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

ELIGIBILITY DETERMINATION:

Complainant: Lukas Schiebe, of LevasFlor

Regarding UNDP's "Mozambique Recovery Facility" Project

Case No. SECU0019

Date: 17 May 2022

Basic Data

Case No.	SECU0019
Category of Non-Compliance:	Social and Environmental
Location:	Mozambique
Date Complaint received:	9 November 2021
Source of Complaint:	Lukas Schiebe, of LevasFlor
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

Richard Bissell, Lead Compliance Officer, SECU

Approved by:

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I. Overview

1. On 9 November 2021 the UNDP Social and Environmental Compliance Unit (SECU) confirmed with Lukas Schiebe of LevasFlor (the Complainant) that a communication that he had sent to the Office of Audit and Investigations (OAI) raised issues related to UNDP's compliance with the Social and Environmental Standards (SES) and that he was requesting a Compliance Review under SECU's Investigation Guidelines.

2. The Complainant describes a situation in which his company supplied wooden windows and doors to a local NGO, who has been engaged as a partner under a UNDP project. SECU determined that the Complainant's references to UNDP and UNDP project activities relate to the UNDP Mozambique Recovery Facility, a project which seeks to meet the needs of populations affected by the devastating 2019 Cyclones Idai and Kenneth. According to the Complainant, the wood products supplied by the Complainant to the local NGO had been rejected by the UNDP as not meeting the technical specifications for construction activities under the project. The Complainant alleges that the technical specifications under the project included that the wood to be used should be "Chanfuta". The Complainant alleges that Chanfuta is "very expensive" and that "it is impossible to make 40mm Chanfuta doors for a price suitable for resettlement houses". According to the Complainant, "it is impossible to use one of the most precious woods that can be found on the local market, with the idea to paint it white in the end. Chanfuta is precious because of its beauty and grains that are very attractive on a finishing with vanish or oil, where the wood stays visible of course." The Complainant alleges that insofar as the UNDP's other partners under the project had procured Chanfuta windows and doors "for a very cheap price", the wood may be untraceable and may have been illegally sourced. The Complainant argues that wood products procured by UNDP should be "at least traceable and certified by Mozambique standards". The Complainant also refers to other technical specifications over the dimensions of the wood products which were in dispute.

3. On 11 November 2021, SECU registered the case on its online case registry. SECU then made documentation and information requests to the UNDP Mozambique Country Office and the Complainant in order to inform SECU's determination of eligibility of the complaint.

4. The local NGO to whom LevasFlor supplied the wood was not involved in the filing of this complaint and did not wish to join as a complainant.

5. According to the Project Document (Prodoc), "the UNDP post-cyclone Recovery Facility aims to contribute to Mozambique's rapid restoration of development pathways in a manner that builds resilience. The Facility consists of three pillars with key outcomes and activities, and it is implemented through an integrated approach balancing early recovery and resilience building."[1] The three pillars are: "(1) help the communities recover from the impact of cyclone and floods and rebuild their assets and livelihoods with a focus on women and persons with disabilities; (2) rebuilding public and community infrastructure to bounce back from the disaster; and (3)

[1] Prodoc, page 10.

develop national capacities and systems to plan and implement the recovery and resilience programme."[2]

6. SECU has not done an analysis of whether Chanfuta satisfies applicable procurement policies of being a value for money resource for the purposes of building resettlement homes, but notes that Chanfuta wood is not listed in the CITES Appendices as an endangered species,[3] and is reported by the IUCN as being a species of least concern.[4] SECU also notes that while there were indications that Chanfuta should be used, the official requirements made reference to various possible types of wood and did not prescribe that Chanfuta had to be used. The wooden windows and doors ultimately supplied were not Chanfuta and other specifications over the dimensions became the subject of dispute amongst the parties. While the parties engaged informally to resolve disputes over the sourcing requirements, available contractual avenues to dispute any alleged insistence on using Chanfuta were not utilized.

7. As required by SECU's Investigation Guidelines (http://www.undp.org/content/undp/en/home/librarypage/operations1/secu-investigation-guidelines/), this memorandum provides SECU's assessment of whether the complaint is eligible for a full investigation by SECU.

