

Dispute Resolution Conclusion Report

Regarding the Second Complaint received in relation to IFC's investments and MIGA's guarantees in Benban Solar Park (IFC: #37633, #40386, #40390, #37636, #37637, #39728, #37580, #40019, #37713, #37591, #39995, #39997, #39729) and (MIGA: #14043, #14059, #14080, #14516, #14517, #14518, #14519, #14520, #14521, #13956, #13952, #13971) in Egypt.

December 2024

OVERVIEW

This complaint is related to labor conditions in 13 active projects by the International Finance Corporation (IFC)¹ and 12 active projects supported by the Multilateral Investment Guarantee Agency (MIGA)² in the Benban Solar Park in Egypt (the Project). In June 2022, CAO received a complaint from a driver (the Complainant) who had been employed in different roles (including as a fire truck driver, service driver, vehicle officer, maintenance officer, and firefighting team manager) by Health and Safety Home (H&SH), a Facility Management Company (FMC) at the Benban Solar Park in the Arab Republic of Egypt. The complaint raised concerns about labor management, specifically the absence of a Labor Grievance Mechanism for H&SH (H&SH Worker's Grievance Mechanism), and nepotism in relation to benefits, promotions, and salary increases. The complaint also raised issues regarding working conditions and the quality and quantity of food, as well as concerns about retaliation for requesting raises or filing complaints.

In July 2022, CAO determined that the complaint met its three eligibility criteria and began an assessment of the complaint.

In accordance with CAO Policy (para 169),³ CAO shared the complaint with the independent accountability mechanisms (IAMs) of other development financial institutions financing the project, specifically the Independent Recourse Mechanism (IRM) of the African Development Bank. The IRM of the African Development Bank determined that the case would be handled through their compliance review function. CAO was also informed by the Independent Redress Mechanism (IRM) of the Green Climate Fund that they had received the same complaint on labor issues, as well as additional social issues.

During CAO's assessment, the Complainant and Benban Solar Developers Association (BSDA) expressed an interest in engaging in a CAO dispute resolution process. In accordance

¹ Projects #37633, #40386, #40390, #37636, #37637, #39728, #37580, #40019, #37713, #37591, #39995, #39997, #39729.

² Projects #14516, #14517, #14518, #14519, #14520, #14521, #13956, #14043, #13952, #13971, #14080, #14059.

³ If CAO is aware that other organizations with IAMs have financed or guaranteed a project that is the subject of a complaint to CAO, CAO will notify those IAMs of the existence of the complaint, subject to the Complainant's consent to this notice and applicable provisions to protect confidentiality.

with the CAO policy (para 59),⁴ the complaint was transferred to CAO's Dispute Resolution function in February 2023.

At the start of the dispute resolution process, CAO facilitated bilateral and joint meetings with the parties. In coordination with CAO and at different points in the negotiation process, the Green Climate Fund IRM facilitated independent discussions with the parties but failed to reach an agreement. Given the Green Climate Fund IRM's policy that specifies a timeline of one year to complete the problem-solving process, IRM transferred the case to its Compliance function. CAO's process continued but did not yield an agreement. Consequently, the Complainant requested to transfer his case to CAO's Compliance function.

In accordance with the CAO policy⁵, the case will now be transferred to the CAO Compliance function.

This conclusion report provides an overview of the assessment and dispute resolution process, and offers some reflections and lessons learned from the process.

BACKGROUND

The IFC and MIGA Projects

IFC is part of a consortium of nine international banks that are providing \$653 million (\$225 million from IFC) for the construction of 13 of the 41 solar power plants that make up the Benban Solar Park.⁶ The Park is a 36 sq km plot composed of 32 operational power plants that are operated by different companies, near the village of Benban. MIGA is supporting 12 active projects in the Benban Solar Park. Of these 12 projects, three are financed by the IFC-led consortium and nine by the consortium led by the European Bank for Reconstruction and Development (EBRD).

The lenders supporting projects within the park include IFC, the European Bank for Reconstruction and Development (EBRD), the Asian Infrastructure Investment Bank (AIIB), the African Development Bank (AfDB), British International Investment (BII), Finnfund (Finland), the Industrial and Commercial Bank of China (ICBC), Europe Arab Bank, the Arab Bank of Bahrain, the Green for Growth Fund, Proparco (France), the Austrian Development Bank (OeEB), and the Dutch Entrepreneurial Development Bank (FMO).

