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## **COMPLIANCE MONITORING REPORT**

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

*Project #27250*

*CAO Cases: Dinant-01 to -03*

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**Monitoring of IFC's Response to:**

**CAO Audit of IFC's Investment in Corporación Dinant, Honduras  
and CAO Complaints Dinant-02 and -03**

**November 7, 2018**

*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](http://www.cao-ombudsman.org)

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## 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 report documents CAO's monitoring of IFC's response to CAO's January 2014 *Audit of IFC Investment in Corporación Dinant* (the CAO Audit) as of April 2018.<sup>1</sup> The report also considers issues raised in the Dinant-02 and -03 complaints, for which CAO released a compliance appraisal in June 2017.<sup>2</sup> As the issues raised by the Dinant-02 and -03 complaint overlap with those being monitored as part of the CAO Audit response, CAO merged the three cases.

## Background

The CAO 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 was not disbursed. As noted in CAO's June 2017 compliance appraisal, Dinant repaid its loan to IFC in April 2017.

The CAO 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 Audit was finalized in December 2013 and released publicly in January 2014.<sup>3</sup> The Audit made a number of non-compliance findings in relation to IFC's review and supervision of the social impacts 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 April 2014.<sup>4</sup> 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 Aguán*, and (iii) a commitment to learning lessons from the CAO Audit and thereby strengthening IFC's approach to the management of E&S risks in fragile and conflict affected situations.

IFC has provided several updates on implementation of the Enhanced Action Plan. An October 2017 update provides the most recent statement from IFC in relation to its response to the Audit.<sup>5</sup>

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

<sup>2</sup> CAO Compliance Appraisal Report, Dinant-02 and -03, June 2017 – <https://goo.gl/8edLVM>

<sup>3</sup> The term "Audit" was replaced by "Investigation" in CAO's revised Operational Guidelines in 2013.

<sup>4</sup> IFC, Enhanced Action Plan in Response to CAO Audit of Investment in Corporación Dinant, April 2014 – <https://goo.gl/xmvtva>

<sup>5</sup> IFC Updates Related to Corporación Dinant's E&S Action Plan – <https://goo.gl/YJBqTv>

While the Enhanced Action Plan covers a range of environmental and social aspects, given the focus of the CAO Audit, CAO's monitoring focuses on issues related to land, community engagement and security.

## Subsequent CAO Complaints and CAO Compliance Appraisal

In July 2014, the *Movimiento Campesino Refundación Gregorio Chávez* (MCRGC)<sup>6</sup> and the *Movimiento Unificado Campesino del Aguán* (MUCA)<sup>7</sup> ("the complainants") filed two separate complaints (the Dinant-02 and -03 complaints) with CAO on behalf of their members in the Aguán Valley. The complaints relate to the palm oil operations of Corporación Dinant raising allegations of human rights abuses particularly:

- Land disputes as a consequence of land grabbing in the 1990s, and subsequent displacement of communities;
- Use of security forces by the company, leading to the acts of violence against members of their communities, including multiple deaths, and lack of independent investigations;
- Negative environmental impacts of the company's palm oil operations in the *Bajo Aguán*, including contamination of rivers and lagoons.

The complainants requested an independent investigation into the root causes of the land conflict, as well as into impunity in relation to violations of human rights, and the alleged destruction and contamination of the environment.

CAO released a compliance appraisal report of the complaints in June 2017.<sup>8</sup> The appraisal concluded that the Dinant 02 and 03 complaints raised substantial concerns regarding the E&S outcomes of the project, as well as questions as to the implementation of IFC's policies, procedures and standards to the project. However, these issues, namely land disputes and conflicts, the involvement of armed security personnel in acts of violence, and lack of subsequent investigations, fell largely within the scope of the 2014 CAO Audit of IFC's investment in Dinant. CAO did not consider that these issues required a separate compliance investigation, instead deciding to consider them as part of its ongoing monitoring of IFC's response to the 2014 audit.

