APPRAISAL REPORT

CAO Appraisal for Audit of IFC

CAO Compliance

CI-R6-Y08-F097
June 16, 2008

Ramky Project, 23966
India

Case of

Ramky Enviro Engineers Ltd (REEL) hazardous waste management facilities

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

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About the CAO

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

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

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

1. Overview of the CAO Compliance Appraisal Process

When the CAO receives a complaint about an IFC or MIGA project, it first refers it to the CAO Ombudsman, which works to respond quickly and effectively to complaints through facilitated settlements, if appropriate. If the CAO Ombudsman concludes that the parties are not willing to reach a facilitated solution, the CAO Vice President has the discretion to request the compliance arm of CAO, CAO Compliance, to appraise the concerns raised in the complaint for a compliance audit of IFC or MIGA. Alternatively, a compliance audit can be initiated by request from the President of the World Bank Group or the senior management of IFC or MIGA.

A CAO Compliance appraisal is a preliminary investigation to determine whether the CAO should proceed to a compliance audit of IFC or MIGA. Through CAO Compliance appraisals, the CAO ensures that compliance audits of IFC or MIGA are initiated only for those cases with substantial concerns regarding social or environmental outcomes.

A compliance audit is concerned with assessing the application of relevant policy provisions and related guidelines and procedures to determine whether IFC and MIGA are in compliance. The primary focus of compliance auditing is on IFC and MIGA, but the role of the sponsor may also be considered.

A compliance audit appraisal, and any audit that ensues, must remain within scope of the original complaint or request. It cannot go beyond the confines of the complaint or request to address other issues. In such cases, the complainant or requestor should consider a new complaint or request.

CAO compliance appraisal will consider how IFC/MIGA assured itself/themselves of compliance with national law, reflecting international legal commitments, along with other audit criteria. The CAO has no authority with respect to judicial processes. The CAO is not an appeals court or a legal enforcement mechanism, nor is the CAO a substitute for international courts systems or court systems in host countries.

The appraisal criteria are set forth in CAO's Operational Guidelines**.** The criteria are framed as a series of questions to test the value of undertaking a compliance audit of IFC or MIGA. The criteria are as follows:

- Is there evidence (or perceived risk) of adverse social and environmental outcomes that indicates that policy provisions (or other audit criteria) may not have been adhered to?
- Is there evidence of risk of significant adverse social and environmental outcomes that indicates that policy provisions, standards, guidelines, etc., whether or not complied with, have failed to provide an adequate level of protection?
- Is there evidence (or perceived risk) of significant adverse social and environmental outcomes where policy provisions, standards (or other audit criteria) were not thought to be applicable but perhaps should have been applied?

- Is there evidence that the application of some aspect of a policy, standard, guideline or procedure resulted in adverse social and environmental outcomes?
- Can the cause of adverse social and environmental outcomes not be readily identified and corrected through the intervention of the project team without a detailed investigation of the underlying causes or circumstances?
- Could a compliance audit yield information or findings that might better inform the application of policies (or other audit criteria) to future projects?

During appraisal, CAO Compliance holds discussions with the IFC or MIGA project team and other relevant parties to understand the validity of the concerns and to explore whether an audit would be warranted.

After a compliance appraisal has been completed, the CAO can choose only one of two options: to close the case, or to initiate a compliance audit of IFC or MIGA.

The CAO will report and disclose the findings and decision of the CAO compliance appraisal in an appraisal report in order to inform the President of the World Bank Group, the Boards of the World Bank Group, senior management of IFC or MIGA, and the public in writing about its decision.

If the CAO decides to initiate a compliance audit, as a result of the compliance appraisal, the CAO will draw up a terms of reference for the audit in accordance with CAO's operational guidelines.

2. Background and Concerns that Led to the Appraisal

1. In June 2005, IFC proposed to the Board to finance Ramky Enviro Engineers Ltd (REEL) in order to partly finance establishment and operation of six hazardous waste management facilities through REEL, and to finance Ramky Infrastructure Limited (RIL) in order to partly finance establishment of one municipal solid waste management facility through RIL.

2 In its June 2005 Streamlined Procedure Board paper, IFC states that there is an urgent need to adopt environmentally sustainable waste management practices in India, and that IFC's involvement will help provide modern waste disposal services to industrial customers and municipalities in several Indian states, and that this will subsequently contribute to reducing air, water and soil pollution, improve public health, and make economic development more sustainable through cleaner disposal of waste.

3. The CAO received two complaints in August and September 2005, respectively. A third complaint was filed on October 14, 2007 signed by residents of the village of Gummidipoondi, Southern India, and the Corporate Accountability Desk in Mumbai. The complaint relates to the establishment and operation of an integrated hazardous waste treatment facility operated by REEL in the SIPCOT Industrial Area near Gummidipoondi village.

4. The Complainants claim that the environmental assessments made by the Client are not made with the rigor indicated as necessary in IFC's guidelines, that assessments made were not shared with the local communities, and that the incinerators at other locations operated by the client fail to meet international standards for emissions control, especially persistent organic pollutants, such as dioxins and furans. The Complainants further state that there are numerous violations of IFC's requirements, in addition to violations of municipal laws.

5. IFC stated that it was confident that appropriate procedures were followed both during its assessment of the Project, as well as in its responses to the complaints. IFC prepared a detail response to the complainants in December 2003, and visited the site in January 2006. IFC further stated that it is of the opinion that the Project is designed, and will be operated, in compliance with IFC requirements and international best practice.

3. CAO Findings

The appraisal team finds the following:

6. In October 2007, IFC requested a modification to its proposed commitment with the Client. The modification was approved by IFC management in December 2007. IFC management approved the modification with reference to the IFC memorandum on delegated authority from March 1996, and the subsequent Board approval of that memorandum in April 1996. This memorandum delegates the authority from the Board to IFC to restructure IFC committed or disbursed investments, given that the balance sheet exposure does not exceed a defined amount.

7. The reconstruction included cancelling the commitment to REEL, the company involved in construction and operation of the hazardous waste management facilities, and proceed only with part of the committed investment in RIL. Since the Board presentation in June 2005, RIL had been reorganized, and the business of municipal waste management had been moved to another company in the group. IFC invested in RIL in January 2008. IFC's current investment is therefore essentially in an engineering, procurement, construction (EPC) contractor with no affiliation with hazardous or municipal waste management.

8. IFC defines the development impact of the reconstructed investment to be promotion of mobilization of corporate financing, and that the company's expansion program will directly and indirectly create new employment in India and abroad.

4. The CAO Decision

The CAO concludes the following:

9. A failure to deliver on the development outcomes promised to the Board, or a change of the anticipated outcome, does not in this case constitute a violation of any IFC policy provisions or criteria, neither is it indicative of potential adverse social or environmental outcomes.

10. IFC's investment no longer has any affiliation with the hazardous waste plant located close to the complainants. CAO's mandate is to engage in complaints that pertain to a project that IFC is participating in, or is actively considering. After IFC's reconstruction of its investment, the issues raised by the Complaints pertain to activities outside of CAO's mandate.

Based on the above, CAO will close this appraisal with no further action.