

DEG AND FMO

**JOINT MANAGEMENT ACTION PLAN TO THE
ICM COMPLIANCE REVIEW REPORT**

ON

**LOMÉ CONTAINER TERMINAL SA
(PROJECT 43550)**

TOGOLESE REPUBLIC

Published on January 15, 2024

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Abbreviations and Acronyms

2022 Study	Independent revised Study on the Causes of Coastal Erosion along the Togolese Coast between 1955 and 2019 (completed in 2022)
AFD	<i>Agence Française de Développement</i>
AfDB	African Development Bank
ANGE	<i>Agence Nationale de Gestion de l'Environnement</i>
CAO	Compliance Advisor/Ombudsman of IFC
CDP	Community Development Plan
CRR	Compliance Review Report
CSR	Corporate Social Responsibility
DEG	<i>Deutsche Investitions- und Entwicklungsgesellschaft</i>
E&S	Environmental and Social
ESIA	Environmental and Social Impact Assessment
FMO	<i>Nederlandse Financierings-maatschappij voor Ontwikkelingslanden</i>
IAM	Independent Accountability Mechanism
ICM	Independent Complaints Mechanism
IEP	Independent Expert Panel
IFC	International Finance Corporation
Invest International	Financing institution for innovative Dutch companies investing in emerging markets
IsDB	Islamic Development Bank
LCT	Lomé Container Terminal
MAP	Management Action Plan
MMEFCP	Ministry of Maritime Economy, Fisheries and Coastal Protection
PAL / Port Project	Autonomous Port of Lomé
Technical Assistance	FMO-financed project Lomé Container Terminal Contribution to the cost of hiring external consultants, trainers and experts to facilitate the knowledge transfer and provision of technical expertise
WACA	West Africa Coastal Areas Management Program

I. Introduction

On 31 August 2022, the Independent Expert Panel (IEP) of the Independent Complaints Mechanism (ICM) of DEG and FMO issued its [Compliance Review Report](#) (CRR) in relation to the complaint regarding the Lomé Container Terminal, a transshipment container terminal in Lomé, Togo (LCT or the Project). The complaint was filed by *the Collectif des personnes victimes d'érosion côtière* (the Complainant), a local organization stating to represent members of nearby communities who live to the east of the existing Autonomous Port of Lomé (PAL or the Port).

II. Management Action Plan

This Management Action Plan (MAP) is drafted by DEG and FMO pursuant to the IEP's CRR recommendation, as well as per our commitment expressed in the [joint Management Response](#) dated 7 October 2022. The MAP summarizes our joint response to the IEP's observations we derived from its CRR. In addition, it outlines the actions which DEG and FMO working together with LCT, and other relevant stakeholders, will implement to address the IEP's findings and recommendations in a constructive and timely manner. All actions are covered in detail under Annex 1.

In November 2022, also on behalf of DEG, FMO visited the Project, the Complainant, and eleven out of the twelve communities east of the Port to consult and prepare for this MAP. We would like to express our sincere gratitude to the community members for their trust and openness and for sharing their views on the Project and their relationship with LCT. Specifically, we are grateful for their suggestions on how working together with LCT toward a neighborhood that is both sustainable and long-lasting can be achieved.

As the Ministry of Maritime Economy, Fisheries and Coastal Protection of Togo is responsible for the supervision of the Autonomous Port of Lomé, where LCT operates, and for the coordination of all efforts in relation to the coastal erosion matter at the national level, FMO (also on behalf of DEG) visited the respective Minister during the design of this MAP in April 2023. The Minister was informed about the recommendations and proposed actions and, in response, emphasized that it is the Ministry's responsibility to address the issues, including any grievances, related to coastal erosion. As such, other than certain actions which LCT had already started implementing and which are explained below, it should be noted that nation-wide efforts to address and coordinate the coastal erosion matter lies with the Government of Togo and its respective Ministries. Therefore, DEG and FMO actions intend to support LCT to continue actively engaging with relevant stakeholders and to realize the implementation of the IEP recommendations that are considered within scope of influence.

III. DEG and FMO non-retaliation statement

Though DEG and FMO have not observed nor been made aware of any retaliatory acts from LCT toward the Complainant, we stress the importance of our non-retaliation principle. DEG and FMO do not tolerate any activity by our customers that amounts to the oppression of, violence toward, or any other violations of the human rights of those who voice their opinion in relation to DEG or FMO's activities and the activities of our customers. We take seriously any credible allegations of reprisals.

IV. Acknowledgements

We wish to express our appreciation for the IEP's guidance throughout the process and to the Complainant, the Government of Togo and LCT for their valuable input provided during the design of this MAP. A Consultation Report, including the view of the Complainant can be found under Annex 2.

In addition, we are grateful for the information shared by many other stakeholders like the representatives of the West Africa Coastal Areas Management Program (WACA), which has assisted us in obtaining a deeper understanding of, and a more holistic perspective on, the interplay between formal responsibilities and the current efforts designed to address the issues of coastal erosion and climate change adaptation along the coastline of Togo.

V. DEG and FMO response to the IEP's findings and recommendations

DEG and FMO agree with the IEP's finding in the 2022 CRR that the PAL, built in the late 1960s, has historically been a contributing factor to coastal erosion in certain areas east of the Port and that those impacts, including impacts following the construction of the Project, if any, need to be addressed. The lenders take notice of the PAL's contribution to coastal erosion in Togo, as per the explanation provided in the Environmental and Social Impact Assessment (ESIA) of 2010¹ and in subsequent assessments such as the 2020 Environmental and Social Audit.

ICM recommendation (1): DEG and FMO to work with LCT to design and implement remedial actions to mitigate impacts identified in the revised Coastal Erosion Study completed in February 2022.

In the case of the Project, the IEP recommends that, in case of any harms identified in the 2022 Study as a result of the construction of LCT, *“DEG and FMO will work with LCT to design and implement remedial actions to mitigate negative impacts.”* This 2022 Study was initiated to provide additional insight into the coastal erosion and accretion events that happened along the coastline of Togo between 1955 and 2019. In addition, it analyzes the actual changes observed with a view to shedding light on any potential contributions to erosion by the Project, including the spur groyne which was constructed as part of the LCT project². The 2022 Study was supported by lenders to help gather additional knowledge on the evolution of the coastline of Togo between 1955 and 2019, identify as much as possible the causes of observed erosion and accretion events, and attempt to estimate the degree to which different human actions may have influenced coastal erosion east of the Port³. The 2022 Study also dedicates a separate chapter to describe the results of a theoretical analysis that was undertaken to assess the potential contribution of different human actions and infrastructure to coastal erosion in Togo. In this chapter, the consultants explicitly state that the results are indicative of relative importance of the different structures, and therefore are not to be considered as a measure of actual impact⁴.

