



## **CAO ASSESSMENT REPORT**

**Complaint regarding IFC Investment in Lome Container Terminal  
(Project # 29197)**

**Lome, Togo**

August 2015

Office of the Compliance Advisor Ombudsman  
*for the* International Finance Corporation/  
Multilateral Investment Guarantee Agency  
**[www.cao-ombudsman.org](http://www.cao-ombudsman.org)**

## **About the Compliance Advisor Ombudsman**

The Office of the Compliance Advisor Ombudsman (CAO) is the independent accountability mechanism for the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA), the private sector arms of the World Bank Group. CAO reports directly to the President of the World Bank Group, and its mandate is to assist in addressing complaints from people affected by IFC/MIGA supported projects in a manner that is fair, objective and constructive and to enhance the social and environmental outcomes of those projects.

For more information, see [www.cao-ombudsman.org](http://www.cao-ombudsman.org).

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## **LIST OF ACRONYMS**

CAO	Compliance Advisor Ombudsman
ESIA	Environmental and Social Impact Assessment
IFC	International Finance Corporation
LCT	Lome Container Terminal
MIGA	Multilateral Investment Guarantee Agency
PAL	Port Autonome de Lomé

## **1. OVERVIEW**

In March 2015, CAO received a complaint from the “Collectif des personnes victimes d’érosion côtière” - a group of riverine settlers who claim to be negatively impacted by the Lomé Container Terminal project. During the assessment, the complainants preferred that the complaint be handled by CAO’s Compliance function, while LCT communicated to CAO it did not wish to explore a dispute resolution process. The complaint is therefore being referred to CAO Compliance for appraisal. This Assessment Report provides an overview of the assessment process, including a description of the project, the complaint, the assessment methodology, and next steps.

## **2. BACKGROUND**

### **2.1. The Project**

According to IFC’s project description, Lomé Container Terminal SA (LCT), a locally incorporated company, was awarded a 35 year concession by the Government of Togo, with an optional 10 year extension, to develop, construct and operate a greenfield transshipment container terminal within the Port of Lomé in Togo. Upon completion, the Terminal is expected to have an estimated handling capacity of up to 2.2 million twenty foot equivalent unit moves per annum. Further expansion of the Terminal, south of the newly constructed port basin is envisaged in the longer term.

LCT is indirectly wholly owned by Thesar Maritime Limited which is a joint venture between Global Terminal Limited (GTL) and Oasis King International Limited (OKI). GTL is wholly owned by Terminal Investment Limited (TIL). OKI is 70% indirectly owned by China Merchants Holding International (CMHI) and 30% owned by the China Africa Development fund, a wholly owned company of the China Development Bank. The Terminal is jointly operated by TIL and CMHI. MSC, which has a 12% share of the international container shipping market, will be LCT’s anchor customer.

LCT’s Project is estimated to cost €353 million. IFC approved an investment of €255 million for the project which included €85.5 million senior debt financing from IFC’s own account, and €170 million additional loans mobilized from other lenders. The project is classified as Category A.

### **2.2. The Complaint**

In March 2015, CAO received a complaint from the “Collectif des personnes victimes d’érosion côtière” - a group of riverine settlers who claim to be negatively impacted by the Lomé Container Terminal project, and other infrastructure activities in the port area. More details concerning the issues raised can be seen in Section 3.1.1

## **3. ASSESSMENT**

CAO determined that the complaint met its eligibility criteria in March 2015, and undertook an assessment of the complaint. The purpose of a CAO assessment is to clarify the issues and concerns raised by the complainants, to gather information on how other stakeholders see the situation, and to determine whether the parties prefer to initiate CAO’s Dispute Resolution or Compliance role. During assessment, CAO does not gather information to make a judgment on the merits of the complaint. (See Annex A for a complete description of the CAO complaint handling process.)

### 3.1. Methodology

CAO's assessment of the complaint consisted of:

- a review of project documents;
- meetings with members of the affected communities, their traditional leaders and the collectif;
- meeting with LCT representatives;
- separate meetings with Togolese environmental agencies and the Port Autonome de Lomé; and
- discussions with the IFC project team.

#### 3.1.1. Summary of Issues

This section summarizes the issues laid out by different stakeholder groups during their discussions with CAO. This summary does not comprise a judgment by CAO about the merits of the complaint.

##### *Complainant's perspective*

The complainants' main concern is the impact of coastal erosion on the 13 communities that have presented the complaint, and which are located along the coast, east of the port of Lome and the LCT project. The 13 communities are Catagua, Gbetsiogbe, Baguida, Avepozo, Kpogan, Afidegnigda, Agbavi, Gbodjome, Devikem, Alimagnan, Agbedrafo, Kpeme, and Edoh Kope.

