



CAO ASSESSMENT AND DISPUTE RESOLUTION CONCLUSION REPORT

Complaint regarding IFC's Investment in Egyptian Indian Polyester Company – Sokhna (IFC Project #28878)

Egypt

May 2017

Office of the Compliance Advisor Ombudsman
for the
International Finance Corporation and
Multilateral Investment Guarantee Agency,
Members of the World Bank Group
www.cao-ombudsman.org

About 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), members 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 projects in a manner that is fair, objective, and constructive, and to enhance the environmental and social outcomes of those projects.

For more information, see www.cao-ombudsman.org.

TABLE OF CONTENTS

TABLE OF CONTENTS 3

LIST OF ACRONYMS 4

1. Overview 5

2. Background 5

 2.1 The Project 5

 2.2 The Complaint 5

3. Assessment Summary 5

 3.1. Methodology 5

 3.2. Summary of Issues 6

4. Dispute Resolution Process 6

5. Conclusion 7

Annex A. CAO Complaints Handling Process 8

LIST OF ACRONYMS

CAO	Office of the Compliance Advisor Ombudsman
CIB	Commercial International Bank (Egypt)
DPL	Dhunseri Petrochem Ltd
EIPET	Egyptian Indian Polyester Company
IFC	International Finance Corporation
MIGA	Multilateral Investment Guarantee Agency

1. OVERVIEW

This complaint relates to the IFC project company, Egyptian Indian Polyester Company (EIPET), located in Sokhna, Egypt. The complaint was filed by three separate complainants, who are all expatriates from India, between October 2016 and December 2016. All three complaints raised similar issues, and were thus merged into one complaint, with the consent of the complainants.

The complainants are three former employees of the Egyptian Indian Polyester Company, who raised concerns of undue and abrupt termination of employment, and lack of compensation for work done. The CAO determined the complaint eligible in December 2016, and began assessment of the complaint. The assessment included discussions with the complainants, the IFC project sponsor, and the IFC. During the assessment period, CAO held bilateral conversations with each of the parties, resulting in resolution of the matter. This CAO report provides an overview of the assessment process and the dispute resolution process that resulted in resolution and closure of the complaint.

2. BACKGROUND

2.1 The Project

IFC has an active category B project with Egyptian Indian Polyester Company – Sokhna (#28878) in Egypt. The IFC investment supported the establishment of a 420,000 tons per annum, greenfield polyethylene terephthalate (PET) resin plant in the Eldorado Integrated Development and Free Zone S.A.E. in Ain Sokhna, Egypt.

EIPET is a joint venture project set up by Dhunseri Petrochem Ltd. (DPL) and Egyptian Petrochemical Holding Company (Echem), an agency of the Government of Egypt. The project is estimated to cost approximately \$160 million, with the IFC investment being an A loan of \$35 million.

2.2 The Complaint

Between October 2016 and December 2016, CAO received complaints from three individuals regarding the EIPET project in Ain Sokhna, Egypt, raising similar concerns. The complainants claimed that EIPET terminated their employment abruptly and failed to compensate them for work done and benefits accrued over several months in 2015. At the time of the complaint filing, the payments had been outstanding for more than a year. The complaints were merged into one complaint, with the consent of the complainants.

3. ASSESSMENT SUMMARY

3.1. Methodology

The aim of the assessment was to obtain a better understanding of the issues and concerns raised by the complainants. The assessment also sought to establish which CAO process the

complainants and the IFC project company wanted to pursue (see Annex A for CAO's complaint-handling process), without making judgement on the merits of the complaint.

The assessment of the complaint was conducted through:

- a desk review of project documentation;
- telephone discussions with the three complainants;
- telephone discussions with the IFC project team; and
- telephone discussions with EIPET in Egypt and DPL in India.

3.2. Summary of Issues

Complainant's perspective

Discussions were held with the three complainants between December 2016 and April 2017.

The complainants claimed that they were employed as expatriates from India by EIPET and based in Egypt. During 2015, the company began a restructuring process, which included reducing working hours and the number of expatriate staff. In July 2015, the company began discussions with the expatriates, whose contracts were due to expire in October 2015. However, when the contracts expired in October 2015, the company had not yet finalised discussions on whether or not to renew the contracts. The complainants continued to work during November 2015, while the company was still in the process of finalising negotiations over their contracts. By the time a decision was made to terminate the complainants' contracts, they had already worked one without contracts.

The complainants returned to India in December 2015, with a promise from the company that all outstanding amounts would be paid. However, the company had not paid, despite numerous requests by the complainants.

Company's perspective

The CAO had initial discussions with representatives of DPL and EIPET in January and February 2017. They indicated that they were aware that there were employees who had not received their final payments. They explained that the project started in 2010. However, the fall in international oil prices in 2014, impacted the company's operations. Attempts were made to cut costs through restructuring, before operations were halted. Cost-cutting measures, included reducing international staff. However, during the restructuring process, some payments to the expatriates were not made. Various options were explored by DPL, EIPET and CIB (one of the company's lenders) to resolve the outstanding payments, however these efforts were unsuccessful. DPL and EIPET stated that they were willing to renew their efforts to identify funds to resolve the outstanding payments.

4. DISPUTE RESOLUTION PROCESS

During the bilateral meetings which CAO held with both the complainants and the company, both sides indicated an interest in engaging in a dispute resolution process to try and resolve the issue. The company did not dispute that funds were owed to the complainants and were eager to resolve the issue. The company requested CAO to assist them in obtaining details from the complainant, of outstanding amounts. Upon receipt of the information, the company with the consent of the complainants requested to have direct discussions to resolve the issue.

Attempts by the EIPET to pay the complainants, through the assistance of the company's bankers CIB, were unsuccessful. The company then sought assistance from its majority shareholders, Dhunseri Petrochem Ltd. An agreement was reached with the complainants and all outstanding monies were paid by Dhunseri Petrochem Ltd, to resolve the complaint.

5. CONCLUSION

In April 2017, CAO received an email from the complainants confirming that the matter had been resolved and all outstanding amounts had been paid. This was confirmed by the EIPET in an email to the CAO in May 2017. The complaint had thus been resolved and the matter will be closed.

ANNEX A. CAO COMPLAINTS 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), members 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 environmental and social 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 may include an explanation 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,¹ 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:** "Assess the issues and provide 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 process 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 goal. The major objective of these types of problem-solving approaches is 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.²

¹ 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

² 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

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**

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.