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*Office of the Compliance Advisor Ombudsman (CAO)*

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## **COMPLIANCE APPRAISAL: SUMMARY OF RESULTS**

*IFC exposure to the Indura Beach and Golf Resort through a Financial Intermediary*

*IFC Projects #26394, 27341, 29257*

*Honduras*

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Indura Beach and Golf Resort (Indura or “the project”) is a tourism development near the town of Tela in the north of Honduras. The project envisages the construction of boutique hotels, a golf course, vacation homes and condominiums. The first phase of the project, a hotel and golf course, was opened in 2014. A second phase is currently under construction.

The project has been developed by Desarrollo Turístico Bahía de Tela, S.A. de C.V. (DTBT or “the project developer”). DTBT is a public–private partnership between the Honduran Institute of Tourism (Instituto Hondureño de Turismo or IHT) (49%) and the Honduran Fund for Touristic Investment (Fondo Hondureño de Inversión Turística or FHIT) (51%). IFC is exposed to the project through its investments in a financial intermediary, Banco Financiera Comercial Hondureña, S.A (Banco Ficohsa) or “the client”).

In March 2011, the client organized a syndicated loan of US\$24 million (with US\$10 million provided by the client) to DTBT to support the second phase of the project. IFC has a number of active investments with the client since 2008, including an equity investment in 2011.

CAO completed a compliance investigation of IFC’s investment in the client in 2014. The 2014 compliance investigation made a number of non-compliance findings in relation to IFC’s review and supervision of its investment in the client with a focus on the client’s exposure to an agribusiness conglomerate in the Aguan Valley of Honduras. CAO’s monitoring of IFC’s response to the 2014 audit is ongoing.

In October 2015, a non-governmental organization, OFRANEH, filed a complaint with CAO on behalf of members of indigenous Garifuna communities in Tela, including Barra Vieja, Miami, Tornabé, San Juan Tela, La Ensenada, and Triunfo de la Cruz. The complainants raise concerns about several environmental and social (E&S) issues arising from the project. These include allegations of involuntary land acquisition, community and economic displacement, lack of consultation, lack of economic benefits, security issues, and environmental degradation.

In response, the project developer asserts that the issues raised in the complaint are political and should be discussed with the government authorities. They note that an extensive consultation process was conducted, that infrastructure and job opportunities have been provided, and that additional opportunities will be provided upon operation of the second phase of the project. The project developer has disputed the concerns raised by some of the communities that are party to the complaint. Regarding environmental impacts alleged in the complaint, the project developer acknowledges that the project altered the ecosystem within the area of development in order to make the land buildable, but asserts that they followed all legal requirements.

The purpose of a CAO compliance appraisal is to ensure that compliance investigations are initiated only in relation to projects that raise substantial concerns regarding E&S outcomes and/or issues of systemic importance to IFC. In determining whether to initiate an investigation, CAO weighs a number of factors including the magnitude of the E&S concerns raised in a complaint, results of a preliminary review of IFC's E&S performance in relation to these issues, the existence of questions concerning the adequacy of IFC's requirements, and a more general assessment of whether a compliance investigation is the appropriate response in the circumstances.

In this case, the complainants raise a range of environmental and social issues in relation to the project. While CAO takes no position on the veracity of the allegations set out in the complaint, CAO considers them to be substantial in nature.

After a review of IFC's documentation CAO has identified questions in relation to the adequacy of IFC's supervision of E&S risks that relate to the issues raised in the complaint. Firstly, CAO has questions as to whether IFC adequately assured itself that its client applied IFC's E&S requirements to the project. Secondly, CAO has questions as to how IFC supported its client to ensure that the E&S issues raised in the complaint have been assessed and, where relevant, are being managed in accordance with IFC's requirements.

These circumstances would ordinarily merit a CAO compliance investigation in response to the Tela Bay complaint. However, given that CAO has an ongoing compliance monitoring process open in relation to IFC's investment in Banco Ficohsa, CAO has decided that a separate compliance investigation in relation to the Tela Bay complaint is not required. Rather, CAO will consider the issues raised by the Tela Bay complaint as part of its ongoing monitoring of IFC's investment in Banco Ficohsa.



