



## **CAO ASSESSMENT REPORT**

**Regarding a complaint received in relation to  
IFC's Investment in HSA Foods (43466) in Yemen**

November 2021

Office of the Compliance Advisor Ombudsman  
*for*  
the International Finance Corporation and the  
Multilateral Investment Guarantee Agency  
[www.cao-ombudsman.org](http://www.cao-ombudsman.org)

## **About CAO**

The Office of the Compliance Advisor Ombudsman (CAO) is the independent accountability mechanism for the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA), the private sector arms of the World Bank Group. CAO reports directly to IFC and MIGA Boards of Executive Directors. CAO's mandate is to facilitate the resolution of complaints from people who may be affected by IFC and MIGA projects in a manner that is fair, objective, and constructive; enhance the social and environmental outcomes of projects; and foster public accountability and learning to enhance the environmental and social performance of IFC/MIGA and reduce the risk of harm to people and the environment.

For more information, see [www.cao-ombudsman.org](http://www.cao-ombudsman.org)

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## **LIST OF ACRONYMS**

CAO	Office of the Compliance Advisor Ombudsman
ESAP	Environmental and Social Action Plan
E&S	Environmental and Social issues
HSA	Hayel Saaed Anam
HSE	Health Safety and Environment
IFC	International Finance Corporation
MIGA	Multilateral Investment Guarantee Agency
W&E	Water and Energy
YCSR	Yemen Company for Sugar Refining

## 1. OVERVIEW

In April 2021, CAO received a complaint from Mr. Hamada Mohamed Hussein (“the Complainant”) in Yemen, raising environmental and social concerns related to the operations of the Yemen Company for Sugar Refining (YCSR or “the Company”) in Ras Issa, Hodaida, Yemen. YCSR is one of the manufacturing companies of the Hayel Saaed Anam Group in Yemen (HSA Group). IFC supports HSA Foods,<sup>1</sup> a branch of HSA Group, through an investment loan and associated advisory services.

CAO found the complaint eligible for further assessment in April 2021. CAO conducted an assessment of the complaint, during which the Complainant and HSA expressed an interest in engaging in a dispute resolution process facilitated by CAO to resolve the issues raised in the complaint.

## 2. BACKGROUND

### 2.1 The Project

IFC has an active investment of US \$75 million in HSA Group’s food processing operations in Yemen. According to HSA Group’s website, HSA Foods is part of the Group’s manufacturing activities and produces necessity foods, such as flour, sugar, and dairy products.<sup>2</sup> It is comprised of six Yemeni companies: i) National Dairy and Food Company Taiz, ii) National Dairy and Food Company Hodaida, iii) Yemen Company for Sugar Refining, iv) Yemen Company for Flour Mills and Silos Aden, v) Yemen Company for Flour Mills and Silos Al Hodaida, and vi) Al Hodaida Flour Mills Co. Limited.

According to IFC, IFC’s investment will be directed to finance the permanent working capital needs of HSA Foods in a country with severe food shortages. IFC has also engaged in associated advisory services in two key areas: i) energy and water efficiency solutions and ii) gender diversity.

### 2.2 The Complaint

Mr. Hamada Mohamed Hussein submitted a complaint in relation to various environmental and social impacts of the Yemen Company for Sugar Refining (YCSR), including: i) marine water pollution, ii) potential ground subsidence caused by industrial sewage discharge into earth fissures, iii) air pollution resulting from ash flying around, iv) change in the nature of the professions residents used to do in the region, and v) damage to the Complainant’s professional reputation and potential impacts to his livelihood. Additionally, the Complainant owns a plot of land close to YCSR’s project site, which might be affected by the issues raised.

The issues raised during the assessment are described in more detail in section 3.2.

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<sup>1</sup> According to [IFC Disclosure](#), “the loan proceeds [would] be used by Yemen Company for Flour Mills and Silos (including Aden, Al Hodaida and Al Hodaida Co. Limited), National Dairy & Food (Nadfood Hodaida and Nadfood Taiz), and Yemen Sugar Refinery (“HSA Foods”).”