The 2022 Study concludes (i) an estimated very limited contribution to coastal erosion resulting from the effects of the combination of the spur groyne and access channel of PAL (i.e., estimated potential cause linked to infrastructure utilized by among others LCT) while noting that this finding is based on modelling techniques, (ii) based on the analysis of actual coastal shoreline changes that occurred between 2010 and 2019, the 2022 Study did not mention the LCT, nor the infrastructures associated to it, among the causes of the observed coastal erosion east of the Port between 2010 and 2019. Lastly, the 2022 Study notes a decrease in overall erosion states between 2013 and 2019, except for hot spot areas where, according to the 2022 Study, erosion rates increased among others due to sand mining activities (from 1988 to 2013) and significant breaches in beach rock which had been exposed prior to construction of LCT. The findings of the 2022 Study in relation to the attribution of causation to observed erosion are similar to those of the 2020 Environmental and Social Audit, which has been made [publicly available](#) by IFC.

Hence, based on the findings of the Environmental and Social Audit of 2020 as well as the most recent 2022 Study, as referred to above, DEG and FMO will not require LCT to design additional measures or to provide for individual compensation as this would be only appropriate if the studies would have concluded that the impacts observed are a result of significant contribution of the Project. As the 2010 ESIA and the 2020 E&S Audit state, a potential very limited contribution cannot be excluded, thus we support the application of the precautionary principle taken by the 2020 Environmental and Social Audit. Therefore, LCT's implementation of the actions defined in the 2020 Environmental and Social Audit continues to be deemed an appropriate approach where the surrounding communities (as a whole) benefit from the efforts LCT is willing to undertake in relation to community development.

¹ For more information, see the [ESIA](#).

² For more information about the revised 2022 Study, see page 14-15 of the IEP's [Compliance Review Report](#). The 2022 Study was commissioned by LCT and financial partners (DEG, IFC, FMO).

³ For more information about the Project, see [IFC Management Response to CAO Investigation Report](#)

⁴ It is important to highlight that this theoretical exercise is not an empirical observation of actual coastal dynamics nor impacts. The modelling results are used to estimate theoretical ratios of contribution to coastal dynamics of the different infrastructures in the study period 1955-2019. It should also be noted that the model does not include elements such as the construction of the Akosombo Dam and the noted increases in extreme weather events due to climate change, as well as the breaches in already exposed beach rock. Therefore, a percentage of potential contribution is difficult to validate or estimate, as many other factors that largely contributed to the observed erosion have been excluded from the theoretical model.

ICM recommendation (2): DEG and FMO to support LCT to assure that remedial actions specified in the Environmental Audit will be implemented

DEG and FMO remain committed to support LCT with the, already ongoing, implementation of the measures that were laid out in the Environmental License of 2020 that was issued to LCT by the Togolese authorities. These measures were derived from corrective actions identified in an Environmental and Social Audit that was carried out by an international consulting firm on behalf of the *Agence Nationale de Gestion de l'Environnement* (ANGE) of the Togolese Republic and resulted in a renewed Environmental License for LCT in 2020. Even though the Environmental and Social Audit concluded that none of the coastal erosion impacts can be attributed solely to the Project, the Togolese environmental authority applied the precautionary principle and defined five specific actions⁵ in relation to the communities affected by coastal erosion in the past decades.

To support LCT in their community engagement strategy and implementation of the five actions specified in the Environmental License of 2020, DEG and FMO will make use of their respective Technical Assistance funds to engage a specialized consultant to support LCT specifically in relation to (i) strengthening internal capacity building with a focus on the development of a solid stakeholder engagement strategy; and (ii) development and implementation of the ongoing CSR activities by LCT to improve communities' livelihoods. We believe that supporting LCT in developing a sound framework for community engagement will contribute to improved mutual understanding between LCT and the communities, as well as to a clear process to jointly identify CSR activities that will be in the benefit of the communities at large, including those historically affected by coastal erosion independently of LCT.

ICM recommendation (3): DEG and FMO to ask LCT to disclose a nontechnical summary of the revised Coastal Erosion Study and to conduct consultations on this nontechnical summary with people residing in the area of influence to the project (including the complainants).

DEG and FMO realize that, as per the international best practices to which we have committed to, it is important to disclose the 2022 Study, including a nontechnical summary, for the people residing in the area of influence of the Project (including the Complainant). We believe that such disclosure will improve the understanding of coastal developments (between 1955-2019) by all stakeholders, and hope that it will improve subsequent dialogues, including between LCT and community members.

DEG, FMO, and LCT support the disclosure of the 2022 Study or, as a minimum, the 2022 Study Non-Technical Summary. However, it should be noted that the disclosure of this study is beyond the immediate span of control of LCT, DEG and FMO. The Project is part of the PAL, which falls under the supervision of, among others, the Ministry of Maritime Economy, Fisheries and Coastal Protection of Togo. In 2008, LCT signed a 35-year Concession Agreement with the Togolese Republic that establishes roles and responsibilities between the Togolese authorities and the concessionaire (LCT). Herein, it is stipulated that the publication of any documents related to LCT is subject to the approval of the responsible Togolese authorities.

As this has proven to be more complex than was initially foreseen, we have identified alternative ways to attempt to disclose the 2022 Study. Following the consultation with the Minister of Maritime Economy, Fisheries and Coastal Protection in April 2023, DEG and FMO, together with IFC, have submitted a formal *Note Verbale* to the Minister to seek their formal endorsement for the publication of the nontechnical summary of the 2022 Study. We are awaiting the Minister's response and approval and will continue to urge for public disclosure going forward.

ICM recommendation (4): DEG and FMO to work with LCT and relevant Togolese authorities and stakeholders to design and implement measures which would reduce coastal erosion impacts on the coast east of the Port.

⁵ For more information about the actions, see page 180 of the [2020 E&S Audit](#).