The project developers joined together to form the Benban Solar Developers Association (BSDA) to manage the entirety of the Solar Park. BSDA hired an FMC, Health and Safety Home (H&SH), to manage the operation and maintenance of the Solar Park and address environmental and social (E&S) and other relevant issues for the entire park.⁷

The Complaint

In June 2022, CAO received a complaint from an individual who had been employed by H&SH, an FMC which was contracted by Benban Solar Park. The Complainant is originally from the village of Benban. The complaint raised concerns about labor management, specifically the

⁴ During the assessment process, the Complainant and the Client and/or Sub-Client decide whether they would like to initiate CAO's Dispute Resolution or Compliance function. If both Parties agree to undertake dispute resolution, CAO will facilitate this process. If there is no agreement on the choice of function, the complaint will be transferred to CAO's Compliance function.

⁵ CAO Policy: <https://www.cao-ombudsman.org/sites/default/files/documents/CAO%20Policy/ifc-miga-independent-accountability-mechanism-cao-policy.pdf>

⁶ Benban Solar Park is subdivided into 41 separate plots (projects) assigned to different developers of solar power plants, 32 of which are now operational and generating and transmitting electricity to the national grid.

⁷ Other issues include security and crisis management, traffic and roads management, solid waste management, wastewater management, community liaison and communications, central facilities services, and H&SH oversight and governance.

absence of a H&SH Worker's Grievance Mechanism, and nepotism in relation to benefits, promotions, and salary increases. The complaint also raised issues regarding working conditions and the quality and quantity of the food, as well as concerns about retaliation for requesting raises or filing complaints.

The Complainant submitted a similar complaint concerning labor issues to the Independent Recourse Mechanism of the African Development Bank and to the Independent Redress Mechanism of the Green Climate Fund.

CAO ASSESSMENT

In July 2022, CAO found the complaint eligible and conducted an assessment. The purpose of the CAO assessment is to clarify the issues raised in the complaint, gather information on the views of different stakeholders, and determine whether the parties would like to pursue a dispute resolution process or prefer that the complaint be handled by CAO's Compliance function. The CAO assessment process does not entail a judgment on the merits of the complaint; rather, it seeks to understand the facts and empower those involved to make informed decisions on how to address the issues raised.

During CAO's assessment, the Complainant and the BSDA representatives agreed to engage in a voluntary CAO dispute resolution process to address the issues raised in the complaint. In accordance with the CAO policy,⁸ an assessment report was published in February 2023 and the complaint was transferred to CAO's Dispute Resolution function.

DISPUTE RESOLUTION PROCESS

Preparation for dialogue and capacity building

CAO conducted capacity-building sessions with the Complainant in February 2023 and with BSDA representatives in March 2023, to help them prepare for engagement in the dispute resolution process. The sessions included training on conflict resolution, communication, and the CAO process and continued throughout the mediation process as needed.

Dialogue process

CAO convened the first in-person joint meeting between the Complainant and the BSDA representatives in Aswan, Egypt, on 16 May 2023. The Complainant, who was based in Saudi Arabia at the time of the meeting, travelled to Aswan to attend the meeting in person. A Ground Rules and Mediation Framework Agreement, which was previously shared with the parties via online bilateral meetings and amended to reflect their inputs, was signed by the parties at the start of the joint meeting. A representative from IFC attended the session as an observer.⁹

During the joint meeting, the Complainant shared his perspective on the issues and what he required for the issues to be resolved. BSDA showed an openness to continue the discussions. The parties agreed to meet for another joint session; however given the location of the Complainant in Saudi Arabia, it was agreed that the next joint meetings would be done virtually.

Between May 2023 and October 2023, CAO facilitated several online bilateral meetings with the parties.

⁸ CAO's Policy is available here: <https://www.cao-ombudsman.org/policies-guidelines>

⁹ The observer role was agreed upon by both parties. In addition to being bound by confidentiality, the observer provides IFC technical input only upon the invitation of CAO with the consent of the parties.

On 16 October 2023, CAO convened the second joint meeting online between the Complainant and the BSDA representatives. The parties continued the discussions on the issues raised in the complaint but did not manage to find resolution.

