



Date: 10 August 2016

Notice of Registration
Request No.:RQ2016/2
Country: Senegal

Project: CONSTRUCTION OF A 125 MW COAL SENDOU POWER PLANT IN THE VILLAGE OF BARGNY MINAM, SENEGAL

Introduction

1. The Compliance Review and Mediation Unit (CRMU) received two Requests relating to the Construction of a 125 MW Coal Sendou Power Plant Project in the village of Bargny Minam in Senegal (the two Requests are attached in Annex 1 & Annex 2 of this Notice of Registration).

2. The first Request was submitted on 09 May 2016 by two Civil Society Organizations (CSOs) based in Senegal, Takkom Jerry, and Lumière Synergie pour le Développement (hereinafter referred to as, “the First Requestors”) on behalf of some of the people affected by the project (PAPs). The Requestors called for CRMU to handle their complaint through both problem-solving and compliance review. During the preliminary review of this Request to determine if it meets the registration requirements of the Operating Rules and Procedures of the Independent Review Mechanism (IRM), CRMU received on 15 July 2016 the Second Request which was sent by two individuals, Mr. Cheikh Fadel Wade and Mr. Daouda Gueye on behalf of some other affected members of the communities in Bargny (hereinafter referred to as “the Second Requestors”). Mr. Wade and Mr. Daouda challenged the representational authority of the First Requestors to act on behalf of all the PAPs. Standing on their own right, they requested to register their complaint for compliance review of the project.

3. The two Requests raise similar issues with regard to the negative impacts of the Sendou coal power plant that could be summarized as follow:

- i. Unviable government policy option to use coal-fired power plant for Senegal as the country does not produce coal and will be obliged to import it from the international market.
- ii. The selection of the project site in violation of article L13 of the National Code of the Environment which regulates the selection of sites of similar projects. In particular, the Sendou plant site is nearby an already existing cement factory (located at less than 2 kilometers away) and another forthcoming coal-fired power plant with larger capacity of 250 MW to be built close to the same site.
- iii. Increased vulnerability of communities to air pollution and potential disruption of livelihoods because of the proximity of the coal power plant to the town’s water

supply, public facilities including the elementary school, a health center, a kindergarten, cemetery, and the only fishery product processing site that employs about 1000 women and other seasonal and temporary workers.

- iv. Adverse impact of the coal power plant on an historic heritage site where the protected spirit of the village resides and a nursery for the regeneration of marine biodiversity.
- v. Breach of African Development Bank's environmental, social and human rights standards since there was no agreement signed with the right-holders of land titles, and no compensation was paid to the large majority of these holders. In addition, no Resettlement Action Plan was prepared to mitigate the project's negative social impacts.
- vi. Imminent health risks from air pollution due to emissions from Sendou plant, the cement factory and another coal-fired power plant with larger capacity of 250 MW which is scheduled to be built close to the same site. There was no cumulative impact assessment study prepared to measure the effects of emissions from these three plants.
- vii. Increased vulnerability of the community to the consequences of coastal erosion.
- viii. Inadequate public consultations with PAPs.

4. As a result of receiving these two Complaints, I carried out further assessment, including a CRMU field mission to Senegal, and established that both Requestors fulfilled the requirements of Paragraph 14 of the IRM Operating Rules and Procedures by providing CRMU with written signed proof that they have authority to act on behalf of the PAPs they represent (The Representational authority of the First Requestors and that of the Second Requestors are attached as Annex 3 & Annex 4 respectively). In addition, the two Requestors asked CRMU to handle their complaints separately and requested a compliance review of the project.

