



August 6, 2019
Office of the Compliance Advisor Ombudsman (CAO)

COMPLIANCE APPRAISAL: SUMMARY OF RESULTS

Kurum International SH.A (IFC Project # 33378)
Albania

Complaint 1

Kurum Holdings is a Turkish company that produces and trades iron, steel, oxygen and lime. In 1999, Kurum Holdings established Kurum International (“the client”) to operate a steel plant at Elbasan, Albania.

In September 2013, IFC approved a loan of €30m from its own account and up to €66m in syndicated loans to the client. The purpose of the investment was to support the client’s acquisition and rehabilitation of four hydropower plants (HPPs) in Albania. The HPPs were purchased to ensure cheaper and more reliable electricity for the client’s steel production operations. As part of the investment, the client was required to apply IFC’s E&S standards to the newly acquired HPPs. IFC also conducted a rapid assessment of environmental and social (E&S) risks associated with the steel plant and required the client to implement several specified pollution control measures at the steel plant. However, IFC did not require the client’s steel plant to meet IFC’s E&S standards more generally.

In June 2015, CAO received a complaint from community members who live close to the client’s steel plant in Albania. The complaint raises issues regarding health impacts from air pollution allegedly produced by the steel plant. While the complainants acknowledge that the company has made improvements, they perceive that emissions from the plant, particularly at night, continue to be harmful. Further, they state that information about the pollution from the steel plant is not readily available.

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 concerns raised by a complaint, results of a preliminary review of IFC’s E&S performance in relation to these issues, and a more general assessment of whether a compliance investigation is the appropriate response.

A key question for this compliance appraisal is whether IFC’s E&S standards were applicable to the client’s steel plant. IFC requirements on the scope of application of its E&S requirements are complex. Where an IFC investment has a defined use of proceeds and a clearly defined E&S footprint, the Sustainability Policy allows for IFC to limit the application of its E&S requirements to the business activities it is funding. At the same time, IFC Performance Standard 1 (PS1) requires an assessment of E&S risks and impacts in the context of a project area of influence including associated facilities, indirect impacts on ecosystem services, impacts arising from third party actions and supply chain impacts. A key challenge in defining the scope of application of IFC’s policies is that PS1 provides a broad definition of the term project stating that each user should

specify the business activities to which the Performance Standard applies while at the same time providing that the scope of the E&S risks and impacts identification process should be consistent with good international industry practice.

In considering whether the steel plant was part of the project, IFC pre-investment review documentation presents contradictory statements. IFC staff initially advised management that the steel plant would be required to apply the Performance Standards. Investment approval documentation thereafter is non-specific on whether the steel plant would or would not be required to apply IFC's Performance Standards. While a clear statement by IFC asserting that the steel plant was outside the scope of the project was included in draft approval documentation, this was removed from the final version presented to the IFC Board. However, IFC's investment agreement requires the application of IFC's Performance Standards to the hydropower plants only. The agreement also requires the client to implement several pollution control measures at the steel plant. During this appraisal, IFC noted that these measures were developed following a rapid assessment of the steel plant due to reputational risks associated with its environmental performance.

Following disbursement of IFC's loan, IFC supervised implementation of the agreed E&S Action Plan (ESAP) items related to the steel plant. In November 2014, IFC confirmed that the client had: (a) repaired the steel plant's canopy; (b) installed a continuous dust emissions monitoring system on the filter system on the melt shop; and, (c) installed a failure alarm on the filters of the lime plant at the steel plant site, in accordance with the ESAP. However, as the facility was not operating at the time of IFC's visit, IFC was unable to review the effectiveness of these actions as pollution control measures. Soon after, the client entered bankruptcy proceedings. During this period, IFC did not receive client E&S reporting.

The complainants' concerns regarding exposure to industrial pollution represent a potentially significant impact of the IFC client's steel production activities, and evidence available to CAO during this compliance appraisal is not conclusive as to whether these impacts are being managed in accordance with IFC standards. However, there is a lack of clarity as to the applicability of IFC pollution control standards to the client's steel production facility. In presenting this investment to IFC management and Board, IFC made a series of contradictory and unclear statements regarding the application of its E&S requirements to the steel plant. As result it is not clear that IFC's decision to invest was made on the basis of a full understanding of the E&S risk mitigation framework for the project.

