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Office of the Compliance Advisor Ombudsman (CAO)

COMPLIANCE INVESTIGATION

IFC Investments in Alexandria Portland Cement Company Egypt (Projects #27022 and #30274)

Complaint 01

CAO Investigation of IFC's Environmental and Social Performance in relation to its Investment in Alexandria Portland Cement Company Egypt (Projects #27022 and #30274)

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

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).

CAO's Compliance function oversees investigations of IFC/MIGA's environmental and social performance, particularly in relation to sensitive projects, to ensure compliance with policies, standards, guidelines, procedures, and conditions for IFC/MIGA involvement, with the goal of improving IFC/MIGA environmental and social performance.

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

Executive Summary

In 2010, IFC approved an EUR 80 million equity investment in a subsidiary of Titan Group, an international cement and building material producer. The investment was designed to support the expansion of Titan's Egyptian business operations. This included support for a subsidiary, Alex Development Limited (ADL or the client) which operates a cement plant in Alexandria, Egypt. The objectives of IFC's investment included improving the environmental performance of the client's cement plants by upgrading pollution abatement and improving energy efficiency. IFC exited its direct investment in December 2019 but retained a financial exposure to the client through a debt obligation to the client's parent until early 2021. IFC also had an exposure to the client through an investment in a financial intermediary, however, this exposure ceased in November 2020.

In 2015, CAO received a complaint from a group of neighboring residents and former workers, with the support of local non-governmental organizations, regarding the environmental and social (E&S) impacts of Titan's cement plant in Alexandria, Egypt. The plant is surrounded on three sides by other industrial facilities, and to the south it borders a dense residential area, Wadi al-Qamar.

The complainants raised concerns about pollution from the cement plant, including dust, noise and odor. The complainants also raised concerns about worker health and safety, freedom of association, and working conditions, particularly for those employed through labor supply companies. A group of former workers who were part of an early retirement scheme in 2002-2003, a period prior to IFC's investment, raised grievances about compensation they received as part of that scheme. The complainants further allege that the client is operating the cement plant in breach of national licensing requirements, that it has not disclosed relevant E&S information, and that it has not consulted sufficiently with the community.

This CAO compliance investigation considers IFC's performance in reviewing and supervising the project against the requirements of its E&S policies, procedures, and standards. It also considers the extent to which the complainants' allegations of adverse impact can be verified. In considering IFC's E&S performance, CAO has been conscious not to expect performance at a level that requires the benefit of hindsight, but to assess whether there is evidence that IFC applied relevant requirements considering information available at the time.

In responding to the complaint CAO considered whether IFC's pre-investment review of the client was commensurate to risk, with a focus on the client's compliance with national law, community engagement, pollution, cumulative impacts, and labor issues. CAO also considered whether IFC took adequate steps to assure itself that the client was carrying out its business activities in accordance with IFC's Performance Standards and EHS Guidelines during its supervision of the investment. Relevant to the issues raised in the complaint, this report addresses IFC's supervision of the client's performance against requirements for compliance with national law, environmental performance, community engagement, security and labor issues.

In this report CAO identifies instances of IFC's non-compliance with the E&S policies and procedures during the period of IFC's review and supervision of the project. CAO also makes findings in relation to adverse environmental and/or social outcomes, including the extent to which these are verifiable.

At the pre-investment review stage, CAO finds that IFC did not meet the required standard of review. Specifically, CAO finds that IFC's review was not appropriate given the nature and scale of the project or commensurate with the level of E&S risks and impacts, as required by the Sustainability Policy.

IFC's pre-investment review noted that the plant's airborne emissions were higher than WBG standards, and that the plant was located in close proximity to communities in a mixed use industrial-residential area. However, IFC's E&S review did not adequately assess or address the impacts of air pollution or noise from the plant on local residents and did not analyze potential cumulative impacts in the project area, particularly in relation to air quality, noise and human health.

Key E&S assessment documents were not disclosed to the affected community and IFC did not adequately assess the client's community disclosure and engagement practices in accordance with relevant requirements.

Further, CAO finds that IFC erred in its decision that the project did not trigger the requirement for "broad community support". Given the proximity to residential areas and the impacts of pollution on community health, these impacts should have been considered "significant" and IFC should have ensured that the company carried out a process of free, prior and informed consultation before making the investment.

IFC's appraisal did not adequately assess risks and impacts to the client's workers. IFC did not identify legacy issues relating to post-privatization early retirement programs carried out at APCC under the joint venture in 2002 and 2003 as required by the Sustainability Policy. Although PS2 requires that core labor protections relating to working conditions, freedom of association and health and safety be extended to indirectly employed workers, IFC did not assess the client's approach to the engagement of contract workers against requirements of PS2 or national law. This was a significant oversight in context where the client employed over 700 contract workers.

IFC made its equity investment in the client in late 2010, following which, in early 2011, the events of the Arab Spring brought significant changes to the project and surrounding communities. IFC's ability to supervise the project during this period was limited. Over the following years, workers, community members, and the 2003 retirees carried out protests, sit-ins, and strikes to raise their grievances with the company. During this period, IFC did not engage with the client about substantive community and labor concerns. Neither did IFC ensure that the client was carrying out stakeholder engagement activities as required by PS1.

In 2012, IFC renegotiated its E&S Action Plan with the client, dropping requirements to measure ambient air quality but imposing stricter limits on point source emissions. IFC also required its client to disclose point source emissions data and implement controls for fugitive dust sources.

Further challenges to the project arose from natural gas shortages beginning in 2012. This led to reduced production at APCC and temporary shutdowns in 2014. As the company began work to convert its fuel supply, it initially used oil before developing facilities for alternative and solid fuels. The capital expenditure associated with these upgrades placed additional financial pressure on the client. Plans to address fugitive dust and point source emissions were delayed by several years. IFC supported its client's efforts to diversify fuel sources but did not document their review of draft or final EIA studies prepared by the client in 2015 and 2016 as part of the conversion process, as required by the Sustainability Policy. IFC did not ensure that the E&S impacts of the fuel transition were being assessed and mitigated in accordance with IFC standards, in particular requirements to assess alternatives and to engage affected communities in the E&S assessment process.

Meanwhile, worker protests escalated with a sit-in by the employees of a contract services company in February 2013 at APCC. The sit-in lasted three days and it was followed by the arrests of several workers and the termination by the contractor of approximately 50 of APCC contract workers.

In 2014, a civil society organization, EIPR, raised concerns about APCC to a World Bank representative. IFC subsequently brought in an external expert to support supervision on labor issues. At this point, IFC noted gaps in the client's approach to OHS and contractor management. IFC noted that there was no independent union to represent contract workers at APCC. The client advised IFC that the contract workers were not permitted by law to establish an independent union at APCC. Based on the client's advice, IFC concluded that the PS2 requirements with respect to the client's workers' right to organize did not apply to these workers.

IFC did encourage its client to improve its relationship with residents of Wadi al-Qamar, and the client engaged a non-profit organization to conduct a survey of community views in 2015. This survey identified concerns from community members relating to the environmental and health impacts of the plant. However, IFC records show that the client's response to the survey focused on corporate social responsibility (CSR) activities rather than disclosure, reporting, or engagement on the environmental performance of the plant or potential health impacts as required by PS1. Although IFC had secured a commitment from its client to publish information about its point source emissions in 2012, this action was delayed, to the extent that information was only shared once APCC had significantly lowered its emissions in 2016.

To achieve emissions reductions, from 2012 to 2016 the client gradually introduced greater controls on its stack emissions by installing bag filters that were effective even in the case of an electricity failure. The client also introduced Selective Non-Catalytic Reduction (SNCR) system technology in 2016 to reduce its NO_x emissions, installed a closed system for handling refuse derived fuel (RDF) and an on-site coal mill. Overall, the client's stack and fugitive emissions improved significantly over the period of IFC's investment. However, such improvements have faced delays and have not been consistently communicated with the Wadi al-Qamar community. In 2018-2019, IFC encouraged its client to formalize its mechanism for handling complaints from the community and to communicate its E&S performance, events and mitigation measures rather than focusing solely on CSR activities. However, IFC did not ensure that the client implemented a stakeholder engagement program or established a community grievance mechanism consistent with PS1 during the period of IFC's investment.

From 2017, IFC has placed renewed emphasis on the client's arrangements for labor supply and management of contract workers. IFC noted significant improvement in housekeeping and more consistent use of PPE by all workers.

The project record indicates that IFC made considerable efforts to engage with its client and with direct and contracted workers at the plant to better understand and address labor issues in 2018 and 2019. Among other things, IFC engaged with management of some subcontracted labor companies to discuss freedom of association issues, carried out focus groups with direct and contracted workers, and supported its client to amend contract provisions with labor suppliers to include health and safety protections. IFC made recommendations to the client to extend contract workers access to grievance mechanisms, to share information about HR policies and working conditions for contractors and to plan for recruitment taking into account those contract workers who undertake similar jobs as direct employees. However, IFC did not ensure that the client implemented all of the recommended corrective actions. As a result, CAO finds that issues related to freedom of association and responsibility for the health and safety of contract workers were not addressed in accordance with IFC requirements.

In reaching its findings, CAO has given due consideration to the rapid and significant changes taking place in Egypt during the lifetime of the project. These include social and economic impacts of the Arab Spring, changes in the legal framework for recognition of worker organizations, and natural gas shortages which led the client to switch fuel sources.

CAO sees the non-compliance in this case arising primarily from:

- (a) limited local expertise engaged in the project review, lack of Arabic language skills in the primary project team, and limited contextual knowledge of social and labor issues;
- (b) reliance on the client's general performance as an international cement company, leading to inadequate review of the E&S performance of the client's Alexandria plant, available resources and commitment to improvements; and
- (c) high turnover of environmental staff assigned to the project and a lack of specialist social expertise on the IFC team, particularly during appraisal and the early stages of supervision.

In summary, IFC's supervision has supported the client to gradually reduce its air emissions and to take steps to address fugitive dust. The client has published some monitoring data regarding its stack emissions and has conducted CSR activities in the local area. However, current air quality monitoring is not sufficient to demonstrate compliance with WBG standards for stack emissions, fugitive dust, or noise pollution, and IFC has not ensured that the client's disclosure, grievance handling, and community engagement practices meet PS1 requirements. Given the proximity of the residential area neighboring the plant, and available pollution and noise data from the period of IFC's investment, CAO finds that adverse pollution impacts on the community are verifiable. Weaknesses in community engagement, the absence of an effective grievance mechanism, and shortcomings in information disclosure about the plant's performance have adversely impacted local residents' ability to effectively engage with the company in relation to their concerns. The lack of disclosure to and engagement with the community about pollution abatement measures, in particular, contributed to concerns about project impacts which led to an escalation of protests and confrontation between the community and the client.

In relation to labor, more focused attention on OHS and contract workers has led to improvements in PPE use and increased oversight of labor contracting companies during the period of IFC's investment. However, CAO finds that IFC has not assured itself that the client's current labor arrangements for contract workers meet PS2 requirements or that the client has engaged with concerns raised by 2003 retirees or former contract workers.

CAO will keep this investigation open and monitor IFC's response to the investigation findings.

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Abbreviations and Acronyms

| Acronym | Definition |
|-----------------|--|
| ADL | Alex Development Ltd |
| AMR | Annual Monitoring Review |
| APCC | Alexandria Portland Cement Company |
| BAT | Best Available Technology |
| BSCC | Beni Suef Cement Company |
| CO ₂ | Carbon Dioxide |
| dB(A) | A-weighted decibels |
| EEAA | Egyptian Environmental Affairs Agency |
| EHS | Environmental Health and Safety |
| EIPR | Egyptian Initiative for Personal Rights |
| E&S | Environmental and Social |
| ESAP | Environmental and Social Action Plan |
| ESMS | Environmental and Social Management System |
| ESP | Electrostatic Precipitator |
| ESRP | Environmental and Social Review Procedure |
| ESRS | Environmental and Social Review Summary |
| GDP | Gross Domestic Production |
| GHG | Green House Gases emissions |
| GIIP | Good International Industry Practice |
| ISO | International Organization for Standardization |
| IFC | International Finance Corporation |
| LESS | Lead Environmental and Social Specialist |
| Mtpa | Million Tons per annum |
| MIGA | Multilateral Investment Guarantee Agency |
| NGO | Non-Governmental Organization |
| NO _x | Nitrogen Oxides |
| OHSAS | Occupational Health and Safety Assessment Series |
| PM | Particulate Matter |
| PS | Performance Standards |
| PS1 | Performance Standard 1: Social and Environmental Assessment and Management Systems |

| | |
|-----------------|---|
| PS2 | Performance Standard 2: Labor and Working Conditions |
| PS3 | Performance Standard 3: Pollution Prevention and Abatement |
| PS4 | Performance Standard 4: Community Health, Safety and Security |
| RDF | Refuse Derived Fuel |
| SCD | Sustainability Center for Development |
| SNCR | Non-Catalyst Reduction System |
| SO ₂ | Sulfur Dioxide |
| TCE | Titan Cement Egypt |
| WBCSD | World Business Council for Sustainable Development |
| WBG | World Bank Group |

Overview of CAO's Compliance Process

CAO's approach to its compliance mandate is set out in its Operational Guidelines (March 2013).

When CAO receives an eligible complaint, it first undergoes an assessment to determine how it should respond. If CAO's compliance function is triggered, CAO will conduct an appraisal of IFC's/MIGA's involvement in the project and determine if an investigation is warranted. CAO's compliance function can also be triggered by the World Bank Group President, the CAO Vice President, or senior management of IFC/MIGA.

CAO compliance investigations focus on IFC/MIGA, and how IFC/MIGA assured itself/themselves of a project's environmental and social (E&S) performance. The purpose of a CAO Compliance investigation is to ensure compliance with policies, standards, guidelines, procedures, and conditions for IFC/MIGA involvement, and thereby improve the institution's E&S performance.

In the context of a CAO compliance investigation, at issue is whether:

- The actual E&S outcomes of a project are consistent with or contrary to the desired effect of the IFC/MIGA policy provisions; or
- A failure by IFC/MIGA to address E&S issues as part of the appraisal or supervision resulted in outcomes contrary to the desired effect of the policy provisions.

In many cases, in assessing the performance of a project and implementation of measures to meet relevant requirements, it is necessary to review the actions of the IFC client and verify outcomes in the field.

CAO has no authority with respect to judicial processes. CAO is neither a court of appeal nor a legal enforcement mechanism, nor is CAO a substitute for international court systems or court systems in host countries.

Upon finalizing a compliance investigation, IFC/MIGA is given 20 working days to prepare a public response. The compliance investigation report, together with any response from IFC/MIGA is then sent to the World Bank Group President for clearance, after which it is made public on CAO's website (www.cao-ombudsman.org).

In cases where IFC/MIGA is found to be out of compliance, CAO keeps the investigation open and monitors the situation until actions taken by IFC/MIGA assure CAO that IFC/MIGA is addressing the noncompliance. CAO will then close the compliance investigation.

1 Background

1.1 IFC Investment in Alexandria Development Ltd

Titan Group (Titan) is an international cement and building materials producer. In 2009, after the exit of its joint venture partner, Lafarge, Titan an existing IFC client, requested IFC investment to help expand its operations in Egypt. In November 2010, IFC approved an equity investment in Alex Development Ltd (ADL or the client), which is a subsidiary of Titan Egyptian Investment Ltd. ADL is the holding company for Titan’s Egyptian businesses, Alexandria Portland Cement Company (APCC or the project operator), and Beni Suef Cement Company (BSCC), both of which operate cement plants.

IFC’s Board approved an equity investment of up to EUR 80 million, which represented an indirect shareholding of up to 15.2% of APCC’s outstanding share capital. The stated purpose of IFC’s investment was to help fund the construction of a second cement production line at BSCC; to invest in the client’s 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.

ADL and IFC signed an investment agreement in March 2010 and IFC disbursed EUR 80 million in November 2010. The investment is classified Category B, meaning that IFC assessed it as having “potential limited adverse social or environmental impacts that are few in number, generally site-specific, largely reversible and readily addressed through mitigation measures.”¹

This investigation report responds to a complaint regarding environmental and social impacts of the APCC cement plant (“the project”). The project is located in Wadi al-Qamar, Alexandria, in close proximity to a residential area.²

In January 2020, IFC informed CAO that it had exited its direct investment with the client in December 2019. The December 2019 transaction involved the sale of IFC’s shares in the client in consideration for partial payment and the creation of a debt obligation (account receivable) payable by the parent company over two years. In May, 2021 IFC advised CAO that it had received the final receivable installment. IFC had an exposure to the project through a financial intermediary investment, however, this exposure ceased in November 2020..

Alexandria Portland Cement Company (APCC)

APCC was established by the Government of Egypt in 1948 and privatized in 2000.³ The plant was initially acquired by Lafarge. In 2002, Titan purchased a 50% share in APCC in a joint venture with Lafarge. Lafarge managed the operations until May 2008, when Titan bought Lafarge’s stake and became the sole owner of APCC.⁴

APCC is located in western Alexandria on the northern coast of Egypt (See *Figure 1*). The plant is surrounded on three sides by other industrial facilities. To the south of the plant is a dense residential area, Wadi al-Qamar, similar in size to APCC.

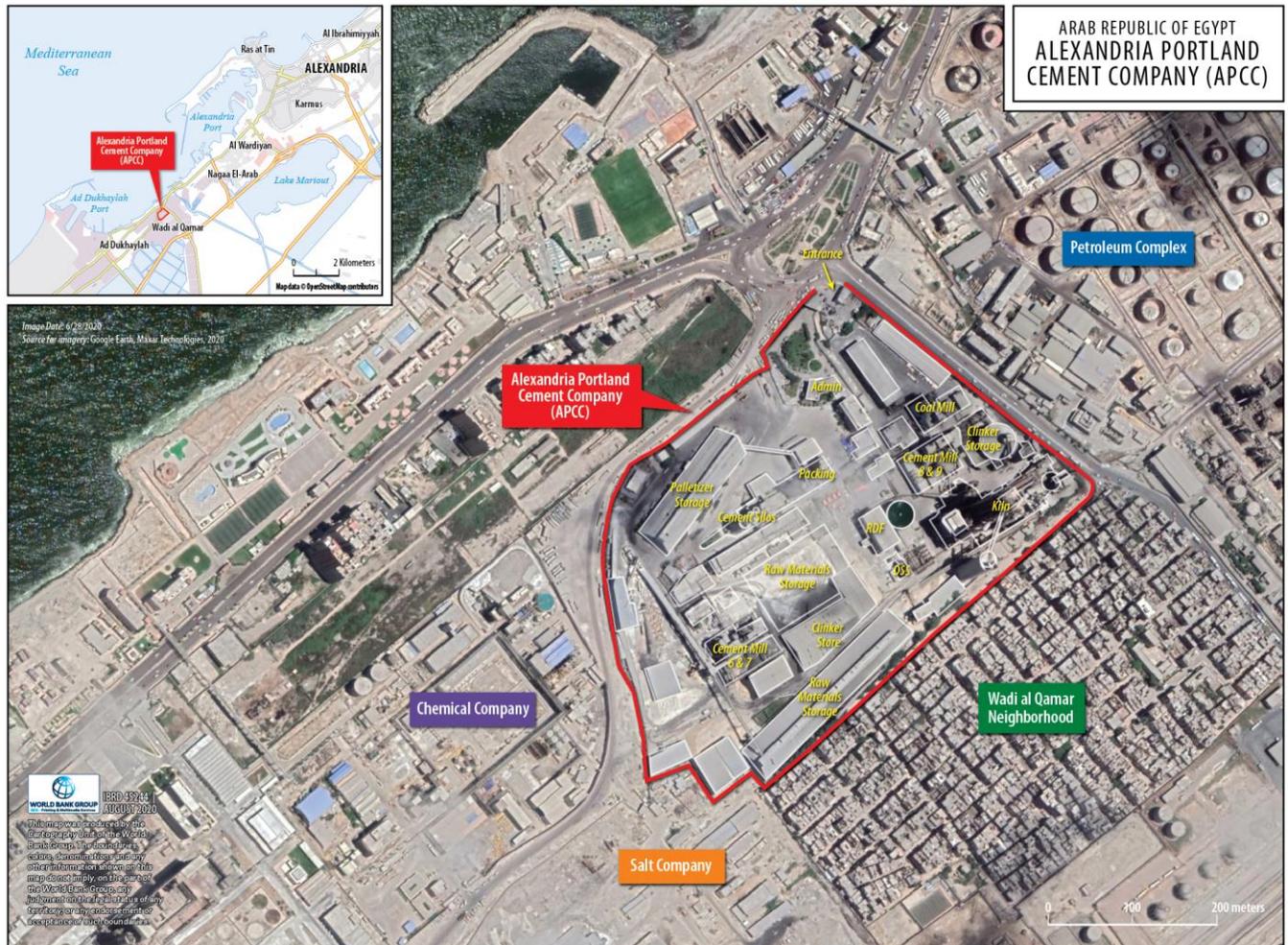
¹ Sustainability Policy (2006), para. 18.

² IFC, Titan Egypt, Environmental and Social Review Summary (ESRS), <https://bit.ly/2FBWqHM>.

³ The plant was initially acquired by Blue Circle Cement. In 2001 Blue Circle was, in turn, acquired by Lafarge.

⁴ IFC, Titan Egypt, Environmental and Social Review Summary (ESRS), <https://bit.ly/2FBWqHM>.

Figure 1: Location of APCC and Wadi al-Qamar



Source: WBG Map.

At the time of APCC’s founding, the plant had four kilns in operation using a wet process to manufacture cement. In 1996, management ordered a new clinker production line able to process 3,000 tons per day (tpd).⁵ In July 2002, the fifth kiln became operational as a dry process line. By comparison with the older kilns, the fifth kiln produced significantly less pollution and was more efficient. It also required less labor to operate. In 2002 and 2003, APCC carried out downsizing of its workforce through voluntary early retirement programs. The four old lines were demolished, beginning in 2005.

At the time of IFC’s investment, APCC operated solely on natural gas and the plant’s cement capacity was 2 million tons per annum (mtpa).

⁵ FLSmidth, *Highlights*, March 2001, p. 4.

Figure 2: Layout of APCC, 2017



Source: WBG Map

Figure 3. View of APCC from the North



Source: APCC website, available at: <https://goo.gl/SDd8Pw>.

Figures 4. 5. Views of APCC from Wadi al-Qamar



Source: CAO, field visit, January 2017, views of preheater tower and fifth production line from Wadi al-Qamar.

Figure 6. View of Wadi al-Qamar from APCC



Source: CAO, field visit, January 2017, view of Wadi al-Qamar from APCC preheater tower. The picture shows the residential area.

1.2 APCC Complaint

In April 2015, CAO received a complaint from a group of Wadi al-Qamar residents and former APCC workers, with support of local non-governmental organizations, including the Egyptian Initiative for Personal Rights (together, “the complainants”).⁶ The complainants argue that IFC financing of the project is inconsistent with IFC’s E&S policies. The complaint was transferred to the CAO compliance function for appraisal in May 2016.⁷

The complainants allege that the operation of the plant results in pollution that affects the health of workers and residents. They allege that the cement plant’s use of coal as fuel will increase pollution. Complainants claim that the plant operation causes noise pollution and cracks nearby buildings. The complainants state that the cement plant is not complying with national law, since the project does not hold the proper environmental license to operate.

⁶ CAO, Egypt / Alex Dev Ltd-01/Wadi al-Qamar, filed April 9, 2015, complaint available at: <https://goo.gl/LuSDjR>; case summary available at: <https://goo.gl/NZZF0t>.

⁷ CAO, “Compliance Appraisal Report of IFC investment in Alex. Dev. Ltd,” July 2016, available at: <https://goo.gl/dooogX>.

The complainants state 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 contract workers on a temporary basis. According to the complainants some of the temporary workers have been working at the company for 12 years. They state that the contract workers do not have the same benefits as direct employees, such as collective bargaining, wages, and profit sharing. According to the complainants, the client 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 forcefully disperse strikes and assemblies.

In relation to disclosure of information, complainants claim that no environmental impact assessment 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. The complainants state that local residents have engaged in peaceful protests against the project due to air and noise pollution.

1.3 Compliance Investigation Methodology

This compliance investigation was conducted in accordance with the CAO Operational Guidelines,⁸ and with Terms of Reference published on CAO's website in September 2016 (see Appendix D).⁹ The Terms of Reference raise the following questions:

1. Whether IFC's pre-investment E&S review of the client was commensurate to risk;
2. Whether IFC took adequate steps to assure itself of compliance with national law, particularly in relation to the environmental license of the project;
3. Whether IFC took adequate steps to assure itself of compliance with community engagement, consultation and disclosure requirements;
4. Whether IFC took adequate steps to assure itself of proper application of PS2 to the project, especially in relation to contractor workers;
5. 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;
6. Whether IFC properly applied its requirements in relation to cumulative impact assessment to the project prior to investment.

From September 2016 to December 2017, the CAO investigation team, including CAO staff and two external panelists (a labor expert and an air quality expert) reviewed IFC's project files, interviewed IFC staff with direct knowledge of the project, and reviewed background and secondary material. Interviews were conducted in person and by phone. In January 2017, the investigation team conducted a field visit to Cairo and Alexandria, Egypt, where they met with complainant representatives, residents of Wadi al-Qamar, current and former APCC workers, APCC management staff and other stakeholders. The CAO investigation report also benefited from inputs from an expert on Egyptian law who was engaged by CAO as a consultant.

In considering IFC's E&S performance in relation to this investment, CAO has been conscious not to expect performance at a level that requires the benefit of hindsight. Rather, the question is whether there is evidence that IFC applied relevant requirements considering sources of information available at the time.

CAO's compliance mandate is focused on IFC's E&S performance. In accordance with CAO's Operational Guidelines, this report documents investigation findings with respect to IFC's

⁸ CAO Operational Guidelines, 2013, para. 4.4.1, available at: <http://goo.gl/2z8UD6>.

⁹ CAO Terms of Reference for compliance investigation of IFC's investment in Alex Development Ltd, Egypt, September 2016, available at: <https://goo.gl/tvzC6W>.

compliance with relevant requirements and adverse environmental and/or social outcomes, including the extent to which these are verifiably related to the project.

1.4 Applicable IFC Policies, Performance Standards, and Procedures

CAO oversees investigations of IFC's E&S performance by assessing compliance with IFC policies, Performance Standards, guidelines, procedures, and requirements whose violation might lead to adverse environmental and/or social outcomes.¹⁰ This sub-section sets out the key sources of policies, standards and procedures for the purposes of this investigation, and summarizes the requirements that apply to IFC during the project cycle: pre-investment appraisal requirements and supervision requirements.

1.4.1 Overview

Relevant standards for the purpose of the project include IFC's 2006 *Policy on Environmental and Social Sustainability* (Sustainability Policy).¹¹ The Sustainability Policy sets out how IFC will conduct due diligence of E&S risks associated with a proposed project, and how projects will be categorized and supervised. It requires IFC to identify compliance problems and work with the client to address these if they arise. Through the Sustainability Policy, IFC "seeks to ensure that the project it finances are operated in a manner consistent with the requirements of the Performance Standards."¹² The Sustainability Policy also recognizes the roles and responsibilities of the private sector in respecting human rights.¹³

IFC implements the commitments set out in the Sustainability Policy through its Environmental and Social Review Procedures (ESRP) Manual, which is updated periodically.¹⁴ The project was approved under ESRP version 4 (2009) and has been supervised under subsequent versions of the ESRP.

The IFC 2006 *Policy on Disclosure of Information* (Disclosure Policy) sets out IFC's commitment to transparency about its activities and describes the scope of information that IFC makes available to the public.¹⁵ Through this policy IFC encourages its clients to be more transparent about their business, noting that clients' commitment to transparency and accountability helps ensure the long-term sustainability of their business.¹⁶

IFC's investment in ADL took place under the *2006 Performance Standards on Environmental and Social Sustainability* (PSs). The PS define IFC client responsibilities for managing their E&S risks. The client committed to implement the PS in relation to the project in investment agreements concluded in March 2010. The PS require that clients carry out an E&S assessment to identify actual and potential E&S risks and impacts, and that they implement an E&S Management System (ESMS). The client applies a mitigation hierarchy to anticipate and avoid adverse E&S impacts on workers, communities, and the environment, or where avoidance is not possible, to minimize, and where residual impacts remain, compensate or offset for the risks and impacts, as appropriate.¹⁷

Specific E&S issues raised in the complaint fall within *PS1: Social and Environmental Assessment and Management Systems*; *PS2: Labor and Working Conditions*; *PS3: Pollution Prevention and*

¹⁰ CAO, *Operational Guidelines*, 2013, para 4.3.

¹¹ IFC, *Policy on Social and Environmental Sustainability*, April 30, 2006, available at: <https://bit.ly/2s9LnCl>.

¹² IFC, *Sustainability Policy* (2006), para. 5.

¹³ IFC, *Sustainability Policy* (2006), para. 8.

¹⁴ IFC, *Environmental and Social Review Procedures Manual*, available at: <https://goo.gl/9J4W3C>. Additional versions on file with CAO.

¹⁵ IFC, *Policy on Disclosure of Information*, 2006, available at: <https://goo.gl/vdXp8j>.

¹⁶ *Ibid*, para 4.

¹⁷ PS1, 2006, Objectives: Bullet point 2-4.

Abatement and PS4: Community Health, Safety and Security. Detailed guidance in relation to these requirements is set out in IFC's 2007 *Guidance Notes: Performance Standards on Social & Environmental Sustainability* (Guidance Notes).¹⁸

Technical guidance is also set out in the *Environmental, Health, and Safety Guidelines* (EHS Guidelines).¹⁹ The EHS Guidelines provide general and specific examples of good international industry practice (GIIP), for new and existing projects, and are applied by IFC in conjunction with national standards and the PS.²⁰

1.4.2 IFC's Pre-Investment Requirements

The Sustainability Policy notes that IFC's pre-investment review of a project is an important factor in its decision whether or not to finance the project. Where a project goes ahead, the E&S review will determine the E&S conditions of financing.²¹ IFC's E&S review must be "appropriate to the nature and scale of the project, and commensurate with the level of social and environmental risks and impacts."²² Where there are significant historical E&S impacts associated with the project, including those caused by others, IFC works with the client to determine possible remediation measures.²³ In the case of projects with significant adverse impacts on affected communities, IFC also assures itself that there is "broad community support" for the project within the affected communities.²⁴

When conducting an E&S review IFC considers: (i) the E&S risks and impacts of the project as assessed by the client; (ii) the commitment and capacity of the client to manage expected impacts, including the client's ESMS; and (iii) the role of third parties in the project's compliance with the PS.²⁵

In cases where the client's E&S assessment does not meet the requirements of PS1, IFC requires the client to undertake or commission additional assessment by external experts.²⁶

IFC does not finance new business activity that cannot be expected to meet the Performance Standards over a reasonable period of time.²⁷

IFC clients are required to establish and maintain an ESMS that is commensurate with the level of E&S risks and impacts of the project and incorporate E&S assessment, a management program, organizational capacity, training, community engagement, monitoring, and reporting.²⁸ The assessment must be based on current information, must include all relevant E&S risks and impacts (including potential cumulative impacts), and must be prepared by qualified and experienced persons.²⁹

¹⁸ IFC, *Guidance Notes: Performance Standards on Social & Environmental Sustainability*, July 31, 2007, available at: <https://bit.ly/2T85RXm>.

¹⁹ World Bank Group, *Environmental Health and Safety Guideline (EHS)*, 2007, available at: <https://goo.gl/SPQreo>.

²⁰ Where national requirements and EHS Guidelines differ, projects are expected to achieve the more stringent of the two, EHS, 2007, Introduction.

²¹ IFC, 2006, Sustainability Policy, para. 5.

²² IFC, 2006, Sustainability Policy, para. 13.

²³ IFC, 2006, Sustainability Policy, para. 13.

²⁴ IFC, 2006, Sustainability Policy, para. 15. The requirement for "broad community support" is discussed further in section 2.2.2 below.

²⁵ IFC, 2006, Sustainability Policy, para. 15.

²⁶ IFC, 2006, Sustainability Policy, para. 15.

²⁷ IFC, 2006, Sustainability Policy, para. 17.

²⁸ PS1, 2006, para. 3.

²⁹ IFC PS1, 2006, paras. 4, 5, 7 and 8.

Action Plan

When the E&S assessment identifies mitigation measures necessary to comply with national laws and regulations and to meet IFC PS, the client will prepare an action plan.³⁰ The action plan will reflect the outcomes of consultation with affected communities.³¹ PS1 requires that the action plan describe the actions necessary to implement the various sets of mitigation measures or corrective actions to be undertaken, prioritize these actions, include a timeline for their implementation, and describe the schedule and mechanism for external reporting on the client's implementation.³²

1.4.3 IFC Supervision Requirements

Following approval and investment, IFC monitors the client's social and environmental performance throughout the life of IFC's investment.³³ The Sustainability Policy states that as part of IFC monitoring activities, IFC will:³⁴

- conduct site visits of certain projects with E&S risks and impacts;
- require the project to submit periodic Monitoring Reports on its E&S performance;
- review project performance on the basis of the client's commitments in the Action Plan, as reported by the client's Monitoring Reports, and, where relevant, review with the client any performance improvement opportunities.

If changed project circumstances would result in adverse social or environmental impacts, IFC will work with the client to address them.³⁵ If a client fails to comply with its social and environmental commitments, as expressed in the Action Plan or legal agreement with IFC, IFC will work with the client to bring it back into compliance to the extent feasible.³⁶ If the client fails to reestablish compliance, IFC will exercise remedies when appropriate.³⁷

The ESRP describes IFC's role in supervising client E&S performance during the period of financing. IFC supervision continues until the project is closed as an IFC investment.³⁸ The purpose of supervision is to: (i) obtain information to assess the status of the project's compliance with the PS and other specific E&S requirements agreed at commitment, (ii) assess the current level of E&S risk and advise the client on how to address critical E&S issues, and (iii) to identify opportunities for improvement and good practices that could be applied to similar projects.³⁹

1.4.4 Project Background

This section provides an overview of relevant contextual developments in Egypt during project appraisal and supervision related to privatizations of state-owned companies, the Arab Spring, and gas shortages. A timeline of the project is summarized below. A detailed timeline of the project and the CAO complaint is set out in Appendix B.

³⁰ PS1, 2006, para. 16.

³¹ PS1, 2006, para. 16. See also para. 21.

³² PS1, 2006, para. 16.7

³³ IFC, Sustainability Policy, 2006, para. 11.

³⁴ IFC, Sustainability Policy, 2006, para. 26.