DEG and FMO recognize that coastal erosion is still putting livelihoods of coastal communities and local private businesses at risk and agree with the IEP that the involvement of multiple actors is essential for addressing this matter. We note that efforts by the Government of Togo and its respective Ministries to address the coastal erosion matter and reduce impacts of PAL have already commenced and are ongoing. These efforts include various projects under the auspices of WACA, which involve partnerships with national and regional organizations as well as international development partners. The WACA Program aims to create a centralized platform to assist, among others, Togo in accessing technical expertise and financial resources to sustainably manage their coastal zone and to strengthen socioeconomic resilience to the impacts of climate change⁶. In Togo, WACA finances emergency works and supports the development and implementation of income-generating activities for coastal communities. WACA is funded by the World Bank and is implemented in collaboration with a number of other international development partners, including AFD, AfDB and IsDB.

For a better understanding of the scope of WACA and its implementation, specifically in relation to the coastal communities east of the Port, FMO (also on behalf of DEG) engaged with relevant stakeholders like the WACA Project Implementation Unit and IsDB's Local Implementation Unit. We note that communities east of the Port fall within scope of one of the funding partners. Invest International, a Joint Venture of the Dutch State and FMO, will contribute to the completion of protection measures started on the coast section going from Gbodjomé to the Port area. In addition, the IsDB announced its financial support to the region west of the WACA area, covering a 14-km long area from the village of Katanga to the village of Gbodjomé.

As it concerns an issue of national importance in Togo, DEG and FMO thus learned that all aspects related to impacts of coastal erosion are coordinated by the Ministry of Maritime Economy, Fisheries and Coastal Protection of Togo. LCT's engagement with the Togolese authorities is limited to the actions specified in the 2020 Environmental and Social Audit. Therefore, our support will focus on LCT's implementation of the 2020 Environmental and Social Audit measures as described above. In addition, as the WACA Program includes the implementation of social projects, DEG and FMO welcomed the suggestion of direct engagement between LCT and the WACA Project Implementation Unit to seek alignment on the design of social projects (to avoid potential duplication of efforts).

ICM recommendation (5): DEG and FMO to assume an intensified engagement in project supervision in cases where there is credible evidence of significant non-compliances, particularly if these have been identified in a Compliance Review Report conducted by a complaint mechanism of one of the DFIs in which DEG and FMO pursue a joint funding of the project.

With respect to the IEP's final recommendation, DEG and FMO have intensified their engagement in project supervision in different investments, both through more frequent engagement with financiers and internally through established committees, as a lesson learned from this case. We appreciate the observation of the IEP and recognize that further improvements can be made to internal processes and procedures. The Annex outlines the proposed action item(s) to be carried out by the respective Development Finance Institution(s).

VI. Implementation timelines

Though DEG and FMO are no longer a lender to the Project after December 2023, all actions referred to in the Annex will be implemented over a period of one (1) year until December 2024. DEG and FMO will submit a semi-annual progress report to the IEP.

⁶ For more information about WACA, see [Togo | WACA \(wacaprogram.org\)](https://wacaprogram.org).

Annex 1: Response and actions per ICM Recommendation in the CRR regarding Lomé Container Terminal S.A. (Project 43550)

<p>ICM Recommendation 1: FMO and DEG to work with LCT to design and implement remedial actions to mitigate impacts identified in the revised Coastal Erosion Study completed in February 2022.</p>		
<p>Response DEG and FMO: The conclusion of the revised Coastal Erosion Study (2022 Study), completed in February 2022, concludes (i) an estimated very limited contribution to coastal erosion resulting from the effects of the combination of the spur groyne and access channel of PAL (i.e., estimated potential cause linked to infrastructure utilized by among others LCT) while noting that this finding is based on modelling techniques, (ii) based on the analysis of actual coastal shoreline changes that occurred between 2010 and 2019, the 2022 Study did not mention the LCT, nor the infrastructures associated to it, among the causes of the observed coastal erosion east of the Port between 2010 and 2019. Lastly, the 2022 Study notes a decrease in overall erosion states between 2013 and 2019, except for hot spot areas where, according to the 2022 Study, erosion rates increased among others due to sand mining activities (from 1988 to 2013) and significant breaches in beach rock which had been exposed prior to construction of LCT. The findings of the 2022 Study in relation to the attribution of causation to observed erosion are similar to those of the 2020 Environmental and Social Audit, which has been made publicly available by IFC.</p> <p>Hence, based on the findings of the Environmental and Social Audit of 2020 as well as the most recent 2022 Study, as referred to above, DEG and FMO will not require LCT to design additional measures or to provide for individual compensation as this would be only appropriate if the studies would have concluded that the impacts observed are a result of significant contribution of the Project. As the 2010 ESIA and the 2020 E&S Audit state, a potential very limited contribution cannot be excluded, thus we support the application of the precautionary principle taken by the 2020 E&S Audit. Therefore, LCT's implementation of the actions defined in the 2020 Environmental and Social Audit is deemed an appropriate approach where the surrounding communities (as a whole) benefit from the efforts LCT is willing to undertake in relation to community development.</p>		
Action(s)	Deliverable(s)	Timeline
N/A	N/A	N/A
<p>ICM Recommendation 2: FMO and DEG to support LCT to assure that remedial actions specified in the Environmental Audit will be implemented.</p>		
<p>Response DEG and FMO: DEG and FMO note LCT's already ongoing implementation of the actions specified in the Environmental and Social Audit, which includes (among others) the implementation of Community Development / Corporate Social Responsibility (CSR) activities following consultation with the surrounding communities which are within LCT's area of influence.</p> <p>To support LCT in their community engagement strategy and implementation of the five actions specified in the Environmental License of 2020, DEG and FMO will make use of their respective Technical Assistance funds to engage a specialized consultant to support LCT specifically in relation to (i) strengthening internal capacity building with a focus on the development of a solid stakeholder engagement strategy; and (ii) development and implementation of the ongoing CSR activities by LCT to improve communities' livelihoods. We believe that supporting LCT in developing a sound framework for community engagement will contribute to improved mutual understanding between LCT and the communities, as well as to a clear process to jointly identify CSR activities that will be in the benefit of the communities at large, including those historically affected by coastal erosion.</p>		
Action(s)	Deliverable(s)	Timeline
As per actions (i) and (iii) of the Environmental Audit: Support LCT in their implementation of CSR activities that have been agreed with the coastal communities within LCT's area of influence by engaging an external consultant.	<ul style="list-style-type: none"> a) Signing of TA project; b) Consultant's audit of LCT community relations team's capacity and proposal for improved governance based on benchmarking and international best practice; 	<ul style="list-style-type: none"> a) Completed before 15 December 2023 b) Completed by December 2024 c) Starting January 2024 d) Starting January 2024 e) Started

