting the appraisal, CAO will engage with the IFC/MIGA team working with the specific project and other stakeholders to understand which criteria IFC/MIGA used to assure itself/themselves of the performance of the project, how IFC/MIGA assured itself/themselves of compliance with these criteria, how IFC/MIGA assured itself/themselves that these provisions provided an adequate level of protection, and, generally, whether a compliance investigation is the appropriate response. After a compliance appraisal has been completed, CAO can close the case or initiate a compliance investigation of IFC or MIGA.

Once CAO concludes a compliance appraisal, it will advise IFC/MIGA, the World Bank Group President, and the Board in writing. If a compliance appraisal results from a case transferred from CAO's dispute resolution, the complainant will also be advised in writing. A summary of all appraisal results will be made public. If CAO decides to initiate a compliance investigation as a result of the compliance appraisal, CAO will draw up terms of reference for the compliance investigation in accordance with CAO's Operational Guidelines.

## II. Background

### Investment

Lydian International Limited (“the company”) is a junior mining company based in the UK and listed on the Toronto Stock Exchange (TSX). The company is focused on its Amulsar Gold Project in Armenia (“the project”). The Amulsar Gold Project is managed by Geoteam CJSC, a 100% owned Armenian subsidiary of Lydian. IFC first invested in the company in 2007 to finance exploration activities and feasibility studies of Lydian’s mineral resource properties in Kosovo, Armenia and Turkey. This initial investment was followed with 6 additional investments and 5 warrants exercises.

To date, IFC holds a 7.9% equity share in Lydian, corresponding to CAD 17.3 million. The European Bank for Reconstruction and Development (EBRD) is also a shareholder in the company and holds 6.9% equity.

At the time of writing, the project was at an advanced feasibility stage. A bankable feasibility study and a national EIA were completed in July 2014, and a mining license was granted to the company in November 2014. An international ESIA was disclosed in May 2015. The project is expected to move into the development and construction stage late 2015, targeting first full gold production in 2017.<sup>1</sup>

### Complaint

A complaint was lodged with CAO in July 2014 by 148 local residents of Gndevaz in Vayots Dzor province raising concerns about project impacts on livelihoods, the environment and on community health. Specifically, the complaint alleges lack of adequate project information, including information about land acquisition and resettlement plans; potential environmental contamination from the project’s cyanide leaching system; dust pollution affecting fields, livestock and farmland; employee and community health issues; and insufficient community engagement.

These issues overlap significantly with the issues raised in the Lydian-01 complaint (see Annex for a summary of issues raised in the Lydian-01 and Lydian-02 complaints). However, the Lydian-02 complaint does raise two new issues: (a) broader concerns regarding the client’s approach to land acquisition; and (b) negative impacts on workers employed at Amulsar who it is alleged have received “neither appropriate medical examination nor care.” Moreover, the Lydian-01 and Lydian-02 complaints were brought to CAO on behalf of different individuals.

### CAO dispute resolution process

After a discussion of the CAO mandate, functions, and services in the course of the CAO assessment phase, the complainants and the company requested a CAO dispute resolution process to try to resolve the issues raised in the complaint using a collaborative approach. Although this process was initiated in February 2015, the complainants and the company did not manage to reach an Agreement to Mediate and the case was thus transferred to the CAO compliance function for appraisal of IFC’s performance in relation of the issues raised in the complaint and the CAO assessment report.

The CAO dispute resolution conclusion report, released in August 2015<sup>2</sup>, outlines the reasons that led the parties not to pursue the dispute resolution process that was initiated earlier in 2015. It notes that the complainants’ representatives decided that they did not want to participate any

---

<sup>1</sup> Geoteam website - <http://www.geoteam.am/en/home.html>

<sup>2</sup> CAO dispute resolution conclusion report – Lydian Intl3-02/Gndevaz, Armenia – August 2015 - <http://goo.gl/d6SMP0>

further. The report notes that individual reasons for this decision varied: some complainants felt there was not sufficient trust to enter into good-faith negotiations; others changed their mind about dispute resolution because their concerns about land acquisition had been addressed; some were simply against the mine under any circumstances; and many were unable or unwilling to meet with CAO. Despite the challenges regarding the complainants' representation structure, the CAO dispute resolution team concluded it was able to satisfy itself that the decision by representatives not to participate broadly reflected the decision of the complainant group at large.

#### Scope of appraisal

This compliance appraisal builds on an April 2015 compliance appraisal in relation to the same project triggered by a complaint from two villagers of Gndevaz and Jermuk, with the support of nine local NGOs.<sup>3</sup> At that point CAO decided that a compliance investigation of IFC's Environmental and Social (E&S) performance in relation to this investment was warranted.

The scope of this appraisal is therefore limited to: (a) the issues raised in the Lydian-02 complaint to CAO (read together with CAO's assessment report in relation to this complaint); and (b) additional supervision activities undertaken by IFC since the publication of CAO's April 2015 appraisal report in relation to the Lydian-01 complaint.

