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Office of the Compliance Advisor Ombudsman (CAO)

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## COMPLIANCE APPRAISAL: SUMMARY OF RESULTS

*Complaint re. IFC Financing of Alexandria Portland Cement Company  
Egypt*

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In December 2009, IFC approved an equity investment of EUR 80 million in Alex Development Limited (ADL or “the client”). ADL is the holding company for the Titan Group’s Egyptian cement plants. This consists of two operations: Alexandria Portland Cement Company (APCC or “the project operator”) and Beni Suef Cement Company (BSCC). The transaction resulted in IFC acquiring through ADL a 15.2% minority stake in APCC.

In April 2015, CAO received a complaint related to IFC financing of the project operator from people living in Wadi al-Qamar in close proximity to the APCC cement plant, and former employees of the project operator. The complaint alleges that IFC financing of the project is incompatible with IFC’s environmental and social requirements. In particular the complaint raises concerns in relation to: (a) the project operator’s compliance with national environmental licensing requirements; (b) the extent of stakeholder engagement in relation to the client’s operations; (c) workers’ rights and working conditions; and (d) community health and safety, especially pollution effects of the cement plant, including the company’s transition from natural gas to coal as a fuel.

As there was no agreement among the involved parties to a CAO-facilitated dispute resolution process, the case was referred to CAO’s compliance function for appraisal. The purpose of a compliance appraisal 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.

The issues raised by the complainants are substantial in nature. Regarding stakeholder engagement and pollution, CAO notes that the APCC cement plant is located in close proximity to a residential area. IFC acknowledged during its pre-investment review of the investment that dust, particulate matter, and NOx emissions from the plant were high. As a result, IFC and the client agreed on an action plan to reduce air emissions and monitor air quality. However, the complainants contest the adequacy and effectiveness of these measures. APCC’s conversion from natural gas to coal as a fuel raises questions in relation to the application of IFC’s E&S standards which were not considered in the pre-investment phase. The complaint also alleges a range of issues relating to labor and working conditions, including violations of national labor laws impacting workers, past and present.

IFC is exposed to the subject project operator through one of its financial intermediary clients. In this context, IFC’s knowledge of APCC’s environmental and social performance is of relevance.

Resolution of the compliance issues raised by the complaint requires detailed consideration with involvement of relevant technical expertise. As a result, CAO has determined that a compliance investigation is warranted. Terms of Reference for the compliance investigation will be issued in accordance with 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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## **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**

### **The Alexandria Cement Plant**

This appraisal relates to environmental and social issues arising from the operation of ADL's APCC cement plant ("the project"). The project is located in Wadi al-Qamar, Alexandria, in close proximity to communities.<sup>1</sup> APCC was established by the Government of Egypt in the 1940s, and was privatized in 2000. In 2002 the four original wet clinker production lines were dismantled, and a new dry clinker production line was established. APCC was acquired by Titan Cement in 2007. In 2013, due to gas supply shortages, the cement plant began work to transition to coal power.

### **IFC Exposures to Titan Egypt**

IFC is exposed to the project through a direct investment and a financial intermediary investment.

#### *Direct Investment*

Titan Group is an existing IFC client and Greece's leading private cement company. ADL is a subsidiary of Titan Egyptian Investment Ltd. The client requested investment to expand its operations in Egypt. In November 2010, IFC approved an equity investment in ADL, which in turn is a holding company of APCC, and BSCC, both of which operate cement plants in Egypt. IFC's investment was for equity of up to EUR 80 million, which represents an indirect shareholding of 15.2% of APCC's outstanding share capital. The stated purpose of IFC's investment was to help fund the construction of a second integrated cement production line at BSCC; to invest in vertical integration into aggregates and ready-mix concrete; to improve the plants' environmental performance by upgrading pollution abatement and improving energy efficiency; and to complete various debottlenecking projects at both APCC and BSCC.

An investment agreement was signed between ADL and IFC in March 2010 and IFC disbursed EUR 80 million in November 2010. The investment is classified as Category B, meaning that IFC assessed it as having limited potential E&S risks and impacts.

