

INDEPENDENT COMPLAINTS MECHANISM (ICM)

Monitoring Report

30 October 2023

FMO Complaint 16-001/002

Sendou I Coal Power Plant

Bargny, Senegal

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Recipients:

Complainants

FMO

Client Company - Sendou I Coal Power Plant

This Report is based on information provided to the Independent Expert Panel (IEP) by the complainants, the lenders, the client Company and other relevant parties. This document is not giving, and should not be taken, as legal advice, and is not intended to be used as proof for its content in a court of law. The content of this document is only intended for the parties to which it is addressed.

ABBREVIATIONS

AfDB	African Development Bank
BOAD	West African Development Bank
CBAO	Compagnie Bancaire de l'Afrique de Occidentale
CES	Compagnie d'Electricite de Senegal
EPCM	Environmental Procurement and Construction Management
ESIA	Environmental and Social Impact Assessment
FMO	De Nederlandse Financierings-maatschappij voor Ontwikkelingslanden
ICM	Independent Complaints Mechanism
IFC	International Finance Corporation
IUCN	International Union for Conservation of Nature
LSD	Lumière Synergie pour le Developpement
NGO	Non-Governmental Organization
PS	Performance Standards
SENELEC	Société Nationale d'Electricité du Senegal
SOCOCIM	Société Commerciale du Ciment
WSP	WSP Parsons Brinkhoff (Lenders Technical Advisor)

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A. Introduction

The Sendou Coal-Fired Power Plant is a 125 MW coal power plant located 35 km north from Dakar in Sendou, Senegal. The project is co-financed by the Dutch Development Bank (FMO), the African Development Bank (AfDB), the West-African Development Bank (BOAD), and the Banking Company of West Africa (CBAO). FMO funding (and funding of co-financiers) was approved in 2009. A first disbursement took place in 2013. The ICM received two complaints on this project which were declared admissible in August 2016. The complainants are actively supported in their complaint process by the NGO “Lumiere Synergie Developpement” (LSD) which acts as an advisor to the complainants. The ICM issued a Compliance Review Report on 12 October 2017 which is published on the ICM website.¹ The same complainants also filed a complaint with the Independent Review Mechanism (IRM) of the AfDB which issued a Compliance Review Report in January 2019.²

According to paragraph 3.2.22 of the ICM policy *“in cases where material non-compliances are identified, the ICM will monitor the situation until actions taken by the FMO assure the ICM that FMO is addressing the material non-compliance(s)”*. The ICM issued a first Monitoring Report in January 2020.³

This is the second Monitoring Report. The monitoring is based on a site visit conducted from 5 to 9 September 2022, on document reviews and interviews with different stakeholders. The ICM also collaborated with the Compliance Review and Mediation unit (BCRM) of the AfDB which has issued three monitoring reports on their complaints.⁴ The long delays between the monitoring visits are due to the COVID pandemic and the significant disruptions in project implementation, including several ownership changes and a temporary status in receivership. Due to the temporary absence of effective ownership, a monitoring visit was not considered useful.

¹ See Independent Complaints Mechanism of FMO, Compliance Review Report for the Sendou I Coal Power Plant in Bargny, Senegal, October 12, 2017, https://www.fmo.nl/l/library/download/urn:uuid:90559906-40f1-4178-83a5-75e4d1a5e8b3/compliance+review+report+sendou_english.pdf.

² See African Development Bank Group, Independent Review Mechanism, Sendou Coal-Fired Power Plant Project, Compliance Review Report Senegal, Request No.: RQ2016/2, https://www.afdb.org/fileadmin/uploads/afdb/Documents/Compliance-Review/Sendou_Coal_Fired_Power_Plant_Compliance_Review_Report_Eng.pdf.

³ Independent Complaints Mechanism of FMO, Monitoring Report for the Sendou I Coal Power Plant in Bargny, Senegal, January 27, 2020, <https://www.fmo.nl/l/library/download/urn:uuid:da7010e2-477f-4501-a1c7-fa4436f72966/icm+sendou+monitoring+report+english+january+2020.pdf>.

⁴ African Development Bank Group, Construction of a 125 MW Coal-Fired Sendou Power Plant in the Village of Bargny Minam, Senegal: Independent Review Mechanism First Monitoring Report on The Implementation Of the Updated Management Action Plan, June 2020, <https://www.afdb.org/en/documents/senegal-construction-125-mw-coal-sendou-power-plant-village-bargny-minam-1st-monitoring-report>.; Independent Review Mechanism, Second Monitoring Report on the Status of Implementation of the Updated Management Action Plan for the 125 MW Coal-Fired Power Project in Senegal, October 2021, <https://www.afdb.org/en/documents/senegal-sendou-power-project-2nd-monitoring-report>.; Independent Review Mechanism, Third Monitoring Report on the Status of Implementation of the Updated Management Action Plan for the 125 MW Coal-Fired Power Project in Senegal, November 2022, <https://www.afdb.org/en/documents/senegal-sendou-power-project-3rd-monitoring-report>.

Developments in the project have been tumultuous with numerous ownership changes, technical and financial problems, and operational delays. The project promoter is Compagnie d'Electricité du Senegal (CES) whose main sponsor in 2012 was Nykomb Synergetics of Sweden. Late in 2012, Advisory & Finance Group Investment Bank (AFG) of Morocco joined as an equity partner. In October 2015, Quantum Power stepped in and acquired the share of AFG and became the majority shareholder. Lenders agreed to restructure the project loan and revised agreements were signed between the lenders and CES. FMO signed this agreement in 2015. The project became suspended between 2013 and 2015 whilst undergoing the shareholding restructuring. The construction of the Sendou project resumed in January 2016 with functioning tests commencing in June 2018. The plant did not operate at full capacity since its commissioning in 2018 due to numerous technical problems such as stoppages in turbines, boilers and condensers. The technical difficulties continued into 2019. The persistent difficulties and governance issues led to the total shutdown of the project in July 2019. Consequently, the plant was placed under receivership. A technical audit conducted in 2019 laid out the refurbishing needs for the plant to become operational. In October 2021, the company Sebenzana was awarded an EPCM contract for the implementation of the rehabilitation plan. In August 2021 the first synchronization was carried out with continuous running until mid-September with a load between 65 and 80 MW. Two capacity tests were concluded in September 2021 (65 MW Net) and in April 2022 (91 MW Net). Rehabilitation activities took place between December 2022 and February 2023. In March 2023, the plant became operational to commence with on-load commissioning activities. Further capacity tests were performed during May 2023. The net capacity was demonstrated as 112.35 kW. The completion of the capacity test concluded the rehabilitation phase of the project and marked the start of the full commercial phase.

