
Compliance Investigation Report

Regarding Workers' Complaint about IFC's
Hotel Investment in Palma Guinée S.A., Guinea

About CAO

The Office of the Compliance Advisor Ombudsman (CAO) is the independent accountability mechanism of the International Finance Corporation (IFC) and Multilateral Investment Guarantee Agency (MIGA), members of the World Bank Group. We work to facilitate the resolution of complaints from people affected by IFC and MIGA projects in a fair, objective, and constructive manner, enhance environmental and social project outcomes, and foster public accountability and learning at IFC and MIGA.

CAO is an independent office that reports directly to the IFC and MIGA Boards of Executive Directors. For more information, see www.cao-ombudsman.org.

About the Compliance Function

CAO’s compliance function reviews IFC and MIGA compliance with environmental and social policies, assesses related harm, and recommends remedial actions where appropriate.

CAO’s compliance function follows a three-step approach:

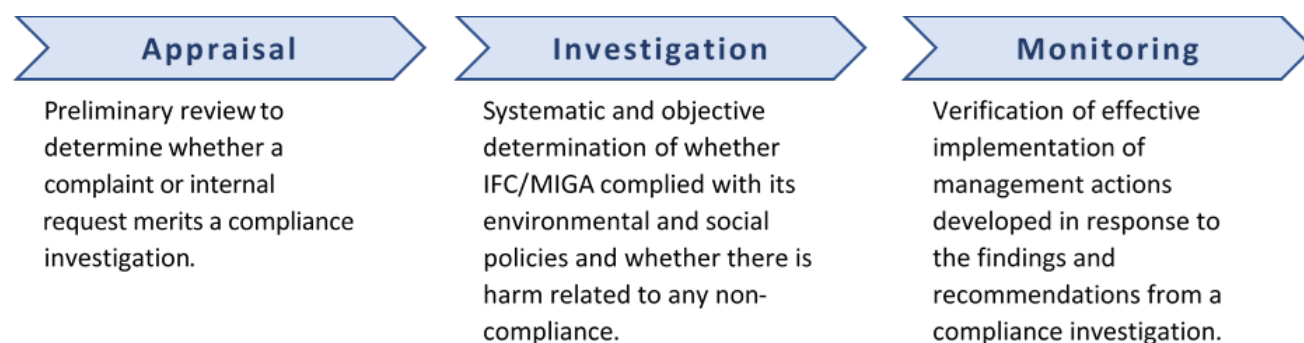


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Acronyms

CAO	Office of the Compliance Advisor Ombudsman (IFC and MIGA)
CAP	Corrective Action Plan
CSO	Civil Society Organization
DG	Director General
E&S	Environmental and Social
ESAP	Environmental and Social Action Plan
ESDD	Environmental and Social Due Diligence
ESMS	Environmental and Social Management System
ESRS	Environmental and Social Review Summary
FCS	Fragile and Conflict-affected Situation
FCV	Fragility, Conflict, and Violence
FHTRC- ONSLG	Fédération de l’Hôtellerie, Touristique, Restauration et Branches Connexes-Organisation Nationale des Syndicats Libres de Guinée
GLJ-ILRF	Global Labor Justice-International Labor Rights Forum
IDA	International Development Association
IFC	International Finance Corporation
IUF	International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco, and Allied Workers’ Associations
MAP	Management Action Plan
MIGA	Multilateral Investment Guarantee Agency
MR	Management Response
PPE	Personal Protective Equipment
PS	IFC Performance Standards
PS1	Performance Standard 1: Assessment and Management of Environmental and Social Risks and Impacts
PS2	Performance Standard 2: Labor and Working Conditions
PGSA	Palma Guinée S.A.
SGC	Sheraton Grand Conakry Hotel
SSV	Site Supervision Visit
WBG	World Bank Group

Executive Summary

This compliance appraisal report documents CAO’s preliminary review of a complaint submitted on behalf of current and former workers of the Sheraton Grand Conakry hotel in Conakry, Guinea. The complaint alleges that IFC’s former client Palma Guinée S.A. (PGSA), the hotel developer,¹ failed to recognize workers’ rights and provide safe working conditions, among other issues. For the reasons summarized below, CAO has decided not to initiate a compliance investigation. CAO’s advisory function will consider lessons from this case in forthcoming work on labor and working conditions.

Context and IFC Investment

In 2013, IFC provided a loan package of up to US\$26 million to Palma Guinée S.A. (PGSA) to construct and operate a 280-room, five-star hotel in Conakry, Guinea (“the project”) that would create jobs and meet business demand.² IFC classified the E&S risk of the project as category B.³

PGSA, owned by the Topaz Group, was established to develop and own the Sheraton Grand Conakry (SGC) hotel, and subcontracted hotel operations to Starwood Hotels & Resorts Worldwide (Starwood, hotel operator). Marriott International acquired Starwood in 2016, the year that SGC began operating. In December 2021, the hotel closed due to elevated levels of mold and humidity with the client keeping on around 30 maintenance staff.⁴ In September 2022, PGSA prepaid the loan to IFC. At the time of this report, the hotel has not reopened.

The Complaint

In January 2023, CAO received a complaint from the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco, and Allied Workers’ Associations (IUF) and Global Labor Justice-International Labor Rights Forum (GLJ-ILRF) on behalf of the current and former workers of the SGC hotel. These workers are represented by the Fédération de l’Hôtellerie, Touristique, Restauration et Branches Connexes-Organisation Nationale des Syndicats Libres de Guinée (FHTRC-ONSLG), an IUF affiliate.

The complaint raised concerns over the hotel’s labor and working conditions, including:

- **Working Conditions:** Unpaid overtime and night work, and lack of health benefits
- **Occupational Health and Safety:** Unsafe working conditions before and during the COVID-19 pandemic, and failure to properly inform workers of mold-related impacts
- **Freedom of Association and Intimidation, and Retaliation:** Interference with workers’ rights to join and be represented by a trade union, and unfair dismissal

¹ Marriott International became the hotel operator when it acquired Sheraton through its purchase of Starwood Hotels and Resorts in 2016. See more at: <https://bit.ly/45CfRex>

² IFC. 2013. IFC Disclosures, Summary of Investment Information (SII), project no. 32408. Available at: <https://bit.ly/3XwVy00>

³ Ibid.

⁴ IFC Management Response, February 2024, p. iii and p. 5.

- **Retrenchment:** Unfair termination of 158 out of 189 employees without alternatives or assurances of future employment after the hotel’s temporary closure

The complaint also alleges that IFC conducted inadequate pre-investment E&S due diligence (ESDD) to ensure the client could comply with IFC’s Performance Standards.

The complainants and their representatives lodged direct complaints with IFC in 2019 and 2021. However, in the CAO complaint, they assert that IFC’s response was inadequate to bring PGSA into compliance with Performance Standard 2 (PS2) (Labor and Working Conditions) and Guinean law.

Summary of IFC Response

IFC’s Management Response to the CAO complaint recognizes shortfalls in oversight during project ESDD and supervision, especially in relation to IFC’s supervision of the SGC hotel operations from 2016-2019. Following IUF’s direct complaints to IFC in 2019, IFC asserts that it has taken corrective actions at the project level, including facilitating elections of hotel union representatives and commissioning a PS2 compliance assessment of the hotel workers’ freedom of association and right to organize. IFC states that these actions complied with the Sustainability Framework, while acknowledging that labor issues remained under discussion with the client when the hotel temporarily closed in December 2021 and up until loan prepayment in September 2022.

At the institutional level, IFC asserts that it is continuously strengthening its approach to identifying and managing labor challenges in its investments, including in the hospitality sector. Specifically, IFC notes that it has and continues to recruit in-house labor specialists, develop training and knowledge-sharing initiatives, and collaborate with the International Labor Organization (ILO). Thus, IFC concludes that a CAO compliance investigation is not merited under the CAO Policy (paras. 91 and 92 (a), (c), and (d)).

CAO Analysis

The purpose of the CAO appraisal process is to determine whether a complaint merits a compliance investigation. CAO applies the following criteria in determining whether a compliance investigation is necessary: (a) whether there are preliminary indications of Harm or potential Harm; (b) whether there are preliminary indications that IFC/MIGA may not have complied with its E&S Policies; and (c) whether the alleged Harm is plausibly linked to the potential non-compliance (CAO Policy, para. 91). Based on an initial review of available information, CAO concludes that:

a) There are preliminary indications of harm to the complainants. CAO reaches this conclusion on the basis of complainant testimony of harm, additional documentation provided by the complainants which indicates possible impacts, IFC’s supervision documentation, client documentation, and third-party analysis of the labor environment and hospitality sector in Guinea. Specifically:

- As former and current employees of the hotel, the complainants were potentially exposed to the types of labor impacts they allege. The complainants have presented detailed accounts of various labor incidents and impacts which, upon preliminary review, CAO considers to be credible. Some of these impacts have been documented in IFC’s supervision documentation, which reaches a conclusion that the hotel was potentially not meeting its obligations regarding termination of union representatives and did not notify IFC of the hotel closure due to mold.
- Two trade unions leaders were dismissed in October 2020 on the grounds of misconduct, though the complaint asserts their dismissal was due to their union roles. CAO notes that in March 2023, the Guinean labor court determined that the dismissals were unfair. IFC supervision documentation also raised concern regarding these dismissals, and the possible broader implications for Freedom of Association at the hotel. Intimidation and retaliation against workers who advocated for rights can result in a chilling effect on workers joining organizations of their own choosing.
- IFC supervision documentation does not clarify whether the client took appropriate occupational health and safety (OHS) measures for indoor air quality, chemical cleaners, and water and food quality, in accordance with PS2. Information is also lacking on OHS measures at the hotel during the COVID-19 pandemic and on any client assessment of potential mold-related health impacts on employees. However, IFC’s supervision documentation does note that elevated levels of mold and humidity were detected at the hotel, which potentially presented a health hazard to both guests and staff. As these OHS risks are known to adversely impact human health, were these risks not addressed and/or to materialize, they could present harm to the complainants.
- In the broader context, worker organizations in Guinea have been described as not operating independently of government or political party interference, and businesses have not always respect freedom of association and the right to collective bargaining. In general, in relation to the hospitality sector, the ILO has noted concerns regarding decent work deficits, such as the prevalence of informality, variable and long working hours, low wages, limited access to social protection, gender-based discrimination, poor occupational health and safety practices and weak regulation, enforcement, and organization of labor.^{5,6}

⁵ In the Hotels, Catering and Tourism (HCT) sector, the ILO mentions that “the sector continues to face decent work deficits, such as the prevalence of informality, variable and long working hours, low wages, limited access to social protection, gender-based discrimination, poor occupational safety and health practices and weak regulation, enforcement and organization of labour.” See: <https://bit.ly/3VxJj0K>. Moreover, the *ILO Guidelines on Decent Work and Socially Responsible Tourism*, mention that in the HCT sector “certain jobs in the sector are characterized by low wages, long working hours, a high turnover rate, and limited social protection.” See <https://bit.ly/3VwG1uF>.

⁶ Violations of wage, overtime, and OSH standards are common across sectors in Guinea, but authorities rarely monitor work practices or enforce workweek standards or overtime rules, and while each industry is required to have an occupational safety and health plan, this requirement is rarely enforced. 2022 Country Reports on Human Rights Practices: Guinea. U.S. Department of State. Available here <https://bit.ly/3KYu9MU> and 2023 <https://bit.ly/45H3yxK> and 2023 Country Reports on Human Rights Practices: Guinea. U.S. State Department Available here: <https://bit.ly/3VTNIAT>.

b) There are preliminary indications that IFC did not adequately review and supervise its investment in Palma Guinée S.A. in accordance with E&S requirements.

- During IFC’s pre-investment review, there are indications that IFC may not have reviewed E&S risks related to Starwood as the hotel operator and assessed whether its labor policies and procedures aligned with PS2 and national law, and may not have taken sufficient steps to ensure that IFC would have ready access to E&S performance information during the hotel’s operations.
- A preliminary review of IFC’s supervision documentation from 2014 (first disbursement) to 2019 (IUF labor complaint to IFC), demonstrates there are indications that IFC may not have adequately supervised the project transition from the construction phase to the operations phase in 2016 and adequately supervised the hotel’s PS2 compliance during operations from 2016-2019 (Sustainability Policy, para. 45).
- Throughout supervision, IFC had difficulty accessing relevant hotel human resources and labor documentation to meet its Sustainability Policy commitments (paras. 24 and 45). In this context, CAO notes that while IFC’s agreement provided IFC with access to relevant client documentation, its client had not agreed specific E&S reporting from the hotel operator.
- In June 2021, IFC commissioned a two-part labor assessment of the hotel operations. The first part reviewed the dismissal of two union leaders in October 2020 and the second part was to review the full range of topics covered by PS2. While a corrective action plan in relation to the dismissals was developed, there is limited evidence that this was implemented. The second part of the labor assessment was never completed. Accordingly, at the time of IFC’s exit, there are indications that impacts on workers remained unaddressed, counter to the Sustainability Policy (para. 6) and PS1.

c) The alleged harms to the complainants are plausibly linked to potential non-compliance in IFC’s application of its E&S standards to Palma Guinée S.A.

- As explained above, CAO concludes that there are preliminary indications of IFC non-compliance in relation to its responsibility to assess and supervise the client’s application of PS2 requirements regarding labor and working conditions at the hotel. As these PS2 requirements directly relate to and are expected to mitigate the type of issues raised by the complainants, CAO concludes that there is a plausible link between the alleged harm and IFC potential non-compliance.

CAO also considers additional criteria where there has been an IFC investment exit, ongoing judicial or non-judicial proceedings, and IFC actions in response to the complaint issues (CAO Policy, para. 92).

a) IFC Exit

As the client prepaid its IFC loan in September 2022, CAO must consider “whether an investigation would provide particular value in terms of accountability, learning, or remedial action

despite an IFC Exit” (CAO Policy, para. 92(a)).⁷ Upon review of these criteria, CAO has concluded that an investigation in this case would not provide a particular value in terms of accountability, learning, or remedial action⁸:

Accountability: IFC’s Management Response acknowledges shortfalls in its E&S pre-investment review (2013-2014) and supervision of the investment until IFC received the IUF complaint in 2019. From a preliminary review of available documentation, CAO acknowledges IFC’s efforts to enhance its supervision of the investment, in particular by facilitating the establishment of the labor union at the hotel in 2020. At the same time, CAO notes that issues raised by the complainants since 2019 were not addressed at the time of IFC loan prepayment in 2022, three years later. This raises concern regarding the adequacy and timeliness of IFC’s supervision between 2019 and 2022. CAO’s preliminary review identified key weaknesses in IFC’s performance in this case relating to:

- IFC pre-investment review: assessing contextual and hotel operation risks, and provisioning for IFC’s supervision role (e.g., adequate access to hotel operations E&S performance information)
- IFC supervision: transition from hotel construction to operations in 2016 and, following the IUF complaint in 2019, the degree to which IFC was able to address concerns prior to loan prepayment in 2022.

Given IFC’s acknowledgment of its shortfalls in this investment, and CAO’s analysis of gaps in IFC performance noted in this compliance appraisal report, CAO concludes there is not a particular accountability value in pursuing an investigation of this complaint.

Learning: IFC’s Management Response notes that IFC has been continuously strengthening its approach to identifying and managing labor challenges in its investments, including the hospitality sector. To this end, IFC has recruited in-house labor specialists, developed training and knowledge-sharing initiatives, and collaborated with the International Labor Organization. IFC’s Management Response does not illustrate whether some of the possible learning from this investment has been incorporated by IFC, in particular related to indications of deficiencies in IFC’s pre-investment review and supervision.

CAO has concluded, however, that an investigation of a single hotel investment is unlikely to produce systemic learning for IFC.

Remedial action: IFC’s Management Response notes that since the prepayment of the loan, Palma Guinée requested that IFC no longer engage with hotel management on any issue, including labor. Since then, IFC has not received any updates from Palma Guinée or Marriott

⁷ CAO Policy available at: <https://officecao.org/policy>.

⁸ The CAO Policy glossary defines an IFC Exit as: “With respect to any Project, the earlier of (i) the termination of the financing, investment, or advisory relationship with the Client for such Project pursuant to the applicable Project agreements; or (ii) when the Project ceases to exist, or the Project has been dropped by IFC after Board approval.” In this case, the former applies.

regarding E&S issues at the hotel. Similarly, Palma Guinée declined to take part in the CAO process to date. Given the stated position of IFC’s former client, and the fact that IFC does not have any other ongoing investments with Palma Guinée, the prospect for remedy through an investigative process is limited. While CAO recognizes that IFC does have ongoing relationships with Marriott in other IFC-financed hotel investments, CAO understands that the nature of these relationships is not formalized (e.g., IFC does not have a direct investment in a Marriott business activity). Further, the business model is such that IFC invests in a company (its client) to develop a hotel, and operations are contracted by the client to a hotel operator (e.g., Marriott), where the hotel operator is not the direct employer. Under this model, IFC’s leverage to address labor concerns with a hotel operator in the absence of an IFC client (hotel owner) is significantly limited.

Taken together, in the instance where a CAO investigation could arrive at a conclusion of Harm to the complainants, CAO considers the prospects of remedy for the complainants to be limited. While CAO recognizes that a CAO investigation report of this complaint would be a form of remedy for the complainants (and one which they have requested), CAO concludes that there is not a particular value in this instance given the detail included in this compliance appraisal report and acknowledgements made by IFC of shortfalls in its performance.

b) Judicial or non-judicial proceedings

As complainants in this case are also pursuing related judicial and non-judicial proceedings, CAO must consider the relevance of any concluded, pending, or ongoing judicial or non-judicial proceeding regarding the subject matter of the complaint (CAO Policy, para. 92(b)).

These cases represent an aspect of the CAO complaint but they do not directly respond to whether IFC discharged its role in supervising the application of relevant PS2 requirements on employee termination.

c) Whether IFC appropriately dealt with complaint issues

Given IFC’s acknowledgement of non-compliance early in the project, and its assertion that it addressed the issues raised by complainants, CAO must consider “whether Management has clearly demonstrated that it dealt appropriately with the issues raised by the Complainant...and followed E&S Policies or whether Management acknowledged that it did not comply with relevant E&S Policies” (CAO Policy, para. 92(c)).

While IFC did take action to address the labor concerns and notified the company of breach of contract, these issues were not addressed by the time of loan prepayment. Accordingly, IFC has not met its overarching commitment to do no harm in its investment operations. Rather, CAO’s preliminary review indicates that harm persists for the complainants.

d) Whether IFC Management provided a statement of specific remedial actions

CAO must consider “whether Management has provided a statement of specific remedial actions, and whether, in CAO’s judgment after considering the Complainant’s views, these proposed

remedial actions substantively address the matters raised by the Complainant” (CAO Policy, para 92(d)).

CAO recognizes that IFC took action in response to the IUF complaints. Nevertheless, after considering the Complainant views, CAO concludes that the remedial actions between 2019 and 2022 have not substantively addressed the matters raised by the complainants. CAO notes IFC’s statement that many of the issues remained under discussion with the client at the time of loan repayment. Further, CAO notes that IFC did not complete a proposed PS2 compliance assessment.

CAO Decision

CAO concludes that the complaint meets the criteria for a compliance investigation. However, as the IFC loan was prepaid in September 2022, the CAO Policy requires consideration of whether an investigation would provide “particular value in terms of accountability, learning, or remedial action despite an IFC/MIGA exit” (CAO Policy para. 92(a)).

For the reasons outlined above and in Section 4d of this report, CAO has decided to close this case at appraisal on the basis of CAO Policy para. 92(a).

This appraisal report is published on the CAO website and shared with the Board, the World Bank Group President, IFC Management, the client, and the complainants.

1. Introduction

This section provides context for IFC’s direct investment in Palma Guinée S.A. (PGSA), a project and case timeline, and a summary of CAO’s compliance appraisal process, scope, and methodology for this case.

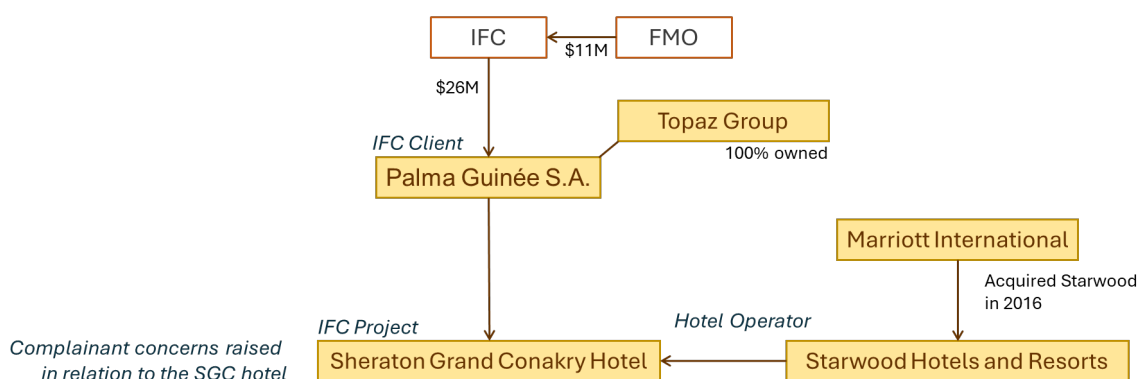
a) IFC Investment

In 2013, IFC provided up to US\$26 million in financing to Palma Guinée S.A. (PGSA), a Guinea-incorporated company owned by the Topaz Group since 2012. PGSA was created to develop and own the 280-room five-star Sheraton Grand Conakry (SGC) hotel in Conakry, Guinea (“the project”).⁹ The total project cost was an estimated US\$61 million. IFC support included a direct A-loan of up to US\$15 million and a syndicated B-loan from the Dutch Entrepreneurial Development Bank (FMO) of up to US\$11 million.

