



February 2025

Compliance Appraisal of IFC Project MHP Corporate Loan, Ukraine

IFC Project: 21071, 24011, 29204, 32632, 34041, 46415

About CAO

The Office of the Compliance Advisor Ombudsman (CAO) is the independent accountability mechanism of the International Finance Corporation (IFC) and Multilateral Investment Guarantee Agency (MIGA), members of the World Bank Group. We work to facilitate the resolution of Complaints from people affected by IFC and MIGA projects in a fair, objective, and constructive manner, enhance environmental and social project outcomes, and foster public accountability and learning at IFC and MIGA.

CAO is an independent office that reports directly to the IFC and MIGA Boards of Executive Directors. For more information, see www.cao-ombudsman.org.

About the CAO Compliance Function

CAO's compliance function reviews IFC and MIGA compliance with environmental and social policies, assesses related Harm, and recommends remedial actions where appropriate.

CAO's compliance function follows a three-step approach:

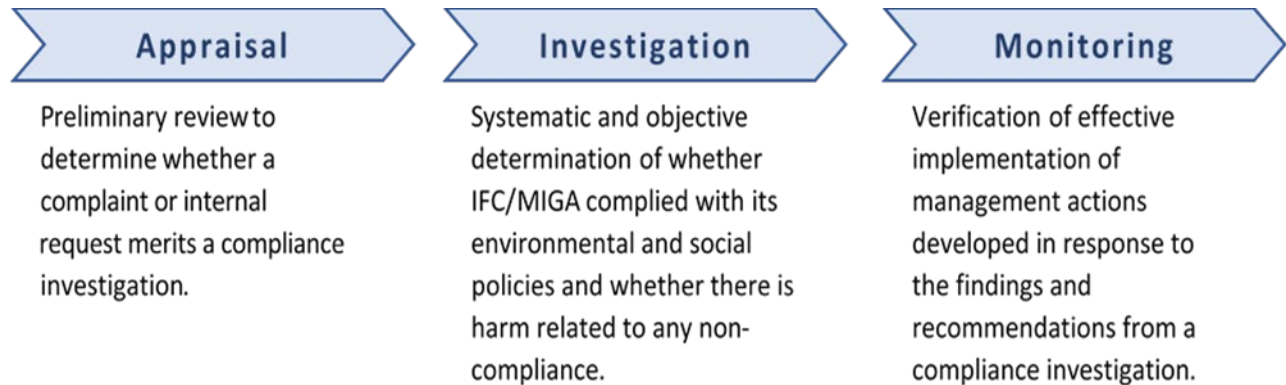


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Acronyms

Acronym	Definition
AIP	Access to Information Policy
CAO	Office of the Compliance Advisor Ombudsman (IFC and MIGA)
CSO	Civil Society Organization
DFC	U.S. International Development Finance Corporation
EBRD	European Bank for Reconstruction and Development
E&S	Environmental and Social
EHS	Environmental, Health and Safety
EIA	Environmental Impact Assessment
ESAP	Environmental and Social Action Plan
ESDD	Environmental and Social Due Diligence
ESIA	Environmental and Social Impact Assessment
ESMS	Environmental and Social Management System
ESRS	Environmental and Social Review Summary
ESRP	Environmental and Social Review Procedures
GRM	Grievance Redress Mechanism
IFC	International Finance Corporation
IPAM	Independent Project Accountability Mechanism
MAP	Management Action Plan
MHP	Private Joint-Stock Company “MHP”
MIGA	Multilateral Investment Guarantee Agency
NGO	Non-governmental Organization
OHS	Occupational Health and Safety
PPE	Personal Protective Equipment
PS	Performance Standards (IFC)
SEP	Stakeholder Engagement Plan
SII	Summary of Investment Information
SIR	Supplementary Information Report (ESIA)
SPI	Summary of Proposed Investment
VPF	Vinnytsia Poultry Farm

Executive Summary

This report documents CAO's preliminary compliance review of a 2018 complaint about IFC investments in Private Joint-Stock Company "MHP", the largest producer of processed meat and grain in Ukraine. The complaint by local villagers raises concerns about inadequate environmental and social (E&S) risk management resulting in harm to communities in the Vinnytsia region. CAO's compliance appraisal followed an incomplete two-year dispute resolution process. As set out in this appraisal report, CAO concludes that the complaint merits a compliance investigation.

IFC's Investment

Private Joint-Stock Company MHP (MHP, the client/company) is a leading poultry meat producer in Europe operating a vertically integrated business of chicken meat production processes, including crop growing. The company raises and processes approximately 460 million chickens annually, of which approximately 300 million are raised and processed at its Vinnytsia Poultry Farm. The company leases 351,600 hectares of agricultural land located primarily in highly fertile black soil regions of Ukraine and also has production operations in Slovenia, Croatia, Serbia, and Bosnia & Herzegovina.

Since 2003, IFC has made six investments in MHP totaling US\$ 451.25m and conducted several advisory projects with the poultry producer. IFC's investments in 2010, 2012, and 2014 supported MHP's general operations and the development and expansion of Vinnytsia Poultry Farm in Ukraine, one of the largest such farms in Europe. The Zernoproduct Farm operates MHP's arable operations (fodder and grain cultivation) in the Vinnytsia region.

MHP completed repayment of its outstanding IFC loans in 2019. In 2023, IFC approved a sixth loan to help the company refinance existing debt and upgrade and expand its agricultural waste-to-energy plant in the Vinnytsia region. Taken together, IFC's 2010, 2012, 2014 and 2023 investments exposed IFC to potential E&S risks and impacts of the company's activities in Vinnytsia region.

The Complaint

In June 2018, CAO received a complaint from residents of Olyanystya, Zaozerne, and Kleban villages in Vinnytsia regarding the impacts of nearby MHP operations. Their submission was supported by local and international civil society organizations (CSOs), namely CEE Bankwatch Network, Ecoaction – Center for Environmental Initiatives, and Accountability Counsel. A similar complaint was simultaneously submitted to the Independent Project Accountability Mechanism (IPAM) of the European Bank for Reconstruction and Development (EBRD), an MHP investor since 2010.

The complaint states that the construction and operation of MHP's Vinnytsia Poultry Farm and Zernoproduct Farm have caused ongoing odor and dust impacts as well as a drastic increase in heavy vehicle traffic on village roads, resulting in damage to roads and houses and public safety concerns. The complainants also accused MHP of conducting an insufficient stakeholder consultation process, inadequate information disclosure, and inappropriate local grievance mechanism, and claimed that employment and working conditions at the farms posed a threat to employees' health and safety. Further, they fear that MHP has not adequately assessed GHG emissions. Regarding the expansion of Vinnytsia Poultry Farm, the complaint raised concerns about potential additional impacts including pollution of air, water, and soil, and associated health impacts. The complainants questioned IFC's conduct in providing ongoing financing to MHP, particularly in relation to the project's Category B risk level and IFC's failure to consider the cumulative impacts of MHP operations.

CAO found the complaint eligible in June 2018. During the subsequent assessment process, the complainants and MHP agreed to engage in a voluntary dialogue jointly facilitated by CAO and IPAM to resolve the disputes. This process ended in 2021 without achieving an agreement and, in January

2022, the complaint was transferred to CAO's compliance function for appraisal.

