



COMPLIANCE MONITORING REPORT

IFC Advisory Services Project with Vizhinjam International Seaport Limited (IFC Project #28991) India, Complaints 01 to 03

June 23, 2020

Office of the Compliance Advisor Ombudsman (CAO)

Executive Summary

In 2009, IFC's public private partnership (PPP) advisory services team initiated a project to support the Government of Kerala (GoK), India, in designing and implementing a bidding process for the development of an international port (the Kerala Port). The GoK acted through a wholly owned company, Vizhinjam International Seaport Limited (VISL, the client).

The objective of the advisory services (AS) project was to assist the client in structuring and implementing a competitive process to select a company to construct, operate, and manage the port. The advisory services project extended to the preparation of environmental and social impact assessment (ESIA) documentation required for the project to receive clearance from the Indian authorities. IFC's role also included marketing the project to potential bidders in India and internationally.

CAO received three complaints from project-affected communities, citing concerns related to the design of the port project, its environmental and social (E&S) impacts on tourism and fishing activities, and stakeholder engagement. CAO conducted a compliance review of IFC's advisory services project in relation to the Kerala Port in response to the complaints.

CAO investigation report was released in January 2018 and made two general non-compliance findings. First, CAO found that IFC took on the role of lead transaction advisor in relation to the Kerala Port project without reasonable assurance of the client's commitment to develop the project in accordance with the Performance Standards (PS). Second, CAO found that the ESIA, as delivered by IFC as part of the AS project, was not fully consistent with the PS, in particular in relation to land acquisition and project impacts on livelihoods.

CAO found that IFC's commitment to include preparation of an ESIA and environmental management plan within its scope of work was consistent with IFC's policy framework at the time. However, since the Kerala Port project was initiated, IFC has issued guidance to its staff that IFC should not commit to carry out an ESIA or to conduct consultation and disclosure on behalf of its client as part of an AS project.

IFC's engagement with the client ended in 2013. IFC's response did not include any engagement with the client, the complainant, or any commitment to project level action. As a result, this monitoring report focuses on measures taken by IFC in response to its non-compliance findings at the level of policies, procedures, practice and knowledge.

During the monitoring period, and in its response to the CAO investigation report, IFC has outlined several changes to its E&S review and supervision of PPP advisory services projects. Notably, IFC reports that an E&S specialist now is assigned to every PPP related AS project with the ability to input on project scoping design at an early stage, and that E&S staff provide clearances at key milestones in the project cycle. Further, IFC reports that its client engagement documents now include provisions requiring that AS clients endeavor to apply the PS when designing and carrying out the PPP and provide that IFC may withdraw from the AS project if material E&S issues arise. IFC also provides additional guidance to its clients on the application of PS requirements to the PPP project. These changes increase the focus on the identification and management of E&S issues in IFC AS projects and potentially increase IFC's leverage in relation to the AS client. They should also serve to reduce the risk that IFC will provide AS support to, and thus serve as an enabler of, environmentally and socially harmful PPP projects.

CAO finds that IFC's response to this compliance investigation at the level of policies, procedures, practice and knowledge is satisfactory. CAO notes that several changes in practice are pending a formalized change to IFC's Environmental and Social Review Procedures. Nevertheless, CAO has decided to close its monitoring, on the basis that actions taken by IFC are addressing CAO's compliance findings at a systems-level, and considering that IFC no longer has any direct involvement with the Kerala Port project.

About CAO

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.

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

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

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Introduction

CAO's compliance function oversees investigations of IFC/MIGA's environmental and social (E&S) performance with a view to assessing compliance with relevant requirements and improving the E&S performance of the institutions.

Following a CAO compliance investigation, CAO monitors actions taken by IFC/MIGA until such actions demonstrate to CAO that its compliance findings are being addressed.

This is CAO's first monitoring report in relation to its investigation of IFC's advisory services project with Vizhinjam International Seaport Limited (the compliance investigation), which was finalized in January 2018.¹ This report documents IFC's response to the compliance investigation in the period from January 2018 to June 2020.

