



OMBUDSMAN ASSESSMENT REPORT

Regarding Community and Civil Society concerns in relation to
IFC's Eco Oro Project (#27961) in Colombia

November 2012

Office of the Compliance Advisor Ombudsman (CAO)
for the International Finance Corporation and
Multilateral Investment Guarantee Agency
www.cao-ombudsman.org

About the CAO

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. The 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	Office of the Compliance Advisor Ombudsman
EIA	Environmental Impact Assessment
IFC	International Finance Corporation
MIGA	Multilateral Investment Guarantee Agency
NGO	Non-Governmental Organization

1. Overview

In June 2012, the Comité de Defensa del Agua y el Paramo Santurban (Committee for the Defense of Water and the Santurban Paramo) (“the Committee”) filed a complaint to the CAO on behalf of 40 civil society groups and their members who, as residents of Bucaramanga, believe they are affected by IFC’s project with Eco Oro Minerals (“Eco Oro” or “the company”) in Santander, Colombia. The CAO determined that the complaint met its three eligibility criteria and so began the assessment of the complaint. During the assessment, the company expressed its willingness to pursue a voluntary dispute resolution process. However, the complainants and representatives of potentially affected communities decided not to pursue such a process with Eco Oro Minerals. Accordingly, the complaint will be transferred to CAO Compliance for appraisal of IFC’s intervention. 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 Project

Eco Oro Minerals Corp (formerly Greystar Resources Ltd) is a publically listed junior mining company headquartered in Canada. Eco Oro owns 100% of the Angostura gold and silver exploration project, 55 kilometers north of Bucaramanga, in the Santander region of Colombia. The company has acquired concessions covering approximately 30,000 hectares over a 15-year timeline, and results of an intensive drilling program show large undeveloped gold resources. The deposit elevation ranges from 2,600 to 3,400 meters above sea level.

As per the IFC, at the time of investment the total cost of the exploration and pre-mine development phase of the project was estimated at US\$147 million, with a US\$18.3 million equity investment from IFC to fund completion of the bankable feasibility study, environmental impact assessment (EIA) and other needed ground works to prepare for the project development stage.

The project is an Environmental Category B.

2.2 The Complaint

In June 2012, the CAO received a complaint from the Committee (“the complainants”), claiming to represent 75,000 community members in the region of Bucaramanga and filed with the support of the Center for International Environmental Law, the Inter-American Association for the Defense of the Environment, and MiningWatch Canada as international NGOs. The complaint raises a number of environmental and social issues in regards the Eco Oro project, including impacts to water quality and quantity in the watershed that supplies Bucaramanga, and environmental damage to the paramo – an area of significant biological relevance in the Andean mountainous regions which is recognized by Colombian legislation. Furthermore, the complainants contend that the project is in violation of IFC’s social and environmental policies, and should not have received project approval. A more detailed summary of issues is presented in Section 3.

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 Eco Oro Minerals are willing to engage in a dispute resolution process or the complaint should be transferred to CAO Compliance for appraisal. The CAO does not gather information to make a judgment on the merits of the complaint during its assessment.

The CAO assessment of the complaint consisted of:

- reviewing project documents;
- conducting bilateral meetings with the complainants and Eco Oro representatives in Bucaramanga;
- meeting other relevant stakeholders in Bucaramanga and Bogota.

A schedule of meetings conducted is included as Annex A.

Complainants' Views

The CAO heard references to almost every point presented in the complaint, and found that the complainants do not see value in a collaborative or dialogue process with Eco Oro Minerals at this time, and that they prefer the intervention of CAO's Compliance function. Those concerns raised most frequently by the complainants include the following:

