

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



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ELIGIBILITY DETERMINATION:

**Complainant: Ms. Silvia C. Zaninovich, Doctor of Biology, Scholar at CONICET- Faculty of Exact and
Natural Sciences and Surveying – UNNE, regarding UNDP’s
“National Biodiversity Planning to Support the implementation of the CDB 2011-2020 Strategic Plan in
Argentina” Project**

Case No. SECU0011

Date: 31 May 2019

Basic Data

Case No.	SECU0011
Category of Non-Compliance:	Environmental
Location:	Argentina
Date Complaint received:	14 November 2018
Source of Complaint:	Ms. Silvia C. Zaninovich, Doctor of Biology, Scholar at CONICET- Faculty of Exact and Natural Sciences and Surveying – National University of the Northeast (UNNE in its Spanish Acronym)
Eligibility assessment conducted by:	Richard Bissell, Lead Compliance Officer
Compliance Officer assigned:	N/A
Other investigators assigned:	N/A
Related Case(s):	N/A

Signatures:

Prepared
by:

Richard Bissell, Lead Compliance Officer, SECU

Reviewed
by:

Brett Simpson, Deputy Director, Head of Investigations

Approved
by:

Helge Ostveiten, Director, Office of Audit and Investigations

I. Overview

1. On 14 November 2018, the UNDP Social and Environmental Compliance Unit (SECU), received a communication to SECU's email secuhotline@undp.org, from Silvia C. Zaninovich, Doctor of Biology and Scholar at CONICET- Faculty of Exact and Natural Sciences and Surveying – National University of the Northeast (UNNE in its Spanish acronym), who lives in the province of Corrientes, Argentina.
2. The complainant, in her complaint and further communications with SECU, asserts that UNDP is failing in its obligation to protect biodiversity and ecosystems in the province of Corrientes, Argentina, as part of its 2012 Project “National Biodiversity Planning to Support the implementation of the Convention on Biological Diversity (CDB in its Spanish acronym) 2011-2020 Strategic Plan” in Argentina. The complaint highlights the lack of follow-through from the National Government and UNDP for the project, particularly in the Province of Corrientes, Argentina where native forests, wetlands and an IBA (Important Bird Area) have allegedly been severely damaged.
3. The complainant describes the following key points and concerns:
 - a. The provincial Government is supporting activity causing the destruction of native forests, wetlands and an IBA (Important Bird Area) in the Province of Corrientes, Argentina.
 - b. The complainant alleges that “the Government is destroying forests, wetland, a Province Park; [has stopped] protecting endangered species which are also a natural monument, and also is destroying IBA Estero Valenzuela...The Government is failing to comply with its own policy and international commitments such as: The National Advisory Commission for the Conservation and Use of Biodiversity (CONADIBIO in its Spanish acronym, UN Sustainable Development Goals, and the Aichi Biodiversity Targets”. According to the complainant, “Native forests are protected by the National Law...thus the Government of Argentina must ensure compliance of this law in all provinces”.
 - c. According to the National Biodiversity Strategy – Action Plan 2016-2020 document, financed by the Global Environment Facility (GEF) through the United Nations Development Program (UNDP): “native forests, water basins, natural monuments, parks and nature reserves, and IBAs are priority areas for legal protection.”
 - d. The complainant claims that UNDP is not fulfilling its commitments to support the Sustainable Development Goals, particularly those related to climate change biodiversity protection, and as a result, her community and herself have been harmed.
 - e. The complainant further alleges that the National Biodiversity Planning to Support the implementation of the Convention on Biological Diversity (CDB) 2011-2020 Strategic Plan in Argentina is a project supported by UNDP, and as such, the National Government's failure to fulfill the project's objectives is relevant for UNDP and triggers SECU's mandate to investigate allegations of non-compliance with UNDP's environmental standards and safeguards.
4. On 28 November 2018, SECU registered the case on its online case registry. SECU then made documentation and information requests to the UNDP Argentina Country Office in order to inform SECU's determination of eligibility of the complaint.
5. According to the most recent October 2012 Project Document (Prodoc) for the “National Biodiversity Planning to Support the implementation of the CBD 2011-2020 Strategic Plan in Argentina” project, the project objective is described as follows: “This project aims to revise, update

and begin the implementation of a National Biodiversity Strategy (ENB in its Spanish Acronym), to be an effective tool to incorporate biodiversity in larger national policies. The updating process of the National Biodiversity Strategy in Argentina includes three different interrelated steps: (i) a participatory exercise to revise the current ENB and determine the national goals in response to the provinces' needs and potential, national priorities and new responsibilities within the CDB Strategy Framework 2011-2020, as well as the Aichi Targets; (ii) updating and final approval of the revised ENB which will include all new CDB Strategic Plan's features; (iii) the establishment of national and subnational frameworks, and funding plans for the implementation, monitoring and presentation of ENB reports to the Committee".

