

Punto di Contatto Nazionale per le Linee Guida OCSE

Conciliation procedure in the Specific Instance submitted to the Italian NCP, on the 15th December 2017, by Egbema Voice of Freedom, Chima Williams and Associates (CWA), Advocates for Community Alternatives (ACA) v. Eni SpA. and ENI International BV.

Follow-up Report based on the information received by the Parties

Introduction:

This document is a report of the steps taken to implement the agreement ([Terms of settlement](#)) signed on the 8th July 2019 by the Parties of the specific instance submitted to the Italian NCP on the 15th of December 2017, publicly available on the NCP website.

Complainants: Chima Williams & Associates (CWA) and Advocates for Community Alternatives (ACA) on behalf of Egbema Voice of Freedom (EVF), towards

Company: ENI S.p.A. and ENI International BV (read the [Final report of the case](#)).

Background

By the specific instance submitted to the Italian NCP the Complainants alleged that ENI had acted in breach of some recommendations of the Guidelines on General Policies, Human Rights and Environment.

Namely, the complaint were concerned by the negative environmental impact of some embankments constructed in the Mgbede oil fields, in Nigeria, in the early 1970s, and managed nowadays by NAOC, the ENI's wholly owned subsidiary in that Country.

These constructions allegedly constituted a blockage to the natural streams that, therefore, backed-up and flooded large swathes of Aggah's farmlands and residential areas.

The NCP offered its good offices to the Parties and the result of the conciliation procedure was that the Parties reached an agreement on the 8th July 2019, by subscribing the aforementioned Terms of Settlement.

As pointed out in the Final report of the case, after the agreement the NCP did not provide assistance in the implementation of the Terms of Settlement, since the Parties did not agree to seek it.

Nevertheless, in the Terms of settlement it is recommended that, after the end of the Conciliation, the Parties keep the NCP informed of steps taken in implementation of the agreement. Therefore, the Parties informed the NCP of the steps taken and the NCP, based on the information received and according to the “Handbook for the management of the specific instances submitted to the Italian National Contact Point”¹, elaborated this Report and published it on its website.

Update from the Parties

The Parties report that NAOC and Egbema Voice of Freedom (EVF) have managed to define and agree a “Scope of Work”.

The Parties agreed on a Work Plan to construct additional culverts/drainages. The Parties also concurred on the need to kick off the activities as soon as possible.

After the decision of the Paramount Ruler of the community to proceed with the works and allow the contractor to mobilize to site, the contractor actually mobilized to site in July 2020 and is now progressing with the activity, notwithstanding the delays caused by COVID-19: two box culverts have been completed and 9 are at different stages of execution. After the completion of all box culverts, the cut sections of the road will be restored and asphalted.

NAOC expect the project to be completed within the end of March 2021, after which the terrain will be monitored for discharge of water during the seasonal flood.

Point of view of the Parties:

During conversations with both parties on the follow up of the agreement, the NCP registered some divergences between the Parties on the contents of the Scope of Work and on the choice of the contractor.

According to ENI, the project is currently at over 50% completion. Instead, EVF, argue that the agreed-on Scope of Work is not limited to the repair of culverts and the installation of new ones, but also involve the construction of new drainage channels to promote the drainage of floodwaters from the community’s lands to the Oloshi River.

¹https://pcnitalia.mise.gov.it/attachments/article/2035924/Handbook%20procedures%20instances%20EN_2019.pdf.
See p. 17: “The NCP is entitled to publish on its website information on the steps taken and on the results achieved after the conclusion of the procedure.”



On the other side, ENI, recalling the Terms of Settlement, denies that such further steps have been agreed, and reminds that the activities jointly agreed by the Parties are to be implemented within the limits of the area object of the proceeding.

As to the contractor, EVF declares that NAOC is not doing an adequate job to understand the community's perspectives and manage the various expectations that are key to the project's success and refers to the controversy erupted in June 2020 as a prove of this flaw.

According to ENI, NAOC selected the contractor in compliance with the Company's internal rules and procedures. In the specific case, NAOC decided to execute the contract though an existing contractor with previously awarded contract - also to avoid the tensions that could originate from a tender exercise involving community contractors. In addition, ENI recalls that the Aggah Community unanimously invited NAOC contractor to mobilize to site and start the activities. It also points out that It is not in the spirit of the Conciliation to give voice to those in the community that want another contractor, since this approach risks to favour the interest of some individuals and their potential attempt to influence NAOC's internal procurement process.

Finally, while ENI alleges that the complaints related to the contractor are being addressed in compliance with NAOC procedures, EVF declares that they are not aware of any procedure set up to address these complaints.

The Company obtained approval from the Aggah Community's leadership on the activity to be performed.

Point of view of the Parties:

The Complainants point out that NAOC communicating with EVF or with the Aggah's traditional leadership cannot not substitute a broader consultation involving the community at large.

No Technical Expert (provided for in the Terms of Settlement) has been appointed to date.

Point of view of the Parties:

ENI states that the reason is that the Parties agreed that this was not necessary.

On the opposite, EVF states that no complainant ever agreed on that.

Anyhow, both Parties agreed that nothing would prevent NAOC and EVF from involving a Technical Expert in the future.

Closing remarks:

During conversations with the NCP, both parties recognised that there has been progress on the implementation of the ToS and confirmed their willingness to continue the dialogue to reap the benefits of the agreement reached.



The NCP reiterates the enormous value of the agreement of the 8th July 2019 and welcomes the progress made up to now in its implementation.

The NCP invites the Parties to continue to cooperate in good faith and with the utmost commitment for the implementation of the Terms of Settlement and to follow the final recommendations formulated by the Conciliator in the ToS.

4th March 2021

THE ITALIAN NATIONAL CONTACT POINT
for the OECD Guidelines