IFC anticipated supporting the development of a high-standard hotel, which would help Guinea’s capital city address growing demand for quality accommodation driven by increasing business travel and the emerging conference sector.¹⁰ According to IFC, the project would create jobs, support the local economy, encourage broader investment activity in Guinea, and transfer best international business practices in areas including management of E&S issues, business ethics, transparency, and integrity in dealing with employees.¹¹

IFC categorized the project’s E&S risk as category B. This indicated IFC’s view that the project would have limited potential adverse E&S risks and/or impacts that were few in number, generally site-specific, largely reversible, and readily addressed through mitigation measures.¹²

Figure 1. Relationships between lenders, the IFC client, and other key parties



⁹ IFC Summary of Investment Information. <https://bit.ly/3XwVy00>

¹⁰ Ibid.

¹¹ Ibid.

¹² IFC Sustainability Policy (2012), para. 40

b) Project Context

IFC’s investment was with PGSA. As PGSA did not have experience in operating a hotel, in November 2013 PGSA agreed an Operating Service Agreement with Starwood Hotels & Resorts Worldwide (Starwood). Per this agreement, Starwood had responsibility for hotel operations. This included Starwood managing the day-to-day employee recruitment process and labor and working conditions. However, hotel employees were ultimately hired by PGSA, not Starwood. Starwood was acquired by Marriott International in 2016.¹³

The hotel was constructed between 2014 and 2016; hotel operations commenced in December 2016. In 2021, hotel operations were suspended because of mold, but a small number of workers remained actively employed to maintain the hotel building. In September 2022, PGSA fully prepaid its outstanding loans to IFC and the hotel remains closed for renovations as of publication of this report.

Labor concerns by the complainants about the IFC client and its hotel operation have not been confined to the CAO complaint. IFC received direct complaints through its labor portal in 2019 and 2021, prior to the hotel’s temporary closure. In April 2022, the government of Guinea revoked Marriotts operating license.¹⁴

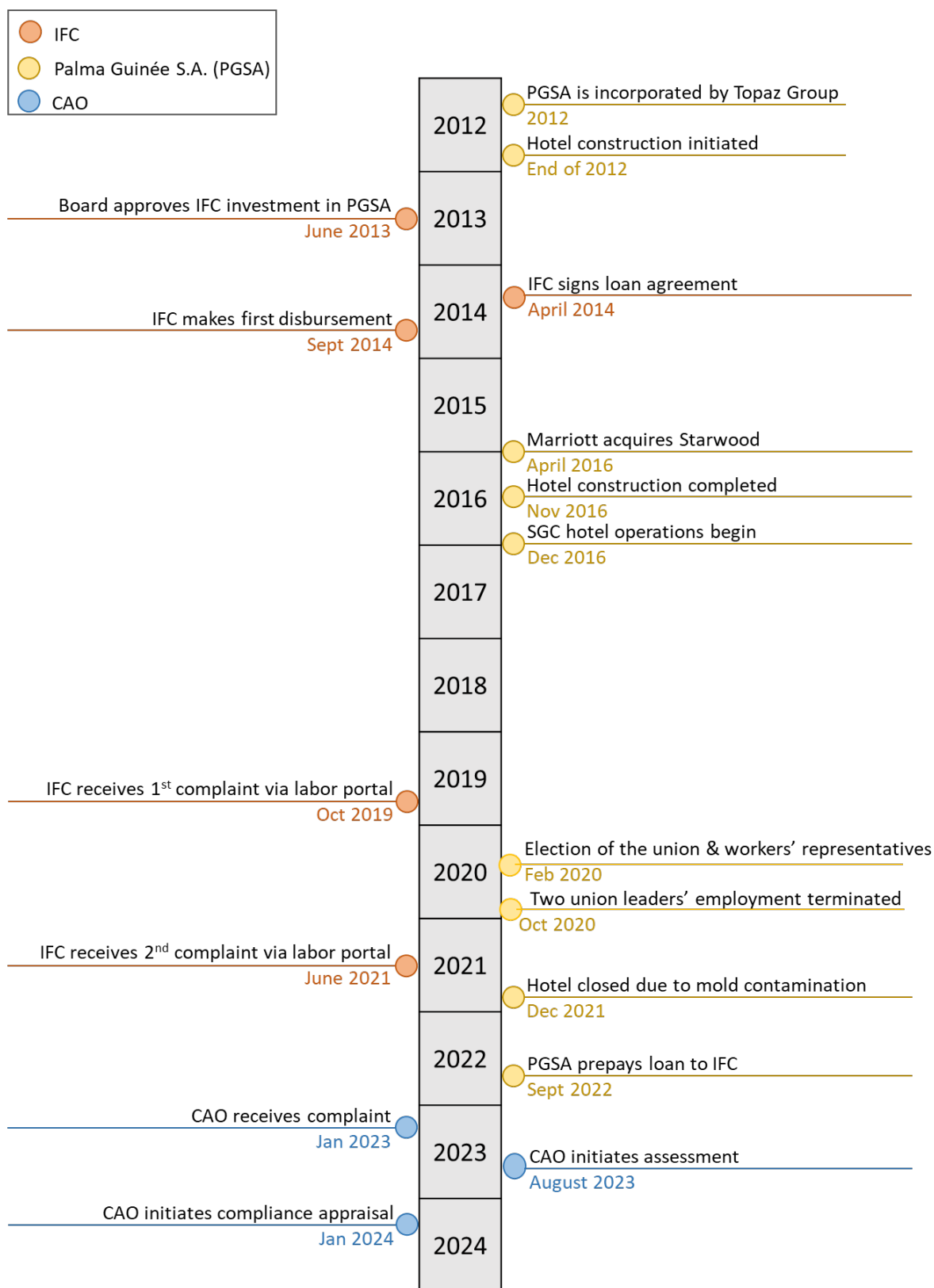
In addition to the open CAO case, there are also ongoing complaints and court cases. In February 2021, the IUF labor union that represents the CAO complainants filed a complaint with the ILO’s Committee on Freedom of Association, asserting violations of ILO Conventions 87 and 98 by the government of Guinea.¹⁵ The complaint alleges retaliatory termination of union leaders and arbitrary termination of workers during August-October 2020. Two court cases have also been filed with the Conakry Labor Tribunal by five union leaders who allege that their dismissals amount to discriminatory treatment by PGSA (see Section 2 for more detail).

¹³ PGSA and Starwood together are defined as Hotel Management

¹⁴ IFC Management Response, February 2024

¹⁵ Submission to the International Labour Organization Committee on Freedom of Association Regarding Violations of Conventions 87 and 98 by the Government of Guinea of February 19, 2021; and Article 24 Representation against the Government of Guinea Concerning Violations of ILO Conventions 81, 95, and 187 of February 19, 2021. IUF, Sheraton Grand Conakry: IUF Moves Rights violations Complaints to the ILO (Feb. 19, 2021), <https://bit.ly/4eAwvPK>

c) IFC Investment and Complaint Timeline



d) Compliance Appraisal Scope and Methodology

CAO received a complaint raising labor and occupational health and safety concerns at the Sheraton Grand Conakry hotel in January 2023. CAO found the complaint eligible for assessment in August 2023. During assessment, the parties failed to reach agreement on a CAO supported dispute resolution process and the complaint was therefore referred to CAO’s compliance function for appraisal in January 2024.

The scope of this compliance appraisal¹⁶ is limited to issues raised in the complaint (Appendix A) and CAO’s Assessment Report.¹⁷ A CAO appraisal involves a preliminary review of available information. It does not lead to any definitive assessments or findings of harm or IFC non-compliance.¹⁸ CAO made the appraisal decision based on the appraisal criteria and other relevant considerations in accordance with the CAO Policy.¹⁹

The appraisal involved a preliminary review of the following information:

- Documentation related to the complaint, CAO’s Assessment Report, and IFC’s Management Response to the complaint
- Available IFC and client documentation on the pre-investment E&S due diligence and implementation of E&S requirements
- Information gathered through interviews and emails with the complainants’ representatives
- Additional documentation provided by the complainants and the IFC project team
- Relevant public reports, academic literature, and media reports.

CAO extends its appreciation to all parties who have shared their perspectives, knowledge, and time with the compliance team.

¹⁶ CAO Policy, para. 88.

¹⁷ CAO. 2024. CAO Assessment Report Regarding a Complaint Received in Relation to IFC’s investment in Palma Guinea S.A (IFC 32408) in Republic of Guinea, available at: <https://bit.ly/45BgB3F>

¹⁸ CAO Policy, para. 94.

¹⁹ CAO Policy, paras. 96-97.

2. The Complaint

On January 19, 2023, CAO received a complaint from the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers’ Associations (IUF) and the Global Labor Justice-International Labor Rights Forum (GLJ-ILRF) on behalf of current and former workers of the SGC hotel. The workers are represented by the Fédération de l’Hôtellerie, Touristique, Restauration et Branches Connexes-Organisation Nationale des Syndicats Libres de Guinée (FHTRC-ONSLG), an IUF labor union affiliate since 2018.

The complaint alleges that, for eight years, the project did not recognize workers’ rights to: safe working conditions, overtime pay, provision of healthcare benefits, freedom of association, collective bargaining without retaliation, and lawful terminations with severance packages. It also raises concerns regarding IFC’s lack of adequate pre-investment E&S due diligence. The complainants assert that after they and their representatives raised their concerns directly with IFC in 2019, IFC did little to bring Palma Guinée S.A. (PGSA) into compliance with relevant IFC Performance Standards and Guinean law.²⁰

a) Working Conditions

Unpaid overtime and night work, and wage deductions due to illness

The complainants claim that while Guinean law requires hotels to pay higher wages for additional work performed after eight hours on the job, and for night work, PGSA paid staff the regular rate. They state that they regularly worked four to eight hours of overtime per week, with a significant proportion of employees working between 11:00 PM and 7:00 AM, including security guards, maintenance staff, and cooks. Between 2019 and 2022, the complaint alleges, hotel housekeepers routinely worked up to 15 hours a day, six days a week. The former and current workers also claim that PGSA unlawfully deducted wages when employees were absent due to illness rather than pay their full wage, as required by law during short-term illnesses, or half their wage, as required during long-term illnesses.²¹ The complainants allege that in June 2021, PGSA promised gifts for workers (one bag of rice and some fabrics), unspecified seniority raises, overtime pay, and an 8 percent pay increase from the end of July 2021. However, this pay increase never materialized.

Lack of health benefits

The complaint states that the IFC client did not provide its workers with employer health benefits mandated by Guinean law.²² This situation was exacerbated during the COVID-19 pandemic when hotel workers spent months quarantined without health insurance.

²⁰ Complaint to CAO, CAO Assessment report and clarifications provided to CAO are the basis for this section. Available at: <https://bit.ly/4eUkk0D>.

²¹ See Articles 63, 64, 68, 72, 73 74 et seq. of the Social Security Code.

²² Guinean CDT, Article 12: « The Employer must, in all possible ways, provide healthcare and prescription costs for employees and dependents minor in age and residing with said employee. The Employer shall subsequently be reimbursed by the National Fund responsible for social security in accordance with current laws and regulations.

The complainants shared an incident with CAO in which a hotel worker, Mariam Camara, died in June 2020 from unknown causes and without financial support from PGSA.²³ After her death, hotel management offered her family 2,000,000 Guinean francs (approximately US\$200), which was less than half her medical costs and which they rejected. The complainants claim that hotel management only began to provide health insurance cards to employees following a press conference held on the first anniversary of her death. However, they note that no dependent care was offered, as required by Guinean law. During this appraisal, the complainants informed CAO of two additional health-related deaths from allegedly treatable conditions of SGC union members who did not have health insurance.

b) Occupational Health and Safety (OHS)

Lack of protective gear while handling dangerous chemicals

Workers state that after the hotel opened, managers did not provide PPE, such as masks or gloves for respiratory and skin protection, when handling dangerous chemicals, including those used for cleaning the rooms, kitchen, and doing laundry.

Lack of protective measures during the Covid-19 pandemic

During the peak months of the Covid-19 pandemic, the complainants allege that hotel management required many employees to quarantine on site. However, due to restrictions in transportation, they were forced to share sleeping arrangements (two per bed, four in a room). Furthermore, workers were required to eat in the hotel cafeteria, where they were often served rotten or expired food. These sleeping and eating accommodations exposed the workers to increased risks of contracting Covid-19.

Increased overtime and work responsibilities without compensation

According to the complaint, hotel management also used the public health crisis to expand workers’ responsibilities, with staff reductions resulting in employees working up to three job types regardless of whether the workload was reasonable.

Failure to properly inform workers of the health impacts of mold

The complaint states that on December 10, 2021, hotel management held a general meeting and announced to workers that the Sheraton Grand Conakry would close for maintenance due to an unspecified “contamination”. About a week later, the hotel posted an unsigned and undated notice stating that the rainy season had triggered flooding across the property and the hotel needed to close temporarily for structural renovations. Affected areas included guest rooms, restaurants, bars, meeting rooms, and other public areas, and hotel management announced that an

²³ CDT Article 12. Also the Guinean Code de Sécurité Civile (Article 110 and 111) requires payment of medical costs for employees who were employed in the trimester preceding their illness, which the complainants claim was the case for Mariam Camara.

investigation would be conducted to determine the extent of renovations required.²⁴ The complainants allege that management failed to adequately inform hotel workers about mold exposure and its potential health consequences. No information was provided about the nature or effects of the contamination, despite the likelihood that employees were exposed to mold during their work and repeated union requests for information.

The complainants also expressed their belief that PGSA has not been transparent about the reasons for the hotel’s temporary closure. Former workers expressed skepticism about the mold issue and suggested that PGSA’s motivation was to replace existing workers.

c) Freedom of Association (FoA)

Interference with workers’ rights to join and be represented by a trade union

On March 15, 2019, IUF-affiliate FHTRC-ONSLG made a formal request to the SGC management to begin the union election process under Guinean law.²⁵ Seven months later, on October 15, 2019, the hotel workers submitted a complaint through the IFC labor portal claiming that PGSA had interfered with the workers’ rights to participate in and be represented by a trade union.²⁶

According to the CAO complaint, it took until February 2020 to form a hotel trade union and elect workers’ representatives. SGC management allegedly sought to undermine union activities by intimidating and retaliating against union members, harassing workers who participated, and unjustly terminating the elected general secretary and deputy of the SGC hotel workers’ union in October 2020.

Since 2018, according to the complainants, hotel management sought to discourage trade union activity through misinformation, intimidation, and retaliation. Between 2019 and 2022, this campaign allegedly included intimidating workers by threatening to mobilize the government against them if they considered demonstrating or striking. During CAO’s compliance appraisal, the complainants reconfirmed that six of eight elected union leaders have been terminated from their hotel jobs, one has resigned, and the remaining employed representative fears losing their job. Two fired union leaders filed a petition with the Conakry Labor Tribunal and won a verdict in their favor in March 2023, requiring PGSA to pay dismissal damages. PGSA appealed the decision, with the result still pending. Three other union representatives filed a second, ongoing, petition regarding their termination without severance.

Discrimination against union members

In early 2022, the IUF learned that SGC management had instituted a new shift rotation system for the workers maintaining the hotel during its temporary closure. While in theory, the rotation

²⁴ Information provided by the complainants. See [1d. Fourth Addendum to Labour Portal Complaint](#), January 12, 2022. Annex: Dec. 17 Notice.

²⁵ Information provided by the complainants. See Correspondence in “[C-Union Election](#)”. CDT Article 331.1 stipulates that union members have the right to union representation in meetings with management.

²⁶ Guinean Labor Law, [Code du Travail \(CDT\)](#) Articles 322, 323, 330 and 331 are entirely devoted to the process by which employers must recognize and allow for free union elections.

system would fairly distribute the work that remained, in practice the complainants allege it discriminated against union activists, six of whom were excluded and deprived of income (as described above). In addition, the complaint alleges that hotel management hired new employees without first offering jobs to previously laid-off workers who were also union members as the sectoral bargaining agreement required. The complainants told CAO during appraisal that the hotel continues to hire new staff but no retrenched workers who were union members have been rehired. Lastly, after the hotel’s temporary closure, union delegates who visited the hotel to inquire about health and safety measures for workers were denied access to the property and conduct union activities.

d) Retrenchment

Unfair termination practices with no alternatives to retrenchment or assurances of future employment

During the week of December 13, 2021, hotel management informed individual temporary workers that their contracts would be terminated on December 31, 2021. On December 28, 2021, SGC management posted a second notice stating that all employment contracts would be suspended during the renovation work, apart from a few workers retained to maintain the hotel. The complainants allege that most workers were then placed under technical unemployment until August 2022 when the hotel retrenched 158 out of 189 employees with little severance and no assurances that they would be rehired once the hotel reopened.²⁷ They also allege that the full-time workers (CDI)²⁸ placed under technical unemployment were paid only a fraction of their salary between December 2021 and August 2022.²⁹ At the time of the writing of this report, about 30 people remain employed at the hotel.

On April 21, 2022, the government of Guinea revoked the Marriott’s license to operate until further notice.³⁰ On July 15, 2022, the SGC hotel management announced their employment reduction plan to workers. In line with Guinean law, terminated employees would receive 25% of their monthly salary for as many months as each employee had years of service at the hotel – amounting to approximately US\$250 for workers hired since 2016.

The complainants state that the sudden termination of their employment has had an adverse impact on their welfare and quality of life. During the compliance appraisal process, they informed CAO that the hotel has hired additional staff but the majority of workers dismissed in September 2022 have not been rehired. They expressed uncertainty about whether they would be rehired when the hotel reopens, as agreed in their termination letters. If the hotel reopens and terminated

²⁷ CAO received a termination letter where it is clear that hotel management offers the possibility to rehire the employee, pending the qualifications for the job needed, within the next two years.

²⁸ CDI is defined as “Contrat de Dure Indéterminée” or “Indefinite Contract Employees.”

²⁹ According to Article 155.6 of the Guinean Labor Law, during periods of technical unemployment, workers will be paid compensation which cannot be less than 30% of the base salary and workers will continue to benefit from all the social security benefits under their contract.

³⁰ The hotel remains closed as of the date of this report. Ministerial Order A/2022/749/MSTA/SGG/, “Order withdrawing the technical permit to operate an accommodation establishment to Sheraton Grand Conakry.”

workers are not rehired, the complainants stated that they would like to be treated appropriately by getting a fair severance package.

e) Lack of IFC Due Diligence

Finally, the complainants argue that IFC’s pre-investment due diligence was inadequate to ensure that PGSA was prepared to develop and operate the hotel in compliance with the Performance Standards. They claim IFC did not properly evaluate the potential project for PS2 compliance in relation to SGC’s operations, because human resources would be managed by Starwood, and information on human resources management during operations would become available only after Starwood and PGSA signed an Operating Services Agreement (OSA).³¹ In addition, they allege IFC did not ensure that its client conduct an appropriate risk assessment of labor issues. In the complainants’ view, IFC’s client had little control over Starwood, and later Marriott International once it acquired Starwood, regarding employment matters and policies, and IFC’s engagement with hotel management was inconsistent and ineffective. They believe PGSA did not accept any accountability for labor issues at the hotel or make any remedial efforts prior to prepayment of the IFC loans in September 2022.

3. Summary of IFC Management Response

IFC’s Management Response³² to the CAO complaint acknowledges shortcomings in its pre-investment E&S due diligence and supervision of SGC hotel operations in relation to labor issues. IFC only became aware of the labor concerns after the unions³³ filed two direct complaints in 2019 and 2021 through the IFC Labor Portal. However, IFC argues that the actions it took in response to these complaints, summarized below, were compliant with the Sustainability Framework. The Management Response also notes that, since September 2022, IFC has had no financial exposure to or relationship with Palma Guinée or its owner, the Topaz Group.

