



STAKEHOLDER ASSESSMENT REPORT

**Regarding Community and Civil Society concerns in relation to the activities of
Maple Energy, Peru**

January 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

AIDSESP	Inter-ethnic Association for the Development of the Peruvian Jungle
CAO	Compliance Advisor Ombudsman
IFC	International Finance Corporation
FECONBU	Federation of Native Communities of the Lower Ucayali
MIGA	Multilateral Investment Guarantee Agency
ORAU	Regional Organization AIDSESP Ucayali
OSINERGMIN	Supervisory Organism for Energy and Mining Investment

1. Introduction

The Office of 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 projects in a manner that is fair, objective, and constructive and to enhance the social and environmental outcomes of projects in which IFC and MIGA play a role. In the first instance, complaints are responded to by the CAO's Ombudsman function.

1.1. The complaint

On April 6, 2010 the CAO received a complaint presented on behalf of indigenous communities in Canaan and Nuevo Sucre in the Department of Ucayali in the Amazon region of Peru. The complaint includes allegations that the activities of Maple Energy Plc, a client of IFC, are negatively impacting their health, safety, environment and sources of livelihoods.

On April 8, 2010 the CAO completed its initial screening to determine the eligibility of the complaint, and confirmation was sent to the complainants and IFC project team in order for them to notify Maple Energy that the complaint met all three of the CAO's eligibility criteria for further assessment:

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/MIGA 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.

The complaint alleges, among other items, the following social and environmental concerns attributed to Maple Energy's operations:

- Contamination of water sources and lands;
- Concerns related to oil spills that have taken place, the company's response to these, and their impact on the health of the communities and the environment;
- Non-compliance with agreements the company has contracted directly with the communities, or the mitigation plans that are required by the IFC or the national regulation entities;
- Concerns in relation to the level of consultation with the communities, prior to commencement of operations, and the quality of community relations the company maintains.

The concerns of the complainants were presented together with information collected from various sources and diverse interested parties, for example a field visit report from an environmental organization; minutes of meetings between the company and the

community; reports on the quality of the water and the land, and testimonies from members of the Canaan and Nuevo Sucre communities.

1.2. The project

Maple is an integrated energy company focused on various aspects of the energy sector including exploration and production of oil and natural gas, refinery and marketing of hydrocarbon products, generation and transmission of gas-based energy, and development of an ethanol plant. Maple initiated its activities in Peru in 1994 in oil fields that had begun operating in 1954.

The complainants make reference to an equity investment and a loan approved in July 2007 by the IFC to support Maple's investment program. The program consists of oil well perforation and works, along with exploration and other related activities, directed at increasing the production of Maple's existing hydrocarbon concessions. The project also comprises an investment in an ethanol plant, which does not form part of the complaint presented to the CAO. According to the Summary of Proposed Investment, the investment consists of an Environmental Category B loan up to US\$30 million and an equity investment of up to US\$10 million, financed from IFC's own account.¹

Maple's upstream operations are located in the central jungle zone of Eastern Peru. Blocks 31 B, E and D are located in the departments of Loreto and Huanuco respectively. Maple also operates a refinery and dispatch plant in the city of Pucallpa, located in the department of Ucayali.

The communities of Canaan and Nuevo Sucre originally lived on the other side of the Ucayali River but a large flood forced them to migrate. The territory where they settled and the property title granted by the Peruvian Government in the mid 70's partially overlapped with pre-existing oil fields, where Maple operates today.

In its Environmental and Social Review Summary, the IFC noted that it identified² the following policies and performance standards as applicable to the project: 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; PS6: Biodiversity Conservation and Sustainable Natural Resource Management; PS7: Indigenous Peoples; and PS8: Cultural Heritage.

2. CAO Assessment

2.1 Field Visit Itinerary

As part of its assessment process, a CAO Ombudsman team visited Maple's installations in Peru, as well as the communities of Canaan and Nuevo Sucre, in order to analyze their interest and perspectives regarding the issues presented in the April 2010 complaint. The team held additional meetings with other interested parties in order to obtain a broad understanding of the situation and the current issues. The itinerary of the visit is as follows:

¹ Summary of Proposed Investment (SPI), Project identification number 26110, June 1, 2007.

² Environmental and Social Review Summary, June 4, 2007.

Monday, June 7: Pucallpa, Department of Ucayali

11:00 – 16:00 Travel from Lima to Pucallpa.

16:30 – 20:30 Meeting with Maple's senior administration and technical team.

Tuesday, June 8: Contamana and Canaan, Department of Ucayali

8:00 – 10:00 Travel from Pucallpa to Contamana and out to the community of Canaan.

11:00 – 16:00 Meetings with members of the Shipibo indigenous community in Canaan, its leaders and group of community women.

Approximately 90 people attended the community meeting.