Following loan disbursement, IFC documentation demonstrates that IFC supervised the implementation of agreed pollution control measures at the steel plant as included in the ESAP. However, IFC's supervision documentation does not provide assurance that the client's steel plant is meeting IFC's standards for pollution control, stakeholder engagement or grievance handling. IFC has advised CAO that while it does not consider the steel plant to be part of the project scope, its ongoing supervision of the client will monitor the effectiveness of implementation of pollution control measures at the steel plant to ensure conformance with IFC standards and World Bank guidelines. This will be based on the good will of the client as neither IFC's standards or its standard E&S reporting requirements were incorporated into the loan agreement for the steel plant. Further, IFC made an undertaking to CAO that it will work with its client to encourage it to regularly disclose pollution emissions data to local communities near the steel plant.

Considering measures taken by IFC and its client to mitigate adverse pollution impacts of the client's steel production facility, and the lack of clarity on the application of IFC's E&S standards to the client's steel production activities, CAO concludes that a compliance investigation is not the appropriate response to this complaint. As a result, the complaint is closed.

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

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Acronyms

Acronym	Definition
AMR	Annual Monitoring Report
CAO	Office of the Compliance Advisor Ombudsman (IFC and MIGA)
E&S	Environmental and Social
ESAP	Environmental and Social Action Plan
ESRS	Environmental and Social Review Summary
IFC	International Finance Corporation
KM	Kilometer
MIGA	Multilateral Investment Guarantee Agency
PS	Performance Standards (IFC)
SII	Summary of Investment Information

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.

A compliance appraisal also can be triggered by the CAO vice president, IFC/MIGA management, or the president of the World Bank Group.

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.

In conducting the appraisal, CAO will engage with the IFC/MIGA team working with the specific project and other stakeholders to understand which criteria IFC/MIGA used to assure itself/themselves of the performance of the project, how IFC/MIGA assured itself/themselves of compliance with these criteria, how IFC/MIGA assured itself/themselves that these provisions provided an adequate level of protection, and, generally, whether a compliance investigation is the appropriate response. After a compliance appraisal has been completed, CAO can close the case or initiate a compliance investigation of IFC or 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 all appraisal results will be 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

Kurum Holdings is a Turkish company founded in 1975. Its main activity is production and trade of iron, steel, oxygen and lime. Kurum Holdings established Kurum International (“the client”) in 1999 for the purpose of operating a steel plant at Elbasan in Albania.¹

In September 2013, IFC approved a loan of €30m from its own account and up to €66m in syndicated loans to the client. The purpose of the investment was to support the client’s acquisition and rehabilitation of four hydropower plants in Albania (“the project”). These hydropower plants, Uleza, Shkopeti, Bistrice 1 and 2, have been operating since the 1960s.

The client’s objective for purchasing these hydropower plants was to reduce its steel production electricity costs and secure a reliable source of electricity in order to continue its operations without major disruptions.²

Complaint and CAO Dispute Resolution Process

In June 2015, CAO received a complaint from several local residents who live in close proximity to the client’s steel plant in Elbasan.

Complainant’s perspective

The complainants’ main concern is related to air pollution emissions from the steel plant. The complainants acknowledge that the client has made improvements to the plant since its acquisition in 1999. However, they perceive emissions from the plant to be harmful to their health and their families living in Katundiri and Bradeshesh. They note seeing pollution clouds from the plant at night or early morning. They state that there has been an increase in health issues, and that data from the hospital reflects this.

The complainants assert that they do not have access to readily available, understandable and credible information about the steel plant and how it manages pollution.

The complainants recognize the economic importance of the steel plant for the area and are not looking for the plant to shut down.³

Kurum’s perspective

The client noted that it has made a series of infrastructure and technology improvements to be compliant with European, as well as IFC, emission standards. Specifically, the client notes that it has installed filters, invested in a dusting plant and keeping billets hot as they are sent to the rolling mill with the objective of lowering emissions. The client stated that it regularly reports emissions data to the government of Albania, their lenders, and in mainstream media.⁴

CAO Dispute Resolution process

The complainants and the client were open to engaging in a CAO facilitated dispute resolution process. This commenced in late 2015. A joint meeting was held between the complainants and the client in December 2015 where a Dispute Resolution Framework Agreement was signed. This

¹ Kurum Holdings, 2012. *Annual Report 2011*. Available at <https://goo.gl/C4RBs2>.