Collaboration with the Independent Redress Mechanism of the Green Climate Fund

At the beginning of the dispute resolution process, CAO held meetings with the Independent Redress Mechanism (IRM) of the Green Climate Fund. The IRM indicated that it was looking at labor and social issues in relation to this complaint. The IRM and CAO agreed that CAO would lead the mediation efforts related to the labor issues, given that CAO had only received a labor-related complaint. IRM handled the social issues. At that time, there seemed to be no linkages between the labor and social issues. It was agreed that both mechanisms would work independently, maintain confidentiality, inform the parties of their working agreement, and continue to communicate to exchange high-level information.

From December 2023 to July 2024, the two mechanisms independently facilitated several meetings between the parties. However, none of these efforts resulted in any significant progress toward resolution of the issues.

In July 2024, the Complainant informed the IRM that he wanted to move the case to compliance with the IRM. IRM informed CAO of this development and confirmed that the parties had not reached an agreement on how to implement a set of potential resolutions that IRM had proposed during the meetings with the Parties. Consequently, on 23 July 2024, CAO received a final notification from the Complainant confirming that he wanted the case to be transferred to CAO's compliance function as well.

Thus, in accordance with CAO's Policy, the case will be transferred to the CAO Compliance function.

CHALLENGES, REFLECTIONS AND LESSONS LEARNED

Representation challenges

Though both parties engaged in good faith negotiations, BSDA's lack of familiarity with the details of the issues and the activities that triggered the Complainant's discontent presented a challenge for BSDA representatives, as they were not the main interlocutors with the Complainant. The direct employer of the Complainant had been Health and Safety Home (H&SH), an FMC at the Benban Solar Park. The BSDA representatives had to educate themselves and gather all the necessary information to ensure that they could participate in an informed way. This also meant that the Complainant had to ensure that he provided all the necessary details to explain the source of his grievance and his expectations regarding potential resolution on issues of perceived hurt and psychological harm. This dynamic led to the Parties perceiving the process to be too long and experiencing process fatigue during the negotiations.

Limitations of online mediation

When trust between the parties is low at the start of the process, negotiating a successful resolution can be extremely challenging in a virtual space. Although CAO made efforts to start the discussions on the Ground Rules and Mediation Framework Agreement through online bilateral discussions, progress in the case was only made when the parties were able to meet face-to-face under the auspices of CAO in Aswan. The Complainant was mostly in Saudi Arabia during the lifetime of the dispute resolution process, and there were limited opportunities to convene in-person meetings with BSDA. The case may have had a better chance of resolution if the parties had been able to build trust and rapport by negotiating in-person during the mediation process.

Issue of precedent setting

Given the nature of the Solar Park and the proximity of the park contractors and operators to each other, BSDA was consistently concerned about setting any precedent in any formal agreement between them and the Complainant. Although they were willing to consider individual concerns, they were not willing to set a precedent that could adversely affect the operational procedures and rules that govern the management of the project operators and the Park at large.

Collaboration with other IAMs

The complaint was submitted to three IAMs by the Complainant. This required much consideration and coordination, especially with the Green Climate Fund's mechanism, which had an interest in coordinating efforts on labor and social issues. The AfDB dealt with the case independently through its compliance review function. The coordination between IAMs was important in streamlining the process for all Parties.

Equally important was the difficulty of managing confidential information, as required by the mechanisms' independent processes. Although the parties were informed of the agreement between CAO and the IRM to observe confidentiality in their processes, it proved challenging to manage the transfer of information discussed with the parties between the two mechanisms.

There was also the issue of differences between the mechanisms' approaches to mediation and the management of the Parties' expectations. The IRM can generate and make proposals for settlement of the dispute to the parties, whereas CAO helps the parties to generate their own ideas on how to settle the dispute. This difference in approach could be harmonized if the mechanisms coordinate their strategies and approaches upfront, which unfortunately did not happen in this case.

Early in the process, there was an agreement by the IRM and CAO to independently facilitate the social and labor issues respectively, without a Memorandum of Understanding (MOU) in place. In the absence of an MOU, articulating roles and responsibilities, clarification of approaches, and coordinating the process proved challenging in terms of information exchange, interactions with the parties, field visits, and reporting.

