

Complaint to the International Finance Corporation on Alexandria Portland Cement (Titan) in the Wadi al-Qamar area of Alexandria

According to publications of the International Finance Corporation (IFC), the institution's sustainability framework sets out its strategic commitment to sustainable development, an integral part of the IFC's approach to risk management. This framework is comprised of the Policy and Performance Standards on Environmental and Social Sustainability. The sustainability policy describes the institution's commitments and roles on environmental and social sustainability, while the performance standards are directed to the institution's clients to provide guidance that helps them run their businesses in a sustainable way. The IFC's eight performance standards must be met by IFC clients throughout the duration of the IFC's investment.¹²

This complaint is related to the Alexandria Portland Cement (Titan) plant in the Wadi al-Qamar area of Alexandria, which receives financing from the IFC. We explain below why IFC financing for the plant—with its questionable legal status, the harm to the local community from its environmental performance, and the harm to its workforce due to its non-compliance with the social standards on labor rights and conditions—is incompatible with the IFC's environmental and social sustainability policies. Nevertheless, as we note, the IFC continues to finance the plant despite its continued breach of the IFC's own ostensibly obligatory performance standards.

Introduction to Wadi al-Qamar and Alexandria Portland Cement Plant

Wadi al-Qamar is located in western Alexandria on the northern Egyptian coast, part of the Agami neighborhood. Most local residents belong to the tribes that long ago

¹ IFC Performance Standards on Environmental and Social Sustainability, Jan. 2012, introduction paragraphs 1–2.

² Note: The IFC's investment in Titan Egypt was approved in 2009 and signed in 2010, and therefore the 2006 IFC Performance Standards should apply. However, violations have continued to be documented until now, and we have therefore referenced the IFC's 2012 Performance Standards as the most up-to-date standards used by the institution.

settled the northwestern coast of Egypt and Libya, most prominently Awlad Ali and the Juhayna tribe. The area is home to some 60,000 people, many of whom have heard stories of the region's history passed down from their ancestors. Some remember the moon's reflection on the barley fields that used to cover vast areas and which gives the area its name. But we are not concerned here with the sentimental history of the place, previously known as a site for excursions and recreation. We simply wish to underscore that the area has been a legal, zoned residential neighborhood, not an informal area, for at least 70 years, as evidenced by the maps drawn by the Egyptian Survey Authority, which date to 1944.³ These maps demonstrate that Wadi al-Qamar is a long-standing residential area, not an informal neighborhood, that was planned and surveyed by the survey authorities, and existed in the area prior to the cement plant.

The Alexandria Portland Cement plant was established in Wadi al-Qamar in 1948. It was owned by the Egyptian government at the time and remained that way for decades until it was privatized, when the British Blue Circle Industries bought it in 2000. In 2001, Blue Circle was given a temporary license to operate the plant (the fifth kiln). In 2007, Blue Circle Cement Egypt was incorporated into Alexandria Portland Cement. Currently, the fifth kiln is the only one operational; the other older kilns were unused and thus demolished. The fifth kiln was built adjacent to the residential area from the north. The plant's smokestack and homes are separated by an area of no more than ten meters, while the Mediterranean coast is only 100 meters away. Since the winds in this coastal area are largely northwesterly, the residential area lies right in the path of the plant's emissions.

I. Titan's non-compliance with environmental protection standards

1. The plant operates illegally, without a license

The IFC financing framework states that clients must comply not only with the institution's performance standards, but also with applicable national laws.⁴ Clients are obligated to maintain a comprehensive policy, which should specify that the project will comply with all applicable laws and regulations in its jurisdiction. The

³ Attached is a copy of the Egyptian Survey Agency's map of Alexandria, which clearly shows the Meks Saltworks, but not yet any cement plant. Attachment no. 3

⁴ IFC Performance Standards on Environmental and Social Sustainability, 2012, paragraph 5.

policy must also identify the individual in the client's organization responsible for ensuring compliance with and execution of the policy, if necessary by reference to a competent government agency or a third party.⁵

But we have found that Titan Cement has never obtained the proper operating license necessary under Egyptian laws. The company's conduct in this regard is marked by evasion, aided or at least ignored by the competent administrative authorities, which has allowed the company to continue operating for years despite this serious breach.

This is confirmed by a report issued by the State Commissioners Agency (State Lawsuit Authority)⁶ in case no. 11632/64/Alexandria administrative. Area residents filed the suit seeking the annulment of the administrative decree issued to the plant due to its unlawfulness on 2010. The court referred the case to the State Lawsuit Authority for a legal opinion. A copy of the report is attached.⁷

According to the report, Blue Circle received a six-month temporary permit to operate the fifth kiln on 5 February 2001, pending fulfillment of the legal conditions required for a final operating permit. But, instead, the company requested extension of the temporary permit. Blue Circle received successive six-month renewals of the temporary permit until 2004, when on 28 November the temporary permit was renewed for five years, to expire on 31 January 2010. After Blue Circle was incorporated into Alexandria Portland Cement in 2009, both companies applied with the licensing directorate in Agami to amend the permit and obtain a new license under the company's new name. This permit was issued on 28 May 2009 by the Agami local directorate. The permit also stipulated that the plant not go into operation until a final permit was issued from the Industrial Development Agency. The plant continued operations without the required permit and, despite this; its "temporary" permit was again renewed for five years in July 2011.

