

DISPUTE RESOLUTION* CONCLUSION REPORT – CAMBODIA AIRPORT II, MAY 2015

This report summarizes the dispute resolution process of the Compliance Advisor Ombudsman (CAO) related to the complaint filed regarding the Cambodia Airport II project (#25332) in Sihanoukville, Cambodia.

SUMMARY OF THE COMPLAINT AND CAO PROCESS

Societe Concessionnaire de l'Aeroport (SCA) is a special purpose company that holds a 45-year concession from the Royal Government of Cambodia to operate the Phnom Penh International Airport, the Siem Reap International Airport, and the Sihanoukville Airport. IFC had two projects with SCA, the second of which involved financing capital expenditures and runway investments for Sihanoukville Airport¹.

In December 2009, a local NGO in Cambodia filed a complaint with the CAO on behalf of 79 families who believed they had been negatively affected by the IFC Cambodia Airport II project. They claimed that the project was not compliant with IFC requirements. The complainant families lived in close proximity to the project site and many owned land in what was presumed to be the project's expansion zone.



Local residents farming on agricultural land (Zone B) near Sihanoukville Airport

The complainants raised concerns about improper land acquisition and compensation, loss of livelihoods, noise pollution, environmental impact to a national park, incorrect environmental and social

categorization by IFC, lack of community consultation, and inadequate disclosure of project information to impacted communities. CAO found the complaint eligible for assessment in January 2010 and an Assessment Report was publicly released in August 2010.

While the parties agreed to try to resolve the issues in the complaint through a CAO-convened collaborative dispute resolution process, they were unable to meet in person in a joint, multistakeholder dialogue forum. Thus, the CAO team employed a combination of separate meetings and “shuttle diplomacy” to assist the parties in resolving the issues. The “parties” in this case included the complainants and other affected community members, NGOs and civil society organizations, various government representatives, SCA, and IFC.

During CAO's monitoring of commitments made through the process, local communities living along the airport fence raised concerns about modifications made by SCA to the interior airport boundary wall, which led to increased flooding and drainage problems along the fence. CAO has encouraged SCA and the affected community members to work together and with the relevant authorities to find a mutually acceptable resolution.

In February 2015, CAO convened a final closure meeting in Sihanoukville with 22 of the original complainants and the NGOs who assisted the communities throughout the process - Conservation and Development on Cambodia (CDCAM), Cambodia National Research Organization (CNRO), and the NGO Forum on Cambodia. Participants provided feedback to CAO on the process and confirmed that the complaint issues had been resolved to their satisfaction.

¹ More information on the two IFC projects can be found on the IFC website: <https://goo.gl/utt8lo> and <http://goo.gl/vQq8WX>

OUTCOMES

(1) Impact on Livelihoods and Living Standards, Land Valuation & Compensation

As noted in the CAO Assessment Report, community members were concerned about the possible impacts of the airport project and resettlement on their livelihoods and living standards. They also wanted to ensure a fair land acquisition and resettlement process. Through the CAO process, the parties have achieved the following:

- A Resettlement Action Plan (RAP) was drafted and completed. The Royal Government of Cambodia committed to comply with IFC's Performance Standards and IFC was given an opportunity to provide input into the drafting of the RAP.
- At the date of this Report, 191 families have been compensated²:
 - 157 families received financial compensation only.
 - 34 families received both financial compensation and new land. In a follow-up CAO monitoring visit to the new resettled Teuksap Meanchey Community, the elected community representative reported, "We are very happy here. It is better than where we lived before."
- The Royal Government of Cambodia partnered with Green Goal, a Cambodian consulting firm hired to assist with the resettlement, and CDCAM, one of the NGOs which assisted and advised the communities filing the complaint, to implement an income restoration program. The program includes:
 1. Providing health education for the community;
 2. Providing vocational training;
 3. Identifying types of businesses for income generation;
 4. Holding regular community meetings; and

5. Developing a community development plan, and providing assistance with implementation, management and sustainability.

(2) Access to Project Information and Local Community Voice in Decision-making

Communities had reported to CAO that they needed timely information about the project and resettlement plans in order to have some predictability for managing their personal affairs, maintaining livelihoods, and meeting basic day-to-day needs. They also wanted an opportunity to influence decisions that affect them. The parties have achieved the following results in this regard:

- The Land Acquisition Committee of the Council of Ministers hired the Green Goal consulting firm to assist with implementation of the Resettlement Action Plan, and the income restoration program in particular. Green Goal in turn began formal cooperation with CDCAM. Together, Green Goal and CDCAM conducted consultation sessions to prepare affected households prior to moving, as well as joint community planning at the new resettlement site.
- Educational workshops were conducted by Green Goal and CDCAM for the resettled community on the following topics:
 1. Fresh water systems
 2. Community administration, credit and planning
 3. Livelihood restoration
- Informational leaflets and a summary of the Resettlement Action Plan were made available at the airport "public information center" for a time, but parties ultimately found it more effective to communicate and stay informed through informal local channels (local government commune³ office, NGOs, Green Goal, community meetings, etc.)
- Grievances were addressed through consultation at three levels: commune,

² Data provided by Green Goal and confirmed by CDCAM and CNRO.

