



**December 4, 2019**  
*Office of the Compliance Advisor Ombudsman (CAO)*

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## **COMPLIANCE APPRAISAL: SUMMARY OF RESULTS**

*Eleme Fertilizer-01 (IFC project # 30967, 40420)*  
*Nigeria*

### *Complaint 01*

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In 2007 Indorama Corporation purchased a petrochemical facility at Port Harcourt, Nigeria. In 2010, Indorama established a subsidiary, Indorama Eleme Fertilizer & Chemicals Limited (IEFCL or “the company”), to develop a large fertilizer facility next to the Port Harcourt petrochemical facility. In 2013, IFC provided a loan to IEFCL to support development of the fertilizer facility. The fertilizer facility commenced operations in 2016. In 2018, IFC provided a second loan to IEFCL to support an expansion of the fertilizer facility.

In April 2018, CAO received a complaint from 134 IEFCL employees (“the complainants”) raising a series of concerns regarding the company’s labor and working conditions and use of security forces. Specifically, these concerns pertain to: (a) salaries/welfare; (b) discrimination; (c) unionization; (d) tax calculation and union dues withholdings; (e) discipline and treatment of employees who complained to CAO and/or who criticize management; (f) workplace safety, hazards, and hazard allowance; (g) healthcare coverage; and, (h) impacts associated with a July 2017 protest. In response to these concerns, the company noted that it invests significantly in its workers and asserts that it operates in accordance with, or beyond, the requirements of national law.

The purpose of a CAO compliance appraisal is to ensure that compliance investigations are initiated only in relation to projects that raise substantial concerns regarding E&S outcomes and/or issues of systemic importance to IFC. In deciding whether to initiate an investigation, CAO weighs factors including the magnitude of the E&S concerns raised in a complaint, results of a preliminary review of IFC’s E&S performance in relation to these issues, the existence of questions as to the adequacy of IFC’s requirements, and a more general assessment of whether a compliance investigation is the appropriate response in the circumstances.

In this context, CAO has reviewed IFC’s pre-investment E&S due diligence as well as its supervision of the company with regard to labor and working conditions and use of security personnel.

As construction of the fertilizer facility had yet to commence at the time of IFC’s 2012 pre-investment due diligence, IFC considered the company’s E&S management systems and track

record of performance with regard to its petrochemical facility. IFC considered the company to be in compliance with relevant IFC Performance Standards requirements, in relation to its requirements for labor, working conditions, and use of security forces. However, IFC's review was limited in scope and depth, particularly as related to the company's management of risks associated with security personnel and relied on an assessment of Indorama's petrochemical operations. It is unclear whether IFC's pre-investment review provided adequate assurance that the client would implement the same policies and procedures at its fertilizer facility as in operations at its petrochemical facility.

In March 2015, the National Union of Chemicals, Footwear, Rubber and Leather Employees (NUCFRLANMPE) notified the company of its interest to establish a workers' organization to represent workers of the company. In September 2015, the company commenced deductions from workers' salary for the benefit of NUCFRANMPE. In June 2016, the National Union of Petroleum, Natural Gas (NUPENG) sent a letter to the company notifying it that it had unionized company workers to NUPENG and requested the company commence deductions from workers' salary to the benefit of NUPENG. In response, NUCFRANMPE filed a case against NUPENG at the National Industrial Court of Nigeria seeking a judgment that NUCFRANMPE had the legal right to represent workers and NUPENG does not have right or legal justification to represent workers at the company.

Prior to 2017, IFC's supervision of the company focused on implementation of IFC's E&S requirements during the construction phase of the fertilizer facility. There is limited evidence that IFC supervised the company's procedures for operating the fertilizer facility or its response to the inter-union dispute.

In July 2017, 200 employees held a protest at the fertilizer plant raising concerns over inadequate salaries and employee welfare ("July 2017 protest"). The protest commenced on July 12, 2017 inside the company's facility. The protestors remained on site overnight. On July 13, 2017, company security personnel and Nigerian security forces required the protestors to leave the site. The complainants allege that company security personnel and Nigerian security forces attacked workers with live ammunition, chemical spray, tear gas, and horse-whips, and eventually forced them to run to the company entrance gate. The company alleges that a scuffle broke out between security personnel and protestors after which the protestors left the company's property. Thereafter, the company claims that the protest continued outside the company's property and the Nigerian police used tear gas to disburse it.

Following this protest and in advance of its second investment in the company, in January 2018 IFC conducted a site supervision visit to the company to review its approach to (a) unionization and collective bargaining; (b) working conditions and terms of employment; (c) the July 2017 protest; and, (d) security arrangements. IFC noted that an ongoing inter-union dispute regarding the right to represent company workers resulted in no collective bargaining agreement (CBA) between the company and its workers, and as a result, compensation packages were low but above minimum wage. In relation to the July 2017 protest, IFC noted that company security personnel are unarmed. IFC summarized the incident as it understood based on discussions during its site visit and media reports.

Following IFC's site visit, IFC commissioned a third-party consultant to prepare a Labor Assessment of the company's performance, which it received in May 2018. The report assessed the company's alignment with each PS2 requirement. The report concluded that the company appeared to be broadly compliant with PS2. It noted as follows: (a) the company pays in excess of Nigerian minimum wage, however, the minimum wage is low; (b) there was no evidence of any direct discrimination at the company, however, a perception exists that expatriate workers are favored over Nigerian workers; (c) there was no evidence which suggested that the company hindered workers from joining a union; and, (d) company had a comprehensive grievance process on paper, however, it was not possible to assess its implementation. In May 2018, the National Industrial Court ruled that NUCFRANMPE has the legal right to represent workers and NUPENG does not have right or legal justification to represent workers at the company.

As a condition of IFC's second investment, IFC required the company to (a) implement annual salary increments and an employee communication and engagement plan; (b) develop a local hiring and development plan for its operations; (c) formalize and enhance its employees' grievance mechanism; and (d) seek input from a specialist security consultant and update the Security Management Plan. IFC's supervision evidences that the company has implemented these actions.

Following a preliminary review of IFC's E&S performance in relation to this investment, CAO notes questions regarding IFC's 2012 PS2 and PS4 pre-investment review. While IFC's appropriately considered labor and working conditions at the petrochemical facility, IFC's documentation does not consider whether these conditions would differ materially to the IFC financed fertilizer facility and what if any PS compliance issues this might raise. Further, CAO notes that the area in which Indorama operates is one in which security risks are well known to be present. In this context, CAO has questions to the adequacy of IFC's review of security risks against the requirements of PS4 which requires risk assessment in relation to client reliance on both government and private security personnel.