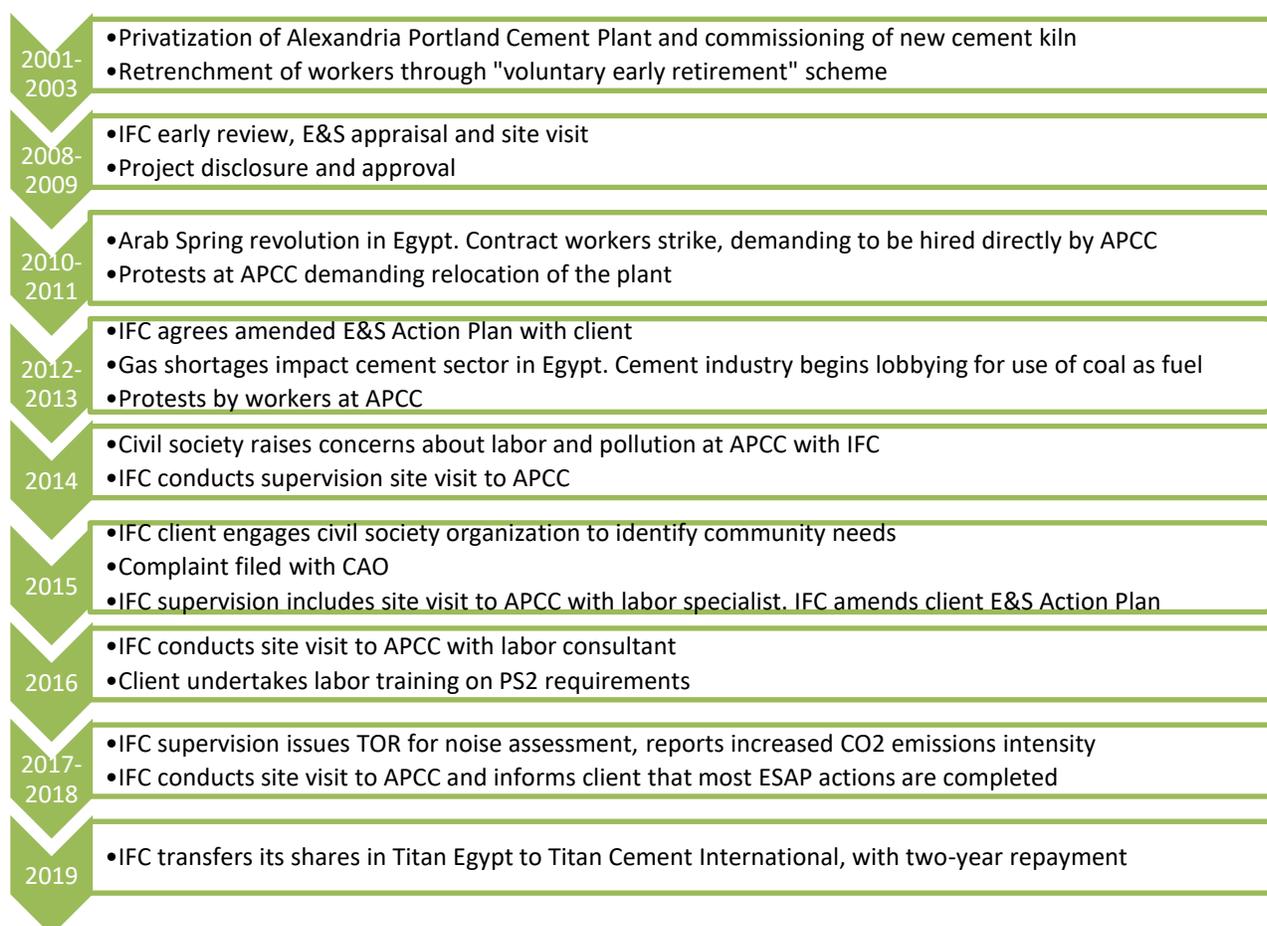
³⁵ 2006 Sustainability Policy para. 26.

³⁶ 2006 Sustainability Policy para. 26.

³⁷ 2006 Sustainability Policy para. 26.

³⁸ IFC Environmental and Social Review Procedures (ESRP), v. 7, 6; 6.1, available at: <https://bit.ly/37MZdJW>.

³⁹ ESRP v. 7, 6.1.



Privatization of state-owned enterprises

The Egyptian government instituted broad economic reforms during the 1990s in response to a worsening financial crisis.⁴⁰ Among these reforms, a privatization program transferred over three hundred state-owned companies to private investors between 1993 and 2002.⁴¹ According to news articles, these privatizations came under increasing scrutiny in the following decade, and several were challenged in the Egyptian Courts from 2011.⁴² Both of the client's Egypt cement plants were previously government-owned, and were sold to private sector operators – BSCC in 1999 and APCC in 2000. Litigation to challenge BSCC's privatization was initiated in 2011 and was not successful.⁴³ Similarly, APCC's privatization was upheld in 2012.⁴⁴

⁴⁰ Samer Soliman, "The Political Economy of Mubarak's Fall," in *Arab Spring in Egypt: Revolution and Beyond* (Bahgat Korany & Rabab El-Mahdi eds.) 2014, p. 45.

⁴¹ Carana Corporation under the USAID Coordinating and Monitoring Services Project (2002), *The Results and Impacts of Egypt's Privatization Program. Special Study*, available at: <https://goo.gl/4mmw6v>.

⁴² Hebah Saleh, "Owners act in Egypt privatisation dispute," March 7, 2012, *Financial Times*, available at: <https://on.ft.com/2P6aqyQ>; "Egypt drags its feet in privatization tussle," May 29, 2013, Reuters, available at: <https://goo.gl/W5cjJh>.

⁴³ Sharkawy and Sarhan, Newsletter, March 1, 2014 available at: <https://goo.gl/7mwpXz>.

⁴⁴ Titan Egypt, Integrated Annual Financial Statements, 2015, available at: <https://goo.gl/GsDbiE>.

Arab Spring and Labor protests

In 2011, as part of the Arab Spring, Egypt experienced eighteen days of mass demonstrations and protests.⁴⁵ Egyptians protested corruption, injustice, poor economic conditions, and demanded the resignation of the then-President Hosni Mubarak.⁴⁶ The movement was marked by mass street demonstrations in Cairo, Alexandria and other cities.⁴⁷ Conflict between protesters and state security forces escalated into broader civil unrest.⁴⁸ During the first week of the uprising a curfew was ordered and several workplaces were shut for security reasons.⁴⁹

Labor protests that had been occurring across Egypt since 2006 continued after the Arab Spring. Workers demanded higher wages and union representation independent from the government.⁵⁰ Workers across the country and from different sectors, ranging from railway and transportation to military and hospitals, went on strike in support of the revolution.⁵¹

The uprising also affected international organizations with operations in Egypt, including IFC. Multinational enterprises and international organizations evacuated many of their international employees. For security reasons, IFC did not carry out supervision visits to APCC in 2011 or 2013. During these periods, the project team relied on information reported in the client's Annual Monitoring Reports (AMRs).

⁴⁵ Anne Alexander & Mostafa Bassiouny, *Bread, Freedom, Social Justice. Workers & The Egyptian Revolution*, 195 (2014), 192.

⁴⁶ In January 2011, several Arab countries had popular protests, collectively referred to as the Arab Spring. Tunisia, Jordan, Bahrain, Lybia, Syria, Iraq, Lebanon, Morocco and Saudi Arabia all experienced demonstrations. See Moaddel (2012), "The Arab Spring and Egyptian Revolution Makers: Predictors of Participation," 12-775, <https://bit.ly/2T9r7vG>.

⁴⁷ Cornell University Library (undated), *Arab Spring: A Research & Study Guide: Egypt*, "The January 25 Revolution," <https://goo.gl/jg93bP>.

⁴⁸ Fahim & Kirkpatrick (2011), "Labor Actions in Egypt Boost Protests," *The New York Times*, available at: <https://goo.gl/nrWjhE>."

⁴⁹ Alexander & Bassiouny, (2014), pp. 197-198.

⁵⁰ Dina Bishara, "The Power of Workers in Egypt's 2011 Uprising," *The Arab Spring in Egypt: Revolution and Beyond* (American University Press, 2012), page 85.

⁵¹ Alexander & Bassiouny (2014), p. 195.

2 Compliance Analysis and Findings

This report is structured around three themes raised in the complaint:

2.1: Environmental, including IFC's E&S review, plant licensing, air emissions and health impacts, the transition to coal, noise and vibration from the plant;

2.2: Community, including information disclosure, stakeholder engagement and consultation, and security;

2.3: Labor, including freedom of association, working conditions and terms of employment, and occupational health and safety (OHS).

The following sections outline relevant requirements, discuss IFC actions over the course of the project, and present CAO's analysis of compliance issues in relation to each of these areas.

2.1 Environmental

The complaint raises a range of concerns about APCC's environmental performance, including its compliance with Egyptian environmental standards, air pollution, nuisance dust and health impacts, noise, vibrations, and the use of coal. The complainants allege that IFC financing for the plant is incompatible with IFC's sustainability policies in light of the plant's legal status, and the harm to the local community from the plant's environmental performance.

This section analyses IFC's appraisal and supervision of its client's environmental performance given the issues raised in the complaint. The section summarizes relevant IFC standards and considers whether IFC ensured that its client was implementing measures consistent with GIIP to prevent and control pollution.

Key Compliance Findings – Environment

E&S Review: IFC's pre-investment review of project environmental impacts was not commensurate to risk in light of the plant's location in a mixed industrial-residential area with communities in close proximity (Sustainability Policy, para. 13). IFC did not assure itself that the client's E&S assessment considered potential cumulative impacts on air quality, human health, and noise from existing projects and conditions, including numerous pollution sources in the project area (PS1, para. 5). Available documentation did not allow CAO to confirm that IFC conducted an adequate review of the client's E&S assessment, including ensuring that the assessment presented an "adequate, accurate and objective evaluation" of the E&S issues based on recent information (PS1, paras. 7, 8). Further, IFC did not ensure that the client ESAP reflected outcomes of consultation with affected communities, that it described actions necessary to reach air emissions targets, or that the client would report externally on implementation (PS1, para. 16).

Plant Licensing: Although IFC was aware of complainant concerns regarding the client's licensing status and related media coverage, IFC's supervision did not provide assurance that the client was complying with national licensing requirements (PS, para. 3; PS1, para. 4). Instead, IFC relied on client assurances that permit and license requirements were being met.

Point Source Emissions: IFC's E&S review of the client's contribution to local air pollution was not commensurate to risk in light of APCC's performance and location. Although an ambient air quality assessment was required to determine whether airshed was "degraded" and to define appropriate mitigation measures (WBG EHS Guidelines), IFC did not ensure its client carried out such an assessment. During supervision, the client's recorded emissions of pollutants with negative health impacts regularly exceeded WBG and national standards. IFC engaged with the

client to follow up on agreed corrective actions. However, persistent delays in implementing pollution control measures have prolonged impacts on the local community from nuisance dust and cumulative health effects associated with air pollution. To date, IFC has not demonstrated that the client's methods of monitoring and reporting point source emissions are consistent with IFC requirements.

Fugitive Dust Emissions: At appraisal, IFC recognized fugitive dust from the plant as having the potential for serious environmental impact on nearby communities, and secured ESAP commitments from its client to assess, mitigate and monitor performance in relation to dust emissions. In the early stages of supervision IFC agreed that the client did not need to assess its own contribution to ambient dust in the project area. Instead it was agreed that the client would implement stricter dust control measures. However, client actions to retrofit dust control measures were regularly delayed. Ambient dust was recorded from 2015 to 2019. To date, fugitive dust control remains a problem and IFC has not been effective in ensuring that the client is implementing good housekeeping practices for dust suppression in accordance with IFC requirements (Cement EHS Guidelines).

Transition to Solid Fuel: IFC did not supervise the client's transition to solid fuel in accordance with PS requirements. In particular, IFC did not document its review of the client's draft EIAs for solid fuel and did not ensure that its client assessed the potential effects of transition in accordance with the Performance Standards.

Odor, Noise and Vibration: IFC did not ensure that the client assessed impacts from noise and vibration in accordance with its EHS Guidelines. IFC has not required its client to take necessary steps to minimize or control noise from the plant, or to monitor or assess impacts from vibration in accordance with PS3, para. 9. In relation to odor, IFC gave clear remedial instructions to the client. However, IFC has not ensured that the client consulted with affected community members in relation to noise, vibration or odor as required by PS1, para. 30.

2.1.1 Environment: E&S Assessment Documentation

In their 2015 complaint to CAO, the complainants highlight concerns in relation to APCC's environmental and social assessment. The complainant's question whether the company identified and assessed the environmental and social risks and impacts associated with the plant, as required by Performance Standard 1.⁵²

The complainants refer to Egyptian law requirements that an environmental and social impact assessment be submitted and reviewed by the environmental authority prior to licensing.⁵³ The complainants note that they have not been able to review a copy of an EIA in relation to the plant and raise concerns about the quality of any EIA study that may exist.⁵⁴

To assess the adequacy of IFC's E&S review and supervision in relation to the issues raised by the complainants, CAO considered the ESRS, project documentation available on file, as well as accounts provided by IFC staff involved in the project at that time. CAO also considered project supervision documentation and correspondence with the client that addressed the plant's licensing and permits.

⁵² Complaint to CAO, p. 5.

⁵³ Complaint to CAO, p. 5, citing Article 19 of the Egyptian Environmental Law.

⁵⁴ Complaint to CAO, p. 5.

IFC Requirements

IFC's E&S review of a project is based on the client's own E&S assessment, which should meet requirements of PS1.⁵⁵ The client is required to conduct a process of E&S assessment that considers in an integrated manner the potential E&S risks and impacts of the project.⁵⁶ The assessment must be an "adequate, accurate and objective evaluation and presentation of the issues, prepared by qualified and experienced persons."⁵⁷ For existing business and activities, environmental and social audits may be required to determine areas of concern.⁵⁸

The client E&S assessment must be based on current information, including social and environmental baseline data.⁵⁹ The assessment will include all relevant E&S risks and impacts of the project and those who will be affected by such risks and impacts. In addition to matters set out in PS2 to PS8, the assessment will consider the applicable laws and regulations of the jurisdiction that relate to E&S matters.⁶⁰

PS1 requires that an analysis of risks and impacts of the project will take into account its area of influence, including areas potentially impacted by cumulative impacts from any existing project or conditions.⁶¹

IFC Actions

IFC's E&S review of the client is described in the project "Environmental and Social Review Summary" published on IFC's website in November 2009.⁶² The IFC review was informed by a site visit to APCC in June 2009 and a document review. In discussion with CAO, the IFC project team reported that many documents related to the plant's E&S performance were reviewed in person at Titan Egypt headquarters in June 2009. IFC noted that the company provided to IFC some translations, but that generally original documents in Arabic were not translated into English unless there was something in particular IFC wanted to review. The IFC Environmental and Social Specialist assigned to the project review was not an Arabic speaker. IFC staff in Cairo provided some assistance in reviewing documentation in Arabic.

IFC's ESRS provided an overview of the client's E&S performance at APCC, noting that PS1, PS2, PS3, PS4 and PS6 were each relevant to the project. IFC assigned the project's E&S risk Category B. Although the ESRS noted the location of APCC in close proximity to a residential area, and adjacent to other industrial activities, IFC determined that that cumulative impact assessment requirements did not apply to the project. The ESRS did not provide any rationale for this decision.

The ESRS states that the client had presented plans to address the plant's E&S impacts and comply with Egyptian laws and regulations, the Sustainability Policy and PS, and the EHS Guidelines. IFC noted the client's corporate-level commitments to sustainability, including its membership of the World Business Council for Sustainable Development (WBCSD), the Cement Sustainability Initiative, the Hellenic Network for Corporate Social Responsibility, the Responsible

⁵⁵ IFC, 2006, Sustainability Policy, para. 15.

⁵⁶ PS1, 2006, para. 4.

⁵⁷ PS1, 2006, para. 7. Note that the client may present a full environmental and social impact assessment or simpler studies assessing the impacts of the project depending on the nature and magnitude of its risks and impacts, PS1, 2006, para 8.

⁵⁸ PS2 para. 8.

⁵⁹ *Ibid.*

⁶⁰ PS1, 2006, para. 4.

⁶¹ PS1 para. 5.

⁶² IFC Project Information Portal, "Environmental and Social Review Summary: Project Number 30274," ("ESRS") Disclosed Nov 10, 2009, available at <http://bit.ly/IFCESRSTitanEgypt>.

Supply Chain Management initiative, and the U.N. Global Compact Initiative.⁶³ Further details of the client's E&S risk management system are discussed in subsequent sections.

CAO notes that several assessment documents on which the ESRS was based were not disclosed on the IFC website and have never been publicly released. IFC notes these documents were part of the client's internal corporate assurance system. IFC confirmed that these documents were reviewed at the time of IFC's appraisal, and some of the documents were provided to CAO in February 2020. The documents include:

- **2002 EIA:** IFC's ESRS noted that the original APCC plant was established at a time when an environmental impact assessment (EIA) was not required by Egyptian law, but that an independent EIA had been prepared for the new line and shutdown of the original lines.⁶⁴ No further details about the EIA or recommended mitigation measures are set out in the ESRS and no review of the EIA is set out in the IFC project file. CAO's review of the report indicates that it does not address the plant's E&S risks and impacts at a level that reflects good international industry practice, but is more similar to a scoping report with limited baseline analysis, legislative review, and some discussion of impacts. For example, the assessment of the proposed kiln location indicates that it is very suitable due to its proximity to raw material sites, main roads and water and power sources but does not consider potential impacts on communities living adjacent to the site.⁶⁵ The EIA contains limited information about methodology or how conclusions have been reached. Relevant observations from the 2002 EIA are incorporated into specific E&S issue discussion below.
- **Internal Environmental Audits:** The ESRS reported that internal environmental audits were conducted at the plant every two years, with APCC due for its next audit in 2010. IFC stated in the ESRS that recommendations and relevant action plans arising from the 2010 audit were to be disclosed. CAO found no indication that such disclosure was carried out. CAO was able to review a 2010 audit that included the plant and associated quarries. Among other things, the audit noted that extra effort was needed to control fugitive dust and provided recommendations for enhanced ambient monitoring to protect the local population.
- **CO₂ Emissions Audit:** The ESRS referred to an April 2009 KPMG audit of APCC for CO₂ emissions and safety performance and indicated that recommendations for improvements had been included in an action plan which was under implementation. CAO reviewed a summary presentation of the audit conclusions. No copy of the KPMG audit was on file with IFC.

An technical review of the APCC plant was prepared by an IFC industry specialist during the pre-investment review. Although the report is not a comprehensive review of the plant's environmental and social impacts, it provides important information about aspects of the plant's environmental performance. Observations from the report appear to have informed the project E&S Action Plan. As the report was prepared by IFC, it does not constitute a client E&S assessment document and has not been disclosed.

The client environmental and social action plan (ESAP) agreed between IFC and its client in 2009 required, among other things, that the client:

- (a) provide results of independent audits and external certification reports to IFC within 30 days of receipt from the auditors;

⁶³ *Ibid*, ESRS, "Environmental and Social Mitigation Measures."

⁶⁴ *Ibid*, ESRS, "Environmental and Social Mitigation Measures."

⁶⁵ 2002 EIA, P. 42

- (b) implement additional control measures at APCC to reduce average annual particulate emissions within 24 months of disbursement;
- (c) undertake baseline ambient air quality monitoring at agreed locations at APCC and submit the results to IFC by December 31, 2009; and
- (d) undertake annual ambient air quality monitoring and submit those reports to IFC as part of the annual monitoring report (AMR).⁶⁶

CAO found no record of community consultation nor any stakeholder engagement or disclosure plan in relation to the ESAP.

CAO Assessment

CAO finds that IFC's E&S review of the project did not meet Sustainability Policy requirements because it was not appropriate to the nature and scale of the project and was not commensurate with the level of social and environmental risks and impacts.⁶⁷

Risk factors not adequately taken into account in IFC's review included the plant's location in a mixed industrial-residential area with communities as close as 10 meters from potentially polluting elements of the client's plant. IFC did not consider potential cumulative impacts on the local community resulting from the plant and neighboring industrial activities (PS1, para. 5).⁶⁸

IFC did not maintain an adequate record of its E&S Review or retain copies of all of the E&S assessment documentation that formed the basis of its review. As a result, CAO was not able to confirm that IFC conducted an adequate review of the client's E&S assessment against relevant PS1 requirements including requirements that the E&S assessment be based on current information, that it present an "adequate, accurate and objective evaluation" of the E&S issues and be "prepared by qualified and experienced persons" (PS1, paras. 7, 8).

While incorporating some mitigation measures, the actions agreed between IFC and its client in the ESAP do not reference outcomes of consultation with affected communities, do not describe actions necessary to reach air emissions targets, and do not describe how the client would report externally on implementation (contrary to PS1, para. 16).

2.1.2 Environment: Plant Licensing and Permits

The complainants allege that the plant does not have the appropriate licenses to operate, and that this is inconsistent with the Performance Standard requirement that clients comply with applicable national laws.⁶⁹ In particular, the complainants allege that a "temporary license" to operate the fifth kiln was granted to a prior owner of APCC in 2001. The complainants allege that the temporary license has effectively been renewed for more than 15 years, without ensuring that the company meets the necessary legal conditions.⁷⁰

⁶⁶ IFC, Client ESAP, 2009, on file with CAO.

⁶⁷ Sustainability Policy, 2006, para. 13.

⁶⁸ IFC, ESRS, available at: <https://goo.gl/KnuxyN>.

⁶⁹ Complaint to CAO, p. 2.

⁷⁰ The complainants refer to a report issued by the State Lawsuits Authority that they state provides an account of the plant's various permits and licenses. Complaint to CAO, pp. 3-4.

Relevant IFC Requirements

IFC's Performance Standards provide that, in addition to meeting PS requirements, clients must comply with applicable national law.⁷¹ Applicable laws and regulations must be taken into account in the project social and environmental assessment,⁷² in determining mitigation measures for project risks and impacts,⁷³ and in resulting Action Plans.⁷⁴ The IFC Guidance Notes indicate that clients should establish a system for measuring and monitoring compliance with laws and regulations.⁷⁵

IFC Actions

The ESRS does not address the plant's licensing or permit status, and the project record gives no indication that IFC enquired about the nature of licenses and permits held by the plant during the E&S review phase. The parties agreed in March 2010 that APCC would undertake company operations in accordance with all applicable laws, rules and regulations of Egypt, and all standards or requirements from licenses or permits concerning E&S matters. The client also committed to report to IFC annually on its E&S performance, confirming compliance with applicable E&S laws and standards or identifying any non-compliance or failure. At the time of IFC's share purchase, the client was required to represent and warrant to IFC that all authorizations (including licenses and permits) required for the project had been obtained and were in full force and effect. This included disclosure of all licenses and permits that the client had in effect at that time. The client provided a list of all licenses held by APCC in November 2010 and noted that it had submitted an application to merge a cement packing license issued to Blue Circle (the plant's previous owner) with the cement production license issued to APCC (the "merged license") but that the merged license might not be issued prior to the time of IFC's share purchase transaction.

In August 2010, as IFC and the client were preparing to finalize their investment transaction, the client provided an update on the licensing process and requested that IFC waive certain provisions of the investment agreement relating to facility licenses. The client stated that the Industrial Development Authority had issued a temporary merged license valid until October. The client expected that the final merged license would be issued to APCC by October 2010. IFC requested further information from its client regarding pending authorizations. IFC reported to CAO the view that no waiver was required or granted for disbursement of the funds as the agreement pertaining to the disbursement had a different mechanism to ensure all licenses were in place.

In November 2010, IFC requested that the client provide English translation copies of certain APCC licenses for the purpose of closing IFC's investment transaction. No final merged license was included in this packet of documents. Nevertheless, IFC's E&S team approved the project for disbursement, noting that all E&S conditions had been met.

Plant licenses were occasionally referenced in IFC supervision materials from 2011 onwards, particularly in response to public concerns about APCC's legal status.

In December 2011, IFC contacted the client regarding local media reports that a court action had been brought against the client alleging that the plant did not have a license or environmental approval.⁷⁶ The client assured IFC that the allegations had no basis. In this context, it was noted within IFC that criticism of the company was motivated by political rather than substantive

⁷¹ IFC Performance Standards, 2006, "Introduction" para. 3.

⁷² IFC PS1, 2006, para. 4.

⁷³ IFC PS1, 2006, para. 14.

⁷⁴ IFC PS1, 2006, para. 16.

⁷⁵ IFC Guidance Note 1, G59.

⁷⁶ Law Suit against Governor of Alexandria, 11632/64.

concerns or public opposition. According to the company, the local population was supportive of the plant. The IFC project team noted that other industries in the area were not in compliance with all the local standards. The basis on which IFC reached these conclusions is unclear.

In 2012, IFC identified the APCC operating license as a “key issue” for the project and sought updates on the 2011 court case. From 2014 onwards, the client faced increasing public scrutiny regarding its permits and licensing. IFC corresponded with its client about the media coverage. IFC received copies of various translated E&S documents in 2016. In 2017 IFC requested a number of updates from the client regarding environmental permits at APCC and on ESIA submitted by the client.

In 2017, IFC had several documents related to the client’s environmental performance translated. Among these, IFC received:

- A translation of an Egyptian Environmental Affairs Agency (EEAA) approval relating to the expansion of the APCC plant dated October 2000. The approval referenced an environmental study related to the expansion and set out a number of conditions and requirements.
- A translation of the EEAA approval for the use of alternative fuels (DSS and RDF) at APCC dated 2013. The approval set out conditions and requirements.

In 2018 IFC became aware that a legal challenge regarding APCC’s license had been ongoing since 2014. The client’s stated view was that the plant’s operating license had been issued lawfully and was in full compliance with relevant Egyptian laws and regulations.⁷⁷

In 2020, IFC provided to CAO copies of the relevant industrial register certificates, indicating that the APCC temporary license was renewed six times from 2010 to 2013, and that in 2013, the client was issued the new merged license including production of clinker and grinding of clinker valid until 2018. According to IFC, the license was renewed in 2018 and is valid through until 2020. In IFC’s view, it had obtained from the client the information materially relevant to assess compliance.

CAO Assessment

CAO finds that IFC’s E&S review and supervision of the client did not provide assurance that the client was complying with applicable national laws, as required by the Performance Standards.⁷⁸

At the time IFC’s investment was being finalized, the client disclosed to IFC that a merged license to cover both production and packing of cement at APCC was pending. IFC did not maintain a record of its review of the client’s licensing and permit requirements, or of the client’s systems to ensure ongoing compliance with national law requirements. CAO found no indication that IFC sought any verification or validation of its client’s licensing status or compliance with national laws for example through audit or external expert assessment. Instead, IFC relied on its client’s assurances that licensing and permit processes were underway, and that it was in compliance with relevant Egyptian laws.

During the supervision period, affected communities raised concerns about the plant’s licensing and permits through complaints, media coverage and court action. IFC made enquiries with the client regarding the media coverage and obtained copies of some documentation. However, IFC did not document any review of the licensing/permit status of the company, and again did not seek assurance of their adequacy that was commensurate to risk given ongoing disputes around the client’s compliance with national licensing requirements. In this context, CAO finds that IFC’s

⁷⁷ Titan Cement, “Annual Financial Statements for the year ended 31 December 2014 of the Group and Titan Cement Company S.A.,” 2014, p. 141, available at: <https://bit.ly/36Ark1s>.

⁷⁸ IFC PS, Introduction, para. 3.

supervision fell short of ESRP requirements as IFC failed to obtain information necessary to assess the status of the project's compliance with national laws.⁷⁹

It is beyond CAO's mandate to make a finding as to whether the client is, or has been, in compliance with national laws.

2.1.3 Environment: Point Source Emissions

Plant emissions are a major concern for the complainants. The complainants believe that plant stack emissions are causing severe harm to the health of local residents, causing nuisance as well as impacting nearby industries, for example through dust deposits on neighboring salt evaporation ponds.⁸⁰ Local residents report accumulations of fine dust in their homes and businesses, leaving residue on their belongings. The complainants have documented periods of high emissions from the plant, when visible clouds of dust are released from APCC stacks due to apparent technical failures.⁸¹ The complainants expressed concern during the investigation that disclosed monitoring data from the plant does not reflect these periods of increased emissions.

IFC Requirements

The objectives of *Performance Standard 3: Pollution Prevention and Abatement* (PS3) are to avoid or minimize adverse impacts on human health and the environment by avoiding or minimizing pollution from project activities, and to promote the reduction of emissions that contribute to climate change.⁸²

PS3 requires that the client consider ambient conditions and apply suitable technology to mitigate the project's impacts according to good international industry practice.⁸³ To address adverse impacts on existing ambient conditions the client will consider a number of factors, including the finite assimilative capacity of the environment, existing and future land use, existing ambient conditions and the potential for cumulative impacts with uncertain and irreversible consequences.⁸⁴ The client must promote strategies that avoid, minimize or reduce the release of pollutants, including strategies that contribute to the improvement of ambient conditions when the project has the potential to constitute a significant source of emissions in an already degraded area.⁸⁵

IFC's Guidance Note 3 applies where a project that is expected to produce potentially significant emissions of pollutants involves the modernization or retrofit of an existing facility. In such cases, clients are encouraged to "evaluate whether the current ambient conditions are in compliance with the ambient quality guidelines and/or standards."⁸⁶ Where levels exceed such guidelines or standards, clients are encouraged to evaluate options with the aim of meeting the standards. Options may include rehabilitating the existing facilities or generating offsets.⁸⁷

Technical requirements related to air emissions and ambient air quality are set out in the *World Bank Group Environmental, Health, and Safety Guidelines* (EHS Guidelines).⁸⁸ The EHS

⁷⁹ ESRP, v7, 6.1.

⁸⁰ Complaint to CAO, p. 8.

⁸¹ See, for example, EIPR, "Wadi al-Qamar residents capture emissions from Titan's Alexandria Portland Cement," 28 May 2017, available at <http://bit.ly/WaQ2017>.

⁸² IFC PS3, "Objectives".

⁸³ IFC PS3, para. 3. In the context of air emissions, air pollutant concentrations in the area of the project are a key factor in assessing ambient conditions.

⁸⁴ IFC PS3, 2006, para. 9. See also Guidance Notes, G28.

⁸⁵ IFC 2006, PS3, para. 9.

⁸⁶ IFC PS3 Guidance Notes, G28.

⁸⁷ IFC PS3 Guidance Notes, G28.

⁸⁸ IFC EHS Guidelines (2007).

Guidelines provide approaches for management of air emissions, specifically for projects located in areas of poor air quality.⁸⁹ Business activities should estimate their impacts using ambient air quality assessments and atmospheric dispersion models to assess potential impact to ambient concentrations.⁹⁰ Facilities located within areas that have degraded airsheds should ensure that “any increase in pollution levels is as small as feasible.”⁹¹ Suitable mitigation measures should be assessed on a case-by-case basis and may include use of cleaner fuels or technologies and pollution control measures.⁹²

Specific performance levels and measures for cement manufacturing are set out in the IFC 2007 *EHS Guidelines for Cement and Lime Manufacturing* (Cement EHS Guidelines).⁹³ Further details of relevant technical requirements are set out in Appendix C.

Overview of Point Source Emissions

There are two main types of air emissions that occur at a cement plant: point source emissions and fugitive emissions (see *section 2.1.4*). Point sources are fixed sources of emissions, such as kiln systems, clinker coolers, and mills. IFC limits for point source emissions are set out in the General EHS Guidelines and summarized in Appendix C.

Harmful point source emissions can be reduced by maintaining the source in consistently optimum operating conditions, through installing filter systems (described in Annex C), and through applying other technologies – for example, to control combustion. In addition to cement dust, point source emissions from cement factories may include gases such as NO_x and SO₂ or heavy metals such as mercury. In relation to APCC, Particulate Matter (PM) and Nitrogen Oxides (NO_x) have been the most significant point source emissions, with Total Organic Carbons (TOC) levels increasing more recently. PM, NO_x and TOC are associated with health impacts.

- **Particulate matter (PM)** is a mixture of solids. The smaller the particles the deeper into human lungs they can penetrate. Particles around 10 micrometers or smaller generally cause health problems when they enter the lungs. Even smaller particles may eventually enter the bloodstream. PM pollution exposure is linked to premature death in people with heart or lung disease, nonfatal heart attacks, irregular heartbeat, aggravated asthma, decreased lung function, and increased respiratory symptoms, such as irritation of the airways, coughing or difficulty breathing.⁹⁴ Exposure to particles during lung development (in children) can stunt lung growth and lead to health issues later in life. People with heart or lung diseases, children, and older adults are most likely to be affected by PM pollution exposure.⁹⁵ In cement plants, PM includes cement dust, raw materials and carbon, and can be caused by storing, crushing, grinding, and pyroprocessing in cement kilns.⁹⁶

⁸⁹ IFC EHS Guidelines (2007), Part 1.0 Environmental. Relevant specific provisions of the EHS Guidelines are summarized in Appendix C.

⁹⁰ *Ibid.*

⁹¹ *Ibid.* The EHS Guidelines defines poor air quality when nationally legislated air quality standards or the World Health Organization air quality guidelines are exceeded significantly.

⁹² IFC EHS Guidelines, (2007) page 5.

⁹³ IFC, Environmental, Health, and Safety Guidelines for Cement and Lime Manufacturing, April 30, 2007, available at: <https://bit.ly/2s5Wj3U>.

⁹⁴ US Environmental Protection Agency, “Particulate Matter (PM) Pollution: Health and Environmental Effects of Particulate Matter (PM).” Available at: <http://bit.ly/PMHealthImpacts>.

⁹⁵ *Ibid.*

⁹⁶ Pyroprocessing is the process in which materials are subjected to high temperatures to bring about a chemical or physical change, as in a cement kiln, see EPA, “Particulate Matter (PM) Basics” available at: <https://goo.gl/TU4FTy>.

- **Nitrogen oxides (NO_x)** are gases produced from the reaction of nitrogen and oxygen during fuel combustion. Breathing air with a high concentration of NO₂ can irritate airways.⁹⁷ Exposure over a short period of time can aggravate respiratory diseases. Longer exposures to elevated concentrations of NO₂ may contribute to the development of asthma and potentially increase susceptibility to respiratory infections. People with asthma, elderly people and children are generally at greater risk for the health effects of NO₂. NO_x reacts with other chemicals in the air to form PM and ozone, which are also harmful when inhaled. NO_x may also interact with water, oxygen and other chemicals in the atmosphere to form acid rain that can harm sensitive ecosystems. NO_x emissions can be managed through various methods such as changing the composition of the fuel, and through close control of the operating conditions of the plant. When these measures are not sufficient, other technologies or methods such as selective non-catalytic reduction (SNCR) can reduce significantly NO_x emissions to the air before they are released from a stack.⁹⁸
- **Total Organic Carbon (TOC)** measures emissions of organic carbon compounds. Most organic carbon present in the raw materials used to make cement and fed into the kiln is converted to CO₂ during the kiln pyroprocessing. Emissions of organic carbon compounds occur when combustion of fuel in a cement kiln is incomplete. Incomplete combustion of carbon compounds can also lead to the production of carbon monoxide (CO). The specific health impacts of organic carbon (as opposed to particulates generally) are unclear, although studies have shown associations between TOC and a range of respiratory and cardiovascular health effects.⁹⁹

IFC Actions

Air emissions were among the earliest E&S risks identified by the IFC project team regarding APCC, specifically PM and NO_x. IFC expected that the client would improve its environmental performance and comply with WBG standards. IFC's ESRS stated that recorded PM stack emissions were within Egyptian limits, but above IFC guidelines.¹⁰⁰ Other recorded emissions were noted to be within both Egyptian regulations and IFC guidelines.¹⁰¹ No ambient air quality monitoring results were reported and no analysis was presented of the airshed in the project area.