<p>As per the Environmental Audit, this plan should include the development and implementation of income-generating activities (action iv) and a local employment plan (action v). The categories of CSR activities may include i) health services, ii) education services, iii) local infrastructure, and iv) livelihood improvement, depending on the outcome of the consultation with communities.</p>	<p>c) Identification and implementation of CSR activities in 2024 based on priority needs of communities, including evidence of implementation of activities following consultations held with communities and progress reporting;</p> <p>d) Monitoring of implementation of Environmental Audit measures, with a focus on CSR;</p> <p>e) Evidence of income-generating activities and local employment plan.</p>	
<p>The development of a plan to support the construction of coastal erosion protection infrastructure (action ii). In line with the information provided under ICM recommendation 4 in relation to the coordination efforts of the WACA Project in specific, DEG and FMO are of the view that this action is addressed at national level. However, confirmation will be requested from ANGE.</p>	<p>a) LCT to obtain clarification from <i>Agence Nationale de Gestion de l'Environnement</i> (ANGE) about the scope of the activity which is partly defined in the Environmental License.</p>	<p>a) Upon response from ANGE</p>
<p>ICM Recommendation 3: DEG and FMO to ask LCT to disclose a nontechnical summary of the revised Coastal Erosion Study and to conduct consultations on this nontechnical summary with people residing in the area of influence to the project (including the complainants)</p>		
<p>Response DEG and FMO: DEG, FMO, and LCT support the disclosure of the 2022 Study. However, it should be noted that the disclosure of this study is beyond the immediate span of control of LCT, DEG and FMO. The Project is part of the Autonomous Port of Lomé, which is under supervision of, among others, the Ministry of Maritime Economy, Fisheries and Coastal Protection (MMEFCP) of Togo. In 2008, LCT signed a 35-year Concession Agreement with the Togolese Republic that establishes roles and responsibilities between the Togolese authorities and the concessionaire (LCT). The publication of any documents related to LCT is subject to the approval of the Togolese authorities.</p>		
<p>As this has proven to be more complex than was initially foreseen, we have identified alternative ways to attempt to disclose the 2022 Study. Following the consultation with the Minister of Maritime Economy, Fisheries and Coastal Protection in April 2023, DEG and FMO, together with IFC, have submitted a formal <i>Note Verbale</i> to the Minister to seek a formal endorsement for the publication of the nontechnical summary of the 2022 Study. We are awaiting the Minister's response and approval and will continue to urge for public disclosure going forward.</p>		
<p>Action(s)</p>	<p>Deliverable(s)</p>	<p>Timeline</p>
<p>The disclosure of the nontechnical summary of the 2022 Coastal Erosion Study:</p> <p>a) DEG and FMO to request authorization for the publication of the 2022 Study from the Ministry of Maritime Economy, Fisheries and Coastal Protection (MMEFCP)</p> <p>If the abovementioned effort is not successful, DEG and FMO have identified the following alternative actions:</p>	<p>a) Evidence of DEG, FMO and LCT's efforts (e.g., official correspondence with government authorities).</p>	<p>a) Completed before publication of the MAP</p> <p>b) Completed by April 2024</p>

b) DEG and FMO to request their respective Embassies to engage with the MMEFCP and/or other Togolese government officials.		
<p>Consultation in respect of the nontechnical summary with the people residing in the area of influence of the Project (including the Complainant) with support from the consultant.</p> <p>If authorization for the publication of the 2022 Study is granted, DEG and FMO will support LCT in the preparation of a public information meeting to present the nontechnical summary of the 2022 Study to the communities. If deemed appropriate, DEG and FMO will participate in the public meetings.</p>	<p>a) Evidence of support in preparation of meeting;</p> <p>b) Evidence of public information meetings (e.g., minutes of meetings, attendance sheets, pictures).</p>	<p>a) Within six months after approval for disclosure from Togolese authorities</p> <p>b) Within six months after approval for disclosure from Togolese authorities</p>
<p>Recommendation 4: DEG and FMO to work with LCT and relevant Togolese authorities and stakeholders to design and implement measures which would reduce coastal erosion impacts on the coast east of the port.</p>		
<p>Response DEG and FMO: DEG and FMO recognize that coastal erosion is still putting livelihoods of coastal communities and local private businesses at risk and agree with the IEP that the involvement of multiple actors is essential for addressing this matter. We note that efforts by the Government of Togo and its respective Ministries to address the coastal erosion matter and reduce impacts of the Autonomous Port of Lomé have already commenced and are ongoing, including various projects by WACA, which involves partnerships with national and regional organizations as well as international development partners. In Togo, WACA is funded by the World Bank and implemented in collaboration with a number of other international development partners, including AFD, RVO, IsDB and AfDB among others.</p> <p>For a better understanding of the scope of WACA and its implementation, specifically in relation to the coastal communities east of the Port, FMO (also on behalf of DEG) engaged with relevant stakeholders like the WACA Project Implementation Unit and IsDB's local implementation unit. We note that all communities east of the Port fall within scope of one of the funding partners. Invest International, a Joint Venture of the Dutch State and FMO, will contribute to the completion of protection measures started on the coast section going from Gbodjomé to the Port area. In addition, the IsDB announced its financial support to the area west of the WACA area, covering a 14-km long area from the village of Katanga to the village of Gbodjomé.</p> <p>As it concerns an issue of national importance in Togo, DEG and FMO have thus learned that all aspects related to impacts of coastal erosion are coordinated by the Ministry of Maritime Economy, Fisheries and Coastal Protection of Togo. LCT's engagement with the Togolese authorities is limited to the actions specified in the Environmental Audit. Therefore, our support will focus on LCT's implementation of the Environmental Audit measures as described above. In addition, as the WACA Program includes the implementation of social projects, DEG and FMO welcomed the suggestion of direct engagement between LCT and the WACA Project Implementation Unit to seek alignment on the design of social projects (to avoid potential duplication of efforts).</p>		
Action(s)	Deliverable(s)	Timeline
N/A	N/A	N/A
<p>Recommendation 5 (Policies and Procedures): DEG and FMO to assume an intensified engagement in project supervision in cases where there is credible evidence of significant non-compliances, particularly if these have been identified in a Compliance Review Report conducted by a complaint mechanism of one of the DFIs with which DEG and FMO pursue joint funding of the project.</p>		