IFC Management Response

IFC acknowledged in its February 2022 response to the complaint that its investments in MHP entailed E&S risks related to IFC Performance Standards 1, 2, 3, 4, and 6, and that these risks and issues remained throughout the 2014 project, which ended with MHP's loan prepayment in September 2019. However, IFC stated that MHP had demonstrated its commitment to comply with the Performance Standards and had allocated sufficient resources to address any residual issues, completing all Environmental and Social Action Plan (ESAP) items in June 2020. In IFC's view, throughout the course of the project, MHP worked to improve Performance Standard (PS) compliance, with IFC's support. However, IFC acknowledged that, as MHP continued to grow its business, PS compliance was not consistent.

MHP Response

MHP provided a response to the complaint in February 2022 and an additional update to CAO in November 2024. The IFC client stated that it conducts its business activities in accordance with the legal requirements in Ukraine, taking into account the latest European and global practices. With regard to the complaint, MHP states that it has addressed each issue raised by the complainants in line with national law, and made efforts since 2019 to resolve some of the issues raised by communities (see Annex 3).

CAO Analysis

The CAO compliance appraisal process determines whether a complaint merits an investigation by applying three criteria: a) whether there are preliminary indications of Harm or potential Harm; b) whether there are preliminary indications that IFC/MIGA may not have complied with its E&S Policies; and c) whether the alleged Harm is plausibly linked to the potential non-compliance.

Based on an initial review of available information, CAO's appraisal concludes that the complaint meets the three criteria, as summarized below:

a) Preliminary Indications of Harm

CAO concluded that there are preliminary indications of Harm or potential Harm for the following complaint issues:

- Concerns over MHP's operation of Vinnytsia Poultry Farm and Zernoproduct Farm, including approach to land leases, exposure to air and soil pollution, impacts from odor, dust and water, potential damage to local infrastructure, and use of heavy vehicles
- Concerns over the company's community consultation, disclosure of information and grievance handling processes
- Concerns over occupational health and safety (OHS) at the company's facilities
- Concerns regarding IFC's categorization of the project's E&S risk.

In reaching this decision CAO considered: a) the magnitude and interconnectivity of MHP's agribusiness activities in and around the three villages where complainants live; b) key environmental and health impacts and risks related to large scale commercial poultry farms, which are well documented in peer reviewed publications, the World Bank Group's (WBG) own publications (General Environmental Health and Safety (EHS) Guidelines, specific EHS Guidelines,) as well as international standards; c) findings in MHP's ESAs, IFC's due diligence, and supervision reports; and d) other evidence available to date.

b) Preliminary Indications of IFC Non-compliance with its E&S Policies

Based on available information and documentation, CAO concludes there are preliminary indications that IFC may not have discharged its E&S responsibilities under the 2006 and 2012 Policy on Environmental and Social Sustainability (Sustainability Policy).

In relation to MHP's operation of the two farms, it is unclear whether IFC's pre-investment review and subsequent client supervision adequately assessed, and took action to mitigate, potential project impacts to meet the requirements of the IFC Performance Standards and relevant WBG EHS Guidelines. In particular, IFC's supervision documentation provides limited comment on the possible impacts of MHP's business activities on water resources and does not contain information to assure that MHP and contractor vehicles do not consistently travel through communities. CAO also notes that IFC did not trigger PS5 (Land Acquisition and Involuntary Resettlement) for its 2010, 2012, 2014 or 2023 investments. Based on a preliminary review, CAO has not identified an IFC assessment that project land-lease transactions were conducted on a "willing seller willing buyer" principle as stipulated under PS5. In this context, the 2016 ESIA Supplementary Information Report (SIR) noted that MHP's Land Acquisition Action Plan did not set out the principles of engagement and negotiations with landowners or details of compensation, and as a result did not fully comply with PS5 requirements.

In relation to the client's assessment of E&S risk and stakeholder engagement, a preliminary review of available documentation does not support a conclusion that IFC took sufficient action in its investment appraisal and supervision of MHP's activities in Vinnytsia region since 2010. In particular, it is unclear whether IFC assured itself that MHP's expansion plans included an adequate integrated E&S risk assessment, consistent with the range and significance of the potential impacts, that was disclosed in an understandable manner and included meaningful consultation with affected communities. Rather, CAO understands that segmented EIAs were conducted for each facility (over 25 facilities) the company constructed as part of the Vinnytsia Poultry Farm phase 1 and 2 expansion.

CAO further notes that, in cases where E&S risks of IFC projects are not adequately identified at the outset, experience demonstrates that there is an increased the risk of insufficient mitigation measures, supervision, and monitoring systems during IFC's investment.

With regard to labor and working conditions, CAO's preliminary review of IFC documentation recorded a series of OHS incidents and accidents at the farms over multiple years. It is unclear whether IFC has taken sufficient action to supervise OHS at MHP's operations during its active investments.

With regard to the project's risk categorization, CAO has questions regarding IFC's pre-investment review for its 2010, 2012, 2014 and 2023 investments. Given the scale of the company's operations, and its strategy to operate as a vertically integrated poultry producer, CAO has questions about whether this presented potentially significant E&S risks and/or impacts that were diverse, irreversible or unprecedented.

CAO therefore concludes that there are preliminary indications that IFC's pre-investment E&S review may not have a) been commensurate with the nature, scale and stage of the business activity (as required by the Sustainability Policy, paras. 26 and 28) and b) reflected the magnitude of risks and impacts in its E&S categorization (Sustainability Policy paras. 40 and 42).

c) The alleged Harms to the complainants are plausibly linked to IFC's potential noncompliance

CAO concludes that there are indications that the alleged Harms to the complainants are plausibly linked to potential shortcomings in IFC's application of its Sustainability Framework to the project. The preliminary indications of Harm identified in this compliance appraisal are the types of issue that IFC's Sustainability Framework seeks to avoid and mitigate, and which IFC should identify and manage as risks and impacts during its pre-investment due diligence and client supervision.

CAO Decision and Next Steps

CAO will proceed with a compliance investigation into IFC's investments in MHP in the Vinnytsia region of Ukraine. Terms of reference for the investigation are included in Annex 5.

This appraisal report has been shared with IFC's Board of Directors, the World Bank Group President, IFC Management, the company, and the complainants, and published on CAO's website.

1. Introduction

This section provides an overview of the IFC client in this case, IFC's history of investment, a timeline of investment and complaint activities, and information on the CAO compliance appraisal process.

1.1. IFC Client

Established in 1998, Private Joint-Stock Company "MHP" (MHP, the client/company) is a leading poultry meat producer in Europe and the largest producer of processed meat and grain in Ukraine.¹ MHP is headquartered in Kyiv, Ukraine, and listed on the London Stock Exchange.²

MHP operates a vertically integrated chicken meat production business. Its activities include crop growing, grain processing, fodder and sunflower oil production, hatching egg production and incubation, poultry rearing and processing, and distribution and sales. Associated agricultural and processing operations include sunflower oil, sausages and cooked meat production, fruit growing and selling, cattle breeding, and meat processing.³

The company leases agricultural land located primarily in highly fertile black soil regions of Ukraine. MHP's footprint of approximately 351,600 hectares represents one of the largest land portfolios in Ukraine.⁴ The company also has production operations in Slovenia, Croatia, Serbia, and Bosnia & Herzegovina.

MHP employs 28,000 people in Ukraine and exports its products to 70 countries. In 2023, the company produced 718,644 tons of poultry in Ukraine and harvested over 2.5m tons of various crops.⁵

MHP operates multiple facilities in Ukraine's Vinnytsia Oblast (administrative district), including the Vinnytsia Poultry Farm, one of the largest of its kind in Europe.⁶ Approximately 300 million chickens are raised and processed at its Vinnytsia Poultry Farm annually.⁷ Construction began at the greenfield site in 2010,⁸ with MHP building 12 brigades⁹, a hatchery, slaughterhouse, sunflower seed silo, grain silo, fodder plant, and sunflower crushing plant.¹⁰

When local villagers submitted a complaint to CAO in 2018, MHP was in the process of a phase 2 expansion of the Vinny Poultry Farm. This included construction of eight new brigades, a new wastewater treatment plant, approximately 17km of bypass roads, a second hatchery and fodder plant, and an additional slaughterhouse and additional render facilities.¹¹ The map below shows the extent of Vinnytsia Poultry Farm operations and the location of affected communities.

