



CAO ASSESSMENT REPORT

**Regarding concerns in relation to
IFC's investment in Alex Dev Ltd - 02 (#30274) in Beni Suef, Egypt**

June 2018

Office of the Compliance Advisor Ombudsman
for
International Finance Corporation
Multilateral Investment Guarantee Agency
www.cao-ombudsman.org

About the CAO

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

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LIST OF ACRONYMS

CAO	Office of the Compliance Advisor Ombudsman
IFC	International Finance Corporation
MIGA	Multilateral Investment Guarantee Agency
BSCC	Beni Suef Cement Company
ADL	Alexandria Development Limited
APCC	Alexandria Portland Cement Company
BIC	Bank Information Center

1. OVERVIEW

In February 2017, a complaint was lodged by seven former employees (the Complainants) of Beni Suef Cement Company (BSCC) (the Company), raising a range of labor issues, including suspension without cause and without pay, forced early retirement, and occupational health and safety, death of a worker, among others. In March 2017, CAO determined that the complaint met its three eligibility criteria. During CAO's assessment, the Complainants expressed an interest in engaging in a dispute resolution process convened by CAO, while the Company decided against engaging in such a process. The Company did offer informational meetings with the relevant workers, which were convened by CAO in October. Given that there was no agreement for dialogue and in keeping with CAO's Operational Guidelines, the complaint will now be referred to CAO's Compliance function.

This assessment process took longer than the standard 120 working days. The parties' agreement to hold informational meetings necessitated an extension of the timeline so that meetings could take place at a time when all relevant stakeholders were available, and further to address the question of payment of medical expenses for the injured worker.

2. BACKGROUND

2.1 The Project

According to IFC, in 2009, Titan Group – an existing IFC client and Greece's leading private cement company – was seeking to expand its Egyptian operations, which consisted of two entities: Beni Suef Cement Company (BSCC) and Alexandria Portland Cement Company (APCC). BSCC and APCC, at the time of the proposed investment, had a combined production capacity of 3.5 million tons per annum (mtpa) and were engaged in an investment program to add a second integrated cement production line of 1.5 mtpa to BSCC, along with various de-bottlenecking investments in both plants.

Alexandria Development Limited (ADL), a subsidiary of Titan Group, is the holding company of APCC. ADL holds 82% of APCC shares, which in turn holds 99% of BSCC's shares.¹ ADL's only operations are those of APCC and BSCC.

IFC's investment in 2010 consisted of 80 million euros in equity in ADL, giving IFC the equivalent of a 15.2-percent stake in APCC through ADL (#30274, previously #27022). IFC classified the project as Category B, according to IFC's Sustainability Framework.

2.2 The Complaint

In February 2017, CAO received a complaint from the Egyptian Association for Collective Rights and the Egyptian Center for Civil and Legislative Reform, two NGOs based in Egypt, filed on behalf of seven former workers with BSCC (the Complainants). The complaint raises a range of labor issues, including suspension without cause and pay, forced early retirement, occupational health and safety issues causing the death of one worker and injuries to other workers, and violation of labor procedures (such as failing to post the collective labor

¹ The Titan Group became the majority shareholder and managing operator of APCC and BSCC in 2008.

agreement or to provide workers with copies of contracts), among others. The Complainants allege that the Company follows a strategy to replace employees with benefits with relatively lower-cost sub-contracted workers. The issues raised during the assessment are described in more detail below.

3. ASSESSMENT SUMMARY

3.1 Methodology

The aim of CAO's assessment is to clarify the issues and concerns raised by the Complainants, gather information on the views of different stakeholders, where relevant, and determine whether the Complainants and the Company would like to pursue a dispute-resolution process facilitated by CAO, or whether the complaint should be handled by CAO's Compliance function for appraisal of IFC's performance (see Annex A for CAO's complaint-handling process).

In this case, CAO's assessment of the complaint included:

- a desk review of project documentation;
- telephone conversations and in-person meetings with the Complainants and the NGOs supporting them;
- telephone conversations and an in-person meeting with representatives of the Company;
- telephone conversations and an in-person meeting with IFC's project team; and
- an informational meeting between the workers and Company representatives.

This document is a record of the views heard by the CAO team, and explanations of next steps depending on the parties' choices. This report does not make any judgment on the merits of the complaint.

3.2 Summary of views

General situation

Complainants' perspective

The Complainants raise general concerns about the Company's labor practices, namely a systematic attempt to replace employees with sub-contracted workers, as well as weak health and safety practices. These concerns, the Complainants state, are wider than the specific examples set out in the complaint, and documented in government reports.