Concerns regarding the environmental impacts of the project were not considered in CAO's 2014 Audit. However, CAO found that the complaint in relation to these issues provided insufficient information to justify a compliance investigation.

## Observations from CAO Monitoring

CAO released its first monitoring report regarding IFC's response to the CAO Audit in April 2015.<sup>9</sup> A second monitoring report was released in August 2016.<sup>10</sup> This section summarizes IFC's updates to CAO as of April 2018, and CAO's assessment of IFC's actions in response to the 2014 Audit and subsequent complaints.

This monitoring report is based on a review of IFC and client documentation as available through April 2018. It also draws on information provided to CAO during a February 2017 visit to

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<sup>6</sup> MCRGC is an associative company constituted by approximately 480 families who form part of the Panama community in the Aguán Valley. The Dinant 02 complaint is available at: <https://goo.gl/HkBrmx>

<sup>7</sup> MUCA is a group of cooperative peasant enterprises representing approximately 702 families from the Aguán Valley and together they constitute 16 companies. The Dinant 03 complaint is available at: <https://goo.gl/Uk3IN4>

<sup>8</sup> CAO Compliance Appraisal Report, Dinant-02 and -03, June 2017 – <https://goo.gl/8edLvM>

<sup>9</sup> CAO Compliance Monitoring Report, Corporación Dinant, April 2015 – <http://goo.gl/BP8WJY>

<sup>10</sup> CAO Compliance Monitoring Report, Corporación Dinant, August 2016 – <https://goo.gl/wGMynq>

Tegucigalpa and the *Bajo Aguán*, which included meetings with representatives of the Government of Honduras, the client, the complainants, and Garífuna communities in the area of Limon. CAO staff also met with representatives of IFC, the client and the complainants in Washington, D.C. in 2018.

## **Assessment and mitigation of security risk**

### **Summary of Audit Findings**

CAO found that IFC didn't properly apply its requirements for management of security risk to the project. Under Performance Standard 4 (Community Health, Safety and Security) these included requirements for the client:

- (a) to assess risk posed by security arrangements (including reliance on government security personnel) to those within and outside the project site;
- (b) to make reasonable inquiries to satisfy itself that those providing security are not implicated in past abuses;
- (c) to train, equip and monitor security personnel in accordance with good international practice; and
- (d) not to sanction any use of force "except when used for preventive and defensive purposes in proportion to the nature and extent of the threat" (PS4, para. 13 and 14).

### **IFC's Response**

IFC's 2014 Enhanced Action Plan (EAP)<sup>11</sup> committed the client to Good International Industry Practice (GIIP) in the use of its security forces, through:

- (a) development and implementation of a Corporate Security Management System, consistent with PS4 and the Voluntary Principles for Security and Human Rights (VPSHR) following a third-party verification;<sup>12 13</sup>
- (b) development and implementation of a vetting process for security personnel (inhouse and third party)
- (c) development and implementation of a training program for in-house and third-party security and management.
- (d) entering into any Memorandums of Understanding (MoUs) with military and police regarding any support to Dinant.

As of October 2014, IFC engaged a security consultant (US-based law firm Foley Hoag, or "IFC's security consultant") to provide advice in relation to the security-related aspects of the Enhanced Action Plan.<sup>14</sup> Following advice from IFC, the client also hired an external security expert to help it develop security protocols, and provide subsequent training to Dinant employees.

IFC's October 2017 update<sup>15</sup> reports that Dinant adheres to the Voluntary Principles for Security and Human Rights (VPSHR) and now meets the requirements of IFC Performance Standard 4. IFC reports that Dinant has expanded the VPSHR Implementation Program beyond its agribusiness operations to include all its operations in Honduras. It notes that the client conducted Risk Assessments for all facilities and functions by the end of 2015. According to IFC, these Risk Assessments analyze the full range of issues and challenges each site faces and include effective management plans to address all security, environmental and social risks. As reported, Dinant security personnel (both in-house and contracted) have been trained in techniques aligned with

<sup>11</sup> IFC, Enhanced Action Plan in Response to CAO Audit of Investment in Corporación Dinant, April 2014 – <https://goo.gl/xmvtvta>

<sup>12</sup> This included engaging a third party to verify Dinant's Security Management System and develop security protocols, including an internal investigation protocol to be applied in any future incidents involving Dinant's security forces.