## **About the 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. The CAO reviews complaints from communities affected by development projects undertaken by the two private sector lending arms of the World Bank Group: the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA).

For more information about the CAO, please visit [www.cao-ombudsman.org](http://www.cao-ombudsman.org)



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## Acronyms

AEPR	Annual Environmental Performance Report
AMC	Asset Management Company (IFC)
CAO	Office of the Compliance Advisor Ombudsman (IFC and MIGA)
DTBT	Desarrollo Turístico Bahía de Tela, S.A. de C.V.
E&S	Environmental and Social
ESRP	Environmental and Social Review Procedures
FHIT	Fondo Hondureño de Inversión Turística
FI	Financial Intermediary
Ficohsa	Banco Financiera Comercial Hondureña, S.A.
GTFP	Global Trade Finance Program (IFC)
IFC	International Finance Corporation
IHT	Instituto Hondureño de Turismo
JBIC	Japanese Bank for International Cooperation
MIGA	Multilateral Investment Guarantee Agency
OFRANEH	Organización Fraternal Negra Hondureña (Black Fraternal Organization of Honduras)
PS	Performance Standards (IFC, 2006)
PS1	Performance Standard 1: Social and Environmental Assessment and Management Systems
PS5	Performance Standard 5: Land Acquisition and Involuntary Resettlement
PS6	Performance Standard 6: Biodiversity Conservation and Sustainable Natural Resource Management
PS7	Performance Standard 7: Indigenous Peoples
SEMS	Social and Environmental Management System
SME	Small- and Medium-sized Enterprise
SPI	Summary of Proposed Investment

## Overview of the Compliance Appraisal Process

When CAO receives a complaint about an IFC or MIGA project, the complaint is referred for assessment. If CAO concludes that the parties are not willing or able to reach a facilitated solution, the case is transferred to CAO's compliance function for appraisal and potential investigation.

A compliance appraisal also can be triggered by the CAO Vice President, IFC/MIGA management, or the President of the World Bank Group.

The focus of CAO's compliance function is on IFC and MIGA, not their client. This applies to all IFC's business activities, including the real sector, financial markets and advisory. CAO assesses how IFC/MIGA assured itself/themselves of the performance of its business activity or advice, as well as whether the outcomes of the business activity or advice are consistent with the intent of the relevant policy provisions. In many cases, however, in assessing the performance of the project and IFC's/MIGA's implementation of measures to meet the relevant requirements, it will be necessary for CAO to review the actions of the client and verify outcomes in the field.

In order to decide whether a compliance investigation is warranted, CAO first conducts a compliance appraisal. The purpose of the compliance appraisal process is to ensure that compliance investigations are initiated only for those projects that raise substantial concerns regarding environmental and/or social outcomes, and/or issues of systemic importance to IFC/MIGA.

To guide the compliance appraisal process, CAO applies several basic criteria. These criteria test the value of undertaking a compliance investigation, as CAO seeks to determine whether:

- There is evidence of potentially significant adverse environmental and/or social outcome(s) now, or in the future.
- There are indications that a policy or other appraisal criteria may not have been adhered to or properly applied by IFC/MIGA.
- There is evidence that indicates that IFC's/MIGA's provisions, whether or not complied with, have failed to provide an adequate level of protection.

In conducting the appraisal, CAO will engage with the IFC/MIGA team working with the specific project and other stakeholders to understand which criteria IFC/MIGA used to assure itself/themselves of the performance of the project, how IFC/MIGA assured itself/themselves of compliance with these criteria, how IFC/MIGA assured itself/themselves that these provisions provided an adequate level of protection, and, generally, whether a compliance investigation is the appropriate response. After a compliance appraisal has been completed, CAO can close the case or initiate a compliance investigation of IFC or MIGA.

