

Dispute Resolution Conclusion Report

Regarding the Seventh Complaint Received in Relation to IFC Investments and the Sixth Complaint Received in Relation to MIGA Guarantees in Benban Solar Park in Egypt (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)

November 2024

OVERVIEW

In December 2022, CAO received a complaint from a former security guard (“the Complainant”) of SWAT Security and Guards Company, a subcontractor for the Benban Solar Park in the Arab Republic of Egypt. The Complainant alleged that, even though he worked for SWAT for three years, he did not receive a contract renewal offer in a timely manner, and he was forced to resign. The Complainant claimed that his resignation was a result of intimidation by the Benban Solar Developers Association (BSDA), in retaliation against him submitting a complaint through the BSDA’s grievance process.

In January 2023, CAO determined that the complaint met its three eligibility criteria and began an assessment of the complaint. During CAO’s assessment, the Complainant and BSDA representatives expressed an interest in engaging in a CAO dispute resolution process to address the issues raised in the complaint. Accordingly, the complaint was transferred to CAO’s Dispute Resolution function on April 11, 2023.

In May 2023, a joint session was held between the parties to discuss the issues of the case. Between June 2023 and May 2024, CAO made several efforts to engage the Complainant in a dialogue process. However, the Complainant was non-responsive.

In May 2024, the Complainant was informed by CAO that, due to his lack of participation in the mediation process, the Dispute Resolution stage was being closed. According to CAO policy, the Complainant had the option to either transfer his case to the Compliance function or close his case. The Complainant indicated to CAO that he did not wish to transfer his case to the Compliance function. As a result of this decision, the case has been closed.

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.¹ 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 either equity sponsors or lenders, and in some cases both, in 12 active projects in the Benban Solar Park. Of these 12 projects, 3 are financed by the IFC led consortium and 9 by the consortium led by the European Bank for Reconstruction and Development (EBRD).

The lenders supporting projects within the park are IFC, 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 have joined together to form the BSDA to manage the entirety of the Solar Park. BSDA hired a facility management company, 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.² H&SH, in turn, hired SWAT Security and Guards Company, a private security firm, to provide security services to the Solar Park.

¹ Benban Solar Park is subdivided into 41 separate plots (projects) assigned to different developers of solar power plants, 32 of which are now operational, generating and transmitting electricity to the national grid.

² Other issues include security and crisis management, traffic and roads management, solid waste management, wastewater management, community liaison and communications, central facilities services, and the H&SH oversight and governance.

The Complaint

In December 2022, CAO received a complaint from a former security guard of SWAT Security and Guards Company. The Complainant alleged that, even though he worked for SWAT for three years, he did not receive a contract renewal offer in a timely manner, in reprisal for submitting a complaint through BSDA's grievance mechanism. When he eventually did receive the renewal offer, it involved a probationary period which the Complainant alleged was illegal under Egyptian labour laws. The Complainant then claimed that his protest of the probationary period resulted in various retaliatory actions taken against him that ultimately compelled him to resign. The Complainant also alleged that other colleagues who were not involved in submitting the complaint through BSDA's grievance process received compensation from their employer for the period that their contracts were not renewed, while he did not receive any compensation nor benefits related to the end of his service with the company.

CAO Assessment

On January 9, 2023, CAO determined that the complaint met its three eligibility criteria. CAO then began an assessment of the complaint.

During the assessment, the Complainant and the BSDA representatives expressed an interest in engaging in a dispute resolution process facilitated by CAO to resolve the issues raised in the complaint. In accordance with the CAO policy,³ the complaint was transferred to CAO's dispute resolution function on April 11, 2023.⁴

DISPUTE RESOLUTION PROCESS

Preparation for dialogue and capacity building

In April 2023, CAO conducted virtual capacity-building sessions with each party to prepare them for participating in the dialogue and ensure that both had the relevant knowledge and skills to engage in the dispute resolution process on an equal footing. The sessions included training on conflict resolution, communication, and the CAO process.

Dialogue process

CAO convened the first in-person joint meeting in Aswan, Egypt, in May 2023. The meeting was attended by the Complainant and representatives of BSDA. The meeting was governed by a Dispute Resolution Framework Agreement that included confidentiality rules for all parties and was signed by the parties on May 16, 2023. A representative from IFC attended the session as an observer.⁵

After the initial joint meeting in May 2023, both parties made subsequent attempts to resolve the issue in June 2023. Despite these efforts, a satisfactory resolution could not be reached. From June 2023 to February 2024, the CAO team engaged with the parties in an effort to find mutually agreeable solutions to address the issues raised in the complaint. However, the Complainant was unresponsive during this time period.

In February 2024, the Complainant was formally notified that his active participation in the case was crucial for its progress. It was emphasized that, without his proper engagement in the

³ CAO's Policy is available here: <https://www.cao-ombudsman.org/policies-guidelines>

⁴ For more information on the assessment phase, please refer to the assessment report: <https://www.cao-ombudsman.org/cases/egypt-benban-solar-07>

⁵ 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 and with the consent of the parties.

dialogue process, the case would have to be closed. The Complainant provided assurance to CAO that he would actively engage in the dialogue process and expressed his intent to find a mutually agreeable solution. However, despite indicating his willingness to continue the case, the Complainant was again unresponsive from February to May 2024. This lack of engagement hindered further progress in the resolution process.

Consequently, in June 2024, the CAO team conducted an internal review of the negotiation process. Due to the Complainant's lack of participation in the mediation process, CAO decided to close the Dispute Resolution stage. According to the CAO Policy, the Complainant had the option to either transfer his case to the Compliance function or close his case. The Complainant indicated to CAO that he did not wish to transfer his case to the Compliance function. As a result of this decision, the case has been closed.

CONCLUSION AND NEXT STEPS

In accordance with CAO's Policy, CAO concluded the dispute resolution process and closed the case. 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; (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,⁶ 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.⁷

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,

⁶ 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>

⁷ 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.

with the possibility of extending by 20 business days in exceptional circumstances. 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**