- The complainants consider that large-scale gold mining, be it subterranean or through open pit, will cause irreversible negative impacts to the water quality and quantity of the Surata River, one of the sources of potable water for the City of Bucaramanga and several other municipalities. They argue that there is not sufficient hydrogeological information about the workings of the Santurban paramo to adequately estimate the risks of large-scale mining in paramo ecosystems and High Andean Forests, and that as a precaution all these types of activities should be suspended and should be withdrawn from the region. They add that they do not see how the benefits of such an industry can offset the risk of affecting one of the main sources of water for the city and other municipalities.
- The complainants also indicate that neither Eco Oro, nor other companies present in the region, nor the relevant authorities, are complying with Colombian legislation that prohibits mining activities in paramo areas. They express concern for what they see as a worrying weakness in state institutions tasked with managing and controlling mining activities. Of particular concern is the manner in which mining authorities receive applications and grant titles in paramo areas. As complainants, they support the creation of a Regional Natural Park in the Paramo of Santurban.
- They indicate that the identification of affected communities by Eco Oro was restrictive and only considered those communities which were in close proximity to the Project, when they should have included the city of Bucaramanga and surrounding municipalities given the possible impact to their water sources. Consequently, they believe the consultation process carried out was restrictive.

- The presence of mining activities in the region since colonial times is recognized by the complainants. However, the majority of complainants believe that small-scale mining is viable provided that it receive technical assistance and that it be adequately controlled to prevent the contamination that it produces presently.
- They expressed that the company's activities during the most violent period of armed conflict in the region contributed to the perpetuation of conflict.
- They contend that large scale mining projects in the region are having social impacts on the communities closest to them. Among these, they mentioned prostitution, crime, drug use, land speculation, and displacement of traditional productive activities.
- They indicate that IFC did not carry out appropriate due diligence when approving the investment. The complainants specifically question IFC's investment in the project before an Environmental Impact Assessment (EIA) was produced; categorization of the project as a 'B'; over-estimation of the company's experience in these types of projects; and it paving the way for the entrance of other large scale mining projects in the area without measuring cumulative impacts. Finally, they contend that the World Bank is contradicting itself by financing projects to protect paramo ecosystems with the public sector while at the same time supporting private sector investments that threaten these ecosystems.

Eco Oro Views

Eco Oro expressed its disagreement with the points presented in the complaint, but communicated their interest in participating in a collaborative or dialogue process that could be convened by the CAO. In particular, the company's views are:

- They contend that the project is designed in such a way that the impacts are reduced and can be mitigated, especially now that the project has been modified to propose subterraneous exploitation, as a response to the concerns expressed. They believe that the mining opposition is a product of a misinformation campaign that does not consider the technical information available which demonstrates that the project will not have a negative impact on water quality. The company also contends that local public authorities have certified that the waters in the project zone are not presently contaminated.
- The legislation that regulates the mining industry is complex and has undergone several changes in the last decades. The company contends that they have always been in compliance with legal norms, and particularly, they understand that the prohibition of mining activity in paramo zones depends on a definition and demarcation that has yet to be determined by the Ministry of Environment. They believe this to be an essential definition, and have put forward unprecedented studies in the country carried out by technically competent third parties¹ to serve as input for the Ministry of Environment's decision-making process. The company supports the proposed creation of a Natural Park, limits of which should be established by rigorous technical criteria. In addition, they are of the opinion that the criteria used by mining and environmental authorities do not always coincide, presenting an additional challenge to the mining industry.

¹ Among these is a study analyzing paramo vegetation and paramo delimitation conducted by the Guaya canal Foundation, and funded by the Colombian Chamber of Mining.

- They hold that smaller scale illegal mining has been responsible for the cyanide and mercury pollution in the Surata River. They believe that large scale mining companies can serve as allies to continue to improve the environmental practices of small-scale miners.
- They contend that all the consultations conducted by Eco Oro relating to the project have been carried out in accordance with provisions established by law. They highlight that the opposition comes from several sectors of civil society in Bucaramanga, and does not reflect the positive opinion held by those communities closest to the project.
- In regards to its position on armed conflict, the company indicates that the most violent times forced them to suspend the project for several years, and subsequently, they reached an agreement with the military to support the establishment of a battalion to control the area. Eco Oro denies the claim made by the complainants, namely that the company's activities during the most violent period of armed conflict in the region contributed to the perpetuation of conflict.
- The company's main concern in regards the social impact in the region relates to unemployment and its consequences in the area if the mining projects are not able to move forward.