5. The Sendou Coal Power Plant project was approved by the Board of Directors of the African Development Bank on 25 November 2009. The senior loan was for Euro 49, 392,473 of the total costs of the project of Euro 164,610,732. The project is a public-private partnership initiative with co- financing from the Banque Ouest Africaine de Developpement (BOAD) and the Netherlands Development Bank (Nederlandse Financierings-Maatschappij voor Ontwikkelingslanden N.V. (FMO)).¹

6. The objective of the project is to support the Government's Energy Sector Development Policy aimed at improving electric power supply in terms of reliability and costs, as well as the use of coal as an alternative to oil to alleviate high energy costs to improve competitiveness and sustainability. The ultimate goal is to enhance the long-term economic growth by increasing Senegalese infrastructure capacity, support of foreign direct investment, job creation, service delivery and reduce the costs of business and trade deals.¹ The National Electricity Board (SENELEC) commissioned Nykomb Synergetics Development AB (NSD), a subsidiary of the Nykomb Group, based in Sweden, acting on behalf of Compagnie d'electricite du Senegal (CES) for the construction of the coal power plant under a "Build Operate- Own" agreement.²

¹ Project Appraisal Report, p.14.

² Project Appraisal Report, p.1.

7. The project components include the development, construction, operation and maintenance of a 125 MW coal-fired power plant on a 29 ha site located 35 km from Dakar in Sendou (Bargny). The project will produce annually at least 925 GWh of electricity, roughly 40% of the amount consumed in 2008 by the country. The Project will also build a 1.6 km 225 kV transmission line and associated switchyard to connect the plant to the National Electricity Company (SENELEC) grid. Upon completion, the ownership of the switchyard will be transferred to SENELEC.³ The coal will be transported by trucks along the paved road linking the port of Dakar to the project site (approximately 30 km away from Dakar). The project implementation activities started on 22 August 2013. The project duration is 24 months, and the executing agency is the Compagnie d'electricite du Senegal (CES).⁴

8. The Project Appraisal Report and Summary of Environmental and Social Impact Assessment describe the project context and its potential negative impact as follow:

- i. The donors, including the AfDB, have common environmental procedures similar to those of the World Bank. These are based on the 11 July 2006 version of the 10 "Equator Principles – (EPII). They constitute a set of measures for sound management of social and environmental problems related to project financing. In the case of signatory financial establishments, the objective of the EPs is to ensure that the projects they finance in the countries, particularly emerging countries and markets, meet established social and environmental criteria. To this end, the EPs fall in line with the environmental and social standards of the International Financial Corporation (IFC).⁵ The project has been designed to comply with the relevant environmental and social requirements of the World Bank on which the EPs are based. Additionally, the Environmental and Social Impact Assessment (ESIA) has already been the subject to a due diligence review by the American firm K&M Engineering, mandated by the project financing agencies.⁶
- ii. The Project is classified as Category 1⁷ high risk in accordance with the Bank's Environmental and Social Assessment Procedures (ESAP) for Private Sector 2001. The Project's Environmental and Social Management Plan (ESMP)⁸ covers several mitigation measures to contain: (a) the contamination of soil by discharge of hydrocarbons and other chemical products; (b) the contamination of surface and underground water; the disruption of the runoff flow system; (c) the alteration of local air quality due to dust and exhaust gas emissions from some site equipment; (d) the social conflicts arising from non- acceptance of the project by some sections of the population; (e) the noise pollution from the site equipment; (f) the emissions during the generation of electric energy; (g) the negative health impacts of SO₂ and NO_x in view of proximity of the site to densely urbanized areas (village of Bargny Minam) in adherence to norms of the World Health Organization (WHO) and the European Union (EU); and (h) negative impact on climate change through greenhouse gas (GHG) emissions (CO₂)⁹.

³ Project Appraisal Report, p.1.

⁴ Project Appraisal Report, p.1.

⁵Executive Summary of Environmental and Social Impact Assessment, p. 8.

⁶ Executive Summary of Environmental and Social Impact Assessment, p. 8.

⁷ Project Appraisal Report, p.15.

⁸ ESMP is posted on the website of the Bank: <http://www.afdb.org/en/documents/document/senegal-sendou-125mw-coal-power-plant-project-esia-summary-17316>.

⁹ ESMP, pp. 12-15.

9. In view of the fact that the two complaints relate to the same project and raise similar social and environment issues, I have thus decided to combine them into one Request relating to the Sendou Coal Fired Power Plant Project and will keep the Requestors engaged separately in the process.

