

Yaoundé, April 19, 2022

Compliance Advisor Ombudsman  
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[REDACTED]

Re: Complaint regarding the Nachtigal Hydro Power Dam Project, Project # P157734

Dear Janine H. Ferretti, Compliance Advisor Ombudsman (CAO) Director General,

[REDACTED]

[REDACTED] submits this Complaint to the Compliance Advisor Ombudsman (CAO) on behalf of communities and socio-occupational groups affected by the Nachtigal Hydro Power Dam Reconstruction Project on the Sanaga River in Cameroon. The Nachtigal Hydro Power Company (NHPC), a company incorporated under Cameroonian Law, implements the Project.

The dam, which is funded by several international financial institutions, such as the International Finance Corporation (IFC), a subsidiary of the World Bank, extensively and negatively impacts communities and the environment, as described in this Complaint.

We shall be available to answer any questions or provide additional information.

[REDACTED]

[REDACTED]

CONTENT OF COMPLAINT ABOUT THE NEGATIVE IMPACTS OF THE IFC SUPPORTED NACHTIGAL HYDRO POWER DAM REBUILDING PROJECT.

INTRODUCTION

In this letter, we detail the experiences of individuals affected by the Nachtigal Hydro Power Dam Rebuilding Project. We acknowledge the existence of an ongoing compensation process. As community representatives designated to speak on their behalf, we have made prior good faith efforts to engage with the developer and the bank, including:

- Sending letters to the Project’s various financial partners and to the building contractor (NHPC) to alert them to the impacts and issues experienced by the surrounding communities of the Nachtigal Dam Construction Project (attached);
- Meeting with NHPC at their office in Yaoundé to discuss the Project’s impacts on surrounding communities (minutes of the meeting attached);
- Holding in-person meetings with the World Bank and NHPC, and online meetings with the Dutch Development Bank (FMO) to discuss the Project’s impact on surrounding communities (chronological list of meetings attached);
- Participating in a joint mission with NHPC, the World Bank, [REDACTED] and the communities to discuss the Project’s various issues and impacts on the communities and socio-occupational groups, and to find sustainable solutions to the hardships experienced by the communities (the report on the meeting is attached).
- In addition to these steps on our part, the communities themselves have also sent several letters to NHPC executives reporting the impacts on them resulting from the Project’s implementation.

In this formal Complaint to IFC-CAO, we outline the harmful and negative impacts that have yet to be properly addressed by the Project’s developer.

1- Name and Contact Information of Complainant

[REDACTED] submits this Complaint to the Compliance Advisor Ombudsman (CAO) on behalf of communities and socio-occupational groups (sand moulders, fishermen, and fish merchants) affected by the construction of the Nachtigal dam located in the Batchenga, Mbandjock and Ntui Districts in Cameroon.

[REDACTED]

Supporting documents certifying [REDACTED] authority to file the Complaint on behalf of Complainants.

[REDACTED] files this Complaint on behalf of the Nachtigal, Mebassa, Olembe, Ndji, Ndokoa communities and on behalf of the sand moulding, fishing and fish trading socio-occupational groups impacted by the construction of the Nachtigal Hydro Power Dam. The mandate signed by some community members and the socio-occupational groups, and attached to this Complaint, authorizes [REDACTED] to act on their behalf.

## 2- Confidentiality of the Complainants

Per Complainants' wishes, the Complaint is not confidential.

## 3- Project Title and Type

The Nachtigal Hydro Power Dam Construction Project (Nachtigal Project) aims to design, build, and operate for the duration of the lease (35 years) a reservoir and a hydro power plant on the Sanaga river, around and upstream of the Nachtigal Falls (located at about 65 km north of Yaoundé), and technically a 225kw transmission line of 50 km until Nyom2 (north of Yaoundé). The installation of an overall MW 420 capacity is planned, with 7 generators, each producing MW 60, the equivalent of 980 m<sup>3</sup>/s in design flow.

The Projects is developed by several partners (Government of Cameroon, EDF, IFC) in accordance with a joint development agreement concluded on November 8, 2013. Construction should start in 2018 and operational implementation will take place in 2021-2022.

IFC, through the Infrastructure Development Global Fund InfraVentures, has played a key role in both the initial design and current financing of the Nachtigal Project. In addition to the € 60 million in capital equity and the € 110 million in IFC loans for the Project, IFC helped put together a set of loans amounting to € 916 million from various development financing institutions and commercial banks. This is now IFC's largest investment in the electricity sector in Africa.

