

To: Ms. Lilianne Ploumen
Minister for Foreign Trade and Development Cooperation
Bezuidenhoutseweg 67
2594 AC The Hague
The Netherlands

Cc: Mr. Bert Koenders, Minister of Foreign Affairs
Mr. Jeroen Dijsselbloem, Minister of Finance
Mr. Jeroen Roodenburg, Director DGIS/DDE
Mr. Paul van Vliet, Director DGIS/DMM
Ms. Mette Gonggrijp, Dutch Ambassador to Costa Rica

Mr. Nanno Kleiterp, Chief Executive Officer, FMO
Mr. Jean Frijns, Chairman of the Supervisory Board, FMO

Mr. Roelof van Laar, Member of Parliament, PvdA
Mr. Michiel Servaes, Member of Parliament, PvdA
Mr. Eric Smaling, Member of Parliament, SP
Mr. Jasper van Dijk, Member of Parliament, SP
Mr. Jesse Klaver, Member of Parliament, GroenLinks
Ms. Marianne Thieme, Member of Parliament, Partij voor de Dieren
Ms. Stientje van Veldhoven, Member of Parliament, D66
Ms. Agnes Mulder, Member of Parliament, CDA
Mr. Joel Voordewind, Member of Parliament, ChristenUnie
Mr. Joost Taverne, Member of Parliament, VVD
Mr. Elbert Dijkgraaf, Member of Parliament, SGP
Mr. Henk Krol, Member of Parliament, 50Plus
Mr. Raymond de Roon, Member of Parliament, PVV

Re: Government's Responsibility to Ensure Divestment from Agua Zarca Dam in Honduras

Amsterdam, 14 March 2016

Dear Minister Ploumen,

You have committed to defend the legacy and struggle of Berta Caceres.¹ Her struggle as a prominent human rights defender 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). The undersigned organizations join together with the Civic Council of Popular and Indigenous Organisations of Honduras (COPINH)² to call on

¹ Dutch Ministry of Foreign Affairs, "Koenders and Ploumen send envoy to Honduras," (March 6, 2016), available at <https://www.government.nl/ministries/ministry-of-foreign-affairs/news/2016/03/06/koenders-and-ploumen-send-envoy-to-honduras>.

² COPINH: DENUNCIA URGENTE DEL 06 marzo 2016, available at <http://www.copinh.org/article/copinh-denuncia-urgente-del-06-marzo-2016>.

the Dutch government to assume its responsibility and direct FMO to withdraw its support from the Agua Zarca project.

FMO 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. Just a year earlier, 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.³ That should have alerted FMO to the serious risks facing human rights defenders in Honduras, especially those working on environmental and natural resource rights.⁴ They should have also been aware of the failure of the Government of Honduras to protect the rights of indigenous peoples.⁵ 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. As recently as a few weeks ago, and despite changes in the design of the project, Berta and over 100 people protested the project, but their peaceful protest was met with repression by security forces.⁶ If there was still a question before, now Berta's murder demonstrates unequivocally that this project cannot be developed without further violence.

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.⁷ The Santa Rita dam⁸ and the Barillas Santa Cruz dam⁹ 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

³ 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>.

⁴ Inter-American Commission on Human Rights, *Situation of Human Rights in Honduras* (Dec. 31, 2015).

⁵ 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.sUNxgi.dpuf>.

⁶ Inter-American Commission on Human Rights, "IACHR Condemns the Killing of Berta Cáceres in Honduras," (March 4, 2016) available at http://www.oas.org/en/iachr/media_center/PReleases/2016/024.asp.

⁷ 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.

⁸ Currently under investigation by the Compliance Advisor Ombudsman of the International Finance Corporation: http://www.cao-ombudsman.org/cases/case_detail.aspx?id=227.

