

DRAFT

TERMS OF REFERENCE (TOR) FOR INVESTIGATION

**In response to allegations of non-compliance with
UNDP's Social and Environmental Standards and other relevant policies in the
context of UNDP's "Mainstreaming Biodiversity into the Management of Coastal
Zone in the Republic of Mauritius" Project**

**Case No. SECU0012
Date: 24 June 2019**

For more information about SECU and this case, visit www.undp.org/secu.

**Please submit your public comments, in any language, to secuhotline@undp.org by the
deadline indicated with the distribution of this memo and on the SECU case registry.**

Basic Data

Case No.	SECU0012
Category of Non-Compliance:	Environmental
Location:	Mauritius
Date Complaint received:	23 March 2019
Source of Complaint:	Aret Kokin Nu Laplaz (AKNL)
Eligibility assessment conducted by:	Richard Bissell, Lead Compliance Officer
Compliance Officer assigned:	Richard Bissell, Lead Compliance Officer
Other investigators assigned:	Paul Goodwin, Head of Unit
Related Case(s):	N/A

Signatures:

Prepared by: _____ Date: _____
Richard Bissell, Lead Compliance Officer, SECU

Approved by: _____ Date: _____
Brett Simpson, Deputy Director and Head of
Investigations, OAI

I. Overview

1. On 23 March 2019 the UNDP Social and Environmental Compliance Unit (SECU), received a complaint from an NGO coalition in Mauritius describing grievances they had against UNDP Mauritius regarding the project. The complainants assert that they believe the project could cause environmental damage to biodiversity and other environmental values by virtue of inadequate follow-up to prior UNDP projects to create an inventory and draft legal provisions to protect Environmentally Sensitive Areas, with the current UNDP project on mainstreaming biodiversity protection failing to deal with the loss of such ESAs to development projects, especially in maritime areas.
2. According to the June 2016 ProDoc for the project on “Mainstreaming Biodiversity into the Management of Coastal Zone in the Republic of Mauritius”, “The objective of the project is to mainstream the conservation and sustainable use of biodiversity and ecosystem services into coastal zone management (CZM) and into the operations and policies of the tourism and physical development sectors in the Republic of Mauritius through a ‘land- and seascape wide’ integrated management approach based on the Environmental Sensitive Areas’ (ESAs) inventory and assessment. More specifically, the project will achieve this through a three-pronged approach: (1) support the incorporation of ESA recommendations into policies and enforceable regulations pertaining to integrated coastal zone management (ICZM), thereby mitigating threats to biodiversity and ecosystem functions and resilience with a special focus on tourism and physical development in the coastal zone; (2) support the effective management of marine protected areas (MPAs) across the RM, given that they contain an important proportion of critically sensitive ESAs; and (3) demonstrate mechanisms to arrest land degradation in sensitive locations, focusing on reducing coastal erosion and sedimentation and helping to restore ecosystem functions in key wetland areas.”
3. The Project Document dated June 2016 specifies that UNDP will manage the project in “National Implementation Modality” (NIM), with the Mauritius Oceanography Institute (MOI) as the Implementing Partner. UNDP is identified as the Implementing Agency. The UNDP as the Implementing Agency, according to the Prodoc, is responsible for: “(1) providing financial and audit services to the project; (2) when required, recruitment of project staff and contracting of consultants and service providers (else, this responsibility lies with the IP); (3) overseeing financial expenditures against project budgets approved by the PSC; (4) appointment of independent financial auditors and evaluators; (5) ensuring that all activities including procurement and financial services are carried out in strict compliance with UNDP-GEF procedures.” The budget administered by UNDP includes \$4,684,600 of Global Environment Facility (GEF) funding, supplemented by \$20,000 of UNDP co-financing. The project also had approximately \$17,000,000 of parallel financing. The Country Office noted that the project document was signed by all parties in June 2016, but the project was delayed by the transfer of the role of Implementing Partner from the MOI to the Mauritius Ministry of Ocean Economy, Marine Resources, Fisheries and

Shipping. Thus, implementation did not begin until April 2017 with the recruitment of the Project Management Unit.

