



MONITORING REPORT

February 2, 2017

**Second Monitoring Report of IFC's Response to:
CAO Audit of IFC Investment in Coastal Gujarat Power Limited, India**

Office of the Compliance Advisor Ombudsman (CAO)
for the
International Finance Corporation (IFC)
Multilateral Investment Guarantee Agency (MIGA)
Members of the World Bank Group

About CAO

The CAO's mission is to serve as a fair, trusted, and effective independent recourse mechanism and to improve the environmental and social accountability of IFC and MIGA.

CAO (Office of the Compliance Advisor Ombudsman) is an independent post that reports directly to the President of the World Bank Group. CAO reviews complaints from communities affected by development projects undertaken by the two private sector lending arms of the World Bank Group, the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA).

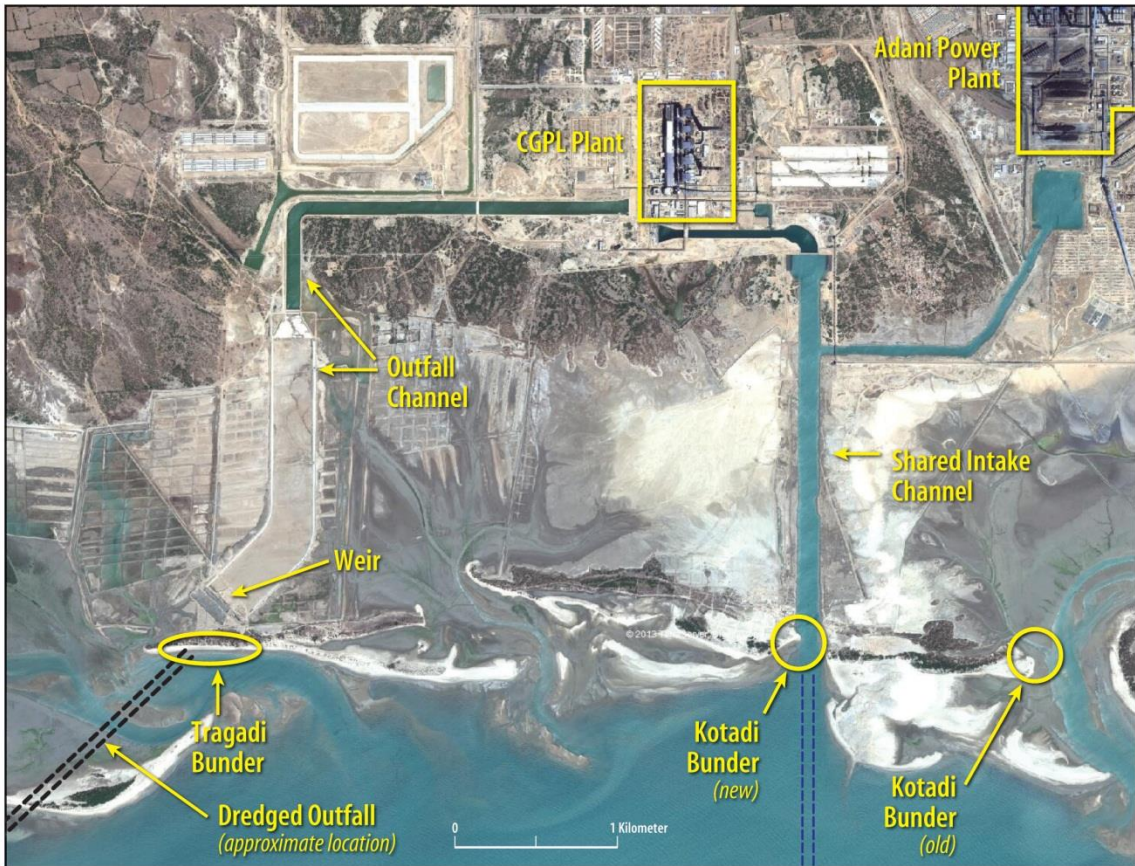
For more information about CAO, please visit www.cao-ombudsman.org

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INDIA COASTAL GUJARAT POWER LTD POWER PLANT AND OUTFALL CHANNEL

This map was produced by the Map Design Unit of The World Bank. The boundaries, colors, denominations and any other information shown on this map do not imply, on the part of The World Bank Group, any judgment on the legal status of any territory, or any endorsement or acceptance of such boundaries.