⁵ IFC Performance Standards on Environmental and Social Sustainability, Jan. 2012, Performance Standard 1, paragraph 6.

⁶ The State Lawsuit Authority is an independent judicial body which, under the constitution, is responsible for representing the state in lawsuits, settling cases at any stage of litigation, drafting state contracts, and exercising technical supervision of legal affairs directorates in the state administrative apparatus. Its members enjoy all guarantees, rights, and duties of members of the judiciary. See <http://sla.gov.eg/history.aspx>.

⁷ Attachment no.1

The State Commissioners Agency report concluded that the permit in question, issued on a temporary basis since 5 February 2001 pending fulfillment of the necessary legal conditions, had been renewed by the administration for more than 15 years, stating that this means “the temporary license was effectively made permanent, emptying the license of all content and rendering the legal conditions that the company must meet to obtain the license nonexistent.” The report advises a judgment ordering the closure of the plant for operating without a permit.⁸

The company’s performance thus violates several Egyptian laws, among them Law 453/1954 on industrial, commercial, and other aggravating, harmful, and dangerous enterprises, Law 21/1958 regulating and encouraging industry in the Egyptian territory, and Law 4/1994 on the environment.⁹ All of these laws regulate the conditions and requirements for the licensing of industrial and commercial enterprises in Egypt.

Under Egyptian law, the State Commissioners report is not binding on the judge, and thus far, no final ruling has been issued in the case, which has been pending since 5 February 2010. It was recently referred to a new circuit in Cairo after years in the Alexandria court. It is feared that the company’s connections and influence are behind the delay in adjudication or the disregard of the State Commissioners recommendation.

2. The company confiscates public land by force in violation of the law

The willful violation of Egyptian laws by the management of Alexandria Portland Cement is not limited to operating without a license. The company has also assumed possession of 60 meters of the public road in front of the plant, building metal wall in front of the main entrance to the company on the public road.

Local residents filed complaints with the Agami Municipal Directorate about the wall, which narrows the road in front of it. The municipal chief ticketed the company on 16 January 2012, and the Alexandria governor issued a demolition order for the wall on

⁸ Report from the State Commissioners Agency in case no. 11632/64/Alexandria administrative, p. 62.

⁹ Ibid, pp. 55 and 57.

19 February 2012. The order was not implemented, after which several local residents harmed by the wall filed a suit seeking its removal.¹⁰

The State Commissioners report issued on 2013,¹¹ about the case noted that the wall was built without a license and that as a wall; it cannot be licensed since the road is a public utility. This requires the removal of the wall for its breach of the construction law (Law 119/2008). The report reprimands the administrative and executive authorities for not implementing the demolition order, finding them in violation of the law. Although the suit has been pending since 29 April 2012, the wall still stands. Local residents also attribute this to the company's powerful influence and connections with the competent administrative and executive bodies.

3. Flawed assessment and management of environmental and social risks and impacts.

As noted above, the plant did not receive a proper legal operating license, one of the conditions of which is the Ministry of Environment's approval of the environmental impact assessment (EIA) study. Cement production has severe impacts on the environment, and Egyptian law requires a comprehensive environmental and social impact assessment and approval of the study prior to licensing.

The fact that the company has not received a permit raises doubts regarding the approval from the competent bodies for its environmental impact assessment. We could not find a copy of the EIA study, and the documents submitted to the court by the company in connection with the lawsuit contain no reference of any such study. Area residents suspect that even if the EIA study exists and was approved, it may not have been conducted properly, especially as regards environmental protection from emissions and local community participation in light of actual existing pollution and sustained opposition from the local community.

This raises concerns about the company's breach of Performance Standard 1 in the identification and assessment of environmental and social risks and impacts and measures for mitigation, prevention, and compensation. It also violates the standard's requirement to comply with applicable laws and regulations within the company's

¹⁰ Case no. 13827/66JY, Court of Administrative Justice in Alexandria.

¹¹ Attachment no. 2.

jurisdiction, including laws on the implementation of the host country's obligations under international law, as well as compliance with any legal and contractual obligations.

The company's conduct may be in breach of the Egyptian environmental law and its implementing regulations. Article 19 of the law states, "Every natural or legal person, public or private, must submit a study assessing the environmental impact of the facility or enterprise to the competent administrative body or the donor body for licensing prior to implementing the enterprise. The study shall be conducted in accordance with the elements, designs, specifications, foundations, and qualitative burdens issued by the Environmental Affairs Authority in coordination with the competent administrative bodies." Article 23 of the law states, "Expansions or renovations in existing facilities are subject to the same provisions set forth in Articles 19, 20, 21, and 22 of this law."

