



OMBUDSMAN ASSESSMENT REPORT TO STAKEHOLDERS

Regarding Concerns of Local Stakeholders about the PRONACA Farms in
Santo Domingo, Ecuador

June 2011

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

www.cao-ombudsman.org

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LIST OF ACRONYMS

CAO	Office of the Compliance Advisor / Ombudsman
IFC	International Finance Corporation
MIGA	Multilateral Investment Guarantee Agency
PRONACA	Procesadora Nacional de Alimentos

1. Introduction

The Office of the Compliance Advisor / Ombudsman (CAO) is the independent recourse mechanism of the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA) of the World Bank Group. It reports directly to the President of the World Bank Group, and its mandate consists of fairly, objectively and constructively addressing the claims of persons who are negatively affected by, and enhancing the social and environmental outcomes of, projects in which the IFC and MIGA are engaged.

At the initial stage, it is the duty of the CAO Ombudsman to attend to claims. The purpose is to try to solve the issues that were presented in a fair, mutually satisfactory way for all parties, using a flexible problem-solving approach.

In accordance with the CAO's Operational Guidelines, after acknowledging receipt of the complaint, CAO Ombudsman will decide whether it is eligible.

1.1. The Complaint

On December 7 and 30, 2010, CAO received correspondence sent by two persons (hereinafter the "complainants"), who alleged that the activities of PRONACA, an IFC client, are having a negative impact on the environment and wellbeing of the inhabitants of *Santo Domingo de los Tsachilas*.

CAO determined that the claim was eligible on the grounds that:

1. The complaint pertains to a project that IFC/MIGA is participating in, or is actively considering.
2. The issues raised in the complaint pertain to the CAO's mandate to address environmental and social impacts of IFC or MIGA investments.
3. The complainant (or those whom the complainant has authority to represent) may be affected if the social and/or environmental impacts posed in the complaint occurred.

The complaint alleges, among other things, the following social and environmental concerns regarding PRONACA's operations:

- Foul odor emanating from the pig farms;
- Pollution of water sources, soil and air;
- Operation of pig farms without an environmental license;
- The total number of pigs inhabiting *Santo Domingo de los Tsachilas*;
- Health issues among neighboring communities; and
- Impacts on a buffer forest.

The complainants' concerns were presented together with information gathered from diverse sources such as press articles, letters to authorities requesting that they attend

to their concerns, documentation on the judicial procedures filed against PRONACA, and other information.

1.2. The Project

Procesadora Nacional de Alimentos C.A. (PRONACA) is an integrated pork and poultry processing company. PRONACA has been an IFC client since 2003. In 2004 and 2008 it received two loans for a total of US\$ 50 million¹.

The company expects to use the 2008 loan to support key investments to maintain its operations and to finance permanent working capital. According to the Summary of Proposed Investment, the investment has been classified as environmental category B, and was financed with IFC's own resources.²

In its Environmental and Social Assessment Summary, the IFC stated that the following environmental and social standards are applicable to PRONACA's operations:³ PS1: Social and Environmental Assessment and Management Systems; PS2: Labor and Working Conditions; PS3: Pollution Prevention and Abatement; PS4: Community Health, Safety and Security; PS5: Land Acquisition and Involuntary Resettlement; and PS6: Biodiversity Conservation and Sustainable Natural Resource Management.

Assessment by CAO Ombudsman

Having established the eligibility of the complaint, CAO Ombudsman has a maximum of 120 working days to carry out an Assessment. The purpose of the assessment is to understand the issues and concerns raised by the complainant, to gather other stakeholders' opinions on the situation, and to help the CAO and the parties to determine whether and how they might be able to resolve the issues raised in the complaint. Assessment by CAO Ombudsman is not an in-depth investigation of the situation; neither does it imply a judgment regarding the merits of the claim.

Therefore, this evaluation report summarizes the CAO's understanding of the situation after having reviewed information, visited the site, interviewed the parties and a few other persons, and shared its preliminary impressions with the complainants and with the company PRONACA. The CAO does not necessarily expect the parties to agree with the contents of this assessment.

