AUDIT REPORT

CAO Audit of IFC

CAO Compliance

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CAO Audit of IFC Investment in Corporación Dinant S.A. de C.V., Honduras

Office of the Compliance Advisor Ombudsman (CAO)
for the
International Finance Corporation (IFC)&
Multilateral Investment Guarantee Agency (MIGA)
Members of the World Bank Group

Executive Summary

Introduction

This report provides the findings of the Compliance Advisor Ombudsman (CAO) compliance audit of IFC's investment in Corporación Dinant (Dinant), 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.

CAO became aware of potential E&S issues around the Dinant investment in November 2010 when the President of the World Bank received a letter of complaint. Key allegations made regarding the project were that:

- IFC's client (Dinant) conducted, facilitated or supported forced evictions of farmers in the lower Aguán Valley (or Bajo Aguán);
- Violence against farmers on and around Dinant plantations in the Bajo Aguán (including multiple deaths) occurred because of inappropriate use of private and public security forces under Dinant's control or influence; and
- IFC failed to identify early enough and/or respond appropriately to the situation of Dinant in the context of the declining political and security situation in Honduras, and specifically in the Bajo Aguán, following the ouster of President Zelaya in June 2009.

In response to allegations of ongoing violence on and around the Dinant plantations in the Bajo Aguán, the CAO Vice President triggered a compliance process in April 2012.

Scope of the CAO Audit

Following an appraisal of IFC's performance in relation to the investment, in August 2012 CAO issued terms of reference (TOR) for a compliance audit focusing on whether IFC:

- exercised due diligence in its review of the social risks attached to the Project;
- responded adequately to the context of intensifying social and political conflict surrounding the project post commitment; and
- policies and procedures provide adequate guidance to staff on how to assess and manage social risks associated with projects in areas that are subject to conflict or conflict prone.

The scope of the audit also included developing an understanding of the immediate and underlying causes for any non-compliance identified.

In considering these issues CAO notes that the events that give rise to this audit relate to conflicts over land which have been acutely violent over a period of years. Key facts around these conflicts are, however, contested. On the one hand reports from a range of sources allege that Dinant, its owner, staff and security contractors have perpetrated abuses including forced evictions, multiple homicides, and violent attacks on affiliates of the peasant movement in the Bajo Aguán. On the other hand, Dinant's position as explained to CAO is that the violence reported is either unconnected to Dinant, or involved legitimate acts of self defense.

Without a forensic mandate, it should be clear that CAO is not in a position to make detailed findings of fact with regard to these allegations. As such, and given CAO's role in overseeing IFC's Environmental and Social (E&S) performance, the focus of this audit is on IFC's response to available information regarding its client and the situation on the ground around its properties.

Timeline

Date	Key events and IFC actions discussed in CAO audit report
2000 - 2006	
--	Published reports of conflict between peasant groups and land owners in the Bajo Aguán.
--	Published reports of peasant groups blocking highways, demanding agrarian reform in the Bajo Aguán.
--	Published reports of conflict between Dinant's owner and Garífuna communities in the Bajo Aguán.
--	Allegations linking Dinant's owner to illegal land transactions and violence against peasant leaders in the Bajo Aguán.
--	Allegations linking land belonging to Dinant's owner to drug trafficking activities.
2007	
"early"	Reports of occupation of Dinant's San Isidro plantation by a peasant group.
June	Reports of road blocks stopping transit to the municipality of Trujillo established by peasant groups demanding titling of ex-military land (CREM) in the Aguán. [*Note: the CREM lands are alleged by the peasant groups to overlap with Dinant's Tumbador plantation*].
June	Inspection Panel publishes report applying World Bank Operational Directive on Indigenous Peoples re. complaint from Garífuna communities on Honduras' north coast. Panel identifies agribusiness including oil palm as a cause of conflict in the area.
August	World Bank response to Inspection Panel report includes map locating Garífuna communities in the Bajo Aguán near Dinant properties.
August	Further reports of road blocks established by groups affiliated with the Aguán peasant movement, in the vicinity of Dinant properties.
2008	
February	Completion of consultant Environmental & Social Assessment: Dinant Corporation.
February	Parliament approves decree providing funds for the expropriation of CREM lands.
August	Report of clash between landowners and peasants over CREM lands, resulting in 12 deaths, notes land has been subject of claims by the peasant movement since the 1990s.
August	***IFC appraisal mission visits Honduras.***
November	***IFC discloses project information (SPI & ESRS).***
December	***Investment approved by IFC Board of Directors.***
2009	
April	***IFC and Dinant sign loan agreement.***
May	Peasant groups occupy Dinant's El Chile property as a measure to pressure the state to respond to commitments made in relation to land issues in the Bajo Aguán.
June	President Zelaya visits Bajo Aguán to formalize the creation of the Technical Judicial Commission charged with reviewing the land claims of the peasant movement.
June	***Dinant notifies IFC of the expropriation of 66 ha of its Paso Aguán property.***
June	Press reports the shooting of peasant leader, Fabio Ochoa, who is identified as "part of the negotiating team which … had been fighting for lands held by [Dinant's owner]."
June	Ouster of President Zelaya of Honduras.
August	***Dinant notifies IFC that securities over 2 of its properties in the Bajo Aguán (San Isidro and 9 de Agosto) are delayed due to asset freezing orders.***
November	***IFC makes first disbursement of US$15 million to Dinant.***
December	***Dinant notifies IFC of invasions of 3 properties in the Bajo Aguán (San Isidro, La Confianza and La Aurora).***

Date	Key events and IFC actions discussed in CAO audit report
2010	
February	Clash between peasant groups and Dinant security forces, resulting in the death of five security guards.
March	***IFC prepares a "one minute brief" on the situation at Dinant for senior management.***
November	World Bank President Robert Zoellick receives a letter from NGO, Rights Action, alleging that private security forces employed by Dinant have killed five farmers in the course of an illegal eviction.
December	***Letter from IFC Director to Dinant owner regarding the incident, asking for restraint.***
--	Allegations that 24 people affiliated with the peasant movement in the Aguán were victims of homicide during 2010. Specific allegations are made linking at least 11 of these killings to Dinant properties or security guards.
2011	
January	***IFC CEO sends letter to President Lobo of Honduras regarding the conflict.***
February	International security consultant conducts a security program assessment for Dinant.
March	***IFC site supervisions visit (SSV) #1.***
August	Four security guards killed on Dinant's Paso Aguán property.
--	Allegations that 35 people affiliated with the peasant movement in the Aguán were victims of homicide during 2011. Specific allegations are made linking at least 15 of these killings to Dinant properties or security guards.
2012	
February	Government of Honduras, landowners and peasant organizations agree on conditions for the purchase of over 4,000 ha of Dinant lands for distribution to the peasant groups.
April	***IFC site supervisions visit (SSV) #2.***
--	Allegations that 29 people affiliated with the peasant movement in the Aguán were victims of homicide during 2012. Specific allegations are made linking at least 12 of these killings to Dinant properties or security guards.
2013	
January	***IFC site supervisions visit (SSV) #3.***
--	Allegations that 12 people affiliated with the peasant movement in the Aguán were victims of homicide through May 2013. Specific allegations are made linking at least two of these killings to Dinant properties or security guards.

Audit Approach

This compliance audit was conducted in accordance with the CAO Operational Guidelines (2007) using the applicable IFC Standards with inputs from two expert panelists. During the period from February to July 2013, the Audit team reviewed a range of relevant documentation. The desk-based research included a review of available sources regarding land, crime and indigenous issues in the Bajo Aguán.

The team also conducted interviews with IFC management and staff (former and current) who had direct knowledge of the project, consultants who had provided E&S inputs, Dinant management, NGO representatives and representatives of the peasant movements in the Aguán Valley.

Following the structure of the TOR, this report is arranged around the following headings: Due Diligence; Supervision; and Policy, Procedure and Practice.

IFC's Environmental and Social Due Diligence

CAO's review of IFC's E&S due diligence covers the period from July 2008 through April 2009. It is arranged around five headings: (a) E&S review; (b) integrity due diligence; (c) E&S risk classification; (d) consultation and disclosure; and (e) the development of the E&S action plan.

In considering the adequacy of IFC's E&S performance in relation to this project, CAO has been conscious not to expect performance at a level that requires the benefit of hindsight; rather the question in relation to each requirement is whether IFC teams exercised reasonable professional judgment and care in the application of relevant policies and procedures based on contemporaneously available sources of information.

E&S Review

Key Findings

- IFC was aware of the importance of access to land free from conflicts and disputes as crucial to the success of agribusiness projects, however, its staff underestimated risks related to security and land conflict associated with the Dinant investment.
- IFC's E&S review was not "commensurate to risk", and thus did not meet a key requirement of the Sustainability Policy (para. 13). In particular IFC accepted an overly narrow definition of project E&S risk, without adequate consideration of project context or contemporaneously available sources of information regarding land conflict and insecurity in the Bajo Aguán.
- IFC did not conduct an adequate gap analysis of available project E&S assessment information as required by ESRP (v.2. para. 3.1.1).
- IFC failed to assure itself that the client E&S Assessment met the requirements of PS1; particularly in relation to the definition of an area of influence, the identification of those who would be affected by project risks and impacts, and the establishment of an appropriate social baseline.
- IFC's E&S review failed to ensure that adequate consideration was given to relevant risks and impacts around PS4 (Security Personnel) and PS7 (Indigenous Peoples).
- IFC did not have a reasonable basis on which to conclude that the project could be expected to meet the Performance Standards over a reasonable period of time. The decision to invest was thus not in compliance with the Sustainability Policy (para. 17).

IFC's pre-commitment due diligence in relation to this project was based in large part on a review of an E&S Assessment produced for the client by a consultancy firm in February 2008. It also involved a site visit to Dinant properties by IFC E&S staff in August 2008.

This audit considers the adequacy of the client's E&S Assessment against the requirements of Performance Standard (PS) 1 as well as IFC's documentation of its E&S due diligence. CAO interviewed key staff who were involved in the project at the pre-commitment stage. CAO also conducted a review of contemporaneously available sources regarding land, crime and indigenous issues in the Bajo Aguán between 2000 and 2008.

Based on this information, CAO finds that IFC's E&S review was not in compliance with the requirements set out in the Sustainability Policy (2006) and Environmental and Social Review Procedure (ESRP). In a sector and country where risks of conflict and violence around land were or should have been known to the team, CAO finds that IFC's review was not "commensurate to risk", and thus did not meet a key requirement of the Sustainability Policy (para. 13). Further, IFC did not conduct an adequate gap analysis of available project E&S assessment information as required by ESRP. As a result IFC failed to assure itself that the E&S Assessment met the requirements of PS1, particularly in relation to the definition of an area of influence, the identification of those who will be effected by project risks and impacts, and the establishment of an appropriate social baseline (paras. 4 & 5). IFC's review similarly

failed to ensure that adequate consideration was given to relevant risks and potential impacts around PS4 (Security Personnel) and PS7 (Indigenous Peoples).

Given information that was available to IFC, CAO finds that an E&S review commensurate to risk would have cross referenced the information gathered from the client against independent sources. Examples of material published between the years 2000 and 2008 that would have been relevant in assessing social impact and risk at the time of appraisal include:

- reports of at least 10 occasions when main roads in the Bajo Aguán were blocked due to protests related to claims of peasant groups against large landholders.
- reports of land disputes involving Garífuna communities around Dinant properties to the east of Trujillo, which mention Dinant's owner by name; and
- reports of a long running dispute around lands of a former military base, which are claimed to overlap with a Dinant property in the Bajo Aguán.

Community consultations and discussions with organizations working on land issues in Honduras would also likely have revealed relevant contextual information. In this context, CAO notes a 2007 report from the World Bank Inspection Panel that deals with the application of the the World Bank's Indigenous People's policy to Garífuna communities. CAO also notes that the Bank's response to the Inspection Panel report includes a map of Garífuna settlements around Dinant's properties in the Bajo Aguán.

Absent a review commensurate to risk, and considering the shortcomings of the client's E&S Assessment, CAO finds that IFC did not have a reasonable basis on which to conclude that the project could be expected to meet the Performance Standards over a reasonable period of time. The decision to invest was thus not in compliance with the Sustainability Policy (para. 17).

Integrity Due Diligence

Key Findings

- IFC was or should have been aware of a series of public allegations and negative perceptions in relation to its client that went significantly beyond those that were considered in the course of its integrity due diligence process.
- As a result, CAO finds that the more detailed six part integrity due diligence process should have been adhered to. IFC's failure to do this was out of compliance with the relevant procedure.

Integrity Due Diligence (IDD) provides a framework for identifying risks associated with unethical or illegal activities around projects. IFC conducted an IDD review in relation to Dinant's owner, in October 2008. In doing this IFC asserts to have considered "past IFC relationships, local and international news agencies, local banks, World Bank office, local business community, (and…) local counsel." These searches revealed one issue that was addressed from an IDD perspective; a dispute around land belonging to Dinant's owner on an island off Honduras' Pacific Coast. Following review by local counsel, IFC asserts that it was assured that there were no legal claims against Dinant or its owner, and thus decided to proceed with the transaction.

Replicating the news agency searches required under the IDD procedure, CAO found a number of current and previous allegations and negative perceptions about Dinant's owner, which were not dealt with as required by the IDD procedure. These include allegations in relation to: (a) misuse of political influence; (b) involvement in the murder of an environmental activist; (c) his having been the subject of warrant for arrest in relation to environmental crimes; (d) involvement in multiple land disputes, and (e) the use of his properties as a staging post for drug trafficking. CAO thus finds that IFC staff either knew about these allegations and perceptions and failed to

deal with them as required by the IDD procedure – or did not conduct of the required news agency searches. As a result CAO finds that information relevant to E&S risk was not brought to the attention of E&S staff during the review process.

E&S categorization of the project

Key Findings

- IFC's E&S review process provided the IFC team with insufficient information to categorize the project appropriately.
- Given compliant E&S review and IDD processes, the project would properly have been assigned E&S category A.

IFC assigned the Dinant investment an E&S risk category of B (potential limited adverse E&S impact). IFC justified this categorization on the basis that a limited number of specific E&S impacts had been identified that could be avoided or mitigated by adhering to good international industry practice. In explaining the categorization decision IFC also noted that land acquisition was on a willing buyer-willing seller basis; that there would be no involuntary displacement of people; and that there are no indigenous peoples' ancestral lands in the area. Had the IFC team subjected the proposed investment to the required level of review, CAO finds that the project would properly have been classified category A (potential significant adverse E&S impact).

Disclosure & Consultation

Key Findings

- IFC's failure to disclose the Dinant E&S Assessment was not compliant with its Policy on Disclosure of Information (para. 13). IFC remains non-compliant on this point.
- IFC supported a breach of PS1 (paras 20 & 26) by: (a) accepting the client's disclosure of a modified translation of the ESRS in the place of the E&S Assessment, and (b) failing to assure itself that the client's ESAP was disclosed to affected communities in an accessible form.
- IFC failed to ensure that the Dinant E&S Assessment met the consultation requirements set out in PS1 (para. 21).

IFC's public disclosure of information around this investment was limited to its E&S review summary (ESRS) and Action Plan. Dinant disclosed a modified version of the ESRS through local government offices. CAO finds that IFC's failure to disclose Dinant's E&S Assessment document was in breach of its Policy on Disclosure of Information. Further, CAO finds that IFC supported a breach of PS1 by: (a) accepting the client's disclosure of a modified translation of the ESRS in the place of the E&S Assessment, and (b) failing to assure itself that the client's ESAP was disclosed to affected communities in an accessible form.

With regard to consultation, CAO finds no evidence that the communities living most proximate to Dinant's properties were consulted during the preparation of the E&S Assessment, or in relation to the ESAP. The rationale for foregoing consultation as explained by IFC was that the project did not pose adverse impacts to local communities, and therefore that consultation was not required. Given the risks described in the E&S Assessment and acknowledged by IFC in applying E&S category B to the project, CAO finds that consultation was required as part of the E&S Assessment process. In not ensuring that this occurred, IFC failed to properly apply the Sustainability Policy, which requires IFC to ensure that its client's E&S Assessment meets the requirements of PS1.

IFC's Environmental and Social Performance During Supervision

In relation to supervision, the audit considers whether IFC responded adequately to the context of intensifying social and political conflict surrounding the project. More specifically, it focuses on two questions: (a) whether IFC exercised due diligence in its assessment of developments around the investment between April 2009 (commitment) and November 2009 (first disbursement); and (b) whether IFC's response in the post disbursement period was sufficient given the violent nature of the conflict that was playing out around the Dinant properties.

Adequacy of review of conditions of disbursement

Key Findings

- IFC failed to adequately assess its client's performance against the full range of ESAP CODs that had fallen due prior to making its November 2009 disbursement to Dinant.
- IFC investment staff did not keep E&S staff appraised of developments in relation to land disputes, and occupations around the client's plantations of which they were aware.
- IFC investment staff processed the November 2009 disbursement on the basis of representations made by the client five months earlier, without adequate analysis of the impact of intervening events on the validity of those representations.
- As a result, IFC did not comply with ESRP requirements that any E&S CODs are met by the client prior to disbursements.

Events in Honduras and in the Bajo Aguán developed significantly in the course of 2009. This included the occupation of one Dinant property by peasant groups in May 2009, and the expropriation of another in June 2009. At the same time President Zelaya established a Technical Judicial Commission charged with reviewing the land claims of the peasant movement in the Bajo Aguán. Following initial meetings, one of the negotiators representing the peasant movement is alleged to have been shot on June 23, 2009. The following week President Zelaya was removed from office. In August 2009 Dinant informed IFC that mortgages over two more of its properties could not be completed due to the presence of asset freezing orders. On November 5, 2009 IFC made its first disbursement of USD15 million to Dinant.

Having reviewed relevant documentation, CAO concludes that IFC did not ensure that E&S conditions of disbursement (CODs) were met by the client. Reasons for this include:

- IFC E&S staff failing to adequately assess its client's performance against the full range of ESAP CODs that had fallen due prior to the date of disbursement
- IFC investment staff not keeping E&S staff appraised of developments in relation to land disputes, and occupations around the client's plantations of which they were aware; and
- IFC investment staff processing the November 2009 disbursement on the basis of representations made by the client five months earlier, without adequate analysis of the impact of intervening events on the validity of those representations.

As a result, IFC disbursed US$15 million to a client that was in apparent non-compliance with its E&S undertakings in a risk environment that had deteriorated significantly since appraisal a year earlier. This represents a failure of supervision and non-compliance with the ESRP requirement of ensuring that any E&S CODs are met by the client prior to disbursements.

General supervision (post-disbursement)

Key Findings

- IFC failed to "develop and retain the information needed to assess the status of [its client's] compliance with the Performance Standards (PSs)" during supervision as required by the ESRP (ESRP 6. v.5, para. 1).
- IFC did not adequately supervise its client's PS4 obligations: (a) to investigate credible allegations of abusive acts of security personnel (para. 15); and (b) not to sanction the use of force by security personal other than for "preventative and defensive purposes in proportion to the nature and extent of the threat" (para. 14).
- IFC failed to require an adequate root cause analysis in relation to the serious incidents that were occurring around the project (ESRP 6. v.5, para 2.2.).
- There were gaps in the supervision of this project at critical times. This included the period following Dinant's notification of the occupation of three of its properties in December 2009; and the six months from February to August 2010 after Dinant informed IFC that five of its security guards had been killed in a clash with peasant occupiers.
- IFC did not give due consideration to the requirement that IFC "exercise remedies where appropriate" in a situation where a client does not or is not able to re-establish E&S compliance (Sustainability Policy, para. 26).

Land related conflict in the Bajo Aguán escalated following national elections at the end of November 2009. This led to the occupation of three Dinant properties in December 2009, a fact which Dinant reported verbally to IFC at the time. In February 2010 a clash between occupiers and Dinant security guards is alleged to have led to the death of five guards. In the following months occupations and evictions were interspersed with attempts by the Government of Honduras to broker a resolution to the conflict. According to civil society sources there were at least 102 killings of people affiliated with the peasant movement in the Bajo Aguán between January 2010 and May 2013, with specific allegations being made linking 40 of these to Dinant properties, Dinant security guards or its third party security contractor. Allegations in relation to the killing of at least 9 Dinant security personnel by affiliates of the peasant movement have also been made.

In the context of these allegations, CAO finds IFC's supervision to have been inadequate in that it failed to "develop and retain the information needed to assess the status of [its client's] compliance with the Performance Standards (PSs)" as required by the ESRP. In particular, CAO finds no indication that IFC supervised its client's PS4 obligations: (a) to investigate credible allegations of abusive acts of security personnel; or (b) that the use of force by security personnel would not be sanctioned other than for "preventative and defensive purposes in proportion to the nature and extent of the threat."

At a more procedural level CAO finds that there were gaps in the supervision of this project at critical times. This included the period following Dinant's notification of the occupation of three of its properties in December 2009; and the six months from February to August 2010 after Dinant informed IFC that five of its security guards had been killed in a clash with peasant occupiers. CAO also notes the failure of IFC to require a root cause analysis of the serious incidents that were occurring around the project as required by the ESRP. Finally, while acknowledging IFC's efforts to work with Dinant on E&S issues, CAO finds that Dinant's lack of compliance with its E&S obligations is both uncontroversial and acknowledged by IFC. In these circumstances, CAO finds that IFC did not give due consideration to the requirement of its Sustainability Polciy that IFC "exercise remedies where appropriate" in a situation where a client does not or is not able to re-establish E&S compliance.

IFC Policy, Procedure and Practice

Key Findings

- Despite a lack of specific guidance, the overall approach outlined in the Sustainability Framework is one which CAO finds to be applicable in conflict and non-conflict scenarios.
- IFC non compliance as identified in this report was due in large part to problems with the interpretation and application of existing policies and procedure.
- IFC's handling of its investment in Dinant raises questions as to the robustness of its decision making structures around E&S issues in high risk contexts.
- The combination of client relationship, operational and compliance functions within project teams can generate conflicts of interest and conflicting incentives for staff and management.
- At a time when the Bank Group is being challenged to expand its risk appetite, CAO finds it crucial to also invest in structures that provide management with assurance that E&S risk is being rationally identified and managed.

The final section the audit report analyzes the adequacy of IFC's E&S policies and procedures as applied to Dinant, both in relation to the conflict that surrounded the project, and more generally as framed by a discussion of the underlying causes of the specific instances of non-compliance identified in this audit. These questions are seen as being particularly relevant in the context of IFC's commitment to expand its footprint in frontier markets, which include IDA countries, Fragile and Conflict Situations (FCS), and frontier regions in non-IDA countries.

Despite a lack of specific guidance, the overall approach outlined in the IFC's Sustainability Framework is one which CAO finds to be valid in both conflict and non-conflict scenarios. To the extent that IFC's E&S performance in relation to the Dinant investment was deficient, CAO finds that this was due in large part to problems with the interpretation and application of existing policies and procedure.

In addition to outlining a range of underlying causes, this report discusses issues of organizational structure and culture as a contributing factor to the non-compliance identified. At this level, CAO finds that IFC's handling of its investment in Dinant raises questions as to the robustness of its decision making structures around E&S issues in high risk contexts. In particular, CAO finds that the combination of client relationship, operational and compliance functions within project teams can generate conflicts of interest and conflicting incentives for staff and management. These problems are well illustrated by the failure of either the pre-investment IDD or E&S review processes to generate robust analysis in relation the significant risks that were attached to the project. They are equally illustrated by the ongoing breaches of IFC's disclosure requirements and the lack of critical attention that the project received even after IFC became aware of the violence that was playing out around its client's properties.

In CAO's view these deficiencies in performance may be seen as a by-product of what has described as a culture of risk aversion at the Bank. In a risk averse setting, accountability for results defined primarily in financial terms may incentivize staff to overlook, fail to articulate, or even conceal potential environmental, social and conflict related risks. The result, however, as seen in this audit is that the institution may underestimate these categories of risk. At a time when the Bank Group is being challenged to expand its risk appetite, CAO finds it crucial to also invest in structures that that provide management with assurance that E&S risk is being rationally identified and managed in the context of the Bank Group's pursuit of development outcomes. As indicated by the findings of this audit, a failure to do this can lead the institution to take uninformed risks with serious consequences for people, the environment and/or the Bank Group's reputation.