² IFC, 2013. *Summary of Investment Information: Kurum*, available at <https://goo.gl/qn73Qy>.

³ CAO Assessment Report, June 2015. Available at <https://goo.gl/YLFe5W>.

⁴ CAO Assessment Report, June 2015.

agreement set out the ground rules for the dispute resolution process. The dispute resolution process was suspended from February 2016 until July 2017 as the client ceased operations after entering bankruptcy proceedings. In September 2017, the complainants visited the steel plant and noted some improvements had been implemented since prior visits (especially regarding dust filter effectiveness). However, the complainants believed there was scope for further improvements, and they expressed that they remain concerned about air pollution.⁵

In December 2017, three community members joined the client and the client's third-party environmental monitoring agency, LENI-ING shpk during a pollution monitoring visit to the steel plant. During this monitoring exercise, the client explained technology installed in 2011 to improve its environmental performance. LENI-ING explained that they conduct monthly monitoring of sulphur dioxide (SO₂), carbon dioxide (CO₂), nitrogen dioxide (NO₂), and nitrous oxide (NO_x), with quarterly reports submitted to the national regulator. The complainants raised questions regarding the selection process of the environmental monitoring agency, its independence, and its coordination with the monitoring process implemented by the regional environmental agency. They also asked whether measurements could be taken at nearby houses, and not only within the steel plant perimeter.

Following the monitoring visit, the complainants acknowledged the client's efforts to improve its operations, however, they continued to raise concerns related to the alleged impacts of the plant and LENI-ING shpk monitoring findings. The complainants requested a joint fact-finding process to look at the client's environmental impacts in the larger industrial area. The client did not respond to this request. As a result, the dispute resolution process ended, and the case was transferred to CAO's compliance function in July 2018.⁶

III. Analysis

This compliance appraisal focuses on IFC's pre-investment review and supervision of its investment in the client as relevant to the issues raised in the complaint. In relation to the application of IFC's E&S standards to the project, the following issues arise: (i) whether IFC properly applied its E&S standards to the project, considering the requirements of the Sustainability Framework and representations made during its investment approval; and (ii) whether IFC adequately reviewed and supervised the investment as relates to issues raised in the complaint.

IFC Policy Framework

IFC's investment in the client was 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."⁷

⁵ CAO, November 2017. *Dispute Resolution Progress Report*, available at <https://goo.gl/YLFe5W>.

⁶ CAO, July 2018. *Dispute Resolution Close Out Report*, available at <https://goo.gl/YLFe5W>.

⁷ IFC, 2012. Sustainability Policy, para. 7.

IFC's due diligence considers financial, reputational and E&S risks.⁸ IFC's E&S due diligence is to be commensurate with the nature, scale, and stage of the business activity, and with the level of environmental risks and impacts.⁹ Where IFC identifies gaps in the client's compliance with IFC's Performance Standard requirements, IFC agrees an E&S Action Plan (ESAP) with the client as part of IFC's investment.¹⁰

IFC E&S requirements relevant to the concerns raised by the complainants include:

Performance Standard 1, specifically requirements related to stakeholder engagement, disclosure of information, grievance handling and compliance monitoring.

Performance Standard 3, specifically requirements related pollution prevention and associated Environmental Health and Safety Guidelines which establish specific emissions thresholds.

Where IFC's funds a specific business activity with a clearly defined E&S footprint, IFC's E&S requirements are applied to that specific business activity. However, IFC will encourage its clients to manage E&S risks consistently in all their operations.¹¹ Following IFC's investment, IFC supervises the client to ensure compliance with the E&S requirements agreed with the client, including specified ESAP items.¹²