4. Opposition to the company from the local community and stakeholders

There is no serious involvement of stakeholders in the management of the enterprise's environmental and social impacts. From the outset, the company's performance has been characterized by compulsion and coercion, which violates the requirements of Performance Standard 1 to involve all parties affected by the enterprise, and that the participation of affected communities constitutes the foundation of strong, constructive relations and is a fundamental condition for the successful management of environmental and social impacts.

Residents of Wadi al-Qamar reject the fifth line of the plant in their neighborhood because it infringes on their right to health, to safety, and to life. It impacts their resources and livelihoods by polluting the sea and nearby lakes. This is in violation of the objectives of Performance Standard 1: the duty of business activities to respect human rights and refrain from infringing the human rights of others.

Local residents have engaged in all manner of peaceful protest against the plant, including protests, meetings with officials, petitions and complaints, the use of social media, and the production of documentary films.¹² They have even conducted researches and submitted alternative proposals. They have also turned to the courts,

¹² Links for some of these films are present on attachment list, attachment no. 10

filing more than one lawsuit against the company. These suits are currently pending before Egyptian courts, in which reports from the State Commissioners Agency have condemned company practices.

Area residents have formed a popular committee to represent and defend them and speak on their behalf, the Popular Coordinating Committee to Defend the Residents of Wadi al-Qamar. The committee has the support of family chiefs in the region, which in this tribal area enjoy significant status, power, and quasi-legal authority.

Instead of cooperating with the committee, the company has fought it. Local residents say that the company has set thugs against the committee leaders and filed police complaints against them, accusing them of vandalism and violence, thereby exploiting generally unstable circumstances and the company's influential relationships in order to "discipline and intimidate them." Several locals added that the services offered to the area by the company are limited to a particular segment of the community, in the form of gifts such as pilgrimage trips for some religious political parties and other in-kind benefits in exchange for a favorable position toward the company. They added that other services offered by the company aim to gloss over and conceal the pollution it causes, such as offers to paint home exteriors, especially those close to the plant. Some residents rejected these offers because they believe it seeks to conceal the accumulation of black dust on the house facades, as stated in one of the attached videos.

5. Parliamentary opposition to the company's performance

Opposition to the plant is longstanding. The problem with the pollution caused by the plant was put before the People's Assembly in 2007. The assembly referred the issue to the environmental protection committee in the local popular council of the Alexandria governorate for study. A committee of environmental and health experts and executive officials was formed to consider the issue. The committee members visited the area and issued their report on 23 July 2008.¹³ In it, they described the company's violations as severe: "Emissions from the company are causing severe harm to the residents as well as nearby companies, their products, and their industrial equipment. There is a severe danger to citizens' health." The report notes that the committee learned that the company had not followed the recommendation of the

¹³ Attachment no.8

municipal council to stop using diesel and mazut. Nor had the plant regularly changed the filter—in fact, the report continues: at times the company used no filters at all. In the report (attached), the committee advised the governor to relocate the company from its present location to an area far from residential neighborhoods, while stressing the general need for compliance with the environmental protection law.¹⁴ But this recommendation was disregarded by the executive bodies.

6. Opposition from and harm to nearby industries

Opposition to the pollution caused by the plant emissions has extended to other industrial facilities in the area that existed prior to the establishment of the cement plant, primarily Meks Saltworks. The largest saltworks in the Middle East, Meks was established in the 18th century. It extracts salt from seawater by evaporation in large open tanks covering an area of approximately 9,000 feddans (one feddan is 4200 sq meters). The company employs some 1,000 workers.¹⁵

Big part of the salt tanks are located to the west of the cement plant, which puts them in the path of the emissions coming from the plant's main smokestack. As a result, the salt is exposed to cement dust, leading Meks to file suit against the company. The court appointed an expert to determine if the emissions were coming from the cement plant and the impact of these emissions on the saltworks. The expert report issued on 2010, found that the salt in tanks and vats exposed to the smokestack were indeed covered with gray cement dust, easily identifiable when compared to the whiteness of the salt in the more distant tanks. Although harm was thus proven, the expert limited the consequences of the cement dust on the salt to increased production costs, noting that the saltworks was thus forced to break the crust and wash the salt, thereby losing an estimated 5 percent of the salt produced.¹⁶ The expert did not address the suitability and efficiency of washing the salt to prevent any harm to the health of those who consumed the salt, sold by Meks to millions in and out of the area.

¹⁴ Report of the environmental protection committee on the residents of Wadi al-Qamar and the emissions from the Alexandria Cement company, Alexandria governorate, local popular council, session of 23 Jul. 2008. Attachment no.8

¹⁵ Gamil Mikhail Botros, consultant and environmental engineering expert, technical report, case no. 238/2010/expedited, Alexandria Court of Expedited Matters, second circuit, filed by al-Meks Saltworks against Alexandria Portland Cement. Attachment no. 4

¹⁶ Ibid.

7. Environmental pollution

Article 34 of the Egyptian environmental law states, “The site on which the enterprise is established must be appropriate for the facility’s activity in order to guarantee that the acceptable limits of air pollution are not exceeded and that the total pollution produced by a group of facilities in the same area remains within the permitted limits.” The executive regulations define these permitted limits and burdens. Article 34 of the executive regulations states, “The site on which the enterprise is established must be appropriate for the facility’s activity insofar as it concords with the area’s zoning...In all cases, when determining the suitability of the site, there must be consideration of its distance from urban areas in both the area of the enterprise and the surrounding areas, the prevailing wind direction, and its natural capacity to absorb pollutants.”