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 the private sector lending and insurance members of the World Bank Group, the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (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 IFC and MIGA.

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

Acronyms

AMR	Annual Monitoring Report
ANACH	National Association of Farmers and Peasants (Spanish acronym)
BTOR	Back to Office Report
CAO	Compliance Advisor Ombudsman
CAP	Corrective Action Plan
CEO	Chief Executive Officer
COD	Conditions of Disbursement
CRC	Corporate Risk Committee
CREM	Regional Military Training Center (Spanish acronym)
DEG	German Investment Corporation (German Acronym)
E&S	Environmental and Social
ESAP	Environmental and Social Action Plan
ESRD	Environmental and Social Review Document
ESRP	Environmental and Social Review Procedure
ESRR	Environmental and Social Risk Rating
ESRS	Environmental and Social Review Summary
FCS	Fragile and Conflict Situations
FIAN	Food First Information and Action Network
FN	Footnote
GoH	Government of Honduras
ha	Hectares
IDA	International Development Association
IFC	International Finance Corporation
IIC	Inter-American Investment Corporation (Spanish acronym)
ILO	International Labour Organization
INA	National Agrarian Institute (Spanish acronym)
IRM	Investment Review Memorandum
ISO	International Standards Organization
MAE	Material Adverse Effect
MCA	Farmers Movement of Aguán (Spanish acronym)
MIGA	Multilateral Investment Guarantee Agency
MOU	Memorandum of Understanding
MUCA	Unified Farmers Movement of Aguán (Spanish acronym)
NGO	Non-governmental organization
OHSAS	Occupational Health and Safety Advisory Services
PDS	Project Data Sheet
PS	Performance Standard
SPA	Security Program Assessment
SSV	Site Supervision Visit
RSPO	Round Table on Sustainable Palm Oil
TOR	Terms of Reference
VP	Vice President
VPSHR	Voluntary Principles on Security and Human Rights

1. Overview of the CAO Compliance Audit Process

When CAO receives a complaint about an IFC or MIGA project, it first refers it to the CAO dispute resolution function, which works to respond to complaints through facilitated settlements, if appropriate. If CAO concludes that the parties are not willing or able to reach a facilitated solution, the case is transferred to the CAO compliance function. The CAO compliance process involves two steps: an initial appraisal, followed by an audit where necessary. The CAO compliance function may also be initiated by request from the President of the World Bank Group, senior management of IFC or MIGA or the CAO Vice President. A compliance process must remain within the scope of the original complaint or request.

CAO Compliance auditing focuses on IFC and MIGA, and how IFC/MIGA assured itself of project environmental and social (E&S) performance. The purpose of a CAO audit is to ensure compliance with policies, standards, guidelines, procedures, and conditions for IFC/MIGA involvement, and thereby improve E&S performance. In many cases, in assessing the performance of the project and implementation of measures to meet relevant requirements, it is necessary to review the actions of the project sponsor and verify outcomes in the field.

In the context of a CAO compliance audit, at issue is whether:

- The actual E&S outcomes of a project are consistent with or contrary to the desired effect of the IFC/MIGA social and environmental policy provisions; or
- A failure by IFC/MIGA to address E&S issues as part of the appraisal or supervision resulted in outcomes that are contrary to the desired effect of the policy provisions.

The CAO has no authority with respect to judicial processes. CAO is neither a court of appeal nor a legal enforcement mechanism, nor is CAO a substitute for international court systems or court systems in host countries.

The approach to the audit is described in the CAO Operational Guidelines (April 2007),[1] and states that the working definition of compliance auditing adopted by CAO Compliance is as follows:

> A compliance audit is a systematic, documented verification process of objectively obtaining and evaluating evidence to determine whether environmental and social activities, conditions, management systems, or related information are in conformance with the audit criteria.

The audit will typically be based on a review of documents, interviews, observation of activities and conditions, or other appropriate means. The verification of evidence is an important part of the audit process.

Upon finalizing an audit report, the report is provided to IFC/MIGA for a response. The audit report, together with any response from IFC/MIGA is then sent to the World Bank Group President for clearance, after which it is made public on the CAO website.

In cases where IFC/MIGA is found to be out of compliance, the CAO will keep the audit open and monitor the situation until actions taken by IFC/ MIGA assure the CAO that IFC/ MIGA will move back in to compliance. The CAO will then close the audit.

[1] This description of the CAO process is based on its Operational Guidelines (2007). Updated Operational Guidelines were released in March 2013, while this audit was under way. The new Operational Guidelines are applied to all compliance processes that commence after March 2013.

2. Audit Framework

CAO's compliance process in relation to IFC's investment in Dinant was triggered by the CAO Vice President in April 2012.[2]

The CAO Vice President triggered the compliance process having received a letter of complaint regarding the project submitted to the President of the World Bank Group in November 2010,[3] and following conversations between CAO and non-government organizations (NGOs).

Key allegations made regarding the project were that:

- IFC's client (Dinant) conducted, facilitated or supported forced evictions of farmers in the lower Aguán Valley (or Bajo Aguán);
- Violence against farmers on and around Dinant plantations in the Bajo Aguán (including multiple deaths) occurred because of inappropriate use of private and public security forces under Dinant's control or influence.
- IFC failed to identify early enough and/or respond appropriately to the situation of Dinant in the context of the declining political and security situation in Honduras, and specifically in the Bajo Aguán, following the ouster of President Zelaya in June 2009.

Having held discussions with the IFC team and reviewed relevant documentation, in August 2012 CAO issued a compliance appraisal which concluded that IFC's E&S performance with regard to the Dinant investment merited further enquiry.[4] Thus, in accordance with its Operational Guidelines, CAO developed Terms of Reference for a compliance audit.[5]

It should be clear at the outset that the events that give rise to this audit relate to violent conflict over land in Honduras' Bajo Aguán. Key facts around these conflicts are contested. Without a forensic mandate, it must be emphasized that CAO is not in a position to make findings of fact with regard to many of these events. As such, and given CAO's role in overseeing IFC's E&S performance, the focus of this audit is on IFC's response to available information regarding its client and the situation on the ground around its properties.

Applicable Standards

As set out in its Operational Guidelines (2007), CAO oversees audits of IFC's environmental and social performance, by ensuring compliance with "policies, standards, guidelines, procedures and conditions for IFC involvement…" (para. 3.1).

Relevant policies, standards, guidelines, and procedures in this case include the IFC Policy on Environmental and Social Sustainability (2006), its Performance Standards (2006), the IFC Environmental and Social Review Procedures (as updated from time to time), the Dinant loan agreement (2009), and other applicable procedures such as the IFC Integrity Due Diligence Procedure (2008).

Policy on Social and Environmental Sustainability:

IFC's Policy on Social and Environmental Sustainability (Sustainability Policy) expresses the Corporation's mission in terms of promoting sustainable private sector development. The Sustainability Policy (2006) was applied to IFC's investment in Corporación Dinant at appraisal.

[2] CAO, Memorandum initiating a compliance appraisal of IFC involvement in the Corporación Dinant investment in Honduras, (April 2012)
[3] Rights Action letter to World Bank Group's President (11/23/2010).
[4] CAO, *Appraisal Report: Corporación Dinant S.A. de C.V.* (August 2012).
[5] CAO, *Terms or Reference for Audit of IFC: Dinant* (November 2012).

The Sustainability Policy (2006) underscores IFC's commitment to carrying out its operations in a manner that "do no harm to people and the environment,"[6] avoiding negative impacts wherever possible and ensuring that unavoidable negative impacts are reduced and mitigated appropriately. The Sustainability Policy (2006) acknowledges the importance of private sector clients engaging regularly with local communities about matters that affect them. It also recognizes the roles and responsibilities of the private sector in respecting human rights.

The 2012 version of the Sustainability Policy (applicable from January 1, 2012) elaborates on this responsibility explaining that it means to "avoid infringing on the human rights of others and to address adverse human rights impacts business may cause or contribute to".[7] In this context the Sustainability Policy (2012) provides that the IFC will be guided by the International Bill of Human Rights and the eight core conventions of the International Labour Organization (ILO).[8]

Performance Standards on Social and Environmental Sustainability:

The Performance Standards (PS) detail client E&S responsibilities under IFC financed projects. IFC's investment in Dinant was prepared under the Performance Standards (2006) and commitment to these standards was incorporated into the Dinant loan agreement.

Environmental and Social Review Procedures:

The Environmental and Social Review Procedures (ESRP) outline the process through which IFC staff implement the Corporation's commitment to promoting projects that are socially and environmentally sustainable. The ESRP also describes the application methodology that IFC staff must follow in order to implement IFC's institutional disclosure requirements in accordance with the Disclosure Policy.

Unlike the Sustainability Policy and the Performance Standards which are approved by the IFC Board, the ESRPs are issued at IFC Director level and updated on a more regular basis. During appraisal of IFC's investment in Corporación Dinant, ESRP v.2 was in place. By the time the loan agreement was signed in April 2009 this had been replaced by ESRP v.3. ESRP v.4 was in force at the time of first disbursement in November 2009. For the majority of the post disbursement period ESRP v.5 was in place. At the time of writing this had been superseded by ESRP v.7.

Other applicable policies and procedures:

This audit also raises issues relating to the application of IFC's Integrity Due Diligence procedure. The applicable procedure at the time of appraisal was that dated August 2008. CAO has considered the application of the IDD procedure to the extent that it is relevant to an assessment of IFC's E&S performance in relation to this project.

Methodology

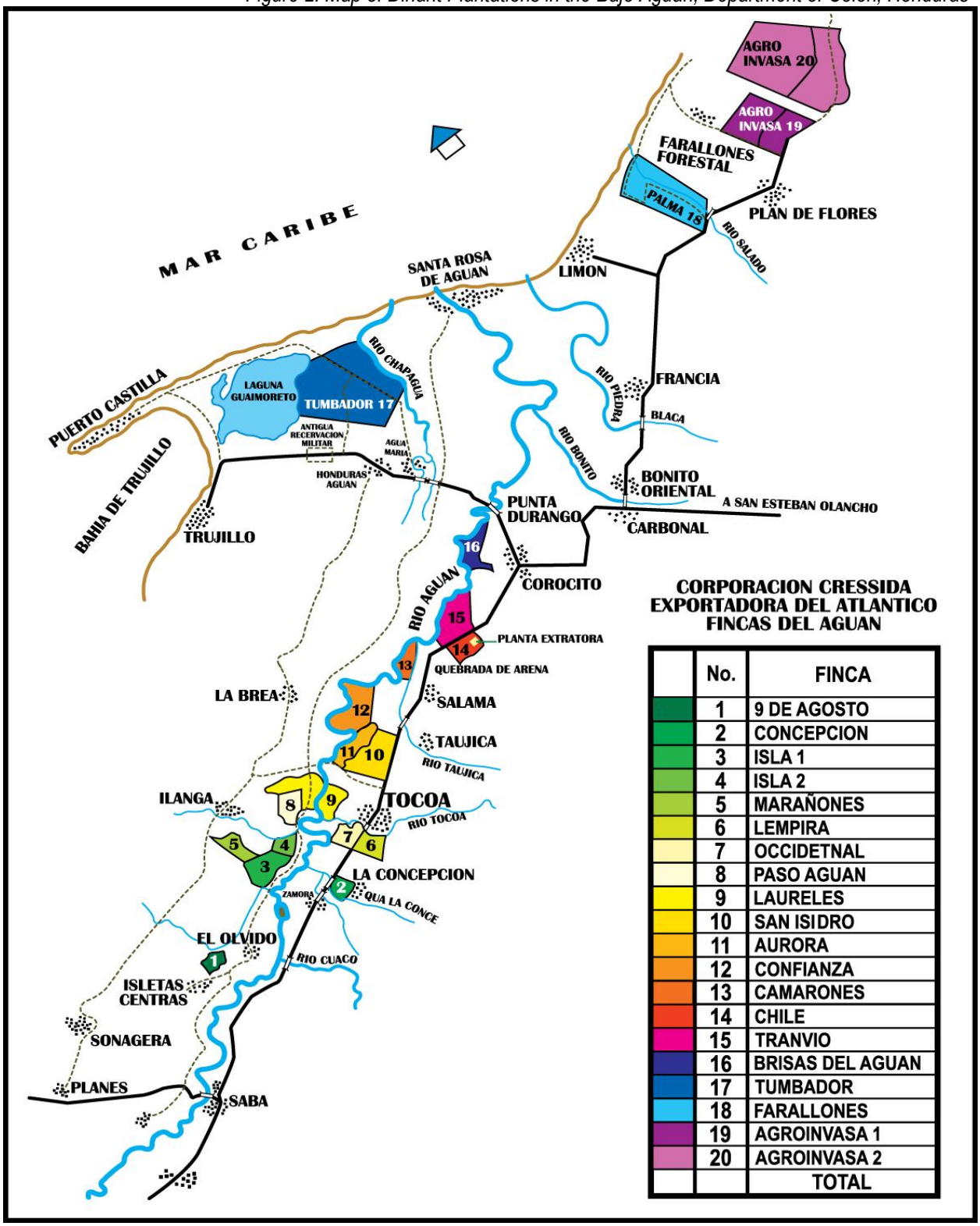
This audit was conducted in accordance with the CAO Operational Guidelines (2007) with inputs from two expert panelists. From February to July 2013, the audit team reviewed a range of relevant documentation. The team also conducted interviews with IFC management and staff (former and current) who had direct knowledge of the project, consultants who had provided E&S inputs, Dinant management, NGO representatives and representatives of the peasant movements in the Aguán Valley. Interviews with people based in Honduras were conducted by phone or video conference. Relevant secondary material was identified using conventional internet searches and the World Bank's subscription to the Factiva search engine. Other materials referenced were sourced through the World Bank library, or were on file with IFC.

[6] IFC, *Sustainability Policy* (2006) para. 8.
[7] IFC, *Sustainability Policy* (2012) para.12.
[8] *Ibid.,* footnote 4.

In considering the adequacy of IFC's E&S performance in relation to this project, CAO has been conscious not to expect performance at a level that requires the benefit of hindsight; rather the question in relation to each requirement is whether IFC teams exercised reasonable professional judgment and care in the application of relevant policies and procedures based on contemporaneously available sources of information.

Figure 1. Map of Honduras showing the Bajo Aguán (Department of Colón)

Figure 2. Map of Dinant Plantations in the Bajo Aguán, Department of Colón, Honduras



3. Background

IFC provided Corporación Dinant, a vertically-integrated palm oil and food company in Honduras, with a corporate loan in 2009 (IFC Project #27250). Total project cost was estimated at $75 million, and IFC's proposed investment was a $30 million loan. Among the development banks, contributions were also expected from the German Investment Corporation (DEG), $20 million and Inter American Investment Corporation (IIC), $7 million.

Dinant is headquartered in Tegucigalpa, Honduras. As described in IFC's Summary of Proposed Invesment, it owned oil palm plantations across the Aguán and Lean Valleys and operated two palm oil mills and an edible oil refinery near the cities of Tocoa and La Ceiba. The company also operated a port storage facility at Puerto Castilla; vegetable greenhouses and a food processing plant in the Comayagua Valley; and had a snacks plant in San Pedro Sula. Maps of the region and Dinant's properties in the Bajo Aguán are provided (Figures 1 and 2 above). According to the E&S Assessment (see section 4.1.1 below) Dinant's agricultural properties (*fincas*) total 20,287ha of which 60% (12,119ha) are located in the Bajo Aguán region.[9]

The IFC Board Document identifies the following as the key aspects of the investment program: (a) increasing the production capacity of its snacks and edible oils divisions, (b) expanding and upgrading its distribution network, (c) developing young oil palm plantations, (d) building a biogas facility; and (e) financing increasing working capital needs. The loan agreement governing the IFC investment in Dinant, however, does not specify uses of funds beyond establishing an 85/15 split in the allocation of the $75 million total project cost across: (a) capital expenditures (85%); and (b) working capital increase (15%).

IFC had a prior investment (loan and equity) in Corporación Cressida, a company belonging to the same ownership as Dinant, dating from 1997 (IFC Project #7114). Following the sale of Cressida to Unilever in 2001 loans to IFC were repaid and the IFC reported an adequate rate of return on its equity investment.[10] IFC also has a relationship with Dinant through a 2011 investment in Banco Financiera Comercial Hondurena S.A (or Ficohsa), a Honduran Bank (IFC Project #29257) with outstanding loans to Dinant. IFC's investment in Ficohsa is outside the scope of this audit, however, it is the subject of an ongoing compliance appraisal by CAO.

4. Discussion and Findings

The findings of this audit are organized around the three central questions set out in the CAO audit TOR:

- whether IFC exercised due diligence in its review of the social risks attached to the Project;
- whether IFC responded adequately to the context of intensifying social and political conflict surrounding the project post commitment; and
- whether IFC policies and procedures provide adequate guidance to staff on how to assess and manage social risks associated with projects in areas that are subject to conflict or conflict prone.

[9] *E&S Assessment*, p.95ff.
[10] IFC, *Investment Review Memorandum* (2008) p.3.

The first question, applies to the pre-commitment phase of the project, that is the period before the signing of the loan agreement (April 2009). The second question, covers the supervision phase of the project from the date of the signing of the Loan Agreement (April 2009) to the present. The third question addresses crosscutting issues, including (i) the adequacy of IFC's policies and procedures in provide guidance to staff on how to assess and manage social risks associated with projects in areas that are subject to conflict or conflict prone, and (ii) an analysis of the underlying reasons for the compliance failures identified in the audit.

The scope of the audit also includes developing an understanding of the immediate and underlying causes for any non-compliance identified.

4.1 IFC'S ENVIRONMENTAL AND SOCIAL DUE DILIGENCE (July 2008 – April 2009)

This section addresses the first question in the audit TOR: "whether IFC exercised due diligence in its review of the social risks attached to the Project."

CAO's review of IFC's E&S due diligence during the pre-commitment period is ordered around five key issues: (a) the adequacy of IFC's E&S review of the project; (b) Integrity Due Diligence; (c) E&S classification; (d) consultation and disclosure; and (e) the development of the E&S Action Plan (ESAP). The analysis of each issue below includes a description of the specific policy and/or procedure applicable, a summary of relevant facts, and CAO Audit Findings. Key CAO findings are summarized at the start of each section.

4.1.1 - IFC's E&S Review of the Project

Key Findings

- IFC was aware of the importance of access to land free from conflicts and disputes as crucial to the success of agribusiness projects, however, its staff underestimated risks related to security and land conflict associated with the Dinant investment.
- IFC's E&S review was not "commensurate to risk", and thus did not meet a key requirement of the Sustainability Policy (para. 13). In particular IFC accepted an overly narrow definition of project E&S risk, without adequate consideration of project context or contemporaneously available sources of information regarding land conflict and insecurity in the Bajo Aguán.
- IFC did not conduct an adequate gap analysis of available project E&S assessment information as required by ESRP (v.2. para. 3.1.1).
- IFC failed to assure itself that the client E&S Assessment met the requirements of PS1; particularly in relation to the definition of an area of influence, the identification of those who would be affected by project risks and impacts, and the establishment of an appropriate social baseline.
- IFC's E&S review failed to ensure that adequate consideration was given to relevant risks and impacts around PS4 (Security Personnel) and PS7 (Indigenous Peoples).
- IFC did not have a reasonable basis on which to conclude that the project could be expected to meet the Performance Standards over a reasonable period of time. The decision to invest was thus not in compliance with the Sustainability Policy (para. 17).

IFC Requirements

Central to its pre-commitment due diligence, IFC is required to perform an E&S review of a potential project that is "appropriate to the nature and scale of the project and commensurate with (its) risks and impacts".[11] In cases where there are "significant historical social and

[11] *Sustainability Policy* (2006) para. 13.

environmental impacts associated with the project, including those caused by others" IFC is also committed to working with the client "to determine possible remediation measures".[12]

In conducting its review the Sustainability Policy states that IFC: "bases its review on the client's E&S Assessment."[13] In addition, IFC considers the commitment and capacity of the client (including its E&S Management System) and the role of third parties in the project's compliance with the Performance Standards. In cases where the available E&S Assessment does not meet the requirements of Performance Standard 1, IFC requires the client to undertake additional Assessment or, where appropriate, commission Assessment by external experts.[14] On the basis of its E&S review IFC may not finance a new business activity if it "cannot be expected to meet the Performance Standards over a reasonable period of time."[15]

PS1 (2006) includes as one of its objectives the identification of E&S impacts of a project in its area of influence. To achieve this objective an IFC client is required to conduct a process of Assessment that considers the project's E&S risks and impacts "in an integrated manner."[16] The Assessment process should consider "all relevant E&S risks and impacts of the project including issues identified in Performance Standards 2 – 8 and those who will be affected by such risks and impacts."[17] It is required to be "adequate" (in the context of project E&S risks), "accurate and objective."[18] It should analyze risks and impacts in the context of the "project's area of influence"[19] based on "appropriate social and environmental baseline data."[20] As part of the Assessment, the client is also required to "identify individuals and groups that may be differentially or disproportionately affected by the project because of their disadvantaged or vulnerable status."[21]

Given that Dinant was identified as employing a security force of more than 300 persons, it was a requirement under PS4 that the client "assess the risks (…) posed by its security arrangements," and consider issues such as "good international practice in terms of hiring, rules of conduct, training, equipping and monitoring such personnel."[22] As Dinant indicated reliance on government security personnel in some instances, it was also a requirement that "risks arising from such use" be assessed.[23] In relation to the application of PS4 CAO notes IFC guidance that:

> For larger operations or those in unstable environments, the review will be a more complex and thorough risk assessment that may need to consider political, economic, legal, military and social developments, and any patterns and causes of violence and potential for future conflicts. It may be necessary for clients to also assess the record and capacity of law enforcement and judicial authorities to respond appropriately and lawfully to violent situations. If there is social unrest or conflict in the project's area of influence, the client should understand not only the risks posed to its operations and personnel but also whether its operations could create or exacerbate conflict.[24]

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[12] *Ibid*.
[13] *Ibid.,* para. 15.
[14] *Ibid.*
[15] *Ibid.,* para. 17.
[16] IFC, *PS1: Social & Environmental Assessment & Management Systems* (2006) para. 4.
[17] *Ibid.*
[18] *Ibid.,* para. 7.
[19] *Ibid.,* para. 5.
[20] *Ibid.,* para. 4.
[21] *Ibid.,* para. 12.
[22] IFC, *PS4: Community Health, Safety & Security* (2006) para. 13.
[23] *PS4* (2006) para. 14.
[24] IFC*, Guidance Note 4: Community Health Safety and Security* (July 2007) para. 28. As described on the IFC website: "The Guidance Notes are companion documents to IFC's Performance Standards and

In relation to Indigenous People, it is a requirement under PS7 that the client "identify through a process of Social and Environmental Assessment all communities of Indigenous People who may be affected by the project within the project's area of influence".[25]

The applicable IFC ESRP (v.2) details IFC's approach the E&S review process. Relevantly, the ESRP provides that the IFC will review available project E&S assessment information and identify any gaps.[26]

The E&S Assessment

There is an initial question as to what constituted the client's E&S Assessment for the purposes of IFC's investment in Dinant. This is important because the client's E&S Assessment provides the basis for IFC's pre-investment E&S review, and also because of applicable consultation and disclosure requirements (see section 4.1.4 below).

IFC's November 2008 ESRS for Dinant identifies two documents under the heading of "E&S Assessment": (i) a 1997 "Environmental Assessment of Agricultural Plantations" carried out on behalf of IFC; and (ii) a more recent E&S Assessment undertaken by an independent consultant. The latter report, titled *Environmental and Social Assessment: Dinant Corporation* (February 2008), is described in the ESRS as providing recommendations that will be "instrumental" in the development of the client's E&S management systems. No other process of E&S Assessment conducted by the client is described in the ESRS.

Relevant to the status of the 2008 E&S Assessment, CAO notes: (a) that this assessment, while commissioned by DEG, was prepared under a contract to which Dinant was a party; and (b) that this contract described the task as "to conduct an environmental and social assessment and ESAP ***for Corporación Dinant S.A. de C.V***…" (emphasis added).[27] As confirmed to CAO by IFC staff working on the project at the time, the IFC team relied on the 2008 E&S Assessment as "the E&S Assessment" for the purposes of IFC's E&S review. In these circumstances CAO finds that the 2008 E&S Assessment (hereafter "the E&S Assessment") is, or substantially represents the outcomes of, "the client's E&S Assessment" for the purposes of the Sustainability Policy (2006).

