CAO COMPLIANCE ADVISOR OMBUDSMAN

The Independent Accountability Mechanism for IFC & MIGA

Compliance Monitoring

Omnibus Case Report: Q4, FY2024

May 2024

About CAO

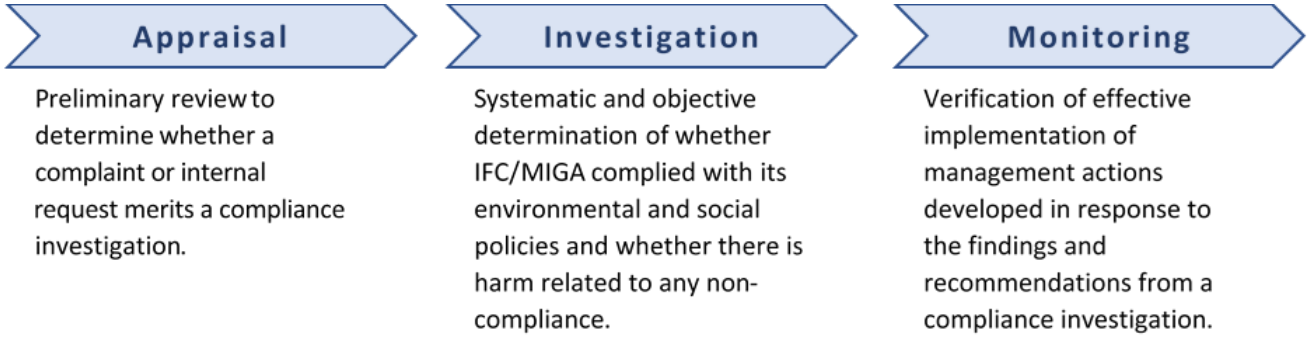
The Office of the Compliance Advisor Ombudsman (CAO) is the independent accountability mechanism of the International Finance Corporation (IFC) and Multilateral Investment Guarantee Agency (MIGA), members of the World Bank Group. We work to facilitate the resolution of complaints from people affected by IFC and MIGA projects in a fair, objective, and constructive manner, enhance environmental and social project outcomes, and foster public accountability and learning at IFC and MIGA.

CAO is an independent office that reports directly to the IFC and MIGA Boards of Executive Directors. For more information, see www.cao-ombudsman.org.

About the Compliance Function

CAO's compliance function reviews IFC and MIGA compliance with environmental and social policies, assesses related harm, and recommends remedial actions where appropriate.

CAO's compliance function follows a three-step approach:



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Acronyms

CAO	Office of the Compliance Advisor Ombudsman (IFC and MIGA)
DG	Director General
E&S	Environmental and Social
ESAP	Environmental and Social Action Plan
ESIA	Environmental and Social Impact Assessment
ESDD	Environmental and Social Due Diligence
ESMS	Environmental and Social Management System
ESRP	Environmental and Social Review Procedures
ESRS	Environmental and Social Review Summary
FY	Fiscal Year
GIIP	Good International Industry Practice
IFC	International Finance Corporation
MAP	Management Action Plan
MIGA	Multilateral Investment Guarantee Agency
PS	IFC Performance Standards

1 Executive Summary

CAO's compliance monitoring is the last phase in CAO's compliance process. This final stage is critical to achieving redress for complainants through remedial commitments and measures by IFC/MIGA that address project-related Harm.

Following a CAO compliance investigation, CAO's role is to monitor the actions that IFC/MIGA take in response. For CAO compliance cases under monitoring prior to July 2021 (pre-CAO Policy), CAO monitors actions taken by IFC/MIGA until CAO is assured that they are addressing the non-compliance findings. For CAO compliance cases which entered monitoring since July 2021, and are therefore covered by the CAO Policy, CAO monitoring verifies the effective implementation of actions in the IFC/MIGA Management Action Plan (MAP) to address CAO's investigation non-compliance findings and related Harm.

In FY23, CAO piloted an Omnibus Monitoring Report summarizing its monitoring of five cases. In this second Omnibus Monitoring Report, CAO provides monitoring updates and outcomes for eight cases from Africa, South Asia and Latin America. Three cases – IIF in India, and Real LRIF and CIFI in Guatemala – relate to sub-projects financed by IFC financial intermediary clients and four cases – Tata Tea in India, Bidco in Kenya, Bujagali in Uganda, and Eleme Fertilizer in Nigeria – are direct IFC investments in a project. The eighth case, PL IV in Panama, is an IFC Advisory Services project.

Below is a summary of IFC actions, and CAO ratings of IFC's performance, across these cases, covering both project-level and systemic-level actions. Based on the observations detailed in Section 4 of this report, **CAO has decided to close its project-level monitoring of 4 cases and the systemic-level monitoring of 1 case. Project-level monitoring of 4 cases and systemic-level monitoring of 3 cases will remain open.**

CAO Monitoring of IFC Responses to Project-Level Non-Compliance Findings

For this monitoring report, CAO has monitored IFC's actions in response to 30 project-level non-compliance findings across 8 cases. CAO has determined that IFC's actions in response to date is: Satisfactory in relation to 3 findings; Partly Unsatisfactory in relation to 12 findings; Unsatisfactory in relation to 14 findings; and Too Early to Tell in relation to 1 finding.

CAO Cases	Rating of IFC Actions[1]				
	Excellent	Satisfactory	Partly Unsatisfactory	Unsatisfactory	Too Early to Tell
Tata Tea-01 & 02/ India		1	5	6	
Bidco 01 & 04/Kenya		1	3		
Bujagali 04, 06, 07 & 08/Uganda				2	1
IIF-01/India			1	2	
Real-01/Guatemala			1		
CIFI-01/Guatemala				3	
Eleme FertilizerII-01/Nigeria		1			
PL IV-01/Panama			1 1	1	

Tata Tea, India
CAO status: Case remains open
IFC status: Active Project

IFC published an Environmental and Social Action Plan (ESAP) in response to CAO's 2016 investigation report of IFC's investment in Amalgamated Plantations Private Limited (APPL, formerly

[1] Open actions are green and closed actions are red.

known as Tata Tea). The plan aimed to materially improve living and working conditions for the IFC client's 28,000 permanent employees and their families, totaling more than 155,000 people across 25 tea plantations in Assam and West Bengal. However, while IFC has reported progress on some actions, critical infrastructure improvements (new/repaired houses and sanitation improvements) remain outstanding and the financial resources to close the gap have not been identified. Moreover, recent infrastructure improvements have been primarily government-led initiatives which, while beneficial, are not in the client's control and may lead to uneven improvements across the 25 tea plantations. Additional IFC commitments also remain unimplemented, including: conducting a third-party audit and worker perception study; updating its legal opinion of minimum wage for the tea workers; and conducting a tea sector study to identify a more sustainable path towards economic and social development for the tea sector in Assam. IFC has convened engagement between APPL, the complainants, and local CSOs to build trust, strengthen engagement with workers, and improve the client's grievance mechanism.

Bidco, Kenya
CAO status: Project-level actions closed, case remains open for monitoring of systemic-level commitments
IFC status: Project exit

CAO's 2018 compliance investigation found that IFC lacked assurance that its client's actions complied with the Performance Standards, Kenyan law, and good international industry practice in regard to terms of employment and termination of casual workers, occupational health and safety conditions, and non-retaliation and anti-discrimination requirements. In response to CAO's findings, the client provided IFC with quarterly human resources (HR) reports between 2019 and 2023 to enable closer monitoring of labor issues and commissioned a labor review of its 2015 conversion of casual workers to regular employees and subsequent terminations and Bidco's HR policies and practices. Bidco also issued a new HR Manual and a draft Retrenchment and Redundancy Policy. In addition, IFC stepped up supervision of Bidco's OHS issues and advised the client on managing its worker grievance mechanism and the implementation of its non-discrimination and non-retaliation policies. CAO recognizes these efforts made by IFC and its client, while observing that the issues CAO identified have not been fully addressed. Some project-level actions would therefore benefit from further supervision. However, since the client prepaid its IFC loan in October 2023, CAO does not believe there is a reasonable expectation of any further action from IFC and has therefore closed the project-level actions for this case.

Bujagali Energy, Uganda
CAO status: Case remains open
IFC status: Active Project

IFC has taken action in response to CAO's non-compliance findings of November 2017 regarding compensation for injuries to workers at the client's hydropower project and continues to implement an Advisory Services program to support the livelihoods of injured former workers. CAO has decided to keep open its monitoring of these two complaints (Bujagali-04 and 08). In response to CAO's non-compliance findings regarding unpaid wages to workers (Bujagali-06) and lack of land compensation (Bujagali-07), IFC's response has been Unsatisfactory. Given that the Bujagali hydropower project is an active IFC project, and IFC has not taken further actions to address its non-compliances and the related impacts raised by the complainants, CAO will keep these complaints open in monitoring.

India Infrastructure Fund (IIF), India
Case status: Case closed
IFC status: Closed exposure
IFC committed to two action plans in 2016 to support IIF, a financial intermediary client, and the sub-project subject to the complaint (GMR Kamalanga – 1050MW coal power plant in Odisha State) after CAO found non-compliances related to IFC's E&S due diligence and project supervision and disclosure. These plans focused on improving IIF's assessment and management of E&S risks and impacts, and address livelihood and displacement issues for project-affected people at GMR Kamalanga. However, IFC has failed to provide evidence of adequate implementation by its client, and available evidence indicates that Performance Standard gaps persisted at the time of IIF's exit from the coal plant in 2022. As IIF is currently disposing its investments and ending its operations, CAO has decided to close this case, as there is no reasonable expectation of further action by IFC to address the impacts raised by the complainants.

Real Latin Renewables Infrastructure Fund (LRIF), Guatemala
CAO status: Case remains open
IFC status: Active exposure
CAO's 2017 compliance investigation report into IFC's investment in Real LRIF and its investment in Hidro Santa Rita sub-project concluded that IFC did not take sufficient actions in response to community protests and violent incidents during 2013-2014 at the Hidro Santa Rita project site. The hydropower plant under development is majority owned by Real LRIF, a financial intermediary in which IFC has a significant equity stake. Project development was suspended in 2014 following the social unrest. IFC did not commit to take project-level actions in response to CAO's non-compliance findings, but did commission a consultant to assess residual project impacts following CAO's 2019 monitoring report. While the consultant noted there was division within the community, this was not linked to the HSR project and gaps in Performance Standard implementation of the project, but rather to other factors (colonial past, 35-year civil war, inequalities, limited government presence and organizations competing for power). However, neither the complainants nor affected communities were consulted for this analysis. Given that the primary group asserting residual impacts was not consulted, CAO concludes that IFC has yet to assure itself that Hidro Santa Rita's residual impacts have been adequately assessed per the IFC Sustainability Policy (para. 6) and Performance Standard 1 (paras. 4 & 14). IFC has an active exposure to this project through its ongoing investment in LRIF and CAO's monitoring of the case remains open.

CIFI, Guatemala
CAO status: Project-level actions closed, case remains open for monitoring of systemic-level commitments
IFC status: Project exit
CAO's 2018 compliance investigation found non-compliance in IFC's review and supervision of CIFI, a financial intermediary, regarding its investment in the Hidro Santa Cruz power plant. CAO also noted that available evidence supported the complainants' allegations of residual project impacts, which included increased community conflict, the death of one community member, serious injuries to two others, and detainment of 17 more people, as well as restrictions on traditional access to land and natural resources. CIFI ceased its loan to the sub-project in 2015, and the Hidro Santa Cruz ceased development in 2016. IFC did not commit to any project-level actions in response to CAO's findings,

stating in its response that, while it was deeply troubled by the impacts stemming from civil unrest, these impacts have not been attributed to the project. Given IFC's stance, and the fact that CIFI exited the sub-project investment over eight years ago, CAO has decided to close project-level monitoring of this case as there is no reasonable expectation of further action by IFC to address residual impacts.

Eleme Fertilizer, Nigeria
CAO status: Case closed
***IFC status*: Active Project**

In response to CAO's 2021 investigation report, IFC committed to hiring a third-party consultant to review client implementation of Performance Standard 2 with regard to "fair treatment" of workers and their ability to raise grievances "without any retribution." IFC's consultant made recommendations for remedial client actions, and IFC subsequently commissioned the same consultant to review Eleme Fertilizer's implementation of these recommendations. IFC's supervision confirmed that the company updated its employee policies to provide for handling anti-retaliation concerns and that all employees could access these provisions. CAO's discussions with IFC and its third-party consultant, and review of the revised employee policies confirmed the same. CAO is not in a position to review the effectiveness of these provisions since no specific incident had been received by the company via its anti-retaliation process (as reported to CAO in late 2023). CAO has decided to close the case with a Satisfactory rating.

Panama Transmission Line IV (PL IV), Panama
CAO status: Case remains open
IFC status: Active Advisory Services

CAO addressed this case in its Q4 2023 Omnibus Case Report and reiterates its serious concerns about the project. IFC is advising Panama's state transmission company, Empresa de Transmisión Eléctrica, S.A. (ETESA), on the structure and tender of its first public-private partnership project. Significant social risks remain of undermining the protections provided to Indigenous communities under Performance Standard 7 and of the potential failure to acquire a social license for the transmission line project from affected communities. CAO recognizes that IFC is advising ETESA to enhance stakeholder engagement and the FPIC (free, prior and informed consent) process, as well as the preparation of the transmission line bidding documents, in order to meet the Performance Standards (PS). However, CAO notes that the client has not implemented IFC's advice to date, resulting in an E&S Impact Assessment (ESIA) that is inconsistent with the PS, particularly regarding the engagement process during the ESIA with Indigenous communities inside and outside Comarca Ngöbe-Buglé, as well as the planning and implementation of the FPIC process, among other issues. In addition, IFC has not engaged with complainants since July 2023, despite committing to do so every six months. As a result, CAO will continue to monitor IFC's actions and advice to ETESA on: stakeholder engagement and FPIC; the preparation of PS-compliant transmission line bidding documents; and periodic engagement with complainants. CAO has decided to close one monitoring action with a Partly Unsatisfactory rating after IFC met its MAP commitment to conduct a two-day workshop with ETESA and the client's E&S consultant in July 2022. CAO concludes that the workshops were not effective in improving the client's outcomes and the consultant's technical capacity as evidenced in the completion of the ESIA that is inconsistent with PS requirements.

CAO Monitoring of IFC Systemic-level Commitments

CAO Cases	Rating of IFC Actions[2]				
	Excellent	Satisfactory	Partly Unsatisfactory	Unsatisfactory	Too Early to Tell
Bidco 01 & 04/Kenya		*2*	*2*		
Bujagali 04, 06, 07 & 08/Uganda		*1*			
CIFI-01/Guatemala		*1*	*3*		*1*
PL IV-01/Panama					*2*

In response to CAO's compliance investigation reports, IFC committed to implement actions to avoid recurrence of non-compliance and improve institutional performance in relation to four cases under review for this Omnibus Report.

Bujagali Energy, systemic-level monitoring closed, case remains open for monitoring of project-level actions: CAO has decided to close its monitoring of IFC's systemic-level commitment to update its resettlement good practice guidance, made in response to the Bujagali-07 case. In December 2023, IFC published a Good Practice Handbook on Land Acquisition and Involuntary Resettlement which includes guidance on asset value updates for crops when delays occur in implementing a land acquisition process. CAO rates IFC's performance as Satisfactory.

CIFI, case remains open: CAO will keep open monitoring of four of five systemic commitments IFC made in response to the CIFI investigation. CAO rates IFC's performance to date as Partly Unsatisfactory on three commitments, due to significant delays beyond the 2020 deadlines. IFC committed to develop: (a) a Responsible Exit approach; (b) Guidance on Incident Response for FI clients; (c) staff procedures for IFC staff on responding to incidents at sub-projects; (d) procedures for including a social specialist on complex cases; and (e) general staff procedure improvements. While IFC reports progress on the first three commitments, CAO notes that significant delays persist. CAO has closed the final action of general staff procedure improvements based on IFC's confirmation that it began implementing new E&S Review Procedures (ESRS) to support project management in 2022.

[2] Open actions are green and closed actions are red.

Bidco, case remains open: CAO has decided to close monitoring of two IFC systemic-level commitments in the combined Bidco-01 and -04 case with a performance rating of Satisfactory. CAO has also decided to keep open two additional systemic commitments rated as Partly Unsatisfactory as they are still pending fulfillment more than four years after the original deadlines. Partly in response to CAO's investigation in this case, IFC created an OHS team in 2020, led by a senior specialist and incorporating OHS regional consultants who support E&S project teams. IFC has also hired labor consultants to help support project E&S teams with the identification of labor risks, who will work alongside an IFC labor specialist from the E&S Policy and Risk department (CES) in the case of high-risk projects. As a result, CAO considers that IFC has effectively implemented its commitments to assign more specialized staff to oversee labor and OHS requirements. However, CAO considers that the improvement of identification of labor issues during the due diligence and supervision phases, by providing updated guidance to E&S specialists through the Labor Handbook, the ESRP and other tools and resources, has not yet been addressed by IFC more than 4 years after the original deadlines. CAO determines these two systemic actions should be left open for further monitoring.

PLIV, case remains open: CAO has decided to keep open its monitoring of IFC's systemic-level commitments in this case with a rating of Too Early to Tell. IFC informed CAO that IFC is completing the relevant Advisory Services (AS) guidance on IFC's role when a client develops activities with E&S risks or impacts in the form of an AS tip sheet in the ESRP Handbook. This handbook is due to be finalized in FY25. Similarly, IFC stated that its planned Good Practice Note on Contextual Risk Screening for Projects will be completed by the end of FY24.

CAO will seek stakeholder feedback on its Omnibus Monitoring approach and intends to release its next Omnibus report by December 2024.

2 About CAO Monitoring

2.1 Objectives and Scope

Monitoring of open cases is the third step in CAO's approach to compliance, ensuring verification of IFC/MIGA management actions taken in response to the findings of CAO compliance investigations.

The CAO Policy (2021) provides for CAO to release an annual monitoring report covering IFC/MIGA actions in cases under its compliance monitoring phase.[3] For FY23 and FY24, CAO is piloting omnibus monitoring reports to enable more streamlined and frequent disclosure of the results of CAO's oversight. This report, together with the first Omnibus Monitoring Report published in May 2023, covers the majority of cases currently undergoing the CAO monitoring process (see list in Annex A).

At the same time, CAO retains the option to prepare and publish case-specific monitoring reports in certain circumstances. These include cases where: (a) a more detailed review of IFC/MIGA MAP (Management Action Plan) implementation than can be achieved through the omnibus approach is required; or (b) there are indications that revisions to the MAP may be beneficial. CAO is preparing draft criteria for when to prepare a case-specific monitoring report and will consult with stakeholders in advance of finalization.

In accordance with CAO's Transitional Arrangements[4] from the CAO Operational Guidelines to the CAO Policy, cases under CAO's monitoring function prior to July 1, 2021 are handled in accordance with the CAO Operational Guidelines. Cases which moved into monitoring post July 1, 2021 are handled in accordance with the CAO Policy. Annex A provides a list of cases under monitoring with the applicable CAO provisions.

2.2 CAO Operational Guidelines

Under the CAO Operational Guidelines (April 2013 – June 2021), where CAO makes non-compliance findings in relation to IFC/MIGA performance in a compliance investigation, CAO keeps the compliance investigation open and monitors the situations until actions taken by IFC/MIGA assure CAO that IFC/ MIGA is addressing the non-compliance. CAO will then close the compliance investigation.[5]

2.3 CAO Policy

Under the CAO Policy, IFC/MIGA respond to a CAO compliance investigation by preparing a Management Report. In cases where IFC/MIGA commit to actions in response to CAO's non-compliance findings and related Harm, the Management Report includes a Management Action Plan (MAP) comprising time-bound remedial actions. Once the IFC/MIGA Board of Directors (Board)

3 CAO Policy para 142.
4 As stated in paragraph 175 of the Policy, "CAO will develop and make public procedures for the transition of ongoing CAO cases to this Policy." Accordingly, transitional arrangements for ongoing CAO cases as set out in the link above have been discussed and agreed upon between CAO, IFC, and MIGA. https://officecao.org/Transition.
5 CAO Operational Guidelines (2013), para. 4.4.6

approve the MAP, CAO monitors and verifies the effective implementation of the actions set out in the MAP.[6] CAO reviews and confirms that IFC/MIGA have completed and implemented actions presented in a MAP in an effective manner[7] to address CAO findings of non-compliance and related Harm.[8] CAO compliance monitoring focuses on the non-compliance investigation findings and related Harm for which IFC/MIGA have included corrective actions in the MAP. It does not consider non-compliance findings for which there are no corresponding corrective actions in the MAP.[9]

While a case is open in compliance monitoring, the Board may consider options to strengthen the implementation of measures in the MAP, if necessary. In considering such options, the Board takes into account IFC/MIGA Management progress reports and CAO monitoring reports.[10] Under the CAO Policy, CAO is charged with verifying the effective implementation of both project-level and systemic actions.

CAO closes the compliance monitoring process when: (a) it determines that substantive commitments set out in the MAP have been effectively fulfilled; or (b) when not all substantive commitments in the MAP have been effectively fulfilled, following engagement with Management and/or the Board, CAO determines that there is no reasonable expectation of further action to address non-compliance findings.[11]

6 CAO Policy, para 140.
7 I.e., In a manner conducive to producing the desired effect.
8 CAO Policy, para 131.
9 CAO Policy, para 141.
10 CAO Policy, para 144.
11 CAO Policy, para 145.

3 About this Report

This CAO monitoring report covers the following eight cases:

- IFC investment in Amalgamated Plantations Private Limited (APPL) for an employee-owned Tata Tea plantation model in India
- IFC investment in Bidco Africa Limited to expand beverage and detergent production facilities in Kenya
- IFC investment in Bujagali Energy for construction of a hydropower plant in Uganda
- IFC equity investment in India Infrastructure Fund for a coal power plant in India
- IFC equity investment in Real Latin Renewables Infrastructure Fund (LRIF) for the Hidro Santa Rita power plant in Guatemala
- IFC equity investment in CIFI for the Hidro Santa Cruz power plant in Guatemala
- IFC investment in Eleme Fertilizer to construct a nitrogenous fertilizer facility in Nigeria
- IFC Advisory Services to ETESA for the Panama Transmission Line IV (PL IV) in Panama

The Operational Guidelines[12] apply to all but the last two cases, while the CAO Policy[13] applies to the Eleme Fertilizer II-01/Nigeria and PL IV-01/Panama cases. For those two cases, IFC prepared a Management Action Plan (MAP) followed by Progress Reports, which were shared with the Board and CAO and published on CAO's website.[14]

For cases under the CAO Operational Guidelines, in preparing this report, CAO:

- Reviewed its non-compliance findings to determine findings CAO could monitor
- Requested IFC comments and updates on actions taken in response to CAO non-compliance findings and engaged with project teams to seek clarification on IFC response, as necessary
- Engaged with complainant(s) and/or and their representatives to understand the current status of their concerns, and their views on the adequacy of IFC actions in response to CAO non-compliance findings
- Reviewed supporting documentation received from parties.

For cases under the CAO Policy, in preparing this report, CAO verified IFC's implementation of corrective actions as follows:

- Reviewed IFC MAP actions in relation to corresponding non-compliance findings
- Reviewed IFC Progress Reports and engaged with IFC project teams to seek clarification on IFC response, as necessary
- Engaged with complainant(s) and/or their representatives to discuss and document their views on the adequacy of IFC actions and implementation

[12] CAO Operational Guidelines, https://officecao.org/OpGuidelines.
[13] CAO Policy, https://officecao.org/CAOPolicy.
[14] CAO website, https://www.cao-ombudsman.org/.

- Reviewed supporting documentation received from parties.

