

INTERNATIONAL FINANCE CORPORATION

**MANAGEMENT RESPONSE TO THE
CAO COMPLIANCE INVESTIGATION REPORT**

NIGERIA – SUB-SAHARAN AFRICA

**INDORAMA ELEME FERTILIZER AND CHEMICALS LIMITED
(PROJECTS #30967 and #40420)**

July 16, 2021

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ABBREVIATIONS AND ACRONYMS

CAO	Office of the Compliance Advisor Ombudsman
E&S	Environmental and Social
ESAP	Environmental and Social Action Plan
ESRP	Environmental and Social Review Procedure
ESRS	Environmental and Social Review Summary
IEFCL	Indorama Eleme Fertilizer and Chemicals Ltd
IEPL	Indorama Eleme Petrochemicals Limited
IFC	International Finance Corporation
MMPA	Million Metric Tons Per Annum
US\$	United States Dollars
WGM	Workers' Grievance Mechanism

EXECUTIVE SUMMARY

Introduction

- i. In April 2018, a complaint was lodged with the Compliance Advisor Ombudsman (CAO) by employees (the Complainants) of the Indorama Eleme Fertilizer and Chemicals Ltd. (IEFCL or the Company), a longstanding client of the International Finance Corporation (IFC) in Nigeria. The complaint raised eight (8) concerns, focusing on salary scales, taxes and union dues, health and safety hazards, healthcare plans, the treatment of workers following a protest and reprisals stemming from work-related complaints. *CAO found that IFC addressed all of these concerns, except for one, related to reprisals from work-related complaints.* The findings of CAO's Investigation Report are related to this specific concern (CAO Report, pgs. 10-11).
- ii. Although the complaint was filed in relation to the Line I project (#30967), IFC's support at the time included the preparation of a second project with IEFCL (#40420). Since the complaint occurred during IFC's due diligence for Line II, CAO, and also related to the application of PS2 requirements, decided to include the second project in its Investigation Report.
- iii. CAO finalized its assessment in February 2019, recognizing the complaint met its eligibility criteria for the issue of reprisals against work-related complaints. As there was no mutual agreement among the parties to engage in a CAO-facilitated dispute resolution process, CAO proceeded to a compliance appraisal of the case (CAO Report, pgs. 10-11).
- iv. In its December 2019 Compliance Appraisal Report, CAO specifically noted that its investigation would be limited in scope to IFC's pre-investment review and supervision of the Company's disciplinary procedures and approach to grievance handling to evaluate consistency with PS2 requirements (CAO Report, pg. 11).
- v. The proactive measures taken in this case in response to the other seven concerns reflect IFC's focus on risk management and early engagement with stakeholders. The risk of reprisals against workers who express grievances is an issue of concern for IFC in general. Management also recognizes the complexity of effectively implementing a Workers' Grievance Mechanism (WGM) following the requirements of PS2. In this regard, IFC's experience in working with Indorama contributed to early corrective actions, in coordination with both workers and the Company.
- vi. Management appreciates the fair and balanced assessment in the CAO Investigation Report, particularly regarding the specificity of the three findings, which serve to enhance IFC's practices as they evolve across investments with the Company. IFC continues to improve its supervision regarding PS2 commitments and takes as a fundamental lesson that WGM procedures must follow not only the letter, but also the spirit, of due process in practice to achieve full compliance.

Background

IFC's Investment in IEFCL

- vii. IFC has supported the Indorama Corporation (Indorama), the parent company of IEFCL, for about 30 years. In partnership with IFC, Indorama has developed from a medium-sized, domestically focused entity into a global business. It has become one of the world's fastest growing petrochemical companies, with operations in Asia, Africa, Europe and the United States, and has the largest fertilizer plant in sub-Saharan Africa.
- viii. IFC's involvement with Indorama includes support for its operations in the challenging context of Nigeria's Niger Delta region where the company has been able to create jobs and spur employment opportunities. Community support and engagement was a key part of Indorama's operations there from the outset. Nearby communities became minority shareholders of Indorama Eleme Petrochemicals Ltd. (IEPL), an integrated petrochemical company, which also financed community-directed projects such as schools and roads.