#### *Financial Intermediary Exposure*

In addition, IFC has an exposure to the project through a bank in which it holds equity, which in turn has made loans to the project operator.

### **The Complaint**

In April 2015, CAO received a complaint submitted by a group of Wadi al-Qamar community members and former APCC employees, with support of local non-governmental organizations, including the Egyptian Initiative for Personal Rights (together, "the complainants"). The complainants argued that IFC financing of the project is inconsistent with IFC's E&S sustainability policies. CAO determined that the complaint was eligible and carried out an assessment, which included in-depth discussions with stakeholders. As there was no agreement among the involved parties to proceed with a CAO-facilitated dispute resolution process, the complaint was transferred to the CAO compliance function for appraisal in May 2016.

The complainants allege that the project does not hold the proper environmental license to operate, and instead has been operating under a temporary license since 2001, which has been renewed several times. The complaint cites a report issued by the State Commissioners Agency

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<sup>1</sup> IFC, Titan Egypt, Environmental and Social Review Summary (ESRS), <http://goo.gl/i2zZJz>.

which states that such renewals undermine the role of the licensing procedure.<sup>2</sup> According to the complainants, the project is in violation of several Egyptian laws that regulate license requirements. The complainants also allege that no environmental impact assessment (EIA) related to the project has been disclosed for public consultation, although Egyptian law requires an EIA be developed for an expansion or renovation of existing facilities.

In relation to community engagement, the complaint states that the community's objection to the cement plant is longstanding. They allege that residents have suffered from pollution, noise disturbance, and tremors affecting nearby buildings as a result of the project's operation. Further, the complainants state that the community of Wadi al-Qamar has engaged in peaceful protests and filed lawsuits against the company.

The complainants allege that the project violates Performance Standard 2 (PS2: Labor and Working Conditions) and Egyptian labor law. In particular, the complainants allege that APCC fired permanent workers and hired them as contractor workers on a temporary basis. The complaint states that the contractor workers do not hold the same benefits as direct employees, such as collective bargaining, wages, and profit sharing. Additionally, the complainants state that, due to pollution within the cement plant, workers do not have a healthy and safe environment. According to the complainants, the project operator has denied benefits to those who have taken early retirement since 2003, and has violated workers' rights to peaceful sit-ins by calling the police to disperse strikes and assemblies by force.

### **Project Operator Perspective**

As summarized in CAO's Assessment Report,<sup>3</sup> the project operator states that it has followed Egyptian laws and IFC standards in relation to conducting an EIA prior to the issuance of any permit. The project operator indicates that the Egyptian Environmental Authority has provided final approval for the plant to operate, following verification and review.

With regard to community engagement, the project operator states that it implements an "open door policy" allowing stakeholders to communicate their issues directly to the company. It presents a different account of the conflicts with community. In relation to pollution, noise and tremors, the project operator states that it applies the best available techniques to comply with Egyptian environmental legislation and with international and EU standards. Further, the project operator states that in the last five years it has carried out measures to address dust and NOx emissions reductions, and that monitoring reports and audits are carried out regularly.

In relation to workers' rights and working conditions, the project operator indicates that the downsizing of its labor force took place primarily in 2003 while the plant was co-owned by Lafarge-Titan, and that a Voluntary Early Leave Plan was offered. In the project operator's view, employees who left received generous incentives. The project operator states that workers' environment, health and safety is a priority, implementing best available practices to assure a safe work environment for employee and non-employee workers, and for visitors. The project operator states that it carries out regular inspections and preventive maintenance of equipment, that it provides regular checkups for workers, and that it performs internal audits in order to identify preventive and/or corrective actions for continuous improvement.

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<sup>2</sup> CAO website, Egypt / Alex Dev-01/Wadi al-Qamar, <http://goo.gl/5oNJol>.

<sup>3</sup> CAO Assessment Report, Alex Dev-01/Wadi al-Qamar, <http://goo.gl/5oNJol>.