2.1 Meetings and Discussions with the Stakeholders

As part of the assessment process, a CAO Ombudsman team visited Quito and *Santo Domingo de los Tsachilas* on February 22, 23 and 24, and March 3, 2011, to get to know

¹ The IFC had further provided advisory services to Pronaca relating to water treatment and increasing energy efficiency. These advisory projects were closed at the time CAO received the complaint.

² Summary of Proposed Investment (SPI), project ID No. 26535, May 21, 2008.

³ Environmental and Social Assessment Summary (ESAS), May 21, 2008.

the views of the complainants and PRONACA regarding the issues posed in the complaint.

The CAO offered the complainants the opportunity to convene broad-based meetings in order to allow anyone who wished to state their concerns or viewpoints to participate. After the first visit, the CAO offered to return and meet with as many people as the parties deemed necessary. During both visits to the area, the CAO team was received by a total of sixteen persons who responded to the invitation of the complainants, as detailed in the travel itinerary in Appendix 1. The team also held meetings with other community members and representatives in the area, in order to gain a broader overview of the situation, and complemented its visits with frequent phone calls and e-mails.

CAO visited PRONACA operations that had been suggested by the complainants and PRONACA, representing different stages of the company's production chain. In total, CAO visited the *San Xavier* farm, the Socorro farm, the *Chanchos Plata 2* farm, the FRIMACA pork processing plant, and the water treatment plant located in Valle Hermoso.

2.2 CAO Findings

The CAO does not present a detailed account of all matters discussed with interviewees. Rather, this assessment report provides a general description of what the CAO team found to be the most important topics during the visit.

Based on the discussions held and information received during the assessment period from the complainants, interviewed community members, PRONACA representatives and IFC officials, the issues presented to the CAO in the complaint may be grouped into the central topics that are detailed below.

a. Odors

Both the complainants and the interviewed community members pointed out that the foul smells associated with the pig farms were particularly acute a few years ago. They now differ in their perception of how acute and tolerable the bad smell is, and how much it affects their health and quality of life. Most people who were interviewed perceived that the foul odors have decreased since the bio-digesters and deep bedding system were implemented, and that they now represent an occasional nuisance associated with a particular time of the day and during specific events in the production cycle, such as when the pigs are transported. The complainants and other community members believed that the odors might have subsided to some extent. However, the complainants maintain that the smells are still strong, and are seriously affecting their health and quality of life.

PRONACA acknowledged that odors were a nuisance to its neighbors in the past. Seeking to mitigate them, PRONACA implemented the bio-digester and deep-bedding systems, although it does not believe that the odors pose a threat to the health and quality of life of the neighboring community. The company notes that it continues to explore new avenues of continual improvement in order to reduce any potential nuisance to a minimum.

b. Water Pollution

PRONACA, the complainants and community members who were interviewed said that the rivers in *Santo Domingo de los Tsachilas* are polluted. Some interviewees said that river pollution has restricted their access to water for household consumption, negatively impacted their health and quality of life, and decreased fish stocks.

However, PRONACA and the complainants disagree about the causes of river pollution. Although everyone seems to agree that there is a serious problem due to the lack of waste water treatment in the cities and towns of the province, the complainants and several of the interviewees have the understanding that solid and liquid wastes from the PRONACA pig farms are being dumped into the rivers without prior treatment, making them an additional source of significant pollution in the area. PRONACA, on the other hand, says that the facilities that generate industrial effluents have treatment systems and that their liquid wastes meet domestic standards. It also indicated that no solid wastes are dumped into water sources, but that they are delivered to environmental agents who are qualified by environmental authorities.

c. Environmental Licenses and other Operating Permits

The company and the complainants agreed that only five⁴ of the 14 operations relating to pig breeding and processing have environmental licenses approved by the Ecuadorian Ministry of the Environment. However, they differ in their interpretation of the legality of this situation.

For the complainants, farms that do not have environmental licenses are operating illegally and reveal the company's unwillingness to comply with the Ecuadorian legal requirements, with the acquiescence of the authorities. PRONACA, on the other hand, says that it has fulfilled all of the procedures prescribed by the Ministry of the Environment to comply with the environmental law enacted in 1999 and its regulations passed in 2003. It pointed out that changes in the Ministry's criteria for applying these norms have delayed the process, and that the Ministry of the Environment has approved environmental audits and made several follow-up and control visits to the PRONACA facilities. It also said that it has been waiting for the environmental authorities to grant the remaining environmental licenses since 2009, and that the approval process is in its final stages.