Environmental assessment documentation from 2002, commissioned by APCC and reviewed by IFC did not assess dust emissions from the new kiln. With the use of bag filters in cement mills and final packing machines and ESPs in the by-pass, however, the documentation anticipated that emissions in the new cement plant should not exceed 100 mg/Nm³. IFC pre-investment documentation observed that Electrostatic Precipitator (ESP) filters were being used to capture dust from stacks rather than bag filter technology which IFC identified as being safer and more efficient. The client was noted to be in the process of upgrading its ESP for the cement kiln. IFC

⁹⁷ US Environmental Protection Agency, "Nitrogen Dioxide (NO₂) Pollution: Basic Information about NO₂" available at: <http://bit.ly/No2impacts>.

⁹⁸ SNCR works by reacting NO_x gases with a urea or ammonia solution in the preheater tower to produce water and safer gases – nitrogen and carbon dioxide. To be effective SNCR, requires a sufficient time, a certain temperature range and adequate mixing of the materials in the kiln. IAC, "SNCR: An economical approach to reduce NO_x emissions" available at: <https://goo.gl/RMfChT>. See also General EHS Guidelines, Annex 1.1.2: Illustrative Point Source Air Emissions Prevention and Control Technologies, p. 15.

⁹⁹ Frank J. Kelly and Julia C. Fussell, "Air pollution and public health: emerging hazards and improved understanding of risk," *Environ Geochem Health*, 2015, 37(4): 631-649, available at: <http://bit.ly/Kelly-Fussell-pollution>.

¹⁰⁰ ESRS, "Environmental and Social Mitigation Measures: 3. Pollution Prevention and Abatement."

¹⁰¹ *Ibid.* NO_x emissions are noted as being 448 mg/Nm³, which IFC noted as meeting Egyptian standards and IFC guidelines. SO₂ emissions were noted as negligible.

staff noted that APCC should consider replacing the clinker cooler ESP with a bag filter for safety and environmental reasons.

The ESAP initially agreed between IFC and the client in November 2009 required additional control measures be introduced at APCC to ensure that average annual PM emissions were reduced to $\leq 100 \text{ mg/Nm}^3$ within 24 months of disbursement.¹⁰² The client was also required to undertake annual ambient air quality monitoring and submit these results to IFC as part of Annual E&S Monitoring Report (AMR). An additional requirement that the client assess baseline ambient air quality by December 2009 was disclosed as part of the ESAP on IFC's website. However, the project records show that the action was not ultimately agreed between IFC and the client, and CAO has no evidence that it was carried out by the client.¹⁰³

In its descriptions of the project to the Board, IFC noted that the most significant impacts of the project related to dust emissions and energy efficiency. However, IFC expressed confidence in the client's capacity and commitment to implement improvements, on the basis of the client's existing management programs and ongoing projects to improve emissions performance such as the ESP upgrade.

IFC's equity investment was made in November 2010.¹⁰⁴ No actions related to point emissions or ambient air quality were required to be completed before disbursement.

IFC notes that it required the client to undertake continuous monitoring against WBG guidelines. IFC also notes that continuous monitoring is in place, with daily averages monitored by the client and reported to the EEAA. The client's annual reporting to IFC, however, includes only stack emissions as an annual average of quarterly samples. As WBG standards require that levels be met 95% of the time that the plant is in operation, calculated on the basis of daily average values, it is not possible to assess the client's compliance with WBG standards on the basis of its AMR records.¹⁰⁵ IFC did not require that its client provide additional reporting. IFC notes, however, that relevant continuous monitoring information was made available to IFC at its request during supervision site visits. IFC kept no record of this data and it was not made available to CAO. As a result, it is not possible to assess the client's compliance with WBG standards.

It is clear from the project file that IFC was aware that PM emissions from APCC's main kiln stack was more than six times higher than the acceptable WBG level for PM in 2010, 2011 and the first half of 2012. IFC was also aware that incidents of unusually high emissions had occurred in October and November 2011 due to equipment failure or blockages at APCC. IFC had no information was about engagement with the local community following these incidents and did not

¹⁰² The World Bank Group guideline requires that existing kiln systems should comply with daily average values of PM 100 mg/Nm^3 at least 95% of the time that the plant is operating, calculated as a proportion of annual operating hours (Cement EHS Guidelines, 2.1, Environment, p. 10). By way of context, EU guidance notes that a well-maintained system should achieve emissions of $<10\text{-}20 \text{ mg/Nm}^3$, with bag filters achieving the lower level. See 2013/163/EU: Commission Implementing Decision of 26 March 2013 establishing the best available techniques (BAT) conclusions under Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions for the production of cement, lime and magnesium oxide (notified under document C(2013) 1728), 1.2.5.3 Dust emissions from kiln firing processes, available at: <https://goo.gl/S5M5KZ>.

¹⁰³ The disclosed action stated that the client would "Undertake baseline ambient air quality monitoring at agreed locations at BSCC and APCC and submit results to IFC. This action should be completed by December 31, 2009." CAO understands that no baseline monitoring was undertaken.

¹⁰⁴ Cemnet.com, "Titan Cement sells Egyptian stake to IFC," 21 November 2010, available at: <https://bit.ly/CemnetDisbursement2010>.

¹⁰⁵ Further details on WBG measurement approaches are set out in Appendix C.

follow up with its client on these matters.¹⁰⁶ In August 2011, November 2011 and January 2012, the EEAA identified exceedances of dust emissions from the main stack. The IFC project file indicates that in January 2012, the client reported to EEAA corrective actions intended to address the exceedances, including replacement of the main stack ESP with a bag filter.

IFC did not receive any information about NO_x levels at APCC in 2010, but IFC was aware that the client was implementing a continuous emissions monitoring system (CEMS) that would include NO_x. IFC's project file shows that APCC's average quarterly levels of NO_x exceeded WBG levels intended for 95% compliance.

In relation to ambient air quality, CAO found no indication that any baseline air emissions modelling was carried out. In 2012, a new E&S specialist was assigned to the project. The specialist visited the client and negotiated new ESAP actions. The requirement to report ambient air quality monitoring was removed on the basis that the plant's location meant such data would not reflect the plant's emissions control performance. Instead, the client committed to:¹⁰⁷

- ensure full compliance for point sources, including to meet a more stringent limit for PM emissions;¹⁰⁸
- evaluate and implement NO_x reduction measures;¹⁰⁹
- prevent fugitive dust; and
- make emissions data available to stakeholders.

IFC proposed that disclosure of the client's air emissions performance should occur by June 2013. Subsequently, IFC agreed that the action could be postponed, requiring only that the client submit a suggested form and timing for disclosure by June 2013. The project team received approval from IFC management to exclude the commitment from the publicly disclosed ESAP update in light of the sensitive relationship between the client and the community at the time.

IFC supervision notes that APCC had a dust emission dispersion model carried out in 2012. The dispersion model was based on CEMS data and concluded that the maximum projected concentration does not exceed the permissible limit. However the document does not include details of the inputs and methodology or assumptions, and was not adequate for IFC to assess compliance with WBG EHS Guidelines or good international industry practice (GIIP).

In May 2014, IFC recommended that its client update the model according to GIIP. An updated model was completed in October 2014 and shared with IFC in December. The model considered stack emissions from one source (main stack line 5) and included the baseline scenario of natural gas for fuel, as well as the use of coal, petcoke or a combination. CAO notes that the 2014 report is more reflective of GIIP as it is based on a full year of meteorological data and considers appropriate pollutants (NO_x, SO₂, TSP). However, the modelling is conducted only at ground level and the inputs for modelling air emissions from the main stack are unclear. IFC provided comments on the report noting that emissions figures used for the modelling seemed low, and that

¹⁰⁶ The client stated that all incidents were reported to EEAA and noted plans for some corrective measures, including upgrading of the main ESP to a bag filter in mid-2012. In addition, the client reported that it planned to erect a blockage sensor on the chute and clad the back side of the plant at the raw material belt conveyors. No mitigation action was reported in relation to an incident at the clinker cooler stack.

¹⁰⁷ IFC, "20151103 updated ESAP for Titan Egypt," November 2015, available at: <http://bit.ly/IFCESRSTitanEgypt>.

¹⁰⁸ WBG requirements are 100mg/Nm³ for existing plants. However, the ESAP action called for improved controls to achieve compliance with emissions guidelines for new plants – 30mg/Nm³ (2012 ESAP).

¹⁰⁹ Considering increased NO_x emissions during 2009-2011, APCC committed to evaluate NO_x emissions and secondary measures by the end of 2012. If necessary, APCC would then begin de-NO_x initiative.

that additional sources including raw mills, cement mills, and sources of fugitive dust should have been included in the model. No amended or updated report was available on the IFC file.

In July 2012, within the 24-month timeframe set out in the ESAP, APCC installed a bag filter in the main kiln stack, which significantly reduced PM emissions. However, the client's PM emissions from other sources, including clinker cooling and cement grinding, as reported to IFC, remained above WBG levels until at least 2015.¹¹⁰ Although the client reported ongoing efforts to implement mitigation measures, timelines were frequently delayed. Bag filters were installed at Cement Mill 7 in December 2014, and at Cement Mill 6 in 2016. NO_x emissions also remained above WBG standards until 2016, due to repeated delays with SNCR implementation. In this context, IFC noted acute financial distress of the cement sector in Egypt and Titan Egypt from 2014 onwards. IFC reported to CAO that its supervision efforts since 2017 and client reporting in 2018 and 2019 indicate satisfactory air emissions from the four cement mills bag filters and ESPs.

In 2015, IFC reported that the client's emissions monitoring equipment in the plant was connected directly to the Egyptian Environmental Affairs Agency (EEAA) to enable them to view emissions data in real time. In July 2016, the client began publishing quarterly results for PM emissions from the kiln stack and the clinker cooler stack. Later that year, IFC advised its client that the manner of disclosure for point emissions data on the website should be improved, given the amount of data collected at both plants. The client subsequently began publishing NO_x measurements.¹¹¹

The client reported to IFC in October 2015 that it had measured ambient air quality at four points around the APCC boundary. In December 2016, IFC reported that the client would install two air quality monitoring stations inside the plant to measure total suspended particles (TSP) and PM₁₀, located in accordance with EEAA recommendations. No air quality monitoring equipment was installed in the Wadi al-Qamar residential area adjacent to the plant. Reports shared with CAO present data from 2015, 2017, 2018 and 2019 in Arabic indicating TSP and PM₁₀ measurements.

In 2017, IFC's internal supervision records noted media reports that an "anomalous dust emission" had occurred at APCC.¹¹² IFC advised the client that such incidents are serious and, irrespective of compliance with EEAA standards, IFC should be notified. IFC also recommended that all actions the company is carrying out to improve plant emission controls be communicated to the community. In January 2019, IFC reported that the client was carrying out steps to improve the performance of the clinker cooler, including having installed a new bag filter to replace the ESP within the expected project timeline. IFC noted that this was a major step forward, and requested to receive the performance test when completed. At this time, IFC also reported that ambient air quality measurements were within Egyptian limits for TSP and PM₁₀.

In 2015, total organic carbon (TOC) levels exceeded WBG standards and national levels for the first time. Levels improved in 2016 but rose again in 2017. IFC became aware that the client was seeking an exemption from the EEAA. In early 2018 IFC advised the client that, even if an exemption was granted by the EEAA, WBG standards require that the client justify the exceedance and show it is not harmful to human health or the environment.

CAO Assessment

¹¹⁰ CAO notes that the "annual average of quarterly samples" reported by the client cannot be relied on to confirm compliance with WBG standards, which require 95% compliance.

¹¹¹ APCC Dust Emissions Q4 2016, available at: <https://goo.gl/vzo2vF>.

¹¹² An anomalous dust emission refers to an incident when a plant produces significantly more particulate emissions than expected given the pollution control measures in place. This is consistent with video footage shared by the complainants in which visible dust clouds can be seen coming out of one of the client's stacks.

Overall, CAO finds that IFC's engagement has supported the client to gradually reduce its point source air emissions through installing improved equipment. However, CAO notes persistent delays in that progress against agreed timelines, and shortcomings in IFC's supervision of client monitoring and community engagement in relation to these issues.

IFC's pre-investment E&S review was not commensurate to risk in relation to APCC's air quality performance and potential impacts on the environment and the local community, as required by the Sustainability Policy. IFC's review of APCC identified point source emissions as a significant risk in relation to the plant operations. IFC set actions in the ESAP to address emissions violations, requiring that the client bring levels within WBG standards over time. However, IFC's assessment did not take into account cumulative air quality impacts or the existing ambient air quality in project area (as required by PS1, para 5 and PS3, para. 3.) Considering that APCC is located in an area with other industries and heavily populated residential areas, compliance with PS3 and the EHS Guidelines required an ambient air quality assessment to: (i) determine whether the project area was a "degraded airshed" for WBG purposes, (ii) assess appropriate mitigation measures.

During supervision, IFC worked with the client to address point source emissions concerns. However, CAO finds that IFC did not obtain information necessary to assess the status of the project's compliance with air emission standards set out in the EHS Guidelines. Client reporting of its emissions performance as an average of quarterly samples does not provide sufficient data to assess conformance with WBG levels, which must be met 95% of the time that the plant is in operation.¹¹³ Although the 2009 ESAP included client commitments to assess and monitor ambient air quality, those commitments were not carried out, and were later removed from the client ESAP by agreement with IFC.¹¹⁴ IFC's decision to remove this ESAP commitment, and its failure to address delays in implementation of other ESAP commitments, was inconsistent with supervision duties described in the Sustainability Policy to "work with the client to bring it back into compliance" or "exercise remedies when appropriate."

In light of the close proximity of a residential community, and concerns from the community about health impacts from air quality in the area, CAO finds that IFC's supervision did not meet the ESRP objective of assessing the current level of E&S risk and advising its client on how to address critical E&S issues.¹¹⁵ Although IFC was aware that ESAP actions to address point source emissions were consistently delayed, the project team did not require its client to monitor or assess resulting health impacts in the local community in accordance with PS1, para. 24. IFC also did not address in a timely manner the client's delay in providing public information about its air quality emissions as required by PS1, para. 20.

The ESAP required that the client implement control measures to reduce PM to ≤ 100 mg/Nm³ within 24 months of disbursement (meaning November 2012). Available evidence indicates that most of the client's point source emissions of PM remained above WBG levels until at least 2015, and that NO_x emissions were continuously above WBG levels until mitigating technologies were installed in 2016. The client's overall air emissions performance improved significantly at this time due to installation of improved control equipment (SNCR and bag filters) as recommended by IFC. For those stacks fitted with bag filters, power failures will no longer result in anomalous emission episodes. However, complainant accounts indicate that incidents of high stack emissions have continued to occur at APCC. IFC supervision records note an accidental release from the clinker

¹¹³ Cement EHS Guidelines, 2.1 Environment, p. 10. For additional information, see Appendix C.

¹¹⁴ CAO notes that the 2016 installation of air quality monitoring inside the plant would have measured low level fugitive sources. However, elevated sources such as stacks would not be detected by these stations. In order to assess the plant's impact on ambient air quality, it would have been more effective to monitor emissions outside the site, in the surrounding communities.

¹¹⁵ ESRP, v.7, 2013, 6.1.

cooler stack occurred in 2017 and includes corrective measures. As at the time of divestment CAO is not able to confirm that IFC had worked with its client to address monitoring and reporting of point emissions in accordance with IFC guidelines or failures of remaining ESP filters resulting in dust emissions from the cement mill stack.

2.1.4 Environment: Fugitive Emissions

During the investigation, complainants expressed concern that dust emissions from open storage of materials on the APCC plant were often blown by wind to local residential areas. The complainants note that, unlike the plant's stack emissions which are monitored and recorded, fugitive emissions from other parts of the cement production process are not recorded or discovered except through onsite inspections. Local residents complain that inspections by Egyptian environmental authorities are irregular and take place only after a complaint is filed with the competent bodies.

In a cement plant, fugitive emissions may be a significant source of ambient air pollution. Dust (PM) emissions tend to occur with crushing and grinding of raw materials (such as lime or coal), handling and storage of materials, transportation of materials, and bagging or packaging of final materials (clinker or cement).

IFC Requirements

PS3 provisions related to pollution prevention and abatement apply to fugitive emissions. To manage fugitive PM emissions, the Cement EHS Guidelines recommend several pollution prevention and control techniques, including:¹¹⁶

- reducing the number of times materials need to be transferred, for example by streamlining layouts and automating bag filling and handling systems;
- enclosing belt conveyors for material transport and clean return belts;
- storing raw and finished materials in covered or closed bays, bunkers, or in silos;
- implementing routine plant maintenance and good housekeeping.

IFC Actions

At the time of IFC's investment, IFC recognized potential impacts from fugitive dust emissions were especially serious in light of the project area. IFC was aware that the plant was surrounded by neighboring residential areas and dense traffic, and staff noted that the future survival of the plant would depend on swiftly implementing several mitigation actions, including:

- improving its environmental footprint, including dust emissions, cleanliness and visible aspects;
- eliminating outside storage and manual materials transfers, and increasing silos and covered stores;
- installing adequate parking and improving loading facilities;
- implementing direct rail connections for raw materials; and
- continuing to engage positively with local communities.

IFC's ESRS noted that, because of its location, the client had adopted "an aggressive program" to control fugitive dust emissions at all relevant locations on the site. This included enclosing belt conveyors and constructing covered storage areas.¹¹⁷

¹¹⁶ Cement EHS Guidelines, pp. 2-3.

¹¹⁷ IFC also noted the client was mitigating fugitive emissions through the use of suction equipment in bagging areas, frequent housekeeping measures, a layout with adequate space with minimum material drop, and personnel training. IFC ESRS, "Description of Key Environmental and Social Issues and Mitigation: 3. Pollution Prevention and Abatement," available at: <https://goo.gl/KnuxyN>.

The ESAP required the client to (i) deliver emissions test results for monitorable fugitive sources carried out by independent consultants within 18 months of disbursement, and (ii) undertake annual ambient air quality monitoring.¹¹⁸

Information available to IFC at appraisal indicated that extra effort was needed by the client to control fugitive dust and that the client had been advised to conduct enhanced ambient monitoring to protect the local population. However, monitoring of ambient air quality was not carried out until 2015. IFC received TSP and PM₁₀ measurements for 2015, 2017, 2018 and 2019. Such reporting was not adequate to allow an assessment against WBG requirements. Ambient air data was not included in subsequent internal audits in 2015 or 2018.

During the 2012 ESAP update, the ambient air monitoring requirements were removed in agreement with IFC.¹¹⁹ The client did agree to develop a raw material handling plan to provide that all materials would be covered or secured to minimize fugitive dust emissions, with a budget and schedule to ensure completion by 2014. However, implementation of this plan was persistently delayed. The plan was eventually reported as complete in 2018. In 2013, IFC determined the delays were acceptable considering the local political situation and a possible change in fuel source due to shortages of natural gas. In 2014, APCC introduced a “zero-spillage project” that an IFC visit observed had led to improvements in managing fugitive dust.¹²⁰ The same year, IFC became aware that the client had been fined by EEAA for violations observed in relation to housekeeping and scraps. No details on the nature of these violations or corrective actions were recorded in IFC’s supervision documentation.

In April 2015, IFC queried its client on plans to introduce coal as a fuel source for APCC. IFC requested updated E&S information on plans for a coal mill at the plant, noting that the client should adopt best available technologies. As the plant began to utilize coal for fuel in 2015, supplies were initially brought on to the site in bags. In accordance with Egyptian environmental regulations, APCC later installed covered storage for coal, as well as an enclosed system for pet-coke feeding, and a coal mill.

In October 2015, IFC noted that the client had been slow in resolving issues with housekeeping and fugitive dust at the plant. IFC noted that a visual impact study of the APCC plant was progressing slowly despite IFC having raised concerns in 2009. IFC advised the client that housekeeping and improvement of visual impact were top priorities for 2016, and that the client would need to implement rapid measures such as surface cleaning, road sweeping and watering to suppress dust, including in the immediate surroundings of the plant. The client shared with IFC a December 2015 media article quoting the Minister of Environment in relation to pollution in Wadi al-Qamar. The Minister noted that a committee consisting of members of the Higher Institution of Health, experts from Cairo University, and a civil association from the Wadi al-Qamar community had prepared a report on the cause of dust problems that people in the region suffer from. In addition, another committee of Ministry officials had monitored and measured the size of the dust to find out its causes. On this basis, the committees confirmed that the main reason for the dust was an increase in the volume of transport in heavy traffic on roads in the area.

The 2015 ESAP update reflected implementation delays with the raw material handling plan (now targeting 2017-2018), and included a new commitment reflecting the client’s application for a

¹¹⁸ IFC Alex Dev Ltd ESAP, November 10, 2009, on file with CAO.

¹¹⁹ IFC Alex Dev Ltd ESAP, 2012, on file with CAO.

¹²⁰ The zero spillage project included material storage coverage, equipment cladding, procurement of cleaning equipment, unit maintenance, housekeeping and tree planting. IFC Supervision Material, June 2014.

permit to use coal rather than natural gas as fuel.¹²¹ The client committed to develop mitigation plans for solid fuel (coal) storage by Q3 2015 and implement the plan in accordance with a schedule set out in the permit.

In early 2016, the client submitted to IFC a further action plan for fugitive dust, solid fuel storage, and plant beautification. Subsequently, the client's target date for implementation of the raw material handling plan was delayed to Q2 2016. The client updated IFC on efforts that had been made to address E&S issues from unloading and transporting pulverized pet coke.¹²²

In December 2016, the client reported that 30% of the zero-spillage program had been completed, with remaining items to be completed by 2017-2018. IFC noted there were further delays to coverage of raw materials, but that this was consistent with the 2015 ESAP. In relation to general housekeeping, IFC observed remarkable improvement at the site during its visit, including a clean-up of historically accumulated material.¹²³ IFC reported that the client had taken measures to assess and improve the plant's visual impact.¹²⁴ IFC noted the internal storage site for solid fuel was under construction and that actions required to mitigate fugitive dust were ongoing.¹²⁵

In April-May 2017, the client reported that a number of plant upgrades had been completed, including new covered storage areas, solid fuel storage, and installation and commissioning of the solid fuel mill. However, the visual impact project timeline was to be revised and the raw material handling plan was delayed due to liquidity constraints and exchange rate uncertainty.

In early 2018, IFC visited APCC and observed that the covered storage plan for APCC had been completed, but that on a windy day there remained a lot of dust on site. IFC encouraged the client to pay adequate attention to housekeeping, including cleaning, sweeping and watering.

IFC reported to CAO that additional work was carried out by the client to complete the program for dust control and housekeeping in 2018 and 2019. In January 2019, IFC reported in its supervision visit that housekeeping continued to improve and was at that time satisfactory.¹²⁶

¹²¹ 2015 ESAP Update.

¹²² Following the initial installation and operation of a system for unloading and transporting bags of pulverized pet coke, the client reported actions such as installing high pressure water pump for cleaning purposes, improving the de-dusting around the installation, erecting cubicles to constrain fugitive dust; and installing rubber curtains around the building.

¹²³ Other measures included telescopic chutes, bag filters, and a vacuum cleaner. A road sweeper and super sucker truck had been purchased and were to be delivered to the plant during the first quarter of 2017.

¹²⁴ Measures included improving the east side fence, improving the cement silos, packing plant, cement mills and preheater, clinker transportation and silo, main entrance and green areas.

¹²⁵ In relation to the external solid fuel storage site, IFC noted that an EIA was filed with the EEAA in November 2016, and that it had requested a copy of it from the client. Considering the site's proximity to Wadi al-Qamar, the storage site was designed as an enclosed facility with the feeding point inside a covered area and equipped with a bag filter.

¹²⁶ January 2019 SSV document.

Figure 7. APCC materials storage



Source: CAO, field visit, January 2017, view of Plant from Preheater tower.

Figure 7. APCC raw materials conveyor



Source: CAO, field visit, January 2017, view of APCC from Wadi al-Qamar, with enclosed raw materials conveyor (blue) in foreground.

CAO Assessment

IFC's pre-investment review recognized fugitive dust emissions as serious environmental impact of the plant and secured commitments from its client to (i) implement mitigation measures, and (ii) undertake independent monitoring. This was consistent with requirements of Sustainability Policy para. 15. However, as noted above in relation to point source emissions, IFC's E&S review of air quality impacts fell short of Sustainability Policy requirements because it did not adequately assess project performance in light of its location in a dense, mixed use, industrial/residential area.

CAO finds that IFC's supervision of fugitive dust emissions at APCC was not consistent with the ESRP or with the requirements of Sustainability Policy para. 26.¹²⁷ Specifically, IFC failed to obtain information to assess the status of the project's compliance with its E&S commitments, particularly when the client did not undertake baseline ambient air quality assessments and when IFC waived the ESAP commitments to carry out ambient air quality monitoring or emissions tests for monitorable fugitive sources. This lack of monitoring information meant that the client's contribution to ambient pollution (particularly dust accumulated in Wadi al-Qamar) was not clearly identified. In response to concerns about pollution mitigation, the client has stated that the primary source of dust in the Wadi al-Qamar community is vehicle traffic using unmade roads, and that the plant is not a major source of fugitive dust in the area. Monitoring that could substantiate this claim, for example by analyzing the composition of fugitive dust in the area, has not been carried out by the client.

During supervision, IFC worked with the client to address the fugitive dust issue. However, CAO finds that IFC has not ensured that APCC is in compliance with fugitive dust mitigation requirements and has not exercised remedies as appropriate in the circumstances (Sustainability Policy para. 26). Two key areas of action relate to housekeeping and retrofitting of dust control measures, such as covering conveyors and constructing and maintaining covered storage. In relation to housekeeping, IFC noted a decline in performance in 2014-2015 and communicated that improvements were necessary. Although IFC noted improvement in 2016, CAO's 2017 site visit observed basic aspects of housekeeping (such as building maintenance and removal of accumulated dust) were not being consistently implemented. CAO notes that IFC reports housekeeping and dust control measures have since been implemented by the client.

In relation to retrofitting of dust control measures, despite their inclusion in the original ESAP, CAO finds that IFC failed to ensure that the client implemented agreed pollution mitigation measures in a reasonable period of time. Throughout supervision, the client's commitments to implement fugitive dust mitigation processes have been extensively delayed, most severely in relation to the raw material handling plan, which was originally intended to be completed in 2014 and was finally concluded in 2018.¹²⁸ During the project period, CAO notes that the client faced changed circumstances and competing demands for capital expenditure as a result of the switch to coal. However, CAO did not find those circumstances to fully explain the extent of delays in completing covered storage areas or periods of poor housekeeping.

2.1.5 Environment: Transition to Coal

The complainants expressed concern that the use of coal at APCC would increase greenhouse gas emissions from the plant, which they argue is contrary to IFC standards – specifically Performance Standard 3.¹²⁹ They also expressed concern that the use of coal would increase

¹²⁷ IFC, ESRP, v.7, 6.1; IFC Sustainability Policy, para. 26.

¹²⁸ CAO notes that, at the time of CAO's site visit in January 2017, housekeeping and dust remained a significant issue with covered storage still under construction and the main conveyor belt only partially enclosed.

¹²⁹ Complaint to CAO, p. 9.

emissions of particulate matter, oxides of nitrogen and sulfur, heavy metals such as mercury and lead, and of dioxins and furans.¹³⁰ During the period of the client's transition to using solid fuel in early 2016, the complainants reported to CAO that fuel was brought onsite in bags, which contributed to fugitive dust in the area of the plant. The complainants expressed concern that the client had commenced using coal before receiving the necessary regulatory approvals.

IFC Requirements

PS3 aims to promote the reduction of emissions that contribute to climate change, and requires clients to promote the reduction of GHG emissions in a manner appropriate to the nature and scale of the project operations and impacts.¹³¹ Projects that produce over 100,000 tons CO₂ equivalent per year are required to quantify and annually monitor direct emissions from the facilities on the project site as well as indirect emissions associated with the off-site production of power used by the project.¹³² During operations, the client is required to evaluate technically and financially feasible and cost-effective options to reduce or offset project-related GHG emissions, including energy efficiency improvements.¹³³

In cement production, GHG emissions (especially CO₂) are associated with the decarbonation of limestone and with fuel combustion.¹³⁴ IFC's Cement EHS Guidelines set industry benchmarks for CO₂ emissions as 400-525 kg CO₂/t (equivalent cement) from decarbonation, and 150-350 kg/t from fuel.¹³⁵ The Guidelines note that coal and pet-coke generate higher emissions of GHG than fuel oil and natural gas.¹³⁶

The Sustainability Policy requires that "if changed project circumstances would result in adverse social or environmental impacts, [IFC will] work with the client to address them."¹³⁷ In relation to the risk of air pollution, IFC's EHS Guidelines state that facilities located within areas that have poor quality or degraded airsheds should ensure that "any increase in pollution levels is as small as feasible."¹³⁸ Suitable mitigation measures should be assessed on a case-by-case basis and may include the relocation of significant sources of emissions outside the airshed in question, use of cleaner fuels or technologies, pollution control measures, and offset activities at installations controlled by the project sponsor or other facilities within the same airshed, and buy down of emissions within the same airshed.¹³⁹

PS1 requires disclosure and consultation be carried out on an ongoing basis as risks and impacts arise. The consultation process is required to be documented, especially measures taken to avoid or minimize risks and adverse impacts on the affected communities.¹⁴⁰

¹³⁰ Complaint to CAO, pp. 11, 12; Assessment report, p.10

¹³¹ PS3, "Objectives," and para. 10.

¹³² PS3, para. 11.

¹³³ PS3, para. 11.

¹³⁴ Cement and Lime Manufacturing EHS Guidelines, p. 4.

¹³⁵ Cement EHS Guidelines, p. 11.

¹³⁶ For example, the emissions from coal or petcoke are expected to be approximately 65 percent higher emissions than with gas, see Cement and Lime Manufacturing EHS Guidelines, p. 7.

¹³⁷ 2006 Sustainability Policy para. 26.

¹³⁸ *Ibid.* The EHS Guidelines defines poor air quality when nationally legislated air quality standards or the World Health Organization air quality guidelines are exceeded significantly.

¹³⁹ IFC EHS Guidelines, (2007) page 5.

¹⁴⁰ PS1 para. 30.

IFC Actions

IFC's pre-investment review considered APCC plant efficiency, energy consumption and CO₂ emissions. At the time of IFC's investment, Titan Egypt's annual GHG footprint was expected to be around 3.3 million t/CO₂ equivalent, triggering the reporting requirement of PS3. The ESRS noted that CO₂ emissions from APCC specifically were 763 kg per ton of clinker produced, and that an audit of CO₂ emissions had been carried out by KPMG.¹⁴¹ The audit found that APCC's CO₂ emissions monitoring was robust but the concluding summary did not comment on actual levels or intensity.

IFC staff noted that APCC's new kiln was designed in the late 1990s when fuel and power energy costs were very low in Egypt. As a result, less efficient technology had been selected in some cases. IFC noted that efficiency was also impacted by the characteristics of raw materials, including a relatively high moisture content for those materials used at APCC. Accordingly, the plant's energy consumption was considered relatively high (3500MJ/ton) in comparison to IFC best practice targets (2900-3300MJ/ton). The client was noted by IFC to be preparing an action plan to improve kiln performance that would improve energy efficiency to 3300MJ/ton. This action plan is not on file with IFC and was not reviewed by CAO

IFC's pre-investment review also noted that the Egypt cement industry enjoyed the benefit of burning natural gas but that the client was studying the feasibility of developing a waste fuels program using biomass such as rice husk, cotton wastes, tires, and selected garbage or mud wastes.

IFC documentation from October 2009 indicates that the plant's use of natural gas was considered to be a significant positive aspect of its environmental performance. IFC identified that the client could reduce electricity use at APCC and reduce the clinker content of the cement to improve efficiency and reduce the overall CO₂ footprint of the operations. It was noted that the plant's CO₂ emissions were in the mid-range relative to IFC's broader cement portfolio, and that it would be important to ensure client commitment and monitor plant improvements in energy efficiency.

In December 2009, IFC reported to the Board that the relatively lower energy efficiency of the plant was one of the most significant adverse impacts of the project. IFC noted that, although GHG emissions were within the range of good industry practice for the sector, APCC had high specific energy consumption compared to IFC best practice target ranges. In this context, IFC also noted that an action plan had been developed and was under implementation, however, no actions related to energy efficiency were included in the client ESAP.

In 2010, IFC recommended that the client benchmark its performance in terms of energy and water consumption as well as GHG emissions. No evidence of such a benchmark were within the files reviewed by CAO. The client reported on its 2011 energy efficiency and its annual total CO₂ emissions for 2009, 2010 and 2011 in the 2011 AMR, indicating that a reduction in emissions was caused by a decrease in clinker production in 2011. Fuel shortages in Egypt in 2012 led to electricity blackouts and restricted supplies of gas with significant impact on the industry. At that time, the client informed IFC that both plants were in the process of seeking an alternative fuels permit, which required an EIA study. CAO finds no evidence that IFC reviewed the EIAs prepared for use of refuse derived fuel (RDF) or dried sewage sludge (DSS) as part of this process.