During the meeting, the community showed the CAO team community relations projects in the community and the adjacent stream.

16:30 – 17:00 Travel from Canaán to Contamana.

19:00 – 20:30 Meeting with Dr. Gaspar Ricardo Zamora Ramírez, Head of the Health Center of Contamana.

Wednesday, June 9: Nuevo Sucre and Contamana, Department of Ucayali

8:00 – 9:00 Travel from Contamana to the community in Nuevo Sucre.

9:00 – 14:30 Meeting with members of the Shipibo indigenous community in Nuevo Sucre and its leaders.

Approximately 60 people attended the meeting.

15:00 – 17:30 Visit to the company's installations in the Maquia field, including wells inside the territory of the community of Canaan.

Thursday, June 10: Pucallpa, Department of Ucayali

9:00 – 10:30 Travel from Contamana to Pucallpa.

11:00 – 13:30 Meeting with Jorge Antonio Trigoso, Technical Secretary of the Regional Organization AIDESP (ORAU)

16:00 – 19:00 Meeting with Maple management and technical team.

22:00 – 23:30 Return to Lima.

Friday, June 11: Lima

11:00 – 12:30 Meeting with Ms. Amparo Carrasco Baca, Management of Supervision and Control of Liquid Hydrocarbons, Supervisory Organism for Energy and Mining Investment (OSINERGMIN)

2.2 Review of information

Both the claimants and Maple have provided the CAO with a large amount of information, demonstrating their will to contribute to an adequate and complete understanding of the situation. In this document, the CAO prefers not to list each of the documents received and reviewed but only to make a reference to the type of information that CAO has had access to.

Information provided by the claimants:

- Reports of field visits undertaken by the non-governmental organizations.
- Community testimonies, both written and on video.
- Minutes of meetings between the communities and the company.
- Presentations produced by community leaders.
- Correspondence between the non-governmental organization, the company, the communities and IFC.
- Agreements for the establishment of easement rights.
- Laboratory reports and their annexes.
- Project documents presented to the communities.
- Pictures submitted by the complainants.

Information provided by Maple:

- Detailed reports of workshops, talks and capacity training conducted in Canaan and Nuevo Sucre, between 2005 and 2010.
- Minutes of negotiation meetings with the communities of Canaan and Nuevo Sucre.
- Correspondence with government authorities and with the communities of Canaan and Nuevo Sucre.
- Reports of oil spills that took place between 2007 and 2010, including details of cleaning activities and results of water samples in the Cachiyacu and Yarina streams.
- Copies of the Code of Conduct about Community Relations distributed to their workers and contractors.
- Data regarding local job resources for the communities.
- Documents about environmental and economic valuation in the area of Canaan.
- Documents on Community Relations: Plans, Investment Data (2007-2009), and Agreement with CIDRA.
- Minutes of meetings held with community representatives.
- Situational Health diagnoses in Canaan and Nuevo Sucre.

2.3 Conclusions

The CAO has been able to verify that, even though Maple and community members of Canaan and Nuevo Sucre have differences over many of the issues presented in the complaint, they are both willing to start a structured and constructive dialogue process to discuss and address them.

For this reason, the CAO chooses not to provide a detailed description of the issues listed in the complaint and discussed during the visit, or the positions that communities

and the company have expressed about them. The CAO would rather describe quite generally what seem to be the main issues to address and expects the parties to further expand on their views at the dialogue table.

While the complaint raises numerous issues of community concerns, it seems reasonable to anticipate that the dialogue table would focus on, at least, the following topics:

a) Community members' health in Canaán and Nuevo Sucre

Unquestionably, there is a public health problem in Canaán and Nuevo Sucre. Both communities are deprived of adequate sanitary infrastructure, affected by a high prevalence of diseases, and seriously limited in their access to health care.

What seems to be disputed is whether the health affections of community members can be attributed to some extent to Maple's operations.

b) Environmental impacts of Maple's operations

The oil spills that occurred in 2009 and 2010 have caused concern in both the communities and regulatory authorities. The concerns of the communities seem to focus mainly on the impacts that the spills could have on the ecosystem on which they depend to live, in particular over drinking water and food sources. The differences between Maple and the communities seem to focus on how much trust can be placed on the scientific information about the quality of the environment that is generated after each spill and through monitoring mechanisms.

Also, the CAO heard differing views about the labor and safety conditions in which the community participated in the cleaning of one of the oil spills, and complainants expressed serious concerns about the terms under which community members conducted clean-up work. Also, the CAO understands that some payments for the use of Nuevo Sucre's boats and premises are pending.³ Most importantly, the CAO believes that it is necessary that Maple and the communities hold conversations to further clarify what the community should expect from the company in the event of an oil spill, what role they can play, and under which labor and safety conditions.

c) Relations between the company and the communities

Both Maple and the communities of Canaán and Nuevo Sucre have expressed their wish to maintain a constructive and fluent relationship. The CAO perceives, however, a difference in expectations about the scope of the relationship, in particular about the frequency and quality of meetings, resource management, and implementation of agreements.