### III. Analysis

This section focuses on IFC's pre-investment review and supervision of its investment in ADL and the identification and management of E&S risks related to the project.

IFC's investment was made in the context of its 2006 Policy on Environmental and Social Sustainability (the "2006 Sustainability Policy") and Performance Standards (PS). Through the 2006 Sustainability Policy, "IFC seeks to ensure that the projects it finances are operated in a manner consistent with the requirements of the Performance Standards."<sup>4</sup> The 2006 Sustainability Policy also notes that "central to IFC's development mission are its efforts to carry out investment and advisory activities with the intent to 'do no harm' to people and the environment," (para 8). Further, "IFC does not finance new business activity that cannot be expected to meet the Performance Standards over a reasonable period of time," (para 17). If a client fails to comply with its E&S commitments, IFC will "work with the client to bring it back into compliance to the extent feasible and, if the client fails to reestablish compliance, exercise remedies when appropriate," (para 26).

#### A. IFC's Pre-Investment Review

The key question for CAO at pre-commitment phase of the project cycle is whether IFC exercised due diligence in its review of the E&S risks of the investment. As a general principle, IFC is committed to a pre-investment E&S review that is "appropriate to the nature and scale of the project, and commensurate with the level of social and environmental risks and impacts," (2006 Sustainability Policy, para. 13).

Performance Standard 1 (PS1: Social and Environmental Assessment and Management Systems) requires that IFC clients conduct a process of Social and Environmental Assessment (S&EA) that will consider in an integrated manner the potential E&S risks and impacts of the project.<sup>5</sup> During pre-investment review, IFC analyzes this S&EA, which may be a full scale E&S impact assessment or other simpler assessments, depending on the project. In particular, PS1 states that "when the project involves existing business activities, social and/or environmental audits may need to be performed to determine any areas of concern," (para. 8). The scope of the audit will depend on the nature of the project, its size, location and stage of development. If specific measures are needed for the client to meet IFC's E&S requirements, these should be contained in an E&S Action Plan (ESAP). The ESAP should describe the actions necessary to implement the various sets of mitigation measures or corrective actions to be undertaken; prioritize these actions; include the time-line for their implementation; be disclosed to the affected communities; and describe the schedule and mechanism for external reporting on the client's implementation of the ESAP (PS1, para. 16).

According to IFC's 2006 Policy on Disclosure of Information (Disclosure Policy), IFC issues a brief summary of its findings and recommendations as the "Environmental and Social Review Summary" (ESRS).<sup>6</sup> Along with the ESRS, IFC is required to make available "electronic copies of, and where available, Web links to, any relevant social and environmental impact assessment documents prepared by or on behalf of the client, including the Action Plan" (Disclosure Policy, para. 13(a)).

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<sup>4</sup> IFC Policy on Environmental and Social Sustainability (2006 Sustainability Policy), 2006, para 5: available at, <http://goo.gl/9eh8hg>.

<sup>5</sup> IFC Performance Standards on Social & Environmental Sustainability (PS), PS1: available at, <http://goo.gl/LKne0l>.

<sup>6</sup> IFC, Policy on Disclosure of Information, April 30, 2006, para. 13 (a): available at, <http://goo.gl/PJmFYY>.

IFC's ESRS notes that, during pre-investment review, IFC received plans from ADL and visited the APCC plant. The ESRS, along with an ESAP, were disclosed on IFC's website in November 2009.<sup>7</sup> No environmental and social impact assessment documents were made available or linked on IFC's web site.

The ESRS notes that the client had "presented plans to address the environmental and social impacts to ensure that the project will, upon implementation of the specific agreed mitigation measures, comply with Egyptian laws and regulations, IFC's Policy and Performance Standards on Social and Environmental Sustainability and IFC's applicable Environmental, Health and Safety Guidelines." It does not discuss APCC's environmental permit.