Generally, CAO's monitoring considers IFC/MIGA's response to a compliance investigation at two levels:

- Firstly, CAO considers actions taken or proposed by IFC/MIGA that respond to CAO findings at the project level.
- Secondly, CAO considers actions taken or proposed by IFC/MIGA that respond to CAO findings at the level of IFC/MIGA policies, procedures, practice or knowledge.

The first level of analysis is designed to address project level concerns identified by CAO. The second level is designed to document progress in IFC/MIGA's approach to the identification and management of E&S risk.

IFC's engagement with the client ended in 2013. Given the nature of CAO's findings and the timing of the report, CAO decided to focus its monitoring role in this case to actions taken by IFC to address the investigation findings at the level of IFC's policies, procedures, practice or knowledge.

Background

In 2009, IFC initiated an Advisory Services (AS) project to support the Government of Kerala (GoK), India, in designing and implementing a bidding process for the development of an international port (the Kerala Port project). The GoK acted through a wholly owned company, Vizhinjam International Seaport Limited (VISL or the client). The objective of the AS project was to assist the client in structuring and implementing a competitive process to select a company to construct, operate, and manage the port. The AS project extended to the preparation of environmental and social impact assessment (ESIA) documentation required for the project to receive clearance from the Indian Ministry of Environment and Forests (MoEF). IFC's role also included marketing the project to potential bidders in India and internationally. In March 2013, IFC concluded its role in the AS project. Subsequent to IFC's involvement, VISL proceeded with the port development under a new bidding process. E&S documentation prepared by IFC was used in this process.

¹ CAO Investigation of IFC Advisory Services Project with Vizhinjam International Seaport Limited (IFC Project #28991) India, January 23, 2018, available at: <https://bit.ly/3ezhcrq>. The CAO investigation, IFC's response to the investigation and related materials are available on the CAO website, see <https://bit.ly/2zXDgNf>.

The first complaint to CAO, dated August 2012, was filed by a representative of the Kerala Hotels and Restaurants Association, a former representative of the State Fisheries Department and a social activist.² The second complaint, dated September 2012, was filed by a local fishing group, the Kerala Swathantra Malsya Thozhilali Federation (Kerala Independent Fish Workers Federation).³ The third complaint, dated April 2013, was filed by 14 residents of Mullor village, located near the project site.⁴ The complainants raised concerns relating to the design and due diligence of the port project, its environmental and social impacts on tourism and fishing activities, and stakeholder engagement.

The compliance investigation was released in January 2018 and made a number of non-compliance findings in relation to IFC's due diligence and supervision of the project. A summary of findings as presented in the January 2018 investigation report is set out in Annex 1.

As noted in the investigation report, CAO has monitored IFC's response to the investigation report in accordance with its Operational Guidelines. Although IFC is no longer directly engaged in the Kerala Port project, CAO has considered actions taken by IFC to address the investigation findings at a systemic level.

Post-IFC Project Development of the Kerala Port

CAO notes that IFC has not participated in the project development or implementation of impact mitigation or compensation schemes in relation to the Kerala Port since the conclusion of its AS project. However, IFC-led and supervised analysis remain key components of the project's cost/benefit analysis, impact assessment and mitigation framework.

At the time IFC concluded its engagement in the Kerala Port project, the port development had been put to tender but GoK had decided not to award the contract. Subsequently, GoK reopened bidding for the port development and in May 2015 a GoK committee recommended the award of the port project to the sole bidder, Adani Ports and Special Economic Zone Ltd (APSEZ). APSEZ initially targeted September 2018 for the first stage of port development.⁵ As of June 2020, the commission date has been extended several times, in part due to flood and storm damage and a shortage of construction materials needed for breakwater construction, and is now projected for December 2020.⁶ The project has also been impacted by COVID-19 related lockdowns.⁷

In late 2019, the project was reported to be receiving viability gap funding from state and central governments to the value of 7.9 billion Indian rupees (USD104 million).⁸ Additional land takings have been announced to provide for road connectivity and ancillary structures related to the port development.⁹ An application for permission to reclaim wetlands for warehousing and road

² CAO, India/Vizhinjam-01/Kerala case page, available at: <https://bit.ly/2zXDgNf>.

