

To:
Mr. Jeroen Dijsselbloem, Minister of Finance
Mr. Jean Frijns, Chairman Supervisory Board of FMO

Cc:
Mrs. Lilianne Ploumen, Minister for Foreign Trade and Development Cooperation
Ms. Agnes Jongerius, Member Supervisory Board of FMO
Mr. Pier Vellinga, Member Supervisory Board of FMO
Mr. Nanno Kleiterp, Chief Executive Officer FMO
Mr. Björn Kuil, Ministry of Foreign Affairs - DGIS
Mr. Pieter van der Gaag, FMO

Re: FMO Divestment from Agua Zarca and key follow-up steps

Amsterdam, May 19th 2016

Dear Mr. Dijsselbloem and Mr. Frijns, Shareholders of FMO,

On March 2nd, Berta Caceres murder shocked the world. Her struggle as a prominent human rights defender and as coordinator of the Indigenous People's Federation of Honduras (COPINH) was to protect the rights of the Lenca people from harmful development projects, specifically the Agua Zarca project, financed amongst others by the Dutch Development Bank (FMO).

FMO played a key role in financing the project, whilst the bank knew or should have known at the time of its investment in 2014 that the Agua Zarca project had the potential to result in conflict and violence: In 2013, a soldier killed Tomás García, one of Berta's colleagues, during a protest against the project. The Inter-American Commission on Human Rights had issued precautionary measures for Berta herself as result of the aggression, criminalization, threats and intimidation she faced over many years.¹ That should have alerted FMO to the serious risks facing human rights defenders in Honduras, especially those working on environmental and natural resource rights.² FMO should have also been aware of the failure of the Government of Honduras to protect the rights of indigenous peoples.³ The project was not being developed in a vacuum. It was being developed in an environment in which it was impossible for FMO's environmental and social policies to be implemented adequately.

Last week, after repeated requests from COPINH and civil society organisations from all over the world and after the arrest and allegations towards DESA staff members on their

¹ Inter-American Commission on Human Rights, "MC 196-09 - Amplification of Precautionary Measures, Honduras," (June 29, 2009), available at <http://www.cidh.org/medidas/2009.eng.htm>.

² Inter-American Commission on Human Rights, *Situation of Human Rights in Honduras* (Dec. 31, 2015).

³ UN Special Rapporteur on the Rights of Indigenous Peoples, "End-of-mission statement on Honduras," (Nov. 10, 2015) available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16740&LangID=E#sthash.sSUNXgj.dpuf>.

possible involvement in the murder of Berta Caceres, FMO announced its intention to withdraw from Agua Zarca.⁴

While we welcome FMOs impending exit from Agua Zarca, we fiercely regret that it has taken the lives of people like Berta before FMO's was willing to consider to exit from the project. Meanwhile, construction at the Agua Zarca building site continues unabated and the Lenca that continue standing up against the Honduran Government are met with violence, intimidation and repression.

Neither is this an isolated incident. FMO's other investments in Honduras, Central America and elsewhere, have similarly generated conflict, division, and at times violence. FMO's investment in Banco Ficohsa is linked to violence in the Bajo Aguán valley of Honduras as a result of the operations of Dinant and other large palm oil companies.⁵ The Santa Rita dam⁶ and the Barillas Santa Cruz dam⁷ in Guatemala and the Barro Blanco dam in Panamá, all affecting indigenous communities, have seen protests and retaliations. The findings of FMO's Independent Complaints Mechanism (ICM) in its investigation of the Barro Blanco dam echo the concerns raised in the Agua Zarca project. The ICM found that FMO did not have sufficient information about indigenous rights when it made its investment and had "not taken the resistance of the affected communities...seriously enough."⁸

As the bank's major shareholders you have a responsibility to ensure that FMO respect human rights in their operations. This is the time to discuss what policy changes are needed at FMO to ensure that further violence as a consequence of current investments are prevented and that future investments fully respect the rights of those affected, in particular the rights of indigenous peoples.

In direct relation to the Agua Zarca project, we call on you to

- a) Agree on the key exit criteria and a clear time line for FMO's final and formal decision to divest from the Agua Zarca project;
- b) Direct FMO to conduct a portfolio review to determine whether it is directly or indirectly investing in any other project on Lenca territory;
- c) Call for a clear vision on and commitment to the bank's contribution to reparations for human rights violations of the Lenca and other local groups in the area of influence of Agua Zarca and on its role in de-escalation of the conflict around the project.

⁴ <https://www.fmo.nl/k/n1771/news/view/28688/20819/fmo-seeks-to-exit-agua-zarca.html>

⁵ Compliance Advisor Ombudsman, International Finance Corporation, *CAO Investigation Report of IFC Environmental and Social Performance in relation to Investments in Banco Financiera Comercial Hondurena S.A. (Ficohsa)* (Aug. 6, 2014), available at http://www.cao-ombudsman.org/cases/document-links/documents/CAOInvestigationofIFCRegardingFicohsa_C-I-R9-Y13-F190.pdf; Compliance Advisor Ombudsman, International Finance Corporation, *CAO Audit of IFC Investment in Corporacion Dinant S.A. de C.V., Honduras* (Dec. 2013), available at http://www.cao-ombudsman.org/cases/document-links/documents/DinantAuditCAORefC-I-R9-Y12-F161_ENG.pdf.

⁶ Currently under investigation by the Compliance Advisor Ombudsman of the International Finance Corporation: http://www.cao-ombudsman.org/cases/case_detail.aspx?id=227.

⁷ http://www.cao-ombudsman.org/cases/case_detail.aspx?id=241; <https://www.fmo.nl/project-details/31677>.

⁸ FMO-DEG Independent Complaints Mechanism, *Barro Blanco Hydroelectric Project Panama*, para 146 (May 29, 2015).

In relation to the broader FMO portfolio and its policies and mechanisms, we call on you to

- d) Demand that the bank reviews its current investment and lending portfolio as to identify other projects that run similar human rights risks as the Agua Zarca project and take immediate measures to halt these investments and prevent future human rights violations.
- e) Demand that the bank review its policies and decision-making processes in a transparent and participatory manner to make sure that its procedures guarantee the inclusion of local actors from the very beginning of the project cycle, that Free Prior and Informed Consent is obtained and that proper conflict prevention mechanisms are put in place.

We would welcome the opportunity to speak with you in further detail about our concerns.

For any clarification or additional information please contact:

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Sincerely, on behalf of:

BankTrack

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Danielle Hirsch

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