

Mr. Michael K. Addo, Chair-Rapporteur of the Working Group on the issue of human rights and transnational corporations and other business enterprises

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Dear Chair-Rapporteur, dear Special Rapporteurs,

I refer to your letter of 21 June 2017 regarding the Agua Zarca Hydroelectric Project in Honduras and FMO's Sustainability Policy and Human Rights position statement. This letter provides detailed information in response to the matters raised.

FMO's Sustainability Policy

Since 1970, we offer capital, knowledge and networks to companies and financial institutions in developing countries. Over the years, we have gained much experience on how to best support our clients, both the ones that are frontrunners in sustainable business, as well as the ones that might need some extra push in order to improve their impact. We see this as a continuous process and aim to constantly improve our own and our clients' processes, activities and output to make this world a better place. In this regard, FMO's Sustainability Policy sets out FMO's commitment to sustainable development. By following this Policy, FMO intends to protect people and the environment impacted by its own operations and its investments and to help clients manage their environmental and social impact and improve their corporate governance.

On 4 January 2017, FMO published its revised Sustainability Policy following an extensive public consultation. FMO is grateful to all stakeholders for their contribution to the consultation, and I would like to take the opportunity to thank the Office of the United Nations High Commissioner for Human Rights for their contribution¹. In light of the number, quality and depth of the comments received during the public consultation, we communicated earlier in 2017 that we needed to reflect more profoundly on several of the issues presented to do justice to the input received. Many of the comments focussed on human rights specifically, prompting us to undertake an internal review, in collaboration with Rotterdam School of Management and NomoGaia. The findings and recommendations of this review were agreed by FMO's Sustainability Committee in May 2017. In line with the UN Guiding Principles on Business and Human Rights, FMO will more systematically include human rights in its investment processes, supplementing the systems based on the IFC Performance Standards that remain our primary standard in guiding client relationships.

¹ Comments of the Office of the United Nations High Commissioner for Human Rights on FMO Sustainability Policy and Position Statement on Human Rights, 18 November 2016

FMO is also committed to explicitly report on human rights from 2018, honouring a commitment made in 2016 when FMO signed the Dutch Banking Sector Agreement on international responsible business conduct regarding human rights.

We recognise that human rights defenders are under increasing threat of violence or oppression in many parts of the world - this may include people opposing or connected with projects FMO invests in or with which we have a business connection. Our current approach emphasizes high environmental and social standards from the outset. We require that clients set up and operate systems consistent with the IFC Performance Standards and the UN Guiding Principles to address grievances and complaints from affected communities. We require evidence of free, prior and informed consent (FPIC) where projects impact indigenous communities as set out in IFC PS 7, and broad community support where projects might have significant impacts. We do not tolerate any activity by our clients that amount to the oppression of, violence towards, or any other violation of the human rights of those who voice their opinion in relation to FMO activities and the activities of our clients. FMO is developing new tools to prevent and address reprisals against human rights defenders. These include pre-investment screening (and then enhanced due diligence as needed) in locations where there are high risks to human rights, and pilot testing of human rights risk assessments.

FMO's exit from the Aqua Zarca project

On 6 July 2017, FMO and co-lender Finnfund publicly announced the finalization of our exit from the Aqua Zarca hydropower project in Honduras. FMO and Finnfund, together with owner and developer DESA, mutually agreed to end their existing contractual relations. This joint conclusion was reached after extensive consultations with a large number of local and international stakeholders and through the work of an independent fact finding mission (as mentioned in your letter) and an independent consultant.

FMO's exit from the project is intended to reduce international and local tensions in the area. We wish that all external stakeholders allow for local communities to initiate a dialogue among themselves to decide on the future of the area, the development options they have, and if a hydroelectric project should be one of those options. We believe such a dialogue should be voluntary, convened by a credible international institution that is acceptable to all parties, allow for all the views of community members to be heard and respected, and should be free from interference from any private or public external institution or group. Furthermore, it is important that a credible international human rights institution can monitor the situation on the ground before any dialogue is initiated so as to ensure that participants can feel free to speak their minds without fear of retaliation from anyone.

FMO notes that no proven connection has been established between DESA and allegations regarding any illegality. FMO also appreciate DESA's willingness to put the project on hold to allow for such a dialogue to happen and their commitment to accept its outcomes. Certain community development projects that were underway will be finalized and measures will be taken to mitigate environmental risks that result from the construction activities being put on hold.²

² More information on the terms of our exit can be found on the [Aqua Zarca section](#) of FMO's website. The recommendations of the independent consultant on a responsible exit from the project can also be found there.

In conclusion, the finalisation of a responsible exit from the Aqua Zarca project and further development of our policy statements have been top priorities for FMO. FMO anticipates to publish final versions of the position statements on Land Governance, Human Rights and Gender towards the end of the summer 2017.

As we value the contribution of our stakeholders, to discuss the findings of our review and the actions to which we are committed, FMO has invited stakeholders for an update session on FMO's Human Rights and Land Governance position statements on 11 September 2017, before publication. FMO is looking forward to continuing the dialogue on these matters with all our stakeholders, based on our common goal of promoting sustainable development.

I hope to have provided a sufficient response to your questions. If any further clarification is required, please contact Emilie Goodall, Manager Development Impact & Sustainability (e.goodall@fmo.nl), or Christiaan Buijnsters, Public Affairs Officer (c.buijnsters@fmo.nl).

Yours sincerely,



Jürgen Rigterink
Chief Executive Officer

