



*The Independent Accountability Mechanism for IFC & MIGA*

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**Fourth Compliance Monitoring Report of IFC's Response to:  
CAO Investigation of IFC's Investments in Lomé Container  
Terminal, Togo (LCT-01)**

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IFC Project: **#29197**

April 2, 2024

## About CAO

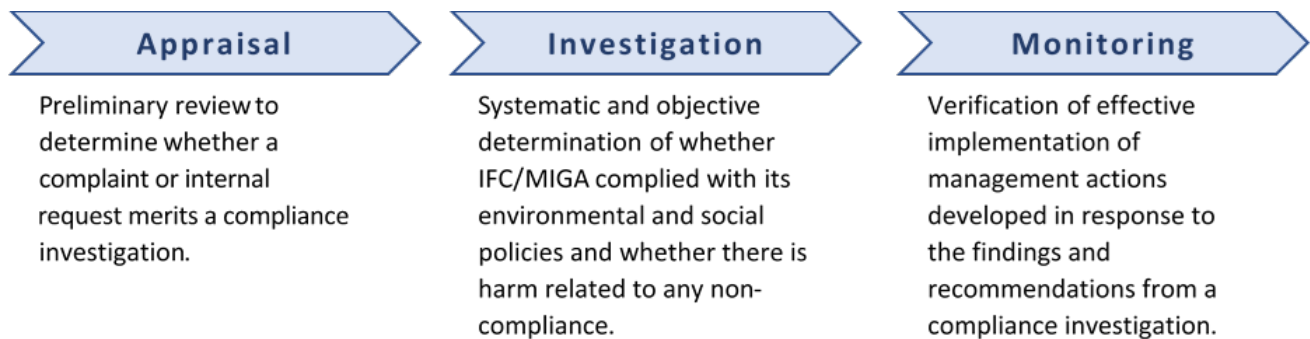
The Office of the Compliance Advisor Ombudsman (CAO) is the independent accountability mechanism of the International Finance Corporation (IFC) and Multilateral Investment Guarantee Agency (MIGA), members of the World Bank Group. We work to facilitate the resolution of complaints from people affected by IFC and MIGA projects in a fair, objective, and constructive manner, enhance environmental and social project outcomes, and foster public accountability and learning at IFC and MIGA.

CAO is an independent office that reports directly to the IFC and MIGA Boards of Executive Directors. For more information, see [www.cao-ombudsman.org](http://www.cao-ombudsman.org).

## About the CAO Compliance Function

CAO's compliance function reviews IFC and MIGA compliance with environmental and social policies, assesses related harm, and recommends remedial actions where appropriate.

CAO's compliance function follows a three-step approach:



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## Acronyms

<b>Acronym</b>	<b>Definition</b>
AIP	Access to Information Policy
CAO	Office of the Compliance Advisor Ombudsman (IFC and MIGA)
CSR	Corporate Social Responsibility
E&S	Environmental and Social
EHS	Environmental, Health and Safety [Guidelines]
ESAP	Environmental and Social Action Plan
ESIA	Environmental and Social Impact Assessment
ESRP	Environmental and Social Review Procedures
IFC	International Finance Corporation
LCT	Lomé Container Terminal
MSC	Mediterranean Shipping Company
MIGA	Multilateral Investment Guarantee Agency
PAL	Autonomous Port of Lomé (Port Autonome de Lomé)
PK	Kilometer point
PS	Performance Standards (IFC)
TIL	Terminal Investment Limited
TOR	Terms of Reference
WACA	West Africa Coastal Areas

## **Executive Summary**

*This fourth compliance monitoring report covers IFC actions between August 2021 and December 2023 in response to CAO's 2016 non-compliance findings in relation to investment in the Lomé Container Terminal (LCT), Togo. CAO observes that, despite some progress, significant non-compliances remain regarding completion of a study assessing the project's risks and impacts on coastal erosion, its disclosure, related stakeholder engagement, and implications for follow-up actions. This report also addresses allegations of client intimidation during the monitoring period. As IFC's loans to LCT have reached maturity, CAO makes recommendations to IFC to address the remaining non-compliances post-exit. The case will remain open for monitoring.*

### **IFC investment and community complaint**

Lomé Container Terminal (LCT) received a concession from the Government of Togo in 2008 to build and operate a transshipment container terminal within the existing Port of Lomé ('the port'). The project included dredging the port's access channel and constructing a 300m spur groyne to prevent sand entering the channel and terminal areas. Construction began in 2012 and terminal operations in 2014. IFC invested €82.5 million in LCT in 2011 and mobilized the balance of €142.5 million from other lenders. A follow-on IFC investment of €10 million was approved in 2015. IFC's loans to LCT were fully repaid on December 15, 2023, ending the financial relationship.

In March 2015, CAO received a complaint from the "Collectif des personnes victimes d'érosion côtière" (Collective of victims of coastal erosion), a group of residents living to the east of the container terminal. They asserted that the project's construction and operation had exacerbated coastal erosion in the area and led to adverse environmental and social (E&S) impacts including loss of land and coconut plantations, destruction of public and private property, and loss of small businesses and livelihoods.

### **CAO compliance investigation and monitoring**

In October 2016, CAO's compliance investigation report identified non-compliances with the Sustainability Policy and Performance Standard 1 in IFC's appraisal and supervision of the LCT project. These non-compliances centered on the potential risks and impacts of the project on coastal erosion as well as related stakeholder engagement and consultation (see Section 1 for details). IFC's Management Response did not include a Management Action Plan but proposed follow-up actions at project level and on policies and procedures.

To date, CAO has issued monitoring reports in March 2018, April 2019, and August 2021. This fourth monitoring report covers IFC actions from August 2021 to December 2023. The third monitoring report recommended that IFC address remaining non-compliances by: (a) ensuring completion of an outstanding assessment of project erosion impacts in accordance with PS1, including consultation with affected communities; (b) ensuring disclosure of all required E&S documentation, including a coastal erosion study; and (c) working with LCT to determine possible remediation measures to address erosion impacts associated with the project.

#### **Fourth monitoring period: CAO observations**

- **Assessing project-related risks and impacts on coastal erosion**

During the present monitoring period, IFC focused on supporting its client to finalize and disclose the study on causes of coastal erosion in Togo between 1955 and 2019. This study was finalized in February 2022, marking a significant step towards meeting PS1 requirements on assessing project impacts, but has not been disclosed. Both IFC and LCT have confirmed to CAO that they accept the findings of the study, which used historical analysis and numerical modeling to identify the contributions of human activities, infrastructure (including the spur groyne built by LCT), and natural causes to coastal erosion east of the port.

CAO hired a coastal erosion scientist to review the study – which he confirmed was of adequate quality – and conduct an additional satellite-based quantitative assessment of shoreline change in Togo.<sup>1</sup> This expert concluded that the 2022 study and his satellite-based assessment together confirm that the Port of Lomé and LCT project have contributed to coastal erosion since their respective construction in 1964 and 2012. While the precise percentage of such contributions can only be estimated through numerical modelling, it is evident that the port’s contribution to coastal erosion is large and that LCT project’s contribution, while comparatively modest, is confirmed as extending up to 10 km east of the LCT site.

CAO considers these findings to demonstrate the link between LCT and erosion impacts. During a visit to Togo in January 2023, CAO also witnessed and heard testimonies of severe impacts on coastal residents, including loss of land and livelihoods and involuntary displacement. To meet the full PS1 requirements for impact assessment, IFC should have worked with its client and other stakeholders - and should continue to do so post-exit - to assess the E&S impacts associated with the project’s contribution to coastal erosion in order to develop mitigating and remedial measures. CAO has received no information that such an assessment is underway. IFC stated to CAO that, based on its understanding of the project’s contribution to impacts, IFC is satisfied that LCT can support coastal communities’ development needs through its corporate social responsibility (CSR) program.

- **Disclosure of environmental and social information**

IFC’s non-compliance with PS1 requirements to consult with stakeholders and disclose E&S information on erosion issues remains ongoing.

Two years after completion, the client’s 2022 coastal erosion study has not been publicly disclosed, due to lack of government approval which LCT says is required due to confidentiality agreements. While IFC reports sending senior management to meet with government representatives six times during this monitoring period, it should now expand its efforts, including through use of leverage with relevant stakeholders, to address this significant non-compliance.<sup>2</sup> Stakeholder consultations concerning the coastal erosion study have also been limited, and LCT

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<sup>1</sup> Independent technical review of the 2022 coastal erosion study, submitted to CAO in June 2023 by Bruno Castelle, (PhD, Eng), senior research scientist, head of Methys Team at the EPOC Laboratory (Environnements et paléoenvironnements océaniques et continentaux), CNRS/University of Bordeaux.

<sup>2</sup> Performance Standard 1, para 20. (2006) calls for the client to publicly disclose E&S impact assessment information. The coastal erosion study is considered to be an integral element of the required environmental impact analysis.

has put on hold efforts to engage with project-affected communities pending its public disclosure. Delayed disclosure of the study’s findings has also prevented any mitigating and remedial actions from being taken to address coastal erosion impacts related to the LCT project’s construction.

- **Alleged intimidations and community division**

In September 2022, complainants raised concerns with CAO about alleged intimidating conduct by LCT towards coastal communities and members of the Collective. The allegations revolved around LCT’s demand that communities seeking its corporate social responsibility support sign a Memorandum of Understanding that complainants alleged contained conditions restricting their ability to complain about coastal erosion impacts. CAO also directly observed rising tensions between the complainants and IFC client, as well as between the complainants and other community leaders. CAO actively engaged with both IFC and LCT on addressing potential intimidation risks to complainants and raised concerns about the memorandum’s language and presentation to some coastal communities.

