

Dispute Resolution Conclusion Report
**Regarding a Complaint Received in Relation to IFC’s Investments in Hayel Saaed
Anam (HSA) Group in Yemen (IFC #43466 and #46486)**

August 2023

OVERVIEW

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

CAO found the complaint eligible for further assessment in April 2021.² CAO conducted an assessment of the complaint, during which the Complainant and HSA expressed an interest in engaging in a dispute resolution process facilitated by CAO to resolve the issues raised in the complaint. In accordance with the CAO policy, the complaint was transferred to CAO's Dispute Resolution function in November 2021.

Due to COVID-19-related restrictions, as well as World Bank Group (“WBG”) security restrictions on travel to Yemen, the assessment and the first bilateral and joint meetings were held using online platforms, with the consent of both parties. The first joint meeting was held in December 2021, to discuss the ground rules for the mediation process and the issues raised in the complaint. Between January and October 2022, CAO facilitated bilateral negotiations and information sharing between the parties via shuttle diplomacy. A second round of joint meetings was held in-person in Amman, Jordan, in November 2022. As a result of the voluntary dispute resolution process, the parties reached and signed an agreement on November 11, 2022. The parties agreed to keep the details of the agreement confidential. Accordingly, CAO did not publish the agreement on the CAO website.

After the signing of the agreement, the case was transferred to CAO’s dispute resolution monitoring and subsequently closed in August 2023, in accordance with the CAO policy. This Conclusion Report provides an overview of the assessment and dispute resolution process, and offers some reflections and lessons learned from the process.

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

² According to CAO’s Policy, CAO deems a complaint eligible if: a. The complaint relates to an Active Project; b. The issues raised in the complaint pertain to CAO’s mandate to address environmental and social impacts of Projects; and c. The Complainant is or may be affected by the harm raised in the complaint.

BACKGROUND

The IFC Project

IFC has two active investments in HSA Group's processing operations in Yemen (HSA Foods), through investment loans and associated advisory services. According to the IFC Disclosures website, HSA Foods is part of the Group's manufacturing activities and produces necessity foods, such as flour, sugar, and dairy products. The Group is comprised of six Yemeni companies: i) National Dairy and Food Company Taiz, ii) National Dairy and Food Company Hodaida, iii) Yemen Company for Sugar Refining, iv) Yemen Company for Flour Mills and Silos Aden, v) Yemen Company for Flour Mills and Silos Al Hodaida, and vi) Al Hodaida Flour Mills Co. Limited.

The initial investment consisted of a US\$75 million package to HSA Foods to finance the permanent working capital needs of HSA Foods, which is producing necessary foodstuffs such as flour, sugar, and dairy products for local consumption. In March 2022, IFC approved a second investment, which consists of an up to 4-year, senior secured loan of up to US\$60 million under the IFC COVID-19 Emergency Response RSE Envelope. The loan is supposed to support HSA Foods in strengthening its liquidity and ensuring continuity of, and a sufficient quality supply of, HSA Foods' staple foods in Yemen, amid the continuing impact of the COVID-19 pandemic in a country already facing significant food and humanitarian crises.³

IFC has also engaged in associated advisory services in two key areas: i) energy and water efficiency solutions and ii) gender diversity.

The Complaint

The Complainant submitted a complaint in relation to the Company's compliance with IFC's Performance Standards and Yemen's local environmental and social (E&S) legislation. The concerns raised about the project ranged from the Company's impacts on the environment and the local communities of Ras Issa, to concerns about the Complainant's professional reputation and risk of reprisals.

The Complainant alleged that the air and marine waters in Ras Issa are polluted as a result of the Company's disposal of industrial wastewater, especially through the discharge of highly saline water during the seawater desalination process and by the storage of ash and coal in open spaces. The Complainant alleged that the pollutants that may be produced by the desalination process and the phenomenon of coal self-combustion contaminate the air and the seawater as they seep into the soil or through cracks in the ground during rainfall. The Complainant also expressed concerns that the lack of adequate treatment of industrial wastewater and its discharge through earth fissures might cause landslides and land subsidence, due to the calcareous and porous nature of the soil where the industrial sewage is being discharged. The Complainant also claimed the project had negative impacts on community health and livelihoods, because of pollution and reduced availability of fish in the sea, resulting from the alleged deterioration of marine life and coral reefs.

Furthermore, the Complainant claimed that the Company had taken actions to undermine his professional reputation and that he had received threats that he believed to be related to his voicing concerns and submitting complaints about the environmental impact of the Company's operations. Due to fear of possible retaliations, the Complainant decided to relocate his family outside of Yemen.

