



ELIGIBILITY DETERMINATION
into Allegations of Non-Compliance with the Social and Environmental Standards
and other relevant policies
Relating to the India High Range Landscape Project in the Western Ghats of Kerala, India

Case No. SECU0001

Date: 20 January 2016

Basic Data

Case No.	SECU0001
Category of Non-Compliance:	Primarily Social
Location:	Kerala, India
Date Complaint received:	December, 2015
Source of Complaint:	M.P. Joice George
Eligibility assessment conducted by:	Anne Perrault, Lead Compliance Officer, a.i.
Compliance Officer assigned:	Anne Perrault
Other investigators assigned:	Paul Goodwin, Research Analyst
Related Case(s):	

Signatures:

Prepared by:



Date: 22 January 2016

Anne Perrault, Lead Compliance Officer, a.i.

Reviewed by:

Brett Simpson, Deputy Director
Investigations

Date: 22 January 2016

Approved by:

Helge Osttveiten, Director of OAI

Date: _____

I. Overview

1. As noted in the attached *Summary of Actions Taken during Eligibility Assessment Stage*, on 7 August 2015, the UNDP Country Office in India forwarded to UNDP's Office of Audit and Investigations (OAI) a letter from India Parliamentarian Joice George raising concerns related to the UNDP-supported *India High Range Landscape Project - Developing an effective multiple-use management framework for conserving biodiversity in the mountain landscape of the High Ranges, the Western Ghats, India* (also known as the IHRML). Although focused primarily on issues related to corruption, the letter also reflected environmental and social concerns. As a result, the letter was forwarded to the Social and Environmental Compliance Unit (SECU), within OAI, on 12 August 2015.
2. After additional information gathering, OAI determined that Mr. Joice intended, through his correspondence, to submit a complaint. SECU registered this complaint on 16 December 2015, and had twenty days to determine if the complaint was eligible for action by SECU. In a 13 January 2015 letter, Mr. Joice (complainant) confirmed his intention to pursue a complaint to the Accountability Mechanism (both SECU and the Stakeholder Response Mechanism - SRM), and further indicated that attempts to work with the Government of India and the UNDP Country Office have, to date, been unsuccessful.
3. As required by SECU's Investigation Guidelines (<http://www.undp.org/content/undp/en/home/librarypage/operations1/secu-investigation-guidelines/>), this memo provides SECU's summary assessment of whether the complaint is eligible for action by SECU.

II. Documentation of Concerns and Stakeholders

4. Correspondence between SECU and the UNDP Country Office reflects that community concerns have been documented by the UNDP Country Office; currently the project is suspended temporarily while parties are considering these concerns. Through correspondence between SECU and the UNDP Country Office, and SECU and the Complainant, SECU has identified an initial list of interviewees to which SECU has ready access.

III. Project Details

5. This project was approved by UNDP on 15 May, 2014, and reflects a start date of March 2014 and an end date of September 2018. It is a Direct Implementation Modality (DIM) project, directly implemented by the UNDP Country Office with support from UNDP's Implementing Partner, the Government of India. The Implementing Entity/Responsible Partner is the Department of Forests and Wildlife, Government of Kerala. The project

budget is US\$36,275,000. UNDP's contribution, through the Global Environment Facility, is US\$6,275,000.

6. The project's stated objectives are as follows:

'The project will put in place a cross-sectoral land use management framework, and compliance monitoring and enforcement system to ensure that development in production sectors such as tea, cardamom and tourism is congruent with biodiversity conservation needs – to achieve the long term goal of conserving globally significant biological diversity in the High Ranges of the Western Ghats. It will seek to establish a conservation compatible mosaic of land uses, anchored in a cluster of protected areas, by engineering a shift in governance approach towards a cross-sectoral, coordinated planning, implementation and compliance monitoring so that cumulative direct and indirect impacts of different production activities across economic sectors on biodiversity is managed, reduced and mitigated.'

7. It commits to delivering the following three outcomes:

'Outcome 1: Effective governance framework for multiple-use mountain landscape management in place; Outcome 2: Multiple use mountain landscape management is applied securing the ecological integrity of IHRML; Outcome 3. Strengthened capacities for community based sustainable use and management of wild resources.'

8. It further reflects an intention to provide significant global benefits in addition to national and local benefits, including the following:

'(i) no net loss of major habitat blocks totaling 164,700 ha in the High Ranges of Western Ghats; (ii) improved management effectiveness of 8 existing PAs (37,100) and new PA covering unprotected areas (11,650) and at least 84,600 ha of high value biodiversity areas accorded higher protection status; (iii) direct reduction in pressures from production sectors on biodiversity conservation; (iv) and maintaining stable populations of globally threatened species such as the Nilgiri tahr and Grizzled giant squirrel.'

9. Essentially, the project's primary activities include establishing new protected areas, increasing protections in existing reserves and protected areas, and defining and managing agricultural activities in these and related areas.