Following the July 2017 protest, key labor issues raised by the complainants were assessed by IFC and a third-party consultant, and where gaps were identified, these were incorporated into IFC's 2018 investment E&S action plan (ESAP). IFC's supervision documentation evidences implementation of these ESAP items. Since the protest, the company has increased workers' salaries. While the complainants maintain that the salary increases are inadequate and that their salaries are not commensurate to the work they do, IFC's supervision documentation indicates that salaries are above the minimum industry standard. In respect to the complainants' assertions that they are being discriminated against in favor of foreign workers, CAO considers these allegations to be serious and, if verified, that they would indicate a potentially significant impact. IFC's supervision documentation notes that there is a shortage of available local skills in the Nigerian market to operate a fertilizer facility and thus the company has relied on expatriate workers to provide technical training and management. Further, IFC notes that the company is implementing a plan to transition away from the use of foreign workers. On this basis, IFC concludes that the company is operating in accordance with its requirements.

While the complainants have alleged that they do not have freedom of association, IFC's supervision documentation concludes that the company does not hinder workers from joining a

union. Rather, the issue appears to be that national law provides for one union to be recognized to represent workers for defined professions. Accordingly, in May 2018 the National Industrial Court ruled that NUCFRANMPE has the right to represent company workers. CAO notes the International Labour Organization's (ILO) view that Nigerian law restricts the registration of trade unions where another trade union exists, and thus, is contrary to ILO convention 87. Accordingly, national law potentially presents a challenge for workers to form or join workers' organizations of their choosing (PS2, para.13).

Regarding the July 2017 protest, the degree to which company management and its security personnel were involved in inappropriate use of force is contested by the company and the complainants. Following the incident, IFC required the company to conduct a security assessment and update its Security Management Plan to align with the requirements of PS4. IFC also advised the client to establish agreements/rules of engagement related to public forces onsite and insert commitment to the Voluntary Principles on Security and Human Rights into its Security Management Plan. IFC's supervision documentation indicates that the company's security management plan was updated to include these provisions, however, the establishment of an agreement between the company and public security forces on rules of engagement is not documented. CAO is not aware of additional security incidents or complaints subsequent to the July 2017 incident.

This compliance appraisal also considers allegations that in July 2018 two workers were transferred to another company site in response to their raising concerns regarding working conditions at the company, including participating in a complaint to CAO. Further, three workers allege that they were dismissed in October 2018 for participating in a protest against the transfer of their two colleagues. The company notes that the transfer of the two workers was in accordance with their employment contract and that the three workers were dismissed for gross indiscipline and highly unsafe behavior. On the basis of available information, CAO understands that the company has a formal process to terminate an employee. The company has represented that this was the only application of the disciplinary process which resulted in the termination of workers. It is not CAO's role to reach findings on whether specific dismissals in question were fair, however, allegations of retaliatory dismissals have a potentially chilling effect on workers' capacity to raise organize and raise grievances as anticipated by PS2.

While the range of issues raised by the complainants are potentially serious, enhanced supervision by IFC subsequent to the July 2017 protest has considered the company's approach to labor issues and security. Where gaps against Performance Standard requirements were identified, IFC documented implementation of corrective actions. While IFC supervision provides general assurance of the company's PS2 performance, questions remain as to IFC's response to allegations that the company has taken a retaliatory approach to workers who have raised grievances with the company. Given the potentially chilling impact of such decisions, CAO concludes that they raise substantial concerns regarding the application of PS2 to the project and require further investigation by CAO. CAO's investigation will be limited in scope to IFC's review and supervision of the company's disciplinary procedures and approach to grievance handling, including its response to the specific grievances raised in the complaint. Terms of reference for this investigation will be issued in accordance with the CAO's Operational Guidelines.

## **About CAO**

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

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

For more information about CAO, please visit [www.cao-ombudsman.org](http://www.cao-ombudsman.org)

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## Acronyms

Acronym	Definition
AMR	Annual Monitoring Report
CAO	Office of the Compliance Advisor Ombudsman (IFC and MIGA)
CBA	Collective Bargaining Agreement
CDC	Company Disciplinary Committee (IEFCL)
E&S	Environmental and Social
EHS	Environmental, Health and Safety
EIA	Environmental Impact Assessment
EPCL	Eleme Petrochemicals Company Limited
ESAP	Environmental and Social Action Plan
ESRS	Environmental and Social Review Summary
ESRP	Environmental and Social Review Procedures
GN2	Performance Standard Guidance Note 2
HMO	Health Maintenance Organisation
IEFCL	Indorama Eleme Fertilizer & Chemicals Limited
IFC	International Finance Corporation
ILO	International Labour Organization
ISO	International Organization for Standardization
LTIFR	Lost Time Incident Frequency Rate
MCPP	Managed Co-Lending Portfolio Program (IFC)
MIGA	Multilateral Investment Guarantee Agency
NUCFRLANMPE	National Union of Chemicals, Footwear, Rubber and Leather Employees
NUPENG	National Union of Petroleum, Natural Gas
OHSAS	Occupational Health and Safety Assessment Series
PET	polyethylene terephthalate
PS	Performance Standards (IFC)
SII	Summary of Investment Information
SSV	Site Supervision Visit

## **I. Overview of the Compliance Appraisal Process**

When CAO receives a complaint about an IFC or MIGA project, the complaint is referred for assessment. If CAO concludes that the parties are not willing or able to reach a facilitated solution, the case is transferred to the CAO compliance function for appraisal and potential investigation.

The focus of the CAO compliance function is on IFC and MIGA, not their client. This applies to all IFC's business activities, including the real sector, financial markets and advisory. CAO assesses how IFC/MIGA assured itself/themselves of the performance of its business activity or advice, as well as whether the outcomes of the business activity or advice are consistent with the intent of the relevant policy provisions. In many cases, however, in assessing the performance of the project and IFC's/MIGA's implementation of measures to meet the relevant requirements, it will be necessary for CAO to review the actions of the client and verify outcomes in the field.

In order to decide whether a compliance investigation is warranted, CAO first conducts a compliance appraisal. The purpose of the compliance appraisal process is to ensure that compliance investigations are initiated only for those projects that raise substantial concerns regarding environmental and/or social outcomes, and/or issues of systemic importance to IFC/MIGA.