³ CAO, India/Vizhinjam-02/Kerala case page, available at: <https://bit.ly/2NqHr7n>.

⁴ CAO, India/Vizhinjam-03/Mulloor case page, available at: <https://bit.ly/2BCC81K>.

⁵ *The Hindu*, "Adani misses its 1,000-day deadline," September 1, 2018, available at: <https://bit.ly/3dZHgLG>.

⁶ *The Hindu*, "Vizhinjam port Phase I by October 2020," February 15, 2019, available at: <https://bit.ly/2Yijler>; S. Anil Radhaakrishnan, *The Hindu*, "Vizhinjam port by Dec. 2020," December 5, 2019, available at: <https://bit.ly/2XOmcSI>; *The New Indian Express*, "Speed up Vizhinjam project, says Assembly panel on public sector," January 24, 2020, available at: <https://bit.ly/2YmbCSf>.

⁷ *The Hindu*, "Adani Ports Drop Anchor," June 9, 2020, available at: <https://bit.ly/2zig4Zx>.

⁸ Soumya Bhowmick and Pratinashree Basu, *The Diplomat*, "Is India's Vizhinjam Port Plan Worth It?" November 23, 2019, available at: <https://bit.ly/2Ut36zy>.

⁹ S. Anil Radhakrishnan, *The Hindu*, "Collector told to acquire 4.28 ha more for Vizhinjam port," November 26, 2019, available at: <https://bit.ly/2Yo9UzK>.

connections was denied by state authorities due to potential drinking water shortages and environmental impacts.¹⁰

Over the course of project development, many of the community and environmental impacts anticipated by the complainants are reported to have occurred. In particular, local residents have complained of erosion,¹¹ ecological impacts on marine life,¹² and of threats to fishing and tourism livelihoods as a result of planned demolition of homes and businesses adjacent to the coast.¹³ Affected communities have also carried out protests¹⁴ and expressed concern that impacts on their livelihoods have not been compensated, either because promised support has not been delivered,¹⁵ or because they were not considered to reside in the project's defined area of impact.¹⁶

CAO Investigation Findings

CAO made two broad compliance findings in its investigation:

1. IFC took on the role of lead transaction advisor in relation to the Kerala Port project without a reasonable assurance of the client's commitment to develop the project in accordance with the PS; and
2. The ESIA as delivered by IFC was not fully consistent with the PS, particularly in relation to land acquisition and project impacts on livelihoods.

During the monitoring period, IFC reported steps taken at the level of policy, procedures, practice or knowledge that are relevant to CAO findings. In particular, these include findings in relation to:

- Preparation and scope of a PPP AS project, including assessment of potential for a project to adhere to PS requirements;
- IFC's approach to engagement on conducting ESIA's for PPP engagements; and
- Assessment of client capacity and commitment.

Preparation and scope of a PPP advisory services project

CAO found that IFC did not take adequate steps to address the potential for the Kerala Port project to contravene the PS as they relate to land acquisition. IFC staff were aware that the client intended to proceed with land acquisition in a way that was inconsistent with the requirements of Performance Standard 5 (PS5). At the time of approval, IFC did not advise the client to suspend its ongoing land acquisition activities until the ESIA and other required plans had been completed. CAO found that IFC's advice to the client was not consistent with the PS in this respect.

¹⁰ K.S. Sudhi, *The Hindu*, "Panel denies permission for reclaiming wetland," December 31, 2019, available at: <https://bit.ly/2BVxR9W>

¹¹ The News Minute, "Breakwater construction on Vizhinjam port has caused high tides: Kerala Fisheries Min," June 26, 2019, available at: <https://bit.ly/2UybfTr>.