8. SECU has determined that the complaint is ineligible for a Compliance Review.

II. Project Details

9. The UNDP "Mozambique Recovery Facility" (Atlas Award ID: 121665), had a signing date of August 2019, and has an end date of August 2024. It is a Direct Implementation Modality (DIM) project.[5]

10. The Recovery Facility was established by the UNDP as a five-year multi-partner Basket Fund for the UNDP to coordinate and implement short-to-long term recovery activities. The UNDP identified a target budget of 72.2 million USD. Contributions listed to date on UNDP's open source platform include: 15,610 USD from Chevron Maunaigas Inc – Kazak; 296,010 USD from the Canadian Department of Foreign Affairs, Trade And Development; 500,000 USD from the Government of India; 660,000 USD from UNDP Funding Windows; 2.65 million USD from the Government of the Netherlands; 3.42 million USD from the Government of Finland; 3.56 million USD from the Ministry of Foreign Affairs, Norway; 4.33 million USD from the UNDP; and 17.22 million from the European Commission.[6]

[2] Prodoc, page 7.
[3] Appendices I, II and III to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, valid from 22 June 2021, https://cites.org/eng/app/appendices.php
[4] Hills, R. 2019. *Afzelia quanzensis*. *The IUCN Red List of Threatened Species* 2019: e.T60757666A60757681. https://dx.doi.org/10.2305/IUCN.UK.2019-3.RLTS.T60757666A60757681.en.
[5] Prodoc, page 21.
[6] https://open.undp.org/projects/00121665, last accessed 13 January 2022.

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 9 November 2021, registered the complaint on 11 November 2021 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. 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.

IV. Determination of Eligibility

14. ***Criterion 1: Relates to a project or programme supported by UNDP.*** The complaint relates to the UNDP Mozambique Recovery Facility, an ongoing UNDP project approved in 2019, and, as such, meets the first criterion under Section 8.1.

15. ***Criterion 2: Raises actual or potential issues relating to compliance with UNDP's social and environmental commitments.*** The complaint raises issues related to environmental sustainability, biodiversity conservation and sustainable natural resource management. The project's signature and start dates were before 31 December 2020 and as such the 2015 Social and Environmental Standards (SES) apply.[7] The key provisions of the SES relevant to this project and complaint 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.

    Principle 3 on Environmental Sustainability indicates that "UNDP will ensure that environmental sustainability is systematically mainstreamed into its Programmes and Projects". Likewise, Standard 1 on Biodiversity Conservation indicates that "living natural resources will be managed in a sustainable manner. Sustainable resource management is the management of the use, development, and protection of resources in a way, or at a rate, that enables people and communities, including indigenous peoples, to provide for their social, economic, and cultural well-being while also sustaining the potential for those resources to meet the needs of future

[7] Available at:
https://info.undp.org/sites/bpps/SES_Toolkit/SES%20Document%20Library/Social%20and%20Environmental%20Standards/UNDP-Social-and-Environmental-Standards-2015-ENGLISH.pdf

generations." The SES Policy Delivery category on Screening, Assessment and Management of Social and Environmental Risks and Impacts requires that UNDP "identify and reflect the significance of potential impacts or risks that Project activities might present and identify opportunities to enhance benefits and support stakeholders".

Insofar as the complaint concerns an allegation that UNDP sourcing requirements did not promote sustainable resource management, the complaint raises issues of compliance with UNDP's social and environmental commitments and the second criterion under Section 8.1 is *prima facie* met. However, as described above, SECU notes that the official requirements referred to various possible types of wood and did not prescribe that Chanfuta had to be used.

16. ***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 issue of whether purchasing practices under the project promoted sustainable resource management is not the cause of any harm to the Complainant. The Complainant did not supply Chanfuta windows or doors, and as such, the sustainability harms described in the complaint are hypothetical. The circumstances surrounding the complaint and the alleged harms raised do not stem from alleged non-compliance with the SES, but rather represent potential harms stemming from a contractual dispute and/or a question of project partner management.

17. As Criterion 3 is not satisfied, SECU has determined that the complaint is ineligible for a social and environmental Compliance Review.

V. Next Steps

18. As this case has been deemed ineligible for a compliance review, the registry will show that SECU has closed the case.

19. Despite the closure of this case, SECU recognizes that legitimate concerns were raised in the complaint about the UNDP's commitment under the SES to ensure that "sustainability is systematically mainstreamed into its Programmes and Projects" and how that would apply in the context of product sourcing under UNDP-supported activities, particularly in considering how partner management and procurement processes could impact biodiversity and sustainable resource management. As described in this eligibility determination, the alleged environmental harms did not materialize as the products supplied were not crafted from Chanfuta wood, and despite any alleged insistence on the use of Chanfuta the official requirements referred to various possible types of wood and did not prescribe that Chanfuta had to be used. The dispute between the parties was contractual in nature, and any harms suffered are not connected to non-compliance with the SES. As such, the only recommendations that SECU could make if it were to investigate the complaint would be directed at the corporate policy level. Advice of this nature can more appropriately be dealt with under SECU's Advisory Review mandate provided in its Investigation Guidelines. SECU will accordingly assess whether to prepare an Advisory Review on the topic of sustainable sourcing requirements.