Following the 2019 and 2021 complaints, IFC engaged extensively with the global unions who filed them on behalf of the hotel workers as well as Palma Guinée, Marriott, and the Labor Inspectorate. To pursue positive outcomes in line with IFC’s Sustainability Framework, IFC:

- Facilitated the successful establishment of a labor union at the hotel and elections of workers’ representatives between November 2019 and March 2020.
- Endeavored to facilitate dialogue between PGSA and the unions with the aim of a conciliated resolution of the labor disputes, from July to December 2021, though the dialogue efforts did not ultimately proceed.
- Commissioned a PS2 compliance assessment of the client focusing on freedom of association and protection of the right to organize. This resulted in a corrective action plan (CAP) which was under discussion with the company at the time of prepayment.
- Provided guidance and support to hotel management regarding the retrenchment process.

³¹ IFC. 2013. Environmental & Social Review Summary (ESRS): Palma Guinea. Available at: <https://bit.ly/3XvhOY7>

³² See Appendix B. IFC’s Management Response (February 23, 2024).

³³ IUF, GLJ-ILRF, and FHTRC-ONSLG, which are the same unions as in the CAO complaint

IFC notes that several of these issues remained under discussion at the time of hotel closure in December 2021 and the loan prepayment in September 2022.

At the institutional level, IFC Management explains that it has strengthened its approach to identifying and managing labor challenges in the hospitality sector by:

- Recruiting labor specialists to strengthen institutional capacity to review and manage issues related to labor and working conditions across sectors.
- Developing training and knowledge-sharing initiatives to further build capacity on labor issues within IFC’s E&S and investment staff. These initiatives include deep-dive trainings for all staff and program-specific trainings for E&S specialists.
- Collaborating with the International Labor Organization (ILO) on a learning program between IFC E&S specialists and ILO experts to identify where the former can leverage ILO expertise (labor auditing, freedom of association, and occupational health and safety).

As a result of these project and institutional actions, IFC does not believe that a CAO compliance investigation is merited according to the appraisal criteria in paragraphs 91 and 92 of the CAO Policy. Specifically, IFC responds to the criteria as follows:

- Regarding paragraph 92(a),³⁴ IFC states that after loan prepayment, the client declined to continue to engage on labor issues, including remedial action, and IFC has separately continued to strengthen its labor management in its investments.
- Regarding paragraphs 92(c)³⁵ and (d),³⁶ IFC believes that between 2019 and 2022, after the direct complaints were filed, IFC dealt appropriately with the issues raised and the actions taken during those years were compliant with the IFC Sustainability Framework.

4. CAO Analysis

This section presents CAO’s analysis of the three appraisal criteria required to determine whether to initiate a compliance investigation.³⁷ These criteria are:

- Whether there are preliminary indications of Harm or potential Harm
- Whether there are preliminary indications that IFC may not have complied with its E&S Policies

³⁴ CAO Policy, para. 92(a), states: “For any Project or Sub-Project where an IFC/MIGA Exit has occurred at the time CAO completes its compliance appraisal, whether an investigation would provide particular value in terms of accountability, learning, or remedial action despite an IFC/MIGA Exit.”

³⁵ CAO Policy, para. 92(c), states: “Whether Management has clearly demonstrated that it dealt appropriately with the issues raised by the Complainant or in the internal request and followed E&S Policies or whether Management acknowledged that it did not comply with relevant E&S Policies.”

³⁶ CAO Policy, para. 92(d), states: “Whether Management has provided a statement of specific remedial actions, and whether, in CAO’s judgment after considering the Complainant’s views, these proposed remedial actions substantively address the matters raised by the Complainant.”

³⁷ CAO Policy, para. 91.

- Whether the alleged Harm is plausibly linked to the potential non-compliance.

Based on the analysis below, CAO concludes that the labor complaint regarding IFC’s 2013 investment in Palma Guinée S.A. meets the three criteria for a compliance investigation.

a) Analysis of Preliminary Indications of Harm or potential Harm

A CAO compliance appraisal is required to consider whether a complaint raises “preliminary indications of Harm or potential Harm.”³⁸ The CAO Policy defines harm as “Any material adverse environmental and social effect on people or the environment resulting directly or indirectly from a Project or Sub-Project. Harm may be actual or reasonably likely to occur in the future.”³⁹ A preliminary indication of Harm, determined at the appraisal stage, is present when CAO’s initial review of available information generates a plausible or credible concern that harm has happened or is reasonably likely to occur. It is not equivalent to a finding of harm, which may only result from a compliance investigation.⁴⁰

CAO concludes there are preliminary indications of Harm or potential Harm in relation to the issues raised by the complainants on the basis of complainant testimony of harm, additional documentation provided by the complainants which indicates possible impacts, IFC’s supervision documentation, client documentation, and third-party reviews of the labor environment and hospitality sector in Guinea. CAO’s decision is based on the following considerations (presented by complaint issue).

Working conditions

The complainants claim they were not paid for overtime or night work and that they were not provided healthcare benefits mandated by national law.

CAO concludes that there are preliminary indications of Harm on the following basis:

- In response to high profile worker advocacy in relation to these issues in June 2021, the complainants noted that they were issued with health insurance cards and pay increases. The absence of such terms and conditions prior to this event is a preliminary indication of harm.

³⁸ CAO Policy, para. 91.

³⁹ CAO Policy, glossary.

⁴⁰ In this regard, para. 94 of the CAO Policy establishes that “the appraisal process does not lead to a definitive assessment of IFC/MIGA’s compliance with its E&S Policies or related Harm. CAO may make these assessments only in the context of an investigation.”

- The complainants raise concerns in relation to issues which are known to be risk factors in Guinea and the hospitality sector generally.⁴¹
- Since 2019, when IFC became aware of these labor issues, IFC has not been unable to conduct an adequate assessment regarding the harms alleged by the CAO complainants.⁴² The possibility of harm or potential harm can therefore not be discounted.

Occupational health and safety

The complainants state that before the pandemic they were not provided PPE, such as masks or gloves when handling dangerous chemicals, like toxic cleaning solvents in kitchen, laundry, and room cleaning functions. They also allege that during the pandemic they were forced to share beds and rooms with other workers, and that the hotel provided them with expired food in the hotel cafeteria.

In addition, the current and former workers claim they were informed of mold issues at the hotel only in December 2021 when hotel management announced the closure decision, and received no information about the potential health consequences.

CAO concludes that there are preliminary indications of harm on the following basis:

- A preliminary review of IFC supervision documentation does not demonstrate that the IFC client took appropriate occupational health and safety (OHS) measures for indoor air quality, use of chemical cleaners, and water and food quality, in accordance with PS2 requirements. As these OHS risks are known to pose adverse impacts to human health,⁴³ were these risks not addressed and/or to materialize, they could present harm to the complainants.
- The February 2021 complaint submitted to the ILO by the IUF and its affiliate the FHTRC-ONSLG on behalf of the complainants raised concerns about unsafe worker health and safety conditions during the COVID-19 pandemic. CAO has not seen evidence that IFC provided guidance to PGSA on a COVID-19 emergency preparedness and response plan to support workers and manage workplace health risks. At the time the complaint was submitted to CAO, Guinean health emergency measures were still in place. CAO observes

⁴¹ The ILO notes that “the [Hotels, Catering and Tourism] sector continues to face decent work deficits, such as the prevalence of informality, variable and long working hours, low wages, limited access to social protection, gender-based discrimination, poor occupational safety and health practices and weak regulation, enforcement and organization of labour.” See: <https://bit.ly/3VxJi0K>. Moreover, the *ILO Guidelines on Decent Work and Socially Responsible Tourism*, note that in the Hotels, Catering and Tourism sector “certain jobs in the sector are characterized by low wages, long working hours, a high turnover rate, and limited social protection.”. See <https://bit.ly/3VwG1uF> U.S. Department of State, 2023 Country Reports on Human Rights Practices: Guinea. See <https://bit.ly/3xCWYvn>.

⁴² IFC Management Response, para. 21.

⁴³ Exposure to mold in an indoor environment may lead to: Itchy, runny, or stuffy nose; Sneezing; Itchy or watery eyes; Itchy or sore throat; Cough; Wheezing; Severe allergic responses; and Infections, available at <https://bit.ly/3VSV2rS>.

that the contemporaneous reporting of this complaint supports the credibility of the allegations.⁴⁴

- IFC supervision documentation notes that elevated levels of mold and humidity were detected at the hotel, which potentially presented a health hazard to both guests and staff. However, although hotel management commissioned several mold and moisture assessments, CAO has not seen evidence that any assessment was made of potential mold-related health and safety impacts on employees. Therefore, it is unlikely that any information about potential health impacts was relayed to the hotel workers.

Freedom of association

The complainants allege that hotel management intentionally undermined the site’s union activities by intimidating and retaliating against union members, and that the post-closure shift rotation system discriminated against union activists.

CAO concludes that there are preliminary indications of harm on the following basis:

- As former and current employees of the hotel, the complainants were directly exposed to the types of labor impacts they allege. The complainants have presented detailed accounts of various labor incidents and impacts, which upon preliminary review, CAO considers to be credible. IFC’s supervision documentation has documented Freedom of Association challenges at the hotel.
- Two trade unions leaders were dismissed in October 2020 on the grounds of misconduct, though the complaint asserts their dismissal was due to their union roles. CAO notes that in March 2023, the Guinean labor court determined that the dismissals were unfair. Further, IFC supervision documentation also raised concern regarding these dismissals, and the possible broader implications for Freedom of Association at the hotel. Intimidation and retaliation against workers who advocated for rights can result in a chilling effect on workers joining organizations of their own choosing, constituting potential harm.
- In the broader context, worker organizations in Guinea have been described as not generally operating independently of government or political party interference, and businesses have not always respect freedom of association and the right to collective bargaining.⁴⁵

⁴⁴ The pathways of COVID-19 transmittal are well documented. The alleged housing and dining conditions of the Palma Guinea hotel workers contravenes WHO’s recommendations and Marriott’s health and safety measures, published during the pandemic. WHO, Covid-19 at work, dating from May 2018 (prior to the pandemic) through May 2021: <https://bit.ly/3znr6va> Marriott International Statement on Cleaning Protocols, March 2020: <https://bit.ly/4casrnU>

⁴⁵ U.S. Department of State, 2023 Country Reports on Human Rights Practices: Guinea. See: <https://bit.ly/3xCWYvn>

- In relation to the complainant allegation regarding discrimination against union activists of the rotation system, given the above context, it is plausible that other union activists were discriminated and/or retaliated against and excluded from the shift rotation system.

Retrenchment

The complainants allege that after the hotel closed in December 2021, workers were placed under technical unemployment status until August 2022 when hotel management retrenched 158 out of 189 employees with little severance or certainty that they would be rehired.

CAO concludes that there are preliminary indications of harm on the following basis:

- The complainants affirmed to CAO during compliance appraisal that despite ongoing hiring of staff by hotel management, the majority of workers retrenched in 2022 have not been rehired. They assert that the retrenchment packages were low and resulted in sending workers into poverty. They remain uncertain whether they will be rehired within two years if the hotel reopens, as agreed in their termination letters.

b) Relevant IFC E&S Policy Requirements and Compliance Analysis

IFC Sustainability Framework and procedural requirements

IFC made its investment in Palma Guinée under the 2012 Policy on Environmental and Social Sustainability (Sustainability Policy), which is binding on IFC, and the Performance Standards (PS), which are client requirements, together referred to as the Sustainability Framework.

The Sustainability Policy states that IFC seeks to ensure that it carries out investment activities with the intent to “do no harm” to people and the environment.⁴⁶ For projects “where residual impacts remain, [risks and impacts must be] compensate[d]/offset for ... as appropriate.”⁴⁷

To achieve its mission and these goals, IFC conducts pre-investment environmental and social due diligence (ESDD) of all its investment activities. This process must be “commensurate with the nature, scale, and stage of the business activity, and with the level of environmental and social risks and impacts.”⁴⁸ During ESDD, IFC assesses the client’s E&S performance against the Performance Standards and relevant provisions of the World Bank Group Environmental, Health and Safety (EHS) Guidelines. Any gaps identified are addressed in an Environmental and Social Action Plan (ESAP) agreed with the client.⁴⁹

⁴⁶ Sustainability Policy, para. 9.

⁴⁷ Ibid., para. 6.

⁴⁸ Ibid., para. 26.

⁴⁹ Ibid., para. 28.

In cases where the client’s ability to achieve Performance Standard compliant outcomes may be dependent on third-party actions, IFC will review clients’ identification of third-party risks during ESDD and determine whether such risks are manageable, and if so under what conditions.⁵⁰

Based on the outcomes of pre-investment due diligence, IFC commits only to “finance investment activities that are expected to meet the requirements of the Performance Standards within a reasonable period of time.”⁵¹ To ensure the client’s business activity meets the Performance Standards, IFC makes supplemental actions contained in an ESAP a condition of investment.

During project implementation, IFC supervises the client’s E&S performance against the conditions of financing, in particular client compliance with relevant Performance Standards.⁵² If the client fails to meet its E&S obligations, IFC will “work with the client to bring it back into compliance, or if the client fails to reestablish compliance, IFC will exercise its rights and remedies, as appropriate.”⁵³

Applicable Performance Standards requirements

The following Performance Standards are particularly relevant to the issues raised in this complaint:

PS 1: Assessment and Management of Environmental and Social Risks and Impacts

IFC clients are required to identify and evaluate project-related E&S risks and impacts, avoid/minimize such risks and impacts and, where residual impacts to communities remain, compensate for them. The scope of this process should be consistent with good international industry practice (GIIP). Where the identified risks and impacts cannot be avoided, the client must identify mitigation and performance measures and establish corresponding actions to ensure project compliance with applicable laws and regulations, and PS1 requirements. These requirements apply across the project’s operations, including contractors over which the client has control or influence.⁵⁴

PS 2: Labor and Working Conditions

IFC clients are required to adopt and implement human resources policies and procedures consistent with PS2 requirements and national law. Clients must comply with national law that recognizes workers’ rights to form and join workers’ organizations of their choosing without interference and to bargain collectively. They must not discourage workers from electing worker representatives, forming or joining workers’ organizations of their choosing, or bargaining collectively, or discriminate/retaliate against workers who participate in such organizations and collective bargaining. PS2 requires IFC clients to base their employment relationship with workers

⁵⁰ Ibid., para. 23.

⁵¹ Ibid., para. 22.

⁵² Ibid., para. 24.

⁵³ Ibid., para. 24.

⁵⁴ IFC PS1, para. 14

on the principle of equal opportunity and fair treatment, and to provide reasonable working conditions and terms of employment.⁵⁵

In addition, PS2 requires the client to provide a safe and healthy work environment, taking into account inherent risks in its sector and hazards relevant to the client’s business activity, including chemical hazards. The identification of hazards and provision of preventive and protective measures will be addressed in line with the World Bank Group Environmental, Health and Safety (EHS) Guidelines. In this case, such guidelines include the 2007 EHS Guidelines for Tourism and Hospitality Development, which cover indoor air quality, use of chemical cleaners, and water and food quality.

IFC COVID-19 guidance

In April and May 2020, IFC management published three interim guidelines advising IFC clients on how to prevent and manage COVID-19 health risks in the workplace while supporting their workers during the pandemic.⁵⁶ These guidelines advised clients to continue following labor-related national law and regulations, and PS2. To prevent workplace transmission, they encouraged clients to take measures such as ensuring workers kept six feet apart, requiring thorough cleaning and disinfection of work and food preparation areas, and introducing cough hygiene and hand sanitation measures. Clients were also advised to provide workers with sufficient water and soap handwashing facilities, hand sanitizer of at least 60% alcohol, disposable wipes, PPE for cleaning activities, and face masks for personnel interacting with people. Under the guidelines, IFC considered client workers in contact with the general public to be a high exposure risk group and workers in frequent or close contact with other workers, as well as with travelers, to be a medium exposure risk group.

Analysis of preliminary indications of IFC E&S policy compliance

A compliance appraisal must consider whether there are “preliminary indications that IFC may not have complied with its E&S Policies.”⁵⁷ As discussed above, the ILO has noted concerns regarding the hospitality sector in general, and in the context of labor rights in Guinea, concerns have been raised about the degree to which worker organizations operate independently of

⁵⁵ In terms of rate of pay, PS2 generally requires a client to follow national law provisions. According to the ILO, the Guinea Labour Code on working conditions establishes that overtime is work beyond 40 hours, and that the salary increase shall be of 30% for the first 4 hours and 60% after the first 4 hours. More favorable overtime rates can be established by contracts. In addition, work performed between 8:00 PM and 6:00 AM will be considered night work and the compensation rate shall be increased by 20%. <https://bit.ly/3QoBA3m>, SBA Article 35, CDT Article 221.8. SBA 35, paragraph 2.

⁵⁶ IFC. 2020. Interim Advice for IFC Clients on Supporting Workers in the Context of Covid-19 (April 2020). Available at: <https://bit.ly/3Vrdsyl>; IFC. 2020. Interim Advice for IFC Clients on Preventing and Managing Health Risks of COVID-19 in the Workplace (April 2020). Available at: <https://bit.ly/4ewclqe>; and Interim Advice for IFC Clients on Developing a COVID-19 Emergency Preparedness and Response Plan (EPRP) (May 2020). Available at: <https://bit.ly/4bcAY8u>

⁵⁷ CAO Policy, para. 91.

government or political party influence.^{58,59} Given these known sectoral risks, and in relation to the issues raised in this case, CAO concludes that there are preliminary indications that IFC did not adequately review and supervise its investment in PGSA in accordance with the Sustainability Framework.

IFC pre-investment E&S due diligence

IFC’s pre-investment E&S review primarily focused on the project’s construction phase rather than on the hotel’s operational phase.

During its pre-investment review in 2013, IFC noted that the Topaz Group, and its subsidiary PGSA, was a first-time hotel developer. To mitigate PGSA’s lack of experience in operating a hotel, IFC noted that PGSA would subcontract hotel operations to Starwood Hotels & Resorts Worldwide. PGSA’s ability to meet the Performance Standards therefore depended on its operator, Starwood. Accordingly, the Sustainability Policy required IFC to review whether PGSA had adequately identified Starwood’s risks and determine whether these were manageable and under what conditions.⁶⁰ Available documentation indicates that IFC may not have assured itself that PGSA adequately reviewed the potential E&S risks related to Starwood as the hotel operator (e.g., whether Starwood’s E&S procedures and general operations were aligned with the Performance Standards, and any adaptations necessary for operating in Guinea). A further complication was the fact that at the time of IFC’s pre-investment review, PGSA and Starwood had not finalized an operating service agreement. As a result, IFC’s pre-investment E&S review noted that information on Human Resources Management during hotel operations, including alignment with PS2 requirements, would be available after the operating service agreement was signed. The operating service agreement was signed after IFC completed its pre-investment E&S review and the IFC investment was approved by the Board.⁶¹

The ESAP mainly focused on addressing E&S risks during the construction phase. As related to hotel operations, the ESAP required the PGSA to hire an individual to develop and implement a management system to address, among other topics, labor and working conditions by January 2016. In April 2014, IFC legally committed to the investment.⁶² In accordance with IFC’s Sustainability Policy requirement, IFC’s legal agreement required Palma Guinea to operate in accordance with the IFC Performance Standards. This included reporting to IFC on its E&S

⁵⁸ On the Hotels, Catering and Tourism (HCT) sector, the ILO mentions that “the sector continues to face decent work deficits, such as the prevalence of informality, variable and long working hours, low wages, limited access to social protection, gender-based discrimination, poor occupational safety and health practices and weak regulation, enforcement and organization of labour.” See: <https://bit.ly/3VxJj0K>. Moreover, the *ILO Guidelines on Decent Work and Socially Responsible Tourism*, mention that in the HCT sector “certain jobs in the sector are characterized by low wages, long working hours, a high turnover rate, and limited social protection.” See <https://bit.ly/3VwG1uF>

⁵⁹ Violations of wage, overtime, and OSH standards are common across sectors in Guinea, but authorities rarely monitor work practices or enforce workweek standards or overtime rules, and while each industry is required to have an occupational safety and health plan, this requirement is rarely enforced. 2022 Country Reports on Human Rights Practices: Guinea. U.S. Department of State. Available here: <https://bit.ly/3KYu9MU> and 2023 Country Reports on Human Rights Practices: Guinea. U.S. State Department Available here: <https://bit.ly/3VTNIAT>

⁶⁰ Sustainability Policy, para. 23.

⁶¹ IFC. 2013. ESRS. IFC conducted its pre-investment E&S review in early 2013. The IFC Board approved the investment in June 2013. An operating service agreement was signed in late 2013.

⁶² IFC SPI

performance. However, it is unclear whether IFC assured itself that Palma Guinea’s Operating Service Agreement with Starwood adequately transmitted the Performance Standards as requirements to the hotel operation phase, and assured adequate reporting on implementation by Starwood to Palma Guinea.

Due diligence: CAO preliminary conclusions

CAO concludes there are preliminary indications that IFC’s pre-investment E&S review may not have been commensurate with the nature, scale, and stage of the business activity, and with the level of E&S risks and impacts, as required under the Sustainability Policy.⁶³ IFC’s investment occurred in a country context with recognized challenges in establishing workers’ organizations and collective bargaining, and in a sector – hospitality – that faces globally recognized labor challenges.