### **Recommendations and next steps**

Progress to address non-compliance findings for the Lomé Container Terminal project has been slow and adverse impacts of coastal erosion on communities and complainants remain unassessed and unaddressed. To resolve this issue in accordance with Sustainability Policy and PS1 requirements, IFC must work with LCT, the other senior lenders, and other stakeholders to ensure (a) disclosure of the coastal erosion study and related stakeholder engagement with project-affected communities, and (b) completion of an assessment of project-related erosion impacts, on the basis of which mitigating and remedial measures could be determined. CAO also encourages IFC, in cooperation with other lenders, to continue supporting LCT in improving its stakeholder engagement in line with PS1 requirements and the IFC Position on Retaliation.

The end of the financial relationship between IFC, all other lenders, and LCT in December 2023, lends urgency to this situation. Failure to take further action to respond to CAO’s findings would create a reputational risk for IFC and co-lenders, LCT, and its shareholders, which the project closure does not mitigate.

In this context, and given CAO’s recent appraisal of a third complaint related to IFC’s investment in LCT (LCT-03)<sup>3</sup>, which resulted in a decision to merge the LCT-01 and LCT-03 cases, CAO will keep this case open in monitoring. CAO expects to issue its next monitoring report for this project in fiscal year 2025 (July 1, 2024 – June 30, 2025).

This monitoring report will be published on the CAO website and shared with the Board, IFC management, the client, and the complainants.

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<sup>3</sup> CAO Appraisal of Complaint Regarding Lomé Container Terminal, Togo (LCT-03), at: <https://www.cao-ombudsman.org/cases/togo-lct-03lome>

## 1. Introduction and Background

This is CAO’s fourth compliance monitoring report since its 2016 investigation report<sup>4</sup> into IFC’s investment in the Lomé Container Terminal (LCT) in coastal Togo. The report focuses on actions the International Finance Corporation (IFC) has taken in addressing CAO’s non-compliance findings since August 2021. This section provides background, including summaries of the 2015 complaint, CAO’s compliance investigation findings, observations from CAO’s three previous monitoring reports, and a timeline of key dates.

### a) The complaint, investment, and investigation findings

In March 2015, CAO received a complaint from the “Collectif des personnes victimes d’érosion côtière” (Collective of victims of coastal erosion, “the Collective”), an organization made up of residents in coastal communities east of the Port of Lomé (‘the port’) and the LCT project. The complainants claim that the construction of the LCT project has exacerbated coastal erosion to its east, leading to a range of E&S impacts in their communities including loss of homes and property, coconut plantations, small businesses, religious and cultural sites and buildings, and public infrastructure. They also allege that they were not consulted prior to the project being developed.

In 2008, LCT, a locally incorporated company, received a concession from the Government of Togo to develop, construct, and operate a greenfield transshipment container terminal within the existing Port of Lomé. Project works included dredging the port’s access channel and the construction of a new spur groyne (or, sand groyne) to prevent sand from entering the access channel and the dock areas. The 250m groyne was built in 2012 and extended to 300m in 2015 (see Appendix 2).<sup>5</sup> The container terminal became operational in 2014. LCT is a joint venture between Global Terminal Limited, a subsidiary of Terminal Investment Limited (TIL), one of the largest terminal operators in the world and majority owned by Mediterranean Shipping Company (MSC), and Oasis King Limited, a subsidiary of China Merchant Holdings.<sup>6</sup>

LCT has been an IFC client since 2011, when IFC provided €82.5 million in loans for project construction and start-up costs, and mobilized approximately €142.5 million from other lenders.<sup>7</sup> In 2015, IFC provided LCT with an additional €10 million loan towards financing of equipment. The client fully repaid IFC’s loans in December 2023, ending the financial relationship.

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<sup>4</sup> See CAO LCT-01 case page for previous reports, at: <https://www.cao-ombudsman.org/cases/togo-togo-lct-01lome>

<sup>5</sup> Stakeholders sometimes use the term breakwater extension to refer to this spur groyne. CAO uses the term groyne as it is known to be a cross-shore structure that is meant to trap the longshore drift, while breakwater is more general and is often aligned parallel to the shoreline. ESIA for the Lomé Container Terminal project, May 2010, sections 6.3.1.1 and 6.3.1.8, at: <https://bit.ly/40udPKR>.

<sup>6</sup> IFC Management Response to LCT-03, Appendix 2, in CAO Appraisal of Complaint Regarding Lomé Container Terminal, Togo (LCT-03).

<sup>7</sup> The Dutch Entrepreneurial Development Bank (FMO), Deutsche Investitions-und Entwicklungsgesellschaft (DEG), Société de Promotion et de Participation pour la Coopération Economique (PROPARCO), the African Development Bank (AfDB), and OPEC Fund for International Development.



In October 2016, CAO published an investigation report, in which it identified non-compliances in IFC’s appraisal and supervision of the LCT project under the 2006 Sustainability Policy and Performance Standard (PS) 1, as follows:

- (a) The identification and management of potential risks and impacts of the LCT project on coastal erosion, taking into account the cumulative and historical impacts of the Port of Lomé on coastal erosion to the east of the port and LCT
- (b) Stakeholder engagement and disclosure around these issues.

Appendix 1 includes a full summary of CAO’s findings.

A management response from IFC was released together with the investigation report.<sup>8</sup> IFC’s response did not include a Management Action Plan but proposed some actions at the project level and regarding policies and procedures. Since then, IFC has been reporting on actions taken by the institution and in cooperation with the client.

#### **b) Monitoring reports since 2016**

In March 2018, April 2019, and August 2021, CAO released monitoring reports in relation to actions IFC had taken and/or had proposed to take to address CAO’s investigation findings:

- **CAO’s first monitoring report in March 2018** recognized positive actions taken by IFC at the level of policies, procedures, and knowledge. These included updated guidance in 2017 in the World Bank Group Environmental, Health and Safety (EHS) Guidelines for Ports, Harbors and Terminals related to assessment of project impacts on coastal processes. CAO also acknowledged several actions initiated by IFC at the project level. These actions were at the initial stages of implementation and had not yet substantially addressed the investigation findings.
- **CAO’s second monitoring report in April 2019** noted that LCT had commissioned both an environmental audit including a component on coastal erosion as part of the renewal process for its government environmental license, and a study on the contribution of different infrastructure projects to coastal erosion. LCT noted that both studies would include consultations with coastal communities. CAO acknowledged these positive steps toward addressing non-compliance findings, and indicated that it expected to review these studies, together with appropriate corrective actions depending on their outcomes, prior to closing the monitoring process.
- **CAO’s third monitoring report in August 2021** noted IFC and LCT’s actions between May 2019 and July 2021 in relation to the assessment of impacts and sources of coastal erosion. The environmental audit was completed in 2020 and disclosed on IFC’s website in 2021. CAO noted that the audit provided a historical description of coastal erosion in Togo but did not assess in detail the relationship between the LCT project and the erosion experienced to the east of the port in recent years. LCT had also initiated a study on coastal erosion in early 2019, which was finalized in April 2020. However, both LCT and IFC had questions on the study’s methodology and findings and were in the process of review at the time. As a result, the question of whether the LCT’s construction had

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<sup>8</sup> See CAO LCT-01 case page, at: <https://www.cao-ombudsman.org/cases/togo-togo-lct-01lome>

contributed to coastal erosion remained open from a technical perspective. CAO noted, however, that it was uncontested that the Port of Lomé, in which LCT is the largest operator, has historically been and continues to be a contributing factor to coastal erosion east of the port. Finally, CAO noted that erosion impacts associated with the project due to its reliance on the Port of Lomé infrastructure continued to affect complainants. CAO made several recommendations to address remaining non-compliances, shown in Box A.

**Box A. Main Recommendations from Third Monitoring Report**

CAO recommended that IFC:

- Ensure completion of the outstanding assessment of project erosion impacts in accordance with PS1, including consulting with affected communities based on prior disclosure of draft assessment reports as well as any associated action plans (PS1 2006 version, para. 21)
- Ensure disclosure of all required E&S documentation, including: the final version of the coastal erosion study of April 2020, any revised version of the coastal erosion study, and the updated project E&S Action Plan (PS1 2006, paras. 20 & 26)
- Work with LCT to determine possible remediation measures to address erosion impacts associated with the project, due to its reliance on the Port of Lomé infrastructure as required by the 2006 Sustainability Policy (para. 13).

**c) Methodology and structure of this report**

In accordance with transitional arrangements<sup>9</sup> agreed to support implementation of the CAO Policy issued in 2021,<sup>10</sup> this monitoring report was prepared following CAO’s 2013 Operational Guidelines. Under the Operational Guidelines, after a CAO compliance investigation is completed, IFC/MIGA management provides a response and CAO monitors the situation until actions taken by IFC/MIGA assure CAO that IFC is addressing any non-compliances identified in the investigation.<sup>11</sup> This report refers to the 2006 Sustainability Policy and 2006 Performance Standards as the main framework for compliance analysis.

The information in this monitoring report draws from:

- A review of IFC and MIGA project-related documentation available during the monitoring period (Sept 2021 – Oct 2023)
- Written updates from IFC to CAO in July and October 2023
- Regular meetings with IFC to discuss the complaint status and IFC actions since September 2021
- A written update from the client to CAO in August 2023
- A mission to Togo, conducted from January 9-13, 2023, which included meetings with the client and complainants and visits to coastal villages

<sup>9</sup> Transitional Arrangements for CAO Cases, at: <https://bit.ly/49m3NzH>

<sup>10</sup> World Bank Group. 2021. IFC/MIGA Independent Accountability Mechanism (CAO) Policy (‘CAO Policy’), at: <https://bit.ly/3sw9xGf>

<sup>11</sup> CAO, 2013, CAO Operational Guidelines, para. 4.4.6.

- A meeting with representatives of the complainants’ association and its supporting NGO in June 2023<sup>12</sup> and regular updates from the complainants
- A review by an independent expert of an LCT-commissioned study on coastal erosion causes, and the expert’s own satellite-derived quantitative assessment of shoreline change in Togo.