## 4- Description of damages done to the communities and resulting from the Project

Even before construction of the Nachtigal Dam began in 2018, the communities and the socio-occupational groups (over 500 individuals) from the Batchenga, Mbandjock and Ntui areas located at the right-of-way of the Project, have faced many hardships:

- A poorly done stakeholder consultation: NHPC had just informed the communities of the arrival of the Project in their area, the benefits of the Project and impacts that would have been mitigated through compensation. The communities did not

share their opinions on the Project. For example, the communities to this date do not understand the terms “green zone,” “red zone” used by NHPC. Furthermore, the communities denounce an improper, non-representative survey, because to this day many individuals are not listed among those to be compensated despite being impacted.

- Loss of income generating activities for fishermen, sand moulders and fish merchants: Indeed, before the Project, the communities generated comfortable incomes from sand extraction and fishing, their main activities. Unfortunately, since construction of the dam began, they have been prevented from accessing water, thus losing their income generating activities. No alternative activity has been developed to date, even though the Project’s Livelihood Restoration Plan calls for the setting-up of alternative activities, especially for fishermen and fish merchants:

- Insufficient and late compensation: During the Project’s appraisal, it had been said that the sand moulders, the fishermen and the fish merchants would be compensated in a satisfactory manner (Project's Environmental and Social Plan), and that the Project would increase their standards of living (comments made during the consultations). This is not the case, as some sand moulders consider that compensation received is insufficient for an entire lifetime. Beyond some so-called vulnerable fishermen and fish merchants (around 10 individuals) who received a modest amount of money, to date, fishermen and fish merchants who are still active have received no compensation even though their activities have ceased for more than two years:

- A non-satisfactory physical resettlement: Some displaced households are displeased with the housing built for them. One of the individuals who had to move because of the Project to the village of Ndji notes the small size of their new space. They went from a residence of 900 m<sup>2</sup> to 400 m<sup>2</sup> where they lack space to dispose of manure or replant fruit trees that were lost, and for which compensation has not been considered. Another villager from Ndokoa, a traditional practitioner who lived along the Sanaga river, is displeased with her resettlement because she lost the medicinal plants and water resources she previously used to treat patients. Furthermore, she was neither consulted for the location, nor even for the layout of her house. In addition, the roof of her house leaks when it rains.

- Displacement and destruction of sacred sites: The sacred sites of Bindadjengue and Ndokoa have been moved; the populations of these two villages complain that NHPC only funded the site displacement ceremonies and failed to compensate for the site in question. Because, they have now lost access to water, some fish species, and plants that they used for medicinal purposes and rituals. The Ndji sacred site has been destroyed, without any compensation or even displacement.

- Worsening social ills: Having lost income generating activities in the area, an increase has been noted in the number of thefts, youth crimes, prostitution, and divorces.

- The environmental dimension has been neglected: According to a study conducted by Action for Sustainable Development (ASE), a Cameroonian civil society organization and member of the [REDACTED], the Nachtigal Hydro Power Dam Construction Project will issue CO2 Eq 469342.97 tons yearly, a much higher rate than planned by the Project's EIES (CO2 Eq 200800 tons yearly). Furthermore, there already are noticeable changes, such as lower rainfall, more heat, violent winds, scarce fish, loss of medicinal plants, and air, soil, and water pollution.

All these hardships threaten their livelihoods, education, health, food, even their families (wives leaving).

#### 5- Steps already taken to attempt to address the issue

Given these hardships, the communities had to draft and send requests not only to NHPC, but also to local administrative and judicial authorities (Governor, prefect, sub-prefect, mayor, brigade commander ...) to defend their rights, but to no avail, other than a receipt confirmation. Meanwhile, [REDACTED] has shared some community requests with various Project donors. In letters to donors, it has described how the construction of the dam has affected the lives of the communities. It has held meetings, online with FMO and in-person with the World Bank and NHPC. A joint meeting has even been held with the communities, NHPC, [REDACTED] and the World Bank to seek sustainable solutions to the hardships experienced by the communities following the construction of the Nachtigal Dam.

#### Unresolved issues

Throughout the development phase of the Project, consultations with stakeholders have been inadequate. To date, NHPC has failed to properly compensate affected community members. Indeed, more than 500 individuals from Batchenga, Mbandjock and Ntui continue to demand compensation from NHPC. Having sent numerous written requests and letters to NHPC, the communities feel that their concerns are not efficiently addressed.