Performance Standard 3 seeks to avoid or minimize the negative impacts on human health and keep environmental safety by avoiding or minimizing pollution resulting from the project’s activities. Performance Standard 1 seeks to ensure that the enterprise’s activities respect human rights and do not infringe the human rights of others. The Alexandria cement plant breaches both of these standards. Local residents complain of declining health, especially severe, chronic respiratory ailments and asthmas that affect both adults and children. Several medical certificates and prescriptions are attached that attest to their complaints¹⁷.

a. Dust and particulate emissions

The cement plant is located just 10 meters to the north of the residential area, putting the latter in the wind path and exposing it to emissions and to dusts produced by manufacturing processes such as grinding, packing, and transport. A report from an expert with the Ministry of Justice, prepared in connection with case no. 238/2010/expedited/Alexandria, found that the plant produces some 4,750 tons of cement every day with smokestack emissions coming in at 890,617 cu m per hour. Calculating the average rate of dust emissions (120 mg/cu m) and considering dust caught by filters, the expert estimated that on average the smokestack emits 70 kg of dust per hour, or 1,700 kg per day and 570 tons every year. Residents inhale this dust,

¹⁷ Attachment no. 7

it accumulates on their food, and it causes their children illnesses that undoubtedly impact their right to health and life.

Performance Standard 3 also states that when the regulations of the host country differ from those in the environmental and health safety guidelines, clients should comply with the more stringent of the two. If less stringent standards or levels are appropriate in light of specific project circumstances, the client must submit a full, detailed justification to the IFC of any proposed alternatives, outlining the social and environmental risks and impacts. This justification must demonstrate that the alternative performance level is consistent with the general objectives of the standard. The Egyptian environmental law permits dust emissions up to 200 mg/cu m for the Titan plant, or four times the internationally accepted limits under the performance standards. According to the aforementioned expert report,¹⁸ the plant produces 120 mg/cu m, or more than twice the limit under the standard. Although the performance standard allows in excess of the more stringent limit if justified, we must question the justifications accepted by the IFC to permit this level of emissions in a plant that is situated just a stone's throw from the heart of a residential neighborhood and abutting the Mediterranean coast, lakes, and fisheries.

Although Egyptian emissions standards are less stringent than their European counterparts, the cement plant has exceeded even these limits on several occasions (reports establishing the infractions on year 2011 are attached)¹⁹. Moreover, the environmental monitoring regime in Egypt measures emissions produced by the smokestack; dust emitted at any other stage in production is not recorded or discovered except through onsite inspections. Yet, local residents complain that inspections are irregular and only take place after a complaint is filed with the competent bodies.

b. Dioxin and furan emissions

Studies conducted in some industrial areas in Egypt, like Helwan which have many cement factories,²⁰ have found massive levels of these elements in the environment. It is only natural to feel apprehensive about the plant's high emissions given this lax

¹⁸ Attachment no.4

¹⁹ Attachment no.5

environmental performance and the plant's proximity to the residential area. This is especially worrisome since dioxin and furan levels are not routinely recorded by the National Network for Environmental Monitoring, and laboratories capable of measuring these elements are rare and expensive. The plant's intention to use coal increases the risk of high concentrations of these substances.

c. Risks of coal use

Increasing the risk of pollution, the company will soon move toward coal use in the plant. Attached is a letter from the company to the Egyptian Stock Exchange 2013 stating this intention.²¹ This act is expected to increase particulate emissions, as well as nitrogen and sulfur gases, heavy metal emissions such as mercury and lead, and dioxin and furan. Egyptian law prohibits the use of coal in residential areas. Article 42(b) of the executive regulations of the environment law states, "The use of coal is prohibited in urban areas and near residential areas."

d. Noise pollution

Given the plant's close proximity to the residential area, the noise resulting from the operation of equipment, trucks, and grinders causes severe noise pollution and disturbs the peace of local residents.

e. Impact on the residents' security and safety

Area residents say that the tremors produced by the operation of equipment, machinery, and grinders has been forceful enough to cause cracks in and otherwise impact nearby buildings. On more than one occasion, external parts of several buildings have collapsed due to these tremors, threatening residents' security and safety.

8. Company administration seeks to displace local residents

Performance Standard 5 is related to land acquisition and involuntary resettlement. Thus far, there is no legal action that permits the resettlement of Wadi al-Qamar residents, and they do not wish to relocate. Tens of thousands of people live in the

²⁰ Contamination of chicken eggs from Helwan in Egypt by dioxins, PCBs, and hexachlorobenzene, extracted Jan. 2015. link http://ipen.org/sites/default/files/documents/5egy_eggsreport-en.pdf.