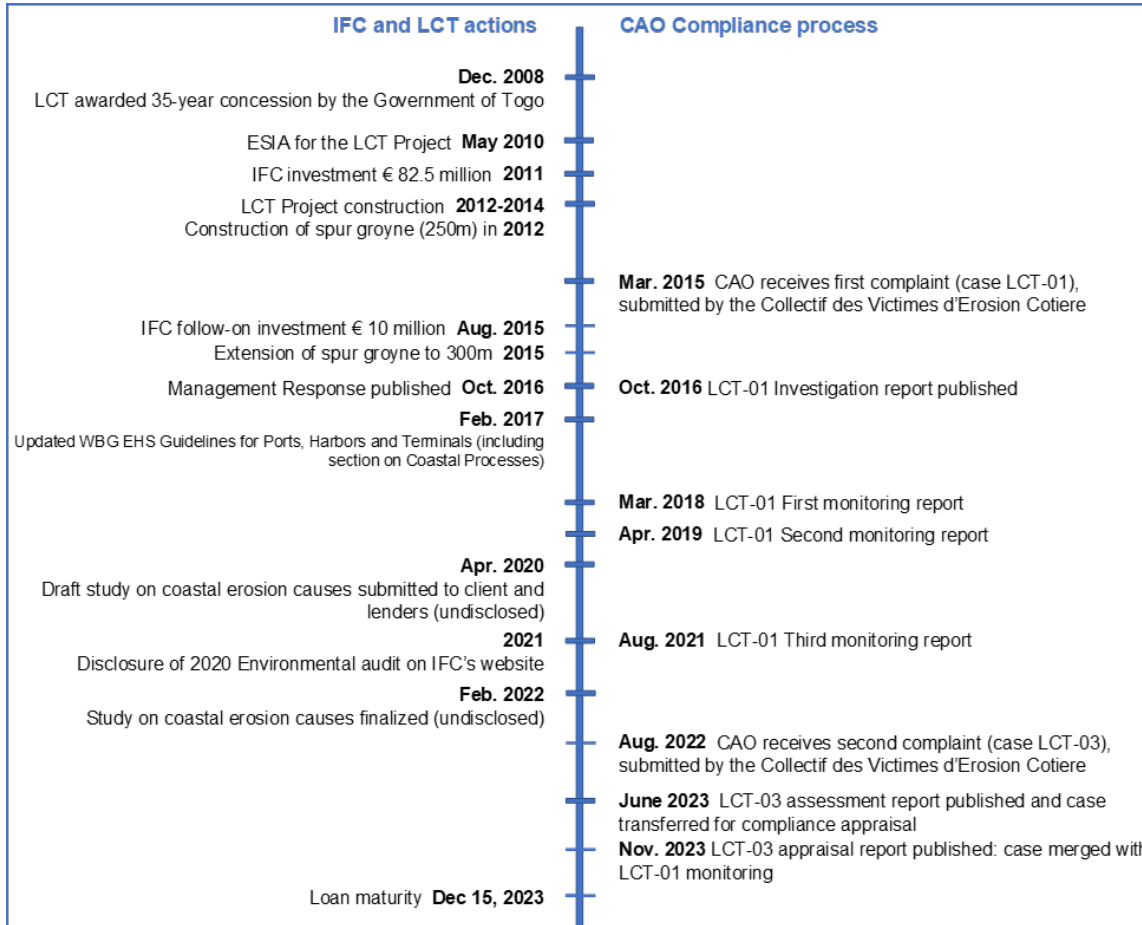
This fourth monitoring report focuses on project-level actions IFC took between September 2021 and December 2023 and CAO’s observations in relation to these actions and the resolution of ongoing IFC non-compliances. Earlier monitoring reports detail IFC’s institutional actions to address CAO’s compliance investigation findings.

Section 2 discusses the assessment of the LCT project’s risks and impacts related to coastal erosion, specifically finalization of a study on coastal erosion causes, CAO’s review of that study, and implications for follow-up actions. Section 3 addresses the disclosure of E&S information, in particular the coastal erosion study, and related consultations with stakeholders. Section 4 focuses on actions by CAO, IFC, and the client in relation to allegations of intimidation and community division. The report concludes with recommendations to IFC to address remaining non-compliances, taking into account the end of the financial relationship between IFC and LCT in December 2023.

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<sup>12</sup> During this reporting period the Collective of victims of coastal erosion has been supported by the Bank Information Center (BIC).

**d) Timeline of events (2008-2023)**



**2. Assessment of LCT Project’s Risks and Impacts Related to Coastal Erosion**

In response to CAO’s investigation findings (see Box B), IFC committed to work with LCT on two studies. The first was an environmental and social (E&S) audit, also required by Togolese law, which was completed and is discussed in CAO’s third monitoring report. The second was a coastal erosion study to identify the causes of coastal erosion to the east of the Port of Lomé, including the LCT project infrastructure.

Actions taken by IFC, LCT and CAO since August 2021 in relation to the coastal erosion study and assessment of erosion impacts are summarized below.

**Box B. CAO investigation report non-compliance findings on project risks and coastal erosion**

- Contrary to IFC Sustainability Policy (2006, para. 13), IFC’s pre-investment E&S due diligence did not consider significant historical erosion-related impacts associated with the project. In addition, IFC did not work with the client to determine possible remediation measures.
- IFC did not assure itself that the Environmental and Social Impact Assessment (ESIA) met Performance Standard 1 (PS1) requirements in relation to potential erosion impacts, and that additional assessment of the erosion risk posed by the project was required.
- Contrary to PS1 (2006, para. 5), IFC did not ensure that the ESIA considered the potential cumulative impacts of the project on coastal erosion.

**a) Study on coastal erosion**

A study on the causes of coastal erosion to the east of the Port of Lomé between 1955 and 2019, including potential impacts of the spur groyne construction, was commissioned by LCT in 2019 from third-party consultants and finalized in April 2020. After review, both LCT and senior lenders decided that the study had technical flaws and did not meet the Terms of Reference. As a result, LCT commissioned a new study from a different consultancy firm with technical support from IFC and other lenders. This study was finalized in February 2022 and approved by LCT, IFC, and other senior lenders.<sup>13</sup> LCT and the lenders consider this study a replacement for the earlier draft from 2020, which has been disregarded as a result. The (lack of) disclosure of this earlier study is discussed in Section 3 below. The 2022 study and the process leading to it have been mentioned in public reports.<sup>14</sup>

The 2022 study’s objectives were to present causes of shoreline changes in Togo between 1955 and 2019 and assess the impacts of the spur groyne on coastal erosion between 2010 and 2019. The consultants used historical data analysis and numerical modeling to estimate the relative contributions of various types of human action, infrastructure (including the Port of Lomé and the spur groyne construction), and natural causes to shoreline change.

The IFC-financed LCT project, as described in the 2010 ESIA and in IFC’s documents, included construction of the 300-meter spur groyne and associated dredging of the port basin and access channel, as well as construction of the container facility.<sup>15</sup>

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<sup>13</sup> Including FMO and DEG.

<sup>14</sup> Independent Complaint Mechanism, Compliance Review Report, FMO and DEG Complaint 18-001 LCT Lomé Container Terminal SA Togo, August 31, 2022; CAO Third Compliance Monitoring Report of IFC’s Response to: CAO Investigation of IFC’s Investments in Lomé Container Terminal, Togo (LCT-01); CAO Appraisal of Complaint Regarding Lomé Container Terminal, Togo (LCT-03) including Appendix 2. Management Response.

<sup>15</sup> ESIA for the Lomé Container Terminal project, May 2010, sections 6.3.1.1 and 6.3.1.8, at: <https://bit.ly/40udPKR>; CAO Appraisal of Complaint Regarding Lomé Container Terminal, Togo (LCT-03), Appendix 2: IFC Management Response, para. 8, which states that “amongst the infrastructure built by LCT was a 300m breakwater (also referred to as a spur groyne).”

A few findings in the 2022 study are particularly relevant to CAO’s monitoring and at the core of resolving outstanding non-compliances. These have been known to IFC and the client since February 2022 and are as follows:

- Various factors between 1955 and 2019 – both anthropogenic and natural – have caused shoreline changes to Togo’s 50km-long coastline, including large infrastructure such as the Port of Lomé and smaller structures such as the 2017 fishing port, beach rock degradation, and sand extraction activities to the west and east of the port.<sup>16</sup>
- Among the sources of erosion, the construction of the Port of Lomé in 1964<sup>17</sup> significantly impacted the Togolese coastal dynamics, leading over the subsequent decades to a zone of sand accumulation to the west of the port (the port being located at kilometer point (PK) 10), and a zone of erosion downdrift of the port, to the east. CAO notes that the historical impacts of the port to coastal erosion have been identified in various additional studies.<sup>18</sup>
- Based on the numerical modeling exercise assessing relative contributions of selected sources of erosion, the study estimated that the 250m sand groyne construction in 2012 (extended to 300m in 2015), combined with the depth of the access channel, would have caused between below 3% and below 5% of anthropogenic erosion east of the port during 1955-2019, depending on parameters used in the modeling (see next section). The port’s relative contribution to coastal erosion is estimated to be much larger in these scenarios.

#### **b) CAO review of the study on coastal erosion**

In early 2023, CAO contracted a coastal erosion research scientist to conduct an independent technical review of the 2022 study’s methodology and findings.<sup>19</sup> CAO sought independent technical advice as it was apparent that lenders had different interpretations of the study’s findings, while complainants had demonstrated low trust in the client and lenders. This section presents key findings of the CAO expert’s review, as well as of an additional satellite-based quantitative assessment of shoreline change downdrift (i.e., east) of the LCT project site conducted by the expert (see also Appendix 3).

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<sup>16</sup> Sand extraction activities are now prohibited and largely stopped around 2013. Interministerial Decrees (arrêtés interministériels) nr. 031/MME/MERF/2011 of May 5, 2011, and nr. 002/MME/MERF/2013 dated January 15, 2013, referred to in <https://bit.ly/3spQ7D3> p.19 and <https://bit.ly/3SxVuup>; 2022 Study, Sections 4.8 and 4.9.

