



CAO ASSESSMENT REPORT

Complaint regarding IFC Investment in Lydian Intl 3 (Project #27657)

Gndevaz and Jermuk, Armenia

December 2014

Office of the Compliance Advisor Ombudsman
International Finance Corporation/
Multilateral Investment Guarantee Agency
www.cao-ombudsman.org

About the Compliance Advisor Ombudsman

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. 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	Compliance Advisor Ombudsman
EBRD	European Bank for Reconstruction and Development
EIA	Environmental Impact Assessment
ESIA	Environmental and Social Impact Assessment
IFC	International Finance Corporation
MIGA	Multilateral Investment Guarantee Agency

1. SUMMARY

In April 2014, CAO received a complaint from Gndevaz and Jermuk community members in Armenia, with support from seven local non-governmental organizations (NGOs), regarding IFC's investment in Lydian International Limited, a junior mining company sponsoring the exploration of the Amulsar gold project. As a result of CAO's assessment, the complaint is being referred to CAO's Compliance function for appraisal of IFC's environmental and social due diligence of the project. 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

According to IFC, Lydian is a junior mining company focused on exploration projects in Eastern Europe and Central Asia. Lydian, through its wholly-owned indirect subsidiary Geoteam CJSC, holds licenses for the Amulsar exploration property in Armenia. Amulsar is located in central Armenia, approximately 120 kilometers south of Yerevan. The project is at an advanced feasibility stage. A bankable feasibility study and EIA were completed in July 2014. Subject to obtaining all outstanding permits, the project is expected to move into the development and construction stage, targeting first gold production in early 2017.

IFC is a 7.9 percent shareholder and has invested over \$16 million (CAD) in multiple stages since 2007. The project is classified as a Category B project, meaning it is expected to have limited adverse social and/or environmental impacts that can be readily addressed through mitigation measures. An Armenian EIA was released in August 2014 and Lydian estimates that the international Environmental and Social Impact Assessment (ESIA) required by the lenders will be released in December 2014.

