



COMPLIANCE MONITORING REPORT

IFC Investment in Togo LCT

Project #29197

Complaint 01

Second Monitoring Report of IFC's Response to: CAO Investigation of IFC's Investments in Togo LCT

April 17, 2019

Office of the Compliance Advisor Ombudsman (CAO)

About CAO

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

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

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

Introduction and Background

CAO's compliance function conducts investigations of IFC/MIGA's environmental and social (E&S) performance to assess compliance with relevant requirements and to improve institutional E&S performance. Following a CAO compliance investigation, CAO monitors actions taken by IFC/MIGA until such actions demonstrate that the investigation findings are being addressed.

This compliance monitoring report relates to CAO's investigation of IFC's investment in Lomé Container Terminal in Togo ("the compliance investigation").¹ CAO's compliance process was triggered by a complaint received in March 2015 from the "*Collectif des personnes victimes d'érosion côtière*" (Collective of victims of coastal erosion), representing a group of settlers living to the east of the port of Lomé, who claim to be negatively impacted by the project. In particular, they claim that the project has accelerated coastal erosion, impacting their homes and livelihoods. They also allege that they were never consulted prior to the project being developed.

CAO released a compliance investigation in response to the complaint in October 2016. The investigation made several non-compliance findings in relation to IFC's due diligence and supervision of the project.² A management response from IFC was released together with the investigation report in October 2016.³ IFC's response envisaged a number of actions proposed to address the investigation findings at project level, and at the level of policies, procedures, practice and knowledge.

CAO released a first monitoring report of IFC's actions taken and/or proposed to address the investigation findings in March 2018.⁴ The March 2018 monitoring report recognized positive actions taken by IFC at the level of policies, procedures, practice and knowledge. CAO also acknowledged a number of actions initiated by IFC at project level, however, noted that these actions were at the initial stages of implementation and had not substantially addressed the investigation findings at the time of the report.

This second monitoring report documents IFC's response to the compliance investigation in the period March 2018 – March 2019.

Observations from CAO Monitoring (March 2018 – March 2019)

This section summarizes IFC's updates to CAO on actions undertaken since the March 2018 monitoring report to address the investigation findings. It also compiles views from the complainants regarding IFC's engagement to address the findings, collected during meetings held via videoconference in February and March 2019.

Project level actions

IFC reported to CAO steps being taken to address the investigation findings at the project level in relation to:

- **The assessment of project impacts on coastal erosion.**
- **Stakeholder engagement and disclosure of information**, particularly as relates to coastal communities.

¹ The CAO investigation, IFC's response to the investigation and related materials are available on the CAO website. See <https://bit.ly/2rBt8kV>

² CAO Compliance Investigation Report, Togo LCT-01, October 2016 - <https://bit.ly/2uWX2IQ>

³ IFC's Response to CAO Compliance Investigation Report of IFC's investment in Togo LCT, October 2016 – <https://bit.ly/2U4p2Op>

⁴ CAO Compliance Monitoring Report, Togo LCT-01, March 2018 - <https://bit.ly/2U69UQw>

Assessment of project impacts on coastal erosion

CAO Investigation Findings

CAO's investigation found that IFC's pre-investment review did not consider historical erosion-related impacts associated with the project, and did not work with the client to determine possible remediation measures. CAO noted that additional assessment of the erosion risk posed by the project was required, and that PS1 requirements in relation to cumulative impact assessment were applicable and should have been addressed. CAO further found that, once concerns related to coastal erosion were raised, IFC had not provided advice which would bring the client back into compliance as per the Sustainability Policy.

IFC's Actions in Response to the Findings

Environmental audit

CAO's March 2018 monitoring report noted IFC's expectation for an environmental audit to be conducted in order to renew LCT's environmental license, which expired in 2016. The terms of reference (ToR) for the audit mentioned the IFC Performance Standards, and required the auditor to assess the relationship between the LCT project and the acceleration of coastal erosion. It also included a requirement for consultation with communities affected by coastal erosion. At the time of writing the first monitoring report, however, CAO noted that the audit had not been carried out, and IFC indicated that the audit was delayed due to LCT budget reasons and changes in top management.

