

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



**ELIGIBILITY DETERMINATION:**

**Complainant: Indigenous Baka Communities of the Congo, represented by Survival International  
Regarding UNDP’s “Integrated and Transboundary Conservation of Biodiversity in the Basins of the  
Republic of Congo” Project**

**Case No. SECU0009**

**Date: 24 October 2018**

**Basic Data**

Case No.	SECU0009
Category of Non-Compliance:	Environmental and Social
Location:	TRIDOM border region of the Congo
Date Complaint received:	2 August 2018
Source of Complaint:	Survival International representing indigenous Baka communities
Eligibility assessment conducted by:	Richard Bissell, Lead Compliance Officer
Compliance Officer assigned:	Anne Perrault, Compliance Officer
Other investigators assigned:	Paul Goodwin, Unit Coordinator / Research Analyst
Related Case(s):	SECU0008

Signatures:

Prepared by:

\_\_\_\_\_  
Richard Bissell, Lead Compliance Officer, SECU

Approved by:

\_\_\_\_\_  
Brett Simpson, Deputy Director, Head of Investigations,  
OAI

## I. Introduction

1. On 2 August 2018 the UNDP Social and Environmental Compliance Unit (SECU), received a forwarded communication from the Investigations Section of the Office of Audit and Investigations. The communication was from the NGO "Survival International", which submitted complaints on behalf of various Baka people living in the Congo and Cameroon regarding UNDP-implemented GEF-funded protected area projects along the TRIDOM border regions.
2. The complainants claim they are being illegally evicted from their forest lands, both inside and outside formally "protected areas", the eviction did not go through a proper consultation/FPIC process, and the UNDP project would violate their human rights. The complainants claim that a GEF/UNDP project that supports the creation of a new protected area - Messok Dja - on Baka land in the Congo, would unlawfully evict Baka communities. The complainants claim that when their concerns, including human rights violations, were raised with UNDP staff they were "met with a round of laughter. They showed no intention of investigating the matter further."
3. Included in the original submission were complaint letters with signatures from more than 125 Baka individuals' residing in the Congo.
4. On 10 August 2018, SECU registered the case on its online case registry. SECU then made document and information requests of the UNDP Congo Country Office in order to determine eligibility of the complaint.
5. On 13 August 2018, SECU responded on behalf of the UNDP Accountability Mechanism (AM) acknowledging receipt of the complaints and requesting confirmation that the complainants wished to pursue exclusively a SECU compliance review and not a Stakeholder Response Mechanism mediation process. This appeared to be the desire of the complainants according to the original complaint letter to OAI.
6. On 15 August 2018 Survival International responded, confirming that complainants wanted to pursue only a SECU compliance review and requesting confidentiality of the individual complainants.
7. From the date of Registration, SECU has 20 working days to issue its eligibility determination. Due to capacity and resource limitations, SECU was unable to issue its eligibility determination within that time frame.
8. According to the project summary on the GEF website's project profile, "The long-term development objective (goal) of the project is to conserve globally significant biodiversity in the Congo Basin through integration of conservation objectives into the national and regional sustainable development plans in the TRIDOM. In order to contribute to this long-term goal, the specific objective, or project objective, will be to maintain the ecological functions and connectivity of TRIDOM, and ensure long-term conservation of its protected area system through integrated, sustainable and participatory management in the interzone between the protected areas. Through this specific objective, the project will promote a matrix of land uses, which, when integrated across the area, both conserve globally significant biodiversity through sustainable use and safeguards it through set-asides in production forest. The project will make a substantial contribution towards

strengthening the system of protected areas both at national and regional levels, by designing and implementing a cost-effective model for the management of a mosaic of different uses which will not only increase the landscape resilience, but clearly consolidate the overall protected area system. Collectively, the activities undertaken will demonstrate cost-effective and replicable ways and means for facilitating the broad-based participation of communities, the private sector and other key actors in the project area, and reconcile protected area management with sustainable use objectives and production systems and ultimately significantly improve prospects for sustainability of the protected area systems at the regional level.”