### **III. Analysis**

#### Supervision of international ESIA process

In addition to the analysis presented in CAO's April 2015 compliance appraisal report, CAO notes that part of the international ESIA was disclosed on the company's website in May 2015. Additional sections of the ESIA relating to construction management plans and audit reports were expected to be disclosed in July 2015, according to the company's website, though at the time of writing this had not yet occurred. Documentation of IFC's review of the international ESIA was similarly not available at the time of writing.

#### Land acquisition

The Lydian-02 complaint raises broader concerns regarding the client's approach to land acquisition. This includes allegations that the client is not dealing with land holders in a transparent manner. CAO's April 2015 appraisal report noted issues regarding the land acquisition focusing on the location for the Heap Leach Facility (HLP), as per the concerns outlined in the Lydian-01 complaint. In relation to land acquisition more broadly, IFC indicated in its 2013 supervision documentation that the company had developed a road map to guide land acquisition for the project, and that it had hired a resettlement specialist to manage the process. IFC indicated that consultation with landholders and the development of a resettlement action plan should be priorities.

At the time of writing, IFC reported to CAO that, in order to ensure that the client's land acquisition process was fully in line with IFC's requirements, an independent interim assessment was conducted in August 2015. The assessment report was not available at the time of writing.

#### Occupational Health and Safety

The Lydian-02 complaint also raises a new occupational health and safety issue, stating that the villagers of Gndevaz working at Amulsar, have already been negatively affected while working at

---

<sup>3</sup> See Lydian-01 - <http://goo.gl/egEUEL>



the Amulsar mine by receiving neither appropriate medical examination nor care. However, the complainant provides no details in this respect and the issue was not developed further in the course of CAO's assessment consultations.<sup>4</sup> IFC's documents show that the company hired up to nearly 200 employees and sub-contractors to conduct its exploration activities. As noted in CAO's April 2015 appraisal, a continued concern in IFC's supervision documentation from 2007 to 2013 was the adequacy of the corporate E&S Management System (ESMS), as required per the ESAP. Occupational Health and Safety (OHS) procedures were expected to be included in the ESMS and were partially developed and implemented starting from 2012, according to IFC's supervision documentation. IFC's supervision documentation also notes that the client's OHS systems would need to be scaled up in order to comply with the requirements of Performance Standards 2: Labor and Working Conditions (PS2) as the project moves forward.

### Conclusion

On the basis of the material reviewed in the course of this compliance appraisal, it is unclear to CAO whether IFC's supervision of the project was sufficient in relation to the concerns raised by the Lydian-02 complaint. In particular, CAO has questions as to IFC's supervision of the company's land acquisition process. Although IFC's response to delays in the development of OHS procedures for employees and sub-contractors will be of importance as the project moves forward, CAO does not find that the workers' health issue noted in the complaint raises substantial concerns regarding project E&S outcomes at this stage.

## **IV. Decision**

The purpose of a CAO compliance appraisal is to determine whether an investigation of IFC's environmental and social performance is required in response to a complaint. In deciding whether to initiate an investigation, CAO weighs factors including the magnitude of the environmental and social (E&S) concerns raised in a complaint, results of a preliminary review of IFC's E&S performance in relation to these issues, and a more general assessment of whether a compliance investigation is the appropriate response in the circumstances.

As set out in CAO's April 2015 compliance appraisal, CAO concluded that the Lydian-01 complaint raised substantial concerns regarding the E&S outcomes of the project as well as questions as to the implementation of IFC's policies, procedures and standards. Through the current appraisal process, CAO has identified additional questions regarding IFC's review and supervision of its E&S requirements in relation to the project, in particular with regard to land acquisition (PS5).

In this context, CAO has decided to consider the issues raised by both the Lydian-01 and Lydian-02 complaints together. The two cases will thus be merged with Terms of Reference issued in accordance with CAO's Operational Guidelines.

---

<sup>4</sup> CAO assessment report, Lydian-02 - <http://goo.gl/3MtKSP>

## Annex – Summary of issues raised in Lydian-01 and Lydian-02 complaints

Lydian-01	Lydian-02*
<b><i>Social and economic issues</i></b>	
Lack of stakeholder consultation / Absence of grievance mechanism	No recording of grievances during public hearings in Gndevaz
Potential threats to the development of tourism in the resort of Jermuk	
Negative impact on the World Bank's CARMAC project	
Adverse impact on Lake Sevan ecosystem, and Arpa and Vorotan rivers catchment basins	
<b><i>Environmental issues</i></b>	
Water and soil pollution due to the use of chemical admixtures	Negative impacts of the cyanide leaching method on the environment and local population
Radioactive contamination of the area due to reserves of uranium in Amulsar	Radioactive contamination of the area due to reserves of uranium in Amulsar
Red-listed species endangered	
<b><i>Other issues</i></b>	
Selection of a site and land acquisition for the construction of a heap leach facility	<b>Absence of transparency regarding the land acquisition process</b>
Potential threats to archeological sites	<b>Deficient Occupational Health and Safety (OHS) management system for current activities at Amulsar</b>

\* Issues **in red** are new to the Lydian-02 complaint vs. Lydian-01, and were thus not treated in the Lydian-01 compliance appraisal