<sup>17</sup> A main breakwater of 1200m was built in 1964; a 950m counter-breakwater was built in 1974. Port authorities today state that the port benefits “from two groynes of 950m and 1720m long which prevents it from silting up” [CAO translation from French]: <https://www.togo-port.net/presentation-pal/atouts-port-lome/>

<sup>18</sup> See section 2(b) below and CAO Third Compliance Monitoring Report of IFC’s Response to: CAO Investigation of IFC’s Investments in Lomé Container Terminal, Togo.

<sup>19</sup> The expert is Bruno Castelle (PhD, Eng), a senior research scientist whose expertise lies in the evolution of sandy coasts from the scale of single storm to century in the frame of climate change, using numerical and physical modelling, data-assimilation methods, observational techniques and remote sensing. He has co-authored over 170 peer-reviewed journal papers, served as Associate Editor for Journal of Geophysical Research – Oceans and Ocean Dynamics and is head of the Methys Team at the EPOC Laboratory (Environnements et paléoenvironnements océaniques et continentaux), CNRS/University of Bordeaux.

CAO’s expert confirmed that, despite some limitations, the LCT-commissioned study is of adequate quality. Limitations the expert noted included:

- The numerical modeling exercise only considered and compared contributions to shoreline changes of a small number of parameters (specifically: the Port of Lomé, the maintenance of the access channel, artisanal sand extraction, beach replenishment in 1984 and 2012, and the construction of the 300m-spur groyne), using several simplifying assumptions and excluding other sources of erosion.
- The main methodological weakness of the study lies in a contradiction over whether sand transport occurred through the access channel or not. In the descriptive part of the study the authors state that no sand transport occurs through the channel. However, in the theoretical modeling exercise, the authors choose a transmission factor above zero, which indicates that sand transport does occur through the channel. A non-zero transmission factor means that the depth of the access channel does not fully prevent sand transmission and thus that structures to its west, including the spur groyne, also have an impact on erosion of the downdrift coast. CAO’s expert notes that several theoretical and empirical arguments, considered together, support the assumption that the transmission factor is above zero.<sup>20</sup>

Despite such limitations and some contradictions in the narrative text, the CAO erosion expert made the following conclusions and observations:

- The coastal erosion study provides sufficiently convincing data that the spur groyne combined with the dredging of the deep access channel resulted in some increased erosion of the downdrift coast.
- Given that construction for the LCT project started in 2012, a below 5% relative contribution averaged over the 1955-2019 period (as estimated by the study’s theoretical modeling) would suggest a larger impact on coastal erosion for the 2012-2019 period only.<sup>21</sup> Such numbers, however, are tied to strong choices in the numerical model implementation and exclusion of other significant parameters (including beach rock breaching and smaller structures), which are also causing localized (i.e., within a few kilometers only) coastal erosion in the same areas.
- Based on the numerical modeling, historical data included in the 2022 study, and his own satellite-based quantitative assessment, CAO’s expert estimated that LCT’s erosion impact today is mainly around PK 11-21, that is 1-11km east of the port. Several communities in the complainants’ group are within this geographic area.<sup>22</sup>
- In this area (PK 11-21), the mean erosion rate increased from 1.67 m/yr before 2012 (1998-2012) to 2.94 m/yr after 2012 (2012-2023), an increase of around 75%. This is in line with the study’s conclusions that coastal erosion increased after construction of the LCT project. This increased coastal erosion is observed even despite the Katanga beach nourishment that took place in 2012-2013 (see Appendix 3 Figure 1). However, this

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<sup>20</sup> CAO expert’s review explains these arguments in detail.

<sup>21</sup> CAO expert considers the estimate of a relative contribution of LCT below 5% in the numerical model to be more reliable than that of below 3%, which is only presented in the non-technical summary of the study and is not based on robust calculations, as explained in the expert’s full review.

<sup>22</sup> For instance, according to CAO estimates, Gbétsogbé, Baguida, Avepozo.

accelerated erosion cannot be solely attributed to the LCT project construction as other erosion factors are at play.

- The Port of Lomé has contributed to structural erosion tens of kilometers downdrift well beyond PK23, thus encompassing some additional communities that are represented in the CAO complaint.<sup>23</sup>

Given the above, the 2022 coastal erosion study in conjunction with the CAO expert’s assessment confirms that the Port of Lomé and the LCT project have contributed to coastal erosion to the east of the port since their respective constructions in 1964 and 2012. The precise percentage of such contributions can only be estimated through numerical modeling and are indicative of relative as opposed to absolute importance.<sup>24</sup> However, it is evident that the port’s contribution to coastal erosion has been large and that the LCT project’s contribution, while comparatively modest, is confirmed up to 10 km to the east of the IFC client site.<sup>25</sup>

Other studies corroborate the broader findings in both the coastal erosion study and the CAO expert’s report regarding the rate and sources of coastal erosion east of the Port of Lomé. The World Bank Inspection Panel, for instance, noted in a recent investigation report that the sand supply in Togo has been severely curtailed by human activities and infrastructure which block the longshore transport of sediment. As a result, the sandy coastal barrier is eroding almost everywhere along its length.<sup>26</sup> A 2019 study published under the West Africa Coastal Areas Management Program (WACA) estimates that average erosion rates between 1984 and 2016 were of 2.4 meters/year in Togo, with an average total of 7.8 ha/year lost.<sup>27</sup> CAO’s expert obtained a similar rate (2.43 meters/year) for the period between 1998 and 2023 to the east of the Port of Lomé.<sup>28</sup> Such erosion has been traced to the development of the Port of Lomé, among other factors, and sediment by-passing of the Port of Lomé has been discussed as a solution to the erosion.<sup>29</sup>

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<sup>23</sup> In CAO’s assessment, this includes Afidenyiba and Agbavi.

<sup>24</sup> CAO’s expert notes that given that the model is not validated with shoreline change data presented in the study’s historical analysis, the authors of the coastal erosion study rightly acknowledge that model output must not be used as “absolute” evolution but as “relative” shoreline evolution depending on chosen scenarios.

<sup>25</sup> This impact up to 10km is confirmed until June 2023, date of CAO expert’s satellite-based quantitative assessment.

<sup>26</sup> World Bank Inspection Panel, 2023, Investigation Report, Republic of Togo: West Africa Coastal Areas Resilience Investment Project (P162337), Additional Financing (P176313) and Global Environment Facility (GEF) (P092289), para. 49, at: <https://bit.ly/3FRNm0i>

<sup>27</sup> Croitoru, L. et al, 2019, *The Cost of Coastal Zone Degradation in West Africa: Benin, Côte D’Ivoire, Senegal and Togo*, World Bank and WACA; Table 1 and p.28-29, at: <https://bit.ly/3R7PRIA>

<sup>28</sup> See also Technical Report commissioned by the WACA Program under the World Bank’s Environment, Natural Resources and Blue Economy Global Practice, 2020, *Effects of Climate Change on Coastal Erosion and Flooding*, at: <https://bit.ly/473Yzqu> p.79 and Figure 23; Antea Group Belgium, 2017, *West Africa Coastal Areas Management Program (WACA), Plan d’actions pour le Développement et l’adaptation aux Changements Climatiques du Littoral Togolais*, at: <https://bit.ly/3sqBeQU>

<sup>29</sup> African Natural Resources Centre of the African Development Bank, 2022, *The African Development Bank, African Ports and the Blue Economy Nexus: Institutional, Policy and Governance Arrangements*, p.11, at: <https://bit.ly/3EW155J>; Guerrero, F. et al., 2021, Shoreline Changes and Coastal Erosion: The Case Study of the Coast of Togo (Bight of Benin, West Africa Margin), *Geosciences*, 11, 40, pp.14 ff, at: <https://bit.ly/46rl5Yx>; Le Disset, A, Hamm, L., 2018, *Presentation of Conference paper, Integrated*



**c) Interpretation of the study’s findings and follow-up actions**

IFC reported that it engaged an external coastal erosion consultant to review the final version of the coastal erosion study. IFC stated to CAO that, based on review and conclusions by its external consultant in April 2022, it accepted the findings of the coastal erosion study. CAO similarly understands that LCT has accepted the study’s findings.

There is, however, some lack of clarity as to precisely which findings IFC and LCT accepted. In its response to CAO in relation to the third complaint received regarding IFC’s investment in LCT, IFC notes that it maintains the position stated in its 2016 Management Response to the LCT-01 complaint that there has not been evidence of *a causal link of any significance* between the LCT project and increased coastal erosion east of the port.<sup>30</sup> LCT stated to CAO that the 2022 study has not demonstrated *any causal link* between the construction and operations of the LCT project and an exacerbation of coastal erosion during 2012-2019.

However, CAO is satisfied that available evidence demonstrates a relevant link between the LCT project – both directly and due to its reliance on the Port of Lomé’s infrastructure – IFC’s non-compliance, and adverse E&S impacts. CAO reaches this conclusion based on its own review of the coastal erosion study and on the advice and assessment of its independent expert.

In addition to determining project-related impacts on coastal erosion, Performance Standard 1 requires IFC to undertake an analysis of the implications of the erosion on coastal communities to the east of LCT, in the project’s area of influence, and of mitigation measures to address them (PS1, paras. 5-6).

However, since the study was finalized in February 2022, neither IFC nor its former client have conducted or commissioned an assessment of the coastal erosion impacts on coastal communities associated with the LCT project and the port on which LCT depends. Instead, IFC has stated to CAO that, based on its understanding of the project’s contribution to impacts, IFC is satisfied that LCT can support coastal communities’ development needs through its Corporate Social Responsibility (CSR) program.<sup>31</sup>

**d) CAO observations**

IFC has made progress on outstanding non-compliances by supporting LCT to commission the study assessing the historical and existing sources of coastal erosion in alignment with PS1 requirements for a comprehensive E&S impact assessment (paras. 4-12). Both IFC and the client state that they are satisfied with this study and have been working to disclose it (see next section).