CAO reaches a determination of preliminary indications of IFC E&S Policy non-compliance during IFC’s due diligence phase on the following basis:

- As IFC reported that it did not have access to Starwood documentation, there are indications that IFC may not have adequately reviewed the E&S risks related to Starwood’s role as the hotel operator in order to assess whether its labor policies and procedures aligned with PS2 and national law. Had IFC assessed Starwood and the context in Guinea, IFC would have likely needed to develop tailored mitigation measures.⁶⁴
- Absent an adequate review of E&S risks during the operating phase, IFC’s ESAP may not have adequately considered and prepared for labor and OHS risks during the hotel’s operational phase.⁶⁵
- IFC’s agreement with PGSA may not have adequately ensured that IFC’s E&S requirements and E&S reporting obligations were passed down to Palma Guinea’s Operating Service Agreement with Starwood.⁶⁶
- IFC’s pre-investment due diligence may not have been commensurate to risk or based on sufficient information to provide assurance that the Performance Standards would be met within a reasonable period of time.⁶⁷

IFC supervision

The hotel commenced operations in December 2016. Available information suggests that IFC conducted limited supervision of the Sheraton Grand Conakry hotel’s operations and IFC’s client, PGSA, regarding labor and working conditions between December 2016, when the hotel operations commenced, and October 2019, when the IUF complaint to IFC was submitted. This

⁶³ Sustainability Policy, para. 26.

⁶⁴ Ibid., paras. 26 and 28.

⁶⁵ Ibid., para. 28.

⁶⁶ Ibid., para. 23.

⁶⁷ Ibid., para. 22.

was due in part to IFC’s challenges in obtaining relevant E&S performance information for the hotel’s operations. IFC was able to access relevant documentation while on site, and thus, IFC relied on site visits to the hotel to review E&S performance.

After IFC received IUF’s complaint on behalf of PGSA workers through its labor portal in October 2019, which petitioned for an election of workers’ representatives, IFC engaged with complainants and its client on this issue. As a result, during 2020 PGSA held workers’ representatives elections. Further, IFC hired an independent consultant to assess labor and management issues at the hotel. In response to worker allegations of unpaid wages, wage deductions, and unsafe conditions, the client informed IFC that it maintained conformity with the Guinean Labor Code.⁶⁸ CAO notes that IFC supervision documentation does not provide a definitive view on whether the client was meeting its PS2 obligations to provide reasonable working conditions and terms of employment. Worker concerns over labor and working conditions persisted, and in October 2020 hotel management terminated two union representatives. In response, IFC’s consultant reviewed information regarding the dismissal and noted PS2 gaps in terms of how the dismissal was implemented. This raised broader concerns about Freedom of Association at the hotel.

In December 2021, IFC was informed by the complainants, rather than its client, of the hotel’s temporary closure due to mold issues. This resulted in workers being placed on technical unemployment. IFC developed a corrective action plan (CAP) in March 2022 which focused on resuming the dialogue process to seek conciliated and mutually agreed resolution on the issue of dismissals and undertaking a comprehensive third-party labor audit covering all PS2 requirements. However, due to the hotel’s temporary closure, government revocation of Marriott’s operating license in April 2022, and prepayment to IFC in September 2022, the CAP was never agreed and implemented. IFC notes in its Management Response that it was able to review and provide inputs to PGSA’s draft retrenchment plan. Nonetheless, in its preliminary review, CAO has been unable to determine whether IFC ensured that its client implement the retrenchment plan in line with PS2 requirements.

In addition, CAO’s preliminary review does not indicate that IFC requested or received information about COVID-19 management at the hotel, despite being unable to conduct a site visit during the pandemic due to travel restrictions and health emergency measures.

Supervision: CAO preliminary conclusions

CAO concludes that there are preliminary indications that IFC may not have properly applied its Sustainability Policy and Performance Standards requirements for project supervision during the life of the Palma Guinée investment.

Given the potential gaps in pre-investment due diligence, IFC may not have had adequate E&S information to effectively supervise the investment and improve client E&S performance.⁶⁹ Consequently, IFC may have been unable to identify relevant PS2 gaps regarding labor and OHS

⁶⁸ IFC Management Response, para. 21.

⁶⁹ Sustainability Policy, para. 45.

issues during supervision in order to work with the client to bring it back into compliance,⁷⁰ until the 2019 labor complaint was filed.

CAO reaches a determination of preliminary indications of IFC E&S Policy non-compliance during IFC’s supervision phase on the following basis:

- Following completion of the construction phase, there is limited evidence that prior to hotel operations commencing in December 2016, IFC assured itself that the client had implemented an ESMS for hotel operations which applied IFC’s Performance Standard 2 requirements. This was an ESAP requirement. Further, from 2016-2019, there are preliminary indications that IFC did not meet its supervision responsibility in assessing the hotels PS2 compliance (Sustainability Policy, para. 45).⁷¹
- Throughout supervision, IFC had difficulty accessing relevant hotel human resources and labor documentation to meet its Sustainability Policy commitments (paras. 24 and 45). In response to challenges in accessing hotel E&S documentation and performance data, it is unclear whether IFC took sufficient action to address material challenges to its supervision mandate.⁷²
- Worker OHS concerns related to Covid-19 in 2020 and 2021, and mold at the hotel in 2021, were notified to IFC by IUF. From a preliminary review of documentation, it is unclear whether IFC (a) provided the hotel with COVID-19 Interim Advice for Clients on managing workplace health risks and (b) ensured the client implemented appropriate OHS measures for indoor in accordance with PS2 and the EHS Guidelines for Tourism and Hospitality Development (2007).⁷³
- In June 2021, IFC commissioned a two-part Labor assessment of the hotel operations. The first part reviewed the dismissal of two union leaders in October 2020 and the second part was to review the full range of topics covered by PS2. While a corrective action plan in relation to the dismissals was developed, there is limited evidence that this was implemented. The second part of the labor assessment was never completed. Accordingly, IFC did not ensure that serious labor and working conditions concerns were adequately assessed (Sustainability Policy, para. 6, and PS1).
- Following the submission of the IUF complaint to IFC in October 2019, until the loan was prepaid in September 2022, a preliminary review of documentation indicates that IFC engaged with the client on labor and working condition concerns. While worker representative elections were held in 2020, other complaint concerns do not appear to have been addressed. This raises concern regarding the adequacy and timeliness of IFC’s supervision between 2019 and 2022 to ensure that labor and working conditions were assessed and any residual impacts addressed.⁷⁴

⁷⁰ Ibid., para. 45.

⁷¹ Ibid., para. 45.

⁷² Ibid., para. 45.

⁷³ PS2, para. 23.

⁷⁴ Ibid., para. 6, and PS1.

c) Analysis of Plausible Link between Harm Allegations and Potential IFC Non-compliance

A compliance appraisal must consider whether the harm alleged in a complaint is plausibly linked to potential non-compliance. In this case, CAO concludes that the alleged harms to the complainants are plausibly linked to potential non-compliance in IFC’s application of its E&S standards to Palma Guinée S.A.

In reaching this conclusion, CAO took the following considerations into account:

- The preliminary indications of Harm identified in this compliance appraisal are the types of issues that IFC’s Sustainability Framework seeks to avoid, mitigate, and compensate by applying Performance Standards to projects. The complainants allege that labor and working conditions at the IFC-financed hotel, including OHS issues and freedom of association, have been poor since operations started in 2016.
- Available documentation suggests that IFC’s pre-investment review for the project may not have adequately reviewed and mitigated the E&S risks (including labor and working conditions) related to hotel operation phase. IFC thus may not have assessed whether the hotel’s labor policies and procedures aligned with PS2 requirements – a potential gap that is plausibly linked to the harms alleged by the complainants during the hotel’s operational phase.
- IFC supervision did not adequately consider labor and working conditions at the hotel until 2019, three years after operations started, when IFC received the complaint through its labor portal. CAO acknowledges IFC’s efforts to address freedom of association and broader PS2 compliance issues with its client. However, alleged harms related to retrenchment, freedom of association, working conditions before and during the COVID-19 pandemic, and OHS conditions may have been not have been adequately supervised by IFC during its supervision phase.

d) Additional Policy Requirements for Consideration in the Appraisal

A CAO compliance appraisal must take into account relevant additional considerations (CAO Policy para. 92(a-d)).

Exited investments

Because the client prepaid all outstanding balances to IFC in September 2022, CAO must consider the following:

For any Project or Sub-Project where an IFC/MIGA Exit has occurred at the time CAO completes its compliance appraisal, whether an investigation would provide particular value in terms of accountability, learning, or remedial action despite an IFC/MIGA Exit (CAO Policy, para. 92(a)).

Upon review of these criteria, CAO has concluded that an investigation in this case would not provide a particular value in terms of accountability, learning, or remedial action⁷⁵:

Accountability: IFC’s Management Response acknowledges shortfalls in its E&S pre-investment review (2013-2014) and supervision of the investment until IFC received the IUF complaint in 2019. From a preliminary review of available documentation, CAO acknowledges IFC’s efforts to enhance its supervision of the investment, in particular by facilitating the establishment of the labor union at the hotel in 2020. At the same time, CAO notes that issues raised by the complainants since 2019 were not addressed at the time of IFC loan prepayment in 2022, three years later. This raises concern regarding the adequacy and timeliness of IFC’s supervision between 2019 and 2022. CAO’s preliminary review identified key weaknesses in IFC’s performance in this case relating to:

- IFC pre-investment review: assessing contextual and hotel operation risks, and provisioning for IFC’s supervision role (e.g., adequate access to hotel operations E&S performance information)
- IFC supervision: transition from hotel construction to operations in 2016 and, following the IUF complaint in 2019, the degree to which IFC was able to address concerns prior to loan prepayment in 2022.

Given IFC’s acknowledgment of its shortfalls in this investment, and CAO’s analysis of gaps in IFC performance noted in this compliance appraisal report, CAO concludes there is not a particular accountability value in pursuing an investigation of this complaint.

Learning: IFC’s Management Response notes that IFC has been continuously strengthening its approach to identifying and managing labor challenges in its investments, including the hospitality sector. To this end, IFC has recruited in-house labor specialists, developed training and knowledge-sharing initiatives, and collaborated with the International Labor Organization. IFC’s Management Response does not illustrate whether some of the possible learning from this investment has been incorporated by IFC, in particular related to indications of deficiencies in IFC’s pre-investment review and supervision.

CAO has concluded, however, that an investigation of a single hotel investment is unlikely to produce systemic learning for IFC.

Remedial action: IFC’s Management Response notes that since the prepayment of the loan, Palma Guinée requested that IFC no longer engage with hotel management on any issue, including labor. Since then, IFC has not received any updates from Palma Guinée or Marriott regarding E&S issues at the hotel. Similarly, Palma Guinée declined to take part in the CAO process to date. Given the stated position of IFC’s former client, and the fact that IFC does not

⁷⁵ The CAO Policy glossary defines an IFC Exit as: “With respect to any Project, the earlier of (i) the termination of the financing, investment, or advisory relationship with the Client for such Project pursuant to the applicable Project agreements; or (ii) when the Project ceases to exist, or the Project has been dropped by IFC after Board approval.” In this case, the former applies.

have any other ongoing investments with Palma Guinée, the prospect for remedy through an investigative process is limited.

While CAO recognizes that IFC does have ongoing relationships with Marriott in other IFC-financed hotel investments, CAO understands that the nature of these relationships is not formalized (e.g., IFC does not have a direct investment in a Marriott business activity). Further, the business model is such that IFC invests in a company (its client) to develop a hotel, and operations are contracted by the client to a hotel operator (e.g., Marriott), where the hotel operator is not the direct employer. Under this model, IFC’s leverage to address labor concerns with a hotel operator in the absence of an IFC client (hotel owner) is significantly limited.

Taken together, in the instance where a CAO investigation could arrive at a conclusion of Harm to the complainants, CAO considers the prospects of remedy for the complainants to be limited. While CAO recognizes that a CAO investigation report of this complaint would be a form of remedy for the complainants (and one which they have requested), CAO concludes that there is not a particular value in this instance given the detail included in this compliance appraisal report and acknowledgements made by IFC of shortfalls in its performance.

Judicial or non-judicial proceedings

Because complainants in this case are also pursuing related judicial and non-judicial proceedings, CAO must consider the following:

The relevance of any concluded, pending or ongoing judicial or non-judicial proceeding regarding the subject matter of the complaint (CAO Policy, para. 92(b)).

In February 2021, the IUF union filed a complaint with the ILO’s Committee on Freedom of Association, asserting violations of ILO Conventions 87 and 98 by the government of Guinea.⁷⁶ The complaint describes the termination of union leaders and arbitrary termination of workers between August-October 2020 as retaliatory. On the same day, the IUF made an Article 24⁷⁷ representation to ILO citing “the failure of the government of Guinea to maintain a functioning labor inspection system, to ensure the timely payment of wages to all workers, and to carry out a national policy on the promotion of occupational safety and health.” IUF argues that these failings violated the government’s obligations under ILO Conventions 81, 85, and 187.

In addition, two court cases have been filed with the Conakry Labor Tribunal in Guinea by five union leaders at the hotel whose jobs the IFC client terminated. The first case, filed by two union leaders, is ongoing, after PGSA appealed a March 2023 ruling in favor of compensation for the requestors. A decision is pending in the second case, filed by three union leaders. These cases represent only one aspect of the CAO complaint and they do not directly respond to whether IFC

⁷⁶ Submission to the International Labour Organization Committee on Freedom of Association Regarding Violations of Conventions 87 and 98 by the Government of Guinea of February 19, 2021; and Article 24 Representation against the Government of Guinea Concerning Violations of ILO Conventions 81, 95, and 187 of February 19, 2021. IUF, Sheraton Grand Conakry: IUF Moves Rights violations Complaints to the ILO (Feb. 19, 2021), <https://bit.ly/4eAwvPK>

⁷⁷ ILO Constitution Art. 24 (Representations of Non-Observance of Conventions), <https://bit.ly/4ccv5JC>

discharged its role in supervising the applicable of relevant PS2 requirements on employee termination.

Whether IFC appropriately dealt with complaint issues

Given IFC’s acknowledgement of non-compliance early in the project, and its assertion in the Management Response that it subsequently dealt appropriately with the issues raised by complainants, CAO must consider the following:

Whether Management has clearly demonstrated that it dealt appropriately with the issues raised by the Complainant...and followed E&S Policies or whether Management acknowledged that it did not comply with relevant E&S Policies (CAO Policy, para. 92(c)).

CAO recognizes that following the IUF complaint to IFC in 2019, IFC (i) convened a meeting with stakeholders with the outcome of worker representative elections in 2020; (ii) IFC engaged with hotel management regarding employee terminations in 2020, commissioned a labor consultant to review these terminations and developed a corrective action plan following the labor consultant review; (iii) sought to support a dialogue process to resolve labor concerns; (iv) provided guidance to the hotel on its 2022 retrenchment process; and (v) sought to commission a compliance assessment of the hotel’s application of PS2 requirements. IFC notes that many of these issues were under discussion with the client at the time of the hotel closure in December 2021 and until subsequent prepayment of the loan in September 2022. CAO notes, however, that these IFC actions occurred over the course of three years and, as acknowledged by IFC, many remained under discussion at the time of loan prepayment. While IFC sought to commission a consultant to review labor concerns in relation to PS2 requirements, the assessment was not completed. As a result, at the time of investment exit, many of the complaint issues remained unassessed and thus IFC was not in a position to apply its mitigation hierarchy to “anticipate and avoid adverse impacts on workers ... or where avoidance is not possible, to minimize, and where residual impacts remain, compensate/offset for the risks and impacts, as appropriate”.⁷⁸ Further, given the three year time frame, it is not clear that IFC adequately discharged its Sustainability Policy requirement to work with the client to bring it back into compliance to the extent feasible, and if the client fails to reestablish compliance, to exercise remedies as appropriate.⁷⁹

Whether IFC Management provided a statement of specific remedial actions

IFC notes that between November 2019 and September 2022, IFC implemented appropriate and comprehensive remedial actions that substantively addressed the complaint. IFC states this this should be considered in relation to:

Whether Management has provided a statement of specific remedial actions, and whether, in CAO’s judgment after considering the Complainant’s views, these proposed remedial

⁷⁸ IFC Sustainability Policy, para 6.

⁷⁹ IFC Sustainability Policy, para. 45

actions substantively address the matters raised by the Complainant (CAO Policy, para 92(d)).

While CAO recognizes IFC actions in response to the IUF complaints, after considering the Complainant views, CAO concludes that the remedial actions between 2019 and 2022 have not substantively addressed the matters raised by the complainants. CAO notes IFC’s statement that many of the issues remained under discussion with the client at the time of loan repayment. Further, CAO notes that IFC did not complete a proposed PS2 compliance assessment.

A summary of the analysis of each of the considerations is presented in Appendix C.

5. CAO Decision

CAO concludes that the complaint meets the criteria for a compliance investigation. However, as the IFC loan was prepaid in September 2022, the CAO Policy requires consideration of whether an investigation would provide “particular value in terms of accountability, learning, or remedial action despite an IFC/MIGA exit” (CAO Policy para. 92(a)).

For reasons outlined in Section 4d of this report, CAO has decided to close this case at appraisal on the basis of CAO Policy para. 92(a). CAO’s advisory function will consider lessons from this case in forthcoming work regarding labor and working conditions.

This appraisal report is published on the CAO website and shared with the Board, the World bank Group President, IFC Management, the client, and the complainants.⁸⁰

⁸⁰ CAO Policy, para. 106.

Appendix A: Complaint to CAO



International Union of
Food, Agricultural, Hotel,
Restaurant, Catering,
Tobacco and Allied
Workers' Associations
Rampe du Pont-Rouge 8
1213 Petit-Lancy
Geneva, Switzerland



Global Labor Justice
International-
Labor Rights Forum
1634 I. St. NW
Washington, D.C. 20006
United States

Compliance Advisor/Ombudsman
International Finance Corporation
2121 Pennsylvania Avenue, NW
Washington, D.C. 20433

January 19, 2023

CAO Complaint Concerning IFC Project #32408: Palma Guinea.

On behalf of the workers of the Sheraton Grand Conakry, the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco, and Allied Workers' Associations (IUF) and Global Labor Justice-International Labor Rights Forum (GLJ-ILRF) bring this complaint concerning violations of Performance Standard 2 (PS2) in the operation of IFC Project #32408.¹

The project consisted in a \$15 million USD A loan and \$11 million USD B loan to finance the construction and operation of the Sheraton Grand Conakry (SGC), a 186-room, five-star hotel in Conakry, Guinea owned by the IFC's client, Palma Guinée, S.A, also known as Palma Guinea. The hotel opened in December 2016 under an operating services agreement with Sheraton (later acquired by Marriott) and closed because of mold in December 2021, with remediation and reopening expected in the future. Management terminated 158 of 189 SGC employees in August and September 2022 and repaid its IFC loan in October 2022. As of January 19, 2023, the IFC's website lists the project as active.²

SGC management, consisting of Palma Guinée, the IFC client and hotel owner, and Marriott International, the hotel operator, violated PS2 since the hotel began operating on December 12, 2016.

SGC management maintained unlawful, unreasonable, and unsafe working conditions over the protests of its staff and in violation of PS2. Management deprived workers of wages owed and healthcare benefits legally due to workers and their families. Management illegally left workers without health insurance during a pandemic and subjected them to life-threatening workplace dangers, asking workers to share beds in quarantine, demanding they handle dangerous chemicals without protection, and serving them rotten food in the employee criteria.

Management flaunted its contempt for the freedom of association and the provisions of PS2 and Guinean law protecting that freedom. Obligated by Guinean law to administer an election of workers representatives since 2016, management did not do so until February 2020, under the threat of legal sanction. Throughout that time and up to the present, management has waged a continuous campaign to discourage trade union activity through misinformation, intimidation, and retaliation. Despite PS2's requirements concerning collective bargaining, management refused to meaningfully bargain over these conditions with the union, as PS2 requires, instead responding to the union's efforts with retaliation and intimidation. In October 2020, months after the election, management terminated the union's two most senior leaders in retaliation for their efforts to bargain. Management's illegal effort to terminate four of the six remaining union delegates, in August 2022, was only frustrated by the intervention of Guinean authorities.

Following the closure of the hotel because of a purported mold issue in December 2021, management began a display of blatant disregard for the Performance Standards. Management

¹ The FMO, the Dutch Entrepreneurial Development Bank, also invested in the SGC. FMO, *Disclosure: Palma Guinee S.A.* (approved Apr. 17, 2014), <https://www.fmo.nl/project-detail/32093>.