9. According to a submission made by the UNDP Congo Country Office, “The Messok Dja forest is one of the almost intact forest blocks of the Congo Segment of the Tri-National Dja-Odzala-Minkébé Landscape (TRIDOM), subject of the Cooperation Agreement signed in January 2005 in Brazzaville by the Member States (Cameroon, Congo and Gabon) to manage in partnership the transboundary complex of protected areas and its interzone in order to promote the conservation, the rational use of natural resources and the sustainable development of local communities, with a view to contributing poverty reduction.”
10. “The zone straddles the Tala-Tala and Jua-Ikié forest concessions, in the Sangha department of northern Congo, which have been allocated for several years to the SIFCO and SEFYD logging companies in Lebanon/China.”
11. “Demographic data indicate a human population consisting of local communities and indigenous populations bordering around 7,447 inhabitants including 497 Bakas scattered on about sixty village lands, mainly located along the Sembé -Gbola roads, while bioecological surveys indicate very low densities of marketable timber species, high pressure from elephant poaching for ivory and bushmeat trafficking. The existence of numerous biotopes for large mammals (clearings and corridors) provides an essential springboard for the elephant migration corridor between the north of the Odzala-Kokoua National Park in Congo and the south of the Nki National Park. Cameroon. It is because of these parameters that forest management plans have been put in place to control logging by the companies.”
12. “To this end, on the basis of the aforementioned cooperation agreement, the States Parties of the TRIDOM Landscape were beneficiaries of the GEF Project 2008-2015 for the Conservation of Transborder Biodiversity with a budget of 10,117,500 US, implemented by UNDP. The project focused on Transboundary PoA Protocol and Memorandum of Understanding on the Integration of Large Mammalian Migration Corridors into National Land Use Plans, and resulted in the new GEF project 2017-2022, called Integrated and Transboundary Conservation of Biodiversity in the Basins of the Republic of Congo, for which the Republic of Congo's donation amounts to 3,125,250 US, with a strong focus on a participatory management approach of local communities and indigenous peoples to prevent poaching and IWT, the operation of a ranger training center, and strengthening the justice chain to prevent wildlife crime. A canine deterrence and carcass detection brigade was also established.”
13. According to the Project Profile in UNDP’s Corporate Planning system, the project’s Implementing Partner is described as “National Execution (NEX)” and the donors are the Global Environment Fund Trustee only. It is not yet clear whether there is other financing, such as additional parallel-financing. The project was signed 3 April 2017 and runs until 30 March 2023.

14. 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 assessment of whether the complaint is eligible for an investigation by SECU.

## II. Project Details

15. According to UNDP Congo, there are two projects related to these complaints. The first, "Conservation of cross-border biodiversity in the Dja-Minkébé-Odzala interzone between Cameroon, Congo and Gabon", started in September 2008 and operationally and financially closed in September 2015.
16. The subsequent "Integrated and transboundary conservation of biodiversity in the basins of the Republic of Congo", or "TRIDOM II", began activities in October 2017, is currently being executed, and runs until March of 2023.
17. Both projects were conservation GEF projects in the TRIDOM region in areas where the Baka people live. It is not yet clear whether the first, now-closed project would also be relevant to SECU's investigation.

## III. Summary of Process to Date

18. 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.
19. SECU registered the complaint on 10 August 2018 and posted it on its case registry, available at [www.undp.org/secu](http://www.undp.org/secu).
20. **Section 8.1, Determining Eligibility of a Complaint**, indicates that within twenty business days after registering the complaint, SECU will 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.
21. Due to delays outside of SECU's control, SECU was not able to conduct an eligibility determination on this case within the required 20 business days. As per **Section 1. Purpose** of the investigation guidelines, Compliance Review Investigations circumstances "may require a deviation from guidelines in the interest of a fair process to the complainants..." In this circumstance, SECU's operational requirements prevented it from being able to conduct an eligibility determination within the required timeframe. However, this delay will not delay the timeline for its field mission and thus should not prolong the overall duration of the compliance review.

#### IV. Determination of Eligibility

22. **Criterion 1: Relates to a project or programme supported by UNDP.** The UNDP Congo CO acknowledges that relevant activity in question is supported through a UNDP project. The complaint therefore relates to a project supported by UNDP and, as such, meets the first criterion under Section 8.1.
23. Additionally, SECU has a mandate to formally investigate complaints for activity related to projects signed after 1 January 2015. UNDP Congo acknowledges that this specific project was initiated in 2017, with a number of agreements signed during that year. The project in question is therefore a post-2015 project, making the case eligible for a formal review.
24. **Criterion 2: Raises actual or potential issues relating to compliance with UNDP's social and environmental commitments.** The complaint raises issues related to indigenous peoples' rights, access to information and consultation, free, prior, informed consent, human rights, economic and physical displacement, and land and resources rights, including UNDP's Indigenous Peoples Plans, Stakeholder Analyses, Risk Assessments, identification and adoption of measures to avoid and mitigate harmful impacts, and identification and implementation of measures to respond to potential and/or actual negative impacts on indigenous peoples. Thus, the complaint raises issues of compliance with UNDP's social and environmental commitments, and meets the second criterion under Section 8.1.
25. **Criterion 3: Reflect that, as a result of UNDP's noncompliance with its social and environmental commitments, complainants may be or have been harmed.** The complainants describe various ways they may have been or may be harmed by UNDP's Congo's project activity, including being prevented from using and enjoying lands and resources to which they have rights, the right to free, prior, and informed consent before physical and/or economic displacement from indigenous territories, the right to adequate consultations, and the right to be free from physical harm and/or intimidation, among other rights.
26. SECU has, therefore, determined that the complaint is eligible for a social and environmental compliance review.

#### V. Next Steps

27. SECU will initiate the review with discussions with the Complainants and relevant UNDP Staff, including the Project Manager. A complete description of investigative steps will be available in the terms of reference for the investigation.