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SUBJECT:
QUESTIONS ON INVOLVEMENT OF FMO IN AGUA ZARCA DAM, HONDURAS

25 SEPTEMBER 2013

Dear Mr Van Leeuwen,

In the last few weeks we have been in touch with FMO on the Agua Zarca Dam in Honduras.¹ As you are aware, this project is strongly opposed by the local indigenous Lenca communities because of its dire impact on their land and livelihoods. These opponents, led by the indigenous federation COPINH, are subject to a massive campaign of criminalization and false prosecutions. Their legitimate opposition to the project has been brutally suppressed by both the Hondurese military and unidentified gunmen apparently employed by the project sponsor DESA. This has already led to one person being killed, with several others left severely wounded. More violence is feared to erupt in the region as a recent court case has ordered the road blockades of the communities to be removed.

We understand that FMO is involved in this project, this despite your stated commitments to help achieve sustainable development outcomes through your investments and your commitment to respect human rights in all your business undertakings.

With this letter we seek clarification from FMO on its precise role in the project and on how it is responding to the current situation. We would appreciate receiving a response from you on the following questions:

¹ See http://www.banktrack.org/show/dodgydeals/agua_zarca_dam for further information



1. Precise involvement of FMO in the project

The 2012 Annual Report of the Central American Bank for Economic Integration states: “The Agua Zarca Hydroelectric Project in Honduras .. was co-structured with the Netherlands Development Finance Company (FMO) and the Central American Mezzanine Infrastructure Fund (CAMIF)”.²

This has led us to conclude that FMO is both directly and indirectly involved in the project, not only taking part in the structuring of the financing and –as is usually the case- the syndicated loan for the project, but also through its contribution to CAMIF (US\$ 16 million out of a total fund size of \$ 150-300 million).³

We would appreciate further clarification from you on your precise role in the project.

2. Development impact

FMO selects projects and clients based on its ‘development mandate’, that is you strive to achieve positive sustainable development outcomes through your investments. While on your website a great many words are spent on how this laudable goal is pursued we find it hard to understand how FMO, on the basis of this mandate has chosen DESA as a client.

We would appreciate hearing from you on the rationale for your decision to engage with DESA as a business partner, this in relation to your development mandate. What development impact do you expect? How does this impact relate to the impact of the project on local communities?

3. Compliance with FMO policies and other standards at financial close

FMOs human rights policy states that: ‘FMO is committed to the International Bill of Human Rights and the International Labour Organization Declaration on Fundamental Principles and Rights at Work. We further support the approach outlined in the United Nations Protect, Respect and Remedy Framework and the supporting Guiding Principles on Business and Human Rights’. This, in combination with the adoption by FMO of the Equator Principles and associated IFC Performance Standards, suggest that FMO fully recognises the rights of indigenous peoples, including their right to grant or withhold Free, Prior and Informed Consent if they so wish to do.

The financing for the project was arranged in 2012. At that time, the local indigenous Lenca community already strongly and visibly opposed the project. It should therefore have been clear to then prospective

² <http://www.bcie.org/uploaded/content/category/1905796452.pdf>

³ FMO Entrepreneurial Bank, 2009, ‘FMO commits US\$ 16 million to the Central American Mezzanine Infrastructure Fund’, *Website FMO Entrepreneurial Bank* (<http://www.fmo.nl/k/news/view/1139/538/fmo-commits-us-16-million-to-the-central-american-mezzanine-infrastructure-fund.html>), viewed in August 2013



financiers as FMO that the project did not obtain the 'Free Prior and Informed Consent' from the indigenous community on whose land the project is situated. Worse, reports suggest that there has never been any serious consultation of the local communities, with the project quite literally appearing on their doorstep overnight.⁴

We would like to hear from FMO whether and how it considers the project to be in compliance with its human rights policy, especially with regard to indigenous peoples rights. We also wish to know whether FMO considers the consultation process undertaken by the project sponsor as adequate.

Furthermore, your environmental and social policy places numerous requirements on a prospective client and project. This suggests that any arrangement you have made with DESA must include stipulations on how it will implement the project with respect for the environment and the rights of affected communities.

We would like to hear from FMO whether and how it considers the project to be in compliance with its environmental and social policy. More specifically we like to know (1) in what risk category you have placed DESA (2) what set of requirements was put in place for DESA to comply with (3) what the content was of the Environmental and Social Action Plans that DESA was supposed to develop, if any, and whether this document has been placed in the public domain (4) whether pricing incentives and/or penalties were put in place when structuring the finance.

At the time FMO got involved in the project it had already adopted the Equator Principles. Given that the financing is through a corporate loan, at that time not covered by the EPs we assume that the project is not 'under EP' –but IFC Performance standards probably apply-.

Can you clarify the role of the EPs in the project, if any?

4. FMO policy response on the deteriorating human rights situation since financial close

During the last year, the resistance of the indigenous communities against the project has further increased, leading to a continuous blockade of the project site since April and a number of protests

⁴ See for example:

http://www.banktrack.org/download/the_agua_zarca_dam_and_lenca_communities_in_honduras/130920_earth_rights_rpt_130920_rioblanco_final.pdf



violently suppressed by the military, leading to the already mentioned murder on one of the leaders of COPINH.⁵ The human rights situation is clearly deteriorating and it is hard to imagine the project going forward without further incidents and violence.

We would like to hear from FMO how it assesses the current situation and what steps it has taken to help restore respect for the human rights of the affected population. We further wish to understand whether this situation has had any impact on the financial support provided by FMO thus far.

We very much appreciate hearing from you on the matters above. We would also be very interested in directly discussing these issues with you in a conference call. Such a call would also allow us to further update you on the situation.

Sincerely,

Johan Frijns, Coordinator BankTrack
<Johan@banktrack.org>

Also on behalf of:

- Berta Cáceres, Consejo Cívico de Organizaciones Populares e Indígenas de Honduras (COPINH)
- Annie Bird, Rights Action
- Beverly Bell, Institute for Policy Studies
- Magdalena Heuwieser, Honduras-Delegation
- Monti Aguirre, International Rivers

⁵ idem