

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



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**ELIGIBILITY DETERMINATION:**

**Complainants: The Siona of Buenavista and the Perla Amazónica /ADISPA Indigenous Communities, represented by Amazon Watch, Amazon Frontlines, Healing Bridges regarding the “Sustainable Amazon for Peace” and “Sector Privado y Agenda 2030” projects, among others, in the Republic of Colombia**

**Case No. SECU0017**

**Date: 7 September 2021**

**Basic Data**

Case No.	SECU0017
Category of Non-Compliance:	Environmental and Social
Location:	Putumayo Department, Puerto Asís, Republic of Colombia
Date Complaint received:	11 May 2021
Source of Complaint:	Amazon Watch, on behalf of local NGOs representing communities in Colombia

## I. Overview

1. On 11 May 2021 the UNDP Social and Environmental Compliance Unit (SECU) received an email from the civil society organization Amazon Watch. It included a complaint on behalf of Indigenous communities in the Putumayo Department of Colombia who are recipients of small grants from the UNDP/GEF 'Connectivity and Biodiversity Conservation in the Colombian Amazon' project (more commonly known as the 'Sustainable Amazon Program for Peace' project). The complaint was triggered by the communities' belief that UNDP Colombia's recent 'project agreement with Geopark' conflicted with the Sustainable Amazon for Peace Project, posed threats to the rights of communities, compromised the trust communities had in UNDP Colombia, and otherwise violated UNDP's social and environmental standards.
2. The Sustainable Amazon for Peace (SAfP) project is a UNDP project with USD \$ 9 million in funding provided by GEF, and with an objective to 'improve connectivity and conserve biodiversity through the strengthening of institutions and local organizations to ensure integral low-carbon emission management and peace-building.' The SAfP project document notes that the objective will be achieved 'through a multifocal strategy that includes rural sustainable development with a low-carbon emission, agro-environmental focus to prevent deforestation and land degradation, conserve biodiversity, and improve the quality of life of people living in the region, including women. The project places an important focus on constructing sustainable territories of peace....'
3. SECU determined that the referenced 'project agreement with Geopark' was the 'UNDP Sector Privado y Agenda 2030' project (translated as the Private Sector and Agenda 2030 project). The Private Sector and Agenda 2030 project document (herein 'prodoc') reflects that the UNDP Colombia Country Office (herein 'UNDP Colombia') will create an alliance with GeoPark, a Latin Americans oil and gas company, for which GeoPark will provide as much as USD \$1.9 million for a series of broadly-defined activities, including the following: Generating capacity building for local actors regarding decision-making in times of pandemic; establishing partnerships for local reactivation; and generating employment and income opportunities through programs of rural and urban development.<sup>1</sup>
4. The complainants advance several specific claims relating to these projects and their intersection, including the following: (1) Implementation of the UNDP private sector due diligence process for GeoPark - as part of the preparation for the Private Sector and Agenda 2030 project - was inadequate, given the host of allegations of environmental and human rights violations by GeoPark in the Colombian department of Putumayo and in other locations and the long-standing opposition

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<sup>1</sup> The prodoc provides the following brief description of the project, 'The need to advance the 2030 Agenda and the challenges of the pandemic present us with an opportunity as a society to establish a more resilient, sustainable, and inclusive development model. A coordinated response at the global and local level will be required from all actors in society to develop strategies and programmes under a multi-actor approach that contributes to economic recovery, the protection of achievements achieved, and strong progress towards the achievement of the Sustainable Development Goals (SDGs). In this scenario, the private sector is a critical partner for building a better future (UNDP 2020) through its role as an inclusive economic growth engine, lever to improve human capital schemes under decent work rules, technology provider, and generator of innovative solutions to address development and climate change challenges. Private capital and investments aligned to the opportunities and needs of the 2030 Agenda will help meet the existing funding gap to achieve targets....'

of communities to GeoPark's (and its predecessor Amerisur Resources') prospecting, exploring, and extracting of oil on community lands; (2) UNDP Colombia failed to notify complainant communities about the Private Sector and Agenda 2030 Project, and to ensure that information about the project was available to them prior to project approval; (3) relatedly, UNDP Colombia failed to consult and secure the consent of Indigenous communities for Private Sector and Agenda 2030 Project activities that might impact them; and (4) UNDP's efforts to ally with Geopark were not consistent with the Sustainable Amazon for Peace project for which the complainant communities had partnered with UNDP Colombia, and through which the communities would be providing sensitive information.