After reviewing each action item, CAO determined whether to keep the action open or to close it, and rated IFC's performance on a scale of:

- Too Early to Tell
- Excellent
- Satisfactory
- Partly Unsatisfactory
- Unsatisfactory

3.1 Report structure

Section 4 summarizes CAO compliance monitoring of IFC/MIGA project-level actions. It then presents an overview of each case under review accompanied by a detailed table on IFC's commitments and their implementation status alongside observations by the complainants and by CAO.

Section 5 presents a summary of CAO's compliance monitoring of systemic-level actions taken by IFC/MIGA to avoid recurrence of non-compliance and improve institutional performance in other investment projects.

Annex A lists CAO's active compliance monitoring cases under both the CAO Policy and the CAO Operational Guidelines.

4 CAO Monitoring of IFC/MIGA Actions: Project-level Response

Introduction

This section covers CAO's monitoring of IFC project-level actions in eight cases spanning Africa, South Asia, and Latin America. Each case presents a summary and case update, and includes a detailed table on the CAO non-compliance findings, IFC's related actions, and CAO's observations and ratings of IFC performance. In each case, IFC and the complainants had the opportunity to provide their input.

In summary:

CAO has decided to close project-level monitoring of the four cases below:

- **CIFI, Guatemala (Hidro Santa Cruz power plant):** While available evidence indicates that residual impacts remain, IFC did not commit to project-level actions in response to CAO's non-compliance findings and CIFI has divested from Hidro Santa Cruz. There is therefore no reasonable expectation of further action to address non-compliance findings.
- **IIF, India (coal-fired power plant):** While IFC has supervised implementation of E&S Action Plans in response to CAO's investigation, evidence suggests that material implementation gaps remain. However, since IIF has divested from plant operator GMR Kamalanga, there is no reasonable expectation of further action to address non-compliance findings for this sub-project.
- **Eleme Fertilizer, Nigeria (fertilizer plant):** IFC has satisfactorily implemented its MAP commitment.
- **Bidco, Kenya (beverage and detergent facilities):** IFC and the client have taken several actions in response to CAO's 2018 investigation findings. While the issues CAO identified have not been fully addressed, the client's prepayment of the outstanding loan in October 2023 means there is no reasonable expectation of any further action by IFC.

CAO has decided to keep open project-level monitoring of the four cases below:

- **Tata Tea/APPL, India (tea plantations):** IFC reports some progress in implementing worker infrastructure improvements, in line with the E&S Action Plan created in response to CAO's investigation. However, these improvements are due to government intervention and critical gaps in funding the ESAP remain.
- **Real LRIF, Guatemala (hydropower plant):** IFC analyzed residual impacts from the Hidro Santa Rita project and concluded that Performance Standards gaps were not linked to community division. However, neither complainants nor affected communities were consulted, representing a critical methodological weakness that necessitates ongoing monitoring.
- **Bujagali Energy, Uganda (hydropower plant):** IFC has responded to CAO non-compliance findings by implementing an Advisory Services program to support the livelihoods of injured former workers, which CAO will continue to monitor (Bujagali-04 and -08 complaints). In response to CAO's non-compliance findings regarding lack of land

compensation and unpaid wages to workers, IFC's response has been Unsatisfactory (Bujagali-06 and -07 complaints). Given that the Bujagali hydropower project is an active IFC project, and IFC has not taken further actions to address its non-compliances and the related impacts raised by the complainants, CAO will keep these complaints open in monitoring.

- **PL IV, Panama (electricity transmission line IV):** CAO recognizes that IFC completed the two-day workshop with ETESA and ETESA's E&S consultant in July 2022, as committed in the MAP. However, CAO concluded that the workshops were not an effective means to improve the client's outcomes and the technical capacity of the client's E&S consultant, as the ESIA was completed in a manner inconsistent with the PS requirements. CAO has closed monitoring of this action. At the same time, CAO will continue to monitor IFC's advice to its client on enhancing stakeholder engagement and the FPIC process, and on preparing transmission line bidding documents aligned with the Performance Standards. In addition, CAO will continue to monitor IFC's efforts to engage and seek feedback from complainants.

Tata Tea-01 and 02[15]/Assam, India: Project-level Actions

Case Summary

Amalgamated Plantations Private Limited (APPL) is the second largest supplier of tea in India. The IFC client operates 25 tea estates in Assam and West Bengal, employing over 28,000 permanent workers and over 23,000 temporary workers with 155,000 people in total living on its plantations. In 2006, IFC approved an equity investment of US$7.8 million (19.9%) in APPL to implement an employee-owned plantation model. IFC's investment, along with the purchase of shares by management and workers, provided for APPL's then owner, Tata Global Beverages, to partly divest its shareholding.

In May 2012, the CAO Vice President triggered a compliance process (Tata Tea-01) following a complaint to IFC from the International Union of Food Workers (IUF), alleging incidents on two plantations in 2009/10 which had led to disputes with unions representing APPL workers. In February 2013, CAO opened a second case (Tata Tea-02) based on a complaint from three NGOs on behalf of tea workers on APPL estates at Hattigor, Majuli, and Naharoni. This complaint raised concerns about labor and working conditions and the worker share-purchase program.

CAO's combined investigation report of September 2016 found that IFC's pre-investment E&S review was not commensurate to risk given the tea workers' vulnerable status and the client's responsibility to provide them with basic services. Shortcomings in this review resulted in project risk mitigation measures that were insufficiently detailed and did not address key risk areas. CAO also found that IFC did not assure itself of client compliance with the Performance Standards during project supervision. CAO's investigation report made specific non-compliance findings related to IFC's assessment and supervision of plantation living and working conditions, reported use of banned pesticides, information disclosure, consultation, and response to security incidents.

In its Management Response, IFC acknowledged gaps in its performance of this investment while noting the 150-year-old legacy issues that plagued the tea sector in India and required urgent action. IFC also published a 44-point draft E&S Action Plan (ESAP) that included commitments to improve living and working conditions on all APPL tea estates through significant infrastructure improvements, and to improve workers' financial literacy. IFC committed to: (a) commission a third party to undertake an annual audit and worker perception survey across APPL's 25 estates; (b) update its legal opinion on APPL's compliance with national minimum wage requirements; and (c) ensure that the ESAP was disclosed and workers consulted. In October 2016, the APPL Board approved the ESAP with a rider that APPL would need assistance from shareholders to fund its implementation. APPL management stated that recent financial losses challenged its ability to implement aspects of the ESAP requiring significant financial resources, in particular the planned infrastructure improvements.

CAO Monitoring and Status

In 2019, CAO's first monitoring report concluded that IFC's limited supervision[16] gave no assurance that the client was on track to comply with the Performance Standards and that IFC had not delivered on its own commitments in response to CAO's findings. Specifically, IFC had not: (a) commissioned a

[15] https://officecao.org/TataTea-01 and https://officecao.org/TataTea-02.

[16] Between CAO's investigation report in September 2016 and CAO's monitoring report in January 2019, IFC-documented supervision consisted of a draft review of one client annual E&S report. While IFC conducted two site visits, a summary of these visits was not recorded at the time of CAO's monitoring report.

third-party to undertake an annual audit and worker perception survey with a representative sample across the client's 25 estates; (b) updated its legal opinion on the client's compliance with national minimum wage requirements; or (c) ensured that the ESAP was disclosed and workers consulted prior to its approval by the APPL Board in October 2016.

In December 2023, IFC provided CAO with an update on this case. In relation to the infrastructure commitments made in the 2016 ESAP, IFC reported the following actions.

2016 IFC Response Action Item	2016 IFC Response: Target completion date	2023 Update
Provide to each household a working toilet/latrine	March 2017	Completed 75% of 11,000 toilets to be repaired. Completed construction of 52% of 5,500 toilets. Additional 1,750 units to be financed by APPL and 950 units to be covered through government programs.
Provide to each household a bathroom	March 2019	Completed construction of 32% of 13,500 bathrooms. Additional 8,250 units to be financed directly by APPL and 950 units to be covered through government programs.
Put in place a septic tank cleaning mechanism	March 2017	Completed all actions related to sanitation maintenance and training.
Cleaning of non-cemented drains in all worker colonies	March 2017	
Training and awareness of all employees on maintaining cleanliness and hygienic conditions in worker colonies	March 2017 and refresher every year	
Make available potable water to each household as per PLA provisions	March 2017	Completed construction of standpipes for 36% of 19,500 houses – one per three households as per the law. Outstanding 14,600 units to be covered through government programs.
Make available one standpipe of piped water to each household	March 2019	
Construction of cemented drains in all worker colonies	March 2019	Completed construction of 4% of 600,000 run meters of cement drains. APPL will potentially directly finance an additional 575,000 run meters. Ongoing discussion on potential to leverage government programs for remaining shortfalls.

Provision/revamping of kitchen and provision of smokeless stoves to all households	March 2019	366 (8%) kitchens constructed with a 4,700 kitchen shortfall remaining. Additional 3,750 units to be financed directly by APPL and 950 units to be covered through government programs.
Construct new houses in all estates	March 2022	304 houses (24%) of 1,250 shortfall constructed.
Repair at least 50% of existing houses across all estates that have been identified as requiring major/capital repairs to the standards of Model houses developed at Hattigor and Majuli	March 2019	25,250 houses repaired. This is an ongoing activity with some houses needing repairs every year based on complaints received.
Complete repair of all existing houses across all estates to the standards of Model houses developed at Hatthigor and Majuli	March 2022	

In relation to these infrastructure improvements, IFC reported that the company had leveraged government programs to address the shortfalls in the table above. In January 2024, the complainants noted that workers from Hattigor, Majuli, and Naharoni plantations (Tata Tea-02 complainants) report that government programs have had some impact, but major infrastructure shortfalls persist. Further, these programs, while beneficial, are not in the client's control and may lead to uneven improvements across the 25 tea plantations. The complainants' view is that progress varies, as described below:

Government programs:

- Some workers at the three plantations (Tata Tea-02 complainants) state that a few new houses were built under a government scheme, but the majority report that no new housing has been constructed since 2016-17.
- In some parts of a tea plantation, work is underway to install household water taps through a government scheme while in other areas of the plantation, no improvement works are taking place. In part of a tea plantation water supply infrastructure has been laid but water supply has not started. Most residents of APPL estates continue to have access only to unfiltered bore water.
- As a result, workers are constructing their own makeshift wells/hand pumps or use shared standpipes, typically one between four to five households.
- While plantation hospitals have been connected with a government scheme under the National Rural Health Mission, workers questioned what impact this has had on the quality of care and medicines. For any illness other than minor cases of illness and fever, workers are referred to health facilities at nearby towns.

- Several workers have enrolled for the government health assurance plan, but some have not been able to as they do not have requisite identity documents. The impact of this scheme remains to be seen.

Other repairs/infrastructure:

- Workers report that many toilets in plantation houses remain broken and unusable.
- Although APPL maintains a process for registering housing repair needs, it takes a very long time and often workers have no option but to do urgent repairs themselves.
- Workers report that septic tanks have not been cleaned.
- Some drainage lines have been cemented near main roads but the great majority are not cemented.
- Workers state that APPL has ceased conducting repairs for approximately five months (complainant input as of January 2024), with management citing a shortage of funds.

It seems that the government is making improvements on an annual basis (i.e., not a 3-5 year plan, for example) and the complainants have noted to the CAO that they fear that these improvements will cease later this year after the national election concludes. At time of publication, nearly eight years had passed since IFC and its client published an action plan to remediate project-related impacts on workers. IFC has reported progress on some actions, but critical infrastructure improvements remain outstanding and financial resources to close the gap unidentified. IFC also has not implemented the specific commitments it made in response to this case (see table below). Positively, IFC reports that it has convened a facilitated engagement between APPL, the complainants, and the CSOs that represent them, to build trust, strengthen ongoing engagement and improve the client's grievance mechanism, a process that continues.

In light of the limited progress, CAO has decided to keep this case open.

The table below details the CAO non-compliance findings it is monitoring. In preparing this table, IFC and the complainants were provided with an opportunity for their input.

India: Tata Tea-01 and 02/Assam

CAO Investigation Report: https://bit.ly/3QrCDiY
IFC Management Response: https://bit.ly/49WTbq0
Compliance First Monitoring Report: https://bit.ly/3UiHHr0

CAO Non-Compliance Finding #1
September 2016

CAO finding regarding IFC general supervision:
IFC's supervision of its investment in APPL did not meet the requirements of the Sustainability Policy or relevant Environmental and Social Review Procedures (ESRP). IFC has failed to "develop and retain the information needed to assess its client's compliance with the Performance Standards" (ESRP). Where IFC has identified gaps in compliance, IFC has not ensured that these are translated into time-bound and resourced Action Plans of the type required by Performance Standard 1. As a result, E&S compliance issues raised by the complainants remain unaddressed.

IFC Response and/or Commitments in Response October 2016	**IFC Reported Implementation** December 2023	**Complainants' Observations** January 2024	**CAO Observations** February 2024
Action Plan 2016 commitments, including: • 44-point draft Action Plan to address living and working conditions, the employee stock option plan (ESOP) and company E&S risk management. • IFC committed to supplement its direct supervision by commissioning, preferably with Tata Global Beverages (TGB), an annual independent third-party audit and worker perception survey of: (a) the	The third-party audit and perception survey could not be undertaken as APPL and the complainants failed to agree on a credible third party acceptable to both parties. Subsequently, IFC has convened a facilitated engagement between APPL, the complainants, and the complainant's representative CSOs to build trust, strengthen ongoing engagement with workers, and improve the grievance mechanism. The facilitated engagement process continues, though there were challenges as a result of Covid which delayed any in person	CAO's monitoring report revealed that the Action Plan was approved by APPL's board in October 2016 "with a rider that the APPL would need assistance from shareholders to fund its implementation. APPL management also noted that recent financial losses challenged its ability to implement aspects of the Action Plan which require significant financial resources, in particular infrastructure improvements." The complainants have been productively engaging in a	The Action Plan was disclosed by IFC and approved by APPL's Board in 2016. When APPL's Board approved the Action Plan, it included a rider that it would need assistance from shareholders to fund implementation. CAO understands that financing the infrastructure improvements of the Action Plan remains a key barrier to its implementation. In recent years, the company's E&S annual reporting to IFC has significantly increased (e.g., detail on each tea estate operations).

Action Plan; (b) other improvement measures implemented or proposed; and (c) financial literacy program and awareness training on the employee share plan that have been undertaken by APPL. • Actions to support APPL's E&S Management System.	facilitated meetings. More recently, CSOs and IFC have been in discussions on potential next steps, such as a joint mission to see progress and discuss priorities.	facilitated dialogue with IFC, focused on the issue of IFC contributing funding for urgently-needed infrastructure and repairs. As the second largest shareholder of APPL, IFC has a responsibility to address the documented non-compliance and hazardous living and working conditions on plantations it has jointly-owned with the Tata Group for 15 years. We understand APPL has declined to be part of the formal mediation process pending IFC's decision on contributing funding.	However, the absence of a client wide ESMS and third-party audits assessing Performance Standard compliance, means that the E&S risks and impacts of the company's operations are not adequately documented and known to IFC. CAO's current rating of IFC's response, implementation of committed actions, and general supervision of this aspect is Unsatisfactory. CAO reaches this decision on the basis that IFC has yet to assure itself the company has an adequate ESMS (a PS1 requirement since 2009). While IFC supervision has documented ongoing gaps, these have yet to be resolved in a timely manner. Further, IFC has not implemented commitments made eight years ago in the 2016 Action Plan.
Status and action Open: Unsatisfactory			

CAO Non-Compliance Finding #2
September 2016

CAO findings regarding IFC supervision of living conditions for workers on the client's tea estates:
IFC did not assure itself that its client was discharging its obligation to provide housing and other services in a manner that met Performance Standard 2 (PS2) requirements. Given the objective of PS2 to "promote safe and healthy working conditions, and to protect and promote the health of workers," CAO finds that IFC's consideration of worker health indicators has been insufficient. During supervision, IFC has not responded systematically to the issues regarding housing and living conditions raised by the complainants.

IFC Response and/or Commitments in Response October 2016	**IFC Reported Implementation** December 2023	**Complainants' Observations** January 2024	**CAO Observations** February 2024
Summary of relevant Action Plan 2016 commitments, including: • Series of infrastructure improvements related to water, sanitation and housing. Water and sanitation improvements were expected to be complete by March 2019 and housing improvements by March 2022.	As per the action plan shared by APPL, actions related to water, sanitation and housing (17 actions, nine completed), APPL has achieved only partial completion of physical infrastructure installation commitments. By leveraging relevant government programs, APPL is addressing the shortfalls. See table on page 19-20 for breakdown.	In January 2024, the complainants noted that workers from Hattigor, Majuli and Naharoni plantations report that government programs have had an impact, but it has been marginal and major infrastructure shortfalls persist. Progress varies at different labor lines.	The Action Plan anticipated that all infrastructure improvement works would be complete by March 2022. While IFC has reported varying degrees of progress regarding housing, access to water and sanitation, this has been materially dependent on new government funded projects. CAO notes that the provision of adequate housing and access to water and sanitation are company obligations under the Performance Standards and national law. While it is a positive development that some improvements have been recorded due to government funded programs, there remains a significant shortfall and the resolution of this is unclear in the context of the IFC client's acknowledgement that it faces challenges in financing improvements. CAO's current rating of IFC's response, implementation of committed actions, and general supervision of this aspect is Partly Unsatisfactory. CAO reaches this decision on the basis that some infrastructure improvements have been implemented, albeit by government funded programs. How the remaining infrastructure gaps

			will be financed and when they will be implemented remains undefined.

Status and action Open: Partly Unsatisfactory

CAO Non-Compliance Finding #3
September 2016

CAO findings regarding IFC supervision of wages and compensation:
In response to the allegations that the client compensates workers at a level below the minimum wage, IFC took appropriate action in obtaining external legal advice on the issue. However, the advice was not current at the time that it was delivered and as such requires revisiting. IFC has not assured itself that the client is systematically presenting wage-related information in a manner that is "clear, easily understandable, and accurate, and in the language of the employee or directly contracted worker." In addition, IFC has not assured itself that wages and working conditions for temporary and permanent workers are consistent with IFC commitments to support jobs that "protect and promote the health" of workers, and thus provide a way out of poverty.

IFC Response and/or Commitments in Response October 2016	**IFC Reported Implementation** December 2023	**Complainants' Observations** January 2024	**CAO Observations** February 2024
Summary of relevant Action Plan 2016 commitments, including: • IFC committed to update its legal opinion as to whether the workers' wages met national minimum wage requirements. • Pay slip in local language	The last wage agreement expired in December 2017. In the interim, Government of Assam (GoA) has been announcing wage increases which the company is paying. In addition, IFC proposed commissioning another legal review of the wage structure and its compliance with minimum wage requirements. However, the assessment has been put on hold pending an agreement with complainants on the utility of this assessment. This will be undertaken once the complainants	IFC's 2016 response states: "IFC will seek an updated legal opinion as to whether the current wages paid meet national minimum wage requirements for the tea sector." IFC failed to do this in the five subsequent years. In 2021, IFC finally proposed to commission a legal review on minimum wage in the context of a facilitated dialogue focused on IFC contributing to funding urgently-needed infrastructure on the plantations. The complainants have	IFC has yet to implement its 2016 commitment to update its minimum wage legal opinion. In relation to the provision of pay slips in a language the workers understand, IFC has reported that the company issues pay slips in both languages. CAO will engage with IFC to ensure that it has retained evidence to support this practice. CAO's current rating of IFC's response, implementation of

	indicate their agreement to the study as part of the facilitated engagement process that is underway. Company provides wage related information in pay slips that are in both English and local language. Consultations with workers indicate that they understand wage/compensation calculations. Those who are not literate seek clarification from union representatives or other educated workers if they have concerns.	asked the IFC to prioritize the funding. As of January 2024, the daily wage is INR 250. However, as in the past, various deductions are made for Provident Fund, ration and gratuity, and if plucking quotas are not achieved. Some workers report that now that the wage is 250 rupees, there are increased work pressures. Since 2016/2017, workers have been demanding a wage of INR 350. Even the Labor Department calculated the market rate and recommended wages be increased to INR 351 in 2017/2018.	committed actions, and general supervision of this aspect is Unsatisfactory. CAO reaches this decision on the basis that IFC has yet to update its minimum wage legal opinion, a commitment made eight years ago.

Status and action Open: Unsatisfactory

CAO Non-Compliance Finding #4
September 2016

CAO findings regarding IFC supervision of freedom of association and handling of grievances:
In light of ongoing concerns regarding freedom of association and collective bargaining raised by the complainants, global unions, and a social audit commissioned by the client, IFC has not assured itself of compliance with the relevant requirements of Performance Standard 2 (PS2) on Labor and Working Conditions. IFC's approach to the review and supervision of the grievance mechanism requirements of PS1 and PS2 is similarly deficient. Despite ample evidence of worker grievances in the tea sector, IFC did not review or collect baseline data on its client's approach to grievance handling.

IFC Response and/or Commitments in Response October 2016	**IFC Reported Implementation** December 2023	**Complainants' Observations** January 2024	**CAO Observations** February 2024

Summary of relevant Action Plan 2016 commitments, including: • Actions to enhance tea estate level grievance mechanism	APPL's estates have lawfully formed workers unions and APPL complies with the collective bargaining agreements. The company has implemented employee engagement councils (EEC) and has engaged an NGO to increase awareness on prevention of sexual harassment policy/mechanisms in place in the company. The company has also strengthened grievance mechanism and documentation including recording, follow up, and closeout of grievances. However, there is scope for further awareness building and strengthening of the documentation. There is scope for further strengthening the process and communication of EEC role, decisions, and actions amongst workers. A proposal for capacity building support to APPL on stakeholder engagement and grievance redress is subject to discussion/agreement with the complainants as part of the facilitated engagement process.	The concerning issues previously documented, regarding restrictions on the freedom of workers to associate at APPL and fundamental flaws with the design and functioning of employee engagement councils, persist. The complainants have not received nor had the opportunity to comment on any proposal for capacity building support to APPL on stakeholder engagement and grievance redress.	CAO's 2019 Monitoring Report documented possible gaps in how EECs are constituted and training provided to their members. IFC's subsequent supervision notes that, while EECs have improved, there is scope for further strengthening. In relation to Freedom of Association, IFC's documentation indications that the majority of the company's tea estates have only one recognized union for tea workers. IFC's supervision records do not indicate what actions IFC has taken to assure itself that there are no barriers to forming a union on the client's tea estates in accordance with national law and PS2. CAO's current rating of IFC's response, implementation of committed actions, and general supervision of this aspect is Unsatisfactory. CAO reaches this decision on the basis that IFC's supervision has not retained sufficient evidence that the company is meeting its PS2 Freedom of Association obligations and that the EECs are operating effectively as a forum for workers to discuss critical issues on tea estates and for raising and addressing grievances.
Status and action Open: Unsatisfactory			

CAO Non-Compliance Finding #5
September 2016

CAO finding regarding IFC supervision of child labor:
Child labor is known to be prevalent in India's agricultural sector, including on tea plantations. In this context, CAO finds that IFC's pre-investment due diligence of the risk of child labor on its client's plantations was inadequate. Similarly, since receipt of the CAO complaint, IFC has not taken adequate measures to assure itself that the client currently complies with its child labor requirements.