<p>Response DEG and FMO: DEG and FMO have intensified their engagement in project supervision in different cases, both through more frequent engagement with financiers and internally through established committees, as a lesson learned from the LCT ICM case. We appreciate the observation of the IEP and recognize that further improvements can be made to internal processes and procedures. Each Development Finance Institution has identified action items to address this recommendation.</p>		
Action(s)	Deliverable(s)	Timeline
<p>FMO: Implementation of two specific actions throughout the internal procedures for FMO's investment process.</p>	<p>a) <u>Investment process (before contracting):</u> FMO's Financial Proposals will contain a mandatory field related to complaints at other independent accountability mechanisms (IAMs), including FMO's increased supervision requirements (if applicable).</p> <p>b) <u>Monitoring process (after contracting):</u> the design of an internal procedure for FMO's investment teams to report on complaints and identified non-compliances by other IAMs in periodic reviews.</p>	<p>a) Completed by July 2023 b) Starting January 2024</p>
<p>DEG: Implementation of contractual arrangements with clients regarding complaints (initiative led by DEG, including involvement of FMO as member of the ICM).</p>	<p>a) <u>Standard legal building blocks for non-finance sector investments:</u> include in the DEG Environmental & Social contract building blocks that clients have to immediately notify DEG of any complaint they are made aware of and pursuant to which their international development financiers or multilateral development banks have received a complaint through their respective complaint mechanisms or ombudsmen.</p>	<p>a) Completed by January 2024</p>

Annex 2: Consultation Report

DEG and FMO conducted several consultation sessions with key stakeholders, including the Complainant on August 28, 2023. Dutch-based NGO Both ENDS attended this consultation session to support the Complainant. DEG and FMO also received written feedback from both the Complainant and Both ENDS in the period between August 28 and September 20, 2023. We have reviewed all questions and comments received from stakeholders throughout 2023 and closely evaluated and considered if and how to integrate these contributions into our Management Action Plan.

Review process

Upon request from the Complainant, DEG and FMO drafted this consultation report to make publicly available (i) a summarized version of the feedback received from the Complainant, and (ii) our response thereto. As part of the consultation process, the Complainant has reviewed the full notes of the consultation session and DEG and FMO have provided a more detailed written response to the feedback and questions prior to publication of this MAP.

Summary of feedback from Complainant (full details under Annex 3)

The Complainant appreciated the engagement and consultation around the MAP, stating that it provides a good basis for an action plan. Nevertheless, key issues raised in relation to the current proposed actions can be summarized as follows:

- (i) The position of FMO and DEG is based on a study that is not accessible to local stakeholders. The publication of the 2022 coastal erosion study and other relevant studies such as the 2016 Artelia and that of Professor ADJHAO of 2020 is needed;
- (ii) According to the Complainant, the communities do not agree with the current implementation of CSR projects by LCT;
- (iii) Monetary compensation is needed for the impacts suffered due to coastal erosion, in particular the royal palace from one of the members was mentioned;
- (iv) The proposed MAP does not take into account i) ICM recommendations, ii) historical impacts of the Port, iii) individual monetary compensation, and reference to the EIA of 2010
- (v) The Complainant expressed concern about the situation after 2023 and NGO Both ENDS voiced the increased risk of retaliation.

DEG and FMO written response (as sent to the Complainant)

28 December, 2023

To: Collectif des Victimes d'Érosion Côtière

From: FMO and DEG

Re: August – September 2023 consultation of the proposed Management Action Plan

FMO and DEG wish to express their appreciation and gratitude for the openness and feedback received from the Collectif des Victimes d'Érosion Côtière (Collectif) as part of the consultation process in respect of FMO and DEG's proposed Management Action Plan (MAP) shared in August 2023. The MAP contains FMO and DEG's actions in response to the Independent Complaints Mechanism (ICM) recommendations provided in the [Compliance Review Report](#) (CRR) of 31 August 2022.

Besides the relevant information derived from the CRR, the IFC CAO's monitoring reports from 2018-2021, and the ANTEA coastal erosion study of February 2022 (2022 Coastal Erosion study), the MAP takes into consideration the feedback received from the various stakeholders over the course of August 2022 – November 2023. This includes, among others, (i) the visit to Togo in November 2022, including our engagement with 11 out of 12 communities east of the Port, (ii) consultation with the Minister of Maritime Economy in April 2023, (iii) the recent virtual consultation with the Collectif in August 2023, and (iv) the written input received thereafter.

After careful consideration of the relevant findings and inputs received, FMO and DEG have adjusted the MAP. Though we are mindful that not all input is reflected in the definitive version, the aim of this letter is to clarify and to create a better understanding of how we have arrived at the actions laid out in the MAP.

We note and appreciate that in our various conversations with relevant stakeholders like LCT, the Collectif, and representatives of the communities, there is (i) a willingness to strengthen the

engagement between LCT and the communities, (ii) a supportive approach toward LCT's CSR (Corporate Social Responsibility) activities for community development, and (iii) a shared understanding that access to a nontechnical summary of the 2022 Coastal Erosion study is needed. Public access will help clarify the coastal developments on the ground (an action that is needed to enable a more meaningful engagement amongst the (local) stakeholders, as it will provide the same level of understanding regarding the coastal developments in the Togolese Republic from 1955 until 2019).

As a result of the various conversations held (as also referred to above), and while using the findings of the 2022 Coastal Erosion study as a basis for the proposed actions, we want to underline once again our commitment to implement the following actions:

- (i) Obtain government approval (insofar as FMO and DEG are in a position to obtain this) for the disclosure of the nontechnical summary of the 2022 Coastal erosion study;
- (ii) Support LCT in strengthening its engagement with the communities; and
- (iii) Support LCT in working together with communities to jointly identify projects benefitting them.

This is also in line with the following ICM recommendations: (i) *"ICM recommendation #2: DEG and FMO to support LCT to assure that remedial actions specified in the Environmental Audit will be implemented"* and (ii) *"ICM recommendation #3: DEG and FMO to ask LCT to disclose a nontechnical summary of the revised Coastal Erosion Study and to conduct consultations on this nontechnical summary with people residing in the area of influence to the project (including the complainants)"*. It is with this forward-looking and more inclusive community-based approach in mind that we have updated the proposed actions in the MAP to support LCT.

Even though FMO and DEG will not be a lender to the project after December 2023, the actions and monitoring of the MAP will be implemented for a period of one year (starting at the moment of publication). LCT has been consulted on the proposed MAP and is committed to working together on the implementation hereof.

As communicated earlier in the consultation letter of July 2023, we have carefully considered your views and hope that the answers below provide a better understanding of FMO and DEG's approach.