Once CAO concludes a compliance appraisal, it will advise IFC/MIGA, the World Bank Group President, and the Board in writing. If a compliance appraisal results from a complaint CAO has received, the complainant will also be advised in writing. A summary of all appraisal results will be made public. If CAO decides to initiate a compliance investigation as a result of the compliance appraisal, CAO will draw up terms of reference for the compliance investigation in accordance with CAO's Operational Guidelines.

## Background

### Investment

Indura Beach and Golf Resort (Indura or “the project”)<sup>1</sup> is a tourism development near the town of Tela in the north of Honduras. The project envisages the construction of boutique hotels, a golf course, vacation homes and condominiums. The first phase of the project, a hotel and golf course, was opened in 2014. A second phase is currently under construction.

The project has been developed by Desarrollo Turístico Bahía de Tela, S.A. de C.V. (DTBT or “the project developer”). DTBT is a public–private partnership between the Honduran Institute of Tourism (Instituto Hondureño de Turismo or IHT) (49%) and the Honduran Fund for Touristic Investment (Fondo Hondureño de Inversión Turística or FHIT) (51%). IFC is exposed to the project through its investments in a financial intermediary.

In March 2011, Banco Financiera Comercial Hondureña, S.A. (“the client”), a financial intermediary, organized a syndicated loan of US\$24 million (with US\$10 million provided by the client) to DTBT to support the second phase of the project; the construction of boutique hotels, vacation homes, and condominiums.<sup>2</sup> Subsequent client reporting to IFC indicates additional investments by the client in DTBT.

IFC has several active investments in the client, the largest bank in Honduras and among the top ten banks in Central America.<sup>3</sup> IFC first invested in the client in February 2008. This investment was a loan of US\$20 million designed to support the client’s SME and middle- to low-income mortgage portfolios.<sup>4</sup> At the same time IFC agreed to an IFC Advisory Services project.<sup>5</sup> In July 2008, IFC approved the client’s inclusion in the Global Trade Finance Program (GTFP).<sup>6</sup> In October 2011, IFC’s Asset Management Company (AMC) via the IFC Capitalization Fund subscribed to a 10-percent equity stake in the client (US\$32 million) and provided the client with a subordinated loan (US\$38 million).<sup>7,8</sup> Further, in June 2014, AMC made an additional investment of US\$5.5 million in the client as part of an equity rights issue by the client.

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<sup>1</sup> Indura was formally called Los Micos Beach and Golf Resort. The project is part of the Tela Bay Tourism Project in Honduras.

<sup>2</sup> See Proceso Digital (March 28, 2011): <https://goo.gl/OaYNOU>; see also Grupo Financiero Ficohsa CEO’s website: <https://goo.gl/SVPg3T> (accessed December 19, 2016).

<sup>3</sup> See PR Newswire (Jan. 27, 2015): <https://goo.gl/eEZcA3> (accessed December 19, 2016).

<sup>4</sup> IFC Disclosure, Summary of Proposed Investment (SPI), project number 26394. Available at: <https://goo.gl/Bdi9wa> (accessed March 15, 2017).

<sup>5</sup> The objective of IFC’s Advisory Services project was to strengthen Ficohsa’s competitiveness in the housing and SME segments: <https://goo.gl/Bdi9wa>

<sup>6</sup> IFC press release, August 5, 2008: <https://goo.gl/j8E4Ng> (accessed December 19, 2016). Launched in 2005, GTFP supports trade with the emerging markets. Banks which participate in the program can access IFC guarantees on trade transactions.

<sup>7</sup> AMC is a wholly owned subsidiary of IFC, and invests alongside IFC. AMC established the Global Capitalization Fund in 2009. The Japanese Bank for International Cooperation (JBIC) committed US\$2 billion to the fund with IFC committing US\$1 billion from its own account.

<sup>8</sup> IFC press release, Sept. 30, 2011: <https://goo.gl/XmVEpB> (accessed March 15, 2017).