Management Response to Key Findings of CAO

IFC's Pre-Investment Review & Supervision

- ix. **Management agrees with the CAO finding that while an assessment of WGM procedures was conducted, no mitigation measures were incorporated into client requirements at the time.** IFC's investments in IEFCL were appraised under its 2012 Sustainability Policy and Performance Standards. The IEFCL Line I (#30967) appraisal determined that the project was not compliant with PS2 requirements, specifically regarding the WGM and supply chains. However, the Environmental and Social Action Plan (ESAP)¹ for the project did not include an action item to address this gap. As part of the supervision of Line I, and the appraisal of Line II (#40420), IFC hired an international labor consultant to identify gaps in labor standards, which resulted in corrective actions in the ESAP for Line II,² to bring IEFCL into compliance with PS2.

IFC Supervision 2017-present

- x. **Management partially agrees with the CAO finding that while IFC enhanced supervision of the client's WGM by requiring a third-party assessment, its focus was mainly on the Company's documentation, rather than on how the WGM was applied in practice.** IFC's consultant did undertake supervision site visits, including meetings with employees, and reviewed updated procedures in the Employee Handbook, which outlines the updated WGM processes. However, there was insufficient documentation of the scope and outcome of these in-person meetings, as compared to the review of existing Company documents.

¹ Disclosed October 19, 2012. <http://www.ifc.org/disclosure> (project #30967).

² IFC ESRS (project #40420), ESAP available at <https://bit.ly/2LK8o8V>.

IFC Supervision and Disciplinary Processes

- xi. **Management agrees with the CAO conclusion that “available evidence is insufficient to make findings of adverse outcomes in relation to the complainants’ allegations of retaliation”** (CAO Report, pg. 5). CAO further clarified that its review of available information in this case did not produce direct evidence of retaliation, and it remained unclear to CAO whether disciplinary procedures against seven employees were retaliatory (CAO Report, pg. 5).
- xii. **Management agrees that assessing factors to determine risk of retaliation represents a complex undertaking.** In fact, CAO’s review of available information in this case did not produce direct evidence of retaliation. It remained unclear to CAO whether disciplinary procedures against seven employees were retaliatory. (CAO Report pg. 5).
- xiii. **Going forward, IFC will better document its review of the Company’s interaction with workers and the effectiveness of the WGM, including a separate focus on disciplinary processes.** At the same time, IFC recognizes and appreciates CAO’s efforts to support IFC’s learning in this area and, as a result, improve processes in this regard. To this end, IFC has proposed a specific action in the Management Action Plan (MAP) to conduct a review of Company policies and procedures related to “fair treatment” and workers’ ability to raise grievances “without retribution.”
- xiv. **Management remarks that IFC has initiated a portfolio review to assess clients’ implementation of workers’ and community grievance mechanisms.** Moreover, CAO recognizes that IFC has prepared several guidance notes to staff on issues involving PS2, including toolkits, position statements on retaliation, and grievance handling. In March 2021, together with IDB Invest, IFC published a *Good Practice Note for the Private Sector: Addressing the Risks of Retaliation Against Project Stakeholders* (CAO Report, pg. 24).