²¹ Attachment no.6 probably 2013

area, bound to it by immovable assets, livelihoods, jobs, and cultural affiliation. While Performance Standard 5 dictates avoiding involuntary resettlement, representatives of the company management are advocating precisely this. This is evidenced by the attached statement,²² which is a transcript of an interview with the deputy executive president of Titan, who is also the head of the cement division in the construction materials chamber of the Federation of Egyptian Industries. The interview, published in *al-Ahram al-Iqtisadi* on 5 November 2012, not only urges the resettlement of local residents, but also attacks environmental protection and sustainability, describing them as destructive. He is quoted in the interview as saying that the cement industry is under severe attack, including attacks to force it to relocate its plants to the desert interior on the grounds that it is environmentally polluting, which threatens and impedes the industry.

9. The plant is moving toward coal use, exacerbating the greenhouse effect

Performance Standard 3 aims to limit greenhouse gas emissions and implement feasible alternatives that rely on renewable energy sources or low-carbon energy. Moreover, the World Bank has announced restrictions on financing projects that use coal in order to limit greenhouse gases in the context of its commitment to sustainable development and its response to climate change.

Alexandria Portland Cement intends to begin using coal as a cheap source of energy instead of natural gas. The disclosure letter sent to the Egyptian Stock Exchange states that the company has already made investments to begin operating with coal starting in 2014, regretting that the project has been delayed because of resistance and postponements by the former environment minister. A supporter of the move to renewable and clean energy sources and an opponent of coal energy, the former minister urged cement plants to use solid waste as an alternative, in order to minimize carbon emissions and help solve the problem of accumulated garbage in Egypt. In any case, cement companies prefer coal, and the cement lobby managed to obtain government approval of coal use. In fact, it is believed that the coal lobby is behind the dismissal of the former environment minister.

²² Attachment no.9

II. Titan's non-compliance with Performance Standard 2 on labor and working conditions

The introduction to the IFC's Performance Standards on Environmental and Social Sustainability,²³ issued on 1 January 2012 by the World Bank Group, states that direct investment is conditional on clients' compliance with the performance standards for managing environmental and social risks and impacts and promoting opportunities for development. The document also states that together the eight performance standards must be met by clients for the lifetime of the investment.

These standards include Performance Standard 2 on labor and working conditions, which includes the right to strike. We will limit our discussion here to points related to this standard in which we have confirmed evidence, noting that this does not imply that the other standards are being met, nor does it minimize the importance of a holistic application of all the standards. The requirements of Performance Standard 2 are guided in part by several international agreements and conventions.

The introduction to Performance Standard 2 states that it "recognizes that the pursuit of economic growth through employment creation and income generation should be accompanied by protection of the fundamental rights of workers. For any business, the workforce is a valuable asset, and a sound worker-management relationship is a key ingredient in the sustainability of a company. Failure to establish and foster a sound worker-management relationship can undermine worker commitment and retention, and can jeopardize a project. Conversely, through a constructive worker-management relationship, and by treating the workers fairly and providing them with safe and healthy working conditions, clients may create tangible benefits, such as enhancement of the efficiency and productivity of their operations."

The objectives of this standard are:

1. To promote the fair treatment, non-discrimination, and equal opportunity of workers.
2. To establish, maintain, and improve the worker-management relationship.

²³ IFC, Performance Standards on Environmental and Social Sustainability, http://www.ifc.org/wps/wcm/connect/c8f524004a73daeca09afd998895a12/IFC_Performance_Standards.pdf?MOD=AJPERES.

3. To promote compliance with national employment and labor laws.
4. To protect workers, including vulnerable categories of workers such as children, migrant workers, workers engaged by third parties, and workers in the client's supply chain.
5. To promote safe and healthy working conditions, and the health of workers.
6. To avoid the use of forced labor.

We detail below the most significant violations by Alexandria Portland Cement of the rights of workers as set forth in the requirements of this standard.

1. Company in breach of the IFC's stated objectives for projects and contravenes objective 4 of Performance Standard 2

The stated objective of IFC financing is to promote economic growth by creating jobs and generating income. Objective 4 of the standard is protecting workers, particularly vulnerable workers. Nevertheless, since it purchased the company, Titan has cut the permanent labor force to one-eighth its size at the time of purchase, according to estimates from labor leaders. This reduction of the labor force is not related to actual labor needs, as evidenced by the fact that company supplements its labor needs by regularly contracting temporary workers, obtained through a labor supply company. Some of these contracted "temporary" workers have been with the company for 12 years.²⁴ Since Titan does not provide this so called temporary workforce any of the rights of its permanent labor force, including in wages, incentives, profit-sharing, or services, it is clear that Titan sought to increase its profits by cutting its permanent labor force and exploiting temporary labor in its place, in a clear violation of objective number 4.

2. Company contravenes objective 1 of Performance Standard 2 objectives

Although the first objective of Performance Standard 2 is "to promote the fair treatment, non-discrimination, and equal opportunity of workers," Titan willfully discriminates against different categories of workers doing the same job depending on whether they are company employees or hired by one of its labor supply companies.