Introduction

1. The CAO compliance function oversees investigations of IFC and MIGA with a view to improving the environmental and social (E&S) performance of the institutions. Following a CAO compliance investigation, CAO may determine that it is necessary to monitor actions taken by IFC or MIGA until such actions assure CAO that its compliance findings are being addressed.
2. This is the second report documenting CAO's monitoring of its *Audit of IFC Investment in Coastal Gujarat Power Limited, India* (the audit), which was finalized in August 2013.¹ CAO's previous monitoring report was released in January 2015.²

Background and Complaint

3. In 2007, Coastal Gujarat Power Limited (CGPL or the client), a subsidiary of Tata Power, began development of a 4,150 MW coal-fired power plant near the port town of Mundra, in the Kutch district of Gujarat, India (the project) (see map at page 4). The plant is located approximately 3km from the Gulf of Kutch and uses seawater for cooling in a once-through system. The seawater is collected through an intake channel that is shared with a neighboring coal powered generation facility, Adani Power Mundra. The seawater is released through a channel that extends approximately 4km from the boundary of the CGPL plant to the shoreline. At its widest point, the channel is approximately 300m across. A dredged channel continues approximately 2.3 km into the ocean. The project's total cost was estimated at US\$ 4.14 billion, of which IFC has financed \$450 million in the form of a loan (IFC Project #25797).
4. In June 2011, CAO received a complaint regarding IFC's investment in CGPL from Machimar Adhikar Sangharsh Sangathan (MASS), the Association for the Struggle for Fishworkers' Rights, representing fisher people living in the vicinity of the project (the complainants). More specifically, the complainants are identified as local fisher people belonging to the minority Wagher community of Muslims. The fisher people migrate from often distant home villages to *bunder* (fishing harbors) where they live during a fishing season of eight to nine months per year. Two of these bunders, Tragadi and Kotadi, are situated on the coast between CGPL's cooling water intake and outfall channels. In addition, the complainants raised concerns that the E&S impact assessments carried out by CGPL had underestimated the importance of traditional hand and gill net fishing (known as *pagadiya* fishing) in nearby intertidal areas.

¹ The CAO audit IFC's response to the audit and related materials are available on the CAO website: www.cao-ombudsman.org/cases/case_detail.aspx?id=171

² CAO, Monitoring of IFC's Response to: CAO Audit of IFC Investment in Coastal Gujarat Power Limited, India, January 14, 2015, available at: <http://www.cao-ombudsman.org/cases/document-links/documents/CGPLmonitoringreport.pdf>.

IFC Response

5. In September 2013, IFC provided its official response to the CAO Audit Report.³ In November 2013, IFC published a further statement and action plan.⁴ The action plan set out steps that the IFC client would take “to respond to and address the concerns of affected communities, including the migrant fishing communities.” The key points of this action plan included: reviewing and updating CGPL’s management and monitoring program; commissioning several studies, to be prepared in consultation with experts and in accordance with the IFC PSSs; preparation of a comprehensive document detailing each E&S requirement under the client’s obligations to lenders; and ensuring appropriate consultation with fishing communities. Where adverse impact was found from these studies and in the opinion of experts, the client committed to develop appropriate mitigation measures in accordance with the PSSs.
6. CAO noted that the action plan disclosed by IFC and CGPL was, for the most part, focused on the preparation of additional research studies. Actions were to be specified only later, dependent on the outcomes of those studies. IFC has issued updates against this action plan in October 2014, March 2015 and April 2016.

Monitoring Scope and Methodology

7. In April 2016, residents of Tragadi village filed a complaint in relation to the Tata Mundra project (Tata Ultra Mega-02/Tragadi Village).⁵ This monitoring report relates only to the issues raised by the first complaint and to the findings set out in the 2013 compliance audit.
8. In February 2016, CAO traveled to Mundra to carry out a monitoring field visit. The CAO team met with CGPL representatives at the plant, including the Executive Director & CEO and the Chief Sustainability Officer, and toured the facility. The CAO team also met with complainant representatives and other community members from the surrounding project area. The CAO team accompanied complainants to Tragadi Bunder.
9. In addition, the CAO team met with representatives of the village of Navinal. Residents of Navinal are not represented among the complainant group for the first complaint, and their concerns are not addressed in this monitoring report.
10. This report is based on the site visit conducted by CAO, on discussions with IFC, and on a review of documents available to CAO as of December 2016, including:
 - IFC’s Management and Monitoring plan (the IFC Action Plan);

³ IFC Response to CAO Audit Report, September 12, 2013, available at: <http://www.cao-ombudsman.org/cases/document-links/documents/IFCresponsetoCAOAudit-CoastalGujaratPowerLimited.pdf>.