The Zernoproduct Farm operates MHP's arable operations (fodder and grain cultivation) in the Vinnytsia region.

¹ The Company's legal name was changed from Private Joint-Stock Company "Myronivsky Hliboproduct" to Private Joint-Stock Company "MHP" on February 2, 2021. See <https://bit.ly/3WxXVhZ>.

² MHP 2023 Annual Report, available at <https://bit.ly/4atxEHk>.

³ IFC ESRS (34041), available at: <https://bit.ly/3YjTGle>.

⁴ MHP 2023 Annual Report, available at <https://bit.ly/4atxEHk>.

⁵ MHP 2023 Annual Report, available at <https://bit.ly/4atxEHk>.

⁶ WATT Poultry, 2024, WATT poultry Top Companies, available at <https://bit.ly/3E1Lncn>.

⁷ MHP 2023 Annual Report, available at <https://bit.ly/4atxEHk> and MHP EuroBond Prospectus 2024 and 2029, available at <https://bit.ly/3WAHdi4>.

⁸ IFC ESRS (34041), available at: <https://bit.ly/3YjTGle>.

⁹ At a brigade, chickens are raised from one day old to chicken broilers (ready for meat processing). Each brigade has capacity for 39,500 chickens, on an average of 6-7 cycles per year. Thus, in one year, each brigade would raise between 234,300 and 273,350 chickens. For further details see Supplementary Information Report - ESIA (2016) page 6.

¹⁰ MHP Annual Report (2013), available at <https://bit.ly/3Y8YPRU>. MHP Annual Report (2011), available at <https://bit.ly/4eY14hC>.

¹¹ Vinnytsia Poultry Farm: ESIA-Supplementary Information Report, Dec 2016, available at <https://bit.ly/4dNYtWO>.

Map of MHP's Vinnytsia Poultry Farm operation and location of complainants' villages



Source: Based on MHP 2016: ESIA-SIR of the Vinnytsia Poultry Farm and IFC ESRS (2023)

This map was produced by the Cartography Unit of the World Bank Group. The boundaries, colors, denominations and any other information shown on this map do not imply, on the part of the World Bank Group, any judgment on the legal status of any territory, or any endorsement or acceptance of such boundaries.

1.2. IFC Investment

MHP is a long standing IFC client. Since 2003, IFC has made six investments totaling US\$451.25 million in the poultry producer and conducted several IFC Advisory Services projects. IFC's investments in MHP, all designated Category B for E&S risks and impacts¹², include:

- **2003:** US\$30m loan to support MHP's general operations. The company was developing a vertically integrated poultry production model and seeking to expand its operations in Ukraine. At the time, it did not have significant operations in the Vinnytsia Oblast.¹³
- **2005:** US\$60m loan and US\$20m equity to provide working capital and support the expansion of MHP poultry production operations in the Cherkasy Oblast, Ukraine.¹⁴
- **2010:** US\$61.25m loan and guarantee to support expansion of MHP's grain growing segment by cultivating up to 120,000 additional hectares of land in the Vinnytsia Oblast (where the CAO complainants reside).¹⁵
- **2012:** US\$50m loan to support the client's working capital needs. At this time, MHP was constructing phase 1 facilities at the Vinnytsia Poultry Farm.^{16 17}
- **2014:** US\$100m loan to support MHP's expansion plans in the Vinnytsia Oblast (including phase 2 facilities at Vinnytsia Poultry Farm) and refinance existing debt.
- **2023:** US\$130m loan to support refinancing existing debt and upgrade and expand an agriculture waste-to-energy plant in the Vinnytsia region of Ukraine to increase biomethane production.

At the time of writing, the 2023 investment is IFC's only active exposure to MHP.¹⁸

¹² IFC uses a process of environmental and social categorization to reflect the magnitude of risks and impacts. Category B signifies "Business activities with potential limited adverse environmental or social risks and/or impacts that are few in number, generally site-specific, largely reversible, and readily addressed through mitigation measures." IFC Sustainability Policy, 2012.

¹³ IFC SPI (21071), available at <https://bit.ly/4dEpWdj> and IFC ESRS (21071), available at <https://bit.ly/4h8bE7p>.

¹⁴ IFC SPI (24011), available at <https://bit.ly/4gXicWP> and IFC ESRS (24011), available at <https://bit.ly/3CmcsGH>.

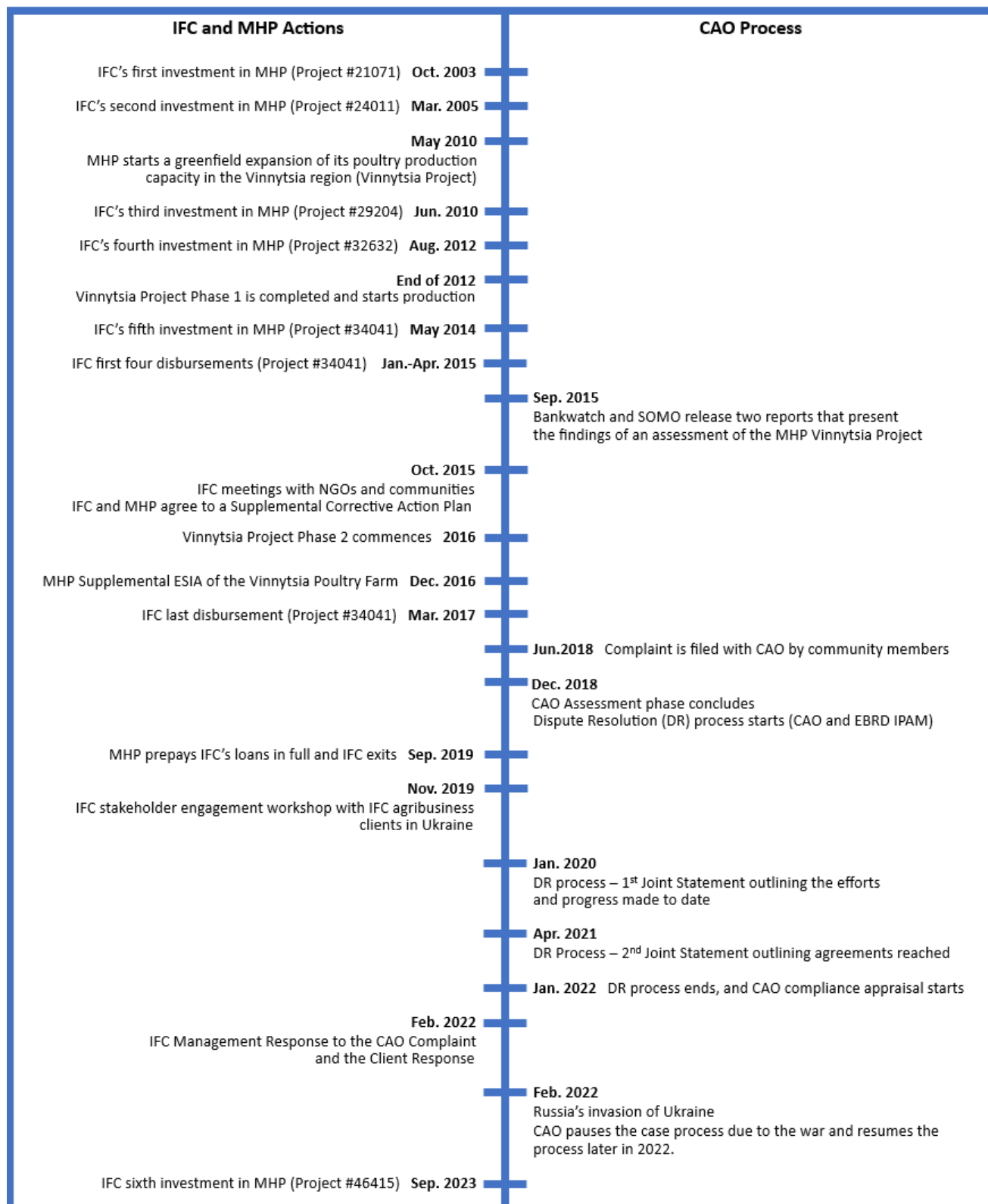
¹⁵ IFC SPI (29204), available at <https://bit.ly/4eYdq1Z> and IFC ESRS (29204), available at: <https://bit.ly/4jnUZye>.