²⁴ Field interviews conducted by an EIPR researcher from 2012 to 2014. See also the documentary film by the Center for Trade Union and Workers Services, "Workers without Restrictions," <https://www.youtube.com/watch?v=8zycbsOiwVo>.

Although the contract labor performs the same jobs as Titan employees, they do not enjoy the same rights.

Titan also disregards note 4 to Performance Standard 2, which states, “Contractors retained by, or acting on behalf of the client(s), are considered to be under direct control of the client and not considered third parties for the purposes of this Performance Standard.” The explicit meaning here is that labor supplied by contractors must enjoy the same legal rights as other workers and that the client—in this case, Titan—bears legal responsibility for these workers, even if they are supplied by subcontractors. In practice, Titan’s disregard of this point allows it to shirk its responsibility towards workers’ rights as set forth in the IFC standards by using labor supplied by contractors.

3. Company contravenes objective 3 of Performance Standard 2

The introduction of the document on performance standards (paragraph 5) states, “In addition to meeting the requirements under the Performance Standards, clients must comply with applicable national law...” This is reiterated by objective 3 of the standard. Nevertheless, we found that Titan has not complied with numerous Egyptian laws, including Law 159/1981 (Article 41) on workers’ right to profit sharing, by limiting this right exclusively to its formal employees and denying it to the contract labor. It has also breached the labor law (Law 12/2003), particularly as concerns collective bargaining and parity between workers doing the same job.

Article 79 of Law 12/2003 states, “If the employer commissions another to perform one of or part of his activities in the same work area, the latter must treat his workers and the original employer’s workers as equals in all rights, and the latter shall share joint liability with him in this.” Article 8 of the law states, “If there is more than one employer, they are jointly liable for meeting the obligations arising from this law. The person to whom the employer has ceded all or some of his activities is jointly liable with him to meet all the obligations imposed by the provisions of this law.”

Article 16 of the law states, “The employer may announce job vacancies in various media and commission a consulting office to consider the applications submitted, give an opinion or recommendation, or aid him in selecting the best candidates for these

jobs. He may not employ workers through a commissioned party or a labor contractor. The competent minister may license by decree associations, institutions, and trade union organizations in relation to their members to establish offices for the employment of the unemployed. In this case, these bodies must abide by the provisions set forth in this section and the aforementioned decree.”

The company is in flagrant violation of paragraph 2 of Article 16 of the Egyptian labor law, which explicitly states that workers may not be hired through labor contractors or suppliers.

Moreover, in 2013, company management refused to negotiate with the contracted labor on profit-sharing parity, family medical treatment, and other benefits on an equal basis with permanent workers. The company told them it was not obliged to negotiate with them and that they should instead negotiate with their employing companies, although it is well known that labor contracting companies generally act in a prejudicial manner with the employees they supply and use various tactics to circumvent their legal duty to workers.

Titan management also refused to distribute profits to the company’s long-standing workforce, as required by Law 159/1981, arguing that that they were temporary workers employed by the labor supply company, not Titan itself, prompting the workers to launch a sit-in followed by a strike. According to interviews with these workers, some have been working for the company for long time, but have not been made permanent employees in order to deny them shares in profits.²⁵ This refusal is in breach of Law 12/2003 as well as requirement 10 of Performance Standard 2, which states, “Where the client is a party to a collective bargaining agreement with a workers’ organization, such agreement will be respected. Where such agreements do not exist, or do not address working conditions and terms of employment, the client will provide reasonable working conditions and terms of employment.”

This conduct is further in violation of requirement 25 of Performance Standard 2, which states, “The client will establish policies and procedures for managing and monitoring the performance of such third party employers in relation to the requirements of this Performance Standard.” It also contravenes requirement 26 of the standard, which states, “The client will ensure that contracted workers, covered in

²⁵ “Workers without Restrictions,” documentary film.

paragraphs 24–25 of this Performance Standard, have access to a grievance mechanism. In cases where the third party is not able to provide a grievance mechanism the client will extend its own grievance mechanism to serve workers engaged by the third party.” It additionally violates Guidance Note 2 on labor and working conditions, which states (GN7), “Companies need to ensure that contractual arrangements, including those involving multiple parties, are clear and establish who is responsible for providing adequate labor and working conditions to workers,”. It also violates GN10, which states, “...if the client controls the working conditions and treatment of these workers [workers nominally engaged by third parties] in a manner comparable to that for workers directly engaged by the client.”

It also contravenes international agreements. Article 1 of ILO Convention 95/1949 on the protection of wages states, “In this Convention, the term wages means remuneration or earnings, however designated or calculated...” Denying workers their legal right to profits therefore constitutes a violation of IFC standards, Egyptian labor law, and international treaties. Furthermore, it contravenes ILO Convention 100/1951 on equal remuneration for men and women workers for work of equal value. Article 1 of which states that “...the term remuneration includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker’s employment.”

4. Company contravenes objective 5 of Performance Standard 2

One of the objectives of Performance Standard 2 is “to promote safe and healthy working conditions, and the health of workers.” This has not been realized, whether due to the pollution caused by the company to all area residents, including workers, most of whom live in the area, or the unhealthy work environment. This is also in violation of requirement 23 of Performance Standard 2 on occupational health and safety, elaborated in Guidance Note 2 on labor and working conditions.²⁶

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http://www.ifc.org/wps/wcm/connect/e280ef804a0256609709ffd1a5d13d27/GN_English_2012_Full-Documents.pdf?MOD=AJPERES>.