⁴ IFC Statement and Action Plan, November 25, 2013, available at: <http://www.cao-ombudsman.org/cases/document-links/documents/IFCCGPLStatementandActionPlan.pdf>

⁵ India/Tata Ultra Mega-02 /Tragadi Village. Case details are available at: http://www.cao-ombudsman.org/cases/case_detail.aspx?id=245

- IFC supervision documentation up to November 2016;
 - Information and client documentation provided to CAO by IFC and by CGPL in February 2016, and documents available on the client's public website; and
 - Information provided to CAO by the Complainants in February and August 2016.
11. CAO notes that the client is involved in ongoing work with the Asian Development Bank (ADB) as part of the implementation of a Remedial Action Plan approved following a Compliance Review Panel process.⁶ Several aspects of the ADB Remedial Action Plan overlap with those set out in IFC's Action Plan.⁷

Monitoring Conclusions

12. The conclusions of CAO Monitoring during the 2015-2016 period are set out in the Summary Monitoring table below. The table lists the relevant CAO audit finding, the actions proposed by IFC in its response to the Audit, the current status of those actions as reported by IFC, and actions identified by CAO as outstanding.
13. CAO remains concerned that the actions reported by IFC are not sufficient to address the findings of the audit. In particular, CAO considers that there is an outstanding need for a rapid, participatory and expressly remedial approach to assessing and addressing project impacts raised by the complainants. CAO will keep this audit open for monitoring. CAO plans to issue a follow up monitoring report in relation to this audit no later than January 2018.

⁶ For details of the complaint made to the ADB Compliance Review Panel, see: <https://lnadbg4.adb.org/dir0035p.nsf/alldocs/RDIA-9CQ3SS?OpenDocument>

⁷ ADB's Quarterly Progress Reports on Remedial Actions are available at: <http://www.adb.org/projects/41946-014/main#project-documents>

Summary Monitoring Table

CAO Finding	IFC Response	Status	Actions outstanding
<p>A. Consultation with Fishing Communities IFC failed to assure itself that the client’s E&S assessments were based on “effective consultation” with directly affected fishing communities.</p> <p>This resulted in missed opportunities to assess, avoid and reduce potential adverse impacts of the project and to examine technically and financially feasible alternatives to the sources of adverse impacts in accordance with PS 1.</p> <p>Shortcomings in the consultation and disclosure process hindered efforts to build and maintain over time a constructive relationship with project affected communities.</p>	<p>Develop a plan to consult with key stakeholders including domain experts, key government agencies and neighboring communities/fishing communities on, as part of, and on the findings of these studies.</p>	<p>Completed: a plan to disseminate findings of the studies conducted under the action plan, with a specific focus on the fishermen community.</p> <p>Completed: information dissemination and consultations with the fishermen community, and developed a Plan of Action based on these consultations.</p> <p>Ongoing: implementation of the action plan as per the roadmap recommended by socio-economic consultants ERM.</p>	<p>Assessment of project impacts Kotadi Bunder residents: CAO notes that none of the action plan items or studies refer to the seasonally resident fishing community at Kotadi Bunder. Kotadi Bunder is located on the intake channel for the plant less than 3km from key pieces of project infrastructure, such as the coal conveyor, the coal storage yards, and the plant itself. During the monitoring period, CGPL personnel expressed that they do not consider Kotadi Bunder residents to be an affected community, because: (i) the intake channel was going to be built in any case to serve the needs of another power plant in the area, and the intake channel is not exclusive to CGPL, and (ii) based on assessments, studies and monitoring, no material impact on account of effluent discharge and air quality is expected or has occurred at Kotadi bunder. CAO’s findings do not support this conclusion. In order to address CAO’s findings, engagement with the seasonally resident fisher people at both Tragadi and Kotadi bunders is necessary. Any exclusion of the residents of Kotadi Bunder from the area of influence could only be justified following objective assessment based on consultation with those residents.</p> <p>IUCN Partnership to be carried out in accordance with PS1: CAO notes the extensive work program agreed between CGPL and IUCN, and expects that IFC will support its client to ensure that the work program is executed in accordance with PS1. This will require appropriate disclosure and consultation with affected communities, including the complainants.</p> <p>Consultation and disclosure of the ERM Road map: As noted by IFC, ERM recommended a road map for implementation of an action plan. CAO was not able to establish whether the action plan or the road map had been prepared in consultation with affected communities, whether the road map had been disclosed by CGPL, or whether the actions were being implemented.</p> <p><i>This item remains open for monitoring</i></p>
<p>B. E&S Assessment IFC’s E&S review was not commensurate to risk. IFC did not ensure that the client’s E&S Assessment:</p> <ul style="list-style-type: none"> • considered “all relevant E&S risks and impacts of the project; • was based on “appropriate social baseline data,” risks 	<p>Third party to undertake household level socioeconomic survey of 21 villages/hamlets including seasonal settlements in CGPL’s influence area.</p>	<p>Completed: a socio-economic survey of villages and seasonal settlements within the project’s area of influence.</p> <p>Completed: A follow-up survey and report on socio-economic changes in these villages, conducted by ERM.</p>	<p>Impact assessment on livelihoods of fisherpeople: While the ERM Study provides a narrative of current socio-economic status of fisherpeople in the project area, it does not address the lack of baseline data in relation to the seasonally resident fishing community or incorporate an impact assessment of the CGPL plant. Statements about impacts on fisherpeople are drawn from post-project documentation and broader socio-economic trends in the region. As noted by CAO during previous monitoring periods, in the absence of reliable baseline data, a participatory approach to identifying and addressing impacts on vulnerable communities is required. CAO expects that IFC will work with its client to carry out a participatory assessment of project</p>