5. On 11 May 2021 SECU registered the case on its online case registry, and subsequently made document and information requests of UNDP Colombia to assess the eligibility of the complaint.
6. UNDP Colombia responded to this request, indicating that although the activities of the Private Sector and Agenda 2030 Project were to be 'implemented in the urban area of the municipality of Puerto Asis, and potentially in 21 rural localities out of the 152 rural localities within the municipality' in addition to locations in the Departments of Meta and Casanare, the project does not include any activities with Siona Buenavista indigenous community or within their territories' ... and 'The Asociación de Desarrollo Integral Sostenible de la Perla Amazónica (ADISPA) is not a beneficiary of the project.' UNDP Colombia further noted that the project and alliance with GeoPark had been cancelled.
7. Complainants responded to UNDP's announced cancellation of the alliance with Geopark with a Joint Public Statement,<sup>2</sup> stating, 'We reiterate: it is not enough for UNDP to cancel their activities with the oil company. The trust, the legitimacy, and the respect that the civil society organizations had placed in the United Nations System and particularly in the UNDP was deeply fractured. We see it as a clear sign of bad faith that, despite the fact that the leaders of the Buenavista Reservation had been emphatic both in their written statement and in the oral interventions made in the April 29 meeting that they were not going to continue with the execution of the GRANT until UNDP publicly defined its position regarding the Agreements with Geopark, UNDP disbursed two days later resources for \$52,000,000.00 COP to the account of the Tribal Government (Cabildo,) pressing to give continuity and execution of activities that include access to privileged information of the territory whose content we no longer trust would not end up in the hands of the company. We insist that it is INCOHERENT of UNDP to both seek effective environmental and territorial protection of the Amazon and at the same time reach agreements with the company that has most threatened this fragile ecosystem and that has tried to fragment the organization of communities, to the extent of legally opposing the process of restitution of territorial rights.' The Complainants further indicated that, given their outstanding concerns related to how UNDP Colombia handled the alliance with Geopark, they were suspending their participation in the Sustainable Amazon for Peace project.
8. The Complainants requested that SECU proceed with its investigation of UNDP Colombia's compliance with UNDP standards in the context of UNDP Colombia's alliance with Geopark - to help resolve outstanding concerns and to shed light on how UNDP handles due diligence in the context of partnerships with organizations that communities believe threaten their human rights.

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<sup>2</sup> JOINT PUBLIC STATEMENT, The Buenavista Reservation of the Siona People and civil society human rights organizations celebrate the cancellation of the "Strategic Alliance" between UNDP-Colombia and GeoPark oil company, 17 May 2021

9. On 7 June 2021 SECU was informed by Amazon Watch that the Siona communities recently returned funds received through UNDP's Sustainable Amazon for Peace Project. According to Amazon Watch, the communities did so due to reduced trust in the UNDP CO spurred by the CO's approach to the Sector Privado y Agenda 2030 Project, and the community's belief that the CO failed to consider how its partnership with Geopark could adversely impact the communities and their rights. Amazon Watch reiterated to SECU that the communities are requesting that the investigation proceed into UNDP CO's approach to the Sector Privado y Agenda 2030 project, to advance understandings of the extent to which the UNDP CO complied with the UNDP SES and of measures that would be necessary to ensure compliance in the context of similar activities.
10. In August 2021, SECU received a 6 July 2021 letter sent from the Siona communities to the UNDP CO confirming that it wished to return the funding it had received through the Sustainable Amazon for Peace project. The communities summarized the reason as follows, 'the trust and legitimacy of UNDP were broken... [there is] no interest in continuing with the grant agreement because the pending activities to be carried out would provide privileged information about the territory whose custody we are not sure will be adequately preserved.'
11. According to SECU Investigation Guidelines, from the date of Complaint Registration, SECU has 20 working days to issue its eligibility determination.
12. 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 social and environmental compliance review.

## II. Project Details

13. The Private Sector and Agenda 2030 prodoc was signed by UNDP on 26 January 2021, with a planned start date, according to other project documentation, of December 2020, and a planned end date of December 2022. It is a Direct Implementation Modality (DIM) project, with UNDP Colombia as the Implementing Partner. The Atlas Project number is 132303. Total financing for the project of USD\$ 1,962,967.30 is provided by GeoPark and administered by UNDP Colombia.
14. The two main expected results of the Project are: (1) Generate the conditions to enhance the private sector's contribution to the SDGs; and (2) Develop financing mechanisms and instruments for the SDGs in partnership with the impact financing and investment ecosystem.

## III. Summary of Process to Date

15. 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.

16. SECU registered the complaint on 11 May 2021 and posted it on its case registry, available at [www.undp.org/secu](http://www.undp.org/secu).
17. **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.