IFC Response and/or Commitments in Response October 2016	**IFC Reported Implementation** December 2023	**Complainants' Observations** January 2024	**CAO Observations** February 2024
No specific actions. IFC noted that child labor was explicitly forbidden by APPL policy.	During IFC's supervisions over the years there has been no evidence of use of child labor. APPL checks birth certificates to obtain assurance that all workers are above 18 years of age. Supervisors are instructed to exercise oversight in the field to prevent use of child labor. Third party audits have also confirmed absence of child labor. There are day cares for workers' children, as well as schools at each estate. Procedures in place to address child labor in the workplace will be further confirmed in the third-party audit proposed as part of the action plan.	The complainants have not been provided with nor had the opportunity to input on the proposed third-party audit on child labor. Workers from Hattigor plantation we spoke to in January 2024 understood that APPL may stop running creches. They reported that the number of carers in the creche has been reduced to two to three to save costs. This could increase the risk of child labor. The workers are also concerned that APPL will no longer run plantation schools.	CAO's 2019 Monitoring Report noted the need for IFC to commission an independent third-party audit in order to close this aspect of CAO's monitoring. As noted by IFC, the third-party audit IFC committed to commission has not been completed. CAO's current rating of IFC's response, implementation of committed actions, and general supervision of this aspect is Partly Unsatisfactory. CAO reaches this decision on the basis that IFC has yet to commission and complete a third-party audit to verify compliance.
Status and action Open: Partly Unsatisfactory			

CAO Non-Compliance Finding #6
September 2016

CAO findings regarding IFC supervision of use of pesticides:
IFC has not properly applied its requirements regarding the handling and use of pesticides to this project, with the result that workers have been exposed to extremely hazardous chemicals. In particular, IFC did not identify in a timely manner the client's use of pesticides that are prohibited or restricted under IFC requirements. Further, IFC has failed to provide adequate guidance to the client on how to address compliance issues related to pesticide use.

IFC Response and/or Commitments in Response October 2016	**IFC Reported Implementation** December 2023	**Complainants' Observations** January 2024	**CAO Observations** February 2024
Summary of relevant Action Plan 2016 commitments, including: • Phase out all hazardous pesticides of WHO Class 1a and 1b. • Provide high quality Personal Protective Equipment (PPE) to all workers on spraying duty, spare PPE, budget to replace PPE as necessary, revisions to procedures and training for spray workers.	All pesticide safety actions have been fully completed (seven actions).	Workers from Hattigor, Majuli and Naharoni plantations in January 2024 report varying degrees of pesticide safety actions. While some sprayers are given Pesticide Protection Equipment, these are mostly old and in poor condition. Some sprayers report that they are not rotated, are only given medical tests occasionally, and do not receive their results. Workers describe that an auditor came and sprayers were given new PPE equipment for the purposes of showing the auditor during the visit.	IFC's supervision documentation records that the company does not use banned pesticides WHO class 1a and 1b. In relation to the use of adequate PPE, IFC has yet to retain sufficient supervision documentation to demonstrate implementation. CAO's current rating of IFC's response, implementation of committed actions, and general supervision of this aspect is Partly Unsatisfactory. CAO reaches this decision on the basis that IFC's supervision does not provide sufficient assurance that procedures and practices have been implemented on the use and replacement of PPE.

Status and action Open: Partly Unsatisfactory

CAO Non-Compliance Finding #7
September 2016

CAO finding regarding IFC supervision of risks related to client's approach to security:
IFC did not assure itself during supervision that the client's approach to the use of security forces is in accordance with Performance Standard 4, Community Health, Safety, and Security.

IFC Response and/or Commitments in Response October 2016	**IFC Reported Implementation** December 2023	**Complainants' Observations** January 2024	**CAO Observations** February 2024
No specific action in the 2016 Action Plan.	APPL has phased out the use of public security forces at all estates with the exception of four estates. IFC Specialist and Security Consultant reviewed and provided comments on existing Security Management Plan Nov. 2019. Improvements to Risk Assessment Process and Security Protocol have been suggested. APPL will update their Security Management Plan based on IFC recommendations and Security Consultant review of Plan, and undertake additional training for security team (in house and public) as recommended on human rights, community engagement, grievance mechanism, and GBVSH regarding security.	The complainants have not been provided with nor had the chance to input on APPL's Security Management Plan.	IFC has reported that it reviewed and provided comments to the client on its Security Management Plan. IFC's PS4 Guidance Note states that clients should communicate their security arrangements to workers and the affected community, subject to overriding safety and security needs. The complainants' comments to CAO indicates that this may not have occurred. CAO's current rating of IFC's response, implementation of committed actions, and general supervision of this aspect is Partly Unsatisfactory. CAO reaches this decision on the basis that IFC's supervision has not retained evidence that the client

			implemented IFC's PS4 guidance and that the company's security arrangements have been communicated to workers and affected communities.

Status and action Open: Partly Unsatisfactory

CAO Non-Compliance Finding #8
September 2016

CAO finding regarding IFC supervision of allegations of project related economic displacement:
IFC has not assured itself of proper application of Performance Standard 5, Land Acquisition and Involuntary Resettlement (PS5) requirements by the client in relation to the potential economic displacement of workers' supplemental agricultural activities.

IFC Response and/or Commitments in Response October 2016	**IFC Reported Implementation** December 2023	**Complainants' Observations** January 2024	**CAO Observations** February 2024
Summary of relevant Action Plan 2016 commitments, including: • Workers impacted by the fisheries program to be provided with employment or made permanent worker with all the fringe benefits or be regularized for employment at the government-approved minimum wages for non-tea agricultural activities.	A total of 38 workers displaced due to the fisheries project, have been provided with permanent employment at the estate itself.	The complainants are still verifying IFC's claim on the fisheries program.	A 2017 third party audit of this issue recorded that affected workers were provided with permanent employment. CAO's current rating of IFC's response, implementation of committed actions, and general supervision of this aspect is Satisfactory. CAO will keep this open to seek additional evidence of implementation beyond the 2017 third party audit. However, absent additional information in relation to

			this issue, CAO plans to close its monitoring of this point at the next monitoring exercise.
Status and action Open: Satisfactory			

CAO Non-Compliance Finding #9
September 2016

CAO finding regarding IFC supervision of the application of Performance Standard 7 (Indigenous Peoples) to the project:
CAO finds that IFC did not assure itself that PS7 was properly applied to this investment.

IFC Response and/or Commitments in Response October 2016	**IFC Reported Implementation** December 2023	**Complainants' Observations** January 2024	**CAO Observations** February 2024
IFC noted that PS7 did not apply as the population does not have a historical dependence on land, ancestral territories, or natural resources in the project area which predates the tea industry and/or has been impacted by the project. No specific action in the 2016 Action Plan.	PS7 is not applicable to this project. Even though the workers belong to Indigenous communities of central India, given that they were brought in as indentured labor, and are not native to this area, PS7 is not applicable to them. This is consistent with PS7, para. 6, which provides that for application of PS7 there has to be a collective attachment to land and natural resources in the project area.	The complainants submit that Performance Standard 7 is applicable to this project. Guidance Note 7 states that the standard may include “communities of Indigenous Peoples who are resident upon the lands affected by the project.”	In considering the application of PS7, IFC guides that this should be conducted by qualified social scientists using a mixture of ethnographic and participatory approaches. While IFC has stated that PS7 does not apply in this case, IFC has not provided an adequate analysis to substantiate this assertion. CAO's current rating of IFC's response, implementation of committed actions, and general supervision of this aspect is Unsatisfactory. CAO reaches this decision on the basis that an adequate analysis to substantiate

			that PS7 is not applicable has not been conducted.

Status and action Open: Unsatisfactory

CAO Non-Compliance Finding #10
September 2016

CAO findings regarding IFC supervision of consultation and disclosure in relation to the share program:
Considering that: (a) the project required the majority of workers to participate in the share program; (b) the purchase of shares entails risk; and (c) tea workers are a disadvantaged and vulnerable group, CAO finds that:

- IFC's supervision did not have a basis to conclude that the client had met its requirements for effective consultation with workers in relation to the program

- IFC has not assured itself that specific allegations of lack of consultation raised by the complainants have been addressed.

IFC Response and/or Commitments in Response October 2016	**IFC Reported Implementation** December 2023	**Complainants' Observations** January 2024	**CAO Observations** February 2024
Summary of relevant Action Plan 2016 commitments: • Actions to support workers' education on the employee share ownership program, financial literacy, share program procedures and processes.	APPL has conducted awareness programs for workers on the employee shares through Tata Asset Management and CRISIL. An EXIT option was rolled out to the employee shareholders during FY23 and a majority of the employee shareholders opted for the exit option. Employees were Paid Rs. 12.70 per share for a face value of Rs.10, in addition to the dividends paid in the past.	The complainants are concerned by this update. No information about the share exit program was provided to the complainants by APPL or IFC. The basis on which shares were valued at Rs 12.70 has not been explained. In any case, the shareholder program appears to have been an unsafe investment compared to an alternative, long-term (15-year) savings option. None of the workers we spoke to in January 2024 from Hattigor,	IFC's supervision documentation notes the majority of tea workers divested their shareholding. The company asserted that it provided training and support for those availing of the exit opportunity. A decision by a worker to purchase shares in a company they work for which is not listed on a public exchange, the rights and responsibility of a shareholder, and a decision to exit a shareholding requires a specific level of investor

		Naharoni, and Majuli plantations knew of awareness programs conducted on the shareholder program.	expertise. In this context, an individual making a similar transaction in the European Union or the United Kingdom may be required by law to pass an Appropriateness Test. The rationale for such a test is a recognition that investing in certain financial instruments without sufficient knowledge and/or experience can result in an increased risk of loss. Supervision documentation does not indicate that IFC has adequately supervised the company's commitment to increasing the financial literacy of its employees generally or how this was applied in advance of the share exit opportunity in FY23. CAO's current rating of IFC's response, implementation of committed actions, and general supervision of this aspect is Unsatisfactory. CAO reaches this decision on the basis that IFC supervision has not demonstrated that the company has taken sufficient action to ensure that worker shareholders had an adequate understanding of the shareholder program in advance of the exit opportunity in FY23.
Status and action Open: Unsatisfactory			

CAO Non-Compliance Finding #11
September 2016

CAO finding regarding IFC supervision of consultation and disclosure requirements more generally:
IFC has not assured itself of proper application of Performance Standard 1, Assessment and Management of E&S Risks and Impacts (PS1) consultation and disclosure requirements in relation to the project. In particular, IFC has not ensured that the client disclose required E&S assessment documents, Action Plans, and monitoring reports in a manner that is accessible to workers. Similarly, IFC has not assured itself that key E&S assessment processes and Action Plans were prepared following effective consultation with workers.

IFC Response and/or Commitments in Response October 2016	**IFC Reported Implementation** December 2023	**Complainants' Observations** January 2024	**CAO Observations** February 2024
Summary of relevant Action Plan 2016 commitments: • Commit for the Action Plan (2016) to be publicized and solicit feedback from workers on the proposed priorities.	The company shared the action plan in EEC meetings in 2017 but wider consultations were not undertaken. APPL has, however, disclosed via its website the status of implementation of the Action Plan for FY16, FY17 and as of October 2019. APPL has also disclosed through its website summary of the third-party (Solidaridad) audit reports of 2014 and 2017. IFC has convened a facilitated engagement between APPL, the complainants, and the complainants' representative CSOs to build trust, strengthen ongoing engagement with workers, and improve grievance redress processes.	There has been scant consultation with workers on the action plan by IFC and APPL. The full third-party (Solidaridad) audit reports (as opposed to public summaries) of 2014 and 2017 have still not been provided to the complainants. As discussed above, the facilitated dialogue process has involved the complainants, their supporters, and IFC, and has been focused on the issue of IFC contributing funding to resource the action plan. APPL has declined to participate formally pending IFC's decision on funding.	CAO's 2019 Monitoring Report noted that IFC had not adequately assured itself that the company had disclosed prior E&S assessment documentation, Action Plans, and monitoring reports in a manner that is accessible to workers. IFC had not ensured that the company disclosed and consulted workers on the Action Plan. Further, IFC had not assured itself that the company continues to update workers and affected communities on the implementation of the Action Plan. IFC's December 2023 update to CAO in respect of this non-compliance finding, and a review of IFC supervision documentation does not indicate that this issue has been adequately addressed. CAO's current rating of IFC's response, implementation of

			committed actions, and general supervision of this aspect is Unsatisfactory. CAO reaches this decision on the basis that IFC supervision has not demonstrated that workers were adequately consulted in regard to the Action Plan, and there has not been ongoing disclosure of Action Plan updates and E&S assessments.
Status and action Open: Unsatisfactory			

CAO Non-Compliance Finding #12
September 2016

IFC Response and/or Commitments in Response October 2016	**IFC Reported Implementation** December 2023	**Complainants' Observations** January 2024	**CAO Observations** February 2024
IFC 2019 Commitment following CAO Monitoring Report: IFC proposes facilitating a broader approach to engage all relevant stakeholders on a sector-wide study to identify a more sustainable path towards economic and social development for the tea sector in Assam.	This proposal was explored with the WB and GoI counterparts and it was concluded that there was insufficient basis to move forward with it.	The “insufficient basis” has not been explained.	CAO's Investigation Report (2016), IFC's Management Response (2016) and IFC Management Update (2019) notes that many of the issues in this case are legacy problems inherent to the tea sector in India. The complainants' representatives have noted to CAO that the "insufficient basis" has not been explained.

			As it is acknowledged that many of the issues in this case have been inherent in the tea sector for decades, IFC's 2019 commitment to facilitate a broader engagement with relevant stakeholders on a sector-wide study merits action upon. A World Bank Group response to this commitment is necessary. Implementation of this action is now significantly delayed and thus, CAO has rated IFC actions as Partly Unsatisfactory.
Status and action Open: Partly Unsatisfactory			

Bidco (Beverage & Detergent facilities)-01 & 04[17]/Thika, Kenya: Project-level Actions

Case Summary

Bidco Africa is one of East Africa's leading manufacturers and distributors of fast-moving consumer goods. In June 2014, IFC approved an A-loan of up to US$23 million and a syndicated B-loan of up to US$13.5 million to expand Bidco's existing detergent facility, and develop a new beverage facility, in Thika, Kenya. Bidco prepaid its loan in October 2023, ending IFC's active relationship with this project.[18]

In June 2016, CAO received a complaint (Bidco-01) on behalf of a group of former and current, at the time, workers at the Thika plant. The complaint raised allegations against Bidco related to labor and working conditions, including terms of employment, occupational health and safety (OHS), and freedom of association. In May 2017, former employees filed an additional complaint (Bidco-04) that alleged unfair termination of their labor contracts, as casual workers, poor working conditions, and prevention from joining a trade union.

In October 2018, CAO completed a combined investigation, which found IFC non-compliances in three areas. First, IFC had not ensured that the terms of employment and termination payments of former casual workers were consistent with Performance Standard 2 (PS2) and Kenyan law. Second, IFC did not assure that the client's OHS performance met good international industry practice. Third, further supervision by IFC was required to verify Bidco's compliance with PS2 non-retaliation and anti-discrimination requirements in its treatment of workers at the plants. Regarding grievance handling, CAO found that IFC had communicated with, and requested corrective actions from, the client in accordance with PS2 and was therefore compliant. In addition, CAO found that union recognition was not an IFC compliance issue.

In December 2018, IFC published a response which included actions to address CAO's investigation findings at the project and systemic level. At the project level, IFC committed to require the client to submit quarterly and detailed labor reports, as well as inform IFC about the resolution of pending labor cases, and have the client commission a labor audit. IFC's supervision would review Bidco's human resources practices, support the client in following good international industry practice for OHS, and focus on the implementation and effectiveness of non-discrimination policies and procedures, given the multiple ethnicities of staff at different levels within Bidco. IFC would also continue to engage with the client on the management and effectiveness of its worker grievance mechanism. At the systemic level, IFC committed to improve how project teams identify labor issues during pre-investment E&S due diligence (ESDD) by updating its Labor Handbook, revising its Environmental and Social Review Procedures (ESRP), providing staff training, retaining a specialist labor consultant to help IFC E&S staff on projects with high-risk labor issues, and assigning an OHS Lead from among its E&S specialists to act as a resource on OHS matters across IFC projects.

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[17] https://officecao.org/Bidco-01 and https://officecao.org/Bidco-04.

[18] IFC approved Bidco's prepayment request without a responsible exit assessment, but with the understanding that there were actions pending, from the plan committed as a result of the 2018 CAO investigation, which Bidco was actively working to complete. There was no further examination by IFC on how to address these pending E&S issues and actions once the prepayment was completed. In March 2024, IFC indicated to CAO that it considered all actions committed had been completed, and IFC was just supervising their ongoing implementation under its normal project supervision process until the project closing procedures were finished.

In all of their communications with CAO since 2018, both groups of complainants have consistently asked CAO to request that IFC assist them in receiving the full compensation they believe they are owed for past employment benefits not received while working as casual workers and their terminations in 2015. The Bidco-01 complainants have waited six years for full compensation and their key concern at this stage is that Bidco withdraw its legal appeal against the payment tabulations. Complainants say they have experienced serious difficulties in finding new employment after leaving Bidco.

The representative of the Bidco-04 complainants has indicated that Bidco has not paid the majority of the compensation money to the former employees. He also alleges that the company is not considering the employment records of casual employees who served between 1991 and 2006, and that Bidco's motive in moving to an outsourcing model is to avoid its employment responsibilities. According to the Bidco-04 representative, Bidco has misrepresented to IFC the status of the pending legal cases related to this project in national courts.

CAO Monitoring and Status

IFC has carried out several actions in response to CAO's investigation findings since 2018. Evidence of progress against commitments provided to CAO include: Bidco's quarterly human resources (HR) reports from 2019 until Q3 2023; a 2019 labor review by a third-party consultancy that analyses the 2015 conversion of casual workers to regular employees, reviews the client's HR policies and practices, and sets out accompanying recommendations; and the client's new HR Manual and draft Retrenchment and Redundancy policy. The manual and policy were shared with IFC in July 2020. IFC provided feedback and indicated they remained the latest versions as of February 2024. IFC also provided a summary of the Kenyan court case brought by 295 former casual workers, along with evidence that the remaining payment amount due these workers, object of the pending appeal, was deposited in an escrow account. Finally, IFC has documented its relevant project supervision[19], particularly in relation to OHS standards.

While CAO recognizes IFC and its client have made efforts to address CAO's non-compliance findings, some of these actions fail to fully address the issues identified in the investigation.

CAO monitoring found that the HR quarterly reports contain mostly quantitative data regarding Bidco personnel, terminations, dismissals, exits, discipline actions, grievances and OHS procedures and processes, limiting IFC's ability to monitor the potential HR issues of concern more closely. For example, the reports evidence Bidco's shift to outsourcing many of its activities, without much information about these processes or their compliance with PS2 requirements. This is important given CAO's findings on IFC's review of PS2 compliance with worker classification and benefits during project supervision.

Similarly, CAO found that the 2019 labor review did not adequately examine and address the conversion and termination of former casual workers, or identify any outstanding actions, beyond referring the matter to the future determination of the national courts.[i] While the labor review did examine the client's overall HR management policies and practices in the context of PS2 compliance, it

[19] IFC conducted an in person site supervision visit occurred in December 2018, due to travel restrictions related to the Covid-19 pandemic, it conducted a virtual site visit in June 2021, and further in person site supervision visits in November 2021 and March 2022.

has some data gaps in relation to the termination of former casual workers. Despite these gaps, the labor review concluded that no workers have residual claims against Bidco in respect of termination or employment and makes no determination of benefits required by Kenyan law.

Regarding these benefits and the amounts due to the former casual workers, an initial judgement was rendered in November 2019. This court decision remains pending due to the partial appeal filed by Bidco regarding the methodology that was used to make those calculations.[20] Most of the complainants have received the undisputed portion of the total compensation payment, while Bidco has deposited the disputed amount in an escrow account pending a final decision by the Court of Appeals in Kenya.[21] IFC has verified that the client paid the undisputed amounts to the former workers and the disputed amount to an escrow account, sought assurances from the client that it would comply with the final judgement and, in general believes that the client is acting in good faith when exercising its rights before the Kenyan courts. Nevertheless, IFC continues to almost solely rely on Bidco's reading of the law to justify the delay in payments to the former casual workers, even after CAO's investigation findings. IFC has not sought external legal counsel to advise it on the application of Kenyan law and the 2019 Labor review did not examine the benefits to which the former casual workers are entitled. This has resulted in complainants still awaiting their principle remedial request six years after the CAO investigation found they were owed a series of benefits under Kenyan law and PS2.

In relation to workplace health and safety, IFC flagged a number of risks in 2018 with Bidco. In this context, IFC noted that an experienced IFC OHS specialist would be assigned to advise Bidco. In April 2019, a workplace fatality occurred at a Bidco plant. IFC provided written comments on the fatality investigation including recommendations to update its OHS procedures to prevent a reoccurrence. IFC also recommended the client develop and implement a robust incident investigation and root cause analysis process to facilitate proper investigation and quality reporting of serious accidents and fatalities, and provided recommendations to enhance overall OHS procedures. After this incident, IFC continued to proactively monitor and follow up with the client on OHS issues through in person site supervision visits in November 2021 and March 2022, as well as a virtual site visit in June 2021 due to the Covid-19 pandemic. CAO concludes that IFC has actively and frequently monitored the project's OHS risks, provided detailed feedback, and requested specific deliverables from the client.

Lastly, in regard to the implementation of non-discrimination and no-retaliation policies, CAO finds that IFC has provided some guidance to the client but has not retained sufficient evidence to assure itself of the implementation or effectiveness of these policies. IFC specifically committed to focus on the effectiveness and implementation of the non-discrimination policy. One of the ways in which IFC committed to do this was by engaging with the client's management and staff to seek assurance on the effective implementation of such discrimination policies. While IFC has advised its client on retaliation

[20] In November 2019, a judgement was rendered on the amounts that should be paid to the former workers. That same year, the Bidco company appealed the decision due to the methodology that was used to make tabulations for the claimants. The matter has since remained pending.

[21] The complainants explained to CAO that in 2018, a Kenyan Court ruled they should be paid 4 years leave and 1 month notice (2009-2013). They considered this judgement did not award them all they were due, because some of them had been working for a long time, even before 2009, and the judgement did not consider the time between 2013 and 2015, which was the year they were fired. They were advised to take the money and file a review afterward. However, because the company appealed the 2018 judgement, the judge determined they should receive the undisputed amount and half of the disputed amount, with the other half of the disputed amount deposited in an escrow account. They indicated that of the 295 fired workers, some have taken the available portion of the compensation, some are waiting to be able to receive the full amount, some want to receive the money differently, and some have not been able to be contacted to recover their money after moving to other parts of the country looking for work. They explained their lawyer passed away in March and in August 2023, they were assigned another lawyer, but this change has affected their ability to monitor what is happening in the courts more closely and effectively.

and discrimination standards, as well as measures to improve its grievance mechanism, there is little reference in IFC's supervision documents of such engagements to seek assurance regarding the effectiveness or implementation of the non-discrimination policy across the company's work force.[22] The 2019 labor review assessed the implementation of non-discrimination policies in a limited manner, particularly in relation to possible discrimination between different ethnicities. A comprehensive analysis of the company's practices (for example by systematically examining salaries, contract terms, and seniority between different groups as suggested in CAO's investigation report) would have allowed IFC to adequately examine and focus the effectiveness and implementation of the non- discrimination policy, as committed.

While some of the commitments detailed above would benefit from further supervision, CAO has decided to close all project-level actions related to this case and leave open two systemic actions for further monitoring (see page 99). Given that Bidco prepaid its loan in October 2023, CAO has determined that there is no reasonable expectation of further project-level action from IFC.

[22] There was one instance in 2021 where IFC sought further explanations regarding a grievance recorded in the HR report that was related to possible discrimination issues, as well as one instance of guidance on non-retaliation practices shared in 2021.

Kenya: Bidco Bev. & Det. 01 & 04/Thika

CAO Investigation Report: https://bit.ly/4a2MFy1
IFC Management Response: https://bit.ly/3y9FBCd

CAO Non-Compliance Finding #1
October 2018

Terms of employment and termination of casual workers:
CAO determined that while the client ceased to employ casual workers in 2015, IFC's review and supervision in relation to this issue were not sufficient to provide assurance that the client's employment policies were consistent with national law as required by Performance Standard 2, Labor and Working Conditions (PS2), paras. 8 and 9. In particular, CAO found that IFC had not ensured that payments to former casual workers upon termination were consistent with Kenyan legal requirements under the Employment Act. Similarly, CAO found that IFC had not ensured that casual workers who were converted to regular employment were properly credited with benefits accrued during their period of casual employment. Given the findings of Kenyan courts that the client has unfairly dismissed and under-compensated former casual workers in a number of instances, CAO found that an audit of the client's employment practices against Kenyan law, including an assessment of possible under-compensation of former casual workers, was required.