The complainants also expressed concerns about how close some of the pig farms are to populated centers, and claimed that they violate the norms issued by Agrocalidad. In turn, the company said that the expansion of urban centers has increased the number of people who now live close to their farms. It also said that in any case the company has taken several precautionary measures to avoid problems, such as surrounding some of the farms with palm plantations and taking strict bio-safety measures.

⁴ Pig farms of PROANCA with Environmental License approved by Ministerio del Ambiente del Ecuador: VALENTINA (Lic. 384), AFORTUNADOS (Lic. 386), ZARACAY (Lic. 387), SOCORRO (Lic. 388), CAMPO LINDO (Lic. 389).

d. Flies and Mosquitoes

In the town of *El Paraíso*, the interviewees perceived that pig farming helps to feed the numerous flies and mosquitoes that thrive in the area. They would like to have the company's support for constant fumigations to help control the problem.

The company, on the other hand, deems that the number of flies and mosquitoes in the area is due to the tropical climate in the region and the stagnant water in the neighboring communities. PRONACA said that it is cooperating with the fumigation and education campaigns carried out by the Malaria organization.

e. Scale of the Operation and Access to Information on its Production Processes

The complainants said that the smells and environmental impacts in Santo Domingo that are ascribed to PRONACA are caused by an excessive number of pigs on the farms. They also stated concern regarding a possible increase in the capacity of some of the farms and regarding the cumulative impacts of PRONACA's entire operation. The company said that the number of pigs in its facilities follows operating standards, and that it is open to an independent inspection in order to clarify any doubts that the complainants might have in this regard.

On the other hand, the complainants also alleged that they lacked access to information on various aspects of PRONACA's production process (such as animal feed, antibiotic / hormone use, cleaning products, or working permits). The company stated that it has opened the doors of its operations for complainants to visit, and has been willing to provide all information that any interested person needs to understand its production processes and be assured that it is following the law.

f. Dynamics of the Relations between the Communities and the Company

Under its Corporate Responsibility Department, PRONACA has a unit dedicated to relations with interest groups, through which it coordinates its relations with the community.

The CAO has heard different opinions among those interviewed regarding the way in which PRONACA handles its relations with its neighbors. Some people say that PRONACA has shown a lack of willingness to answer complaints regarding the nuisances caused by its operations. Others say that PRONACA has undertaken major projects for their communities, and yet others feel that it would be advisable for PRONACA to provide the same assistance to the various populations where it operates, in order to compensate them for the nuisance of living near its operations.

Beyond the opinions heard, the CAO believes that both the communities and the company would benefit if they could agree on clear mechanisms for handling complaints and claims. As a reference, it suggests using the Guide to Designing and Implementing Grievance Mechanisms for Development Projects published by CAO.⁵

⁵ CAO (2008), A Guide to Designing and Implementing Grievance Mechanisms for Development Projects.

g. Administrative or Legal Procedures

The Constitutional Court (Case No. 0567–2008–RA) rejected an appeal for constitutional remedy *amparo*, which requested suspending the construction of bio–digesters in PRONACA’s pig farms that was filed by the complainants and other 17 persons, who claimed to have been negatively affected by the PRONACA operations. The Constitutional Court mandated the creation of a multi–sector commission convened by the *Defensoría del Pueblo* to strictly monitor this company’s production business with regard to bio–digester functioning, water consumption, and management of organic and inorganic wastes dumped into bodies of water, seeking to defend common, collective rights. This commission was set up in July 2009, visited PRONACA’s operations and is in the process of generating a preliminary report.

h. Other Topics

Some of those interviewed share concerns about problems relating to soil pollution, and also regarding the presence of rodents in the area of El Paraíso.