10. The assessment of this Request shows that it fulfills the requirements for registration under Paragraph 23 of the IRM Operating Rules and Procedures. I have therefore registered it for compliance review on **10 August, 2016**, in line with the preference of the Requestors, pursuant to Paragraph 22 of the IRM Operating Rules and Procedures.

11. This Notice of Registration has been sent to the First and Second Requestors, the Board of Directors and the President of the Bank on **10 August, 2016**. It is posted on the IRM Register of Request which is accessible at: www.afdb.org/IRM.

12. In accordance with Paragraph 36 of the IRM Operating Rules and Procedures, the Bank Management shall submit to CRMU its Response to the Request with any evidence indicating how the Management has complied, or intends to comply with the Bank Group's relevant policies and procedures applicable to this project within twenty one (21) working days, i.e., by no later than **12 September, 2016**.

13. For any future correspondence relating to this complaint, the First Requestors, the Second Requestors, the Bank Management and any other interested parties shall refer to this Request number **RQ2016/2** as posted on the IRM Register of Requests.

14. I will communicate with the First Requestors through Mr. Ibrahima Diagne, the President of Takkom Jerry and with the Second Requestors, through Mr. Cheikh Fadel Wade and Daouda Gueye. It is worth noting that the Complainants have also submitted similar complaints to the counterpart complaints mechanisms of Banque Ouest –Africaine pour le Développement (BOAD) and Complaints Office Nederlandse Financierings – Maatschappij voor Ontwikkelingslanden NV (FMO). The CRMU will consult with these complaint mechanisms during the complaint handling process.



Sekou Toure
Director

Compliance Review and Mediation Unit (CRMU)

Cc:

1. The Board of Directors of the African Development Bank Group
2. The President of the African Development Bank Group
3. The First Requestors, Mr. Ibrahima Diagne, President of Takkom Jerry
4. The Second Requestors, Mr. Cheikh Fadel Wade and Mr. Daouda Gueye

Annex 1 : Complaint by the First Requestors



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Bargny May 9 2016

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Responsable de la Conformité
Banque Ouest-Africaine pour le Développement (BOAD)
68, Avenue de la Libération Lomé, Togo
plaintes-conformite@boad.org

Re: Complaint Sendou coal fired power plant, Senegal

Dear Mr. Priem and Mr. Touré,

First of all, Takkom Jerry¹ would like to express our satisfaction to present to you our complaint in relation to the Sendou coal fired power plant (hereinafter: Sendou project) in Senegal, financed by AfDB, BOAD and FMO. The project implementation started in 2013 without addressing the issues described in this complaint. These same issues were already raised during the public consultation on the Sendou project, which we therefore consider inadequate.

¹ Takkom Jerry is a member of the "Collective of affected communities", about 36 000 persons directly affected by the Sendou Project in Bargny and their associations, the (Khelcom fisherwomen association, Landowners association, Federation of small-scale local fisheries CLP, SOS Bargny, and FII Sabillahahi).

Background and context:

For the past 10 years, the State of *Senegal* has placed the reduction of the country's energy gap high on the agenda. While we appreciate the importance of this initiative for the country's development, the option of a coal-fired power plant and the location of the Sendou project are problematic.

In the first place, the project' site is in the heart of our community.

Thus, the site itself includes:

- 1.433 parcels of land, which in 1995, 1996 and 2007 were given to families in the community affected by coastal erosion as part of the Minam 1 and Minam 2 relocation projects;
- A river called *Khouloup*: A stream that comes from the only retention basin of the community and which runs through all the farming lands before flowing into the *Atlantic Ocean* at the South of the village, at a distance of 100 meters from the plant via its mouth locally called *Banoukhba*; An historic heritage site (a baobab tree) where the protective spirit of our village resides;
- The fishery product processing site locally named '*Khelkom*' where about 1000 women work and other seasonal and temporary workers, who all derive their livelihoods from those activities;
- A sewage collection site.