To guide the compliance appraisal process, CAO applies several basic criteria. These criteria test the value of undertaking a compliance investigation, as CAO seeks to determine whether:

- There is evidence of potentially significant adverse environmental and/or social outcome(s) now, or in the future.
- There are indications that a policy or other appraisal criteria may not have been adhered to or properly applied by IFC/MIGA.
- There is evidence that indicates that IFC's/MIGA's provisions, whether or not complied with, have failed to provide an adequate level of protection.

CAO reviews relevant documentation and engages with the IFC/MIGA team working on the specific project and, as necessary, other stakeholders in evaluating these criteria. After a compliance appraisal has been completed, CAO can close the case or initiate a compliance investigation of IFC/MIGA.

Once CAO concludes a compliance appraisal, it will advise IFC/MIGA, the World Bank Group President, and the Board in writing. If a compliance appraisal results from a case transferred from CAO's dispute resolution, the complainant will also be advised in writing. A summary of the appraisal results is made public. If CAO decides to initiate a compliance investigation as a result of the compliance appraisal, CAO will draw up terms of reference for the compliance investigation in accordance with CAO's Operational Guidelines.

## II. Background

### Investment

Indorama Corporation is a large global conglomerate. It employs 30,000 people in 30 countries across its manufacturing facilities in the production of petrochemicals, polyester, polyethylene terephthalate (PET), fertilizer, spinning and textiles.<sup>1</sup>

In March 2007, IFC provided a US\$75 million loan to Indorama to finance the acquisition and refurbishment of Eleme Petrochemicals Company Limited (EPCL), a then government owned petrochemical company in Port Harcourt, Nigeria.<sup>2</sup> The loan was repaid in 2012.

In 2010, Indorama Eleme Fertilizer & Chemicals Limited (IEFCL, “the company”) was established for the purpose of developing and operating a nitrogenous fertilizer facility at Indorama’s site in Port Harcourt.<sup>3</sup> In April 2013, IFC provided a series of loans to IEFCL to finance the construction of the fertilizer facility. This included: (a) US\$150 million loan from IFC’s own account; (b) US\$75 million in syndicated loans; and (c) US\$150 million mobilized from several other development finance institutions.<sup>4</sup>

In September 2018, to support the company’s expansion of its fertilizer facility, IFC provided: (a) a loan of US\$100 million from its own account; (b) a US\$50 million loan acting in its capacity as the implementing entity for the Managed Co-Lending Portfolio Program (MCP); and (c) up to \$850 million in syndicated loans.<sup>5</sup>

IFC’s client is IEFCL. For the purposes of this compliance appraisal, IFC’s investments in IEFCL to construct, operate and expand the fertilizer plant are defined as the project.

### Complaint and CAO Assessment

In April 2018, CAO received a complaint from 134 IEFCL employees (“the complainants”) raising a series of concerns regarding the company’s labor and working conditions and use of security forces. Specifically, these concerns pertain to: (a) salaries/welfare; (b) discrimination; (c) unionization; (d) tax calculation and union dues withholdings; (e) discipline and treatment of employees who complained to CAO and/or who criticize management; (f) workplace safety, hazards, and hazard allowance; (g) healthcare coverage; and, (h) harm and impacts from a July 2017 protest.

In response to the complaint, the company noted that it invests substantially in their manpower and provided thorough training to graduate engineers, most of whom are offered a full-time

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<sup>1</sup> Indorama, *About Us*. Available at <http://bit.ly/2K8w7M6>.

<sup>2</sup> IFC Disclosure, Summary of Proposed Investment, project number 24802. Available at <http://bit.ly/2K82D18>.

<sup>3</sup> Bloomberg, Indorama Eleme Fertilizer and Chemicals Ltd Available at <https://bloom.bg/2zqs73u>.

<sup>4</sup> IFC Disclosure, Summary of Investment Information, project number 30967. Available at <http://bit.ly/2OydgFS>.

<sup>5</sup> IFC Disclosure, Summary of Investment Information, project number 40420. Available at <http://bit.ly/2GGN6Da>. CAO Assessment Report, February 2019. Available at <http://bit.ly/33nkM2i>.

position at the end of the training period. The company noted it has implemented a number of initiatives and improved facilities to create a conducive work environment for staff. In relation to the concerns raised in the complaint, the company presented a response to each concern. The company asserts that it operates in accordance with, or beyond, the requirements of national law.

Further details on concerns raised by the complainants and the company's response is presented below.

### **III. Analysis**

This section first outlines IFC's E&S policies and procedures as they apply to IFC's investments in IEFLC. Secondly, a summary of IFC's E&S pre-investment review and supervision is presented. Thereafter, in relation to each concern raised by the complainants, this section outlines (a) the different perspective of the parties, (b) relevant IFC E&S requirements, and, (c) a summary of IFC's actions in relation to those concerns. The key question for CAO is whether IFC exercised due diligence in its pre-investment review and supervision of the E&S risks of the investment in relation to the concerns raised in the complaint.

#### **IFC Policy Framework**

IFC's investments in the company were made in the context of its 2012 Policy on Environmental and Social Sustainability ("the Sustainability Policy") and Performance Standards (PS), together referred to as the Sustainability Framework. Through the Sustainability Policy, "IFC seeks to ensure, through its due diligence, monitoring, and supervision efforts, that the business activities it finances are implemented in accordance with the requirements of the Performance Standards."<sup>6</sup> IFC clients are required to operate in accordance with the requirements of the Performance Standards throughout the life of the investment.

Prior to investment, IFC's role is to assess client E&S policy and performance, "identifying any gaps therewith, and corresponding additional measures" required to meet IFC standards.<sup>7</sup> During supervision IFC is required to obtain information to "assess the status of project's compliance with the PS and other specific E&S requirements agreed at commitment."<sup>8</sup> In the event of client non-compliance with IFC E&S requirements, IFC is required to "work with the client to bring it back into compliance, and if the client fails to reestablish compliance, IFC [is required to] exercise its rights and remedies, as appropriate."<sup>9</sup>

#### **Summary of IFC's E&S pre-investment review and supervision**

In advance of its 2013 investment, in 2012 IFC prepared a pre-investment review summarizing the company's plans to construct and operate the fertilizer plant. IFC noted that the company had presented plans to address E&S impacts in order to ensure the project would, upon implementing specific agreed mitigation measures, comply with applicable national and international laws and

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<sup>6</sup> IFC, 2012, Sustainability Policy, para. 7.