³ Communes, or *khum* in Khmer, are third-level administrative divisions in Cambodia. They are subdivisions of the districts, and typically consist of several villages.

provincial government, and Land Acquisition Commission (e.g. regarding land ownership, compensation amounts, land use etc.).



Water system at the new relocation site – “Meanchey Development Community”

directly, but are otherwise interested in trying to resolve the complaint through a dispute resolution process, the CAO team is prepared to assist the parties in a creative and flexible manner. In this case, the CAO team, including a local Cambodian mediator, employed a combination of separate meetings and “shuttle diplomacy” to assist the parties in resolving the issues. Thus, while there was no formal mediation or dialogue process per se, CAO used its neutral “good offices” and dispute resolution expertise to facilitate indirect and informal communication. This helped to clarify issues, explore topics of mutual concern, reduce tensions, and ultimately address the parties’ most important needs.

At the same time, shuttle diplomacy does present certain limitations - it can be slower and less efficient and it is harder to build trust, relationships, and understanding between the parties.

LESSONS AND INSIGHTS

Involve All the Key Stakeholders

It became clear early in the assessment of this case that the complainants (local community members), SCA, and IFC could not resolve the issues alone. The Government made it clear that they were in charge of the resettlement process. The Cambodian NGOs who assisted the communities in filing the complaint to CAO were actively involved in monitoring the project and advising the complainants; a solution could not be achieved without their participation and buy-in as well. Provincial government representatives also had a critical role to play. The CAO team therefore reached out to these additional parties, and all agreed to work with CAO in a collaborative dispute resolution process to try to resolve the issues. Due to the interdependencies among all of these stakeholders around the complaint issues, it is highly unlikely that the process would have been successful without their cooperation and engagement.

Be Flexible with Dispute Resolution Process Options

When some key parties and stakeholders are unable or unwilling to engage with one another



New home under construction at Meanchey Development Community

Keep Focus While Mindful of External Events

The parties in this case were attempting to resolve Sihanoukville Airport-related issues at the same time that several other controversial, development-related resettlement efforts were underway in Cambodia. These external events were beyond the control of CAO and the parties, and could have had a potentially negative impact on the dispute resolution process.

For example, a few months prior to the complaint being filed with CAO, three other complaints were lodged with the World Bank Inspection Panel and the Asian Development Bank’s (ADB) Office of the Special Project Facilitator. The Inspection Panel complaint

related to the World Bank's Land Management and Administration Project and the resettlement of residents of the Boeung Kak Lake community. The two other complaints regarding resettlement related to two separate ADB projects: Phnom Penh to Ho Chi Minh City Highway Project, and the Greater Mekong Subregion (GMS) Rehabilitation of the Railway Project. Such cases could have a potentially negative impact on parties' efforts in CAO-led collaborative dispute resolution process.

Therefore, any discussion of issues related to resettlement in Cambodia came with layers of potential tension, potential misunderstanding, broader policy and political implications, and perceptions of hidden agendas, among other issues. This required patience and perseverance among all of the parties working with CAO in the case. The CAO team, and the local mediators in particular, worked diligently to help all stakeholders keep perspective and focus in order to achieve an outcome that would be acceptable and mutually beneficial to all concerned.

Recognize that Parties May Struggle with Weighing and Evaluating Their Options

At many points throughout the CAO process, there was at least one party who was not happy with a particular response or outcome. Demands were made that went unfulfilled. Questions remained unanswered. Some undertook actions that initially felt uncomfortable or risky⁴. That said, through the process, CAO encouraged the parties to keep asking themselves, "Is this still a better result than would otherwise have been achieved?" This is often an extremely difficult and frustrating assessment for parties to make in a dispute resolution process, and the voluntary nature of the process allows any party to stop or withdraw at any stage. In a multi-party case such as this one, parties also face a challenge when not all interests are being met but the majority of participants nevertheless want to continue with the process.

In this case, the parties remained patient and persistent. They strived to stay focused on their most important needs and goals and finding ways to meet them, even if coming up short of the ideal solution or attaining everything they wanted.

Other documentation relevant to the case is available on the CAO website:

www.cao-ombudsman.org

⁴Specific examples are deliberately not included here, due to confidentiality protections