



ELIGIBILITY DETERMINATION:

Complaint from M10: MOVIMIENTO 10 DE ABRIL

Regarding two UNDP projects:

“Fortalecimiento institucional para la gestión basada en resultados del Ministerio de Relaciones Exteriores de la República de Panamá” and “Apoyo al Programa de Reformas del MINGOB”

Case No. SECU0004

Date: 25 September 2017

Basic Data

Case No.	SECU0004
Category of Non-Compliance:	Social and Environmental
Location:	Ngäbe Buglé area, Panama
Date Complaint received:	15 August 2017
Source of Complaint:	M10: MOVIMIENTO 10 DE ABRIL
Eligibility assessment conducted by:	Richard Bissell, Lead Compliance Officer
Compliance Officer assigned:	Anne Perrault, Compliance Officer
Other investigators assigned:	Paul Goodwin, Research Analyst / Unit Coordinator
Related Case(s):	N/A

Signatures:

Prepared by:



Date: 25 Sept 2017

Richard Bissell, Lead Compliance Officer, SECU

Reviewed by:

Brett Simpson, Deputy Director Investigations, OAI

Date:

Approved by:

Helge Osttveiten, Director of OAI

Date:

I. Overview

1. On 15 August 2017, the Panama-based Ngäbe Buglé area organization M10: MOVIMIENTO 10 DE ABRIL filed a complaint with SECU claiming that communities directly affected by the Barro Blanco Hydropower Project (BBHP) are suffering harm as a result of BBHP-related activities supported through two UNDP projects.
2. The first UNDP project, the “Fortalecimiento institucional para la gestión basada en resultados del Ministerio de Relaciones Exteriores de la República de Panamá”, is described as a project to strengthen the institutional effectiveness of the Ministry of Foreign Affairs. UNDP-supported activities related to the BBHP include, among others, support for formal and informal dialogues related to the BBHP and information development, e.g., reports prepared by independent experts. The second UNDP project, the “Apoyo al Programa de Reformas del MINGOB” is described as a project to support strategic planning processes and strengthen management capacities of the Panamanian government, including capacities ‘to respond to indigenous people’s demands and needs.’ UNDP-supported activities related to the Barro Blanco Hydropower project include, among others, various activities in support of formal and informal dialogues with Indigenous Peoples and other entities.
3. The UNDP Panama Country Office describes that UNDP provided technical and logistical support to the Barro Blanco dialogue process through the two projects, with the United Nations System (UNS) system facilitating the dialogues.
4. The complaint asserts that UNDP’s support for the BBHP violated the human rights of Indigenous Peoples directly affected by the hydropower project, in violation of UNDP’s social and environmental standards. Human rights-related impacts described include inadequate consultations with, and consent from, communities directly affected by the project, food shortages, and impacts to community cemeteries and other ‘cultural elements’ including petroglyphs and archaeological features.
5. SECU registered this complaint on 22 August 2017.
6. 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

7. Information from the UNDP CO reflects that community concerns have been documented by the UNDP CO. These concerns have been shared publicly and widely through various

media. SECU has identified an initial list of interviewees and other sources to which SECU has ready access.

III. Project Details

8. The project document for “Fortalecimiento institucional para la gestión basada en resultados del Ministerio de Relaciones Exteriores de la República de Panamá” was signed by UNDP on November 28, 2014 (Atlas Award ID: 00084302, Project ID: 00092385), with a start date of December 2014, an end date of December 2016, and a US\$ 926,497.00 budget. The project document for “Apoyo al Programa de Reformas del MINGOB” was signed by UNDP on May 20, 2015 (Atlas Award ID: 00083709) with no project start and end date, occurring during the 2014 – 2019 country programme timeframe, and with a US\$ 65,402,369.81 budget.

IV. Summary of Process to Date

9. The Investigation Guidelines for SECU detail the process for responding to complaints. Section 8. The Complaint Review Process – Eligibility and Terms of Reference directs SECU to register complaints within five days of receipt if they are not automatically excluded pursuant to Section 1.1 Policy basis.
10. SECU registered the complaint on 22 August 2017 and posted it on its website.
11. 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. To be eligible a complaint must: (1) Relate to a project or programme supported by UNDP; (2) Raise actual or potential issues relating to compliance with UNDP’s social and environmental commitments; and (3) Reflect that, as a result of UNDP’s noncompliance with its social and environmental commitments, complainants may be or have been harmed.

V. Determination of Eligibility

12. **Criterion 1: Relates to a project or programme supported by UNDP.** The complaint references UNDP-supported activity that relates to two UNDP projects, the “Fortalecimiento institucional para la gestión basada en resultados del Ministerio de Relaciones Exteriores de la República de Panamá” and “Apoyo al Programa de Reformas del MINGOB” projects. The complaint therefore relates to a project supported by UNDP and, as such, meets the first criterion under Section 8.2.
13. **Criterion 2: Raises actual or potential issues relating to compliance with UNDP’s social and environmental commitments.** The complaint raises issues related to respect for human

rights, consultations with Indigenous Peoples, and impacts to cultural heritage. In this regard, the complaint raises issues relating to compliance with UNDP's social and environmental commitments, and meets the second criterion under Section 8.2.

14. **Criterion 3: Reflects that, as a result of UNDP's noncompliance with its social and environmental commitments, complainants may be or have been harmed.** The complaint describes various ways complainants may be or have been harmed by the UNDP projects, including harms related to access to food and water and impacts to the cultural heritage of the community. In this regard, the complaint reflects that complainants may have been harmed as a result of UNDP's noncompliance with its commitments, and meets the third criterion under Section 8.2.
15. SECU has, therefore, determined that the complaint is eligible for a compliance review by SECU.

VI. Next Steps

16. 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 Complainants and Project Manager(s), and drafting Terms of Reference for the Investigation.