



COMPLIANCE MONITORING REPORT

*IFC Investment in Corporación Dinant S.A. de C.V., Honduras
Project #27250*

**Monitoring of IFC's Response to:
CAO Audit of IFC Investment in Corporación Dinant, Honduras**

July 6, 2016
Office of the Compliance Advisor Ombudsman (CAO)

About CAO

CAO's mission is to serve as a fair, trusted, and effective independent recourse mechanism and to improve the environmental and social accountability of IFC and MIGA.

CAO (Office of the Compliance Advisor Ombudsman) is an independent post that reports directly to the President of the World Bank Group. CAO reviews complaints from communities affected by development projects undertaken by the two private sector arms of the World Bank Group, the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA).

CAO's compliance function oversees investigations of IFC/MIGA's environmental and social performance, particularly in relation to sensitive projects, to ensure compliance with policies, standards, guidelines, procedures, and conditions for IFC/MIGA involvement, with the goal of improving IFC/MIGA environmental and social performance.

For more information about CAO, please visit www.cao-ombudsman.org

Introduction

The CAO compliance function oversees investigations of IFC/MIGA's environmental and social (E&S) performance with a view to ensuring compliance with relevant requirements and improving the E&S performance of the institutions.

Following a CAO compliance investigation, CAO monitors actions taken by IFC/MIGA until such actions assure CAO that its compliance findings are being addressed.

This monitoring report documents CAO's monitoring of IFC's response to the *Audit of IFC Investment in Corporación Dinant* (the Dinant Audit) as of May 2016.¹

Background

The Dinant audit relates to IFC's investment in Corporación Dinant (the client), an integrated palm oil and food company in Honduras. IFC's proposed investment was a \$30 million loan of which \$15 million was disbursed in November 2009. The remaining \$15 million remains undisbursed.

The audit was triggered by the CAO Vice President in response to reports of land conflict and related incidents of violence on and around the client's oil palm plantations in Honduras' lower Aguán Valley (Bajo Aguán), of which CAO became aware in late 2010.

The audit² was finalized in December 2013 and released publically in January 2014. The audit made a number of non-compliance findings in relation to IFC's review and supervision of the social impacts aspects of the project, particularly as related to conflict and security issues.

IFC's Response to the Audit

IFC released an initial response to the audit in January 2014 and an Enhanced Action Plan in response to the audit in April 2014.³ IFC presented the Enhanced Action Plan as a draft which would be further developed in consultation with affected communities.

The Enhanced Action Plan included three areas of focus: (i) actions to address the client's E&S performance within the framework of the IFC Performance Standards, (ii) a broader set of actions (including stakeholder dialogue activities) designed to identify and engage with the structural causes of the conflict in the Bajo Aguan, and (iii) a commitment to learning lessons from the Dinant audit and thereby strengthening IFC's approach to the management of E&S risks in fragile and conflict affected situations.

An April 2016 update in relation to the Enhanced Action Plan provides the most recent statement from IFC in relation to its response to the audit.⁴ While the Enhanced Action Plan covers a range of environmental and social aspects, given the focus of the compliance audit, CAO's monitoring focuses on issues related to land, community engagement and security.

¹ The CAO audit, IFC's initial response to the audit and related materials are available on the CAO website – <http://goo.gl/PHKdri>

² The term "Audit" was replaced by "Investigation" in CAO's revised Operational Guidelines in 2013.

³ IFC, Enhanced Action Plan in Response to CAO Audit of Investment in Corporación Dinant, April 2014 – <http://goo.gl/FpMdkh>

⁴ IFC, Response to CAO Audit of Investment in Corporación Dinant (Update April 2016) – <http://goo.gl/92C4u4>

Subsequent CAO Complaints

In July 2014, CAO received two complaints relating to IFC's investment in Dinant from organizations representing farmers in the Bajo Aguán (hereafter referred to as "the complainants"). These complaints raise issues related to land disputes, displacement of communities, violence, use of security forces, and environmental impacts which the complainants link to the client's palm oil operations in the Bajo Aguán.

Following visits by CAO dispute resolution staff to the Bajo Aguán in October and November 2014 and consultation with the complainants, the client and the Government of Honduras, it was agreed that the CAO would postpone further action in relation to these complaints to allow the ongoing IFC-supported dialogue around the project to develop.

In May 2016 the complainants requested that CAO move forward with its assessment of the two complaints received in July 2014. Therefore, CAO is reengaging with the assessment of these two complaints to develop a thorough understanding of the issues and concerns raised in the complaints and determine which CAO role (dispute resolution or compliance) the parties wish to initiate.

Observations from CAO Monitoring

CAO released its first monitoring report regarding IFC's response to the Dinant Audit in April 2015.⁵

In its April 2015 Monitoring Report, CAO noted that IFC's Enhanced Action Plan represented a remedial and participatory response to its audit. CAO welcomed this approach, while recognizing that the context of conflict around the client's properties in the Bajo Aguán remained complex and that, as a result, successful outcomes were not guaranteed.