I. INTRODUCTION

1. In April 2018 a complaint was lodged with the Compliance Advisor Ombudsman (CAO) by 134 employees (the Complainants) of the Indorama Eleme Fertilizer and Chemicals Ltd. (IEFCL or the Company), a subsidiary of Indorama, a longstanding client of the International Finance Corporation (IFC) in Nigeria.
2. The complaint identified eight (8) specific concerns: (i) salary per industry standard; (ii) compensation difference between Nigerian and expatriate employees; (iii) choice of union; (iv) taxes and union dues deducted; (v) health/safety hazards; (vi) healthcare plan; (vii) treatment following worker protest; and (viii) reprisals stemming from work-related complaints. CAO found that IFC had addressed seven of these concerns, except for one, the concern of reprisals from work-related complaints. CAO's Investigation Report included three (3) specific findings, all of which were related to this last concern (CAO Report, pgs. 17, 20 & 21).
3. CAO also acknowledged that following a July 2017 protest by employees against the Company, IFC enhanced its supervision, with an increased focus on the Company's approach to labor issues and security.
4. Although the complaint was filed in relation to the Line I project (#30967), IFC's support at the time included the preparation of a second project with IEFCL (Line II, #40420). Since the complaint occurred during IFC's due diligence for Line II, CAO, concerned the application of PS2 requirements, decided to include the second project in its Investigation Report.
5. CAO finalized its Assessment Report in February 2019, recognizing that the issue of reprisals against work-related complaints met its eligibility criteria. As there was no mutual agreement among the parties to engage in a CAO-facilitated dispute resolution process, CAO proceeded to a compliance appraisal of the case (CAO Report, pgs. 10-11).
6. In its December 2019 Compliance Appraisal Report, CAO specifically noted that its investigation would be limited in scope to IFC's response to allegations that the Company may have taken retaliatory action against workers who raised grievances. In particular, CAO's compliance investigation questioned whether IFC's 2012 pre-investment review and supervision provided the necessary assurance that the Company's workplace disciplinary procedures and handling of grievances were consistent with PS2 requirements. CAO also noted that IFC's actions establishing such assurance would be reviewed "*...considering sources of information available at the time.*" (CAO Report, pg. 12.)
7. Given the restrictions on travel imposed by the COVID-19 pandemic, CAO did not conduct a site visit and recognized its limited ability to talk to Company workers other than the Complainants' representatives. To address the complex labor issues in this case, CAO's investigation included the support of an external expert in the area of labor and employment law, in addition to CAO staff (CAO Report, pg. 12).

II. PROJECT BACKGROUND AND THE DUE DILIGENCE AND SUPERVISION PROCESS

IFC's Investment in IEFCL

8. IFC has supported the Indorama Corporation (Indorama), the parent company of Indorama Eleme Fertilizer and Chemicals Limited (IEFCL) for about 30 years. In partnership with IFC, Indorama has developed from a medium-sized, domestically focused entity into a global business. It has become one of the world's fastest growing petrochemical companies, with operations in Asia, Africa, Europe and the United States, and the largest such fertilizer plant in sub-Saharan Africa.

9. IFC's involvement with Indorama includes support for its operations in the challenging context of Nigeria's Niger Delta region. These investments have not only resulted in creating jobs, but also involved close engagement with communities.

10. In 2006, IFC supported Indorama in the acquisition and refurbishment of Indorama Eleme Petrochemicals Ltd. (IEPL), an integrated petrochemical company – the largest of its kind in Nigeria. As part of the IEPL acquisition, nearby communities became minority shareholders, receiving monetary dividends. The project also supported financing of community-directed projects such as schools and roads. An independent assessment conducted in 2016 found that the IFC-financed project added 1,580 permanent, full-time jobs and indirectly created as many as 32,000 jobs downstream.

11. In 2012, IFC's Board of Directors approved an investment in IEFCL (Eleme Fertilizer project #30967 or Line I) for the construction of a 1.4 million metric ton per annum (MMTPA) urea plant at IEPL in Port Harcourt. The project, completed in 2016, facilitated the development of the only major fertilizer export plant in Nigeria at the time, which resulted in a more reliable supply of urea for agricultural yields.

12. Following the successful commissioning of Line, I (#30967), Indorama sought to construct a second urea fertilizer line, located next to the existing line in Port Harcourt. IFC conducted an appraisal of the project (Line II, #40420) in March 2018. The project was approved by IFC's Board of Directors. The Line II project facilitated expansion of the fertilizer production capacity from 1.4 MMTPA to 2.8 MMTPA, at a cost of approximately US\$1 billion.

IFC's Environmental and Social (E&S) Appraisal and Supervision of IEFCL (Lines I & II)

13. IFC's investments in IEFCL were appraised under its 2012 Sustainability Policy and Performance Standards. As a result of the IEFCL Line I appraisal, IFC determined that the project was not compliant with PS2 requirements, specifically regarding the Workers' Grievance Mechanism (WGM). However, the Environmental and Social Action Plan (ESAP)³ for the project did not include an action item for the client to address this gap.

14. As part of the March 2018 appraisal of the IEFCL Line II project (#40420), IFC hired an international labor consultant to identify gaps in labor standards, which resulted in several

³ ESAP disclosed on October 19, 2012. <http://www.ifc.org/disclosure> (project #30967).

corrective actions in the ESAP for Line II to bring it into compliance with PS2. These actions were also implemented for Line I.