FMO had interrupted its supervision activities during the period while the plant was under receivership but has actively supervised the project since activities resumed in January 2022. Four on-site supervision missions were conducted in April 2022, in October 2022, in March 2023 and in August 2023. During these missions FMO focused on urgent solutions to mitigate serious environmental impacts and on laying out actions required to bring the project into compliance with required E&S standards. The ICM recognizes that the FMO has – since activities in the power plant have been resumed – taken a very active stance in supervising the project and in making efforts that the project is brought into compliance. As a result of this engagement, the ICM notes a strong commitment by CES to mitigate the serious environmental impacts. While encouraging progress seems underway to rectify some important noncompliance areas on environmental impacts, in the view of the ICM more progress and engagement is needed to address the status of the fish drying women.

B. Findings of the Compliance Review Report

The complaint raised the following issues: (i) increased vulnerabilities of the local population to air pollution, including disruptions to livelihood due to the proximity of the plant to the town of Bargny and the fact that more than 1,000 women who dry fish to generate income in the buffer zone adjacent to the project site are expected to be displaced; (ii) imminent health risks resulting from air pollution from the plant; (iii) increased exposure to coastal erosion; (iv) a breach of the Bank's policy as no Resettlement Action Plan was prepared to compensate people who hold land rights on the project site and the adjacent buffer zone; (v) inadequate public consultations; (vi) adverse impact of the plant on a historic site where protected spirits of the village reside; (vii)

adverse impacts on marine resources, and (viii) noncompliance with Senegalese environmental legislation.

The ICM Compliance Review Report found noncompliances with IFC Performance Standards 1, 3 and 5. Specific issues identified in the ICM Compliance Review Report are (i) impacts on drinking water, (ii) marine impacts, (iii) coal transport impacts, (iv) impacts on air quality, (v) economic displacement impacts on fish drying women, and (vi) land title issues. The following sections review the progress made to bring the project into compliance with FMO policies. The sections below also lay out concerns regarding ash disposal and coal storage, two key environmental concerns. Though these two issues were not raised in the ICM Compliance Review Report, the lack of a plan and system to assure safe ash disposal was prominently highlighted in the Compliance Review Report of the African Development Bank (see paras. 68-69 of the Report). The present practice of storing ash and coal unprotected on the ground in an area close to the city of Bargny and in the immediate vicinity of the fish drying women is of significant concern. As the area is very windy, ash and coal dust are distributed into the air, contributing to air pollution. Consequently, ash and coal dust pollution and groundwater pollution can cause serious health impacts.

i. Ash Disposal System

At full capacity, the Sendou plant is expected to generate 62,000 tons of ash per year. In the original design all ash was expected to be collected by SOCO CIM, a nearby cement plant. CES installed a 700-ton silo for ash disposal. The ash was expected to be continuously collected by 5 to 6 SOCO CIM trucks per day and thus installation of an on-site ash disposal system was not considered necessary. When the plant started to operate, SOCO CIM pick-up did not materialize as SOCO CIM did not find the quality of the ash consistent with the contractual agreement and thus argued that they could not use the ash. As ash has not been picked up, ash accumulated over the years on the ground in large quantities. Ash is spread unevenly near the coal storage, with some areas infiltrated by water. Through heavy winds, the ash is also transported to nearby communities and contributes to significant air pollution. Inadequate ash management was also highlighted as a major concern in the Technical Audit, Health, Safety and Environmental of 2019. The situation observed by the ICM monitoring mission and the FMO supervision mission which found a very large quantity of ash stored unprotected on the ground, is a major noncompliance area with IFC Performance Standard 1 and carries significant health risks. It requires immediate attention.

The ICM was informed by CES and FMO that efforts are underway to correct this situation. At the time of the ICM site visit, the ICM was informed that an ash disposal system has already been designed. Ash would be stored in an ash dump established on site where ash would be compressed and sprayed. To avoid ground contamination, the ash dump would be lined. Spraying would contain air pollution which is particularly detrimental as the ash dump is located on the plant site adjacent to the town of Bargny and in the immediate vicinity of Minam village. The ICM was informed by CES that a 25-year agreement has been concluded with SOCO CIM to collect fly ash which meets specified standards. According to information provided by CES, Dangote has provided a draft agreement for collection of ash which is presently under review. Dangote is already collecting bottom ash from the site. The ICM was informed that as a result of the ash pick-

ups from SOCOCIM and Dangote the quantity of ash stored on site have now been significantly reduced.

During its monitoring visit, the ICM was informed that adjustments in the fly ash silo are being planned. Dry ash captured in the electrostatic precipitators is conveyed under negative pressure from the precipitator hoppers to a baghouse positioned on the top of the ash silo. Currently, the discharging of the ash from the ash silo into trucks is not functioning well. It has become a major source of dust creation on site. Silo modifications were approved by CES in December 2022. The design phase for the adjustment of the silo has been completed, and installation of the new equipment is expected to take place in October 2023 after the rainy season.