The complainants report that they started being affected by coastal erosion in the late 1960s, after the establishment of the port and the first quay, but that this had a more manageable pace of 1 to 7 meters per year. They report seeing a serious acceleration of sea encroachment starting in 2012 at an estimated pace of 10 meters per month, which they link to the beginning of construction of the LCT project and other port activities. The communities expressed the alarming pace of sea encroachment which has severely impacted them as individuals and communities. Below is a description of the impacts described by complainants to CAO:

- Loss of land and destruction of their houses, which has effectively left them displaced. Some families have tried building other houses, many of which have subsequently been swept away by the sea. Others have had to take on rental homes, where previously they were homeowners. Families are now scattered, with some community members leaving = to neighboring countries or beyond. The communities state that with the aggravation of the erosion, some of them have been left completely homeless, and others will follow.
- Loss of farms, coconut plantations, and places for tourism activities, which formed the basis of their livelihoods and has left them with very few alternatives. The sea levels have also changed the coastline, making previous fishing areas very rocky and therefore making fishing, another basic livelihood activity, very difficult. The communities expressed that this has diminished their capacity to make a living and provide sustenance to their families and education for their children. The women have tried undertaking other activities, like gravel mining, but they have been told by the government that this is now banned due to its contribution to sand erosion.
- Loss of religious sites like divinity houses or other places of cultural importance to the communities. Similarly, the graves and cemeteries of the communities have been overturned by the sea, requiring multiple relocations of their dead, and with less land to which to relocate them.

- Loss of local infrastructure, including royal palaces, community halls, market places, schools, wells and roads, all of which were important for the life and well-being of the communities. The communities state that they are now on their fourth coastal road, after the three previous ones had been taken over by sea encroachment.

It is their belief that coastal erosion is linked to the construction of the container terminal, as well as other construction operations that have occurred in the port area, including linkages to the third quay that was constructed by the French company, the Bolloré Group. The complainants expressed that they are cognizant of other private sector operators that have undertaken construction activities, and that the port itself may be part of the problem. However, they believe that the LCT project also contributes to the erosion and they question the fact that this issue was not looked at properly by the company and IFC. They state they were never identified as affected communities in the EIA of the project, and they were not consulted and information was not disclosed to them.

The communities also state that they have pursued various avenues to have their issues addressed, and have approached the World Bank, the IFC and different entities of the government of Togo. The communities report that no response has been forthcoming, and they have not seen any measures being taken to help the communities protect themselves from coastal erosion. The communities did report that in 2012 thirteen people from Baguida Beach received compensation from the Ministry of Social Affairs for the impacts of coastal erosion on their residences. Another community indicated that they had mobilized their community to erect a coastal barrier, but they did not have the appropriate resources and it was ultimately destroyed by the sea.

The complainants wish to see a comprehensive solution to the coastal erosion issue that is impacting their communities. Several measures were mentioned to CAO as possible solutions, including construction of protective barriers that would halt sea encroachment and would allow communities to stay in their current location, relocation, support to provide housing for the most vulnerable groups, support for alternative livelihood activities, among others.

#### *LCT's perspective*

LCT is aware that the Togolese coastline is affected by coastal erosion and that ever since the construction of the port, the coastal zone east of the port was to remain free of construction because of the associated erosion threat. LCT stated that it is widely known that various coastal roads have since vanished into the sea, along with several buildings as the coastline has retreated by several hundreds of meters. LCT also stated that it is known that the matter is very complex and has several contributing factors.

In any case, LCT reports that based on the data available to LCT, including the conclusions of the ESIA and the numerical simulations of the coastal environment which it had carried out and on the information they have gathered from the Togolese authorities and institutions, LCT does not believe there is any indication that their container terminal project is the cause of the erosion, or of the acceleration of the erosion that is presented by the complainants. LCT also clarified that from their point of view there is no connection between its container terminal and Bolloré's third quay.

LCT has met with the PAL and various Togolese agencies on this issue, and reports it has been made clear that LCT is not responsible for addressing complaints on coastal erosion, but rather this should be addressed by the competent authorities and the PAL since it is within their responsibility and mandate. Therefore, the company does not believe it is the right institution to be leading the response to the coastal erosion issue presented in the complaint.

LCT also stated that they have undertaken the appropriate social and environmental due diligence around the issues they believe are linked to the project. They report having conducted the ESIA as required and put in place an Environmental and Social Management System, and Resettlement Action Plans for two groups (sand miners and maraichers) whose livelihood activities were within the project footprint prior to construction. LCT believes it has made serious efforts to take on its social and environmental obligations linked to the project. Besides the engagement with the sand miners and maraichers, they point to their programs around mangrove replacement and protection of turtle species which were identified within the terminal area. With regard to coastal erosion, LCT stated that neither the ESIA nor the numerical simulations of the coastline within the project footprint that it had commissioned, suggested the risk for accelerated erosion that is portrayed by the complainants.

