

Dispute Resolution Conclusion Report Regarding Complaint Received in Relation to IFC's Investment in Daehan Wind Power Company (IFC #35349) in Jordan, February 2022

SUMMARY

In June 2020, CAO received a complaint from a community member living in Tafila, Jordan, on behalf of himself and two family members (“**the Complainants**”). The complaint raised concerns about the impact of the construction of the Daehan Wind Farm project in Tafila and the potential future impacts of its operations. In 2018, IFC, alongside Standard Chartered Bank and Shinhan Bank (both under K-Sure guarantee) extended financing to Daehan Wind Power Company PSC (“**Daehan**” or “**the Company**”), to develop, construct, operate, and maintain a 51.75MW wind farm in the Jordan’s Tafila Governorate.

In July 2020, CAO determined that the above-mentioned complaint met its three eligibility criteria and began its assessment.

During CAO’s assessment, the Complainants, and the Company (**the “Parties”**) expressed an interest in engaging in a CAO dispute resolution process to try and resolve the issues. In accordance with CAO’s Operational Guidelines applicable at the time, the complaint was transferred to CAO’s Dispute Resolution (“**DR**”) function in November 2020.

Due to COVID-19-related restrictions on travel and social gatherings, both the assessment and the dispute resolution process were held via virtual and online platforms, with the consent of both Parties.

A Jordanian-American mediator based in Washington, DC, and a local interpreter based in Jordan were part of the CAO team. The first joint meeting was held in February 2021, to discuss the issues raised in the complaint. In the following weeks, the Parties met directly, without the CAO, to continue the conversation. At the request of the Company, the DR process was paused between May and August 2021. The CAO team continued to maintain communication with both Parties through bilateral meetings.

In October 2021, CAO convened the second joint meeting. The Complainants presented some options for resolution to the Company. In December 2021, after internal consultations, the Company informed CAO that it could not agree to the Complainants’ proposal to resolve the complaint and reiterated its commitment to support the local community through its Corporate Social Responsibility (“**CSR**”) program. CAO relayed the Company’s position to the Complainants, who found it unsatisfactory. The Complainants informed CAO that they would like the case to be transferred to the Compliance function. Therefore, the complaint will now be transferred to CAO Compliance for appraisal, in accordance with CAO’s Policy.¹ This Conclusion Report gives an account of the assessment and the dialogue process, and offers some reflections and lessons learned from the process.

¹ CAO Policy is available here: <https://documents1.worldbank.org/curated/en/88>

BACKGROUND

The Project

In 2018, IFC, alongside Standard Chartered Bank and Shinhan Bank (both under K-Sure guarantee), extended financing to the Company. The financing was provided to the Company for the purposes of implementing the project which consists of the development, construction, operation, and maintenance of a 51.75MW (installed capacity) wind farm in Jordan's Tafila Governorate ("the **Project**"). The Company will be an Independent Power Producer, and the Project is expected to generate about 135 GWh annually for sale to the National Electric Power Company under a 20-year Power Purchase Agreement. The Company is currently owned by Korea Southern Power Company (KOSPO) (50%) and Daelim Energy Co. (50%). The Project includes the installation of fifteen 3.45 MW turbines, with a tower hub height of 112 meters and rotor diameter of 136 meters; a 33kV/132kV substation; a buried internal 33 kV grid network; and a network of site access roads. IFC's investment consists of an A-loan of US\$10.2 million, which IFC provided from its own account, and mobilization of a B2 loan of US\$25.5 million under the IFC-run MCPP ("**Managed Co-Lending Portfolio Program**"), which is a syndication platform. IFC is also the provider of US\$ interest rate swaps to hedge IFC and MCPP exposures.

The Complaint

In June 2020, a local community member from Tafila, Jordan, submitted a complaint to CAO on behalf of himself and two family members. They indicated that their family jointly owns land near the Project and raised concerns about the impact of the Project construction and potential future impacts of its operations.

Specific issues cited in the complaint included noise and shadow flicker effects from the wind turbines, health and safety concerns, and the missed opportunity for farmers to raise birds. The Complainants further claimed that, by leasing some land plots surrounding the Project to the exclusion of theirs and others and despite their proximity to the turbines, the Company was arbitrarily creating social disparities within their community. Additionally, they claimed that due to proximity of the turbines to their land, it prevented them of potential economic opportunities.