## Complaint and CAO Assessment

In October 2015, OFRANEH<sup>9</sup> filed a complaint with CAO on behalf of members of the indigenous Garifuna communities in Tela Bay, including Barra Vieja, Miami, Tornabé, San Juan Tela, La Ensenada, and Triunfo de la Cruz. The complaint, as well as additional information related to the complaint and DTBT's response, is summarized in CAO's October 2016 Assessment Report.<sup>10</sup>

The complainants have raised concerns about several environmental and social (E&S) issues allegedly arising from the project. These include: involuntary land acquisition, community and economic displacement, lack of consultation, lack of economic benefits, security issues, and environmental degradation.

The complainants allege that job opportunities created by the project have not been made sufficiently available to Garifuna community members as originally promised and agreed. Further, they claim the Government of Honduras in 2009 promised the Garifuna communities a seven percent equity stake in the boundaries of Tela, but that no further information has been made available to the communities about this. The complainants also allege that the project has led to restrictions on access to resources in the project area, damaged wetlands and coral reefs, and affected the marine ecology, protected species and Garifuna livelihoods.<sup>11</sup>

During CAO's assessment of the complaint the Barra Vieja and Tornabé communities, which are adjacent to the project, noted concerns specific to their current situation. Members of Barra Vieja allege that they have been prosecuted for allegedly invading public lands in 2006 and the community has experienced two attempts of forced eviction by police and military forces. They believe any future plans for extension of the project will require additional land and fear there will be new attempts to evict them from their land.<sup>12</sup>

During CAO's assessment of the complaint members of Tornabé recognized they have benefited from infrastructure investment—drinking water, sewage systems, pavement on main roads—in their community as a result of the project. However, soon after the project was built, the complainants noted that Tornabé suffered the first big flood in their history. They believe the project altered how water drained during heavy storms. They also believe that part of their lands were illegally obtained through threat and deception by the IHT.

DTBT have asserted that the issues raised in the complaint, including the community's equity stake, are political and should be discussed with government authorities. They noted that the IHT conducted a thorough two-year consultation process, and that needs expressed by Garifuna communities were taken up as investment requirements by DTBT. They indicated that they are not interested in acquiring additional land for the project.

At CAO's assessment, DTBT noted that they have held discussions with the Tornabé community to determine the cause of the flooding and find ways to prevent floods. The project developer detailed the improvement works provided for the Miami community; however, they disputed the concerns raised by the Barra Vieja and Triunfo de la Cruz communities.<sup>13</sup>

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<sup>9</sup> Fraternal Black Organization of Honduras (OFRANEH) was created in 1978 as a federation of Garifuna people in Honduras working together for the defense of their cultural rights, with the aim of surviving as a separate culture. See <https://ofraneh.wordpress.com/about/>

<sup>10</sup> CAO Assessment Report available at <https://goo.gl/ZgJM3i>.

<sup>11</sup> Complaint to CAO and CAO Assessment Report available at <https://goo.gl/ZgJM3i>.

<sup>12</sup> CAO Assessment Report

<sup>13</sup> CAO Assessment Report

DTBT views construction of phase two and full operation of the project in six to eight years as an opportunity to employ more people. However, they noted that only a few community members completed the training workshops that were offered to them. DTBT had planned to build a small market where Garifuna communities could sell their typical food and crafts but they suspended efforts due to a lack of interest from the community.<sup>14</sup>

DTBT denied that community members can no longer cross freely through the beach in front of the project. The project developer also claimed to provide discretionary access for community members to cut tree branches when a formal request is submitted; they cannot provide unrestricted access where the trees are located within the project area because of previous damage.

Regarding environmental impacts alleged in the complaint, DTBT noted that the project is located within 0.4 percent of the Jeanette Kawas National Park. They acknowledged that the project altered the ecosystem within the project area in order to make the land buildable; however, they have asserted that coral reefs were not affected by the project. They have claimed that they have ceded some land to conserve a mangrove area and have created additional wetlands within the golf course.

Additional information on the complainants' and the project developer's perspectives on the issues is included in Annex A.

The project developer indicated its willingness to participate in a CAO-convened meeting to exchange information about the project and impacts to the Garifuna community from the Tela Bay area. Following CAO's assessment, however, the complainants informed CAO that they would like to see the complaint addressed through CAO's compliance function. Given the voluntary principle that guides CAO's dispute resolution processes and in accordance with CAO's Operational Guidelines, the complaint was transferred to CAO's compliance function.