LCT noted that they understand the seriousness of coastal erosion at the national and even regional level. Given its presence in the port area, along with several other private sector actors, LCT remains available to engage with authorities. They indicated that this, however, would be in the framework of a corporate citizen, and that regardless, they are in the process of developing: (i) a stakeholder engagement plan, (ii) a community development plan and (iii) an additional Environmental and Social Impact Assessment, and each would be addressing coastal erosion as appropriate.

### **3.1.2. Next Steps**

After several discussions with the complainants, they communicated to CAO their preference that CAO conduct a Compliance appraisal of the project and IFC's participation. Similarly, LCT communicated to CAO that given the mandate and responsibility of the various authorities over the port area and the lack of proven links to its project, LCT sees no reason to embark on a CAO dispute resolution process. Based on the parties' decisions and in accordance with CAO's Operational Guidelines, the case will be referred to CAO Compliance.



## Annex A: CAO Complaint Handling Process

The Office of the Compliance Advisor Ombudsman (CAO) is the independent accountability mechanism for the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA) of the World Bank Group. CAO reports directly to the President of the World Bank Group, and its mandate is to assist in addressing complaints from people affected by IFC/MIGA supported projects in a manner that is fair, objective, and constructive and to enhance the social and environmental outcomes of those projects.

The initial assessment is conducted by CAO's Dispute Resolution function. The purpose of CAO's assessment is to: (1) clarify the issues and concerns raised by the complainant(s); (2) gather information on how other stakeholders see the situation; and (3) help stakeholders understand the recourse options available to them and determine whether they would like to pursue a collaborative solution through CAO's Dispute Resolution function, or whether the case should be reviewed by CAO's Compliance function.

This document is a preliminary record of the views heard by the CAO team, and explanations of next steps depending on whether the parties choose to pursue a Dispute Resolution process or prefer a CAO Compliance process. *This report does not make any judgment on the merits of the complaint.*

As per CAO's Operational Guidelines,<sup>1</sup> the following steps are typically followed in response to a complaint that is received:

Step 1: **Acknowledgement** of receipt of the complaint

Step 2: **Eligibility:** Determination of the complaint's eligibility for assessment under the mandate of the CAO (no more than 15 working days)

Step 3: **CAO assessment:** CAO conducts an assessment of the issues and provides support to stakeholders in understanding and determining whether they would like to pursue a consensual solution through a collaborative process convened by CAO's Dispute Resolution function, or whether the case should be handled by CAO's Compliance function to review IFC's/MIGA's environmental and social due diligence. The assessment time can take up to a maximum of 120 working days.

Step 4: **Facilitating settlement:** If the parties choose to pursue a collaborative process, CAO's dispute resolution function is initiated. The dispute resolution process is typically based or initiated by a Memorandum of Understanding and/or a mutually agreed upon ground rules between the parties. It may involve facilitation/mediation, joint fact-finding, or other agreed resolution approaches leading to a settlement agreement or other mutually agreed and appropriate goal. The major objective of these types of problem-solving approaches will be to address the issues raised in the complaint, and any other significant issues relevant to the complaint that were identified during the assessment or the dispute resolution process, in a way that is acceptable to the parties affected<sup>2</sup>.

or

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<sup>1</sup> For more details on the role and work of CAO, please refer to the full Operational Guidelines: [http://www.cao-ombudsman.org/documents/CAOOperationalGuidelines2013\\_ENGLISH.pdf](http://www.cao-ombudsman.org/documents/CAOOperationalGuidelines2013_ENGLISH.pdf)

<sup>2</sup> Where stakeholders are unable to resolve the issues through a collaborative process within an agreed time frame, CAO Dispute Resolution will first seek to assist the stakeholders in breaking through impasse(s). If this is not possible, the Dispute Resolution team will inform the stakeholders, including IFC/MIGA staff, the President and Board of the World Bank Group, and the public, that CAO Dispute Resolution has closed the complaint and transferred it to CAO Compliance for appraisal of IFC/MIGA project performance.

**Compliance Appraisal/Investigation:** If the parties opt for a Compliance process, CAO's Compliance function will initiate an appraisal of IFC's/MIGA's environmental and social due diligence of the project in question to determine whether a compliance investigation of IFC's/MIGA's performance related to the project is merited. The appraisal time can take up to a maximum of 45 working days. If an investigation is found to be merited, CAO Compliance will conduct an in-depth investigation into IFC's/MIGA's performance. An investigation report with any identified non-compliances will be made public, along with IFC's/MIGA's response.

Step 5: **Monitoring** and follow-up

Step 6: **Conclusion**/Case closure