The type of compensation that has been offered so far fails to meet the short and long-term needs of the affected socio-occupational groups and communities and does not offset their Project-related losses.

Particular attention must be paid to vulnerable groups. Critical protection of women must be explicitly guaranteed in the compensation process. Prostitution and gender-based violence seem endemic.

The efficiency of both the grievance resolution and the compensation oversight processes must be reviewed. It is common knowledge that Nachtigal is a government Project. The grievance resolution process is not automatically seen by Complainants as an operational mechanism for the local community.

The following issues, related to physical or economic displacement, need to be addressed in the compensation process:

- *The improper survey of sand pits and deposits.*

It has been established that the survey of the various sand pits and deposits failed to sufficiently consider all relevant individuals. Indeed, NHPC conducted three surveys without clearly explaining to the communities the survey methodology that was used. The resulting final list either fails to mention the names of pit and deposit developers or states an erroneous number of pits and deposits. The moulders have repeatedly demanded that NHPC update its surveys.

- *The basis for calculating compensation amounts is not explicitly stated*

The formula used to assess compensation amounts is not clearly explained to those who have been impacted. For example, pits have been priced at a base of XAF 6 600 000, without factoring in profitability or the surface area. This is absurd, especially since compensation levels were supposed to be based on clear rules, known to the communities.

- *Biased economic resettlement*

Moulders who lost their income generating activity were not properly resettled. When project affected persons (PAP) were consulted, it had been agreed that those who lose their income because of the project would be the first to be hired to work on dam construction sites. Similarly, fish merchants were to sell food to workers on site and some impacted individuals were to have alternative income generating activities. Unfortunately, none of this has been implemented to date. Survey teams should call on PAPs to help identify those who can apply to a Project job and/or benefit.

Project leadership should still explore, in closer consultation with them, how impacted individuals can benefit directly from the Project.

- *Overstepping the limits of the area designated as public utility (DPU) leading to crop destruction*

Some farmers complain that their crops are destroyed because the DPU limits are overstepped. Unfortunately, these individuals have not been compensated.

The current Project Area seems to differ from the designated Project Area indicated in the Environmental and Social Impact Study. A broader Project implementation scope will necessarily increase the Project's negative impacts on the communities.

- *Dam construction reduces access to sources of incomes for fishermen and fish merchants*

Since dam construction work started in 2018, fishermen have lost access to water, as fishing has been completely banned in the Project area. It is therefore

more difficult for fishermen to maintain their food security and their income. Even more deplorable, the fishing community are losing its members (death) due to a lack of resources to sustain themselves. Thus, people wonder if their compensation will only be paid after their death? Fish merchants are no longer able to deliver fish to local markets. The small fish markets have disappeared in the area. Unfortunately, it is deplorable to note that ever since construction work started, more than three years ago, no Fishing Management Plan has been issued for the Project.

No compensation has been paid to a group of around 132 fishermen and 83 fish merchants listed by the Project, making it difficult to start life over. A provision should be made for “transitional support.”

- *Upsurge of diseases in the area, including onchocerciasis.*

Since construction started, the disease caseload has increased in the area, especially onchocerciasis, because of a lack of resources to seek medical treatment.

Healthcare services need to be provided to treat infected individuals and preventive health services must be promoted whenever possible.

- *Physical resettlement*

Some of the houses that have been built by NHPC for displaced households are not satisfactory. Despite numerous requests on this matter, their concerns are not addressed by NHPC.

- *Forest destruction*

The community has lost over 2000 hectares of forest containing medicinal plants and other non-timber forest products that are needed for survival. Forest loss has resulted in food insecurity, lower nutritional status, and a loss of access to shared community resources, which increases resentment and undermines social cohesion.

- *Unfounded restrictions*

The Ndokoa community can no longer work freely because access roads to their fields have been closed for the purpose of dam construction.

- *Local development is not promoted*

Local youth have not been hired on the construction site. Local producers are unable to deliver food to the Project. The community complains that they are even barred from delivering services as contractors.

Training affected individuals to apply for jobs or deliver services required by the Project has not been sufficiently prioritized. This could have been done as there is a gap between the first appraisal and the design of the Project. Young people could benefit from learning new income generating activities.

## 6- Reasons why, according to the Complainant, there has been no compliance with Environmental and Social Policies

From Project inception, there has been clear risks for Project implementation; the IFC itself labeled it a Category A Project.