<sup>13</sup> Voluntary Principles on Security and Human Rights (2013). <https://goo.gl/3hquT8>

<sup>14</sup> IFC Updates Related to Corporación Dinant's E&S Action Plan – <https://goo.gl/YJBqTv>

<sup>15</sup> *Ibid.*

PS4 and the VPSHR, which includes risk assessment, conflict avoidance and rules around the use of force to be proportionate to the nature and extent of the risk when facing potentially violent situations. The client also took the decision to disarm its security guards in all plantations, extraction mills and factories. According to IFC, communities have reported to both IFC and its security consultant that the disarmament of security guards has helped improve relations and reduce tensions with local communities..

An August 2016 assessment of Dinant's security practices by IFC's security consultant concluded that Dinant was in material compliance with the requirements of PS4, despite outstanding challenges with some local communities. The assessment notes that Dinant conducts regular security risk assessments covering the key topics identified by the VPSHR including potential for violence, the government's human rights record, rule of law issues, conflict analysis, and equipment transfers. It notes that Dinant does not use public security forces to assist in the provision of security services and that Dinant does not support such forces financially. At the same time, however, the assessment notes that Dinant security guards conduct joint patrols with government *Xatruch*<sup>16</sup> units on the plantations. According to the report, security guards have indicated that they feel more secure conducting night patrols when accompanied by the public forces. The Dinant guards do not accompany *Xatruch* forces outside the plantation. The *Xatruch* units maintained a regular presence of six soldiers on Dinant's *Paso Aguán* plantation at the time of Foley Hoag's July 2016 Report, including use of a Dinant small shed for a sleeping space, instead of tents which were prone to flooding. This is identified as a significant source of risk for the client, albeit one that may be mitigated by the April 2018 announcement that *Xatruch* units would cease using the building "on Dinant's *Paso Aguán* plantation ... and permanently vacate the company's premises."<sup>17</sup>

The complainants acknowledge that Dinant's own security guards no longer carry firearms while on duty. However, they raise continued concerns regarding what they see as close collaboration between Dinant and armed government forces. The complainants allege that members of their communities are subject to ongoing threats and violence related to disputes over the ownership of Dinant plantations. They allege that Dinant's measures to disarm its security guards and formalize its relationship with the Honduran military have not resulted in improved citizen security. They allege that Dinant relies on the Honduran police and armed forces, to provide security on its farms. They allege that these are the same units have a track record of perpetrating human rights abuses against their members. They allege that Dinant guards actively participate with Honduran military units in joint operations. To disguise their participation and use of firearms, they allege that the Dinant guards adopt military dress. They also allege that a number of their members have been killed by unknown, in some instances uniformed persons, with bodies found on Dinant plantations.

In response to these allegations, Dinant issued a statement in December 2017. Dinant's statement notes an increase in violence, including the killing of two unarmed Dinant guards by unknown assailants during a period of renewed land occupations starting in August 2017. The Dinant statement denies the involvement of Dinant personnel in the alleged killings and notes that their guards do not have access to firearms. It also notes measures taken by Dinant to train its security personnel on conflict avoidance.<sup>18</sup>

### **Assessment of IFC's Action**

CAO acknowledges IFC's commitment to work together with its client, IFC's security consultant, and the client's expert consultant in relation to security issues. These actions respond to PS4

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<sup>16</sup> The *Xatruch* force is a joint military-police taskforce deployed in Honduras on special operations, and based in the *Bajo Aguán* region.