### **Previous CAO Compliance Investigation of IFC Investment in the client**

In August 2013, the CAO Vice President initiated a compliance process in relation to IFC's investment in the client.<sup>15</sup> This investigation was triggered due to concerns regarding IFC's exposure to the Honduran agribusiness company, Corporación Dinant, through the client.<sup>16</sup> CAO completed its investigation of IFC's investment in the client in August 2014.<sup>17</sup> The investigation identified significant shortcomings in IFC's appraisal and supervision of the E&S risks involved in the investment. As part of the CAO compliance process, IFC's investment in the client is currently subject to CAO's compliance monitoring. CAO's first compliance monitoring report in relation to the investment was published in January 2016.<sup>18</sup> A second monitoring report was under preparation at the time of writing this appraisal report.

### **Analysis**

This compliance appraisal considers IFC's pre-investment review and supervision of E&S risks related to its investment in client. The general analysis presented here is based on CAO's 2014

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<sup>14</sup> CAO Assessment Report

<sup>15</sup> CAO Appraisal, Investigation, and Monitoring reports in relation to CAO Vice President Request Ficohsa-01 case available at: <https://goo.gl/zKGRhj> (accessed December 19, 2016).

<sup>16</sup> CAO Investigation report of IFC's investment in Banco Ficohsa, p.12. Available at <https://goo.gl/zg3d5A>

<sup>17</sup> CAO Investigation report of IFC's investment in Banco Ficohsa

<sup>18</sup> CAO Monitoring report of IFC's investment in Banco Ficohsa

compliance investigation. Additional analysis addresses IFC's performance in relation to the particular concerns raised by the complainants.

Applicable IFC E&S requirements are drawn from IFC's Policy on Social and Environmental Sustainability ("Sustainability Policy"),<sup>19</sup> IFC Performance Standards (PS) (2006), IFC Policy on Disclosure of Information ("Disclosure Policy") (2006), IFC Environmental and Social Review Procedures (ESRP) as updated from time to time,<sup>20</sup> and various legal agreements between client and IFC.

For a financial intermediary (FI) investment such as IFC's investment in client, IFC requires the client to establish and maintain a social and environmental management system (SEMS) which applies IFC's E&S requirements, including the Performance Standards, to loans that present significant social or environmental risks.<sup>21</sup> During supervision, IFC's role is to monitor the FI's performance on the basis of its SEMS. IFC's procedures require IFC to assure itself that there is sufficient evidence that: i) the client is operating the SEMS as envisaged at the time of appraisal; and ii) the client has applied the IFC's E&S requirements to their sub-projects.<sup>22</sup>

As part of IFC's 2011 investment, the client was required to upgrade its SEMS to apply IFC's 2006 Performance Standards.

### **IFC's Pre-Investment Due Diligence**

CAO's 2014 investigation found that there was a material failure of IFC's pre-investment E&S review of the client investment, noting that IFC did not conduct an adequate review of the client's SEMS or its capacity to implement IFC's Performance Standards in relation to higher risk business activities.

The current complaint from Garifuna communities of Tela Bay raises concerns regarding the E&S impacts of a major project which is co-financed by the client. The complaint is illustrative of the types of complex E&S issues that the client would be required to manage in accordance with IFC Performance Standards. It raises general issues regarding project's E&S impact assessment. It also raises issues regarding the application of specific IFC Performance Standards, which would expectedly be challenging in the Honduran context, for example, requirements for consultation and provision of development benefits (PS1 and PS7), requirements in case of economic and physical displacement (PS5), and requirements for management of impacts on biodiversity (PS6). Concerns regarding the client's readiness to apply these requirements to its borrowers are consistent with CAO's 2014 findings regarding the weaknesses of IFC's pre-investment E&S review of its investment in its client.