A large amount of fly ash is created when ash is dumped on the ash dump via trucks. This can be prevented by conditioning the ash first by adding a sufficient amount of water to the ash in order to create a homogenous mixing of ash. A twin shaft mixer with water pumping system is planned to be installed at the fly ash silo. The conditioned ash is expected to be less susceptible to being carried away in the wind and can be easily compacted.

The ICM recently received information that there have been significant delays in the implementation of the ash disposal system - which had been discussed with the ICM monitoring team during its visit - due to a change in capacity of the ash disposal facility.⁵ The intention of CES is now to reduce the size of the ash disposal system. The original design of the size of the ash disposal facility was based on the amount of legacy ash stored on site, as well as the amount of ash produced daily at the time of design. CES states that ash is now collected by cement manufacturers and that there is therefore no need for an ash disposal facility of the size as presented to the ICM in September 2022.⁶ CES states that the ash disposal facilities are designed in two phases and that the first phase is now being implemented. Should ash collection by the cement companies not proceed as planned, the second phase of the ash disposal system would then be implemented. The ICM finds it disconcerting that CES intends to significantly reduce the size of its ash disposal system. The Sendou power plant was originally designed with the view that all ash would be collected by cement manufacturers and no ash disposal system was provided for. This proved to be a significant design mistake. When cement manufacturers ceased to collect the ash, very large quantities of ash were stored unprotected on the ground, creating a significant health hazard to the local population. This can happen again. Cement companies can stop operating, disagree with quality standards of ash and reduce or stop their intake. It is essential that an ash disposal system is designed which can safely store sufficient quantities of ash, even in situations where cement manufacturers stop to pick up ash. Not doing so endangers the local population. Furthermore, it is essential that all stored ash is continuously and adequately sprayed to reduce air pollution.

Compliance status: noncompliant

⁵ CES informed the ICM that earthworks for the ash disposal system have been completed and that final compaction and levelling will be done after the rainy season. The liner material is also expected to be installed after the rainy season and the ash disposal system is expected to be completed before the end of 2023, assuming that rain stops around the end of September.

⁶See Compagnie d'électricité du Sénégal, Sendou 125 MW Power station, Progress Report-Environmental and Social Projects, March 2023, para. 2.2.2.



Photo 1. Sendou power plant with coal storage and ash dumping facility facing the city of Bargny. Source: Sebenzana, September 2022.

ii. Coal Storage System

Of critical concern is also the coal storage system. Coal has been stored on the ground on the plant area facing the city of Bargny and directly adjacent to the area where women dry their fish. As the area is very windy, open coal storage almost certainly leads to coal dust pollution which has important health impacts. Several complaints have been filed at the CES grievance system by the community of Minam where argument is made that there is significant coal dust (and ash) pollution. CES identified the conveyor system as a main source of coal dust pollution and informed the ICM that the conveyor belts have been aligned and the conveyor structure sheeting has been repaired and replaced where necessary, which has greatly reduced the coal spillages from the conveyor system.

Another important source of coal dust pollution is the loading and offloading of coal from trucks when coal is transported. CES further informed the ICM during its monitoring visit that water sprinkling systems will be installed in the coal stockyard which should contain coal dust pollution to some extent. The ICM is of the view that, unless very intensive sprinkling of the coal piles will be done, it is unlikely that the limited sprinkling which is foreseen would suffice to adequately contain coal dust pollution.⁷ CES originally planned to install a wind fence around the coal stockyard which would reduce wind velocity by 50 percent and thus reduce dust distribution. The installation of a wind fence so far has not been approved due to high costs. The ICM is of the view that the installation of wind fences should be further pursued. CES informed the ICM that once the water system has been installed after the 2023 rainy season, the need for additional measures (such as a wind fence) will be assessed. CES also plans to assess whether more extensive lining of the coal yard is required once the groundwater quality baseline is available.

Compliance status: noncompliant

⁷ CES stated to the ICM that the water dust suppression system will have both fixed and movable sprinklers. The movable sprinklers will be placed in areas where coal is being handled. According to CES, these water dust suppression systems are very effective in preventing the spreading of coal dust.

iii. Impacts on Drinking Water and Groundwater Contamination

There are two separate issues related to drinking water: (i) the quantity withdrawn by the power plant from the local water network, and (ii) contamination of ground water through inadequate ash disposal and contamination through stormwater and liquid effluents.

The complainants argued that the project will cause overburdening of the local water network and contamination of the community's drinking water supply. FMO and CES held the view that the power plant is not in competition with domestic users in Bargny for drinking water as the drinking water is supplied from a Lake called 'Lac de Guiers'. In addition, CES indicated that it has constructed a 7 km long and 300 mm diameter water pipeline from the main artery of Diamniadio. Sebenzana confirmed that the drinking water for citizens of Bargny is provided by this pipeline. An independent assessment commissioned by FMO stresses that drinking water consumption by the power plant amounts to significantly less than was originally anticipated. The ICM Compliance Review Report originally assumed daily consumption of 1.500 m³ per day. However, actual consumption only amounts to 400-500 m³ per day. CES places significant efforts on recycling water which is probably the main contributing factor for the low water usage. Given that the water usage level is significantly below projected levels and given that the source of water for the plant appears to be separate from the supply system for Bargny, the ICM is satisfied that the usage of drinking water is in compliance with FMO standards. During the ICM monitoring mission, Sebenzana confirmed that municipal water usage will be confirmed and baselined once the Sendou plant is running at baseload.

As to ground water contamination, the ICM is pleased to note that a system is being put in place where groundwater contamination will be monitored. Eight groundwater borehole locations have been determined by stormwater and effluent specialists (see photo 2). Subcontract agreements with borehole drilling contractors have been signed and drilling has started in September 2022. CES informed the ICM that the drilling of groundwater boreholes was completed in November 2022 and that there has been some delay in the sampling and testing of the groundwater due to difficulties in obtaining equipment. Sampling and analysis commenced at the end of August 2023 and will continue for 12 months to establish a baseline. The ICM is pleased that CES is now planning to conduct groundwater monitoring, an activity which was originally considered not to be necessary by CES as groundwater was not used for drinking water. However, as the plant is located on brackish water, this is a threat to drinking water and a direct threat to the seawater quality. Groundwater thus needs to be carefully monitored.