The site is also close to:

- Some trenches used for livestock watering by the whole community;
- A reef reconstruction project financed by the World Bank to build a nursery for the regeneration of marine biodiversity;
- Public facilities including the populous village of *Minam* which houses an elementary school, a health center, a kindergarten and a cemetery;

So firstly, the close proximity of the Sendou project site to the village of Minam is a reason to believe that the project violates the Code of the environment, in particular Article L13 which states that '*installations classified I should be built at least 500 meters from housing*'.

Furthermore, without other land reserves available in the area, our community will be more exposed to the consequences of coastal erosion as the advancing sea will oblige us to move further away from our homes with the risk of dislocation of our families as a result.

Moreover, the lack of any agreement with the right-holders of these land titles, the absence of any compensation for the large majority and the lack of an agreed Resettlement Plan are a breach of AfDB, BOAD and FMO's environmental and human rights standards.

Secondly we are worried about air pollution and our health. Sendou is not the only polluting industry in the proximity of our village: the SOCOIM cement factory, located at less than 2 kilometers from the Sendou project, is already affecting us. Next to Sendou, another even bigger coal-fired power plant providing 250 MW is being planned. There is no clear study establishing whether the cumulative impacts of these three plants poses any health risks.

We have raised these issues, and many more which are described in full detail in annex 1, with AfDB and FMO² but these negative impacts are still not adequately addressed at this moment and there has not been any adequate consultation with the communities until this day. Therefore we believe that this project is not in line with the AfDB, BOAD and FMO's environmental, social and human rights standards.

We would like to ask the Independent Complaints Mechanism of AfDB and FMO to undertake a compliance review and a problem-solving exercise. At the same time we would like to request BOAD's ICM to undertake a compliance review.

This complaint is technically supported by SOMO, Both ENDS, and Lumiere Synergie Developpement. We would like to request that any communication regarding this complaint is shared with our advisors Aly Sagne at Lumiere Synergie Developpement (alsagne@aim.com), Anna Floor van Ojik at Both ENDS (A.vanOjik@bothends.org) and Joseph Wilde Ramsing (j.wilde@somo.nl) at SOMO.

We look forward to your prompt reply to our urgent request.

Yours sincerely,

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² We refer to annex 2 for a complete list of our interactions with both development banks.

Annex 2: Complaint by the Second Requestors

COLLECTIF DES COMMUNAUTES AFFECTEES DE BARGNY

Bargny, 12 July 2016

Mr. S. TOURE

Head of the Compliance Review Unit (CRMU)
African Development Bank (AfDB)
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Mr. S. PRIEM

Complaints Office Nederlandse Financiering-Maatschappij
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The Netherlands, complaintsoffice@fmo.nl

Compliance Officer

West African Development Bank (BOAD)
68, Avenue de la libération Lomé, TOGO, plaintes-conformite@boad.org

Subject: Complaint against the Sindou Coal Power Plant, Senegal

Dear Messrs. Touré and Priem,

Mr. Daouda GUEYE; Tel.: 221776342667, daoudalarray@hotmail.fr

Mr. CheikhFadel WADE; Tel.: 221776501372, cheikh.fadel01@gmail.com

Mandated by the Group of Affected Communities in Bargny, hereby submit a complaint concerning the Sindou Coal Power Plant Project in Senegal.

The project is financed by AfDB, BOAD and FMO, and the works started in 2013 without taking into account the problems described in this complaint.

In 2008, SENELEC applied for a 120 ha piece of land situated in Bargny for the implementation of a 125 MW coal power plant project, known as Sindou Power Plant 1. A BOO2 contract was signed on 24 January 2008 between the Government of Senegal and Nycombsynergeticsdevelopment AB, a Swedish lead company of a group of companies ("Compagnie sénégalaise d'électricité S.A." - CES).