¹⁶ IFC SII (32632), available at <https://bit.ly/4h2P1By> and IFC ESRS (32632), available at <https://bit.ly/3EalUwl>.

¹⁷ As part of phase 1, the Company constructed 12 brigades, a hatchery, slaughterhouse, sunflower seed silo, grain silo, fodder plant and sunflower crushing plant.

¹⁸ IFC SII (46415), available at <https://bit.ly/47ZpAqi>.

Figure 1. Project and Complaint Timeline



1.3. Compliance Appraisal Scope and Methodology

The scope of this compliance appraisal¹⁹ is limited to issues raised in the complaint (attached as Annex 1 to this report), CAO's [Assessment Report](#), and clarifications on the complaint issues provided by complainants during the compliance appraisal process. CAO made the appraisal decision based on the appraisal criteria and other relevant considerations in accordance with the CAO Policy.

The appraisal involved a preliminary review of the following information:

- Documentation related to the complaint, CAO's Assessment Report, CAO's [Dispute Resolution Conclusion Report](#), IFC's Management Response (attached as Annex 2 to this report), and MHP's Responses (attached as Annex 3 to this report)
- Available IFC and client documentation related to the implementation of E&S requirements
- Additional documentation provided by the complainants, company, and IFC project team
- Relevant media and other publicly available documentation.

CAO extends its appreciation to all parties mentioned in this report who have shared their perspective, knowledge, and time with the CAO compliance team.

2. The Complaint and CAO Process

2.1. The Complaint

In June 2018, CAO received a complaint regarding IFC's investments in MHP from residents of Olyanystya, Zaozerne, and Kleban villages in the Vinnytsia Oblast (region) of Ukraine (the complainants). Three civil society organizations (CSOs) supported the complaint, including Ukraine's Ecoaction - Center for Environmental Initiatives and the international CSOs CEE Bankwatch Network and Accountability Counsel. The complainants simultaneously presented a request for project review to EBRD's Independent Project Accountability Mechanism (IPAM).²⁰

In their complaint and subsequent additional communication with CAO, the complainants raise wide-ranging concerns about the IFC client's operations including:

(a) Impacts from operations at Vinnytsia Poultry Farm (see map above of business facilities) and Zernoproduct Farm²¹

The complainants assert that these facilities near their homes have caused:

- Continuous odor and dust impacts
- Increased heavy vehicle traffic resulting in damage to roads and nearby residences as well as safety risks
- Air and soil pollution and depletion of local water resources.

The villagers also raise concerns about how the IFC client is measuring and taking actions to reduce greenhouse gas emissions from its operations. Their complaint also expressed concerns about possible additional future impacts including:

- The planned expansion of the Vinnytsia Poultry Farm which the complainants state is expected to double its operations

¹⁹ CAO Policy 2021: para. 88.

²⁰ The Project Complaint Mechanism (PCM) was established in 2010 to assess and review complaints about projects financed by the European Bank for Reconstruction and Development (EBRD). PCM was replaced by the Independent Project Accountability Mechanism (IPAM) on July 1, 2020, under the 2019 Project Accountability Policy. IPAM case status as of December 2024, available at <https://bit.ly/4dviu4e>.

²¹ MHPs' arable agricultural operations in the Vinnytsia Region.

- The planned new waste-to-energy plant in Zaozerne, Vinnytsia.

(b) Concerns about lack of community consultation, information disclosure and grievance handling, including for land leases

The complainants encountered repeated and systemic problems regarding MHP’s approach to community consultation and disclosure of information, including the company’s handling of land leases for its poultry operations in Vinnytsia Oblast. They allege that MHP:

- Does not provide sufficient detail of the E&S risks and impacts of the company’s operations
- Holds meetings to discuss facilities directly located in their village council but not E&S risks and impacts of the company’s other operations in the vicinity
- Does not provide communities with a forum in a timely manner to influence the company’s expansion plans
- Does not provide environmental assessment documentation upon request in a timely manner
- Has not produced a comprehensive ESIA that provides a holistic assessment of operations at the Vinnytsia Poultry Farm and associated facilities
- Did not adequately consult with and explain to nearby landowners the E&S risks and impacts of company activities
- Did not adequate consult and negotiate with landowners on lease agreements the company sought in order to conduct its farm activities.

The complainants also state that MHP does not operate an adequate community level grievance mechanism with sufficient provisions for handling anonymous complaints.

(c) Labor concerns

The complainants include former workers at Vinnytsia Poultry Farm and Zernoproduct Farm, who raise concerns about working conditions. They allege that MHP is not providing a safe working environment, that wages in the slaughterhouse are low considering the challenging nature of the work, and that employment benefits are deducted from wages. Complaints to the company about these issues have allegedly resulted in intimidation and retaliation.

(d) IFC assessment of E&S risk

The complainants disagree with IFC’s categorization of the 2014 investment’s E&S risk level as Category B. The complaint to CAO argues that IFC should have categorized the project’s E&S risk as Category A²² – the highest level – on the basis that the investment sought to support the large-scale expansion of Vinnytsia Poultry Farm. They note that the *“inherent risks of intensive animal rearing, coupled with the sheer scale of operations concentrated in the overlapping VPF [Vinnytsia Poultry Farm] and Zernoproduct Farm and the concerns that have long been raised by local communities, media and NGO representatives about MHP’s operations, provide more than adequate reason to consider this a Category A investment.”*²³

The complaint states that phase 2 completion of the Vinnytsia Poultry Farm will result in:

- 836 separate chicken houses
- Capacity to house 32 million chickens at a time
- Use of over 6 million cubic meter of water per year
- 1.5 million tonnes of greenhouse gases per year

²² IFC uses a process of environmental and social categorization to reflect the magnitude of risks and impacts. Category A signifies: “Business activities with potential significant adverse environmental or social risks and/or impacts that are diverse, irreversible, or unprecedented.” IFC Sustainability Policy, 2012.

²³ Complaint to CAO regarding MHP, June 2018, available at <https://bit.ly/48bhT6D>.

- Potential for close to 6 million cubic meters of sewage per year
- Over 411,000 tonnes of manure per year.

Finally, they noted that the United States International Development Finance Corporation (DFC), another investor, categorized the E&S risks of the project as Category A.

For further details of the complaint, see Annex 1.