IV. Options for SECU Response

10. The Investigation Guidelines for SECU detail the process for responding to complaints related to projects approved prior to 31 December 2014.

11. Section 8. *The Complaint Review Process -- Registration and Acknowledgement of a Complaint*, provides initial guidance for this process. It states, 'After the launch of the Social and Economic Compliance Unit (SECU) of the OAI, on 31 December 2014, complaints from affected people will be accepted for all UNDP-supported projects approved after that date... For other projects approved prior to 31 December 2014, two possibilities for remedies exist: (1) SECU can determine if the criteria for an Advisory Note are met and, if so, inform requestors that this option is available and that the Note would provide advice that may assist UNDP Management in improving policy compliance in the project; and (2) the Stakeholder Response Mechanism (SRM) may assist the Complainant. If both options are available, the Complainant can choose which option(s) to pursue.'
12. To determine if criteria for an advisory note are met, SECU considers Section 12, *Advisory Notes*, which indicates 'SECU may on its own initiative provide Advisory Notes to the UNDP Administrator regarding systemic, institution-wide, or policy issues that it believes need to be addressed, based on lessons learned from investigating social and environmental non-compliance in specific cases. The UNDP Administrator may also request an Advisory Note from SECU on social and environmental issues.'

V. Summary of Process to Date

13. Section 8. *The Complaint Review Process – Eligibility and Terms of Reference* of the Investigation Guidelines for SECU directs SECU to register complaints within five days of receipt if they are not automatically excluded pursuant to Section 1.1 Policy basis.
14. SECU registered the complaint on 16 December 2015 and posted it on its website. The Complainant did not request that his name remain confidential.
15. Section 8.1, *Determining Eligibility of a Complaint*, indicates that twenty business days after registering the complaint, SECU must determine if the complaint meets the eligibility criteria specified in Section 8.2. Section 8.2 indicates that to be eligible a complaint must: (1) Relate to a project or programme supported by UNDP; and (2) Raise actual or potential issues relating to compliance with UNDP's social and environmental commitments. The complaint must be filed by one or more individuals potentially or actually harmed by the project.

VI. Determination of Eligibility

16. M.P. Joice George, a Parliamentarian representing the majority of people in the project area (in the Idukki area of the High Range in Kerala) filed the complaint.

17. Criterion 1: Relates to a project or programme supported by UNDP

18. The IHRML project was approved by UNDP on 15 May 2014. It clearly relates to a project supported by UNDP and, as such, meets the first criterion under Section 8.1.

19. Criterion 2: Raises actual or potential issues relating to compliance with UNDP's social and environmental commitments

20. The Complainant alleges that local communities living in the project area have significant concerns about the project and are protesting its implementation.¹

21. More specifically, he alleges the following: (1) the project document does not adequately identify and describe the potential impacts of these restrictions on local farmers and indigenous peoples, (stating that the project design creates the impression that the area already covers vast tracks of Protected Areas including the Reserve); (2) the project will significantly adversely impact local communities including, for example, by creating 'conservation refugees through displacement, and adversely impacting their cultural heritage, wellbeing, and property rights'; (3) project document claims that communities were consulted are fabricated; and (4) the project document fails to reflect the current relationship of local communities to the areas targeted for protection, failing to reflect, for example, community efforts to protect these areas. He notes, for example:

'If you are really interested in the conservation of environment, ecology and biodiversity in the Western Ghats, let us have an initiative with the involvement, participation and prior informed consent of the people by keeping away the mafia including foreign fund hungry NGOs and officials. People in the project area strongly believe that this is also an attempt to impose environmental colonialism in our land rendering the indigenous people and farmers as conservation refugees.'

22. These allegations reflect issues with several standards existing in the POPP at the time of project approval (These standards were updated and replaced by the Social and Environmental Standards, SES, in 2015 – see below).² A summary of these standards is included in Annex 1.

¹ He also included allegations of fraud committed by the executing entity, the Forest Department in Kerala, and other government entities, stating, 'It is obvious that the motive is to get funds from the donor agencies and expend the same according to their whims and fancies.' These allegations were reviewed by OAI, which determined it would not pursue an investigation into fraud and corruption allegations.

² Note that GEF standards relating to, and elaborating on, similar thematic areas, also applied. See *GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards*, GEF/C.41/10/Rev.1 November 18, 2011.

23. These allegations implicate several provisions of the existing SES, including, for example, those described in Annex 2. Although these standards were not in place and binding when the project was approved, they provide guidance for interpreting the standards above, and, additionally, may be considered in this context to inform and guide future project activities.
24. Given that issues relate to UNDP's social and environmental commitments, criterion 2, also, is met. Additionally, issues raised are significant, implicate important policy concerns, and warrant additional attention.
25. SECU has, therefore, determined the complaint is eligible for an Advisory Review.

VII. Next Steps

26. Upon approval of the eligibility determination by Mr. Helge Osttveiten, Director of the Office of Audit and Investigations, SECU will initiate the review. This review will begin with discussions with the Complainant and Project Manager.