6. According to a submission made by the UNDP Argentina Country Office sent to SECU during the Eligibility Determination phase, "the alleged complaint is not linked in any way to UNDP's projects or activities but to dredging activities carried out by a provincial technical agency. UNDP has no actual link with any technical agency in the Province of Corrientes either linked to past projects or future initiatives". In addition, the CO stated that "no support of any kind is provided in the province of Corrientes regarding biodiversity conservation and/or Environmental Impact Studies".
7. 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 a formal investigation by SECU.
8. SECU has determined that the complaint is not eligible for a compliance review.

II. Project Details

9. The "National Biodiversity Planning to Support the implementation of the CBD 2011-2020 Strategic Plan in Argentina" (Atlas Award ID: 80571), had a start date of January 2012 and an end date of December 2014. However, records indicate that this project was extended, and then formally closed on 3 November 2016. The project was under a "National Implementation Modality" (NIM) and the Ministry of Environment was the implementing partner. The budget administered by UNDP included \$300,000 USD of Global Environment Facility (GEF) funding, supplemented by \$303,260 of cofinancing, for a total of over \$600,000.¹
10. According to a submission made by UNDP Argentina Country Office, "UNDP was the Implementing Agency of the GEF funded Project 00063538 (2011-2015). The project's objective was to update the national biodiversity strategy and action plan considering the threats that bring about a loss of biodiversity, incorporating the global guidelines of the CBD Strategic Plan 2011-2020 as well as to strengthen its implementation mechanisms. The projects overall budget was US\$ 300,000. In October 2012 the project received additional US\$ 50,000 in order to include an additional product related to the development of the National Biodiversity Observatory. The project's products were: stocktaking and national target setting, NBSAP update, National framework for NBSAP implementation, CDB reporting and exchange mechanisms, National Biodiversity Observatory."

¹ See Project Summary, available at <https://www.thegef.org/project/national-biodiversity-planning-support-implementation-cbd-2011-2020-strategic-plan-argentina>.

III. Summary of Process to Date

11. 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.
12. SECU received the complaint on 14 November 2018, registered the complaint on 28 November 2018 and posted it on its case registry, available at www.undp.org/secu.
13. 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.
14. Due to delays and constraints outside of SECU's control, such as securing adequate information from key stakeholders, SECU was not able to conduct an eligibility determination on this case within the required 20 business days.

IV. Determination of Eligibility

15. **Criterion 1: Relates to a project or programme supported by UNDP.** The complainant has cited a nation-wide project whose main objective is to update the national biodiversity strategy.
16. The complainant did not provide evidence of UNDP -supported activities in the province of Corrientes, Argentina. However, the complainant expressed her discontent with the lack of UNDP and Government's support in the Province, and requested Environmental Impact Studies be conducted for environmentally damaging activities in the Province of Corrientes. This is a request for UNDP intervention to ensure implementation of the 2016-2020 biodiversity strategy at all levels of government.
17. The UNDP Argentina CO confirmed there are no current UNDP-supported activities associated with biodiversity conservation activities and/or Environmental Impact Studies in the Province of Corrientes, Argentina. However, the CO acknowledged the implementation of a \$10 million project in Corrientes in 2001-2007 for the GEF: Management and Conservation of Wetland Biodiversity in the Esteros del Iberá. While SECU recognizes this project was not implemented in the location described in the complaint, there have been UNDP-led biodiversity conservation efforts in the region.
18. It is notable, however, that UNDP did implement a \$10 million biodiversity project in Corrientes in 2001-2007 for the GEF that was a predictor of the concerns expressed in the current complaint. While many elements of the earlier project, to protect the globally-significant biodiversity in the

Esteros del Ibera , did succeed, the final review expressed major concerns about sustainability of the project being undermined by local political and commercial sources: “The sustainability of this project is rated as unlikely because of the political risks to the project’s outcomes. There is a lack of commitment in the Corrientes province official sector, especially after the recent elections. Moreover, there is an opposition to restrictions of productive activities by the private sector who could influence the official sector. There is a possible impact of rising water level as consequence of Yacyreta Dam project in Parana River. There is also new infrastructure in the area developed by the public authorities that could introduce new pressures. Finally there is a negative public image of some partners of the project (e.g. the land conservation trust).”²