2.2. CAO Handling of the Complaint

In June 2018, CAO found the complaint eligible for assessment. During the assessment both parties confirmed their interest to engage in a CAO- and IPAM-facilitated dispute resolution process that started in February 2019.²⁴ On January 20, 2020, the parties signed a Joint Statement²⁵ outlining the progress and outcomes made to date, which centered on enhancing road safety, commissioning a bypass road around Olyanytsya and opening a railroad crossing. On April 28, 2021, a Second Joint Statement outlined agreements reached about access to information and communication standards.²⁶

In August 2021, both parties informed CAO that due to limited further progress the case should be transferred to the relevant compliance functions of CAO and IPAM. With the explicit consent of the complainants, the case was transferred to CAO's Compliance function in January 2022, as provided by the transitional arrangements of the CAO Policy.²⁷ Following Russia's invasion of Ukraine in February 2022, CAO paused the compliance appraisal. In October 2022, CAO announced that it was resuming its compliance appraisal, resulting in the completion of this report.

3. IFC Management Response

IFC submitted its Management Response to CAO in February 2022.²⁸ This acknowledged IFC's long-standing relationship with MHP dating back to 2003, and noted that its loans to MHP made prior to the 2018 complaint were prepaid in September 2019.

IFC confirmed its 2014 US\$250m loan package to MHP, including US\$100m from its own account. In relation to the complaint issues raised about Vinnytsia Poultry Farm and Zernoproduct Farm, IFC noted that it identified several such risks during pre-investment due diligence of the 2014 loan, and had included related mitigation measures in the project E&S Action Plan (ESAP), to support MHP in improving its practices. These risks raised at project appraisal continued as the company expanded. Following CAO's Assessment of the complaint, IFC took additional actions in January 2019, including meeting with MHP and communities, to better understand the issues and explore possible solutions. However, after repayment of the loan in 2019, IFC noted that it had limited leverage to finalize ESAP implementation by the client and resolve the ongoing dispute with the complainants. In order to exit responsibly, IFC engaged with MHP on corrective actions which led to ESAP completion in June 2020. However, further IFC follow up with the client was not possible.

In relation to the specific complaint issues, IFC noted the following:

- **Consultation process, disclosure of information, grievance handling, retaliation, and land leases:** During supervision of the 2014 investment, IFC identified gaps in MHP's stakeholder engagement and Grievance Redress Mechanism (GRM), worked with the client to develop a Stakeholder Engagement Plan (SEP), and engaged experts to advise

²⁴ CAO Assessment Report (2019), available at: <https://bit.ly/3OQwhZ7>.

²⁵ Parties joint statement (2019), available at: <https://bit.ly/3OQwhZ7>.

²⁶ Parties joint statement (2019), available at: <https://bit.ly/3OQwhZ7>.

²⁷ CAO Transitional Arrangements (2021), available at <https://bit.ly/3qaGZ1o>.

²⁸ See Appendix 2 IFC Management Response (February 11, 2022).

on developing a community GRM. MHP established a department to closely work with communities and non-governmental organizations (NGOs) and revised and disclosed its related policies/procedures. The joint dispute resolution process resulted in an agreed communication protocol to address urgent SEP matters, including MHP assigning designated local staff to these issues. IFC takes allegations of reprisals seriously and engaged with MHP on how the client addresses such concerns. MHP subsequently hired additional staff to support stakeholder engagement, conducted internal capacity building, and increased community engagement, especially around expansion projects. Based on its site visits and Annual Monitoring Report reviews, IFC considers that MHP diligently worked to improve disclosure and compliance with the IFC E&S Performance Standards. Corrective actions were developed to address concerns expressed by communities and NGOs about lack of information and disclosure regarding the farm expansion plans. IFC also considered concerns raised during the CAO dispute resolution process about transparency when renewing land leases, and recommended that MHP strengthen its Land Easement Policy, which was subsequently disclosed.

- **Working conditions, occupational health and safety (OHS), and salary issues:** IFC identified gaps in MHP's OHS management system during its investment, required an independent audit of MHP's OHS practices as part of the project ESAP (2014), and continued to engage with the client to enhance its OHS practices after prepayment of MHP's loan. IFC verified that MHP's minimum wages meet the IFC PS requirements and observed in 2014 that the minimum wage at the Vinnytsia Poultry Farm was above the average local market wage. Subsequent IFC supervision has not identified evidence of concern on account of wages, benefits and/or working conditions. In IFC's view, IFC views that MHP has progressed in OHS performance by reducing accidents and engaging with experts to train staff. IFC and MHP have also been working on improving inconsistent OHS performances caused by MHP's increased operational footprint.
- **Air, water, soil, and noise pollution, and depletion of water resources:** IFC's 2014 due diligence identified gaps in MHP's Environmental Health and Safety (EHS) management system. IFC subsequently supported MHP in continuously improving its pollution prevention measures, particularly for odor and waste management, issues raised in the complaint. IFC concluded that MHP took steps to improve its EHS management and had in place the necessary procedures for compliance with the Performance Standards.
- **Impacts of heavy vehicles:** IFC identified MHP's use of heavy vehicles as a risk, required a traffic management plan as part of the project ESAP, and advised MHP to increase communications with local communities about the measures it adopted after the complaint was made to CAO. IFC states that MHP has worked on addressing traffic-related issues in compliance with the Performance Standards by constructing a bypass road and installing GPS devices to monitor whether its trucks use the bypass instead of village streets.

In conclusion, IFC noted that while E&S risk and issues remained throughout its 2014 investment, MHP demonstrated its commitment to comply with the Performance Standards over the years. As MHP grew its business, its PS compliance was not consistent, but the client worked with IFC to improve its compliance.

CAO notes that 18 months after submitting its Management Response to the complaint from MHP's neighboring communities, IFC approved a new investment in MHP in September 2023. This investment is active at the time of writing this report.

4. MHP Response

MHP issued a response to the community complaint to CAO in February 2022 and provided an additional update in November 2024. In summary, the company states that it conducts its business activities in accordance with the requirements of current national legislation in Ukraine, constantly improves production processes, and takes into account the latest European and global practices. In relation to the specific issues raised by the complainants, MHP states the following:

- **Location of broiler chicken rearing brigades near human settlements:** Facilities are located and sanitary protection areas are established in accordance with national law.
- **Disclosure of information and community consultation:** MHP follows national law requirements in involving communities in discussions for the location of facilities that may have an environmental impact. MHP notes that a lawsuit filed in 2017 in relation to the public hearing process, to which it was a third-party, was dismissed by the Supreme Court of Ukraine in 2021.
- **Air quality and odor from MHP operation sites:** MHP has received permits for emissions of pollutants and is subject to constant state supervision, including laboratory tests. MHP is constantly working to improve its operations to mitigate odor and has implemented tilt covers for the transportation of poultry litter (organic fertilizer) and applied this organic fertilizer as soon as possible to arable land to shorten storage time in local fields.
- **Use of agrochemicals and poultry litter:** MHP complies with national law requirements and introduces new technologies and methods to improve soil fertility. The company does not use prohibited pesticides and agrochemicals and complies with fertilizer application regulations.
- **Road transportation and bypassing the village of Olianytsia:** In response to local community requests, MHP constructed a bypass road around the village and constructed a railway crossing through which this road passes. Since 2019, all MHP produce and freight transport have used this bypass road exclusively.
- **Damage to houses in the village of Olianytsia:** MHP notes that highway R33 passes through the village of Olianytsia. In order to establish the cause of damage to buildings, an independent technical inspection is required.
- **Water quality and availability:** Water resources are regulated and MHP holds a permit for special water use which it obtains from the Southern Bug River. MHP treats the water it uses with the latest global technologies before returning it to the river. In 2023, the company used 6.331 million m³/year and returned 2.863 m³/year to the river. MHP notes that the nearby Ladyzhyn power plant and Vinnytsia water utility take water from the river in excess of 10 times the company's usage.
- MHP's November 2024 update noted that a dedicated water intake and filtration plant was established to take water from a single point on the Southern Bug River, in order not to impact local residents' well levels.
- Regarding groundwater quality, MHP notes that a joint analysis with a consulting firm confirmed efficient nitrogen use in its operations, will all values within optimal threshold levels except during 2023 – which was due to a larger than usual harvest. With respect to nitrate levels, MHP posits that these may be affected by household cesspools lacking concrete lining and shallow aquifer usage.
- **OHS:** MHP states that it complies with national law requirements and creates proper working conditions for its employees. The company's November 2024 update lists its key principles for OHS policy and notes that the national authorities have issued MHP with all necessary permits, confirming regulatory compliance and workplace safety efforts.
- **Land Lease Agreements:** MHP notes that it complies with the relevant requirements for entering land lease agreements and complying with their terms. MHP states that