The plant continues to operate with an incomplete effluent system. Wastewater could be contaminated with hydrocarbons and with chemicals which then could impact the quality of the groundwater. The original design intent for the effluent system was to separate the hydrocarbons from the wastewater in two oily water separators and for the chemical waste to be neutralised by the addition of acid or caustic via a dosing system. The treated clean wastewater would then be routed to a common monitoring base before being used on site. This rectification of effluents is currently on hold since a proper design can only be done once the processes feeding the effluent system are operating in accordance with its design. In the interim, effluents are isolated in temporary and permanent bunds and inspected before being released to the common monitoring basin. Problems also persist with the stormwater system. The levelling of the site does not allow for proper drainage of stormwater run-off and results in flooding of certain site areas during the

rainy season. In addition, the original design did not allow for proper segregation of the clean and dirty run-off water. There have been significant delays with the design of the rectification process and it appears a rectification can only be expected towards the end of 2024.

Thus, while the ICM is pleased that a ground water monitoring system has been put in place, the lack of progress in rectifying potential sources of water pollution, such as the effluent and storm water system, the ash dump and coal storage system, are disconcerting. The ICM recognizes that FMO makes significant efforts to hold CES accountable to make progress in these areas.

Compliance status: partially compliant



Photo 2. Borehole locations for groundwater monitoring. Source: Sebenzana, September 2022.

iv. Marine Impacts

At the time of filing the complaint, the indicated marine impacts were based on an open cooling system disposing water in the sea. Since then, a semi-closed cooling system has been installed which releases a much smaller amount of water into the sea. The blowdown of an open cooling system would be 5124 kg/s (18500m³/hr) compared to 121 kg/s (435 m³/hr) in the semi-closed cooling system. This significantly reduced blowdown and thus also significantly reduced the marine impact. However, no measurements are presently taken at the outtake of the indirect cooling system. Norms to which IFC performance standards refer require that sea water discharge must not exceed 3 degrees Celsius above ambient temperature. Salient discharge also needs to be measured. The ICM has been informed by CES that as part of the rehabilitation of the stormwater and effluent system, metering of the blowdown characteristics will be installed, such as temperature, salinity, oxygen content etc.

A very limited impact assessment on the Marine Environment had been issued in 2017 to assess the impact of a closed cooling system on the marine system. Assuming that the water discharge would be at 3 degrees Celsius above ambient at the discharge point and at 1 degree Celsius above ambient at a distance of 30 meters from the discharge point, the study finds that impacts on marine resources would be very limited. The study recommends that during the operation of the plant, the monitoring of the water quality should be performed regularly, and information should

be provided to the fishermen in the area. Moreover, annually experimental fishing, in consultation with fishermen should be conducted. The study also states that prior to the commissioning of the plant, the baseline of marine conditions should be updated which would provide the reference point for future monitoring.

The ICM notes that CES currently monitors the blowdown on-site and in an external lab, and that operation of the cooling tower is being reviewed and improved to provide for overflow protection and automatic level control. Furthermore, inadequacies with the drainage system also are likely causing some impacts on the seawater. To rectify these problems, CES has constructed a drainage channel around the plant. However, some works, such as site levelling, surfacing and the construction of concrete stormwater drains, remain to be done near the cooling system at the sea water intake area to eliminate the risk of flooding during rainy season. CES has plans for impact monitoring, but temperature and discharge monitoring at the point where cooling water is discharged into the sea has not, yet, started. An additional, significantly more comprehensive marine impact study has been conducted during the last months for which a draft has been completed. The study concluded that there is significant seawater pollution from multiple industrial activities. This seawater pollution can only be partially attributed to CES. The draft study also noted that the sea area is a nursery ground for several fish species, including one vulnerable species from the IUCN red list. Protection of the nursery areas around the industrial zone is a broader agenda which reaches beyond the responsibilities of CES but should be considered a priority as industrial activities in the area are expanded.

The ICM notes the significant efforts made to complete this study and takes note that CES plans to implement a monitoring system consistent with recommendations presented in the Compliance Review Report. The ICM was informed by CES that a meeting with communities was held in August 2023 to share the findings of the report and that the consultant intends to take account the view of the communities in the final report.

Compliance status: partially compliant

v. Coal transport

Coal is unloaded at the port of Dakar and delivered by trucks to the Sendou plant. When the plant will be fully operational, large quantity of coal (400,000 tons) needs to be transported from the Dakar harbour to the plant. The ICM Compliance Review Report found the impact assessment of the coal transport to the plant insufficient. The ICM was informed that CES hired a consultant to review coal transport and traffic management plans and to update the Environmental and Social Management System. The specialized consultant has completed the work and found that tarpaulin is used to cover coal when transported in trucks. However, there appears to be some negligence in appropriately covering the trucks which leads to coal dust pollution. The report presents recommendations for improved traffic management of subcontractors and suppliers. The study presents detailed proposals for an adequate traffic management plan. CES informed the ICM that the study has been finalized and results shared with the communities during a session organized in Bargny.

The ICM has also been informed that the draft traffic management plan will be consulted with communities before finalization and that the final traffic management plan will be posted on the

CES website. Communities should subsequently be involved in the monitoring of the implementation of the traffic management plan.

The ICM welcomes the significant efforts made to design an appropriate traffic management plan and welcomes the participatory approach anticipated. The ICM recognizes that FMO made substantial efforts in the design of this approach.