CAO Assessment

In July 2020, CAO determined that the complaint met its three eligibility criteria and began an assessment of the complaint. A CAO assessment typically involves a field visit to meet with the Parties, and other relevant stakeholders, as identified by the Parties, to gain a better understanding of the situation. Due to COVID-19 related restrictions on travel and social gatherings, CAO's staff and consultants could not arrange in-person meetings with the relevant stakeholders involved in this case. With consent from the Parties, CAO conducted the assessment remotely through phone and video calls with the Parties. CAO's interpreter on the case was based in Amman, Jordan, and provided additional support in communicating with the Complainants. CAO also conducted a desk review of IFC project documents and documentation provided by the Parties.

During CAO's assessment, both Parties expressed an interest in addressing the issues raised in the complaint through a voluntary dialogue process facilitated by CAO.

Dispute Resolution Process

Preparation for dialogue

In January 2021, CAO conducted virtual capacity-building sessions with the Parties. The capacity building was intended to equip the Parties with the relevant knowledge and skills prior to engaging in the DR process. It included training on conflict resolution, communication, and the CAO process.

The CAO team also provided ongoing capacity building to both Parties throughout the process.

Dialogue process

CAO convened the first virtual joint meeting in February 2021. During this meeting, the Parties discussed and agreed on Ground Rules for engagement and started discussing the issues raised in the complaint. The Ground Rules govern the manner in which the process will be conducted and address the Parties' expectations.

The Complainants alleged that, before beginning construction, the Company did not conduct a proper and thorough stakeholder engagement process with the community surrounding the Project and never consulted with them as part of their environmental and social impact assessment process. They also described the impacts of the Project on their lives and on the local community and referenced the Environmental and Social ("E&S") framework for the Project. Given those impacts, the Complainants expressed that they believed they had a right to benefit from the Project. They added that they wanted to create a relationship of trust with the Company.

The Company shared that they valued their relationship with the Tafila community. They explained in detail the social and environmental impact assessment work

they conducted, as well as the stakeholder engagement process they followed, which they indicated were consistent with relevant national and international regulatory requirements applicable to the Project. They also shared the E&S mitigation measures they put in place, especially with regard to noise and shadow flicker. They extended an invitation to the Complainants to visit a nearby operating wind farm so that the Complainants would have a better sense of what the Project's impacts would be once operational. The Company further explained the criteria they had established for leasing neighboring land plots, and shared that, to be fair towards all landowners in the same situation, they would not be able to make exceptions to those set criteria and lease the Complainants' land. They added that they were working on community-wide CSR initiatives that would serve the whole community.

The Company also indicated that there was a stakeholder grievance mechanism in place that was available to all community members.

At the end of the joint meeting, the Company extended an invitation to the Complainants to visit the project site for further discussions. The Parties met privately, without the presence of CAO, in April 2021. However, the discussions did not resolve the issues. Although the Company indicated that they wanted to continue the direct discussions with the Complainants, the Complainants indicated that they preferred to continue the discussions with the facilitation of CAO.

The dispute resolution process was put on hold between May and August 2021, based on a request from the Company. The Company cited an extremely challenging situation due to COVID which led to additional delays in the construction of the wind farm, and the need to focus on Project

completion and meeting their Commercial Operations Date (COD). The Company however informed CAO that during this time it has unsuccessfully tried to contact the Complainants through their Community Liaison Officer.

CAO convened a second joint meeting in October 2021. During that meeting, the Complainants presented some options for resolution to the Company and asked to hear back within a month. The Company committed to reflect on those options and reiterated their commitment to CSR initiatives and their interest in continuing to work with the community.

CAO convened bilateral meetings with the Parties in December 2021 to follow up on the options for resolution. The Company informed CAO that the Complainants' proposal could not be met based on their company policies, and that they offered a counter proposal to include them in the CSR projects that were being coordinated for the community. CAO relayed this position to the Complainants, who responded that the Company's proposal was unsatisfactory. The Complainants elected to move the case to CAO's Compliance function.