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*Management Plan for Climate Resilience of coastal areas in Togo*, at: <https://icce-ojs-tamu.tdl.org/icce/article/view/8662/8053>; Artelia, 2020, *Etudes Conjointes de Faisabilité Technique de la Protection Côtière du Segment Frontalier Togo-Benin*, cited in Inspection Panel, 2023, Investigation Report *op.cit.*, paras.10 and 108, and footnote 119, at: <https://bit.ly/3FRNmQi>; A Giardino et al, ‘A quantitative assessment of human interventions and climate change on the West African sediment budget’, in: *Ocean and Coastal Management* 156 (2018), p.257.

<sup>30</sup> CAO Appraisal of Complaint Regarding Lomé Container Terminal, Togo (LCT-03), Appendix 2. IFC Management Response.

<sup>31</sup> CAO Appraisal of Complaint Regarding Lomé Container Terminal, Togo (LCT-03), Appendix 2. IFC Management Response.

CAO has reviewed the study and considers that, despite some limitations, the study’s methodology and findings are of adequate quality, making the most use of available data.

**This aspect of non-compliance – assessing the project’s potential risks to erosion as part of the ESIA (PS1 2006, para. 5), as well as assessing historical impacts (SP 2006, para.13) – is thus partially addressed, pending disclosure of the study’s findings.**

**However, a central element of an ESIA – the assessment of specific E&S impacts caused by the identified coastal erosion – has not been achieved by IFC and client actions. At the time of exit, IFC was thus non-compliant with respect to ensuring completion of a comprehensive impact assessment on the basis of which mitigation and remediation measures can be taken (PS1 2006, para.13-16).**

In its third monitoring report, CAO recommended that IFC work with LCT to determine mitigation and remediation measures in relation to historical and ongoing erosion impacts associated with the LCT project due to its reliance on the Port of Lomé infrastructure (Sustainability Policy, para. 13; PS1, paras. 13-16). CAO now recommends an expanded approach that determines measures in relation to impacts directly associated with the LCT project as well as related to the Port of Lomé.

An approach relying solely on LCT’s voluntary CSR program, and not based on an assessment of the environmental and social impacts of coastal erosion, is not adequate to address the IFC non-compliances remaining at the time of exit. Nor is such an approach consistent with the 2006 Sustainability Policy and Performance Standard 1. IFC’s assessment should be commensurate to the project’s impacts and consider economic, financial, environmental, and social costs and benefits, and identify to which parties these accrue.<sup>32</sup>

Various studies in addition to the coastal erosion study and CAO’s own review have estimated the rate of erosion to the east of the port and confirmed that erosion has caused adverse impacts in coastal communities. During its visit to Togo in January 2023, CAO also witnessed and heard testimonies about the severe impacts of coastal erosion on residents including loss of housing, land, small businesses and livelihoods as well as involuntary displacement.

Thus, live questions at this juncture include what are the precise types of E&S impacts that have occurred, which individuals and communities have been affected, and at what cost? For instance, a WACA-commissioned study noted that the estimated cost of coastal erosion in Togo in 2017 was USD213 million, that is, 4.4% of GDP that year.<sup>33</sup>

To comply with PS1 (para. 20), the client should also publicly disclose the study on coastal erosion and consult with project-affected communities on its findings (see also section 3). However, given that IFC and LCT are aware of the study’s findings, CAO observes that using its data as a basis to commission an impact assessment is consistent with the Sustainability Framework and can take place independently of the study’s disclosure and its timing.

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<sup>32</sup> 2006 Good Practice Note 1, para. 33.

<sup>33</sup> This was primarily due to losses of high value urban land. Croitoru, L. et al, 2019, *The Cost of Coastal Zone Degradation in West Africa: Benin, Côte D’Ivoire, Senegal and Togo*, World Bank and WACA, Table 4.2.3, p.30.

CAO understands that there may be legal considerations around the potential liability of either LCT or the Government of Togo in relation to addressing impacts from project construction. Nevertheless, from a compliance perspective, IFC should previously have worked with LCT, and should do so now, in order to ensure project compliance with PS1 requirements. In this case, compliance requires that the project’s impacts are assessed, and mitigation and remediation measures taken as appropriate.

### 3. Disclosure of E&S Information and Related Stakeholder Engagement

This section discusses how IFC and LCT have worked since August 2021 to address CAO’s non-compliance findings on the lack of disclosure of E&S information and stakeholder engagement around the project’s risks to coastal erosion (Box C).

#### **Box C. Selected non-compliance findings and recommendations on disclosure and stakeholder engagement from prior CAO reports**

In its 2016 investigation report, CAO found that:

- During pre-appraisal review, IFC did not assure itself that consultation in preparation for the ESIA included all communities that “may be subject to risks or adverse impacts from a project” (PS1, para. 21), which would have included communities in the erosion zone identified in the ESIA. Further, IFC did not assure itself that information was disseminated by the client to potentially affected communities in a manner that met the requirements of PS1 or that consultation was “undertaken in a manner that is inclusive and culturally appropriate” (paras. 20-21).
- During supervision, IFC did not assure itself that the revised Action Plan between IFC and the client specified the need for consultation and disclosure of the coastal erosion-related actions as required by PS1 (paras. 20ff).

In its third monitoring report, CAO recommended that:

- “IFC ensure disclosure of all required E&S documentation<sup>34</sup>, including: (a) the final version of the coastal erosion study of April 2020, (b) any revised version of the coastal erosion study, and (c) the updated ESAP (following PS1, paras. 20 & 26).”

#### **a) Disclosure of coastal erosion studies, 2020-2022**

LCT commissioned a first study on coastal erosion sources in 2019, which was presented to the company and its lenders in April 2020. However, IFC perceived shortcomings in the quality of the study and supported LCT in hiring another consultant to make revisions under new terms of reference. This work was ongoing when CAO’s third monitoring report was published in August 2021. The revised study was finalized in February 2022. Neither the 2020 draft nor the 2022 final version have yet been made public.

In its third monitoring report, CAO recommended that all drafts of the 2020 study be disclosed.<sup>35</sup> CAO acknowledges, however, that LCT and IFC found shortcomings in the 2020 draft which was

<sup>34</sup> The 2010 ESIA was disclosed and is available on IFC’s disclosure page.

<sup>35</sup> CAO’s third monitoring report contains high-level findings of the 2020 draft study.

later set aside. Given that the earlier draft was not final, CAO considers it sufficient for IFC to ensure that its client discloses the final February 2022 study in order to meet PS1 requirements (para. 20).<sup>36</sup>

However, the 2022 study remains undisclosed at the time of writing this report. The cause of the non-disclosure appears to be the understanding by LCT and the project’s lenders that the Government of Togo must agree to the study’s public disclosure by LCT, and that in turn lenders must await LCT’s approval. As reported by both IFC and LCT, the basis for seeking government approval is that the concession agreement between LCT and the Government of Togo contains confidentiality provisions. The study was submitted to the Minister of Maritime Economy, Fishing and Coastal Protection at the end of April 2022.<sup>37</sup> LCT and its lenders report that they have been waiting for government approval to disclose the study, or at least a non-technical summary, ever since.

According to IFC, senior management met with government representatives six times between November 2022 and October 2023 to discuss disclosure of the report. IFC has also stated on various occasions pre- and post-exit that it continues to consider steps to encourage government approval of the report’s public disclosure, including coordinating with other senior lenders on the project. In March 2024, IFC informed CAO of the Government of Togo’s request not to disclose the study.

With a view to finding solutions to this impasse, CAO considers it reasonable to expect IFC and its former client to take measures to address third party actions that may limit the achievement of outcomes consistent with the PS.<sup>38</sup> High-level discussions between IFC and the Government of Togo are welcome but not sufficient given the lack of positive outcomes.

Once IFC became aware of the Government’s potential opposition to disclosure and its position that the study could not be disclosed without its approval, it would have been appropriate for IFC to assess how these actions were compatible with IFC’s and its client’s compliance with the Sustainability Framework and to identify mitigating measures. CAO has not received evidence that IFC took all appropriate actions to that end. For instance, despite LCT’s clear disclosure obligations under the Performance Standards in the IFC-client contract, CAO is not aware that IFC conducted a comprehensive legal review of how confidentiality provisions in the concession agreement could impact disclosure of E&S information or that IFC considered or exercised contractual leverage to achieve disclosure of the study.<sup>39</sup> Finally, while IFC reported positively that it considered additional use of leverage with other stakeholders, it reported to CAO in July

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<sup>36</sup> PS1, para. 20: “Where the client has undertaken a process of Social and Environmental Assessment, the client will publicly disclose the Assessment document.”

<sup>37</sup> ESAP, June 2022 update.

<sup>38</sup> The Sustainability Policy (para. 25) states that “IFC seeks to ensure that the projects it finances achieve outcomes consistent with the Performance Standards, even if the outcomes are dependent upon the performance of third parties”. While the Sustainability Policy notes a limit to the client’s responsibility to manage third party risks, it also offers flexibility in actions to achieve outcomes consistent with the PS.

<sup>39</sup> The Sustainability Policy (2006) provides, “If the client fails to comply with its social and environmental commitments, as expressed in the Action Plan or legal agreement with IFC, work with the client to bring it back into compliance to the extent feasible, and if the client fails to reestablish compliance, exercise remedies when appropriate” (para. 26).

2023 that it had not yet acted upon it.<sup>40</sup> CAO is not aware of any time-bound IFC plan, pre- or post-exit, to explore and exercise various forms of leverage to ensure the study’s disclosure.

### **b) Stakeholder engagement and consultations**

CAO’s monitoring focus in this area has revolved mainly around stakeholder engagement and consultations on the assessment of the LCT project’s impacts on coastal erosion.

As reported in the third monitoring report, community members, including the complainants, were consulted during preparation of the first draft study on coastal erosion completed in 2020. IFC noted that local stakeholders consulted included village chiefs, representatives of the complainants’ Collective, and other residents of coastal communities including women and fisherfolk. After IFC’s coastal erosion specialist consultant found shortcomings with the draft study, LCT engaged a second consultancy group in May 2021 to review and revise it. As reported by IFC, the new consultancy’s methodology involved document review and data analysis, including review of reports from prior stakeholder consultation, but no additional consultations with community stakeholders. In addition, the draft study was not shared with coastal communities or the complainants.

