

**Dispute Resolution Conclusion Report
Regarding the Complaint Received in Relation to IFC’s Investment in Valor
Opportunity Fund (IFC #43308) in Brazil**

September 2022

SUMMARY

In March 2021, CAO received a complaint from community members (“**the Complainants**”) in São Paulo, Brazil, raising health and safety concerns related to the operations of the country’s largest bike-sharing company (“**Tembici**” or “**the Company**”). IFC supports Tembici through an investment fund owned by Valor (“**IFC Client**”).¹

In April 2021, CAO determined that the complaint met its three eligibility criteria and began its assessment. The Complainants and Tembici expressed an interest in engaging in a CAO dispute resolution (“**DR**”) process to resolve the issues raised in the complaint. Per the CAO Policy, the complaint was transferred to the CAO Dispute Resolution (“**DR**”) function in August 2021.²

Due to COVID-19-related restrictions on travel and social gatherings, both the assessment and the DR process were held virtually, with the consent of the Complainants and the Company (“**the Parties**”). During the DR process, the Parties reached an agreement through shuttle diplomacy and two joint meetings facilitated by CAO. On February 9, 2022, the parties electronically signed the agreement document, which is confidential.

On February 4, 2022, Tembici informed the Complainants and CAO that it would discontinue its operations in the premises neighboring the Complainants’ building and move to another location in another area of the city. The move was completed on August 30, 2022. CAO monitored the agreement until then at the request of the Parties and subsequently closed the case. This Conclusion Report provides an account of the assessment and the DR process and offers some reflections.

BACKGROUND

The Project

IFC has an active equity commitment of \$63.5M in Valor Capital (\$7M in Valor Venture Fund II, \$30M in Valor Venture Fund III, \$16M in Valor Venture Fund IV and \$10.5M in Valor Opportunity Fund I). Valor Capital invests in early-to-late-stage technology companies and international technology companies operating in or seeking to expand into Latin America, specifically into Brazil. Valor Capital has an active investment in Tembici, the largest bike-

¹ At the time of the complaint, IFC also had a co-investment stake in Tembici through Valor. Subsequent to the dispute resolution process, IFC invested directly in Tembici.

² [CAO Policy](#).

sharing company in Latin America.³ IFC also had a co-investment in Tembici which was recently converted to direct shares combined with an additional investment of \$5M in Q2 2022. The current aggregate IFC commitment to Tembici is \$15.5M.

In 2020, Tembici partnered with iFood – a mobile platform where customers can order food from restaurants – to implement the project “iFood Pedal.” According to information on the iFood Pedal-Tembici website, the project includes flexible plans for iFood delivery partners to use Tembici bikes. The project also includes the establishment of spaces throughout the city called “Support Points” where delivery partners can check-in and return bikes, eat, and charge their phones, among other services.⁴

The Complaint

The complaint was submitted to CAO by an individual on behalf of himself and the residents of the building in which he lives in São Paulo, Brazil. The complaint raises concerns related to the establishment of a Tembici/iFood Support Point in October 2020 near the building, which – according to the Complainants – resulted in daily crowding of the sidewalk, to the point where residents had to walk on the road, putting their physical safety at risk.

According to the Complainants, their concerns were exacerbated by the pandemic because many delivery partners using the Support Point both inside and outside the property did not respect social distancing or wear the mandatory masks to prevent COVID-19 infections. In addition, the Complainants alleged that some of the delivery partners rode bicycles without taking any precautions, including riding in the wrong direction on the road and the sidewalk, generating additional risks to residents’ safety.

CAO Assessment

In April 2021, 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, the CAO was not able to hold in-person meetings. With consent from the Parties, CAO conducted the assessment remotely through phone and video calls with them. CAO also conducted a desk review of IFC project documents and documentation provided by the Parties.

During the assessment, the parties informed CAO that they had engaged directly with one another to resolve the issues. However, they requested a CAO’s dispute resolution process to help them reach an agreement on outstanding issues and to support in monitoring the implementation of such agreement.

Dispute Resolution Process

At the parties’ request, CAO initiated the DR process by preparing a draft agreement document, which included the information provided by the parties.

³ [Valor Group Website](#). Accessed: March 14, 2022.

⁴ [iFood Pedal Tembici Website](#). Accessed March 14, 2022.

After gathering parties' comments on the document via email and text messages, the CAO DR team identified a need to convene joint meetings to discuss outstanding issues. CAO mediated two virtual dialogue meetings in September and December 2021. Before each meeting, CAO shared with the Parties the agenda of the meeting and the rules of participation. Both the agenda and the rules were validated by the Parties.

At the second joint meeting, the Parties reached an agreement on all relevant issues. The final settlement agreement was signed electronically in January 2022 (by the Company) and February 2022 (by the Complainants).

The Agreement

Although the agreement includes a confidentiality clause, the Parties agreed for the below summary to be shared publicly.

*Summary of the Agreement:*⁵

The Parties agreed on the following measures related to health and safety issues:

- **Use of Tembici's premises:** Tembici's premises, located in the Complainants' neighborhood in São Paulo will be used for maintenance and storage of bicycles, training, meetings, and customer support for delivery drivers. These activities will not include the bicycle pick-up/drop-off service for delivery drivers.
- **Event capacity and lines:** When events are held in the premises, participants will park their bicycles and will queue inside the premises.
- **Bicycle loading and unloading:** Specific schedules have been established for Tembici to load and unload bicycles. Tembici's bicycle transport vehicle will park in the parking spaces available on the street, never in a double line.
- **Garage door:** Tembici will ensure the effective implementation of its guidelines regarding the use of the garage door. The guidelines are included in the agreement text.
- **Compliance with traffic regulation:** Tembici will ensure that its employees who use bicycles as a means of transportation comply with traffic regulations and will continue to provide guidance and orientation for delivery drivers and other people linked to the project to do so as well.
- **Access to the premises:** The public, including residents of the neighboring buildings, may only access Tembici's premises with prior authorization from Tembici's officials.
- **Monitoring:** At the Parties' request, CAO will monitor the agreement for two years.