The E&S Assessment was led by a Guatemalan E&S consulting firm. As explained by IFC staff, IFC and DEG used this report as the common basis for their appraisal, a practice which is accepted among cooperating development finance institutions. The consulting firm had worked with IFC in the past and was considered to be familiar with the Performance Standards. Therefore, IFC saw no value in duplicating costs by requiring another assessment.

The objectives of the E&S Assessment were:

- To assess the environmental and social impacts of Dinant's existing and planned activities and operations related to production and processing of palm oil and other food processing operations, including the planned development of a bio-diesel plant; and
- To assess and compare these activities and operations with respect to "Applicable Environmental and Social Requirements" that include but are not limited to local laws and regulations, the ILO's Core Labor Standards and Basic Terms and Conditions of Employment, and the IFC's Performance Standards and Sector Guidelines.[28]

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provide additional guidance to clients (and IFC staff) in fulfilling their roles and responsibilities under the standards."

[25] IFC, *PS7: Indigenous Peoples* (2006), para. 7.

[26] IFC, *Environmental & Social Review Procedures* (2007) v.2.0, para. 3.1.1.

[27] Contract between DEG, an E&S consultant and Corporación Dinant S.A. de C.V (November 2007).

[28] *E&S Assessment*, 1.

The scope of the E&S Assessment reflected the themes of the IFC's Performance Standards though these were not systematically referenced in the organization of the report.

Work on the E&S Assessment began in November 2007 with the final report being dated February 5, 2008. As well as examining information provided by the client on corporate policies, procedures and programs for environmental management and labor relations, the E&S Assessment team made two visits to Honduras, spending a total of eight days in the field. These included visits to Dinant agricultural operations and plants, in addition to interviews with Dinant staff and independent producers that supplied oil palm fruit to Dinant. The E&S Assessment team reports conducting 80 interviews of which 75 were with Dinant management and staff. The remaining five were with producers supplying Dinant. The report also notes a visit to a Pech indigenous community with which Dinant had a relationship, located approximately 12km from the nearest Dinant property.[29] The E&S consultant was accompanied by Dinant staff for all interviews.

CAO's review of the E&S Assessment reveals a number of weaknesses that turned out to be highly consequential. CAO finds that the Assessment was overly narrow in its conception of project risks and impacts, and thus failed to identify and analyze risks that emerged from the political, social and security context (both local and national) in which the project was situated.

More specifically CAO has the following observations in relation to the E&S Assessment.

First, the E&S Assessment contained no background section or contextualization of the Honduran setting affecting Dinant. As a result there is no consideration of relevant social, economic or political trends and tensions in the country or in the regions where the Company was operating. The E&S Assessment relied heavily on information provided by the client and lacked analysis of underlying trends and tensions in the local area. As discussed below, background information on land disputes, indigenous issues and crime in the Bajo Aguán, including some which raise allegations in relation to Dinant's owner, were available from a range of sources at the time of the study. Examples of such sources are set out in Annexes 1 and 2.

Second, the E&S Assessment does not define an "area of influence" for the Project or develop a social and economic baseline. As a result, despite identifying "a wide range of significant environmental impacts through its industrial and agricultural activities",[30] and indicating an awareness of settlements in the vicinity of Dinant's operations, the Assessment lacks data about the demographics, living conditions, employment, land tenure, poverty levels, crime rates, or other characteristics of the communities surrounding the project's operations. Thus, it does not establish a framework for systematic stakeholder identification or social impact assessment, either generally for the purposes of PS1 (para. 4), in relation to specific vulnerable or disadvantaged groups (para. 12), or in relation to indigenous peoples for the purposes of PS7.

Third, as discussed in more detail below, the E&S Assessment team did not conduct interviews with community representatives, civil society groups, or NGOs in the immediate area of Dinant's operations. The communities living around Dinant's plantations were not consulted in the course of the E&S Assessment and there is no record of community feedback in relation to the findings and recommendations of the E&S Assessment.

Finally, the E&S Assessment provides limited analysis of key issues, and does not develop findings into a systematic assessment of risk. An example of this is the case of security forces. The E&S Assessment contains two paragraphs under the heading of security. This section appears to have been prepared on the basis of an interview with Dinant's General Supervisor of Security and a security advisor (who was noted as being on active military duty). The

[29] *Ibid.,* 87-93.
[30] *Ibid.,* vi.

Assessment describes the fact that Dinant retains 300 security guards, that most are armed, and that many are ex-military. It notes training that security personnel are reported to receive, and Dinant's General Supervisor's assertion that Dinant has never suffered any major security problems. At the same time, the Assessment notes that the team was "unable to review any documentation in relation to security incidents procedures, manuals, community relations, rules of engagement or the like."[31] The Assessment does not, however, question the absence of any records or identify this as a risk. It does not seek to triangulate the information received from Dinant management against other sources, nor does it place Dinant's approach to security in the context of violence, political tumult and criminality which characterized Honduras at the time. In relation to land issues, a note that there was a land invasion of one of Dinant's Bajo Aguán properties (Finca San Isidro) "in early-2007 by a peasant group"[32] is not developed as part of a risk analysis, on the basis of the explanation that this dispute was resolved in 10 days through the intervention of local authorities.

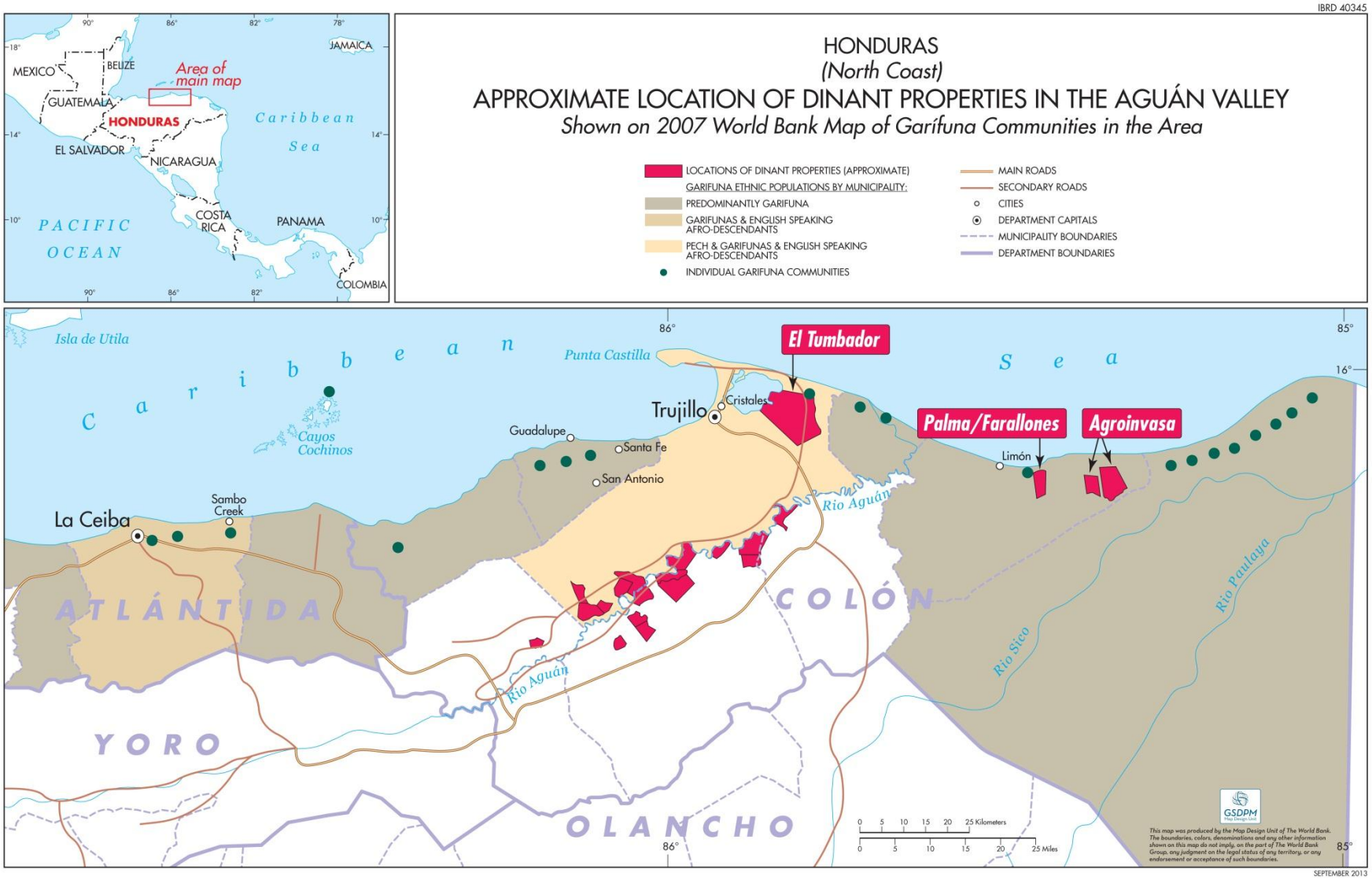
IFC's E&S Review and Appraisal Process

An early (pre-appraisal) review of the Dinant investment was completed in July 2008. At this stage, IFC identified potential issues in relation to land and indigenous people that would need to be reviewed during appraisal.[33] Relevant lessons learnt from previous projects were also articulated, including the stipulation that "the relevant company must have access to adequate unencumbered land free from conflicts and disputes."[34]

An IFC appraisal mission to Honduras took place from August 12-16, 2008. The IFC team (including a Social Specialist) met extensively with Dinant management. The team made site visits to Dinant processing plants, greenhouses, and plantations in the vicinity of Tela and Comayagua, interviewed Dinant staff and the mayors of the towns of Arizona and San Sebastian (situated outside the Bajo Aguán region). It also visited a Pech indigenous community, 12km from the nearest Dinant property,[35] with which Dinant had established a community development project. There is no evidence from the schedule of visits and interviews for the mission that the IFC team met with community representatives, civic leaders, or civil society organizations in the areas most proximate to Dinant facilities or plantations in the Bajo Aguán (where the majority of Dinant's agricultural land is located), or with relevant national level actors. In this context, CAO notes that Garífuna communities identified on a 2007 World Bank map of the Honduran north coast are located in the immediate vicinity of Dinant's Tumbador and Palma/Farallones properties (see figure 3 below).[36]

[31] *Ibid.,* 75.
[32] *Ibid.,* 10.
[33] IFC, *PDS – Early Review* (July 2008) 8.
[34] *Ibid*.
[35] *E&S Assessment*, 72.
[36] For further information see FN55 below.

Figure 3. Approximate Location of Dinant Properties in the Bajo Aguán and Garífuna Communities in the Area[37]



[37] Map prepared by World Bank Map Design Unit, based on 2007 IBRD Map #35582R and Figure 2 above (from E&S Assessment). IBRD Map which forms Annex 3 to this audit report is available at http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/colormap.pdf

IFC's E&S Review and Appraisal Process (cont.)

After the August 2008 appraisal mission, the IFC E&S team prepared an Environmental and Social Review Document (ESRD).[38] This assessment was the basis for the Environmental and Social Review Summary (ESRS) and Action Plan that fed into the Investment Review Meeting held on October 16, 2008, and was formally disclosed in November prior to submission of the project to the IFC Board on December 17, 2008.

Though IFC staff explained to CAO that a gap analysis was conducted in accordance with the ESRP, CAO found that the analysis of the E&S Assessment and management systems presented in the ESRD lacks detailed analysis of the E&S Assessment against PS1 requirements.

CAO also notes that some of the more critical findings from the E&S Assessment are not included in IFC's appraisal documentation. For example, with regard to PS1, the combined Back to Office Report (BTOR) and ESRD do not fully reflect key findings as to the weaknesses of the Dinant's E&S management systems. Thus, the E&S Assessment notes that Dinant lacks environmental and social policies that could serve as the basis for an E&S management system and that Dinant has "no formal system or procedure for handling information related to environmental and social issues".[39] The Assessment also notes that "the organizational structure charged with EHS and social issues is confused and vague" with insufficient human and financial resources being devoted to these issues.[40] These problems "coupled with lack of an effective system to manage environmental and social impacts for the corporation as a whole" are described as having led to "repeated and continuous compliance problems related to both environmental and social issues".[41]

While the IFC ESRD notes Dinant's lack of comprehensive E&S policies, the more critical conclusions contained in the E&S Assessment (see above) are transformed into a note that E&S management is "decentralized at the level of plant/business unit" and that policies related to E&S management "miss concrete implementation steps."[42] By the time IFC's Investment Review Memorandum (IRM)[43] is prepared in October 2008, references to weaknesses in the client's E&S management and reporting systems are absent. Instead the focus in the IRM is on Dinant's commitment to "obtaining ISO 14001 and OHSAS 18001 certifications according to an agreed timeframe" as the "basis for effective management of E&S issues across all of the Company's operations."[44] This without reference to reports in the E&S Assessment that Dinant's pursuit of ISO 14001 had been ongoing since 2003/4 and, in the opinion of the E&S Assessment team, had "lost support, resources or both … [having] progressed little since that time".[45] The approach taken in the IRM is replicated in the documentation submitted to the IFC Board of Directors in December 2008.

Included in the ESRD are a number of points that reflect the IFC E&S team's view that the investment did not pose significant E&S risks. Under the section on categorization the IFC team notes a "limited number of specific environmental and social impacts … which can be avoided or mitigated by adhering to generally recognized performance standards, guidelines, design

[38] The ESRD is an internal document recording details of IFC's E&S review of a potential project.
[39] *E&S Assessment*, 8.
[40] *Ibid.,* vi.
[41] *Ibid.*
[42] IFC, *Environmental & Social Review Document* (2008), PS1.
[43] The IRM is the presentation of a project for internal management review prior to submission to the IFC Board.
[44] IFC, *IRM*, 16.
[45] *E&S Assessment*, 11.

criteria, local regulations and industry certification schemes,"[46] in contrast to the E&S Assessment's findings of "a wide range of significant environmental impacts."[47] On the basis of this shift (the reason for which is not articulated in the ESRD), the IFC E&S team concludes that: 1) no additional assessment data would be required; 2) no E&S Peer Review meeting will be required; and; 3) no additional external experts would be required to assist with the appraisal.[48]

CAO also notes that there is no analysis in the appraisal documentation of the E&S performance of IFC's earlier investment in Corporación Cressida, a company belonging to the same ownership as Dinant, and which had previously owned significant parts of Dinant's agricultural holdings in the Bajo Aguán. CAO review of IFC's Cressida files indicates that IFC undertook an E&S review of Cressida's operations prior to investing in 1997. These files also contain a copy of a 1998 report commissioned by IFC, *An Environmental Review of Lands and Facilities belonging to Corporación Cressida of Honduras.* The 1998 review was prepared in response to a complaint received by IFC in relation to Cressida from an environmental NGO. While finding that the allegations raised by the NGO were "overestimated," the report notes environmental issues that need to be resolved, in particular in relation to liquid effluents from palm oil extraction. No E&S reporting material from Cressida was found on file.

A number of IFC staff and former staff interviewed by CAO in the course of this audit offered critical reflections on IFC's E&S performance during the appraisal phase of the project. One of these interviewees observed that there was pressure to grow the agribusiness portfolio at the time the Dinant investment was processed and that the investment department was thus highly motivated to "get money out of the door" with little regard for E&S concerns. The same interviewee noted that this was leading to investments in clients who were very weak from an E&S perspective.

Another interviewee who had worked on the project described the E&S review as "sub standard," indicating that significant E&S issues - around land, stack emissions and waste water had not been handled adequately. The same person suggested that the E&S documentation was insufficient given the state of IFC's knowledge regarding sector E&S risk, noting that IFC knew from experience that "land is the number one issue in most palm oil investments"; and that "they all [oil palm investments] have unresolved land issues, it is just a matter of looking." This risk was observed to be compounded in a context like Honduras which was known to be prone to violence and conflict over land. As described by this interviewee IFC's E&S quality control failed because E&S staff did not feel as though they could rely on support from their management in addressing contentious issues.

A third interviewee who had worked on the project observed that it was possible that a lack of understanding of the Honduran context, combined with the over-reliance on the due diligence already completed for DEG, resulted in a lack of awareness of possible risks, and an under allocation of time and experienced specialists to IFC's E&S review of the Dinant investment. The same interviewee noted that relations with the investment staff on the project were strained, with investment staff taking a very hands on approach to E&S issues, "trying to influence the content of the E&S review" and "telling [E&S staff] how the E&S policies should be interpreted."

Other IFC staff interviewed (E&S management and investment department staff) did not recall having concerns around the E&S appraisal process. In a written submission to CAO dated June 27, 2012, IFC states that:

[46] IFC, *Environmental and Social Review Summary* (2008), 2.
[47] *E&S Assessment*, vi.
[48] IFC, *ESRD*, 1.

> During its due diligence, IFC did not detect any competing land claims from its observations during the site visits and searches of public websites, none was disclosed by the client or other parties, and it did not receive any complaints during the local disclosure process. To date, there is no information that these issues existed or were of public knowledge during approval.[49]

In the same submission, IFC also states that:

> IFC did not observe any signs of conflict in the areas visited, and none was disclosed by Dinant or its relationship banks (see below). Notwithstanding the above, IFC undertook a search for any negative information through the internet and did not find any related issues at the time.[50]

Discussion & Findings

CAO finds that IFC's E&S review of its investment in Dinant did not meet the requirements set out in the Sustainability Policy and ESRP. Although the team followed the steps prescribed by the ESRP – reviewing the E&S Assessment provided by the client, examining management capacity, and reviewing compliance with the Performance Standards – its review lacked coverage and depth.

Specific weaknesses in the E&S Assessment which limited IFC's understanding of the social (especially conflict and security) issues associated with the Dinant investment included: (a) the methodology used in the security section of the E&S Assessment (reliance on interviews with Dinant's Security Supervisor and a Security Advisor who was also on active military duty); (b) the absence of a stakeholder analysis; (c) the lack of reference in the security section of the E&S Assessment to the requirements of PS4, either in terms of Dinant's private security arrangements or its reliance on government security forces; (d) the lack of contextual information on conflict and security risk in Honduras and the Bajo Aguán and (e) the brief nature of the analysis presented. In this context the lack of technical expertise of the consultants who prepared the E&S Assessment in relation to security issues is also noted.

CAO notes IFC's response that due diligence was exercised including a search for negative information through the internet.[51]

An illustration of the type of contextual analysis which could have informed IFC at appraisal, can be found in a DEG commissioned desk study of land disputes in the Bajo Aguán. This study, commissioned after the violence of 2010, was able to trace the evolution of the peasant movement in the Bajo Aguán from the 1970's making reference to a number of sources that were available prior to IFC's appraisal of its investment in Dinant. Notably, the DEG study, paraphrasing the title of a 2001 monograph,[52] identifies the Aguán Valley as "the center of agrarian reform and counter reform"[53] in Honduras, and an area with underlying unresolved land issues some of which specifically affected land acquired by Dinant. The study also identifies a range of groups that were active around land issues in the Aguán area, nationally and internationally prior to IFC's appraisal. These included local farmers' organizations such as the Unified Farmers Movement of Aguán (MUCA), Farmers Movement of Aguán (MCA); as well as national organizations such as the National Association of Farmers and Peasants (ANACH) and

[49] IFC, *Written submission to CAO* (June, 2012).
[50] *Ibid.*
[51] IFC, *Written submission to CAO* (June, 2012).
[52] Miguel Alonzo Macías (2001) *La Capital del contrareforma agrarian: el Bajo Aguán de Honduras*. See Annex 1, item #3 below.
[53] Christian E. Rieck and Peter Peetz, *Desk-Study on the Land Dispute in Hondura's Bajo Aguán Region* (2011), 3.

governmental bodies such as the National Agrarian Institute (INA). At the international level the report mentions NGOs, FIAN and Via Campesina.[54]

Other steps that IFC could have taken to understand the risks associated with the project context would have included meetings with some of the above referenced groups, or with donors who have a history working on land issues in Honduras and/or the Bajo Aguán. The IFC review could also have engaged with World Bank staff working on land issues in Honduras. This would have been particularly relevant given that the World Bank Inspection Panel had recently delivered a report which applied Operational Directive (OD) 4.20 (on Indigenous Peoples) to a land related complaint from Garífuna communities on the Honduran north coast near Dinant's operations in the Bajo Aguán.[55]

Of relevance to the security risk posed by the Honduran context at the time of IFC's appraisal, CAO notes a 2008 US State Department reporting which highlights concerns around "violent crime fuel[ing] the growth of private unlicensed security forces" as well as the use of lethal force "by private security companies with ties to former and current military or police officials."[56]

In terms of the history of land disputes in the Bajo Aguán CAO notes numerous sources dating back to the year 2000 describing ongoing land conflict in the immediate vicinity of Dinant's plantations in the Bajo Aguán.[57] These include:

- reports of at least 10 occasions when protesting peasant groups blocked roads in and around the towns of Trujillo and Tocoa in support of their land claims;
- reports of land disputes involving Garífuna communities around Dinant's *Palma/Farallones* and *Agroinvasa* properties to the east of Trujillo (including allegations in relation to the involvement of Dinant's owner in these disputes); and
- reports of a long running dispute around lands of the former *Centro Regional de Entrenamiento Militar* (CREM), which are claimed to overlap with the Dinant plantation of *El Tumbador.* The resolution of the claims regarding this land had attracted national attention and was the subject of parliamentary decrees in 2001 (#92-2001) and 2008 (#18-2008).*[58]*

Closer to the time of appraisal, CAO notes media reports of an outbreak of violent conflict over land in the vicinity of Dinant's *El Tumbador* plantation. In August 2008, one week prior to the IFC's initial field visit to the area, report of an incident in national newspaper, *La Tribuna,* describes the death of 12 people associated with the conflict over the former CREM lands, noting that the land has been the subject of claims by the peasant movement, MCA, since the

[54] *Ibid.*, 7.

[55] See item #22 dated June 2007 in Annex 1. While not mentioning Dinant, the Inspection Panel report lists oil palm among the major forms of agribusiness that have attracted and "land-buyers and 'invaders' of Garífuna ancestral land" in the area (para. 105). The World Bank's response to this report includes a map of Garífuna communities in the direct vicinity of Dinant plantations in the Bajo Aguán (see Annex 3), some of which are reported elsewhere as being in long running conflicts with Miguel Facussé / Dinant (see Annex 1 items #12 and #27). The same map describes the municipalities around Dinant's *Palma* and *Agroinvasa* properties to the east of Limon as "predominantly Garífuna" and identifies specific Garífuna settlements in the immediate vicinity of Dinant's *Palma* and *Tumbador* properties. CAO has superimposed the map of Dinant properties (figure. 2) on the Inspection Panel map for purposes of illustration (see figure. 3).

[56] US Departament. of State 2008 *Honduras* (March 2008). http://goo.gl/QXigX7

[57] A full list of contemporaneous resources found by CAO is provided in Annexes 1 and 2.

[58] CREM was a military training center used by United States special forces to train Salvadoran and Honduran soldiers in the 1980s. It is a matter of contention as to whether Dinant's *El Tumbador* plantation falls within the boundaries of the former CREM land claimed by MCA. The MCA claim to 5724 ha of land around the former CREM site, however, overlaps with Dinant's *El Tumbador* plantation.

1990s. The same article refers to problems that emerge from the implementation of Decree 18-2008 and notes that both "government authorities and the peasant movement predict that if the problem of land tenure in Honduras is not resolved, blood will flow, especially in the departments of Colón[59] (…) where political interests and organized crime syndicates add fuel to the fire."[60] A further article from June 2008 describes the killing of peasant leader, Irene Ramírez Tróchez. According to MCA sources cited in the article, Tróchez' killing was related to the role he played in relation to the struggle for the collectivization of the CREM lands. The same article cites a union leader in Colón as saying that the death of Tróchez reflected "the agrarian problem in the Aguán."[61]

In summary, in a context where: (a) information on security risks and land conflict in the project area was available from a range of sources; (b) IFC was aware of the importance of access to land free from conflicts and disputes as crucial to the success of similar projects; and (c) the World Bank had identified Garífuna communities to which OD 4.20 (Indigenous Peoples) applied in the immediate vicinity of Dinant properties in the Bajo Aguán– CAO finds that IFC's E&S review was not commensurate to risk, and thus did not meet a key requirement of the Sustainability Policy.[62] In particular CAO notes the lack of attention to "historical impacts" or third party risk in the assessment or review documentation as required by paras 13 & 15 of the Sustainability Policy.