The CAO complainants assert that neither LCT nor their consultants have engaged with the communities or their representatives on assessing the project’s contribution to coastal erosion and related impacts since the consultation for the first draft study in 2019.

In August 2022, at the lenders’ request, LCT prepared a consultation plan within its stakeholder engagement program, to support disclosure of the key findings from the coastal erosion study with coastal communities living to the east of the port, including those affected by coastal erosion. This was a required action in the project’s updated E&S Action Plan of June 2022.<sup>41</sup> IFC and LCT informed CAO that this consultation process was put on hold by LCT considering the government’s position on the study’s disclosure.

During the current monitoring period, IFC has made additional efforts to engage with complainants. Documentation received by CAO from IFC confirms that in addition to regular engagement by phone and email with the President of the Collective, IFC has organized meetings with numerous members of the Collective on several occasions in Lomé to discuss their concerns in relation to the CAO complaint.

### **c) CAO observations**

#### ***Disclosure of environmental and social information***

IFC has made efforts to attempt to secure the disclosure of the coastal erosion study or at least a non-technical summary since learning that the Government of Togo may oppose the study’s

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<sup>40</sup> The World Bank and other development finance institutions have programs related to coastal erosion prevention and mitigation (e.g., <https://www.wacaprogram.org/country/togo>) and IFC has ongoing financial relationships with LCT’s shareholders – Terminal Investment Limited (TIL) and the Mediterranean Shipping Company (MSC). See e.g. <https://disclosures.ifc.org/project-detail/SII/42041/medlog>; <https://disclosures.ifc.org/project-detail/ESRS/37619/asyaport-extension>.

<sup>41</sup> ESAP June 2022 Update.

disclosure. However, the study has still not been disclosed. Thus, **CAO finds that at the time of exit from the investment IFC remained in non-compliance with Performance Standard 1 (paras. 20, 26) as it had not ensured the disclosure of E&S information, specifically the 2022 coastal erosion study.** CAO also notes that following PS1, the full study should be disclosed, not only a non-technical summary.

In addition, IFC did not follow its own disclosure requirements under the Access to Information Policy (AIP) and IFC procedures. These required that IFC update the project’s E&S disclosure page of the project with electronic copies of any relevant E&S assessment documents prepared by or commissioned for the client, as well as any material new E&S information as it becomes available through the life of the investment.<sup>42</sup> Failure to post an electronic copy of the 2022 study breaches these requirements.

### ***Consultation with stakeholders***

While consultation with stakeholders, including the complainants, took place in relation to the 2020 draft of the coastal erosion study, the consultants did not subsequently share draft findings with them. For the 2022 draft, the second group of consultants received new terms of reference and presented a new report to LCT and lenders. Therefore, under PS1 requirements, IFC should have ensured that the consultants engaged complainants and potentially affected communities in both the development and findings of the 2022 study.

PS1 defines effective consultation as conducted in a manner “that provides the affected communities with opportunities to express their views on project risks, impacts, and mitigation measures...” and should be based “on the prior disclosure of relevant and adequate information, including draft documents and plans” (para. 21). This includes the requirement to disclose E&S assessment documents (para. 20). **CAO finds that these requirements – particularly in relation to the 2022 coastal erosion study disclosure and stakeholder engagement – have not been met.**

## **4. Allegations of Intimidation and Community Division**

During this monitoring period, CAO became aware of allegations of intimidation by LCT against coastal communities including the complainant group, and associated tensions among stakeholders. CAO’s Approach on Threats and Reprisals, the CAO Policy, and IFC’s Position on Retaliation all require CAO to take the safety of complainants seriously.<sup>43</sup> Accordingly, on receipt of reports of intimidation, CAO immediately took an active role in working with complainants, IFC, and LCT to understand the allegations, identify evidence, cross-reference information, and identify and work to prevent risks to complainants. This section summarizes actions taken by IFC, LCT, and CAO.

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<sup>42</sup> Policy on Disclosure of Information, 2006, para. 13: Access to Information Policy, 2012, para. 41; Environmental and Social Review Procedures (ESRP), updated January 6, 2022, 4.4.9.

<sup>43</sup> Approach to Responding to Concerns of Threats and Incidents of Reprisals in CAO Operations, at: <https://www.cao-ombudsman.org/about-us/approach-reprisals>

**a) Actions to address allegations of intimidation**

In September and October 2022, complainants reported concerns to CAO and IFC over the way LCT was approaching various communities east of the port, including those where complainants live. Concern centered on the introduction to communities of a Memorandum of Understanding (MoU) between LCT and any community interested in receiving financial support under the company’s CSR program. The signing of such agreements with community leaders was included as an action point for LCT in the government-required environmental audit of 2020.<sup>44</sup>

The complainants told CAO that they objected to certain clauses in the agreement that LCT prepared and alleged intimidatory tactics related to the presentation and signature of these agreements. CAO heard conflicting information from LCT and the complainants about the way the MoU was introduced to community officials and about the related conduct of both LCT and complainants. The complainants alleged attempts at corruption and intimidation on the part of LCT, while LCT alleged misrepresentation of information and defamation attempts.<sup>45</sup> It is not CAO’s role to investigate these conflicting allegations.<sup>46</sup>

Nonetheless, based on PS1 requirements on stakeholder engagement and its own approach to threats and reprisals, CAO expressed concerns to both IFC and the client in relation to the MoU.

The first concern is about the appropriateness of the language used. The MoU contains a legal disclaimer of any responsibility by LCT for coastal erosion impacts, and a provision prohibiting signatories from claiming at any point or in any forum – unless the signatory has solid proof – that the other signatory may be responsible for coastal erosion.

The second concern is the way the MoU was introduced to the complainants and community chiefs and leaders. Based on reports from complainants, other local leaders, LCT and IFC, CAO understands that the complainants and village leaders did not have the opportunity to make comments on the MoU or to work together with LCT on a draft agreement that would reflect the needs and positions of both parties.

Some community leaders did not see an issue with this approach or with the MoU terms. As reported by IFC and LCT, by August 2023, several communities had signed the MoU and benefited from LCT financial aid for social development as a result. At the same time, CAO notes that the Collective members, including village chiefs, did take issue with the MoU language and lack of opportunity to make comments. As a result, some community leaders reportedly refused to sign the agreement and on occasion withdrew their signatures. CAO was made aware of and directly observed an increase in tensions between the complainants and the IFC client, as well as between the complainants and other community leaders, that appeared to result from the differences of opinion regarding signing the agreement.

IFC has reportedly raised these issues directly with LCT, including by reminding the client of IFC’s expectations in relation to retaliation. IFC has also provided recommendations to revise the MoU,

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<sup>44</sup> Environmental audit available on IFC disclosure page at: <https://bit.ly/40udPKR>

<sup>45</sup> CAO Assessment Report Regarding the Third Complaint Received in relation to IFC’s Investment in Lomé Container Terminal (LCT) (IFC Project Number: 29197), in Togo.

<sup>46</sup> World Bank Group, 2021, IFC/MIGA Independent Accountability Mechanism (CAO) Policy, at: <https://bit.ly/3sw9xGf>, para. 9 (which states that CAO is not a judicial or legal enforcement mechanism).

although to CAO’s knowledge revisions have not been made. In addition, IFC reports providing recommendations to strengthen LCT project’s stakeholder engagement plan in accordance with PS1 requirements and best practice.<sup>47</sup>

### **b) CAO observations**

PS1 (para. 19) addresses intimidation of communities as follows: “Community engagement will be free of external manipulation, interference, or coercion, and intimidation, and conducted on the basis of timely, relevant, understandable and accessible information.” In this case, when CAO became aware of the MoU, it raised concerns immediately with IFC and subsequently with LCT that the memorandum’s precise wording and the manner it was introduced may be inconsistent with PS1 requirements and IFC’s Position Statement on Retaliation Against Civil Society and Project Stakeholders.<sup>48</sup>

In addition, the MoU’s introduction in various communities led to an exacerbation of tensions between the client and the complainants’ group on the one hand, and between the complainants and other community leaders on the other. CAO directly observed these tensions during its visit to Togo in January 2023.

CAO acknowledges IFC and LCT’s statements that the MoU’s purpose was to facilitate stakeholder engagement and not the contrary. It also notes the IFC client’s commitment that “no action resembling retaliation and intimidation will be initiated by LCT.”<sup>49</sup> However, concerns about the MoU were raised in the context of shrinking civic space in Togo<sup>50</sup> as well as a global trend of threats and intimidations (including criminalization and legal harassment) by businesses and other stakeholders against communities opposing business activities.<sup>51</sup> In CAO’s view, it is therefore not unreasonable for complainants who have publicly raised concerns about the LCT project to interpret the MoU’s language and presentation as an attempt to limit their complaints regarding LCT or to intimidate them. Further, as stated in the LCT-03 appraisal report, a requirement for project-affected people not to raise any issue that may be considered defamatory and to provide proof when raising project-related concerns constitutes a preliminary indication of harm as it

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<sup>47</sup> CAO Appraisal of Complaint Regarding Lomé Container Terminal, Togo (LCT-03), Appendix 2. IFC Management Response.

<sup>48</sup> The Position statement provides: “IFC does not tolerate any action by an IFC client that amounts to retaliation – including threats, intimidation, harassment, or violence – against those who voice their opinion regarding the activities of IFC or our clients. When complaints of this nature are raised with IFC, we work – within the scope of our mandate – with our clients or other appropriate parties to try to address them.” at: <https://bit.ly/4600H1m>

<sup>49</sup> CAO Assessment Report Regarding Lomé Container Terminal, Togo (LCT-03).