Compliance status: partially compliant



Photo 3. Lorries tarped with coal on way to Sendou. Source: The Energy Consulting Group, Environmental Action Plan to Tackle ICM Non-Compliance Issues, July 2022.

vi. Air Quality

A significant concern of noncompliance is air quality monitoring. Monitoring of stack emissions presently cannot be conducted as the calibration of measuring instruments has not taken place. For a coal-based power plant it is mandatory that a stack monitoring system is functioning reliably and that the plant cannot go to fuller capacity without such a system in place. Without a functioning stack monitoring system, the issue remains in noncompliance status. The ICM was informed that the Continuous Monitoring System in the stack is working, but that (i) there is no access to the sensor due to a safety issue with the stack lift and the staircase, and that (ii) without access so far, there has been no third-party calibration and no maintenance could be performed. CES has engaged a rope access company which in December 2022 performed an inspection and issued a report on the condition of the stack. A calibration contractor has been appointed but calibration as of today has not yet been completed. CES informed the ICM that a local company has been contracted to repair the existing elevator to gain access to the instruments at the stack level and that repair work and testing of the elevator is in progress. It is envisaged that the elevator will be repaired by the end of October 2023 and that the calibration of instruments can then take place. As calibration can only be done in dry weather conditions, this would need to take place after the rainy season. The absence of an air quality stack monitoring system is a very serious concern which needs to be urgently rectified.

The CES has installed small ambient air quality stations at five different locations: four on-site in the plant area and one at the Minam School. During the ICM site visit, the ICM could not judge whether these small units were of sufficient quality to adequately monitor ambient air quality, to what extent monitoring was done and whether these small ambient stations could capture impacts of the plant. CES informed the ICM that CES is assessing whether to install alternative ambient air monitors with a higher level of accuracy to replace the existing monitors.

Compliance status: noncompliant

vii. Economic Displacement and Impacts on Fish Drying Women

A key unaddressed issue is the unresolved situation of the fish drying women. The ICM Compliance Review Report underlined the noncompliance issues related to the fish drying women. The first ICM monitoring report also drew special attention to this important unresolved issue.⁸ The ICM notes that since issuance of the ICM Compliance Report in 2017 the situation with the fish drying women has remained unresolved. The ICM is also of the view that the situation has further aggravated as the fish drying women are exposed to severe ash and coal pollution and periodic chemical discharges from the plant which impedes their economic activities and poses health risks. Water discharge from the plant also has diminished the area where women can pursue their activities. Furthermore, no progress has been made in finding an alternative site where the women could conduct their activities.

The complaint argued that more than 1000 women who dry fish will be displaced as a result of the Sendou plant. According to Senegalese law, economic activities are not permitted on a 500-meter buffer zone around the plant. Fish drying women are thus subject to economic resettlement. At the time of project preparation and approval of FMO financing no baseline study had been prepared which should have assessed the number of people regularly working in the buffer zone. Moreover, no assessment of the income earned through the activities conducted on the buffer zone was made, and no resettlement plan was prepared. As no baseline study was conducted, the exact number of women drying fish in the buffer zone had not been established. Estimations vary between 1000 and 224 women (Environmental and Social Impact Assessment of 2009). While women have no formal documented land rights, they have been actively involved in fish drying activities on customary allocated sites over very long periods of time and regularly derive income from this activity. Complainants argue that the women hold customary land rights on this land which has been allocated to them since several generations. Complainants also emphasize that the women have worked on the site long before has been designed as “zone tampons”.⁹ The women who perform this activity are poor and should thus be considered a vulnerable group which under the IFC Performance Standards deserve special protection. The ICM Compliance Review notes that inadequate assessment of impacts on fish drying women, the

⁸ See Independent Complaints Mechanism of FMO, Monitoring Report for the Sendou I Coal Power Plant Bargny, Senegal, January 27, 2020, pages 8-10.

⁹ LSD stated that: “Les femmes transformatrices de poissons peuvent être considérées comme titulaires de droits (coutumier) sur un site qui leur est destiné par la communauté et a vu plusieurs générations y succédées. S’agissant de la zone tampon, nous insistons sur le fait que les femmes ne sont pas venues occupées une zone tampon. Dans un tel cas de cas de figure on pourrait parler d’expulsion. C’est le projet de centrale qui a fait du site de transformation vieux de plusieurs dizaines d’année une zone tampon.”

lack of a baseline study and the lack of design of mitigation or compensation measures constitute noncompliances with IFC PS5.¹⁰

A comparable position was taken by the report issued by the IRM Compliance Review Report which states that the AfDB is in noncompliance with the AfDB Resettlement Policy as no baseline study and no consultation with affected fish drying women was conducted and no resettlement plan was prepared prior to approval of the project by the AfDB Board.¹¹ The ICM Compliance Review Report proposed that relevant authorities issue a safeguard decree to ensure fish drying women to continue their activities on the area where they traditionally have dried fish. But authorities did not issue such a statement as such assurances would not be consistent with Senegalese law.¹²

In the first ICM Monitoring Report it was noted that this component continues to remain in noncompliance status. The first Monitoring Report notes that “a baseline survey should be conducted without any further delays”,¹³ and that a resettlement plan should be prepared and that negative impacts resulting from plant operations need to be mitigated. The NGO LSD emphasizes that such a baseline study needs to be conducted with active participation of the fish drying women.

As of today, fish drying women continue to dry fish in the buffer zone. Importantly, fish drying women are subject to severe ash and coal pollution as the fish drying sites are located next to the coal and ash storage areas on the plant site (see photo 4). Fish drying areas also have been subject to periodic spills which left the plant site and effluents were transported into the area. The status of fish drying women remains very precarious and they could be expelled at any point in time.¹⁴

¹⁰ See Independent Complaints Mechanism of FMO, Compliance Review Report for the Sendou I Coal Power Plant, Bargny, Senegal, 12 October 2017, page 44, where it is stated that “...FMO should have taken steps to ensure that the Project has in place processes and actions to minimise the necessity of economic displacement, to mitigate any negative impacts, and to ensure that compensation is offered to anyone affected in their economic rights by the Project...FMO in collaboration with the other lenders, should have insisted that its client should organise a census aimed at establishing the necessary socio-economic baseline data. This baseline data would be aimed at identifying persons in need of resettlement...The complete lack of a sound baseline and understanding of the functioning of the local economy, the number of people involved, the (economic and cultural) importance attached to the fish drying activities in the area, and the potential disturbances created during the construction of the project and the operational phase, is an instance of non-compliance with IFC Performance Standard 5.”