IFC Response and/or Commitments in Response December 2018	**IFC Reported Implementation** November 2023	**Complainants' Observations** January-April 2024	**CAO Observations** April 2024
Item 1: Terms of employment and termination of casual workers At the pre-investment phase, IFC's due diligence identified two distinct types of contracts - direct and contracted - without fully recognizing that contracted workers were mostly casual workers, with associated higher risk. Post-investment, during supervision, IFC followed up but was slow to engage with the client to ensure proper resolution of issues, as time elapsed between IFC's E&S due diligence (ESDD) and first	The company submitted quarterly HR reports to IFC, with the latest report received from Q1 2023. IFC has reached out to the company on the 2023 Q2 and Q3 reports. No retrenchments occurred during Q1-Q3 2023 and the company applied its policies and procedures in the terminations and recruitments. In November 2021, IFC met with Bidco senior management including the company's legal counsel to follow up on the progress in the labor case by 296 complainants. IFC has subsequently been following up on the progress of this	Bidco-01 and Bidco-4 complainants have consistently highlighted that they still have not received all the compensation they believe they are owed, and have requested IFC assistance in this regard. Bidco-01 complainants pointed out that six years after obtaining a verdict in their favor they have not received the full amount of compensation they believe they are owed, because of the company's appeal of the 2018 judgment and because they believe, even that judgment, did not grant them all	CAO notes that IFC has received and reviewed additional HR reporting from the client between 2019-2023. Additionally, in 2019 a Labor Review was prepared covering the 2015 conversion of casual workers and the client's human resources policies and practices (the "2019 labor review"). While the HR reports are a welcome increase in supervision by IFC, these do not have sufficient information for IFC to supervise HR issues of concern more closely. At the same time, the 2019 labor

disbursement. While the client was cooperative in providing detailed information on the labor-related complaints and lawsuits, this was done at IFC's request and after media coverage had begun on this matter. After IFC raised this issue of workers' contracts with the client, the client agreed to complete –and has already begun to submit to IFC – a detailed human resources/labor report on a quarterly basis. This report provides information and data on the implementation of human resources policies and practices, allowing the client to alert IFC to any new issues or disputes that have arisen in the prior three months. It also informs IFC, on a timely basis, about the resolution of pending labor cases. The client has further agreed to additional efforts regarding converted workers, as described below in item 2. Ongoing – implemented from 03.26.2018.	case and the related appeals through correspondence and internal discussions that included support from IFC legal counsel. To date, the case is still open as Bidco contested the compensation amount tabled to the courts by the complainants. The IFC position was that the findings of the Kenyan labor court (as the legally competent body with the power to adjudicate on the matter), will provide the final calculation of compensation for the complainants. Bidco was also deemed to be well within its rights to follow through with the appeal process, as the contested amount is more than two times the value of Bidco's calculation. IFC discussed the differences in the calculations by Bidco and the complainants and found that both Bidco and the complainants would still have to defend their calculations to the competent court, for interpretation of the local law requirements applicable to this case. Nonetheless, IFC has also been monitoring whether Bidco has paid out any compensation to the complainants and found that the company had issued all the payments (both contested and uncontested), per the latest court instructions (dated February 2021). On IFC's request, the company has also provided evidence of payment of the contested amount to an escrow account that is managed by	they consider they were owed according to national law. They state that they have been waiting since 2020 for the three-judge panel to be constituted and Bidco's appeal heard, in the hope of getting their pending compensation. They allege the matter should normally not take more than a year, and it has already taken four. They asked CAO and IFC to "please tell the company to withdraw the appeal so we can receive our money". They explained that, after being fired by Bidco, they have experienced serious difficulties in finding new work – they are either not hired or, in one case, let go shortly after hiring, once other companies learn they are part of the group of former Bidco employees seeking compensation. The representative of the Bidco-04 complainants has written extensively to CAO requesting its intercession for the former Bidco workers to receive their due compensation. According to the Bidco-04 representative, the company has not paid the majority of the money to the former employees. He also alleges that the company is not considering the employment records of casual employees who served between 1991 and 2006, and that Bidco's motive in moving to an outsourcing model is to avoid its employment responsibilities. The Bidco-04 representative claims that Bidco is	review has shortcomings in its assessment of the conversion and termination of former casual workers, particularly in terms of identifying any outstanding actions. It also makes no determination of what benefits are required by Kenyan law in the context of the conversion and termination of casual workers. At the same time, the court decision that determined the amounts owed to the former casual workers remains pending, due to the partial appeal filed by Bidco regarding the methodology that was used to make those calculations. As per IFC supervision, most of the complainants have received the undisputed portion of this payment, while the disputed amount has been deposited in an escrow account pending a final decision by the Court of Appeals in Kenya. IFC has also sought assurances from the client that it would comply with the final judgment. Nevertheless, IFC continues to almost solely rely on Bidco's reading and interpretation of the law on this matter, even after CAO's investigation findings. IFC has not sought an external legal counsel to advise it on the application of Kenyan law and, as indicated above, the 2019 labor review did not examine the benefits to which the former casual workers are entitled. Six years after the CAO investigation found that the

	the company’s and complainants’ lawyers.	misleading IFC regarding the status of the pending legal cases in national courts.	complainants were owed a series of benefits under Kenyan law and PS2, they continue to wait for their principal remedial request. CAO has decided to close this action with a partly unsatisfactory rating. CAO makes this decision on the basis that there is no reasonable expectation of further action by IFC to address this non-compliance finding given that the client prepaid the IFC loan in October 2023. CAO rates IFC's performance in addressing this non-compliance finding as Partly Unsatisfactory on the basis that IFC did not require sufficiently detailed HR reports from the client to allow for a closer supervision of matters of concern as committed. CAO also considers this action Partly Unsatisfactory because, six years after the investigation report, IFC has continued to rely almost solely on the company's reading and interpretation of the law regarding the benefits owed to its former casual workers, even after CAO's investigation findings, without at least seeking advice from external legal counsel.
Status and action Closed: Partly Unsatisfactory			

CAO Non-Compliance Finding #2
October 2018

Terms of employment and termination of casual workers:
CAO found that the decision to terminate this group of workers, although with an intention to rehire many and provide employment security, raises questions about the application of PS2 requirements on retrenchment. CAO finds no evidence that IFC drew the client's attention to this issue or considered how these PS2 requirements should be applied to this case. This lack of action was not consistent with the requirements of PS2, paras. 18 and 19.

IFC Response and/or Commitments in Response December 2018	**IFC Reported Implementation** November 2023	**Complainants' Observations** January-April 2024	**CAO Observations** April 2024
Item 2: Terms of employment and termination of casual workers The client's 2015 decision to cease employing casual workers was a welcome transition for many workers, who were converted to regular employees with benefits and increased employment security. Questions regarding retrenchment arose from the fact that national labor law exceeds PS2 requirements for non-employee workers. IFC notes, per item 1, that the lack of identification of distinct contract types and risks associated with different worker categories led to a diminished ability for IFC to help the client apply retrenchment requirements applicable to the 203 workers (out of the total 1,403 casual workers) not converted to fixed-term contracts.	As of December 2023, Bidco still outsourced non-core functions such as packaging and sanitation to a labor contractor while its transportation service is provided through a transportation contractor. In the supervision of the corrective/improvement action plan arising from the PS 2 audit (hereinafter referred to as "the audit"), IFC continued to monitor the workers' grievance mechanism which covers both direct and third-party workers. Feedback to the company in the reporting period also included a discussion of IFC's policies on non-retaliation and reprisals to sensitize the company management on IFC's position on this issue. The company senior management also underwent some changes. To ensure continuity in the implementation of the audit corrective actions, IFC held in-person (November 2021) and virtual	Complainants did not provide any comments regarding this action.	CAO notes that while the 2019 labor review does provide an examination of the client's overall HR management policies and practices in the context of PS2 compliance, it fails to fully examine and address the conversion and termination of former casual workers, particularly as it relates to identifying any outstanding actions, beyond referring the matter to the future determination of national courts. Despite this, it concludes that no workers have residual claims in respect of termination or employment and makes no determination of what benefits are required by Kenyan law. Regarding the requirements for retrenchment under PS2, the client's 2019 labor review agreed with IFC included a brief examination of PS2 requirements regarding retrenchment in relation

A court ruling on July 13, 2018 from the Labour and Employment Relations Court of Kenya granted to each of 296 complainants (the 203 workers referenced above plus 93 other previous casual workers at Bidco, the group having some overlap with the complainants triggering CAO's review) one-month salary in lieu of notice and one-month salary in lieu of leave, for each complete year of service between 2009 and 2013. The client has agreed to undertake a review that assesses both current labor practices as well as any outstanding actions related to the 2015 conversion of casual workers. IFC will seek that this is conducted by a credible and reputable third party. As part of this process, IFC will review the client's current human resources practices during its supervision activities to ensure alignment with PS2. The client has agreed to revise its Retrenchment Policy to apply to all employee categories under Kenyan labor standards. (Supervision visit scheduled on 12.17.2018; Retrenchment Policy revision completion expected 01.30.2019; labor review completion expected 04.30.2019).	discussions with the new staff on the background of the CAO case and the elements that IFC was specifically monitoring in relation to the case. On the updating of the HR Manual: The company maintained its position that retrenchment of staff was not foreseen and has to date not updated the HR manual per IFC comments. The company is still committed to compliance with local retrenchment requirements which include engagement of workers and unions where applicable, as well as payment of final dues and compensation as defined by the employment act. Per the engagement with the company to date, there has been no report of an intent to retrench workers.		to the casual workers and contractors. The client also issued a new draft Policy on Retrenchment and Redundancy and a new HR Manual. CAO notes that, despite IFC requesting since 2018, that the client revise, among other things, the definitions and requirements for employment categories and retrenchment in its HR policies to align with Kenyan labor law and PS2 provisions, IFC did not retain evidence that these adjustments were made, even when these requests were reiterated in subsequent years. In October 2023, Bidco prepaid the IFC loan without evidence in place that these policies had been aligned with the PS2 standards. CAO has decided to close this action with a Partly Unsatisfactory rating. CAO makes this decision on the basis that there is no reasonable expectation of further action by IFC to address this non-compliance finding given the client loan prepayment. While IFC repeatedly requested the company to update its approach to retrenchment and redundancy, IFC did not retain evidence that this occurred.
Status and action Closed: Partly Unsatisfactory			

CAO Non-Compliance Finding #3
October 2018

Occupational health and safety (OHS) conditions:
CAO determined that IFC lacked assurance that the client is systematically implementing preventive and protective measures according to good international industry practice. Similarly, IFC lacked assurance that the client had in place adequate systems for reporting on accidents and incidents, analyzing their root causes, and implementing corrective measures. Thus, IFC did not provide adequate client supervision in relation to the OHS requirements of PS2 and the IFC EHS Guidelines.

IFC Response and/or Commitments in Response December 2018	**IFC Reported Implementation** November 2023	**Complainants' Observations** January-April 2024	**CAO Observations** April 2024
Item 4: OHS conditions To support the client in good international industry practice for OHS, IFC will work with the client's management and staff to: fully leverage their current activities (including independent third-party audits) in identifying hazards; provide good practice examples of preventative and protective measures that emphasize modification, substitution or elimination of hazardous conditions or substances; and provide guidance to improve accident and near-miss reporting, root cause analysis, and corrective measures. With regard to residual risks, and their associated hazards, IFC will work with the client to ensure that Personal Protective Equipment (PPE) access, distribution, and training is comprehensive and commensurate to those remaining	As of December 2023, IFC continues to proactively strengthen its organizational capacity and staffing to effectively manage E&S risks, including OHS and Process Safety, on all investment projects. In 2020, IFC employed a Senior Environmental Specialist (OHS) based at IFC headquarters, organized the OHS team, and now has OHS consultants reporting to the OHS Lead as focal points to support regional E&S project teams. During a 2021 virtual site visit, IFC discussed the main highlights of a client report covering a 2019 fatality and corrective actions implemented. IFC further supervised updates to the company's OHS program and provided feedback. This included: (i) improvement on lone work procedure objectives; (ii) improvements on the permit to work system; (iii) improvements on record templates for lone work	Bidco-01 complainants are not current workers of Bidco and thus did not have information regarding possible improvement in OHS practices. However, they indicated that they understand the company has started outsourcing a lot of its work, and requesting the outsourced companies to buy their own PPE. They say that this has reportedly resulted in the contractor companies either not buying enough or buying poor quality PPE. Bidco-04 complainants stated that Bidco has provided workers with protective gear, but there are serious issues with the quality of hand gloves being used. These reportedly only last the first two hours of a shift and workers are not being issued new ones.	CAO notes that IFC has conducted multiple site visits since the CAO investigation report in 2018. CAO recognizes that IFC has actively and frequently monitored the project's OHS risks, provided detailed feedback to Bidco, and requested specific deliverables from the client. IFC assigned an experienced OHS specialist to advise Bidco. After a workplace fatality occurred in 2019, IFC requested an investigation report and provided the client with written comments, including recommendations to update its OHS procedures to prevent a reoccurrence of this type of accident. CAO notes that after this incident, IFC continued to actively engage with Bidco on OHS risks and standards, provide detailed and specific feedback, and proactively monitor and follow up with the client on its recommendations until the

hazards. IFC will regularly adjust the resourcing and regularity of supervision activities (site visits and follow-up reporting) based on the level of concerns identified with regards to OHS. (Implementation initiated by 02.28.2019).	procedures; (iv) improvements on root cause analysis methodologies; (v) improvements on the current risk register to include site and activity specific risks. IFC also shared good industry practice guidelines on: (i) incident and accident investigation, which included sample methodologies for root cause analysis; and (ii) permit to work systems that can be applied by Bidco.		client's prepayment in October 2023. IFC also shared good industry practice guidelines with the client as guidance and examples for its adjustments. CAO rates this action as satisfactorily executed. CAO considers that IFC has been effectively implementing its management action related to the supervision of OHS conditions, and that IFC's proactive and involved supervision of OHS requirements materially addressed CAO's investigation non-compliance finding in this regard.

Status and action Closed: Satisfactory

CAO Non-Compliance Finding #4
October 2018

Grievance procedure, discrimination, and retaliation:
CAO determined that IFC has verified that the client has in place policies against discrimination and retaliation. However, further supervision by IFC was required to verify compliance with the non-retaliation and anti-discrimination requirements of PS2, paras. 14-16. In such circumstances, IFC standards provide for the use of audit and assessment tools to verify compliance in accordance with good international Industry practice, as required per PS1, paras. 7 and 23, and Guidance Note 1, para. GN22. In this context, CAO finds that an analysis of potential discrimination comparing salaries, contract terms, and seniority between different groups was warranted.

IFC Response and/or Commitments in Response	**IFC Reported Implementation**	**Complainants' Observations**	**CAO Observations**
December 2018	November 2023	January-April 2024	April 2024

Item 7: non-discrimination and non-retaliation policy implementation As part of its ongoing supervision, IFC will focus on the implementation and effectiveness of non-discrimination policies and procedures, especially in view of the multiple ethnicities of staff at different levels of Bidco's organizational structure. During site supervisions, IFC will engage in person with management and staff to seek comfort and assurance on the effective implementation of such discrimination policies. IFC will also continue to engage with the client on the management and effectiveness of its grievance mechanism so that the client improves its understanding of employee issues and works to resolve them fairly and objectively. (Ongoing).	The 2019 labor review includes a discussion of discrimination and makes related findings and recommendations. IFC continued to monitor improvement in the GRM, especially any challenges experienced by the grievance redress committee (Joint Consultative Committee) during the government instituted COVID-19 restrictions on travel. IFC had discussions with Bidco on the GRM and specifically on retaliation following the release of the guidance by CAO. Considering that the management team included some new members, IFC also had a virtual discussion providing background on IFC's position. Following the discussion, the team was provided links to web-based information for the sake of the new management team members.	Bidco-01 complainants stated that they have experienced serious difficulties finding work after being fired by Bidco. They explained that most of them have had to relocate across the country to find work as most companies in Thika reject them when they discover they are former Bidco workers. Some complainants assert that other companies won't hire them as companies fear it will impact their business. Bidco-04 complainants did not provide any comments regarding this action.	CAO notes that IFC committed in this action to focus on the effectiveness and implementation of the non-discrimination policy. One of the ways in which IFC committed to do this was by seeking assurances from the client on the effective implementation of this policy. While IFC advised its client on retaliation and discrimination standards, as well as measures to improve its grievance mechanism, there is little reference in supervision documents of IFC seeking assurances regarding the effectiveness or implementation of the non-discrimination policy across the company's workforce. CAO has continued to receive allegations of discrimination and non-equal treatment between Indian and non-Indian workers in Bidco, as well as allegations of retaliation against former Bidco workers who filed the complaints in this case. CAO has spoken to recent Bidco workers who alleged that discrimination and non-equal treatment between Indian and non-Indian workers persists, and that Bidco often retaliates against former workers by denying or delaying their payments, a letter of acceptance of their resignation or their certificate of service (the last two being necessary to obtain a new job). CAO has decided to close this action with a Partly Unsatisfactory

			rating. CAO makes this decision on the basis that there is no reasonable expectation of further action by IFC to address this non-compliance finding given the client's prepayment of its IFC loan in October 2023. While IFC has worked with the client to improve its retaliation and discrimination policies, IFC did not retain sufficient evidence to assure itself of the implementation or effectiveness of these policies.
Status and action Closed: Partly Unsatisfactory			

Bujagali Energy-04, 06, 07 & 08[23]/Bujagali, Uganda: Project-level Actions

Case Summary

The Bujagali Energy project involves the development, construction, and maintenance of a hydropower plant with a capacity of up to 250 MW on the River Nile in Uganda, along with the construction of approximately 100 kilometers of electricity transmission line. IFC's investment comprised $100 million in A and C loans to Bujagali Energy Limited, and MIGA issued a $115 million guarantee to World Power Holdings Luxembourg S.à.r.l for its investment in the project. Bujagali Energy is owned by Industrial Promotion Services (Kenya) – part of the Aga Khan Fund for Economic Development – and SG Bujagali Holdings, Ltd., an affiliate of Sithe Global Power (US). The IFC project remains active, and a commercial relationship still exists.

In 2011, CAO received a complaint (Bujagali-04) from 93 individual workers, claiming unfair compensation for work-related injuries, lack of transparency on compensation processes, and intimidation for requesting their benefits. Eighty-six of these cases were resolved in dispute resolution, and six of the remaining seven individual cases were transferred to CAO compliance. Over 300 workers filed a similar complaint (Bujagali-06) in 2013 claiming unpaid wages and benefits. In 2015, over 200 community members filed a third complaint (Bujagali-07) claiming inadequate compensation over project-related crops damage. In 2017, a former construction employee filed a complaint with CAO (Bujagali-08) claiming lack of compensation for a work-related injury in 2009.

In November 2017, a combined compliance investigation (Bujagali-04 and -06) found that IFC's review of labor and occupational safety and health (OSH)-related issues for this project was not commensurate to risk. In addition, CAO found IFC's supervision of these issues was not sufficient to assess whether project performance met the specific requirements of IFC's Guidelines for OHS or good international industry practice as required by PS2. CAO also found that IFC had not considered national requirements for compensation of injured workers. In April 2018, CAO merged the Bujagali-08 complaint with Bujagali-04 and -06 for monitoring purposes, since the issues raised were similar in substance. In December 2017, the compliance investigation in the Bujagali-07 case found that IFC had not gained assurance that the Resettlement Action Plan (RAP) for the transmission line met Performance Standard 5 requirements regarding the compensation framework for affected households and addressed government capacity. All four cases were then merged for the purposes of CAO monitoring.

CAO Monitoring and Status

This section describes IFC actions, and CAO's observations, regarding workers' compensation, unpaid wages, and compensation for affected land and crops, between 2018 and 2023. This monitoring report is the fourth to address this case, and a summary of the previous reports' findings is provided below.

In March 2019, CAO's first monitoring report noted delays in three areas. These included: (a) the IFC Advisory Services team's scoping process to address injured former workers' livelihoods (Bujagali-04, -06, and -08); (b) implementation of an IFC-commissioned review of worker claims of wage non-

[23] https://officecao.org/Bujagali-04; https://officecao.org/Bujagali-06; https://officecao.org/Bujagali-07; and https://officecao.org/Bujagali-08.

payment (Bujagali-06); and (c) implementation of an IFC-commissioned gap analysis and resettlement completion report (Bujagali-07).

In May 2020, CAO's second monitoring report acknowledged the completion of IFC Advisory Services' scoping report, which recommended possible livelihood support to injured former workers, as well as the review of wage non-payment claims, which found insufficient evidence to verify the workers' allegations. In the Bujagali-07 case, CAO acknowledged completion of Task 1–Gap Analysis of Existing Closure Reports but noted limited progress in preparing and implementing Task 2–Supplemental External Completion Report.

In September 2022, CAO's third monitoring report noted IFC progress in the development of a livelihood support program for injured former workers, although with significant delays. CAO also reported that IFC did not propose any further actions on wage non-payment despite new evidence of pay statements and on underpayment of asset compensation to households. CAO's non-compliance findings and associated adverse impacts on the complainants remained unaddressed.

Since IFC continues to implement an Advisory Services program to support the livelihoods of injured former workers at the client's hydropower plant, CAO has decided to keep open its monitoring of the two relevant complaints (Bujagali-04 and -08). IFC's response to CAO's non-compliance findings regarding unpaid wages to workers and lack of compensation for land, crops, and other assets (Bujagali-06 and -07) has been Unsatisfactory. Given that the Bujagali hydropower project is an active IFC project that remains in material non-compliance with IFC's environmental and social requirements, and the related impacts raised by the complainants remain unaddressed, CAO will keep this complaint open in monitoring.

Workers' compensation (Bujagali-04 and -08): IFC actions

In response to CAO's non-compliance findings of November 2017 on compensation for injuries to workers, IFC carried out a scoping study in 2018–2019 and launched an Advisory Services project in 2021 to support the livelihoods of formerly injured workers (FIWs). Following delays due in part to the COVID-19 lockdown and nationwide security concerns, the project completed its first component, which included identifying FIWs still residing in the area and conducting a socioeconomic baseline survey and a baseline assessment on capacity and skills of the FIWs. The project's local implementation partner conducted workshops with the FIWs and their spouses/caregivers on disability orientation and awareness, and exposure learning. The second component focuses on building the capacity of self-help groups including through a livelihood needs assessment and training former workers in skills such as lobbying, proposal writing, and resource mobilization, as well as provision of one-time livelihood support.

Eighty-three of the 93 complainants are participating, 33 in Buikwe (including two women) and 50 in Jinja (including three women), along with 63 spouses or caregivers. In response to CAO's concern raised in the last monitoring report, the project identified and included three widows of deceased FIWs.

Advisory Services is currently implementing the second project component, following delays due to internal discussions on the mechanism to channel financial resources to FIWs. The project hired an implementation partner in February 2024, who has reviewed the 83 livelihood plans and conducted an

initial engagement with the FIWs. Upcoming activities include continued engagement to refine their livelihood plans, training and coaching on business management, and procurement and disbursement of forms of support. The implementation partner will also work with the FIWs to identify financial and non-financial support to help sustain their income-generating opportunities beyond IFC's involvement.

Workers' compensation: CAO comments

Despite significant delays in implementing this Advisory Services project, it has progressed considerably during this monitoring period. CAO welcomes the project team and its implementation partner's efforts to identify and include 83 FIWs in the project along with 63 spouses/caregivers. CAO acknowledges IFC's efforts to identify and include three widows of deceased injured workers. CAO acknowledges the completion of trainings and workshops with the FIWs and their spouses/caregivers. Given that the project is in the process of implementing the final key activity related to livelihood support for the FIWs, CAO will keep these cases (Bujagali-04 and -08) open.

