



CAO ASSESSMENT REPORT

**Regarding concerns in relation to
IFC's investment in Alex Dev Ltd - 03 (#30274) in Beni Suef, Egypt**

October 2017

Office of the Compliance Advisor Ombudsman
for
the International Finance Corporation and the
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 May 2017, a complaint was lodged with CAO by three former employees (the Complainants) of Beni Suef Cement Company (BSCC) (the Company), claiming to represent more than 300 other former workers and alleging that they were retrenched around the time that the Company was privatized in 2003. In July 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. In keeping with CAO's Operational Guidelines, the complaint will now be handled by CAO's Compliance function.

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 debottlenecking investments in both plants.

Alexandria Development Limited (ADL), a subsidiary of Titan Group, is the holding company of APCC. Through ADL and other subsidiaries, Titan Group owns approximately 82 percent of APCC's shares¹. ADL's only operations are those of APCC and BSCC.

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

2.2 The Complaint

In May 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 three former workers at BSCC, claiming to represent more than 300 other former workers. The Complainants also receive support from the Bank Information Center (BIC).

The Complainants allege that they were forced out of their jobs around the time that the Company was privatized in 2003. They assert that the original privatization agreement set out requirements for the Company to keep the workforce in place. The Complainants point to a 2014 court decision that ruled in their favour, supporting the workers' right to return to work and be paid from the day they left until the date of their return.

The Complainants believe that involuntary early retirements are a pattern that continues at the Company today, with the aim to reduce the workforce and replace them through subcontracted, and cheaper, workers. They claim that the circumstances of their dismissal, as well as the Company's non-compliance with the court's decision, constitute violations of IFC Performance Standard 2.

The issues raised during the assessment are described in more detail below.

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

3. ASSESSMENT SUMMARY

3.1 Methodology

The aim of the CAO assessment is to clarify the issues and concerns raised by the Complainants, gather information on the views of different stakeholders, and determine whether the Complainants and the IFC Project Sponsor 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).

While CAO, as per its Operational Guidelines, is not a legal enforcement mechanism or a substitute for court systems in host countries, CAO can address the underlying issues and concerns as expressed in the complaint and offer its processes to the affected parties.

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 the Project Sponsor; and
- telephone conversations with IFC's project team.

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

3.2 Summary of views

Complainants' perspective

The Complainants allege that their dismissal during the time of the Company's privatization, around 2003, was unfair and did not follow the parameters of the privatization contract, which guaranteed the jobs of the existing workforce. Because the workers did not feel at ease to complain before, these grievances were only expressed after Egypt underwent political liberalization. First, workers protested publicly in 2011, staging a sit-in near the plant, and then, in agreement with the Company about how to end the protests, they pursued justice through the legal system. Accordingly, the workers then ended the protests and awaited the outcome of the legal process.

The Complainants explain that the 2011 court case led to a judgment in 2014, with further interpretations by the courts over the course of 2016 and 2017, which determined that the Company should take back workers who were retrenched during the period of privatization. The Complainants presented CAO with detailed documentation of the different avenues pursued, including the relevant court documents.

Although the workers are pursuing further legal action in the hopes of seeing the judgment implemented, and are considering what other options they may have available to pursue a settlement with the Company, they expressed a desire to sit down and seek a negotiated outcome to their grievances with the Company, through a CAO-convened dispute-resolution process.

Company's perspective

The Company highlights that it has received only one executable (non final) court judgment in relation to the retrenched workers, which has been issued in favour of only two ex-workers. The Company asserts that it has promptly executed the judgement upon receiving a final execution notice from the competent court. The Company further clarified that a number of ex-workers (who in the Company's view have voluntarily resigned and received a generous compensation more than 15 years ago) are still submitting claims before various courts in an attempt to return to their previous jobs at the company. The Company maintains that it will always respect and execute all final court judgments, but states that no final court judgement has been issued with regard to the larger group of retrenched workers. With respect to the question of whether to engage in a CAO-convened dispute resolution process, the Company stated its preference to continue addressing the issues of the complaint and related concerns through the Egyptian courts.

4. NEXT STEPS

While the Complainants expressed an interest in participating in a dispute-resolution process with the Company, the Company prefers to deal with the grievances in question through the Egyptian legal process. As the dispute-resolution process is voluntary for both sides, and thus mutual agreement must be present 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.