“Because it may lead to significant E&S impacts that could be diversified and irreversible.”

According to IFC’s Environmental Risk Assessment, all Performance Standards, except Performance Standard 7 regarding Indigenous People, have been triggered as part of this Project.

There may have been non-compliance with IFC’s Performance Standards where the following points are highlighted: PS 1 Assessment and Management of Environmental and Social Impacts, PS 4 Community Health, Safety and Security, PS 5 Land Purchase and Involuntary Resettlement, PS 6 Biodiversity Conservation and Sustainable Management of Living Natural Resources, PS 8 Cultural Heritage, International Commission on Dams, among others.

IFC must regularly review the efficiency of NHPC’s environmental and social due diligence process. Fulfilling commitments made in the E&S Plan, in compliance with Paragraph 14 of PS5.

In addition, the Resettlement Action Plan must comply with the voluntary guidelines on tenure governance, by guaranteeing diverse forms of tenure and prioritizing the tenure arrangements of the most vulnerable groups.

This section is based on Complainants’ experience, as an overview of NHPC’s non-compliance with IFC’s Performance Standards. This overview does not include all risks and impacts associated with the Project’s non-compliance with performance standards.

- Regarding the deficiencies of the assessment and consultation process (PS1 and PS5).

Paragraph 10 of PS5. Community Involvement: The client shall interact with affected Communities, including host communities, through the stakeholder involvement process described in Performance Standard 1. The decision-making process about displacement and restoration of livelihoods shall include, as appropriate, options and alternatives. Affected Individuals and Communities shall continue to have access to relevant information and remain involved in planning, implementing, monitoring, and assessing the payment of compensations, livelihood restoration activities and resettlement, to achieve results that meet the goals of this Performance Standard.

Paragraph 31 of PS1. When a Project may have significant negative impacts on Affected Communities, the client must undertake an Informed Consultation and Participation (ICP) process, which is based on the principles outlined in the above paragraph and helps solicit the informed involvement of Affected Communities. This Consultation and Participation Process allows for a more in-depth exchange of views and information,



and for iterative, structured meetings so that the client's decision-making process is informed by the opinions of Affected Communities on issues of direct relevance to them.

Regarding the particular attention to be paid to vulnerable groups. Critical protection of women must be explicitly guaranteed in the compensation process.

Paragraph 30 of PS1 stipulates that an efficient consultation process is a two-way process aiming to: (iii) prioritize the inclusive participation of directly Affected Communities, such as men, women, the elderly, the youth, displaced individuals and disadvantaged or vulnerable individuals and groups.

Paragraph 31 of PS1 stipulates that the consultation process must include : (i) the opinions of both women and men, in separate venues or meetings if necessary, and (ii) the diverging concerns and priorities of men and women regarding impacts, mitigation mechanisms and benefits, as the case may be.

Endnote 16 to Paragraph 10 of PS5 stipulates that the consultation process must empower women to share their perspectives and ensure that their interests are considered in all aspects of resettlement planning and implementation. Assessing impacts on living conditions may require a household analysis if these impacts are different for women and men. Preferences of men and women in terms of compensation mechanisms need review, for example in-kind instead of cash.

Further, Endnote 16 to the same PS5 stipulates that the deeds of ownership or occupancy and compensation agreements should bear the names of both spouses or the head of household, and other resettlement support, such as vocational training, access to credit and job opportunities, must also be available to women and adapted to their needs. Where national law or land tenure schemes fail to recognize the rights of women to own or negotiate land, measures must be considered to provide them with as much protection as possible to ensure they are treated equally to men.

- Given the lack of familiarity of the relevant individuals with the complaint mechanism and the grievance resolution procedure, we believe that implementation of Paragraphs 34 and 35 of PS1 may still be improved.

- Regarding the improper survey of sand pits and deposits, Complainants allege that the survey was incomplete, and that the valuation of sand pits is incomplete or inaccurate. Compensation rates are insufficient. Project affected persons have never been consulted about compensation rates. This shows that Project implementation fails to comply with Paragraph 12 of PS5.

Differences in valuation of the various sand pits contradict Paragraph 9 of PS5 requiring that compensation standards be transparent and systematically applied to all individuals and Communities affected by the Project.

Paragraph 8 of PS1 and Paragraph 27 of PS5 can be applied to the loss of crops in the Project's zone of influence:

Paragraph 8 of PS1: In cases where the Project includes physical elements, material aspects, and specific facilities that are likely to have impacts, environmental and social risks and impacts shall be identified in the Project's zone of influence. Such zone of influence covers, as appropriate:

The area likely to be affected by: (i) the Project, as well as activities, assets and facilities directly held, operated, or managed by the client (including through contractors) that are part of the Project.