<sup>2</sup> See [HSA website](#)

### 3. ASSESSMENT SUMMARY

#### 3.1 Methodology

The aim of the CAO assessment is to clarify the issues and concerns raised by the Complainant, gather information on the views of different stakeholders, and determine whether the Complainant and the IFC client would like to pursue a dispute resolution process facilitated by CAO, or whether the complaint should be handled by CAO's Compliance function for appraisal of IFC's performance (see Annex A for CAO's complaint-handling process).

In this case, CAO's assessment of the complaint included:

- a desk review of project documentation;
- telephone conversations with the Complainant;
- telephone conversations with HSA; and
- telephone conversations with the IFC project team.

A CAO assessment typically involves a field visit to meet with the Complainant and Company to gain a better understanding of the situation. Due to security and COVID-19-related restrictions on travel and social gatherings, CAO could not arrange in-person meetings with the relevant stakeholders involved in this case. However, CAO decided not to delay the assessment of the complaint and conducted the assessment via virtual platforms.

#### 3.2 Summary of views

This section presents a broad overview of the issues and perspectives of the parties, as expressed by the Complainant and HSA, respectively. It does not comprise a judgment by CAO about the merits of the complaint.

##### ***Complainant's perspective***

The Complainant alleges that the Company's operations do not comply with IFC's Performance Standards and the local environmental and social (E&S) legislation. The allegations are based on an E&S audit that the Complainant was hired to conduct on behalf of the Company, which allegedly concluded that the Company is non-compliant with E&S standards. Specifically, the Complainant mentioned that the audit indicated that the Company failed to undertake preventive measures to mitigate pollution resulting from its operations, especially in relation to the stacking of coal and ash and discharge of industrial sewage. The issues raised are presented in detail below:

**Pollution of marine waters.** The Complainant indicated that marine waters are being polluted by the Company's disposal of industrial sewage, especially through the seawater desalination process, which allegedly produces 4.5 million liters of liquid waste per day. The Complainant further stated that the industrial sewage is discharged into earth fissures and eventually reaches the sea, located less than one kilometer from the plant, thereby causing pollution and damage to the marine environment, including coral reefs and marine life. He also added that the Company's practice of storing ash and charcoal in open spaces directly above the soil contributes to air and

sea pollution as a result of frequent self-combustion of coal and of ash seeping into the soil down to the sea during rainfall.

**Potential ground subsidence caused by industrial sewage discharge.** The Complainant affirmed that the lack of adequate treatment of industrial wastewater and its discharge through earth fissures might cause landslides and land subsidence due to the calcareous and porous nature of the soil where the industrial sewage is being discharged.

**Air pollution.** The Complainant indicated that the Company stores coal and ash in open spaces within its premises, which results in the accumulation of ash that is allegedly blown by the wind throughout the entire area, including neighboring villages. He also indicated that the Company mixes the ash with sugar clay to reduce its volatility, instead of transferring the ash to cement factories for its disposal. Finally, the Complainant argued that the Company disposed of approximately 90 tons of the resin used in the decolorization columns mixed with ash accumulated by dumping it in the open yard inside the Company's site.

**Impacts on community health and livelihoods.** The Complainant affirmed that uncommon cases of cancer have emerged in the area, which he believes are related to the Company's operations. Furthermore, he maintained that the Company's impacts on the marine ecosystem have reduced the availability of fish, thereby affecting community members whose livelihoods depend on fishing. Consequently, many community members have ended up working low-paying jobs with the Company to sustain themselves. He added that the other individuals who believe they have been negatively affected by the Company's operations fear that they may be retaliated against if they come forward with their concerns.

**Damage to the Complainant's professional reputation and potential impacts to his livelihood.** The Complainant indicated that, as a result of the audit findings, the Company took actions to undermine his professional reputation. This, according to the him, has resulted in him losing a number of employment opportunities, which consequently impacted his livelihood.

Finally, the Complainant informed CAO that he received threats that he believes to be related to his voicing concerns about the Company's operations. The Complainant explained to CAO that he received anonymous calls and text messages containing threats, provocations, and insults from a phone number that he believes may belong to the Company. The Complainant mentioned that he decided to relocate his family because he feared for their safety. Nevertheless, he expressed willingness to engage in the dispute resolution process facilitated by CAO, with the goal of reaching concrete solutions and avoiding recurrence of the aforementioned impacts.