The ESRS noted that the APCC plant was established at a time where there was no requirement under Egyptian law to undertake an EIA of new industrial developments. However, the ESRS notes that to comply with national requirements, an independent EIA was prepared in 2002 for the shutdown/dismantling of the plant's four original wet clinker production lines and installation of new dry clinker production lines (2002 EIA). As reported in the ESRS, the 2002 EIA contained "summaries of key environmental impacts as well as mitigation and monitoring plans" which ADL committed to implementing in full. It is not clear whether IFC reviewed the 2002 EIA against the requirements of PS1. It is also unclear whether the mitigation measures recommended in the 2002 EIA were incorporated in the ESAP disclosed on IFC's website in 2009 (2009 ESAP).

In its ESRS, IFC acknowledged the presence of communities in the areas surrounding the cement plant, noting that the project was located in a mixed use area that included other industrial facilities and heavily populated residential areas. The ESRS stated that community engagement was "frequent and ongoing" including meetings every six months at which the client would present environmental, health and safety projects underway. The ESRS stated that all meetings were minuted, with written action plans and timetables for all agreed mitigation measures. No community engagement actions were included in the 2009 ESAP.

In relation to labor and working conditions, the ESRS noted that 80% of APCC workers were non-salaried, and stated they were all members of the relevant government sponsored workers' organization. IFC noted that ADL appeared to have good relations with its employees and had not had any labor actions in the previous seven years. The ESRS stated that ADL required all employees to undergo routine medical examinations at the time of hiring and annually thereafter. CAO notes the importance of such check-ups, considering that cement manufacturing generates emissions that are known to be harmful to human health.<sup>8</sup> It is unclear whether IFC verified the implementation of this in practice. No actions related to worker health and safety were included in the 2009 ESAP.

In relation to pollution abatement, the ESRS notes that the plant's thermal energy was provided by natural gas, and that NOx emissions complied with Egyptian and IFC standards. IFC stated that recent emissions tests had estimated CO<sub>2</sub> emissions at 763 kg of CO<sub>2</sub> per ton of clinker produced. There is no comparison of APCC's CO<sub>2</sub> emissions against internationally recognized best practices. In relation to particulate emissions, IFC noted that the annual average for the APCC cement plant was approximately 128 mg/Nm<sup>3</sup>, which was within the Egyptian regulatory limit but exceeded IFC guidelines. IFC noted that APCC was in the process of upgrading the kiln's Electrostatic Precipitators (ESPs) in order to reduce its particulate emissions. IFC also noted a

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<sup>7</sup> IFC, Titan Egypt: Environmental & Social Review Summary (ESRS), November 10, 2009: available at, <http://goo.gl/iAmtlR>.

<sup>8</sup> IFC, Environmental, Health and Safety Guidelines for Cement and Lime Manufacturing, April 2007, section 1.2, Occupational Health and Safety: available at, <http://goo.gl/xY5l4d>.

new project was underway to provide 360° encasing of the main conveyor to control fugitive dust emissions. As part of its 2009 ESAP, ADL committed to undertake measures to ensure that the plant's particulate emissions would be reduced to  $\leq 100$  mg/Nm<sup>3</sup> within a timeframe agreed with IFC.

CAO has questions as to whether IFC carried out a robust social and environmental pre-investment review. Factors such as APCC's location in a heavily polluted area, in close proximity to residences, indicate that careful social and environmental assessment of the project's impacts would have been required. CAO also has questions as to whether other factors relevant to the issues raised by the complainants, such as the high number of contractor workers and the capacity of the client to mitigate dust, particulate, and CO<sub>2</sub> emissions should reasonably have been taken into consideration during IFC's pre-investment review. Further, CAO notes that the 2009 ESAP did not include any actions in relation to community engagement, labor and working conditions, nor disclosure of documents.

Considering the issues outlined above, CAO is unclear whether IFC's pre-investment review was commensurate to risk.

### **B. IFC supervision of client compliance with Egyptian law (PS1)**

IFC requires that projects it supports comply with applicable national laws in addition to meeting the requirements of its PSs (PS, Introduction, para. 3). Accordingly, PS1 states that the S&EA carried out by the client should take into account applicable laws and regulations of the jurisdictions in which the project operates that pertain to E&S matters (para. 4).