<sup>17</sup> Dinant. April 2018. Statement on *Xatruch* and the *Aguán*, Honduras. <https://goo.gl/gorLML>

<sup>18</sup> Dinant. December 2017. Letter to BHRIC. <https://goo.gl/JTTLPN>

requirements for the client to “assess risks to those within and outside the project site posed by its security arrangements, ... guided by the principles of ... good international practices in terms of hiring, rules of conduct, training, equipping and monitoring of such personnel” (PS4, para. 13). CAO further acknowledges actions taken that respond to IFC requirements for client security to be “train[ed] ... adequately in the use of force ... and appropriate conduct toward workers and the local community” (*ibid.*).

CAO notes, however, continued allegations of harassment by military and para-military groups, which the complainants see as linked to the conflict between their communities and the client. In this context, CAO has concerns regarding IFC’s supervision of PS4 requirements to assess and mitigate risks arising from client reliance on government security forces (para. 14). CAO notes recommendations from IFC’s security consultant that Dinant take appropriate measures to: (a) monitor the implementation of its security protocols; and (b) work with the Government of Honduras to ensure that *Xatruch* security forces operate in accordance with international Human Rights requirements, receive training regarding the use of force, and consult with communities and other stakeholders regarding security arrangements on Dinant’s properties. At the time of writing, IFC’s EAP commitment for Dinant to enter into a Memorandum of Understanding (MoU) with military and police regarding any support to Dinant had not been fulfilled, even though IFC has reported to CAO that Dinant has tried without success to agree with the *Xatruch* security forces on an MoU.

## **Review of past security incidents**

### ***Summary of Audit Findings***

The CAO Audit noted multiple reports of violent engagements involving client security personnel and local peasant farmers, including allegations of homicide on both sides. It is beyond CAO’s mandate to make findings of fact in relation to these allegations. Following PS4, however, IFC should require its client “to investigate any credible allegations of unlawful or abusive acts of security personnel, take action (or urge appropriate parties to take action) to prevent recurrence, and report unlawful and abusive acts to public authorities when appropriate” (PS4, para. 15). As per PS1, CAO noted such investigation should at minimum involve an “adequate, accurate, and objective evaluation and presentation, prepared by competent professionals” (PS1, para. 19). CAO found that IFC did not properly apply these requirements to allegations against the client’s security personnel during the period 2010 – 2012.

### ***IFC’s Response***

In line with the requirements of PS4 to “investigate any credible allegations of unlawful or abusive acts of security personnel,”<sup>19</sup> IFC’s EAP set out the client’s commitment to engage a third party to conduct an investigation of credible allegations of past incidents involving its security forces to identify any non-compliance. It noted that, “where any non-compliance is found, Dinant will take corrective actions, which may include compensation and/or disciplinary actions as appropriate, as well as measures to prevent recurrence.”<sup>20</sup> It further envisaged “disclosure of a summary of the process, key findings and corrective actions.”<sup>21</sup> The estimated timeframe for this work, according to the EAP, was September 2014 – March 2015.<sup>22</sup>

IFC’s October 2017 update reports that its security consultant reviewed the client’s approach to reporting and addressing past incidents involving its security personnel. IFC also confirms that

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<sup>19</sup> IFC, Performance Standard 4: Community Health, Safety and Security, 2006 - <https://goo.gl/faCqZh>

<sup>20</sup> IFC, Enhanced Action Plan in Response to CAO Audit of Investment in Corporación Dinant, April 2014 – <https://goo.gl/xmtvta>

<sup>21</sup> *Ibid.*

<sup>22</sup> *Ibid.*



the client's practices during the period 2010 – 2012, when a number of the violent incidents occurred, were “not aligned with PS4 requirements” or its new VPSHR protocols.<sup>23</sup>

The terms of reference prepared by IFC and its security consultant envisaged a third-party inquiry requiring a review of alleged incidents that fall under the scope of PS4, a review whether PS4 was followed, and how the company responded. Under the supervision of IFC's security consultant, this assignment was expected to inquire into any credible allegations of abusive acts of security personnel, comment on actions taken or suggest actions to prevent a recurrence, and report unlawful acts to public authorities when appropriate. The review was expected to (a) be limited to alleged incidents that might credibly involve Dinant's security employees and/or contractors and that occurred in the Aguán Valley from 2010 onward; (b) examine the competence and process of previous company internal investigations; and (c) be summarized in a final draft report.

