



**OMBUDSMAN ASSESSMENT & CONCLUSION REPORT**

**Complaint Regarding the Baku Tbilisi-Ceyhan (BTC) Pipeline  
(Project #11251)**

**Vale, Georgia**

*December 2011*

*Office of the Compliance Advisor/Ombudsman  
International Finance Corporation/  
Multilateral Investment Guarantee Agency  
[www.cao-ombudsman.org](http://www.cao-ombudsman.org)*

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## LIST OF ACRONYMS

BP	British Petroleum
BTC	Baku Tbilisi-Ceyhan
CAO	Office of the Compliance Advisor/Ombudsman
IFC	International Finance Corporation
MIGA	Multilateral Investment Guarantee Agency

## 1. Introduction

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. 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,<sup>1</sup> 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 on or initiated by a Memorandum of Understanding and/or ground rules agreed to by 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 affected parties<sup>2</sup>.

OR

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<sup>1</sup> 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>

<sup>2</sup> 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 Ombudsman will inform the stakeholders, including IFC/MIGA staff, the President and Board of the World Bank Group, and the public, that CAO Ombudsman has closed the complaint and transferred it to CAO Compliance for appraisal.

**Compliance Appraisal/Audit:** If a collaborative resolution is not possible, 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 intervention of the project is merited.

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

Step 6: **Conclusion/Case closure**

In June 2011, a complaint was filed with CAO from two landowning residents of Vale, Georgia. The complaint raised concerns about the activities of a BTC project contractor, which allegedly damaged the complainants' land and rendered it unusable for agricultural purposes.

On July 8, 2011 the CAO determined that the complaint met its three eligibility criteria:

1. The complaint pertains to a project that IFC 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 investments.
3. The complainant (or those whom the complainant has authority to represent) may be affected if the social and/or environmental impacts raised in the complaint occurred.

Subsequently, according to CAO's Operational Guidelines, the CAO Ombudsman began the assessment of opportunities for resolving the issues in the complaint. The assessment period is limited to a maximum of 120 working days, but may be completed more quickly depending on whether the issues are amenable to resolution.

In this case, the initial assessment trip was followed by a successful mediation with all parties which resulted in a written agreement. Thus, this single report serves as both the Assessment and Conclusion Report.

## **2. The Project**

The BTC pipeline project involves the development, financing, construction, and operation of a dedicated 1,760-kilometer crude oil pipeline system to transport oil from the existing Sangachal oil terminal near Baku, Azerbaijan, through Georgia to an export terminal at Ceyhan, Turkey, on the Mediterranean Sea. It is the second largest oil pipeline in the world, passing through approximately 17,000 land parcels.

The project is operated by BTC Co., which was established in 2002 and comprises a consortium of 11 partners. British Petroleum (BP), the largest shareholder in the project, led the project design and construction phases and currently operates the pipeline.

The IFC's gross investment in the project is US\$250 million, US\$125 million of which is from IFC's own account (referred to as an A loan), with an additional US\$125 million in syndicated loans, (or so-called B Loans). The total project cost is approximately \$3.6 billion.

The Georgian section of the pipeline starts in Kvemo Kratli region, Gardabani at the Azerbaijani-Georgian boarder and passes through seven regions of Georgia, including the Samtskhe-Javakheti region, where Vale is located.

### 3. The Complaint

In June 2011, CAO received a letter of complaint from two local residents of Vale, Georgia raising concerns about damage to some of their land parcels. Anzor and Jumber Zakhroishvili, (two brothers) claim that a BTC contractor – the construction company Arali – damaged their lands in December 2009 during construction works associated with the BTC project within the Vale area. The complainants stated that three trenches made by heavy vehicles substantially damaged their land making it impossible for them to cultivate it for their own resources. Furthermore, the brothers alleged that BTC did not fulfill its obligation to restore the land damaged by “Arali” despite requests put to the company and its contractor.

### 4. Assessment Methodology and Findings

As noted above, the purpose of the CAO assessment is to clarify the issues and concerns raised by the complainant, to gather information on how other stakeholders see the situation, and to help the CAO Ombudsman and the stakeholders determine whether and how they might be able to resolve the issues raised in the complaint. The CAO Ombudsman does not gather information in order to make a judgment on the merits of the complaint.