The complainants allege that the project does not meet Egyptian legal requirements. In particular they allege that the project operates without the proper environmental license, and refer to a report issued by the State Commissioners Agency, noting that the fifth kiln of the cement plant has been operating under a temporary license since 2001. The complaint argues that the project's location in a residential area breaches Egyptian regulations, and that the company established a wall on a public road without the appropriate permit. The complaint also alleges that the company has hired workers through labor contractors or suppliers in contravention of Egyptian law (see section D. below).

CAO notes that IFC has made available on its website an updated ESAP dated November 2015 (2015 ESAP).<sup>9</sup> The 2015 ESAP refers to environmental permits necessary for the cement plant's transition from natural gas to coal (see section E below).

There is no information in IFC's disclosed material to suggest that it has reviewed the legality of the project's general environmental license to operate, the location of the plant, or the presence of the wall, at appraisal or during supervision. Accordingly, CAO has questions as to whether IFC adequately considered project compliance with national laws in its E&S review and during the supervision period.

### **C. Community Engagement, Consultation and Disclosure Requirements (PS1)**

According to PS1, when "local communities may be affected by risks or adverse impacts from a project, the engagement process will include consultation with them. The purpose of community engagement is to build and maintain over time a constructive relationship with these communities," (para. 19). The consultation should be a two-way communication process, during which communities provide their inputs and clients respond to and consider them (PS1, para. 12).

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<sup>9</sup> Titan Egypt, Environmental and Social Action Plan, 2015: available at, <http://goo.gl/4Ggjci>.

In order to ensure consultation is effective, it should be based on prior disclosure of relevant and adequate information, should begin early in the S&EA process, focus on the E&S risks and adverse impacts and proposed measures and actions to address these, and be undertaken in a manner that is inclusive and culturally appropriate (PS1, para. 21). PS1 sets a higher standard of consultation for projects identified as having “significant adverse impacts” on affected communities. In such cases, the consultation process is required to ensure the free, prior and informed consultation of affected communities and facilitate their informed participation (PS1, para. 22). IFC’s Environmental and Social Review Procedure (ESRP) provides further guidance for IFC staff on stakeholder engagement.<sup>10</sup> For all projects, during appraisal, IFC will “request and review the information documenting the nature and extent of consultation and/or disclosure undertaken by the client for the project” (ESRP, 3.2.1 c). Where clients are required to engage in a process of free, prior and informed consultation IFC will, through its own investigation, assure itself that the client’s community engagement leads to broad community support for the project within affected communities, before presenting the project for approval by IFC’s Board of Directors (2006 Sustainability Policy, para. 20).

IFC noted in its ESRS that APCC had established regular consultation and engagement with nearby communities to assess E&S impacts and needs. However, it is not clear whether IFC reviewed the effectiveness of the client’s stakeholder engagement process. For instance, it is unclear whether IFC reviewed meetings minutes or other evidence of community engagement.

PS1 provides that community engagement is a cyclical process and “will be carried out on an ongoing basis as risks and impacts arise,” (para. 21). In this context, the 2015 ESAP notes that APCC’s “transition to solid fuel has required the application for environmental permits, following an EIA process, per national requirements.” The complainants allege they have not had access to an EIA that addresses the plant’s planned utilization of coal.

Accordingly, CAO has questions around the IFC’s review and supervision of its client’s stakeholder engagement at appraisal and during the supervision period.

#### **D. Labor and Working Conditions (PS2)**

The complainants raise several issues in relation to PS2, including the treatment of workers provided by third-party contractors, working conditions and terms of employment, occupational health and safety, workers’ organizations and grievance mechanism. The complaint specifically notes the concerns of workers who have accepted early retirement packages, and provides an account of protests and conflict between workers and the IFC client in 2013 and 2014.