Requirement 23 states:

The client will provide a safe and healthy work environment, taking into account inherent risks in its particular sector and specific classes of hazards in the client's work areas, including physical, chemical, biological, and radiological hazards, and specific threats to women. The client will take steps to prevent accidents, injury, and disease arising from, associated with, or occurring in the course of work by minimizing, as far as reasonably practicable, the causes of hazards. In a manner consistent with good international industry practice, as reflected in various internationally recognized sources including the World Bank Group Environmental, Health and Safety Guidelines, the client will address areas that include the (i) identification of potential hazards to workers, particularly those that may be life-threatening; (ii) provision of preventive and protective measures, including modification, substitution, or elimination of hazardous conditions or substances; (iii) training of workers; (iv) documentation and reporting of occupational accidents, diseases, and incidents; and (v) emergency prevention, preparedness, and response arrangements.

5. Regarding severance, workers who have taken early retirement

Since 2003 these workers have still not received the benefits to which they are entitled from the fellowship fund, the workers' shares in the shareholders' federation, and numerous other benefits. The workers have also filed a complaint with the Greek embassy in Alexandria regarding the issue.

6. Company in violation of international UN and ILO agreements by breaking strikes and peaceful sit-ins with force

The requirements of Performance Standard 2 state that the standards were guided in part by international agreements and conventions issued by the ILO and UN, and workers have the right to strike to realize their demands, as set forth in numerous conventions and treaties, among them the International Covenant on Economic, Social, and Cultural Rights. Article 8 of that covenant states, "The State Parties to the present Covenant undertake to ensure: ...the right to strike, provided that it is exercised in conformity with the laws of the particular country." Nevertheless,

company management has denied workers the right to strike and stage peaceful sit-ins, calling in the police to disperse strikes and assemblies by force.

The aftermath of the sit-in by Titan workers in February 2013, the usurpation of their rights, the dispersal of the sit-in with police dogs, and the arrests are clear evidence that Titan infringes not only basic standards adopted by the IFC and the World Bank Group, but also a long list of fundamental human rights and liberties set forth in international conventions.²⁷

The 425 temporary workers with three companies (Yathrib, Anwarco and IBS) supplying contract labor to Titan Cement launched a sit-in at the company's head office on Thursday, 14 February 2013, demanding the same employment terms and benefits as workers employed directly by Titan. The latter earn five times as much as the contract workers and are given shares in profits that are denied the contract labor. Titan employees also have the right to medical treatment for their families, similarly denied to the temporary workers, although some of them have worked at Titan for more than 12 years.

The workers launched the sit-in, followed by a strike by packing workers, after having exhausted all bargaining options. The independent union for the company workers had asked to negotiate their demands with Titan Cement; the last meeting of 24 November 2012 ended with company management rejecting the workers' demands, since, according to Titan, the contracted workers are not employees and should instead take their demands to the labor supply companies. This argument is unacceptable since the demands of the contract workers are related to their denial of benefits provided by the company to the permanent workers; at no time was it mentioned that Titan gave the value of these benefits to the labor supply companies, for example. The same issue appeared again when Titan disbursed profits to permanent workers but refused to give them to contract workers.

It should be noted that despite their grievances, the contract workers showed due regard for the interest of the work and sought not to harm the company, deciding that

²⁷ See the EIPR press statement on the workers' sit-in and its dispersal at <http://www.eipr.org/pressrelease/2013/02/19/1634>.

some workers should continue to operate the kiln, since a suspension of work in the kiln would entail massive losses for the company, and restarting the kiln is extremely costly.

It is established that the worker's sit-in inside the company was peaceful. When company management claimed that the workers were detaining bosses, the police chief for western Alexandria, Gen. Ahmed al-Tarabulsi, came to the company and asked the managers present if anyone had forcibly detained them. They responded in the negative. This is supported by video footage of the incident in the workers' possession.

The protesting workers reported that at dawn on Saturday, 17 February 2013, Central Security Forces and anti-riot forces launched a brutal assault on the company offices where the workers were holding their peaceful sit-in. The number of CSF troops was estimated in the hundreds; according to the workers, they came in 25 trucks armed with weapons and police dogs. The police forces set the dogs on the workers, beat and dragged them, and threw chairs at them, injuring some workers seriously. One worker told EIPR researchers that some workers threw themselves from windows trying to escape the dogs. The workers also said that security forces arbitrarily arrested at least 80 workers during the dispersal; 28 of them were brought before the prosecution, while the rest were released. In report no. 1477/2013/al-Dekheila administrative, the prosecution charged them with unlawful detention of 15 administrative personnel, assault of security forces, and the destruction of company property, all the charges spurious.²⁸

As a result of this, 425 workers were fired (92 were reinstated and are currently employed by Anwarco Labor Supply). Twenty-eight workers were brought before the prosecution, which released ten of them on 17 February 2014, but renewed the detention of the remaining 18 several times. They were finally released on bail of LE1,000 each after having spent 49 days in lockup. The case is still pending, hovering over the workers like a sword at their necks. At the time of the incident, the al-Amiri Hospital and the prosecution refused to document on record the injuries sustained by the workers during the storming of the factory and the dispersal of the sit-in.

