



DISPUTE RESOLUTION CONCLUSION REPORT – INDONESIA RAJAMANDALA HYDROPOWER PROJECT-01

This report summarizes the CAO dispute resolution process in relation to a complaint regarding the MIGA-supported Rajamandala Hydropower Project (#11862) in Indonesia.

OVERVIEW

The Project

The Rajamandala Hydropower Project consists of the development of a 47 megawatt run-of-the-river hydropower plant near Bandung in West Java, Indonesia. The project is being developed by PT Rajamandala Electric Power (REP) and is co-financed by Japan Bank for International Cooperation (JBIC) and Mizuho Bank Ltd (MBL).

MIGA has issued guarantees of up to US\$200 million covering the loans by JBIC and MBL to the Rajamandala project. The coverage is for a period of up to 19 years including against the risks of expropriation, war and civil disturbance, and breach of contract.



CAO mediator at the project site

The Complaint

In May 2016, a complaint was filed with CAO by a local youth organization on behalf of a local individual and his family (the “Complainants”) in Bantarcaringin Kampong

in the area of Rajamandala in West Java. The Complainants alleged that the tunnel construction associated with the Rajamandala project has negatively impacted the family's paddy field, which is located above the tunnel. The Complainants alleged that cement spills and water drainage associated with the tunnel construction had left the land drier and less productive.

The full complaint is available on CAO's website at: www.cao-ombudsman.org.



The land affected by a concrete spill

CAO's Assessment

CAO found the complaint eligible in June 2016 and conducted an assessment of the issues in August 2016. CAO's assessment included a desk review of the project documentation; individual and joint phone calls, and meetings with all the involved stakeholders; and a field visit to the project site and affected village August 7-10, 2016.

During the assessment process, it became clear that there were two families still in dispute about the potential sale of land located above the tunnel. Further, several other community members complained about what they felt was a lack of responsiveness of the company to concerns about the land, as well as about noise and traffic disturbances, impact on local roads, and the availability of work opportunities for community members.

Some community representatives expressed concern that an increasingly confrontational relationship with the company is causing a shift in mentality of an otherwise peaceful and harmonious community.



CAO convenes first joint meeting with company and community representatives, August 2016.

During the assessment, the Complainants and company agreed to engage in a voluntary dispute resolution process facilitated by CAO to address the issues raised in the complaint. CAO convened a first joint meeting in August 2016, and the parties agreed on two key action items to address during the dispute resolution process:

1. Addressing outstanding land issues through direct negotiations between the company and the land owners, to be completed no later than 16 August 2016; and
2. Working jointly on strengthening communication between the company and the communities.



Community religious leader signs agreement to work on two action items in August 2016.

THE DISPUTE RESOLUTION PROCESS

Addressing Land Issues

The company and the two land owners and their families successfully conducted direct negotiations and agreed on the sale of the land in question, effectively addressing the first agreed action item of the dispute resolution process. CAO provided support during the negotiation process to help the parties address their respective concerns about the terms of the settlement.

Joint Training Workshop

To address the second action item, a joint training workshop was held by CAO in October 2016 to strengthen communication between the company and its host community. The purpose of the workshop was to build the parties' capacities to resolve conflict in a collaborative manner, as well as to design and agree on a framework for continued communication and collaboration (see box 1).



A breakout group at the joint training workshop, October 2016.

Box 1. Training on good communication and collaboration

A joint training workshop was attended by several members of the Bantarcaringin community, including youth and religious leaders, and by representatives of the company.

Workshop participants identified existing challenges that played a role in preventing communication and collaboration between the two parties.

An action plan was agreed at the end of the workshop, committing the parties to:

1. Strengthen the community's organization, including through awareness raising, training, and the creation of a forum for dialogue.
2. Improve company's internal coordination and improve cooperation with other relevant parties, such as the local government and partner companies.
3. Hold joint monthly meetings on the occasion of Friday Prayer.

Participation and Representation

CAO worked with the parties to help ensure good representation from individuals within the community and the company. In addition to the affected land owners and the representatives from the youth organization that brought the complaint, local leaders were involved in the process, including government representatives and religious leaders of Bantarcaringin village who participated in the first joint meeting of the parties, the training workshop, and the Friday meetings, which take place once a month after Friday prayer.

On the company side, several employees, including representatives of management, participated in the process. For the training, a representative of a project contractor, who

has regular interactions with the community, also participated.

OUTCOMES OF THE CAO PROCESS

Land Sale Agreement

In August 2016, the two families agreed on the sale of their land to PT REP. The purchase price was based on a professional land evaluation and included compensation for crops planted on the land.

Improved Community-Company Relations

During the training workshop, the parties agreed to hold monthly meetings to continue to improve communication, in turn, strengthening their capacity to address future disputes in an amicable way. To date, three meetings have been held, in November and December 2016, and January 2017.



CAO mediators with training participants

Since the conclusion of the training and the beginning of the monthly meetings, communication and collaboration between the parties has improved substantially. The community representatives have reported that the company has become more open and responsive to their concerns.

The benefit of cooperation became evident in November 2016, when the area experienced a flood emergency, causing several families to evacuate. The company and the affected communities, including Bantarcaringin village, succeeded in mitigating the impact of the flooding through good communication and collaboration. The mutual trust and

communication capacity built through the CAO dialogue showed its benefits early.



A community representative in dialogue with a company representative, October 10, 2016.

OBSERVATIONS FROM THE PROCESS

The inclusion of other actors may help strengthen community-company relations

Some important issues raised by the community are alleged to have been caused by the behavior of company contractors and subcontractors. While one representative of a contractor attended the training workshop, it has been challenging for CAO and for the company to ensure strong participation in the process from these actors. While the improved relationship with the company provides the community with a platform for airing these grievances, CAO hopes that these actors may be more open to participate in the ongoing dialogue efforts going forward.

The events during the flood emergency highlighted that outreach and inclusion of neighboring communities is also important. The flood led to an increase in tension

between the two most badly affected communities, including Bantarcaringin village, based on a disagreement on what measures to take to mitigate the flooding. The communities were eventually able to find a solution by reaching out to the company for assistance. Given their proximity to the project, the other neighboring community may equally benefit from ongoing dialogue with the company.

Benefit of facilitated dialogue by third-party neutral to help catalyze an expedient resolution

When CAO conducted an assessment of the complaint, it appeared to be a localized dispute involving two families and the company. It was apparent that there were broader concerns in the community about the level of responsiveness by company staff to community concerns, and early signs of the community seeking ways to protest against the company such as blocking access to project vehicles. Once the community and company were brought together through a facilitated dialogue process, a joint commitment prevailed to be good neighbors and address challenges through direct dialogue. This case serves as an example of the value a third party neutral can bring to communities and companies in facilitating resolution of a dispute before it potentially escalates. The CAO process from assessment of the complaint in August 2016 to closure of the case in January 2017 took six months, yielding positive impacts in a relatively short timeframe.

All documentation relevant to this case is available on CAO's website at www.cao-ombudsman.org