CAO Finding	IFC Response	Status	Actions outstanding
<p>and impacts vis-à-vis the complainants; or</p> <ul style="list-style-type: none"> took into account “the differing values attached to biodiversity by specific stakeholders.” <p>IFC failed to ensure that the client’s E&S assessments were based on a clear articulation of “the project’s area of influence.”</p>		<p>Completed: A livelihood restoration plan for 25 pagadiya fishermen.</p>	<p>impacts on fisherpeople seasonally resident on the bunder, and to develop remedial action plans to address any impacts identified.</p> <p><i>This item remains open for monitoring</i></p>
<p>C. Land acquisition IFC did not take the steps necessary to ensure that the application of PS5 in relation to the complainants was properly assessed.</p>	No relevant action.	No relevant action.	<p>No action in relation to PS5 finding: As noted in CAO’s previous monitoring report, IFC’s stated view is that there has been no displacement of households on the bunder as a result of construction of the project and therefore that PS5 does not apply. Neither IFC nor the client has produced a social assessment that supports this position. Compliance with the Sustainability Policy requires IFC to ensure “adequate accurate and objective” assessment of the application of PS5 to the populations on Kotadi and Tragadi Bunders “prepared by qualified and experienced persons.”</p> <p><i>This item remains open for monitoring</i></p>
<p>D. Air Quality Requirements IFC failed to ensure that its client correctly applied the WBG Thermal Power Guidelines (1998) on an airshed that should have been classified as degraded. The application of the Thermal Power Guidelines would have required stricter emissions limits of the client.</p>	<p>Establish an air quality monitoring station in the fish drying areas used by the seasonally resident fishing communities.</p> <p>CGPL will also implement an inspection program to assess the coal and ash dust deposition in neighboring communities.</p> <p>Undertake testing of ash residue for radioactivity and heavy metals.</p> <p>Validate selected ambient air quality monitoring parameters that have changed significantly from the baseline.</p>	<p>Completed: Testing of ash residue for radioactivity and heavy metals.</p> <p>Completed: A study to inspect and assess coal and ash dust deposition in neighboring communities at six locations.</p> <p>Ongoing: Ambient air quality monitoring in fish drying areas used by seasonally resident fishing communities.</p> <p>Ongoing: Compilation of a database on primary fish catch data, temporal analysis of the data and reporting.</p> <p>Ongoing: Intent to process a waiver for CGPL of degraded airshed requirements.</p>	<p>PM₁₀ non-compliance to be addressed: CAO notes that ambient PM₁₀ levels are consistently above national standards in several locations around the plant. CAO expects IFC to work with its client to ensure that PM₁₀ levels are brought within the national standards, or to demonstrate that CGPL’s activities are not a significant contributor to ambient PM₁₀, for example through composition analysis.</p> <p>Reporting of air quality data at Tragadi bunder against appropriate national standards: CAO notes that IFC supervision of ambient air quality monitoring at Tragadi bunder concluded that the ambient air quality conditions at Tragadi Bunder can be classified as non-degraded on PM₁₀ and PM_{2.5}. However, CAO has concerns that the monitoring undertaken is inadequate in terms of technique, quality and reporting. Further, IFC supervision has not identified these inadequacies.</p> <p>For example, IFC referred to monitored data for four seasons and reported that PM₁₀ readings remained within the Indian National Ambient Air Quality Standards (NAAQS) barring a few instances of exceedance. However, the source material does not apply the appropriate standards to the data, as</p>