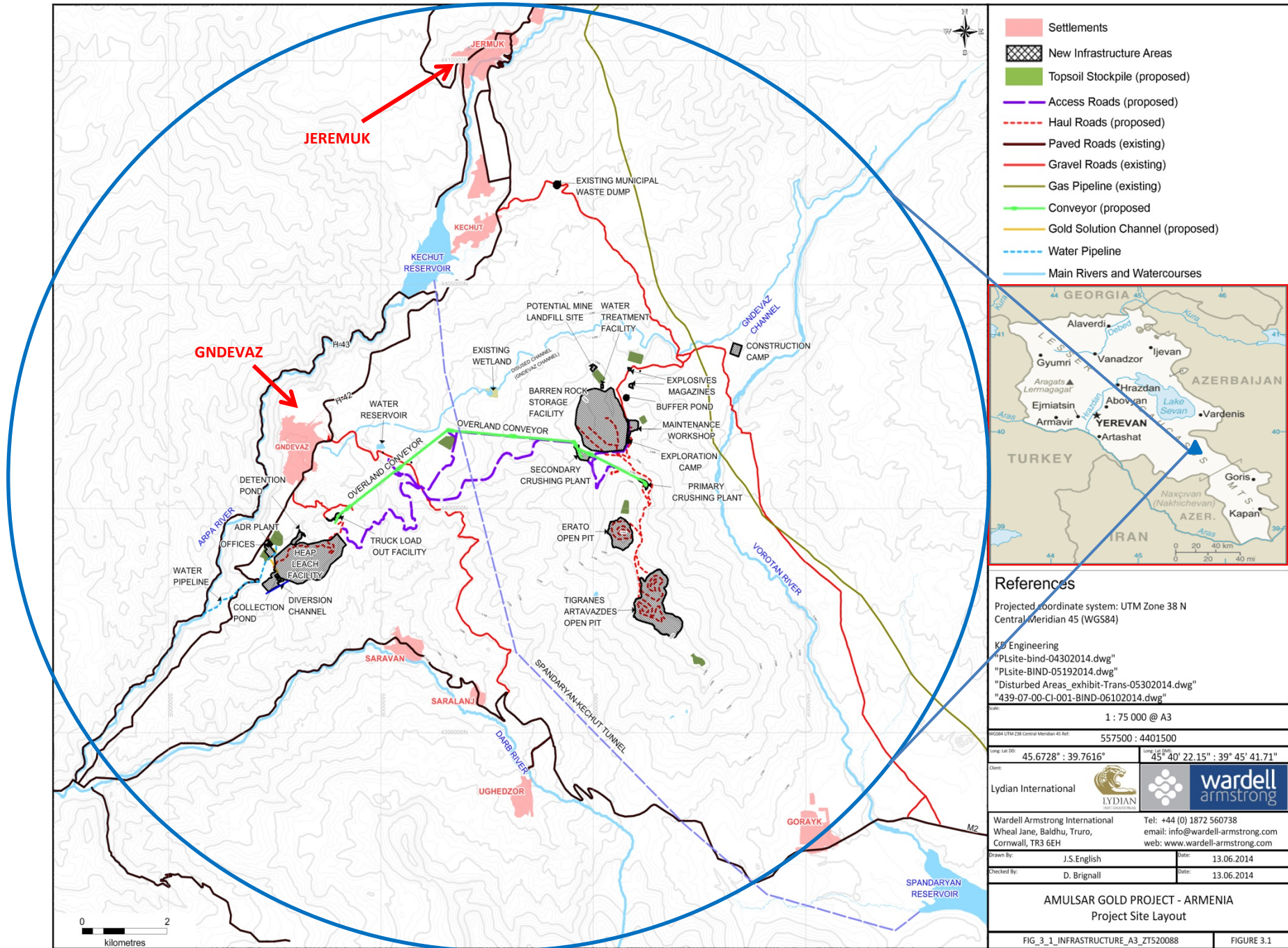


Figure 1: Proposed site layout (adapted from map provided by Lydian International)

2.2. The Complaint

A complaint was lodged with CAO in April 2014 by two Gndevaz and Jermuk community members with support from seven local NGOs. The complainants raise concerns relating to pollution of local water basins, impacts to red-listed species and a local tourism center, inadequate environmental impact assessment (EIA), and alleged violations of IFC's Performance Standards and national regulations.

3. ASSESSMENT

CAO determined that the complaint met its eligibility criteria in April 2014, and undertook an assessment of the complaint. The purpose of CAO's assessment was 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 CAO Dispute Resolution or Compliance role would be initiated.

3.1. Methodology

During assessment, CAO does not gather information to make a judgment on the merits of the complaint. (See Annex A for a complete description of the CAO complaint handling process.)

CAO's assessment of the complaint consisted of:

- A review of project documents;
- A project site visit;
- Meetings with members of the affected communities, company representatives, and NGOs;
- Discussions with the IFC project team.

In May and June 2014, CAO conducted two trips to Armenia to meet with various stakeholders, including:

- Geoteam and Lydian staff
- Hayrapet Mkrtchyan, Mayor, Gndevaz
- 10 residents of Jermuk
- 6 residents of Gndevaz
- 4 residents of Saravan
- Larisa Minasyan, Executive Director, Open Society Foundations-Armenia
- David Amiryan, Deputy Director for Programs, Open Society Foundations-Armenia
- Inga Zarafyan, President, EcoLur
- Anna Shahnazaryan, Representative, Save Teghut civic initiative
- Levon Galstyan, Representative, Pan-Armenian Environmental Front
- Silva Adamyan, Chairman, Center for Bird Lovers
- Arthur Grigoryan, Lawyer, EcoRight
- Eleonora Gabrielyan, President, Armenian Botanical Society
- Artur Ashughyan, Advisor to the Minister, Armenian Ministry of Economy

In meetings with local residents, CAO met with people opposing the mine project, as well as those who are supporters.

3.2. Findings

3.2.1. Perceived Project Benefits

Local residents who support the mine cited the positive project benefits they already see, and/or expect, such as: better employment opportunities, social programs (e.g. support for local schools, cultural and sports programs, etc.), and large increases in local government budgets.

3.2.2. Complainant Concerns Identified During Assessment

In addition to the issues and concerns raised in the original complaint, during the assessment various stakeholders raised two additional concerns:

i. *Impacts on World Bank Community Agricultural Resource Management and Competitiveness (CARMAC) Project for Armenia:*

The CARMAC project is designed to improve productivity and sustainability of pasture-based livestock farms in 55 mountainous communities by increasing milk production, improving pasture management, and enhancing farm sales of livestock products¹. Some complainants are concerned that the Amulsar mine will conflict with the goals, objectives, and implementation of the CARMAC project by negatively impacting livestock production in and around the mine area. During the assessment, CAO spoke with Arusyak Alaverdyan, World Bank Operations Officer, to inform her about the complainants' concerns and brief her on CAO procedures. According to Ms. Alaverdyan, the World Bank does not foresee any negative impacts from the Amulsar mine on the CARMAC project.

ii. *Cultural Heritage:*

Another concern raised with the CAO team was related to the potential archeological and cultural heritage value in and around the project area. Some stakeholders raised the risk that that significant historical and cultural artifacts, such as tombs, remains of ancient dwellings, and obsidian tools may be found in the area and that more examination and research is needed. They were also concerned that roads used for mine exploration may have already destroyed historical monuments.