Unpaid wages (Bujagali-06): IFC actions

In 2018–2019, IFC hired a consultant to review and evaluate the claims made by subcontracted workers of its client regarding non-payment of wages and other benefits dating back as far as 2007. The consultant concluded that there was insufficient evidence to verify the accuracy of the claims.

In its second monitoring report, CAO raised concerns about the methodology used in the consultant's review, which did not include complainants' oral testimonies or request documentation from Bujagali Energy Limited (BEL), its subcontractor, or engineering procurement and construction (EPC) contractor. The review did include as an annex a statement from the former Mukono District labor officer responsible for the project site during construction. This statement noted shortcomings in the subcontractor's human resources practices which did not meet Ugandan legal requirements. As a result, the labor office issued legally binding pay statements for the project workers in lieu of the pay records the subcontractor failed to produce.

In early 2021, CAO received copies of pay statements issued by the Mukono District Labor Office and shared them with IFC. These statements covered 426 workers for the week of March 18–24, 2010, and showed the itemized and total unpaid remuneration due to each worker. The total unpaid remuneration of these pay statements amounted to more than 3 billion Ugandan shillings (approximately US$1.6 million as of March 2010).

In mid-2022, IFC re-engaged its consultant to investigate the pay statements and informed CAO that the consultant confirmed their authenticity with the labor office in an official letter. However, as stated in CAO's third monitoring report, IFC determined no further actions were warranted based on the following:

- Boschcon is out of business and its owners cannot be reached.
- Bujagali Energy, the IFC client, has no contractual obligations toward these workers as they were employed by a subcontractor. The IFC client considers the matter closed and has no information or documentation regarding subcontractor workers.

- IFC disagrees with CAO's investigation finding that PS2 (2006) applies to workers employed by the client's subcontractor because IFC maintains that they provided "non-core functions" related to the construction of office buildings and expatriate housing.
- IFC's commitment at the time of refinancing the Bujagali project in 2018 was to review the workers' claims through an independent consultant. IFC has fulfilled this commitment and has not committed to any further action.

Unpaid wages: CAO comments

Since CAO's third monitoring report published in September 2022, IFC has not carried out any further action.

CAO emphasizes that IFC management committed to "appraising…the workers' claims…to determine whether sufficient evidence is available to determine the merits of the workers' claims." As noted in the addendum to IFC's management response, CAO notes that IFC was prepared to carry out further activities that were "contingent upon the findings" of the study of the workers' claims. While the IFC-commissioned study concluded that there was insufficient evidence to verify the claims, new evidence emerged that enabled IFC to verify the wages owed to project workers. Yet, IFC maintains it will not address the non-compliance and related adverse impacts, i.e., non-payment of wages, in part due to IFC's disagreement with CAO findings as well as its view that it fulfilled its commitment to review the workers' claims. Therefore, CAO rates the IFC action for this case Unsatisfactory.

Compensation for land and crops (Bujagali-07): IFC actions

The hydropower plant's associated electricity transmission line resulted in resettlement that affected local people's livelihoods. In its December 2017 investigation report, CAO concluded that IFC lacked assurance that the compensation framework for the transmission line met IFC's Performance Standards for compensation at full replacement cost. IFC subsequently shared with CAO terms of reference (TOR) for a consultant to carry out a gap analysis of the project resettlement completion documentation (task 1), prepare a supplemental completion report to address any identified gaps (task 2), and prepare a corrective action plan to address any unfulfilled commitments to impacted households (task 3).

In February 2019, IFC's consultant completed the gap analysis (task 1), which identified several gaps in the existing completion reports against Performance Standard 6 (2006) requirements for determining whether project-affected people's livelihoods had been restored. CAO observed at the time that the TOR focused on livelihood restoration and did not address CAO's findings regarding compensation for impacted assets at full replacement cost.

The owner of the transmission line, UETCL, had initially approved the task 1 report and provided the go-ahead to start task 2 in May 2019. However, IFC reported to CAO that UETCL withdrew its support for task 2 in June 2019. IFC subsequently approached the Government of Uganda and the World Bank for support to advance task 2. However, IFC was unable to re-establish cooperation with UETCL, which it deemed necessary to move forward with this task.

Compensation for land and crops: CAO comments

Since June 2021, IFC has reported to CAO that there are no further updates and has proposed no additional actions in relation to this complaint.

IFC has not taken further actions to address its non-compliances,, resulting in the likely underpayment of compensation to households adversely affected by construction of the transmission line. CAO also notes IFC's view that the project lenders have limited leverage to enforce the E&S requirements in the Direct Agreement that the lenders, including IFC, and Bujagali signed with UETCL, which include a requirement for a final resettlement audit and associated corrective action plan. As noted in the third monitoring report, despite IFC's acknowledgement that the Direct Agreement is a binding contract under English law and its requirements are enforceable by arbitration, IFC has taken no actions to enforce this requirement.

Uganda: Bujagali Energy – 04, 06, 07 & 08/Bujagali

CAO Investigation Report Bujagali-04 and 06: https://bit.ly/4bk2XUd
CAO Investigation Report Bujagali-07: https://bit.ly/3xTzJwT
IFC Management Response: https://bit.ly/4bj4M3Q
IFC Management Response Addendum: https://bit.ly/3y1XZwX
CAO First Monitoring Report: https://bit.ly/3JH3SCv
CAO Second Monitoring Report: https://bit.ly/3US81df
CAO Third Monitoring Report: https://bit.ly/3JLpn4Q

OSH, Workers' Compensation, Unpaid Wages (Bujagali Energy-04, 06, 08)

CAO Non-Compliance Finding #1
November 2017

IFC's pre-investment review of the project was not commensurate to risk. As a result, IFC did not have assurance that the project could meet Performance Standards' labor- and OSH-related requirements over a reasonable period of time.

Bujagali-04 and Bujagali-06 - workers' compensation for injuries:
IFC did not consider whether national requirements for workers' compensation provided injured workers with access to appropriate compensation as required under the Sustainability Framework. IFC did not assure itself that the Bujagali-04 complainants received appropriate compensation for workplace injuries.

IFC Response and/or Commitments in Response May 2018	**IFC Reported Implementation** June 2022 – February 2024	**Complainants' Observations** February 2024 (Bujagali-04) November 2022 (Bujagali-06)	**CAO Observations** March 2024
Bujagali-04 Workers' Compensation: Through initial scoping work, IFC Advisory Services is planning to help identify possible institutional	Through a local implementation partner, the project conducted a series of workshops from April 2022 to July 2023. The workshops covered four areas: disability	The Bujagali-04 complainants are keen to start their participation in the livelihood support program for injured workers and widows of deceased injured workers after	Despite significant delays in the implementation of the Advisory Services (AS) project, it has progressed considerably during this monitoring period. CAO welcomes

arrangements as well as assess the need for capacity building to BEL and other identified institutions to address the issue of injured workers effectively.	orientation; peer-to-peer learning; capacity building on self-help groups for savings, income generation, and social cohesion; and skills development and training on livelihoods. The project carried out additional sessions on financial literacy for spouses of FIWs (formerly injured workers). IFC notes that an unintended positive outcome of the training was the formation of an association by FIW spouses in Buikwe, who meet weekly to save and share experiences on how to support their families. The project is implementing the final component, which is to provide support to the FIWs' livelihood plans. This component was delayed due to internal discussions on finalizing the mechanism through which to provide financial resources to the FIWs. As of February 2024, the project has hired an implementation partner who has conducted a preliminary review of the 83 livelihood plans and an initial engagement with the FIWs. The top three activities proposed for support include animal farming, trading, and crop farming, along with other activities such as welding and fabrication, mechanics, construction, value addition, carpentry, music, and entertainment. Upcoming activities include continued engagement with the	significant delay. The supporting CSO noted that the beneficiaries are very enthusiastic about the program and expressed their anxiety and concern about its delayed implementation.	efforts by the project team and its implementation partners to identify and include 83 of the 93 FIWs in the project along with 63 spouses/ caregivers. CAO acknowledges IFC's efforts to identify and include three widows of deceased injured workers in response to CAO's concern noted in the last monitoring report. CAO acknowledges the completion of a series of trainings and workshops with the FIWs and their spouses/caregivers. CAO understands the project is in the process of implementing the final activity to provide one-time support to the FIWs in the form of in-kind contributions to their business plans or payment of social services to contribute to the improvement of the FIWs' living standards. As mentioned in the last monitoring report, the AS project does not address the CAO investigation report findings in relation to the adequacy of compensation for (a) former Bujagali workers who were seriously injured or dependents of those who were fatally injured, and (b) former subcontractor workers who sustained workplace injuries. CAO rates this IFC action as Too Early to Tell. CAO reaches this decision on the basis that the AS project is in the process of implementing the key activity related to livelihood support for the

	FIWs to refine their livelihood plans, training and coaching on business management, and procurement and disbursement of inputs and other forms of support. Finally, the implementation partner will, in consultation with the FIWs, identify avenues of financial and non-financial support to help the participants sustain their income-generating opportunities beyond IFC's involvement.		FIWs. CAO will therefore keep this complaint open for monitoring.

Status and action rating Open: Too Early to Tell

CAO Non-Compliance Finding #2
November 2017

IFC's supervision was not sufficient to assess whether the project labor and OSH performance met the specific requirements of IFC's Guidelines for Occupational Health and Safety or good international industry practice as required by PS2.

Bujagali-06 unpaid wages:
IFC erred in deciding that the Bujagali-06 complainants were not covered by its E&S requirements. As a result, allegations that construction of the project had significant adverse effects on employees of the subcontractor were not addressed.

IFC Response and/or Commitments in Response May 2018	**IFC Reported Implementation** June 2022 – February 2024	**Complainants' Observations** February 2024 (Bujagali-04) November 2022 (Bujagali-06)	**CAO Observations** March 2024
Bujagali-06 Unpaid Wages IFC has agreed to start appraising, within the context of the complaints to CAO, the workers' claims through an independent third party to determine whether sufficient	As reported in the third monitoring report, in May 2022, IFC re-engaged its consultant to investigate the pay statements, and informed CAO that the consultant	The Bujagali-06 complainants express ongoing frustration that IFC proposes no actions to resolve the issue of unpaid wages from 2007 and 2008, despite IFC having verified the pay statements issued	CAO notes that IFC management committed to "appraising...the workers' claims...to determine whether sufficient evidence is available to determine the merits of the workers' claims." As noted in

evidence is available to determine the merits of the workers' claims.	confirmed their authenticity with the labor office in an official letter. However, IFC determined no further actions were warranted based on the following: • Boschcon (the subcontractor) is out of business and its owners cannot be reached. • BEL (the client) does not have any contractual obligations toward these workers, who were employed by a subcontractor. BEL considers the matter closed and has no information or documentation regarding the subcontractor workers. • IFC disagrees with CAO's investigation finding that PS2 (2006) applies to the workers employed by the subcontractor because IFC maintains that they provided "non-core functions" related to the construction of office buildings and expatriate housing. • IFC commitment at the time of refinancing the Bujagali project in 2018 was to review the workers' claims through an independent consultant. IFC has fulfilled this commitment. IFC has not committed to any further action.	by the district labor officer that confirm the wages owed to the former workers.	the addendum to IFC's management response, CAO notes that IFC was prepared to carry out further activities that were "contingent upon the findings" of the study of the workers' claims. While the consultant's study commissioned by IFC concluded that there was insufficient evidence to verify the claims, new evidence subsequently emerged and IFC was able to verify the wages owed. Yet, IFC maintains they will not address the non-compliance and related adverse impacts, i.e., non-payment of wages to Bujagali subcontractor workers, due to IFC's disagreement with CAO's findings as well as their view that they fulfilled their commitment to review the workers' claims. Given that the Bujagali hydropower project is an active IFC project, and IFC has not taken further actions to address its non-compliances and the related impacts raised by the complainants, CAO will keep this complaint open in monitoring.
Status and action rating Open: Unsatisfactory			

Transmission Line Land Acquisition (Bujagali-07)

CAO Non-Compliance Finding #3
December 2017

At the time of writing CAO's investigation report in 2017, no completion audit of the resettlement process had been conducted. Thus, CAO found that IFC lacked assurance that compensation paid met the full replacement cost requirement or that affected people had been appropriately compensated considering the delays in payment that have occurred.

IFC Response and/or Commitments in Response May 2018	**IFC Reported Implementation** June 2022 – February 2024	**Complainants' Observations**	**CAO Observations** March 2024
IFC and AfDB agreed to engage with UETCL [owner of the transmission line] to: (i) identify and address any relevant gaps in the existing project completion reports vis-à-vis IFC completion report requirements; and (ii) close out any associated corrective actions.	In June 2021, IFC informed CAO that IFC approached the government of Uganda and the World Bank for support to advance the preparation of the supplemental completion report. IFC was unable to re-establish cooperation with UETCL, which IFC deemed was necessary to move forward with this task. Since June 2021, IFC states there are no further updates and IFC has not proposed any additional actions in relation to this complaint.	The Bujagali-07 complainants did not provide any comments during this monitoring period.	Since June 2019, when UETCL withdrew its support for the supplemental completion report for the resettlement process, IFC has been unable to re-establish cooperation with UETCL to move forward with this action. IFC has not taken further actions to address its non-compliances, particularly resulting in the likely underpayment of compensation to households adversely affected by the construction of the transmission line. CAO also notes IFC's view that IFC and the other project lenders have limited leverage to enforce the E&S requirements in the Direct Agreement that the lenders, including IFC, and Bujagali signed with UETCL, which includes a requirement for a final resettlement audit and associated corrective

			action plan. As noted in the third monitoring report for this case, despite IFC's acknowledgement that the Direct Agreement is a binding contract under English law and that its requirements are enforceable by arbitration, IFC has taken no action to enforce this requirement. Given that the Bujagali hydropower project is an active IFC project, and IFC has not taken further actions to address its non-compliances and the related impacts raised by the complainants, CAO will keep this complaint open in monitoring.
Status and action rating Open: Unsatisfactory			

India Infrastructure Fund-01[24]/Dhenkanal District, India: Project-level Actions

Case Summary

In 2007, IFC made an equity investment in India Infrastructure Fund (IIF), a financial intermediary that invests in infrastructure projects in the energy, utilities, transport, and telecommunications sectors. In 2009, IIF invested in GMR Kamalanga Energy Limited (GKEL), a special purpose vehicle set up to develop and operate a 1050 megawatt coal-based power plant near Kamalanga village in Dhenkanal, a district of Odisha State. The plant began operations in 2013.

In April 2011, CAO received a complaint submitted by two organizations on behalf of people affected by the project. The complainants, Odisha Chas Parivesh Surekhsa Parishad (the Odisha Agriculture and Environmental Protection Council) and Delhi Forum, raised concerns about disclosure of project information and transparency regarding the power plant's environmental and social risks and impacts. Particular concerns included the plant's expected impact on pollution, damage to properties, failure to provide adequate compensation to project-affected people for land, crops, trees and water resources, and loss of livelihoods, and failure to implement Indigenous People provisions.

In January 2016, CAO published the results of a compliance investigation, which identified non-compliances in IFC's pre-investment E&S due diligence, its structure for managing client-related E&S risk, and its project supervision and disclosure. CAO's report also noted that IFC's approach of supporting IIF to develop its own E&S management systems for compliance with IFC Performance Standards did not deliver the intended outcomes in this case.

In response, IFC committed to two E&S action plans: an IFC-IIF plan to improve the equity fund's E&S risk management across its portfolio of Category A projects; and an IIF-GKEL plan to assess and mitigate plant impacts on project-affected people, including through a Livelihood Restoration Plan.

CAO Monitoring and Status

CAO's first monitoring report in March 2019 noted that IFC had actively monitored IIF's implementation of the joint action plan. However, CAO remained concerned that IFC's investment was resulting in potential adverse E&S project impacts that had yet to be resolved. CAO considered that further supervision of IIF's Kamalanga project by IFC was necessary to assure the adequacy of a range of agreed E&S measures. These included: a) livelihood restoration measures for households impacted by land acquisition; (b) consultation around the livelihood restoration plan; (c) disclosure of project E&S documents in local languages; (d) the methodology used to determine Performance Standard 7 (Indigenous Peoples) applicability; (e) development of community health impact assessment and risk mitigation framework; and (f) monitoring of project compliance with IFC air quality requirements.

Since 2019, IFC has continued to actively monitor implementation of the action plans, and recorded ongoing material E&S risks and impacts at some IIF portfolio investments. However, provisions in both action plans to conduct a completion audit of whether Performance Standard gaps were addressed by the parties have not been conducted. As a result, CAO finds that available evidence does not show that

[24] https://officecao.org/IIF-01.

the E&S risks and impacts to affected communities, including the complainants, were addressed during IIF's investment in the power plant. In 2022, IIF fully divested from GMR Kamalanga, ending IFC's active connection to the project.

Since the IFC client has divested from GMR Kamalanga, and the IIF equity fund is now in the processing of winding down, there is no reasonable expectation of further action by IFC to address the impacts raised by the complainants. Accordingly, CAO has decided to close the actions in this case with a performance rating of Partly Unsatisfactory-Unsatisfactory.

The table below details the CAO non-compliance findings it has monitored. In preparing this table, IFC and the complainants were provided with an opportunity for their input.

India: India Infrastructure Fund-01/Dhenkanal District

CAO Investigation Report: https://bit.ly/4docPhn
IFC Management Response: https://bit.ly/3Qp6Uik
CAO First Monitoring Report: https://bit.ly/44t1OHQ

CAO Non-Compliance Finding #1
October 2015

IFC's supervision was not sufficient to ensure that the high-risk projects it was financing through IIF (the Fund) were designed and operated in a manner consistent with the Performance Standards – a key objective of IFC's Sustainability Policy.

IFC Response and/or Commitments in Response October 2015	**IFC Reported Implementation** December 2023	**Complainants' Observations** December 2023	**CAO Observations** January 2024
Summarize IFC Action Plan Response: (a) Engage with all portfolio companies and projects that were Category A at the time of Fund's investment for undertaking and completing third party audits to assess compliance with Fund's Performance Standards and Fund's environment and social action plan; (b) develop action plan based on third party audit findings; (c) implement the action plan; and (d) complete a third-party action plan completion audit for each of the companies where the audit was undertaken pursuant to (a).	Of six Category A projects identified, third- party audits were conducted for five of the projects in FY2017. For one project, the audit could not be undertaken due to management change at the company. To the extent that there were deficiencies in the scope of the audit, it was agreed that the scope deficiencies were to be addressed in the final completion audit. Corrective action plans were developed as part of the initial third-party audits. For some of the projects, IIF indicated that these corrective actions plans had been implemented. The final audit was	See comments in Finding #2	From a review of IFC documentation, CAO notes that IFC has sought to actively monitor IIF sub-projects. IFC conducted site visits to some sub-projects and noted PS gaps which were communicated to IIF and subsequently supervised by IFC. IFC's general supervision of IIF noted ongoing challenges in ensuring that IIF applied E&S requirements to its sub-projects. IFC also recorded gaps in IIF's implementation of the agreed IFC-IIF action plan. In particular, the scope of the third-party audits was inadequate. It is unclear whether these were addressed and,

	not undertaken for four of the five projects for which the initial audit had been undertaken, in part due to due to Covid and commencement of exit conversations with these sub-project clients. IIF stated that the final audit for the fifth project had been undertaken although the audit was not shared with IFC. IIF has since exited all investments and is in wind down mode.		critically, a final completion audit was only conducted for one of the six sub-projects, and this report was not shared with IFC. As a result, while IFC during supervision identified PS compliance gaps in IIF sub-projects, IFC did not obtain evidence that these were addressed. IFC has confirmed to CAO that it has an active investment in IIF but that IIF is in the process of closing. IFC supervision documentation records significant E&S compliance gaps for some of IIF's investments while it was an IFC client and at exit. IFC also recorded gaps in IIF's implementation of its E&S Management System.

Status and action Closed: Partly Unsatisfactory

CAO Non-Compliance Finding #2

October 2015

The Kamalanga project has completed construction and is fully operational while IFC maintains the view that key concerns regarding the impacts of the project as raised by the complainants have not been addressed in accordance with the Performance Standards.

IFC Response and/or Commitments in Response	IFC Reported Implementation	Complainants' Observations	CAO Observations
October 2015	December 2023	December 2023	January 2024

Summarize IFC Action Plan Response: (a) Complete implementation of the action plan based on findings of the third-party audit of July 2014; (b) Complete development of a Livelihood Restoration Plan and a Stakeholder Engagement Plan; (c) Complete implementation of the livelihood restoration plan; (d) Complete implementation of the stakeholder engagement plan; (e) Implement third-party suggestions for improved grievance redress mechanism (GRM) in consultation with affected communities; (f) Independent audit confirms completion of all of the above actions; and (g) In accordance with Fund's Performance Standard 1 provisions, disclose to affected communities the audits, assessments, action plans and periodic updates on status of implementation of action plans.	(a) This was completed and confirmed by a third- party consultant in their review dated October 3-5, 2016 except for a Cumulative Impact assessment that was required and has not been completed to date. (b) Stakeholder Engagement Plan completed March 2016 and Livelihood Restoration Plan (LRP) completed May 2017; (c) The third-party consultant prepared a three-year plan for LRP implementation, hence the completion date was revised to June 2020. However, the LRP was fully implemented as per information provided by client by March 2022. Quarterly third-party monitoring of LRP implementation was envisaged. Third-party monitoring was under taken for eight quarters, last one being March 2020. Quarterly third-party monitoring was stopped due to Covid and never restarted. As per the last third-party monitoring report, about 78% of the project- affected families (PAFs) who had accepted LRP had been covered i.e., 1,217 PAFs of the 1,554 PAFs that accepted LRP. (d) This was completed and confirmed by a third- party consultant in July 2016 and IFC supervision in May 2017 and May 2019, though improvements were recommended regarding documentation of engagement. (e) Completed and confirmed by a third-party consultant in July 2016 and IFC supervision of May 2017.	CAO completed its last monitoring of this case in March 2019. In preparing that report, CAO talked to the complainant representatives and complainants from the project site. Nearly four years have passed since the last CAO monitoring of this case. While there has been infrequent contact during this time, in preparing this monitoring report, CAO was unable to reach the complainants directly for their observations. The complainant representatives noted to CAO that the undue delay between the case filing (2011) and the CAO compliance investigation report (2016), and the time that has passed since CAO's monitoring report in 2019, has resulted in the communities giving up hope on the CAO process.	As noted in the 2019 CAO Monitoring Report, project-affected people were not consulted on the design of livelihood measures. Since then, there is no evidence that IFC nor IIF ensured that corrective actions were taken by GMR Kamalanga Energy to ensure that project-affected people were adequately consulted in the design of the livelihood restoration measures (e.g., ensuring measures are tailored to the needs of recipients) while the LRP continued to be implemented. IFC supervision documentation indicates that a significant minority of project-affected people who refused support or were deceased or non-traceable were not provided any livelihood support. Available information does not detail the actions taken to ensure that these affected people, and their relations, were offered acceptable measures to restore or improve their livelihoods. Furthermore, where livelihood restoration measures were implemented, available documentation indicates a number of failed initiatives. How these failed initiatives were adequately addressed is not sufficiently covered in available documentation. CAO is also concerned that an independent third- party audit was not completed. Without an LRP completion audit, it is not possible to confirm that the plan met the PS5 standard "to improve or at least

	But IFC supervision of May 2019 observed that PAFs were aware of the grievance mechanism but monthly GRM meetings had been stopped since December 2018 and the GRM records had also not been updated for FY2019. (f) This third-party audit has not been undertaken. While a third party was monitoring LRP implementation, the last such monitoring was undertaken in March 2020. The Company has shared an internal report documenting completion of LRP implementation. However, this report does not assess re-establishment of sustained livelihood due to the intervention. (g) Confirmed by third- party consultant in their information disclosure note of July 2016.		restore the livelihoods and standards of living of displaced persons". Rather, given that no measures were implemented for a significant minority of project-affected people, CAO has ongoing concerns regarding IFC's supervision of PS5 implementation at the sub-project level.