<sup>50</sup> 2022 Country Reports on Human Rights Practices: Togo, US Department of State, at: <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/togo/>; Freedom House, at: <https://freedomhouse.org/country/togo/freedom-world/2023>; “Togo needs concrete actions to address the deterioration of civic space”, Statement at the 50th Session of the UN Human Rights Council, 2022, at: <https://bit.ly/40rcHb7>

<sup>51</sup> “Between January 2015 and May 2021, the Business & Human Rights Resource Centre identified 355 cases that bear the hallmarks of SLAPPs, brought or initiated by business actors since 2015 against individuals and groups related to their defense of human rights and/or the environment.” In: Business and Human Rights Resource Centre, 2021, *SLAPPed but not Silenced: Defending Human Rights in the Face of Legal Risks*, at: <https://bit.ly/3EV1Vjt>



potentially restricts people’s ability to freely raise concerns.<sup>52</sup>

In these circumstances, it would have been helpful for IFC to conduct a contextual risk analysis to strengthen its supervision and support of its client.<sup>53</sup> IFC’s supervisory activities in October 2023 appear to have included discussion of the MoU and stakeholder engagement. However, real progress on these issues, in line with PS1 and the IFC Position Statement on Retaliation Against Civil Society and Project Stakeholders, is not yet evident. CAO will continue to monitor the situation and responses by IFC and LCT.

## **5. Conclusion, Recommendations, and Next Steps**

### **a) Conclusion**

This is CAO’s fourth monitoring report since its 2016 investigation report on IFC’s investment in the Lomé Container Terminal project. While progress to address non-compliance findings has been slow, the finalization of a coastal erosion study in 2022, which included among other sources of erosion an estimate of the LCT project’s contribution to coastal erosion, is a significant milestone for IFC. CAO also acknowledges that IFC actively supported its client to commission and finalize this study. IFC also made efforts to encourage the client to disclose the study according to Performance Standard (PS) 1 requirements and to seek the Government of Togo’s approval for the study’s disclosure. These efforts have, however, been unsuccessful so far, more than two years after the study’s completion. This lack of disclosure remains a non-compliance with PS1 requirements.

In addition, the delayed disclosure of the study’s findings has prevented any mitigating and remedial actions from being taken to address coastal erosion impacts related to the LCT project’s construction. Together with CAO’s expert’s review (see also Appendix 3), the 2022 study confirms contributions by the LCT project and Port of Lomé infrastructure to coastal erosion to the east of the port. CAO is thus satisfied that the link between the IFC-financed project and erosion impacts has been demonstrated. Given that adverse impacts on communities remain unassessed and unaddressed, and consistent with the Sustainability Policy and PS1, CAO finds that IFC should have worked with its client and other relevant stakeholders to assess project-related erosion impacts on coastal communities, with a view to determining mitigating and remedial measures.

Finally, while IFC has taken some actions to support client improvements to its stakeholder engagement program, consultations around drafts of the coastal erosion study have been limited. Further, CAO has raised questions about the consistency with PS requirements of the client’s stakeholder engagement with coastal communities and the complainants’ group during the monitoring period, which at the time of exit had not been resolved.

An important factor in working to address remaining non-compliances is the end of the financial relationship between IFC and LCT after all senior lender loans matured in December 2023. A consequence of the exit, compounded by implementation delays over the years to ensure client compliance with Performance Standards (particularly around the assessment of LCT contribution

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<sup>52</sup> CAO Appraisal of Complaint Regarding Lomé Container Terminal, Togo (LCT-03).

<sup>53</sup> ESRP, updated January 6, 2022, para. 4.2. “The objective of the E&S Supervision at the client level is to: ... Assess ongoing level of E&S risk, including contextual risks.”

to coastal erosion), is that IFC has lost contractual and financial leverage with its former client while impacts related to the project’s contribution to coastal erosion remain unassessed and unaddressed.

CAO notes that IFC has stated its intent to remain actively involved with the CAO cases related to the LCT project as long as needed to support their resolution and beyond the end of the transaction if necessary. However, it is unclear what IFC intends to do to facilitate the resolution of this case. CAO suggests that, consistent with good international industry practices on responsible business conduct and exit,<sup>54</sup> IFC should take prompt action to resolve the outstanding non-compliances at the project level, using any remaining available leverage to do so.<sup>55</sup> These remaining non-compliances continue to create a real risk of further harm to complainants and the coastal communities to the east of the LCT project. They may also present a reputational risk to IFC, co-lenders, LCT and its shareholders, which the project closure does not address.

### **b) Recommendations**

On the basis that this monitoring report is published after the end of IFC’s financial relationship with its client, CAO recommends the following actions for prompt implementation by IFC to address the remaining non-compliances:

#### ***Assessment of Environmental and Social Impacts and Remediation***

The coastal erosion study, together with CAO’s expert satellite-based assessment, has confirmed the contribution to coastal erosion of both the LCT project’s construction in the form of the spur groyne and the historical and continuing impacts of the Port of Lomé. CAO thus recommends that:

- IFC should work with its former client and other stakeholders to assess E&S impacts from the coastal erosion that occurred downdrift of the Lomé Container Terminal and in relation to the project’s construction and the port’s infrastructure (PS1, paras. 4-12).
- The impact assessment should be conducted in consultation with communities in the project’s area of influence (2006 Sustainability Policy; PS1, para. 21). It should pay particular attention to individuals and groups that may be in a situation of vulnerability (PS1, para.12). This consultation process should incorporate the terms of reference for consultants, identifying potential consultants and assessment locations, determining and evaluating the scale and range of impacts, and seeking comments on a draft. The impact assessment, once conducted, must be disclosed to the complainants and communities.
- Based on the impact assessment findings, IFC, in cooperation with other lenders and stakeholders, should work with LCT to determine mitigation and remediation measures as required by PS1 (para. 13-16) and the Sustainability Policy (para. 13). These measures (such as for livelihood restoration and resettlement) must address all erosion impacts,

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<sup>54</sup> “In a responsible exit, when an investment ends, IFC will have achieved its commitments to do no harm, mitigate E&S risks, and to have harm remediated, in addition to achieving the aims identified for that specific investment.” CAO, 2023, *Responsible Exit: Insights from CAO Cases*, at: <https://www.cao-ombudsman.org/resources/responsible-exit-insights-cao-cases>; See also UN Guiding Principles on Business and Human Rights and authoritative guidance from the United Nations Human Rights Office at: <https://www.ohchr.org/en/business-and-human-rights/financial-sector>

<sup>55</sup> See footnote 40.

including historical impacts, associated with the project. Project-affected communities including the complainants should be consulted on the design of such mitigation and remediation measures.

### ***Disclosure of E&S Information***

The non-disclosure of the coastal erosion study since February 2022 remains a significant non-compliance. CAO suggests that:

- IFC accelerate and increase its efforts, including use of leverage, with the Government of Togo, its client and shareholders, other lenders, and the World Bank to ensure disclosure of the study’s findings (PS1, para. 20).
- IFC seek external legal counsel, if necessary, to find a solution enabling LCT and IFC to meet their respective disclosure and stakeholder engagement responsibilities under the Sustainability Framework, taking into account any relevant confidentiality considerations between LCT and the Government of Togo.

### ***Intimidation and Community Division***

Tensions between LCT and the complainants have resulted in a low trust environment. There are opportunities to enhance the quality of LCT’s stakeholder engagement and prevent actions that may be seen as or result in intimidation and/or that may exacerbate tensions between the complainants, client, and other coastal communities. IFC’s support to its former client on these issues could help reduce reputational risks for both lender and client and prevent and mitigate potential security risks to complainants. CAO recommends that:

- IFC continue supporting LCT to improve the former client’s stakeholder engagement plan and awareness of risks to communities according to good international industry practice and guided by PS 1 (para.19). CAO notes that the Dutch entrepreneurial development bank FMO, another project lender, has announced funding of a technical assistance project with LCT on stakeholder engagement post-exit.<sup>56</sup> IFC should explore how to complement FMO’s assistance with additional support.
- Specifically, IFC should support LCT in cooperation with other lenders to either revise the Memorandum of Understanding and/or develop an alternative process of engagement with communities that includes consultation, so that any (new) agreement of cooperation between LCT and communities aligns with PS1 and IFC’s Position Statement on Retaliation Against Civil Society and Project Stakeholders.<sup>57</sup>

### **c) Next steps**

Given the ongoing non-compliances discussed in this report, and that CAO recently completed an appraisal of a third complaint related to IFC’s investment in LCT (LCT-03)<sup>58</sup>, which resulted in a decision to merge the LCT-01 and LCT-03 cases, CAO will keep this case open in monitoring.

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<sup>56</sup> FMO/DEG, 2024, Joint Management Action Plan to the ICM Compliance Review Report on Lomé Container Terminal SA (Project 43550), at: <https://www.fmo.nl/complaints-disclosure>

<sup>57</sup> IFC Position Statement on Retaliation Against Civil Society and Project Stakeholders, at: <https://bit.ly/4600H1m>

<sup>58</sup> CAO Appraisal of Complaint Regarding Lomé Container Terminal, Togo (LCT-03).

CAO expects to issue its next monitoring report in relation to this project in fiscal year 2025 (July 1, 2024 – June 30, 2025).