Kind regards, also on behalf of DEG team, FMO

Detailed written response to input from Collectif August-September 2023

Publication of consultation input

As agreed during the consultation with the Collectif, the final MAP will include an annex of the comments received from the complainants and supporting CSOs. This will include the notes of the consultation session (after approval from all participants) and the written input that was received thereafter from Both ENDS (dated August 29) and Collectif (dated September 20).

FMO and DEG non-retaliation statement

Following the concerns flagged by Both ENDS and Bank Information Center, on behalf of two individuals, FMO and DEG refer to the statement of zero-tolerance of any retaliatory acts in the MAP. We believe this does serve as a first measure in deterring potential retaliatory acts. As communicated before, we do not tolerate any activity by our customers that amounts to the oppression of, violence toward, or any other violations of the human rights of those who voice their opinion in relation to DEG or FMO's activities and the activities of our customers. To date, FMO and DEG have not detected any retaliatory acts from LCT toward the complainants.

With respect to the request for information about the actions to be taken by FMO and DEG to prevent retaliation from happening, also after the ending of the financial relationship with LCT, FMO and DEG would appreciate receiving further information in writing about the concerns – especially during the period in which the MAP is implemented. In addition, clarification is needed about whether the lenders can engage directly with the complainants, or whether this needs to be dealt with confidentially with communication to be directed via the CSOs. With consent from the complainants, clarification around these steps will help in determining with whom the information can be shared to seek clarification about the situation as well as the approach to address and/or increase the efforts in response to the signals received.

Clarification about FMO and DEG policies in relation to historical impacts

During the consultation, the Collectif felt that the proposed actions do not address the historical impacts of coastal erosion. We thank the Collectif for bringing this view to our attention, as it provides an opportunity to clarify this further in our final version of the MAP.

It is important to note that with the different complaints procedures ongoing, each independent expert panel (IEP) looks at the financial institution's own internal policies and procedures. As such, the Compliance Advisor/Ombudsman (CAO) for the International Finance Corporation (IFC) reviews IFC's sustainability framework and related policies, which at the time required them to work with the client to determine possible remediation measures for any significant historical impacts associated with the project. As opposed to IFC, FMO and DEG did not have this historical impact requirement included in their sustainability framework and related policies. The standards applicable to FMO and DEG at the time of investment required us to flag to LCT that it should use its influence to address impacts (if any) related to associated facilities. The findings of the Environmental Impact Assessment (EIA) confirmed that there were multiple initiatives ongoing, both at national- and international level, to address any historical impacts and grievances related to coastal erosion impacts under the coordination of relevant Togolese authorities. Though LCT is a key stakeholder, it has very limited influence on the broader issue of coastal erosion in Togo, as concluded in the independent [Stakeholder and Political Economic Analysis for Togo](#) that was commissioned by the World Bank.

In our MAP, we have proposed actions in response to the recommendations of the Independent Complaint Mechanism (ICM). As opposed to IFC's CAO findings, the ICM did not make substantial reference to historical impacts, nor did it provide any recommendations in this regard. Having said that, we do agree that the Autonomous Port of Lome's (PAL), built in the late 1960s, has historically been a contributing factor to coastal erosion in certain areas east of the Port and that those impacts need to be addressed by the responsible actor(s).

The 2022 Coastal Erosion Study vs 2020 Coastal Erosion Study

The Collectif has requested the disclosure of the 2020 coastal erosion study (referred to by Collectif as the "ADJAHO report"). FMO and DEG consider this request counterproductive as the 2022 Coastal Erosion study is a revised version of the ADJAHO report, and the complainants had access to the content of the ADJAHO report (see reference made by Collectif in the following [public article](#)). Some of the conclusions of this draft report were challenged on technical grounds by international coastal erosion consultants. As the Terms of Reference of the local consultant responsible for the completion of the ADJAHO report did not contemplate accepting changes by a third party, the review process of the ADJAHO report reached an impasse, and the final deliverable was not accepted as technically sound and/or valid.

As result, IFC, FMO and DEG engaged international coastal erosion consultants with the objective to (i) review the ADJAHO report, and (ii) to develop, together with the Togolese consultants, a technically and mutually agreed methodology to ensure quality control of the results of the final study. This resulted in the Coastal Erosion study which was completed in February 2022. The 2022 Coastal Erosion study was subsequently subject to an independent technical verification and was considered technically acceptable. As per the ICM recommendation, FMO and DEG are committed to, within their area of influence, attempting to have the applicable parties agree disclosure of the nontechnical summary of the final 2022 Coastal Erosion study.

Furthermore, FMO and DEG believe that this suggested approach is in line with international best practice, since the language of the full report is highly technical in nature, and the intention of sharing project information with the affected communities, is to ensure that it is presented in a manner that is comprehensible. In addition, the IFC Performance Standards does not require that Lenders or clients make publicly available, all information related to a project but only that which is considered relevant, and in case of technical reports, a nontechnical summary is deemed acceptable.

The 2022 Coastal Erosion Study findings vs other studies

The assessment of coastal erosion impacts on communities east of the PAL has been undertaken several times, the outcomes of which have been consistent and made publicly available⁷.

⁷ [IFC Disclosure of E&S Review Summary & Documentation](#)

The **2010 EIA**, which according to the Collectif's written input confirmed the role of the spur groyne as a factor contributing to increased coastal erosion, concluded that the construction of a spur groyne would not noticeably affect the existing coastal erosion east of the Port.

In addition to the 2020 Study (ADJAHO report), the Collectif also requested disclosure of **the 2016 Artelia report**. This report is publicly accessible for coastal communities. One of the assessment objectives of this report was to respond to the specific question on whether or not, the construction of LCT may have contributed to an increase of coastal erosion east of the PAL between 2012 and 2016, as brought forward in the [complaint to IFC's CAO in 2016](#). This report did not validate the issues that were raised by the complainants (i.e., there is no decrease or increase in coastal erosion rates and extreme weather events may have resulted in erosion events in certain areas). Nevertheless, it observed an erosion "hot spot" in the area of Baguida in the period between 2013-2015, 2002-2013, and 1988-2002/7. This specific area and potential causalities have been further investigated in the 2022 Coastal Erosion study (see below).