The Government of Senegal declared the project of public utility by Decree No. 2009-849 of 3 September 2009, and allotted the 120 ha land to SENELEC for the construction of a power plant. The 120 ha land includes:

A 10 ha 30a 90 ca piece of land given on lease to HOLDING KEUR KHADIM company;

A 85 ha piece of land with two land certificates belonging to SCI LES COTTAGES DU CAP-VERT;

A 54 ha 43 a 77 ca piece of land with two plots (MINAM 1 and MINAM 2) allotted by Municipal Order No. 001/CB/SGM of 28 March 2006 and approved by Prefectural Order No. 056/DR of 5 April 2006 for the resettlement of Bargny and Minam people affected by the advancing sea and climate change, comprising 1,633 plots.

It was established that a portion of the land declared to be of public utility was allotted to CES for the construction of the coal power plant.

Curiously, CES bought 29 ha from the 120 ha land for CFAF 1.45 billion. The sale deed was approved on 14 October 2009 by the then Minister Delegate to the Minister of the Economy and Finance in charge of the Budget, Mr. Abdoulaye Diop, and co-signed by the Lands and Stamp Duty Registrar, Mr. Max Bidi Vincent, and the Manager of CES, Mr. Jean Claude NorlandSuzor. Paradoxically, the deed specifies that the plot should be taken from TF 475F, whereas this land certificate is not mentioned in the report that motivated President Abdoulaye Wade to issue a decree on the allocation of 120 hectares land to SENELEC. The land also includes an area for the processing of fishery products, known as Khelcom, which employs 1,000 women. On 28 February 2009, a public hearing was held in Bargny Town Hall, as part of the environmental impact assessment of the project to build a coal power plant in Bargny municipality. The objective of the interim report produced by Quartz Afrique consulting firm recruited for the assessment was to gather the views and concerns of the population in the town.

It was while waiting for the report that the Mayor of the town found out that the project implementation had started on the site several weeks earlier. Consequently, on 28 March 2011, the Mayor sent a correspondence (No. 060/CB/SGM) to the Prefect of Rufisque Department, with copies to the Director- General of SENELEC and the project developers to draw their attention to the fact that the site chosen for the project had been divided into two administrative layouts.

However, for several reasons, the Bargny communities and the then Mayor strongly objected to the implementation of the project. Indeed, the power plant is dangerous for the health of the population and ecosystems, and a poor decision had been taken to establish this dangerous and unhygienic power plant in the centre of Bargny in total disregard for the rules of the Environmental Code, which in its Article L13 states: "First class facilities (such as thermal power plants) should, before their construction or commissioning, obtain an operating permit ..., the permit shall ensure that the facility is at least 500 m away from homes, buildings usually occupied by third parties, institutions receiving the public, and dwelling areas, a stream, a lake, a means of communication, a water catchment ". It is clear from this provision of the Environmental Code that the distance of 500 m from homes (Miname 1 and Miname 2 plots), institutions receiving the public (Minam health centre, the day care centre, the primary school, and the fish processing site) has not been respected.

The developers disregarded these provisions by establishing the coal power plant on a layout of 1,433 plots; the following are within 500 m radius from the power plant:

- The first houses on 206.51 m each;
- A health centre on 395.29 m;
- A primary school on 520.52 m;
- Secondary houses on the Sindou road on 266 m each;
- The Ngadjé- NdiagaSamb neighbourhood to the South-West on 494 m.

The project directly affects the human and economic rights of 1,000 women processing fishery products, who risk losing their jobs since the power plant is very close to the processing site; indeed, according to the regulations, a food processing unit should not be close to a property classified as dangerous and unhealthy.

The power plant significantly increases the air pollution levels already generated by the over 50 years presence of the cement factory (SOCOCIM) which pollutes the town environment with dust and gas, and through the mines.

Consequently, non-compliance with environmental, health, cultural and social standards through the establishment of a coal power plant close to the population and work places has become a serious threat to public health due to chronic inhalation of several toxic substances that in the long term often cause fatal lung diseases, risks of cancer, premature deaths, and birth defects, as well as constitute a major threat to the lives of the population of Bargny.