¹² Rejimon K, *Firstpost*, "Kerala's \$65 billion Vizhinjam port: Fishermen, environmentalists rue loss of job, ecology," June 11, 2017, available at: <https://bit.ly/2Yj4Xlr>.

¹³ *The Hindu*, "Demolition on hold after local resistance," June 12, 2019, available at: <https://bit.ly/2UsbDme>

¹⁴ JOC.com, "Protest stops work on India's Vizhinjam transshipment port," October 31, 2017, available at: <https://bit.ly/2XXmXJC>; JOC.com, "Protesters end blockade of India's Vizhinjam port site," November 3, 2017, available at: <https://bit.ly/3dWATZT>; *Times of India*, "Vizhinjam fishermen protest over compensation package," March 1, 2020, available at: <https://bit.ly/37nllpU>.

¹⁵ *Ibid.* *Times of India*.

¹⁶ Rejimon K.

IFC's approach to conducting ESIA for PPP engagements

IFC agreed to conduct an ESIA in relation to the “marine side” of the Kerala Port project. While CAO found that the ESIA delivered by IFC was consistent with the PS in some respects, CAO found that IFC's approach was inconsistent with Performance Standard 1 (PS1) because IFC did not ensure that all component parts of the port were assessed in accordance with the PS. CAO noted in particular that PS1 requires E&S risks and impacts be identified in the context of the project's area of influence which includes all project components.

Further, CAO noted that IFC did not oversee the preparation of an environmental management plan (EMP) as contemplated at the time of project approval and that consultation activities envisaged by IFC were not completed during IFC's involvement in the project. Overall, CAO found that this approach gave rise to a situation where IFC was supporting the preparation of a project that was not in compliance with the PS.

CAO's investigation also noted that IFC underestimated the complexity of preparing an ESIA and EMP for the project. While consultants were engaged to conduct the ESIA itself, IFC did not resource supervision of E&S aspects of the project sufficiently. As a result, IFC identified gaps in the ESIA late in the preparation process when opportunities to course correct or complete necessary components of the work were limited. These included insufficient analysis of project impacts on tourism; under-developed livelihood restoration plans; and shortcomings in consultation and disclosure around the ESIA process.

Assessment of client capacity and commitment

During the project preparation, IFC recognized that its client did not have the capacity to oversee a PS-compliant ESIA in relation to the Kerala Port project and committed to oversee certain aspects of the ESIA. However, CAO's investigation noted that there were limited discussions between IFC and the client regarding the implications of conducting the ESIA for the project in accordance with the Performance Standards.

CAO also noted that IFC's policy and procedures did not require the client to commit to develop the project in accordance with the PS as a condition of IFC's involvement. As a result, CAO noted that IFC did not test the client's commitment to the PS prior to approval of the project. Without a clear commitment from the client to the PS, CAO found that IFC lacked leverage when issues regarding the application of the PS arose during project implementation, for example in relation to land acquisition and economic displacement of tourism operators.

Summary of IFC Management Response

IFC prepared a management response to the investigation which was released together with the investigation report in February 2018.¹⁷

IFC's response noted the distinct nature of IFC's investment and advisory roles regarding assessment and monitoring with the PS, as relevant to the Kerala Port project engagement. In PPP AS engagements, IFC noted that it functions as an advisor to a procurement process, rather than as a financial investor in the private sector activity procured.

IFC contested CAO's approach to the investigation which found that the 2012 version of the PSs were an appropriate basis for compliance review. Rather, IFC emphasized that the project commenced in in 2009, when the 2006 version of the PS were the authoritative standard.

¹⁷ IFC Management's Response to the CAO Investigation Report on Vizhinjam International Seaport Limited, February 21, 2017, available at: <https://bit.ly/2UptEC0>.

