United Nations Development Programme – OAI, Social and Environmental Compliance Unit

CLOSURE NOTE:

Complaint from the Bugala Farmers' Association (BFA) of Uganda, regarding UNDP's "The Business Call to Action Alliance (BCtA) Project"

Case No. SECU0002
Date: 26 March 2021

Basic Data

Case No.	SECU0002
Category of Non-Compliance:	Social and Environmental
Location:	Various Locations, Uganda
Date Complaint received:	12 February 2016
Source of Complaint:	Bugala Farmers' Association
Related Case(s):	N/A

I. Overview

1. On 18 February 2016, the Social and Environmental Compliance Unit (SECU), within the UNDP Office of Audit and Investigations (OAI), registered a complaint from the Bugala Farmers Association (BFA) of Uganda relating to the Business Call to Action project (herein BCtA project). https://info.undp.org/sites/registry/secu/SECUPages/CaseFile.aspx?ItemID=7

2. The BCtA project is a United Nations Development Programme (UNDP) Direct Implementation Modality (DIM) project, with an unclear approval date, but with a Prodoc revision date of 1 March 2015 and an end date of June 2017. The budget is US$9,175,404, with funds provided by the Dutch Ministry of Foreign Affairs, Swedish International Development Cooperation Agency (SIDA), UK Department for International Development (DFID), US Agency for International Development (USAID), and the Ministry of Foreign Affairs of the Government of Finland.

3. On 1 March 2016, SECU determined the complaint met the criteria necessary for SECU to investigate UNDP's compliance with its social and environmental commitments, and the Director of OAI (UNDP/OAI) approved the eligibility determination (https://info.undp.org/sites/registry/secu/SECUPages/CaseFile.aspx?ItemID=7).

4. In May and June of 2016, SECU conducted field work in Uganda, the location of the complainants, and Turkey, where the BCtA Secretariat and relevant UNDP staff are located. In Uganda, SECU interviewed the complainants, Bidco staff, local government officials, and other relevant stakeholders, to investigate complaint allegations. In Turkey, SECU interviewed senior management at the UNDP Istanbul International Center for Private Sector in Development, which houses the BCtA Secretariat, to gain a deeper understanding of BCtA – particularly its admission, due diligence, and screening processes conducted on prospective member companies.

5. After the fieldwork and additional research, SECU concluded that the processes employed by UNDP for admission of Bidco were not consistent with the following relevant UNDP policies: Social and environmental commitments reflected in the Programme and Operations Policies and Procedures (POPP); Social and environmental commitments reflected in the BCtA Project Document (Prodoc); The social and environmental screening process required for UNDP projects and programs; The UNDP Policy on Due Diligence and Partnerships with the Private Sector and the complementary Risk Assessment Tool (RAT); and UNDP policies related to adequate access to information.

6. SECU offered the following recommendations to bring the project into compliance with UNDP standards: screen the BCtA Phase II project to identify social and environmental risks and measures to avoid and mitigate these risks and impacts; for prospective members of the BCtA, require use of the Policy on Due Diligence and Partnerships with the Private Sector complemented by the complete Risk Assessment Tool; for Bidco's membership in BCtA, provide documentation consistent with UNDP policies and guidance to ensure that due diligence with respect to Bidco's membership in BCtA is adequate and outcomes of the due diligence support Bidco's continued membership in BCtA; ensure attention to the correct definition of 'risk' during the screening process; revise the Prodoc to specify how key stakeholders, including individuals/communities potentially supported through BCtA-related activities, can know about and be involved in initiatives; revise the Prodoc to ensure that when the BCtA Secretariat relies on affiliations with other entities, e.g., the UN Global Compact, documentation related to a potential member's admission into the alliance indicates how the affiliation supports membership; revise BCtA membership criteria to ensure attention to social concerns (including fundamental human rights concerns, e.g., fair pay/wages, healthy working

conditions and non-exploitation in the supply chain, etc.), and environmental concerns; Ensure that the process for assessing eligibility is clear and robust; ensure that separation exists between staff involved in developing relationships with private sector companies and staff making recommendations and decisions relating to membership in BCtA; link membership benefits and tenure explicitly and closely to the initiative that has been proposed and evaluated, and; ensure that a formal grievance mechanism exists within the BCtA for receiving and responding to complaints alleging that a given company's membership or related initiative may harm communities.