#### IV. Determination of Eligibility

18. **Criterion 1: Relates to a project or programme supported by UNDP.** Activities of concern are supported through and executed by a UNDP project – the Private Sector and Agenda 2030 project. The complaint therefore relates to a project supported by UNDP and, as such, meets the first criterion under Section 8.1.
19. **Criterion 2: Raises actual or potential issues relating to compliance with UNDP's social and environmental commitments.** The complaint raises issues related to due diligence, access to information and consultation, human rights, and Indigenous Peoples' rights – including their right to free, prior, informed consent for project activities that could adversely affect them. Thus, the complaint raises issues of compliance with UNDP's social and environmental commitments, and meets the second criterion under Section 8.1.
20. **Criterion 3: Reflect that, as a result of UNDP Colombia's noncompliance with its social and environmental commitments, complainants may be or have been harmed.** The complainants claim various ways they have been, and could additionally be, harmed by UNDP Colombia's noncompliance with its social and environmental commitments in the context of the Private Sector and Agenda 2030 project. Harms described include the following: (1) Through its alliance with GeoPark, UNDP Colombia has 'whitewashed' GeoPark – an entity that complainants believe has previously violated the rights of Indigenous communities in the project area (as well as in Peru and Chile) - and, in turn, enabled GeoPark to continue activities that could further violate the rights of complainant communities; (2) UNDP Colombia failed to ensure that complainant communities – which have long resisted and expressed concerns about the activities of GeoPark (and the company it purchased, Amerisur) in Putumayo – were given information about, consulted, and able to provide or withhold their free, prior, informed consent for future project activities that could adversely impact them; (3) UNDP Colombia failed to consider that complainant communities' lives, cultures, and wellbeing have been threatened in the context of activities in the project area – including activities previously pursued by GeoPark and Amerisur; and (4) UNDP Colombia's alliance with GeoPark is not consistent with its support for complainant communities through the Sustainable Amazon for Peace project, and communities are concerned that privileged information gathered through the community project will be used to support GeoPark's activities in the project area in ways that adversely impact complainant communities. The UN Permanent Forum on Indigenous Issues, in the final report of its recent session, expressed concerns about the Private Sector and Agenda 2030 project and suggested that project activities contradict SES Standard 6 on Indigenous Peoples,' 'The Permanent Forum is concerned about reports of UNDP entering into a strategic partnership with the oil company GeoPark, a private entity that has been accused by Indigenous

communities of disregarding their rights, to carry out economic development activities in Colombia without the Free, Prior, and Informed Consent (FPIC) of the Indigenous communities that will be impacted. This contradicts UNDP's own Social and Environmental Standard 6, and the Forum urges UNDP to suspend all related partnership activities until a proper FPIC process can be carried out.' The significant concerns of these communities about GeoPark activities in their territories have also been well-documented in filings to the Inter-American Commission on Human Rights<sup>3</sup> and the media.<sup>4</sup>

21. SECU has, therefore, determined that the complaint is eligible for a social and environmental compliance review. SECU's investigation will focus on how the two projects intersect, identify possible non-compliance with SES, and recommend a way forward as a means of rebuilding trust with indigenous communities in the Putumayo Department of Colombia.

## V. Next Steps

22. 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.

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<sup>3</sup> Inter-American Commission on Human Rights Precautionary Measures (27 July 2018) [https://www.oas.org/en/iachr/media\\_center/PReleases/2018/166.asp](https://www.oas.org/en/iachr/media_center/PReleases/2018/166.asp); and Inter-American Commission on Human Rights Precautionary Measures (3 December 2018) <http://www.oas.org/es/cidh/decisiones/pdf/2018/87-18mc204-17-co.pdf>

<sup>4</sup> Including a series in The Guardian about Siona resistance to Amerisur/[GeoPark] oil company: 'The war goes on' one tribe caught up in Colombia's armed conflict' (27 June 2018), 'Colombian tribe calls for action on alleged effects of UK oil firm' (22 February 2019), 'Defending our existence: Colombian tribe stands in way of oil exploration' (2 April 2019), and several articles in Justicia y Paz, 'Petrolera habría pagado a grupo armado para asegurar su operación extractiva' (Justicia y Paz, 23 December 2020), 'Paramilitares ordenan disolver la Zona de Reserva Campesina Perla Amazónica' (Justicia y Paz, 10 February 2021), 'Acción Urgente – Debe protegerse a una organización de Derechos Humanos en peligro' (Justicia y Paz, 17 February 2021), and 'Nuevas amenazas contra la integridad de lideresa Jani Silva' (Justicia y Paz, 24 April 2021) among other media coverage.