<sup>7</sup> IFC, 2012, Sustainability Policy, para. 28.

<sup>8</sup> IFC ESRP 6, para. 1.

<sup>9</sup> Sustainability Policy, para. 24.

regulations, IFC Performance Standards, and World Bank Group Environmental, Health and Safety Guidelines.<sup>10</sup>

IFC's 2012 assessment of labor and working conditions was made on the basis of a review (including a third-party review) of the company's policies and procedures for its petrochemical facility. Regarding the petrochemical facility, IFC noted Indorama had a collective bargaining agreement (CBA) with NUPENG (the National Union of Petroleum, Natural Gas), which defined an approach to remuneration, policies related to training and medical coverage, life insurance, disciplinary procedures, grievance mechanism, leave availability, various benefits provided to workers such as loans, allowances and subsidies along with the retrenchment mechanism. Overall, IFC noted that the Indorama's employment conditions complied with IFC Performance Standard 2. IFC affirmed that the Indorama's existing approach to management of human resources would apply to employees operating the fertilizer facility. Regarding worker safety, IFC recorded that the petrochemical facility was accredited to ISO 14001 and OHSAS 18001 and that the company received a 5-star rating from the British Safety Council. IFC noted that security at the facility was maintained by unarmed private security force and an armed police force.<sup>11</sup> As part of its investment, IFC required the company to develop and implement an integrated management system aligned with PS1 and Indorama's existing management system within 6 months following commission of the fertilizer facility.<sup>12</sup>

As agreed with the company, during the construction phase of the fertilizer plant IFC and the other lenders hired a third-party consultant to prepare a six-monthly E&S supervision report assessing the company's compliance with national law and IFC's Performance Standards. The consultant reported directly to IFC and the other lenders. Accordingly, between 2013 and 2016, the consultant's reports and IFC supervision focused on project construction. Construction of the fertilizer plant finished in May 2016.

In July 2017, 200 employees held a protest at the fertilizer plant raising concerns over inadequate salaries and employee welfare ("July 2017 protest").<sup>13</sup> The complainants assert that the company's security and national police used excessive and inappropriate force to disperse the protest. In response to this incident and in appraising a second investment in the company, IFC conducted a site supervision visit (SSV) to the company in January 2018 (henceforth "2018 SSV"). IFC's site supervision report summarized the company's approach to (a) unionization and collective bargaining; (b) working conditions and terms of employment; (c) the July 2017 protest; and, (d) security arrangements.

Following IFC's site visit, IFC commissioned a third-party consultant to prepare a Labor Assessment of the company's performance. In May 2018, IFC received the Labor Assessment (henceforth "2018 Labor Assessment"). The report assessed the company's alignment with each PS2 requirement. It was prepared on the basis of a review of company documentation and a site visit to meet with company management, staff, employee representatives and discussions with

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<sup>10</sup> IFC 2012, Environmental and Social Review Summary (ESRS), project number 30967. Available at <http://bit.ly/31EAJjf>.

<sup>11</sup> IFC 2012, ESRS, project number 30967.

<sup>12</sup> IFC 2012, Environmental and Social Action Plan, project number 30967. Available at <http://bit.ly/31EAJjf>.

<sup>13</sup> Vanguard, July 14 2017, *Workers Shut Rivers firm over welfare*. Available at <http://bit.ly/2MeBCvb>.

employees without notice and management presence. The report concludes that the company appeared to be broadly compliant with PS2, with areas for improvement including: employee communication, grievance policy promotion and management, contractor management and compensation.

In June 2018, IFC committed to its second investment in the company. IFC's pre-investment review noted that the company's integrated management system for the fertilizer facility had not been certified to ISO 9001/14001 or OSHAS 18001, but established in accordance with these certifications and, in general, operates in accordance with IFC's requirements. As relevant to this compliance appraisal, the ESAP for this investment required the company to: (a) to implement annual salary increments and an employee communication and engagement plan within a timebound framework; (b) develop a local hiring and development plan for its operations including measures to encourage female recruits to the company; (c) formalize and enhance as needed the employees' grievance mechanism; and (d) seek input from a specialist security consultant and update the Security Management Plan for its operations.<sup>14</sup> In June 2019 IFC conducted a site supervision visit to the company to document compliance with its requirements (henceforth "2019 SSV").

## CAO Analysis

### *(a) Salaries/welfare*

Complainants claim their pay is below industry standards, and not commensurate to the nature of their work or the life-threatening work-related hazards to which they are exposed. They also explain that, in August 2017—after the employees peacefully protested for better pay—IEFCL proposed a revised welfare package that employees rejected *en masse*. Further, complainants allege that in July 2018 IEFCL changed in the grade system used to assign compensation rates and structures and downgraded many employees in the process, although their actual job scope was not changed. As of August 2017, the employees rejected the new grade system.<sup>15</sup>

The company asserts that pay is much higher than the minimum wage and minimum industry wage for the chemical sector. As a result of salary revisions in 2017, the company affirms that 83 percent of employees received an increase of 51 percent and above in their salaries and allowances. According to the company, the objective of such revision was to cushion the effect of the prolonged unsettled dispute between the two contending unions, which has been a major constraint in negotiation of a CBA. The company notes that in July 2018 it re-engineered its organizational structure, leading to standardization of designation and restructuring of compensation and benefit structure. As a result, most employees were moved up a grade.<sup>16</sup> The company adds that they will only conduct collective bargaining with elected union representatives.<sup>17</sup>

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<sup>14</sup> IFC 2018, Environmental and Social Action Plan, project number 40420. Available at <http://bit.ly/308J6mU>.

<sup>15</sup> CAO Assessment Report.

<sup>16</sup> CAO Assessment Report, page 9 and Annex D.

<sup>17</sup> CAO Assessment Report.