IFC requires clients to assess E&S risks and impacts in the context of a project's area of influence.¹³ As set out in PS1 (para. 8), the area of influence encompasses: (i) the project and the client's activities and facilities that are directly owned, operated or managed and that are a component of the project; (ii) associated facilities;¹⁴ (iii) indirect project impacts on biodiversity or on ecosystem services, and (iv) cumulative impacts on areas or resources used or directly impacted by the project. In addition, IFC's E&S Review Procedures (ESRP) definition of area of influence includes reference to "related facilities" that the client develops or controls.¹⁵ The risks and impacts identification process should also consider the client's primary supply chains.¹⁶

PS1 provides a broad definition of the term project,¹⁷ stating that each user should specify the business activities to which the Performance Standard applies,¹⁸ while at the same time providing that the scope of the E&S risks and impacts identification process should be consistent with good international industry practice.¹⁹

Application of these requirements to the current project represent a challenge. The client's steel plant is not an associated facility of the hydropower plants as it is pre-existing and is not being expanded due to the acquisition of the hydropower plants. As the hydropower plants supply the

⁸ IFC, 2012. Sustainability Policy, para. 21.

⁹ IFC, 2012. Sustainability Policy, para. 26.

¹⁰ IFC, 2012. Sustainability Policy, para. 28.

¹¹ IFC, 2012. Sustainability Policy, para. 29.

¹² IFC, 2012. Sustainability Policy, para. 45. IFC Environmental and Social Review Procedure 6, April 2013.

¹³ IFC, 2012. Performance Standards 1, para. 8.

¹⁴ Associated facilities are defined as: facilities not funded as part of the project and that would not have been constructed or expanded if the project did not exist and without which the project would not be viable.

¹⁵ IFC, ESRP 2013. Definitions, available at <http://bit.ly/2IoWUEo>.

¹⁶ IFC, 2012. Sustainability Policy, para. 10.

¹⁷ PS1 uses the term 'project' to refer to a defined set of business activities, including those where specific physical elements, aspects and facilities likely to generate risks and impacts, have yet to be identified (para. 4).

¹⁸ IFC, 2012. Performance Standards 1, footnote 7.

¹⁹ IFC, 2012. Performance Standards 1, para. 7.

steel mill and not vice versa, the relationship does not correspond with IFC's definition of supply chain risk, which relates to the sourcing of business inputs. As a result, the hydropower plants could be seen as being in the steel plant's supply chain but the steel plant is not part of the hydropower plants' supply chain. Similarly, concerns regarding the impacts of the steel plant do not fit easily within the concepts of indirect or cumulative impacts of the hydropower plants. The broader question of whether the scope of IFC's E&S risks and impacts identification process was consistent with good international industry practice is beyond the scope of a CAO compliance appraisal.

IFC's Pre-Investment Due Diligence and Supervision: Analysis and Discussion

IFC's Pre-Investment Review

IFC's E&S due diligence focused on the risks and impacts of the four hydropower plants the client was acquiring.²⁰ IFC noted that the hydropower plants were located in separate locations from the steel plant.²¹ IFC noted that the client expected to use 85 percent of the hydropower plants' electricity for its steel plant and sell the remaining electricity to the market. As a result, IFC noted that the client would no longer be reliant on purchasing electricity from the national power generation company and would be able to supply electricity to its steel plant at a cheaper rate. However, the client would continue to rely on the national electricity distributor to transmit electricity generated by the hydropower plants to the steel plant.

Early in IFC's pre-investment due diligence process, the IFC team advised management that it would expect both the hydro power plants and the steel plant to meet IFC's Performance Standards. Subsequent IFC due diligence and approval documentation present contradictory statements regarding project scope and application of IFC's E&S requirements. IFC's investment presentation to its Board is not definitive on the project scope or the applicability of IFC's E&S standards to the steel plant. A draft statement to the Board which explicitly excluded the steel plant from the project scope was not included in the final report to the Board seeking investment approval.

As part of this compliance appraisal, IFC advised CAO that the steel plant was outside the scope of the project, and as a result, IFC did not undertake E&S due diligence of the steel plant. However, at the time, IFC noted negative media reports regarding the steel plant and a then ongoing CAO case which raised concern regarding pollution from the client's steel plant.²² IFC viewed these allegations as potential reputational risks. In response, IFC E&S staff visited the steel plant, concluding that there were no major flaws with its operations, but that it likely had high emissions prior to improvements being implemented between 2011-2012. IFC included four ESAP items related to the steel plant in its legal agreement with the client. Specifically, IFC required the client to (a) complete repairs to the canopy in the melt shop by December 2014; (b) install continuous dust emission monitoring system on the filter system on the melt shop by June 2014; (c) install a failure alarm on the filters of the lime plant at the steel plant site by December 2013; and, (d) review employee lost time incidents in order to identify areas for improvement by December 2014. IFC's investment approval documentation states that implementation of these action items would ensure the steel plant's conformance with IFC standards and WBG guidelines.