Status and action Closed: Unsatisfactory

CAO Non-Compliance Finding #3

October 2015

IFC did not adequately supervise IIF's compliance with the disclosure requirements under the Performance Standards, either in relation to its own operations or those of the Kamalanga project.

IFC Response and/or Commitments in Response	IFC Reported Implementation	Complainants' Observations	CAO Observations
October 2015	December 2023	December 2023	January 2024

Summarize IFC Action Plan Response in accordance with the Fund's Performance Standards requirements. The disclosure process is outlined below: * Disclose the audit report to affected communities. * Disclosure would involve translating the document into local language, placing both English and local language versions at a nearby third-party location. * Portfolio company to put up a notice in the local Panchayat announcing the public availability of these documents including details of where they are kept and the modalities of accessing the documents. * Third-party consultant will witness the local disclosure and confirm. * Ongoing disclosure and consultation with affected communities to be undertaken as per the stakeholder engagement plan to be developed as part of the action plan based on third-party audit findings.	For some of the projects, IIF indicated that the corrective actions plans had been implemented. No information was provided regarding disclosure of these reports and action plans and IFC's supervision visit in 2017 determined that disclosure had not been undertaken at that time. The fund had indicated that the disclosure will be scheduled and this was to be confirmed in the final audit.	See comments in Finding #2	IFC's update reports that this measure was not implemented. As the Fund has divested from its sub-projects and is in the process of winding down there is limited prospect of this action being implemented.
Status and action Closed: Unsatisfactory			

Real LRIF-01[25]/Coban, Guatemala: Project-level Actions

Case Summary

The Santa Rita project was a planned 23-megawatt hydropower plant on the Río Icbolay in Alta Verapaz, Guatemala. The project was managed by a local development company, Hidroeléctrica Santa Rita, S.A (HSR), which was majority owned by Latin Renewables Infrastructure Fund (LRIF, "the Fund"), a financial intermediary. IFC made an equity investment in LRIF in 2012. Following protests, the project was halted in 2015. IFC retains an active investment in LRIF, which owns HSR (though project development ceased in 2015).

In October 2014, CAO received a complaint from two local organizations, Colectivo Madre Selva and the Consejo de Pueblos de Tezulutlan, on behalf of several communities downstream and upstream of the project. The complainants stated that HSR had not addressed their concerns about project design, the decision not to apply FPIC, potential adverse impacts on local water sources, and their ability to generate income and sustain their livelihoods. They claimed that their opposition to the project had been met with violence, repression, and criminalization of community leaders.

CAO's investigation report was released in October 2017, making several non-compliance findings in relation to IFC's pre-investment environmental and social due diligence (ESDD) and project supervision. In particular, CAO found that IFC's pre-investment review of LRIF was not commensurate to the risks and challenges the client would face in implementing IFC's recently updated Indigenous Peoples requirements. Further, CAO found that IFC's approach to ESDD was flawed as its staff were not given sufficient time or information to determine whether LRIF was applying IFC standards to its projects. During IFC's project supervision, construction works for the project commenced and opposition intensified, with two children and a former worker at the project site killed during an incident in August 2013. In this context, CAO's investigation found that IFC did not sufficiently engage LRIF to address the rising tensions, violent incidents, and serious allegations of E&S impacts raised by local community members and their representatives. CAO also found that IFC should have reevaluated the applicability of its Indigenous Peoples standards to the project during supervision.

In its Management Response, IFC noted the project was halted in 2015 and the plant never constructed, which meant that most potential E&S impacts never materialized. IFC added that the project E&S assessment was ongoing and the project E&S Action Plan was designed to ensure compliance with the Performance Standards, had the plant gone ahead. More broadly, IFC stated that it applied a rigorous E&S framework for financial intermediary (FI) clients that was considered best practice in the investor community. IFC did not commit to any project-level actions in response to CAO's non-compliance findings.

CAO Monitoring and Status

In August 2019, CAO published its first monitoring report. This noted that IFC had strengthened internal procedures for appraising and supervising FI investments, but that IFC had not committed to take any action with LRIF regarding the project-level issues raised by complainants. CAO therefore concluded that IFC had not adequately supervised its client on the HSR sub-project to ensure that it assessed residual project impacts and, as appropriate, minimized, compensated for or otherwise

[25] https://officecao.org/LRIF-01.

remedied them. CAO's monitoring report also noted that the complainants continued to assert that residual project impacts remained unaddressed, including community division, arrest warrants, and land tenure issues. In addition, LRIF, the IFC client, continued to own a controlling equity share in the project.

In response, IFC hired a consultant to conduct an analysis of residual project impacts. This review concluded that gaps in Performance Standard implementation related to the Hidro Santa Rita project were not linked to community division because many years had passed with no project activity and other contextual factors were present. These wider factors included Guatemala's colonial past and violent civil war, socio-economic inequalities, limited government presence in the area, and local groups competing for political and economic power. However, neither the complainants nor affected communities were consulted for this analysis due to the sensitivity of the case and to avoid creating expectations.

As a result, CAO concludes that IFC has yet to assure itself that residual impacts of the hydropower project have been adequately assessed and, as appropriate, minimized, compensated for or otherwise remedied in accordance with the Sustainability Policy (para. 6) and Performance Standard 1 (paras. 4 & 14). IFC remains exposed to the HSR (though ceased development in 2015) through its active investment in LRIF, and CAO has decided to keep this case open. CAO makes this determination on the basis that: (a) IFC has an active investment in the Fund that owns HSR; (b) the assessment of residual impacts failed to consult the complainants and local communities; and (c) the complainants continue to assert that residual project impacts remain unaddressed (community division, arrest warrants, and land tenure). Further, the absence of clarity on whether the project will be developed in the future and the continued involvement of IFC's client /HSR in the project is an ongoing concern for complainants.

The table below details the non-compliance findings that CAO is monitoring. In preparing this table, IFC and the complainants have provided their input.

Guatemala: Real LRIF-01/Coban

CAO Investigation Report: https://bit.ly/3JKraXU
IFC Management Response: https://bit.ly/4bkLQ4B
CAO First Monitoring Report: https://bit.ly/3JK1QBu

CAO Non-Compliance Finding
August 2017

IFC's supervision did not provide sufficient evidence to conclude that LRIF was correctly applying IFC's E&S requirements to the project. Given the ongoing conflict around the Hidro Santa Rita project, and persistent concerns about local impacts, additional supervision was required by IFC, in particular in relation to: (a) the adequacy of additional E&S assessments required by the project ESAP, (b) the decision not to apply FPIC to the project; and (c) the client's security management plan.

IFC Commitments in Response October 2017	**IFC Reported Implementation** November 2023	**Complainants' Observations** December 2023	**CAO Observations** December 2023
The Fund was taking active measures to address E&S issues as they arose, including full stoppage of the project at significant financial cost. In that time, the Fund tried to find ways to engage with the community. Issues that are central to this investigation were identified and reported by the Fund itself well before the CAO complaint and investigation – as a consequence the project was stopped, and never resumed. Impacts were duly reported, and IFC's supervision indicated that the Fund was dealing appropriately with the situation, especially in light of its	Following the community's claims, the project was cancelled in 2015, the Fund withdrew, and the project was never developed. The Fund has focused primarily on developing other projects in sectors considered low to medium risk (mainly solar assets). As the Fund has completed its investment period, no new investments are contemplated. As such, IFC considers that no further actions are needed to apply IFC's E&S requirements to the project.	The complainants confirm that the HSR project has stopped, and no activity has been seen in the project area. They continue to have concerns regarding some residual impacts, including criminalization of opposition leaders. They assert that arrest warrants have remained outstanding for some project opponents in recent years, which has limited their work opportunities, health care access, and the possibility to formally register their children with Guatemalan authorities. The complainants are also concerned about the possibility that the Fund will resume the project, and what would happen if	IFC's response to the 2017 CAO investigation did not commit to any project-level actions. Following CAO's 2019 monitoring report, IFC commissioned an analysis of residual project impacts. CAO welcomes IFC decision to commission this analysis. However, a key weakness in its preparation was the failure to consult the complainants and local communities. CAO notes that since its investigation was concluded, another project lender, FMO, exited its direct shareholding in the investment. Accordingly, IFC and

decision to stop the project at significant financial cost. IFC also consulted with other investors and outside E&S specialists on the adequacy of the mitigation measures in place. IFC's E&S supervision complied with the applicable policies for FI investments and exceeded that of any other investors in the Fund. Nonetheless, IFC continues to enhance its E&S supervision of FI clients. For example, IFC's approach to supervision includes visits from IFC's E&S staff to a sample of fund sub-projects to assess E&S risks and help fund clients in managing those risks. IFC is also offering regular E&S risk management training for clients, which has resulted in better implementation of IFC's E&S requirements and increased compliance by fund managers.		the project land is sold to another developer. They specifically raised apprehensions about whether public access to a road built by HSR would remain open if the project land is sold, since this is the sole access road available to several communities. The complainants also raised questions about IFC's responsible exit strategy and whether there are mechanisms to ensure their remaining concerns will be addressed before the Fund formally exits its investment in HSR.	IFC AMC hold approximately 35% equity in LRIF, which in turn holds full ownership of HSR. In 2019, CAO recommended that IFC advise its client to develop a public statement clarifying its position with regard to the project. At the time of this second CAO monitoring report, no action has been taken on this recommendation. CAO reaffirms this recommendation and notes that LRIF's public statement should outline its intention going forward. The public statement should also detail the client's views on outstanding arrest warrants and community road access. CAO has decided to keep this case open. CAO makes this determination on the basis that: (a) IFC has an active investment in the Fund which owns HSR; (b) the assessment of residual impacts failed to consult the complainants and local communities; and (c) the complainants continue to assert that residual project impacts remain unaddressed (community division, arrest warrants, and land tenure). Further, the absence of clarity on whether the project will be developed in the future and the continued involvement of IFC's client /HSR in the project is an ongoing concern for complainants.
Status and action rating Open: Partly Unsatisfactory			

CIFI-01[26]/Santa Cruz, Guatemala: Project-level Actions

Case Summary

Hidro Santa Cruz (HSC) was a planned 4.9 megawatt hydroelectric power plant close to the town of Santa Cruz Barillas in Huehuetenango, Guatemala. HSC, the project developer, commenced construction in January 2012 but suspended operations two months later after community protests and abandoned the project in December 2016. IFC provided a 2008 equity and loan investment to one of the project's backers, financial intermediary Corporación Interamericana para el Financiamiento de Infraestructura (CIFI). CIFI provided a loan to HSC in December 2011 which it terminated in November 2015. CAO notes that CIFI divested from HSC in 2016.

In July 2015, CAO received a complaint from Indigenous community members living near the project site, which is located in a majority indigenous region of Guatemala. The complainants alleged that HSC did not meet IFC's requirements for conducting free, prior, and informed consultation (FPIC) with project-affected Indigenous Peoples. They also raised concerns about lack of transparency in the land acquisition process and project-related economic displacement. They argued that HSC should have conducted a cumulative impact assessment to understand environmental impacts, especially given that the developer was proposing a second hydropower project on the same river. In addition, the complainants asserted that project opponents were subject to violence, persecution, threats, and intimidation, noting one violent incident on May 1, 2012, where one local person was killed and two others injured. The complainants maintain that one perpetrator was a security guard hired by the project. HSC acknowledged that one of the two individuals charged with the murder had worked for the project's security company but denied any involvement in the incident.

In December 2018, CAO completed a compliance investigation report, which found that IFC's pre-investment environmental and social (E&S) review of CIFI's E&S management system (ESMS) was not commensurate to risk. Specifically, CAO identified shortcomings in IFC's assessment of both the client's track record of ESMS implementation and the client's capacity to implement its ESMS to IFC standards. In relation to the HSC project, CAO found that IFC's failed to ensure that CIFI was implementing an adequate ESMS sufficient to assess and monitor risks and impacts arising from investments in projects such as HSC. This lack of oversight contributed to a situation in which project activities were allowed to commence in advance of an adequate E&S risk assessment and implementation of mitigation measures, as required by the Performance Standards.

Following the violent incident in May 2012, CAO found that IFC did not adequately engage CIFI to ensure the client's response reflected Performance Standards requirements to address impacts throughout the project cycle, including at project closure. While CIFI terminated its loan in 2015, and the project was abandoned in 2016, CAO noted that available evidence supports the complainants' assertion that residual impacts remain. These residual impacts, according to the complainants, include the escalation of project-related conflict and limits placed on traditional access to land and natural resources due to a perimeter fence built around the project site. Though aware of these impacts during the period of financing, IFC did not engage with its client to ensure that residual project impacts were

[26] https://officecao.org/CIFI-01.

assessed, reduced, mitigated, or compensated for, as appropriate, including at project closure, as required by the Performance Standards and the Sustainability Policy.

IFC's response to CAO's investigation report or to CAO's monitoring did not commit to any actions with CIFI or at the sub-project level in Barillas.

CAO Monitoring and Status

In June 2020, CAO published its investigation report and IFC Management Response. IFC noted that it was deeply troubled by the unfortunate events surrounding the HSC project which was intended to bring renewable energy to one of the poorest parts of the country but became embroiled in communal violence that led to a state of siege by government forces. Since making its investment in CIFI in 2008, IFC noted that it had modified its practices and procedures in order to improve Performance Standard implementation by financial intermediary (FI) clients. IFC stated that CIFI had acted appropriately in responding to the violent incident in May 2012 by stopping disbursements and hiring a consulting firm. However, IFC acknowledged that there was scope for it to consider whether incidents at sub-project level merited greater IFC oversight. In relation to residual project impacts, IFC stated that it was deeply troubled by the impacts that stemmed from the civil unrest and subsequent state of siege in Santa Cruz Barillas, while noting that these impacts had not been attributed to HSC. IFC noted that photographs of the site from January 2020 indicate that the project area is not fenced to prevent community access.

IFC’s Management Response did not commit to any actions in response to CAO’s non-compliance findings regarding oversight of the CIFI investment and the HSC project. The complainants continue to assert that the initial development of Hidro Santa Cruz power plant had impacts on them that have yet to be addressed.

IFC held an equity investment in CIFI from 2008 to 2019. In 2019, IFC sold its equity to Valora Holdings, a company owned by the CIFI management team. In exchange for IFC's equity stake, payment was deferred with Valora agreeing to a senior secured loan with IFC. At the time of preparing this monitoring report, IFC's exposure to Valora remains active. Since Valora retains equity in CIFI, IFC continues to have indirect exposure to CIFI.

However, since CIFI exited its investment in Hidro Santa Cruz over eight years ago, and IFC did not commit to any project-level actions, there is no reasonable expectation of further action by IFC to address residual impacts. CAO has therefore decided to close the case.

The table below details the non-compliance findings CAO has monitored. In preparing this table, IFC and the complainants have provided their input.

In response to CAO’s investigation report, IFC did commit to a series of systemic level actions. CAO’s monitoring of these actions is covered in Section 4.

CAO has decided to close this case. CAO makes this decision on the basis that since IFC has not committed to any project-level actions and CIFI exited its investment in Hidro Santa Cruz over eight years ago, there is no reasonable expectation of further action by IFC to address residual impacts.

Guatemala: CIFI-01/ Hidro Santa Cruz

CAO Investigation Report: https://bit.ly/3UHHvmA
IFC Management Response: https://bit.ly/3JKzxTs

CAO Non-Compliance Finding #1
December 2018

Nine years after making its investment, IFC has yet to assure itself that the client is “operating the ESMS as envisaged at the time of appraisal” or that its client has “applied the applicable performance requirements to its sub-projects.”

IFC Response and/or Commitments in Response April 2020	**IFC Reported Implementation** November 2023	**Complainants' Observations** December 2023	**CAO Observations** January 2024
IFC met many times with CIFI, and, following the review of annual reports, albeit sometimes with delays, consistently made recommendations with the objective to improve E&S risk management. While IFC had raised concerns during monitoring that CIFI had disbursed loans to some other projects with an incomplete E&S assessment or unfulfilled E&S requirements, this was not the case for the investment in HSC. CIFI outsourced the ESDD to a qualified consulting firm, which completed a full assessment of the E&S risks of HSC’s investment prior to investment, requiring corrective actions that were completed to the satisfaction of that consulting firm prior to financial close and first	As outlined in the IFC Response, IFC worked with CIFI over the course of its investment to improve the company's ESMS, which improved significantly over the course of IFC's project with CIFI. As of this writing, CIFI is no longer a client.	See comments in finding #3	CAO notes that CIFI divested from HSC in 2016. IFC's response to CAO's investigation report or to CAO's monitoring did not commit to any actions with CIFI or at the sub-project level in Barillas. CAO has decided to close this case. CAO makes this decision on the basis that since IFC has not committed to any project-level actions and CIFI exited its investment in Hidro Santa Cruz over eight years ago, there is no reasonable expectation of further action by IFC to address residual impacts.

disbursement, according to an email from the consultant prior to disbursement and the first monitoring report. This is appropriate E&S risk management practice related to sub-project implementation of the Performance Standards – i.e., agreeing with the project sponsor on needed improvements and addressing gaps within a reasonable period of time. Despite performance issues and variations along the way, CIFI consistently improved over time and had significantly better E&S capacity at IFC's exit than when the relationship started.			

Status and action Closed: Unsatisfactory Rating

CAO Non-Compliance Finding #2
December 2018

IFC has taken insufficient action to support its client in establishing compliance with IFC's requirements. Thus, throughout the period of supervision, IFC has been at risk of exposure to projects with E&S impacts that are not being managed in accordance with the Performance Standards.

IFC Response and/or Commitments in Response	IFC Reported Implementation	Complainants' Observations	CAO Observations
April 2020	November 2023	December 2023	January 2024

Management agrees that closer and more timely monitoring of CIFI would have been beneficial to E&S risk management. Throughout the period of investment (2008-2019), IFC engaged regularly with CIFI to require improvements in its ESMS, through annual report reviews as well as the agreement on a corrective ESAP in 2015. The impact of IFC's recommendations to improve ESDD could have been more effective if the IFC E&S staff had visited a sample of CIFI sub-projects alongside its staff to point to real life, practical examples of poor performance or good practice. Such visits help client staff and systems improve at the aggregate level of their ESMS, rather than directly helping to manage the E&S risks of individual sub-projects. This practice was not common at the time of the IFC investment, but became more consistent in later years. CIFI also would have benefited from additional support from a social specialist to advise on the risks associated with the more complex projects in CIFI's portfolio.	As outlined in the IFC Response, IFC agrees it could have provided closer support to CIFI. Nonetheless, CIFI made great improvements to its ESMS during the course of the IFC project. As of this writing, CIFI is no longer a client.	See comments in finding #3	CAO notes that CIFI divested from HSC in 2016. IFC's responses to CAO's investigation report and to CAO's monitoring did not commit to any actions with CIFI or at the sub-project level in Barillas. CAO has decided to close this case. CAO makes this decision on the basis that since IFC has not committed to any project-level actions and CIFI exited its investment in Hidro Santa Cruz over eight years ago, there is no reasonable expectation of further action by IFC to address residual impacts.
Status and action Closed: Unsatisfactory Rating			

CAO Non-Compliance Finding #3
December 2018

Though aware of project impacts during the period of financing, IFC did not engage its client to ensure that residual impacts of the project were assessed, reduced, mitigated, or compensated for, as appropriate, including at project closure, as required by the Performance Standards and the Sustainability Policy. In these circumstances, contrary to the intent of IFC's Sustainability Policy, adverse impacts have been left to fall on the community.

IFC Response and/or Commitments in Response April 2020	**IFC Reported Implementation** November 2023	**Complainants' Observations** December 2023	**CAO Observations** January 2024
Management confirms the importance of the mitigation hierarchy within its Sustainability Framework. Addressing the broad impacts identified by the complainants as unaddressed in the CAO report was beyond what was technically and financially feasible for HSC. Nonetheless, CIFI conditioned its willingness to restart disbursements on the resolution of all pending legal cases related to HSC and/or the events of March and May 2012 and the completion of the human rights review by the Guatemalan Human Rights Ombudsman. Management deplores the death of the community member and the soldier, as well as injuries to others. HSC had, in November of the previous year, changed its security contractor, reduced its security presence, and required security staff not to carry firearms. After the	As CIFI is no longer a client, there are no additional updates since the detailed management response above.	The complainants noted that residual impacts of the project continue to significantly affect community members and that neither IFC nor CIFI have engaged with them for addressing these impacts. They state that psychological effects of criminalization still affect community members that were imprisoned and their families and note that many of them have not been able to go back to their normal life activities and that families have disintegrated as a consequence. The life partner of one of the complainants, who was criminalized and died recently, indicated that she believes his death was due to lack of timely medical care while in prison. The complainants confirmed that social conflict in the project area has stopped. In relation to the project fence, the complainants assert that there is a mesh fence and a	CAO notes that CIFI divested from HSC in 2016. IFC's responses to CAO's investigation report and to CAO's monitoring did not commit to any actions with CIFI or at the sub-project level in Barillas. CAO has decided to close this case. CAO makes this decision on the basis that, since IFC has not committed to any project-level actions and CIFI exited its investment in Hidro Santa Cruz over eight years ago, there is no reasonable expectation of further action by IFC to address residual impacts.

events of May 1, 2012, it assessed any connection between the accused parties and its operations and concluded that one of the accused had no connect and one had previously been an employee of its security contractor but was not at the time of the events. CIFI commissioned an independent in-depth, third-party review, which confirmed these findings but nonetheless conditioned its willingness to restart disbursements on the resolution of all pending legal cases related to the events of March and May 2012. A review of 2013 court documents by a local counsel on behalf of IFC confirmed the same findings. On February 28, 2020, both individuals were acquitted of all charges. Management understands that there are multiple and contradictory accounts regarding the connection between the company and the two accused individuals. Management was concerned as to how HSC had decommissioned the site and sent a representative to visit it in January 2020. Photographs taken throughout the site do not appear to show evidence of a fence preventing access and indicate communal use of the site, for example, as a soccer field.		security checkpoint and surveillance. However, people can travel through the terrain.	
Status and action Closed: Unsatisfactory Rating			

Eleme Fertilizer II-01[27]/Port Harcourt, Nigeria: Project-level Actions

Case Summary

Indorama Corporation is a leading conglomerate in the global petrochemical industry. In 2007, Indorama purchased a petrochemical facility at Port Harcourt, Nigeria, and in 2010 it established a subsidiary, Indorama Eleme Fertilizer & Chemicals Limited (IEFCL/Eleme Fertilizer). In 2013, an IFC loan to IEFCL supported construction of a fertilizer plant on the site, which commenced operations in 2016. IFC provided additional loans to IEFCL in 2018 and 2020 to expand the fertilizer plant. The IFC project remains active and an IFC loan for a third line was approved in November 2023.

In April 2018, CAO received a complaint from 134 Eleme Fertilizer employees raising concerns about the company's labor and working conditions and use of security forces. The complainants cited salary and welfare issues, health and safety hazards, and lack of freedom to join unions. They also alleged that a worker protest in July 2017 led to violent treatment by company security and the Nigerian military, and that the company subsequently initiated disciplinary procedures against seven employees, dismissing three of them. The complainants argued that these actions constituted retaliatory measures designed to dissuade employees from raising concerns about their working conditions.

After the July 2017 protest, IFC enhanced supervision of Eleme Fertilizer's approach to labor issues and security, and documented the client's implementation of corrective actions. CAO's compliance investigation therefore focused on IFC's pre-investment review and supervision of the company's disciplinary procedures and grievance handling, including its response to the retaliation allegations in the complaint. Completed in 2021, the investigation found IFC non-compliant in its oversight of Eleme with regard to Performance Standard 2 (Labor and Working Conditions) requirements to implement an effective worker grievance mechanism and prevent retaliation against employees raising grievances. CAO identified a lack of technical guidance for IFC staff and clients on how to respond to allegations of retaliation against workers as an underlying cause of the non-compliance.