IFC PS2 requires a client to implement human resource policies and procedures to manage workers consistent with the requirements of PS2 and national law. Where a company is party to a CBA with a workers' organization, PS2 requires that such agreements be respected. Where such agreements do not exist, or do not address working conditions and terms of employment, PS2 requires that a client provide reasonable working conditions and terms of employment.<sup>18</sup> PS2 states that "reasonable working conditions and terms of employment could be assessed by reference to (i) conditions established for work of the same character in the trade or industry concerned in the area/region where the work is carried out; (ii) collective agreement or other recognized negotiation between other organizations of employers and workers' representatives in the trade or industry concerned; (iii) arbitration award; or (iv) conditions established by national law."<sup>19</sup>

IFC's 2012 pre-investment review considered the company's working conditions and terms of employment in relation to its petrochemical facility which IFC considered to be in compliance with Performance Standard 2.<sup>20</sup> However, it is unclear whether IFC's pre-investment review provided adequate assurance as to whether client would implement the same policies and procedures at its fertilizer facility as in operations at its petrochemical facility.

IFC's supervision documentation does not consider the company's PS2 compliance in the operation of the fertilizer facility until after the July 2017 protest. IFC supervision documentation records that the company had not agreed a CBA with fertilizer facility workers due to an ongoing inter-union dispute (see (c) Unionization below). IFC noted that employees were being paid above the minimum wage, but that in the absence of a CBA, compensation packages were low, particularly when comparing wages at the fertilizer facility with the neighboring petrochemical plant, where workers were paid in line with higher oil industry rates. After the July 2017 protest, IFC recorded that the company increased compensation packages for staff at the fertilizer facility. IFC noted that while the increase was lower than that demanded by workers, the company was awaiting the resolution of the inter-union dispute before considering any further wage claims.

The 2018 Labor Assessment noted that the company pays in excess of Nigerian minimum wage, but that, the minimum wage is low and has not been increased since 2011. In the absence of a CBA by June 2018, the consultant recommended that the company put in place a plan to increase pay and benefits. The consultant noted that the company acknowledged the pay differentials and had a long term plan to address them.

As a condition of IFC's 2018 investment, in the event that a CBA was delayed beyond July 2018, the company was required to develop a time bound action plan to implement annual salary increments and notify employees of the same.<sup>21</sup> IFC's 2019 SSV recorded that the company implemented provisions of the legal framework and industry best practice for revisions in salaries, allowances and working conditions pending formation of a union. IFC recorded that the company's pay scale was in excess of a recently agreed CBA between the employer's federation

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<sup>18</sup> IFC PS2, para. 8-10.

<sup>19</sup> IFC PS2, footnote 6.

<sup>20</sup> IFC 2012, ESRS, project number 30967.

<sup>21</sup> IFC, 2012, ESRS project 40420. Available at <http://bit.ly/308J6mU>.

representative for the chemical and non-metallic products sector and NUCFRLANMPE, and above the minimum industry wage.

CAO notes that PS 2 requires clients to provide “reasonable” terms and conditions assessed against those provided by work of the same character in the trade or industry concerned in the area/region where the work is carried out.<sup>22</sup> Available information indicated that the Indorama operates significantly different pay scales between its petrochemical facility and its fertilizer facility, on this same site. As noted by IFC, this context makes comparison between company’s fertilizer and petrochemical operations a material factor in considering salaries.

In this instance, IFC’s supervision has documented that the company’s salaries and allowances are above the minimum industry wage as compared to a CBA agreed between the employer’s federation representative for the chemical and non-metallic products sector and NUCFRLANMPE. In this context, CAO has not identified an ongoing compliance concern.

*(b) Discrimination*

Complainants allege that the company discriminates between expatriates and Nigerian workers. When compared to Nigerian workers, they allege that expatriates are (a) better treated, (b) better paid for the same task, and (c) offered better career and promotion opportunities and benefits. Complainants also allege that the company is breaching the “Local Content Laws” because the number of expatriates on staff exceeds the number permitted by law.<sup>23</sup>

The company asserts that expatriate staff are required as there is insufficient labor resources with necessary skill and experience in Nigeria. They note that expatriates are on short term contracts and have multiple years of experience. They assert that salaries and allowances of expatriates and Nigerians are in line with relevant comparators. The company asserts its belief in integration at the workplace and zero tolerance for any form of racial abuse or discrimination.<sup>24</sup>

PS2 requires clients to “base the employment relationship on the principle of equal opportunity and fair treatment and will not discriminate with respect to any aspects of the employment relationship, such as recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, job assignment, promotion, termination of employment or retirement, and disciplinary practices.”<sup>25</sup> Discrimination on the basis of race, nationality, or ethnicity is not permitted.<sup>26</sup>

IFC defines workplace discrimination as “any distinction, exclusion, or preference with respect to recruitment, hiring, firing, working conditions, or terms of employment made on the basis of personal characteristics unrelated to inherent job requirements.”<sup>27</sup> Inherent job requirements refer to genuine occupational qualifications that are necessary to perform the job in question. The hiring

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<sup>22</sup> IFC, PS2, para. 10.

<sup>23</sup> CAO Assessment Report.

<sup>24</sup> CAO Assessment Report.

<sup>25</sup> IFC. 2012. Performance Standard 2, paragraph 15.

<sup>26</sup> IFC PS2, para 15, footnote 9.

<sup>27</sup> PS2, Guidance Note 41.

of expatriate staff under preferable conditions than national staff may raise discrimination issues if this is not based on inherent job requirements.<sup>28</sup>

While IFC's 2012 pre-investment review notes that the company hires expatriate workers, neither IFC's review nor initial supervision, until after the July 2017 protest, present an analysis of whether treatment of expatriate and local workers was fair and non-discriminatory. In examining this issue, the 2018 Labor Assessment looked for evidence of discrimination and asked specific questions to workers and employee representatives. The Labor Assessment noted that there was a shortage of available local skills in the Nigerian market to operate a fertilizer facility. It also noted that there was a steep learning curve required for technical skills and health and safety which required the company to rely on expatriate employees to provide technical training and management. On the basis of a review of salaries and discussions with the company, the Labor Assessment found that there was pay parity for workers doing the same job. The Labor Assessment also reported that the company had a plan to transition certain skilled jobs from expatriate to local workers. The Labor Assessment found no evidence of direct discrimination at the company. It noted, however, a perception that expatriate workers are favored over Nigerian workers. In this context, the Labor Assessment recommended that the company introduce a comprehensive communication plan to explain the company's objectives and initiatives it is implementing on the development of local employees.

IFC's 2019 SSV noted actions the company had taken to explain its use of expatriate workers to local workers and training provided to local workers to upskill them to replace expatriate workers. IFC recorded that the company's objective to replace expatriate workers with local workers and data to July 2019 indicated that this was being implemented.