IFC reports that this work was delayed due to several factors, including: respecting the integrity of the Government's own ongoing investigation (embodied in a specialized investigative task force – the *Unidad de Muertes Violentas del Bajo Aguán* – UMVIBA, which was created after IFC formulated its Enhanced Action Plan); the Government's refusal to agree to any investigative activities external to its own; the practical difficulties in identifying sources of information given the length of time that had passed since the alleged events occurred; fear of recrimination on the part of victim's families and witnesses; 100% turnover in Dinant's security personnel in the intervening time; and challenges associated with narco-trafficking links to past crimes.

IFC reports that, while these constraining factors limited the scope, an inquiry into alleged past security incidents was conducted by a third-party under the supervision of IFC's security consultant. As of April 2018, IFC reported that the inquiry had been completed. However, a report on the inquiry had not yet been delivered to IFC or Dinant. Therefore, neither IFC nor CAO had seen the conclusions of the inquiry at the time of this close out report.

In discussions with CAO, the complainants described past and ongoing security incidents alleged to have occurred in their community and involving Dinant security personnel. In April 2018, an individual provided CAO with a sworn statement regarding a July 2011 incident when she was allegedly shot in the stomach by client security guards. This woman's statement alleged that there was no police investigation of these events, and that she was not aware of any investigation by IFC or the client. CAO shared the woman's sworn statement with IFC.

### **Assessment of IFC's Action**

CAO acknowledges difficulties faced by IFC and the client in meeting PS4 requirements to investigate past allegations against its security personnel, particularly when they were not appropriately investigated by Dinant immediately after the events took place. CAO also acknowledges steps taken by IFC to commission a third-party inquiry. Absent delivery of an investigation report in relation to these allegations, however, CAO concludes that its non-compliance finding has not been satisfactorily addressed at this time. As per the requirements of Performance Standard 1<sup>24</sup> and client commitments of the Enhanced Action Plan, depending on the outcome of the inquiry, remedies by Dinant for adverse impacts caused by the project, including compensation,<sup>25</sup> may be required.

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<sup>23</sup> IFC Updates Related to Corporación Dinant's E&S Action Plan – <https://goo.gl/YJBqTv>

<sup>24</sup> IFC, Performance Standard 1 (2006), 'Objectives': "To avoid, or where avoidance is not possible, minimize, mitigate, or compensate for adverse impacts on workers, affected communities, and the environment"

<sup>25</sup> IFC, Enhanced Action Plan in Response to CAO Audit of Investment in Corporación Dinant, April 2014 – <https://goo.gl/xmtvta>

## **Assessment of social impact, consultation and disclosure of information**

### **Summary of Audit Findings**

The CAO Audit identified a number of shortcomings in IFC's review of Dinant's environmental and social assessment:

- IFC's did not consider "significant historical social and environmental impacts associated with the project," especially as related to land conflict, and IFC did not work with the client "to determine possible remediation measures" to address these issues (as required by the Sustainability Policy, para. 11).<sup>26</sup>
- IFC's E&S review did not ensure that consideration was given to project risks and potential impacts on indigenous Garífuna communities living in the immediate vicinity of client operations, as required by PS7.
- IFC did not ensure that the Dinant E&S Assessment met the consultation requirements set out in PS1 (para. 21).
- Non-disclosure of the Dinant E&S Assessment was not compliant with IFC's Policy on Disclosure of Information (para. 13).