Gas Shortages and Coal Imports (2012-2015)

As in other countries in the Middle East and North Africa, the government of Egypt provided energy subsidies to residents and businesses for several decades. Subsidies were considered a means to provide energy at lower cost to households and attract investment in Egypt's manufacturing sectors.¹⁴² The energy subsidy policy, along with Egypt's industrial development and growing population, led to an increase in consumption of natural gas which peaked in

2012.¹⁴³ From 2012-2013, Egypt transitioned from a net exporter of natural gas to a net importer.¹⁴⁴ In 2013, natural gas accounted for over half of the total primary energy supplied in Egypt and fueled over three quarters of all electricity generation.¹⁴⁵ Around the same time, existing natural gas fields reached capacity, and new exploration contracts halted, slowing production.¹⁴⁶ Consequently, Egypt faced shortages of fuel and foreign currency.¹⁴⁷ In 2014, Egypt began phasing out energy subsidies.^{148 149}

During this period, the Egyptian government diverted the supply of natural gas from energy-intensive industries such as cement and steel to power generation. Cement factories were severely affected by the natural gas shortage, and cement production in Egypt dropped 20% in 2013-2014.¹⁵⁰ In response, the cement industry lobbied for government to approve and regulate the use of other fossil fuels, especially pet-coke and coal.¹⁵¹ In 2015 the government enacted a decree to permit the use of coal as a fuel in cement production.¹⁵² The Decree required that companies obtain a license to use coal and set out mitigation measures.¹⁵³ Further, the Minister of Environment stated that only companies which presented a plan to reduce GHG would be granted a license to operate using coal. In October 2016, IFC issued its own assessment of the potential for alternative fuels in the cement sector in Egypt.¹⁵⁴

In 2013, IFC prepared an internal memorandum on the impacts of gas shortages on IFC's existing investments in the cement sector in Egypt. IFC staff analyzed whether the switch to coal would unduly impact CO₂ emissions, and proposed certain industry-wide initiatives in response.¹⁵⁵ No actions in relation to APCC were recommended.

The client received EEAA approval to use alternative fuel, consisting of refuse derived fuel (RDF), dried sewage sludge (DSS) and agricultural waste in November 2013.¹⁵⁶ CAO finds no evidence

¹⁴¹ A summary presentation of the audit was shared with CAO. The audit is not on file with IFC and was not reviewed by CAO.

¹⁴² World Bank Group, 2016, *Egypt. Guiding Reform of Energy Subsidies Long-term*, <https://goo.gl/cj2RFE>; IFC (2016), *Unlocking Value: Alternative Fuels for Egypt's Cement Industry*, available at: <https://bit.ly/2T7LZUg> (Unlocking Value).

¹⁴³ Brendan Meighan, "Egypt's Natural Gas Crisis," January 21, 2016, *Sada*, Carnegie Endowment for International Peace, available at: <https://goo.gl/jUFFci>.

¹⁴⁴ Karim Hegazy. 2015, *Egypt's Energy Sector: Regional Cooperation Outlook and Prospects of Furthering Engagement with the Energy Charter*, p. 2, available at: <https://goo.gl/CXhZht>.

¹⁴⁵ International Energy Agency, *Energy Balances of Non-OECD Countries*, 2015 edition, "Egypt: Supply and Consumption: 2013" p. II.104, available at: <http://bit.ly/2TcztTw>.

¹⁴⁶ Meighan, 2016.

¹⁴⁷ Hegazy, 2015.

¹⁴⁸ Shanta Devarajan and Lili Mottaghi, (2014). *MENA Quarterly Economic Brief, July 2014: Predictions, Perceptions and Economic Reality*, No. 3, Washington: World Bank Middle East and North Africa Region, Box 1: Energy Subsidy Reform in Egypt and Tunisia, p. 10, available at: <https://goo.gl/4Rk7hc>

¹⁴⁹ IFC, 2016, *Unlocking Value*.

¹⁵⁰ *Ibid.*, p. 29.

¹⁵¹ *Ibid.*, p. 2.

¹⁵² Executive Regulation Decree 964/2015.

¹⁵³ IFC, 2016, *Unlocking Value*, p. 29.

¹⁵⁴ *Ibid.*

¹⁵⁵ In particular, IFC considered establishing a financing facility to assist implementation of climate smart solutions, and IFC advisory services coordinated a Cement Sector Roundtable to discuss alternative fuels and energy efficiency solutions. CAO has not seen documentation to confirm whether these initiatives were implemented.

¹⁵⁶ IFC received a copy of the EEAA authorization in December 2016.

that EIA documents prepared for these approvals were disclosed by the client to the affected community.

In May 2014, IFC supervision documents noted that fuel supply fluctuations were expected to continue and that, although Egypt's cabinet had in April approved the use of coal as an energy source for cement factories, the Minister of Environment was opposed on the basis of concerns about health impacts.¹⁵⁷

Also, in May 2014, IFC visited the client to discuss their plans to switch to the use of coal or petcoke. IFC reported that, due to lack of gas, APCC was operating at 70-80% of its annual design capacity. Project records show the client intended to switch to coal at its other plant in Egypt, but not yet at APCC. Later in 2014, project records indicate the plant shut down for at least 15 days as a result of gas shortages. CAO found no indication that IFC advised its client on the E&S aspects of its fuel transition at this stage.

In April 2015, the client reported that it had used diesel and light mazut (oil) to try and compensate for the shortage of gas. IFC supervision materials noted that the client should demonstrate Best Available Techniques in its transition to coal and implement cost effective means to maximize energy efficiency and minimize GHG emissions. IFC staff internally queried whether the company had carried out an E&S assessment for a coal mill, and what requirements would be applied by the competent authorities. In communication with the client, IFC restated a request to the client for updated E&S information on plans for a coal mill.

In October 2015, IFC visited APCC and reported concerns regarding communication around the transition to coal. IFC was informed that an EIA to assess installation and operation of a coal mill at APCC had been recently submitted to the Egyptian authorities. IFC advised the client that it would like to be "updated on key milestones, such as issuance of a revised EIA." IFC reported that safety procedures to handle solid fuels were provided. At this stage, no IFC review of the EIA is documented.

The November 2015 updated ESAP did include a new commitment related to solid fuel management at APCC, requiring that the client present fugitive dust mitigation plans for solid fuel storage.¹⁵⁸ The ESAP commitment required that APCC implement the plan according to the schedule set out in its permit from the EEAA.¹⁵⁹

In early 2016, IFC documentation again noted that communication with the client was an issue, with delays in information sharing inhibiting IFC's ability to provide constructive inputs. The client submitted its action plan for solid fuel storage to IFC in February. In May, the client updated IFC on progress with the ESAP implementation, and provided information on the use of solid and alternative fuels at APCC including pet-coke, a new RDF facility, and plans for utilizing DSS. The

¹⁵⁷ CAO notes that the Minister of Environment's opposition to coal use were widely reported by media at the time, see, for example: Doaa Farid, "Ministry of Petroleum pushes for use of coal to solve energy crisis," March 30, 2014, *Daily News Egypt*, available at: <https://bit.ly/33b5xKM>; "Environment Minister opposes coal use in Egypt", March 27, 2014, *Middle East News Agency*; Maggie Fick, "Coal is no solution to Egypt's energy woes: Environment Minister," March 17, 2014, *Reuters*, available at: <https://bit.ly/32fsOMg>.

¹⁵⁸ IFC Project Information Portal, "Titan Egypt" Client Documentation, "20151103 Titan Egypt updated ESAP" available at <https://bit.ly/2FBIb6E> (2015 ESAP).

¹⁵⁹ *Ibid.*

client noted efforts to address environmental and safety issues from unloading and transporting pulverized pet coke.¹⁶⁰

IFC became aware during its December 2016 site visit that the switch to solid fuel at APCC had caused an increase in CO₂ emissions. IFC noted that mitigation plans were underway to compensate for this increase. IFC visited the two solid fuel storage areas and observed that the internal storage site was under construction and appeared to be an adequate facility.¹⁶¹ Considering the site's proximity to Wadi al-Qamar, the storage site was designed as an enclosed facility with the feeding point inside a covered area and equipped with a bag filter. IFC reported that actions required to mitigate fugitive dust for solid fuel storage were ongoing. IFC reviewed a copy of the permit issued to the client to use coal and requested additional information from the client, including regarding permit conditions that related to stakeholder engagement, paving roads parallel to the factory, and required improvements for the living standards of Wadi al Qamar residents. The client reported to IFC that the EEAA had not shared with it the report requiring such actions, and no follow-up correspondence was available on the IFC file. IFC also reviewed translated sections of the solid fuel EIA approved in December 2015, and followed up with a number of questions to the client. The EIA did not reference IFC PS standards or EHS Guidelines, and IFC did not raise questions with reference to these requirements.

In April 2017, the client reported that it had completed installation and commissioning of the RDF and DSS feeding systems, and the solid fuel mill. The following month, the client noted that the on-site fuel storage had also been completed.

In January 2018, IFC noted that the client's CO₂ emission intensity was increasing due to the use of solid fuel. IFC also noted that the EEAA had not yet defined a procedure to deal with the exceedances of the baseline and that permit applications submitted would be renewed. While waiting for EEAA's position to be confirmed, IFC requested that the client prepare a CO₂ management plan by Q4 2018, presenting current and planned mitigation actions, in accordance with Titan's own policies on CO₂ management. In February 2018, IFC reported that all ESAP actions were completed with the exception of the action related to solid fuel dust mitigation. The client reported that the solid fuel mill had been fitted with a bag house filter, and that most corrective actions for fugitive dust were completed.

IFC's 2019 site visit concluded that, through the use of alternative fuels, APCC's CO₂ emission levels had reduced to below the baseline, and that this achievement should be communicated to external parties and the public.

CAO Assessment

CAO finds that IFC did not adequately supervise the early stages of the plant's transition to solid fuel or alternative fuels. When project circumstances changed, and gas was no longer available as a reliable primary fuel source, IFC had an obligation to work with the client to address potential adverse environmental impacts of other fuel sources, including alternative fuels and solid fuel (as required by Sustainability Policy, para. 26). CAO notes that IFC enhanced its supervision of the client's solid fuel use as impacts became evident.

¹⁶⁰ Following the initial installation and operation of a system for unloading and transporting bags of pulverized pet coke, the client reported actions such as installing high pressure water pump for cleaning purposes, improving the de-dusting around the installation, erecting cubicles to constrain fugitive dust; and installing rubber curtains around the building.

¹⁶¹ In relation to the external solid fuel storage site, IFC noted that an EIA was filed with the EEAA in November 2016, and that it had requested a copy of it from the client.

CAO finds that IFC's pre-investment review recognized that APCC's use of a clean efficient fuel – gas – was a positive aspect of its environmental profile, yet the client's fuel efficiency was only in the mid-range of benchmarks. IFC identified energy efficiency and GHG emissions as areas for client improvement and reported this to the Board. Although IFC referred to a KPMG CO₂ audit and its recommendations for mitigating actions CAO found no documentation of an IFC review of the audit and no actions related to energy efficiency were included in the client ESAP.

In accordance with PS3, para. 11, during supervision the client has monitored and reported on its GHG emissions annually. This reporting allowed IFC track total CO₂ emitted (which would necessarily increase or decrease with the production of the plant) and also to assess CO₂ intensity – i.e. how many tons of CO₂ are emitted by the plant for every ton of clinker produced. Client reporting to IFC tracked total decreases in GHG emissions when clinker production slowed (due in part to fuel supply problems) and increases in the intensity of GHG emissions following the introduction of coal at APCC. IFC encouraged its client to take steps to mitigate the intensity of CO₂ emissions, but specific actions were not agreed.

IFC reported to CAO that it reviewed the solid fuel EIA in 2015, prior to the commissioning of the coal mill at APCC. CAO found no documentation of a review of the EIA against IFC's E&S requirements. Similarly, CAO finds that IFC did not ensure that the EIA was the subject of prior consultation and disclosure in accordance with PS1. As a result, IFC did not ensure that significant risks associated with the transition, such as fugitive dust, CO₂ emissions, and impacts of transporting solid fuel onsite were proactively addressed by the client prior to the transition. CAO finds that the action agreed with the client related to the use of solid fuel included in the ESAP and fugitive dust mitigation was not specific enough to ensure compliance with the Performance Standards. CAO also finds that IFC's decision not to consider cumulative impacts relating to use of coal as inconsistent with PS1, particularly given the close proximity of residents.

During the investigation, IFC staff noted to CAO that they had been confident of the client's ability to implement appropriate coal handling procedures, given that the Titan group had a number of plants in other countries that operated with coal and could share their expertise.

CAO notes that IFC did engage with its client about the operation of its new facilities for petcoke, coal, DSS and RDF. This included identifying impacts and discussing mitigation measures. In particular, from 2015, IFC took steps to ensure that the client addressed impacts of fugitive dust from the use of solid fuel, including through a transport plan in 2016, and has monitored the client's implementation. Supervision of CO₂ emissions was further enhanced in 2018 and levels were reduced to lower than those measured at the appraisal of IFC's investment.

2.1.6 Environment: Noise, Vibration and Odor

The April 2015 complaint to CAO included specific concerns regarding noise pollution from the plant, alleging that the operation of equipment, trucks and grinders causes severe noise pollution.¹⁶² The complaint also stated that vibration from the plant had been forceful enough to cause cracks in nearby buildings. The complaint alleged that external parts of buildings had collapsed due to the vibration, threatening residents' security and safety.¹⁶³ During the CAO appraisal, the complainants raised concerns about bad smells coming from the plant due to use of refuse and dried sewage sludge for fuel.

IFC Standards

¹⁶² Complaint to CAO, 2015, p. 11.

¹⁶³ *Ibid.*, pp. 11-12.

PS3 recognizes that “pollution” includes nuisance odors, noise and vibration.¹⁶⁴ PS3 requires that clients avoid, or where avoidance is not feasible, minimize or control the intensity or load of release of noise, odors and vibrations.¹⁶⁵ PS3 requirements related to ambient considerations and cumulative impacts apply to noise, vibrations and odors as they do to air emissions.¹⁶⁶

Detailed requirements related to noise, vibrations and odors are set out in IFC’s EHS Guidelines.¹⁶⁷ Noise prevention and mitigation measures should be applied where noise impacts from a project exceed the applicable noise level guideline at the most sensitive point of reception.¹⁶⁸ A “point of reception” is any point on the premises occupied by persons where noise and/or vibrations are received, such as residences, schools, hospitals and places of worship.¹⁶⁹

Noise impacts in residential areas should not exceed 55 dBA during the daytime or 45 dBA at night, or should result in a maximum increase in background levels of 3 dB at the nearest receptor location off-site.¹⁷⁰ No numeric limits are set in relation to vibration. Prevention and control measures include installing acoustic enclosures for equipment casing radiating noise, installing acoustic barriers, reducing project traffic routing through community areas where possible, installing vibration isolation for mechanical equipment, and developing a mechanism to record and respond to complaints.¹⁷¹

As noted above, PS1 requires disclosure and consultation be carried out on an ongoing basis as risks and impacts arise. Consultation must be documented, especially measures taken to avoid or minimize risks and adverse impacts on affected communities.¹⁷²

IFC Actions

Although noise and vibrations are not addressed in the ESRS, technical documentation prepared by IFC as part of the appraisal recognized that the plant needed to swiftly improve its environmental footprint, including noise, given its location adjacent to residential areas. The 2002 EIA did not assess the plant’s potential noise impacts, but did note that equivalent noise levels for similar industries ranged between 60 and 70 decibels. In any case, IFC did not require any action of the client to address plant noise or vibration at the time of its investment.

IFC supervision included some client reporting on noise and, later when the RDF facility was installed, on odor. No information about vibrations is included in the IFC project file. The client’s reporting to IFC on its 2011 performance included noise measurements from Q4. The levels measured were significantly higher than the Egyptian and WBG thresholds. However, as no measurements were provided to show the ambient noise level during plant shutdown, it is not possible to assess compliance with the EHS Guidelines limit of 3dB increase. The client committed to take measurements throughout 2012 to obtain accurate evaluations. No mitigation actions were reported.

¹⁶⁴ IFC Performance Standard 3 (PS3), 2006, para. 1, FN 1.

¹⁶⁵ PS3, 2006, para. 4. See also IFC Guidance Notes, Guidance Note 3, G6.

¹⁶⁶ PS3, 2006, para. 9.

¹⁶⁷ IFC, General EHS Guidelines, 2007, Section 1.7 Noise.

¹⁶⁸ *Ibid.*, p. 52.

¹⁶⁹ *Ibid.*, p. 52, FN. 52.

¹⁷⁰ *Ibid.*, p. 52, “Noise Level Guidelines” and Table 1.7.1.

¹⁷¹ *Ibid.*, p. 52. The EHS guidelines recommend that projects should consider including buffer strips or other methods of physical separation around project sites to protect the public from nuisance issues related to noise, odors, or other emissions, see Section 3.0 Community Health and Safety, 3.2 Structural Safety of Project Infrastructure, p. 78.

¹⁷² PS1 para. 30.

In 2012, the client reported an average of quarterly noise measurements. The reported noise levels were lower, but again exceeded WBG standards. No background noise measurement was carried out and no mitigation actions were noted.¹⁷³ Levels reported for 2013 and 2014 remained above WBG standards with no mitigation action discussed.

In December 2015 the client commissioned a local consultant to conduct an evaluation of ambient noise during the APCC plant shutdown. The evaluation found that ambient noise levels in daytime and night time were above the WBG thresholds, during plant shutdown. When in operation, the plant was found to increase daytime noise levels by more than the EHS Guideline of 3 dB(A), recalling that a 3dB(A) increase represents a doubling of sound intensity.¹⁷⁴ At night, the plant's impact on noise was found to be within the acceptable limit. Again, in March 2016, noise evaluations measured an increase in daytime noise in excess of WBG guidelines.

In December 2016, IFC carried out a site visit. In relation to noise, IFC reported that limits were potentially above national standards and WBG standards. IFC required the client to "assess reported noise exceedances and assess potential impact on residential receptors (modeling and measurements)" by Q2 2017.

The client's 2016 reporting to IFC indicated that noise levels remained above WBG thresholds. In 2017, IFC provided its client with TOR for an assessment study. Client reporting for 2017 indicated that noise measurements had increased to significantly higher than WBG maximum levels, but noted that the detailed noise assessment was in progress. A local consultant prepared a noise assessment report, on which IFC provided comments in September 2018 focused on improving the methodology. The client agreed to follow up with a more specific assessment of noise sources and noise levels in receptors, to be carried out by an international consultant in 2019.

In relation to odor, IFC noted issues with odor from the client's RDF facility and required the client to prioritize an assessment and mitigation proposal by Q2 2017. IFC followed up with the client in 2017. At that time, the client reported the cause (due to moisture content of the RDF) and mitigation actions (mixing RDF with dry material before it is brought on-site). During CAO's site visit in January 2017, the RDF facility appeared to be fully enclosed, and the handling appeared to be well-designed and managed.

CAO Assessment

At appraisal, IFC did not ensure that the client assessed impacts from noise and vibration in accordance with its EHS guidelines. IFC has not required its client to take necessary steps to minimize or control noise from the plant, or to monitor or assess impacts from vibration in accordance with PS3, para 9. Further, IFC has not ensured that the client consulted with affected community members in relation to noise, vibration or odor as required by PS1.

IFC was aware from 2012 that daytime and night time noise was above WBG guidelines. However, additional measurements needed to ascertain the client's compliance with the +3 dB(A) guideline were not taken until 2015. IFC did not require the client to assess noise impacts on local residents until 2017. To date, IFC has not ensured that its client is implementing appropriate methodology to assess noise levels or taking steps to mitigate noise impacts on local residents.

In relation to odor, CAO finds that IFC observed the issue while on site, gave clear remedial instructions to the client and followed up to ensure the matter was addressed with mitigation measures. Remedial actions, however, were not disclosed to the affected community and were

¹⁷³ Noise measurements were reported as an annual average of quarterly samples.

¹⁷⁴ WBG EHS Guidelines require that noise impacts should not result in an increase in background levels of more than 3dB at the nearest receptor location offsite.

not subject to consultation as required by PS1 para. 21, as a result of which it is unclear whether the issue has been addressed to community satisfaction.

In relation to vibration from the plant, IFC has not engaged with its client or taken steps to assess the concerns raised by community members. CAO finds that IFC did not require assessment of the vibration issue, as raised by community members, considering whether project activities were a contributing factor, or to ensure that the client was applying control techniques in accordance with PS3 and the EHS Guidelines.

2.2 Community Engagement

This section addresses issues raised by the complainants related to community engagement, including disclosure of information and consultation, and to the company's security arrangements.

Key Compliance Findings – Community Engagement

CAO finds that IFC's appraisal and supervision of community engagement issues fell short of relevant requirements for disclosure of project E&S information, reporting on implementation of corrective actions, consultation with affected communities, and security risk management.

Disclosure of Information: IFC's initial disclosure of project information and its review of client disclosure was insufficient. In particular, IFC did not disclose relevant E&S Assessment documentation reviewed as part of its E&S due diligence as required by the Access to Information Policy (para. 13(a)). IFC's ESRS notes that the client reported that it held public meetings but IFC documentation does not indicate any review of the client's public disclosure practices in connection with, or independent of those meetings. As a result, CAO finds that IFC lacked assurance that the client's public disclosure practices met the requirements of PS1 (para. 20) at the time of investment. Through IFC supervision, client disclosure of its air emissions improved, albeit with significant delays. To date, however, CAO finds no indication that IFC is supporting its client to report regularly to affected communities on other aspects of its environmental performance or mitigation actions consistent with PS1 (para. 26).

Consultation: IFC's pre-investment review did not document client consultation with affected communities (PS1, paras. 21-22). Although the project presented significant adverse impacts on affected communities living in close proximity to the plant, IFC did not assure itself that there was broad community support for the project (Sustainability Policy, para.15). IFC's supervision did not provide assurance that the client was conducting effective consultation (PS1, para. 21).¹⁷⁵ When conflict between APCC and the local community escalated, IFC did not review the client's track record of consultation or advise the client on how to address critical E&S issues through community engagement.¹⁷⁶ Despite indications that the client's approach to consultation was not consistent with PS1 requirements, IFC did not flag this as a compliance issue, nor did IFC support the client to develop an approach to community consultation that reflected the requirements of PS1 (Sustainability Policy, para. 26).

Security and Grievance Handling: IFC's pre-investment review did not adequately consider requirements to establish a structured complaints mechanism or to assess and manage security risk (PS1 and PS4). While IFC has recommended that the client formalize its approach to community complaint handling, to date IFC lacks assurance that the client has a functioning grievance mechanism (PS1 para. 23). IFC reviewed its client's private contracted security arrangements and noted gaps in relation to PS4 requirements following concerns raised by civil society in 2014. To date, however, IFC lacks assurance that the client's approach to security

¹⁷⁵ ESRP v. 7, 6.1.

¹⁷⁶ *Ibid.*

meets PS4 requirements including requirements to assess and mitigate risks associated with the deployment of public and private security personnel. This is of particular concern in the context of a facility where there have been community protests and armed security responses during the period of IFC's investment.

2.2.1 Disclosure of Information

The complainants allege that E&S assessment documentation required under Egyptian law has not been disclosed by the client.¹⁷⁷ The complainants expressed concern to CAO that emissions data released by the client do not capture abnormally high levels of pollution which occur during ESP failures.

IFC Requirements

IFC's *Policy on Disclosure of Information* (2006) states that for each proposed project IFC will disclose the ESRS and will make available electronic copies of "any relevant social and environmental impact assessment documents prepared by or on behalf of the client."¹⁷⁸

As noted in PS1, client disclosure of project information helps affected communities understand the risks and impacts and opportunities of the project and forms the basis for community engagement.¹⁷⁹ PS1 includes the following client disclosure requirements:

Where the client has undertaken a process of Social and Environmental Assessment, the client will publicly disclose the Assessment document.

If communities may be affected by risks or adverse impacts from the project, the client will provide such communities with access to information on the purpose, nature and scale of the project, the duration of proposed project activities, and any risks to and potential impacts on such communities.

For projects with adverse social or environmental impacts, disclosure should occur early in the Social and Environmental Assessment process and in any event before the project construction commences, and on an ongoing basis.¹⁸⁰

During project implementation, PS1 requires the client to "provide periodic reports" in a format accessible to the community that "describe progress with implementation of the Action Plan on issues that involve risk to or impacts on affected communities, and on issues that the consultation process or grievance mechanism has identified as of concern to those communities." Updates to Action Plans and mitigation measures are also required to be disclosed.¹⁸¹

As part of the client's broader obligations on community health and safety, PS4 requires that the client inform affected communities of significant potential hazards from project activities in a culturally appropriate manner. The client is required to document its emergency preparedness and response activities, resources, and responsibilities, and disclose appropriate information in the Action Plan or other relevant document to affected communities and relevant government agencies.¹⁸²

¹⁷⁷ Complaint to CAO, p. 5.

¹⁷⁸ 2006 International Finance Corporation Disclosure of Information Policy, para. 13 (a).

¹⁷⁹ PS1 para. 20.

¹⁸⁰ For instance, the disclosure of a draft assessment document and a draft action plan may suffice to comply with early disclosure requirements, Guidance Note 1 (GN48).

¹⁸¹ *Ibid.*

¹⁸² PS4, 2006, para. 12.

Discussion and findings

In November 2009, prior to investing, IFC published an ESRS, summary of investment information (SII), and ESAP on its website.¹⁸³ The ESRS referred to a 2002 EIA that was carried out in relation to the installation of the client's new production lines and which recommended mitigation and monitoring measures. The ESRS also referred to a 2009 KPMG audit of client CO₂ emissions and safety performance including recommendations for improvement. Neither the 2002 EIA nor the KPMG audit was disclosed on the IFC website. The lack of disclosure of relevant client E&S assessment documentation by IFC was non-compliant with para. 13(a) of its Disclosure Policy.

IFC's ESRS stated that it had reviewed the client's community engagement program, and notes that the client carried out community meetings. IFC documentation does not indicate any review of the client's public disclosure practices, in connection with or independent of those meetings – including information-sharing about the plant's environmental performance. As a result, CAO finds that IFC lacked assurance that the client's public disclosure practices met the requirements of PS1 at the time of investment.

The ESRS stated that an environmental audit of APCC was scheduled for completion in 2010, and that recommendations and relevant action plans would be disclosed accordingly.¹⁸⁴ CAO finds no evidence that such disclosure occurred or that IFC followed up with the client on this commitment or other disclosure requirements during the period from the date of investment, in 2010, through 2012.

Following community protests about the pollution and health impacts of the client's operations,¹⁸⁵ in May 2012, IFC negotiated an update of the ESAP which included a requirement that the client disclose its emissions control compliance data. As part of this process, IFC required that APCC prepare a suggested air emission disclosure format by June 2013. IFC did not require the client to disclose this new ESAP commitment. According to the project team, IFC agreed that this action need not be disclosed to the community because: (i) the commitment went beyond PS requirements;¹⁸⁶ and (ii) there were concerns about community reactions to the disclosure, especially in the context of the Arab Spring. IFC erred in its application of the standards here. Pollution control and monitoring measures were included in the original action plan and were of concern to affected communities. As a result, the client was required to disclose its pollution control performance as well as updates to its ESAP in this respect.

In relation to the plant's transition to coal, client records indicate that a public hearing took place in March 2015, and that 40 people attended. The client submitted an EIA for installation of a coal mill in mid-2015. CAO finds no evidence that the EIA for client's fuel transition was disclosed to the community in advance of or following the public hearing and no evidence that IFC raised this with the client as a PS1 compliance issue.

In October 2015, the ESAP was again updated and was posted on IFC's website in English.¹⁸⁷ Again, CAO finds no evidence that IFC required the client to disclose the updated ESAP directly to the community. From 2015 onwards, priority or corrective actions recommended by IFC were

¹⁸³ IFC, Titan Egypt, "Client Documentation," 2015 Titan Egypt Updated ESAP, available at: <http://bit.ly/IFCESRSTitanEgypt>.

¹⁸⁴ IFC, ESRS, 2009, "Environmental and Social Mitigation Measures: Social and Environmental Assessment and Management Systems."

¹⁸⁵ The December 2011 protests are discussed in further detail at section 2.2.3.

¹⁸⁶ CAO interview with IFC project team.

¹⁸⁷ IFC, Titan Egypt, "Client Documentation," 2015 Titan Egypt Updated ESAP, available at: <https://bit.ly/2N8cjtG>.

communicated and agreed directly with the client but were not disclosed either as updates to the ESAP or by the client to the local community.

In December 2016, IFC conducted a site visit and reported that the client had started publishing on its website quarterly averages of dust emissions from APCC, four years after the client's commitment to do so.¹⁸⁸

At this time, IFC noted that the publication of air emissions data should be improved to provide information on compliance to interested stakeholders. Accordingly, dust emissions data released in January 2017 noted NO_x and PM levels from the main stack, as well as PM from the clinker cooler stack, and included a statement that "the kiln stack emission results during the last quarter of 2016 were in full compliance with the emissions limits of the Egyptian Environmental Law."¹⁸⁹

In May 2017, complainant representatives EIPR released a video that appeared to show heavy emissions from the APCC clinker cooler stack.¹⁹⁰ The client responded to the video through the Business and Human Rights Resource Center, acknowledging the incident and noting that it was detected and brought under control quickly.¹⁹¹ In response, EIPR expressed concern that numerous similar incidents had occurred between June 2015 and May 2017, but that such emissions were not reflected in the client's emissions monitoring disclosures.¹⁹² The client did not respond further.¹⁹³

From 2018, a social consultant joined the IFC project team and assisted with enhanced supervision of labor and community engagement issues. In February 2018 IFC visited the plant and advised the client to ensure all actions to improve the plant emission controls and minimize environmental risks were adequately communicated to the community. Internal supervision documentation indicated this was required under PS1 para 26. IFC included a priority action for the client to prepare and submit a communications plan for ongoing reporting to communities covering both Alexandria and Beni Suef plants. In response, the client noted that all CSR activities are communicated and reported every month. IFC clarified that the plan should not only cover CSR but also operational outcomes and updates, for example, informing communities if there is a dust filter upset or when there is an operational improvement to reduce emissions, or ongoing reporting to communities on E&S indicators. Also in 2018, IFC reported recommending that the client hire a communications manager at the corporate level, and advised the client to inform communities immediately and provide adequate assurance/support by an emergency team in accordance with PS4, para 12 (emergency preparedness and response) if abnormal emission events occur. IFC reported that it followed up on the issue of communication with communities through a call to the client in December 2018. In early 2019, an IFC supervision site visit concluded that a few corrective actions were outstanding, including the communications plan. In April, the client reported that the hiring of a communications manager was on hold.

¹⁸⁸ Quarterly dust emission results from Q2 2016 to Q1 2019 are available on the Titan Cement Egypt website, "Measuring our environmental performance," available at: <https://goo.gl/qjBJu8>.

¹⁸⁹ Titan Egypt, APCC Dust Emissions Q4 2016, available at: <http://titacementegypt.com/wp-content/uploads/2017/04/APCC-Dust-Emissions-Q4-2016.pdf>

¹⁹⁰ EIPR, May 29, 2017, "Video: Wadi al-Qamar residents capture emissions from Titan's Alexandria Portland Cement, and the Egyptian initiative comments on the company's response." Available at: <https://goo.gl/TVWEoF>.

¹⁹¹ Titan Egypt, June 19, 2017, "TITAN's Response to BHRCC's invitation – APCC plant," available through Business and Human Rights Resource Center, available at: <https://goo.gl/m3EzPj>.

¹⁹² EIPR annexed a list of 14 incidents of emissions or other safety concerns documented in photos and video between 2015 and 2017, available at: <https://goo.gl/NdmGMy>.

¹⁹³ Business and Human Rights Resource Center, July 24, 2017, "Titan cement in Egypt – environmental & laborer concerns," available at <https://goo.gl/XuJxQA>.

A communications plan document for 2019 was later shared with IFC, identifying different stakeholders and means of engaging, for example through regular meetings. In relation to Wadi al-Qamar residents, the plan noted that published fliers would be distributed through Sustainability Center for Development (SCD), communicating updates on CSR activities. No information is included about distribution of environmental information to community residents.

In early 2020, the client provided an update to IFC on its communications strategy, reflecting similar content to that set out in the communications plan. The document described a range of activities that the client is carrying out in relation to the Wadi al-Qamar community and with the broader Alexandria community, again with a focus on CSR activities and “environmental services” provided by the company.

Notably, the client reported that in February 2019 it had marked the installation of the new filter with a launch including local representatives and residents, including a plant tour and presentation.

To date, neither IFC supervision documentation nor other documentation available to CAO suggests that the client is disclosing information on its environmental performance to the local community beyond its quarterly PM and NO_x emissions averages and water consumption data.

In summary, CAO finds that IFC’s initial disclosure of project information and its review of client disclosure was insufficient. Through IFC supervision, client disclosure of its air emissions improved, albeit with significant delays. CAO notes that the client’s efforts to engage with the public and share information about its filter installation is an important step to greater disclosure of environmental performance information. However, IFC did not ensure that the client’s regular disclosures to the community covered environmental performance and mitigation actions as required by PS1, para. 26.

2.2.2 Community Engagement

The complainants allege that there is no serious involvement of stakeholders in the management of APCC’s E&S impacts.¹⁹⁴ The complainants acknowledge that the company provides services to the local community, but allege that these are offered selectively and in exchange for a favorable position toward the company, or are intended to gloss over and conceal the pollution it causes.¹⁹⁵

IFC Requirements

As part of the E&S review process, IFC is required to consider available assessment information related to community engagement activities.¹⁹⁶ The scope of community engagement can vary considerably, depending on the nature of the project, its size, location and stage of development.¹⁹⁷ For projects which have significant adverse impacts on affected communities, the consultation process is required to ensure their free, prior and informed consultation (FPIC).¹⁹⁸ ESRP 2009 provides further guidance to determine when FPIC is needed and provides that the need for FPIC will be “subject to assessment and Peer Review” in cases of:¹⁹⁹

¹⁹⁴ Complaint to CAO, p. 6.

¹⁹⁵ Complaint to CAO, p. 7.

¹⁹⁶ IFC ESRP v. 4, 2009. 2.2.6. IFC’s *Stakeholder Engagement Good Practice Handbook*, recommends that stakeholder analysis include reviewing a business’ past community engagement activities. p.18, available at: <http://bit.ly/IFC-Stakeholder-Engagement-Handbook>.

¹⁹⁷ PS1 para. 8.

¹⁹⁸ PS1 para. 22

¹⁹⁹ IFC, ESRP 2009, Annex 3.5.1 (2) b.

... projects, which do not have significant adverse impacts on affected communities, but which are nonetheless associated with significant community concerns and where there is a need to build community support. ... Examples include “large Category B” projects involving legacy issues, cumulative impacts, incremental risks and other circumstances.