CAO has questions as to the adequacy of both IFC's pre-investment review and initial supervision in relation to the company's use of expatriate workers. However, this issue was addressed substantively in the 2018 Labor Assessment commissioned by IFC which found no evidence of direct discrimination. Recent IFC supervision documentation notes that the company is reducing its use of expatriate workers. Accordingly, while the allegation raised by the complainants are serious, IFC supervision documentation provides an adequate response in the context of the anti-discrimination requirements of PS2.

### *(c) Unionization*

The complainants assert that, pursuant to national law, they are free to decide whether they want to join a union and, if they do, which union to join. In their complaint, the complainants note that they do not want to join a union and instead preferred to resolve their issues directly with management. Should they decide to join a union, the complainants note that they would join NUPENG (the National Union of Petroleum, Natural Gas) rather than NUCFRLANMPE (the National Union of Chemicals, Footwear, Rubber and Leather Employees), which they allege the company was trying to impose on them.

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<sup>28</sup> *ibid.*

The company notes that it recognizes workers' right to unionize or not to unionize by law and management is open to discuss worker grievances with a duly empowered workers' committee. The company notes that it could not start negotiations on a CBA as the dispute between NUPENG and NUCFRLANMPE was not resolved. The company notes that the dispute was referred to the National Industrial Court and in May 2018 the court ruled that NUCFRLANMPE is the proper trade union to unionize IEFCL workers. Hence, the company encouraged employees to abide by the ruling and elect union representative to negotiate a CBA.

IFC PS2 requires clients to comply with national law where it recognizes workers' right to unionize and not discourage workers from forming or joining workers' organizations of their choosing.<sup>29</sup> IFC's requirements on freedom of association are guided by International Labour Organization (ILO) Convention 87 on Freedom of Association and Protection of the Right to Organize and 98 on Right to Organize and Collective Bargaining.

IFC's 2012 pre-investment review of the company's approach to freedom of association was made on the basis of Indorama's existing petrochemical operations. IFC noted that the Indorama had a collective bargaining agreement with NUPENG. IFC's supervision documentation does not comment on freedom of association until after the July 2017 incident. IFC's 2018 SSV report notes that company workers were not represented by a union and do not have a CBA as the issue of representation between NUPENG and NUCFRLANMPE was under consideration by the National Industrial Court. The 2018 Labor Assessment noted that company tried to initiate a 20-person workers' committee to negotiate on worker issues, however, it was not successful. The 2018 Labor Assessment concluded that there was no evidence to suggest that the company hindered workers from joining a union. In May 2018, the National Industrial Court ruled that NUCFRLANMPE is the appropriate union to represent fertilizer workers as provided for in Nigerian law.<sup>30</sup>

In regard to national law, CAO notes ILO's view that Nigerian law restricts the possibility of other trade unions from being registered where a trade union already exists, and thus, is contrary to ILO convention 87.<sup>31</sup> This potentially presents a challenge for workers to form or join workers' organizations of their choosing.<sup>32</sup> However, the 2018 Labor Assessment finds no evidence that the company has taken action which hinders workers from joining a union. As a result, the concerns raised by the complainants in this instance do not present a project-level compliance issue that warrants investigation by CAO.

#### *(d) Tax calculation and union dues withholdings*

The complainants believe that some taxes and union dues are illegally withdrawn from their salaries. They assert that union dues for NUCFRLANMPE have been deducted from their salaries since 2015 and they do not understand on what grounds these deductions are made given the

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<sup>29</sup> IFC PS2, para. 13.

<sup>30</sup> National Industrial Court of Nigeria, May 3, 2019, Judgment Suit No: NICN/YEN/120/2016. Available at <http://bit.ly/2TTFL8Z>.

<sup>31</sup> ILO, 2017, Observation (CEACR) – Nigeria. Available at <http://bit.ly/2yBJmhK>.

<sup>32</sup> IFC PS2, para. 13.

dispute on representation between NUPENG and NUCFRLANMPE. They assert that IEFCL Nigerian workers have never exercised their right to join NUCFRLANMPE.<sup>33</sup>

The company asserts that it strictly complies with the law and that it provides employees with clear information on income tax deductions. The company indicated that in September 2015, NUCFRLANMPE requested it deduct 4 percent of each worker's salary to be transferred to NUCFRLANMPE. The company accepted and implemented this request.<sup>34</sup>

PS2 requires that clients to provide workers with documented information that is clear and understandable regarding their wage calculation and pay slips and deductions.<sup>35</sup> While PS2 does not include specific provisions with respect to workers organization deductions, CAO notes that ILO guidance on Conventions 87 and 98 provides that clauses requiring compulsory union membership or payment of union dues are compatible with ILO's conventions as long as they are the result of free negotiation between workers' organizations and employers.<sup>36</sup>

In the 2018 Labor Assessment, IFC's consultant confirmed that the company was deducting union subscriptions and holding subscriptions in an escrow account for payment to whichever union was granted recognition by the national court to represent workers.

Available evidence to CAO indicates that the company provides pay slips with breakdowns of deductions for income tax, pension and union subscriptions. Regarding the latter, ILO guidance, upon which PS2 is guided by, notes that compulsory payment of union dues is completable with ILO conventions provided that they are the result of free negotiation between workers' organizations and employers. As a result, the concerns raised by the complainants in this instance do not present a project-level compliance issue that warrants investigation by CAO.

*(e) Discipline and treatment of employees who complained to CAO and/or who criticize management*

The complainants indicate they have little trust in the company's internal grievance mechanism and assert that they have suffered reprisals as a result of their work-related complaints. In particular, complainants assert that in July 2018 two workers were transferred to another company facility in Kano state, 1,000 km from Port Harcourt, for raising workplace grievances. The complainants assert that three other workers were unlawfully dismissed in October 2018 for questioning this transfer. The complainants note that their dismissal was based on the advice of the company's disciplinary committee, although they allege that the dismissals are not legally grounded and constitute a form of retaliation for complaining about their working conditions and a means to "shut them up."<sup>37</sup> During the course of this compliance appraisal, the complainants informed CAO that they still experience verbal threats of being dismissed.

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<sup>33</sup> CAO Assessment.

<sup>34</sup> CAO Assessment.

<sup>35</sup> IFC PS2, paragraphs 10 and PS2 GN14.

<sup>36</sup> ILO. n.d. "Q&As on Business and freedom of association." Available at: <http://bit.ly/2OZPDpm>. Also refer to ILO. 1994. *General Survey on Freedom of association and collective bargaining: Right of workers and employers to establish and join organizations*, paragraph 102. Available at: <http://bit.ly/2Z9EnUv>.