⁹ http://www.cao-ombudsman.org/cases/case_detail.aspx?id=241; <https://www.fmo.nl/project-details/31677>.

taken the resistance of the affected communities...seriously enough.”¹⁰

The Government of the Netherlands has an obligation under human rights law to ensure that its state-owned enterprises respect human rights in their operations. As a majority shareholder, it is responsible for the impacts of FMO’s investments and must exercise its authority to prevent further adverse impacts from occurring. There can and should be a time to discuss what policy changes are needed at FMO to ensure that future investments fully respect the rights of those affected, in particular the rights of indigenous peoples. But now, we call on the government to take the following immediate actions to ensure that it is no longer contributing to the conflict and violation of rights in Honduras:

- Direct FMO to divest from the Agua Zarca project;
- Direct FMO to conduct a portfolio review to determine whether it is directly or indirectly investing in any other project on Lenca territory;
- Use all diplomatic means at its disposal to ensure the safe return of Gustavo Castro, witness to Berta’s murder, to Mexico, as recommended by the Inter-American Commission on Human Rights and the UN Special Rapporteur on the situation of Human Rights Defenders;¹¹ and
- Urge the Honduran authorities to support a full and impartial independent investigation, one that involves international human rights organizations, that is coordinated by the Inter-American Commission on Human Rights, and pursues both material and intellectual authors of the crime.

We would welcome the opportunity to speak with you in further detail about our concerns. We are also communicating our concerns with the other investors in Agua Zarca, FinnFund and the Central American Bank for Economic Integration (CABEI), and asking them to divest.

For any clarification or additional information please contact:

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Sincerely, on behalf of:

ActionAid Netherlands, Netherlands
ASEED Europe, Netherlands
BankTrack, Netherlands
Both ENDS, Netherlands
FIAN Nederland, Netherlands

¹⁰ FMO-DEG Independent Complaints Mechanism, *Barro Blanco Hydroelectric Project Panama*, para 146 (May 29, 2015).

¹¹ Inter-American Commission on Human Rights, “PM 112/16 – Members of COPINH, Berta Cáceres’ relatives and other, Honduras,” (March 5, 2016) available at: <http://www.oas.org/es/cidh/decisiones/pdf/2016/MC112-16-Es.pdf>; UN Special Rapporteur on the situation of human rights defenders, “Honduras: “Another defender needs protection after Berta Cáceres’s killing,” (March 10, 2016) available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17198&LangID=E>

ILEIA - Centre for Learning on Sustainable Agriculture, Netherlands
MamaCash, Netherlands
Milieudefensie, Netherlands
OxfamNovib, Netherlands
SOMO, Netherlands
Transnational Institute, Netherlands
XminY hét actiefonds, Netherlands

Abibimman Foundation, Ghana
Alternatives Durables pour le Développement, Cameroun
Association for Women's Rights in Development (AWID), Canada/ Mexico
Coalition against Land Grabbing, Philippines
Consejo Cívico de Organizaciones Populares e Indígenas de Honduras (COPINH), Honduras
CREA, India
Eco Accord, Russia
Fern International, Belgium/ United Kingdom
FIDH, France
Fondo Centroamericano de Mujeres (FCAM), Nicaragua
Friends of the Earth Europe, Belgium
Friends of the Earth International
Friends of the Siberian Forests, Russia
Fundacion Aguaclara, Venezuela
Fundación Ambiente y Recursos Naturales (FARN), Argentina
Fundación M'Biguá, Ciudadanía y Justicia Ambiental, Argentina
GegenStrömung, Germany
Global Diversity Foundation, United Kingdom
Global Witness, United Kingdom
Honduras Forum Switzerland, Switzerland
International Rivers, USA
IPEN
IUCN WCPA Young Professionals Group
JASS (Just Associates)
Jorge Varela Márquez, Goldman Prize 1999 Special Invitee World Forum of Fishers people
Legal Rights and Natural Resources Center, Friends of the Earth Philippines, Philippines
LILAK (Purple Action for Indigenous Women's Rights), Philippines
Mangrove Action Project, USA
National Toxics Network, Australia
New Wind Association, Finland
Rainforest Action Network, USA
Rettet den Regenwald, Germany
Salva la Selva, Spain
South Durban Community Environmental Alliance, South Africa
The Woodland League, Ireland
TuK, Indonesia
Urgent Action Fund
Urgent Action Fund - Africa
Urgent Action Fund - Latin America
Urgewald, Germany