Paragraph 27 of PS5: In cases affecting persons with legal rights or claims to land which are recognized or likely to be recognized under national law [see Paragraph 17 (i), and (ii)], replacement property (e.g, agricultural or commercial sites) of equal or greater value will be provided or where appropriate, cash compensation at full replacement cost.

Regarding health risks: The objective of PS4 (Paragraph 2 of PS4) is to anticipate and prevent, for the duration of the Project, negative impacts on the health and security of Affected Communities that may result from ordinary or non-ordinary circumstances. Given that the community complains about worsening health conditions and greater exposure to health risks due to construction works. The Project must be guided by IFC's Good Governance Note (2018) on Environmental, Health and Safety Approaches. An integrated program to fight vectors must be established.

Regarding housing that has been built, we feel it is important to continue to involve affected individuals in implementing the Resettlement Action Plan in compliance with Paragraph 14 of PS5 stipulating that the client shall establish procedures to monitor and evaluate the implementation of the Resettlement Plan and/or a Livelihood Restoration Plan where affected individuals shall be consulted during the monitoring process.

Regarding the loss of access to shared forests and natural resources, implementation appears to not comply with Paragraph 5 of PS5 about physical and/or economic displacements related to the following types of land transactions, stipulating that some projects where some involuntary restrictions on land use and access to natural resources prevents a community or groups within a community from accessing and using resources in those areas for which they hold recognized customary or traditional rights to use.

7- Results expected by the communities and socio-occupational groups

To address these issues, the communities/socio-occupational groups expect the following results:

❖ For sand moulders:

- A reassessment of sand pits, sand deposits and any other activity;
- A clearly defined basis for calculating compensation amounts;
- Hiring sand moulders and local employees on the construction site;
- Access to food delivery on the construction site;
- Opportunities for outsourced services on the construction site;
- Compensation for crops destroyed by overstepping the DPU;
- Technical and financial support for 10 years;
- Increasing standards of living from 1 to 5 as promised during consultations;
- Setting deadlines to address the Project's negative impacts among moulders and in affected villages;
- Making the Project's statement of work available to the communities;
- Complying with, and implementing the statement of work that was prepared for Project implementation.
- Setting-up an independent commission to monitor community service activities;

❖ For fishermen and fish merchants

- A compensation of CFA 10 million to each fisherman, and CFA 5 million to each fish merchant;
- A supply of drugs to treat recurrent illnesses in the zone, such as onchocerciasis, which is increasingly prevalent in the area since the Project's construction work started.
- Executing community works such as building wells, a dispensary, schools, community center, sport infrastructures;
- Hiring the youth on the construction site;
- Allowing fish merchants to deliver food to the dam
- Complying with, and implementing the statement of work that was prepared for Project implementation.
- Switching to alternative income generating activities.

❖ For displaced households

- Sustainable redesign of non-satisfactory housing;
- Accounting and compensating for claims by households that their surface area has been reduced.
- Complying with, and implementing the statement of work that was prepared for Project implementation.

❖ For all impacted communities

- Immediate hiring of their sons and daughters by the Nachtigal Dam Construction Project;
- Compensation for the sacred sites;
- Opportunity to provide outsourced services to the dam;

- Make the Project's statement of work available to the communities;
- Compensation for stone mined by NHPC in Ndokoa;
- Compensation for the destruction of the Ndji sacred site in the area where NHPC currently mines stones for its Project;
- Complying with, and implementing the statement of work that was prepared for project implementation;
- Putting in place community works as described in the Project's Environmental and Social Management Plan.

❖ On the environment

- Drafting and implementing a Climate Action Plan;
- Reforestation of flora species lost to the communities.

8- Attached Documents

Please find attached the following documents:

- Power of Attorney, signed by the Communities;
- Written correspondence between [REDACTED], NHPC and financial partners;
- Consolidated Report of the Joint World Bank/[REDACTED]/NHPC Mission of October 8, 2021;
- Report on the [REDACTED] Mission of August 2020 to collect data about the impacts of the Nachtigal Hydro Power Dam Construction Project on surrounding communities and socio-occupational groups;
- Requests from the communities and socio-occupational groups;
- Timeline of exchanges among [REDACTED] and stakeholders.