Further, CAO finds that IFC did not conduct an adequate gap analysis of project E&S assessment information.[63] As a result IFC failed to assure itself that the E&S Assessment met the following requirements of the Performance Standards:

- *PS1 (E&S Assessment):* Requirement that the E&S Assessment be "adequate;"[64] consider "all relevant E&S risks and impacts of the project … and those who will be affected by such risks and impacts;"[65] in the context of the "project's area of influence."[66] Requirement that the E&S Assessment be based on "appropriate social and environmental baseline data;"[67] and "identify individuals and groups that may be differentially or disproportionately affected by the project because of their disadvantaged or vulnerable status".[68]
- *PS4 (Security):* Requirement that the client "assess the risks (…) posed by its security arrangements," considering "good international practice in terms of hiring, rules of conduct, training, equipping and monitoring such personnel."[69]
- *PS7 (Indigenous People):* Requirement that the client "identify, through a process of E&S Assessment all communities of Indigenous People who may be affected by the project within the project's area of influence…"[70]

Additionally, CAO finds that IFC's E&S review overlooked departures from its own advice on good practice, particularly advice that for projects in unstable environments, clients need to

[59] The department of Colón covers Dinant's properties in the Bajo Aguán.
[60] La Tribuna, "Conflictos agrarios amenazan con ensangrentar mas el campo" *La Tribuna*, August 18, 2008, http://old.latribuna.hn/2008/08/18/post10041180/
[61] Tiempo "De ocho balazos matan a dirigente campesino" *Tiempo* June 13, 2008,79
[62] *Sustainability Policy* (2006) para. 13.
[63] see *ESRP* (2007) v.2.0, para. 3.1.1.
[64] *PS1,* para. 7.
[65] *Ibid.*
[66] *Ibid.,* para. 5.
[67] *Ibid.,* para. 4.
[68] *Ibid.,* para. 12.
[69] IFC, *PS4* (2006) para. 13.
[70] IFC, *PS7* (2006), para. 7.

conduct "a more complex and thorough risk assessment that may need to consider political, economic, legal, military and social developments, and any patterns and causes of violence and potential for future conflicts."[71]

In these circumstances, CAO finds that IFC did not have a reasonable basis on which to decide whether the project could be expected to meet the Performance Standards over a reasonable period of time, the threshold question in terms of deciding to invest.[72]

4.1.2 - Integrity Due Diligence

Key Findings

- IFC was or should have been aware of a series of public allegations and negative perceptions in relation to its client that went significantly beyond those that were considered in the course of its integrity due diligence process.
- As a result, CAO finds that the more detailed six part integrity due diligence process should have been adhered to. IFC's failure to do this was out of compliance with the relevant procedure.

IFC Requirements

IFC's Integrity Due Diligence (IDD) Procedure provides a "framework for identifying and documenting the potential risks associated with unethical and illegal activities which include environmental, social, governance and financial crime issues such as child labor, corruption, fraud, and money laundering."[73] CAO has considered the application of the IDD procedure to the extent that it is relevant to an assessment of IFC's E&S performance in relation to this project.

The IDD Procedure in place at the time the Dinant investment was appraised provided for two phases, (i) an integrity focused risk assessment and (ii) the actual due diligence work. On the basis of the initial integrity risk assessment IFC teams were expected to determine the level of scrutiny required in relation to a particular client.

The minimum level of scrutiny required covered parts 1, 2 and 6 below. If a client was considered to present a higher risk, more detailed IDD was expected applying parts 3, 4, and 5.

> Part 1. Initial Review
> Part 2. Computer Screening
> Part 3. Detailed Partner and Contact Background Checks
> Part 4. Verification of Partners' and Contacts' Background
> Part 5. Assessment of Background Checks
> Part 6. Conclusions and Sign-off

Under Part 1 (Initial Review) IFC is expected to:

> Perform exploratory research using Google or other search engines, and NewsPlus/Factiva and review any links which may indicate current or previous allegations or negative perceptions about the Partners or Contacts.[74]

Under Part 3 (Detailed Background Checks) information should be collected on senior management of IFC clients including whether they have been:

[71] IFC, *Guidance Note 4* (July 2007) para. 28.
[72] *Sustainability Policy* (2006) para. 17.
[73] IFC, *IDD Procedure* (2008), 1.
[74] *IDD Procedure* (2008), 4.

> Subject to criminal proceedings, a defendant in criminal court, or knowingly investigated by a law enforcement agency for a serious offence[75]

Under Part 5 (Assessment of Background Checks) IFC is expected to answer a list of yes/no questions including:

> Are there allegations or suggestions of the Client Partner or Key Contacts being involved with any criminal activity or disreputable corporate practices, including corruption, falsification of accounts, intimidation, involvement in fraud or other offences involving dishonesty?[76]
>
> Do any Partners or Key Contacts have major political affiliations, or have they made significant contributions to political parties?[77]

Explicit filing requirements are provided in relation to each of the above steps, requiring relevant documentation to be posted in the IFC iDocs folder of the relevant Partner.[78] In particular under Part 1, PDF copies of negative information uncovered are required to be filed.

Discussion & Findings

An IDD conclusion and sign off report dated October 2008 in relation to Dinant's owner was filed. This report was prepared by the transaction leader and signed off by the country manager and regional industry director. It states that IFC considered "past IFC relationships, local and international news agencies, local banks, World Bank office, local business community, (and…) local counsel" [79] as part of the IDD process. IFC also explained to CAO that internet searches were conducted. These searches revealed one specific issue that was addressed from an IDD perspective.[80] This was a dispute around land belonging to Dinant's owner on the Island of Zacate Grande off Honduras' Pacific Coast. Following review by local counsel, IFC was assured that there were no legal claims in corresponding jurisdictions against Dinant or its owner. Noting that "land tenure issues are of a legal nature"[81] and considering the owner's "genuine interest in adhering to environmental practices"[82] IFC decided that it would proceed with the transaction.

Having replicated the Factiva[83] searches required under the IDD procedure, CAO finds IFC's IDD process in relation to Dinant's owner was insufficient. The results of a Factiva search for Dinant's owner as at the date of IFC's IDD report are reproduced in Annex 2. This reveals 15 links which CAO considers "could indicate current or previous allegations or negative perceptions" about Dinant's owner.[84] Relevant links include descriptions of the owner's political influence; allegations of his involvement in the murder of environmental activist and mayoral candidate, Carlos Escaleras; reports of a warrant having been issued for his arrest in relation to environmental crimes; and allegations of his involvement in land disputes with Garífuna communities. CAO finds no indication that the issues raised in these links were considered or their contents were filed as required by the IDD procedure. In addition CAO notes items listed in Annex 1 which contain contemporaneous allegations related to the owner's involvement in

[75] *Ibid.,* 8.
[76] *Ibid.,* 10.
[77] *Ibid.*
[78] iDocs is the IFC's central shared filing system for project related documents.
[79] IFC, *IDD Conclusion Sign-off Template* (2008), 1
[80] "Past similar allegations" (emerging from IFC's earlier investment in Corporación Cressida) are referred to but not detailed other than to say that IFC had concluded that these were unsubstantiated. CAO notes that these allegations are different again to the ones raised in the sources collated in Annexs 1 and 2.
[81] *IDD Conclusion Sign-off* (2008), 2
[82] *Ibid*.
[83] Factiva is a business information is search tool from Dow Jones which aggregates content from both licensed and free sources including the major news agencies.
[84] *IDD Procedure* (2008), 4. Links CAO considers to fall into this category are highlighted in Annex 2.

dubious land dealings,[85] and the use of one of his properties as staging post for drug trafficking.[86] CAO thus finds that IFC was or should have been aware of a series of allegations and negative perceptions in relation to its client that went significantly beyond those dealt with in the IDD report. As a result CAO finds that the more detailed six part IDD process should have been adhered to in relation to this range of issues. IFC's failure to do this was non-compliant with the IDD procedure. Had the procedure been complied with, CAO finds that additional information relevant to the IFC's assessment of client commitment and project E&S risk would have been revealed.

In making these findings CAO notes IFC's request that "discussion of IFC's integrity due diligence as it was applied to Dinant" be "removed from the report."[87] CAO has considered this request. However, as set out in its Operational Guidelines (2007), CAO oversees audits of IFC's environmental and social performance, by ensuring compliance with "policies, standards, guidelines, procedures and conditions for IFC involvement…" (para. 3.1). As the IDD procedure is an IFC procedure and as it provides a "framework for identifying and documenting the potential risks associated with", among others, "***environmental, social***, governance and financial crime issues" [*emphasis added*],[88] CAO has considered the application of the IDD procedure in this case.

4.1.3 - E&S categorization of the project

Key Findings

- IFC's E&S review process provided the IFC team with insufficient information to categorize the project appropriately.
- Given compliant E&S review and IDD processes, the project would properly have been assigned E&S category A.

IFC Requirements

As part of the appraisal process, IFC assigns an E&S category to a project. This is done to reflect the magnitude of risk associated with the project understood as a result of the client's E&S Assessment. E&S categories include:

> *Category A Projects*: Projects with potential significant adverse social or environmental impacts that are diverse, irreversible or unprecedented; and
>
> *Category B Projects*: Projects with potential limited adverse social or environmental impacts that are few in number, generally site-specific, largely reversible and readily addressed through mitigation measures.[89]

Discussion & Findings

Dinant was categorized B with the following justification provided in the Environmental and Social Review Summary (ESRS):[90]

> …because a limited number of specific environmental and social impacts may result which can be avoided or mitigated by adhering to good international industry practice, guidelines, design criteria, local regulations and industry certification schemes. Oil palm plantation development is occurring on existing, cleared agricultural land, and there is no destruction of or impact on critical

[85] Annex 1, References #3, 6, 9, 12 & 27.
[86] *Ibid.*, References # 17 & 31.
[87] IFC response to CAO draft audit report (08/30/2013).
[88] IFC, *IDD Procedure* (2008), 1.
[89] *Sustainability Policy* (2006), para.18.
[90] The ESRS is a public summary of the E&S review process prepared by IFC.

> habitat involved. *Land acquisition is on a willing buyer-willing seller basis*, and there is no involuntary displacement of any people. *There are no indigenous peoples' ancestral lands in the area* and the Pech community near the Company's Aguán operations is not expected to be adversely affected by the project (emphasis added).[91]

IFC's decision on categorization was a product of the E&S review process which CAO has identified as non-compliant in key respects (see section 4.1.1 above). CAO has also identified noncompliance in relation to the IDD process. Given a compliant E&S review and IDD processes, CAO finds that the project would properly have been assigned category A.

4.1.4 - Consultation and Disclosure

Key Findings

- IFC's failure to disclose the Dinant E&S Assessment was not compliant with its Policy on Disclosure of Information (para. 13). IFC remains non-compliant on this point.
- IFC supported a breach of PS1 (paras 20 & 26) by: (a) accepting the client's disclosure of a modified translation of the ESRS in the place of the E&S Assessment, and (b) failing to assure itself that the client's ESAP was disclosed to affected communities in an accessible form.
- IFC failed to ensure that the Dinant E&S Assessment met the consultation requirements set out in PS1 (para. 21).

IFC Requirements

The IFC Sustainability Policy (2006) provides that effective community engagement is central to the successful management of E&S risks. As such, the Performance Standards require IFC clients to engage with affected communities through disclosure of information, consultation, and informed participation, in a manner commensurate with the risks to and impacts on the affected communities.

PS1 requires an IFC client to "publicly disclose the Assessment document" where it has conducted a process of E&S Assessment.[92] Any E&S Action Plan (and subsequent updates thereof) must also be disclosed to affected communities in a format accessible to them.[93] In addition to supervising client compliance with PS1 disclosure requirements, IFC is required to disclose "any relevant social and environmental impact assessment documents prepared by or on behalf of the client."[94]

Specific consultation obligations are also set out in PS1 in relation to communities that "may be subject to adverse risks or adverse impacts" and "projects with significant adverse impacts on affected communities:".

> If *affected communities may be subject to risks or adverse impacts* from a project, the client will undertake a process of consultation in a manner that provides the affected communities with opportunities to express their views on project risks, impacts, and mitigation measures, and allows the client to consider and respond to them. Effective consultation: (i) should be based on the prior disclosure of relevant and adequate information, including draft documents and plans; (ii) should begin early in the Social and Environmental Assessment process; (iii) will focus on the social and environmental risks and adverse impacts, and the proposed measures and actions to address these; and (iv) will be carried out on an ongoing basis as risks and impacts arise. The consultation process will be undertaken in a manner that is inclusive and culturally appropriate. The client will tailor its consultation process to the language preferences of the affected

[91] IFC, *Environmental and Social Review Summary* (2008), 2.
[92] IFC *PS1* (2006), para. 20
[93] *PS1* (2006), para. 26.
[94] IFC, *Policy on Disclosure of Information* (2006), para. 13.

> communities, their decision-making process, and the needs of disadvantaged or vulnerable groups [emphasis added].[95]

At the level of procedure, the applicable ESRP provides that IFC will "request and review the information documenting the nature and extent of any disclosure or consultation undertaken by the client for the project."[96]

The ESRP also provides in relation to disclosure that IFC will:

> Verify that the client has disclosed material locally in an appropriate manner. Where there are no significant adverse impacts to local communities, and if the project has not previously disclosed information and if the client does not have an adequate summary of E&S information in a form suitable for disclosure prepared, the client may elect to translate the ESRS into the local language(s) removing references to IFC and disclose it locally along with any other materially relevant information.[97]

Discussion & Findings

Disclosure

IFC disclosed the ESRS and Action Plan for the Project on November 13, 2008 through its website, in compliance with the 30 day period before Board consideration required by the procedures for Category B projects.

Prior to the date of disclosure, however, IFC E&S staff discussed concerns that there might be "push back" from the client and the IFC transaction leader[98] to the disclosure of the E&S Assessment.[99] In the same exchange one E&S specialist asserted that disclosure of the E&S Assessment was "unambiguously covered under [the IFC] Policy on Disclosure and PS1."[100] A more senior E&S specialist replied that disclosure of the ESAP without the E&S Assessment would be acceptable as a minimum. A third senior specialist opined that IFC's disclosure requirements should include the ESRS, the ESAP and "all reports," while local level disclosure might be satisfied by the ESRS and ESAP in Spanish. In the same email exchange, the senior specialist expressed the view that the transaction leader was looking for an unacceptable level of flexibility in terms of disclosure requirements.[101]

Subsequently, neither IFC nor Dinant disclosed the E&S Assessment. Instead, Dinant translated and disclosed a modified version of IFC's ESRS (titled Resumen de la Evaluación Social y Ambiental)[102] through municipal offices in areas of its operations.[103] IFC's online disclosure was also limited to the ESRS and the October 2008 version of the ESAP.

As discussed above (see section 4.1.1), the contract under which the E&S Assessment was commissioned, to which Dinant was a party, described the product as "an environmental and social assessment and ESAP ***for Corporación Dinant S.A. de C.V***…" (emphasis added).[104] The stated objectives of the E&S Assessment included assessing the "environmental and social

[95] *PS1* (2006) para. 21.
[96] *ESRP* (2007) v.2.0, para. 3.2.2.
[97] *Ibid.,* para. 4.2.8.
[98] The transaction leader is the IFC investment officer with primary responsibility for a project/investment.
[99] IFC internal e-mail (08/04/2008).
[100] IFC internal e-mail (08/05/2008).
[101] IFC internal e-mail (08/05/2008).
[102] Significantly, CAO notes that reference to inadequacies in Dinant's approach to waste water processing contained in the ESRS are omitted from Dinant's *Resumen.*
[103] According to an advertisement in *La Tribuna* (11/13/2008, p. 38) the translated ESRS was available for view for 30 days at municipal offices in San Pedro Sula, Tela, Tocoa, Ciudad de Comayagua.
[104] Contract between DEG, the E&S consultant and Corporación Dinant S.A. de C.V (November 2007).

impacts of Dinant's existing and planned activities and operations."[105] The E&S Assessment was a central source of information for IFC's pre-investment E&S review. CAO thus finds that the E&S Assessment was a "relevant social and environmental impact assessment prepared on behalf of the client."[106] It follows that IFC's failure to disclose this document represents an ongoing breach of para. 13 of its Policy on Disclosure of Information.

Further, CAO finds that IFC supported a breach of PS1 (paras 20 & 26) by: (a) agreeing that the client would disclose a partial translation of the ESRS in the place of the E&S Assessment, and (b) failing to assure itself that the client's ESAP (including updates) were disclosed to affected communities in an accessible form. Given the nature of the E&S impacts and risks associated with the project, CAO finds that meeting this latter requirement would have required disclosure at the level of affected communities and was not met by making the documents available in government offices.

IFC's failure to comply with disclosure requirements seems to have resulted from what E&S specialists saw as an acceptable compromise in the face of perceived pressure from the transaction leader and the client to limit disclosure.

CAO further finds that ESRP (2007) para. 4.2.8 (cited in full above) contradicts the Policy on Disclosure of Information and the Performance Standards to the extent that it narrows client disclosure requirements. The Sustainability Policy and Performance Standards are endorsed by the IFC Board of Directors whereas the ESRP is a management document. Thus in case of inconsistency, CAO finds that the ESRP should be considered non-compliant. In this context CAO notes that the relevant language has been removed from the most recent version of the ESRP (v.7, April 2013), though it remains in an 'Interpretation Note on Local Disclosure Requirements for Clients' as posted on the IFC E&S Rules and Tools intranet site.[107]

Consultation

With regard to consultation, CAO finds no evidence that the communities living most proximate to Dinant's properties were consulted during the preparation of the E&S Assessment, upon its completion or in relation to the ESAP. The rationale for foregoing a consultation process, as explained to CAO by IFC staff, was that the project did not pose any adverse social and environmental risks or impacts to local communities, and therefore that consultation was optional under the policy.

In this context CAO notes that IFC assigned this project E&S Category B which by definition means it was considered to have potential (though limited) adverse impacts. CAO also notes findings of the E&S Assessment which identify environmental impacts relating to Dinant's air emissions and wastewater discharge. Further CAO notes that IFC's publically released ESRS reports that the majority of Dinant's facilities are surrounded by agricultural communities, and that the project will have impacts on community health and safety although these are described as "limited".

Given that consultation requirements in PS1 (para.21) extend to affected communities that may be subject to adverse risks and impacts from a project, CAO finds that consultation was required as part of the E&S Assessment process. On this ground, CAO finds IFC to be out of compliance the Sustainability Policy (para. 15) which requires IFC to ensure that its client's E&S Assessment meets the requirements of PS1. At a procedural level, CAO finds no evidence that IFC requested information documenting the nature and extent of consultation undertaken by the client as required by ESRP 3.2.2.

[105] *E&S Assessment*, 1.
[106] *Policy on Disclosure of Information* (2006), para. 13.
[107] The E&S Rules and Tools site is an internal repository of templates and resources for IFC E&S staff.

CAO reiterates its finding above that an inadequate E&S Assessment and review process (including community consultations) resulted in IFC underestimating the potential adverse impacts and risks attached to this project. In this context, CAO notes that, projects with significant adverse impacts trigger the increased consultation and Broad Community Support requirements of PS1 (para. 22) and the Sustainability Policy (para. 20).

4.1.5 - Development of the Environmental and Social Action Plan

Key Findings

- ESAP items agreed with E&S staff in October 2008 were dropped from the ESAP as included in the loan agreement between IFC and Dinant.
- CAO found no evidence that the E&S staff were consulted in or otherwise knew about this decision. This represents a breakdown in the assignment of responsibilities set out in the ESRP.

IFC Requirements

PS1 provides for the preparation of an ESAP where the client identifies specific mitigation measures and actions necessary for the project to comply with applicable laws and regulations and to meet the requirements of the Performance Standards.[108] Following the applicable ESRP at the time of contracting, the lead E&S specialist working on the project is responsible for providing E&S inputs to the loan agreement while the transaction leader (leader of the investment team) is responsible for ensuring that the team lawyer incorporates the inputs from the lead E&S specialist into the loan agreement.[109]

Discussion & Findings

CAO notes a discrepancy between the content of the ESAP disclosed by IFC before Board approval and the content of the ESAP annexed to the loan agreement. The ESAP of October 27, 2008 contained for main sections: 1) Management Systems; 2) Pollution Prevention and Occupational Health and Safety; 3) Community Health and Safety and 4) Sustainable Agriculture. Each of these sections specifies actions to be taken by the corporation and deadlines for their completion following the IFC commitment to the loan.

Section 1 of the October 2008 ESAP on Management Systems commits Dinant to develop a comprehensive Environmental and Social Management System. Specific requirements include the preparation of a detailed plan for the development and implementation of all aspects of the E&S System and obtaining certification to ISO 14001 and OSHA 18001.

Four items from Section 1 are listed as conditions of first disbursement, these are:

- assign experienced, corporate-level staff to lead the ESMS development and implementation on both environmental and occupational health and safety issues.
- prepare a detailed plan for development and implementation of all aspects of the ESMS, including definition of roles and responsibilities along with schedule for actions, for review and approval by the lenders.
- comply with pregnancy and maternity requirements in accordance with the Honduran Labor Code.

[108] *PS1* (2006), para. 16
[109] IFC, *ESRP* (2009), v.3, para. 4.3

- develop an alternative working model to find a better option to regulate the maximum allowed working hours per shift (day and night) and per week (*proposal and timeframe prior to 1st disbursement*)[110]

The Environmental and Social Clearance Memorandum (ESCM) dated December 2008 which clears the Dinant Project to proceed to the Board cites the four items from the October 2008 ESAP listed above as conditions of first disbursement.

By way of contrast, the ESAP incorporated into the loan agreement between the IFC and Dinant (April 30,2009) does not contain the section on Management Systems (Section 1) described above. Instead, it begins with section 2 on Pollution Prevention and Occupational Safety and covers the remaining two sections on Community Health and Safety and Agriculture. The language in the remaining sections of this version of the Action Plan has not been altered, but the first section is missing from the document, and consequently from the legally binding commitments contained in the Loan Agreement.

CAO has not been able to determine what led to the deletion of the original section 1 of the ESAP. One IFC staff member indicated that the pages in question had probably been lost when the document was being reproduced. Another explanation offered by IFC staff was that these items might have been cut out during the negotiating process leading to the loan agreement. In its written review of the draft of this audit, IFC takes the position that this was "an honest mistake which in the end was not consequential."[111] Regardless of the reason, the end result was that conditions that E&S staff had articulated as part of their approach to the management of risks around the project were dropped from the loan agreement. CAO found no evidence that the E&S staff was consulted in or otherwise knew about this decision. This represents a breakdown in the assignment of responsibilities set out in the ESRP.

4.2 IFC'S E&S PERFORMANCE DURING SUPERVISION (APRIL 2009 - PRESENT)

In relation to supervision, this section addresses the second question in the audit TOR: "whether IFC responded adequately to the context of intensifying social and political conflict surrounding the project post commitment".

Under this heading, the audit focuses on two questions: (a) whether IFC exercised due diligence in its assessment of specific events that occurred between Commitment (April 2009) and First Disbursement (November 2009) in particular developments related to conflict and claims on and/or around properties belonging to Dinant in the Aguán Valley; and (b) whether IFC's response in the post disbursement period was sufficient given the violent nature of the conflict that was playing out around on the ground around the Dinant properties in the Aguán Valley.

[110] *ESAP* (2008), 1.
[111] IFC response to CAO draft audit report (08/30/2013).

