



CAO OMBUDSMAN ASSESSMENT REPORT

Second Complaint Regarding
IFC's Involvement in the Russkiy Mir II
(Tamaneftegaz) Project

February 2009

Office of the Compliance Advisor/Ombudsman
International Finance Corporation/
Multilateral Investment Guarantee Agency

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Introduction

The Compliance Advisor Ombudsman (CAO) is the independent recourse mechanism for the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA). The CAO reports directly to the President of the World Bank Group. Its mandate is to address in a fair, objective, and constructive manner complaints brought by communities or individuals affected by IFC or MIGA projects, and to enhance the social and environmental outcomes of these projects.

Upon determining that a complaint meets the specified criteria for a CAO intervention, the CAO Ombudsman conducts an assessment of the situation to clarify the issues, facilitate communication between the parties about their perspectives and interests, and assist them in identifying opportunities for resolution. The assessment does not gather information to determine fault or make judgments on the merits of a complaint.

To be eligible for CAO assessment, complaints must demonstrate that:

- The complaint pertains to a project that IFC/MIGA is participating in, or is actively considering.
- The issues raised in the complaint pertain to the CAO's mandate to address environmental and social impacts of IFC/MIGA investments.
- The complainant may be affected if the social and/or environmental impacts raised in the complaint occurred.

Summary and Purpose of the Assessment

This assessment is in response to a complaint filed in February 2008 regarding the Russkiy Mir II project – an IFC loan of up to \$100 million to develop and build the Taman LPG/Fuel Oil terminal and port in the Black Sea. The complaint was filed confidentially by a farmer living next to the project site who is concerned about the proximity of a project pipeline near his home, and its potential impact on his family.

The CAO determined the complaint was eligible for further investigation, and agreed to assess the situation when a CAO team traveled to Russia to investigate a separate complaint that was filed by related complainants in October 2007 (Russia / Russkiy Mir II-01/Taman).

The purpose of the assessment is to understand more fully the issues described in the written complaint, the perspectives and interests of all the parties involved in the situation, and to explore with the stakeholders their ideas and options for resolution.

This report summarizes the findings of the assessment and recommendations for next steps.

1. The Project

The Russkiy Mir II project (Tamaneftegaz, or TNG) involves an IFC loan of up to \$100 million to develop and build the Taman LPG/Fuel Oil terminal and port in the Black Sea; to purchase and expand rail maintenance facilities, purchase locomotives and rail cars; and to purchase a wheel-making / spare-parts manufacturer and other rail-related infrastructure. IFC's investments consist of a \$45 million A-loan for IFC's own account, and a \$55 million B-loan for the account of B-loan participants. It is IFC's second investment in the Russkiy Mir Group. A \$15 million A-loan was approved in April 2004.

2. The Compliant

In February 2008, CAO received a complaint from a farmer living next to the project site expressing concern about the proximity of a gas pipeline near his home. The complaint was sent to CAO from the NGOs Save Taman and Crude Accountability on behalf of the complainant. According to the complaint, the location of the pipeline violates Russian legislation and jeopardizes the safety and well being of the farmer and his family.

The complaint states that representatives Save Taman advised the farmer that the distance from his house to a gas pipeline between the project's liquefied gas storage is 750 meters. However, according to the complaint, Russian legislation stipulates that the sanitary zone between gas pipelines and residential housing must be 1,000 meters. The complaint states that the close proximity of the pipeline to the house threatens the lives and health of his family, and that the company should have consulted with the complainant over this matter, but never did.

2.1 Additional Issues Raised During the Assessment

During one-on-one conversations with the CAO in Taman, the complainant explained that while he was uncertain about specific regulations regarding pipeline safety, and was unsure whether the pipeline was currently active, he nonetheless feared for his family's safety. He said he had not previously raised the issue with Russkiy Mir officials, and was relying on the NGO Save Taman to intervene on his behalf. To resolve the issue, the complainant said he would like to be relocated to a new plot of land farther from the pipeline, or compensated for the stress and suffering that his family had endured by living near the pipeline.

2.2 Perspective of the Company

Russkiy Mir representatives said the complainant had never contacted them to discuss his concerns prior to filing the CAO complaint, nor had the NGO raised the concerns directly with the company. Although the farmer's case was briefly mentioned in the first complaint to CAO (filed by Save Taman and another NGO, which was later transferred to CAO Compliance), TNG said it was unaware of the specific concerns of the farmer.

After learning of the formal complaint to CAO, the company said it researched the situation. Their understanding is the complainant's land is registered for agricultural / farming purposes, but not for major structures or year-round housing. The company said its research also revealed issues regarding the complainant's land registration status.

The company said it does not believe it is obligated to relocate the family or to compensate for stress or suffering, because it does not believe harm has been done, and because it believes the complainant's dwelling is outside the required protection zone.

Company representatives said they are frustrated that the complainant never attempted to discuss the issues with their social specialist. Nonetheless, they say they are more than willing to talk to the complainant one-on-one to discuss ways to resolve the situation.

3. CAO Ombudsman Findings

During an assessment trip to Taman in March 2008, the CAO team visited with the farmer and some of his family members in their home, together with a representative of Save Taman. The complainant and the NGO confirmed that they had not raised the concerns with the company or with the IFC prior to filing with the CAO.

The complainant told CAO he was unaware that the pipeline posed a threat until Save Taman representatives notified him about it. Through the NGO he also learned about the CAO, and said Save Taman offered to draft and deliver the formal complaint. According to the complainant, the NGO informed him that the company should be willing to either relocate him and his family and/or compensate him in settlement for unsafe living conditions.

Neither the NGO nor the company had maps or GPS coordinates to demonstrate the actual distance from the complainant's house to the pipeline, but according to the NGO, those measures did exist. It was not clear at the time of the assessment whether the pipeline was operational, or who the owner of the pipeline is.

After a detailed conversation with the NGO representative and the complainant about potential alternatives for gathering information and resolving the issue, the NGO agreed to work with the complainant to locate the previously collected GPS information and to arrange a face-to-face meeting with Russkiy Mir. The NGO agreed to get the information and arrange for the meeting within a month of the assessment trip, and to report back to CAO once these steps had been taken.

The following month, the CAO team met in person (in Washington, DC) with the NGO representative, who said he had not yet organized a meeting with the company, and had not obtained the GPS information. The CAO then contacted the complainant to inquire about following through with these steps. At that time, the complainant told CAO that the NGO no longer represented him, and that he wished to formally and immediately withdraw his complaint to CAO.

After a series of discussions with the NGO about the complainant's request, and another meeting with company representatives about their perspective, the CAO Ombudsman team determined the case was not resolvable through a process of assisted negotiation.

4. Conclusion

In order to ensure there are no outstanding issues regarding this complaint, the CAO Ombudsman concluded its involvement in the case and transferred it to CAO compliance for appraisal.