² Should the project be deemed inactive before the complaint is evaluated, complainants submit that the exceptional circumstances disclosed herein warrant CAO's consideration. Complainants did not seek CAO review to facilitate ongoing engagement with the IFC and were denied the opportunity to submit a CAO complaint by the client's early repayment of the loan. Complainants should not be penalized for good faith engagement with the IFC's processes or for their inability to anticipate the client's withdrawal. This complaint raises key social issues relating to the project's impact on workers who suffered harm due to PS2 violations that are of ongoing concern in IFC's operations. See World Bank Group, *IFC/MIGA Independent Accountability Mechanism (CAO) Policy* § 49 (July 1, 2021), <https://www.ifc.org/wps/wcm/connect/d3e7f1c4-fd6b-40fd-ae76-fb028916611d/IFC-MIGA-Independent-Accountability-Mechanism-CAO-Policy.pdf?MOD=AJPERES&CVID=nFDGwP2>.

retrenched 158 of 189 SGC staff in a flawed process that complied with neither PS2 nor Guinean law. The union, the IUF, and the Guinean Labour Inspectorate offered solutions that would have maintained the workforce and provided them financial support until the remediation work allowed the hotel to reopen. Management refused to consider or propose alternatives to retrenchment or provide workers with concrete assurances of future employment.

Beginning in 2018, the IUF and GLJ-ILRF sought to intervene to support SGC workers seeking to exercise their rights. Complainants continually brought to the IFC's attention ongoing violations of PS2 and proposed paths for problem-solving towards compliance. Substantially all the information disclosed here was provided to IFC through correspondence and a labour portal complaint, which was amended on four occasions.³ Management made no effort at stakeholder engagement, refusing to consult with workers as required by PS1 or to bargain with their union as required by PS2 and Guinean law. Efforts to engage management were repeatedly rebuffed.

The SGC project revealed deep flaws in the IFC's process for evaluating project risks and its mechanisms for securing compliance. Due diligence did not anticipate Performance Standard violations or ensure the client was prepared to conduct PS-compliant operations. Nor did due diligence processes ensure that the IFC had the ability to affect SGC operations, which were primarily controlled by Marriott, a non-client. While Palma Guinée was the formal employer of the workforce, in practice, the IFC client had little control over employment matters and policies, inhibiting IFC's efforts to achieve compliance.

After the project was approved, the IFC's own engagement was inconsistent and, ultimately, ineffective. The IFC did seek to engage its client on several occasions, with increasing frequency as the problems deepened, but proved unable to bring the project into compliance with the Performance Standards. The IFC's lack of leverage over Marriott, which managed the hotel, severely impeded the IFC's efforts, as did its lack of regional labour rights expertise. The IFC did commission a labour assessment from Ergon Associates, which took a year to complete and was not disclosed. The IFC never escalated remedies, being reluctant to move more forcefully to bring its client into compliance out of fear that the client would repay the loan to evade its obligations. Still, the client repaid the loan in September 2022.

The PS2 violations severely undercut the project's development impact. Were PS2 adhered to, the project would have created high-quality, long-term, and stable employment for nearly two-hundred Guineans. In fact, workers faced substandard working conditions, intimidation, and insecurity. Interruptions in hotel operations caused severe financial harm to workers. Beginning in December 2021, workers then were paid a mere fraction of their salary until August 2022, when 158 of 189 employees were terminated with a maximum of two months' salary in severance.

Management's behavior not only violated the Performance Standards and undercut the development impact of the project, but it also put severe strain on the rule of law in Guinea. Management repeatedly violated the law and refused to cooperate with official efforts to rectify the violations, requiring ever more forceful responses from the authorities. Only on receipt of an ultimatum from the Labour Inspectorate, for example, would management finally disclose the list

³ The IUF, the International Trade Union Confederation (ITUC), and GLJ-ILRF submitted a complaint to the IFC's labour portal on June 23, 2021. The complaint was supplemented with addenda on July 6, 2021, July 20, 2021, October 19, 2021, and January 12, 2022. The complaints, which are included in the appendix, were supplemented by consistent correspondence between complainants and IFC.

of individuals to be terminated to the government—months after the information legally should have been provided.

The following surveys management's violations of the Performance Standards over the four phases of the project and concludes with a table of violations and appendices.

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IFC Disclosures and Due Diligence.

The IFC first disclosed the proposed project with Palma Guinea on April 10, 2013. The project consisted in a \$15 million USD loan from IFC's own account and an up-to \$11 million USD syndicated loan, both intended to finance the construction and operation of the Sheraton Grand Conakry. The FMO joined the IFC in financing the project.⁴

IFC disclosures⁵ indicated that minimal effort had been expended in evaluating the PS2 compliance of the SGC's operations, which were discussed in only one paragraph in the Environmental and Social Review Summary:

During the operation of the hotel, human resources will be managed in compliance with the Starwood's Human Resources Policy[.] At the time of appraisal the Operating Services Agreement (OSA) between Palma Guinée and Starwood was not signed. More information on Human Resources Management during operations will be available after signature of the OSA.⁶

The disclosures were not updated after the OSA was signed. The sole document referenced—Starwood's Human Resources Policy—ceased to apply following the Marriott's acquisition of Starwood in 2016.

No stakeholder engagement was conducted, to our knowledge.

The Project.

The Sheraton Grand Conakry and its four restaurants, among other amenities, opened on December 12, 2016, and operated under the Marriott brand until December 2021, when management abruptly ordered a partial closure of the hotel. 158 of 189 workers, most of whom had been performing part-time work at the hotel and receiving unemployment benefits following its closure, were terminated in August and September 2022. The client, Palma Guinée, S.A., repaid its debt to the IFC in October 2022.

1. Overview.

Throughout the operation of the Sheraton Grand Conakry, management thoroughly disregarded the rights of workers and the demands of PS2. Obligated not to discourage trade union activity by PS2, management waged a multiyear campaign to delay, frustrate, and obstruct workers' exercise of their freedom of association, replete with several retaliatory terminations. Management stubbornly refused to provide reasonable, lawful, and safe working conditions and summarily dismissed workers' efforts to bargain for improvements.

In the first phase of the project, management refused to administer an election of workers' representatives as required by law, while seeking to discourage workers' efforts to organize with

⁴ FMO, *Disclosure: Palma Guinée S.A.* (approved Apr. 17, 2014), <https://www.fmo.nl/project-detail/32093>.

⁵ IFC, *Summary of Investment Information: Palma Guinea* (approved Jun. 3, 2014), <https://disclosures.ifc.org/project-detail/ESRS/32408/palma-guinea>; IFC, *Environmental and Social Review Summary* (disclosed April 10, 2013), <https://disclosures.ifc.org/project-detail/ESRS/32408/palma-guinea>.

⁶ IFC, *Environmental and Social Review Summary* (disclosed April 10, 2013), <https://disclosures.ifc.org/project-detail/ESRS/32408/palma-guinea>.

intimidation, misinformation, and retaliatory terminations, despite PS2's prohibitions. Management's efforts were unsuccessful. When the election was finally held, on February 11, 2020, the workers voted for the union slate in a landslide.

In the project's second phase, the newly elected union sought to bargain with management to address critical safety issues and management's failure to provide required health benefits, among other unlawful working conditions. Management stubbornly maintained these unlawful, unsafe, and unreasonable working conditions. Management refused to bargain and instead retaliated against workers for their exercise of the freedom of association, terminating, among others, the general secretary and deputy general secretary of the SGC workers' union. Management threatened workers who had voted to strike in October 2021 with termination en masse if they carried out their intention. Meanwhile, management sought to undermine the union by hiring workers on less secure contracts and without the employment documentation required by PS2 and Guinean law.

The hotel then abruptly shuttered most operations in December 2021 due to a mold problem, leaving much of the staff without work. Management refused to bargain with or disclose information to the union concerning the impacts of the mold, instead acting unilaterally and without consultation. For seven months following the closure, workers received almost no information about their future employment prospects and none concerning the potential health impacts of having worked in what management claimed to be a mold-infested building. Management instituted a rotation system to preserve the workforce and ensure workers had opportunities to earn money but discriminated against union activists in the assignment of work.

Finally, following management's abrupt closure of the hotel, the SGC workers' union and its allies sought to preserve and support the workforce but found management unwilling to collaborate with the union or with government authorities to identify solutions. Instead, management pursued mass retrenchment single-mindedly, without considering alternatives, the impact of its drastic action on its workforce, or the demands of PS2 and Guinean law. In addition to its termination of the SGC workers' union's two most senior leaders, management tried to terminate a further six union delegates in August 2022, an illegal effort reversed by the intervention of national authorities.

Since 2018, running across these phases, management maintained a continuous effort to discourage the exercise of the freedom of association through misinformation, intimidation, and retaliation. Workers were repeatedly required to attend meetings, whether all-staff or one-on-one, where management pushed an unrelenting anti-union message that made little secret of management's intent to retaliate against union activists and activities.

2. The Campaign for a Union Election (2018-2020).

Frustrated by poor working conditions, workers at the SGC commenced efforts to unionize in February 2018. Workers reached out to the Fédération de l'Hôtellerie, Touristique, Restauration et Branches Connexes (FHTRC), an affiliate of the national Guinean trade union confederation Organisation Nationale des Syndicats Libres de Guinée (ONSLG), to help push the election process forward. In turn, FHTRC-ONSLG, an IUF affiliate, requested the IUF's support for their efforts to unionize. On March 15, 2019, the FHTRC-ONSLG made a formal request to begin the union election process under Guinean law.

Because the workplace contained more than the requisite twenty-five people, Guinean law required management to administer an election for workers' representatives shortly after

operations began. Indeed, IFC disclosures noted this requirement at the project's inception. However, despite opening in 2016, it would not be until February 2020 that management finally performed its obligation to hold an election.

When workers began publicly seeking an election of workers' representatives, management responded with a campaign of misinformation and intimidation.

2.1. Workers' Activism and Complaints (October 2019).

As management refused to meet its obligation to administer an election, and increased discrimination and harassment of those perceived to be sympathetic to the union, the workers continued to exercise their labour rights. On October 15, 2019, hotel workers delivered a petition signed by 150 of approximately 400 workers, demanding an election. On that same day, the IUF, GLJ-ILRF, and the ITUC filed a complaint with the IFC's labour portal, raising concerns about violations of PS2 and ILO Conventions 87 and 98.⁷ Over the following years, as labour abuses continued, the labour portal submissions were updated on a regular basis as labour violations and anti-union harassment continued.

After the filing of the complaint, the IFC, the IUF, and SGC management were able to come to an agreement to hold the legally required union election. Management began to arrange the election for October 28, 2019, but promptly canceled. On October 19, 2019, the IFC reported that the election date would again be deferred, this time to February 3, 2020.

2.2. Termination of Union Activists and Anti-Union Retaliation (November-December 2019).

Throughout 2019 and early 2020, SGC management stalled the election and sought to influence its outcome through intimidation. In November 2019, two workers were terminated on specious grounds, which the remaining workers understood as a threat against those who were perceived to be supportive of the union.

SGC management granted union member Mory Soumaoro leave to attend the funeral of his stepfather. On Mr. Soumaoro's return, a supervisor invited him for a drink and inquired about Mr. Soumaoro's views on the union. Mr. Soumaoro affirmed his support for the union. Within a few days, SGC management terminated Mr. Soumaoro, on the false ground that his leave to attend the funeral had not been approved.

Another union member, Alhassane Sylla, was falsely accused of stealing hotel food, even though he had informed security that the food was his own, and that he had been unable to eat during his break. Mr. Sylla was terminated and imprisoned for three days because of management's accusations. Workers at the hotel understood these terminations to be a demonstration of SGC management's aggressive anti-union stance.

SGC management also held large captive-audience meetings at the hotel, including several department-wide and one hotel-wide meeting in December 2019.⁸ At these meetings,

⁷ IUF, *Sheraton Grand Conakry: IUF Moves Rights violations Complaints to the ILO* (Feb. 19, 2021), <https://www.iuf.org/news/sheraton-grand-conakry-iuf-moves-rights-violations-complaints-to-the-ilo/>.

⁸ A captive audience meeting is a mandatory meeting held by an employer during work hours to pressure employees not to organize.

management mixed misinformation with harassment and intimidation to discourage workers from exercising their rights.

2.3. The Election of the Union (February 2020).

After prolonged negotiations, the election finally took place on February 11, 2020. Although management repeatedly convened the workforce to hear anti-union misinformation, 72% of the voting workers cast ballots in favor of the union slate. The workforce elected Amadou Diallo to the position of General Secretary and Deputy General Secretary Alhassane Diallo.

After the union's victory, management promptly fired and replaced the hotel's Director of Human Resources in March 2020.

3. Bargaining (February 2020-December 2021).

After the election, the SGC workers' union and management established a monthly meeting. The first meeting occurred in mid-March, just as the COVID-19 pandemic arrived in Guinea. Accordingly, union leadership focused on health and safety in the workplace. Union delegates found that management would not engage in good faith bargaining and dismissed issues, including clearly unlawful working conditions, raised by the union. Management refused to alter its policies or meaningfully engage with the union, maintaining unsafe working conditions as the pandemic raged across Guinea and an SGC staffer died of unknown causes.

Instead of bargaining, management sought to break the union and stubbornly maintained unlawful, unsafe, and unreasonable working conditions. In retaliation for union activity, management fired the SGC workers' union's general secretary and his deputy. To discourage further union activity, management held numerous meetings with staff where hotel officials shared anti-union messages.

3.1. Management Refuses to Comply with Employee Healthcare Law (Bargaining in March 2021).

For SGC workers, healthcare benefits were of central concern even before the pandemic arrived. Union delegates attending the first bargaining meeting repeatedly emphasized the importance of health care benefits, a matter also raised in several SGC workers' petitions, and sick pay. The law required management to provide both healthcare and sick pay to workers, but the workers' representatives were forced to campaign for benefits the law accorded them as a matter of right.

Guinean law requires employers to pay full healthcare costs for employees and up to three dependents residing with them. Initially, management provided no healthcare benefits. Only after the press conference on the anniversary of the death of SGC worker Mariam Camara, in July 2021, did management even begin to provide health insurance cards to employees, although still no dependent care was offered.

SGC management also illegally denied sick pay to workers during the pandemic. Guinean law requires management to pay workers' wages during days they are absent for illness, and in case of absence due to long-term illness, to pay 50% of wages (the state pays the remaining 50%). Management did not pay workers' wages for sick leave, whether short or long term.

Management refused to consider altering these conditions in the first bargaining meeting.

3.2. Management's Pandemic Response Endangers Workers' Health, Jobs, and Union (Bargaining in March 2021).

With the arrival of the pandemic, the hotel operated with a reduced staff for safety reasons. However, management's response to the pandemic in the first bargaining meetings showed little concern for the safety of its employees or the rights of their union.

In the early days of the pandemic, management required many employees to quarantine within the hotel. In violation of COVID-19 prevention measures and the occupational safety and health provisions of the Performance Standards, management forced workers to not only share the same rooms, but often the same beds.

SGC management used the interruption in hotel operations to undermine the union and imperil workers' jobs. In mid-March, while workers accepted a reduction in staffing due to health concerns, management began replacing permanent employees in core hotel functions with temporary or seasonal employees, in violation of Guinean law. Workers seen as sympathetic to the union were increasingly targeted by these management decisions, which undermined their job security.

Management also used the public health crisis to expand workers' job responsibilities. While management cut staffing, employees often had to work in up to three job categories, regardless of whether the workload was reasonable.

Management refused to consider altering these conditions in the first bargaining meeting.

3.3. Occupational Health and Safety (Bargaining in March 2021)

In their first negotiations, the SGC workers' union raised longstanding occupational safety and health problems in their workplace. SGC workers handle toxic cleaning solvents in kitchen, laundry, and room cleaning functions. Yet managers provided workers neither masks to protect against respiratory harm, nor gloves to protect against skin damage. Management at first said that masks were not stocked, but after the pandemic began, masks began to be provided to workers.

3.4. Unlawful Withholding of Wages: Management Refuses to Comply with the Labour Law and Hotel Sector Bargaining Agreement (Bargaining in March 2021).

At the first bargaining meeting, in March 2020, union delegates raised concerns about pervasive unlawful withholding of wages at the hotel. Management illegally withheld workers' wages in a variety of ways in violation of PS2.

For example, Guinean law required management pay higher wages for additional work performed after eight hours on the job. Management paid the regular rate for overtime work. The sectoral bargaining agreement for the Guinean hotel sector also required employees to be paid a higher rate for work performed at night. Management paid workers the regular rate for night work. Management also illegally deducted wages when workers were absent due to illness. Rather than pay workers' full wage, as required by law during short-term illnesses, or pay half, as required during long-term illnesses, management paid nothing to its unwell employees.

Management refused to consider altering these conditions in the first bargaining meeting.

3.5. The Death of Mariam Camara (April-June 2020).

As SGC management refused its obligation to pay for workers' health care and declined to engage in good faith bargaining, SGC workers endured the risk and expense of living through a pandemic without health benefits. In April 2020, SGC housekeeper Mariam Camara fell ill at work and was hospitalized. Union delegates met with management, requesting that her medical bills be paid as Guinean law demanded. Management refused to make any payments.

On June 24, 2020, Ms. Camara died in the hospital from unknown causes and without any financial support from her employer. Only after her passing did management provide a token recognition of its obligation to provide for Ms. Camara's health, offering to pay her family 2,000,000 Guinean francs (\$200 USD). This sum was less than half of Ms. Camara's medical costs of 5,140,000 Guinean francs (\$514 USD). Ms. Camara's family, insulted by the delayed and de minimis offer, declined it. Ultimately, SGC workers pooled funds to help Ms. Camara's family pay the costs of Ms. Camara's care.

3.6. Management Serves Rotten and Expired Food (May 2020).

In bargaining meetings in May 2020, union delegates raised concerns with management about the unsafe conditions in the cafeteria, where management provided employees rotten and expired food regularly. When union delegates mentioned the issue and informed their coworkers of the safety risks of eating the cafeteria food, management accused them of plotting a strike.

3.7. Retaliatory Termination of Union Leaders and the Arbitrary Termination of a Worker (August-October 2020).

Not long after the union's election victory, management began a campaign of retaliation, discrimination, and harassment against the workers and the newly elected officers of the union. On August 26, 2020, management disciplined SGC worker Mohamed Sampil for accidentally breaking a flowerpot one week prior. Management unlawfully denied Mr. Sampil union representation in his disciplinary meeting and then used the controversy over Mr. Sampil's treatment to escalate its attacks on the union.

As the harassment escalated, and to avert an unjust termination, union delegates requested a meeting with management to discuss Mr. Sampil's situation. On August 26, 2020, union delegates Alhassane Diallo, Amadou Diallo, and M'maminata Camara met with the acting general manager of the hotel. The delegates asked that management recognize Mr. Sampil's error had been accidental, was immediately reported, and was not appropriate grounds for termination.

The next day, August 27, 2020, management sent a letter to the local Labour Inspector requesting permission to terminate the union's top two leaders, General Secretary Amadou Diallo and Deputy General Secretary Alhassane Diallo. Management claimed that the delegates had acted aggressively during the meeting the day before. The union delegates denied that allegation entirely, writing to the Labour Inspector, on August 28, 2020, to say that they had not been aggressive but had simply advocated on behalf of their unjustly imperiled colleague.

Management then suspended General Secretary Amadou Diallo on September 2, 2020, and suspended Deputy General Secretary Alhassane Diallo on September 11, 2020. Shortly afterwards, on September 16, 2020, management terminated Mohamed Sampil for accidentally breaking a flowerpot. In response, the union began circulating a petition demanding the

reinstatement of Mr. Sampil and the suspended union leaders, obtaining over 150 workers' signatures between September 25, 2020, and September 28, 2020.

Seeking the Labour Inspector's permission to terminate the union delegates, management claimed that the delegates had acted aggressively. The Labour Inspector did not grant the termination, noting that the delegates had no prior history of discipline and management offered no evidence of extreme action on their part. However, he reversed himself on September 18, 2020, and authorized the terminations.

The terminated delegates were denied even the pretense of due process in the termination proceedings. The SGC's Director of Human Resources and Acting General Manager visited the Labour Inspectorate several times without notifying the delegates or giving them the opportunity to respond during the Inspector's consideration of management's termination request. Following this *ex parte advocacy*, the Labour Inspector authorized the terminations on September 18, 2020. The Labour Inspector would not provide a copy of his decision to the union's counsel, making it impossible to appeal within the requisite timeframe.

Finally, on October 7, 2020, management terminated the SGC workers' union General Secretary, Mr. Amadou Diallo, and its Deputy General Secretary, Mr. Alhassane Diallo. The pretext for their terminations was their advocacy on behalf of Mr. Sampil, which management falsely claimed was improperly aggressive, as a cover for its anti-union animus. Within hours of terminating the delegates, management held a captive audience general meeting for the hotel staff. Management promised to remedy outstanding healthcare, overtime pay, base wage, and other issues. Management refused to take comments, cutting off a union delegate who protested that the terminations were unjust. Management stated the matter would not be discussed further. Workers perceived the meeting as an effort to further undermine their union and distract attention from the unjust terminations.