negotiations and agreements are reached with each land owner and MHP keeps owners informed about certain compensation and incentive payments as relevant.

- **Afforestation of the sanitary protection area around Brigade no. 4:** Given the requirements of biosafety and prevention of disease outbreaks, MHP sees risk in afforestation of chicken brigades. They note that as an alternative solution, a park was created in the village of Kleban in 2017. Further, the company notes that its facility is located outside the settlement and there is a sanitary protection area made up exclusively of agricultural land.

Further details can be found in MHP's full responses of February 2022 and November 2024 provided in Annex 3.

5. CAO Appraisal Analysis

This section summarizes CAO's analysis of the three appraisal criteria required to determine whether to initiate a compliance investigation.²⁹ These criteria are:

- Whether there are preliminary indications of Harm or potential Harm
- Whether there are preliminary indications that IFC may not have complied with its E&S policies
- Whether the alleged Harm is plausibly linked to the potential IFC non-compliance.

Based on the analysis below, CAO concludes that the complaint regarding IFC's investments in MHP meets the criteria for a compliance investigation.

5.1 Analysis of Preliminary Indications of Harm

The following section presents CAO's analysis of available information in relation to the complaint issues summarized in section 2. In this case, CAO concludes that there are preliminary indications of Harm or potential Harm to the complainants resulting from the IFC client's operations at Vinnytsia Poultry Farm and Zernoproduct Farm in Ukraine.

(a) Operations of Vinnytsia Poultry Farm and Zernoproduct Farm, and IFC E&S risk categorization

Vinnytsia Poultry Farm (VPF) is located near the town of Ladyzhyn and its operations include 19 poultry breeding sites, 722 poultry houses³⁰, a hatchery, a fodder plant, and a slaughterhouse and render facilities. Zernoproduct Farm operates arable land in the Vinnytsia region. It grows and stores various types of grain that is used by Vinnytsia Poultry Farm and other MHP businesses, or sold to external businesses. Zernoproduct Farm has over 88,000ha under cultivation, including in areas near the complainant villages.³¹

The complaint to CAO was filed by residents of the Olyanystya, Zaozerne, and Kleban villages located near to multiple MHP facilities that potentially pose E&S risks and impacts to local communities. (See Map of MHP's Activities on page 7). For example, VPF poultry brigades are located 1km from the town of Lukashivka, within 3km of Olyanystya and Kleban and within 5km of

²⁹ CAO Policy, para 91.

³⁰ 1 brigade/chicken production site comprises 38 poultry houses. At a brigade, chickens are raised from one day old to chicken broilers (ready for meat processing). Each brigade has capacity for 39,500 chickens, on an average of 6-7 cycles per year. Thus, in one year, each brigade would raise between 234,300 and 273,350 chickens. For further details see Supplementary Information Report - ESIA (2016) page 6.

³¹ For further details on Zernoproduct Farm see <https://bit.ly/3UcjFi4>, <https://bit.ly/3Y7n82B>, <https://bit.ly/3Ys6pbK> (page 190 for area under cultivation as of 2018) and <https://bit.ly/3Nrzyq3> (for details of farm locations).

Zaozeme, and MHP's waste to energy plant, wastewater treatment, and poultry processing facilities are within 3km of Zaozerne.³²

For the purposes of establishing potential for community harm from these operations, CAO notes that the environmental impacts of large-scale poultry farms are well documented.³³ For example:³⁴

- Waste from production, such as poultry litter and manure, can pose significant risks to both environmental and human health, requiring proper management. Litter and manure may contain pesticide residues, microorganisms, pathogens, pharmaceuticals (such as antibiotics), hormones, metals, macronutrients, and other pollutants, leading to contamination of air, soil, and water, as well as the development of antimicrobial and multidrug-resistant pathogen strains.
- Dust released from intensive poultry operations contains feather and skin fragments, feces, feed particles, microorganisms, and other pollutants, which can negatively affect poultry health, farm workers, and nearby residents.
- Strong odors can potentially harm the health and quality of life of poultry operation workers and local residents.
- Poultry production and its by-products contribute to emissions of ammonia and methane. Ammonia is a harmful pollutant that contributes to soil and water acidification, damages aquatic ecosystems, and causes eutrophication, depleting oxygen in water and creating "dead zones" in bodies of water. Ammonia exposure can irritate the respiratory system, increasing risk of respiratory diseases. Methane combined with other air pollutants can form ground-level ozone (smog), which can damage respiratory and cardiovascular systems as well as plant life. It is also a powerful greenhouse gas, approximately 25 times that of carbon dioxide over a 100-year period. Use of fertilizers and manure management also contributes to emissions of nitrous oxide, with a global warming potential approximately 270 times greater than CO₂.

In relation to the specific poultry operations in this case, CAO also notes the following circumstances related to preliminary indications of potential harm:

- A 2021 study of water quality conducted by local communities and NGOs indicated that well water supplying the complainants' villages has elevated nitrate levels.³⁵ As part of its 2023 investment in MHP, IFC required the client to conduct a water resources risk assessment, which is due for completion by December 2025.
- MHP's operations necessitate use of heavy transportation between its facilities in the Vinnytsia Oblast,³⁶ posing risks to buildings from vibrations as well as associated impacts of traffic and risk of spills.³⁷ MHP's 2016 Environmental and Social Impact Assessment Supplementary Information Report (ESIA-SIR) noted that its operations in the region

³² Measurements from ESIA-SIR 2016 and Google Earth.

³³ WBG's EHS Guidelines for Poultry Production (2007) and Processing (2007), and Annual Crop Production (2016) detail typical E&S risks and impacts that MHP would be expected to assess and mitigate.

³⁴ Gržinić, G., Piotrowicz-Cieślak, A., Klimkowicz-Pawlas, A., Górny, R. L., Ławniczek-Wałczyk, A., Piechowicz, L., Olkowska, E., Potrykus, M., Tankiewicz, M., Krupka, M., Siebielec, G., & Wolska, L. (2022). Intensive poultry farming: A review of the impact on the environment and human health. *Science of the Total Environment*, 857, 160014. <https://bit.ly/3EI3Cne>

³⁵ The WHO has noted that agricultural runoff, refuse dump runoff, or contamination with human or animal wastes can result in high levels of nitrate in water. High nitrate levels can present increase risks to infants. See <https://bit.ly/4dPUBEI>. The World Health Organization guides that nitrate should not exceed 50 mg/l in drinking water (as NO₃). Additional information available at <https://bit.ly/3CpaQvO> The 2021 Ecoaction study (available at <https://bit.ly/4dXA5SH>) reports nitrate levels at between 50 mg/l and 200 mg/l.