II. Administrator's Decision

7. In response to SECU's report, the UNDP Administrator, Helen Clark, issued the following decisions.

8. 'To ensure that UNDP's standards are strictly followed in all partnerships to which UNDP is a party, I have called on BCtA to adopt UNDP's Policy on Due Diligence and Partnerships with the Private Sector in screening all existing and new applicants, the ongoing review process already addressing relevant recommendations of the SECU report.'

9. 'To fully respond to all the recommendations of SECU's final report, the BCtA Secretariat is requested to present by end February 2017 a plan with time bound key actions that will ensure compliance with UNDP's corporate policies and Social and Environmental Standards and will strengthen risk mitigation throughout the engagement with private sector partners.'

10. 'In line with the recommendation of SECU's report, UNDP commits to conducting by 31 March 2017 a full due diligence process of Bidco in accordance with UNDP's Policy on Due Diligence and Partnerships with the Private Sector, Risk Assessment Tool and Guidance to inform the decision of the BCtA Donor Steering Committee regarding future engagement with Bidco.'

III. UNDP Actions in Response to Administrator's Decision

11. On 28 February 2017, the BCtA Secretariat issued a Management Action Plan in response to the Administrator's decision, identifying deliverables, with due dates, in response to each SECU recommendation.

12. It indicated that it will apply the SESP to various iterations of the project, apply the Policy on Due Diligence and Risk Assessment Tool to all prospective members, prepare an updated due diligence review of Bidco Africa, apply the correct definition of risk; revise the membership application to secure info from prospective members about how members are engaging communities and providing a grievance mechanism; describe how reliance on affiliations supports compliance with UNDP standards; ensure that the ProDoc explicitly details every step of the eligibility assessment, due diligence process used, and criteria used to assess the inclusive business commitment; update the membership approval process, separate due diligence from decision-making team, update policy on membership tenure and benefits, and provide a grievance mechanism for communities.

13. On 17 January 2018, the BCtA Secretariat provided SECU. With a 'Status Update,' describing progress on outstanding items, and providing documentation to support its claims.

IV. Monitoring Process and Outcomes

14. On February 28, 2017, BPPS created a management action plan in response to the Administrator's decision regarding SECU case # SECU0002, outlining the steps BPPS/UNDP would take to respond to the decisions made by the Administrator.

15. On 15 December 2017, SECU/OAI submitted a documentation request to the Director of BPPS seeking information and updates connected to SECU's monitoring process. Specifically, the request asked for documentation that showed what steps BPPS had taken to address the items contained in its action plan, and to obtain more information about the status of Bidco on the BCtA platform.

16. On 17 January 2018, the Director of BPPS responded to this request with a "Management Action Plan Status Update" for the case. In the update, the BCtA demonstrated that it had taken appropriate action for nearly all of the recommendations that were endorsed by the Administrator.

17. In the row related to the recommendation to conduct a "full due diligence process of Bidco in accordance with UNDP's Policy on Due Diligence and Partnerships with the Private Sector", BPPS indicated that the due diligence had been completed on Bidco. BPPS indicated that a decision was taken on 3 August 2017 to place Bidco's membership "under review, pending the outcome of the ongoing court cases."

18. As a result of this due diligence, Bidco's entry on the BCtA website was modified to indicate that its membership was "Under Review". SECU periodically checked the BCtA website to see if this status changed. Until February 2021, the "under review" notation did not change.

19. On 11 February 2021, SECU sent an inquiry to relevant staff within BPPS seeking an update on the status of Bidco's membership on the BCtA platform. On 12 February 2021, staff within BPPS responded to SECU noting that "Bidco's membership is no longer under review and the status of Bidco's BCtA membership is inactive, as now reflected on the BCtA website." SECU then checked the BCtA website and confirmed that the Bidco entry's status had changed to inactive.

V. Reasons for Closure

20. Based on information provided, SECU determined that Bidco is no longer an active member of the BCtA, and all other relevant activities in response to the Administrator's decision have been completed As such, SECU has concluded its monitoring process and the case is now closed.