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			<p>seasonal average readings are benchmarked against the NAAQS 24 hour limit.⁸ The more appropriate comparison would be to the NAAQS annual mean limit.</p> <p>CAO expects that IFC will work with its client to improve the monitoring data made available, including by identifying methods used for sampling, the actual sampling period, and how they relate to the requirements of the various standards. To this end, it would be appropriate for IFC to support its client to obtain advice from an international expert with experience of international standards.</p> <p>Justification required for waiver: IFC has reported that it intends to waive application of the 1998 Guidelines for New Thermal Power Plants to the client barring the stack emission requirements for a non-degraded airshed. For all other purposes, IFC intends that the General EHS Guidelines of April 2007 will be considered applicable to CGPL following this waiver. CAO has noted that, in accordance with PS3, a waiver of this kind from IFC must be processed on the basis of appropriate justification from the client.</p> <p>Compliance with state limits for NOx from stack emissions: CAO notes that IFC has acknowledged in its supervision that CGPL has an ongoing breach of regional standards set by the Gujarat Pollution Control Board (GPCB) in relation to levels of NOx emitted from its stacks. IFC states in its supervision materials that CGPL is seeking an exemption from GPCB for this breach, and has reported to CAO that this exemption has been granted. While air quality monitoring demonstrates that ambient levels of NOx are within the domestic and World Bank guidelines in neighboring communities, CAO expects that IFC will work with its client to ensure that it complies with GPCB standards, and will document progress in its supervision material.</p> <p><i>This item remains open for monitoring</i></p>
<p>E. Marine Impact IFC's review of its client's marine impact assessments was not commensurate to risk. As a result, important opportunities were missed to:</p> <ul style="list-style-type: none"> request more detailed baseline information about the marine environment of the affected area; 	<p>National Institute of Oceanography ("NIO", an expert government organization) to undertake model confirmation studies including collecting experimental fishing data as part of the model confirmation study.</p>	<p>Completed: A study to confirm modelling of dispersion of warm water from the plant's outfall channel and field observations of the water and sediment qualities of the coastal zone around the plant, conducted by NIO.</p> <p>Completed: Historical collection of primary fish catch data from Government authorities in</p>	<p>Marine impact assessment outstanding: CAO notes that the NIO thermal dispersion study mapped temperature readings in the water of the outflow channel and in the area around the channel mouth. However, the study does not address CAO's findings regarding gaps in IFC's review of the original marine impact assessment nor does it address the requirement for establishment of a "scientifically defined mixing zone" for the outfall water.</p> <p>IUCN Biodiversity Study IFC has reported that the IUCN work program will develop a site-specific protocol on Biodiversity and Ecosystem Services Management. CAO expects</p>

⁸ CEG Test House, "Environmental Monitoring Report for CGPL, Location: Tragadi Bunder (Year 2014-15)," available at: <https://www.tatapower.com/cgpl-mundra/pdf/air-report-tragadi-bunder-2014-15.pdf>