³ After the visit, Maple informed CAO that it made additional payments to members of the community of Nuevo Sucre. Should there still be other pending payments, this issue can be raised for discussion in a dialogue table under the auspices of the CAO.

Maple does not appear to have put in place in recent years a fully formal and structured mechanism to receive and address grievances from neighboring communities. It does not seem to have a database accessible to the community about grievances received, how they were addressed, and how resolution was achieved. Their current mechanism seems quite informal and not completely clear to community members of Canaán and Nuevo Sucre. The latter do not seem to know neither about the formal procedure that a grievance follows once it has been lodged (for example, whether a written confirmation will be issued specifying a given time to address it) nor how a grievance has been considered as addressed and resolved. Only recently, Maple has established an internal electronic system that provides follow-up information about meetings held and commitments taken up with the communities.

d) Other issues

It is important to mention that, by opening a safe space in which only women were allowed to participate, the CAO learned about two cases that could be characterized as sexual abuse and which, though having occurred outside company premises, involved two persons that apparently worked in the operations. With permission of the women, the CAO shared the broad aspects of these cases with company representatives and kept confidentiality about their identities. The company expressed that it had no knowledge of these situations and stated that in no manner do they tolerate that type of conduct, which is prohibited in a Code of Conduct. The company expressed their willingness to address these situations in a prudent way through their social workers. Both the company and the community expressed the expectation that further activities will be carried out to address any women's concerns.

Some community members have expressed their concern about lack of job opportunities at the company and failure to pay pensions for those who worked there. According to the data provided by Maple, in 2008, the company hired 198 temporary workers from the communities of Canaán, Nuevo Sucre, Santa Clara II and San Pablo. This number was reduced to 40 in 2009 because labor demand had decreased⁴. Maple indicates they have complied with Peruvian labor legislation.

Concerns about compliance with regulatory frameworks, national laws and IFC requirements presented in the written complaint can be addressed constructively as a component of the dialogue process proposed below, if requested by the parties.

⁴ After the CAO visit, Maple informed that in August 2010 154 people from the communities (97 from Caáan, 43 from Nuevo Sucre and 14 from Santa Clara II) were employed to clear vegetation along the Pacaya – Puerto Oriente pipeline.

3. Next steps

The CAO would like to begin bilateral and separate conversations with community and company representatives about ground rules to initiate a structured and constructive dialogue process.

Based on its previous experiences, the CAO suggests various issues for consideration:

- What is the purpose of the dialogue process? Which are the substantive issues to be addressed and what is the best order to address them? Which principles should inspire the dialogue?
- Who are the parties who will sit at the table with decision-making power? Who will represent each of the parties and what decision-making power will he/she have? Who will be allowed to participate as observer and under which conditions? How can new parties and observers join the table?
- Who will convene and facilitate the dialogue process?
- How long is it expected to last and how often are meetings supposed to take place? How early should meetings be convened and how? In which cases can the process be interrupted?
- How will communications and exchange of information be coordinated? What language will be used? How will progress be communicated to the public? What commitments do parties and observers make regarding the use of communication media (TV, radio, internet, press, etc)?
- How will decisions be made? How much time will representatives have to discuss with their constituencies the information needed to make decisions and reach agreements? How will agreements be documented?
- Who and how will monitor the implementation of agreements reached? What steps will be followed in case failure in implementation by one of the parties is verified?
- How will the dialogue process be funded? What contributions will each party make?
- If needed, how will training needs on technical information or negotiation techniques be met to promote equitable participation?

The CAO offers its assistance to convene a dialogue table and the services of mediator to Maple and the communities of Canaán and Nuevo Sucre to initiate bilateral conversations about these questions. The outcomes will be crystallized in a Memorandum of Understanding that would clearly establish the rules for the dialogue. It is the CAO's expectation that those same rules can keep governing the relation between the communities and the company in the long run, once the CAO exits.

Finally, it is necessary to point out that, in response to a request submitted to IFC by the claimants before a complaint was filed at the CAO, IFC is assisting Maple in its process of updating their Environmental and Social Action Plan. The CAO believes that the dialogue process between the parties can build on and strengthen some of the existing action points underway, particularly as they relate or respond to issues presented in the complaint. In order not to duplicate efforts or create diverging or overlapping processes on the ground, the CAO will exchange information and updates with IFC about the progress of each process and about the dates of the meetings programmed in the area. As the CAO maintains full discretion in managing its Ombudsman process in response

to the complaint, the CAO believes these efforts do not compromise its independence in any way.