Considering the negative environmental and social impacts of the project;

Considering the inadequate public consultations;

Considering the high risks of the project to the population's health due to gas emissions, as well as air, water and soil pollution;

Considering the impacts on land use such as access to cemeteries, the primary school, the daycare centre, the health post, and the fish processing site, which are sensitive irreversible impacts that can lead to the loss of economic and social rights;

Considering that the project site is not appropriate due to non-compliance with the requirement to ensure a 500 m distance from:

A layout of 1,433 plots or houses already built, but not taken into account in the impact assessment;

A fishery products processing site, which is an important economic area for the town and its suburbs, and is very close to the coal power plant;

Homes that are very close to the coal power plant;

Expropriations have been conducted without fair and equitable compensation.

Considering the non-compliance with community rights to a healthy environment, as well as non-respect for cultural heritage (the Baobab tree where ancestors' rites are conducted is on the site of the power plant);

Considering that the Government's responsibility is fully committed by the Ministry of Environment which authorized, by Order dated 7 May 2010, the opening and operation of a dangerous, unhealthy or inconvenient establishment, classified in Category 1 class, without taking into account the fact that the Senegal Electricity Company (CES) did not comply with Article 13 of the Environmental Code;

Considering that the local climate change adaptation measures are now compromised because the site was expected to resettle over 300 families affected by coastal erosion, with 2-3 m coastal erosion per year;

Considering the threats to small-scale fishing and related activities that account for over 60% of the community's economic sector, which if no mitigation measures are taken, hot water from the power plant with toxic substances will be discharged directly into the sea in a protected biological area for marine species;

Considering the serious danger for the population created by the establishment of the coal power plant in an unsuitable and improper place;

We call on the independent inspection mechanisms of the AfDB, BOAD and FMO to undertake a compliance review on the site.

Yours sincerely,

Daouda GUEYE



Cheikh Fadel WADE



ANNEX 3: Representation Authority of the First Requestors


Bargny, 8 July 2016


Subject: Representation of Communities affected by Project N° P-SN-F00-004 (Coal Power Plant – Sendou, Senegal)

Dear Director, CRMU

We, the undersigned, members of the people affected by the African Development Bank project referred to in the subject matter, have given authority to Mr. Ibrahima Diagne, President of Takkom Jerry, with office located on Rue Namory X Ndaak, au Quartier Finkone, Bargny, Senegal to act on our behalf in the context of the handling of the complaint we launched to the African Development Bank Group.

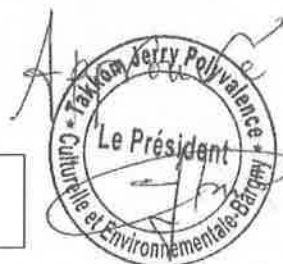
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To the Representative of CRMU S/C
African development Bank group



« Plaidier pour un monde plus ouvert »

Annex 4: Representation Authority of the Second Requestors

Representation Authority

We the undersigned, members of the people affected by the Sendou Coal Power Plant authorize Cheikh Fadel WADE and Daouda GUEYE to represent us and act on our behalf with the view to submitting a complaint and monitor the follow up activities with the Independent Review Mechanisms of the African Development Bank Group (AfDB).

Noms	Fonction	Adresse et contact	Signature
Fatou SAMBA	Présidente association des femmes transformatrices de Khelcom	Bargny NDIAGA SAMB TEL : 221774182701	
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Daouda MBODJ	Représentant collectif des pêcheurs	Bargny NDIANDIA TEL : 221776650047	
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Assane NDIAYE	Président du comité local de pêche (CLP)	Bargny NGOUNOU NDIAYENE TEL : 221775734146	
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Moussa DIA	Représentant des Eleveurs	Bargny NDIAGA SAMB TEL:221771180511	
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Fatim SADI	Représente des pratiquants du culte	Bargny GOUYE DIOULANCAR TEL : 773376950	
Ibra SECK	Chargé de la communication du collectif des communautés affectées de Bargny	Bargny NGOUD NDIAYENE TEL : 774547578 Mail : eassissmc@gmail.com	
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