In accordance with PS2, IFC clients have different obligations in relation to employees and “non-employee workers.” Such non-employee workers include workers who are “contracted through contractors or intermediaries” and “perform work directly related to core functions essential to the client’s products or services for substantial duration,” (PS2, para. 17). In these cases, IFC client will use commercially reasonable efforts to ascertain that its contractors or other intermediaries are reputable and legitimate enterprises, and to require that they apply certain requirements of PS2 (para. 17).<sup>11</sup>

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<sup>10</sup> IFC Environmental and Social Review Procedure, version 4, August 2009: available at, <http://goo.gl/JYAJd9>.

<sup>11</sup> Applicable PS2 requirements for contractors or other intermediaries include obligations relating to the working relationship, working conditions and terms of employment, workers’ organizations, non-discrimination and equal opportunity, grievance mechanism, child labor, forced labor, and occupational health and safety (see PS, 2006, PS2, para. 17).

In this context, IFC's ESRS notes that 80% of APCC's workers are non-salaried employees, and are members of the Government-sponsored General Syndicate for Building Materials and Wood – the relevant workers' organization for the cement industry. It notes that the syndicate negotiates on behalf of all employees in the sector on issues related to labor and working conditions.

The complainants allege that direct employees were fired and hired again as contracted, "temporary" workers through labor contractors or suppliers in an attempt to reduce its labor costs. The complainants allege that some contracted workers have been working under these conditions for 12 years. The complainants allege that such arrangement is a contravention of the Egyptian labor law, and that the contracted workers do not receive the same benefits as direct employees.

IFC noted in its ESRS that the project operator had comprehensive HR policies and management systems that are designed to establish, maintain and continuously improve relations between employees and management, including "establishment of joint worker/management committees in each plant tasked with identifying safety issues and problems and seeking to resolve them collaboratively." Further, the ESRS stated that there is a formal written grievance process in place across the client's operations available to all employees. No obligations in relation to implementation of PS2 requirements were included in the 2009 ESAP, and no relevant actions have been included in the 2015 ESAP.

In light of the issues raised in the complaint, CAO has questions around the adequacy of IFC's review and supervision of its client's implementation of PS2, including whether IFC assured itself of the client's compliance with national labor law requirements.

#### **E. Pollution Prevention and Abatement (PS3)**

The main objectives of Performance Standard 3 (PS3: Pollution Prevention and Abatement) are: (i) to avoid or minimize adverse impacts on human health and the environment by avoiding or minimizing pollution from project activities; and (ii) to promote the reduction of emissions that contribute to climate change. The complainants allege that the community living near APCC suffer severe respiratory health problems, such as asthma, due to dust and particulate emissions from the cement plant.

IFC's Guidance Note to PS3 states that existing facilities are expected to evaluate the feasibility of meeting PS3 requirements, and should seek to improve performance through actions included in the ESAP.<sup>12</sup> A revised ESAP agreed between IFC and the client (2012 ESAP) included additional control measures to bring particulate emissions at APCC in line with IFC's standards within 2 years of disbursement, as well as requiring ambient air quality monitoring. The 2012 ESAP noted that APCC's dust emission control was to be upgraded in the summer of 2012. It reported that compliance data for autumn 2012 "should reflect the new and WBG compliant levels," and that the 2013 data would "document a full year [of] compliance." The 2015 ESAP recorded the action as completed.

Also in the 2015 ESAP, IFC reported that open areas within the production site had been used for open air storage of raw material during a period of transport interruptions. The 2015 ESAP noted that such open air storage can cause diffuse emissions, and reported that APCC had developed a raw material handling plan. The 2015 ESAP stated that the plan would, "once implemented, ensure that all raw materials are either covered or coated to secure against fugitive dust." IFC noted that the plan included a schedule and budget estimates for progressive

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<sup>12</sup> IFC's Guidance Notes: Performance Standards on Social & Environmental Sustainability (Guidance Notes), Guidance Note 3: Pollution Prevention and Abatement, G7: available at, <http://goo.gl/Sc7YU7>.

implementation, and that it would be extended over a maximum of two additional years. APCC was to present an approved updated plan by the first quarter of 2016, taking into account measures to improve housekeeping and mitigate visual impact.