4.2.1 – Adequacy of review of CODs prior to 1st disbursement

Key Findings

- IFC failed to adequately assess its client's performance against the full range of ESAP CODs that had fallen due prior to making its November 2009 disbursement to Dinant.
- IFC investment staff did not keep E&S staff appraised of developments in relation to land disputes, and occupations around the client's plantations of which they were aware.
- IFC investment staff processed the November 2009 disbursement on the basis of representations made by the client five months earlier, without adequate analysis of the impact of intervening events on the validity of those representations.
- As a result, IFC did not comply with ESRP requirements that any E&S CODs are met by the client prior to disbursements.

Background

Events in Honduras and the Bajo Aguán developed significantly in the course of 2009. In this context and given Dinant's performance against the requirements of the ESAP, questions arise as to the appropriateness of IFC's clearance of the first disbursement.

Key events in 2009 up until the date of first disbursement (November 5, 2009) include:

- March 3, 2009 – MUCA submits a 'Proposal for Negotiable Agreements' suggesting that a dialogue commission be established to address ongoing land disputes between peasant groups and agribusiness in the Bajo Aguán.[112]
- May 28, 2009 – MUCA affiliates occupy Dinant's *El Chile* property as a measure to pressure the state to respond to commitments made in relation to land issues in the Bajo Aguán.[113]
- June 19, 2009 – President Zelaya visits Tocoa to formalize the creation of the Technical Judicial Commission charged with reviewing the land claims of the peasant movement in the Bajo Aguán.[114]
- June 19, 2009 – Dinant notifies its banks of the expropriation of 66 ha of its *Paso Aguán* property by INA. The letter recounts a history of legal disputation around the *Paso Aguán* property dating back to 2002 as well as attempts by peasant groups to occupy it. The letter states that INA has based its decision to expropriate *Paso Aguán* on decree #18-2008, although this decree is argued to be unconstitutional. The letter also refers to the earlier invasion of its *El Chile* property by members of the peasant movement.[115]
- June 21, 2009 – Technical Judicial Commission commences its work in the Bajo Aguán meeting with key stakeholders including MUCA representatives.[116]
- June 23, 2009 – Press reports the shooting of Fabio Ochoa who is alleged to have been "an important part of the MUCA negotiating team which in recent weeks had been fighting for lands held by [Dinant's owner]".[117]
- June 28, 2009 – ouster of President Zelaya.

[112] *Recuento de los hechos y la recuperacion de las tierras de la reforma agrarian*, Albatv.com (01/13/2010) accessed 06/13/2013, http://www.albatv.org/Recuento-de-los-hechos-y-la.html
[113] *Ibid.*
[114] Federation for Human Rights (FIDH), *Honduras: Human Rights Violations in the* Aguán *Valley* (September, 2011) accessed 06/13/2013, http://www.fidh.org/IMG/pdf/honduras573ang.pdf
[115] Letter from Dinant to Banco Fichosa (06/19/2009).
[116] See *Recuento de los hechos* above.
[117] Sixto Rodriguez "Nuevo atentado contra dirigente popular in Colon" *Honduraslaboral.com* 06/23/2009, accessed 02/20/2013, http://goo.gl/h90RJu

- August 31, 2009 – Dinant notifies IFC that securities over two of its properties in the Bajo Aguán (*San Isidro* and *9 de Agosto*) have not been completed due to asset freezing orders.[118] In response IFC negotiates a revision to the loan agreement in September 2009, adding Dinant's *El Chile* and *La Isla* properties as alternative securities.
- October/November 2009 – Dinant notifies IFC that the attachments over *San Isidro* and *9 de Agosto* have been lifted and registration of securities is confirmed.[119]

IFC Requirements

According to the ESRPs in place at the time of first disbursement (v.4, 2009) IFC's role in project supervision includes "ensuring that any E&S CODs are met by the client prior to disbursements"[120]. This requirement is detailed as follows:

> After the legal agreements have been executed and where there are E&S CODs to be completed prior to certain disbursements, obtain requisite information from the Transaction Leader to determine the status of their fulfillment. Inform the Transaction Leader if there are any E&S CODs not complied with. Waivers of E&S CODs must be cleared by the Manager CESI and documented in the ESRD.[121]

Discussion

In this section CAO considers three relevant types of CODs: (a) ESAP requirements; (b) the requirement of no material adverse effect; and (c) the requirement that representations and warranties made are true and correct as at the date of disbursement.

IFC's Loan Agreement with Dinant contains conditions of all disbursements (para 4.02) and specific conditions for the first disbursement (para. 4.01). It is a condition of the first disbursement that "the Borrowers have completed the actions specified in the Action Plan, as applicable for each Disbursement, in form and substance acceptable to IFC."[122] It is a condition of all disbursements (including the first disbursement) that borrower has "completed all items in the Action Plan, to the IFC's satisfaction, that needed to have been completed prior to the date of disbursement as stipulated in the Action Plan".[123]

The Dinant ESAP (October 2008) as disclosed on the IFC website contained two categories of deadlines; items that needed to be completed "prior to first disbursement" and those that needed to be completed within a defined period. As it eventuated, first disbursement was authorized seven months and two days after commitment.

ESAP items that were listed conditions of first disbursement and those that fell due prior to the date on which first disbursement was made are set out in the table below.

[118] Email from Dinant to IFC (08/31/2009).
[119] IFC response to CAO draft audit report (08/30/2013).
[120] *ESRP* (2009), v.4, para. 6.1.1.
[121] *Ibid.,* para. 6.2.1.
[122] *Loan Agreement between Corporacion Dinant S.A. de C.V. and Exportadora del Atlantico S.A. de C.V. and International Finance* (04/03/2009), para 4.01 (m).
[123] *Ibid.,* para 4.02 (l).

Table 1: ESAP conditions of disbursement (listed and falling due prior to Nov. 5, 2009)

ESAP Management Measure	ESAP Deadline	CAO Observations
1. Management Systems		
(a) Assign experienced, corporate-level staff to lead the ESMS development and implementation on both environmental and occupational health and safety issues.	Prior to 1st disbursement	In disclosed ESAP but omitted from ESAP as Annexed to Loan Agreement. No evidence of E&S review prior to 1st disbursement.
(b) Prepare a detailed plan for development and implementation of all aspects of the ESMS, including definition of roles and responsibilities along with schedule for actions, for review and approval by the lenders.	Prior to 1st disbursement	As above
1.2 Human Resources		
(a) …comply with pregnancy and maternity requirements in accordance with the Honduran Labor Code.	Prior to 1st disbursement	As above
(b) … develop an alternative working model to find a better option to regulate the maximum allowed working hours per shift (day and night) and per week.	Develop a proposal and timeframe prior to 1st disbursement	As above
(c) … Develop and implement a formal grievance mechanism for all workers	Within 6 months of commitment	As above
2.1 Waste Management		
Carry out a study of stack emissions from all boilers, and prepare a plan, with costs and schedule, to address any noncompliance with Honduran laws and regulations and with IFC guidelines for PM, SO2 and NOx.	Prior to 1st disbursement	COD reviewed by E&S staff prior to 1st disbursement.
2.3 Fire and Life Safety		
Carry out a formal fire and life safety review, according to IFC Guidelines, of all facilities by a certified professional, and prepare a plan for implementation of any required corrective actions within a time frame acceptable to the lenders.	Within 6 months of commitment	No evidence of E&S review prior to 1st disbursement.
3. Community Health and Safety		
Develop and implement a formalized grievance mechanism in accordance with IFC's Performance Standard 1 and international good practice in order to ensure that specific concerns of communities are received and addressed (also see IFC's Stakeholder Engagement Good Practice Handbook for guidance).	Within 6 months of commitment	No evidence of E&S review prior to 1st disbursement.

Table 1 (cont.)

ESAP Management Measure	ESAP Deadline	CAO Observations
4. Sustainable Agriculture		
Audit all palm oil production and processing operations and prepare a workplan and schedule for meeting international standards for sustainable palm oil production (including the RSPO Principles and Criteria, and other standards as available) and achieving independent certification.	Within 4 months of commitment	No evidence of E&S review prior to 1st disbursement.
Suspend the use of any pesticides that are listed in the Stockholm Convention, and dispose of any remaining stocks as appropriate.	Prior to 1st disbursement	No evidence of E&S review prior to 1st disbursement.
Develop a land acquisition protocol which specifies procedures to ensure that all land acquisition complies with company policies on land acquisition and land use, and IFC Performance Standard 5.	Within 6 months of commitment	No evidence of E&S review prior to 1st disbursement.

CAO notes that in the period following Dinant's request for disbursement (June 10, 2009) the IFC E&S team focused on the client's completion of ESAP item 2.1 in relation to stack emissions (see table above). E&S staff initially declined to approve the first disbursement until necessary studies had been completed.[124] E&S then cleared first disbursement following receipt of an Action Plan setting out Dinant's approach to addressing boiler emissions issues in October 22, 2009.[125]

Correspondence with the investment officer responsible for Dinant dated September 2009, indicates that the E&S department is "under pressure … to ensure much more rigor in [its] E&S approach to all agribusiness sectors." While indicating the the E&S department had previously been "more flexible in meeting action plan requirements" the email continues that "business as usual is no longer good enough" and that CES is now instructed "to meet the letter of all requirements."[126]

In this context and given developments at the national level and on the ground in Aguán Valley between April and November 2009, it is notable that CAO was unable to find evidence that IFC reviewed Dinant's progress in relation to ESAP items with timelines requiring completion prior to first disbursement (other than item 2.1 as discussed above). Relevantly these included the development of a PS1 compliant grievance mechanism, and an audit of palm oil production and processing operations in line with international standards for sustainable palm oil production (see table above).

In addition to meeting ESAP requirements it is also a condition of all disbursements that:

> "nothing has occurred which has or can reasonably be expected to have a Material Adverse Effect"[127]

The loan agreement further defines Material Adverse Effect (MAE) as follows:

> a material adverse effect on: (i) any of the Guarantors, any of the Borrowers' or any of its respective Subsidiaries' business, Operations, property, liabilities, conditions (financial or otherwise), prospects or the carrying on of any of the Guarantors, or the Borrowers' or its Subsidiaries' business or Operations; (ii) the implementation of the Transaction; or (iii) the ability

[124] IFC internal emails, September, 2009.
[125] Letter from Dinant to IFC (10/22/2009).
[126] IFC internal email (09/28/2009).
[127] *Loan Agreement*, para. 4.02 (c).

> of any of the Guarantors, any of the Borrowers or any of its respective Subsidiaries to comply with its obligations under this Agreement, or under any other Transaction Document to which it is a Party.[128]

In relation to the potential occurrence of a Material Adverse Effect, CAO notes IFC's position that IFC analyzed its portfolio and the potential for the occurrence of an MAE in July 2009, following the removal of President Zelaya on June 28, 2013. IFC also states that "[the] Legal [department] advised prior to disbursement that the political situation per se did not constitute a Material Adverse Effect under the loan agreement, unless such event materially impacted the Company's business operations"[129]. In relation to this issue CAO notes correspondence from June 2009 between the IFC Transaction Manager and its Chief Credit Officer. In a view confirmed by the IFC investment team to CAO the Transaction Manager expressed the view that:

> As long as the roads are open and cargo port works, Jaremar[130] should not suffer significantly. We also thought that we could potentially invoke MAC (sic.) clause prior to disbursement should things deteriorate further. Please let me know if you suggest otherwise.[131]

To this the Chief Credit Officer responded that:

> We should could (sic.) get legal counsel to confirm that MAE can be activated in case the situation deteriorates. Also, we should have an update on the situation in the PDS-Disbursement, including an analysis from the team, why it does not think the political situation will have an impact on the company. We should also do this for Dinant disbursement.

CAO was unable to locate documentation of this advice from Counsel on this issue.[132] Though first disbursement was cleared by the Chief Credit Officer in November 2009, the description of political developments contained in the disbursement documentation reviewed by CAO focusses on financial risk, omitting any analysis of how recent national level events or the escalation of the conflict over land in the Aguán (described above) might affect E&S risk surrounding the investment or Dinant's ability to deliver on its E&S commitments.

CAO also notes the absence of correspondence between the investment department and IFC E&S specialists either in relation to land claims affecting Dinant's holdings in the Aguán Valley – which the IFC investment team became aware of at latest by way of Dinant's notification to its Banks on June 19, 2009[133]– or more generally in relation to issues of the occurrence of a potential MAE.

CAO notes that the occurrence of an MAE extends to the borrower's ability to comply with any aspect of the loan agreement-and thus to its covenanted obligation to carry out the project in accordance with the performance standards and the ESAP. According to the IFC's schedule of CODs met, the no MAE requirement for the November 2009 disbursement was cleared on the basis of the client's Disbursement Request dated June 10, 2009.

[128] *Ibid.,* para. 1.01.
[129] IFC written submission to CAO, (June, 2012)
[130] Another IFC investment in oil palm in Honduras that was being considered by IFC at the time.
[131] IFC internal emails (06/29/2009).
[132] CAO followed up with IFC Counsel responsible for the Dinant transaction in relation to this but was advised that "Due to high volume of work and limited resources I was unable to go back to emails dating back 2 or 3 years to check." Email (4/16/2013).
[133] Letter from Dinant to Banco Fichosa (06/19/2009).

Finally CAO notes that it is a condition of all disbursements that:

> representations and warranties made […] are true and correct in all material respects on and as of the date of that Disbursement with the same effect as if those representations and warranties had been made on and as of the date of that Disbursement.[134]

In particular CAO notes the client's representation that:

> (i) to the best of its knowledge and belief, after due inquiry, there are no material social or environmental risks or issues in respect of any of the Borrowers' Operations; and (ii) it has not received nor is aware of either (A) any existing or threatened complaint, order, directive, claim, citation or notice from any Authority or (B) any material written communication from any Person concerning the Borrowers' Operations failure to comply with any matter covered by the Performance Standards which failure has, or could reasonably be expected to have, a Material Adverse Effect or a material adverse impact on the implementation or operation of its Operations in accordance with the Performance Standards.[135]

Again - despite the deterioration of the political situation in Honduras following the removal of President Zelaya and land claims affecting Dinant's holdings in the Aguán Valley which the IFC investment team was aware of – CAO finds no indication that the continued validity of Dinant's representations regarding E&S risks and issues were subject to scrutiny by IFC. Rather, according to the IFC's schedule of CODs, continued validity of representations and warranties requirement was cleared on the basis of representations contained in the client's Disbursement Request dated June 10, 2009.

Findings

CAO concludes that IFC did not ensure that E&S CODs were met by the client prior to disbursement as required by the ESRP.[136] In CAO's analysis this occurred for a number of reasons. Firstly, there was a lack of clarity as to the content of the ESAP. Secondly, IFC E&S staff failed to adequately assess its client's performance against the full range of ESAP conditions that had fallen due prior to the date of disbursement. Thirdly, IFC investment staff did not keep E&S staff appraised of relevant developments in relation to land disputes, occupations and negotiations around the client's plantations in the Aguán Valley of which they were aware. Fourthly, investment staff did not involve E&S staff in an assessment of local and national developments that could have constituted a Material Adverse Effect on the project. Fifthly, investment staff processed the disbursement in November 2009 on the basis of representations made by the client five months earlier, without evidence of analysis of the impact of intervening events on the validity of those representations. As a result IFC disbursed US$15 million to a client that was in apparent non-compliance with its E&S obligations, in a risk environment that had deteriorated significantly since IFC's E&S appraisal a year earlier. This represents a significant failure of supervision.

Adequate review of CODs prior to disbursement is crucial to the integrity of IFC's E&S Framework. The above analysis suggests that a review of procedures may be required to ensure that: (a) IFC E&S staff document client performance against the full range of ESAP requirements prior to clearing disbursement; (b) it is clear to IFC investment and E&S staff that the definition of MAE is not limited to financial impact, but rather includes any changes to the client's capacity to comply with its obligations under the ESAP and Performance Standards; and (c) investment staff share information with E&S staff and include E&S staff in reaching conclusions as to the fulfillment of CODs outside the ESAP where relevant.

[134] *Loan Agreement*, Section 4.02, 44
[135] *Ibid.*, para. 4.02, 40
[136] *ESRP* (2009) v.4 para. 6.2.1.

4.2.2 – General supervision (post-disbursement)

Key Findings

- IFC failed to "develop and retain the information needed to assess the status of [its client's] compliance with the Performance Standards (PSs)" during supervision as required by the ESRP (ESRP 6. v.5, para. 1).
- IFC did not adequately supervise its client's PS4 obligations: (a) to investigate credible allegations of abusive acts of security personnel (para. 15); and (b) not to sanction the use of force by security personal other than for "preventative and defensive purposes in proportion to the nature and extent of the threat" (para. 14).
- IFC failed to require an adequate root cause analysis in relation to the serious incidents that were occurring around the project (ESRP 6. v.5, para 2.2.).
- There were gaps in the supervision of this project at critical times. This included the period following Dinant's notification of the occupation of three of its properties in December 2009; and the six months from February to August 2010 after Dinant informed IFC that five of its security guards had been killed in a clash with peasant occupiers.
- IFC did not give due consideration to the requirement that IFC "exercise remedies where appropriate" in a situation where a client does not or is not able to re-establish E&S compliance (Sustainability Policy, para. 26).

IFC Requirements

IFC is required to monitor clients' E&S performance throughout the life of an investment. Project supervision is conducted on the basis of annual monitoring reports (AMR) submitted by the client and site visits. As set out in the ESRP "the purpose of E&S supervision is to develop and retain the information needed to assess the status of compliance with the Performance Standards (PSs) … and the Environmental and Social Action Plan (ESAP or Action Plan)"[137].

If a client fails to comply with its E&S commitments IFC's approach is to work with the client to bring it back into compliance to the extent feasible and "if the client fails to reestablish compliance, exercise remedies where appropriate."[138]

In the case of serious incidents or fatalities linked to a project, the IFC Environmental and Social Review Procedures provide that IFC "will request the client to investigate root causes for the incident, prepare conclusions resulting from the investigation, and prepare an Environmental and Social Action Plan (ESAP or Action Plan) listing short-term and long-term actions to be implemented to prevent recurrence…"[139]

Of particular relevance, IFC PS4 requires that the client "will not sanction any use of force except when used for preventative and defensive purposes in proportion to the nature and extent of the threat."[140] PS4 also provides that "client will investigate any credible allegations 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 where appropriate."[141]

Finally CAO notes PS2 requirements that an IFC client provide the workers with "a safe and healthy work environment."[142]

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[137] *ESRP*, v5., para. 1.
[138] *Sustainability Policy* (2006), para. 26.
[139] *ESRP*, v.5 para 2.2.
[140] *PS4* (2006), para. 14.
[141] *Ibid.,* para. 15.
[142] *PS2* (2006), para. 16.

Key requirements from the loan agreement

Beyond conditions of disbursement, the IFC's loan agreement embeds Dinant's E&S commitments in an enforceable framework, setting out covenants, representations, reporting requirements, and events of default. The following provisions of the loan agreement appear particularly relevant in the context of later events.

a) *Representation*: The client represents that it has "good and marketable title to all of the assets purported to be owned by it (…) in all cases free and clear of all Liens"[143] and also that it is not "engaged in nor, to the best of its knowledge, after due inquiry, threatened by, any litigation, arbitration or administrative proceedings, the outcome of which could reasonably be expected to have a Material Adverse Effect."[144]

b) *Covenant*: "Environmental Matters. Undertake its respective Operations in compliance with (i) the Action Plan, and (ii) the applicable requirements of the Performance Standards."[145]

c) *Covenant*: "The Borrowers shall hire a consultant, acceptable to IFC, to undertake a field audit and draft Standard Operating Procedures ("SOPs") for the palm oil plantations and update the SOPs for the extraction mills which shall be completed within six (6) months of the first Disbursement."[146]

d) *Reporting*: The loan agreement requires an Annual Monitoring Report (AMR) "Within ninety (90) days after the end of each Financial Year…confirming compliance with the Action Plan, the social and environmental covenants set forth in Sections 5.01 and 5.02 and Applicable S&E Law, or, as the case may be, identifying any non-compliance or failure, and the actions being taken to remedy it."[147] (

e) *Reporting*: The loan agreement requires that "Within three (3) days after its occurrence, notify IFC of any social, labor, health and safety, security or environmental incident, accident or circumstance having, or which could reasonably be expected to have, a Material Adverse Effect (MAE) or material adverse impact on the implementation or operation of the Transaction in accordance with the Performance Standards, specifying in each case the nature of the incident, accident, or circumstance and any effect resulting or likely to result there from, and the measures the Borrowers is taking or plans to take to address them and to prevent any future similar event; and keep IFC informed of the on-going implementation of those measures and plans."[148]

f) *Events of Default*: The loan agreement includes the following as an event of default. "Failure to Comply with Obligations. Either of the Borrowers fails to comply with any of its obligations under this Agreement … and any such failure continues for a period of thirty (30) days after the date on which IFC notifies either of the Borrowers of that failure."[149] It is also an event of default if "any representation or warranty made in Article III or in connection with the execution of, or any request (including a request for Disbursement) under, this Agreement … is found to be incorrect in any material respect."[150]

[143] *Loan Agreeement*, para 3.01 (k).
[144] *Ibid.*, para 3.01 (k).
[145] *Ibid.*, para 5.01 (g).
[146] *Ibid.,* para 5.01 (j).
[147] *Ibid.,* para. 5.03 (d).
[148] *Ibid.,* para. 5.03 (d).
[149] *Ibid.,* para. 6.03 (c).
[150] *Ibid.,* para. 6.03 (e).

Discussion of Supervision Activities & Contemporaneous Events

The following discussion is arranged chronologically. In narrating the context for IFC's supervision of its investment in Dinant, and recalling its mandate as a non-judicial accountability mechanism for IFC, CAO has been careful not make findings of fact that overreach available evidence. A range of secondary sources are, however, cited as a means of establishing the state of coverage of the conflict that played out on and around Dinant's properties in the Bajo Aguán. Allegations are recognized as such and should not be confused with findings of fact. A recital of key allegations is, however, necessary in order to discuss the adequacy of IFC's supervision of the project, in particular the requirements of PS4 cited above. In repeating these allegations, Dinant's position as explained to CAO is noted, namely that the killings of peasants reported in the Aguán are either unconnected to Dinant and its security personnel, or involve acts of legitimate self defense on behalf its security personnel.

Year: 2009/2010

Land related conflict in the Aguán Valley escalates in the days following the national elections on November 29, 2009.

In December 2009, a report by the Inter American Commission on Human Rights warns of human rights abuses against leaders of groups involved in the land disputes in the Aguán Valley.[151] Local resources allege increasing violence in the area at the time,[152] and IFC confirms verbal notification from Dinant of invasions of three Dinant properties during the same month (*San Isidro, La Confianza* and *La Aurora*).

On or about February 14, 2010, there is a clash between *campesinos* and Dinant security forces, resulting in the death of five security guards.[153] On February 16, 2010, Dinant informs IFC via letter of the status of the eviction orders on the three occupied farms, and the legal status of the expropriation of "other farms." Dinant also informs that they are in "the process of implementing a security system" with the aim of "avoiding future […] invasions."[154] The letter refers to an invasion its *La Isla* property in June 2009, but does not mention the killing of its security guards.

The first record of a post disbursement discussion regarding Dinant at IFC that includes E&S staff is dated March 17, 2010. This happens in the form of an email soliciting comments on a 'One Minute Brief' to senior management. The brief titled, 'Dinant: Land Dispute,' presents a one page analysis of the issue, background, risks/opportunities, IFC actions and holding statement. It describes a situation in terms of "farmers armed with semi-automatic weapons" having "gradually invaded 4,500ha" of Dinant's plantations.[155] It also notes that the area around the plantations is "increasingly known for drug and arms trafficking and the presence of foreign leftist operatives."[156] Under IFC actions, the Memo states that IFC will respond to inquiries with a holding statement. No further proposed actions on the IFC side are included.

In response to the draft One Minute Brief, IFC E&S staff undertake a preliminary review of documentation related to the project. This review notes that land disputes are an "inherent problem in most of Central America,"[157] but does not find any indication of specific land

[151] Inter American Commission on Human Rights Honduras, *Derechos Humanos y golpe de estado* (2009).

[152] Comite de Familiares Desaparecidos en Honduras (COFADEH) *Urgent Alert: Police and military repress peasants in Trujillo and Tocoa, Honduras* (01/08/2010). http://goo.gl/7plmSE

[153] *Ibid.*

[154] Dinant letter to IFC (02/16/2010).