Company's perspective

The Company representatives maintain that the Company follows all relevant requirements in terms of national law and the Performance Standards, and upholds strict health and safety rules, which, they stress, are in the interest of the Company, as they protect its workforce.

Specific concerns

Seven retrenched workers

Complainants' perspective

Seven employees of the Company explained that they were suspended and prevented from entering the factory gates in November 2016. Seeking to keep their jobs, they protested outside the factory gates. The workers allege that, during a suspension period of three months, the Company refused to pay their full salaries, leading to a situation of economic hardship that

meant they had no choice but to sign resignation letters and accept compensation packages. The workers allege that another group of workers, who were retrenched later, received more generous compensation packages. They note that the package they received was inadequate, as it was based on two months for every year worked, and they maintain that they would have preferred to keep their jobs.

Company's perspective

The Company notes that the seven workers in question were offered packages in the context of a larger retrenchment, and the workers willingly accepted their compensation packages. The Company points out that the final packages exceeded the requirements of the law by including a profit-share advance when calculating the monthly wage on which the packages were based, at a time when the company was posting losses. The Company highlights that a representative of the workforce union was present when these agreements were reached and signed. The Company maintains that the workers' suspensions were issued for cause, as unlawful work stoppages resulted from their protest activities.

The injured worker

One Complainant, whose case had already been included in the complaint, came forward during the assessment. He was working in the factory employed by one of the Company's subcontractors, but, following a health and safety incident during which he was injured, his direct employer let him go. While the Company initially paid for his medical expenses, his course of treatment was incomplete, and he no longer received support for further medical bills.

Complainant's perspective

The worker maintained his innocence in the security incident during which he was injured. After the incident, the Company barred him from entering, and his direct employer laid him off about two months after the incident.

Company's perspective

The Company believes that the incident was caused by the Complainant, and noted that this was not the first time that the Complainant had caused a health and safety incident. The Company stresses that they have supported, and continue to be ready to support, the worker in obtaining medical treatment as part of their corporate social responsibility commitment.

A truck driver's death

The complaint further alleges that the Company caused – through lax security standards – the death of a truck driver, who reportedly was praying at a Beni Suef work site when he was run over by a loader that was reversing at the site. The family of the deceased did not sign the complaint to CAO and were not present in assessment meetings. The Company confirmed that an accident had taken place in the town of Beni Suef, according to police records which they sought when hearing of the accident, but denied that any company workers, vehicles, or locations were in any way involved.

3.3 Informational Meetings

CAO convened informational meetings on 11 October 2017. The Company was represented by four staff from their legal, human resources, and public relations departments, and the complainants represented themselves (two of them were present) and were accompanied by lawyers. The injured worker represented himself and was supported by a lawyer.

Seven retrenched workers

Both sides took the opportunity to clarify their perspectives around what happened, and what was paid or not paid, in this transaction. The parties exchanged perspectives for a better mutual understanding, but did not change their positions. The Company representatives committed to relaying the workers' perspectives to the Company's senior management.

Injured worker

The two sides compared perspectives. The Company, while maintaining the decision to no longer allow the worker to work in their factories, suggested that they are open to considering continued support for his medical bills as part of their corporate social responsibility commitment. The parties agreed that the worker will provide the relevant medical report to the Company, which will seek to support his treatment needs within reasonable limits.

In a further round of exchanges since the informational meeting, the worker provided the doctor's treatment requirements, and the company confirmed that it will cover the cost of treatment directly related to his injury, as well as other associated costs such as transport, and that the expenses will be paid directly to the hospital or doctor, so that the worker would not have to advance any of the cost. The course of treatment started in February 2018.

4. NEXT STEPS

While the Complainants expressed an interest in participating in a dispute-resolution process with the Company, the Company does not wish to negotiate any further. As the dispute-resolution process is voluntary for both sides, and thus mutual agreement must be reached before proceeding with such a process, the complaint will now be referred to CAO Compliance for appraisal of IFC's role.

ANNEX A. CAO COMPLAINT HANDLING PROCESS

Once CAO declares a complaint eligible, an 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.

As per CAO's Operational Guidelines,² 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**: Assessing the issues and providing 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 on or initiated by a Memorandum of Understanding and/or 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 goals. 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.³

OR

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**

² For more details on the role and work of CAO, please refer to the full Operational Guidelines: http://www.cao-ombudsman.org/documents/CAOOperationalGuidelines_2013.pdf

³ 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.