3. Conclusion and Next Steps

Upon concluding the assessment, the CAO process contemplates the possibility of two paths:

- a) The CAO works with the stakeholders to agree on a process for addressing the matters posed in the complaint and other issues that may have been identified during the assessment; or
- b) If one or both of the parties do not wish to seek a joint solution, the CAO will refer the complaint from its Ombudsman function to its Compliance function.

3.1 Positions of Complainants and PRONACA

In this case, both complainants stated their wish that the IFC block the funds from its loan to PRONACA, and for CAO Compliance to carry out a “Comprehensive Audit and Public Report” on IFC’s approval process for the line of credit requested by PRONACA. They also stated that they were not willing to participate in a mediation process with PRONACA. One of the complainants and some interviewed community members asked that the CAO also commission a Comprehensive Environmental Audit of PRONACA’s intensive animal breeding operations and an audit of the social situation of the rural populations linked to PRONACA’s production business.

In turn, PRONACA said it was willing to commence a dialogue with the complainants to address the issues posed in the complaint and to open its operations to independent inspections as needed under the CAO Ombudsman process.

3.2 The CAO’s Proposal

The CAO clarified that it had no mandate to block any loans granted by the IFC.

It also confirmed that complainants have a right to request at any time that the CAO transfer their complaints from the Ombudsman function to the Compliance function, but that according to the CAO's Operational Guidelines these two processes do not run in parallel. In other words, the CAO could not attend to their request for an audit of the credit approval process (performed by the Compliance function) and for environmental and social assessments of the PRONACA operations (conducted under the sponsorship of the Ombudsman function) at the same time. Therefore, it was up to the complainants to choose which process of the two they preferred for the CAO to carry forward.

The CAO offered both the complainants and PRONACA the opportunity to carry out an independent, credible cooperative information-generation process for the parties, in order to help solve the issues posed by the complainants. It further explained that the CAO had sufficient resources to support studies in a few PRONACA plants, which would depend on the scope agreed upon by the parties.

The CAO also clarified that if the Ombudsman function transferred the complaint to the Compliance function, an appraisal would be performed before deciding whether the case merited a comprehensive audit of IFC's handling of the complaint. Therefore, transferring the case to the Compliance function did not guarantee that the CAO would perform a comprehensive audit.

3.3 Complainant Response and Final Decision

The complainants asked that the complaint be transferred from the Ombudsman function to the Compliance function.

The Ombudsman function operates under the voluntary principle, thus, it only proceeds when the complainants and the company agree. In view of communications received from the complainants, the CAO has closed the Ombudsman stage and transferred the complaint to the Compliance function.

**Appendix 1: CAO Team meetings held in Quito and Santo Domingo
(February 22, 23 and 24, and March 3, 2011)**

Date	Agenda of the First Visit
Feb 22	<p>10 AM – Meeting with Complainant in Quito</p> <p>3 PM – Meeting with PRONACA officials</p>
Feb 23	<p>9 AM – Meeting in <i>Valle Hermoso</i> with Complainant <i>and other community members</i></p> <p>3 PM – Meeting in <i>El Paraíso</i> with local authorities</p>
Feb 24	<p>8 AM – Meeting with Complainant in <i>Santo Domingo</i></p> <p>10 AM – Meeting with a resident of the <i>30 de Noviembre</i> cooperative in the <i>San Miguel</i> area</p> <p>11:30 AM – Meeting with a Tsachila–Peripe community member</p> <p>1 PM – Visit to PRONACA facilities San Xavier farm (deep bedding), Socorro farm (bio–digester) Water treatment plant for effluents from the pork and fowl processing plants in Valle Hermoso</p>
Feb 25	10 AM – Meeting with PRONACA officials in Quito
Date	Agenda of the Second Visit
Mar 03	<p>8 AM – Meeting with a neighboring rancher of the <i>El Paraiso</i> area</p> <p>10 AM – Meeting with an authority of the <i>San Carlos</i> community</p> <p>11:30 AM – Meeting with the parish authority of <i>Valle Hermoso</i>, founder of a local organization with social objectives</p> <p>12:30 – Visit to the FRIMACA pork processing plant</p> <p>14:30 – Meetings with a Complainant in <i>Santo Domingo</i> and other inhabitants of <i>Santo Domingo</i></p>