[155] IFC, *One Minute Memo* (2010).

[156] *Ibid.*

[157] IFC internal email (03/18/ 2010).

acquisition issues related to Dinant on file. CAO finds no evidence that IFC requests a root cause analysis from the client or otherwise assesses the underlying causes of the fatalities at this point.

On March 4, 2010 various banks invested in Dinant write a letter to President Lobo expressing concerns on how the current situation in the Aguán Valley can have an "impact on the mortgages securing their existing loans."[158] On April 13, 2010 the Government of Honduras (GoH) announces a Judicial Commission aimed at analyzing the feasibility of transferring land in the Bajo Aguán to the peasant cooperatives.[159]

On March 23, 2010 Dinant's owner meets with IFC industry and regional management in Washington, DC.[160] No E&S staff was invited to the meeting and no minutes were circulated.

Based on available documentation and discussions with relevant staff, it is unclear to CAO whether a lead E&S Specialist (LESS) was assigned to the project from March 1 until August 23, 2010. In any case, CAO finds no indication that IFC E&S staff undertook further work on the project until August 23, 2010, when the transaction leader requested a review of E&S conditions for Dinant's second disbursement. At this point a new IFC E&S specialist is assigned to the project and advised to seek handover information from an E&S specialist who reports leaving the project team when she changed jobs at the end of February 2010.

CAO notes that IFC's approach to supervision of the project becomes more proactive starting in November 2010. At or about this time there is confirmation of the expropriation of parts of Dinant's *El Tumbador* property by the GoH.[161] Also in November 2010, World Bank President Robert Zoellick receives a letter from NGO, Rights Action, alleging that private security forces employed by Dinant have killed five farmers in the course of an illegal eviction.[162]

In the months that follow IFC senior management and Dinant's owner exchange letters.[163] The Executive Vice President & CEO of the IFC also writes to the President of the Republic of Honduras,[164] welcoming and supporting the appointment of a Special Commission to address the underlying land conflict. IFC efforts at this time focus on urging Dinant to avoid further violence or public action that might ignite tension. IFC also requests Dinant to engage the services of an independent international security specialist to conduct an audit of Dinant's approach to security. Dinant's response recognizes the challenges of the situation, agrees with the need for a security audit and acknowledges the financial impact of the expropriation of land by the government.

According to the US State Department during 2010:

> "confrontations over a long-standing land dispute between owners of African palm plantations and protesting rural agricultural workers in the Aguán Valley, Colón Department resulted in the deaths or injuries of approximately 17 agricultural workers, 13 private security guards, and one police officer. Human rights groups alleged that police and private security guards used disproportionate force against protesting workers. Plantation owners asserted that on several

[158] IFC written submission to CAO (June, 2012).
[159] President of the Republic of Honduras, *Acta de Compromiso* (Tegucigalpa, 04/13/2010). http://goo.gl/sySOty
[160] IFC written submission to CAO (June, 2012).
[161] Dinant letter to IFC (12/03/2010).
[162] Rights Action letter to World Bank Group's President (11/23/2010).
[163] IFC letter to Dinant (12/03/2010), and Dinant letter to IFC (12/07/2010).
[164] IFC Executive Vice President & CEO letter to the President of the Republic of Honduras (01/28/2011).

> occasions some armed members of the Unified Aguán Agricultural Workers' Movement (MUCA) invaded their plantations, resulting in the killings of security guards."[165]

According to civil society sources 24 people affiliated with the peasant movement in the Aguán were victims of homicide during 2010. Specific allegations are made linking at least 11 of these killings to Dinant properties or security guards.[166]

At the same time efforts are being undertaken by the Government of Honduras to address the causes of the conflict. On April 13, 2010 the GoH and MUCA sign a memorandum of understanding (MOU). The MOU includes the establishment of a new Judicial Commission aimed at analyzing the feasibility of transferring land in the Bajo Aguán to the peasant cooperatives,[167] including up to 3,000ha of cultivated land belonging to Dinant.[168] The GoH also opened a parallel process between the Campesino Organization MARCA and businessman Rene Morales.[169]

Dinant does not provide IFC with an AMR for 2009 or 2010.

Year: 2011

In March 2011 a delegation of six international human rights organizations visit the Bajo Aguán reporting on-going violations of human rights as well as a growing militarization of the area. This report contains allegations of 21 homicides committed against of members of the peasant movement in the Bajo Aguán. Of these killings, five (those of November 2010) are alleged to be perpetrated by Dinant security guards.[170] The allegations in relation to these killings are reported widely including by major media outlets such as the *New York Times*.[171]

The first substantive analysis of the conflict appears on the IFC's file in February 2011 in the form of the desk study commissioned by DEG. This study places the contemporaneous conflict in the context of land reforms that date back to the 1960s and a revival of the peasant movement in the aftermath of Hurricane Mitch. It notes the founding of MCA in 1998, the founding of MUCA in 2001, and recounts the various legal and political campaigns which these groups have run with the objective of reclaiming land in the Aguán from large landholders including Dinant's owner.[172]

After earlier postponements due to security concerns, IFC stages an E&S supervision visit in March 2011. A key finding from the mission was that Dinant's E&S management system is "poorly developed,"[173] especially in relation to social issues. Specific concerns reported include the absence of a social baseline analysis, the lack of stakeholder engagement, and a failure to identify key risks in relation to land and security issues.[174] This description of the weaknesses of Dinant's E&S systems stands in contrast to the documentation that was prepared in the course of IFC's earlier E&S review (see section 4.1.1 above).

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[165] US Department of State, *2010 Honduras: Human Rights Report* (04/08/2011) http://www.state.gov/documents/organization/160459.pdf
[166] Rights Action, *Petition to the Inter-American Commission on Human Rights* (05/30/2013).
[167] *Acta de Compromiso* (2010).
[168] La Prensa, *Gobierno de Honduras y campesinos del Bajo Aguán firman acuerdo* (06/03 2012) Accesed 07/10/2013, http://www.laprensa.hn/Secciones-Principales/Honduras/Tegucigalpa/Gobierno-de-Honduras-y-campesinos-del-Bajo-Aguan-firman-acuerdo
[169] La Prensa, *Por fin Gobierno, Facusse y MUCA logran* acuerdo (06/15/2011) http://goo.gl/3F5ll8
[170] FIDH, *Honduras: Human Rights Violations in the* Aguán *Valley* (September 2011).
[171] New York Times, *Honduras Land Conflicts Highlight Polarization* (09/15/2011) http://goo.gl/DUadPd
[172] Rieck and Peetz, *Desk-Study*, 3-9
[173] IFC *Supervision Activity: Supervision Site Visit* (05/04/2011), 1.
[174] *Ibid.*

The forward looking part of the March 2011 supervision report focuses on security issues, in the context of the ongoing violence around the Dinant properties in the Aguán Valley. A key reference in this regard is a Security Program Assessment (SPA) conducted in February 2011 which was commissioned by Dinant at IFC's suggestion. The SPA presents an analysis of Dinant's approach to security including its compliance with IFC requirements (PS4) and the Principles for Security and Human Rights. The SPA's findings are made on the basis of interviews with Dinant management, security guards, third party security providers and local mayors. The SPA is clear at the outset that an investigation of facts related to recent security incidents is outside of its scope. Key findings of the SPA include:

a) Dinant does not have a PS4 based system in place (though the foundations for such a system in terms of motivated and energetic leadership were found to be present);
b) Dinant has significantly increased its security capacity in response to growing concerns over a period of approximately two years prior to the date of the report;
c) Dinant's in house security guards are better trained and more experienced than third party hires, having motivated and professional leadership;
d) Third party security providers have difficult retaining staff and as such, that third party security guards were poorly trained; and
e) Dinant was not able to produce a security risk assessment for review.[175]

As a result of the supervision visit IFC assessed progress against an updated the ESAP including integration of security related actions. March 2011 version of the ESAP reintegrates management system related actions that had been omitted from the loan agreement ESAP in April 2009 (see section 4.1.5 above).

The review of the ESAP reveals eight non-completed items that had fallen due by March 2011 including three which should have been completed prior to the date of the first disbursement (see section 4.2.1 above), and a further three non-completed items that scheduled for completion by April 2011. The non-completed items covered a range of issues including E&S management systems, pollution prevention, community health and safety and sustainable agriculture. Following the supervision visit Dinant is given an Environmental and Social Risk Rating (ESRR) of 4: Unsatisfactory.[176]

The results of the supervision are formally communicated to Dinant in a letter from IFC dated 26 July 2011. This letter notes that Dinant has fallen short of its promised ESAP actions and requested that Dinant develop corrective action plans (CAP) in relation to a range of environmental and social concerns including the development of a security CAP. The letter also provides extended deadlines in relation to outstanding ESAP items.[177]

During Government led negotiations relating to the land situation in the Aguán Region, violence escalates in August 2011 when four private security guards on Dinant's *Paso Aguán* property were killed.[178] In September 2011, the Honduran parliament approved financing for the expropriation of land claimed by the peasant movement the Bajo Aguán.[179]

According to the US State Department during 2011:

> "confrontations over a long-standing land dispute between owners of African palm plantations and rural field workers in the Aguán Valley, Colón Department, resulted in the deaths of or injuries to approximately 55 persons, including field hands, private security guards, security force

[175] Don McFetridge, *Security Program Assessment* (March 2011)
[176] IFC report of site supervision visit (05/04/2011), 4.
[177] Letter from IFC to Dinant (07/26/2011).
[178] FIDH, *Honduras: Human Rights Violations in the Aguán Valley* (September 2011), 18.
[179] Congreso Nacional *Indice de Decretos* (2011) Decreto161-2011, 78. http://goo.gl/BPwrau

> members, one judge, and bystanders. At year's end responsibility for all but two of these deaths had not been established. Human rights groups alleged that police, soldiers, and private security guards used disproportionate force against the protesting workers. On August 15, approximately 200 unknown gunmen attacked a group of private security guards, killing four and wounding 11."[180]

According to civil society sources, 35 people affiliated with the peasant movement in the Aguán were victims of homicide in 2011.[181] Specific allegations are made linking at least 15 of these killings to Dinant properties or security guards.[182]

Dinant does not provide IFC with an AMR for 2011.

Year: *2012*

The next supervision visit is organized in April 2012. The BTOR from that mission concludes that while Dinant has hired a new human resources manager, "little progress has been made on the social aspects of the ESAP which had been developed with various milestones."[183] Ongoing issues in relation to stakeholder identification and engagement, external grievance management, security and land are identified. The ESRR for the project remains at 4: Unsatisfactory, with a note that Dinant "has significant gaps with Honduran E&S legal requirements and little progress has been made on the social aspects including stakeholder engagement and security forces practices."[184] At the same time the supervision report notes that Dinant has hired or is in the process of hiring a number of consultants to work on social and labor issues. In addition it summarizes recent incidents involving security and farmers. It also recounts developments in relation to the land situation, including the August 2011 MOU between MCA, MUCA and the GoH regarding the buy-back of certain lands in the Aguán.[185]

Despite acknowledgement of non compliance of Dinant with the ESAP, in June 2012, the transaction leader requests temporary waivers in relation to the permitted financial debt and the Guarantee Agreement. A memo related to these waivers states that the requests were "withheld until the IFC team was satisfied that Dinant was fully committed to the implementation of a revised ESAP [and that] this requirement was considered to have been met in response to a personal commitment made by Dinant's CEO."[186]

In mid July 2012 an update to the ESAP notes the circulation of a proposal for a study including socio-economic baseline, stakeholder mapping and community engagement. A September update to the ESAP also notes a number of completed actions but most remain pending or unsatisfactory.

In August there are internal IFC discussions about revising Dinant's ESAP deadlines. This was considered by the E&S team to represent an unacceptable precedent, considering that most ESAP actions remained overdue. Differences also emerged within the IFC team as to whether the reasons for the client's poor E&S performance related more to bad faith or lack of capacity, with members of the investment team raising concerns that E&S staff were taking a passive, and compliance oriented approach to supervision which was not delivering results.[187] These

[180] US State Department, *Honduras 2012 Human Rights Report* (n.d.) http://goo.gl/McVS4g
[181] Rights Action, *Petition*
[182] *Ibid.* See also: Voselsoberano, CODEH acusa al terrateniente Miguel Facusse por el asesinato de 14 campesinos (12/10/2010). http://goo.gl/wo96KM
[183] IFC report of site supervision visit (05/09/2012).
[184] *Ibid.,* 5.
[185] *Ibid.,* 2.
[186] IFC *Office Memorandum*,(06/22/2012).
[187] IFC internal email (12/05/2012).

discussions lead to tensions within the team, in the wake of which E&S management decide to replace the lead E&S specialist working on the project.

On the ground in Honduras, the GoH, the INA, Dinant's owner and MUCA reach an agreement on the transfer of over 4,000ha of Dinant lands to the peasant cooperatives.[188] In September and October 2012, Dinant officially signs the transfer of the above referenced farms to the MUCA groups (who are already occupying the land).[189] [190] As noted by the IFC despite this settlement invasions continued.[191]

In this context, 2012 is also characterized by ongoing violence. According to the US State Department during 2012:

> Violence in the Bajo Aguán region of the department of Colón resulted in the deaths of an estimated 40 persons during the year. The conflict involved several distinct yet sometimes overlapping elements. Land rights activists contended that large agribusinesses illegitimately purchased farmland and these activists advocated the reclamation of these lands by both legal and other means. Organized criminal elements used the land conflict as cover to conduct illicit activities, including theft and trafficking of arms and drugs. A lack of transparent investigations into violent crimes in the region led some human rights nongovernmental organizations (NGOs) to claim that the government was uninterested in resolving the underlying problems in the area and that police and military in the region were allied with large landholders against field worker collectives. Other members of civil society contended that police were working with criminals embedded in certain field worker collectives in the region and involved in robberies, kidnappings, and extortion.[192]

According to civil society sources, 29 people affiliated with the peasant movement in the Aguán were victims of homicide in 2012. Specific allegations are made linking at least 12 of these killings to Dinant properties or security guards.[193]

Further, in November 2012, the Center for Constitutional Rights (CCR) and the International Federation for Human Rights (FIDH) made a submission to the International Criminal Court entitled *Impunity in Honduras for Crimes Against Humanity between June 29, 2009 and October 31, 2012.* In a chapter on crimes "Against Campesinos and Land Rights Advocates" the submission argues that struggles between land owners and peasant cooperatives in the Bajo Aguán region were "a major impetus for the *coup d'état* of June 28, 2009."[194] It also alleges that:

> "[Dinant's owner's] security forces appear to have been involved in forcible transfers of campesinos and in a number of killings and attacks, as noted in the incidents identified in this report. In particular, [Dinant's owner's] security personnel are said to have been involved in the killings of five campesinos in November 2010, 'Henry' Roney Diaz in May 2011, and Gregorio Chavez Arando in July 2012, in addition to numerous attempted killings and violent attacks against campesinos."[195]

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[188] These lands are taken from Dinant's *La Confianza, La Aurora, La Lempira, La Concepcion, Isla 1, Isla 2* and *Maranones* properties. See El Heraldo, 'Gobierno, Facussé y MUCA logran acuerdo' (06/16/2011). http://goo.gl/tqAoW8; http://www.ina.hn/userfiles/Acuerdo%20%20(MUCA-Derecha).pdf)

[189] El Heraldo, 'Se legaliza traspaso de cinco fincas' (09/28/2012) http://goo.gl/BMiwdf

[190] El Heraldo, 'Facusse firma hoy traspaso de cuatro fincas' (09/25/2012)http://goo.gl/odtlsf

[191] IFC, *Credit Risk Review, Dinant* (04/01/2013)

[192] US State Department, *Country Reports on Human Rights Practices for 2012 (Honduras).* http://goo.gl/ljDTbV

[193] Rights Action, *Petition*

[194] Center for Constitutional Rights and the International Federations for Human Rights *Impunity in Honduras for Crimes Against Humanity between June 29, 2009 and October 31, 2012* (November 2012), 19. Accessed 07/01/2013, http://ccrjustice.org/files/Honduras%20ICC%20Submission.pdf

[195] *Ibid.,* 27.

IFC updates its IDD in relation to events in 2012 noting allegations that Dinant's owner is the intellectual perpetrator of the September 2012 murder of MUCA's lawyer, Antonio Trejo. Dinant's owner's charging and acquittal in relation to the 1997 murder of environmental activist Carlos Escaleras is also noted, as is an incident in October 2012 when three intruders were killed and their bodies burned following an altercation with security guards on Dinant's owner's *Farallones* property near Limon.[196] In relation to this latter incident Dinant's security manager is described as having immediately reported the incident to police and collaborated with the investigation.[197]

Dinant does not provide IFC with an AMR for 2012.

Year: *2013*

A further IFC supervision visit takes place in January 2013. The back to office report (BTOR) from this mission notes that Dinant has engaged a consultant to coordinate outstanding ESAP items and assist the company to meet the Performance Standards. The BTOR also notes that an expert has been hired to do a Life and Fire Safety Audit and that Dinant has received two proposals from consultants on ISO certification.

In relation to land issues the BTOR notes two additional land invasions by peasant farmers in the past year, but that "the company appears to be getting more support from the Government Military and the National Police" with police and military "evict[ing] the farmers as per procedures set out by the Govenrnment of Honduras."[198] In addition, the security consultant who prepared the 2011 Security Program Assessment discussed above is reported as reengaging to conduct a risk assessment and security training program. The BTOR also notes ongoing concern with the quality of Dinant's waste water discharge. A final note in the BTOR records that as of the date of preparation (March 2013), no additional information had been received from Dinant.[199] An updated ESAP attached to the BTOR contained 28 measures including those from the original ESAP and additional corrective actions that were agreed in 2012. Of these eight are reported as complete, and 20 as overdue, pending or to be confirmed. In April 2013 IFC reports conversations with Dinant to request that the company move faster on ESAP implementation. In June 2013 IFC notes feedback from Dinant's security consultant reporting progress on various security issues including a training program for in house security staff. A full list of supervision activities as provided by IFC is provided in Annex 4.

In the context of the allegations of violence that have surrounded the oil palm plantations in the Aguán, CAO also notes the following statement from UN Working Group on the Use of Mercenaries following a mission to Honduras in February 2013:

> the delegation received consistent information that many private security guards carry firearms that are prohibited and are allegedly used to commit human rights violations. In this regard, the experts voiced concern about the alleged involvement of private security companies hired by landowners in widespread human rights violations including killings, disappearances, forced evictions and sexual violence against representatives of peasant associations in the Bajo Aguán region.[200]

[196] IFC, *Credit Risk Rating, Dinant* (04/01/2013)
[197] *Ibid.*
[198] IFC, *Back to Office Report* (January 28-30, 2013), 3.
[199] *Ibid.,* 6.
[200] United Nations Office of the High Commissioner on Human Rights, *Private military and security companies in Honduras need robust and effective monitoring, says a UN expert group* (2013). http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13032&LangID=E

According to civil society sources 12 affiliates of the peasant movement in the Aguán were murdered in between January and May 2013. Specific allegations are made linking at least two of these deaths to Dinant properties or security guards.[201]

Findings

CAO finds that IFC's supervision of its investment in Dinant was and remains inadequate. In the context of a range of serious allegations regarding security personnel employed by and associated with Dinant, CAO finds that IFC has failed to "develop and retain the information needed to assess the status of [its client's] compliance with the Performance Standards (PSs)" (ESRP 6. v5., para. 1). In particular, CAO finds that IFC did not supervise its client's PS4 obligation to investigate credible allegations of abusive acts of security personnel. To assure IFC of PS4 compliance such investigation would need to establish whether the use of force by security personal associated with Dinant was used exclusively for "preventative and defensive purposes in proportion to the nature and extent of the threat." Given serious and persisting allegations surrounding the use of force by Dinant security from multiple sources, CAO finds the failings of IFC's approach to supervision to be of particular concern.

While advising the client to engage a security consultant to analyze Dinant's policies and undertake a preliminary risk and training needs assessment was a positive step, CAO finds that this was an inadequate response to the requirements of PS4 and the ESRP given the context. Other measures taken including communicating the importance of restraint to the client, and engaging with the Government of Honduras on the underlying policy issues, while similarly positive were also insufficient. Given the nature of the allegations around the project and concerns about the capacity and impartiality of national law enforcement agencies, CAO finds that IFC should have been guided by PS1 in requiring an "adequate, accurate and objective" assessment of the allegations, prepared by "qualified and experienced persons" (para. 7). Drawing on the Guiding Principles on Business and Human Rights (2011, para. 20), CAO finds that any review of the substance of these allegations should have drawn on input from internal and external sources, including affected stakeholders. CAO finds no indication that IFC has engaged with affected stakeholders.

At a more procedural level CAO has a number of observations in relation to IFC's supervision of E&S aspects of this investment.

Firstly, following the report of the invasions of December 2009, in relation to the initial deaths of Dinant security guards in February 2010, CAO finds no evidence that IFC requested the client to investigate root causes of the incidents, or prepare a plan to prevent recurrence[202] as required by the ESRP (v.4 para 6.2.8). This leads to gaps in E&S supervision at critical times. Rather than working on an analysis and response to the conflict starting in December 2009 (or indeed following notification of the June 2009 occupations), CAO finds that E&S staff are not informed by their investment colleagues in relation developments in the Aguán until March 2010. At this point, again the opportunity to request a root cause analysis and response is missed. Instead a further five months lapse before the investment team reengages with E&S team, prompted by a request from the client for its 2nd disbursement.

As explained to CAO the reason for the lack of E&S involvement at this stage was twofold: (a) because the four E&S specialists who had been variously working on the project up to disbursement each retired or were reassigned in the 2nd half of 2009; and (b) because the client failed to submit the required AMR at the end of March 2010, no E&S engagement was triggered until the clearance for the 2nd disbursement was required. While acknowledging these

[201] Rights Action, *Petition.*
[202] IFC written submission to CAO (June, 2012).

explanations, CAO finds that IFC's failure to respond proactively to these early incidents from and E&S perspective represented a serious failure of supervision.

Secondly, CAO notes that the client's lack of compliance with its E&S obligations is both uncontroversial and acknowledged by IFC. This is evidenced by IFC's most recent (March 2013) review of its client's ESAP which indicated that only 8 of 28 required actions had been completed. Analysis of the client's adherence to its reporting requirements, obligations under the Performance Standards, covenants and warranties indicate additional points of non-compliance which in turn constitute potential Events of Default. In these circumstances it was explained to CAO that IFC is working with the client to bring it into compliance, and that "Dinant began making significant progress in the implementation of the ESAP" following meetings between IFC management and the Dinant CEO in 2011.[203]

Working with a client to (re)establish compliance is consistent with the Sustainability Policy (para. 26). However, para. 26 also requires that if the client fails to reestablish compliance IFC will "exercise remedies where appropriate." In relation to the decision not to exercise remedies, IFC notes that "discussions [were held] at the VP and Director level … to assess the situation and discuss potential actions" in response to the events of November 2010, as well as periodical discussions thereafter.[204] IFC staff also advised CAO that Dinant is on the Corporate High Risk list and has been discussed at the IFC Corporate Risk Committee (CRC). CAO was, however, not able to locate minutes or other documentation of these discussions.[205]

In the course of 2012, CAO finds that some members of the E&S team working on supervision reached the view that the investment had serious E&S compliance issues which it had proven unable to address over a period of years. When a more "compliance based" approach to the supervision of the Dinant investment was thus raised, CAO finds that this elicited push back from the IFC portfolio manager as a result of which the lead environmental specialist working on the project was replaced.

In relation to a project that one experienced IFC staff described as having "arguably the most serious E&S issues they had ever encountered" CAO finds a notable difference between the way E&S and credit risk are handled. Thus, while IFC's quarterly credit risk reviews identify a "material breach" of the investment agreement in relation to Dinant's debt to EBITDA ratio as of December 2010, and thus require temporary waivers from IFC management, concerns regarding Dinant's E&S performance, while discussed are not identified as constituting "material breachs."[206]

In this context, CAO finds that IFC structures for project supervision lacking in relation to the critical question of when to exercise remedies for E&S breaches. As a result decisions on these questions are reached in ways that appear to be informal and lacking in rigor. Given the nature of the allegations regarding the IFC client in this case, and its apparent continued non-compliance with IFC's E&S requirements both substantive and procedural, CAO finds that IFC gave inadequate consideration to the exercise of appropriate remedies as provided for in the Loan Agreement and the Sustainability Policy.