The mediator's cultural competency and fluency

CAO's policy of leveraging local mediators with deep knowledge of the context and culture played a significant role in the team's understanding of the issues and challenges facing the parties. The Complainant had deep ties to the community he lives in and was extremely sensitive to the way his complaint was handled in the context of the Benban community. Both parties had a high level of trust with the mediator, which was a significant factor in the parties' ability to communicate with one another.

CONCLUSION AND NEXT STEPS

The parties did not manage to resolve the dispute. In accordance with CAO's Policy, the case will now be transferred to compliance.

All relevant documentation is available on CAO's website at www.cao-ombudsman.org

See Annex A for more information on the CAO complaint-handling process.

APPENDIX A. CAO COMPLAINT-HANDLING PROCESS

Once CAO declares a complaint eligible, an initial assessment is carried out by CAO's Dispute Resolution function. The purpose of CAO's assessment is to: (1) clarify the issues and concerns raised by the Complainant(s); (2) gather information on how other stakeholders see the situation; and (3) help stakeholders understand the recourse options available to them and determine whether they would like to pursue a collaborative solution through CAO's Dispute Resolution function or whether the case should be reviewed by CAO's Compliance function.

As per the IFC/MIGA Independent Accountability Mechanism (CAO) Policy,¹ the following steps are typically followed in response to a complaint that is received:

Step 1: **Acknowledgment** of receipt of the complaint.

Step 2: **Eligibility**: Determination of the complaint's eligibility for assessment under the mandate of CAO (no more than 15 business days).

Step 3: **Assessment**: Assessing the issues and providing support to stakeholders in understanding and determining whether they would like to pursue a consensual solution through a collaborative process convened by CAO's Dispute Resolution function or whether the case should be handled by CAO's Compliance function to review IFC's/MIGA's environmental and social due diligence. The assessment time can take up to a maximum of 90 business days, with the possibility of extension for a maximum of 30 additional business days if after the 90-business day period (1) the parties confirm that resolution of the complaint is likely or (2) either party expresses interest in dispute resolution, and there is potential that the other party will agree.

Step 4: **Facilitating settlement**: If the parties choose to pursue a collaborative process, CAO's Dispute Resolution function is initiated. The dispute resolution process is typically based on or initiated by a Memorandum of Understanding and/or mutually agreed-upon ground rules between the parties. It may involve facilitation/mediation, joint fact finding, or other agreed resolution approaches leading to a settlement agreement or other mutually agreed and appropriate goals. The major objective of these types of problem-solving approaches will be to address the issues raised in the complaint, and any other significant issues relevant to the complaint that were identified during the assessment or the dispute resolution process, in a way that is acceptable to the parties affected.²

OR

Compliance Appraisal/Investigation: If the parties opt for an investigative process, the complaint is transferred to CAO's Compliance function. The complaint is also transferred to the Compliance function when a dispute resolution process results in partial or no agreement. At least one must provide explicit consent for the transfer unless CAO is aware of concerns about threats and reprisals. CAO's Compliance function reviews IFC/MIGA's compliance with environmental and social policies, assesses related harm, and recommends remedial actions where appropriate, following a three-step process. First, a compliance appraisal determines whether further investigation is warranted. The appraisal can take up to 45 business days, with the possibility of extending by 20 business days in exceptional circumstances.

¹ For more details on the role and work of CAO, please refer to the IFC/MIGA Independent Accountability Mechanism (CAO) Policy: <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/889191625065397617/ifc-miga-independent-accountability-mechanism-cao-policy>

² Where stakeholders are unable to resolve the issues through a collaborative process within an agreed time frame, CAO Dispute Resolution will first seek to assist the stakeholders in breaking through impasse(s). If this is not possible, the Dispute Resolution team will inform the stakeholders, including IFC/MIGA staff, the President and Board of the World Bank Group, and the public, that CAO Dispute Resolution has concluded the dispute resolution process and transferred it to CAO Compliance for appraisal.

Second, if an investigation is warranted, the appraisal is followed by an in-depth compliance investigation of IFC/MIGA's performance. An investigation report will be made public, along with IFC/MIGA's response and an action plan to remediate findings of noncompliance and related harm. Third, in cases where noncompliance and related harm are found, CAO will monitor the effective implementation of the action plan.

Step 5: **Monitoring and Follow-up**

Step 6: **Conclusion/Case Closure**