3.8. Workers Stand Up for Terminated Union Leaders and Union Office Vandalized (October-December 2020).

Shortly after the termination of their elected leaders, SGC workers organized a photo petition demanding their reinstatement, reiterating workers' concerns about workplace safety and health insurance. Over one hundred workers joined the photo petition. Later, in February 2021, management used the photo petition to harass workers in captive audience and one-on-one meetings with them. In December 2020, notwithstanding the IFC's eventual hiring of a consultant to conduct a labour assessment, management continued to harass the union. On December 10, 2020, the union noticeboard and office at the SGC were vandalized and the laptop used for union work was seized. Only management had access to the keys to the union office, which were kept in the hotel's security office.

3.9. Workers Complain to the ILO (February 2021).

As management's anti-union campaign increased in intensity, SGC workers turned to the International Labour Organization for support. On February 19, 2021, the IUF filed a complaint with the ILO's Committee on Freedom of Association, asserting violations of ILO Conventions 87 and 98 by the government of Guinea. The complaint recited the above events, situating them in the context of workers' internationally recognized rights to organize and bargain, the same rights that guide PS2.

The complaint related the extent of SGC management's anti-union conduct, in the face of which the government of Guinea had either stood aside or given support to management's cause.

The IUF also made an Article 24⁹ representation on that same date, focusing on "the failure of the government of Guinea (GOG) to maintain a functioning labour inspection system, to ensure the timely payment of wages to all workers and to carry out a national policy on the promotion of occupational safety and health," in violation of its obligations under ILO Conventions 81, 85, and 187. These communications were supplemented by addenda submitted on November 3, 2021, which detailed the ongoing failure of management to engage the union and heed workers' concerns.

3.10. Management Steps Up Intimidation and Surveillance Efforts (February 2021).

After the IFC's consultant conducted interviews with workers on the IFC's behalf, workers experienced a further intensification of anti-union hostility. Management began holding multiple captive-audience and one-on-one meetings with workers. Management threatened the workforce with wholesale replacement and threatened to terminate individual workers who appeared in the photo petition. Surveillance cameras were installed in working areas, and plainclothes police were regularly present on hotel grounds—along with the federal security minister—which the workers experienced as anti-union harassment and intimidation.

3.11. Management Refuses to Bargain, Unilaterally Announcing Legally Inadequate Benefits (June 2021).

On June 24, 2021, SGC workers held a highly publicized press conference commemorating the one-year anniversary of the death of their colleague, Mariam Camara. There, the workers reiterated the demands they conveyed in three prior petitions provided to management between December 2019 and February 2021, which specifically requested negotiations concerning healthcare benefits. Rather than bargaining with the union over terms of employment, as required by PS2 and Guinean law, management decided to change working conditions unilaterally and unlawfully.

Shortly after the press conference, management began giving employees health insurance cards. The coverage did not comply with Guinean law, as it provided no coverage for dependents, and management did not negotiate with the union concerning the new insurance policy.

On July 16, management held an all-staff meeting in the hotel ballroom. They announced gifts for the employees (one bag of rice and some fabrics), unspecified seniority raises, and an across-the-board 8% pay raise beginning at the end of July. Management also stated that it would begin to pay overtime, although they did not state the overtime rate. This across-the-board raise never materialized. In fact, management later chose to use the promised raise to discourage a strike.

3.12. Consultant Workers' Rights Report Completed, not Disclosed (August 2021).

Commissioned in December 2020, the IFC's consultant Ergon Associates completed its assessment in August 2021, sharing its report only with the IFC. The IFC did not disclose the report to participating workers or the labour constituents. Along with the consultant's findings,

⁹ ILO Constitution Art. 24 (Representations of Non-Observance of Conventions), https://www.ilo.org/dyn/normlex/en/f?p=1000:62:0::NO:62:P62_LIST_ENTRIE_ID:2453907:NO#A24.

IFC also declined to disclose the corrective action plan it had developed to address SGC management's persistent noncompliance, if any such plan was indeed created.

3.13. Management Threatens Workers, Hires Workers without Employment Documentation (October 2021).

Further undermining workers, their job security, and their union, management began replacing workers on permanent contracts with temporary workers, particularly in the housekeeping department. In violation of the sectoral bargaining agreement, SGC management did not demonstrate that laid-off workers had been offered employment before the positions were offered to newly recruited workers.

In June 2021, the housekeeping department had fifteen room attendants on permanent contracts and only one on a temporary contract. Beginning in August 2021, while the hotel remained at under 50% capacity, SGC management hired eighteen "apprentices" through a temporary staffing agency. This doubled the cleaning workforce while cleaning work was halved, suggesting that management's true intention was to undermine permanent workers. New workers were told not to fraternize or associate with permanent workers, explaining that senior employees were "causing problems" and threatening to fire new workers who disobeyed. This was a clear violation of workers' freedom of association.

With respect to its new temporary employees, SGC management still refused to comply with PS2 and Guinean law. The new temporary workers informed the IUF that they had not been given employment documentation, in violation of PS2, Guinean law, and the sectoral bargaining agreement. They had no guarantee of work from one week to the next.

3.14. SGC Workers Seek to Strike (October-November 2021).

In response to management's continued efforts to intimidate employees, break their union, and deny their rights, SGC workers submitted a petition to strike on October 26, 2021. On October 27 and 28, a representative of Palma Guinée summoned every union delegate, individually or in pairs, to question their decision to strike. He told the delegates "the authorities are with us" and "you will see." Meanwhile, in violation of Guinean labour law, the hotel's Director of Human Resources threatened workers with additional violations of Guinean labour law, saying that if workers were to go on strike, they would be fired and replaced, and a hotel-sponsored program of low-interest loans would be canceled.

At a meeting with the Guinean Labour Inspectorate on November 3, 2021, management presented its first offer. In return for the workers withdrawing their lawsuit seeking to enforce legal minimum employment benefits, and publicly announcing the resolution of the issues, SGC management would finally extend the \$50 USD per month raise first promised in July 2021.

Immediately after this meeting, management held a mandatory meeting with workers. There, in an obvious effort to deflate the workers' campaign, the Director of Human Resources falsely claimed that management and the union had reached an agreement and that the union had called off the strike. The union responded by posting a notice stating that no agreement had been reached and the strike was not postponed.

At a meeting of the union, held on November 10, 2021, workers unanimously rejected management's offer, which resolved none of the outstanding PS2 and national law violations.

Showing little desire to come to terms, management again presented the same offer in a meeting with the Labour Inspectorate on November 17—but excluded the \$50 USD raise. Management again met with the union on November 23, 2021, but this time made no proposals save a demand that negotiations be postponed.

4. Closure of the SGC (December 2021-June 2022).

On Friday, December 10, 2021, SGC management held a general meeting for workers and announced that, due to an unspecified “contamination,” the SGC would close for maintenance as of Sunday, December 12, 2021. Workers later learned that the problem was a mold infestation affecting most rooms. Despite this material change in workers’ employment circumstances, such that PS2 required dissemination of new “written information” regarding their employment, for months neither SGC workers nor their union received information about their future work with SGC. Indications are, however, that management knew of the impending closure since mid-October 2021.

In executing its response to the mold problem, management again refused to engage and bargain with the union to develop solutions for the workforce. Instead, management again sought to use its power to break the union and penalize those exercising trade union rights. Management showed contempt for both PS2 and the requirements of Guinean law, forcing Guinean labour authorities to resort to ultimatums to obtain management’s compliance.

4.1. SGC’s Failure to Inform Workers (December 2021).

Notwithstanding the disclosure requirements of Guinean labour law and PS2, SGC workers were left in the dark. Management did not inform them of the health consequences of their work in an environment contaminated with mold, nor were they informed about their future employment prospects at the hotel. Management did not announce when the hotel would be reopened and held no further meetings to inform workers of their fate for several weeks.

Management’s only further communication was an unsigned, undated notice, posted on December 17, 2021, which stated that because of flooding in “a number of areas across the property,” “structural renovations” were required. The notice stated workers would receive their December salary and promised further information in the future. Workers on permanent contracts informally learned, primarily through their supervisors, that they would remain employed until the end of December, with a smaller number of workers continuing to work in January of 2022.

During the week beginning December 13, 2021, management informed individual workers on temporary contracts that their contracts would be terminated on December 31, 2021. Some were dismissed earlier, on December 17, and asked to turn over their health insurance cards even as they were left in the dark regarding the health consequences of the mold.

4.2. Unilateral Suspension of Second Union Election and Employment Contracts (December 2021).

On December 28, 2021, management posted a second notice, stating that SGC would take several unilateral actions with respect to its employees. Importantly, management suspended the union election that would normally have taken place around the conclusion of the prior officers’ terms on February 11, 2022. With a few exceptions, management unilaterally suspended all employment

contracts with its workforce. Management made no effort to discuss these matters with the workforce, the union, or the federation partly responsible for administering the union election.

4.3. Union Delegate Denied Access (January 2022).

When the principal union delegate and Treasurer, M'maminata Camara, visited the hotel on January 4, 2022, to inquire about health and safety measures for workers present in the hotel, and continuing employment for others, Ms. Camara was informed that she could not enter, even in her capacity as a union delegate.

4.4. Employment Status in January 2022.

As of January 2022, based on posted schedules, 87 workers were scheduled and authorized to enter the hotel to prepare for an early January event, with the potential to work for the remainder of the month. Management asked these workers to take on new and expanded duties. The hotel had scheduled a few events requiring banquet service, the last of which was to take place on January 8, 2022. It was left unclear whether these 87 workers would continue to work after January 8, or how they would be paid. One cook was told he should come in for the week and would be paid in cash. Workers not on the posted schedules no longer had access to the hotel, and according to a report from a management representative, they were denied entry indefinitely.

4.5. Anti-Union Discrimination in Rotation System (March 2022).

In early 2022, the IUF learned SGC management instituted a new shift rotation system. In theory, the rotation system would fairly distribute the work that remained at the partially closed hotel. Workers would have the opportunity to earn full pay at least part of the time by sharing hours.

In practice, the rotation system discriminated against union activists, six of whom were completely excluded from it, thus limiting their access to the hotel and depriving them of opportunities to earn income, all in retaliation for protected activity and in violation of PS2.

The SGC workers' union continued to seek fair recall rights, but hotel management continued to refuse. Management continued to hire employees without first offering employment to previously laid-off workers, as the sectoral bargaining agreement required.

4.6. Provisions for Workers Partially Employed or Unemployed.

The government of Guinea revoked SGC's license to operate on April 21, 2022, further imperiling workers' livelihoods. In keeping with its past behavior, SGC released little information to the workers about the future of their jobs. Ultimately, temporary unemployment benefits offered by their employer lasted for six months, replacing only a fraction of employees' lost salaries, and expired at the end of June 2022. In August 2022, in response to government inquiries, SGC management made clear that the license revocation had not impacted their decision making with respect to the hotel.

Due to management's resistance, no negotiation took place regarding the terms of employment for the skeleton crew of workers who staffed the partially operating hotel. Management continued to refuse to administer a same election. The SGC worker union's attempts to negotiate on behalf of SGC workers not currently receiving work assignments stalled, due to the unresponsiveness of the hotel owner, Palma Guinée, and the hotel's operator, Marriott.

5. Management's Unlawful Retrenchment (July – September 2022).

On July 1, 2022, management sent a notice of retrenchment to one union delegate, proposing to terminate 158 of its 189 employees, including 137 permanent workers, eighteen supervisors, and three managers. Under Guinean law, the submission of such a retrenchment plan triggers a process of consultation, subject to a timeline, with the workers and the Labour Inspectorate. However, as management acknowledged, the retrenchment plan was legally inadequate, and lacked key information, such as the names of the individuals to be terminated and the severance they would receive.

Management tried again on July 15, 2022, submitting a new retrenchment plan that evinced none of the consideration of alternatives to retrenchment that PS2 requires. The document included a table of three alternatives, but summarily deemed them as “not applicable” or “unlikely.”¹⁰ A list of workers to be terminated and the severance to be provided them was not disclosed either to the union or the Labor Inspectorate.

Management planned to send workers into poverty with little severance and no job security. According to management's proposed layoff plan, terminated employees would receive 25% of their monthly salary for as many months as the employees had years of service at the hotel. For workers employed since the hotel's opening in 2016, that amounted to approximately \$250 USD.

Moreover, management did not disclose whether these meager amounts would be garnished to pay off the subsistence loans it had arranged for its workforce. Loan payments, if charged, would consume substantially all the meager severance offered for most workers. Management refused to commit to rehiring current workers, a standard industry practice, upon reopening.¹¹

5.1. Management and the Union's Retrenchment Proposals (July 2022).

As allowed by Guinean law, the union submitted an information request to management on July 21, 2022, asking for clarification concerning who would be terminated, what they would receive as severance, and the timeline for the hotel's reopening. The union also submitted a request for the engineers' reports on the mold issues at the hotel.

¹⁰ The entire section of the retrenchment plan submitted on July 15 dealing with alternatives to terminations is reproduced below in translation from the French original. Note that the document did not include any items labeled one or two:

#	Description	Risks and Opportunities	Viability
3	Retirements	NA	[empty]
4	Reduction in salary or maintaining the unemployment status	Since the 6 months of unemployment mandated by law have ended, it is not legal to extend unemployment, nor is this practical since it would represent to great a financial burden on the employer.	Unlikely
5	Collective resignation with an agreed upon severance	All employees will be paid their entire legally required severance, but since this is a complete closure of the hotel the procedure chosen will be a collective termination.	Unlikely.

¹¹ Ultimately, workers' severance payments were not garnished by the loan provider.

As required by Guinean law, the first of the meetings between SGC management and the union delegates occurred on July 25, 2022. Union delegate Ibrahima Kandet read out the union's proposal for a fund that would sustain workers until the hotel reopened.

The Emergency Relief Fund (ERF), Mr. Kandet explained, aimed to financially support the SGC workforce until the hotel could reopen—essentially extending the terms of the then-existing unemployment protections as mold remediation work on the hotel proceeded. In so doing, the ERF proposal preserved the hotel's well-trained workforce and the project's development impact, avoiding an extended period of poverty not only for the workforce, but for the many others who relied on SGC workers' incomes.

Under the ERF, the 158 workers to be terminated would instead receive a monthly payment of \$140 USD, funded equally by contributions of \$33,390 USD each from the IFC, its client, Marriott, and the IUF. The IUF committed to funding its share at the outset. The total cost of preserving the workforce and providing financial security to workers was \$133,560, a miniscule fraction of the hotel's estimated renovation budget of \$10-12 million USD. Ultimately, neither the IFC, Palma Guinée, or Marriott International matched IUF's commitment; they also declined to participate in a reduced-scope ERF, proposed on August 4, which would have required significantly smaller contributions.

Alongside the ERF, the union proposed a variety of means for raising revenue from partial hotel operations and raising workers' incomes through continued rotational work, further offsetting the cost of maintaining the workforce. Management declined to consider any of these options.

5.2. Management Refused to Engage with the Union or the Labour Inspectorate's Proposals (August 2022).

On August 4, 2022, management and the union delegates held the second meeting required by the Guinean law of retrenchment.

Despite Palma Guinée's claims of financial hardship, and despite the ERF's financial advantages over retrenchment, Palma Guinée and Marriott refused to engage substantively with the Emergency Relief Fund proposal. Palma Guinée and Marriott summarily dismissed any efforts to creatively brainstorm alternative sources of revenue. They refused to respond to a cost analysis provided by the union, which demonstrated that preserving the workforce would cost Palma Guinée less than mass retrenchment. Still, none was provided.

Palma Guinée and Marriott also shared no information about the timeline or status of renovations. They continued to refuse to negotiate a recall agreement that would provide the terminated workers priority in hiring when the hotel reopened.

5.3. Management's Disregard of Guinean Law and the Labour Inspectorate (August 2022).

As allowed by Guinean law, the Labour Inspector called a third meeting between the union, management, and the Inspectorate to discuss the competing proposals.

Inquiring along the same lines as the union, the Labour Inspector could extract almost no information from Palma Guinée and Marriott. Neither took responsibility for their closure of the hotel or their failure to disclose information. When the Senior Advisor to the Minister of Labour asked what the timeline for renovation work was, the Director of Human Resources denied any knowledge of a work plan and provided no information. The Labour Inspector again requested

the documents listing employees selected for termination and the severance they would receive, which the Inspectorate reserves the right to review. Still, none was provided.

The Labour Inspectorate urged Marriott and Palma Guinée to respond to the union's proposals, while offering its own. Given the extraordinary circumstances, and Marriott and Palma Guinée's declared intention to reopen the hotel, the Labour Inspector suggested extending the period of "technical unemployment" to up to two years, as the Labour Inspector had in other cases. While the law typically mandates a maximum period of six months, the Labour Inspectorate, with permission of the Ministry of Labour, may authorize an exceptional extension of technical unemployment. The Labour Inspector stated explicitly that the employer would not be required to pay the required 30% salary during this extension; workers would forgo salary in exchange for a guaranteed return to work when the hotel reopens. Without deliberation, Marriott and Palma Guinée refused.

The Labour Inspector asked multiple times whether management would consider reducing the number of workers slated for retrenchment. Management conceded that they would consider the possibility and would respond to the Labour Inspector in writing. The union never received any such modified proposal.

5.4. Management Unlawfully Attempts to Terminate Union Delegates (August 2022).

Marriott and Palma Guinée did not provide the information or the proposals they promised to the Labour Inspectorate. Instead, management sought to begin the termination process, without allowing the union to review documents listing the employees to be terminated and the severance they would receive.

Although the union had not had an opportunity to review the list of proposed terminations, management began calling employees on Thursday, August 25, 2022, asking them to come and sign their termination paperwork. Management called four of the six union delegates in to meet with the Director of Human Resources, Ms. Mariama Camara, and the General Manager, Ms. Rita Ezeani. In the meeting, Ms. Camara and Ms. Ezeani asked the delegates to sign paperwork attesting to their termination and acknowledging the amount of their settlements. The delegates refused to sign, explaining that they had not had a chance to review the list of terminations, severance amounts and whether their seniority had been respected.

Two delegates in particular, Ibrahima Kandet and André Haba, both senior engineers, questioned why less senior employees were being retained. The circumstances strongly suggest this is yet another instance of management attempting to target union leaders for retaliatory terminations.

The delegates also raised concerns about the settlement funds being garnished by the bank to cover employee bank loans. The Director of Human Resources explained that the insurance on the loan would cover their settlement payments, but she also explained that the question would be resolved between the bank and the insurer. The delegates asked for management to wait until they had an opportunity to explain this process to the workers, but they reported Ms. Ezeani responded "no, we are in the final stage now." Finally, the Ms. Camara explained that "this process must be completed by the 31st." She said that management would wire the settlements to employee bank accounts, regardless of whether the workers signed the paperwork.

While a small number of workers complied with SGC management's request that they sign their termination papers, most workers declined to meet with Human Resources or sign any paperwork, out of concern that their terminations were unjust and the legal process had not been

seen through. Those who took out loans were also concerned that their settlements would be garnished by the bank.

5.5. The Labour Inspectorate Orders Terminations Halt (August-September 2022).

Marriott and Palma Guinée's evasive and illegal behavior exhausted the patience of the Guinean Labour Inspectorate. Management did not answer the Labour Inspector's August 24 request for a revised retrenchment proposal. Management did not obtain the Labour Inspector's permission to terminate union delegates, as the law required. Despite the Labour Inspector's demands and the requirements of the labour code, management did not provide the list of employees to be terminated and the severance they would receive.

On August 31, 2022, the Labour Inspector insisted that terminations cease until management disclosed the required information. At a meeting between the Labour Inspector, the union, and management, on September 13, 2022, the Labour Inspector again demanded management disclose the list of workers to be terminated and their severance packages, including any unpaid PTO, by September 16, 2022, at 2pm. The Labour Inspector reminded management that union delegates may not be terminated without his approval. The Inspector also insisted on timely payment of severances for the terminated workers. As of November 1, 2022, the workers who were terminated had gone three months without receiving the severances they were owed by Guinean law, and the employment status of the union delegates remains unknown.

The process by which Palma Guinée and Marriott went about systematically violating workers' rights and subsequently terminating virtually their entire workforce, when viable and financially advantageous alternatives to retrenchment were presented to them, demonstrated egregious disregard for the Performance Standards and the project's development impacts.

5.6. Retrenchment.

Ultimately, the vast majority of the SGC workforce was retrenched with up to two months in salary provided in severance. Severance payments were not garnished to pay employer-arranged bank loans.

The Labour Inspectorate successfully stopped the attempted termination of four of the remaining six union delegates. While they are nominally employed, however, they have received no work, no wages, and no severance payments from their employer.

While the hotel plans to reopen at an undisclosed date, terminated workers were given no concrete reassurances of future employment at the SGC. Workers were informed that they would receive "priority for rehire based on qualifications" for a two-year period, but management provided no more specifics or security to the recently terminated workforce.

Conclusion.