4 Next Steps

During the course of its assessment, the CAO understood from the complainants that they are not willing to participate in a voluntary dispute resolution with Eco Oro, convened by CAO. The company has expressed its interest and willingness to participate in a collaborative process with the complainants if the opportunity presents itself. Given the voluntary nature of a dispute resolution process, and the determination by the complainants not to participate in such a process, the CAO Ombudsman concludes that this complaint is presently not amenable to resolution through a cooperative process.

In accordance with CAO's Operational Guidelines, CAO Compliance will appraise the complaint to determine whether the case merits an environmental and social audit of IFC's participation in the project.

Annex A. Schedule of Site Visits and Meetings in Colombia

Date	Meetings	Location
October 1, 2012	Eco Oro Minerals	Eco Oro Offices, Bucaramanga
October 3, 2012	Former General Manager of the Metropolitan Aqueduct of Bucaramanga	Private Offices, Bucaramanga
October 3, 2012	Compromiso Foundation	Compromiso Offices, Bucaramanga
October 3, 2012	Committee for the Defense of Water and the Santurban Paramo	Metropolitan Aqueduct of Bucaramanga Conference Room, Bucaramanga
October 4, 2012	National Federation of Merchants - FENALCO	FENALCO Offices, Bucaramanga
October 4, 2012	Dean of Environmental Chemistry Faculty, University of Saint Thomas	University of Saint Thomas, Bucaramanga
October 4, 2012	Eco Oro Minerals	Eco Oro Offices, Bucaramanga
October 5, 2012	Tierra Digna	Bogota
October 5, 2012	Environmental Comptroller, National Comptroller Department of Colombia	Bogota
October 5, 2012	Fundación Guaya canal	Guaya canal Offices, Bogota
October 18, 2012	Humboldt Institute of Colombia	Via teleconference

Annex B. CAO Complaints Handling Process

The Office of the Compliance Advisor Ombudsman (CAO) is the independent accountability and recourse mechanism for the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA), the private sector arms of the World Bank Group. The 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 CAO assessment is conducted by CAO's Ombudsman 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) to help the CAO Ombudsman and the stakeholders determine whether and how they might be able to resolve the issues raised in the complaint.

As per CAO's Operational Guidelines,² 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: **Ombudsman assessment:** Assessment of the issues and provide support to stakeholders in understanding and determining whether a collaborative solution is possible through a facilitated process by CAO Ombudsman, or whether the case should be transfer to CAO Compliance for appraisal of IFC's/MIGA's social and environmental performance. The assessment time can take up to a maximum of 120 working days.
- Step 4: **Facilitating settlement:** If the CAO Ombudsman process continues, this phase involves initiation of a dispute resolution process (typically based or initiated by a Memorandum of Understanding and/or a mutually agreed upon ground rules between the parties) through facilitation/mediation, joint fact-finding, or other agreed resolution process, leading to a settlement agreement or other mutually agreed and appropriate goal. The major objective 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 problem-solving process, in a way that is acceptable to the parties affected.
OR
Compliance Appraisal/Audit: If a collaborative resolution is not possible³, CAO Compliance will initiate an appraisal of IFC's/MIGA's social and environmental due diligence of the project in question to determine whether a compliance audit of IFC's/MIGA's involvement in the project is merited.
- Step 5: **Monitoring** and follow-up
- Step 6: **Conclusion/Case closure**

² For more details on the role and work of the CAO, please refer to the full Operational Guidelines: <http://www.cao-ombudsman.org/about/whoweare/index.html>

³ Where stakeholders are unable to resolve the issues through a collaborative process within an agreed time frame, the CAO Ombudsman will first seek to assist the stakeholders in breaking through impasse(s). If this is not possible, the CAO will inform the stakeholders, including IFC/MIGA staff, the President and Board of the World Bank Group, and the public, that CAO Ombudsman has concluded its involvement in the complaint, and that it is being transferred to CAO Compliance for appraisal.