### **IFC's Response**

IFC's EAP notes Dinant's commitment to develop and implement Community Engagement Plans in all Dinant's identified communities in the four regions where Dinant has operations. This included requirements to undertake "conflict mapping" of the Aguán Valley communities near Dinant plantations to help identify risks, including any related to indigenous communities. This process was expected to be conducted in consultation with communities, and required disclosure of relevant information in a culturally appropriate manner. The EAP further required the client to establish a grievance mechanism (GM). The draft GM was to be reviewed by IFC and shared and discussed with communities as part of the community engagement process, and revised as needed based on community feedback.

As CAO previously noted in its April 2015 and August 2016 monitoring reports, a cornerstone of IFC's response to the CAO Audit was a community engagement and stakeholder mapping initiative initiated with the Consensus Building Institute (CBI). This process involved consultations with a range of stakeholders including local communities, *campesino* organizations including the complainants, Dinant staff, Government of Honduras officials, and civil society organizations. A final draft of a "Roadmap", identifying options for dialogue and conflict resolution in the *Bajo Aguán*, was released and posted on IFC's website in April 2016,<sup>27</sup> reflecting feedback provided by stakeholders. The Roadmap covered issues of security, land and inclusive economic development.

CAO notes, however, that this Roadmap process has been on hold since August 2016 due to the absence of further actions by key stakeholders to move the process forward. CAO's August 2016 monitoring report noted criticism of the Roadmap process from some farmers groups in the *Bajo Aguán*. These groups raised concerns that the Roadmap did not adequately represent the views and demands of their communities and alleged that it favored the client and the Government of Honduras.

In terms of community engagement, IFC supervision documentation concludes that the client's reporting is comprehensive, including reporting of information on the client's grievance mechanism, and a summary of the types of grievances being addressed. IFC states that most grievances reported relate to client initiatives regarding education, health facilities and

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<sup>26</sup> Historical E&S impacts may also be referred to as "legacy issues". See for e.g. CDC & KFW/DEG. 2016. A Guidance Note on Managing Legacy Land Issues in Agribusiness Investments. <https://goo.gl/oLX1eS>

<sup>27</sup> Moving Forward in the Bajo Aguán: CBI Analysis & DRAFT Process, April 2016 – <https://goo.gl/8rZMbv>

infrastructure improvements. IFC further notes that Dinant has employed an eight-member Social Team to roll out a community engagement program, with 21 communities being part of the client's outreach and engagement program.

IFC reports that the social risk assessments carried out by the company were broadened to include all environmental and social issues. These assessments, performed for each region where the client operates, aimed at (a) determining and outlining the area of influence of the company's activities; (b) compiling information to establish a preliminary stakeholder mapping; (c) compare stakeholder mappings between regions; and (d) locate the identified stakeholders in the area of influence; and (e) identify social risks for each region and determine, if any, new risks or new stakeholders.

IFC further reports that it raised the issue of potential impacts of Dinant's operations on Indigenous Peoples, namely Garifuna communities, with the client. IFC was advised that the client's assessments did not identify any direct impacts of Dinant's operations on Indigenous Peoples. IFC further reported that the client has ongoing local development projects with surrounding indigenous communities such as the Pech and Garifuna in the Aguán Valley.<sup>28</sup>

IFC indicates that it does not plan on disclosing the client's 2008 social and environmental assessment, considering that it has been superseded by subsequent events and developments.

### **Assessment of IFC's Action**

CAO's previous monitoring reports acknowledged the engagement of a range of stakeholders in the CBI Roadmap process, and the disclosure of the April 2016 Roadmap. At the same time, CAO notes that the Roadmap process did not proceed to implementation and that the grievances it was designed to address persist, including legacy issues around land ownership. As noted above, disputes over the legitimacy of the client's ownership of a number of its plantations in the *Bajo Aguán* are an ongoing source of conflict. In these circumstances, while acknowledging the structural nature of conflicts in the *Bajo Aguán* that go beyond IFC and Dinant's sole responsibility, and that the Roadmap process entails broader issues, CAO concludes that its finding regarding the requirement to assess and mitigate legacy issues has not been adequately addressed.