Where FPIC is required, IFC reviews the client’s documentation and ensures, through its own investigation, that affected communities participate in a consultation process leading to “broad community support” (BCS) of the project.²⁰⁰ BCS is defined in the 2006 Sustainability Policy as “a collection of expressions by the affected communities, through individuals and their recognized representatives, in support of the project.”²⁰¹

During a project, consultation with affected communities should happen on an ongoing basis as risks and impacts arise.²⁰² For projects with significant adverse impacts on communities PS1 requires the client’s to incorporate community views into their decision making on matters that impact them such as “mitigation measures, and the sharing of development benefits...” IFC requires that the consultation process be documented, especially measures taken to avoid or minimize risks and adverse impacts on the affected communities.²⁰³ Similarly, PS4 requires the client to “collaborate with the community” in relation to emergency response measures.²⁰⁴

Discussion and findings

CAO finds that IFC’s pre-investment review of the client’s community engagement program fell short of the standard required in Sustainability Policy para. 13 as it was not appropriate to the nature and scale of the project, or commensurate with the level of E&S risks and impacts.²⁰⁵ IFC recognized risks related to the project’s location and proximity to a residential community and disclosed a summary of the client’s approach to community engagement based on client reporting. IFC reported that the client employed a full time environmental, health and safety manager whose primary role was to ensure that the plant did not adversely affect nearby communities.²⁰⁶ IFC also reported that the client held “frequent and ongoing” community engagement, with meetings held every six months to present environmental, health and safety projects and to allow community members to raise concerns in relation to the project. IFC reported that these meetings were documented and written action plans were prepared with timeframes for mitigation measures. However, there is no record of IFC reviewing these documents and no copies were kept on the IFC project file. IFC reported that “APCC has had positive and very active relations with the residential communities adjacent to the plant for the past decade.”²⁰⁷ However, no IFC social specialist was involved in the pre-investment review and CAO finds no evidence that IFC verified client practices against stakeholder engagement requirements of PS1.

In particular, CAO finds that IFC did not assure itself that there was Broad Community Support (BCS) for the project or that the client’s community engagement met requirements for free, prior and informed consultation (FPIC) as required by the Sustainability Policy (para. 15) and PS1 (para.

²⁰⁰ 2006 Sustainability Policy Para. 20

²⁰¹ Affected communities are defined as “those within the project’s area of influence, who will most likely feel the direct impacts of the project”, see ESRP v. 2, annex 3.5

²⁰² PS1 para. 21.

²⁰³ PS1 para. 22.

²⁰⁴ PS4 para. 12.

²⁰⁵ Sustainability Policy, 2006, para. 13.

²⁰⁶ ESRS, Nov. 10, 2009, E&S Mitigation Measures, 4. Community Health Safety and Security, available at: <https://goo.gl/uGyiFk>.

²⁰⁷ ESRS, Nov. 10, 2009, E&S Mitigation Measures, 4. Community Health Safety and Security, available at: <https://goo.gl/uGyiFk>.

22) respectively. The ESRS for the project stated that the BCS requirement was not applicable.²⁰⁸ IFC staff told CAO that the project was not considered to have significant adverse impacts on affected communities and therefore did not trigger the broad community support requirement as IFC's investment was expected to lead to an improvement in the client's environmental performance. IFC erred in the application of its standards here. IFC was aware at appraisal that the client's operations had adverse impacts on nearby communities, due to PM stack emissions, noise and fugitive dust. Given the proximity of the client to residential areas and the impacts of pollution on community health, CAO finds that these impacts should have been considered 'significant' thus triggering the BCS/FPIC requirements. Alternatively, the project could have been considered a "large category B" project with cumulative impacts associated with significant community concerns. As a result, there was a requirement for peer review on the application of BCS/FPIC under ESRP (3.5.1.2(b)). CAO finds no evidence that this occurred.

More generally, CAO finds that IFC's supervision of the project did not provide assurance that the client was meeting PS1 requirements for community engagement. Although protests involving community members occurred in front of APCC between 2011 and 2013, no social specialist was assigned to the IFC project team and project documentation does not indicate that IFC discussed community engagement issues with its client during this period. In 2014, civil society complaints drew attention to the need to improve the client's approach to community engagement. The client then partnered with a social research organization to conduct a survey of community perceptions. In April 2015 IFC observed that the client's approach to community engagement and consultation appeared to have been strengthened but that information was not organized, and a strategy was not apparent. IFC recommended the client hire adequate community relations staff and develop a community engagement plan. IFC advised that this should address issues such as dust and visual impact which had been raised by the community as concerns, but no community engagement actions were included when the ESAP was updated in 2015.

Tensions between the client and residents of Wadi al-Qamar persisted. In November 2015, local media reported that a complaint had been filed against APCC, and that an investigative committee would be sent to consider the concerns.^{209, 210} In January 2016, local community members filed a lawsuit against APCC, demanding that the decision permitting the factory to use coal be revoked.²¹¹ IFC requested information about each case from its client.

Following a site visit to APCC in May 2016, IFC reported that client was carrying out a number of activities in the residential area of Wadi al-Qamar, including garbage collection, pest control, road cleaning, and support to female community members for training and launching small business activities. IFC also reported that the client had designed a mitigation plan to address the project's adverse impacts on the health and safety of the affected community. IFC reported that the mitigation plan had been presented to the affected communities and that the client was implementing it, though no further details of the mitigation plan were reported and no copy was kept on IFC's file.

In December 2016, IFC's labor consultant noted that the client's support for social programs in Wadi al-Qamar was positive while at the same time reporting that some community members were hostile to the plant, particularly because of its dust and visual impact. Following a

²⁰⁸ ESRS, Nov. 10, 2009, Broad Community Support, available at: <https://goo.gl/uGyiFk>.

²⁰⁹ Daily News Egypt, "New complaint filed against Alexandria cement factory," November 22, 2105, available at: <https://goo.gl/WVsxaF>.

²¹⁰ EIPR, Press Release "Titan Cement in Wadi al-Qamar convicted of causing environmental and health harm" March 25, 2018, available at: <https://goo.gl/hzkpcP>.

²¹¹ EIPR, Press Release, January 11, 2016, "Lawsuit against Titan Cement Factory in Alexandria for using coal," available at: <https://goo.gl/iab88n>.

subsequent site visit, in February 2018, IFC reported that there had been progress in enhancing engagement with the community, and that the client had appointed a dedicated community relations manager.

As noted above (see section 2.2.1), the client presented a communications plan and communications strategy for the year 2019 to IFC. The plan and strategy noted that the plant manager and other senior APCC staff would conduct monthly meetings with Parliament members for Wadi al-Qamar and El Dekhila, to better understand needs and complaints from local community members. The client specifically noted cement donations and coordination of other services such as renting loaders and trucks for road cleaning in the Agamy and El-Dekhila areas. The client reported that plant management held monthly meetings with the head of SCD to discuss progress on CSR activities. IFC reports that SCD helped to form two community-based organizations in Wadi al-Qamar, organizing quarterly workshops based on principles of youth empowerment. The client also reports that it organized a public inauguration event and plant tour in February 2019 for the installation of the new clinker cooler filter that was attended by representatives of residents.

In response to complainant allegations about selective provision of services by the company, IFC notes that the company's largest CSR investments in Wadi al-Qamar are available to all community members. In particular, IFC reports that the school and playground project was handed over to the Ministry of Education after refurbishment, and that waste collection services are offered free of charge to the community.

In summary, CAO finds that during its pre-investment review IFC did not document evidence of the client's consultation with affected communities and did not apply PS1 requirements relating to broad community support. While IFC did encourage and review the client's CSR activities from 2014 onwards, IFC's supervision did not ensure that the client was conducting effective consultation in relation to plant environmental performance or support its client to build and maintain over time a constructive relationship with local communities as required by PS1 (para. 19). CAO notes that the client has, more recently, reported regular engagement with Parliamentarians and has hosted the public at the inauguration of its filter. However, CAO found no indication that IFC ensured that its client addressed critical E&S concerns raised by local communities, particularly in relation to health impacts of the plant, on the basis of relevant and understandable information.

2.2.3 Grievance Redress and Security Arrangements

The complainants state that Wadi al-Qamar residents have pursued several different approaches to raise their concerns regarding the company's environmental and social impacts, including petitions and complaints, the use of social media, producing documentary films, appealing to local government and central government agencies, court proceedings, and carrying out protests.²¹² The complainants allege that the company's security arrangements have infringed their right to peaceful protest and to strike.²¹³ In particular, the complainants allege that workers tried to protest in front of the company in Wadi al-Qamar, but that company management deployed individuals to use violence if the workers approached the facility.²¹⁴ The complainants refer specifically to a February 2013 strike and sit-in at APCC. The complainants allege that a large number of Central Security Forces and anti-riot forces forcibly ended the sit-in, using dogs and weapons, resulting in the injury and arrest of workers.²¹⁵

²¹² Complaint to CAO, p. 6.

²¹³ Complaint to CAO, p. 19.

²¹⁴ Complaint to CAO, p. 21.

²¹⁵ Complain to CAO, p. 20.

The complainants report the community members and former workers who have complained about the company have been threatened or intimidated by individuals that they believe are connected to the company.²¹⁶

As an example of a community grievance that was not dealt with by the company at the time of the complaint, the complainants allege that the company constructed a metal wall taking up 60m of public road in front of the plant entrance, without necessary permits. The complainants noted that they had complained about this issue including to local government and the courts. They cited a government report stating that the wall was built unlawfully but maintained that the wall had not been taken down at the time of their complaint.

IFC Requirements

In addition to the general requirements for community engagement and disclosure discussed above, PS1 and PS4 include specific requirements on grievance redress, community health, safety and security.

PS1 requires the client to establish a grievance mechanism when a project involves ongoing risks to or adverse impacts on affected communities.²¹⁷ The grievance mechanism will receive and facilitate resolution of affected communities' concerns about client E&S performance. The mechanism should address concerns promptly, using an understandable and transparent process that is culturally appropriate and readily accessible to all segments of the affected communities, at no cost and without retribution. The client will inform affected communities about the existence of the grievance mechanism.²¹⁸

PS4 addresses the client's responsibility to avoid or minimize the risks and impacts to community health, safety and security that may arise from project activities.²¹⁹ In relation to the use of security personnel, Guidance Note 4 provides:²²⁰

PS4 recognizes that clients have a legitimate obligation and interest in safeguarding company personnel and property. If the client determines that they must use security personnel to do so, security should be provided in a manner that does not jeopardize the community's safety and security or the client's relationship with the community...

PS4, para. 13 sets out that clients are required to conduct a risk assessment of its security arrangements, to follow good international practices, and to conduct due diligence.²²¹ The client must train security personnel in appropriate conduct toward workers and the local community, and ensure a grievance mechanism is available to allow the affected community to express concerns about the security arrangements and acts of security personnel. The client must investigate and respond to allegations of unlawful or abusive acts by security personnel.²²²

If government security personnel are deployed to provide security services for the client, the client will assess risks arising from such use, communicate its intent that the security personnel act in a manner consistent with PS4, para. 13, and encourage relevant public authorities to disclose the

²¹⁶ Complaint to CAO, pp. 7, 21.

²¹⁷ PS1 para. 23.

²¹⁸ PS1 para. 23.

²¹⁹ PS4, para. 1.

²²⁰ 2007 Guidance Notes, Guidance Note 4, G2.

²²¹ PS4, paras. 13 and 15. Specific reference is made to good international practices in terms of hiring, rules of conduct, training, equipping, and monitoring of such personnel. Additionally, Guidance Note 4 (36) states that IFC may require its client to update IFC on the client's use of security personnel and any material developments and incidents as part of its periodic monitoring reports

²²² PS4, paras. 13 and 15.

security arrangements for the client's facilities to the public, subject to overriding security concerns (para. 14).

Guidance Note 4 provides additional relevant detail.²²³ For operations in unstable environments, security risk assessments should be more detailed, should consider the record and capacity of law enforcement to respond appropriately, and should consider whether its operations could create or exacerbate conflict.²²⁴ The client should also address negative impacts on workers and the surrounding communities from its security arrangements, such as the potential for increased communal tensions.²²⁵ Guidance Note 4 emphasizes that community engagement is an important aspect of an appropriate security strategy, "as good relations with workers and communities can be the most important guarantee of security" (G29).²²⁶

Further, security personnel should not harass or intimidate workers exercising their rights in accordance with PS2. If community members decide to associate, assemble and speak out in opposition to the project, the client and any security personnel who interact with them should respect the right of the local communities to do so (G32).²²⁷

Discussion and findings

IFC did not require that its client establish an effective grievance mechanism to receive and facilitate resolution of community concerns, as required in PS1 (para. 23). IFC states that the company had a complaint mechanism in the form of names and numbers publicly posted and reportedly on call 24/7. There is no indication that IFC reviewed the client's complaint handling procedures prior to investment. Although IFC reported to CAO that community members were able to call plant management with their concerns, IFC did not document or report on how such complaints were recorded, addressed or resolved. In the context of escalating community opposition in the period 2011-2014, IFC supervision was slow to address the need for a predictable and transparent mechanism for addressing community concerns. IFC recommended that the client establish an external grievance mechanism in 2018. In January 2019, IFC followed up on the matter as part of its supervision visit and noted that the implementation of an external grievance mechanism was still pending. The project record does not indicate whether IFC has taken up the complainants concerns regarding retaliation with the client, although IFC was aware that the client had refused to allow some contract workers to return to work at the plant following the February 2013 protest (discussed in section 2.3.2 below).

IFC's pre-investment review of the project was silent in relation to the security personnel requirements under PS4. IFC did not review or assess the client's use of private or public security at appraisal and did not ensure that its client had conducted a security risk assessment in conformance with PS4.

²²³ Guidance Note 4, 2007.

²²⁴ See Guidance Note 4, G28: A review of security risk in such context may need to consider political, economic, legal, military and social developments, and any patterns and causes of violence and potential for future conflicts. It may be necessary for clients to also assess the record and capacity of law enforcement and judicial authorities to respond appropriately and lawfully to violent situations. If there is social unrest in the project's area of influence, the client should understand not only the risks posed to its operations and personnel but also whether its operations could create or exacerbate conflict.

²²⁵ Guidance Note 4, G28.

²²⁶ Guidance Note 4, G29: Clients should communicate their security arrangements to workers and the affected community, subject to overriding safety and security needs, and involve workers and surrounding communities in discussions about the security arrangements through the community engagement process set out in PS1.

²²⁷ Guidance Note 4, G32.

In 2012 IFC became aware of a December 2011 incident at APCC: At this time, IFC noted that a group of armed protesters had broken the main gate of the plant and invaded the premises, demanding that the plant be relocated. IFC was informed that the attack was carried out by certain individuals, and possibly community members of Wadi al-Qamar. IFC also noted that both army and police intervened to secure the plant, that the client had taken legal action against the individuals involved and had renewed focus on ensuring security and safety of its operations. The project record does not contain any record of IFC seeking additional sources of information about the incident, the grievances raised by the protesters, or the parties involved. IFC's project record also does not indicate that it discussed PS4 requirements for security risk assessment with the client at this point.

PS4 requirements related to risk assessment, due diligence and training of security personnel regarding the use of force were first documented in IFC supervision in 2014. At that time, IFC noted that the client's agreements with security contractors required reasonable skill and care in accordance with good industry practice and recommended that the client also include specific provisions on training security guards in the use of force and a code of conduct. In 2015, the external labor expert recommended that the client take steps to ensure training security guards in the use of force, and review contract arrangements.²²⁸ However, IFC made no recommendations regarding the need for a security risk assessment and no related actions were included in the updated ESAP.

In December 2016, following complaints from community members, IFC advised the client to remove the metal wall placed in front of the plant and consider alternative means to prevent encroachment. In March 2017, IFC requested an update from the client on removal of the remaining part of the wall outside the gate in Alexandria. The client reported that the wall had been partially removed, but a portion remained to prevent mini buses from blocking the main gate entrance.

In 2018, IFC recommended that its client establish an external grievance mechanism to handle community grievances related to the Alexandria plant by the second quarter of 2018. In response, the client noted that the Alexandria Plant has an open door policy to deal with the external community, and keeps communication channels open with community organizations, society representatives and parliament members. IFC clarified that they expected the "open door policy" to be formalized through a grievance mechanism such as a hotline or suggestion box, which would allow submission and monitoring of anonymous and all types of grievances in accordance with IFC's PS requirements. Following IFC's January 2019 supervision visit, IFC noted that formalizing the external grievance mechanism was still pending. IFC recommended that SCD should develop an issue register for receiving community grievances.

In summary, CAO finds that IFC's pre-investment review did not adequately consider requirements to establish a structured complaints mechanism or to assess and manage security risk as required by PS1 and PS4. While IFC has recommended that the client formalize its approach to community complaint handling as required by PS1 para 23, this had not been implemented by the client at the time of IFC's last supervision visit in January 2019. IFC reviewed its client's private contracted security arrangements and noted gaps in relation to PS4 requirements following concerns raised by civil society in 2014. To date, however, IFC lacks assurance that the client's approach to security meets PS4 requirements including requirements to assess and mitigate risks associated with the deployment of public and private security personnel. This is of particular concern in the context of a facility where there have been community protests and armed security responses during the period of IFC's investment.

²²⁸ As required in PS4, para. 13.

Although IFC was, or should have been, aware of allegations that the company had retaliated against individuals who had raised concerns about the plant, IFC supervision does not indicate any engagement with the client on these issues, despite PS1 requirements that clients deal with grievances without retribution (para. 23).

2.3 Labor and Working Conditions at APCC

The complainants raise concerns about the project's compliance with IFC standards on labor and working conditions, as well as with Egyptian labor law, regarding: (i) APCC's reduction in its workforce in 2003, prior to the IFC investment, and the compensation provided to those workers; and (ii) the client's use of contracted workers, their terms and conditions of employment, freedom of association and health and safety.

This section provides an account of these concerns and highlights the contextual issues around labor representation and changes in the work force at APCC over time. It summarizes actions taken by IFC during its pre-investment review and supervision, and analyses IFC's compliance with its Sustainability Policy and PS in relation to labor issues.

Key Compliance Findings – Labor

2003 Retrenchment

IFC was aware of disputes relating to the client's 2003 retrenchments at the time of its investments. However, IFC did not identify the retrenchments as a legacy issue and did not explore remediation measures with its client (contrary to Sustainability Policy, para. 13). During project supervision, IFC did not engage its client on the retrenchment issues when the 2003 early retirees began protesting to raise their grievances and did not ensure that its client had in place a grievance mechanism that was appropriate to address these issues (contrary to PS1, para. 23).

Contract workers

IFC's project due diligence and early supervision did not assess the client's compliance with PS2 requirements that extend protections for working conditions, freedom of association, and health and safety to non-employee workers, who may include contractors (para. 17). From 2014 onwards, IFC has reviewed the client's contracts with labor supply companies and has worked with the client to bring some aspects of its engagement with those companies into compliance with PS2, para. 17. However, IFC has not assured itself that the client has used commercially reasonable efforts to require that supply companies apply PS2 requirements relating to freedom of association or worker health and safety.

In relation to freedom of association, CAO finds that IFC has not ensured that its client allowed contract workers to express grievances and protect their rights regarding working conditions and terms of employment as required by PS2, paras. 9 and 10. IFC did not consider the country or sector context in relation to labor and working conditions or freedom of association and did not document any PS2 risks or restrictions on workers' organizations during its due diligence. From 2014, IFC recommended that its client ensure appropriate freedom of association protections for contract workers, but has not assured itself that the client has done so.

In relation to contract workers' safety and health, CAO finds that IFC's early supervision did not adequately consider its client's compliance with the EHS Guidelines. Following complaints from civil society and former workers, IFC identified inadequacies in PPE use and labor supply company oversight. In 2018 and 2019, IFC specifically advised its client to enhance systems for selection and monitoring of labor supply companies, including training of contract workers.

However, IFC did not ensure that the client addressed its recommendations from 2018 and 2019 regarding OHS, including the need for the client to take responsibility for OHS of contract workers in accordance with GIIP.

2.3.1 Labor: 2003 Retrenchment

The complaint included specific concerns from APCC workers who were retrenched through an early retirement scheme carried out in 2003, prior to IFC's investment (the "2003 early retirees").²²⁹ Many of these workers also live close to the plant, in Wadi al Qamar. According to the complainants, they agreed to take early retirement under pressure from the company. They raise concerns that the amount they received as compensation was less than they had agreed, and that they did not receive benefits which they were entitled to including shares in the shareholders' federation.

The complainants state that they have continued to raise concerns regarding their retrenchment with the client and with IFC and the World Bank during the period of IFC's investment. The complainants express that despite frequent appeals to the company for restitution and direct protest action beginning in 2011, their concerns have not been resolved. The complainants also request that the company settle pension claims for those who have taken early retirement since 2003 and disburse all benefits to which they are entitled from the fellowship fund and company shares.²³⁰

IFC Requirements

As the 2003 retrenchment was implemented prior to IFC's investment, PS2 requirements related to retrenchment are not applicable as compliance criteria. However, the Sustainability Policy and PS1 contain relevant provisions related to addressing legacy issues, compliance with national law, and engagement with stakeholders that are relevant to the ongoing grievances of the 2003 early retirees. IFC guidance material on good practices in retrenchment are relevant contextual documents.²³¹

IFC's Sustainability Policy, para. 13, provides that IFC will consider legacy impacts as part of its social and environmental review of a project: "Where there are significant historical E&S impacts associated with the project, including those caused by others, IFC works with the client to determine possible remediation measures."

IFC is required to monitor the client's social and environmental performance throughout the life of its investment (Sustainability Policy, para. 11). Further, PS1 provides that the client will conduct community engagement to build and maintain over time a constructive relationship with local communities (para. 19). The client is required to respond to communities' concerns related to the project during project implementation, and will establish a grievance mechanism to receive and facilitate resolution of concerns about the client's E&S performance (para. 23).

2003 Retrenchment

CAO notes that Egyptian law provides for public sector workers to access an "early retirement" pension after they have completed 20 years of service (and paid corresponding contributions into the pension fund).²³² Through Egypt's transition to a market economy in the 1990s, government

²²⁹ Complaint to CAO, p. 18.

²³⁰ Complaint to CAO, p. 22.

²³¹ IFC, Good Practice Note: Managing Retrenchment, 2005, available at: <https://goo.gl/qxpqNm>.

²³² In 2011, public pension schemes were estimated to cover over 80% of the employed population in Egypt, one of the highest rates among developing countries, see International Organisation of Pension Supervisors, "IOPS Country Profile: Egypt," January 2011, available at: <https://goo.gl/n7yrnU>.

encouraged voluntary early retirement.²³³ As a state-owned company, APCC employees were public sector workers entitled to public sector benefits at the time of its privatization. In addition to a base salary and production bonus, workers received a profit share and social insurance benefits such as health insurance and a pension upon retirement at age 60.²³⁴

Following the commissioning of APCC's fifth kiln in 2001, APCC undertook a retrenchment scheme to reduce the number of permanent staff. Workers who participated in the retrenchment scheme were offered a compensation amount calculated as a multiple of their monthly pay. In return, they agreed to resign before the official retirement age of 60.

According to the complainants, around the time of the scheme, their take-home pay was cut significantly to remove the production bonus and provide only the base amount. For this and other reasons, complainants say they felt compelled to accept the compensation offered by the company. They also allege that they never received their full pension entitlements and other payments. A testimonial account of the retrenchment scheme and its impact on former employees is set out in Appendix E.

Discussion and findings

IFC's ESRS did not discuss legacy labor issues related to the client and did not discuss the 2003 early retirement scheme. IFC's ESRS did note that no further retrenchments were anticipated.

IFC appraisal files include information about ongoing litigation in relation to early retirement cases at the client's other cement plant in Egypt. The issues raised in these cases were similar to those raised by the complainants in relation to the 2003 early retirement scheme in Alexandria.

IFC staff reported to CAO that they were aware of the 2003 early retirement issues during the project appraisal but that they did not consider them to be relevant for IFC's E&S review. As IFC did not identify any risks related to labor or historical grievances, the ESAP did not include any labor-related actions. Considering the number of workers affected, their ongoing grievances and the number of former workers who continued to live close to the plant in Wadi al Qamar, CAO finds that the situation of the 2003 early retirees should have been considered a "significant historical impact" of the project for the purposes of para. 13 of the Sustainability Policy. As a result, IFC was required to review this issue pre-investment and work with its client to identify possible remediation measures. IFC's lack of attention to the situation of the 2003 early retirees was not compliant with this requirement.

Members of the 2003 early retiree group were among those who joined protest action against the company commencing in 2011. It was noted within IFC that protests were motivated by political rather than substantive concerns or public opposition, and IFC did not engage with its client in relation to the substantive concerns of 2003 early retirees at this point

In April 2014, civil society representatives raised concerns with World Bank staff about labor issues at APCC, including the post-privatization reduction of the client's direct work force. IFC received written responses from the client on the matters raised by civil society. In relation to the 2003 downsizing, the client reported that this had happened during the time that APCC was a Lafarge-Titan joint venture. The client reported that downsizing was carried out according to a voluntary early leave plan (VELP) and that no one was forced to leave. According to the client, those who left received 45 months' salary as compensation. From the perspective of the company, the 2003

²³³ See, Mohamed A. Maait, Gala Ismail and Zaki Khorasane, "The Effects of Privatisation and Liberalisation of the Economy on the Actuarial Soundness of the Egyptian Funded and Defined Benefits Social Security Scheme." Presented at The Year 2000 International Research Conference on Social Security, Helsinki, 25-27 September 2000, available at: <https://goo.gl/uWHvW>.

²³⁴ IOPS Country Profile: Egypt, 2011.

early retirees were paid a settlement package at that time and are owed no further entitlements. The IFC project team prepared a written response to the complainants' concerns in discussion with the client and offered to engage with the complainants. IFC reported that the civil society representatives did not revert to IFC at that time. IFC later met with civil society representatives in-person in Washington DC in April 2016. No actions were documented as an outcome of this meeting.

IFC did not address the concerns raised by 2003 retirees as an E&S issue that it was required to monitor in accordance with the Sustainability Policy, para. 11. IFC supervision records indicate that the client's reason not to engage with the retirees' concerns focused on the timing of the events and the assertion that the complainants' grievances did not have merit. While the retrenchment of the 2003 retirees occurred well before IFC's involvement with the company, the issue remained a live community relations challenge during the period of IFC's investment. As a result, CAO finds that IFC supervision fell short in that it did not ensure the client was building or maintaining over time a constructive relationship with local communities, which included many of the 2003 retirees (as required by PS1, para. 19). Further, IFC did not ensure that its client established a grievance mechanism that would receive and facilitate resolution of concerns from local community members (as required by PS1, para. 23).

2.3.2 Labor: Contract Workers

The complainants present a range of concerns related to working conditions, freedom of association, and OHS. Although some of these matters impact both permanent and temporary staff at APCC, the complainants who raised concerns with CAO were former contract workers at APCC. The complainants carried out a range of activities at the plant, including in the company's production lines, packing, and working in quarries. The complainants allege that, in some cases, APCC employees and contract workers carried out the same work. The complainants allege that they worked continuously for the company for long periods of time. The complainants allege that they were recruited by APCC management, their contracts were signed by APCC staff (although they were in the name of the labor supply company). They allege that, despite being contract workers, they were under the direct supervision of APCC management and had no engagement with management of the labor supply companies. Some of the workers were dismissed following their participation in a 2013 protest. Accordingly, this section focuses on IFC due diligence and supervision particularly in relation to the treatment of contract workers at APCC.

The complainants express concern that the client has reduced its permanent labor force and relied increasingly on contracted "temporary" workers, which they allege is contrary to the objectives of PS2.²³⁵ The complainants allege that the client has laid off permanent workers and either re-hired them as contract workers or replaced them with contracted labor. The complainants allege that contracted workers at APCC receive unequal employment terms and benefits compared to workers who are employed directly, in particular relating to profit shares, wages and incentives. The complainants allege that many contract workers have worked alongside direct employees carrying out the same tasks, some for more than 12 years. It is common, according to the complainants, for contract workers to operate under direct supervision of APCC employees and management, with little or no day-to-day interaction with the labor supply company they are formally employed by. Several complainants allege that they were recruited directly by APCC, but were asked to sign contracts with a labor supply company rather than with the client. The complainants further argue that the Egyptian labor law prohibits employment through labor supply

²³⁵ Complaint to CAO, p. 14.

companies.²³⁶ The complainants request that the client cease alleged discriminatory treatment between permanent and contract labor in profit shares, wages and incentives.

The complainants' concerns about freedom of association focus on the client's treatment of an organization of non-employee workers at APCC. The complainants argue that an independent union, representing contracted workers, sought to negotiate with Titan Cement to achieve equal working conditions.²³⁷ When these efforts were unsuccessful, the complainants state that the contract workers carried out a strike and sit-in at APCC in February 2013. The complainants argue that the client violated ILO and UN conventions by breaking strikes and peaceful sit-ins by force.²³⁸ Complainants also allege that workers' attempts to protest in front of the plant premises in Wadi al-Qamar have been prevented by threats of violence.²³⁹ They state that workers have been pressured to abandon their claims under threat from the company.

The complainants allege that the client does not promote safe and healthy working conditions in accordance with PS2.²⁴⁰ In the course of the investigation, complainants expressed particular concern that contract workers were not provided with adequate OHS training or personal protective equipment. During the CAO assessment, the complainants reported that contract workers sustained adverse health impacts due to their work. They complained of workplace accidents resulting in injuries and fatalities.²⁴¹ The complainants request that the client implement occupational health and safety standards included in PS2 and international agreements.

IFC requirements relating to contract workers

IFC policies and procedures generally do not discourage or limit the use of contract workers, and PS2 provisions on retrenchment do not apply to contract workers.²⁴² PS2 does, however, provide for the extension of a range of protections to contract workers if they are performing work directly related to the client's core functions for a substantial duration (para. 17). IFC *Guidance Note 2*,²⁴³ the IFC 2008 *Labor Toolkit*²⁴⁴ and IFC's 2010 *Measure & Improve Your Labor Standards Performance: PS2 Handbook for Labor and Working Conditions* (PS2 Handbook) provide guidance on implementation of the PS2 requirements.²⁴⁵ General PS requirements that IFC clients comply with national law are also relevant.²⁴⁶

As noted in the 2008 IFC Labor Toolkit, sub-contracted labor presents a key higher risk matter for IFC to consider during project due diligence. In particular, "where a client relies to a large degree on sub-contracted labor, this will often be based on the fact that this will reduce labor costs and the client's perceived responsibility for compliance with labor standards."²⁴⁷ The Toolkit notes that a high proportion of indirectly employed workers (i.e. 25% or more) at a company is a "red flag"

²³⁶ Complaint to CAO, p. 22.

²³⁷ Complaint to CAO, p. 20.

²³⁸ Complaint to CAO, p. 19, citing the International Covenant on Economic, Social and Cultural Rights, Article 8.

²³⁹ Complaint to CAO, p. 21.

²⁴⁰ Complaint to CAO, p. 18.

²⁴¹ CAO Assessment report, p. 13.

²⁴² See PS2, para. 17.

²⁴³ IFC, 2007, *Guidance Notes: Performance Standards on Social and Environmental Sustainability*, available at: <https://goo.gl/dZDr3F>.

²⁴⁴ IFC, 2008, *Labor Toolkit*, internal document on file with CAO.

²⁴⁵ IFC, 2010, *Measure and Improve Your Labor Standards Performance: PS2 Handbook for Labor and Working Conditions*, available at: <https://goo.gl/AABAoB>.

²⁴⁶ IFC, PS Introduction, para. 3.

²⁴⁷ IFC, Labor Toolkit, "PS2 Risk Overview – General country/sector check," p. 2. Internal IFC document, "Good Practice Note: PS2 and Contractor Management," August 2018.

issue that requires further analysis, and advises staff to look at labor supply company standards (in accordance with PS2, para. 16) and consider compliance with labor law.²⁴⁸ Specific steps include requesting documentation of the arrangement between the client and its subcontractor and checking subcontractors' approach to labor management issues.²⁴⁹

Egyptian law requirements

The complainants have raised several aspects of the Egyptian Labor Law, No. 12 of 2003, as relevant to their grievances.²⁵⁰ These provisions relate to the employment of workers through labor contractors (Article 16), equality of work conditions for workers (Article 79), and entitlement to seek compensation from current or former employers (Article 8). Although Article 16 provides a general rule against outsourcing, Article 25 provides that casual workers are not subject to the relevant provision. "Non-core" activities may be performed by outsourced workers that are not direct employees of the host company.²⁵¹ What constitutes "core" activities will vary from one industry to another. Article 26 provides that the Ministry of Labor may regulate the recruitment of irregular labor, including contracting workers. In practice, the relevant regional labor office and social insurance office will consider outsourced employees in the host's workplace to be employees of the host if the employees are performing the core activity of the host company, even if the employees' employment contracts are with the outsourcing company.²⁵²

Relevant PS2 requirements

PS2 sets out a range of protections for workers, including working conditions, freedom of association, grievance redress, and worker health and safety. When applying those protections to different types of workers, PS2 distinguishes between "employees" and "non-employee workers" of the client: "[N]on-employee workers" refers to workers who are: (i) directly contracted by the client, or contracted through contractors or other intermediaries; and (ii) performing work directly related to core functions essential to the client's products or services for a substantial duration.²⁵³ The Guidance Note to PS2 indicates that such workers "tend to perform important functions of the client's business for a substantial period as if they are substitute employees of the client."²⁵⁴ In the case of a client engaged in manufacturing, an example of "core functions" covered by PS2 includes non-employee workers who regularly transport finished goods to distributors.²⁵⁵ The Guidance Note provides that "determination of which group of non-employee workers falls into the scope of Performance Standard 2 will require an analysis of the client's business and judgment."²⁵⁶

When a client contracts a non-employee worker directly, the client must use commercially reasonable efforts to apply most requirements of PS2.²⁵⁷ When the client hires non-employee

²⁴⁸ IFC, Labor Toolkit, 2008, p. 3.

²⁴⁹ IFC, Labor Toolkit, 2008, pp. 3-4.

²⁵⁰ Egyptian Labour Code, No. 12 of 2003, available at: <https://goo.gl/2zVKYD>.

²⁵¹ Ahmed El Gammal, "Egyptian employment law and the practical procedures for seconding/outsourcing employees in Egypt," August 1, 2016, *Thomson Reuters Practical Law*, available at: <http://bit.ly/EgyptEmploymentLaw>.

²⁵² *Ibid.*

²⁵³ PS2, 2006, para. 17. . . .

²⁵⁴ Guidance Note 2, 2007, G62, p. 50

²⁵⁵ An example of a "non-core function" in a manufacturing context would be individuals who provide food services for the client's workers, unless the client operates the food service function directly. Guidance Note 2, 2007, G63, p. 50

²⁵⁶ Guidance Note 2, 2007, G62, p. 50.