[203] IFC response to CAO draft audit report (08/30/2013).
[204] *Ibid.*
[205] CAO requested a review of CRC minutes was requested from the CRC Secretariat, but this did not reveal reference to a discussion of Dinant.
[206] IFC, *Credit Risk Rating, Dinant* (multiple reports: 2009 - 2013).

4.3 IFC POLICY, PROCEDURE AND PRACTICE

Key Findings

- Despite a lack of specific guidance, the overall approach outlined in the Sustainability Framework is one which CAO finds to be applicable in both conflict and non-conflict scenarios.
- IFC non-compliance as identified in this report was due in large part to problems with the interpretation and application of existing policies and procedure.
- IFC's handling of its investment in Dinant raises questions as to the robustness of its decision making structures around E&S issues in high risk contexts.
- The combination of client relationship, operational and compliance functions within project teams can generate conflicts of interest and conflicting incentives for staff and management.
- At a time when the Bank Group is being challenged to expand its risk appetite, CAO finds it crucial to also invest in structures that provide management with assurance that E&S risk is being rationally identified and managed.

The TOR for this audit asked whether IFC policies and procedures provide adequate guidance to staff on how to assess and manage social risks associated with projects in areas that are subject to conflict or are conflict prone. This question is particularly relevant in the context of IFC's current commitment to expand its footprint in frontier markets, which include IDA countries, Fragile and Conflict Situations (FCS), and frontier regions in non-IDA countries.[207]

The TOR for this audit also asked CAO to analyze the immediate and underlying causes for any non-compliance identified.

This section of the audit report will thus analyze the adequacy of IFC's E&S policies and procedures as applied to Dinant, both in relation to the conflict that surrounded the project, and more generally as framed by a discussion of the underlying causes of the specific instances of non-compliance identified in this audit.

The IFC Sustainability Framework does not place great emphasis on conflict. The only direct reference to conflict in the Performance Standards (2006) is the following sentence in the introduction to PS4:

> The level of risks and impacts described in this Performance Standard may be greater in projects located in conflict and post-conflict areas (para. 1)

In the 2012 version the relevant sentence is expanded as follows:

> In conflict and post-conflict areas, the level of risks and impacts described in this Performance Standard may be greater. The risks that a project could exacerbate an already sensitive local situation and stress scarce local resources should not be overlooked as [they] may lead to further conflict (para. 2).

Despite this relative lack of specific guidance, CAO finds that IFC's Sustainability Framework offers a useful structure for identifying and managing social risks and impacts associated with projects including those that are located in conflict prone areas.

The overall approach outlined in the Sustainability Framework is one which CAO finds to be valid in both conflict and non-conflict scenarios. This includes:

- a commitment to do no harm to people and the environment;
- the acknowledgement of the responsibility of business to respect human rights;

[207] IFC, *Road Map FY14-16: Leveraging the Private Sector to Eradicate Extreme Poverty and Pursue Shared Prosperity* (2013) 5.

- the need for environmental and social assessment and management systems that are commensurate to the nature and scale of a project and the level of its E&S risks and impacts;
- an appreciation of the importance of stakeholder engagement as the basis for building strong constructive relationships with project affected communities; and
- a set of more detailed standards (PS2 – PS8) covering key E&S issues in a manner tailored to the private sector context.

To summarize, in sections 4.1 and 4.2 above, CAO finds that the appraisal and supervision of IFC's investment in Dinant fell short due primarily to problems with the interpretation and application of existing policies and procedure (ie. problems of non compliance rather than shortcomings in the policy framework). These findings are summarized in the table below.

Table 2: Summary of findings and underlying causes

Non-compliance identified	**Underlying causes**
Appraisal • IFC E&S review not commensurate to risk. • Failure to identify relevant risks at IDD. • Inadequate gap analysis of E&S Assessment. • Failure to disclose E&S Assessment. • Incorrect E&S risk categorization. • Failure to request additional information to meet PS1 requirements • Failure to require PS1 compliance disclosure & consultation from client. • Failure to require adequate consideration of PS4 and PS7 issues in E&S Assessment. • Decision to invest in advance of adequate information. • Modification of ESAP without E&S clearance.	• Overreliance on information provided by the company. • Individual and organizational incentives in potential conflict with need for robust IDD. • Lack of consideration of context in risk analysis. • Inexperience of E&S staff on appraisal mission. • Compressed timeframes for E&S Assessment and review. • Pressure to expand agribusiness portfolio.
First Disbursement • Failure to adequately review CODs from an E&S perspective prior to disbursement.	• Lack of clarity as to the content of the ESAP (changes to ESAP after E&S approval). • E&S staff failed to adequately assess its client's performance against the full range of ESAP conditions that had fallen due. • IFC investment staff failed to communicate relevant occurrences (invasions and negotiations around the client's plantations) to E&S staff prior to disbursement. • Investment staff failed to involve E&S staff in an assessment of local and national developments that constituted a potential material adverse effect on the project. • Processing of 1st disbursement in November 2009 on the basis of representations made by the client in June 2009, without analysis of the impact of intervening events on the validity of those representations.

Table 2: (Cont.)

Non-compliance identified	Underlying causes
General Supervision • Failure to develop and retain information needed to assess the status of client compliance with the Performance Standards • Failure to adequately supervise PS4 requirements. • Absence of root cause analysis in response to serious incidents reported. • Lack of consideration of remedies in a case of ongoing non-compliance.	• High turnover of E&S staff, and gaps in the assignment of E&S specialists to the project • IFC investment staff inconsistent in communicating relevant occurrences (invasions and violence around the client's plantations) to E&S staff in a timely manner during supervision. • Investment department resistance to a 'compliance based' approaches to E&S issues. • Lack of triggers for structured review of high risk projects.

In addition to the more technical issues outlined above, a number of IFC staff interviewed by CAO in the course of this audit explained the difficulties with IFC's handling of the E&S issues around Dinant as a product of the relative dominance of investment department staff and interests in IFC's organizational structure and culture. In this context it was explained to CAO that the E&S department sees itself as a "service department" which is focused on meeting the needs of investment department clients. The staffing situation of the E&S department was also described as being stretched in terms of skills, time and resources (despite recent resource increases).[208] A key member of the E&S team described himself as "overloaded;" another noted that resource constraints meant that a "very junior" member of staff was sent to the field for the E&S appraisal/review mission. Further, CAO noted a characterization of the E&S department as one in which there was a lack of "intellectual space" and one in which staff were not encouraged to raise concerns about a client or project unless solutions can also be readily identified. In relation to land issues specifically, an approach to historical conflict was described in which "you look a few years back on land issues – but not too far" lest you open a "Pandora's Box" – ie. a process that, if started, will cause many problems that cannot be solved. Concerns around incentives for E&S staff were also raised; in particular concern was raised by E&S staff that the views of investment staff play a significant role in the annual performance appraisals of E&S staff and thus that E&S staff who "make waves" are disadvantaged when it comes to decisions around promotions and pay increases. On the contrary it was argued that investment staff are minimally accountable for either the E&S performance of their projects or the quality of their relationships with E&S staff.

In recounting these views, CAO notes IFC's position – expressed recently in the context of another CAO audit – that it promotes a "culture of mutual respect" among staff and that "the level of disputes between staff on E&S issues overall is very low [reflecting] a generally positive and constructive relationship amongst staff."[209] In support of this assertion IFC listed a number of practices which were being developed to reinforce the probability of achieving common understandings between investment and E&S staff including:

- Training investment staff on the Sustainability Framework stressing the importance of elevating issues promptly in cases of differences of opinion;
- More frequent pre-appraisals with joint investment and E&S staff teams now routinely undertaking more pre-appraisals for prospective higher risk investments;
- Improved use of E&S peer review meetings;

[208] The lack of a Spanish speaking social specialist on staff was also pointed out to CAO (despite a total committed portfolio of $14.6 billion in Latin America).
[209] IFC (June 2013) Management Response to CAO Monitoring Report on Agrokasa.

- Redesign of the role of E&S "sector leads", who develop particular industry expertise and are thus in a strong position to facilitate/leverage interventions with peers and investment staff; and
- More formal decision making process with defined inputs for E&S specialists into key project documents and decision points.

The scope of this audit does not allow CAO to reach broad conclusions either on the effectiveness of these initiatives or the validity of the views recounted in the previous paragraph. Nevertheless, CAO's findings around the appraisal and supervision of IFC's investment in Dinant support the hypothesis that the development of an organizational structure and culture in which E&S concerns are appropriately voiced at key decision points requires ongoing attention.

While not restricted to projects in areas that are subject to conflict or are conflict prone, dedicated application of IFC's Sustainability Framework becomes all the more important in such areas where (to paraphrase PS4) risks and impacts may be greater. Areas where CAO considers that guidance on the application of IFC's Sustainability Framework was lacking in relation to Dinant are set out in the table below.

Table 3: Areas where policy / procedural guidance was lacking

Appraisal • Importance of considering sector and geographic context as sources of risk in E&S assessment / review process. • Extent to which the E&S assessment / review process should draw on sources of information external to the client. • Need for early consultation with communities in a project's area of influence, both as part of the E&S Assessment process for category A and B projects, and a central part of good risk identification methodology. • Process for E&S review in case of material change to the ESAP post disclosure.
Supervision • Process for review of ESAP progress where disbursement is conditional on meeting ESAP conditions. • Requirements for transaction leader to communicate any information which may be relevant to the E&S performance of the project to the lead E&S specialist assigned to the project. • Requirements for transaction leader to consult with E&S staff on all CODs that may require consideration of E&S issues. • Requirements for transaction leader to certify that he/she is not aware of any development subsequent to the date of the client's request for disbursement that could call into doubt the representations made by the client in the request for disbursement. • Requirements for responding to serious health, environmental and/or human rights allegations related to a project (including root cause analysis), emphasizing the need to establish facts through third party assessment if necessary, linking relevant requirements to legal agreement standard terms. • Structures for more rigorous review of projects which evidence consistent and/or serious non-compliance with E&S requirements.

At a higher level, CAO finds that IFC's handling of its investment in Dinant raises questions as to the robustness of its decision making structures around E&S issues in high risk contexts. In particular CAO finds that the combination of client relationship, operational and compliance functions within project teams can generate conflicts of interest and conflicting incentives for staff and management. Potential problems are illustrated by the failure of either the integrity or E&S due diligence process to generate discussion or action in relation to the social risks that attached to the investment. They are equally illustrated by the dilution of the articulation of E&S

risk that occurred as project documentation passed upward through IFC's management to the Board, and the lack of critical attention that the project received even after IFC became aware of the violence that was playing out around its client's properties.

In CAO's view these deficiencies in performance may be seen as a by-product of what has described as a culture of risk aversion at the Bank. In a risk averse setting, accountability for results defined primarily in financial terms may incentivize staff to overlook, fail to articulate or even conceal potential E&S and reputational risks. The result as seen in this audit is that the institution may underestimate these categories of risk. At a time when the Bank Group is being challenged to expand its risk appetite, CAO finds it crucial to also invest in structures that provide management with assurance that E&S risk is being rationally identified and managed in the pursuit of development outcomes. As indicated by the findings of this audit, a failure of such systems can lead the institution to take uninformed risks with serious consequences for people, the environment and/or the Bank Group's reputation as a leader in the field of sustainable development.

Annex 1: Contemporaneous sources re. land, crime & indigenous issues in the Bajo Aguán (2000 – 2008)[210]

#	Date	Reference	Summary of contents / allegations
1	Sept. 2000	Falla (2000) 'Honduras: Land Occupation Opens the Way For Agrarian Reform,' *Envio*, No.230.	Article describing the creation of the *Movimiento Campesino del Aguán* (MCA); the occupation by MCA activists of former CREM lands in May 1999; and the killing of a landowner that ensured. Argues for the occupation of part of the former CREM lands as a model for "a new kind of agrarian reform." Also alleges that the former CREM lands "act as a corridor for drug-trafficking activities" and alludes to links between the large land holders in the area and drug trafficking. [Note: CREM (*Centro Regional de Entrenamiento Militar*) was a military training center used by United States special forces to train Salvadoran and Honduran soldiers in the 1980s. It is a matter of contention as to whether all or part of Dinant's *El Tumbador* property falls within the boundaries of the CREM land claimed by MCA.]
2	June 2001	Observatorio Social de América Latina (2001) *Cronología del Conflicto Social, Honduras*	Reports 4000 affiliates of peasant organizations in the Bajo Aguán including MCA, block the highway connecting Tocoa with the rest of the country and the port for a period of two days, demanding increased security and measures to support their agrarian reform agenda.
3	2001	Macias (2001) *La Capital del contrareforma agrarian: el Bajo Aguán de Honduras*.	Monograph on agrarian reform in the Bajo Aguán. Argues that the accumulation of land by Dinant's owner and other large landholders, while leading to increased productivity and economic growth, had negative consequences for the local economy. An introduction by Tocoa based Jesuit preist, Peter (also Pedro) Marchetti, alleges that Dinant's owner has been involved in illegal land purchases in the Bajo Aguán. He describes a revitalized agrarian reform movement and argues that the expropriation of such illegally acquired land "will open new horizons for the regional economy." [Note: Dinant representatives asserted to CAO that all Dinant land was acquired legally on a willing buyer willing seller basis].
4	May 2001	Amnesty International (2003) *Honduras: Fear for safety/Death threats.*	Report on intimidation and death threats against Tocoa based priest, Father Pedro Marchetti, and members of MCA. Marchetti is described as having been active in relation to land issues in the Bajo Aguán. Report asserts that "[t]he campaign against Pedro Marchetti and the MCA is part of a pattern of human rights abuses against grassroots activists, including indigenous people and environmental activists, involved in defending their land rights and protection of the environment;" and that "[h]ired gunmen who have threatened and killed local activists are often reported to have links to local landowners."
5	July 2001	Decree #92-2001	Honduran parliament passes decree 92-2001 authorizing payments for improvements around the expropriation of former CREM lands.

[210] CAO makes no judgment as to the validity of the assertions and allegations contained in these sources. They are, however, relevant in establishing the extent of publically available information at the time of IFC's commitment to this investment.

#	Date	Reference	Summary of contents / allegations
6	Oct. 2001	Jeffrey (2001) 'Landowners, peasants in fight for land,' *National Catholic Reporter* Vol.37, No.43	Article on land conflict in the Aguán Valley. Reports allegations that Dinant's owner was behind the 1997 killing of Carlos Escaleras, an environmental and political activist, who challenged Dinant's owner's plans to install an African palm oil processing plant in the Bajo Aguán in 1997. Also reports allegations that an airstrip in land controlled by Dinant's owner is used for landing cocaine. [Note: A US Embassy cable leaked in 2011 asserts that the landing of a light plane carrying drugs on one of Dinant's owner's properties in the Bajo Aguán "marked the third time in the last fifteen months that drug traffickers have been linked to this property belonging to Dinant's owner." Note also: Dinant's owner is quoted in an LA Times interview denying complicity in these activities. [211] Similar allegations are also raised by in a February 2009 news article][212]
7	Jan. 2002	Observatorio Social de América Latina (2002) *Cronología del Conflicto Social, Honduras*	Reports more than 1500 people including members of the MCA block the road connecting Trujillo with the rest of the country demanding resolution of issues related to the expropriation of the former CREM lands.
8	June 2002	Report of the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions E/CN.4/2003/3Add. 2.	Special Rapporteur notes reports of cases in which "environmental and indigenous activists had been killed at the behest of powerful landowners and business people," in the context of a discussion of threats against Father Marchetti and the assassination of environmental activist, Carlos Escaleras.
9	Sept. 2002	Jeffrey (2002) Una mirada introspectiva: La respuesta al huracán Mitch en Bajo Aguán	Book chapter, alleges that Dinant's owner acquired land by paying "under the table to corrupt peasant leaders." Reports allegations that Dinant's owner was involved in threats against Esacaleras and Marchetti.
10	May 2003	Observatorio Social de América Latina (2003) *Cronología del Conflicto Social, Honduras*	Reports a variety of organizations blocking the main road from Trujillo to Tocoa for four hours, advancing a range of claims including those of the MCA groups claiming the former CREM lands in this area.
11	May 2003	Amnesty International (2001) *Honduras: Fear for safety*.	Alleges that Father Marchetti "threatened and harassed by landowners … eventually had to leave Honduras for his own protection."
12	Jan. 2004	Griffin (2004) "Garífuna Land Struggles Increasingly Violent" Garinet.com	Alleges that Garífuna cooperatives "have been subject to many harassments" since winning a judicial case regarding land issues against Dinant's owner. Reports the murder of a cooperative vice president, Santos Bonilla in this context.
13	Feb. 2005	IACHR (2005) REPORT Nº 15/05, Admissibility Carlos Escaleras Mejia, Honduras	IACHR eligibility report in relation to a complaint of human rights violations to the prejudice of Carlos Escaleras. Recounts allegations that Dinant's owner was charged as an abettor in the murder of Carlos Escaleras, and that the Republic of Honduras acted in breach of its human rights obligations in dismissing these charges.
14	Feb. 2005	Observatorio Social de América Latina (2005) *Cronología del Conflicto Social, Honduras*	Reports representatives of various peasant movements including MCA block the road between Trujillo and Tocoa demanding the titling of 5,700 hectares of land around the former CREM, as well as the dismissal of charges against 120 peasants charged in relation to the occupation of lands.

[211] "I'm controlling it," he said. "The narcos are building airports all over the place.... It's a perfect place to land. Nobody is around." (*LA Times*, 12/21/2012).
[212] *Periodico el Heraldo* (2009) "Cae avioneta en Colon pero no hayan droga"

#	Date	Reference	Summary of contents / allegations
15	July 2005	Observatorio Social de América Latina (2005) *Cronología del Conflicto Social, Honduras*	Reports that a group of *campesinos* block the road to Trujillo to demand titling of lands in the Bajo Aguán as well as the recognition of changes to the statutes of peasant cooperatives which they run.
16	Feb. 2006	Observatorio Social de América Latina (2006) *Cronología del Conflicto Social, Honduras*	Reports that around 2,500 *campesinos* block the main road in Tocoa and later the road to Trujillo to demand the titling of land to peasant collectives in the Bajo Aguán and also to cease the persecution of members of their groups.
17	Mar. 2006	Queman avioneta que transportable droga en costa caribena de Honduras	Reports on a plane, allegedly transporting drug, to have been burned by traffickers. Local witnesses and military forces state that an airstrip on land belonging to Dinant's owner has also been used by drug traffickers in the past.
18	May 2006	Observatorio Social de América Latina (2006) *Cronología del Conflicto Social, Honduras*	Reports that hundreds of affiliates of the *Movimiento Unificado de Campesinos del Aguán* (MUCA) block the highway linking Tocoa to the rest of the country with the aim of pressuring the government to address agrarian reform issues. [Note: MUCA affiliates were instrumental organizing occupations of Dinant properties].
19	Nov. 2006	Land and Housing Rights Network (2006) Database entry.	Reports violent eviction of 32 members of the Vallecito Peasant Movement. Dispute described as relating to land bought for this group by INA but also claimed by "[Dinant's owner]"
20	Dec. 2006	Observatorio Social de América Latina (2006) *Cronología del Conflicto Social, Honduras*	Reports that affiliates of the Aguán peasant movement blocked the access roads to Trujillo and Tocoa demanding the liberation of 32 of their members who had been detained by police as part of a violent eviction the previous Friday.
21	June 2007	Observatorio Social de América Latina (2007) *Cronología del Conflicto Social, Honduras*	Reports road blocks paralyzing transit to the municipalities of Trujillo and Puerto Castilla, established MCA by demanding prompt titling of former CREM lands to the peasant cooperatives.
22	June 2007	Inspection Panel (2007) Investigation Report – Honduras Land Administration Project	World Bank Inspection Panel applies Operational Directive 4.20 (Indigenous Peoples) in relation to complaints from Garífuna communities on the Honduras north coast (including the Bajo Aguán). Finds that "tourism and industrialized export-crop production (such as ***African palms***, pineapples, rambutan, and bananas) are the two major (…) uses which attract land-buyers and 'invaders' of Garífuna ancestral land" (emphasis added). The World Bank response includes a map (see annex 3) showing a Garífuna settlement in the vicinity of Dinant's *El Tumbador* property, and indicating that a significant area to the west of Trujillo, including Dinant's *Palma/Farallones* and *Agroinvasa 1 & 2* properties, is "predominantly Garífuna."
23	Aug. 2007	Observatorio Social de América Latina (2007) *Cronología del Conflicto Social, Honduras*	Reports road blocks on the highway from Trujillo to the port, established by groups affiliated with the Aguán peasant movements demanding government attention to their land claims.
24	Oct. 2007	Land Research Action Network Alert (2007)	Report on dispute over former CREM lands. Calls for a letter writing campaign in support of families belonging to the Aguán peasant movement demanding the titling of 5724 hectares of land. Claims that 9 plots in this area are still occupied by other people and 17 more plots have not yet been regularized, despite a decree [item #5 above] ordering the regularization and transfer of this land to the peasant movement.

#	Date	Reference	Summary of contents / allegations
25	Jan. 2008	Observatorio Social de América Latina (2008) *Cronología del Conflicto Social, Honduras*	Reports an MCA occupation of land in the Bajo Aguán to put pressure on the government to comply with the decree 92-2001 in relation to the expropriation of the former CREM lands.
26	Feb. 2008	Decree #18-2008	Parliament approves decree providing funds for the Instituto Nacional Agrario to complete the execution of decree 92-2001 regarding the expropriation of former CREM lands.
27	2008	Álvila & Álvila (2008) *Garífuna World*.	Edited compilation, two chapters describe Garífuna communities in conflict with Dinant's owner. One reports allegations that Dinant's owner's acquisition of Cabo Farallones near the town of Limon was illegal as well as allegations that his Agroinvasa property is situated on land to which Garífuna people have historical claims. The same chapter reports allegations that people selling to Dinant's owner are doing so because of the "high prices that he offers or because they are afraid that he will take it over by other means if they do not sell to him." Another chapter reports allegations that Dinant's owner is "hoarding land to the detriment of Garífuna communities."
28	June 2008	*Periodico el Tiempo* (2008) De ocho balazos matan a dirigente campesino, p.79	Article reports the assassination of peasant leader, Irene Ramírez. According to MCA sources, Ramírez' killing was related to the role he played in relation to the struggle for the collectivization of the CREM lands. The same article cites a union leader in Colón as saying that the death of Tróchez reflected "the agrarian problem in the Aguán" more generally. [Note: Ramírez' killing was also reported by Observatorio Social de América Latina in August 2008].
29	Aug. 2008	*Periodico La Tribuna* (2008) "Conflictos agrarios amenazan con ensangrentar mas el campo" On line version	News report of a clash over the CREM land resulting in 12 deaths, noting that the land has been the subject of claims by the peasant movement MCA since the 1990s. The same article refers to problems that emerge from the implementation of Decree 18-2008 and notes that both "government authorities and campesinos predict that if the problem of land tenure in Honduras is not resolved, blood will flow in especially in the departments of Colón [and others] where political interests and organized crime syndicates add fuel to the fire." [Note: these killings were also reported by Observatorio Social de América Latina in November 2008].
30	Jan. 2009	MCA Website	Outlines a history of the peasant movement in the Bajo Aguán focusing on MCA's claim to 5724.92 hectares around the former CREM (which is alleged to include Dinant's *El Tumbador* property).
31	Feb. 2009	Periodico el Heraldo (2009) "Cae avioneta en Colon pero no hayan droga"	A plane, allegedly transporting drugs, is reported to have crashed at a private airstrip belonging to Dinant's owner, in the department of Colón.

Annex 2: Results of Dow Jones Factiva search for [Dinant's owner] 1999 – 2008.

[Items CAO considers "could indicate current or previous allegations or negative perceptions" with regard to Dinant's owner as *provided in the IDD Procedure are boxed].*

Acusan a Zelaya de haber declarado la guerra a empresarios hondureños
Agence France Presse, 20:46, 24 July 2008, 263 words, (Spanish)
Un influyente empresario hondureño acusó este jueves al presidente Manuel Zelaya de haber declarado la "guerra" a los empresarios de este país centroamericano.