Some interviewees requested that the company's scientific studies on archeology be made public and that relevant government agencies, such as the Republic of Armenia Ministry of Culture and the Historical and Cultural Heritage Protection Agency, be more thoroughly consulted.

3.2.3. Company Perspective

Lydian emphasized to CAO that it received a "positive opinion" (comparable to an approval) of its environmental impact assessment ("EIA") from the Ministry of Nature Protection, acting under the Armenian Mining Code and EIA Law. This opinion has been granted after a formal review process that includes public disclosure of the EIA report, two public hearings and a period for receiving comments by stakeholders. Lydian and Geoteam representatives stated that they operate in accordance with international best practice, including the IFC Performance Standards and the European Bank for Reconstruction and Development (EBRD) Performance Requirements. They consider that their commitment to compliance with all these requirements

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is embedded in a number of corporate policies including governance, environmental, social, health and safety policies². In terms of CAO process, Lydian and Geoteam also expressed their preference for dialogue with the complainants facilitated by CAO Dispute Resolution.

3.2.4. Next Steps

After a thorough discussion of the CAO mandate, functions, and services, the complainants informed CAO that they considered their interests, and those of the Armenian public, would be best served by CAO Compliance. Therefore, in accordance with CAO's Operational Guidelines, the complaint is being referred to CAO's Compliance function for appraisal of IFC's environmental and social due diligence with regard to the project.

² <http://www.geoteam.am/images/ENVIRONMENTALPOLICY-eng2.pdf>
http://www.geoteam.am/images/soc_COMMUNITYPOLICYeng.pdf
<http://www.lydianinternational.co.uk/editorimages/documents/Lydian-Public-Consultation-Disclosure-Policy.pdf>
<http://www.geoteam.am/en/corporate-governance/corporate-policies.html>

Annex A: CAO Complaint Handling Process

The Office of the Compliance Advisor Ombudsman (CAO) is the independent recourse mechanism for the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA) of the World Bank Group. 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 initial assessment is conducted by CAO's Dispute Resolution 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) help stakeholders understand the recourse options available to them and determine whether they would like to pursue a collaborative solution through CAO's Dispute Resolution function, or whether the case should be reviewed by CAO's Compliance function.

This document is a preliminary record of the views heard by the CAO team, and explanations of next steps depending on whether the parties choose to pursue a Dispute Resolution process or prefer a CAO Compliance process. *This report does not make any judgment on the merits of the complaint.*

As per CAO's Operational Guidelines,³ 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: **CAO assessment:** CAO conducts an assessment of the issues and provides support to stakeholders in understanding and determining whether they would like to pursue a consensual solution through a collaborative process convened by CAO's Dispute Resolution function, or whether the case should be handled by CAO's Compliance function to review IFC's/MIGA's environmental and social due diligence. The assessment time can take up to a maximum of 120 working days.

Step 4: **Facilitating settlement:** If the parties choose to pursue a collaborative process, CAO's dispute resolution function is initiated. The dispute resolution process is typically based or initiated by a Memorandum of Understanding and/or a mutually agreed upon ground rules between the parties. It may involve facilitation/mediation, joint fact-finding, or other agreed resolution approaches leading to a settlement agreement or other mutually agreed and appropriate goal. The major objective of these types 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 dispute resolution process, in a way that is acceptable to the parties affected⁴.

or

³ For more details on the role and work of CAO, please refer to the full Operational Guidelines: http://www.cao-ombudsman.org/documents/CAOOperationalGuidelines2013_ENGLISH.pdf

⁴ Where stakeholders are unable to resolve the issues through a collaborative process within an agreed time frame, CAO Dispute Resolution will first seek to assist the stakeholders in breaking through impasse(s). If this is not possible, the Dispute Resolution team will inform the stakeholders, including IFC/MIGA staff, the President and Board of the World Bank Group, and the public, that CAO Dispute Resolution has closed the complaint and transferred it to CAO Compliance for appraisal.

Compliance Appraisal/Investigation: If the parties opt for a Compliance process, CAO's Compliance function will initiate an appraisal of IFC's/MIGA's environmental and social due diligence of the project in question to determine whether a compliance investigation of IFC's/MIGA's performance related to the project is merited. The appraisal time can take up to a maximum of 45 working days. If an investigation is found to be merited, CAO Compliance will conduct an in-depth investigation into IFC's/MIGA's performance. An investigation report with any identified non-compliances will be made public, along with IFC's/MIGA's response.

Step 5: **Monitoring** and follow-up

Step 6: **Conclusion/Case closure**