<sup>37</sup> CAO Assessment Report.

The company claims that it has a very good relationship with its workers and it maintains a functioning grievance mechanism that successfully addresses worker concerns. The company denies taking any retaliatory measures against the complainants, noting that the decision to transfer staff was in accordance with their terms of employment and national law. In relation to the dismissal of three workers, the company alleges that on July 27, 2018, a few workers sought to mobilize other workers to abandon their post, which the company claims is gross indiscipline and highly unsafe. The company notes that a company disciplinary committee (CDC) investigated this incident and determined five individuals were responsible for indiscipline to a varying degree. Company management terminated the appointment of three workers. The company notes that this is the only incident that led to the application of the disciplinary process which resulted in the termination of appointments.

PS2 requires clients to base the employment relationship on the principle of equal opportunity and fair treatment and not to discriminate with respect to any aspects of the employment relationship, including in termination of employment and disciplinary practices.<sup>38</sup> GN2 elaborates that demoting or re-assigning workers, as well as outsourcing or shifting workers among facilities, in response to union activities would constitute discrimination or retaliation.<sup>39</sup> Further, in October 2018, IFC released a position statement on retaliation against civil society and project stakeholders. In this statement, IFC noted that it “does not tolerate any action by an IFC client that amounts to retaliation – including threats, intimidation, harassment, or violence – against those who voice their opinion regarding the activities of IFC or our clients. We take seriously any credible allegations of reprisals.”<sup>40</sup>

In its 2018 Labor Assessment, IFC’s third-party consultant noted that the company had a comprehensive grievance process on paper, however, it was not possible to assess the degree to which it is implemented in practice as many grievances are reported to be resolved informally. The Labor Assessment did not engage with the details of the company’s disciplinary procedures for workers. The Labor Assessment was completed prior to the alleged reprisal claims. IFC’s 2019 SSV documented enhancements the company made to its grievance management procedures since the 2018 Labor Assessment, however, did not comment on the reprisal allegations.

Regarding the specific allegations of unfair dismissal included in the complaint, IFC advised CAO that it inquired with the company regarding the process followed and as to whether the dismissed workers had taken legal action against the company. IFC was informed that the company followed its process as per its Employee Handbook and the dismissed workers had filed legal action against the company.

On the basis of available information, CAO understands that the company has a formal process to terminate an employee. The company has represented that the dismissal of three workers in October 2018 was the only application of the disciplinary process which resulted in the termination of workers. It is not CAO’s role to reach findings on whether specific dismissals in question were

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<sup>38</sup> IFC 2012, PS2, para. 15.

<sup>39</sup> IFC 2012 GN2, paragraph GN37.

<sup>40</sup> IFC 2018, IFC Position Statement on Retaliation Against Civil Society and Project Stakeholders, available at <http://bit.ly/33DNBYb>.

fair, however, allegations of retaliatory dismissals have a potentially chilling effect on workers' capacity to organize and raise grievances as anticipated by PS2.

*(f) Workplace safety, hazards, and hazard allowance*

Complainants raise concerns about the health and safety hazards they are exposed to, such as insufficient fall prevention measures in the 47-meter-high granulation building, as well as the high temperature work environments in the granulation building, the bulk urea storage unit, the boiler unit, and the reformer unit. They also raise concerns regarding the impact of urea dust to their skin and respiratory tracts as well as exposure to carcinogenic substances, radiation, high sound levels, and ammonia, among other issues. They are concerned about the impacts of those hazards on their health, including their fertility. Complainants indicate that the hazard allowance they receive is not commensurate to the risks posed by these hazards.<sup>41</sup>

The company asserts that it complies with IFC's Environmental, Health and Safety Guidelines and national regulations. The company notes that its Lost Time Incident Frequency Rate (LTIFR) is low. The company notes that the Nigerian authorities regularly conduct audits and they have never observed any non-compliance in relation to Occupational Health and Safety (OHS) issues. In relation to the specific safety concerns the complainants raise, the company asserts that its facility has implemented adequate safety measures and work procedures to mitigate inherent risks. The company notes that the British Safety Council has undertaken a health, safety and environmental audit of its facility that has not raised any concerns. Further, the company notes that every employee undergoes a pre-employment medical check and annual medical examination, and that no occupational disease symptoms have been reported in the last two years of operation.<sup>42</sup>

PS2 requires clients to provide a safe and healthy work environment by considering inherent risks and specific classes of hazards in the client's work areas, including physical, chemical, biological, and radiological hazards, and specific threats to women. Clients are required to take steps to prevent accidents, injury, and disease arising from, associated with, or occurring in the course of work by minimizing, as far as reasonably practicable, the causes of hazards in accordance with good international industry practice.<sup>43</sup>

Third-party construction reports assert that the fertilizer plant was developed and constructed in accordance with IFC occupational, health and safety standards. Company reporting to IFC and IFC's supervision of the company's OHS performance generally document compliance with IFC's standards. In this context and absent information on actual impact (eg. reports of serious injuries, near misses or specific safety breaches) and considering IFC's supervision documentation, available evidence does not support a conclusion that there are substantial concerns regarding the E&S outcomes of the project in relation to worker health and safety, such that would warrant a CAO compliance investigation.

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<sup>41</sup> CAO Assessment Report.

<sup>42</sup> CAO Assessment Report.

<sup>43</sup> IFC PS2, paragraph 23.

*(g) Healthcare coverage*

The complainants raise concerns about the healthcare plan that IEFCL offers them under a Health Maintenance Organisation (HMO). Specifically, complainants allege that the HMO only provides coverage for basic concerns and does not cover treatment above a monetary value of 10,000 Naira (US\$28). The company asserts that all employees and their family members (spouses and up to four children) are covered for free medical treatment without any monetary limit. Further, the company notes that it operates a 24-hour clinic on site that provides free medical service to all staff and their family members.

IFC's Performance Standards do not set criteria with respect to the type and degree of coverage of company provided health insurance plans, where such plans are provided. Accordingly, this issue does not raise a question of compliance with IFC standards.