Millonario crédito para corporación hondureña
El Financiero, 27 April 2008, 370 words, Eduardo López, (Spanish)
Varios bancos centroamericanos se unieron para ofrecer un préstamo de $77 millones a la empresa hondureña Corporación Dinant, una empresa con fuertes inversiones en la industria del aceite de palma africana, plátanos, detergentes y ...

Varios bancos se unen para darle crédito a la corporación hondureña Dinant
El Financiero, 27 April 2008, 378 words, Eduardo López; NoticiasFinancieras, (Spanish)
Varios bancos centroamericanos se unieron para ofrecer un préstamo de $77 millones a la empresa hondureña Corporación Dinant, una empresa con fuertes inversiones en la industria del aceite de palma africana, plátanos, detergentes y ...

Rescata policía hondureña a hija de empresario secuestrada
Agencia Mexicana de Noticias, NOTIMEX, 19 October 2007, 197 words, (Spanish)
Rescata policía hondureña a hija de empresario secuestrada Tegucigalpa, 19 Oct (Notimex).- La Policía Nacional de Honduras logró hoy liberar a Orietta Facussé, hija del poderoso empresario

Liberan a empresaria en Honduras
AP Spanish Worldstream, 09:01, 19 October 2007, 226 words, (Spanish)
TEGUCIGALPA (AP) - La policía liberó el viernes a la empresaria Orietta Facussé, que había sido secuestrada hace cinco días en su residencia en esta capital.

Policía libera hija de empresario secuestrada en Honduras
Agence France Presse, 15:48, 19 October 2007, 295 words, NL, (Spanish)
TEGUCIGALPA, 19 Oct 2007 (AFP) - La hija del acaudalado empresario hondureño Miguel Facussé fue liberada este viernes en una operación de la unidad especializada de la Policía, tras permanecer secuestrada desde el lunes, informaron las ...

Secuestran a hija de uno de los empresarios más ricos de Honduras
Agencia Mexicana de Noticias, NOTIMEX, 18 October 2007, 207 words, (Spanish)
Secuestran a hija de uno de los empresarios más ricos de Honduras Tegucigalpa, 18 Oct (Notimex).- Orietta Facussé, hija del empresario hondureño Miguel Facussé, fue secuestrada desde el pasado

#1. HONDURAS: GOVERNED BY VESTED, AND SOMETIMES ILLEGAL, INTERESTS
Inter Press Service, 18 December 2006, 1606 words, By Thelma Mejía, (English)
TEGUCIGALPA, Dec. 15, 2006 (IPS/GIN) -- Traditionally powerful families and drug traffickers have enormous political influence in Honduras today, according to analysts.
* *Identifies Dinant owner as one of the "most powerful men in Honduras."*

#2. GOVERNED BY VESTED INTERESTS
ISI Emerging Markets Africawire, 15 December 2006, 1604 words, (English)
Traditionally powerful families and drug traffickers have enormous political influence in Honduras today, according to analysts.
** Similar to article #1, above.*

#3. HONDURAS: DESCUBRIENDO LOS PODERES FÁCTICOS
Inter Press Service, 15 December 2006, 1758 words, Por Thelma Mejía, (Spanish)
TEGUCIGALPA, Dec. 14, 2006 (IPS) - Poder fáctico: "Sector de la sociedad al margen de las instituciones políticas que ejerce sobre aquella una gran influencia, basada en su capacidad de presión, por ejemplo, la banca, la Iglesia, los ...
** Expanded Spanish language version of article #1, above.*

#4. QUEMAN AVIONETA QUE TRANSPORTABA DROGA EN COSTA CARIBEÑA DE HONDURAS
Agencia Mexicana de Noticias, NOTIMEX, 6 March 2006, 259 words, (Spanish)
Tegucigalpa, 6 Mar (Notimex).- Una avioneta con bandera venezolana, que podría haber transportado hasta cinco mil kilogramos de cocaína, fue quemada por narcotraficantes en una comunidad cercana a la caribeña Bahía de Trujillo, informaron ...
** Quotes sources regarding use of Dinant owner's property in the the Bajo Aguán to land planes carrying cocaine.*

#5. CUMPLE SEGUNDO DIA HUELGA DE HAMBRE DE CAMPESINOS HONDUREÑOS
Agencia Mexicana de Noticias, NOTIMEX, 13 October 2005, 329 words, (Spanish)
Tegucigalpa, 13 Oct (Notimex).- La huelga de hambre que 16 campesinos hondureños iniciaron el miércoles en los bajos del Congreso Nacional entró hoy en su segundo día y sus dirigentes afirmaron que se mantendrán hasta lograr lo terrenos ...
** Quotes leader of peasant group (MUCA) in relation to a hunger strike being staged in support of claims to lands held by Dinant owner.*

La agencia de noticias Notimex transmite su primer bloque de previsiones...
Agencia Mexicana de Noticias, NOTIMEX, 13 October 2005, 769 words, (Spanish)
La agencia de noticias Notimex transmite su primer bloque de previsions internacionales correspondiente a este jueves 13 de octubre de 2005. Editor responsable hasta las 12:00 GMT Mario Rodríguez González. Comentarios al (55)
54-20-11-73 ...

IMPULSAN PROYECTO PARA AVES EN PELIGRO DE EXTINCION EN HONDURAS
Agencia Mexicana de Noticias, NOTIMEX, 27 February 2005, 365 words, (Spanish)
Por Miriam Mercado. Corresponsal Tegucigalpa, 27 Feb (Notimex).- Una isla ubicada en la parte hondureña del Golfo de Fonseca, en el océano Pacífico, se ha constituido en un santuario para conservar especies en peligro de extinción ...

PODRIA RACIONARSE SERVICIO DE ENERGIA ELECTRICA EN HONDURAS
Agencia Mexicana de Noticias, NOTIMEX, 18 August 2004, 237 words, (Spanish)
Tegucigalpa, 18 Ago (Notimex).- Honduras podría sufrir severos racionamientos del servicio de energía eléctrica por una mora que el gobierno mantiene con empresarios de las plantas generadoras de energía térmica por alrededor de 30 millones ...

Magnate mexicano Carlos Slim consolida su presencia en región centroamericana
El Financiero, 4 July 2004, 506 words, (Spanish)
El magnate mexicano Carlos Slim consolidó su presencia en la región centroamericana luego de que la semana anterior se hizo público el rumor de días anteriores: América Móvil, filial de Teléfonos de México, incursionó en Honduras y aumentó ...

Honduran president evacuated from hotel after bomb threat
EFE News Service, 22 June 2004, 112 words, (English)
Tegucigalpa, Jun 22 (EFE).- Honduran President Ricardo Maduro was evacuated from a luxury hotel here after the establishment received a telephone call warning of an explosive device on the premises, police said Tuesday.

LANZAN TRABAJADORES HONDUREÑOS CRITICAS AL PRINCIPE FELIPE DE ESPAÑA.
Agencia Mexicana de Noticias, NOTIMEX, 1 May 2004, 336 words, (Spanish)
Tegucigalpa, 1 May (Notimex) - Como una "grosería" calificaron hoy trabajadores hondureños el hecho de que el príncipe Felipe de España haya utilizado para pasear por Las Bahamas el avión de un hondureño ligado a operaciones ...

#6. HALLAN AVIONETA INCINERADA Y ENTERRADA EN HONDURAS
AP Spanish Worldstream, 11:09, 19 March 2004, 287 words, (Spanish)
TEGUCIGALPA (AP) - Las autoridades descubrieron una avioneta incinerada y enterrada en una finca de un prominente empresario en la costa atlántica de Honduras.
* *Quotes source regarding use of Dinant owner's property in the the Bajo Aguán to land planes carrying cocaine.*

Consorcio hondureño-sueco operará nueva banda de telefonía móvil.
Agencia EFE - Servicio Económico, 26 April 2003, 438 words, (Spanish)
Tegucigalpa, 25 abr (EFECOM). - El consorcio hondureño-sueco Megatel-EMCE obtuvo hoy, viernes, la segunda banda de telefonía móvil en Honduras y rompió el monopolio que ha mantenido la compañía CELTEL desde 1996.

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Agencia EFE - Servicio Económico, 26 April 2003, 437 words, (Spanish)
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#7. HONDURAN HAMLET SPLIT OVER DAM ; PROJECT WOULD DRY UP RIVER, OPPONENTS SAY
Times-Picayune, 31 December 2001, 3170 words, Latin America correspondent, (English)
LAS MANGAS, HONDURAS -- Progress has come knocking at this hamlet and others like it perched above the Rio Cangrejal, but it's not receiving a warm welcome.
* *Identifies Dinant owner as "real force" behind the construction of an environmentally controversial hydroelectric dam.*

#8. LANDOWNERS, PEASANTS IN FIGHT FOR LAND
National Catholic Reporter , 12 October 2001, 2013 words, Paul Jeffrey, (English)
Wealthy Hondurans offer bounty for U.S. priest's head Wealthy landowners on the fertile northern coast of Honduras have taken up a collection to finance the assassination of a U.S. priest who has supported the invasion of farmland ...
** Quotes source alleging that drugs are regularly landed on airstrip belonging to and controlled by Dinant's owner.*

Industriales de A. Central temen daño "horrible" por atentados.
Reuters - Noticias Latinoamericanas, 26 September 2001, 441 words, (Spanish)
TEGUCIGALPA, sep 26 (Reuters) - Empresarios e industriales de América Central advirtieron el miércoles su preocupación por el "horrible" impacto que tendrán en las economías de la región los atentados del 11 de septiembre en ...

HISPANICS-HONDURAS/CUBA HONDURAN BUSINESSMEN SEEKING NORMAL RELATIONS WITH CUBA
EFE News Service , 12 July 2001, 171 words, (English)
Tegucigalpa, Jul 12 (EFE).- A Honduran business association is asking Honduran President Carlos Flores to re-establish full diplomatic relations with Cuba, the press reported.

#9 HONDURAS SACERDOTE NORTEAMERICANO
Associated Press Newswires , 14:15, 10 May 2001, 399 words, (English)
Amenazan de muerte a jesuita norteamericano en Honduras Por FREDDY CUEVAS TEGUCIGALPA
(AP) - Un organismo local humanitario denuncio que el sacerdote jesuita norteamericano Peter Marchetti ha sido amenazado de muerte por defender a ...
** Quotes allegations from Honduran NGO that Dinant owner has hired thugs to harass a Jesuit priest.*

COMENZO EN NICARAGUA REUNION PRESIDENTES HONDURA, NICARAGUA Y SALVADOR.
ITAR-TASS Spanish Language Service, 23:34, 30 March 2001, 145 words, (Spanish)
Ciudad de Mexico, mar 31 /por Andrei Golubov, corresponsal de ITAR-TASS/. En la localidad balnearia nicaraguense de Pochomil comienzo este viernes una reunion de los presidentes de Hondura, Nicaragua y Salvador.

#10 HONDURAS-JUSTICE HONDURAN PRESIDENT'S RELATIVE ORDERED ARRESTED FOR POLLUTING
EFE News Service , 9 December 2000, 201 words, (English)
Tegucigalpa, Dec 9 (EFE).- A Tegucigalpa judge has ordered Miguel Facusse, uncle of Honduran President Carlos Flores, arrested for allegedly polluting the environment, the local press reported Saturday.
** Refers to allegations that a detergent and soap factory owned by Dinant's owner and recently sold to a foreign company dumped hazardous wastes into a stream that passes through downtown Tegucigalpa.*

#11 LATIN AMERICAN BRIEFS
Associated Press Newswires , 18:05, 9 December 2000, 399 words, By The Associated Press, (English)
TEGUCIGALPA, Honduras (AP) - A judge issued an arrest warrant Saturday for the president's uncle [Dinant's owner] on charges his food processing plant had contaminated the drinking water of 60,000 residents here.
** Refers to allegations that Cressida, is accused of dumping toxins into canals for 20 years, leading to the contamination of the drinking water of at least five neighborhoods in Tegucigalpa.*

#12 ARREST WARRANT ISSUED FOR PRESIDENT'S UNCLE ON ENVIRONMENTAL CHARGES
Associated Press Newswires , 12:31, 9 December 2000, 113 words, (English)
TEGUCIGALPA, Honduras (AP) - A judge issued an arrest warrant Saturday for the president's uncle on charges his food processing plant has contaminated the drinking water of some 60,000 residents here.
** As above*

#13 HONDURAS-JUSTICE BUSINESSMAN, LEGISLATOR IMPLICATED IN LEFTIST CANDIDATE'S MURDER
EFE News Service , 25 October 2000, 269 words, (English)
Tegucigalpa, Oct 25 EFE).- Honduran human rights groups charged Wednesday that an important businessman and a ruling party legislator had masterminded the assassination, three years ago, of a left-wing mayoral candidate.
** Refers to allegations that Dinant's owner was involved in a 1997 assassination of a left wing mayor candidate who had opposed the installation of an African palm oil-producing plant belonging to Facusse.*

Honduras Revives Plan For Highway Across C. America
Dow Jones International News , 00:08, 21 September 2000, 216 words, (English)
TEGUCIGALPA, Honduras (AP)--Honduras announced Wednesday that it will revive plans to build a "dry canal" highway linking the Pacific and Atlantic oceans.

Cressida en Honduras vendida a transnacional Unileven - diario.
Reuters - Noticias Latinoamericanas, 14:03, 1 April 2000, 208 words, (Spanish)
TEGUCIGALPA, abr 1 (Reuters) - La Corporación Cressida de Honduras con operaciones en América Central y México fue vendida por 323 millones de dólares a la transnacional Unileven de capital inglés y holandés, aseguró el sábado un diario ...

Unilever adquiere Grupo Cressida de Honduras.
Reuters - Noticias Latinoamericanas, 1 April 2000, 352 words, (Spanish)
TEGUCIGALPA, abr 1 (Reuters) - La Corporación Cressida de Honduras, con operaciones en América Central y México, fue vendida por 323 millones de dólares a la transnacional Unilever, de capital inglés y holandés, informó el sábado un ...

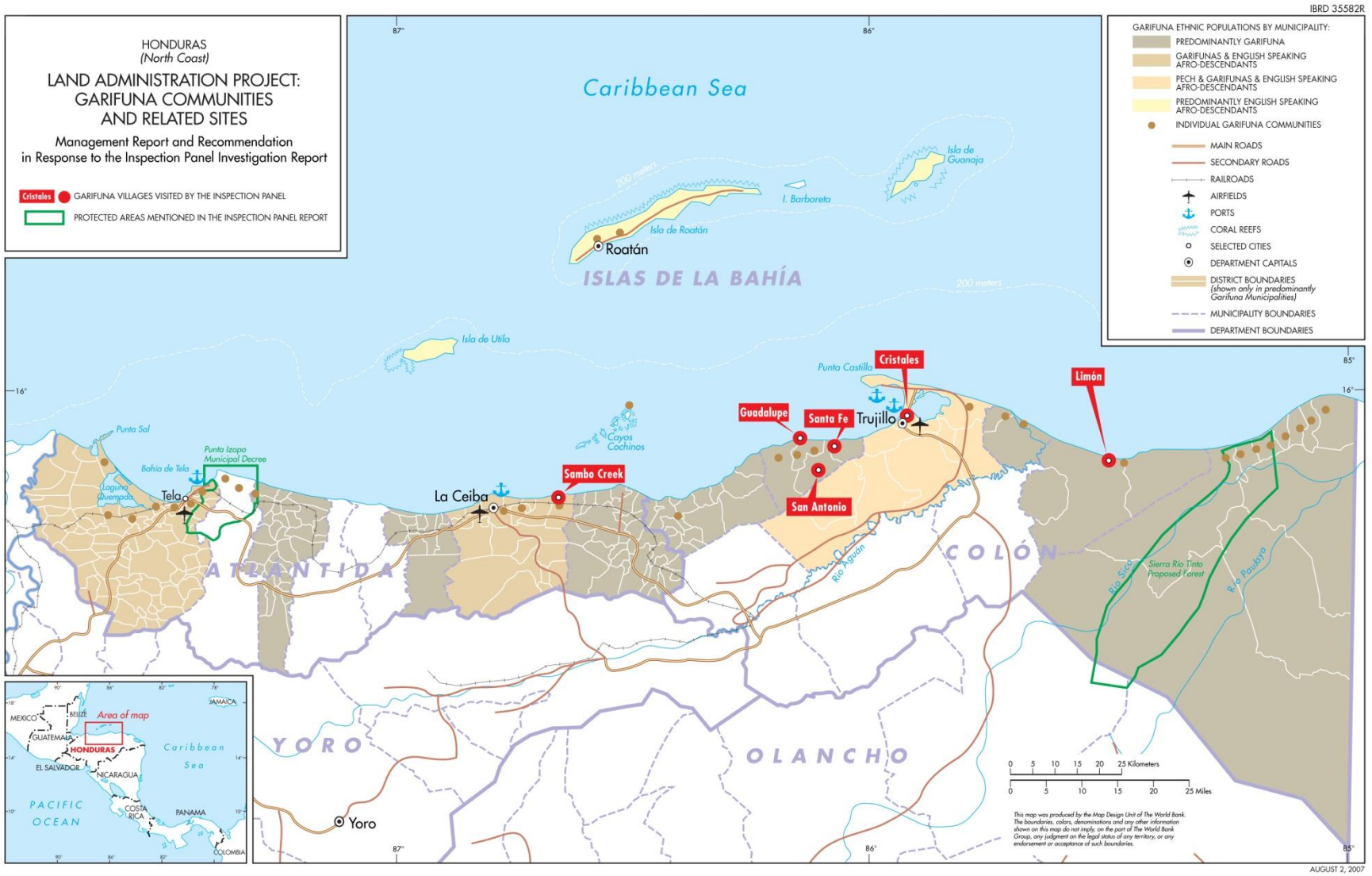
#14 BAUERNOPFER FÜR DIE GLÄUBIGER.
taz - die tageszeitung, 19 June 1999, 527 words, Von Toni Keppeler., (German)
Bauernopfer für die Gläubiger Beispiel Honduras: Das hochverschuldete Land will durch Modernisierung seine Bananenwirtschaft in Gang bringen.
* *Identifies large land holders such as Dinant's owner among the beneficiaries of an agricultural modernization program that is leading to the concentration of land holdings Honduras.*

Honduras Business Group Demands Crackdown On Crime
Dow Jones International News , 10:26, 15 March 1999, 251 words, (English)
TEGUCIGALPA, Honduras (AP)--The country's main business group Monday demanded a crackdown on crime in Honduras, saying kidnapping, robbery and other assaults have become common.

#15. GARÍFUNA COMMUNITIES STAND TO LOSE LANDS
NACLA Report on the Americas , 1 March 1999, 356 words, Ronald J Morgan, (English)
TEGUCIGALPA-The ancestral lands of the Garífuna people-the Afro-Honduran, English-speaking people who inhabit the Caribbean coast of Honduras-are under attack in the wake of a post-hurricane constitutional reform which redefines ...
** Refers to Dinant's owner in the context of "rapacious land buying by powerful politicians and military officers" on Honduras' north coast.*

Exportaciones C.América a EEUU podrían llegar a 10.000 mln dlrs.
Reuters - Noticias Latinoamericanas, 19 February 1999, 396 words, (Spanish)
TEGUCIGALPA, feb 19 (Reuters) - Las exportaciones de los devastados países centroamericanos a Estados Unidos podrían alcanzar los 10.000 millones de dólares anuales si Washington amplia los beneficios comerciales de la región, dijo el ...

Annex 3: World Bank Map of Garífuna Communities on Honduras' North Coast (August 2007)



Annex 4: IFC summary of Main Milestones in Project Supervision (2010-13)[213]

April 2010	President Lobo, Dinant, and farmers sign an MOU for the peaceful resolution of the land conflict that includes the purchase and distribution of land. Protracted negotiations ensue.
November 2010	Conflict aggravates. Five farmers dead after incident at plantation “El Tumbador”.
November 2010	IFC Honduras contacts Dinant owner immediately after the incident to discuss the grave situation.
November 2010	Email from Rights Action to President Zoellick cc CAO and Inspection Panel regarding the deaths in “El Tumbador”.
December 2010	Letter from IFC Director to Dinant owner regarding the incident, asking for restraint.
December 2010	IFC sends a letter requesting that Dinant hires a reputable international security consultant to mitigate future events.
January 2011	IFC Director meets with Dinant owner in Honduras.
January 2011	Mr. Lars Thunell sends letter to President Lobo regarding the conflict.
February 2011	President Lobo responds to Mr. Lars Thunell’s letter.
February 2011	International security consultant, undertakes an on-site audit .
March 2011	SSV visit to Dinant by Environmental and Social Specialists, which included visits to San Pedro Sula, Comayagua, and Lean Valley to review ESAP in detail and documents deficiencies.
July 2011	IFC sends a notification letter to Dinant requesting to assure implementation of issues outlined in the ESAP.
August 2011	Senior Country Manager meets with Dinant in Tegucigalpa.
August 2011	Mr. Lars Thunell meets with President Lobo in Tegucigalpa to discuss the status of the conflict in the Aguan Valley.
September 2011	IFC VP discusses the land issue with Honduras’s Minister of Finance in Washington.
February 2012	Agreement signed between the GoH and peasant organizations to acquire part of the occupied land.
April 2012	IFC’s LAC Portfolio Manager met Dinant owner.
April 2012	SSV visit by Environmental and Social Specialist to HQ and reports little progress. ESRR 4 - Unsatifactory.
May 2012	CES Sr. Manager and CES LAC Coordinator visit Dinant to request progress on the ESAP.
June 2012	Social Specialist continues to discuss with Dinant and consultants on an acceptable TOR for ESAP items of social baseline study, community engagement, and community investment strategy and proposals throughout the summer and into early fall.
July 2012	IFC receives and reviews a flow of information from Dinant on plans to complete overdue actions in the ESAP. CES solicits the company to send their plans to comply with agreements on ESAP.
August 2012	Social Specialist continues to follow up on action, particularly labor overtime issues and status of completion of Labor Audit by labor consultants.
September 2012	Environmental Specialist documents advance to the ESAP.
November 2012	Further discussion with Dinant and consultants, to develop a comprehensive approach and build management capacity for Dinant to manage risks (political, social, human rights, and environmental compliance).
December 2012	IFC receives Labor Audit from Dinant.
January 2013	SSV by Environmental and Social Specialists to review ESAP progress

[213] This list is reproduced from IFC’s response to the CAO draft audit report (08/30/2013).

	and push for action. Meet consultant hired to help Dinant coordinate all ESAP issues and consultants.
March 2013	Continuing updates on progress with ESAP. Dinant sends ESAP Progress Report prepared by a specialized consulting firm. Discussions with Security Consultant and company on formal adoption of Security and VPSHR policies through a public statement and company training. More progress also needed on RSPO certification, environmental management systems, and occupational health and safety standards.
April 2013	CES has conversations with Dinant to request Dinant to move faster and more effectively on the ESAP implementation, particularly security force training and community engagement. Dinant begins to review a proposal regarding stakeholder and community engagement, social baseline and community investment. Dinant reassigns senior manager to position to focus on Social/CSR aspects, some support staff with this background hired. Discussion on progress on CAP of Labor Audit.
May 2013	Discussion with security consultant on planned May trip and training program. Discuss importance of linking security issues with community engagement and grievance mechanisms. Discussion with community engagement consultant regarding their team to ensure acceptable specialists to undertake work on community engagement, social baseline and community investment.
June 2013	Feedback from security consultant on good progress made on various security issues, such as training program with in house security as well as risk assessment and planning with senior management teams from all company divisions/sites. He had meetings with the company, military, police, and the Human Rights Commission.
July 2013	IFC reviews documentation regarding labor issues. SSV by Environmental Specialist to review progress and status on ESAP. Social Specialist met with DC based NGO to discuss potential peace building intervention.
August 2013	Further update from Security consultant on-site meetings with all consultants working on ESAP held in mid-August and activities on security front.
Monthly (March to present) 2013	Conference calls every month (since March) to get status report on action plan implementation and discuss issues.