³ [See IFC Disclosures page](#)

CAO Assessment

In April 2021, CAO determined that the complaint met its three eligibility criteria and began an assessment of the complaint. The purpose of a CAO assessment is to clarify the issues raised in the complaint, gather information on the views of different stakeholders, and determine whether the parties would like to pursue a dispute resolution process or prefer that the complaint be handled by CAO's Compliance function. The CAO assessment process does not entail a judgment on the merits of the complaint; rather, it seeks to understand the facts and empower those involved to make informed decisions on how to address the issues raised.

Due to COVID-19-related limitations, as well as WBG security restrictions on travel to Yemen, the assessment was conducted virtually, with the consent of both parties. During the assessment, both the Complainant and HSA expressed an interest in engaging in a CAO-facilitated dispute resolution process to resolve the issues raised in the complaint. In accordance with the CAO policy,⁴ the complaint was transferred to CAO's Dispute Resolution function.⁵

DISPUTE RESOLUTION PROCESS

Preparation for dialogue and capacity building

In October 2021, CAO conducted virtual capacity-building sessions with each of the parties, to prepare them for participating in the dialogue and ensure that they both had the relevant knowledge and skills to meaningfully engage in the dispute resolution process on an equal footing. The sessions included training on conflict resolution, communication, and the CAO process. The CAO team provided additional capacity-building sessions to the parties throughout the whole mediation process, as needed.

Dialogue process

CAO convened the first virtual joint meeting in February 2021, attended by the Complainant and representatives of the HSA Group and YCSR. Before the meeting, CAO conducted bilateral meetings with each party to review their positions and interests and prepare them for their direct engagement. During the joint meeting, the parties discussed and agreed on the ground rules for engagement in the dispute resolution process, which set out the objectives and scope of the process; principles that the parties commit to, such as good faith engagement and mutual respect; how the parties are represented; the respective roles of the parties and the mediation team; and disclosure of information about the mediation with external stakeholders. During the joint session, the parties also began a discussion about the scope of the dialogue, which was to be the substantive issues raised in the complaint.

Following the first joint meeting, CAO held bilateral meetings with the Complainant and the Company. The Company requested that the Complainant share further details about his complaint, to allow for a meaningful consideration of any possible redress. In response to the Company's request, the Complainant developed and shared a list of environmental, social, and personal issues, which was reviewed by the Company and used as a basis for bilateral discussions with CAO. CAO facilitated information sharing and negotiations between the parties via shuttle diplomacy for several months, until the parties were ready to meet again.

⁴ CAO's Policy is available here: <https://documents1.worldbank.org/curated/en/889191625065397617/pdf/IFC-MIGA-IndependentAccountability-Mechanism-CAO-Policy.pdf>

⁵ For more information on the assessment phase, please refer to the assessment report, available here: <https://www.cao-ombudsman.org/cases/yemen-hsa-foods-01ras-isa>

The Company submitted documentation to support its claim that there is no evidence of any environmental or social impacts of YCSR’s operations on the surrounding area, and to confirm the Company’s commitment to install a wastewater treatment plant for both industrial and sanitary wastewater in line with national regulations and IFC’s requirements. The Company also denied any connection with the threats and reputational damage alleged by the Complainant.

The CAO considered that an in-person meeting would be critical to further strengthen the trust between the parties and bring the case to a successful resolution. Given that travel to Yemen was not permitted at the time for WBG personnel due to security reasons, CAO decided to convene the mediation meetings in a third country in the region. Jordan was identified as the best option, as it was easily accessible for all participants and cost-effective.

In November 2022, the CAO mediation team and the parties met in Amman, Jordan, for a week of bilateral and joint meetings facilitated by CAO. With the consent of the parties, IFC participated in the meetings in Amman, in the role of observer. At the end of the week, on November 11, the parties reached and signed an agreement ending all disputes between them amicably and addressing all issues raised in the complaint to their satisfaction. As the parties agreed to keep the details of the agreement confidential, it was not disclosed on the CAO website. With the parties’ permission, the agreement was shared with the IFC.

Agreement monitoring

After the signing, in accordance with the CAO policy, CAO began to monitor implementation of the agreement. The parties agreed that the monitoring would be for a period of four months, with the understanding that the Company would continue implementation of any pending activities, including the construction of the industrial wastewater treatment plant, after closure of the case, until all agreed actions are completed according to the terms of the signed agreement.

Since the agreement was not yet fully implemented at the expiration of the agreed monitoring timeline, CAO asked the parties to confirm that they would be comfortable with CAO closing the case. By that time, the parties had also developed a direct channel of communication, which they exercised during the monitoring period to coordinate on the implementation of some aspects of the agreement. After receiving confirmation from the parties that they were satisfied with the partial implementation of the agreement, CAO formally closed the case in August 2023.

CHALLENGES, REFLECTIONS AND LESSONS LEARNED

Limitations of online mediation

When trust between the parties is low at the start of the process, negotiating a successful resolution can be extremely challenging in a virtual space. Although CAO made efforts to forge agreements on the ground rules through bilateral discussions, substantial progress in the case was only made when the parties were finally able to meet face-to-face under the auspices of CAO.