³⁶ Between hatchery, multiple brigades, slaughterhouse, waste-to-energy facilities and grain production.

³⁷ Regarding heavy vehicles triggering ground vibrations that entails risks of structural damages to nearby buildings.

transported approximately 800-1,000 tonnes of manure on a daily basis.³⁸ While the company has constructed a bypass road and asserts that all MHP process and freight transport use this road exclusively, CAO notes the complainants' ongoing concerns of heavy vehicles traversing their communities.³⁹

- In relation to the client's extensive land acquisition, IFC's 2014 and 2023 pre-investment reviews concluded that Performance Standard 5 (Land Acquisition and Involuntary Resettlement) was not applicable, based on its assessment that land plots were leased/acquired on a willing seller-willing buyer principle.⁴⁰ However, CAO notes the scale of acquisition, with MHP holding approximately 220,000 individual land lease agreements,⁴¹ and the fact that MHP did not detail the principles of engagement and negotiations with landowners, or compensation principles, and therefore did not reach full compliance with PS5 requirements.⁴² This context supports the complainants' allegation of harm in terms of inadequate consultation and negotiation with landowners for leasing their land.
- In relation to the complaint allegation that IFC underplayed the poultry operations' E&S risk, CAO notes that IFC categorized all six of its MHP investments as Category B.⁴³ This E&S risk categorization (rather than a higher risk Category A designation) would have resulted in a shorter disclosure period for the IFC investment prior to Board consideration. This, in turn, could have caused potential harm to complainants by limiting their opportunity to engage in the project risks and impacts identification process and/or to express their views on potential mitigation measures.⁴⁴ In addition, under IFC's staff procedures, Category A investments receive a higher level of IFC supervision of the client's E&S performance.⁴⁵ CAO concludes that lack of clarity about the E&S risk categorization results in the potential for related Harm to complainants.

(b) Lack of community consultation, disclosure of information, and grievance handling

MHP's approach to community consultation, disclosure of information, and grievance handling was discussed extensively by the parties during CAO's dispute resolution process from December 2018 to January 2022. Although the complainants and MHP agreed a communication protocol, the complainants considered these issues to remain outstanding when the dialogue ended.

A key concern for them is the absence of a comprehensive ESIA covering all MHP's operations within the vicinity of their communities. Where a project is potentially developed without an integrated E&S assessment of risks and impacts, it can limit the ability of affected communities to understand the risks and impacts to them and engage in a meaningful consultation process.

The complaint alleges that the company instead prepared segmented EIAs for each facility (e.g., for each brigade, processing facilities, and biogas plant). In this respect, MHP did prepare EIAs for each specific infrastructure development as well as a Supplementary Information Report (2016) for the Vinnytsia Poultry Farm expansion, conducted in 2016-2019. However, based on preliminary information, it is unclear to CAO whether MHP commissioned a subsequent cumulative impact assessment of phase 1 and phase 2 of Vinnytsia Poultry Farm. Such an assessment would

³⁸ MHP ESIA-SIR for Poultry Farm 2016; 126.

³⁹ CAO Dispute Resolution Conclusion Report, January 2022. The supporting CSOs updated CAO in October 2024 that the bypass was designed and constructed with flaws, such as the one lane design making it difficult for trucks to pass, thus drivers are not willing to use the bypass. They assert that MHP contractor's trucks still use the village roads.

⁴⁰ IFC ESRS (34041), available at: <https://bit.ly/3YjTGle>.

⁴¹ MHP 2019, Eurobond Prospectus (2029), available at <https://bit.ly/3WAHdi4>

⁴² MHP ESIA-SIR for Poultry Farm 2016: 155.

⁴³ IFC E&S Risk Categories are defined in section 5.2

⁴⁴ As per the IFC Access to Information Policy (2012), IFC discloses Category A investments 60 days in advance of Board consideration, while Category B investments are disclosed 30 days in advance of Board consideration.

⁴⁵ As per IFC ESRP (version 2014 and 2016), nearly all IFC Category A investments had a peer review meeting during IFC pre-investment review, higher IFC management clearance and there were criteria to provide for IFC site visits to Category A projects on an annual basis.

potentially have mitigated a possible harm to complainants, but without proof of its existence CAO concludes that there are preliminary indications of Harm or potential Harm to the complainants.

In relation to ongoing community consultation and disclosure of information, MHP does disclose some environmental monitoring data.⁴⁶ However, the complainants assert that the data on MHP's website at the time of this appraisal report does not cover all operations and is not easily understood by affected communities. Such communities are therefore unaware of their exposure to environmental risks associated with the investment and cannot take appropriate measures to protect themselves, if needed.

In relation to grievance handling, the communication protocol agreed during CAO dispute resolution process, included establishment of a grievance mechanism. However, the complainants maintain that MHP's grievance handling process is inefficient and not all issues are promptly addressed.⁴⁷ This raises the potential for community harm in the form of unresolved grievances, decreased stakeholder engagement, and potential for conflict escalation.

(c) Labor concerns

The complainants, some of whom worked for MHP, allege that poor working conditions and insufficient risk mitigation measures have put employees' health and safety at risk. For example, they allege that MHP provided inadequate personal protective equipment (PPE), which presented a fire hazard and caused vision problems for workers during and after welding activities. High safety risks related to fatigue while driving was asserted by a driver who was allegedly given an unreasonably large workload (i.e., working two consecutive days without a sufficient rest period).

A preliminary review of IFC documentation demonstrates that OHS performance has been a key aspect of IFC appraisal and supervision activity. Gaps in the client's OHS performance were noted by IFC in its 2014 investment documents and in E&S due diligence for its 2023 investment. IFC specifically noted MHP's non-compliance with safety procedures, use of incorrect tools, and non-use of PPE, and acknowledged that these shortcomings indicated a safety culture that may need improving.⁴⁸ Given that some aspects of MHP's operations present a higher degree of safety risk, as well as concerns raised by the complainants, and reports of accidents and incidents recorded by IFC's supervision documentation, CAO concludes that there are preliminary indications of Harm or potential Harm to complainants.

In addition, complainants claimed unreasonable salary deductions for their time as MHP workers and an unfairly low wage considering the challenging nature of the work. They allege that they suffered intimidation and retaliation after raising these concerns with MHP, including unfair dismissal. The payment of salaries below the minimum wage alleged by complainants, if confirmed, would constitute Harm to complainants.

5.2 Analysis of Preliminary Indications of Non-compliance with IFC E&S Policies

A CAO compliance appraisal must also consider whether there are "preliminary indications that IFC/MIGA may not have complied with its E&S Policies"⁴⁹. These policies are set out in IFC's Sustainability Framework — the 2012 Policy on Environmental and Social Sustainability (Sustainability Policy), Performance Standards, and Access to Information Policy (AIP).⁵⁰

⁴⁶ MHP Environmental Protection, available at <https://bit.ly/42nRiSS>.

⁴⁷ CAO Dispute Resolution conclusion report, January 2022, available at <https://bit.ly/3OQwhZ7>

⁴⁸ IFC ESRS (34041), available at: <https://bit.ly/3YjTGle> and IFC ESRS (46415), available at <https://bit.ly/3VyzQXD>.

⁴⁹ CAO Policy 2021: para. 91. As MIGA did not provide any guarantee to MHP, this appraisal focuses on IFC.

⁵⁰ IFC Sustainability Framework (2012) and earlier versions is available at <https://bit.ly/4gbfdZh>. IFC also has Environmental and Social Review Procedures (ESRPs), which establish requirements for the effective implementation of its E&S Policies.