The **Environmental Audit of May 2020**, which was carried out post-construction by an external international consultant, shared similar conclusions to the abovementioned studies, namely that none of the impacts can be attributed solely to the LCT project. For this reason, the environmental authority (*Agence Nationale de Gestion de l'Environnement* (ANGE)) of the Togolese Republic applied the precautionary principle and defined five specific actions in relation to the communities affected by coastal erosion in the past decades:

- i) Development of a Memorandum of Understanding with communities;
- ii) Support in the construction of coastal protection infrastructure;
- iii) Development and implementation of a community development program;
- iv) An employment program for the youth, and
- v) Income-generating activities for the affected community members.

The additional coastal erosion study undertaken in 2020 (ADJAHO report) and revised in 2022 (2022 Coastal Erosion study) was not intended to cover gaps on the analysis of the impacts of the construction of LCT but was rather intended to serve as a commitment to increase the scientific knowledge about coastal erosion in Togo since 1955. This study dedicates one full chapter (23 pages) to the analysis of coastal erosion and accretion events that happened along the coastline of Togo between 1955 and 2019. In addition, it analyzes the changes observed along the coastline for different periods of time and defines the most likely causes for the changes observed. The study also dedicates a separate chapter to describe the results of a theoretical analysis that was undertaken to assess the potential contribution of different human actions and infrastructure to coastal erosion in Togo. In this chapter, the consultants explicitly state that the results are indicative of relative importance of the different structures, and therefore are not to be considered as a measure of actual impact.

As referred to above, Baguida was further investigated in this study, and none of the findings linked the coastal erosion in the area of Baguida to the construction of LCT. Both the 2016 Artelia report as well as the 2022 Coastal Erosion study arrived at similar conclusions.

In addition, the 2022 Coastal Erosion study notes a net gain of beach area east of the Port up to the border with Benin between 2013 and 2019, against a continuous loss of beach between 1968 and 2013. For the period between 2013 and 2019, there is no mention of LCT or effects resulting from the construction of LCT or the spur groyne as being the cause of observed coastal erosion as expressed in the complaint of 2018.

The results of the theoretical simulation in the 2022 Coastal Erosion study, indicates that the PAL influence on coastal erosion is limited to the immediate vicinity 10km east of the Port (i.e., with the result that villages east of Afidenyigba like Agbavi, Gbodjome, Nimagna, Agbodrafo, Kpeme and Goumou Kope would fall outside of the direct area of influence of the PAL). This theoretical simulation also indicates possible insignificant impact as result of the spur groyne in combination with the access channel. Nevertheless, it notes that coastal erosion rates would remain unchanged if the spur groyne had not been built.

Prior to FMO and DEG's investment, extreme weather events had occurred, particularly in August 2012, which heavily affected coastal erosion in multiple villages⁸.

ICM recommendations in relation to remedial measures

DEG and FMO noted the Collectif's view that the proposed actions in the MAP are regarded as insufficiently responding to the ICM recommendations.

As referred to in FMO and DEG's Management Response of October 2022, we noted that during the compliance review of the complaint, the ICM could not take into account, all information that is now available on whether or not the construction of LCT has resulted in a significant increase in coastal erosion. With this in mind, the ICM recommended that, *in case of any harms identified in the 2022 revised study*, DEG and FMO would work with LCT to design and implemented remedial actions to mitigate negative impacts.

In the case of LCT, based on the findings of the 2022 Coastal Erosion study that was completed around the time of the CRR, it was concluded that since the construction of LCT in 2012, (a) there has been an insignificant increase in coastal erosion (i.e., estimated cause of less than 3% linked to infrastructure used by LCT) in the majority of areas which were brought forward in the complaint of 2018 (with the exception of the Baguida plage area), and (b) the analysis of actual coastal developments did not mention the LCT project as a cause for the observed coastal erosion east of the Port between 2013 and 2019.

Based on these findings, and in line with the expectations expressed by the ICM, FMO and DEG (including other Lenders like IFC) will not require LCT to provide compensation to individuals or entities affected by the impacts of coastal erosion. LCT's implementation of the 2020 Environmental Audit actions is rather deemed an appropriate approach where communities (as a whole) can benefit from the efforts which LCT is willing to undertake in relation to CSR/community development.

⁸ [Togo Reveil newspaper of August 10, 2012](#) (page 4)

Annex 3: Input from Collectif (August-September 2023)

Written input Both ENDS, August 29

- Comments of the complainants need to be published in the MAP.
- There is an increased risk of retaliation, especially once the banks have left end of this year. FMO is requested to clarify what actions it will be taking to prevent retaliation from happening, now, and also once the banks have exited from the project.
- FMO and DEG are requested to provide clarification around the 2022 coastal erosion study, and whether this concerns an additional ESIA (in line with the CAO and ICM recommendations). The very basic of FMO responsibilities is to ensure that a correct EIA is done and that remedial measures to remedy negative impacts are implemented.
- The action plan is based on a study that is not public, as also clearly problematized by the complainants. The studies need to be published. The credit agreement with LCT would include compliance with Performance Standards, including certain norms on transparency and publication of EIAs. Why can the Togolese government prevent that? That seems to me problematic, also structurally for FMO projects.
- Nowadays FMO is supposed to assess associated facilities and their impacts, even though when committing this loan FMO did not yet have this in their policies. LCT accounts for 70% of the trade of the Port. I find FMO's position to make such an effort, as even to not recognize the conclusions of the ICM, to not at all take any responsibility very questionable. I believe that FMO has, in the past years, showed they want to demonstrate to be a responsible bank that cares about the impacts on communities.

Written input Collectif, September 20 (translated in English)

Collectif des personnes victimes d'érosion côtière

Post Office Box : 4180

Email: [confidential information]

Phone number: [confidential information]

Lomé – Togo

Subject : Feedback in response to action plan

Dear executive members of FMO and DEG,

In (written) response

In written response from the complainants regarding the action plan of FMO and DEG of August 2023.

We thank all members of FMO and DEG who visited Togo to put in place this action plan in collaboration with the complainants.

We, the complainants, do not agree with this action plan because of various reasons:

- The MAP did not take into account the minimum concerns of local communities (individual compensation)
- The position of FMO and DEG are based on their conclusions of the coastal erosion study that are not published nor accessible to the communities. The only document that we had access to is the ARTELIA study and that of the professor ADJAHO 2020 which clearly demonstrates the increase of coastal erosion by the expansion of ports (centenary ports LCT) and criticized the choice of the location of the project.
- The MAP did not take into account the non-compliances identified by the FMO and DEG Independent Complaints Mechanism.
- The MAP did not make reference to the IES of 2010 regarding page 42-43 that describe the role of the spur groyne as factor to the increased coastal erosion rates.
- The IES of 2010 described the land on which LCT is built comes from the east side thanks to the sand stop dike (la digue d'arrêt de sable) from the Port of Lome of 1964. And confirmed by certain experts, the increase of approximately 50 hectares of land since 2012 leaving the zone of the East side of the complainants towards the West side of the Port of LCT (Hotel Tortue blue) thanks to the extension of the LCT groyne, which received financial support from DEG, FMO, and Société INROS LACKNERAG.