In relation to NOx emissions, the 2015 ESAP recognized that APCC had experienced increasing emissions during the period 2008-2011. The 2015 ESAP noted that steps would be taken to relocate or replace the secondary burners to achieve compliance with at approval emission limits and WBG guidelines for NOx (600 mg/Nm<sup>3</sup>). Secondary de-NOx initiatives were also initiated, with selective non-catalytic reduction (SNCR) systems to be installed by the first quarter of 2016. The 2015 ESAP stated that compliance with national emission limits and relevant WBG guidelines would be documented in the client's annual monitoring report for year 2016.

In relation to carbon dioxide emissions, PS3 requires that the IFC client "will promote the reduction of project-related greenhouse gas (GHG) emissions in a manner appropriate to the nature and scale of project operations and impacts," (para. 30). The client should evaluate measures to achieve this goal, such as "carbon financing, energy efficiency improvement, the use of renewable energy sources, alterations of project design, emissions offsets, and the adoption of other mitigation measures such as the reduction of fugitive emissions and the reduction of gas flaring," (para. 11).

As noted in the 2015 ESAP, APCC committed to meet Egyptian regulatory requirements and follow good international industry practice to ensure safe operations, compliance with emission limits, and minimization of fugitive dust from the solid fuel storage areas. In the 2015 ESAP, IFC stated that APCC would present fugitive dust mitigation plans for solid fuel storage, and implement the plan in accordance with a schedule set by the relevant authorities.

Complainants also allege noise pollution from the operation of equipment, trucks, and grinders, as well as tremors in nearby buildings as a consequence of APCC's operation. These issues were not addressed in IFC's ESRS or in the ESAP.

While acknowledging IFC's engagement with the client around PS3 issues, given the serious potential impacts of such pollution in close proximity to residential areas, CAO concludes that the complainants concerns regarding the project's impacts on pollution require further expert examination.

#### **F. Assessment of Cumulative Impacts in the Project's Area of Influence (PS1/PS3)**

PS3 requires that IFC clients assess ambient air conditions and the potential for cumulative impacts with uncertain and irreversible consequences (para. 9). Where the project has the potential to constitute a significant source of emissions in an already degraded area clients will promote strategies that avoid or, where avoidance is not feasible, minimize or reduce the release of pollutants, including strategies that contribute to the improvement of ambient conditions (*ibid*).

Relevant to the complaint, IFC notes in its ESRS that the APCC plant is located "in a mixed use area on the outskirts of Alexandria that includes both a number of other industrial facilities as well as heavily populated residential areas." In these circumstances, CAO has questions as to whether additional cumulative impact assessment was required.

#### **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.

Having considered the issues raised by the complainants CAO is of the view that they are substantial in nature. In relation to IFC's review and supervision of the project, CAO has identified a number of issues. These include:

- a. Whether IFC's pre-investment E&S review of the client was commensurate to risk;
- b. Whether IFC took adequate steps to assure itself of compliance with national law, particularly in relation to the environmental license of the project;
- c. Whether IFC took adequate steps to assure itself of client compliance with community engagement, consultation, and disclosure requirements;
- d. Whether IFC took adequate steps to assure itself of proper application of PS2 to the project, especially in relation to contractor workers;
- e. Whether IFC took adequate steps to assure itself of proper application of PS3 to the project, especially in relation to the impacts of the cement plant's conversion to coal; and
- f. Whether IFC properly applied its requirements in relation to cumulative impact assessment to the project prior to investment.

IFC also has exposure to the project operator through one of its financial intermediary clients. In this context, IFC's knowledge of APCC's environmental and social performance is of relevance beyond IFC's direct investment in ADL.

Resolution of the above issues requires in-depth review of project documentation and reporting, and assistance of technical experts. As a result, CAO has determined that a compliance investigation is warranted. Terms of Reference for the compliance investigation will be issued in accordance with CAO's Operational Guidelines.