Working in the context of conflict-affected states like Yemen meant limited first-hand access to the parties and equally limited knowledge of the day-to-day dynamics on the ground and interactions between the parties. Because of this limited access, the mediation team was unable to have direct access to sources of information provided by the parties on issues

relevant to the context of the operations on the ground. CAO usually partners with local consultants who possess the appropriate cultural skills and background to effectively support the CAO team during a dispute resolution process. In this case, due to existing restrictions in the WBG hiring policies for Yemen, CAO was also not able to contract a consultant based in Yemen, who would have facilitated understanding of the local context and access to relevant information.

Logistical challenges

An additional challenge in this case came from the need to select a meeting location outside of Yemen, in a third country where none of the participants were originally located. The logistical aspects of organizing a joint meeting in a third country were complex and required extensive preparation and coordination with the parties and the relevant WBG offices, to ensure that all participants would be able to safely travel to and be admitted into Jordan in time for the meetings.

When dealing with parties that travel from conflict-affected situations, it is important to prepare for possible constraints to movement of the parties, including limited access to embassies and visa restrictions imposed on citizens of such countries.

Overcoming impasse

It is not uncommon for a mediation process to hit an impasse, where the parties become unable to make further progress in the negotiations. When such situations occurred in this case, CAO was able to be flexible and adjust quickly to ongoing constraints, in order to maintain momentum during the stalemate and help the parties reengage, for example by holding a bilateral meeting with one of the parties. The face-to-face presence of the parties and the CAO team in Amman during the final joint meetings allowed quick access to the parties and the ability to reconvene on short notice when they were ready to relaunch their negotiation.

Timely information sharing is also key to keeping the process going and allowing the negotiations to progress. The willingness and ability of the company and the IFC observer to promptly reach their colleagues by phone to obtain information and sign off on any agreed actions helped maintain momentum. Equally important was the Complainant's ability to negotiate autonomously and make timely decisions.

The opportunity to host the meetings at the IFC office in Amman, Jordan, helped, by providing a safe work environment that allowed the CAO and the parties to continue the negotiations without time constraints until late hours, when needed.

The importance of setting ground rules

Ground rules help create predictability and structure for the process at a time when trust between the parties may still be low. In this case, the inclusion in the ground rules agreement of the roles and responsibilities of each participant involved in the negotiations was essential to provide clarity and manage expectations about what each participant's contribution to the process would be. Additionally, it enabled respectful interactions between the parties throughout the process.

The fact that the parties, the mediator, and the IFC observer all spoke Arabic and were originally from the region facilitated communication and understanding of cultural references.

IFC's participation as observer

Given that some of the concerns raised in the complaint were technical in nature and related to the application of IFC's Performance Standards, having an IFC environmental and social development specialist who was familiar with the project as an observer at the dialogue table was instrumental in clarifying some of the issues being discussed. IFC's participation as an observer in the process provided assurance to the Complainant of the continuous commitment of the organization to the supervision of the project, in accordance with IFC's policies.

IFC shared with CAO that it recognizes and appreciates the benefits of conducting an in-person mediation meeting that brought the parties and the IFC observer together. The IFC team expressed that close coordination between, and thorough preparation by, all the parties, as well as the establishment of well-defined parameters for the IFC observers, were critical to the success of the joint meeting.

IFC indicated that it believes that having the opportunity to present the IFC Sustainability Framework in the context of the mediation was valuable, as it helped to provide clarity on IFC's role in monitoring its investments under the Sustainability Policy and in facilitating a solution-oriented discussion between the parties.

CONCLUSION AND NEXT STEPS

The parties expressed their satisfaction with the implementation of certain aspects of the agreement during the four-month monitoring period, and their commitment to the rest of the agreed-upon obligations that will extend beyond the closure of the case. Both confirmed their understanding that the Company will establish a treatment plant for all industrial liquid sewage and sewage products in YCSR, in accordance with the requirements of the Yemeni Environmental Law and the IFC requirements, with an initial date of December 2025 and a deadline of December 2026 for completion, or as otherwise agreed upon with IFC.

IFC has also committed to continue to monitor implementation of the outstanding items in the mediation agreements, as part of its ongoing project supervision.

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

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

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

APPENDIX A. CAO COMPLAINT-HANDLING PROCESS

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

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

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

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

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

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

OR

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

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

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

days, with the possibility of extending by 20 business days in exceptional circumstances. Second, if an investigation is warranted, the appraisal is followed by an in-depth compliance investigation of IFC/MIGA's performance. An investigation report will be made public, along with IFC/MIGA's response and an action plan to remediate findings of noncompliance and related harm. Third, in cases where noncompliance and related harm are found, CAO will monitor the effective implementation of the action plan.

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

Step 6: **Conclusion/Case Closure**