As a solution to this problem, the community proposes:

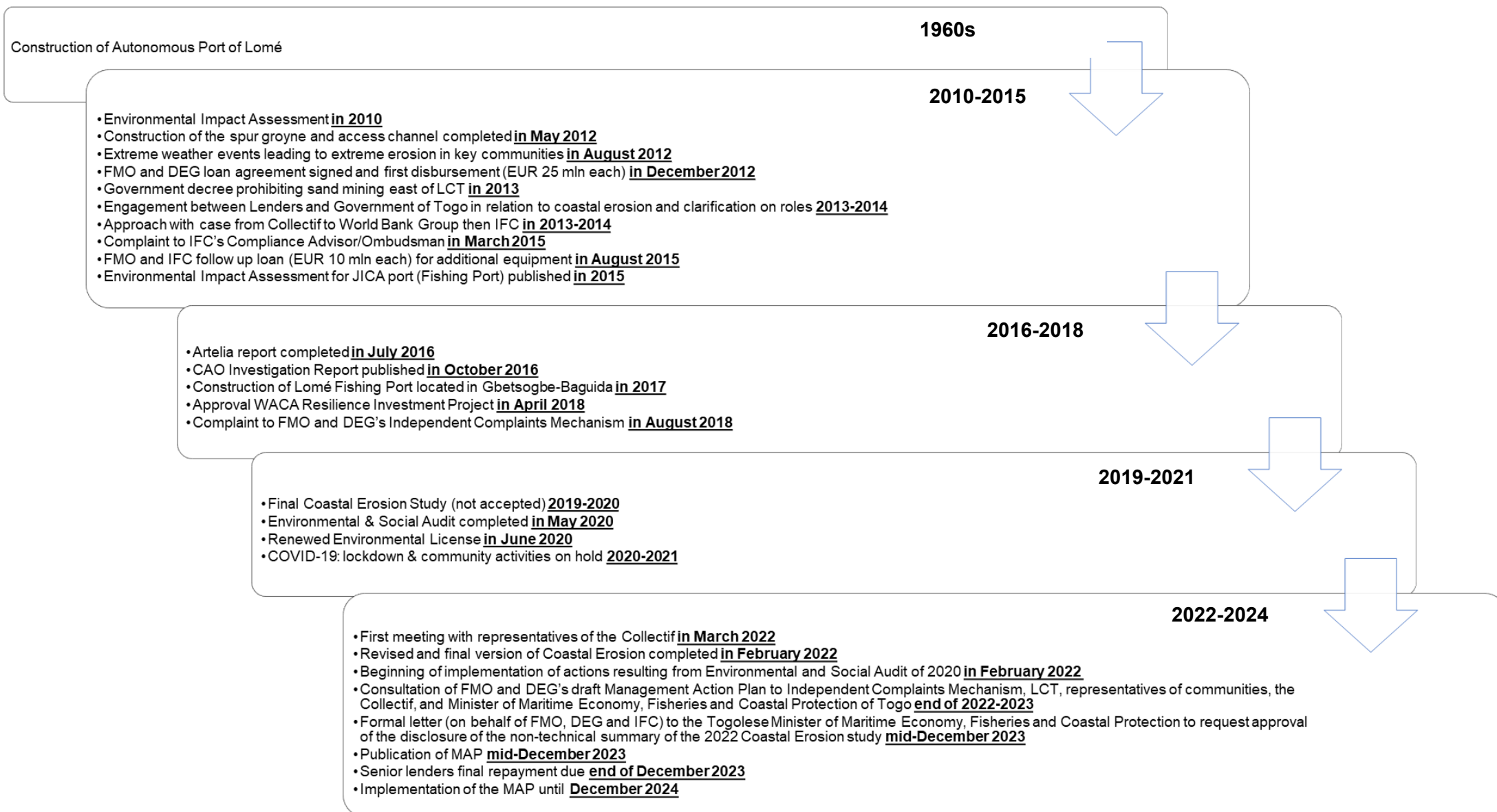
Normal process:

- An environmental audit regarding the groyne (LCT) and its negative and positive impacts.
- The publication of all documents related to the port of LCT and that of professor ADJAHO thus associated with the complainants
- Individual compensation of impacts
- Legal action against FMO and DEG for environmental negligence and non-compliance with the original mandate of FMO and DEG at the court in Germany.

Attachment : - L'étude d'impact environnemental 2010
- Le procès-verbal d'une rencontre avec BELU
- Lettre adressée à ANGE

Signed by complainants [*confidential information*]

Annex 4: Project timelines of events



Disclaimer

The Management Action Plan (MAP) is provided in response to the Compliance Review Report (CRR) of the Independent Expert Panel (IEP) of the Independent Complaints Mechanism (ICM), which was issued on 31 August 2022, in relation to the complaint regarding the Lomé Container Terminal, a transshipment container terminal in Lomé, Togo. This is the first MAP that is developed under the current ICM Policy in line with international good practices.

The IEP administers DEG and FMO's independent accountability mechanism in order to address complaints by people affected DEG and FMO-financed projects. The ICM has no authority with respect to judicial processes. The ICM is not a judicial or legal enforcement mechanism, nor is the ICM a substitute for courts or regulatory processes, and the IEP's analyses conclusions, and reports are not intended or designed to be used in judicial or regulatory proceedings or for the purposes of attributing legal fault or liability. Nothing contained in the CRR or in the MAP creates any (i) legal duty, (ii) asserts or waives any legal position, (iii) determines any legal responsibility, liability or wrongdoing, or (iv) constitutes and acknowledgement or acceptance of any factual circumstance or evidence of any mistake or wrongdoing. DEG and FMO expressly reserve all rights.

While reasonable efforts have been made to determine that the information contained in the reports is accurate, no representation or warranty is given as to the accuracy or completeness of such information. In preparing the MAP, DEG and FMO do not intend to create, accept or assume any legal obligation or duty, or to identify or accept any allegation of breach of any legal obligation or duty. No part of the CRR or DEG and FMO's MAP may be used or referred to in any judicial, arbitral, regulatory or other process without DEG and FMO's express written consent.