CAO Monitoring and Status

CAO's investigation report and IFC's Management Action Plan (MAP) in response were approved by the IFC Board of Directors in September, 2021. IFC's progress report in September 2022 stated that its client had taken corrective actions with more to follow. However, the complainants continued to allege that some of their original concerns remain unaddressed. These included broader labor and working condition issues that were raised in the CAO complaint but not considered in CAO's investigation. The complainants also claimed that enhancements to the company's worker grievance mechanism have not led to effective resolution of complaints, alleging the mechanism is a paper document and not implemented systemically.

In October 2023, following IFC's first monitoring report on this case, IFC issued a second progress report. IFC reported that it had commissioned a third-party consultant to conduct a detailed assessment of IEFCL's grievance and anti-reprisal policy framework and its implementation in practice. Based on this third-party review, IFC concluded that the client has now implemented its grievance management system in a manner consistent with PS2 requirements.

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[27] https://officecao.org/NigeriaEleme-01.

CAO has decided to close this action. CAO monitoring has confirmed that the company has updated its employee policies to provide for the handling of anti-retaliation concerns, and the company has provided anti-retaliation training. As the anti-retaliation provisions have not yet been used by workers, a determination cannot be made about the effectiveness of implementation of these provisions. Nevertheless, CAO is not in a position to keep this case open pending submission of anti-retaliation concerns.

CAO supervision has confirmed that the IFC client has updated its employee policies to include the handling of anti-retaliation concerns, and documentation indicates that anti-retaliation training have been conducted. In completing this supervision exercise, CAO contacted the complainants for their view but received no response.

Nigeria: Eleme Fertilizer II-01/Port Harcourt

CAO Investigation Report: https://bit.ly/44rcQgC
IFC Management Response and MAP: https://bit.ly/4b1aQOs
IFC First Progress Report: https://bit.ly/3Wpa6OJ
CAO First Omnibus Monitoring Report: https://bit.ly/3WkbO45
IFC Second Progress Report: https://bit.ly/4b1aQOs

CAO Non-Compliance Finding
June 2021

After becoming aware of allegations of retaliation against workers in late 2018, CAO finds IFC did not take sufficient action in response in order to assure itself that the company's actions reflected PS2 commitments to "fair treatment" of workers and the requirement that workers should be able to raise grievances "without any retribution" (paras. 15 and 20).

IFC Commitments in Response July 2021	**IFC Reported Implementation** October 2023	**Complainants' Observations** March 2023	**CAO Observations** January 2024
IFC to assure itself that IEFCL's actions properly reflect PS2 commitments to "fair treatment" of workers and their ability to raise grievances "without any retribution".	In October 2023, IFC provided CAO with a MAP Progress Report. IFC noted that it had commissioned a third party to conduct a detailed assessment of IEFCL's grievance and anti-reprisal policy framework and implementation in practice. In June 2022, this assessment was completed and listed some recommendations. IFC noted that the implementation and efficacy of recommendations were assessed by the third party as part of two follow-up reviews in April and June 2023; and that the third party confirmed that IEFCL has: (i) updated existing policies and	In March 2023, the complainants reiterated that concerns voiced in their original complaint, including adequate renumeration and freedom of association, remain active. They stated appreciation for IFC efforts to enhance the company's WGM, but claimed that this paper document had not been implemented. They asserted that almost all plant workers are members of the sole union with workers expected to raise grievances through its Collective Bargaining Agreement. According	CAO held multiple engagements with IFC and its third-party consultant to understand the progress in implementing the MAP action. In particular, CAO sought to understand if all employees (union and non-union members) could also access the anti-retaliation provisions within the company's Employee Handbook. IFC confirmed that all employees could access the anti-retaliation provisions. From their supervision activities, IFC and its third-party consultant noted that no employee to date had accessed these provisions. As no

	procedures; (ii) enhanced awareness and understanding; (iii) provided internal capacity building and training; (iv) improved grievance management and reporting; and (v) enhanced monitoring and review procedures. IFC concluded that the grievance management system has been implemented in a manner consistent with PS2 requirements, reflecting the overall positive progress in compliance.	to the complainants, grievances raised through this channel are not effectively resolved. Specifically, the union informs workers that their issue has been raised with management, but workers do not see any outcome. In October and December 2023, CAO contacted the complainants to provide them with IFC's Progress Report. CAO has not received a response from the complainants.	specific incidents had been received by the company via its anti-retaliation process, IFC noted that it had not reviewed implementation of this process.
Status and action rating Closed: Satisfactory			

Electricity Transmission Line PL IV-01/Multiple Locations[28], Panama: Project-level Commitments, Actions, and Status

Case Summary

IFC is advising Panama's state transmission company, Empresa de Transmisión Eléctrica, S.A. (ETESA), on the structure and tender of its first public-private partnership project. The project will finance, construct, and operate a 330-km transmission line project, Transmission Line IV (PL IV), in northern Panama. IFC was transaction advisor to ETESA in 2017–2018 for the transmission line project's first tender but the bids did not satisfy requirements. Since November 2020, IFC has advised the new government on a second tender process.[29] The 2020 agreement signed by IFC and ETESA commits the client to "make best efforts" to apply IFC Performance Standards (PS) to the transmission line project's design and implementation. The 2020 agreement has since expired and is being re-negotiated.

In June 2018, CAO received a complaint from community members supported by local, national, and international NGOs. The complainants alleged that construction of the transmission line would affect Indigenous communities in the vicinity of the project by displacing their land and destroying local biodiversity and livelihoods. In addition, the complaint stated that Indigenous communities from the Norte de Santa Fé region of Veraguas province, whose territory is not officially recognized by the Government of Panama, had not been consulted about the transmission line and its potential impacts. The complaint also raised concerns about ETESA's consultation process with Indigenous communities in the Ño Kribo region of Comarca Ngöbe-Buglé, a government-recognized Indigenous territory.

CAO's compliance investigation reviewed IFC's advice to ETESA, particularly in relation to the process of Free, Prior, and Informed Consent (FPIC) and engagement with affected Indigenous Peoples. Finalized in March 2022, the investigation found that IFC's advice to ETESA was partially consistent with PS requirements. CAO concluded that IFC had helped move the development of the PL IV project toward alignment with PS requirements for consultation with Indigenous Peoples. However, CAO also identified key shortcomings in IFC's advice to ETESA related to: (a) the exclusion of several Indigenous communities, including those from the Norte de Santa Fé region and the Annex Areas in the Bocas del Toro province from the FPIC process; and (b) the design of a consultation process that is insufficiently inclusive of traditional authorities, project-affected communities, and women.

CAO Monitoring and Status

In May 2023, CAO published its first monitoring report on the case. This noted that IFC had completed the two actions outlined in its Management Action Plan (MAP) response to CAO's report – a letter to ETESA and a two-day workshop with ETESA and its E&S consultant. However, CAO also found that the Environmental and Social Impact Assessment (ESIA) and FPIC shortcomings identified in its investigation report continued to occur, including exclusion of the Indigenous communities outside the Comarca. CAO recommended that IFC take additional, timely measures to ensure ETESA complied with its 2020 agreement to make best efforts to apply the PS to the project's design and

[28] https://officecao.org/PLIV-01.

[29] As of the writing of the report, the Transmission Line IV project is pending approval from the Public-Private Partnership (PPP) governmental unit (enterector.gob.pa). If ETESA receives authorization, the bidding process for the Line IV project will be launched through the Government of Panama's website (panamacompra.gob.pa) for bidders to present their proposals. IFC's role through its Advisory Services will conclude once the PPP contract between ETESA and the new PPP contractor is signed.

implementation. Should the client continue to proceed in a manner inconsistent with IFC's advice or its obligations under this agreement, CAO concluded that IFC should consider the reputational risks of continuing to engage its advisory services.

In late May 2023, CAO conducted a monitoring mission to strengthen its understanding of the implementation of IFC's MAP actions to date. CAO met with Indigenous communities in Norte de Santa Fé, Comarca Ngöbe-Buglé, and Annex Areas in Bocas del Toro, as well as with ETESA, the client's E&S consultant, and other relevant stakeholders. During the mission, CAO learned that the project's draft ESIA had been completed and submitted to the Ministry of the Environment without implementing IFC's advice on engaging Indigenous communities outside and inside the Comarca in a manner consistent with the PS. CAO also learned that ETESA has made no progress on planning and implementing the FPIC process with these Indigenous communities outside and inside the Comarca since the MAP was agreed, a state of affairs acknowledged in IFC's second progress report of November, 2023. To date, ETESA has not revisited its November 2021 agreement[30] with the Regional Congress of Ño Kribo of Comarca Ngöbe-Buglé, as advised by IFC in July 2022.

CAO heard from Indigenous communities both inside and outside the Comarca about the lack of consultation, lack of project information, and lack of information about potential impacts. ETESA's lack of engagement with affected communities has led to uncertainty and fear that the transmission line would enable further infrastructure projects, such as hydropower and mining projects, in their Indigenous customary territory. This fear is rooted in the communities' recent experience with social conflicts resulting from the Barro Blanco hydropower project inside their territory.

In early 2024, ETESA organized public forums (foros públicos) to inform affected communities of the ESIA findings. These had been postponed from November 2023 following social instability in the country and rescheduled for February 2024. However, the forums were pushed back again, to mid-March, without adequate and timely public communication and with no justification given. Some community representatives arrived to participate in the La Chorrera forum in February to find they had been rescheduled. The public forums finally took place in mid-March 2024 in La Chorrera (to cover Panamá and Panamá Oeste provinces), Las Marias (for Coclé and Colón provinces), Calovébora (Veraguas province), and in Comarca Ngöbe-Buglé.

In this second monitoring report, CAO notes that despite IFC escalating their E&S concerns about this Advisory Services project to IFC senior management and the World Bank Group President, who visited Panama to discuss the gravity of the situation with ETESA, IFC's advice has not been incorporated into the ESIA process and has not led to positive E&S outcomes as envisaged in the Sustainability Policy. As IFC has acknowledged, the client and its E&S consultant completed the ESIA in a manner inconsistent with the Performance Standards, particularly in the planning and implementation of the FPIC process with Indigenous communities inside and outside the Comarca. IFC noted that the client has not corrected important inaccuracies in the ESIA, which states that the ESIA is compliant with the Performance Standards and the WBG EHS Guidelines and that the FPIC process with Indigenous communities inside the Comarca is complete.

[30] This agreement signed between ETESA and the President of the Regional Congress of Ño Kribo of Comarca Ngöbe-Buglé in November 2021 outlines the agreed approach for in-kind compensation for individuals who use the land required for the transmission line and for community projects in the Ño Kribo region.

CAO reiterates its concerns about the significant risks of failing to achieve intended PS7 objectives—"full respect for the human rights, dignity, aspirations, culture, and natural resource-based livelihoods of Indigenous Peoples"—due to the inadequate application of PS7 in the ESIA and FPIC processes. CAO also considers there is a significant risk of failing to acquire a social license for the transmission line project from the affected communities and for associated consequences to materialize. CAO contends that IFC should consider the reputational risk of continuing to provide its advisory services given the lack of uptake of IFC's E&S advice.

Panama: PL IV-01/Panama

CAO Investigation Report: https://bit.ly/3y3W772
IFC Management Response & MAP: https://bit.ly/4b1evvI
IFC First Progress Report: https://bit.ly/3UqAwgj
CAO First Omnibus Report: https://bit.ly/3QuDu2l
IFC Second Progress Report: https://bit.ly/4dmHhbO

CAO Non-Compliance Finding #1
February 2022

IFC's advice in relation to the primary process for free, prior, and informed consent of Indigenous Peoples (FPIC), as contained in the terms of reference for the PLIV project E&S Impact Assessment (ESIA) prepared by IFC. CAO's compliance investigation found that this advice was not fully consistent with Performance Standards (PS) requirements.

IFC Response and/or Commitments in Response May 2022	**IFC Reported Implementation** Mid-December 2022 – February 2024	**Complainants' Observations** February-March 2024	**CAO Observations** March 2024
Action B.1: IFC will hold a two-day workshop with ETESA and its selected E&S consultant to explain in more detail the PS requirements to be used in the ESIA. The workshop will cover the requirements of the eight IFC PS, and will include, among other points, a discussion of: (a) a bottom-up approach to stakeholder consultations and decision-making, especially in the context of IP communities living inside and outside the Comarca; (b) the importance of gender inclusive assessment and consultations	**B.1 Outcomes 4 & 5:** Ongoing advice per IFC's advisory role. Outcome 1:IFC conducted a February 2023 workshop with ETESA and its ESIA consultant.	The complainants appreciated that IFC acknowledged clearly in its second Management Progress Report (MPR) in response to CAO monitoring that ETESA has not implemented IFC's advice and that ETESA is "unlikely to complete the ESIA process in a manner that is consistent with the full intent of IFC's PSs." The complainants also recognize that the World Bank Group President and IFC senior management have engaged with the Government of Panama on the	CAO recognizes that IFC completed the two-day workshop with ETESA and its E&S consultant in July 2022, as committed to in IFC's Management Action Plan (MAP) response to CAO's investigation findings. IFC also conducted additional sessions focused specifically on PS1 and PS7 with ETESA and its E&S consultant in February 2023. On multiple occasions, IFC advised its client to increase its technical capacity regarding Indigenous Peoples in order to improve the

covering the project's area of influence; and (c) the need for information disclosure in local indigenous languages. The workshop will be documented in minutes, including a list of all participants, presentations made, and agreed next steps. Key outcomes will be included in ETESA's E&S consultant work plan for the ESIA, which IFC will review. Deliverables/expected outcomes: 1. Two-day workshop with ETESA and its E&S consultant. Minutes of workshop and acceptance of workshop outcomes by ETESA. 2. Inclusion of key outcomes of workshop in ETESA's E&S consultant workplan for the ESIA. [Staff statement commitments] Review the various outputs of the ESIA process. 3. Provide recommendations on the consultant's ESIA work plan. 4. Advise ETESA on E&S consultant technical capacity. 5. IFC review and advice on additional outputs of the ESIA process.		importance of IFC's PSs in developing the project. However, the complainants expressed concern for what happens next. IFC's Advisory Services and IFC's role in the project will end when the PPP contract is signed between ETESA and the contractor. Subsequently, the transmission line project will continue its course without any certainty that a supplementary ESIA, recommended by IFC, will take place by the contractor. They are concerned that IFC will continue to sign off on this project and misuse its reputation and image, despite the identified non-compliances and their grave consequences in terms of the denial of Indigenous communities' rights. They are asking what actions IFC will take now, and how it will ensure that the impacts already caused by the lack of FPIC will be remedied.	FPIC process both within and outside the Comarca region. CAO concludes that the workshops were not an effective means to improve ETESA's outcomes and the technical capacity of ETESA's E&S consultant. While IFC provided advice consistent with the Performance Standards, ETESA and its E&S consultant did not include the workshop outcomes in the ESIA work plan, as agreed in the MAP. As a result, the ESIA was subsequently carried out and completed in a manner that did not meet PS1 and PS7 requirements. CAO has decided to close the monitoring of this action with a Partly Unsatisfactory rating. CAO reaches this decision on the basis that, while IFC completed the workshops, they did not address in any material manner the relevant non-compliance findings and related harms.

Status and action rating Closed: Partly Unsatisfactory

CAO Monitoring Action #2
February 2022

IFC committed to this action regarding regular meetings with complainants following a Board discussion, not in response to a specific project-related non-compliance identified by CAO.

IFC Response and/or Commitments in Response May 2022	**IFC Reported Implementation** Mid-December 2022 – February 2024	**Complainants' Observations** February-March 2024	**CAO Observations** March 2024
Action C.1: To provide feedback to the complainants, IFC will send a letter within 30 days of MAP approval, outlining which suggestions have been taken on board and explaining why others cannot be incorporated. IFC will also propose a follow-up meeting, within 30 days, to go over the letter's contents with the complainants. Deliverables/expected outcomes: [Staff statement commitments] To provide feedback to and seek feedback from the complainants. 1. IFC's written response to the complainants' suggestions on the MAP.	**C.3 Outcome 3:** IFC has held three substantive meetings with the complainants, two virtually (January and July 2023) and the other in-person (March 2023), including with IFC management.	While IFC claims that they have met periodically with complainants, this has not happened every six months as was initially promised in the MAP. Instead, despite the complainants' insistence, IFC has not met with them since July 2023, and a year has passed between the completion of the first and second Management Progress Reports. The complainants also note that they were not consulted for the second MPR, and that the IFC decision to propose a supplementary ESIA was not made with the complainants' input. The complainants stated that they would like IFC representatives to visit the three affected areas and meet directly with the Indigenous communities there in order to see and hear for themselves the lack of	While IFC made a commitment to meet with complainants every six months at the time of reporting to the Board and CAO, IFC has not engaged with complainants in the eight months since July 2023. IFC also completed its second Management Progress Report in November 2023 without the complainants' feedback. CAO has decided to keep the monitoring of this action open with an Unsatisfactory rating. CAO reaches this decision on the basis that IFC has not met its commitment to engage with the complainants every six months and has proceeded with progress reporting to the Board without their feedback.

2. IFC meeting with the complainants to explain IFC response to complainants' suggestions on MAP. 3. IFC meeting with complainants to request feedback every six months to coincide with progress reporting to the Board.		attention given by ETESA and its consultant to project-affected people.	

Status and action rating Open: Unsatisfactory

CAO Monitoring Action #3
February 2022

IFC's MAP action below was not made in response to a specific non-compliance finding by CAO. Instead, IFC committed to this action related to the project E&S Impact Assessment (ESIA) following a Board discussion.

IFC Response and/or Commitments in Response May 2022	**IFC Reported Implementation** Mid-December 2022 – February 2024	**Complainants' Observations** February-March 2024	**CAO Observations** March 2024
Actions D/E.1: As part of IFC overall engagement with ETESA, IFC will review the outputs of the ESIA process, starting with the consultant's work plan, to provide recommendations on closing PS gaps. IFC advice will include recommending supplemental consultant expertise and/or resources as necessary to carry out the ESIA in accordance with the PS and achieve FPIC. IFC	**D3: Ongoing:** IFC has continued to provide advice consistent with the Sustainability Policy requirement for IFC to deliver advice that is consistent with the Performance Standards. • IFC reviewed and provided its client with written comments on the ESIA outputs from February-June 2023.	In terms of FPIC, the complainants continue to state that no real efforts have been made to engage project-affected communities. Regarding public forums held by ETESA for the ESIA, the complainants reinforced that these forums should be considered part of the public participation process and not confused with being part of the FPIC process.	CAO recognizes that IFC provided advice consistent with the Performance Standards with a view to improving the draft ESIA. However, CAO observes that once IFC provided advice, there was little follow up to work with the client "to achieve positive improvements in environmental and social performance" as reflected in the ESIA work plan and deliverables of the ESIA process. As noted in IFC's

will continue advising ETESA on stakeholder engagement, PS7, and FPIC, and review the FPIC design documentation and outputs for consistency with the PS. Deliverables/expected outcomes: [Staff statement commitments] Continuing to advise ETESA and its consultant on stakeholder engagement and FPIC. 1. IFC recommendations on E&S consultant's first deliverable. 2. IFC advice to ETESA on E&S consultant technical capacity. 3. IFC review and advice on additional outputs of the ESIA process. 4. IFC request to ETESA to continue the discussion on engagement with Indigenous groups and IFC review and advice on additional ESIA process outputs.	• The World Bank President and IFC's senior management met with ETESA in March 2023 to reiterate the importance of IFC's PSs, particularly as they relate to FPIC and the ongoing ESIA activities which include discussions with Indigenous communities. • IFC senior management again met with ETESA and government officials in July 2023 to discuss these issues. • In its written advice, in November 2023, IFC advised ETESA to develop a roadmap to: (1) continue the FPIC process with Indigenous Peoples living inside the Comarca and align the process with PS7 requirements; and (2) commence an Informed Consultation and Participation process with Indigenous Peoples living outside the Comarca and set the basis for an FPIC process.	The first attempt to hold the forums was in November 2023, at a time when there was social instability in the country and movement was restricted. At the request of the complainants, through CAO and IFC, the public forums were rescheduled to February 2024. However, they were subsequently rescheduled again by ETESA, to mid-March, without adequate and timely communication and with no further justification. Complainants from some communities showed up to participate in February, which cost them significant time and financial sacrifice, to find the events postponed. Further, the complainants noted that the Bocas del Toro area was not included among the locations for public forums. After participating in the first forum, the complainants reported that the project presentation was extensive but there was little explanation on the impacts or opportunity for the participants to engage. During the presentation, the IFC client stated that the consultation period had already ended, and that it had already received the necessary support from the Indigenous authorities of the Comarca.	second Management Progress Report, the draft ESIA that ETESA submitted to the Ministry of Environment contains inaccuracies stating that the ESIA is compliant with the Performance Standards and the WBG EHS Guidelines, and that the FPIC process with Indigenous communities inside the Comarca region is complete. IFC reported to CAO that these inaccuracies have not been corrected. As IFC's progress report acknowledges, the client's stance to date suggests that it is unlikely to complete the project ESIA in a manner that is consistent with the Performance Standards, particularly regarding the planning and implementation of the FPIC process with Indigenous communities inside and outside the Comarca, among other issues. CAO also recognizes IFC's more recent efforts to course-correct and focus its advice on enhancing stakeholder engagement and the FPIC process as well as positioning the Panama Transmission Line IV project to meet the PS through a supplemental ESIA. However, given the ongoing shortcomings in the existing ESIA and FPIC process, CAO reiterates its serious concerns about the significant social risks of undermining the protections provided to Indigenous communities under PS7 and of the potential failure to acquire a social license for

			the transmission line project from the affected communities. Given that IFC remains engaged with the client through its Advisory Services project, IFC continues to have a responsibility to "help clients move towards greater consistency with the Performance Standards" particularly on stakeholder engagement and FPIC implementation with IP communities both inside and outside the Comarca. CAO has decided to keep the monitoring of this action open with a Partly Unsatisfactory rating. CAO reaches this decision on the basis that IFC has provided advice to its client in a manner consistent with the Performance Standards, but serious shortcomings in the ESIA and FPIC process remain.
Status and action rating Open: Partly Unsatisfactory			

5 CAO Monitoring of IFC/MIGA Actions: Systemic-level Response

Introduction

This section summarizes CAO's monitoring of IFC's implementation of systemic actions related to the cases in this Omnibus Monitoring Report. IFC committed to these institution-wide actions in response to four compliance investigations under review for this report: CIFI/Hidro Santa Cruz, Guatemala; Bidco (beverage & detergent facilities), Kenya; Bujagali Energy, Uganda; and Electricity Transmission Line IV (PL IV), Panama.

CAO has decided to close its monitoring of the following four actions, with Satisfactory ratings, after IFC met its commitments.

- **CIFI/Hidro Santa Cruz:** IFC committed to a general update of its E&S Review Procedures (ESRP) for new investment business and began implementing the new procedures in 2022.
- **Bidco (beverage & detergent facilities) 01 & 04:** IFC committed to assign an Occupational Health and Safety (OHS) lead from among its E&S senior specialists, which it did in 2020. IFC has also put in place an OHS team with regional consultants who support regional E&S project teams.
- **Bidco (beverage & detergent facilities) 01 & 04:** IFC has met its commitment to hire labor specialists to support E&S teams on projects with high-risk labor issues during due diligence and supervision.
- **Bujagali Energy:** IFC committed to update its Resettlement Good Practice guidance, with the new version published on the IFC website in December 2023.

CAO has decided to keep open its monitoring of the following eight IFC actions that are not yet complete.