In a March 2019 update to CAO, IFC reported that in March 2018, due to the slow progress on the part of LCT to implement a number of ESAP action items, IFC's E&S department escalated the issue to senior management, after which the client was urged to fulfill its ESAP commitments. IFC indicated to CAO that the environmental audit was finally initiated in January 2019, and is being conducted through a joint collaboration between an international consulting firm and a national consultant. The ToR for the audit, as well as the consultants' proposal, envisage that the audit will cover a broad range of issues, including a review of the project's performance against the lenders' standards, legal agreements, and compliance with the ESAP. The consultant's team comprises a coastal and marine biology specialist responsible for reviewing the relationship between the LCT project and the acceleration of coastal erosion. In this context, consultations with affected communities among which the *Collectif des personnes victimes d'érosion côtière*, and village chiefs and representatives of four villages affected by coastal erosion (Kossi Agbavi, Kpogan, Gbodjome, and Afidenyigban), were held in February 2019. At the time of writing this monitoring report, IFC had yet to receive a draft audit report.

Study on coastal erosion

Another commitment of IFC and LCT in response to the compliance investigation was to engage with academic institutions and/or other agencies to better assess the contribution of the project on coastal erosion and monitor coastal processes. In the first CAO monitoring report, it was reported that the study had been delayed and IFC was expecting a new proposal.

In its update to CAO, and during meetings held with CAO and the complainants in March 2019, IFC indicated that a study was initiated in February 2019. According to the proposal prepared by a local consultant to carry it out, the study will include:

- (i) the mapping of ports and other coastal infrastructure (since 1949);
- (ii) a determination of the coastline before the construction of the port of Lomé (before 1963);
- (iii) a determination of the spatio-temporal evolution of the coastline during and after the construction of the port of Lomé;

- (iv) a determination of the evolution of the coastline after the construction of the LCT terminal and other projects on the Togolese coast;
- (v) a proposal for a monitoring program of the coastline;
- (vi) an assessment of cumulative impacts related to the construction of the LCT terminal and other projects on the Togolese coast; and
- (vii) consultations with coastal communities.

IFC reported that the preliminary timeline for this study was as follows: progress report (end of March 2019); draft report (April 2019); final report (May 2019). A progress report received by IFC early April 2019 indicates that several steps were completed as of the end of March, namely: (i) collection and compilation of existing documents and data on the evolution of the coastline; (ii) field work to identify historical and current coastline; and (iii) cartographic and statistical analysis of the data (initiated). It is also noted that the consultation phase with coastal communities to collect additional data and information is being prepared. IFC reported to CAO that following a meeting with the consultants responsible for the study held in April 2019, it appeared that milestones for the different deliverables would be delayed due to data availability issues. The timeline was expected to be delayed by 1-2 months.

Stakeholder engagement and disclosure of information

CAO Investigation Findings

CAO's investigation found that pre-investment consultation did not include all communities that may be subject to risks or adverse impacts from the project, despite communities in the erosion zone having been identified in the ESIA. In turn, the Action Plan was not disclosed to affected communities, nor did it include a structure for reporting to affected communities.

CAO found that actions agreed between IFC and the client did not specify the need for consultation and disclosure with communities in the erosion zone, and that IFC had not sought assurance that the revised Action Plan had been developed following consultation with, or disclosed to, affected communities. CAO found that IFC lacked a framework for monitoring or follow up that would provide feedback on whether concerns regarding project related impacts were being addressed in consultation with potentially impacted communities.

IFC's Actions in Response to the Findings

In its first monitoring report, CAO noted IFC's report of an ongoing dialogue with the World Bank regarding possible IFC participation in a coastal resilience regional platform. In its recent update to CAO, IFC noted that such dialogue was still ongoing, and reported additional measures taken to address the investigation findings regarding stakeholder engagement and disclosure of information.