²⁰ IFC, 2013. *Summary of Investment Information: Kurum*, available at <https://goo.gl/qn73Qy> and *Environmental and Social Review Summary: Kurum*, available at <https://goo.gl/RP2Z7J>.

²¹ Ulza and Shkopeti hydropower plants are located approximately 83km linear distance north of the steel plant. Bistrica I & II are located approximately 137km linear distance south of the steel plant.

²² For further details see CAO case: Albania/Albania Hydros-01/Tirana, available at <https://goo.gl/pp7AKV>. Further discussion on pollution in Elbasan is available at OBC Transeuropa. See <https://goo.gl/T4ahF1>. In June 2013, a protest outside the steel plant raised concern regarding air pollution and alleged that the client was not operating its air filtration controls. For further details see <https://goo.gl/KqtQm7>.

IFC's loan agreement requires the client to operate the hydropower plants in accordance with the Performance Standards, but does not include E&S requirements for the steel plant beyond the specified ESAP items. As a result IFC's general pollution control requirements were not extended to the steel plant. Similarly, compliance with IFC's requirements for stakeholder engagement were not included. IFC did require the client to report annually on steel plant's emissions of particulate matter. However, IFC did not require reporting on the steel plant's environmental performance across the range of environmental and social parameters that would be expected if the plant had been considered part of the project.

IFC's Supervision

IFC completed its first disbursement in March 2014. IFC completed a site supervision visit in November 2014, which included the steel plant, and received the client's E&S Annual Monitoring Report (AMR) in May 2015.²³ In July 2015, IFC completed a joint AMR review and site supervision report. The focus of IFC's review was on the hydropower plants. With respect to the steel plant, IFC observed that the client had repaired the canopy in the melt shop, installed a dust monitoring system and a failure alarm on the filters of the lime plant. IFC also noted that the client had installed a water suppression system to reduce dust emissions. At the time of IFC's visit, the steel plant was undergoing maintenance, thus, IFC was unable to assess the effectiveness of these measures via real time monitoring data. Quarterly monitoring data provided to IFC in 2014 as part of the client's AMR recorded that the client's emissions were within national limits, however, these limits are less stringent than IFC limits.

In March 2016, Kurum Holding filed for bankruptcy protection.²⁴ As a result, IFC did not receive subsequent AMRs from the client. In November 2018, IFC conducted a site supervision visit to the client and concluded that the agreed ESAP measures for the steel plant had been implemented. At the time of writing, IFC did not have assurance that the client was operating the steel plant in conformance with IFC's pollution guidelines. IFC advised CAO that the area where the steel plant is located was declared an 'Environmental Disaster Zone' by the government. As a result, national authorities will scrutinize pollution controls of industries based in the area. IFC also noted that there are several other industrial plants in the area which have high pollution operations. Subsequent to IFC's site visit, the client informed IFC that it had installed a new dust pollution controls which would result in significant energy savings for its operations.

Public reports

Albanian's National Environmental Agency produces an annual Environmental Report summarizing national environmental indicators. The report documents the collection of industry prepared pollution monitoring reports and their compliance with national regulations. Regarding Kurum, the 2017 report noted that Kurum carried out monitoring in compliance with its environmental permit conditions and that measured parameters were all within allowable norms.²⁵

²⁴ IHS Global Insight, March 9, 2016, *Expected bankruptcy of K ur m International and other companies in Albania threatens banking sector and nationwide protests*.

²⁵ Agjencia Komb tare e Mjedisit, *Raportin e Gj ndjes n  Mjedis*. Available at <https://goo.gl/4xN59W>.

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, and a more general assessment of whether a compliance investigation is the appropriate response.