19. The complainant thus has legitimate concerns regarding the biodiversity and conservation policies in the Corrientes region, and is correct that UNDP has provided both national-level and province-level support to Argentina’s biodiversity and conservation policies. The complainant is in effect actually making a request for UNDP to become involved once again in conservation efforts in Corrientes – a potentially valid request – but one that is more properly directed to the UNDP Argentina Country Office, not to SECU.
20. The complaint therefore does not relate to a project currently supported by UNDP, and, as such, does not meet the first criterion under Section 8.1.
21. **Criterion 2: Raises actual or potential issues relating to compliance with UNDP’s social and environmental commitments.** The complainant raises issues related to environmental sustainability, biodiversity conservation and sustainable natural resource management, climate change mitigation and adaptation, as well as the assessment and management of environmental risks and impacts.
22. The focus of the complaint is the alleged negative environmental effects in the region caused by unknown sources, potentially dredging activities carried out by the provincial Government, according to the Country Office. The complainant described the destruction of native forests, an Important Bird Area (IBA), wetlands, the Arroyo Riachuelo river, as well as the lack of protection for biodiversity of endangered species in the Province of Corrientes, Argentina.
23. *Principle 3: Environmental Sustainability* of UNDP’s Social and Environmental Standards indicates that “UNDP will ensure that environmental sustainability is systematically mainstreamed into its Programmes and Projects. In designing development cooperation activities, UNDP will seek to support Programme Countries and Implementing Partners to address the environmental dimensions (both opportunities and constraints) of major development issues and to strengthen environmental management and protection.”
24. Likewise, *Standard 1: Biodiversity Conservation and Sustainable Natural Resource Management* indicates that “UNDP is committed to integrating biodiversity and ecosystem management into development planning and production sector activities, strengthening protected area systems, and managing and rehabilitating ecosystems for adaptation to and mitigation of climate change. UNDP seeks to strengthen effective governance and decision-making systems affecting biodiversity and

² GEF, Management and Conservation of Wetland Biodiversity in the Esteros del Ibera, Terminal Evaluation Review form, GEF Evaluation Office, Apr 2013, page 5., available at <https://www.thegef.org/project/management-and-conservation-wetland-biodiversity-esteros-del-ibera>

ecosystems, including strengthening the rights of affected populations including women, indigenous peoples and local communities to sustainable use of resources”.

25. For the aforementioned reasons, the complaint raises issues of compliance with UNDP’s social and environmental commitments, and meets the second criterion under Section 8.1
26. **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 complainant describes various ways in which the environment may have been harmed by government’s activity, including environmental damage to native forests, wetlands and an Important Bird Area (IBA) in the Province of Corrientes, Argentina. The identification of key strategic goals by the UNDP Country Office in Argentina includes “sustainable use of and conservation of biodiversity,”³ which raises public expectations that UNDP is a major influence on continuing/future policies and strategies in Argentina. The fact that there are no current UNDP-supported project activities in the Province of Corrientes may reduce the institutional responsibility of UNDP for specific destructive activities in that province, but the broader perspective of the Argentine public that UNDP will be a source of effective advice/action with regard to implementation of the 2016-2020 National Strategy for Biodiversity should not be surprising. While this complaint may be ineligible on narrow technical grounds, the complainant has raised an important point for accountability for those who developed and issued the country’s national biodiversity strategy for 2016-2020. But in the current complaint, there is no UNDP project to which damage can be clearly attributed.
27. As such criterion 3 is not met because there is no UNDP project for which it can be out of compliance, and therefore there is no noncompliance that could cause the complainant’s harms.
28. As Criterion 1 and 3 are not satisfied, SECU has determined that the complaint is not eligible for a social and environmental compliance review.
29. Additionally, as per Section 1. Purpose of the investigation guidelines, projects approved prior to 1 January 2015 are not eligible for a formal Compliance Review. In such circumstances, complaints will be investigated through a Compliance Review Investigation process only if “UNDP has committed to providing a compliance review process for social and environmental commitments made by UNDP in the context of the specific funding programme or project, and these complaints meet eligibility criteria described in para. 8”. The project in question was signed in 2012. Absent any other applicable UNDP-supported activity this complaint would be ineligible because of the date the project was signed. SECU cannot identify any other projects, either from before or after 1 January 2015 that relate to the issues raised by the complainant.
30. This determination is made without prejudice to evidence that may be forthcoming. If the complainant comes back to SECU with new allegations and additional evidence that there is UNDP-supported project activity harming the environment as a result of UNDP’s non-compliance with the Social and Environmental Standards or other relevant policies and procedures, SECU will re-determine eligibility for a compliance review.

³ See UNDP Argentina CO’s official webpage at <https://www.undp.org/content/undp/en/home/funding/core-donors/Argentina.html>

V. Next Steps

31. As this case has been deemed ineligible for a compliance review, the registry will show that SECU has closed the case.
32. The complainant may choose to reach out to the Stakeholder Response Mechanism to see if there is a dispute resolution role to be played, either managed by headquarters or the UNDP Argentina Country Office to work with relevant stakeholders, including national and regional governments, to see whether the complainant's concerns can be addressed on a willing basis by those best situated to do so.