²⁸ See the al-Rassd story on workers' protesting the arrest of their colleagues, 18 Mar. 2013, <https://www.youtube.com/watch?v=JYAekY3iOyk>.

The workers tried on more than one occasion to protest in front of the company in Wadi al-Qamar, but company management deployed individuals to use violence (thugs) if the workers approached the facility, according to worker statements. One worker told the EIPR researcher in Alexandria that they are being pressured to abandon their claims, with an attorney with the company allegedly using his connections with a relative at State Security.

Titan's workforce of 320 (227 permanent workers and 93 workers contracted through Anwarco) staged another sit-in from Tuesday, 18 March to Thursday, 20 March 2014. The workers then escalated with a strike by packing workers next to the sit-in, from 20 to 24 March. The workers launched the action after management refused to give them their share of profits (10 percent), which should have been disbursed in February 2014. Prior to the action, the workers, through their union, had urged management to release the profit shares to no avail, until on Monday, 17 March, the company administration posted a notice that it would not disburse the profit shares, prompting the sit-in and later strike. The workers later suspended the action after management promised to accede to their demands. Workers later received 30 percent of the profit shares to which they were entitled and were waiting for management to release the rest of their shares in November 2014 as promised.

III. Requests

1. In general

The procedures by which projects are chosen for financing by IFC should be reviewed to ensure that projects chosen to be funded are not those that do not comply with the standards on environmental and social sustainability. All parties financed by the IFC, including Alexandria Portland Cement, should be effectively monitored to ensure actual, compliance with these standards, and proper compliance should be a condition of continued financing. An effective instrument should also be established to ensure genuine participation in monitoring by the local community and civic associations.

2. Regarding workers

- a. Require Titan to change its offending practices, such as discriminatory treatment between permanent and contract labor in profit shares, wages, and incentives; require it to open channels for collective bargaining and dialogue between workers and management; and require it to comply with the labor law's prohibition on employment through labor supply companies.
- b. Require Titan to reform and pay restitution for the harm arising from its failure to comply with these standards and agreements, most importantly by reinstating all fired workers and compensating them for material damages incurred as a result of their dismissal. They should be paid accumulated wages since the time of dismissal as well as the difference in wages resulting from discrimination between permanent workers and contract workers.
- c. Implement occupational health and safety standards set forth in the standards and international agreements, especially the provisions of requirement 23 of Performance Standard 2 on occupational health and safety, including (i) identification of potential hazards to workers, particularly those that may be life-threatening; (ii) provision of preventive and protective measures, including modification, substitution, or elimination of hazardous conditions or substances; (iii) training of workers; (iv) documentation and reporting of occupational accidents, diseases, and incidents; and (v) emergency prevention, preparedness, and response arrangements.
- d. Complete actions taken to settle pension claims for those who have taken early retirement since 2003 and disburse all benefits to which they are entitled from the fellowship fund and company shares.
- e. Comply with all national laws that company management has not complied with, such as the labor law (Law 12/2003), the investment law, and the social insurance law.

3. Regarding environmental protection

- a. Relocate the plant from the residential neighborhood where it is operating unlawfully and its emissions harm citizens' health and cause material losses for local residents.
- b. Remove the metal wall unlawfully erected on the public road.
- c. Do not use coal as fuel as planned by the company given that this violates Egyptian law and given that coal use is likely to place an additional, severe burden on the environment.
- d. Treat the environment affected by pollutants and restore it to its previous state.

e. Compensate local residents for the health and economic damages incurred as a result of the deterioration of their health, loss of livelihood, and erosion in the value of their property.

IV. Attachments

- 1-Report of the State Commissioners Agency in case no. 11632/64JY
- 2- Report of the State Commissioners Agency in case no. 13827/66JY
- 3- Plate no. 504.000/936.800, Alexandria, Egyptian Survey Authority, surveyed 1944, reviewed 1973
- 4- Technical report in case no. 238/2010, Alexandria Court of Expedited Matters
- 5- Environmental infraction reports
- 6- Letter from Alexandria Portland Cement to the director of disclosure at the Egyptian Stock Exchange
- 7- Collection of medical reports for local residents
- 8- Report of the environmental protection committee on the residents of Wadi al-Qamar and the emissions from the Alexandria Cement, Alexandria governorate, local popular council, session of 23 July 2008
- 9- Copy of an interview published in *al-Ahram al-Iqtisadi* with Medhat Estafanos on 5 November 2010
- 10- Documentary films:
<https://www.youtube.com/watch?v=ipewxMsSua0;>
<https://www.youtube.com/watch?v=cOgWEL5GBP0>
- 11- Copy of signatures to the complaint from residents and workers and Civil society organizations.