### ***Company's perspective***

HSA indicated to the CAO that after receiving the complaint, HSA management, led by the Regional Chief Health Safety and Environment (HSE) officer, conducted an investigation in relation to all the technical issues and other points raised in the Complaint. The Company mentioned that it involved the environmental compliance consultant who was hired for the environmental audits carried out in 2020 as part of the IFC Environmental and Social Action Plan (ESAP). According to the Company, the consultant undertook a thorough review of all the alleged environmental violations mentioned in the complaint and issued an audit report that made reference to Yemeni

environmental laws and regulations. The consultant's review allegedly concluded that all the points referred to as violations were in compliance with the national regulations and that further plans for compliance with the IFC requirements were put in place through the ESAP. The consultant's findings were included in an audit report that addresses all the issues raised in the complaint and their relevance, or lack thereof, to Yemeni regulations. HSA informed CAO that its E&S team has prepared responses to the issues raised in the complaint and is willing to present them to the Complainant within the framework of a CAO-facilitated dispute resolution process. HSA also informed CAO that IFC offered E&S management support throughout that period to ensure compliance with IFC Performance Standards. The Company also mentioned that it contracted an IFC consultant to conduct water and energy (W&E) efficiency audits of the facilities and provide recommendations on the efficiency and water treatment plans included in the ESAP.

HSA stated that the Complainant was previously employed with YCSR as a packaging supervisor and was then rehired in 2020 on a short-term contract, based on his request to the YCSR General Manager to rejoin the Company. With regard to the E&S audit, HSA maintained that the Complainant's findings had only been discussed verbally with the General Manager and that no written report was submitted to the Company. According to the Company, the Complainant disappeared and did not report to work after his discussion with the General Manager took place.

With regard to the concerns shared by the Complainant in relation to the verbal threats, HSA emphasized that the Company has a zero-tolerance policy against reprisals. HSA emphasized that it takes the Complainant's concerns seriously and is following up internally to ensure that all the information needed for the dispute resolution process is made available.

#### **4. NEXT STEPS**

Both the Complainant and HSA have agreed to participate in a dispute resolution process. CAO will therefore transfer the complaint to CAO's Dispute Resolution function, as per CAO's Policy.<sup>3</sup> CAO will facilitate the process, including assisting the parties to prepare for dialogue, agreeing on ground rules, and working together in a collaborative way to try to find appropriate ways to deal with the issues raised in the complaint and summarized in this assessment report.

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<sup>3</sup> The implementation of the [new CAO Policy](http://www.cao-ombudsman.org/documents/CAOPolicy-TransitionalArrangements.pdf) includes transitional arrangements for CAO cases that were ongoing as of July 1<sup>st</sup>, 2021. For more information, please refer to the following document: <http://www.cao-ombudsman.org/documents/CAOPolicy-TransitionalArrangements.pdf>



## ANNEX A. CAO COMPLAINT-HANDLING PROCESS

Once CAO declares a complaint eligible, an initial assessment is carried out by CAO dispute resolution specialists. 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,<sup>4</sup> the following steps are typically followed in response to a complaint that is received:

Step 1: **Acknowledgement** 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.<sup>5</sup>

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

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<sup>4</sup> For more details on the role and work of CAO, please refer to the full IFC/MIGA Independent Accountability Mechanism (CAO) Policy: <https://www.ifc.org/wps/wcm/connect/d3e7f1c4-fd6b-40fd-ae76-fb028916611d/IFC-MIGA-Independent-Accountability-Mechanism-CAO-Policy.pdf?MOD=AJPERES&CVID=nFDGwP2>

<sup>5</sup> 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.

resolution process results in partial or no agreement. At least one Complainant must provide explicit consent for the transfer, unless CAO is aware of Threats and Reprisals concerns. CAO's Compliance function reviews IFC's/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 20 business days in exceptional circumstances. Second, if an investigation is warranted, the appraisal is followed by an in-depth compliance investigation of IFC's/MIGA's performance. An investigation report will be made public, along with IFC's/MIGA's response and an action plan to remediate findings of non-compliance and related harm. Third, in cases where non-compliance 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**