In particular, as noted in CAO's March 2018 monitoring report, LCT has developed a Stakeholder Engagement Plan (SEP), including a framework for a grievance mechanism, that IFC deemed consistent with PS1 requirements.

In its March 2019 update on the ESAP status, IFC noted that the SEP was not yet fully operational. The client was reported to have little contact with community members outside of the port's gates, including coastal communities. IFC further indicated that there was no established mechanism to register and disseminate grievances from stakeholders, and inadequate staffing to implement the grievance mechanism and SEP.

However, after a supervision visit conducted in April 2019, IFC noted that LCT had started to engage more actively with affected communities. For example, it reported that mediation meetings were held with communities affected by economic displacement between August 2018 and April 2019, and that LCT had appointed an EHS Officer and a Legal Counsel to interact with

communities during these engagements. It further noted that LCT has committed to hire a dedicated Senior Social Specialist to update and implement the SEP. This new role was expected to be created during the first semester of 2019. Moreover, during the April 2019 supervision visit, LCT has committed to engage more actively with communities affected by coastal erosion, and IFC held meetings with LCT, the Port authorities, the Ministry of Environment, and the Ministry of Mines to agree on next steps to fulfill ESAP requirements.

Additionally, CAO notes that on February 8, March 6 and 7, 2019, meetings were held between CAO, IFC, the World Bank, the complainants and affected communities. These meetings were aimed at hearing the complainants' perspective on the CAO process and IFC's response, and provided an opportunity for IFC to update the affected communities on actions taken and/or proposed to date.

Complainants Perspective

During the meetings held in early 2019, the complainants expressed frustration with the slowness of the process in relation to their complaints. They noted that more than two years since the release of the CAO investigation report, they still consider that IFC and LCT have not taken actions to address the CAO investigation findings.

The complainants further reiterated their view that they do not want the World Bank West Africa Coastal Areas Management Program (a multi-stakeholder dialogue platform for coastal resilience at regional level) to be associated with IFC's response to the CAO investigation, and insisted on the necessity to bring the LCT project back into compliance following the investigation findings. In these discussions, IFC clarified the issue and confirmed the distinction between this dialogue platform and IFC/LCT's project-level response to the compliance investigation.

Actions at the level of IFC policies, procedures, practice or knowledge

CAO's first monitoring report addressed steps taken by IFC to address CAO's investigation findings at the level of policy, procedures, practice or knowledge. CAO noted that a new section had been added to the IFC's EHS Guidelines for Ports, Harbors and Terminals⁵ providing useful guidance in relation to the assessment of project impacts on coastal processes and erosion. CAO also reported that IFC had contracted a third-party consultant to support staff with expert reviews of projects with potential impacts on coastal erosion.

During the March 2019 meeting involving the complainants, CAO, and IFC representatives, IFC presented these actions and their objectives to the complainants.

Conclusion

IFC has reported a number of actions taken and/or proposed in response to CAO's investigation of its investment in Lomé Container Terminal (LCT).

At the level of policies, practice, procedures and knowledge, CAO's first monitoring report (March 2018) acknowledged positive changes initiated by IFC.

At project level, CAO recognizes IFC's efforts to engage with the complainants and respond to their concerns since the publication of CAO's investigation in October 2016. While noting significant delays in implementation since CAO's first monitoring report, the actions proposed are welcomed and CAO is encouraged by the progress made in this regard in early 2019. The commissioning of an environmental audit including a component on coastal erosion, as well as

⁵ Available at <https://bit.ly/2mWsc94>

the initiation of a study on the contribution of different infrastructure projects on coastal erosion, which both envisage consultations with coastal communities, are positive steps towards bringing the project back into compliance.

CAO will keep the investigation open for monitoring and plans to issue a follow-up monitoring report no later than April 2020. Prior to closing this monitoring process, CAO expects to review the additional studies commissioned by IFC and its client together with corrective actions, as appropriate, depending on the results of the audit and the study.