In this case, the complainants raise concern that emissions from Kurum's steel plant poses health impacts to the complainants and their families. While they acknowledge that the company has made improvements, they perceive emissions from the plant, particularly at night, to be harmful to their health. Further, they state that information about the pollution from the steel plant is not readily available.

A key question for this compliance appraisal, is whether IFC's E&S standards should have been applied to the client's steel plant, while IFC's investment was targeted at the acquisition of hydropower plants.

Where an IFC investment has a defined use of proceeds and a clearly defined E&S footprint, IFC can limit the application of its E&S requirements to the business activities it has funded. This allows IFC to focus its E&S due diligence and supervision on a particular asset, if that is what is being financed. The complicating factor here is that the purpose of the purchase of the hydropower plants, was to manage pricing and supply risk associated with the electricity needed by the client to run its steel production facility.

To avoid undue segmentation of a client's business activities in relation to E&S impacts, PS1 requires an assessment of E&S risks and impacts in the context of a project's area of influence including associated facilities, indirect impacts on ecosystem services, impacts arising from third party actions and supply chain impacts. However, it is not clear how this framework should apply to the relationship between IFC's financing of the client's hydropower assets and the alleged impacts emerging from its steel production facility, which are related in terms of the client's business process, but do not fall into the categories of supply chain, associated facility or third party impacts as envisaged by PS1.

A review of IFC's pre-investment E&S documentation reveals contradictory messages regarding the application of IFC's E&S standards to the steel plant. Early in the investment due diligence process, the IFC team advised management that the steel plant would be expected to meet IFC E&S requirements. Investment approval documentation notes that IFC identified pollution control measures for the steel plant would enhance its E&S performance and ensure conformance with IFC standards and WBG guidelines. While a clear statement by IFC asserting that the steel plant was outside the scope of the project was included in draft approval documentation, this was removed from the final version presented to the IFC Board.

IFC's investment agreement requires the application of IFC's Performance Standards to the hydropower plants only. The agreement also requires the client to implement several pollution control improvements at the steel plant and report annually on steel plant's particulate matter emissions. During the course of this appraisal, IFC advised CAO that these were included following a rapid assessment of the steel plant due to reputational risks associated with its environmental performance.

Where IFC negotiates additional E&S action plan items to improve the E&S performance of a client's business operations that are unrelated to the business activities it is financing, IFC is going beyond its Sustainability Policy requirements. In this instance, however, the IFC financed hydropower plants and the steel plant are related as former provides electricity input for the latter. Considering the lack of clarity as to the applicability of IFC's E&S standards as relate to this project structure and the lack of clarity in IFC's documentation of the issue, CAO has concerns that IFC's decision to invest was made without a full presentation of the E&S risk mitigation framework for the project.

Following disbursement of IFC's loan, IFC supervised implementation of the agreed ESAP items related to the steel plant. In November 2014, IFC confirmed that the client had: (a) repaired the steel plant's canopy; (b) installed a continuous dust emissions monitoring system on the filter system on the melt shop; and, (c) installed a failure alarm on the filters of the lime plant at the steel plant site. However, as the facility was not operating at the time of IFC's visit, IFC was unable to review the effectiveness of these actions as pollution control measures. Soon after, the client entered bankruptcy proceedings. During this period, IFC did not receive client E&S reporting. In November 2018, during a site visit IFC again confirmed that steel plant ESAP items had been implemented, however, IFC's supervision documentation does not provide assurance that the client's steel plant is meeting IFC standards for pollution control, stakeholder engagement or grievance handling.

IFC has advised CAO that while it does not consider the steel plant to be part of the project scope, its ongoing supervision of the client will monitor the effectiveness of implementation of pollution control measures at the steel plant to ensure conformance with IFC standards and World Bank guidelines. This will be based on the good will of the client as neither IFC's standards or its standard E&S reporting requirements were incorporated into the loan agreement for the steel plant. Further, IFC made an undertaking to CAO that it will work with its client to encourage it to regularly disclose pollution emissions data to local communities near the steel plant.

Considering measures taken by IFC and its client to mitigate adverse pollution impacts of the client's steel production facility, and the lack of clarity on the application of IFC's E&S standards to the client's steel production activities, CAO concludes that a compliance investigation is not the appropriate response to this complaint. As a result, the complaint is closed.