However, as IFC's pre-investment review was analyzed in general in CAO's 2014 investigation, and given that the client first reported an exposure to the project to IFC in 2012, the complaint does not raise issues that require additional investigation of IFC's pre-investment review.<sup>23</sup>

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<sup>19</sup> While IFC's investments in the client were agreed and disbursed under the Policy on Environmental and Social Sustainability (2006), as of January 1, 2012, the updated Policy on Environmental and Social Sustainability (2012) provides the framework for IFC's supervision of the project.

<sup>20</sup> IFC's Environmental and Social Review Procedures (ESRP) outline requirements for IFC staff to follow in order to implement IFC's policy requirements. As related to FI investments, the procedures remained constant from 2009 to 2014. Available at: <https://goo.gl/EdtTZG>.

<sup>21</sup> IFC Sustainability Policy, 2006, para. 28 and 29.

<sup>22</sup> IFC ESRP, v.4, para. 9.2.6.

<sup>23</sup> IFC has sought to address findings of non-compliance in relation to IFC's pre-investment due diligence as part of wider improvements in its E&S risk management framework. CAO is monitoring IFC's response through ongoing monitoring of IFC's response to CAO's FI Audit. For further details, see <https://goo.gl/9wE009>

## IFC's Supervision of the Investment

CAO's 2014 investigation also found shortcomings in IFC's supervision of its investment in the client. In particular, the investigation found that IFC lacked sufficient evidence that the client was operating a SEMS, which applied IFC's E&S requirements to its sub-projects.<sup>24</sup> While acknowledging improvement in IFC's engagement with the client around E&S issues, CAO's 2016 monitoring report reaffirmed the finding that IFC lacked sufficient evidence that its client was applying the Performance Standards to high-risk lending activities as required.<sup>25</sup>

The current complaint raises additional questions as to IFC's supervision of the client's implementation of IFC's E&S requirements. Concerns regarding the E&S impacts of this project have been noted in the public domain since 2005.<sup>26</sup>

The client first reported an exposure to the project to IFC in 2012. Additional lending has been reported in subsequent years.

In May 2015, as part of its E&S supervision visit of the client, IFC reviewed the client's loan to DTBT. IFC's review noted that the project had been categorized as A, indicating that the project involved potential significant adverse social or environmental impacts that are diverse, irreversible or unprecedented. IFC noted that the client: i) included an environmental clause in its agreement with the project, and ii) required the project to provide it with an annual report prepared for the regulator. IFC noted the client had on file E&S assessments prepared for the project and that an environmental and social management system had been developed for the project.

IFC's supervision documentation does not raise any concerns in relation to its client's application of E&S requirements to the project. It is unclear from the material available whether IFC's review of the loan files was sufficient to provide assurance that the client had: i) applied IFC's E&S requirements to the DTBT loan, and ii) implemented an appropriate framework for supervision of the loan consistent with IFC's requirements. It is similarly unclear from IFC's recent supervision documentation whether IFC provided appropriate guidance to its client on the implementation of E&S requirements relevant to issues raised in the complaint. Of particular relevance here are issues related to consultation and provision of development benefits provided for in PS1 and PS7, land acquisition in PS5, and impacts on biodiversity in PS6.

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<sup>24</sup> CAO Investigation report of IFC's investment in Banco Ficohsa, p.30

<sup>25</sup> CAO Monitoring report of IFC's investment in Banco Ficohsa, pp. 4-5

<sup>26</sup> Fundación PROLANSATE, one of the managing organizations of the national park that would be affected by the project, raised significant concerns on the project's EIA in 2005 (<https://goo.gl/FzUYzS>). Protests related to the project have been reported in international public media since 2005; for example, see "Honduras: insostenibilidad del proyecto turístico de Laguna de Micos" (by OFRANEH, Oct. 2005, <https://goo.gl/WTAS9a>), "Informe de la delegación internacional de derechos humanos en San Juan Tela y alrededores" (Sept. 2006, <https://goo.gl/HDGr3m>), and "Oppression or opportunity? Tourism project in Honduras sparks conflict" (Nov. 2009, <https://goo.gl/Ph6me1>). Land disputes with Garifuna communities in the area have been reviewed by the World Bank's Inspection Panel and by the Inter-American Commission on Human Rights (IACHR). In the 2007 Inspection Panel's investigation report concerning the Honduras Land Administration Project, the Panel found significant shortcomings the World Bank's policy compliance related to adequate consultation with Garifuna communities and appropriate measures to protect indigenous peoples' land rights (<https://goo.gl/S8l0Vm>). In 2003, several Garifuna communities submitted a petition to the Inter-American Court of Human Rights (IACHR) regarding the Honduran state's alleged violations of collective indigenous property rights, and in October 2015, the IACHR issued a judgment in favor of the communities including Triunfo de la Cruz (<https://goo.gl/XrYQyk>).