The commitment to carry out a stakeholder mapping and social risk analysis was an important aspect of IFC's Response to the CAO Audit. According to PS1 and PS7, the IFC client is required to identify affected communities, including Indigenous Peoples if relevant, and analyze potential risks and impacts of the project on these communities. CAO acknowledges work done by IFC with its client to: (a) map social actors relevant to its operations; (b) establish formal grievance handling procedures; and (c) scale up its community engagement activities. CAO finds that these actions significantly address CAO's findings in relation to social assessment and stakeholder engagement under PS1, although engagement with *campesino* groups that have unresolved conflicts with Dinant remains a challenge.

A structured assessment of publicly reported allegations of impact on indigenous Garifuna communities was not reported. As a result, CAO concludes that its non-compliance finding in relation to the application of PS7 remains unaddressed.

IFC's decision not to disclose the client's pre-investment Social and Environmental Assessment remains non-compliant with the requirements of its 2006 Disclosure Policy (para. 13).

### **IFC Policy, Procedure and Practice**

The Dinant Audit provided an analysis of the adequacy of IFC's E&S policies and procedures as applied to IFC's investment in Dinant, both in relation to the conflict that surrounded the project,

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<sup>28</sup> See SNV. 2011. Inclusive Business: Creating Value in Latin America. <https://goo.gl/dKFCPt>

and more generally as framed by a discussion of the underlying causes of the specific instances of non-compliance identified.

As part of its response to the Audit, IFC acknowledged that implementation of its E&S standards in fragile and conflict-affected countries is “particularly challenging” and as a result that it “requires keen attention from management, and adequate tools for staff to deliver strong development impact in an environment of high risk.”<sup>29</sup> IFC disclosed a summary of its ongoing learning from Dinant and other CAO cases in April 2017.<sup>30</sup> Informed by CAO’s Dinant audit, this pointed to three initiatives, in particular.

Firstly, work on contextual risk, or risk emerging from a client’s external operating environment. Addressing contextual risk, IFC reports the development of resources to support on-demand contextual risk analysis for project teams. IFC also reports the drafting of an internal guidance document on Assessing Contextual Risk in IFC Projects. This “Tip Sheet” provides guidance screening for contextual risk ahead of anticipated updates to relevant sections of IFC’s Environmental and Social Review Procedures, which would be available publicly. The Contextual Risk Tip Sheet provides IFC staff with a definition of contextual risk, and guidance as to identifying, assessing, and documenting contextual risk during review and supervision of a project. It also provides additional sources of information for contextual risk. This approach was expected to be piloted during Fiscal Year 2017-18, and subsequently evaluated and refined based on lessons drawn from operational application. IFC reports that these up-front assessments of country, regional and sectoral contextual risks drive environmental and social staffing resources to be applied, and any need for specialized external expertise.

Secondly, work on the Use of Security Forces. In February 2017, IFC released a *Good Practice Handbook on the Use of Security Forces: Assessing and Managing Risks and Impacts*.<sup>31</sup> This document provides guidance for companies to better understand and implement the requirements outlined in Performance Standard 4. Chapters of the Handbook focus on risk assessment, managing private security, managing the relationship with public security, preparing a security management plan, and assessing allegations or incidents related to security personnel. IFC also released internal guidance on PS4 in a *Good Practice Note* for E&S staff in August 2017<sup>32</sup>, as well as specialized training for E&S Specialists on the application of PS4 and Security Forces. The Note focuses on client screening, including guidance on planning and conducting site visits. It sets out how security analysis and arrangements should be documented and agreed between IFC and the client including the following recommendations.