IFC also noted that its mandate in relation to the project was limited to the port facilities (and necessarily excluded access infrastructure and ancillary facilities, given that at the time they were not yet fully planned by the government and, as a result, not ready for tendering or associated E&S risk mitigation). Nonetheless, IFC advised, and the client accepted, exceptionally, to include the PS as the reference standard for the overall, comprehensive project ESIA. IFC's advisory engagement, and consequently its review for alignment with the PS, ceased before the overall comprehensive project ESIA was finalized by the client.

IFC included an Annex with a tabulated response to the CAO findings, relevant details of which are summarized in the following section.

IFC's response did not include any engagement with the client, the complainant, or any commitment to project level action.

Observations from CAO Monitoring (January 2018 – June 2020)

During the monitoring period, CAO sought information from IFC on its project-level and system-level responses to the investigation findings. CAO also sought information from the complainants regarding IFC's engagement to address the investigation findings. The complainants did not respond to CAO's request for comments.

During the monitoring period, IFC has not reported any action that addresses CAO's project-level non-compliance findings. IFC's response states that once its advisory role has ended, IFC is not in a position to monitor continued project design.¹⁸ IFC also noted that its AS engagement, and consequently its review for alignment with the PS, ceased before the overall comprehensive project ESIA was finalized by the client.

This section provides an overview of IFC actions to address CAO findings at the level of its policies, procedures, practice and knowledge.

In relation to its systems-level response, IFC noted that its approach to managing E&S risk in its AS business evolved significantly between 2006 and 2013, in large part influenced by lessons learned from the Kerala Port project. IFC also noted certain actions taken or proposed that related to CAO's findings.

IFC actions at the level of policies, procedures, practice and knowledge

IFC's response noted that it had learned valuable lessons from its involvement with the Kerala Port project and noted several changes to its E&S practices for advisory services that predated CAO's investigation.¹⁹ In particular, IFC highlighted internal guidelines issued by to staff in 2013 relating to the scope of IFC's E&S due diligence and in 2015 relating to the content of E&S provisions in advisory services mandate agreements. IFC also noted that E&S and C3P departments had provided training on this guidance to staff and consultants.

During the monitoring period, IFC reported to CAO that the AS E&S practice has continued to evolve significantly within the following areas of focus:

- Focus on Public Private Partnerships: IFC reported that its approach to IFC's approach to, and objectives for, E&S in PPP advisory services have developed as a result of greater

¹⁸ IFC Management's Response to the CAO Investigation Report on Vizhinjam International Seaport Limited, February 21, 2017, available at: <https://bit.ly/2UptEC0>

¹⁹ IFC Response to CAO Investigation, p. 1.

understanding and knowledge of the PPP process. As milestones and outcomes sought from PPPs have been clarified, the E&S review and supervision approach has matured. From 2014, IFC management have advised staff that stakeholder assessment should be undertaken as part of establishing the IFC mandate. IFC also introduced a strengthened approach on E&S supervision, including provision of E&S specialist support to all PPP projects (not just those identified as “high risk”).

- Capacity and commitment of clients: Since 2016, IFC has included specific provisions on the Performance Standards in its mandate letters and Financial Advisory Services Agreements (FASA). The provisions require that the client endeavor to apply the Performance Standards in designing and carrying out the PPP transaction . In addition, the agreements include an exit clause that provides IFC with the right to withdraw from a project if an E&S non-compliance becomes material. The agreement also includes an annex that details what IFC will do in terms of due diligence of E&S matters, what will the outputs be from this due diligence, and what is expected of the client. This annex is tailored for each project.
- Internal risk management and development outcomes: IFC issued guidance to its staff in 2012 explaining why IFC should not undertake an ESIA on behalf of its clients. Further guidance to staff stressed that the limited role of IFC’s mandate means that an ESIA must be owned by the project developer. E&S risk management in PPPs now addresses both internal risk management and potential development outcomes related to the advisory project. E&S risks and impacts must be considered alongside development and economic aspects to ensure that both the client and potential bidders understand the E&S commitments that must be factored into pricing and timelines for proposals. Further, IFC considers the commitment and capacity of the client “project champion” – an individual who will provide stability and influence through potential changes in the client organization.
- Enhanced E&S review and supervision process: IFC reported that its new accountability and decision mechanism (ADM) requires E&S specialists to provide clearance at key stages in the project cycle. Peer review meetings for E&S issues, similar to the one conducted in relation to the Kerala Port project, are now a more systemic part of the supervision process. IFC also engages World Bank staff counterparts earlier and more often in discussions on PPP projects.