*(h) Security and the July 2017 protest*

The complainants assert that workers commenced a protest seeking better welfare on July 12, 2017. They affirm that they continued their protest through the night at the urea bagging warehouse without interfering with the plant production. In the morning of July 13, 2017, the complainants claim that company security, accompanied by armed members of the Nigerian military and police forces, attacked workers with live ammunition, chemical spray, tear gas, and horse-whips, and eventually forced them to run to the company entrance gate. The complainants claim to have been brutalized by Nigerian military personnel, allegedly ordered by company management. The complainants claim that they sustained injuries as well as mental trauma as a result of the incident.<sup>44</sup>

The company asserts that workers protested on company premises without following due process. The company affirms that protestors occupation of the urea bagging warehouse was highly unsafe. On the morning of July 13, 2017, the company asserts that 15 security personnel (including Nigerian mobile police) required the protestors to leave the area. While some protestors left, others remained. The company claims that a scuffle broke out between protestors and security personnel supported by the police. The company claims that there was no inappropriate use of force by security personnel and none of the employees ran from the urea bagging warehouse to the company entrance gate.<sup>45</sup>

Where a client retains private security, IFC PS4 requires it to assess risks posed by its security arrangements and be guided by the principles of proportionality and good international practice in relation to hiring, rules of conduct, training, equipping, and monitoring security personnel, and by applicable law. The client will not sanction any use of force except when used for preventive and defensive purposes in proportion to the nature and extent of the threat. Where government security personnel are deployed to provide security services, the client is required to assess and document risks arising from its use of such personnel. Further, the client should communicate to public security forces its desire that these personnel act with appropriate conduct towards

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<sup>44</sup> CAO Assessment Report.

<sup>45</sup> CAO Assessment Report.

workers, within applicable law and not sanction any use of force except when used for preventive and defensive purposes in proportion to the nature and extent of the threat. Where appropriate, a client will investigate all allegations of unlawful or abusive acts of security personnel and take action (or urge appropriate parties to take action) to prevent recurrence and will report unlawful and abusive acts to public authorities.<sup>46</sup>

IFC's 2012 pre-investment review noted that the Niger Delta, the region where the project is located, is a challenging security environment, but that the company's experience has been positive due to good relations with the immediate local community. IFC noted that the company used unarmed security guards and that there was a full-time armed police force stationed at the company's facility that provided armed escorts for expatriate workers and workers who need to access areas off-site where security may be a concern.<sup>47</sup> While IFC's due diligence considered the company to be in compliance with PS4 regarding its approach to security, it did not comment on whether the company had assessed and documented risks arising from its use of such government security personnel on its site.

IFC's 2018 SSV report noted the company's security approach is guided by the 'Voluntary Principles on Security and Human Rights'. The report states that company security personnel are unarmed and not permitted to use force on unarmed people. As the company's facility has been designated a national asset, government security personnel are on site and permitted to intervene where there is a security incident. IFC noted that the company's security personnel had unwritten general rules of engagement with public forces.<sup>48</sup> As part of IFC's 2018 investment, the company was required to conduct a Security Assessment to revise and update its Security Management Plan and processes to i) establish agreements/rules of engagement related to public forces onsite to the extent permissible, and ii) insert commitments to the Voluntary Principles during operation phases. IFC affirmed that these commitments would be monitored by the company as part of their existing security audit plan and incidents investigated by its CDC, where necessary.<sup>49</sup>

In relation to the July 2017 security incident, IFC's 2018 SSV reported noted that there was a minor scuffle between an unarmed security guard and protesters. IFC recorded that once the protesters left the operational area, they were joined by members of NUPENG and blocked the road outside the company's facility. At this point, the police used tear gas, and according to media reports, used horse whips, to disburse the protesters. IFC noted that the company's assessment of the incident did not include actions taken by the police force outside the facility as this security assessment is carried out by the public security forces.

CAO notes that prior to the July 2017 protest, IFC's supervision documentation does not substantiate whether the company's approach to engaging with public security forces was designed in accordance with PS4 requirements. The degree to which company management and its security personnel were involved in inappropriate use of force is contested by the company and the complainants. At the time of the incident, IFC's supervision documentation notes that the company had unwritten general rules of engagement with public security forces. In the context of

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<sup>46</sup> IFC 2012 PS4, paragraph 12-14 and IFC PS4 Guidance Note, para. 33.

<sup>47</sup> IFC 2012, ESRS, project number 30967.

<sup>48</sup> IFC, 2012, ESRS project 40420. Available at <http://bit.ly/308J6mU>.

<sup>49</sup> IFC, 2012, ESRS project 40420. Available at <http://bit.ly/308J6mU>.

the project's location and security risks, CAO notes that such an arrangement raises questions as to compliance with PS4 requirements. Following the July 2017 incident and as a condition of IFC's 2018 investment, IFC required the company to conduct a security assessment and update its Security Management Plan to establish agreements/rules of engagement related to public forces onsite and insert commitment to the Voluntary Principles. IFC's supervision documentation indicates that the company's security management plan was updated to include these provisions, however formal agreement between the company and public security forces on rules of engagement remains pending. As CAO is not aware of additional security incidents and, since the protest, IFC has taken action to ensure the company conducted a security assessment and updated its security management plan to align with PS4 requirements, available evidence does not support a finding of substantial ongoing concern regarding the E&S outcomes of the project.

#### **IV. CAO Decision**

The purpose of a CAO compliance appraisal is to ensure that compliance investigations are initiated only in relation to projects that raise substantial concerns regarding E&S outcomes and/or issues of systemic importance to IFC. In deciding whether to initiate an investigation, CAO weighs factors including the magnitude of the E&S concerns raised in a complaint, results of a preliminary review of IFC's E&S performance in relation to these issues, the existence of questions as to the adequacy of IFC's requirements, and a more general assessment of whether a compliance investigation is the appropriate response in the circumstances.

While the range of issues raised by the complainants are potentially serious, enhanced supervision by IFC subsequent to the July 2017 protest has considered the company's approach to labor issues and security. Where gaps against Performance Standard requirements were identified, IFC documented implementation of corrective actions. While IFC supervision provides general assurance of the company's PS2 performance, questions remain as to IFC's response to allegations that the company has taken a retaliatory approach to workers who have raised grievances with the company. Given the potentially chilling impact of such decisions, CAO concludes that they raise substantial concerns regarding the application of PS2 to the project and require further investigation by CAO. CAO's investigation will be limited in scope to IFC's review and supervision of the company's disciplinary procedures and approach to grievance handling, including its response to the specific grievances raised in the complaint. Terms of reference for this investigation will be issued in accordance with the CAO's Operational Guidelines.