¹¹ See African Development Bank Group, Independent Review Mechanism, Sendou Coal-Fired Power Plant Project, Compliance Review Report, Request No.: R Q2016/2 page viii, and pages 16-18.

¹² LSD stated: “Nous constatons que l’ICM se réserve d’apprécier la législation sénégalaise. Si jamais le Gouvernement adoptait un décret qui permet aux femmes de demeurer dans une zone en danger serait un précédent dangereux. La constitution sénégalaise garantit à tout citoyen le droit à un environnement sain. Les conditions d’exploitation de la centrale à charbon violent manifestement la législation sénégalaise et les normes de performances. Le Gouvernement préfère opter pour le statu quo aux grands dam des milliers de femmes qui dépendent du site de transformation. Elles passent leur journée entière mangent sur place boivent sur place et le récit de leur vie rythmée de nuisances est connu de tous y compris les autorités.”

¹³ See Independent Complaints Mechanism of FMO, Monitoring Report for the Sendou I Coal Power Plant Bargny, Senegal, January 27, 2020, page 9.

¹⁴ LSD stated: “Dans le contexte socio-culturel du milieu c’est utopique de penser à une quelconque expulsion des femmes. L’urgent est d’identifier et mettre en œuvre des actions qui préservent à la fois la santé des femmes et leurs sources de revenus.”



Photo 4. Smoke pollution from fish smoking activities (yellow circle) and air pollution from ash disposition site of Sendou (red circle). Source: Tatjana Gerling (FMO), May 2022.

According to Senegalese law they are not to conduct economic activities in the buffer zone. Moreover, since the area around the plant has been designated as an industrial zone and other enterprises have indicated interest in settling in this area, eviction of fish drying women remains highly probable. This eviction then would take place without a resettlement plan and likely without any compensation. FMO has argued in the past that “*eviction might occur but that such an eviction would then not be linked to the power plant but to the fact that the area where the plant is located has been earmarked as an industrial area.*”¹⁵ The ICM does not agree with this position. The failure of FMO to assure that a resettlement plan was provided for fish drying women is a major noncompliance issue which perpetuates since inception of the project. A solution for resettlement of fish drying women could have been found at the time of designing the project as there was significantly more space available with access to the sea than is the case today. The fact that no baseline study, no resettlement plan and no mitigation program has been designed and implemented at the time the project was designed and launched is a very serious matter. The ICM is thus of the view that impacts of evictions – even if the immediate causes would be other than the Sendou plant,¹⁶ are attributable to inaction on this noncompliance issue by FMO which should have assured in time that adequate provisions for economic resettlement are taken by the relevant authorities.

At the time of the first monitoring report, the ICM was given to understand that CES planned to support the construction of a fish drying platform where fish drying women could perform their activities. In a tripartite agreement signed in 2017 between Bargny Municipality, SENELEC and

¹⁵ Independent Complaints Mechanism of FMO, Monitoring Report for the Sendou I Coal Power Plant Bargny, Senegal, January 27, 2020, page 10.

¹⁶ LSD emphasized that such a baseline study would need to be conducted with active involvement of the fish drying women.

CES, several community projects were planned, including the construction of modern fish drying platform. CES committed itself to finance such a platform which was supposed to be constructed. However, construction of this platform has not been completed as the platform supposedly was being constructed on land which was already assigned to another company (see photo 5).¹⁷



Photo 5. Reminders of construction site of the modern fish drying platform. Source: The Energy Consulting Group, July 2022.

During its site visit in September 2022, the ICM met with several groups of fish drying women and noticed a significant radicalization in comparison to earlier visits. Fish drying women stressed strongly that there was lack of communication, transparency, and effort on behalf of CES, SENELEC and the Bargny local authorities. The distrust between the organized fish drying women groups and CES seemed to have significantly worsened. The ICM is of the view that there is insufficient engagement and systematic outreach of the community relations program of CES and that efforts focused primarily on a group of people with whom relationships are well established. According to CES, there is a group of fish drying women who is more cooperative with CES and with whom the CES community relations representative interacts. However, CES also needs to interact regularly with the organized fish drying women group who have less agreeable positions.¹⁸ Consultations cannot be conducted only with a subset of actors. A ‘hands-off’ selective outreach approach where information is not made readily available to affected people, and especially to the fish drying women who are directly impacted by the plant, is not helpful and further supports polarization and radicalization of positions. The ICM has been informed by FMO

¹⁷ LSD provided the following comment to the ICM: “Sur la base de cet accord et un financement de SENELEC le Conseil municipal de Bargny avait attribué par délibération 1 hectare aux femmes. Le Préfet du Département de Rufisque a unilatéralement ordonné l’arrêt des travaux sans exposer de motifs. A ce jour aucune notification de l’attribution de ce site à une autre société n’a été notifié aux femmes. Là encore les femmes se sont implantées en premier. En cas d’expropriation les femmes devraient au moins recevoir une notification et une indemnisation pour peines et soins à défaut d’une réinstallation involontaire au moins.”

¹⁸ CES reported to the ICM that: “CES interacts with all groups. CES is however facing some challenges in the interaction with one of the groups that is in collaboration with one of the NGOs.”

that significant improvements in CES outreach efforts have been made since the ICM monitoring mission in September 2022.