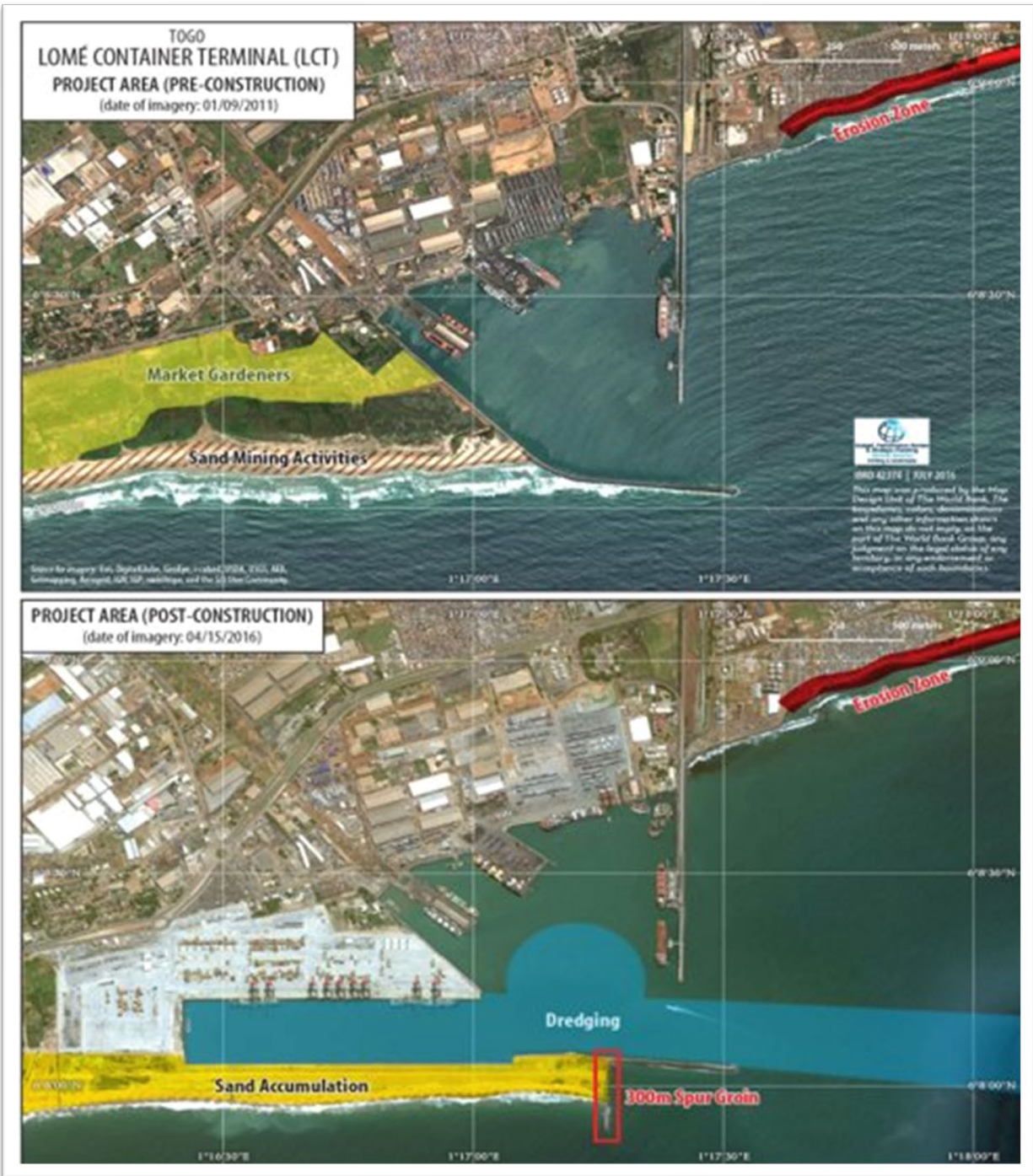
This report will be shared with the Board, the World Bank Group President, IFC, the client, and the complainants, and published on CAO’s website.

## Appendix 1. Summary of CAO Investigation Findings, October 2016

<b>Pre-investment E&amp;S Review</b>	<i>Review of the client's E&amp;S Assessment:</i>
	IFC did not consider “significant historical social or environmental impacts associated with the project,” and did not “work with [the client] to determine possible remediation measures” (2006 Policy, para. 13).
	PS1 requirements in relation to cumulative impact assessment were applicable and should have been addressed expressly in IFC’s E&S review (para. 5).
	IFC did not assure itself that the ESIA represented an “adequate, accurate and objective presentation of the issues, prepared by qualified and experienced persons” (PS1, para. 7).
	IFC’s review was not appropriate to the nature and scale of the project and was not commensurate with the level of the E&S risks and impacts (2006 Policy, para. 13). Additional assessment of the erosion risk posed by the project was required (2006 Policy, para. 15).
	<i>Disclosure and Consultation:</i>
	IFC did not assure itself that consultation included all communities that “may be subject to risks or adverse impacts from a project” (PS1, para. 21), which would have included communities in the erosion zone identified in the ESIA.
	IFC did not assure itself that information was disseminated by the client to potentially affected communities in a manner that met the requirements of PS1 or that consultation was “undertaken in a manner that is inclusive and culturally appropriate” (paras. 20-21).
	<i>Action Plan:</i>
	IFC did not ensure that the Action Plan agreed with the client “described the actions necessary to implement the various sets of mitigation measures or corrective actions to be undertaken”, including a timeline for their implementation (PS1, para. 16).
As a consequence of the absence of consultation with potentially affected communities living in the erosion zone, IFC did not ensure that the client developed an Action Plan that “reflect[ed] the outcomes of consultation on social and environmental risks and adverse impacts and the proposed measures and actions to address these” (PS1, para. 16).	
<b>Supervision</b>	Actions agreed between IFC and the client do not provide assurance that analysis of the project’s impact on erosion will meet PS1 requirements for environmental assessment by the client (PS1, paras. 4ff).
	Actions agreed between IFC and the client do not specify the need for consultation and disclosure with communities in the erosion zone (PS1, paras. 20ff).

	<p>IFC has not sought assurance that the revised Action Plan has been developed following consultation with or disclosed to affected communities. Similarly, the revised Action Plan lacks a mechanism for external reporting (PS1, paras. 16, 26).</p>
	<p>IFC’s decision to rely on the Government and PAL to handle the concerns raised by the complainants was not supported by an appropriate assessment of their commitment or capacity to address the issues. It also lacked a framework for monitoring or follow up that would provide feedback on whether concerns regarding project related impacts were being addressed.</p>
	<p>IFC has not assured itself that the client is responding “to community concerns about the project” or engaging in consultation “on an ongoing basis as risks and impacts arise”, as per the requirements of PS1 (paras. 21, 23). Further, IFC has not provided advice which would bring the client back into compliance as per the Sustainability Policy (para. 26).</p>

## Appendix 2. Project Maps



Source: CAO Compliance Investigation Report (LCT-01), August 2016

### **Appendix 3. Evolution of Shoreline Changes between 1998 and 2023<sup>59</sup>**

#### **a) Introduction and methodology**

To provide more detailed and higher-frequency insight into the alongshore variability in shoreline response and shoreline trajectory changes over the last few decades and in particular since 2012 (the year the LCT project was constructed), CAO’s independent coastal erosion expert used the CoastSat toolkit which allows extracting waterline from publicly available optical satellite images since 1984 through the Google Engine.

The CAO expert subdivided the nearly 40-km downdrift coast from the Port of Lomé (PAL)’s eastern seawall to the Benin border into five boxes in which were downloaded all available Landsat and Sentinel optical satellite images since 1984, and from which were further extracted shoreline time series along a few hundred meter-spaced transects (for a total of 256 transects). For each transect, CAO’s expert computed the shoreline long-term trend (linear regression) between 1998 and 2012 and 2012 to 2023 to identify changes in shoreline trends before and after the LCT project’s construction. This linear regression approach is commonly used in state-of-the-art long-term shoreline trend analysis at local to global scale as it is preferred to end point differences which are highly sensitive to outliers. In the present analysis, the period prior to 1998 was disregarded because of the small number of available images.

Figure 1 below shows the alongshore distribution of the computed trends, with a zoom on the area between ca. PK 11 and PK 21, that is  $0 < x < 10$  km, with  $x$  being the distance from the PAL eastern seawall which is the alongshore coordinate used.

#### **b) High-level findings**

- The satellite-derived shoreline assessment demonstrates that, since the late 1990s chronic erosion extends well beyond kilometer point (PK) 21 ( $x \approx 10$  km).
- Overall, the coast from PAL to the Benin border is severely eroding, on average, at a mean rate of 2.43 m/yr from 1998 to 2023 (and of 2.07 m/yr between 2012 and 2023).
- Erosion rates before and after 2012 are highly variable alongshore, due to many human interventions and coastal works, and bedrock changes. Such local variability in shoreline trends is due to local factors and is superimposed onto larger-scale erosion due to an overall deficit of sediment supply (see example below of the new fishing port).

#### **c) Findings related to the area between PK11 and PK 21**

Zooming into the area between PK 11 and PK 21 (Figure 1), we can conclude that:

- The sector between PK 11 and PK 21 is observed to have been the one most affected by LCT infrastructure from 2012 until 2023.

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<sup>59</sup> Edited extract from independent technical review of the 2022 coastal erosion study, submitted to CAO in June 2023 by Bruno Castelle, (PhD, Eng), senior research scientist, head of Methys Team at the EPOC Laboratory (Environnements et paléoenvironnements océaniques et continentaux), CNRS/University of Bordeaux. CAO may publish the entire review by Bruno Castelle at a later stage once the coastal erosion study or its main findings are disclosed.



- The mean erosion rate increased from 1.67 m/yr before 2012 (1998-2012) to 2.94 m/yr after 2012 (2012-2023), that is, an increase of erosion rate by ca. 75%. Such averaged accelerated erosion despite the Katanga beach nourishment cannot be solely attributed to the local Baguida erosion hotspot (as shown in the coastal erosion study and additional data computed by the CAO expert), and thus also illustrates the impact of LCT.
- Some coastal works have a clear local impact on shoreline change, which explains most of the trend of alongshore variability in Figure 1. For instance, the new Lomé Fishing Port construction in 2017 drove a clear shoreline accretion updrift and erosion downdrift. However, the Fishing Port has had little to no influence on the overall increase of the 10-km averaged erosion rate (between PK 11 and PK 21) since 2012.
- Accordingly, shoreline change may be locally primarily caused by a local coastal work (erosion or accretion), which must be distinguished from the larger erosion which is largely caused by the deficit of sediment supply from the coast updrift of PAL/LCT.

Overall, this additional dataset is in line with the conclusions of the coastal erosion study on the impact of the LCT project on the downdrift coast erosion.

Figure 1. Alongshore distribution of shoreline change trends from PAL eastern seawall to the Benin border computed between 1998 and 2012 (blue) and between 2012 and 2023 (red).