At the time of IFC’s response, IFC noted that an updated Environmental and Social Review Procedure was under preparation to describe the improvement of the approach and procedures to E&S risk management in IFC’s advisory services. During the monitoring period, IFC reported to CAO that specific ESRP provisions in relation to PPP advisory services projects had been developed and were expected to be approved.

Conclusion

IFC has not reported any actions taken to address CAO’s findings at the project level. IFC explains this decision on the basis that its advisory role ended in 2013. As a result, IFC explained that it was not in a position to monitor continued project design.²⁰ IFC also noted that its AS engagement, and consequently its review for alignment with the PS, ceased before the overall comprehensive project ESIA was finalized by the client.

²⁰ IFC Response to CAO Investigation, p. 1.

At the systems level, IFC has implemented enhanced processes and is developing new procedures that are relevant to the investigation findings regarding E&S due diligence and supervision of PPP related AS projects.

CAO has considered the extent to which these actions respond to relevant non-compliance findings:

- *Preparation and scope of a PPP advisory services project:* CAO notes that IFC has implemented enhanced E&S appraisal and supervision approaches since its engagement on the Kerala Port project. The approach described to CAO ensures that an E&S specialist is assigned to every PPP-related AS project, provides E&S staff with opportunities to input in the project scoping and design at an early stage, and requires clearance on E&S matters at key milestones.
- *Assessment of client capacity and commitment:* CAO notes that IFC's approach to assessing client commitment is significantly enhanced through amendments to the mandate letter and FASA that require the client to endeavor to apply the PS when designing and carrying out the PPP. Further, IFC's ability to assess client capacity is strengthened by ensuring that E&S specialist staff are assigned to each PPP.
- *IFC's approach to engagement on conducting ESIA for PPP engagements:* CAO found that IFC's commitment to include preparation of an ESIA and EMP within its scope of work was consistent with IFC's policy framework, but that the document delivered to IFC's client fell short of PS requirements. Since the Kerala Port project was initiated, IFC has issued guidance to its staff that IFC cannot commit to carry out an ESIA or to conduct consultation and disclosure on behalf of its client. However, E&S staff now include an annex in the client agreement that provides more detailed guidance in writing about the steps that are necessary to ensure the project meets the PS.

These changes increase the focus on the identification and management of E&S issues in IFC AS projects and potentially increase IFC's leverage in relation to the AS client. They should also serve to reduce the risk that IFC will provide AS support and thus serve as an enabler of environmentally and socially harmful PPP projects.

CAO notes that these improvements in IFC processes are intended to be captured in a revised ESRP relating to PPP advisory projects.

Monitoring Outcomes

CAO finds that IFC's response to this compliance investigation at the level of policies, procedures, practice and knowledge is satisfactory. CAO notes that several changes in practice are pending a formalized change to IFC's Environmental and Social Review Procedures. Nevertheless, CAO has decided to close its monitoring, on the basis that actions taken by IFC are addressing CAO's compliance findings at a systems-level, and considering that IFC no longer has any direct involvement with the Kerala Port project.

Annex 1 – Summary of Investigation Findings

Finding No. 1: Preparation and scope of the Advisory Services Project

IFC's commitment to oversee the preparation of an environmental and social impact assessment (ESIA) and environmental management plan (EMP) for the project in accordance with IFC's Performance Standards was consistent with the requirements of IFC's policies and procedures for AS projects at the time.