The ICM notes that FMO has taken important steps to support CES in the finalization of a baseline study over the last months. In May 2023, CES issued a draft report titled “Base Line Fish Drying Women”. The report reflects survey responses of 1104 respondents and provides a detailed socio-economic analysis on the community which exercises fish drying. The study also highlights the deteriorating conditions under which the fish drying women work and enlists the projects which are expected to be established on the industrial site where the women presently dry fish. Though this is a very useful study the baseline falls short of the specific requirements spelled out in para. 12 of IFC Performance Standard 12 where it is stated that: *“a census will be carried out to collect appropriate socio-economic baseline data to identify the persons who will be displaced by the project, determine who will be eligible for compensation and assistance, and discourage ineligible persons, such as opportunistic settlers, from claiming benefits.”*¹⁹ The study does not focus specifically on the women who dry fish in the 500-meter buffer zone around the plant where economic activities are not allowed according Senegalese laws but rather on the overall fish drying community in the area. The location of activities of the fish drying women is not specified and thus based on the information provided it appears difficult whom from the total group surveyed is impacted by the prohibition to operate within the 500-meter buffer zone around the plant. Based on the baseline survey it would be difficult to determine who would have rights to compensation for economic resettlement due to the prohibition of economic activities within the 500-meter buffer zone. The study provides a very brief assessment about views on possible reinstallation to a new site but does not develop concrete options for movements to a new site, which was not in the terms of references for the study. The study takes a position that income programs for income earning opportunities (other than through fish drying) should be installed to support the women, either on the site where they presently work or as an accompanying measure on a new site.

The ICM is very pleased that a baseline study – already asked to be completed in the Compliance Review Report dated 2017 – finally was conducted. The ICM recognizes that FMO played a very supportive role in guiding the baseline survey. This engagement of FMO is a very welcome development. The situation, however, remains unresolved and thus the noncompliance status with IFC Performance Standard 5 continues. Women conduct fish drying in the buffer zone around the plant where economic activities are not allowed. There are no assurances that they can remain in the zone and work under conditions which does not compromise their health. An alternative site has supposedly been identified, but it is unclear to what extent this site is considered suitable for fish drying and acceptable to the women. It is important to emphasize that the selection of an alternative site would need to be conducted in close collaboration with the fish drying women to assure that the site would be appropriate for the activities of the women. Moreover, supportive income earning activities would need to be put in place to assure that the women would be at least compensated – and preferably be better off – after a resettlement. For affected people who choose not to be resettled, adequate compensation needs to be paid.²⁰ According to IFC Performance Standard 5, a Resettlement Action Plan or Livelihood Restoration

¹⁹ See para. 12 IFC Performance Standard 5, Land Acquisition and Involuntary Resettlement.

²⁰ See para. 27 IFC Performance Standard 5, Land Acquisition and Involuntary Resettlement.

Plan would need to be prepared and consulted with affected people.²¹ This has not been done. A key role would need to be played by SENELEC by interacting with the relevant authorities to designate appropriate pieces of land, where one or two fish drying facilities can be constructed and where women could continue their fish drying activities. That land needs to be located close enough to the sea so that women can fetch the fish from the fisher boats. Such land should have been allocated to the fish drying women at the time the project was approved and started to be implemented. CES appears to have a limited understanding of the importance of this unresolved issue. In its Annual Monitoring Report for 2022, the report states that “...[f]or economic displacement, the company didn’t face this kind of issues during the reporting period. However, the company still deals with the cohabitation with fishing ladies located near the power plant’s fence wall. Even if the company’s activities didn’t imply fishing ladies’ economic displacement, it happened in previous years some incidents that have disturbed access in some part of their site.”²² Such a statement reveals a lack of understanding of the issue. Because of the Sendou power plant and the Senegalese legislation prohibiting economic activities within a 500-meter buffer zone, the fish drying women cannot legally operate in the area adjacent to the plant. There is thus an urgent unresolved economic resettlement issue which needs to be addressed since approval of the plant’s financing. The ICM finds it perplexing that the CES states that no such issues exist. The ICM asks FMO to give the situation of the fish drying women priority as it has been a pending issue for many years.

In the meantime, while fish drying women continue to conduct their activities next to the Sendou plant, every effort needs to be made to mitigate health impacts caused by plant operations on fish drying women.²³ Measures to regularize ash disposal and to improve coal storage are essential. Monitoring needs to be conducted to assure that these measures adequately constrain ash and coal pollution. Measures to improve stormwater drainage and to treat liquid effluents are needed to minimize discharge of contaminated water into the areas where women dry their fish.

Compliance status: noncompliant

viii. Land Right Issues

The complaint argued that the ‘land acquisition’ and involuntary resettlement process related to the project is in violation of IFC Performance Standard 5. According to the complainants, the project site included 1433 parcels of land which were given to families affected by coastal erosion. On only ten of these parcels housing structures were built. Some families who built structures received compensation, while other landholders did not receive compensation. Senegalese authorities argued that landholders who did not use their land, had lost their rights to the land. The complainants disagree with this position and argue that they also should have received compensations for land which was taken away from them and transferred to CES.

²¹ See para. 25 IFC Performance Standard 5, Land Acquisition and Involuntary Resettlement.

²² CES, Environmental and Social Performance Annual Monitoring Report, IFC PS5.

²³ LSD stated the following: “A ce jour la situation des femmes est toujours identique et s’aggrave avec la montée en puissance de la centrale à charbon. La conformité du projet avec les normes de performances est l’unique garantie d’un environnement sain pour les femmes.”