## CAO Decision

The purpose of a CAO compliance appraisal is to ensure that compliance investigations are initiated only in relation to projects that raise substantial concerns regarding E&S outcomes and/or issues of systemic importance to IFC. In determining whether to initiate an investigation, CAO weighs a number of factors including the magnitude of the E&S concerns raised in a complaint, results of a preliminary review of IFC's E&S performance in relation to these issues, the existence of questions concerning the adequacy of IFC's requirements, and a more general assessment of whether a compliance investigation is the appropriate response in the circumstances.

In this case, the complainants raise a range of environmental and social issues in relation to the project. While CAO takes no position on the veracity of the allegations set out in the complaint, CAO considers them to be substantial in nature.

After a review of IFC's documentation CAO has identified questions in relation to the adequacy of IFC's supervision of E&S risks that relate to the issues raised in the complaint. Firstly, CAO has questions as to whether IFC adequately assured itself that its client applied IFC's E&S requirements to the project. Secondly, CAO has questions as to how IFC supported its client to ensure that the E&S issues raised in the complaint have been adequately assessed and, where relevant, are being managed in accordance with IFC's requirements.

These circumstances would ordinarily merit a CAO compliance investigation in response to the Tela Bay complaint. However, given that CAO has an ongoing compliance monitoring process open in relation to IFC's investment in Banco Ficohsa, CAO has decided that a separate compliance investigation in relation to the Tela Bay complaint is not required. Rather, CAO will consider the issues raised by the Tela Bay complaint as part of its ongoing monitoring of IFC's investment in Banco Ficohsa.

**Annex A: Perspectives about issues raised in complaint** <sup>27</sup>

	<b>Complainants and OFRANEH supporting the complaint</b>	<b>DTBT</b>
<b>Consultation</b>	They claim that the Tela Bay project was carried out without a consultation process that was compatible with Honduran legislation and international guidelines	The project developer noted that the Honduran Institute of Tourism carried out a thorough two-year consultation process. Needs expressed by the Garifuna communities were later taken up as investment requirements by DTBT.
<b>Benefit Distribution</b>	They claim that in 2009 the Government of Honduras promised to Garifuna communities to give them seven percent of equity in the boundaries of Tela but no further information has been made available to the communities about this.	Regarding the seven percent equity for the communities, DTBT clarified the promise was made by the government in 2009 and that it would come from the State's share in the project. DTBT believes this is an important issue that needs to be addressed by the new government administration.  Members of Tornabé recognize they have benefited from infrastructure investment—drinking water, sewage systems, pavement on main roads—in their community as a result of the Indura project. However, soon after the project was built, Tornabé suffered the first big flood in their history. They believe the project altered how water drained during heavy storms.
<b>Income Generation</b>	They also indicate that job opportunities created by the project have not been made sufficiently available to Garifuna community members as originally promised and agreed, even after some of them have taken capacity-building workshops and received, in their view, training to be skilled up for job opportunities they thought the project would offer. Communities have stated that armed guards chase them away if they attempt to sell coconut bread or fresh fish to Indura's tourists on the beach.	Through infrastructure investment and job opportunities, DTBT claims to have improved the lives of community members of Tornabé and Miami.  DTBT views income generation opportunities for the community both a priority and a challenge. While expectations are higher than what a 60-room hotel could deliver, the construction of phase 2 and full-operation of the project in six to eight years should provide a new opportunity to employ more people. They are concerned that not many community members completed the training workshops that were offered to them, even if sessions were held in their communities. As for income generation opportunities, DTBT had planned to build a small market where Garifuna communities could sell their typical food and crafts but they stopped the efforts due to lack of interest from the community. DTBT has said they will keep trying, and that they are considering setting up a space so that they can sell their crafts.