IFC did not advise the client to suspend its land acquisition activities until the ESIA and other required plans had been completed, as required by IFC Performance Standard 5 (PS5). IFC did not take adequate steps to address the potential for the Kerala Port project to contravene the IFC Performance Standards as they relate to land acquisition. CAO finds that IFC's advice to the client was not consistent with the Performance Standards in this respect.

Finding No. 2: Division of mandate for the ESIA work

IFC did not ensure that component parts of the port were assessed in accordance with the Performance Standards. For this reason, IFC's approach to the preparation of the ESIA was not consistent with the PS1 requirement that environmental and social risks and impacts be identified in the context of the project's area of influence.

IFC did not have assurance that the ESIA and EMP for the port project were PS compliant.

Finding No. 3: Preparation of the Port ESIA – Consultant Supervision

IFC delivered an ESIA that was in some respects consistent with the Performance Standards. In particular, it set out useful environmental baseline data and socio-economic baseline data in relation to fisheries and identified key impacts in relation to fisheries-based livelihoods.

However, the Port ESIA which IFC delivered to the client lacked essential components of an ESIA as it did not:

- incorporate a detailed socio-economic baseline for tourism-based livelihoods; or
- incorporate framework-level resettlement action or livelihood restoration plans.

IFC did not oversee the preparation of an EMP as contemplated at the time of project approval.

The approach of limiting the scope of the IFC's inputs to one part of the ESIA gave rise to a situation where IFC was supporting the preparation of a project that was not in compliance with the Performance Standards.

Finding No. 4: Consultation and Disclosure

IFC recognized the importance of stakeholder engagement to the project and gave early advice to its client on consultation and disclosure that was consistent with the Performance Standards.

Consultation activities envisaged by IFC when it embarked on preparation of the ESIA were not completed during IFC's involvement in the project. IFC did not carry out public consultations in relation to the Port ESIA and did not support the public hearing convened by the Kerala State Pollution Control Board in June 2013.

As a result, the draft Port ESIA that IFC delivered to its client in April 2013 did not reflect a process of informed consultation and participation, or a process of disclosure as required by PS1.

Finding No. 5: Fisheries Impacts

During the scoping phase, and through primary data collection, IFC and its consultants worked consistently within the framework of PS1 to establish a socio-economic baseline to identify the social impacts of the port on fishing communities and to recognize the vulnerability of this population.

The draft Port ESIA recognizes that PS5 provisions on economic displacement are triggered by the project in relation to fisheries-based livelihoods.

However, the ESIA presents only high-level principles for livelihood restoration, together with guidelines for preparing a draft Livelihood Restoration Framework (LRF). Given the stage of development of the project at the time IFC conducted the ESIA and the significance of the expected impacts, CAO finds that the lack of detailed mitigation and livelihood restoration planning in relation to fisheries-related impacts was not consistent with the requirements of PS1 or PS5.

Finding No. 6: Tourism Impacts

IFC did not ensure that the ESIA considered risks and impacts on tourism based on “recent social baseline data at an appropriate level of detail” as required by PS1.

IFC incorrectly concluded that project impacts on tourism-related livelihoods fell outside the scope of PS5. IFC’s rationale for this decision is not supported by the language of PS5 or by IFC’s own guidance material. As a result, the ESIA did not include an adequate assessment of potential economic displacement of people with tourism dependent livelihoods.

Although IFC recommended that the client complete a Tourism Impact Assessment, CAO finds that this occurred too late in the ESIA process. CAO also finds that a direction included in the ESIA to assess entitlements on the basis of the “legality” of resorts gave rise to potential inconsistencies with PS5 requirements that provide for compensation of economically displaced persons who are without legally-recognizable claims to land.

In accordance with PS5, the likely impacts on tourism-based livelihoods required a Livelihood Restoration Plan with express reference to compensation.

IFC did not direct a systemic review to identify priority ecosystem services as required by PS6. In relation to tourism, this meant that impacts on cultural ecosystem services were not identified or addressed in a coherent manner in the draft Port ESIA.