II. Process to Date

4. The complaint was received on 23 March 2019, and the complainant was informed of the options – to pursue an independent investigation in the form of a Compliance Review with SECU, a dispute resolution process with the Stakeholder Response Mechanism (SRM), both, or neither. Following consultations, the complainants responded that they were interested in pursuing a SECU Compliance Review and a SRM process in parallel. Both the SRM and SECU found the complaint eligible to proceed with their respective processes.
5. On 7 June 2019, SECU determined the case eligible for a formal compliance review investigation. The eligibility determination is available on SECU’s public case registry.

III. Applicable Social and Environmental Commitments

6. The complainant raises issues related to environmental sustainability, biodiversity conservation and sustainable natural resource management, and climate change mitigation and adaptation. The key UNDP Social and Environmental Standards relevant to the success of this project include: Overarching Principle 3 on Environmental Sustainability, Standard 1 on Biodiversity Conservation and Sustainable Natural Resource Management, and the Policy Delivery category on Screening, Assessment and Management of Social and Environmental Risks and Impacts. In the context of carrying out this investigation, SECU will examine actions relevant to complying with the above standards, and possibly other standards raised during public comment on this TOR.

IV. Scope of Work

7. The investigation carried out by SECU will involve the following key activities:
 - a. Initially undertake a desk review of accessible documentation, e.g., project document(s), country programme documents and related workplans, Mauritius programme documentation, relevant evaluation and quality assurance reports, procurement-related documents, news articles, UNDP-generated records, in-country information from the government, the complainant and other local sources, and other relevant documents.
 - b. Undertake a round of conference call interviews that might include:
 - i. UNDP staff members involved in the relevant project activity.
 - ii. Representatives of agencies and local institutions involved in planning and implementing the project.

- iii. Complainants.
 - iv. Other groups and individuals who can provide evidence regarding the existing and potential impacts of relevant UNDP-supported activity.
- c. Review the collected evidence and analysis of compliance with UNDP Standards to determine any remaining issues to be examined in a short field mission to Mauritius. The key evidence would include addressing the following questions:
- i. What is the history of UNDP involvement in environmental and biodiversity issues in Mauritius? And what were the outcomes of earlier projects in meeting environmental and biodiversity project goals?
 - ii. Who are the stakeholders in Mauritius that influence the achievement of conserving environmentally sensitive areas?
 - iii. How was the current UNDP project on Mainstreaming Biodiversity developed?
 - iv. Did this project's preparation include development and approval of an ESSP/SESP, and an EIA?
 - v. Were project partners made aware of UNDP policies and procedures regarding biodiversity?
 - vi. Who was involved in making decisions regarding the scope of the project?
 - vii. Were public stakeholders engaged in discussions regarding the scope and intended impacts of the project?
 - viii. Was the enactment of legislation to protect biodiversity and environmentally sensitive areas seen as important outputs of the project?
 - ix. Was scoping and approval of Environmental Impact Assessments that influence ESAs considered to be part of the project?
 - x. Why has implementation of the project been delayed, and does that delay indicate there are structural problems with the project?
 - xi. Through what means has the public been kept informed of changes and progress in implementing the project?
 - xii. To what extent does the approval of EIA's for coastal development projects promote or hinder UNDP's ability to accomplish its commitments outlined in this project?
 - xiii. In what ways do the referenced EIA approvals affect UNDP's ability to keep the project in compliance with its own Social and Environmental Standards?

- d. Prepare the draft investigation report that reports the findings derived from the evidence-gathering process above, and assesses compliance of project activities with the Social and Environmental Standards and other relevant social and environmental commitments.
- e. Make publicly available for comment the draft report, and specifically request comments from complainants, the Mauritius CO, and other relevant stakeholders.
- f. Finalize the report and submit it to the Director of OAI and the UNDP Administrator and relevant units.
- g. Post the final report on the SECU registry.

V. Anticipated Milestones and Timeframes

8. The SECU process expects to achieve the following milestones in terms of developing its report and its component parts:

Milestones	ESTIMATED COMPLETION DATE
1. Issue draft Terms of Reference on SECU website	21 June 2019
2. Revise Terms of Reference based on public comment	15 July 2019
3. Desk based document review and interviews in UNDP/HQ and conference calls in Jordan	June-July 2019
4. Field Mission (Mauritius)	24-29 July 2019
5. Complete and release for public comment the Draft Investigation Report	15 September 2019
6. Closure of Public Comment	10 October 2019
7. Issue Final Report to the Administrator and relevant units.	1 November 2019