

February 12, 2018

Via Electronic Mail

United Nations Development Programme
Attn: SECU/SRM, OAI, UNDP
One United Nations Plaza, 4th Floor
New York, NY USA 10017
Email: secuhotline@undp.org

Re: Stakeholder Response to Draft Compliance Review Report #SECU0003

Dear Social and Environmental Compliance Unit (SECU) Team:

We are writing in response to SECU's draft compliance review report for case #SECU0003 related to contaminated raspberry seedlings in Bosnia and Herzegovina. As civil society organizations that advocate for accountability in development finance and support those who have been harmed by development projects, we take great interest in SECU's ability to function effectively and provide institutional accountability and redress to project-affected communities. While we are unable to provide specific comments pertaining to the details of the case,¹ we wish to offer these general points on the report as public stakeholders under Section 10.2 of SECU's Investigation Guidelines.²

1. As stated in SECU's Investigation Guidelines, SECU's "compliance processes are systematic, documented processes of objectively obtaining and evaluating evidence to determine whether UNDP-supported activities are in conformance with UNDP's social and environmental commitments."³ We are encouraged to see that the investigation included a review of these commitments through the lens of relevant provisions of the UNDP Programme and Operations Policies and Procedures (POPP) Procurement Policies, including the vendor contract management provisions.⁴ As we have seen in cases at other independent

¹ The undersigned are not party to the case, nor have they been in communication with any parties to the case. These comments are offered only as general feedback in order to ensure institutional accountability and access to meaningful remedy through the complaint process. They are not to be interpreted as comments on behalf of the complainant(s).

² For the purposes of these comments, we view public stakeholders as "interested person[s]." See Social and Environmental Compliance Unit (SECU), *Social and Environmental Compliance Unit Investigation Guidelines*, sec. 10.2, para. 40, available at <http://www.undp.org/content/undp/en/home/librarypage/operations1/secu-investigation-guidelines/> [hereinafter *SECU Investigation Guidelines*].

³ *Id.* sec. 1, para. 12.

⁴ See SECU, *Social and Environmental Compliance Review Findings and Recommendations in response to allegations of non-compliance with UNDP's social and environmental standards and other relevant policies in the context of UNDP's "UN Response to BiH Floods Project": Draft Report for Public Comment*, sec. IV(B), paras. 127-133, available at https://info.undp.org/sites/registry/secu/SECU_Documents/SECU0003_Draft_Report_Final

accountability mechanisms, the management and monitoring of third-party compliance with contractual obligations is an area of ongoing concern and often where due diligence is lacking. Given the nature of these arms-length relationships, it is all the more important to supervise and enforce vendors' obligations so projects not only avoid harmful results but actually bring sustainable benefits to communities on the ground as well. As such, it is critical that SECU continue to support UNDP's efforts to ensure proper due diligence and oversight of its vendor relationships through its investigation processes.

2. When an investigation results in findings of noncompliance, "SECU will (1) make recommendations to bring the project into compliance and (2) make recommendations, where appropriate, to mitigate any harm that results from the breach of UNDP's social and environmental commitments."⁵ As part of the complaint process, these recommendations are shared with UNDP staff, complainants, and the public for comment.⁶ We support these elements of SECU's mandate. Further, in order for recommendations to be meaningful, we believe that they should include clear, actionable solutions enabling full project compliance and monitoring. They should also be based on meaningful consultation with the aggrieved party/ies so that the remedy best reflects their needs. SECU should ensure that its recommendations⁷ in the draft report are consistent with this approach.

Thank you for the opportunity to provide general feedback on this draft compliance review report. We hope that you will consider our comments as you finalize the report, and we look forward to hearing from you soon.

Sincerely,

Kindra Mohr, Policy Director
Accountability Counsel

Jolie Schwarz, Senior Policy Advisor
Bank Information Center

Erika Lennon, Senior Attorney, Climate & Energy Program
Center for International Environmental Law

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⁵ *SECU Investigation Guidelines*, *supra* note 1, sec.1, para. 6.

⁶ *See id.* sec. 10.2, para. 40.

⁷ *See Draft Compliance Review Findings and Recommendations*, *supra*, note 4, sec. VI, paras. 181-185.