Results of E&S Appraisal

15. IFC disclosed that the Company had complied with the following corrective actions regarding the WGM, as CAO recognized: “(i) appointing management and human resources staff to proactively engage with workers; (ii) placing boxes on Company site to provide anonymous complaints and suggestions; and (iii) promoting the grievance mechanism to workers” (CAO Report, pg. 19, citing the IFC Environmental and Social Review Summary (ESRS), as disclosed on the IFC website for Line II).

16. Following the implementation of actions in the Line II ESAP, IFC confirmed the Company’s Human Resources organizational structure was adequate to address workers’ complaints. In addition, the Company finalized a “standalone WGM procedure” (CAO Report, pg. 19), included in the Line II ESAP, making the WGM accessible to both direct and contractor employees and therefore compliant with the requirements of PS2.⁴ The updated Employee Handbook⁵ included the following revisions: “(i) providing confidentiality in the WGM process; (ii) ensuring roles and responsibilities are assigned to specific grievances; (iii) setting target timelines for handling grievances; and (iv) communicating it to workers on a regular basis” (CAO Report, pg. 19, citing Line II ESAP).

17. IFC disclosed the ESRS and ESAP for a third investment in IEFCL (#42187) in September 2019, in which no further gaps in the Company’s WGM system were identified, as the Employee Manual updated for Line II was also applicable to this third investment and no workers grievances had been raised at the time of the appraisal of this project.

18. During the supervision of Line II, IFC noted an increasingly conducive environment at IEFCL, in which workers have the choice to unionize (and have done so), and some grievances have been addressed as part of a collective bargaining agreement. While these appear to be positive developments, they do not replace an effective and trustworthy WGM or IFC’s assessment as part of supervision of the effective implementation of the WGM.

⁴ IFC ESRS 40420, ESAP available at <https://bit.ly/2LK8o8V>

⁵ Company Employee Handbook disclosed in IFC’s ESRS 40420. Available at <https://bit.ly/2LK8o8V>

III. MANAGEMENT RESPONSE TO CAO FINDINGS

IFC's Pre-Investment Review and Supervision

Summary of CAO Findings (CAO Report, pg. 17): Finding #1

- In relation to IFC's 2012 pre-investment review, CAO finds that IFC did conduct an assessment of the Company's WGM procedures which was commensurate to risk. However, no mitigation measures were incorporated as necessary conditions of IFC's investment (Sustainability Policy para. 28) to address gaps identified in the WGM procedure regarding (a) handling of anonymous complaints and (b) prohibiting retribution for lodging a complaint.

19. **Management expresses its thanks to CAO for its insights in identifying gaps that IFC was able to close.** The actions detailed below also benefitted subsequent projects with Indorama. Management believes this responsive approach to CAO is indicative of IFC's continuing progress in addressing these important issues.

20. **Management agrees with CAO that while an assessment of the WGM was conducted, no mitigation measures were incorporated into client requirements at the time.** IFC's pre-investment review, as reported in its December 2012 due diligence report, found that the Company was not in compliance with PS2 in relation to grievance mechanisms. IFC recommended that: (i) a provision be included in the WGM for anonymous reporting; and (ii) a statement be included that there would be no retribution for lodging grievances. However, IFC did not address these gaps by including a specific ESAP action to be carried out by the client.

21. **Management wishes to highlight that as part of its supervision of the Line I project and appraisal of the Line II project, IFC took proactive steps to close the gaps, including incorporating corrective actions into the ESRS and ESAP.** Specifically, IFC sent a social specialist to visit the site in January 2018, approximately two weeks after receipt of the complaint, and subsequently hired an international labor consultant to conduct an independent labor assessment. The consultant's findings indicated that the gaps in the WGM system initially identified had been addressed through the corrective actions in the ESAP for the Line II project.

22. **Management recognizes the need to have a strong E&S risk management function, and since July 2019 has established an oversight responsibility with the formation of the Environmental and Social Policy and Risk Department (CES).** The E&S specialists are already required to review the findings of independent or third-party assessments and to ensure their conclusions or recommendations are internally consistent. In addition, for projects designated as "high E&S risk," CES Risk Officers also verify that appraisal findings are properly reflected in the ESRS and ESAP, both of which are public disclosed.

