

General questions/comment

We are writing on behalf of Green Development Advocates and IFI Synergy. IFI Synergy is a Cameroonian coalition working on the topic of IFIs and accountability within Cameroon, and as such, has been following the Nachtigal project. Representatives of IFI Synergy have visited affected communities, as part of a project on strengthening the capacities of communities on social and environmental policies. During this first visit our team recorded several issues and community concerns in relation to the Nachtigal dam.

FMO: FMO welcomes the comments, observations and questions from Both Ends, Green Development Advocates and IFI Synergy. We believe these comments contribute to improving the environmental and social performance of the Nachtigal hydro power project. Nachtigal is a major energy project deserving FMO's full attention. Policies, procedures, and management plans have been prepared in line with national requirements, IFC Performance Standards and good international industry practices. Contractual agreements are in place to ensure full compliance. Environmental and social experts on site are involved in the construction of the project. Ongoing consultation with affected communities and individual persons takes place. Project compliance is being verified by the authorities, and by Lenders with the help of qualified independent advisors.

Please find below our responses to your comments and questions.

Your observations/concern include:

1) unclear and delay in compensation:

FMO: FMO has received information on certain issues during the time of reservoir inundation. This is being investigated by the Lenders with the help of the independent advisor. Timelines are being discussed. FMO will inform you as soon as results are available.

2) coercion during the resettlement procedure:

FMO: FMO has no information at the moment confirming alleged coercion during the resettlement procedure. Obviously, this is not in line with our policies and procedures, and not acceptable. The Lenders will investigate this further with the assistance of the independent advisor. The investigation will include a review of relevant reporting and interviews with key stakeholders. Further steps will be determined based on the outcomes and may include more detailed procedures, training and compensation. The timelines are under discussion. FMO welcomes suggestions on potential persons to contact.

3) limitations in the FPIC process:

FMO: FPIC is required when PS7 on Indigenous People is applicable. The due diligence conducted by FMO confirmed that PS7 is not triggered (also confirmed by the dedicated Human Rights assessment as performed by the independent Human Rights expert). However, elements of the FPIC process are applied in the project as much as possible. For example, specific attention has been paid to good and realistic understanding of the project impacts by local community members in relation to job opportunities and project benefits.

4) failure of the project owner to contract the promised number of local workers.

FMO: FMO has no information at the moment indicating that the promised numbers are not being met. As this is a contractual requirement, we will further investigate this claim. This will include a review of contractor reporting on numbers of employed persons, labour contract details, the labour grievance mechanism and further community consultation. FMO will inform you on the results.

Questions on Human Rights:

Since FMO has a clear commitment to human rights we are specifically writing to FMO to understand how FMO implemented their human rights commitments in this particular project where many different funders are involved.

Q: We would appreciate to understand the outcome of FMO's contextual risk assessments in this project. How did FMO conduct the contextual risk assessment? Which actors have been consulted? What exact contextual risks did FMO find in their assessments? If any, what measures have been taken to mitigate these risks?

FMO: The due diligence conducted by FMO included an assessment of the contextual risks related to the project. This was done by:

- A review of the upstream Lom Pangar dam environmental and social information (FMO is not involved in the Lom Pangar dam project);
- Discussions with the environmental and social experts of World Bank, IFC and other Development Finance Institutes (like ADF Proparco) with investments in Cameroon and the region;
- A review of internet websites on regional Human Rights issues including dedicated Human Rights NGO's (like Amnesty International);
- Information exchange with the Dutch embassy in Yaounde;
- Consultation with expert institutes like Clingendael, and consultation with FMO's advisors network (independent consultants).

The assessment resulted in specific outcomes like issues on local population affected by Lom Pangar, on the English-speaking minority in Cameroon, on intimidation/freedom of speech, and on pressure on land/water. The findings have been included in the FMO due diligence. The Environmental and Social Action Plan (ESAP) includes specific mitigation actions and activities.

The ESAP also incorporates in the project Environmental and Social Management System (ESMS) and underlying plans. Important elements are the community grievance mechanism, the presence and role of community liaison officers and dedicated project offices open to the public.

Q: Has a Human Rights Risk Assessment taken place for this project? If so, what has been the outcome? Which actors have been consulted? What risks were identified? If any, what measures have been taken to mitigate the risk.

FMO: FMO reviewed the available environmental and social project information and decided to discuss with the project developer (Client), the national authorities and the other Lenders the options for a dedicated assessment on Human Rights. This was accepted by the Client, and FMO contacted a few Human Rights specialist consultants.

FMO prepared a Terms of Reference (ToR) in August 2017, and a consultant was selected. The ToR included a phased approach, starting with a review of available project documentation, followed by interviews of key persons. The next stage was a site visit including community consultations, followed by a dedicated Human Rights action plan.

The Consultant concluded after the first stage (document review, interviews) that the project was in line with the FMO requirements on Human Rights. Specific salient risks were identified, like on vulnerable groups and on indirect workers (sub-contractor) rights. The project ESAP was modified on these important issues, now including specific mitigation action and activities.

Q: What is the early warning system that is in place for risk of oppression or violence?

FMO: First of all, neither FMO nor the project do accept any oppression or violence. The project environmental and social Policies and Procedures include several references including the rights of freedom of expression. The project has appointed community liaison officers, who are trained in recognizing the signals. Community meetings are conducted on a regular basis and the meeting notes and reports thereof do not indicate any sign of this.

A community grievance mechanism has been developed and is being implemented, where people are encouraged to provide any comment/complaint/grievance they may have. All this is being analysed and discussed; a special Committee has been established for this (including local community members) and all individual cases are addressed through investigation/interviews. Mediation takes place to come to acceptable solutions, in line with the IFC PS.

Q: How did FMO verify broad community support? How is FMO monitoring the continuous broad community support? Is there any documentation available that can be shared on this?

FMO: Broad Community Support was verified during the due diligence conducted by FMO via community meetings and interviews with individuals affected by the project. These community members were asked about their understanding of the project, potential benefits, potential negative impacts, and grievances. It was concluded that a majority of the population affected was supporting the project.

Q: Since there are many funders in the project, we would want to know which of the funder's criteria were used for the resettlement procedures and why? What has been the role of the Cameroonian government in this?

FMO: FMO projects are required to be in line with the IFC Performance Standards 2012. This includes all items related to resettlement. The project affected people were identified, impacts were determined, agreements with individual persons were made and continuing monitoring takes place.

For this project, a dedicated Resettlement Action Plan (RAP) by the Client has been prepared and implemented. The RAP includes a Livelihood compensation component. The Government of Cameroon was a key stakeholder in the process. The RAP was reviewed by the FMO-appointed independent consultant on Human Rights. The consultant concluded the RAP to be of good quality and provided some further comments and observations which were translated in the new ESAP.