²⁵⁷ Clients are not required to apply requirements relating to an HR policy, retrenchment, or supply chains in relation to non-employee workers. PS2, 2006, para. 17.

workers through a contractor or intermediary, the client must use commercially reasonable efforts to (i) ascertain that the contractors are reputable and legitimate enterprises; and (ii) require that the contractor apply certain PS2 requirements, including for working conditions, freedom of association and OHS:²⁵⁸

- (a) Employers must ensure reasonable working conditions and terms of employment (PS2, para. 8). In the absence of collective bargaining agreements (or when agreements do not address matters such as wages and benefits, hours of work, overtime and leave) the client will provide reasonable working conditions and terms of employment that, at a minimum, comply with national law.²⁵⁹
- (b) Freedom of association and workers' rights to organize are addressed in PS2, paras. 9-10.²⁶⁰ These requirements draw on international law, including ILO Conventions on freedom of association, the right to organize and collective bargaining.²⁶¹ Employers are required to comply with national law that recognizes workers' rights to form and to join workers' organizations without interference.²⁶² Where national law limits workers' organizations, employers will enable alternative means for workers to express their grievances and protect rights regarding working conditions and terms of employment.²⁶³ In either case, the employer will not discourage workers from forming or joining workers' organizations of their own choosing, or from bargaining collectively, and will not discriminate or retaliate against workers who participate or seek to participate in such organizations and bargain collectively.²⁶⁴ The employer will engage with such worker representatives.
- (c) PS2 requires that clients provide the workers with a safe and healthy work environment, taking into account inherent risks in its particular sector and specific classes of hazards in the client's work areas (para. 16). The client will act in a manner consistent with GIIP to address areas such as: hazard identification; provision of preventative and protective measures; training of workers; documentation and reporting of occupational accidents, diseases and incidents; and emergency prevention, preparedness and response arrangements.²⁶⁵

²⁵⁸ PS2, 2006, para. 17. IFC Guidance Note 2 elaborates on the "commercially reasonable efforts" IFC should take when engaging labor through contracting companies: establish contractual obligations on contractors or intermediaries who supply non-employee workers; conduct due diligence of the contractor's track record and compliance with legal requirements; and exercise due diligence in supervision, see Guidance Note 2, 2007, G65, p. 51

²⁵⁹ PS2, 2006, para. 8.

²⁶⁰ PS2, 2006, paras. 9-10

²⁶¹ PS2, 2006, para. 2, note 1, listing ILO Convention 87 on Freedom of Association and Protection of the Right to Organize and ILO Convention 98 on the Right to Organize and Collective Bargaining, among others.

²⁶² PS2, 2006, para. 9. "In countries where national law recognizes workers' rights to form and to join workers' organizations of their choosing without interference and to bargain collectively, the client will comply with national law. Where national law substantially restricts workers' organizations, the client will enable alternative means for workers to express their grievances and protect their rights regarding working conditions."

²⁶³ PS2 specifically refers to the International Labour Organisation (ILO) Core Conventions, including Convention 87 on Freedom of Association and Protection of the Right to Organize (1948) and Convention 98 on the Right to Organize and Collective Bargaining (1949), as providing guidance on PS2. PS2, 2006, para. 2 "Introduction."

²⁶⁴ PS2, 2006, para. 10.

²⁶⁵ PS2, 2006, para. 16.

Further details related to occupational health and safety (OHS) are set out in the IFC EHS Guidelines for Cement and Lime manufacturing, including mitigation techniques and good practices.²⁶⁶ The Cement Guidelines note that the industry’s most significant OHS impacts include dust, heat, noise and vibrations, physical hazards, radiation, chemical hazards and other industrial hygiene issues.²⁶⁷ Workers with long-term exposure to fine particulate dust are at risk of respiratory health impacts.²⁶⁸ Mitigation techniques for dust exposure include control through implementation of good housekeeping and maintenance, use of dust extraction and recycling systems, use of air ventilation in cement-bagging areas, and use of PPE.²⁶⁹ In relation to noise, mitigation techniques include silences for fans, noise barriers, and personal hearing protection.²⁷⁰

In relation to contract workers, IFC’s General EHS Guidelines require that employers “ensure that workers and contractors, prior to commencement of new assignments, have received adequate training and information enabling them to understand work hazards and to protect their health from hazardous ambient factors that may be present. The training should adequately cover: Knowledge of materials, equipment, and tools; Known hazards in the operations and how they are controlled; Potential risks to health; Precautions to prevent exposure; Hygiene requirements; Wearing and use of protective equipment and clothing; Appropriate response to operation extremes, incidents and accidents.”²⁷¹ The Guidelines go on to indicate that this readiness should be checked and monitored before allowing the contractor on site: “Through appropriate contract specifications and monitoring, the employer should ensure that service providers, as well as contracted and subcontracted labor, are trained adequately before assignments begin.”²⁷² Further, service providers and contractors “should be contractually required to submit to the employer adequate training documentation before start of their assignment.”²⁷³

More generally, the client is required to provide a grievance mechanism for workers and their organizations to raise reasonable workplace concerns.²⁷⁴ The client will inform the workers about the mechanism at the time of hire and will make it easily accessible to them. The mechanism should involve an appropriate level of management and address concerns promptly using an understandable and transparent process that provides feedback to those concerned, without any retribution.

IFC Appraisal of Contract Labor Issues

According to information shared by the parties during discussions, since its privatization, APCC has transitioned from a workforce composed primarily of permanent employees—with corresponding benefits and job security—to a workforce with significant numbers of non-employee or “contract” workers. At APCC, most of these contract workers are engaged through one of three labor supply companies. Some workers are contracted directly by APCC, but on a temporary or short-term basis only.

Prior to its investment, IFC reviewed APCC documentation on labor and working conditions and gathered information during a site visit. The ESRS discusses the client’s work force, representation and grievance management, and states that the client “[had] in place comprehensive HR polices

²⁶⁶ IFC, Cement EHS Guidelines, 1.2 Occupational Health and Safety, pp. 8-10.

²⁶⁷ *Ibid.*, p. 8.

²⁶⁸ *Ibid.*, p. 8, note 20.

²⁶⁹ *Ibid.*, pp. 8-9.

²⁷⁰ *Ibid.*, p. 9.

²⁷¹ IFC General EHS Guidelines, p. 63.

²⁷² *Ibid.*, p. 64.

²⁷³ IFC General EHS Guidelines, p. 63 ff.

²⁷⁴ Note that this is separate from the requirement to establish an “affected communities” grievance mechanism set out in PS1 para. 23.

and management systems that cover all key aspects of labor management, including informing employees of their rights under national labor and employment laws, documented in both Arabic and English.”²⁷⁵ IFC did not review the client’s contract labor arrangements during its pre-investment review. CAO found no documented review of the client’s worker grievance mechanism.

The ESRS states that approximately 80% of workers at APCC were non-salaried (i.e. “blue collar”) and all of them were members of the Government-sponsored General Syndicate for Building Materials and Wood, the relevant worker’s organization for the cement industry.²⁷⁶ CAO notes that contract workers at APCC are not represented by the General Syndicate for Building Materials and Wood. The complainants argue that contract workers have, since 2011, attempted to form, and bargain through, independent worker organizations. IFC staff explained to CAO that, during appraisal, they had understood that all workers were represented by the union. IFC did not speak with any union representatives during the site visit.

The ESRS notes that the client has a well-established and extremely effective OHS program in place.²⁷⁷ IFC stated that it reviewed the client’s OHS plans and performance,²⁷⁸ including lost time injuries (LTI), training procedures, average number of hours for OHS training per staff member, and it had found them to be consistent with global best practice for the cement industry. IFC noted that workers were required to undergo medical examination at the time of hiring and annually thereafter. IFC observed that appropriate personal protective equipment (PPE) for specific work was provided. IFC reported that visits to both plants during the appraisal indicated a strong and consistent approach to OHS and use of PPE.

IFC further noted that the client was in the process of obtaining a certification for APCC including OHSAS 18001 – an international standard which provides a framework to identify, control and decrease the risks associated with health and safety in the workplace.²⁷⁹ The 2009 ESAP required that the client provide results of independent audits and external certification reports to IFC within 30 days of receipt from the auditors. The client reported to IFC that it successfully achieved certification by the end of 2010.²⁸⁰

IFC Supervision 2011-2012

The client has submitted to IFC annual statistics for LTI or fatal accidents at APCC, including contract workers, with details of any accidents, a summary of training provided to employees and contract workers, and an audit of site observations and actions.

IFC documented its first supervision activity in October, 2011. At this point IFC noted that a contract employee was seriously injured in a December 2010 accident. The client reported that it employed 724 contract workers during the year, and that it had provided over 5000 hours of safety training for APCC contract workers during the period. IFC’s review noted that the plant had a comprehensive incident investigation system including root cause analysis and identification of corrective actions to prevent reoccurrence.” IFC requested more information about the incident from the client.

²⁷⁵ IFC, ESRS, 2009, “Environmental and Social Mitigation Measures,” 2. Labor and Working Conditions, available at: <https://goo.gl/jVSMb7>.

²⁷⁶ IFC, ESRS, 2009.

²⁷⁷ IFC, ESRS, 2009, Titan Egypt, Environmental and Social Review Summary, <https://goo.gl/jVSMb7>.

²⁷⁸ IFC, ESRS, 2009, “Overview of IFC’s scope of review.”

²⁷⁹ IFC, ESRS, 2009, “Description of key Environmental and Social Issues and Mitigation: 1. Social and Environmental Assessment and Management Systems.”

²⁸⁰ OHS certificates were issued to APCC in July 2011 (valid for three years),

IFC's review of client reporting from 2011 to 2012 noted that the plant had achieved good safety statistics by comparison with the sector generally. The client reported two LTI incidents in 2012 including one direct worker and one contract worker.

From 2011 to early 2014, IFC received and became aware of several reports of protest action and strikes at APCC.²⁸¹ Labor action at APCC, and government intervention to address a shutdown, was also reported in international industry publications.²⁸² According to IFC, similar events were happening in other facilities in Egypt around that time, and the action was not a major concern. CAO found no indication that IFC followed up with its client in relation to the reported protests or the claims raised by workers. When IFC updated the client ESAP in 2012, no actions in relation to labor were included.

In 2012, the Alexandria labor office brought two cases against APCC on the grounds of improperly employing a total of 300 workers through two labor supply companies. Initial decisions against the company were later successfully appealed by APCC, and the court found no wrongdoing.²⁸³ A third case brought by the labor office, alleged that APCC was improperly employing 115 workers through a labor supply company.²⁸⁴ In this case, an initial decision against the company was overturned on appeal in October 2014. In two of these cases, the appeal court found that the labor supply arrangements were allowable because the workers in question had a role that did not amount to a core business activity of the employer. IFC's supervision documentation contains no mention of these legal proceedings.

Worker organizations and protest during the Arab Spring

From 2006, Egypt experienced an increase in worker-led protests that continued in the years following the Arab Spring. Like many other privately-owned companies and state enterprises, APCC began to experience open opposition to their business from community members and demands from employees and contract workers. This transition coincided with IFC's investment in, and supervision of, the client company.

Although workers' movements had taken place occasionally in Egypt since the 1980s, labor protests intensified in the mid-2000s due in part to worker opposition against the privatization of state-owned companies like APCC.²⁸⁵ Leaders of this protest movement have remained influential in the development of Egypt's independent labor unions.²⁸⁶ Estimates for the period 2006-2009 indicate that around 2 million workers participated in over 2100 protests across

²⁸¹ Four incidents are noted in the IFC project file and in the complaint to CAO: (i) a November 2011 protest carried out by contract workers in front of APCC, led by contract workers demanding direct employment contracts with APCC; (ii) small groups of workers wanting to strike at APCC April 2012; (iii) a February 2013 strike and sit-in at APCC focused on contract workers' rights; and (iv) a seven-day sit-in in March 2014, in response to management's refusal to pay a profit share.

²⁸² Cemweek, issue 3, May/June/July 2011, p. 19, available at: <https://goo.gl/7RFyE8>.

²⁸³ Dekheila district (Alexandria) civil court, Tort case 36588/2012 appealed 6823/2014; and Tort case 36589/2012 appealed 6818/2014.

²⁸⁴ Dekheila district (Alexandria) civil court, Tort case 3865/2014 appealed 16227/2014.

²⁸⁵ Dina Bishara, "The Politics of Ignoring: Protest Dynamics in Late Mubarak Egypt" (2015) *Perspectives on Politics*, Vol. 13, p. 958, p. 965, available at: <https://goo.gl/k6S4bS>; Bishara, 2012, "The Power of Workers," p. 85.

²⁸⁶ December 2006 marked a transition for worker movements in Egypt with a strike initiated by around 24,000 workers at a textile company in Mahala al-Kubra. Following this, approx. 10,000 workers occupied the factory for three days in September 2007. Subsequently, several groups of industry and white-collar workers initiated protests and strikes. See Rabah El Madhi, "Labour Protests in Egypt: Causes and Meaning," *Review of African Political Economy* (2011), available at <https://goo.gl/SBKgm6>.

Egypt.²⁸⁷ Workers used different strategies to claim their rights, ranging from protests and strikes to sit-ins – and most of these actions were organized by independent workers’ leaders, not by union officials affiliated with the state-controlled union federation, ETUF.²⁸⁸ Worker demands incorporated both economic rights (related to wages and working conditions) and political rights, such as the creation of a union independent from the Government.²⁸⁹

Workers became a significant component of the broader political movement of the Arab Spring from 2011.²⁹⁰ As Egypt’s economic crisis worsened in 2012-2013, unemployment peaked at 13.4 percent.²⁹¹ Labor protests continued. Police and military have been reported to engage in the forceful dispersal of labor actions in some cases.²⁹² Workers who have participated in strikes and peaceful protests have been arrested and, in some cases, convicted and sentenced to prison terms.²⁹³

Although the 2014 Egyptian Constitution provides for the right to “peaceful” strikes, restrictions on this right remain in the 2003 Labor Code, including a requirement that strikes be approved in advance by the company’s workers’ union or a general trade union affiliated with the ETUF.²⁹⁴

Egyptian labor law and freedom of association

During the period of IFC’s investment, the context for freedom of association and labor rights in Egypt evolved significantly. Over the last decade, efforts to establish independent worker representation and broader social movements have led to changes in the recognition of unions. Egypt ratified ILO Conventions on freedom of association and the right to organize in the 1950s.²⁹⁵ However, until 2017 Egyptian law imposed state control of worker organizations through a general union whose members were appointed by the government.²⁹⁶

Previously, according to some scholars, the Egyptian Trade Union Federation (ETUF) had an effective monopoly on representing workers in Egypt.²⁹⁷ Workers were generally enrolled automatically as member of Government-sponsored unions related to their industry, which each were members of ETUF. In relation to APCC, the relevant union for direct employees is the General Syndicate for Building Materials and Wood.

As a growing number of labor activists sought to challenge the state-affiliated labor unions, they began to create independent unions and advocate for recognition.²⁹⁸ Four independent unions

²⁸⁷ Bishara, 2012, “The Power of Workers,” p. 86.

²⁸⁸ Rabah El-Mahdi, “Labour Protests in Egypt: Causes and Meaning,” *Review of African Political Economy* (2011), p. 387, available at: <https://goo.gl/HmXNL1>.

²⁸⁹ *Ibid.*

²⁹⁰ *Ibid.*, p. 100.

²⁹¹ IMF, IMF Country Report No. 15/33, “Arab Republic of Egypt,” February 2015, p. 6, available at: <https://goo.gl/cLtcTm>.

²⁹² US Department of State, *Egypt 2015 Human Rights Report*, p. 49, available at: <https://bit.ly/36HjLDQ>.

²⁹³ ITUC, p. 27; US Department of State, p. 56.

²⁹⁴ Egypt Labour Code, 2003, Article 192. See discussion in US Department of State, p. 54.

²⁹⁵ ILO Convention 87: Freedom of Association; and Convention 98: Right to Organize and Collective Bargaining.

²⁹⁶ Egyptian Labour Code, 2003 and Trade Unions Act No. 35 of 1976. A new Trade Union law was approved by parliament in November 2017, see Egypt Today, “Egyptian Parliament approves Trade Union Organization law” November 9, 2017, available at: <https://goo.gl/rxd9nz>.

²⁹⁷ Dina Bishara, 2012, “The Power of Workers”, p. 88.

²⁹⁸ *Ibid.* p. 89.

formed the Egyptian Federation of Independent Trade Unions (EFITU) in January 2011.²⁹⁹ In March 2011, the Minister for Manpower and Migration delivered a statement affirming Egypt's commitment to freedom of association and presenting an action plan that included providing for full autonomy and independence of trade unions.³⁰⁰ The same month, the Supreme Council of the Armed Forces issued a constitutional declaration granting citizens the right to establish unions.³⁰¹ By 2012, EFITU's membership was reported to include 281 independent unions representing over 2 million workers.³⁰² Another coalition of independent unions was formed in 2012, the Egyptian Democratic Labor Congress.³⁰³

The 2014 Constitution provides that the law shall guarantee "the right to establish syndicates and unions on a democratic basis" and "the independence of syndicates and unions."³⁰⁴ However, no implementing legislation was enacted.³⁰⁵ Civil society reports indicated that no new unions had been able to register with the Ministry of Manpower since September 2015.³⁰⁶ ETUF and some government-sponsored unions have opposed the recognition of EFITU and independent unions, in public statements and in the courts.³⁰⁷

A revised trade union law was prepared by the Ministry of Manpower in 2016 and received final approval in December 2017. Although the Government has stated that the law is consistent with ILO standards and Conventions 87 and 98,³⁰⁸ critics have argued that the law imposes restrictions on the right to organize.³⁰⁹ The law maintained the status of ETUF and government-sponsored unions, but dissolved existing independent unions and required that they re-submit documentation for registration with the Ministry of Manpower. The law was amended in mid-

²⁹⁹ Dina Bishara, 2012, *Foreign Policy*, "Who Speaks for Egypt's Workers", available at: <https://goo.gl/Psb4vQ>.

³⁰⁰ Statement, Cairo, 12 March 2011, 'Egyptian Minister of Manpower and Migration on "The Freedom of Association" In Egypt,' available at: <http://bit.ly/Egypt-FOA-Statement>. See also: ILO, "ILO commends the Egyptian government declaration on freedom of association," 12 March 2011, available at: <http://bit.ly/ILO-Egypt-Statement>.

³⁰¹ Supreme Council of the Armed Forces, "Constitutional Declaration 2011," 30 March 2011, Article Four, available at: <https://goo.gl/97QeZt>.

³⁰² Bishara, 2012, "Who speaks for Egypt's workers?"

³⁰³ Nadine Abdalla, "Egypt's Workers – From Protest Movement to Organized Labor," SWP Comments, German Institute for International and Security Affairs, p. 5, available at: <https://goo.gl/teuCcw>.

³⁰⁴ Constitution of the Arab Republic of Egypt, 2014, Article 76, available at: <https://goo.gl/KQQszy>.

³⁰⁵ US Department of State, Country Human Rights Report, Egypt 2016, p. 54, available at: <https://goo.gl/YJAIQR>.

³⁰⁶ Human Rights Watch, "Egypt: Unshackle Workers' Right to Organize," April 30, 2016, available at: <https://goo.gl/w7Z6sQ>.

³⁰⁷ Giuseppe Acconcia, "The Shrinking Independence of Egypt's Labor Unions," September 20, 2016, *Sada Middle East Analysis*, available at: <https://goo.gl/N3Yrao>; Jano Charbel, "Why are Egypt's independent trade unions on trial?" *Mada*, February 8, 2016, available at <https://goo.gl/YxQ6sN>.

³⁰⁸ In particular, the government has stated that the draft law permits more than one federation may be established, ensuring trade union plurality, and the freedom to join any trade union or federation, see ILO, Individual Case (CAS) – Discussion: 2017, Publication: 106th ILC session (2017) *Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)* available at: <https://goo.gl/avRxdj>.

³⁰⁹ Muhammed Magdy, "New trade union law undermines freedom of association in Egypt," December 14, 2017, *Al-Monitor*, available at: <https://goo.gl/rmyz1W>; International Trade Union Confederation, "Egypt: New Draft Trade Union Law Suppresses Freedom of Association," November 7, 2017, available at: <https://goo.gl/1JvTJQ>.

2019, including to reduce minimum numbers of workers needed to form a trade union committee.³¹⁰

At the date of writing, independent syndicates and unions are – in accordance with the law – entitled to represent workers’ interests, engage in collective bargaining agreements, and seek registration with the Ministry. Independent union organizers note, however that regularization or registration of many trade union organizations have been disapproved despite meeting conditions set out in the trade union law and submitting appropriate documentation.³¹¹ In practice, independent unions are a common feature of companies in Egypt, and regularly engage in collective bargaining processes overseen by the Ministry whether or not they are formally registered.

The complainants note that an independent union representing contract workers at APCC sought to negotiate with the company for improved working conditions and terms of employment from late 2011. According to the complainants, a final meeting was held in November 2012, at which the company’s management rejected the demands of contract workers, and told worker representatives that they should take their demands to the labor supply companies.³¹² The company reported that (i) there was no independent labor union for Titan cement, (2) contract workers were not permitted by law to establish an independent union at APCC, and (3) therefore no meetings were held between the contractor’s independent union and company management.³¹³

Protest action at APCC – February 2013

In February 2013, a strike and sit-in at APCC premises lasted for several days and was eventually broken up by police. According to the complainants, 425 contract workers engaged through three labor supply companies participated in the sit-in.³¹⁴ The workers demanded equal employment terms and benefits as those workers employed directly by the client.³¹⁵ The sit-in was followed by a strike by packing workers. The complainants and the client provide different accounts of the events surrounding the strike and sit-in.

According to the client, a senior executive of a labor supply company came to the APCC premises to engage in discussions with the contract worker representatives. The client alleges that several workers participating in the sit-in forcibly detained the manager in the APCC premises for several days. The company noted that APCC management had called in public security forces to end the sit-in after attempts to negotiate for the manager’s release were unsuccessful. Government authorities arrested and forcibly removed workers from APCC premises on the third day of the sit-in.

The complainants contest this account and deny that any person was held against their will in the course of the strike and sit-in.³¹⁶ The complainants told CAO that workers participating in the sit-

³¹⁰ Individual Case (CAS) - Discussion: 2019, Publication: 108th ILC session (2019) Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) - Egypt, "Written information provided by the Government," available at: <https://bit.ly/ILC2019Egypt>.

³¹¹ *Ibid*, Observer comment, Public Services International.

³¹² Complaint to CAO, pp. 19-20.

³¹³ In particular, the client noted that the independent union should be formed under the name of the workers’ labor supply company, not under the name of Titan.

³¹⁴ Complaint to CAO, p. 19.

³¹⁵ According to the complainants, permanent workers earn five times as much as contract workers, and also receive a profit share. Permanent workers also receive medical coverage for their families. The complainants allege that some contract workers have worked at APCC for more than 12 years.

³¹⁶ Complaint to CAO, p. 20.

in made efforts to ensure that the kiln and other equipment on-site was able to continue in operation. The complainants allege that public security forces called in by APCC acted violently to end the sit-in, and that some of the workers were attacked by police dogs and were injured.³¹⁷ The complainants reported that at least 80 workers were arrested during the dispersal.³¹⁸ Of these, 10 were detained for one year until February 2014, and 18 were held for 49 days before being released on bail.

In May 2013, it was noted within IFC that attacks on the company were politically motivated but did not discuss any of the substantive grievances raised by contract workers. Although the events were not reflected in regular E&S reporting, IFC staff told CAO that the incident was reported to IFC in a timely manner. IFC did not engage with the client about the reason for the strike or the concerns raised by workers at this point. The client did not engage with its labor contractors in relation to the protestor's demands for equivalent terms and conditions.³¹⁹ The client informed CAO that it had improved its security measures by increasing the number of security guards on-site. IFC was aware that, subsequent to the strike, APCC conducted a review of its contract workforce, resulting in a reduction of around 200 contract workers. IFC was aware that, while some of these redundancies were due to a review of the client's needs in terms of the contractor workforce generally, approximately 50 contract workers at APCC were terminated by the contractor due to their involvement in the protest. IFC recorded the information that service contracts for contractors whose workers were involved in the incident were not terminated. According to the complainants, contract workers who wished to return to their jobs at APCC were required by the client to sign documentation confirming that they were not members of the independent labor syndicate. In 2015, 18 former APCC workers were charged with offences relating to the February 2013 sit-in, citing unlawful detention of 15 administrative personnel, assault of security forces, and destruction of company property.³²⁰ The former workers were acquitted of all charges in June 2016.³²¹

Complaint to World Bank Group and IFC Response

Around April 2014, the Egyptian Initiative for Personal Rights (EIPR) approached a World Bank representative at a civil society forum alleging that the client was non-compliant with IFC Performance Standards. EIPR shared a paper with IFC stating that workers at APCC suffered health impacts, referencing the February 2013 actions and other protests, sharing video footage of the protests, and giving details of the specific allegations of harm suffered by workers as a result of their termination.³²² IFC's supervision record shows that the client had contracts with labor supply firms, and that the client held these firms responsible for their own workforce. According to IFC, EIPR did not respond to an offer to discuss the issues further at that stage.

In May 2014, IFC visited APCC with the intention of reviewing labor management, contractor management, and engagement with workers in light of the EIPR allegations. IFC obtained written comments from the client on allegations raised by EIPR. IFC noted that workers they spoke to confirmed the company's account of the 2013 sit-in, and stated that they believed there were no specific issues to be raised with respect to working hours, days off, health insurance and meals

³¹⁷ Complaint to CAO, p. 20. IFC interviews during site visit, January 2017.

³¹⁸ Complaint to CAO, p. 20.

³¹⁹ Client interview, January 2017.

³²⁰ Complaint to CAO; Alexandria Criminal Court, Case no. 23944 (Dekhela/Criminal).

³²¹ June 28, 2016, EIPR, "Titan Cement Workers in Wadi al-Qamar acquitted of company's charges," 25 July 2016, available at: <https://goo.gl/72QBXY>.

³²² EIPR, "IFC-funded Titan Cement not in compliance with financing standards, violates rights of workers and local residents," on file with CAO, p. 5.

for contract workers. Workers did express concern at the reduction of the contractor workforce at APCC.³²³

IFC also reviewed the client's management of its labor supply companies, and reviewed employment contracts provided to contract workers. IFC noted that certain clauses denied the right to peaceful strikes and sit-ins and indicated that contractor workers had sole responsibility in case of injury or death. IFC advised the client that these clauses should be revised.

IFC raised concerns regarding workers' health and safety, noting that there had been inconsistent use of PPE among contractors and staff (particularly dust masks and hearing protection). IFC noted that workers reported improvements in site safety since Titan had taken over management of the plant.

IFC reviewed the client's policy for handling worker grievances and concluded that the procedure established was satisfactory. IFC reported that all workers were aware of the grievance mechanism but advised the client to replace the grievance box at APCC which they had reported was damaged during the 2013 protest.

IFC concluded that the client was operating in compliance with PS2, 2006 but that there were some areas for improvement in relation to employee engagement and communication recognizing the "contextual risks post-revolution."

IFC records indicate that the client's relationship with workers and community members had declined for a period of time after 2011, particularly after the December 2011 protest. IFC records show that, in the client's view, the situation had since improved and would be willing to re-consider the engagement strategy. IFC stated that, in order to improve the client's engagement with workers, it would assist the client to implement enhanced PS2 requirements in the 2012 Performance Standards.³²⁴

IFC advised the client to improve communication with employees, including holding meetings, to ensure that all workers understand the client's messages and updates clearly. IFC also advised the client to hire an external consultant to focus on improving workforce engagement.

In April 2015, IFC supervision documents note that recommendations made in 2014 had not yet been implemented by the client, such as the need to amend contract clauses for contract workers. IFC noted that although aspects of workforce and labor management were discussed with the client in 2014, the client's regular reporting to IFC did not include any relevant information related to labor. IFC determined that the client's E&S performance as partially unsatisfactory.

Engagement of External Labor Expert

The client carried out an employee opinion survey in early 2015 which resulted in recommended actions focused on improving communication with workers and improving employee performance through management. In parallel, IFC sought external support to supervise the client's labor performance. IFC's initial scope of work for an external expert incorporated contextual analysis of labor and freedom of association issues in Egypt. However, in the course of preparing the final terms of reference, IFC adjusted the scope of work to focus on an audit of the client's business against PS2 requirements.

In October 2015, the external labor expert accompanied the IFC project team to conduct a focused site visit to analyze HR management, contractor management and CSR issues at both APCC and

³²³ Workers also raised a concern that health insurance could possibly be extended to family members, and an interest in voluntary contributions by the workers to their pension funds.

³²⁴ IFC, 2012 Performance Standards, Performance Standard 2: Labor and Working Conditions, available at: <https://bit.ly/2tIKAc9>.

BSCC, and to follow up on IFC's 2014 advice to the client. The external labor expert's role was to provide detailed assessment of PS2 application in relation to direct workers and of how labor supply companies were applying PS2, although the assessment was limited in terms of the number of direct and contract workers interviewed.

The expert's summary report to IFC noted the need to include appropriate PS2 compliance clauses in labor suppliers' agreements, but did not specifically address the national framework for freedom of association. The labor expert reported that contract workers were not members of any union and there was no information whether labor supply companies had policies on trade union membership for their employees. The labor expert's report did not consider the situation of workers who had participated in the 2013 protest and who had been refused further work at APCC or who had been charged in relation to their protest activity. The expert also noted inconsistent PPE use onsite.

Several of the expert's findings informed IFC recommendations to the client, including that APCC clearly communicate its grievance policy to all workers, and restating that appropriate PS2 compliance clauses needed to be included in contractor agreements. IFC proposed providing a training on PS2 to APCC management in early 2016. However, no labor requirements were included in the updated client ESAP in 2015.

IFC Supervision 2015-2019

In November 2015, two workers, one direct employee and one contract worker, died following a diesel fire in the calciner area of APCC.³²⁵ The client carried out an investigation into the cause of the accident, and implemented corrective measures.

In July 2016, IFC communicated with its client regarding a local news story reporting that charges against factory workers involved in the 2013 incident had been dismissed and asked the client for comment.³²⁶ The article included a statement from representatives of the contract workers that they would start negotiating with the parent company of Titan Group, seeking to resume their work at APCC and receive any delayed financial dues. IFC's project record indicates that it was emphasized that the charges had been brought by the Egyptian authorities, not by Titan Egypt. Further, IFC became aware that the client's position was that the acquitted individuals had no basis to negotiate with APCC or the parent company, because they were contract workers. The IFC project file has no further correspondence on this issue. During the CAO compliance process, IFC staff reported that they were not aware that contract workers were affiliated with any worker organization.

In December 2016, IFC had a number of client documents translated related to the client's environmental and social performance. Among these, IFC received translation of a 2015 notice of violations issued by EEAA under the Environment Law, related to poor health and safety conditions in the workplace. IFC became aware that the client had reported to the regulator actions taken to address the violation. IFC observed improvements in the use of PPE by comparison to 2015 but noted again that not all workers were wearing appropriate ear protection.

In 2016, the client implemented a voluntary early retirement plan to reduce its direct workforce. In December, IFC carried out a site supervision visit to APCC with the external labor expert and carried out training on PS2 with client management. IFC reported that the client's practices were at that time substantially consistent with PS2, except for the recent retrenchment process. The

³²⁵ Titan Cement Egypt, 2015 Corporate Social responsibility and Sustainability Report, "Health and Safety" p. 25, available at: <https://bit.ly/2ZmPok7>.

³²⁶ Taha Sakr, "22 workers acquitted from bullying charges in Alexandria," June 29, 2016, *Daily News Egypt*, available at: <https://goo.gl/QMfXGY>.

project team reinforced its previous recommendation that the client ensure all workers were aware of the formal grievance mechanism process. IFC did not raise any concerns related to transfer of direct workers to contracted worker status by termination and subsequent re-hiring through labor supply companies.

The client implemented a subsequent voluntary retirement plan in 2017. Following a site visit, IFC reported in early 2018 that the 2017 plan had been prepared in line with PS2 requirements, and that the client had made progress in “managing labor expectations” through implementation of the plan. In its records, IFC highlighted communication stating that further progress was needed to manage the expectations of the contracted workforce and monitor labor supply company compliance with PS2. IFC records show recommendations to the client to enhance contract workers’ awareness and use of the grievance mechanism to record and address their complaints. IFC records also noted that, in interviews, contract workers had reported concerns that they were doing the same work as direct employees under different conditions and that they saw this as an inequality of treatment with respect to wage and benefits. IFC records show that IFC was aware that the client intended to recruit technical workers and that the company intended to give priority to qualified contract workers. IFC reported that it had provided comments to the client’s HR team to align with PS2 (2012) on contractor management.

Also during its January 2018 site visit, IFC conducted focus group discussions with groups of direct workers and contract workers at APCC. IFC spoke to direct employees regarding the collective bargaining agreement they had concluded at the end of 2017. IFC also spoke with contract workers, who were not covered by the agreement, and noted their salaries had also increased.

The site visit found high PPE compliance on-site and noted that there had been an effort to improve OHS. IFC again found that safety statistics were satisfactory.

At the same time, the project E&S specialist, an IFC social consultant, and IFC’s local Egyptian counsel conducted a review of a sample “services contract” between the client and a labor supply company and provided comments against PS2 and Egyptian law requirements. IFC noted that certain provisions in the contract could be misinterpreted as a restriction to workers’ right to organize and recommended that they be clarified. IFC determined that the contract adequately addressed the compliance of the labor supply company with the Egyptian labor code and “therefore substantially aligned with PS2 (2006).” IFC communicated to its client that contract workers should have clear, written contracts with the labor supply company as required by the Egyptian Labour Law (article 32), and that workers’ right to organize should not be restricted. IFC also recommended that the client take a more structured approach to monitoring ongoing contractor labor management, including by developing and conducting a supervision or auditing plan on labor supply company compliance with PS2 clauses.

Following the site visit, IFC set out several priority actions for the client related to labor issues, with a focus on contract workers. These included: (i) an HR induction to be prepared and delivered to new contract workers on HR policy, benefits, terms and conditions, (ii) information sessions to be organized for existing contract workers to address their requests and concerns, and (iii) preparation of a recruitment plan, including information on how the performance of contract workers would be assessed.

CAO’s review of project records indicate that some recommended actions were implemented but not others. In particular, based on available records reviewed by CAO, the client did not present a detailed recruitment plan or confirm that it had delivered any induction on HR issues or information sessions for contract workers.

In January 2019, IFC carried out a supervision site visit and again conducted focus groups with direct and contract workers. The workers raised some concerns but were generally reported to be

positive about conditions working with the client. In its supervision report, IFC noted that the client would share an updated sample contract and a labor supply company screening and auditing process. IFC concluded that all labor-related priority actions had been completed.

IFC received an updated sample contract for review in 2019. The body of the contract retained provisions requiring the labor supply company to take full responsibility for workers in the event of injury or death. It required that the labor supply company ensure that workers do not stop work for any reason such as strikes, protests and sit-ins. The contract also includes (i) an addendum that sets out a number of additional health and safety requirements that the labor supply company must meet, including to ensure the competence, training and adequate supervision of workers and supply of adequate PPE; and (ii) an annex relating to measures including OHS, minimum working conditions, labor rights (referring to national law), and environmental measures. It is IFC's view that this updated sample contract addresses their concerns regarding OHS issues in relation to contract workers.