- **CIFI/Hidro Santa Cruz:** IFC committed to define its approach to Responsible Exit, and while it continues to work on this action, there have been material delays. Status: Partly Unsatisfactory.
- **CIFI/Hidro Santa Cruz:** IFC committed to enhance its E&S Review Procedures to provide clear guidance on IFC staff responsibilities and associated client responsibilities when financial intermediary (FI) clients report and respond to incidents linked to their sub-projects. While IFC continues to work on this action, there have been material delays. Status: Partly Unsatisfactory.
- **CIFI/Hidro Santa Cruz:** IFC committed to develop specific procedural guidance on incident response for FI clients. There have been material delays with IFC's draft FI incident response guidance currently undergoing peer review. Status: Partly Unsatisfactory.
- **CIFI/Hidro Santa Cruz:** IFC committed to include social specialist support for review of complex FI portfolios in its E&S procedures. IFC reports that this will be included in a forthcoming ESRP tip sheet for FIs. Status: Too Early to Tell.
- **Bidco (beverage & detergent facilities) 01 & 04:** IFC committed to improve identification of labor issues during its E&S due diligence and supervision of projects by updating its Labor

Handbook. IFC has not fulfilled this commitment and is currently working on updating its 2010 Labor Handbook. Status: Partly Unsatisfactory.

- **Bidco (beverage & detergent facilities) 01 & 04:** IFC also committed to improve identification of labor issues during its E&S due diligence and supervision of projects by updating its ESRP to instruct E&S specialists to review the ESDD when 12 months have passed between the ESDD and disbursement. This is not included in the new and current ESRP. Status: Partly Unsatisfactory.
- **PLIV:** IFC has committed to complete an Advisory Services guidance tip sheet for inclusion in the ESRP Handbook by FY25. Status: Too Early to Tell.
- **PLIV:** IFC will finalize the Good Practice Note on Contextual Risk Screening by the end of FY24. Status: Too Early to Tell.

The table below presents a more detailed summary of IFC's reported implementation of systemic-level commitments under review in this report, CAO's related observations, and the status of each action. Twelve systemic-level response are covered in the table below. These comprise seven actions that relate to the development of new approaches or enhancements to internal guidance or ESRP procedures, two actions that relate to development of client guidance and three actions that seek to strengthen IFC E&S staffing.

Systemic Actions

Guatemala: CIFI-01/ Hidro Santa Cruz

IFC Commitments in Response April 2020	IFC Reported Implementation December 2023	CAO Observations January 2024
Item 4 Review IFC's investment operations, policies, and procedures as they relate to aspects of exit and define IFC's approach to "responsible exit." Cross-functional working group from equity and debt portfolio teams, special operations, environmental and social, and legal to develop an overview of current policies, procedures, and operations with regard to IFC decisions to exit an investment. Working group to review opportunities for procedural enhancements to consider aspects of environmental and social impacts when IFC seeks to proactively exit investments. Review summary to be completed by December 31, 2020.	IFC presented the draft responsible exit principles to CODE at a February 2022 informal CODE meeting, where it committed to subject the principles to public consultation and to conduct a pilot on a subset of projects. A public consultation of the draft responsible exit principles was conducted in February - April 2023 and a pilot launched from June 2022-June 2023 to test how the principles were applied in concrete cases. IFC collected feedback from the public consultation sessions, from written submissions, and from experiences during the pilot. In addition, IFC also reviewed the CAO Landscape Study on Responsible Exit (Jan 2023). Based upon these inputs IFC is currently revising the Responsible Exit principles and preparing a paper that will be presented to CODE in late 2023 or early 2024.	IFC reports that it is currently revising its Responsible Exit approach. Accordingly, CAO has decided to keep its monitoring of this action open. CAO has rated IFC's performance to date as Partly Unsatisfactory given the significant time that has passed since IFC's commitment and publication of this omnibus report.
Status and action Open: Partly Unsatisfactory		

IFC Commitments in Response April 2020	IFC Reported Implementation December 2023	CAO Observations January 2024

Item 5 Develop Guidance on Incident Response for financial intermediary (FI) clients. FI client staff need appropriate procedures and guidance to fulfill the Sustainability Policy requirement for "FIs to carry out individual transaction appraisal and monitoring as well as overall portfolio management". Guidance to be developed for FI clients to enhance the support provided them in responding to and dealing with E&S incidents associated with their sub-project loans and investments. The guidance will outline good practice in responding to incidents. Guidance to be issued by July 31, 2020.	Guidance on Incident Response for FI clients was conditional on the publication of IFC's new Guidance Note on FIs, which was published on September 29, 2023. Following this publication, IFC has developed a draft for the Incident Response Guidance. IFC is in the process of conducting a peer review of the Guidance on Incident Response for clients, to be published on the IFC website, as well as internal guidance to IFC staff as part of the ESRP handbook. Please see Item 8 as well.	IFC reports that it is in the process of conducting a peer review of Guidance on Incident Response for FI client. Subsequently, it will be published on IFC's website. According, CAO has decided to keep its monitoring of this action open. As the original date for implementation of this action was July 2020, and over 3.5 years have now elapsed, CAO has rated IFC's performance to date as Partly Unsatisfactory.
Status and action Open: Partly Unsatisfactory		
IFC Commitments in Response April 2020	**IFC Reported Implementation** December 2023	**CAO Observations** January 2024
Item 6 Enhancement of IFC's E&S Review Procedures to provide clear procedural guidance on IFC staff responsibilities and associated client responsibilities when FI clients report and respond to incidents associated with their sub-projects. Current procedures (ESRP) do not provide specific procedural guidance on incident response for FI clients.	A complete overhaul of IFC's ESRP, which describe the process for E&S risk management systems at IFC/MIGA, was initiated in November 2020 to update the content, reflect various organizational and business changes, and improve efficiency and effectiveness. The ESRP are accompanied by an ESRP Handbook that provides detailed implementation guidance to E&S specialists on new business processing, portfolio monitoring, advisory services, and upstream advisory. The ESRP for new investment business and portfolio/supervision were rolled out in January 2022 and revised in	IFC reports significant updates to its ESRP. In relation to the development of IFC staff procedures for responding to an incident associated with an FI sub-project, IFC notes that this will be included in the ESRP handbook following peer review. Accordingly, CAO has decided to keep its monitoring of this action open. As the original date for implementation of this action was December 2020, and over three years have now elapsed, CAO has rated IFC's performance to date as Partly Unsatisfactory.

The ESRP are being updated to reflect evolution and improvements in practice and to reflect the organizational and procedural changes associated with the creation on July 1, 2020 of the E&S Policy and Risk Department. The revised ESRP will include specific procedures for incident response associated with FI sub-projects and will consider if certain incident types should trigger enhanced monitoring effort by IFC of its FI client to support the FI's monitoring of its sub-project clients' response to such incidents. Publication of revised ESRP by December 31, 2020.	May 2023 to include an additional chapter on Advisory and Upstream Advisory as well as to reflect the new Accountability and Decision-Making Framework (ADM) framework as of July 2022 and other adjustments. The ESRP Handbook for new business, portfolio/supervision and advisory has been developed as an online site accessible to E&S specialists, which also includes various tip sheets that provide detailed "how-to" guidance on key ESRP aspects. The tip sheet on incident response (for clients) and internal guidance for IFC specialists, after peer review, will be included as part of the ESRP handbook.	
Status and action Open: Partly Unsatisfactory		
IFC Commitments in Response April 2020	**IFC Reported Implementation** December 2023	**CAO Observations** January 2024
Item 7 Social specialist support for review of complex FI portfolios. This has been practiced since 2016 but is yet to be codified in procedural requirements. This will be included in the revised ESRP. Publication of revised ESRP by December 31, 2020.	This is consistent practice in private equity (PE) funds exposed to higher-risk activities. As the ESRP is now a combined document for FIs and direct investments, this item will be included in the ESRP tip sheet on FI supervision.	IFC reports that the current ESRP apply to both FI and direct investments. The revised ESRP of September 2023 provide for IFC to assign E&S staff based on a project's technical, sectoral, and regional issues, and this approach can be supplemented by additional E&S staff and consultant expertise, as needed. IFC reports that this item will be included in a forthcoming ESRP tip sheet for FIs. Accordingly, CAO has decided to keep its monitoring of this action open.

Status and action Open: Too Early to Tell		
IFC Commitments in Response April 2020	**IFC Reported Implementation** November 2023	**CAO Observations** January 2024
Item 8 General ESRP Improvements. The ESRP are being updated to reflect evolution and improvements in practice and to reflect the organizational and procedural changes associated with the creation on July 1, 2020 of the E&S Policy and Risk Department. The revised ESRP will include specific procedures for incident response associated with FI sub-projects and will consider if certain incident types should trigger enhanced monitoring effort by IFC of its FI client to support the FI's monitoring of its sub-project client's response to such incidents. Publication of revised ESRP by December 31, 2020.	Please see Item 5 and 6.	IFC confirmed to CAO that it began implementing the new ESRP in 2022. IFC asserts that these updated procedures have improved its E&S risk management in a way that more effectively responds to the needs of IFC's investment strategy and operations. As effective implementation of IFC staff guidance in FI sub-project incident response, as well as guidance for FIs on an incident, are considered in other actions as part of IFC's response, CAO has decided to close this specific action item. As these new procedures apply across all IFC operations, it is not possible at this time for CAO to assess implementation. However, CAO will consider implementation in future compliance cases where the ESRP are applicable.
Status and action Closed: Satisfactory		

Kenya: Bidco Bev. & Det. 01 & 04/Thika

IFC Commitments in Response December 2018	**IFC Reported Implementation** November 2023	**CAO Observations** April 2024
Item 1 To improve identification of labor issues at the due diligence phase: 1) IFC is in the process of updating its Labor Handbook, which will include additional guidance about worker classification and associated rights and benefits. Following completion of the update, IFC will develop supplementary training and tools to support implementation. Expected completion June 2020. 2) IFC has specialist labor consultant support on contract to help E&S staff in projects with high-risk labor issues. IFC will increase the awareness of the availability of this support among specialists. Ongoing – effective since 07.01.2014. To improve awareness of labor (and other) issues arising in supervision: 1) IFC subscribes to RepRisk, an ESG media scanning service, which alerts specialists to negative media stories regarding clients/projects that merit additional follow-up with clients. Ongoing – effective since 07.01.2015. 2) IFC will revise its Environmental and Social Review Procedures (ESRP) to instruct E&S specialists that when more than 12 months have elapsed between ESDD and first disbursement,	Improve identification of labor issues at the due diligence phase: 1) The Labor Handbook is being updated. A first draft was prepared and is undergoing internal reviews. 2) IFC has several labor specialist consultants on contract. The Environmental and Social Policy and Risk Department (CES) has one full-time labor specialist (an extended term consultant) and recruitment of a Principal Labor Specialist (staff position) is ongoing. These positions support the E&S Risk Officers on High-risk projects (HRP). The Environmental, Social and Governance Sustainability Advice and Solutions Department (CEG) has two dedicated labor specialists in place that support the teams on projects with high labor risks and is also recruiting a Senior Labor Specialist. Furthermore, IFC has signed a partnership with the International Labour Organization (ILO) under which training on labor risks for IFC's E&S specialists is being developed. To improve awareness of labor (and other) issues arising in supervision: 1) IFC continues to use Rep Risk, a third-party E&S data tool that systematically identifies and assesses negative media and civil society coverage. The tool is among multiple external	CAO notes that since the 2018 compliance investigation report IFC has taken a series of actions to improve the identification of labor issues during pre-investment due diligence. These actions include hiring several labor specialist consultants to support the E&S Risk Officers on high-risk projects and signing a partnership with ILO to jointly develop training on labor risks for IFC's E&S specialists. To improve awareness of labor issues during project supervision, IFC states it has revised its ESRP and continues using the third-party E&S data Rep Risk tool to systematically identify and assess negative media and civil society coverage. IFC shared its current 2010 Labor Handbook, and indicated it plans to update this version to include the tools, techniques and guidance on different aspects of PS2 including worker classification, benefits and retrenchment. CAO notes that, six years later, IFC has not fulfilled its commitment to update the Labor Handbook as the current version predates such commitment. The 2010 Labor Handbook includes some mentions on the requirements of retrenchment, but does not to include much about worker classification and associated rights and benefits, which IFC committed to include in its Labor

the ESDD will be reviewed before disbursement to confirm that its conclusions and resulting client actions remain consistent, appropriate, and comprehensive. If additional Performance Standards issues are identified in this review, IFC will require clients to adapt their environmental and social management systems to manage such issues in compliance with Performance Standards requirements. Expected completion 06.30.2019.	sources that contribute to the IFC Contextual Risk Data portal, which provides score-based contextual risk assessments. 2) A complete overhaul of IFC's ESRP, which describe the process for E&S risk management systems at IFC/MIGA, was initiated in November 2020 to update the content, reflect various organizational and business changes, and improve efficiency and effectiveness. The ESRP are accompanied by an ESRP Handbook that provides detailed implementation guidance to E&S specialists on new business processing, portfolio monitoring, advisory services, and upstream advisory.	Handbook as part of this action.[31] Similarly, IFC has not informed CAO of any supplementary training and tools to support implementation of the Labor Handbook, which was also part of the action committed to in IFC's Management Response. Additionally, IFC shared its new ESRP which do not to include guidance for E&S specialists to revise the ESDD when a long period of time has passed between the ESDD and disbursement, which was IFC's commitment ("when more than 12 months have elapsed between ESDD and first disbursement, the ESDD will be reviewed before disbursement to confirm that its conclusions and resulting client actions remain consistent, appropriate, and comprehensive"). CAO considers that, while IFC has implemented some changes and introduced new tools for the better identification of labor issues during its due diligence and supervision phases, no material guidance to E&S specialists has yet been issued regarding the two main issues these actions were designed to address: guidance on worker classification and associated rights and benefits; and instruction on how to review ESDD before disbursement when a significant period of time has passed between project due diligence and the disbursement. As these actions were expected to be completed by June 2019 and 2020, respectively, CAO has rated IFC's performance as Partly Unsatisfactory and decided to keep its monitoring of this action open.

[31] There is some guidance on non-employees workers (workers engaged by third parties) and supply chain workers. Measure & Improve Your Labor Standards Performance Standard 2 Handbook for Labor and Working Conditions, pp. 40-43, and PS2, para. 24-29.

Status and action Open Partly Unsatisfactory		
IFC Commitments in Response December 2018	**IFC Reported Implementation** November 2023	**CAO Observations** April 2024
Item 2 To improve identification of labor issues such as retrenchment during due diligence, IFC is updating its Labor Handbook, and developing additional tools and training, as described in item 1. The Handbook will include additional guidance about worker classification and associated rights and benefits. Expected completion June 2020.	Labor specialist consultants in CEG and CES support the project teams on assessing Labor Risks during the due diligence phase.	See observations in Item 1.
Status and action Open: Partly Unsatisfactory		
IFC Commitments in Response December 2018	**IFC Reported Implementation** November 2023	**CAO Observations** April 2024
Item 4 IFC will assign an OHS Lead from amongst its Environmental and Social specialists to help promote best practice and to act as a resource to advise colleagues on OHS matters in their projects Effective from 02.01.2019.	IFC continues to proactively strengthen its organizational capacity and staffing to effectively manage E&S risks, including OHS and Process Safety, on all investment projects. In 2020, IFC employed a Senior Environmental Specialist (OHS) based in HQ and has also organized an OHS team and now has OHS consultants reporting to the OHS Lead as focal points to support regional E&S project teams.	CAO notes that IFC assigned an OHS Lead from amongst its Environmental and Social senior specialists in 2020, and also organized an OHS team with regional OHS consultants reporting to the OHS Lead to support regional E&S project teams on OHS issues. CAO considers that IFC has effectively implemented this commitment in its Management Response, and has decided to close the action.

Status and action Closed: Satisfactory		
IFC Commitments in Response December 2018	**IFC Reported Implementation** November 2023	**CAO Observations** April 2024
Item 7 IFC has specialist labor consultant support on contract to help E&S staff in projects with high-risk labor issues. Ongoing – effective since 07.01.2014.	As described in items 1 and 2 above, IFC has a labor specialist consultant supporting project teams with labor risks. Two staff positions for labor specialists are under recruitment (one CES and one CEG).	CAO notes that IFC has hired a series of labor consultants to help support the project's E&S teams with the identification of labor risks. IFC explained that when a labor risk is identified at any project stage, a labor specialist is assigned to the project team. This labor specialist reviews documents, conduct interviews, and/or visits the project site as a member of the E&S team, as well as drafts the corresponding recommendations. For high-risk projects in which CES has a role, a labor specialist from CES is also involved. CAO considers that IFC has effectively implemented this commitment in its Management Response, and has decided to close this action.
Status and action Closed: Satisfactory		

Panama: PL IV-01/Panama

IFC Commitments in Response July 2022	**IFC Reported Implementation** June 2023- March 2024	**CAO Observations** March 2024
IFC will provide an update to CODE (IFC Board sub-committee) on development of the ESRP and accompanying ESRP Handbook. These will provide detailed implementation guidance to IFC specialists on new business processing, portfolio monitoring, and advisory services, as well as an update on mainstreaming contextual risk screening.	In June 2023, IFC delivered its fourth update to the Board on its commitments to non-policy actions in response to the External Review of IFC/MIGA E&S Accountability, including CAO's Role and Effectiveness. As part of that update, IFC provided a report on progress in the development of the ESRP and the accompanying ESRP Handbook to the Board, which includes detailed implementation guidance to specialists on new business processing, portfolio monitoring and advisory services, as well as an update on mainstreaming contextual risk screening. The ESRP were revised between January and May 2023 to include the chapter on Advisory Services. The revised ESRP were finalized in September 2023 and are being socialized internally. The Advisory Services section of the ESRP includes specific guidance on IFC's role in the review of E&S activities throughout the advisory project cycle. Where the review results in the identification of E&S risks, IFC will provide advice to the client consistent with the PSs. The guidance to specialists regarding IFC's role to monitor project developments during IFC's AS engagement is proposed to be included in the tip sheet that will accompany the ESRP. The Tip Sheet for AS will be finalized in FY25. This is because CTA [IFC's PPP unit] has recently made some changes to its operational processes effective January 1, 2024, and is	CAO notes that the public-private partnership section in the updated ESRP includes guidance to update E&S risk analysis. However, pertinent to this case, the ESRP does not provide guidance on "the scope of IFC's role when a client implements project development activities with E&S risks or impacts (such as FPIC or land acquisition) during the AS engagement," as the CAO investigation report recommended. IFC informed CAO that such guidance will be included in the relevant tip sheet for Advisory Services in the ESRP Handbook. IFC reported that the tip sheet will be finalized in FY25, a delay from the expected completion date of FY24. Given that IFC has not finalized the tip sheet for the ESRP Handbook, which should include the relevant Advisory Services guidance, CAO rates this action as Too Early to Tell. Accordingly, CAO will keep this action open for monitoring.

	currently in a six-month pilot period. Hence, finalizing the tip sheets has been postponed at least until the pilot on the CTA side is completed so as to better align the ESRP and the tip sheet with the CTA's processing cycle.	
Status and action rating Open: Too Early to Tell		
IFC Commitments in Response July 2022	**IFC Reported Implementation** June 2023 – March 2024	**CAO Observations** March 2024
IFC is mainstreaming contextual risk analysis across project appraisal and supervision as well as Advisory Services, as reflected in the draft ESRP and the ESRP Handbook.	Contextual risk analysis is now mainstreamed across project appraisal and supervision of advisory activities and reflected in the ESRP and the ESRP Handbook. In April 2022, IFC released for public consultation its Good Practice Note on contextual risk screening. The updated Note reflects comments from more than 60 organizations representing, amongst others, multilateral and development finance institutions, the private sector, civil society organizations, and CAO. A central repository of country contextual risk analyses for due diligence and an updated contextual risk data portal is available to all World Bank Group users. March 2024 update: The Good Practice Note on Contextual Risk Screening is being finalized and is expected to be completed by end of FY24.	CAO welcomes the development of a contextual risk data portal available internally for use by World Bank Group staff. In May 2022, CAO provided IFC with comments on IFC's draft Good Practice Note on Contextual Risk Screening for projects as part of the public consultation process. Based on IFC's statement that the Good Practice Note would be completed by the end of FY24, CAO will keep this action open for monitoring with a rating of Too Early to Tell.
Status and action rating Open: Too Early to Tell		

Uganda: Bujagali Energy – 04, 06, 07 & 08/Bujagali

IFC Commitments in Response January 2018	**IFC Reported Implementation** February 2019-January 2024	**CAO Observations** March 2024
IFC is in the process of updating its resettlement good practice guidance. This guidance will include a recommendation for requesting an asset value update if the time lapse between the completion of the asset survey and the payment of compensation is significant.	In March 2019, IFC conducted an external peer review process for its Draft Good Practice Handbook on Land Acquisition and Involuntary Resettlement, to which CAO provided inputs. In December 2023, IFC published its Good Practice Handbook: Land Acquisition and Involuntary Resettlement, which is available on the IFC website.[32]	IFC informed CAO that the Good Practice Handbook: Land Acquisition and Involuntary Resettlement was published in December 2023 and is available on the IFC website. IFC's commitment to include guidance on asset value updates, particularly for crops, is included in the Handbook. Specifically, the Handbook states that, in cases where land acquisition implementation is delayed, compensation rates should be updated annually, at a minimum, depending on the rate of inflation (p. 72). The Handbook notes that compensation rates may need to be updated if market prices have changed between the initial surveys and the actual payment of compensation. CAO considers that IFC has effectively implemented this commitment and has closed the action.
Status and action rating Closed: Satisfactory		

[32] https://bit.ly/IFC-2023-Resettlement

Annex A. Summary of All Open Cases in CAO Compliance Monitoring

CAO Case Name	CAO Investigation Release Date	CAO Monitoring		Last CAO Monitoring Report	Next CAO Monitoring Report[33]	Applicable standards for CAO Monitoring	
		Project Level	Systemic Level			CAO Operational Guidelines (2013)	CAO Policy (2021)
IFC Financial Markets	February 2013	N/A	Monitoring Open	February 2017	Case Specific Report, FY25 Q1-2	✓	
Tata Ultra Mega-01 /Mundra and Anjar & -02 Tragadi Village	October 2013	Monitoring Open	N/A	February 2017	Case Specific Report, FY25 Q2	✓	
India Infrastructure Fund -01/Dhenkanal District	January 2016	Monitoring Completed	N/A	March 2019	Closed as of FY24 Q4	✓	
Togo LCT-01/Lomé	October 2016	Monitoring Open	N/A	April 2024	FY25 Q4	✓	
Tata Tea-01-02/Assam	November 2016	Monitoring Open	N/A	January 2019	FY25 Q4	✓	
Real LRIF-01/Coban	October 2017	Monitoring Open	N/A	August 2019	FY25 Q4	✓	
Bujagali Energy - -04, -06, -07, -08	December 2017	Monitoring Open	Monitoring Completed	September 2022	FY25 Q4	✓	
Bidco Bev. & Det.-01, -04/Thika	March 2019	Monitoring Completed	Monitoring Open	N/A	FY25 Q4	✓	
CIFI-01/Santa Cruz	June 2020	Monitoring Completed	Monitoring Open	N/A	FY25 Q4	✓	

[33] The inclusion of a report in the CAO Monitoring Omnibus schedule or an individual report is subject to change. CAO is developing criteria for proceeding with a case specific monitoring report versus monitoring a case via the omnibus structure.

Alto Maipo-01& 02/Cajon del Maipo	September 2021	Monitoring Completed	Monitoring Open	FY23 Q4	FY25 Q2		✓
Eleme Fertilizer-01/Port Harcourt	September 2021	Monitoring Completed	N/A	FY23 Q4	Closed as of FY24 Q4		✓
Rizal Commercial Banking Corporation (RCBC)-01	April 2022	Monitoring Open	Monitoring Open	FY23 Q4	Case Specific Report, FY25 Q1		✓
PL IV-01/Panama	June 2022	Monitoring Open	Monitoring Open	FY23 Q4	FY25 Q2		✓