The CAO assessment of the complaint consisted of:

- A review of project documents
- Interviews, meetings, and group discussions
- A country mission and site-visit

The CAO team conducted an initial assessment field trip to Georgia in August 2011. In preparation for and during the field trip, the CAO Ombudsman team reviewed IFC project documents, met with complainants and representatives of BP and Arali, and spoke with the IFC project team. At the conclusion of these initial meetings, all parties agreed to participate in a voluntary mediation process convened by CAO.

### 5. CAO Ombudsman Dispute Resolution Process and Outcomes

The mediation was held at a neutral location in Borjomi, Georgia on October 13, 2011 with participation of the complainants, three BP representatives and the Director of Arali. After some subsequent meetings and discussions, a written agreement was reached and signed by the parties. All parties agreed to have the CAO team monitor the implementation of the agreement, which included working together to restore the complainants’ damaged land and monetary compensation<sup>3</sup>. In November 2011, CAO confirmed that the agreement had been implemented to all parties’ satisfaction.

### 6. Lessons and Insights

**Voluntary process empowers parties<sup>4</sup>:** The voluntary nature of CAO’s Ombudsman/Dispute Resolution function often empowers the parties, encourages responsibility and accountability,

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<sup>3</sup> The parties requested that the agreement itself not be released publicly. This summary was provided with the parties’ consent.

<sup>4</sup> See also the CAO at 10 Annual Report 2010, p. 23, to learn how earlier BTC complaints influenced the way CAO works in this regard. [http://www.cao-ombudsman.org/documents/CAO\\_10Year\\_AR\\_web.pdf](http://www.cao-ombudsman.org/documents/CAO_10Year_AR_web.pdf)

and creates durable solutions (precisely because they are developed by the parties themselves and *not* imposed from outside). In this particular case, there was clearly a very low level of trust between the parties when CAO received the complaint. Once the CAO Ombudsman dispute resolution option was explained to the parties, they all agreed to at least give the process a try (knowing it was relatively low-risk as they could withdraw at any time). Given the history of disagreement, the parties were somewhat skeptical that an agreement could be reached. By engaging them in a process, with the help of neutral, skilled mediators, that put the decision-making completely in their hands, they were ultimately able to find a solution that was amenable to all. Certainly, the final outcome was different than what all parties initially wanted or demanded, but they mutually determined it was the best way to meet their most important underlying needs, given the circumstances and alternatives available.

**Use of “local”<sup>5</sup>, experienced mediators was critical:** In almost all of its cases, the CAO Ombudsman team engages local consultants and/or mediators to assist with assessments and collaborative dispute resolution processes. As noted in CAO’s most recent Annual Report (2011), these local partners bring language and cultural skills that are essential to building trust and promoting dialogue. They can also be available more frequently to the parties as the demands of dialogue and mediation evolve in each case. This specific Vale case was a prime example of the importance of this approach - CAO partnered with a Ukrainian and Georgian co-mediator team to assist with all phases of the process: the initial assessment, the mediation itself, and monitoring of agreement implementation.

**Mediation should be considered as a distinct step or option in project-level grievance mechanisms:** In 2008, CAO published an Advisory Note entitled *A Guide to Designing and Implementing Grievance Mechanisms for Development Projects*, which describes how mediation and other “interest-based” approaches can be used in this regard. Many cultures and regions have some traditional dispute resolution process akin to neutral third-part mediation. Such approaches should be seriously considered when creating a project grievance mechanism. The potential benefits include cost savings (resolving grievances in a less costly manner compared to other approaches, not only in terms of money, but also other resources, time and emotional energy/stress), higher satisfaction with outcomes, improved relationships, and obtaining resolutions that are durable.

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<sup>5</sup> “Local” does not necessarily mean someone from the local community, or even the same country. In many cases, a mediator from a neighboring region or country, with the necessary language and other skills, may be more accepted by the parties as independent and neutral.