IFC Supervision 2017 – Present

Summary of CAO Findings (CAO Report, pg. 20): Finding #2

- CAO finds that IFC has enhanced its supervision of the client's WGM since 2018, by requiring a third-party labor assessment and requiring the Company to formalize and enhance its WGM. However, IFC's reviews have focused on the Company's WGM documentation, and have not adequately assessed how the WGM works in practice. IFC E&S supervision is

required to establish client’s degree of compliance with the PS and consider the effectiveness of the client grievance mechanism in particular ([Environmental and Social Review Procedure] ESRP 6.2.3). IFC has not assured itself that the Company has complied with PS2 requirements that a WGM be easily accessible, use an understandable and transparent process and adequately bar any retribution.

23. **Management partially agrees with this CAO finding in that implementation of the WGM was assessed during supervision, but there was inadequate documentation of the processes and procedures in practice.** IFC did undertake on-site visits during supervision, including face-to-face meetings with employees and their representatives (June 2019). Other meetings were conducted virtually due to the COVID-19 pandemic (September 2020). These meetings included a review of updated procedures in the Employee Handbook, which outlines updated WGM processes. Management recognizes that the outcomes of these meetings were not fully documented. Going forward, IFC intends to improve its detailed recording of the implementation of the Company’s WGM in practice.

24. **Regarding the effectiveness of the WGM, IFC’s supervision of Line I concluded that while the system was comprehensive on paper, improvements were needed to capture the nature and number of grievances.** Some processes appeared to be informally resolved without a record and there was a need to clearly communicate the existence of the WGM to workers, per the E&S appraisal. IFC specified corrective actions in the Line II ESAP, including “continuous employee engagement and feedback process for grievance identification and resolution.”⁶ In addition, the Line II appraisal resulted in the requirement (also included in the ESAP) for the Company to formalize and enhance the employees’ grievance mechanism to make it accessible to both direct and contractor employees, such that it would meet the requirements of PS2. These actions were evidenced in updated procedures in the Employee Handbook.

IFC Supervision and Disciplinary Processes

Summary of CAO Findings (CAO Report, pg. 21): Finding #3

- After becoming aware of allegations of retaliation against workers in late 2018, CAO finds IFC did not take sufficient action in response in order to assure itself that the Company’s actions reflected PS2 commitments to “fair treatment” of workers and the requirement that workers should be able to raise grievances “without any retribution” (para. 15 and 20).

25. **Management agrees with this finding and acknowledges that assessing risk factors and the occurrence of retaliation in this case presents a complex undertaking.** CAO’s review of available information in this case did not produce direct evidence of retaliation, and it remained unclear to CAO whether the events of July 2018 which precipitated the commencement of disciplinary procedures against seven employees were retaliatory. Accordingly, CAO concluded that available evidence was insufficient to make findings of adverse outcomes in relation to the Complainants’ allegations of retaliation. (CAO Report, pg. 5).

⁶ IFC ESRS 40420, ESCAP available at <https://bit.ly/2LK8o8V>

26. **While not opining on the decision taken by the Disciplinary Committee, the CAO Report notes that the employees whose complaints were reviewed were all subject to the same review processes.** The decision to dismiss three of seven workers followed a “similar disciplinary process in relation to the same incident” (CAO Report, pg. 22). Seven employees’ cases were presented to the Company’s Disciplinary Committee, resulting in varying actions based on: (i) processes followed in accordance with the Employee Handbook; (ii) a stated rationale for dismissal; and (iii) differences in the facts of each case (CAO Report, pgs. 21-22).

27. **Going forward, IFC will better document its review of the Company’s interaction with workers and the effectiveness of the WGM.** To this end, IFC has proposed to conduct a review of Company policies and procedures related to “fair treatment” and workers’ ability to raise grievances “without retribution” (see Management Action Plan (MAP) in Section IV below).

28. **Independently of this case, IFC has initiated a portfolio review to assess client implementation of workers’ and community grievance mechanisms.** This initiative will further expand IFC’s capacity to supervise client performance in this crucial area. As CAO has recognized, IFC has prepared several guidance notes to its staff on issues involving PS2, including toolkits, position statements on retaliation, and grievance handling. In March 2021, together with IDB Invest, IFC published a *Good Practice Note for the Private Sector: Addressing the Risks of Retaliation Against Project Stakeholders* (CAO Report, pg. 24). These sources of technical guidance for IFC reflect important lessons learned through various engagements.