Thirdly, work on Land and Resettlement. While not yet published, IFC reports that it is in the process of substantially updating its resettlement handbook to reflect learning from CAO cases, including Dinant.

The Dinant Audit also flagged a series of organizational issues that hindered the effective application of IFC’s E&S requirements to the project. These included concerns regarding the resourcing and management of the E&S role within the IFC project team, failures of communication within the project team, shortcomings in E&S review of disbursements, a high turnover of E&S staff responsible for the project, a pressure to expand the agribusiness portfolio, over reliance on client self-reporting, and resistance to a ‘compliance based’ approach to E&S issues.

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<sup>29</sup> See “IFC Statement on Next Steps Related to CAO Audit of IFC’s Investment in Corporación Dinant”, January 21, 2014 - <https://goo.gl/v3xZ68>

<sup>30</sup> See IFC website, “Listening, Learning, and Adapting”, updated April 2017 - <https://goo.gl/ELQDpk>

<sup>31</sup> IFC, *Good Practice Handbook on the Use of Security Forces: Assessing and Managing Risks and Impacts*, February 2017 - <https://goo.gl/aB3Q5F>

<sup>32</sup> IFC, “Good Practice Note: Supporting Compliance with Security-Related Aspects of Performance Standard 4” August 2017, on file with CAO.

In relation to these issues, IFC reports that since the Dinant investment was processed, it has taken a number of steps to seek to prevent a recurrence of concerns identified in the CAO Audit. These include: (a) a greater focus on supply chains and the sustainable sourcing of agricultural inputs at time of appraisal (as expressed in the strengthening of supply chain due diligence as per the 2012 Performance Standards revision); (b) a more structured due diligence approach to land intensive agribusiness investments, particularly with respect to identifying and seeking to mitigate existing or potential conflicts around access to land and the tenure status of that land; and, (c) with respect to ensuring that the status of pending E&S performance for clients is connected to financing decision points, an advance clearance procedure for pending disbursements in the case of environmentally and socially sensitive projects. IFC notes that it will shortly be implementing a more refined and comprehensive version of this procedure.

## Conclusion

CAO acknowledges steps taken by IFC to address findings from the Audit. In particular, CAO acknowledges work supported by IFC to ensure that the client's policies and practices for the management of private security personnel reflect PS4. CAO also acknowledges the energy and resources which IFC committed to the development of the Roadmap process. However, the Roadmap process has been on hold since August 2016. It did not lead to the hoped-for dialogue to resolve long standing structural conflicts between stakeholders including the client and local *campesino* organizations.

In this context, CAO notes that a number of its non-compliance findings remain unaddressed. Performance Standard 4 requires investigation by the client of credible allegations against its security personnel. Although IFC reports that a third-party inquiry was commissioned under the supervision of its security consultant, this has not been delivered to IFC. As a result, CAO cannot conclude that this finding has been satisfactorily addressed. As per client commitments of the Enhanced Action Plan and PS1 requirements, depending on the outcome of the inquiry, remedies for adverse impacts caused by the project, including compensation,<sup>33</sup> may be required. CAO also has concerns regarding IFC's supervision of PS4 requirements to assess and mitigate risks arising from client reliance on government security forces, given that the client did not manage to enter into an MoU with the Xatruch forces as anticipated in IFC's Enhanced Action Plan.

CAO acknowledges IFC's initiatives designed to capture learning from the Dinant Audit, particularly as relate to contextual risk, use of security forces, and procedures related to client E&S performance, as well as supply chain and conflict risk assessments for agribusiness investments.

In conclusion, CAO finds that IFC's response to this compliance investigation partially addresses its project level non-compliance findings. Nevertheless, CAO has decided to close its monitoring of the investigation, considering that Dinant has fully repaid its loan from IFC and does not propose any further project-level action.

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<sup>33</sup> IFC, Enhanced Action Plan in Response to CAO Audit of Investment in Corporación Dinant, April 2014 – <https://goo.gl/xmtvta>