CAO Finding	IFC Response	Status	Actions outstanding
<ul style="list-style-type: none"> incorporate appropriate analysis of the potential marine (and associated social) impact of the project into design considerations and the client's E&S management system; and develop a framework to support adequate marine impact monitoring <p>IFC did not ensure that the marine impact of the project was assessed taking into account "the differing values attached to biodiversity by specific stakeholders."</p> <p>Cumulative non-lethal (but potentially harmful) effects of submarine noise, light, heat, and other aquatic disturbance from the project on the local marine environment were not adequately considered in the marine impact assessment process. IFC did not adequately assure itself that the thermal plume from the client's seawater outfall would comply with the relevant 3°C criterion at the edge of a scientifically defined mixing zone.</p>	<p>NIO study to be validated by another independent/government agency.</p> <p>Bombay Natural History Society ("BNHS") to undertake turtle monitoring.</p> <p>CGPL will additionally require BNHS or other reputed third party agency, to follow up its biodiversity assessment study with broader biodiversity monitoring in the area impacted by cooling water discharge.</p> <p>Collect fish catch data from authorities.</p> <p>Commence directly collecting primary fish catch data from the seasonally resident fishing community/traders.</p>	<p>relation to the seasonally resident bunder fishing communities, obtained from the Government of Gujarat.</p> <p>Ongoing: Collection of primary fish catch data from the seasonally resident bunder fishing communities by Aakar.</p> <p>Ongoing: Compilation of a database on primary fish catch data, temporal analysis of the data and reporting.</p> <p>Ongoing: Third phase of a sea turtle monitoring program, conducted by Bombay Natural History Society and projected for conclusion in January 2018.</p> <p>Ongoing: A broader biodiversity study to be conducted by IUCN, including validation of the NIO Model Confirmation Study, monitoring in the area impacted by cooling water discharge from the plant, and development of a site-specific protocol on Biodiversity and Ecosystem Services Management.</p>	<p>that IFC will work with its client to ensure that this protocol is consistent with the Performance Standards.</p> <p><i>This item remains open for monitoring</i></p>
<p>F. Cumulative / 3rd Party Impact IFC's E&S review paid inadequate attention to ensuring that the project's risks and impacts were "analyzed in the context of [its] area of influence" as required by PS1, particularly in relation to cumulative impacts from project related developments realistically defined at the time the E&S risk assessment is undertaken.</p>	<p>Upgrade the ESIA for the expansion in accordance with IFC Performance Standards including cumulative impact and third party risk requirements.</p>	<p>Completed: ESIA for proposed expansion included cumulative impact analysis of air quality.</p> <p>Ongoing: IUCN partnership work program to assess whether cumulative marine impact assessment is a gap. CGPL to undertake appropriate additional studies as required.</p>	<p>Air Quality cumulative impact assessment to be advanced: CAO notes that previously, IFC had reported that its client would consider cumulative impacts as part of an EIA for a planned expansion of the power plant. During the monitoring period, the IFC client informed CAO that the expansion plan had been postponed indefinitely. IFC has reported that in future, the client will carry out a cumulative impact assessment capturing impacts of future reasonably defined developments as and when any E&S assessment work on capacity expansion is undertaken.</p> <p>Marine cumulative impact assessment to be considered: IFC has reported that the IUCN work program will consider carrying out a cumulative marine impact assessment. CAO expects that IFC will work with its</p>

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Third party E&S risk emerging from the project's proximity and association with Mundra Port and Special Economic Zone needed to be better assessed, with mitigation measures developed commensurate to the client's level of influence.			client to support an approach that is consistent with the Performance Standards on cumulative impact and third party risk. <i>This item remains open for monitoring</i>
G. Project Monitoring A framework for managing E&S impact that can be effectively monitored or audited has yet to be established. IFC is not in a position to demonstrate either that its client's monitoring is commensurate to risk (as required by PS1) or that its supervision allows it to develop and retain information needed to assess the status of E&S compliance.	CGPL to require its Environmental and Social advisor to prepare a comprehensive document detailing each E&S requirement under its obligations to lenders including for the operation phase for efficient monitoring of compliance to these requirements. Based on the findings of the above studies, develop management and as required mitigation plans in consultation with domain experts, where adverse impacts identified.	Completed: A comprehensive document detailing the client's E&S requirements for compliance purposes.	Compliance requirements document to be enhanced: IFC has reported that CGPL prepared a comprehensive document detailing its E&S requirements. CAO has viewed a document available on the CGPL website that describes in considerable detail CGPL's current status of compliance against the IFC E&S standards. ⁹ CAO notes that this document does not recognize all instances of non-compliance raised by the CAO audit, and does not provide a framework for managing E&S impact in a format that can be effectively monitored or audited. CAO expects that IFC will work with its client to develop a document to present an accurate statement of current compliance, to describe CGPL's ongoing actions to monitor its own performance with action items and responsible parties, to demonstrate continued improvement of environmental performance, and to identify and address breaches when they arise. <i>This item remains open for monitoring</i>

⁹ "Status of CGPL's Compliance to IFC's Environmental and Social Requirement during Pre-Operation Phase & Operation Phase," available at: <http://www.tatapower.com/cgpl-mundra/pdf/CGPL-Compliance-to-IFC-E-S-Requirement%20.pdf>.