IV. MANAGEMENT ACTION PLAN (MAP)

29. An IFC/MIGA Independent Accountability Mechanism (CAO) Policy took effect July 1, 2021. CAO’s investigation on the IEFCL project predates the Policy effectiveness date, and was conducted under the CAO 2013 Operational Guidelines. In line with agreed transitional arrangements, the Policy will apply for the IEFCL CAO case beginning with Compliance Monitoring. Under the Policy, the scope of CAO’s compliance monitoring will be the corrective action approved as part of the MAP.

30. CAO’s findings have been addressed for the most part, including the corrective actions taken by the Company through the Line II ESAP. There is one remaining action which IFC has identified as an action to close the remaining gap identified by CAO. The MAP IFC proposes to close the remaining gap identified by CAO is as follows:

Action	Related Activities and Timeline
In relation to CAO’s finding that IFC assure itself that the Company’s action properly reflects PS2 commitments to “fair treatment” of workers and their ability to raise	IFC will confirm the Company’s compliance with PS2 commitments, particularly for “fair treatment” of workers and their ability to raise grievances “without any retribution”. This review will be done taking into account international

grievances “without retribution” (IFC ongoing supervision of all IEFCL projects).	labor standards and will be integrated into ongoing project supervision activities. <i>This will be completed within the project’s supervision cycle by December 2021, subject to COVID-19 travel restrictions.</i>
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V. CONCLUSION

29. Management appreciates the fair and balanced assessment in the CAO Investigation Report, particularly regarding the specificity of the three findings, which serve to enhance IFC’s practices as they evolve across investments with the Company. IFC continues to improve its supervision regarding PS2 commitments and takes as a fundamental lesson that WGM procedures must follow not only the letter, but also the spirit, of due process in practice, to achieve full compliance.

ANNEX 1: SUMMARY OF MANAGEMENT RESPONSES

No.	CAO Finding	IFC Response with Actions Taken or Proposed
<u>IFC’s Pre-Investment and Supervision: Finding #1</u>		
1	<p>In relation to IFC’s 2012 pre-investment review, CAO finds that IFC did conduct an assessment of the Company’s Workers’ Grievance Mechanism (WGM) procedures which was commensurate to risk. However, no mitigation measures were incorporated as necessary conditions of IFC’s investment (Sustainability Policy para. 28) to address gaps identified in the WGM procedure regarding: (a) handling of anonymous complaints and (b) prohibiting retribution for lodging a complaint.</p>	<p><i>Management agrees with this finding.</i></p> <p><u>Pre-Investment:</u> The December 2012 due diligence report for Line I stated that the client was not in compliance with PS2 in relation to grievance mechanisms and supply chains. In order for the client to comply with PS2, IFC recommended that a provision be included in the WGM for anonymous reporting along with a statement that there would be no retribution for lodging grievances. However, the ESAP did not include a client action to address this gap. On-site visits were completed in mid-January 2018 and concerns were being addressed. Nonetheless, shortly thereafter, IEFCL employees sent the complaint letter to CAO.</p> <p><u>Actions Taken:</u> As part of the appraisal of the Line II project, IFC sent a social specialist to visit the site and subsequently hired an international labor consultant to complete an independent labor assessment. The assessment findings indicated that while additional work was needed on the WGM, the gaps in the WGM initially identified were addressed and subsequently included in the ESAP for Line II.</p> <p>IFC has established an additional assessment as part of the process to review against irregularities, by requiring E&S specialists to review the findings of independent or third-party assessments and reports to ensure conclusions and recommended actions are internally consistent. In projects designated as High E&S Risk, CES Risk Officers verify that appraisal findings are properly reflected in the ESRS and ESAP, both of which are public documents.</p>
<u>IFC Supervision 2017 – Present: Finding #2</u>		
2	<p>CAO finds that IFC has enhanced its supervision of the client’s WGM since 2018. This included requiring a third-party labor assessment and requiring the Company to formalize and enhance its WGM. However, IFC’s WGM reviews have focused on written documentation, and have not considered how the WGM works in practice. IFC E&S supervision is required to establish client’s degree of compliance with the PS and consider the effectiveness of the client grievance mechanism in particular (ESRP 6.2.3). IFC has not assured itself that</p>	<p><i>Management partially agrees with this finding.</i></p> <p><u>Supervision:</u> IFC undertook a site visit in late January 2018, about two weeks after labor issues were brought to IFC’s attention. This visit included interviews with Company employees randomly selected by both the Company’s human resources department and IFC. However, the IFC site visit report did not document whether the effectiveness of the WGM was specifically assessed as part of these interviews.</p> <p>Review of the effectiveness of the client’s WGM also entails an assessment of workers’ knowledge of its existence and how it functions, including workers’ trust in the WGM. Verification of these aspects is mainly possible via focused interviews of a representative number of direct and contracted workers and their elected representatives.</p> <p><u>Actions Taken:</u> IFC then hired an international labor consultant, who visited the project site on March 12-16, 2018, with the objective of</p>