The ICM Compliance Review Report found full compliance with IFC Performance Standard 5 concerning the ten households which had built structures on the land and received compensation. But it found noncompliance in regard to the many households which had originally been allocated land but lost it once it was transferred to CES. The Compliance Review Report does not take a position on whether or not the households had maintained their land rights. This is a question ruled by Senegalese law which is not subject to interpretation by an ICM Compliance Review. However, the Report found that FMO has exercised insufficient due diligence in assessing the land rights issues prior to commencing the project. FMO relied solely on the legal opinion of one Senegalese lawyer as part of the standard legal assessment conducted for financing agreements which include land rights. The land dispute was well known at the time FMO signed the financing agreement. Yet, no consultation was carried out with the landholders before the project started, and no baseline study was carried out to determine who are potentially affected households. All consultation processes started significantly later.

Recognizing the concerns of complainants, SENELEC mobilized an amount of CFA 1 billion which was to be used for the support and resettlement of households affected by coastal erosion, including those who lost their land to CES. These funds were to be held in a special account and a tripartite committee, composed of representatives of the local communities, CES and the Bargny Municipality, was to be set up. At the time of the first ICM Monitoring Report, the Municipality had indicated that it intends to offer plots to people suffering from coastal erosion at a location referred to as “Bargny VIII Verte”.²⁴

During its site visit of September 2022, the ICM was informed by authorities of Bargny, by SENELEC representatives and by affected people that only three households were moved to the ‘Bargny VIII Verte’ area and that the funds provided by SENELEC for the relocation can no longer be found in the treasury of the community. The ICM met with representatives of the Bargny Municipality who stated that these funds supposedly were misused by the previous mayor and that they have no knowledge for what purposes the funds provided by SENELEC for reallocation had been used. The ICM also noted that there are no further efforts underway to resolve this pending land claim issue. The authorities of Bargny are not involved in any further efforts to follow up, and CES did not take a position on this land claim issue. Representatives of SENELEC did not provide any indications that further efforts are underway and emphasized that SENELEC had in the past made a significant financial contribution to resolve this issue which subsequently was mismanaged by the responsible authorities of Bargny.

In the first Monitoring Report, the ICM noted some progress towards the resolution of the land claim issue and noted engagement of FMO. The component was thus rated partially noncompliant with IFC Performance Standard 5. Since then, efforts seem to have come to a stand-still. The ICM notes that there were important discontinuities in the FMO supervision of the Sendou project given its tumultuous history, including temporary shutdown and placement in receivership, which did not allow FMO to continuously pursue this matter further. The ICM notes that as part of the survey conducted on fish drying women (see section vii), important information on ownership status and ownership rights of families of fish drying women has been collected. It is

²⁴ See Independent Complaints Mechanism of FMO, Monitoring Report for the Sendou I Coal Power Plant, Bargny, Senegal, January 27, 2020, page 11.

unclear whether this information will be used to seek a resolution on the pending land rights issue.

Compliance status: Noncompliant

Summary Table of Compliance Status for Second Monitoring Report

<i>Noncompliance Issue identified by Compliance Review Report</i>	<i>Status (2nd monitoring report)</i>
Ash Disposal Facility	Noncompliant
Coal Storage	Noncompliant
Drinking Water Impacts	Partially compliant
Marine Impacts	Partially compliant
Coal Transport	Partially compliant
Air Quality Monitoring	Noncompliant
Fish Drying Women Economic Resettlement	Noncompliant
Land Right Issues	Noncompliant

ix. Other Issues: Community Consultations and Grievance Mechanism

Significant efforts need to be made to improve community outreach and consultation processes. The ICM notes that as part of an ongoing study a stakeholder engagement plan is expected to be designed, and training with CES on the implementation of this plan is expected to be conducted. Importantly, a transparent and responsive grievance mechanism needs to be implemented and grievances need to be acted upon. The CES states that it has a grievance mechanism and that some grievances have been filed. The filing and resolution of grievances seems to be conducted on a very informal basis. This process needs to be formalized and the existence of the grievance mechanism needs to be given much higher visibility in the neighbouring communities. CES informed the ICM that it is working on improving the formalization of the grievance mechanism and is improving the communications in respect to the grievance mechanism. Participatory programs should also be designed to share monitoring data on air quality, water quality and on marine impact monitoring with neighbouring communities. The ICM welcomes the intentions of CES to consult with communities on the marine impact study and the traffic management plan and recognizes that extensive consultations have been done as part of the preparation on the baseline study on fish drying women. The ICM recognizes that FMO does place emphasis on these participatory approaches in its interactions with CES.

C. Conclusion

The ICM notes the very significant supervision efforts made by FMO staff to work towards improvement of the compliance status of the project. The ICM notes that FMO has conducted several supervision missions and interacts regularly with CES to monitor progress. However, there are significant environmental impacts which need to be corrected, especially regarding air quality monitoring (stack monitoring), ash and coal storage, and handling and improving the stormwater and effluent systems. Important progress has been made by completing a draft

marine impact study and a draft traffic management plan. Measures now need to be implemented. Full compliance will require implementation of these measures.

The ICM is concerned about the recent reductions in size of the onsite ash disposal system based on the assumption that ash would continuously be collected by cement manufacturing companies. Such continuous collection of ash did not work in the past, which led to large scale storage of ash on unprotected grounds resulting in pollution and health impacts. It is essential that an adequate ash disposal system is provided for.

The ICM is also very concerned about the lack of progress on corrective measures regarding economic resettlement of fish drying women. The ICM welcomes the strong support provided by FMO to CES in the design of the baseline study for fish drying women. This study – many years overdue – is a welcome development but does not provide a sufficient basis for a resettlement plan or for an alternative resolution of the pending issue. Moreover, agreement needs to be found on where the fish drying women would be resettled to or adequate compensation would need to be paid to fish drying women who regularly work in the buffer zone and cannot remain there. In either case, support needs to be provided to fish drying women to earn a complementary income through other income earning activities. The ICM is of the view that a high-level solution, through engagement of authorities at the appropriate level, needs to be found to resettle the fish drying women to facilities where they can continue their activities in more modern environment. The continued inaction on this noncompliance issue, places the fish drying women at high risk.

The ICM intends to prepare a third Monitoring Report in 2024.