<sup>27</sup> CAO Assessment Report and complaint to CAO. Available at <https://goo.gl/ZqJM3i>.

		<p>DTBT does not consider Barra Vieja a legitimate Garifuna community and claims the people settled there in 2006 to grab state-owned lands.</p> <p>They also stated that the community of Triunfo de la Cruz is not in the impact area of the project.</p>
<b>Access to Natural Resources</b>	<p>Allegedly, they can no longer cross freely through the beach in front of the project, making it a longer walk for those in Tornabé, San Juan or Triunfo de la Cruz who are used to fishing in the area of Miami and Los Micos lagoon. In their view, the restricted access also represents a problem for children who walk from Barra Vieja to Tornabé to go to school every day. The project area is still rich in plants that Garifuna's have long used to build their traditional houses or extract fruits they eat and sell for a living. According to community members, access to the area and use of these plants is now strictly forbidden, even if DTBT does not use them for any purpose.</p>	<p>DTBT denies that community members can no longer cross freely through the beach in front of the project. DTBT also claims to provide discretionary access for community members to cut tree branches (<i>caña brava</i>) when a formal request is submitted. But they cannot provide unrestricted access where the trees are located within Indura because they have suffered damages and things have gone missing.</p>
<b>Land Acquisition</b>	<p>Members of Barra Vieja allege that they have been prosecuted for allegedly invading public lands in 2006 and the community has experienced two attempts of forced eviction by police and military forces. In their view, they have been able to resist these attempts and local courts have ruled in their favour. They believe any future plans for extension of the project will require additional land and fear new eviction attempts will occur. They resent being abandoned by state institutions and discriminated against by DTBT regarding job opportunities and community development projects.</p> <p>Members of Tornabé believe part of their lands were illegally obtained through threat and deception by the Honduran Institute of Tourism.</p>	<p>DTBT indicates not to be interested in acquiring additional land for the project, as the 311 hectares they currently own are sufficient to develop the second phase of their project. They believe the situation with Barra Vieja needs to be addressed by the government. They also stated that the community of Triunfo de la Cruz is not in the impact area of the project.</p>

<p style="text-align: center;"><b>Environmental Impacts</b></p>	<p>The complainants argue that the project has used an important section of the Los Micos Lagoon, destroyed wetlands and affected coral reefs to build their golf course, and occupied 120 of the 351 hectares—roughly 35 percent—of the Jeanette Kawas National Park. The complaint argues these changes have affected the marine ecology, protected species and Garifuna livelihoods.</p>	<p>The project developer states that the project is located in the buffer zone of the Jeanette Kawas National Park and occupies only 311 hectares of a total surface of 78,145.65 hectares (0.4%). They also claim that coral reefs were not affected because the sand required to build the golf course was taken by excavating the inland lakes and canals (generating a mass balance) following all legal requirements. They indicate that the area where the project was executed included wetlands (some areas were covered in water only at certain periods of the year). They acknowledge that the project altered the ecosystem within the project area in order to make the land buildable. There were multiple species of wetland trees on those lands, but no mangroves (those are located on the banks of the Los Micos and Quemada Lagoons, not within the project’s area). The areas located at a lower level are considered as protected areas and will not be touched in the future; this represents 12.14% of the total project area (37.85 hectares). They claim they have ceded some land to conserve a mangrove area and have actually created additional wetlands—lakes and canals—in the golf course, which are now inhabited by various species.</p>
<p style="text-align: center;"><b>Dispute Resolution Approaches</b></p>	<p>San Juan and Triunfo de la Cruz have taken their cases to the Inter-American System of Human Rights Protection.</p>	<p>Although they have a different perspective on many of the points raised by community members, they are, in principle, willing to dialogue to exchange information about the project.</p>