CAO Findings

CAO makes a range of non-compliance findings regarding IFC's appraisal and supervision relating to contract workers. Generally, CAO finds that IFC's pre-investment due diligence did not assess the client's performance against PS2, para. 17, which requires that the client ensure PS2 worker protections regarding working conditions, freedom of association and OHS (among others) are extended to non-employee workers. CAO also finds shortcomings in IFC's supervision of the client's labor practices in relation to contract workers, most significantly during the period 2011-2014. CAO notes specific efforts have been made by IFC to engage directly with employee and non-employee workers during the period 2018-2019. Detailed findings regarding working conditions and terms of employment, freedom of association and OHS are set out below:

Working Conditions and Terms of Employment: CAO finds IFC's pre-investment due diligence omitted to assess compliance with Egyptian law or PS2 for a large proportion of the client's work force – those workers employed through labor supply companies. Although, at the time of IFC's investment, contract workers vastly outnumbered direct employees at APCC, IFC did not review the client's business practices for recruitment, training or supervision of contract workers, did not review the client's commercial relationships with labor supply companies, and did not review sample contracts for non-employee workers.³²⁷ IFC did not review the length of engagement or types of activities carried out by those workers to determine if their responsibilities included activities "directly related to core functions essential to the client's products or services for substantial duration." IFC also did not demonstrate any consideration of national law requirements related to contract workers. Thus, CAO concludes that IFC did not ensure that its client applied PS2, para. 17 to its non-employee workers.³²⁸

During the investigation IFC staff reported to CAO that contract workers did not perform core tasks at the plant and, therefore, that PS2 provisions were not applicable. IFC staff advised that, by convention in the cement industry, activities such as packaging and bagging were often carried out by contract workers. Notwithstanding industry norms, CAO finds that many of these workers carried out routine activities on the cement production line or packaging facility under the direct supervision of APCC management and were employed continuously for several years. CAO therefore finds that IFC should have considered the client's engagement of such long-term contract workers as "non-employee workers" for the purpose of PS2. As a result, IFC should have ensured that its client made commercially reasonable efforts to ensure that relevant PS2

³²⁷ PS2, 2006, para. 17.

³²⁸ PS2, 2006, para. 17.

requirements were applied by labor contracting companies in relation to such long-term contract workers.³²⁹

CAO also finds shortcomings in IFC's supervision of the client's compliance with PS2 and Egyptian labor law, most acutely during the period of 2011-2014.³³⁰ During this time, IFC did not identify the client non-compliance with PS2, para 17, for example, regarding freedom of association related to contract workers, and did not work with the client to bring it back into compliance as required by para. 26. CAO notes that IFC's supervision of its client's PS2 performance was significantly enhanced in response to the 2014 complaint about APCC, in particular through support from an external labor specialist from 2015 onwards and a social consultant in 2018 and 2019. Since 2015, IFC has worked with its client to address conditions for non-employee workers by carrying out supervision visits, reviewing contract documentation, and providing training to client management. IFC has made several recommendations to the client in relation to worker engagement, grievance handling, and contract provisions. Some of these changes were incorporated, including provisions on working conditions. Others were not accepted or not implemented. IFC has also engaged directly with employee and non-employee workers through focus groups to discuss a range of matters relating to working conditions at APCC,

In response to IFC recommendations to carry out HR inductions and information sessions with contract workers, the client noted that all contract workers have a safety induction. It is not clear whether any HR induction or information sessions were prepared or delivered.

As noted above, IFC also requested that the client prepare a formalized recruitment plan that described information and assessment measures especially for contract workers in the plant undertaking similar jobs with direct employees. It is not clear whether such a recruitment plan was prepared, but CAO's review of available documentation indicates that IFC was aware its client maintained its position that all blue collar workers who are outsourced contractors in the plants were pursuing different types of jobs than permanent employees. IFC noted that its supervision visit had identified contract workers providing core functions and had discussed with senior TCE management plans to hire some of those contract workers as regular employees.

In January 2019, IFC records show that IFC collected information through further focus group meetings with workers, who noted concerns regarding salary increases and medical insurance for contract workers.

Freedom of Association: CAO finds that IFC did not ensure that its client allowed contract workers to express grievances and protect their rights regarding working conditions and terms of employment as required by PS2 paras. 9 and 10, or that it took commercially reasonable steps to ensure that its labor supply companies implemented those requirements in accordance with para. 17.³³¹

During IFC's pre-investment review of the project, labor activism was increasing in Egypt, including strikes, sit ins and demonstrations.³³² However, IFC did not consider the country or sector context

³²⁹ In addition to testimonial evidence gathered during the investigation, in January 2017, CAO visited APCC and spoke with a number of direct employees and contract workers. The CAO team observed that some contract workers were engaged in non-core tasks (as defined by PS2 and its Guidance Notes), such as security services. Other contract workers were engaged in core tasks related to the plant's operation, such as operating the RDF facility.

³³⁰ In this context, CAO notes that the client was contractually committed to comply with the 2006 version of the Performance Standards.

³³¹ PS2, 2006, paras. 9-10.

³³² Rabah El Madhi, "Labor Protests in Egypt: Causes and Meaning," *Review of African Political Economy* (2011), available at: <https://goo.gl/9Z9V13>.

in relation to labor and working conditions or freedom of association during its due diligence process and did not document any PS2 risks or restrictions on workers' organizations. Although IFC's ESRS noted that APCC's direct workers belonged to a union, IFC did not identify risks related to freedom of association generally or for contract workers in particular.³³³ Further, CAO finds that IFC's review of the company's approach to employee grievance handling overlooked gaps against PS2 requirements that were later identified during project supervision - namely that it was not clearly understandable or transparent.³³⁴

During the period of IFC's investment, CAO finds that IFC did not identify non-compliance or provide adequate guidance or recommendations to its client regarding freedom of association requirements in PS2, para. 9-10. IFC did not engage with its client when it became aware of worker protests, sit-ins or strikes at APCC in 2011, 2012, and 2013. CAO notes that IFC's ability to carry out site supervision visits was limited in 2011 and 2013 due to security issues arising from the Arab Spring. Nevertheless, in light of the grievances cited by worker protestors and the client's response to those actions, CAO finds that it was relevant for IFC to enquire about the client's engagement with workers in the context of PS2 requirements for freedom of association and grievance handling.

The project record indicates that IFC was advised by the client in 2014 that that contract workers were not permitted by law to establish an independent union under APCC legal name. This was a strong indication that contract workers' rights to organize were restricted, but IFC did not seek further information about contract worker representation at that time. CAO notes, however, that IFC's conclusion in 2018 and at the time of writing is that there is no restriction on freedom of association at APCC.

From 2015, IFC's supervision incorporated a review of labor contractors' agreements and identified provisions that restricted freedom of association. However, IFC did not present these concerns to the client as a compliance issue – instead noting that the client was meeting PS2 2006. CAO finds that the scope of IFC's supervision and communication with the client largely excluded consideration of the harms arising from previous incidents between workers and management at APCC, including the February 2013 sit-in and subsequent dismissal of contract workers. IFC did not assess the client's actions against PS2 or international or national law in relation to workers' rights to organize or to strike.

IFC has not made any recommendations to the client regarding the contract workers' efforts to organize under the auspices of an independent union, but has provided guidance to the client in relation to "enabling alternative means" for workers to express their grievances.

CAO notes, however, that IFC recommendations to its client related to freedom of association and access to a grievance mechanism were not fully implemented by the client. In relation to freedom of association, the updated sample contract refers back to Egyptian law, but does not reflect the language of PS2, and instead requires that labor suppliers ensure that contract workers do not stop work for any reason – including strikes and sit-ins. In relation to grievances, IFC recommended to the client that it extend the workers' grievance mechanism to contract workers and raise their awareness of it. The client declined to allow contract workers to access the APCC worker grievance mechanism but did require the labor supply companies to provide access to a grievance mechanism.

During a supervision site visit in 2019 IFC also sought information related to freedom of association from management of some of the labor supply companies, who stated that they had placed no restrictions on unionization, but that the plant's contract workforce was not of sufficient size to

³³³ PS2, 2006, paras. 9-10.

³³⁴ PS2, 2006, para. 13.

allow for unionization in accordance with Egyptian law.³³⁵ Provisions that discourage freedom of association had been retained in the most recent versions of labor supply contracts reviewed by CAO.

Occupational Health and Safety: At appraisal, IFC had confidence in the client's OHS performance based on its intention to obtain ISO certifications, its policies, and its low reported accident statistics. The 2009 ESRS notes that OHS policies and procedures applied to all persons at its facilities, including contractors and casual workers, and that its statistics included contractors and casual workers. Further, IFC noted that breaches of the OHS standards and requirements triggered a one-time warning and were, subsequently, grounds for removal and termination of the contract. IFC also included a requirement that the client share any external audit reports to IFC within 30 days of receipt, which was appropriate to ensure that the client had a system for implementation of its policies. However, IFC's pre-investment review did not specifically consider the OHS risks associated with the client's significant reliance on contracted labor.

During supervision, IFC identified shortcomings in the implementation of the client's OHS policies and procedures consistent with the issues raised by the complainants. IFC's supervision highlighted serious breaches in terms of PPE use, the poor state of housekeeping, and contractual arrangements that sought to limit the client's liability for health and safety of contract workers (first identified in 2014). Subsequently, IFC recommended corrective actions, and supervision visits noted improvements in OHS and PPE use. The 2019 focus group discussions noted in particular that bag filter upgrades and covering of raw materials had improved air quality for employees. The client also included additional requirements on health and safety for contract workers in its arrangements with labor supply companies. However, IFC did not ensure that the client addressed its recommendations regarding the need for the client to take responsibility for OHS of contract workers in accordance with GIIP.

In accordance with the EHS Guidelines, worker safety trainings need to operate within an overall structured and monitored system.³³⁶ In 2018 IFC appropriately recommended that its client systematically assess the capacity of labor supply companies and audit their compliance with PS2.³³⁷ However, IFC did not ensure that the client put in place a comprehensive and regularly monitored training plan based on site specific risk assessments of hazards likely to be encountered in the workplace, as would reflect GIIP. At the time of IFC's equity sale, successive supervision reports indicated slow progress by the client in implementing IFC recommendations related to the selection and audit of labor supply companies and training of workers as necessary to comply with the EHS Guidelines.³³⁸

2.4 IFC's Exit from the Project

In November 2019, IFC entered into an agreement to sell its shares in ADL to Titan Cement International (TCI), the parent company of the Titan Group. The terms of the sale provided for the

³³⁵ CAO notes that, in June 2019, the Trade Union law was amended to reduce the number of members required to form an independent union from 150 to 50, see Individual Case (CAS) - Discussion: 2019, Publication: 108th ILC session (2019) Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) - Egypt, "Written information provided by the Government," available at: <https://bit.ly/ILC2019Egypt>.

³³⁶ IFC General EHS Guidelines, OHS, p. 63 and p. 75.

³³⁷ EHS Guidelines, OHS, "2.2 "Communication and Training: New Task Employee and Contractor Training," p. 63.

³³⁸ EHS Guidelines, OHS, "2.2 "Communication and Training: New Task Employee and Contractor Training," p. 63.

transfer of IFC's shares with payments for the shares plus interest to be made in installments over two years. In May 2021, IFC advised CAO that it had received the final receivable installment.

The share sale agreement had covenants that remained in place until the full purchase price was paid. These included financial, policy, reporting and access covenants, for example providing ongoing CAO and IFC access to client information and standard covenants that the client would refrain from involvement in sanctionable practices. However, IFC's standard E&S covenants, requiring compliance with the Performance Standards and associated reporting to IFC, were not included in the share sale agreement. As a result, Titan Egypt's obligation to IFC to comply with the IFC Performance Standards terminated at the time IFC's shares were transferred.

As explained by IFC, no E&S covenants were included in the share sale agreement as the balance of the share sale price was considered an 'account receivable' rather than a loan. IFC explained that it is accepted practice for accounts receivable not to include E&S requirements, though there is no specific policy or procedural guidance for staff on this issue. IFC presented the view that the treatment of a receivable should not be considered in isolation but should be part of IFC's considerations when it structures the exit from a transaction as part of a responsible exit discussion.

Relevant IFC Standards and Procedures

Following the Sustainability Policy (2012), 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" (para. 7, emphasis added). Investments "that are determined to have moderate to high levels of environmental and/or social risk, or the potential for adverse environmental and/or social impacts will be carried out in accordance with the requirements of the Performance Standards" (para. 2). Investments include both equity and longer tenor loans as well as "short-term loans, guarantees, and trade finance products, with maturities of up to three years." (*Ibid*). Further, the Sustainability Policy notes that "IFC's agreements pertaining to the financing of clients' activities include specific provisions with which clients undertake to comply. These include complying with the applicable requirements of the Performance Standards and specific conditions included in action plans, as well as relevant provisions for environmental and social reporting, and supervision visits by IFC staff or representatives, as appropriate" (para. 24). If the client fails to comply with its environmental and social commitments, IFC will "work with the client to bring it back into compliance, and if the client fails to reestablish compliance, IFC will exercise its rights and remedies, as appropriate" (*Ibid*).

IFC's internal procedures include specific requirements about IFC exit from equity agreements. The *IFC Procedures: Portfolio Operations and Supervision Processes* allow for the sale of shares "in exchange for a debt instrument from the buyer at the time the installment sale agreement is signed." In such cases, "the sale of shares will be recorded at signature and an accounts receivable will be booked" (para. 6.128). Further, IFC's *Special Instructions for Installment Sales* provide for such accounts receivable to be "recognized in [IFC's] *Loan system*" through a transfer of the amount payable from the original equity project to a *new loan project*.

IFC's Views Regarding the Exit

After reviewing CAO's investigation report, IFC submitted to CAO a paper outlining views on the application of the Sustainability Policy and Performance Standards to the receivable in this case.

IFC states that the Titan receivable arrangement was not an IFC loan and should not be treated as a loan to which the Sustainability Policy and Performance Standards should apply, on the basis that the receivable arose from a share sale transaction solely for purposes of enabling IFC's exit. IFC also states that the receivable was not in the nature of a loan because it was not extended like a loan for the purposes of supporting TCI's business or any project. Further, IFC notes that an

IFC loan requires contractual terms and obligations relating to a range of business, project and development matters and corresponding terms and covenants on use of proceeds and operational and implementation covenants including E&S requirements. IFC notes that the receivable contained none of these features.

IFC notes that applying the Sustainability Policy and Performance Standards to receivables arising from equity exit sales would make IFC unique among multilateral development banks, development finance institutions and commercial lenders. IFC argues that such an interpretation would significantly complicate exit negotiations with clients. IFC expresses the view that the extension of the Sustainability Policy to receivables arising from equity exit sales would be a policy issue for discussion by a Board and not a determination that is within the purview or authority of CAO.

At the same time, IFC notes that IFC may raise issues of compliance with the Performance Standards in negotiating an equity exit involving a deferred purchase price. IFC acknowledges that wherever appropriate and practical, IFC may consider measures by which clients address E&S issues arising from the project or business to which IFC's support relates.

Discussion and Findings

IFC followed the process to create a new loan project in relation to the sale of its ADL shares, recording the amount owing on the share sale as a "Straight Senior Loan" / "Corporate Finance" to TCI. The TCI receivable was not disclosed as a project on IFC's external project information portal; however, it appeared in IFC's internal system as an "Active" project under supervision in the "Investment" category.

The proper application of the Sustainability Policy to accounts receivable, such as the receivable IFC created to exit its Titan investments, is not well defined. The receivable in this circumstance was extended to TCI to facilitate its purchase from IFC of equity in its subsidiary companies, including Titan Egypt. The result of IFC selling its equity in ADL in exchange for a debt obligation from its parent company is that IFC had an ongoing debt exposure to the business activities of the Titan Group while the receivable was outstanding. This financial exposure, which included exposure to Titan Egypt, continued absent any environmental or social covenants. According to IFC's own internal records, the credit that IFC extended to TCI under the share sale agreement was an active investment / corporate loan. CAO notes that this debt obligation was created as part of IFC's exit from its engagement with the client, in circumstances where there remained ongoing and unresolved environmental and social impacts.

As outlined above, although the application of the Sustainability Policy to this exit agreement was not clear, IFC's continued financial exposure to TCI outside the framework of the Performance Standards may be seen as inconsistent with the intent of the Sustainability Policy (paras 2 and 7). CAO notes that, in circumstances where a client fails to reestablish compliance with its environmental and social commitments, the Sustainability Policy para. 24 calls on IFC to "exercise its rights and remedies, as appropriate." CAO notes that in some circumstances, an appropriate exercise of IFC's rights will involve exiting its investment in a client. In this case, however, CAO finds that IFC had a financial relationship with TCI, during the period that the receivable was outstanding, but that IFC diminished its own leverage: (i) to engage with the client about ongoing environmental and social impacts arising from the project; or (ii) to enable remedy for affected community members and workers. In addition to its ongoing compliance monitoring, CAO will consider these arrangements in the context of its work on responsible exit through its advisory function.

3 Conclusion

This investigation considers allegations of environmental and social impacts raised by former workers and nearby residents in relation to the APCC plant in Wadi al-Qamar, Alexandria, Egypt. The complainants raise concerns about pollution from the plant, including dust, noise, odor, and the effects of the plant's conversion to coal as a fuel source. The complainants also raise concerns about worker health and safety, freedom of association, and working conditions, particularly for those employed through labor supply companies. A group of former workers who were part of an early retirement scheme in 2002-2003, a period prior to IFC's investment, raised grievances about compensation they received as part of that scheme. The complainants further alleged that the client is in breach of national licensing requirements, that it has not disclosed relevant E&S information, and that it has not consulted sufficiently with the community.

In responding to the complaint CAO considered whether IFC's pre-investment review of the client was commensurate to risk, with a focus on the client's compliance with national law, community engagement, pollution, cumulative impacts, and labor issues. CAO also considered whether IFC took adequate steps to assure itself that the client was carrying out its business activities in accordance with IFC's Performance Standards and EHS Guidelines during its supervision of the investment. Relevant to the issues raised in the complaint, this report addresses IFC's supervision of the client's performance against requirements for compliance with national law, environmental performance, community engagement, security and labor issues. It also considers the extent to which the complainants' allegations of adverse impact can be verified

CAO finds that IFC's pre-investment E&S review did not adequately assess or address the impacts of air pollution or noise from the plant on local residents and did not consider the cumulative impacts of the plant in an already noisy and polluted environment. IFC's pre-investment review did not assess client community disclosure and engagement practices in accordance with relevant requirements, and also omitted to assess labor and working conditions for indirectly employed workers against IFC requirements. For these reasons, CAO found that IFC's pre-investment review was not appropriate to the nature and scale of the project or commensurate with the level of E&S risks and impacts, as required by the Sustainability Policy.

IFC's pre-investment review noted that the plant's air emissions were higher than WBG standards, and that the plant was located in close proximity to communities in a mixed use industrial-residential area. IFC approached the project as a brownfield investment with an existing IFC client and assessed its E&S risk as "Category B." CAO finds that IFC erred in its decision that the project did not trigger the requirement for "broad community support". Given the proximity of the client to residential areas and the impacts of pollution on community health, CAO finds that these impacts should properly have been considered 'significant' and IFC should have ensured that the company carried out a process of free, prior and informed consultation with the effected community.

Prior to investment, IFC did consider operational aspects of the Alexandria plant and recommended technical improvements to point source emissions, fugitive dust management, and energy efficiency. Recognizing the reputational risks that arose from the plant's proximity to a densely populated residential area, IFC was assured by its client that the company enjoyed a good relationship with the Wadi al-Qamar community. This position was not supported by social analysis, stakeholder mapping, or a review of the client's engagement with the community as would have been required under an assessment of "broad community support". The client and IFC emphasized that this community was an "informal" settlement in an otherwise industrial area and that the plant had been established many decades prior. IFC did not analyze potential cumulative impacts in the project area, particularly in relation to air quality, noise and human health.

The E&S action plan for the investment, disclosed in November 2009, stated that the client would report on certification audits, reduce its pollutant emissions within two years of disbursement, and measure and report on ambient air quality. CAO finds, however, that action plan commitments regarding ambient air quality were not included in the legal agreement between IFC and the client. Key E&S assessment documents were not disclosed to the affected community as required by IFC's Sustainability Framework.

CAO finds that IFC's appraisal did not adequately assess risks and impacts to the client's workers. IFC did not identify legacy issues relating to post-privatization early retirement programs carried out at APCC under the joint venture in 2002 and 2003 as required by the Sustainability Policy. Although PS2 requires that core labor protections relating to working conditions, freedom of association and health and safety be extended to indirectly employed workers, IFC did not assess the client's approach to the engagement of contract workers against requirements of PS2 or national law. This was a significant oversight in context where the client employed over 700 contract workers.

IFC made its equity investment in the client in late 2010, following which, in early 2011, the events of the Arab Spring brought significant changes to the project and surrounding communities. IFC's ability to supervise the project during this period was limited, as international staff were evacuated and site visits suspended. Over the following years, workers, community members, and the 2003 retirees carried out protests, sit-ins, and strikes to raise their grievances with the company. During this period, IFC did not engage with the client about substantive community and labor concerns. Neither did IFC ensure that the client was carrying out stakeholder engagement activities as required by PS1.

In 2012, IFC renegotiated its E&S Action Plan with the client, dropping requirements to measure ambient air quality but imposing stricter limits on point source emissions. IFC also required its client to disclose information about its point source emissions and implement a plan to control fugitive sources of dust.

Further challenges to the project arose from natural gas shortages beginning in 2012. This led to reduced production at APCC and temporary shutdowns in 2014. As the company began work to convert its fuel supply, it initially used oil before developing facilities for RDF, DSS, petcoke and eventually coal. The capital expenditure associated with these upgrades placed additional financial pressure on the client. Plans to address fugitive dust and point source emissions were delayed by several years. IFC supported its client's efforts to diversify fuel sources but did not document their review of draft or final EIA studies prepared by the client in 2015 and 2016 as part of the conversion process as required. IFC did not ensure that the E&S impacts of the fuel transition were being assessed and mitigated in accordance with IFC standards, in particular requirements to assess alternatives and to engage affected communities in the E&S assessment process.

Meanwhile, worker protests escalated with a sit-in by the employees of a contract services company in February 2013 at APCC. The sit-in lasted three days and it was followed by the arrests of several workers and the termination by the contractor of approximately 50 of APCC contract workers.

. In 2014, a civil society organization, EIPR, raised concerns about APCC to a World Bank representative. IFC subsequently brought in an external expert to support supervision on labor issues. At this point, IFC noted gaps in the client's approach to OHS and contractor management. IFC noted that there was no independent union to represent contract workers at APCC. IFC was informed by the client that contract workers are not permitted by law to establish an independent union at APCC. This was a strong indication that contract workers' rights to organize were restricted, but IFC did not seek further information in the context of PS2 requirements to respect

client's workers' rights to organize IFC did encourage its client to improve its relationship with residents of Wadi al-Qamar, and the client engaged a non-profit organization to conduct a survey of community views in 2015. This survey identified concerns from community members relating to the environmental and health impacts of the plant. However, the client's response focused on CSR activities rather than disclosure, reporting, or engagement on the environmental performance of the plant or potential health impacts as required by PS1. Although IFC had secured a commitment from its client to publish information about its point source emissions in 2012, this action was delayed, to the extent that information was only shared once APCC had significantly lowered its emissions in 2016.

To achieve emissions reductions, from 2012 to 2016 the client gradually introduced greater controls on its stack emissions by installing bag filters that were effective even in the case of an electricity failure. The client also introduced SNCR technology in 2016 to reduce its NO_x emissions, installed a closed system for handling RDF and an on-site coal mill. Overall, the client's environmental performance improved significantly over the period of IFC's investment. However, such improvements have faced delays and have not been consistently communicated with the Wadi al-Qamar community. In 2018-2019, IFC encouraged its client to formalize its mechanism for handling complaints from the community and to communicate its E&S performance, events and mitigation measures rather than focusing solely on CSR activities. However, the client did not implement a stakeholder engagement program or establish a community grievance mechanism consistent with PS1 during the period of IFC's investment.

From 2017, IFC has placed renewed emphasis on the client's arrangements for labor supply and management of contract workers. IFC noted significant improvement in housekeeping and more consistent use of PPE by all workers.

The project record indicates that IFC made considerable efforts to engage with its client and with direct and contracted workers at the plant to better understand and address labor issues in 2018 and 2019. Among other things, IFC engaged with management of some subcontracted labor companies to discuss freedom of association issues, carried out focus groups with direct and contracted workers, and supported its client to amend contract provisions with labor suppliers to include health and safety protections. IFC made recommendations to the client to extend contract workers access to grievance mechanisms, to share information about HR policies and working conditions for contractors and to plan for recruitment taking into account those contract workers who undertake similar jobs as direct employees. However, the project record indicates that the client did not accept or implement many of the recommended corrective actions. As a result, CAO finds outstanding issues related to freedom of association and contractual provisions on health and safety for contract workers.

CAO's TOR for this compliance investigation included analysis of whether IFC's policies, procedures, and practices provided an adequate level of guidance and protection, as well as analysis of immediate and underlying causes for any non-compliance found.

In considering these questions, CAO finds that IFC's E&S policy framework was generally adequate to address the concerns raised by workers and community members in relation to this project. Further, tools and guidance for IFC staff such as the *Labor Handbook* and the *Stakeholder Engagement Good Practice Handbook* include relevant information about contract workers, freedom of association, legacy issues and stakeholder engagement through conflict. CAO notes, however, that no guidance is available to staff in relation to the Sustainability Policy requirement to identify and work with their client to "determine possible remediation measures" for historical social or environmental impacts associated with the project.

In reaching its findings, CAO has given due consideration to the rapid and significant changes taking place in Egypt during the lifetime of the project. These include social and economic impacts

of the Arab Spring, changes in the legal framework for recognition of worker organizations, and natural gas shortages which led the client to switch fuel sources. CAO sees the non-compliance in this case arising primarily from: (a) limited local expertise engaged in the project review, lack of Arabic language skills in the primary project team, and limited contextual knowledge of social and labor issues; (b) reliance on the client's general performance as an international cement company, leading to inadequate review of the E&S performance of the client's Alexandria plant, available resources and commitment to improvements; and (c) high turnover of environmental staff assigned to the project and a lack of specialist social expertise on the IFC team, particularly during appraisal and the early stages of supervision.

Dealing with each of these in turn, CAO notes that IFC's E&S review was carried out by an environmental specialist with no previous experience in Egypt and with no Arabic language skills. Key documents in Arabic, including plant licenses and permits, were not reviewed or translated for review within a reasonable period of time. Although IFC did receive a legal due diligence report, the project team had little knowledge or understanding of contextual issues related to labor rights or freedom of association in Egypt. IFC's due diligence and, later, supervision relied heavily on information provided by the company without verification or contextual knowledge. IFC's assessment of its client's performance was constrained by a lack of information about contextual issues including the labor protest movement and efforts to organize workers through independent unions.

At appraisal and during supervision, IFC placed significant weight on Titan Group's previous E&S performance in other projects as a means of assessing the client's capacity and commitment to implement the Performance Standards. The client's 2009 ESAP commitments to reduce air emissions and monitor ambient air quality were not developed following consultation with affected communities and were not supported with specific actions or projected costs. During supervision, in particular, IFC expected that the client would responsibly implement the transition to coal in light of the Titan Group experience operating coal fired plants in other regions. CAO found no documentation of IFC review or assessment of EIA documents prepared for the use of coal or alternative fuels against the Performance Standards.

IFC's E&S oversight broadened and deepened over time and in response to complainants' concerns. IFC's E&S appraisal visit was carried out in mid-2009 and, due to restructuring, the investment was not made until the end of 2010. Due to the Arab Spring, IFC could not visit the project in 2011. Changes in the E&S team meant that, for a period of time, there was no clear responsibility for bringing the client back into compliance when breaches were identified. IFC's first supervision visit was carried out in March 2012 by an environmental specialist who was new to the project. A third environmental specialist took responsibility for the project in September 2013. During this time, environmental concerns were IFC's primary focus, and the project team lacked expertise on social issues, including labor, community engagement, conflict management and security. Following the EIPR complaint in 2014, IFC brought additional social expertise to the project – with an external labor expert and later with an IFC social consultant. Recent supervision records indicate an increased focus on contractor management and a community grievance mechanism.

In summary, IFC's supervision has supported the client to gradually reduce its air emissions and to take steps to address fugitive dust. The client has published some monitoring data regarding its stack emissions and has conducted CSR activities in the local area. However, current air quality monitoring is not sufficient to demonstrate compliance with WBG standards for stack emissions, fugitive dust, or noise pollution, and IFC has not ensured that the client's disclosure, grievance handling, and community engagement practices meet PS1 requirements. Given the proximity of the Wadi al-Qamar residential area to the plant, and available pollution and noise data from the period of IFC's investment, CAO finds that adverse pollution impacts on the community are

verifiable. Weaknesses in community engagement, the absence of an effective grievance mechanism, and shortcomings in information disclosure about the plant's performance have adversely impacted local residents' ability to effectively engage with the company in relation to their concerns. The lack of disclosure to and engagement with the community about pollution abatement measures, in particular, contributed to concerns about project impacts which led to an escalation of protests and confrontation between the community and the client.

In relation to labor, more focused attention on OHS and contract workers has led to improvements in PPE use and increased oversight of labor contracting companies during the period of IFC's investment. However, CAO finds that IFC has not assured itself that the client has engaged with concerns raised by 2003 retirees or former contract workers, or that the client's current labor arrangements for contract workers meet PS2 requirements. This has given rise to a situation where worker grievances remained unresolved for long periods of time and escalated without recourse to a grievance mechanism, or engagement of a recognized workers' organization. In these circumstances, workers were dismissed for participating in protest actions. Concerns regarding contractual provisions that limit contract worker rights to freedom of association as well as the responsibility of the client for injuries to contract workers had not been addressed in the latest sample contract reviewed by CAO.

In accordance with its Operational Guidelines, CAO will keep this case open and monitor IFC's response to the investigation findings.

Appendix A. Table of Key Compliance Findings

| Environmental Performance | Project-Level Response |
|---|------------------------|
| <p><i>E&S Review:</i> IFC’s pre-investment review of project environmental impacts was not commensurate to risk in light of the plant’s location in a mixed industrial-residential area with communities in close proximity (Sustainability Policy, para. 13). IFC did not assure itself that the client’s E&S assessment considered potential cumulative impacts on air quality, human health, and noise from existing projects and conditions, including numerous pollution sources in the project area (PS1, para. 5). Available documentation did not allow CAO to confirm that IFC conducted an adequate review of the client’s E&S assessment, including ensuring that the assessment presented an “adequate, accurate and objective evaluation” of the E&S issues based on recent information (PS1, paras. 7, 8). Further, IFC did not ensure that the client ESAP reflected outcomes of consultation with affected communities, that it described actions necessary to reach air emissions targets, or that the client would report externally on implementation (PS1, para. 16).</p> | MONITORING |
| <p><i>Plant Licensing:</i> Although IFC was aware of complainant concerns regarding the client’s licensing status and related media coverage, IFC’s supervision did not provide assurance that the client was complying with national licensing requirements (PS, para. 3; PS1, para. 4). Instead, IFC relied on client assurances that permit and license requirements were being met.</p> | MONITORING |
| <p><i>Point Source Emissions:</i> IFC’s E&S review of the client’s contribution to local air pollution was not commensurate to risk in light of APCC’s performance and location. Although an ambient air quality assessment was required to determine whether airshed was “degraded” and to define appropriate mitigation measures (WBG EHS Guidelines), IFC did not ensure its client carried out such an assessment. During supervision, the client’s recorded emissions of pollutants with negative health impacts regularly exceeded WBG and national standards. IFC engaged with the client to follow up on agreed corrective actions. However, persistent delays in implementing pollution control measures have prolonged impacts on the local community from nuisance dust and cumulative health effects associated with air pollution. To date, IFC has not demonstrated that the client’s methods of monitoring and reporting point source emissions are consistent with IFC requirements.</p> | MONITORING |
| <p><i>Fugitive Dust Emissions:</i> At appraisal, IFC recognized fugitive dust from the plant as having the potential for serious environmental impact on nearby communities, and secured ESAP commitments from its client to assess, mitigate and monitor performance in relation to dust emissions. During supervision IFC agreed that the client need not assess its own contribution to ambient dust in the project area. Instead it was agreed that the client would implement stricter dust</p> | MONITORING |

| | |
|---|---------------|
| control measures. However, client actions to retrofit dust control measures were regularly delayed. To date, fugitive dust control remains a problem and IFC has not been effective in ensuring that the client's is implementing good housekeeping practices for dust suppression in accordance with IFC requirements (Cement EHS Guidelines). | |
| <i>Transition to Solid Fuel:</i> IFC did not supervise the early stages of the client's transition to solid fuel in accordance with PS requirements. In particular, IFC did not document its review of the client's draft EIAs for solid fuel or alternative fuel and did not ensure that its client assessed the potential effects of transition in accordance with the Performance Standards. | MONITORING |
| <i>Odor, Noise and Vibration:</i> IFC did not ensure that the client assessed impacts from noise and vibration in accordance with its EHS Guidelines. IFC has not required its client to take necessary steps to minimize or control noise from the plant, or to monitor or assess impacts from vibration in accordance with PS3, para. 9. In relation to odor, IFC gave clear remedial instructions to the client. However, IFC has not ensured that the client consulted with affected community members in relation to noise, vibration or odor as required by PS1, para. 30. | MONITORING |
| Community Engagement | |
| CAO finds that IFC's appraisal and supervision of community engagement issues fell short of relevant requirements for disclosure of project E&S information, reporting on implementation of corrective actions, consultation with affected communities, and security risk management. | NOT MONITORED |
| <i>Disclosure of Information:</i> IFC's initial disclosure of project information and its review of client disclosure was insufficient. In particular, IFC did not disclose relevant E&S Assessment documentation reviewed as part of its E&S due diligence as required by the Access to Information Policy (para. 13(a)). IFC's ESRS notes that the client reported that it held public meetings but IFC documentation does not indicate any review of the client's public disclosure practices in connection with, or independent of those meetings. As a result, CAO finds that IFC lacked assurance that the client's public disclosure practices met the requirements of PS1 (para. 20) at the time of investment. Through IFC supervision, client disclosure of its air emissions improved, albeit with significant delays. To date, however, CAO finds no indication that IFC is supporting its client to report regularly to affected communities on other aspects of its environmental performance or mitigation actions consistent with PS1 (para. 26). | MONITORING |
| <i>Consultation:</i> IFC's pre-investment review did not document client consultation with affected communities (PS1, paras. 21-22). Although the project presented significant adverse impacts on affected communities living in close proximity to the plant, IFC did not assure itself that there was broad community support for the project | MONITORING |

| | |
|--|------------|
| <p>(Sustainability Policy, para.15). IFC’s supervision did not provide assurance that the client was conducting effective consultation (PS1, para. 21).³³⁹ When conflict between APCC and the local community escalated, IFC did not review the client’s track record of consultation or advise the client on how to address critical E&S issues through community engagement.³⁴⁰ Despite indications that the client’s approach to consultation was not consistent with PS1 requirements, IFC did not flag this as a compliance issue, nor did IFC support the client to develop an approach to community consultation that reflected the requirements of PS1 (Sustainability Policy, para. 26).</p> | |
| <p><i>Security and Grievance Handling:</i> IFC’s pre-investment review did not adequately consider requirements to establish a structured complaints mechanism or to assess and manage security risk (PS1 and PS4). While IFC has recommended that the client formalize its approach to community complaint handling, to date IFC lacks assurance that the client has a functioning grievance mechanism (PS1 para. 23). IFC reviewed its client’s private contracted security arrangements and noted gaps in relation to PS4 requirements following concerns raised by civil society in 2014. To date, however, IFC lacks assurance that the client’s approach to security meets PS4 requirements including requirements to assess and mitigate risks associated with the deployment of public and private security personnel. This is of particular concern in the context of a facility where there have been community protests and armed security responses during the period of IFC’s investment.</p> | MONITORING |
| <p>Labor</p> | |
| <p><i>2003 Retrenchment:</i> IFC was aware of disputes relating to the client’s 2003 retrenchments at the time of its investments. However, IFC did not identify the retrenchments as a legacy issue and did not explore remediation measures with its client (contrary to Sustainability Policy, para. 13). During project supervision, IFC did not engage its client on the retrenchment issues when the 2003 early retirees began protesting to raise their grievances and did not ensure that its client had in place a grievance mechanism that was appropriate to address these issues (contrary to PS1, para. 23).</p> | MONITORING |
| <p><i>Contract workers</i></p> <p>IFC’s project due diligence and early supervision did not assess the client’s compliance with PS2 requirements that extend protections for working conditions, freedom of association, and health and safety to non-employee workers (para. 17). “Non-employee workers” include those workers who are contracted through intermediaries and who perform work directly related to core functions essential to the client’s products or services for a substantial duration.</p> | MONITORING |

³³⁹ ESRP v. 7, 6.1.