On October 6, 2022, the IFC informed complainants were informed that the bank's client, Palma Guinée, intended to prepay its loan, allowing the company to escape the PS2 obligations it had so consistently disregarded. Despite years of determined and blatant PS2 violations, Palma Guinée enjoyed the IFC's financial support and suffered no financial consequences for its disregard of its obligations.

Summary of PS2 Violations.

PS2 ¶	Requirement	Violation
8	The client will adopt and implement human resources policies and procedures appropriate to its size and workforce that set out its approach to managing workers consistent with the requirements of this Performance Standard and national law.	Management maintained working conditions that violated Guinean law, endangered the health and safety of workers, and deprived workers of legally required wages and benefits.
9	The client will provide workers with documented information that is clear and understandable, regarding their rights under national labor and employment law and any applicable collective agreements, including their rights related to hours of work, wages, overtime, compensation, and benefits upon beginning the working relationship and when any material changes occur.	Management did not provide workers with clear and understandable information regarding their rights, nor did management update that information when material changes, such as the closure of the hotel, occurred. See § 4.1. Management also repeatedly hired workers without contracts or documented information to undermine the union and the job security of its members. See § 3.13.
10a	Where the client is a party to a collective bargaining agreement with a workers' organization, such agreement will be respected.	Management did not abide by the sectoral bargaining agreement applicable to the Guinean hotel industry. See § 2.
10b	Where such agreements do not exist, or do not address working conditions and terms of employment, ¹² the client will provide reasonable working conditions and terms of employment. ¹³	Management repeatedly and consistently maintained unlawful and unreasonable working conditions. See §§ 3.1–3.4.

¹² Working conditions and terms of employment examples are wages and benefits; wage deductions; hours of work; overtime arrangements and overtime compensation; breaks; rest days; and leave for illness, maternity, vacation or holiday.

¹³ Reasonable working conditions and terms of employment could be assessed by reference to (i) conditions established for work of the same character in the trade or industry concerned in the area/region where the work is carried out; (ii) collective agreement or other recognized negotiation between other organizations of employers and workers' representatives in the trade or industry concerned; (iii) arbitration award; or (iv) conditions established by national law.

13	<p>In countries where national law recognizes workers' rights to form and to join workers' organizations of their choosing without interference and to bargain collectively, the client will comply with national law.</p> <p>Where national law substantially restricts workers' organizations, the client will not restrict workers from developing alternative mechanisms to express their grievances and protect their rights regarding working conditions and terms of employment. The client should not seek to influence or control these mechanisms</p>	The client repeatedly sought to interfere with workers' collective activity and violated national laws implementing the freedom of association, including through retaliatory terminations. See §§ 2.2, 3, 3.10, 3.11, 3.13, 4.3, 4.5, 5.2, 5.4.
14a	In either case described in paragraph 13 of this Performance Standard, and where national law is silent, the client will not discourage workers from electing worker representatives, forming or joining workers' organizations of their choosing, or from bargaining collectively, and will not discriminate or retaliate against workers who participate, or seek to participate, in such organizations and collective bargaining.	Management repeatedly sought to discourage workers from exercising their freedom of association and discriminated against those who chose to exercise that fundamental freedom, including through retaliatory terminations. See §§ 2.2, 3, 3.10, 3.11, 3.13, 4.3, 4.5, 5.2, 5.4.
14b	The client will engage with such workers' representatives and workers' organizations, and provide them with information needed for meaningful negotiation in a timely manner. Workers' organizations are expected to fairly represent the workers in the workforce.	Management did not engage with workers' organizations in good faith. Management persistently refused to disclose key information to the union. See §§ 3.1–3.4, 4.1, 5.3–5.5.
15	The client will not make employment decisions on the basis of personal characteristics ¹⁴ unrelated to inherent job requirements. The client will base the employment relationship on the principle of equal opportunity and fair treatment, and will not discriminate with respect to any aspects of the employment relationship, such as recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, job	Management discriminated against workers who were active in the trade union in job assignments. See § 4.5.

¹⁴ Such as gender, race, nationality, ethnic, social and indigenous origin, religion or belief, disability, age, or sexual orientation.

	assignment, promotion, termination of employment or retirement, and disciplinary practices. The client will take measures to prevent and address harassment, intimidation, and/or exploitation, especially in regard to women. The principles of non-discrimination apply to migrant workers.	
18	Prior to implementing any collective dismissals, ¹⁵ the client will carry out an analysis of alternatives to retrenchment. ¹⁶ If the analysis does not identify viable alternatives to retrenchment, a retrenchment plan will be developed and implemented to reduce the adverse impacts of retrenchment on workers. The retrenchment plan will be based on the principle of non-discrimination and will reflect the client's consultation with workers, their organizations, and, where appropriate, the government, and comply with collective bargaining agreements if they exist. The client will comply with all legal and contractual requirements related to notification of public authorities, and provision of information to, and consultation with workers and their organizations.	Management carried out no meaningful analysis of alternatives to retrenchment even at the request of the workers' union and the Guinean Labour Inspectorate. Management's retrenchment plan did not comply with Guinean law. Management did not meaningfully consult with the union or engage with its proposals. See § 5.
23	The client will provide a safe and healthy work environment, taking into account inherent risks in its particular sector and specific classes of hazards in the client's work areas, including physical, chemical, biological, and radiological hazards, and specific threats to women. The client will take steps to prevent accidents, injury, and disease arising from, associated with, or occurring in the course of work by minimizing, as far as reasonably practicable, the causes of hazards. In a manner consistent with good international industry practice, ¹⁷ as reflected in various internationally recognized sources	Management maintained an unsafe and unhealthy workplace, forcing workers to accept life-threatening risks in the course of their everyday work. See §§3.2–3.6.

¹⁵ Collective dismissals cover all multiple dismissals that are a result of an economic, technical, or organizational reason; or other reasons that are not related to performance or other personal reasons.

¹⁶ Examples of alternatives may include negotiated working-time reduction programs, employee capacity-building programs; long-term maintenance works during low production periods, etc.

¹⁷ Defined as the exercise of professional skill, diligence, prudence, and foresight that would reasonably be expected from skilled and experienced professionals engaged in the same type of undertaking under the same or similar circumstances, globally or regionally.

	<p>including the World Bank Group Environmental, Health and Safety Guidelines, the client will address areas that include the (i) identification of potential hazards to workers, particularly those that may be life-threatening; (ii) provision of preventive and protective measures, including modification, substitution, or elimination of hazardous conditions or substances; (iii) training of workers; (iv) documentation and reporting of occupational accidents, diseases, and incidents; and (v) emergency prevention, preparedness, and response arrangements. For additional information related to emergency preparedness and response refer to Performance Standard 1.</p>	
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Appendix.

1. Labour Portal Complaint – Palma Guinea (IFC Project #32408) of June 23, 2021.
 - a. Addendum #1 of July 6, 2021.
 - b. Addendum #2 of July 20, 2021.
 - c. Addendum #3 of October 19, 2021.
 - d. Addendum #4 (with Appendix) of January 12, 2022.
2. Submission to the International Labour Organization Committee on Freedom of Association Regarding Violations of Conventions 87 and 98 by the Government of Guinea of February 19, 2021.
 - a. Addendum of November 3, 2021.
3. Article 24 Representation against the Government of Guinea Concerning Violations of ILO Conventions 81, 95, and 187 of February 19, 2021.

Appendix B: IFC Management Response

INTERNATIONAL FINANCE CORPORATION

**MANAGEMENT RESPONSE
TO THE CAO ASSESSMENT REPORT
ON**

**PALMA GUINÉE
GUINEA – AFRICA**

(PROJECT No. 32408)

February 23, 2024

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ABBREVIATIONS AND ACRONYMS

CAO	Compliance Advisor Ombudsman
CAP	Corrective Action Plan
CSO	Civil Society Organization
CNSS	Caisse Nationale de Sécurité Sociale
ESAP	Environmental and Social Action Plan
ESRS	Environmental and Social Review Summary
E&S	Environmental and Social
FCV	Fragility, Conflict and Violence
FHTRC-ONSLG	Fédération de l'Hôtellerie, Touristique, Restauration et Branches Connexes-Organisation Nationale des Syndicats Libres de Guinée
GLJ-ILRF	Global Labor Justice-International Labor Rights Forum
IDA	International Development Association
IFC	International Finance Corporation
IUF	International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco, and Allied Workers' Association
ITUC	International Trade Union Confederation
MR	Management Response
PPE	Personal protective equipment
PS	IFC Performance Standards
OD	World Bank Group Operational Directive
OSA	Operating Services Agreement
SGC	Sheraton Grand Conakry hotel
SSV	Site Supervision Visit
US\$	United States Dollar
WBG	World Bank Group

EXECUTIVE SUMMARY

- i. This Management Response (MR) has been prepared by the International Finance Corporation (IFC) to address the issues raised in the complaint received in January 2023 by the Compliance Advisor Ombudsman (CAO) concerning IFC's September 2014 investment in Palma Guinée S.A. (Palma Guinée or the Company), a fully owned subsidiary of the Topaz Group. The complaint is related to the development of the seafront Sheraton Grand Conakry hotel (SGC or the Hotel) in Conakry, Guinea originally operated by Starwood Hotels and Resorts Worldwide, Incorporated (Starwood) under the Sheraton brand. Marriott International Incorporated (Marriott) became the Operator following its purchase of Starwood in April 2016. In December 2021, the Operator and the Company (together termed as Hotel Management) made the decision to temporarily close the Hotel due to elevated levels of mold and humidity detected in certain rooms, presenting a health hazard to both guests and staff.
- ii. In September 2022, the Company prepaid all outstanding loans to IFC. At the time the complaint was submitted to CAO, IFC had no exposure to Palma Guinée or the Topaz Group.
- iii. The complaint to CAO was filed by the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco, and Allied Workers' Association (IUF) and Global Labor Justice-International Labor Rights Forum (GLJ-ILRF) on behalf of the current and former SGC workers (the Complainants). The complaint alleges several violations of IFC Performance Standards (PS) in relation to labor and working conditions. The complaint specifically cites unpaid wages, unsafe working conditions, lack of health benefits, interference with workers' rights to participate in and be represented by a trade union, as well as unfair and unlawful termination practices.¹ CAO found the complaint eligible in April 2023 after the Company's repayment of all outstanding loan payments and commenced an assessment of the issues to determine next steps in the CAO process.²
- iv. Prior to submitting the CAO complaint, IUF, GLJ-ILRF and the International Trade Union Confederation (ITUC) (together the global unions), and the Fédération de l'Hôtellerie, Touristique, Restauration et Branches Connexes-Organisation Nationale des Syndicats Libres de Guinée (FHTRC-ONSLG), filed two complaints through the IFC Labor Portal in October 2019 and June 2021, and four subsequent addenda between July 2021 and January 2022. The issues raised in the two complaints filed directly with IFC and during ongoing engagements between IFC and the global unions relate to the same issues raised in the CAO complaint.
- v. Upon receiving the 2019 and 2021 complaints, IFC took the concerns raised by the Complainants seriously and, engaged extensively with the global unions, the Company, Marriott, and the Labor Inspectorate to assess these concerns and help pursue positive outcomes, in line with IFC's Sustainability Framework. IFC's actions included i) facilitating the successful establishment of the labor union at the Hotel and elections of workers' representatives between November 2019 and March 2020; ii) endeavoring to facilitate a dialogue between the Company and the unions (led by the global unions) with the aim of a conciliated resolution on the labor disputes, from July to December 2021, though the dialogue efforts would not ultimately proceed; iii) commissioning a Compliance Assessment focusing on freedom of association and protection of the right to organize,

¹ <https://www.cao-ombudsman.org/cases/guinea-palma-guinea-01>

² *Ibid.*

and developing a Corrective Action Plan (CAP) which was under discussion with the Company; and iv) providing guidance and support to Hotel Management over the retrenchment process. Many of these issues were under discussion with the Company at the time of the Hotel closure in December 2021 and until subsequent prepayment of the loan in September 2022.

vi. Following prepayment, the Company explicitly requested IFC no longer engage with Hotel Management on any issues, including labor. Since then, IFC has not received updates from the Company or Marriott regarding management of environmental and social (E&S) issues at the Hotel, including how the retrenchment process has progressed or been implemented.

vii. IFC recognizes shortfalls in its E&S appraisal of the project in relation to Hotel operations and acknowledges that during supervision, Management was not aware of the labor issues, until the global unions filed a complaint directly with IFC in 2019.

viii. Following the receipt of the direct complaints in 2019 and 2020, IFC has demonstrated that it dealt appropriately with the issues raised, and actions taken by IFC were compliant with IFC's Sustainability Framework. It is therefore IFC's position that a Compliance Investigation would not meet the criteria set out in paragraphs 91 and 92 of the CAO Policy.

I. INTRODUCTION

1. Guinea is classified as a recipient of International Development Association (IDA) support. Conflicts in neighboring countries and the inflow of substantial numbers of refugees contribute to fragility, conflict, and violence (FCV) risk.³ IFC supported economic diversification within the economy and private sector growth across a wide range of sectors following a boom in Guinea's mining sector, with the aim of mitigating natural resource dependency risk.⁴

2. The International Finance Corporation (IFC) invested in Palma Guinée S.A. (Palma Guinée or the Company), a fully owned subsidiary of the Topaz Group. Topaz is an international trading and manufacturing group that has been present in Guinea for more than 25 years. The Group has grown into the most important foreign investor in Guinea outside of the mining sector.⁵ Palma Guinée was incorporated in 2012 specifically to develop and own the Sheraton Grand Conakry hotel (SGC or the Hotel), to be operated by Starwood Hotels and Resorts Worldwide, Incorporated (Starwood), under the Sheraton brand. IFC's investment in the form of A and B loans to Palma Guinée was approved by the Board in June 2013.⁶ Marriott International Incorporated (Marriott or the Operator) acquired Starwood in April 2016.⁷ Hotel construction was completed in November 2016 and the Hotel opened in December 2016. In September 2022, the Company prepaid all outstanding loans to IFC.

3. In January 2023, a few months after the prepayment, a complaint was filed with the Compliance Advisor Ombudsman (CAO) by the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco, and Allied Workers' Association (IUF) and Global Labor Justice-International Labor Rights Forum (GLJ-ILRF) on behalf of the current and former SGC workers (the Complainants). The complaint alleges several violations of IFC Performance Standards (PS) in relation to labor and working conditions.⁸

4. Prior to submitting the CAO complaint, IUF, GLJ-ILRF, and the International Trade Union Confederation (ITUC), (together the global unions) and the Fédération de l'Hôtellerie, Touristique, Restauration et Branches Connexes-Organisation Nationale des Syndicats Libres de Guinée (FHTRC-ONSLG), a labor union affiliate of the IUF in Guinea, filed two complaints through the IFC Labor Portal in October 2019 and June 2021, and four subsequent addenda between July 2021 and January 2022. IFC engaged closely with the Company, the Operator, and the global unions between October 2019 to August 2022 to address the concerns raised in the complaints to IFC. The issues raised in the two complaints filed directly with IFC and during ongoing engagements between IFC and the global unions relate to the same issues raised in the CAO complaint.

5. CAO found the complaint eligible in April 2023. At the time, Palma Guinée had prepaid all outstanding loan amounts and IFC no longer had exposure to Palma Guinée or the Topaz Group.

³ <https://documents1.worldbank.org/curated/en/346601528601433676/pdf/Guinea-CPF-Board-Version-Final-05152018.pdf>

⁴ <https://www.ifc.org/en/insights-reports/2020/cpsd-guinea>

⁵ <https://disclosures.ifc.org/project-detail/SII/32408/palma-guinea>

⁶ <https://disclosures.ifc.org/project-detail/SII/32408/palma-guinea>

⁷ <https://marriott.gcs-web.com/starwood>

⁸ <https://www.cao-ombudsman.org/cases/guinea-palma-guinea-01>

As the parties to the complaint did not wish to pursue a Dispute Resolution process, the case was transferred to a CAO compliance process in January 2024.⁹

6. This Management Response has been prepared by the IFC to respond to the issues raised in the CAO complaint.

II. PROJECT OVERVIEW

7. In accordance with the World Bank Group (WBG) commitment to support economic diversification in Guinea, IFC approved a secured senior loan package of up to US\$26 million to Palma Guinée in June 2013. The loan package comprised an A loan of up to US\$15 million and a syndicated B loan of up to US\$11 million. The loans, disbursed in September 2014, were for the development of a 280-room 5-star hotel on a 45,000 m² seafront greenfield site in Kipe, a district of Conakry, Guinea's capital (Palma Guinée #32408).

8. The development of a high-standard hotel was intended to support Guinea's capital city in addressing the growing demand for quality hotel accommodation, driving business travel and an emerging conference activities sector. The project was expected to create local direct and indirect employment in the supply value chain, as well as establish linkages with the local economy.

9. The Environmental and Social Review Summary (ESRS) and the Environmental and Social Action Plan (ESAP) of the project¹⁰ were disclosed in April 2013 as a category B project, with limited adverse environmental and social risks or impacts, largely reversible and addressed through mitigation measures.

10. Construction of the Hotel was completed in 2016 and operations commenced in December 2016. In December 2021, the Operator and the Company (together termed as Hotel Management) made the decision to temporarily close the Hotel due to elevated levels of mold and humidity detected in certain rooms, which presented a health hazard to both guests and staff. In September 2022, the Company prepaid all outstanding loans to IFC. The Hotel remains closed as of the date of this report.

III. CAO COMPLAINT

11. In January 2023, CAO notified IFC of a complaint filed by IUF and GLJ-ILRF regarding Palma Guinée. As the project was no longer active, CAO notified IFC on March 2, 2023 that it was considering the eligibility of the complaint under paragraph 49 of the CAO policy, which states that: "in exceptional circumstances, CAO may find eligible a complaint submitted up to 15 months after an IFC Exit, where: (a) there are compelling reasons why the complaint could not be made before the IFC/MIGA Exit; (b) all of CAO's other eligibility criteria are met; and (c) after

⁹ *Ibid.*

¹⁰ <https://disclosures.ifc.org/project-detail/ESRS/32408/palma-guinea>

consultation with Management, CAO considers that accepting the complaint would be consistent with CAO's mandate."¹¹

12. The complaint filed with CAO raises labor-related concerns and issues, including: i) unpaid wages, unsafe working conditions, and lack of health benefits; ii) interference with workers' rights to participate in and be represented by a trade union through misinformation, intimidation, and retaliation; iii) unfair termination practices with no alternatives to retrenchment or assurances of future employment, which resulted in financial consequences; iv) failure to properly inform workers of the health impacts of the mold contamination found in December 2021 that led to hotel closure; and v) lack of due diligence to ensure that the Company was prepared to conduct an operation compliant with IFC Performance Standards. The complaint acknowledges that IFC and the former client engaged with the global unions on several occasions and with increasing frequency to address the grievances. The complaint also recognizes IFC's limitations in supervising PS2 compliance given Marriott, the hotel operator, was not a client of IFC.

13. During the consultation with CAO, IFC indicated that, from its perspective, the complaint submitted to CAO does not meet the criteria under paragraph 49 of the CAO Policy, that allows for exceptional circumstances where there are compelling reasons why the complaint could not be made before the IFC exit. In this case, IFC actively engaged in good faith with the global unions following the submission of two complaints through the IFC Labor Portal in October 2019 and June 2021. Whilst IFC does not share commercial information with third parties, IFC did convey to the global unions in a call in August 2022 that the Company was considering prepaying its loan to IFC. IFC subsequently informed the global unions in October 2022 that the prepayment had been processed.

14. It is IFC's view that there was nothing that precluded or prevented the global unions from filing a complaint with the CAO, during IFC's engagement with the global unions and prior to repayment of all outstanding loan. It is also IFC's view that lodging a complaint with the CAO during this timeframe would not have posed a threat of reprisals to the workers. Therefore, IFC disagrees with CAO's decision to accept this complaint.

IV. MANAGEMENT RESPONSE

15. IFC acknowledges that the issues raised in the Complaint are serious. IFC engaged extensively with the global unions, Palma Guinée and Marriott to pursue positive outcomes for the issues raised in the complaint.

16. On September 15, 2022, the Company prepaid all outstanding loan amounts in relation to IFC's investment, for a total consideration of US\$8.5 million. The Company explicitly requested that IFC no longer engage on labor issues at SGC. Since prepayment, IFC has not received an update from the Company or Marriott.

17. The section below is structured to respond to the issues raised in the complaint filed with CAO: i) unpaid wages, unsafe working conditions, and lack of health benefits; ii) interference with

¹¹ [CAO Policy](#) (2021), paragraph 49

workers' rights to participate in and be represented by a trade union through misinformation, intimidation, and retaliation; iii) unfair termination practices with no alternatives to retrenchment; iv) failure to properly inform workers of the health impacts of mold contamination that led to hotel closure; and v) lack of due diligence to ensure that the Company was prepared to conduct an operation compliant with IFC Performance Standards.