CHALLENGES AND LESSONS LEARNED

The case presented several challenges and learning opportunities, including the following:

COVID-related restrictions

The in-country and World Bank Group travel restrictions made it impossible to convene face-to-face meetings with the Parties. Although the Complainants invited the CAO interpreter based in Amman to visit Tafila for some meetings, this was not possible due to the restrictions. The Complainants and Company had access to communication tools and stable internet access.

Participants in the meetings were spread out between Tafila, Amman, Seoul, and the CAO team in Washington, DC. This presented a challenge in scheduling some meetings, due to time differences. There were also instances of technical challenges with the virtual platforms. The CAO interpreter based in Jordan played a pivotal role in communicating with the Complainants via phone, helping them and sharing instructions on how to set up their connection to the virtual platforms.

Delays in the dispute resolution process

The dispute resolution process was conducted during a busy time for the Company. Due to the challenging environment due to the COVID-19 impediments, which led to significant delays in the implementation of the Project, the process was paused for a few months. The CAO team kept the lines of communication open with both Parties to ensure that momentum was not lost. Although this pause prolonged the dialogue process, both Parties remained committed to the process.

Value of the CAO DR process, despite lack of resolution

Despite the lack of a final settlement agreement, the CAO team observed that the efforts made by the Parties throughout the process achieved some results:

- A trusted and safe space for dialogue was created between the Company and the Complainants, which allowed them to listen, provide input, and gain insights into the issues. More specifically, the process allowed the Complainants to hear about the Company's CSR program for the community and the Company to hear about the Complainants' hopes and desires in terms of the Company's contribution to their community.

- The Parties' capacities to be effectively engaged in dialogue processes were developed and strengthened. In fact, at the end of the process, the Complainants shared with CAO that despite not finding resolution through this process, they felt they had learned a lot and had already used the skills learned during the capacity-building sessions and developed during the CAO DR process in other settings.
- Both parties demonstrated a deeper cross-cultural understanding of each other's point of view.
- The Company confirmed it will continue its CSR efforts in the local community.

CONCLUSION AND NEXT STEPS

Despite the Parties' good faith efforts in seeking to resolve the issues raised in the complaint, no agreement was reached. The case will be transferred to the CAO Compliance function at the Complainants' request and as per CAO's policy.

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

See Annex A for more information on the CAO process.

ANNEX A. CAO COMPLAINT-HANDLING PROCESS

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

As per the IFC/MIGA Independent Accountability Mechanism (CAO) Policy,² the following steps are typically followed in response to a complaint that is received:

- Step 1: **Acknowledgement** of receipt of the complaint.
- Step 2: **Eligibility:** Determination of the complaint's eligibility for assessment under the mandate of CAO (no more than 15 business days).
- Step 3: **Assessment:** Assessing the issues and providing support to stakeholders in understanding and determining whether they would like to pursue a consensual solution through a collaborative process convened by CAO's Dispute Resolution function, or whether the case should be handled by CAO's Compliance function to review IFC's/MIGA's environmental and social due diligence. The assessment time can take up to a maximum of 90 business days, with 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.³

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

² For more details on the role and work of CAO, please refer to the full IFC/MIGA Independent Accountability Mechanism (CAO) Policy

³ Where stakeholders are unable to resolve the issues through a collaborative process within an agreed time frame, CAO Dispute Resolution will first seek to assist the stakeholders in breaking through impasse(s). If this is not possible, the Dispute Resolution team will inform the stakeholders, including IFC/MIGA staff, the President and Board of the World Bank Group, and the public, that CAO Dispute Resolution has concluded the dispute resolution process and transferred it to CAO Compliance for appraisal.

resolution process results in partial or no agreement. At least one Complainant must provide explicit consent for the transfer unless CAO is aware of Threats and Reprisals concerns. CAO's Compliance function reviews IFC/MIGA's compliance with environmental and social policies, assesses related harm, and recommends remedial actions where appropriate following a three-step process. First, a compliance appraisal determines whether further investigation is warranted. The appraisal can take up to 45 business days, with the possibility of extending 20 business days in exceptional circumstances. Second, if an investigation is warranted, the appraisal is followed by an in-depth compliance investigation of IFC/MIGA's performance. An investigation report will be made public, along with IFC/MIGA's response and an action plan to remediate findings of non-compliance and related harm. Third, in cases where non-compliance and related harm are found, CAO will monitor the effective implementation of the action plan.

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

Step 6: **Conclusion/Case Closure**