Conclusion of the DR process

On February 4, 2022, Tembici informed the Complainants and CAO that they would move their operations to another area of the city, due to an expansion of their iFood Pedal project. CAO remained in frequent communication with the Parties to monitor implementation of the

⁵ The agreement summary does not encompass nor represent the official agreement document.

agreement until August 30, 2022, when Tembici completed the move to their new premises. Once the move was completed, CAO closed the case.

REFLECTIONS

CAO would like to highlight the following factors that, among others, contributed to the Parties reaching an agreement within the timeframe described in this report.

Conditions to initiate an expedited process

- The Parties acknowledged each other's concerns and good faith from the outset. The Complainants recognized the value of the Company's project, even though they had specific concerns related to how the Company operated at the neighboring location. Similarly, the Company took the Complainants' concerns seriously, appointed a team of four people to participate in joint meetings, and showed a problem-solving mindset during the process.
- The Parties had initiated discussions prior to the DR process.
- Both the Company and the Complainants were comfortable using virtual communication platforms.
- Representatives of both Parties had a clear mandate for decision-making. It allowed them to promptly reach agreements on the issues at stake.
- IFC engaged with Tembici and Valor Capital on receipt of the complaint and focused the companies on engaging quickly with the Complainants. The existing close relationship between the IFC team, Valor and Tembici helped create a constructive platform, which has contributed to the resolution of the outstanding issues.

Adapting the methodology to meet the needs of the process

The process was tailored to the Parties' preferences and the context. For instance, the process was expedited to complete the assessment report in parallel with the initiation of the DR process. According to CAO policy, the assessment is intended to develop an understanding of the issues of concerns and identify whether the parties are willing to initiate a CAO dispute resolution process. The output of this stage is an Assessment Report that describes the Parties' perspectives on the issues and their decision. In this case, from the first weeks of the assessment period, the Parties indicated their willingness to initiate a CAO-facilitated DR process. Given that the drafting of the report would take a few weeks - including time for translation into the Parties' language - CAO simultaneously initiated the DR process.

Additionally, building on the parties' prior engagement efforts, the DR process focused on helping parties reach agreement on outstanding issues.

Ongoing communication between the CAO and the Parties

While the CAO facilitated the process primarily through email exchanges, maintaining fluid communication with each party via text messages facilitated the quick resolution of some issues and the provision of clarifications that allowed concerns to be effectively addressed.

CONCLUSION AND NEXT STEPS

After a four-month DR process, the Parties reached an agreement. CAO monitored the implementation of the agreement for six months until Tembici moved their operations to new and larger premises. Since the operations that were the subject of the process are no longer carried out in the premises neighboring the Complainants' residence, CAO closed the case.

All documentation relevant to this case is available at the CAO 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 a CAO 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,⁶ the following steps are typically followed in response to a complaint that is received:

- Step 1: **Acknowledgment** of receipt of the complaint.
- Step 2: **Eligibility**: Determination of the complaint's eligibility for assessment under the mandate of CAO (no more than 15 business days).
- Step 3: **Assessment**: Assessing the issues and providing support to stakeholders in understanding and determining whether they would like to pursue a consensual solution through a collaborative process convened by CAO's Dispute Resolution function or whether the case should be handled by CAO's Compliance function to review IFC's/MIGA's environmental and social due diligence. The assessment time can take up to a maximum of 90 business days, with possibility of extension for a maximum of 30 additional business days if after the 90-business day period: (1) the Parties confirm that resolution of the complaint is likely; or (2) either Party expresses interest in dispute resolution, and there is potential that the other Party will agree.
- Step 4: **Facilitating settlement**: If the Parties choose to pursue a collaborative process, CAO's Dispute Resolution function is initiated. The dispute resolution process is typically based on or initiated by a Memorandum of Understanding and/or mutually agreed-upon ground rules between the Parties. It may involve facilitation/mediation, joint fact finding, or other agreed resolution approaches leading to a settlement agreement or other mutually agreed and appropriate goals. The major objective of these types of problem-solving approaches will be to address the issues raised in the complaint, and any other significant issues relevant to the complaint that were identified during the assessment or the dispute resolution process, in a way that is acceptable to the Parties affected.⁷

OR

⁶ For more details on the role and work of CAO, please refer to the full IFC/MIGA Independent Accountability Mechanism (CAO) Policy: <https://documents1.worldbank.org/curated/en/889191625065397617/pdf/IFC-MIGA-Independent-Accountability-Mechanism-CAO-Policy.pdf>

⁷ Where stakeholders are unable to resolve the issues through a collaborative process within an agreed time frame, CAO Dispute Resolution will first seek to assist the stakeholders in breaking through impasse(s). If this is not possible, the Dispute Resolution team will inform the stakeholders, including IFC/MIGA staff, the President and Board of the World Bank Group, and the public, that CAO Dispute Resolution has concluded the dispute resolution process and transferred it to CAO Compliance for appraisal.

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 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**