A. Unpaid Wages, Unsafe Working Conditions, and Lack of Health Benefits

18. In July 2020, IFC was informed by the global unions of the death of a hotel worker (due to causes unrelated to the workplace) and the unions' request for the Hotel to provide health coverage to workers and their dependents.

19. In a follow up call, IFC was informed by Hotel Management that as per the statutory requirements in Guinea, the Hotel workers were duly registered with the Caisse Nationale de Sécurité Sociale (CNSS), which is responsible for providing social security coverage including healthcare to Guinean workers and their dependents. IFC confirmed these requirements with the Labor Inspector. IFC also relayed this to the global unions and clarified that with respect to such working terms and conditions, the Performance Standards at a minimum require compliance with applicable national laws.ⁱ

20. Hotel Management did go on to establish a healthcare scheme for its employees in 2021; however, IFC understands that this did not extend to dependents.

21. In the June 2021 direct complaint to the IFC, the global unions raised several concerns relating to unpaid wages, wage deductions and unsafe working conditions. In subsequent discussions with IFC, the Company maintained their conformity to the provisions of the Guinean Labor Code in relation to these concerns. IFC was unable to complete a full PS2 compliance assessment and verify such allegations against IFC PS requirements because of temporary closure of the Hotel and the revocation of Marriott's operating license in April 2022 (see details section B, paras 35-38, below related to the compliance assessment for further detail).

B. Interference with workers' rights to participate in and be represented by a trade union through misinformation, intimidation, and retaliation

22. In October 2019, the global unions and FHTRC-ONSLG submitted a complaint directly to IFC on behalf of SGC workers. The complaint raised concerns concerning freedom of association and alluded to Hotel Management interfering with the establishment of a workers' organization.

23. Upon receipt of the complaint, IFC engaged extensively with the global unions, the Company and the Operator on efforts to facilitate union elections. In December 2019, IFC convened a meeting with all stakeholders in Guinea, which led to an agreement between the local unions, the Company and the Operator to hold workers' representatives elections.

24. Workers' representatives elections subsequently took place on February 11, 2020, in line with national regulations and IFC's requirements on freedom of association. Four workers' representatives as well as four interims were elected.

25. In August 2020, the global unions expressed their concerns to IFC that Hotel Management was using an incident of a worker accidentally breaking a flowerpot as a pretext to fire elected workers' representatives and to bust the local union.

26. IFC followed up with Hotel Management, who disputed these allegationsⁱⁱ, stating that the workers' representatives threatened the Hotel Manager if the Hotel decided to fire the employee who broke a flowerpot. Hotel Management stated that any course of action (disciplinary or dismissal) would be taken in line with the national laws and the hotel's human resources procedures.

27. IFC also supported the Company assess the implications of possible responses and the potential for de-escalation.ⁱⁱⁱ However, in October 2020, Hotel Management proceeded to dismiss the two workers' representatives for gross misconduct associated with threatening behavior against the Hotel Manager.

28. Following the dismissals, IFC, supported by a labor relations specialist, undertook a fact-finding process between November 2020 and February 2021 to analyze the dispute, the chronology of events, the different stakeholders' views, and potential opportunities for promoting a resolution of the issues.^{iv} The process involved engagement with Hotel Management, the global and local unions, and the Labor Inspectorate.

29. On the basis of the fact-finding process, IFC engaged in efforts to a) facilitate a dialogue between the Company and the unions (led by the global unions) with the aim of a conciliated resolution on the dispute, and b) undertake a full PS2 compliance assessment of the project (including a review of relevant documentation) and identify specific recommendations for strengthening PS2 performance. Further details on both are included below.

30. In June 2021, IFC was made aware of other allegations of intimidation and retaliation against union members, through a second complaint made directly to the IFC via the IFC Labor Portal. In all follow-up discussions with IFC, the Company consistently denied any such allegations and maintained their conformity to the provisions of the Guinean Labor Code.

Dialogue Process

31. Between April and June 2021, IFC engaged with the Company and the global unions to prepare for the dialogue process including i) removing any pre-conditions set by each party prior to the dialogue; ii) defining clear rules of engagement; and iii) agreeing on the facilitator for the process.

32. As the dialogue process progressed, the Company highlighted that due to the Operating Services Agreement (OSA), Marriott would also need to be part of any dialogue between the parties. However, Marriott declined to participate in the process.

33. In October 2021, the Company authorized the facilitator to make a bilateral offer to settle the dispute with the dismissed workers' representatives on a no-fault basis. The global unions

reported that they wished to address the challenges related to freedom of association, the building of positive and effective labor relations at the Hotel, and the reinstatement of the workers' representatives rather than the proposed compensation for the terminations. The dialogue process subsequently stalled in December 2021, without the parties having entered into a direct dialogue.

34. Further efforts were made by IFC to restart the dialogue process in April 2022, including by engaging a different facilitator. However, IFC and the proposed new facilitator concluded that a meaningful dialogue process could not be re-established at that time because the factors leading to the impasse had not changed and that the potential for constructive dialogue was limited by not having key stakeholders (i.e., the Operator) in the process.

Compliance Assessment

35. In June 2021, IFC commissioned an external labor relations specialist to conduct a PS2 compliance assessment. Due to travel restrictions during the COVID-19 pandemic, the assessment was to be conducted in two parts. The first focused on a virtual assessment of the allegations concerning violations of freedom of association and protection of the right to organize, specifically the unfair termination of employment of two workers' representatives, which was completed in December 2021.^v

36. The assessment identified non-compliance in relation to the principles of freedom of association based on the substance and process of the dismissal of the two workers' representatives. IFC shared the findings of the assessment with the Company and based on these findings, in January 2022, notified them of a breach of their contractual obligation to comply with the requirements of the IFC Performance Standards.^{vi}

37. In March 2022, IFC provided the Company with a Corrective Action Plan (CAP), which focused on resuming the dialogue process to seek a conciliated and mutually agreed resolution on the issue of dismissals and undertaking a comprehensive third-party labor audit covering all PS2 requirements (part two of the compliance assessment).

38. IFC drafted the Terms of Reference for the second part of the compliance assessment and shared them with the client in April 2022. However, due to the temporary closure of the Hotel since December 2021, and the revocation of Marriott's operating license in April 2022 by the Government of Guinea, IFC decided to postpone the assessment.

C. Unfair Termination Practices with No Alternatives to Retrenchment

39. In December 2021, Hotel Management made the decision to temporarily close the hotel due to elevated levels of mold and humidity detected in certain hotel rooms, which presented a health hazard to both guests and staff.

40. Following the Hotel closure, and in line with the Guinean Labor Code, most employees were put on "technical unemployment" from January 1, 2022, to June 30, 2022. Under this regime, the law foresees that employees receive 30% of their salary for 3 months renewable once, i.e., up to 6 months in total for technical unemployment; however, the client decided to pay 50% of the

workers' salaries for duration of the technical unemployment period. Hotel Management retained the services of a skeleton staff for hotel maintenance purposes.

41. IFC engaged with the Company early and repeatedly throughout the course of the technical unemployment period to i) emphasize the need to plan for any collective dismissals in line with the requirements of the Labor Law in Guinea and IFC PS2 requirements, should these be needed; ii) share guidance around key requirements for collective dismissal in line with IFC PS2, including an analysis of alternatives to retrenchment, and in the absence of viable alternatives, a retrenchment plan, and the need for a consultation process with the workers over the plan; and iii) emphasize the need to for open communications with the employees.

42. IFC also sent formal letters^{vii} to the Company and Marriott underlining the importance (and contractual obligation) to comply with the IFC PS2.

43. On July 1, 2022, Hotel Management notified the local unions of the end of the technical unemployment period and its intention to embark on a collective dismissal process due to economic reasons. Hotel Management was of the view that due to the complete closure of the Hotel, uncertainty around when it would reopen, and considering both the Company and Operator had only one property in Guinea, the alternatives of retrenchment were limited and not financially viable. Following the end of the technical unemployment period, workers reverted back to full salaries until the end of their notice period.

44. IFC reviewed and commented on a draft retrenchment plan shared by Hotel Management on July 7, 2022; a revised draft plan accounting for the IFC comments was shared by Hotel Management with the local unions on July 15, 2022. The draft plan covered: i) an analysis of alternative options to the retrenchment; ii) selection criteria for those workers to be retained; iii) a severance package in line with the minimum Guinean Labor Code requirements; and iv) various support measures the Hotel Management would put in place to help the dismissed employees find a new job (referrals, training, etc.).

45. Between July and September 2022, Hotel Management and the local unions had several meetings (some convened by or in the presence of the Labor Inspectorate) to discuss the terms of the collective dismissal defined in the retrenchment plan. At the urging of the IFC, Hotel Management agreed to also engage directly with the global unions over the retrenchment process.^{viii}

46. The global unions presented alternative proposals to either i) keep everyone employed and have the cost/salaries shared among the unions, Marriott, Palma Guinée and IFC through a proposed Emergency Relief Fund or ii) proceed with a collective retrenchment but with a much larger severance package and a re-hiring guarantee. Hotel Management maintained their decision to execute a collective retrenchment, arguing that it would be financially unsustainable to keep the staff employed while the hotel was closed for an undetermined period. IFC informed the unions that it does not have a policy instrument to participate in such a fund.

47. Hotel Management subsequently proceeded with the implementation of the retrenchment plan, approximately from September 2022 onwards.

48. IFC engaged with Hotel Management on the issue raised by the global unions regarding bank loans taken out by the workers. Hotel Management informed IFC that the bank loans had been arranged by Hotel workers on their own accord and that Hotel Management played no part other than providing a confirmation of employment status and payment of wages into the nominated bank. IFC understands that no guarantees were provided by the Hotel for these loans and workers were responsible for repayment without any recourse to the employer.

D. Failure to properly inform workers of the health impacts of mold contamination that led to hotel closure

49. IFC was first informed of the mold issue and hotel closure by the global unions in December 2021. IFC immediately reached out to the Company to request further information. In follow-up engagement over the issue of health risks due to the presence of mold, the Company informed the IFC on February 1, 2022, that whilst they had not assessed the potential health impact on the employees, they had also not received any health-related grievances associated with the mold issues and that all the employees were covered by health insurance.

50. In January and March 2022, upon IFC's request, the Company shared several mold and humidity assessment reports with IFC, commissioned either by Marriott or by the Company. The assessments did not mention specific implications on the health and safety of the people who had been exposed to mold and humidity. Hotel Management could not share these assessments with the unions, who they considered to be third parties with which they do not a contractual relationship.

51. Following an internal review of the mold and humidity assessments, in early April 2022, IFC recommended Hotel Management to:

- Provide and ensure the use of personal protective equipment (PPE) by workers, including at a minimum, gloves, eye protection, and N-95 mask whenever the workers performed work at the hotel and until successful completion of mold remediation activities.
- Reduce exposure duration for the workers by limiting the duration of access to designated mold-affected areas of the hotel premises.

52. In response to questions raised by the unions during the subsequent retrenchment process (as described above), Hotel Management stated that i) all the employees, whether local or expatriate, were covered by health insurance. The Company would continue to pay the health insurance for all employees throughout the technical unemployment period and guaranteed to extend coverage until November 2022 when they anticipated that the retrenchment process would be completed; ii) extensions will be provided for any staff who remain as employee of the Hotel; and iii) any medical claims will be dealt with on a case-by-case basis. Hotel Management also confirmed that staff were only permitted to access those areas of the hotel that were identified as safe. If staff had to enter other areas, PPE was always required and available. During a site visit in May 2022, IFC observed consistent use of PPE among workers at the Hotel.

53. Based on follow-up discussions with the Company at the time of the retrenchment process, IFC was informed that none of the employees had reported any health grievances to date.

E. Lack of due diligence to ensure that the Company was prepared to conduct an operation compliant with IFC's Performance Standards

54. The Project was processed under the 2012 IFC Performance Standards, with PS 1–4 deemed applicable. The focus of the PS2 review at appraisal was on the construction workforce. Human Resource measures that the Company was developing were outlined in the ESRS including i) the preparation of a Human Resources Policy, called the 'Règlement Intérieur' applicable to the construction workforce; ii) the development of procedures for age verification in hiring; iii) provision of contracts to all workers; iv) the establishment of an Employee Grievance Mechanism; and v) the creation of a workers' organization.

55. Corrective measures intended to close identified environmental and social (E&S) gaps including two related to Human Resource management – the development of Human Resource Policy (referring to the update of the 'Règlement Intérieur') and age verification procedure for hiring, were captured in an ESAP.¹² The ESAP items were fulfilled in line with the anticipated completion dates.

56. The ESRS stated that during the operation of the hotel, human resources would be managed in line with Starwood's Human Resources Policy in line with the OSA between Palma Guinée and Starwood. At the time of IFC's appraisal of the Project, the OSA had not been signed and additional information on Human Resources management during the operations of the hotel was not available for review by the IFC.

57. IFC followed up on Starwood's Human Resource management during a supervision site visit in 2016. However, IFC was informed by Starwood that it could not share any proprietary material with IFC as the legal agreement was between IFC and Palma Guinée and not with Starwood. IFC was able to review Starwood Human Resources Policies and Procedures onsite during the visits and found them to be mostly aligned with IFC PS 2 requirements. The only gaps identified related to the lack of provisions related to child and forced labor. These gaps remained open at the time of a subsequent 2019 supervision site visit^{ix}

58. During the same 2016 site supervision visit (SSV), IFC verified the workers' representatives had been elected for the construction phase as per the Guinean Labor Code. IFC further noted that the role of workers' representatives was limited compared to that defined in the Labor Code. While IFC regularly reviewed Palma Guinée's environmental and social reporting throughout the duration of the investment,^x IFC acknowledges that there was no follow-up on the requirement to establish workers' representatives during operations until IFC became aware of the issues raised in the complaint from global unions received by IFC in October 2019.

¹² The ESAP and associated ESRS was disclosed together with the Summary of Proposed Investment on Apr 10, 2013 - <https://disclosures.ifc.org/project-detail/ESRS/32408/palma-Guinée> . The ESAP was included in the legal agreement together with other E&S provisions such as those related to reporting.

V. CONCLUSION

59. Paragraph 91 of the CAO Policy sets out three criteria for determining whether a compliance investigation is necessary: a) whether there are preliminary indications of harm or potential harm; b) whether there are preliminary indications that IFC may not have complied with its E&S Policies; and c) whether the alleged harm is plausibly linked to the potential non-compliance.

60. Paragraph 92 of the CAO Policy states that during a compliance appraisal, CAO will also consider the following: a) For any Project or Sub-Project where an IFC Exit has occurred at the time CAO completes its compliance appraisal, whether an investigation would provide particular value in terms of accountability, learning, or remedial action despite an IFC Exit; b) The relevance of any concluded, pending or ongoing judicial or non-judicial proceeding regarding the subject matter of the complaint; c) Whether Management has clearly demonstrated that it dealt appropriately with the issues raised by the Complainant or in the internal request and followed E&S Policies or whether Management acknowledged that it did not comply with relevant E&S Policies; d) Whether Management has provided a statement of specific remedial actions, and whether, in CAO's judgment after considering the Complainant's views, these proposed remedial actions substantively address the matters raised by the Complainant.

61. Considering paragraph 92(a) and the feasibility of potential remedial actions, Management notes that following the prepayment of all loans in September 2022, Palma Guinée requested that IFC no longer engage with Hotel Management on any issues, including labor. Since then, IFC has no longer received updates from the Company, its shareholders, or Marriott.

62. IFC recognizes shortfalls in its E&S appraisal of the project related to the Hotel operations and acknowledges that during supervision, Management was not aware of the labor issues until the unions filed the first complaint directly with IFC in 2019. In response to this, IFC has been continuously strengthening its approach to identifying and managing labor challenges in its investments, including in the hospitality sector. In particular, IFC has been and is continuing to:

- Recruit in house labor specialists to strengthen institutional capacity to review and manage issues related to labor and working conditions across sectors.
- Develop several training and knowledge-sharing initiatives to further build capacity on labor issues within IFC's E&S and investment staff. This includes deep-dive trainings for all staff and program specific trainings for E&S specialist.
- Collaborate with the International Labor Organization (ILO) on a learning program between IFC E&S specialists and International Labor Organization experts to identify where IFC E&S staff could leverage ILO expertise (labor auditing, freedom of association, occupational health & safety)

63. In relation to para 92c and 92d, following receipt of the direct complaints in 2019 and 2021, and the four subsequent addenda received between July 2021 and January 2022, IFC has demonstrated that it dealt appropriately with the issues raised in these complaints and actions taken by IFC were compliant with IFC's Sustainability Framework.

64. IFC's actions included i) facilitating the establishment of the labor union at the Hotel and elections of workers' representatives between November 2019 and March 2020; ii) endeavoring to facilitate a dialogue between the Company and the unions (led by the global unions) with the aim of a conciliated resolution on the labor disputes, from July to December 2021, though the dialogue efforts would not ultimately proceed; iii) commissioning a Compliance Assessment focusing on freedom of association and protection of the right to organize, and developing a CAP which was under discussion with the Company; and iv) providing guidance and support to Hotel Management over the retrenchment process. Many of these issues were under discussion with the Company at the time of the Hotel closure in December 2021 and until subsequent prepayment of the loan in September 2022.

65. IFC's position in relation to Compliance Appraisal criteria in paragraph 92 is summarized in the table below.

CAO Policy	IFC Position
Para 92a) <i>...value in terms of accountability, learning, or remedial action despite an IFC Exit</i>	After prepayment, Client rejected to continue to engage on labor issues including remedial action. IFC has been continuously strengthening labor management in its investments
Para 92b) <i>...judicial or non-judicial proceeding</i>	Not applicable
Para 92c) <i>...Management has clearly demonstrated that it dealt appropriately with the issues ... whether Management acknowledged that it did not comply with relevant E&S Policies;</i>	IFC acknowledges shortfalls in E&S appraisal. Upon learning about the issues, IFC took appropriate and comprehensive actions during supervision.
Para 92d) <i>...proposed remedial actions substantively address the matters raised by the Complainant.</i>	Between November 2019 and September 2022 IFC implemented appropriate and comprehensive remedial actions that substantively addressed the complaint.

Appendix C: Considerations Relevant to the Appraisal

Under the CAO Policy⁸¹ this compliance appraisal must take into account relevant additional considerations as outlined in the table below.

CAO Policy provision	Analysis for this case
For any Project or Sub-Project where an IFC/MIGA Exit has occurred at the time CAO completes its compliance appraisal, whether an investigation would provide particular value in terms of accountability, learning, or remedial action despite an IFC/MIGA Exit (para. 92a).	<p>Accountability: Given IFC's acknowledgment of its shortfalls in this investment, and CAO's analysis of gaps in IFC performance noted in this compliance appraisal report, CAO concludes there is not a particular accountability value in pursuing an investigation of this complaint.</p> <p>Learning: CAO has concluded that an investigation of a single hotel investment is unlikely to produce systemic learning for IFC.</p> <p>Remedial Action: In the instance where a CAO investigation could arrive at a conclusion of Harm to the complainants, CAO considers the prospects of remedy for the complainants to be limited. While CAO recognizes that a CAO investigation report of this complaint would be a form of remedy for the complainants (and one which they have requested), CAO concludes that there is not a particular value in this instance given the detail included in this compliance report and acknowledgements made by IFC of shortfalls in its performance.</p>
The relevance of any concluded, pending or ongoing judicial or non-judicial proceeding regarding the subject matter of the complaint (para. 92b).	Two court cases were filed with the Conakry Labor Tribunal by five union leaders. These cases represent an aspect of the CAO complaint but they do not directly respond to whether IFC discharged its role in supervising the applicable of relevant PS2 requirements on employee termination.

⁸¹ CAO Policy, para. 92

Whether Management has clearly demonstrated that it dealt appropriately with the issues raised by the Complainant or in the internal request and followed E&S Policies or whether Management acknowledged that it did not comply with relevant E&S Policies (para. 92c).	While IFC did take action to address the labor concerns and notified the company of breach of contract, these issues were not addressed by the time of loan prepayment. Accordingly, IFC has not met its overarching commitment to do no harm in its investment operations. Rather, CAO's preliminary review indicates that harm persists for the complainants.
Whether Management has provided a statement of specific remedial actions, and whether, in CAO's judgment after considering the Complainant's views, these proposed remedial actions substantively address the matters raised by the Complainant (para. 92d).	While CAO has summarized IFC actions in response to the IUF complaints, after considering the Complainant views, CAO concludes that the proposed remedial actions have not substantively addressed the matters raised by the complainants. CAO notes IFC's statement that many of the issues remained under discussion with the client at the time of loan repayment. Further, CAO notes that IFC did not complete a proposed PS2 compliance assessment.
In relation to a Project or Sub-Project that has already been the subject of a compliance investigation, CAO may: (a) close the complaint; (b) merge the complaint with the earlier compliance process, if still open, and the complaint is substantially related to the same issues as the earlier compliance process; or (c) initiate a new compliance investigation only where the complaint raises new issues or new evidence is available (para. 93).	Not applicable.