No.	CAO Finding	IFC Response with Actions Taken or Proposed
	<p>the Company’s has complied with PS2 requirements that a WGM be easily accessible, use an understandable and transparent process and adequately bar any retribution.</p>	<p>evaluating the Company’s compliance with PS2. Its assessment included meetings with workers’ representatives “at which no one from management was present” and during which time conversations were held with various individual workers outside management presence. However, there is no record of the total of number of workers interviewed. Regarding the effectiveness of the WGM, the consultant concluded that while the WGM was comprehensive on paper, improvements were needed to capture data on the <u>number and nature</u> of grievances (as some were informally resolved without a record) and to clearly communicate its existence to workers. Management highlights that IFC included corrective actions in the Line II ESAP for further improvements to the Company’s WGM.</p>
<p><u>IFC Supervision and Disciplinary Processes: Finding #3</u></p>		
<p>3</p>	<p>After becoming aware of allegations of retaliation against workers in late 2018, CAO finds IFC did not take sufficient action in response in order to assure itself that the Company’s actions reflected PS2 commitments to “fair treatment” of workers and the requirement that workers should be able to raise grievances “without any retribution” (para. 15 and 20).</p>	<p><i>Management agrees with this finding.</i></p> <p>Supervision: Management notes that assessing risk factors and the occurrence of retaliation in this case presents a complex undertaking. In fact, CAO’s review of available information in this case did not produce direct evidence of retaliation, and it remained unclear to CAO whether the events of July 2018 which precipitated the commencement of disciplinary procedures against seven employees were retaliatory (CAO Report, pg. 5).</p> <p>Management and CAO recognize that similar processes were applied to the complaints of the employees reviewed by the Company. Seven employees’ cases were presented to the Company’s Disciplinary Committee, resulting in varying actions based on: (i) processes followed in accordance with the Employee Handbook; (ii) a stated rationale for dismissal; and (iii) differences in the facts of each case (CAO Report, pgs. 21-22).</p> <p>Management highlights that IFC will better document its review of the Company’s interactions with workers and the effectiveness of the WGM, including a separate focus on disciplinary processes. To this end, IFC has proposed a specific action in the Management Action Plan (MAP) to conduct a review of Company’s policies and procedures for “fair treatment” and workers ability to raise grievances “without retribution” (see Section IV of the Management Response).</p> <p>Actions Proposed: IFC will confirm the Company’s compliance with PS2 commitments, particularly for “fair treatment” of workers and their ability to raise grievances “without any retribution.”</p> <p><i>This will be completed within the project’s supervision cycle and subject to COVID travel restrictions by December 2021.</i></p>

Disclaimer

The IFC Management Response is provided in response to the Investigation Report of the Office of the Compliance Advisor Ombudsman (CAO) relating to complaints of alleged non-compliance by IFC with its Performance Standards on Environmental and Social Sustainability in a project supported by IFC finance or investment.

The CAO administers IFC's accountability mechanism in order to address complaints by people affected by IFC supported projects. As noted in paragraph 9 of the IFC/MIGA Independent Accountability Mechanism (CAO) Policy, CAO has no authority with respect to judicial processes. CAO is not a judicial or legal enforcement mechanism, nor is CAO a substitute for courts or regulatory processes, and CAO's analyses, conclusions, and reports are not intended or designed to be used in judicial or regulatory proceedings or for purposes of attributing legal fault or liability.

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