A cornerstone of IFC's response to the CAO audit remains a community engagement and stakeholder mapping initiative which IFC has supported through the Consensus Building Institute (CBI), a not-for-profit organization with expertise in the field of stakeholder dialogue and mediation.⁶

In August 2015, following consultation with a range of stakeholders in Honduras, CBI finalized a draft "Roadmap" identifying options for dialogue and conflict resolution in the Bajo Aguán to stakeholders in Honduras.⁷ The roadmap covers issues of security, land and inclusive economic development. At the time of writing a process of dialogue around the Roadmap was ongoing. At the same time CAO notes criticism of the Roadmap process from some farmers groups in the Bajo Aguán, including the complainants. These groups raise concerns that the Roadmap does not adequately represent the views and demands of their communities and allege that it favors the client and the Government of Honduras.⁸ This information was communicated to IFC by CAO.

CAO's April 2015 monitoring report also acknowledged IFC's commitment to work with its client in relation to security issues. As of April 2016 IFC reported that its client had demonstrated commitment to relevant standards including the Voluntary Principles for Security and Human Rights (Voluntary Principles) and IFC Performance Standard 4 (PS4). In particular, IFC reported that its client had conducted a security risk assessment for all facilities and that all staff had been

⁵ CAO Compliance Monitoring Report, Corporación Dinant, April 2015 – <http://goo.gl/BP8WJY>

⁶ IFC, TOR for Community Engagement / Conflict Mediation Adviser – <http://goo.gl/irLKKO>

⁷ Moving Forward in the Bajo Aguan: Key Issues Analysis & Process Design Suggestions (Final Draft) – <http://goo.gl/alnJsk>

⁸ Plataforma Agraria, Public Statement, May 13, 2016 - <https://goo.gl/t8noYb>

trained to implement the Voluntary Principles. At the same time, CAO notes continued allegations by the complainants of harassment by military and para-military groups which they see as linked to the conflict between their communities and the client.

IFC's Enhanced Action Plan also includes a commitment for the client to engage a reputable third party to conduct an investigation of past security incidents. A summary of the process and key findings was to be disclosed with corrective action including possible compensation to be taken if non-compliance was identified. The timeframe for these actions under the enhanced action plan was September 2014 - March 2015. As of April 2016, IFC describes this element of the Enhanced Action Plan as "a work in progress", noting that its security consultant Foley Hoag has been reviewing the company's approach to reporting and addressing past incidents involving Dinant's security forces.

Other findings from the CAO audit are not addressed in the IFC Enhanced Action Plan. In particular, CAO notes the finding in relation to the non-disclosure of the client's 2008 environmental and social assessment. IFC indicates that it does not plan on disclosing this document considering that events and developments have superseded. IFC remains non-compliant in this respect.

Regarding CAO's finding in relation to IFC's application of Performance Standard 7 (Indigenous Peoples) to the project, and reported impacts on Garifuna communities in the vicinity of the client's plantations, IFC's position is that Dinant's risk assessments have not identified any impacts on Garifuna communities. However, to date no risk assessment or consultation with representatives of Garifuna communities has been disclosed.

At the level of IFC policies, procedures, practices and knowledge, IFC indicates that there have been numerous iterations on how IFC's approach has evolved since the Dinant investment was made. Examples include screening tools, more holistic contextual assessment of project, sector and country risk, and Country Situation Analysis for palm oil.

In its Management Response to the Audit, IFC committed to disclose a summary of its ongoing learning from Dinant and other CAO cases as well as its own project implementation experience. Subsequently, IFC reports that relevant updates on its institutional learnings have been disclosed on its website on an ongoing basis, however a Dinant-specific lessons learned piece has not been published to date.⁹

Conclusion

CAO acknowledges steps taken by IFC to address findings from the Audit. The Roadmap process offers a potential path to reconciliation between the client and affected communities. In particular, CAO acknowledges the energy and resources which IFC has committed to the development of the Roadmap and to the improvement of the client's approach to security. In the event that affected communities, including complainants, do not support this approach, then Performance Standard 4 would require an objective investigation by the client¹⁰ of credible allegations of abusive acts of security personnel, take action or urge appropriate parties to take action, to prevent recurrence, and report unlawful or abusive acts to public authorities when appropriate. If an investigation confirms the allegations, remedies, including compensation, for the adverse impacts caused by the project are required under Performance Standard 1 and acknowledged by

⁹ See IFC website, "Learning and Adapting" - <http://goo.gl/XMFTTX>

¹⁰ See IFC Performance Standards (2006), PS 4, para. 15.

IFC's client's action plan.¹¹ IFC has the responsibility under the Performance Standards, of working with its client to bring it into compliance and if the client fails to reestablish compliance, IFC will exercise its rights and remedies, as appropriate.¹²

CAO will keep the Audit open for monitoring and plans to issue a follow up monitoring report no later than May 2017.

¹¹ See IFC website, <http://goo.gl/mZrbTH>

¹² See IFC Policy & Performance Standards (2006), para. 26 & (2012), para. 24.