³⁴⁰ *Ibid.*

IFC has not assessed its client's statement that the contract workforce at APCC is conducting non-core activities, despite complaints raised by contract workers and observations from its own external consultant. From 2014 onwards, IFC has reviewed the client's contracts with labor supply companies and has worked with the client to bring some aspects of its engagement with those companies into compliance with PS2, para. 17. However, IFC has not assured itself that the client has used commercially reasonable efforts to require that supply companies apply PS2 requirements relating to freedom of association or worker health and safety.

In relation to freedom of association, CAO finds that IFC has not ensured that its client allowed contract workers to express grievances and protect their rights regarding working conditions and terms of employment as required by PS2, paras. 9 and 10. IFC did not consider the country or sector context in relation to labor and working conditions or freedom of association during its due diligence process and did not document any PS2 risks or restrictions on workers' organizations. From 2014, IFC recommended that its client include appropriate freedom of association protections in legal agreements with their contract labor supply companies, but has not assured itself that the client has done so.

In relation to contract workers' safety and health, CAO finds that IFC's early supervision did not adequately consider its client's compliance with the EHS Guidelines. Following complaints from civil society and former workers, IFC identified inadequacies in PPE use and labor supply company oversight. In 2018 and 2019, IFC specifically advised its client to enhance systems for selection and monitoring of labor supply companies, including training of contract workers. However, IFC did not ensure that the client addressed its recommendations from 2018 and 2019 regarding OHS, including the need for the client to take responsibility for OHS of contract workers in accordance with GIIP.

Appendix B: Project Timeline

| Year | Milestones, Events and Documents |
|------------------|---|
| 2002-2003 | |
| 2002 | APCC carries out first tranche of early retirement/retrenchment program. |
| 2003 | APCC carries out second tranche of early retirement/retrenchment program |
| 2008 | |
| May | Lafarge announces sale of its Egypt business to Titan |
| December | IFC completes early review of the project. |
| 2009 | |
| July | IFC conducts E&S site appraisal to APCC. |
| October | IFC management approves the project (Investment Review Meeting). |
| November | Project disclosed on IFC website. |
| December | Board approved the project. |
| 2010 | |
| March | Legal agreements signed. |
| November | IFC investment restructured under a new project: Project No. 30274. |
| | Legal agreements amended to reflect restructuring. |
| | IFC subscribes to equity in ADL. |
| 2011 | |
| January | Arab Spring revolution commences in Egypt. |
| November | 30 Contractors' employees went on strike demanding to be hired by APCC. |
| December | Local media coverage indicated that local Wadi al-Qamar residents demanded APCC be located to another site due to pollution. Demonstration at APCC premises, protesting pollution and demanding relocation of the plant. Plant buildings were set on fire. |
| 2012 | |
| March | Client submits its first supervision Report (reporting period Jan. to Dec. 2011). IFC site visit |
| April | IFC reported groups of workers (including subcontractors) wanted to initiate strikes, and that a three-hour hunger strike was quickly resolved. |
| May | New E&S obligations were included in the ESAP and published on IFC website. |
| July | Installation of kiln and raw mill bag filter at APCC |
| September | Article on local news about demands to move the plant to another location. IFC visited sponsor in Athens and headquarters in Egypt. |

| | |
|-----------------------|---|
| November | A group of former employees filed a lawsuit against privatization of APCC and demanding the reversal of the privatization. |
| December | Cement sector in Egypt started to face natural gas shortage and higher prices of gas and electricity. |
| 2013 | |
| February | Around 150 contractor workers held sit in in the company. |
| March | Titan plants in Egypt face gas shortage. |
| May | IFC completes review of Annual Monitoring 2011/2012. IFC made the determination that performance was satisfactory. |
| | Cement sector begin lobbying for the use of coal as fuel. |
| | IFC analysis of gas shortage impacts to Egypt's cement sector. |
| September | Change in the Lead E&S specialist who was supervising the project. |
| December | IFC visited clients at its office in Cairo. |
| 2014 | |
| March | Client submits annual supervision report (Jan. to Dec. 2013). |
| April | IFC received NGO enquiries on labor practices and the use of coal at APCC. Egypt's cabinet approved the use of coal as an energy source for cement factories. |
| May | IFC visited the plant to follow up on claims raised by NGOs. |
| September | APCC announces reduction in capacity due to gas shortage and intention to introduce alternative fuels in 2015. |
| October | IFC receives an article from EIPR that was published on its website. The article states that APCC is not compliant with IFC Performance Standard in relation to labor and working conditions, environmental pollution and compliance with national law regarding license to operate. |
| November/ December | Plant stoppages due to gas shortage. |
| | IFC responded to civil society concerns related to APCC. |
| 2015 | |
| February | A local NGO - Sustainable Center for Development – is hired by the client to carry out a research study and identify community needs in Wadi al-Qamar and al Max. |
| March | Client submits the supervision report (Jan. to Dec. 2014). Egyptian Environmental Agency (EEAA) observes an APCC violation on housekeeping and scraps. Public hearing session is held to discuss the project of using solid fuels from coal and petcoke at APCC, with forty participants. |
| | The Egyptian Government officially outlined the regulations for coal use. Complaint filed at the CAO. |
| October | Media articles report plans to close the factory due to pollution and due to lack of permit. |
| | IFC visited the project with an external labor consultancy. IFC made the determination that the performance was partially unsatisfactory. |
| November | APCC sent solid fuel operational materials to IFC. |
| | New obligations included in the ESAP and disclosed on the IFC website. |
| December | APCC informs IFC of a fire accident at the calciner riser. Two employees suffered severe burns and died in hospital. |
| | APCC informed IFC that EEAA issued a solid fuel environmental permit. |

| | |
|---|---|
| 2016 | |
| Installation of SNCR | |
| January | IFC shares with APCC Daily News Egypt (online article) about health conditions of residents of Wadi al-Qamar due to pollution from APCC. |
| February | Titan committed to take a series of measures to implement PS2 labor requirements including evaluating and monitoring existing contractors against PS2. |
| | IFC proposes APCC management undertake a two-day training course, 1 day for a technical update on HR/community engagement and dust management/visual impact and 1 day training with TCE management and contractor's management. |
| April | IFC team met with complainants at IFC headquarters (Washington DC). |
| May | Complaint was transferred to Compliance. |
| | IFC visited APCC (one day visit) to talk about the complaint filed at CAO. |
| July | Compliance Appraisal Report was published on CAO website. |
| | APCC publishes air emissions data on its website. |
| September | CAO releases TOR for Investigation |
| December | IFC conducted a site visit to APCC with labor consultancy. |
| | IFC labor consultant carried out a PS2 training for Titan management. |
| 2017 | |
| January | CAO conducted a site visit to APCC |
| | IFC site visit to APCC |
| 2018 | |
| Installation of clinker cooler bag filter | |
| January | IFC site visit to APCC. |
| 2019 | |
| January | IFC site visit to APCC. |
| December | IFC entered an agreement to sell its shares in ADL to TCI in exchange for a debt instrument payable over 2 years. |
| 2021 | |
| May | IFC advised CAO that it had received the final payment for its shares in ADL. |

Appendix C. EHS Guidelines Relevant Technical standards

This Appendix summarizes certain technical standards relevant to APCC operations as set out in IFC's General EHS Guidelines³⁴¹ and Cement EHS Guidelines.³⁴² Several of the control options and measures recommended for environmental purposes are also relevant for OHS.³⁴³

The Cement EHS Guidelines do not require existing facilities to immediately upgrade to meet these performance levels and control measures. Rather, their application may involve site-specific targets and a timetable to achieve them.³⁴⁴ The applicability of the Cement EHS Guidelines should be tailored to the hazards and risks established for each project on the basis of the E&S assessment, and specific technical recommendations should be based on the professional opinion of qualified and experienced persons.³⁴⁵ Where host country regulations differ from the EHS Guidelines, projects are expected to meet whichever is more stringent.³⁴⁶

Types of emissions

The EHS states that emissions can originate from point or fugitive sources, where point sources are "discrete, stationary, identifiable sources of emissions that release pollutants to the atmosphere". The air pollutants which are normally generated from combustion of fossil fuels, such as nitrogen oxides (or), sulfur dioxide (SO₂), and particulate matter (PM) are examples of point source emission. Fugitive source of air emissions is related to emissions that is not generated at a specific point but are distributed spatially over a wide area. The most common pollutant that occurs in fugitive emissions is dust or PM, often through transport and handling of open solid materials.³⁴⁷

Control options for pollutants

The EHS provides control options that can be used to decrease the release of pollutants, such as particulate matter (PM) and SO₂. In relation to point source stack emissions, for instance, the EHS Guidelines provide that the use of electrostatic precipitator (ESP) has 97-99% reduction efficiency of PM. In relation to SO₂, the use of alternate fuels such as low sulfur coal has over 90% reduction efficiency.

In relation to fugitive emissions the EHS Guidelines note PM emissions are associated with intermediate and final materials handling and storing, handling and storage of solid fuels, transport of materials, and bagging activities. The recommended pollution control techniques include housekeeping and maintenance, materials handling, air ventilation systems and mobile vacuum cleaning, covered and enclosed storage, use of filters and automated systems.³⁴⁸

³⁴¹ IFC, Environmental, Health, and Safety General Guidelines, April 30, 2007, available at: <https://goo.gl/xXh5n4>.

³⁴² IFC, Cement EHS Guidelines, April 30, 2007, available at: <https://goo.gl/RkMVyQ>.

³⁴³ Cement EHS Guidelines. See, for example, Dust control measures in 1.1 (Environment) and 1.2 (OHS).

³⁴⁴ *Ibid.* p. 1.

³⁴⁵ *Ibid.*, p. 1. Site-specific variables, such as the host country context, assimilative capacity of the environment, and other project factors should be taken into account in the E&S assessment.

³⁴⁶ The EHS Guidelines provide that, "If less stringent levels than those set out in the EHS Guidelines are appropriate, in view of specific project circumstances, a full and detailed justification for any proposed alternatives is needed as part of the site-specific environmental assessment. The justification should demonstrate that the choice for any alternate performance level is protective of human health and the environment." p. 1.

³⁴⁷ *Ibid.*

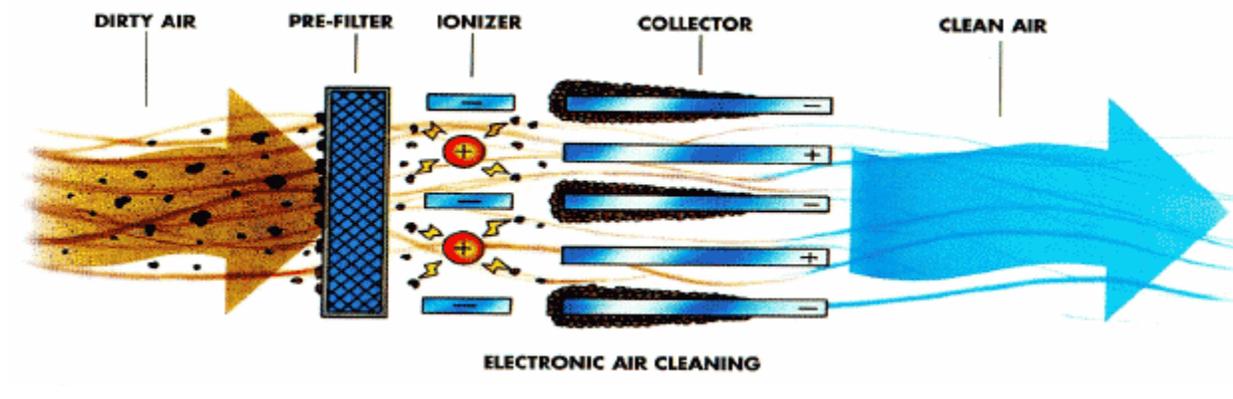
³⁴⁸ Cement EHS Guidelines, 1. Industry-Specific Impacts and Management, 1.1 Environment, pp. 2-3; 1.2 Occupational Health and Safety.

Fine Particulate Filtering Systems

PM emissions from point sources can be controlled by installing filter systems. Two commonly-used filter technologies are ESPs and bag filters. While both types of filter can be very effective, they work in different ways. Bag filters are considered to be safer and more efficient in certain conditions.

Electrostatic Precipitators (ESPs)

An ESP filter operates by using an electrostatic charge to separate dust from gases. When in operation, ESP efficiency ranges from 97-99%, even when the particles are very fine. ESPs are very durable, can handle large gas volumes and heavy dust loads, and can withstand high temperatures. However, the performance of an ESP may vary depending on process and electrical conditions.



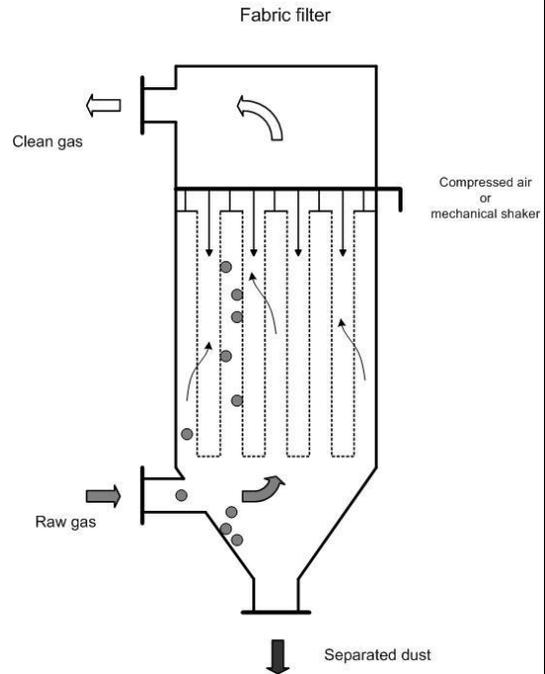
Why do ESP filters fail?

ESPs pose a risk of explosion if the exhaust gas has higher levels of carbon monoxide (CO). For safety reasons, CO concentrations in the exhaust must be monitored and electricity automatically shut off if explosive limits are approached.³⁴⁹ Once electricity is switched off, the filtering system stops generating the charge, and all particles in the gas will be emitted to the air until the plant is shut down or the ESP is restarted.

The filter will also fail when power is lost for other reasons, for example due to an electricity supply failure. During these failures, large quantities of cement dust escape from the stacks.

Fabric or “Bag” filter systems

Fabric filter systems (also referred to as baghouses or bag filters) operate using a physical barrier rather than an electrostatic charge.³⁵⁰ Similar to an ESP, a baghouse filter can remove around 99% of PM when operating effectively.³⁵¹ Unlike an ESP, a baghouse filter does not pose an explosion risk from higher CO levels, and is not dependent on electricity supply to continue functioning. However, baghouses do require ongoing maintenance. Bags split and burst and, in these circumstances, particle emissions will rise. Good practice is to have many bags to ensure that system will reduce particles to acceptable levels even if some bags have failed. The filter must be monitored to identify when bags fail, and replace all bags during planned maintenance. For these reasons, bag filters are considered to be safer and more efficient than ESP technology when electricity supply or high CO levels are an issue.



Air emission levels for cement manufacturing

The table below reproduces the minimum air emissions levels that projects are required to observe according to the EHS for Cement and Lime Manufacturing.³⁵² These levels should be achieved, without dilution, at least 95 percent of the time that the plant or unit is operating, to be calculated as a proportion of annual operating hours.³⁵³

³⁴⁹ Cement EHS Guidelines, p. 3, n. 3.

³⁵⁰ STI Group, “An In-Depth Look at How Industrial Baghouses Work,” 28 September 2015, available at: <https://goo.gl/3x8dhe>.

³⁵¹ EMIS, “Fabric Filter” *BAT-knowledge centre*, available at: <https://goo.gl/GNGnBb>.

³⁵² IFC, Cement EHS Guidelines, 2.1 Environment, Table 1. Air emission levels for cement manufacturing, p. 10.

³⁵³ Cement EHS Guidelines, 2.1 Environment, p. 10.

| Air Emission levels for cement manufacturing | | |
|---|--------------|------------------------|
| Pollutants | Units | Guideline Value |
| Particulate Matter (new kiln system) | mg/Nm3 | 30 ^a |
| Particulate Matter (existing kilns) | mg/Nm3 | 100 |
| Dust (other point sources incl. clinker cooling, cement grinding) | mg/Nm3 | 50 |
| SO2 | mg/Nm3 | 400 |
| NOx | mg/Nm3 | 600 |
| HCl | mg/Nm3 | 10 ^b |
| Hydrogen Flouride | mg/Nm3 | 1 ^b |
| Total Organic carbon | mg/Nm3 | 10 |
| Dioxins-furans | mg TEQ/Nm3 | 0.1 ^b |
| Cadmium & Thallium (Cd+Tl) | mg/Nm3 | 0.05 |
| Mercury (Hg) | mg/Nm3 | 0.05 |
| Total metals ^c | mg/Nm3 | 0.5 |
| <p>NOTES:</p> <p>* Emissions from the kiln stack unless otherwise noted. Daily average values corrected to 273 K, 101.3 kPa, 10 percent O2, and dry gas, unless otherwise noted.</p> <p>^a 10 mg/Nm3 if more than 40 percent of the resulting heat release comes from hazardous waste.</p> <p>^b If more than 40 percent of the resulting heat release comes from hazardous waste, average values over the sample period of a minimum of 30 minutes and a maximum of 8 hours.</p> <p>^c Total Metals = Arsenic (As), Lead (Pb), Cobalt (Co), Chromium (Cr), Copper (Cu), Manganese (Mn), Nickel (Ni), Vanadium (V), and Antimony (Sb)</p> | | |

The Cement EHS Guidelines note that these values are “indicative of good international industry practice.”³⁵⁴ They are “achievable under normal operating conditions in appropriately designed and operated facilities through the application of pollution prevention and control techniques” set out in the Cement EHS Guidelines. Deviation from these levels in consideration of specific, local project conditions should be justified in the environmental assessment.

³⁵⁴ Cement EHS Guidelines, 2.1 Environment, p. 10.

Ambient Air Quality

Projects with significant sources of air emissions,³⁵⁵ and potential for significant impacts to ambient air quality, should prevent or minimize impacts by ensuring that:

- Emissions do not result in pollutant concentrations that reach or exceed relevant ambient quality guidelines and standards;³⁵⁶
- Emissions do not contribute a significant portion to the attainment of relevant ambient air quality guidelines or standards.³⁵⁷

Facilities or projects located within poor quality airsheds¹⁴ should ensure that any increase in pollution levels is as small as feasible, and amounts to a fraction of the applicable short-term and annual average air quality guidelines or standards as established in the project-specific environmental assessment. Suitable mitigation measures may also include the relocation of significant sources of emissions outside the airshed in question, use of cleaner fuels or technologies, application of comprehensive pollution control measures, offset activities at installations controlled by the project sponsor or other facilities within the same airshed, and buy-down of emissions within the same airshed.

Noise standards

In relation to noise the General EHS Guidelines addresses measures to prevent and monitor the emission of noise outside the premise of the project.³⁵⁸ Noise impacts should not exceed the levels presented in the table below, or result in a maximum increase in background levels of 3 dB at the nearest receptor location off-site:³⁵⁹

| Noise level Guidelines | | |
|--|-------------------------|---------------------------|
| One Hour LAeq (DBA) | | |
| Receptor | Daytime 7:00 – 22:00 | Nighttime 22:00 – 7:00 |
| Residential, institutional, educational. | 55 | 45 |
| Industrial, commercial | 70 | 70 |

³⁵⁵ Significant sources of point and fugitive emissions are considered to be general sources which, for example, can contribute a net emissions increase of one or more of the following pollutants within a given airshed: PM₁₀: 50 tons per year (tpy); NO_x: 500 tpy; SO₂: 500 tpy; or as established through national legislation; and combustion sources with an equivalent heat input of 50 MWth or greater. The significance of emissions of inorganic and organic pollutants should be established on a project-specific basis taking into account toxic and other properties of the pollutant.

³⁵⁶ Egyptian Air Quality Limits Values are set out in the Executive Regulations of the Environmental Law no. 4 of Egypt (1994), available at: <https://goo.gl/qRBqRx>.

³⁵⁷ As a general rule, the Guideline suggests 25 percent of the applicable air quality standards

³⁵⁸ General EHS Guidelines, 1.7 Noise, p. 52.

³⁵⁹ General EHS Guidelines, Table 1.7.1, p. 53.

Appendix D. CAO Investigation Terms of Reference

September 2, 2016

... The focus of CAO Compliance is on IFC and MIGA, not their client. This applies to all IFC's business activities including the real sector, financial markets, and advisory services. 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....

Scope of the compliance investigation

The focus of this CAO compliance investigation is on IFC, and how IFC assured itself of the environmental and social performance of its investment at appraisal and during supervision. The approach to the compliance investigation is described in the CAO Operational Guidelines (March 2013), and states that the working definition of compliance investigations adopted by CAO is as follows:

An investigation is a systematic, documented verification process of objectively obtaining and evaluating evidence to determine whether environmental and social activities, conditions, management systems, or related information are in conformance with the compliance investigation criteria.

As set out in CAO's appraisal report, CAO will conduct a compliance investigation of IFC's investment in the client in relation to the issues raised in the complaint.

The compliance investigation will consider whether IFC's investment in the client was appraised, structured and supervised in accordance with applicable IFC policies, procedures and standards. It will also consider whether IFC's Policy and Performance Standards on Environmental and Social Sustainability (PS) and Policy on Disclosure of Information as applied to this project provide an adequate level of protection. The CAO appraisal report identified specific questions regarding the application of IFC's Sustainability Policy and PS to the investment, including:

1. Whether IFC's pre-investment E&S review of the client was commensurate to risk;
2. Whether IFC took adequate steps to assure itself of compliance with national law, particularly in relation to the environmental license of the project;
3. Whether IFC took adequate steps to assure itself of compliance with community engagement, consultation and disclosure requirements;
4. Whether IFC took adequate steps to assure itself of proper application of PS2 to the project, especially in relation to contractor workers;
5. 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;
6. Whether IFC properly applied its requirements in relation to cumulative impact assessment to the project prior to investment.

IFC's knowledge of the project operator's environmental and social performance is of relevance beyond IFC's direct investment in the client given exposure through an IFC financial intermediary investment.

Complete Terms of Reference are available at: <https://goo.gl/uaFD5X>

Appendix E. Complainant testimony

In the course of the investigation, CAO met and spoke with a number of individuals who provided testimonial accounts and documentation related to their concerns about IFC's investment in APCC. These individuals may be generally categorized as follows:

1. Individuals who previously held permanent positions at APCC, in some cases for more than a decade, and who left their jobs around 2003, when the plant's new cement kiln was installed and the older kilns were decommissioned;
2. Individuals who are or have been employed by labor contractors to work at APCC as temporary or contract workers; and
3. Individuals who are or were previously residents of Wadi al-Qamar.

CAO understands that there is some crossover among these groups - that is, some individuals who are or were previously employed at APCC (as direct or contract workers) are also residents of Wadi al-Qamar.

As CAO's primary focus is on IFC, CAO did not attempt to verify all of the information provided by these individuals in the course of this investigation. Rather, this Appendix summarizes the account of people who believe they have been impacted by APCC with a focus on those matters that are relevant to IFC's performance and to the client's project commitments.

1. Early Retirement Workers

As a state-owned company up until 2000, APCC employees were public sector employees entitled to public sector benefits. According to the complainants, employment at APCC was considered to be a "job for life." Employees expected that, once they were hired as permanent workers, they would be employed by the company until their retirement at age 60, when they would receive a pension. The complainants noted that, at that time, the workers' take-home pay consisted of a small base salary with a much larger "production bonus" that was connected to the output of the plant from one year to the next. They also received a profit share.

When the plant was privatized in 2000, some of these benefits continued. As reported by complainants, they received decent pay and health insurance. However, the complainants state that they did not receive the full profit share they were entitled to in 2001, and did not receive any profit share in 2002 or 2003. As explained to CAO, the workers believed that the company had proposed to deduct an amount from worker salaries during construction of the fifth line, which would then be repaid as a 5% ownership share in the new fifth line. The complainants argue that they never received these shares.

The complainants also allege that workers were entitled to shares in Suez Cement (7.4%) and ASEC Minya Cement Company (10.3%) but did not receive these shares. They allege that they also did not receive the 10% paid to workers through the union (paid to workers by the state).

Finally the complainants note that special funds were supported by the company's annual profits, and 5% of the general incentive, such as the Fellowship Fund and the Housing Fund and Employee Fund.³⁶⁰ They allege that workers who were terminated in 2003 did not receive any

³⁶⁰ Memo No. 8, dated 02.05.2000, provided by the complainants, notes that the company contributed amounts to the Employee Fund:

- (1) From sea-water tonnage, a contribution of LE1/tonne and a yearly minimum of LE450,000.
- (2) From APCC Profit, an allocation of profit in accordance with the Company Statutes.
- (3) A contribution of 5% from the general production bonus.

share of these funds at the time of their termination. By contrast, they say that workers who took early retirement in 2001 and 2002 did receive a share of the Employee Fund.

In the early 2000s, APCC proceeded with plans to construct a new kiln and dismantle its existing production lines. The new kiln required far fewer staff for its operation. The complainants allege that company management approached the representatives of the government-sponsored trade union for assistance in encouraging employees to agree to a redundancy package. An agreement viewed by CAO recorded the employee's intention to resign from his employment and, in return, a compensation payment to be paid by the company calculated as a multiple of his monthly pay.

The complainants reported that they felt pressured to accept the compensation package for several reasons. First, the complainants allege that they were told by company management that their take-home pay would be significantly reduced if they refused to voluntarily resign: employees who were not needed to operate the new kiln would not be provided with shift work, and would not earn the corresponding production bonus. The complainants explained to CAO that the remaining "base salary" would not have been enough to support their families. Second, the complainants described a loan arrangement that had been facilitated by the company a year or two prior to the redundancy offers. According to the complainants, they were offered cash loans by a local bank that would be secured against their pay from APCC; the repayments would be automatically deducted from their salaries. Those individuals who had agreed to the loan feared that their base salary would not be enough to meet the repayments on these loans and that they would default.

In relation to the compensation packages agreed, the complainants allege that they were misled by company management about the amount of the compensation. As the package was presented to them, they understood that they would receive compensation calculated as 75 months of their total pay. However, the compensation package received by the complainants was evidenced by a receipt that indicated a calculation based on 45 months of basic pay calculations (excluding the actual earning plus profit share). They allege that the compensation did not meet minimum requirements set out in the Egyptian labor code, which provides that the company pay a full salary or adequate compensation and the liquidation of all avoidables until the age of 60 if the worker has served 20 years' or more. The complainants also state that, because of the company, they have not received the amount of pension that they are entitled to. The complainants also allege that the company provided more favorable packages to some individuals who were connected with the union: several members of the trade union committee were allegedly awarded a termination bonus of 75 months' salary.

Until this day, these workers have faced challenges providing for themselves and their families. The workers receive a very small pension and, for many who were older, it was not possible to find another permanent job.

The complainants also allege that several of those who were retired in 2003 were later re-hired as contract workers and have continued to work on the company on that basis, but without the former benefits.

Many of the individuals who were previously employed at APCC continue to live in Wadi al-Qamar. They are concerned that the plant's pollution is damaging their health and the health of their families. Because of their financial situation, they feel that they are unable to access the health care that their families need.

The workers have made many attempts to negotiate with the company management to resolve their grievances. They have made demonstrations and protests, and have appealed to authorities. The workers have applied to the Greek Embassy in Alexandria about their complaint.

2. Contract Workers

The complainants are former workers at APCC who were subcontracted through labor companies. The complainants allege that they were entitled to be treated as direct workers, because of the nature of their employment and the tasks they carried out. The complainants carried out a range of activities at the plant, including in the company's production lines, packing, and working in quarries. The complainants allege that, in some cases, APCC employees and contract workers carried out the same work. The complainants allege that they worked continuously for the company, in some cases for as long as eight years. The complainants allege that they were recruited by APCC management, their contracts were signed by APCC staff (although they were in the name of the labor supply company). They allege that, despite being contract workers, they were under the direct supervision of APCC management and had no engagement with management of the labor supply companies.

The workers believe that the Egyptian Labor Code of 2003 has been violated by the client, in particular Articles 8, 16, and 79. These provisions require that if an employer engages workers through a subcontractor, the employers are jointly responsible for the obligations arising from the Labour Code" and requires equity between direct workers and contract workers. The workers also allege that the company has violated Law no. 159 of 1981, Article 41, which relates to the workers' entitlement to a profit share not less than 10%.

The complainants brought grievances to the labor supply companies (Anwarco, Yathreb, and IBS) seeking equal pay and benefits. The complainants raised concerns with Titan management and with the local labor authorities in Alexandria. The complainants reported that they carried out protest action to make their concerns heard in 2008 and in 2011. The complainants were concerned that they were not paid equally, and did not receive equivalent benefits. As contract workers, they were also not entitled to join the APCC union under the ETUF-affiliated General Trade Union for Building and Wood Industries Workers. For this reason, the complainants founded an independent union in 2012 and filed papers with the Ministry of Manpower.

In 2012, the complainants allege that a series of negotiations were convened by the Ministry of Manpower between the independent union and the client. The complainants allege that, in November 2012, a representative of the client determined that the workers were not the responsibility of the company, and that all claims should be discussed with the three labor supply companies.

On 14 February 2013, the complainants and other workers staged a sit-in at APCC. The sit-in lasted three nights and was ended by police force on February 17, 2013. According to the complainants, a senior manager of one of the labor contract companies came to APCC to speak with the workers participating in the sit-in. While the client stated that the manager was held hostage by the workers, the complainants deny this. They argue that the manager was not restrained, but that she stayed on her own account.

The complainants allege that the police used dogs, and that many workers were injured as the sit-in was broken up. The complainants also allege that authorities refused to document the workers' injuries and threatened with jail if they reported them.

The complainants allege that, following the February 2013 sit-in, all contract workers were fired. According to the complainants, some of the contract workers were allowed to return on the condition that they sign documentation agreeing that they had no rights against Titan.

In 2014, the complainants report that they asked to return to their work on the same conditions that they had previously been employed but that the company refused their request.

3. Wadi al-Qamar Residents

The complainants 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 complainants state that the community's objection to the cement plant is longstanding. They allege that residents have suffered from pollution, noise disturbance and vibration 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, used social media and produced films to call the public attention on the pollution produced by the company. Local residents also filed lawsuits against APCC. Complainants state that residents of Wadi al-Qamar organized themselves and formed the Popular Coordinating Committee, which main role was to speak on behalf of residents of Wadi al-Qamar. Complainants state that the company does not have good relationship with the leaders of the referred committee and filed police complaints against them under the accusation of violence and vandalism.

In relation to pollution, complainants state that in 2007 residents referred the matter to the environmental protection committee of the popular council of the Alexandria Governorate. The council formed a group of experts to assess pollution from the company. In 2008, the group of experts issued a report stating that "Emissions from the company are causing severe harm to the residents as well as nearby companies, their products, and their industrial equipment. There is a severe danger to citizens' health." According to complainants the referred report also states that the company did not change its filters and sometimes the plant was not using filters.

Complainants allege that opposition to the company is not restricted to local residents from Wadi al-Qamar, but also nearby industries. Complainants state that Meks Saltworks, located on the west side of the cement plant, engaged in a lawsuit claiming that cement dust was found in the salt stacks. As a result of the lawsuit, an expert concluded that cement dust was found in the salt stacks, however the mitigation measure recommended was to wash the salt to remove the cement dust, as reported by complainants.

In a meeting with CAO complainants stated that a protest of residents against APCC's happened in December 2012. Complainants state that protesters were outside of the premises of the company. They noticed fire inside the company, which was not caused by them. Complainants also allege that company reacted to the protest with violence against residents.

In relation to residents' security, the complainants allege that a metal wall was built on public road in front of the company's gate. The wall occupies 60 meters of the road, as described by complainants. They state that residents were harmed by the metal wall. Additionally, according to complainants the placement of the wall is unlawful, since the company was not granted a governmental authorization to build it on public road and therefore breaches Egyptian Construction law. Complainants also state that residents filed a complaint with the Agami Municipal Directorate about the wall. Complainants state that the Municipal chief fined the company on January 16, 2012. Further, according to complainants the governor issued an order to demolish the wall on February 19, 2013. As the order to demolish the wall was not implemented, residents filled a lawsuit with the Administrative Court of Justice in Alexandria, seeking removal of the metal wall.