IFC’s investments in MHP between 2003 and 2023 were made under three different IFC E&S policy commitments, shown below.

IFC Investment	Relevant IFC E&S Policy
2003: Mironovsky Khleboprodukt CJSC (21071) 2005: Mironovsky II (24011)	IFC Safeguard Policies
2010: MHP Ukraine (29204)	IFC Sustainability Policy (2006)
2012: MHP WCF (32632) 2014: MHP Corporate Loan (34041) 2023: MHP Loan 2023 (46415)	IFC Sustainability Policy (2012)

The investments from 2010-2023 are most relevant to the complaint issues as they supported⁵¹ MHP’s expansion project (Phase 1 and 2) and poultry operation activities in the Vinnytsia region.

Under the Sustainability Policy (2012),⁵² IFC seeks to ensure, through its due diligence and supervision, that the business activities it finances are implemented in accordance with the requirements of the Performance Standards⁵³ and conducted with the intent to “do no harm” to people and the environment.⁵⁴

Negative impacts from IFC investments should be avoided where possible, or reduced, mitigated, and/or compensated for as appropriate. IFC commits to “ensuring that the costs of economic development do not fall disproportionately on those who are poor or vulnerable, that the environment is not degraded in the process, and that natural resources are managed sustainably.”⁵⁵ In determining what projects to invest in, IFC “seeks to (i) enhance the predictability, transparency, and accountability of its actions and decision making; (ii) help clients manage their E&S risks and impacts and improve their performance; and (iii) enhance positive development outcomes on the ground.”⁵⁶ The Sustainability Policy (2012) is binding for IFC’s actions during its E&S pre-investment due diligence as well as during project/client supervision.

In its pre-investment review, IFC “undertakes due diligence of the level and quality of the risks and impacts identification process carried out by its clients against the requirements of the Performance Standards, informed by country, sector, and sponsor [the client] knowledge”⁵⁷ to ascertain whether the project can be expected to meet or is meeting Performance Standard requirements. Based on its review, IFC categorizes the E&S risk of the investment as follows:⁵⁸

- Category A: Business activities with potential significant adverse environmental or social risks and/or impacts that are diverse, irreversible, or unprecedented.
- Category B: Business activities with potential limited adverse environmental or social risks and/or impacts that are few in number, generally site-specific, largely reversible, and readily addressed through mitigation measures.

⁵¹ Either through targeted finance to support relevant activities or general-purpose financial support (e.g., working capital and debt repayment).

⁵² This compliance appraisal report will generally reference 2012 Sustainability Framework provisions. Where specific reference to the 2010 investment or where there are material differences between the 2006 and 2012 policies and requirements, CAO report will note these differences.

⁵³ IFC Sustainability Policy (2012), para. 7.

⁵⁴ IFC Sustainability Policy (2012), para. 9.

⁵⁵ IFC Sustainability Policy (2012), para. 9.

⁵⁶ IFC Sustainability Policy (2012), para. 7.

⁵⁷ IFC Sustainability Policy (2012), para. 12.

⁵⁸ IFC Sustainability Policy (2012), para. 40.

- Category C: Business activities with minimal or no adverse environmental or social risks and/or impacts.

The Sustainability Policy (2012) further stipulates that IFC will only finance investments that are expected to meet the Performance Standards within a reasonable period of time.⁵⁹

During its investment supervision phase, IFC's role is to assure itself that its client is operating in accordance with agreed E&S requirements, including the Performance Standards. In instances where a client fails to comply with its E&S commitments as expressed in the investment's legal agreements, IFC will work with the client to bring it back into compliance, and if the client fails to reestablish compliance, IFC will exercise its rights and remedies as appropriate.⁶⁰

5.2.1. Applicable IFC Client E&S Requirements

To meet its E&S commitments, IFC requires its clients to operate in accordance with the Performance Standards throughout the life of IFC's investment.⁶¹ The Performance Standards (PS) define IFC clients' responsibilities for managing the E&S risks and impacts of their business operations. Central to a client's implementation of the PS is a requirement for a client to assess the E&S risks of the operations for which they seek IFC financing and to develop and implement an Environmental and Social Management System (ESMS) to manage the E&S risks and impacts of their operations.

The complainants in this case claim that IFC's client, MHP, does not operate in compliance with national and international law or with the requirements of specific E&S Performance Standards included in IFC's Sustainability Framework. The relevant Performance Standards include:

- **PS 1 (Assessment and Management of E&S Risks and Impacts)**, which includes requirements to assess all E&S impacts, including identifying all affected communities, the conduct of community consultations, and development of benefit-sharing arrangements. It also contains minimum requirements for grievance management and stakeholder engagement.
- **PS 2 (Labor and Working Conditions)**, which requires the client to provide working conditions and terms of employment in line with national law and the International Labor Organization's core labor standards, fair procedures for retrenchment, a safe and healthy work environment, and avoid the use of forced labor.
- **PS 3 (Resource Efficiency and Pollution Prevention)**, which requires pollution prevention and control measures to avoid or, where avoidance is not feasible, minimize or reduce adverse impacts of pollution (including air, soil, water, noise, nuisances, vibrations, odors, and pesticides) on human health and the environment.
- **PS 4 (Community Health, Safety, and Security)**, which includes provisions to identify, avoid, reduce, mitigate, and offset impacts on communal water sources.
- **PS 5 (Land Acquisition and Involuntary Resettlement)**, which applies to transactions where the buyer acquires land, or land use rights through direct negotiations with the seller, and the buyer can resort to government authority to gain access to the land. PS5 details requirements to assess and mitigate economic displacement and project-related restrictions on land use and defines the process and methodology to ensure compensation at full replacement value and livelihood restoration to pre-project levels.
- **World Bank Group EHS Guidelines:** Relevant guidelines include General EHS Guidelines 2007, Annual Crop Production 2007, Poultry Production 2007, and Poultry Processing 2007.

⁵⁹ IFC Sustainability Policy (2012), para. 22.

⁶⁰ IFC Sustainability Policy (2012), para. 45.

⁶¹ IFC's PS (2012) include PS1: Social and Environmental Assessment and Management System; PS2: Labor and Working Conditions; PS3: Pollution Prevention and Abatement; PS4: Community Health, Safety and Security; PS5: Land Acquisition and Involuntary Resettlement; PS6: Biodiversity Conservation and Sustainable Natural Resource Management; PS7: Indigenous Peoples; and PS8: Cultural Heritage.

5.2.2. Analysis of Preliminary Indications of IFC E&S Policy Non-compliance

In relation to the issues raised by the Complainants, CAO concludes that there are preliminary indications that IFC may not have discharged its E&S responsibilities as set out in the 2006 and 2012 Sustainability Policies. In reaching this conclusion, CAO took the following information and analysis into account, presented by each complaint issue.

(a) Operations of Vinnytsia Poultry Farm and Zernoproduct Farm, and IFC E&S risk categorization

IFC oversight of client's ongoing operations:

In relation to complainant concerns regarding impacts to local communities – including dust, noise, odor, air and soil pollution, impacts to water resources, and heavy vehicles – CAO notes:

- IFC's 2014 pre-investment due diligence documented that MHP uses abatement equipment to ensure that air emissions are below WBG limits, has a process for treating wastewater, and uses odorless fertilizer. IFC also noted that the company would develop, and report to IFC on, a series of environmental parameters including air emissions, wastewater, and ambient air conditions (dust, odor, noise) on the outskirts of the nearest residential areas. As a condition of its 2023 investment, IFC noted that MHP would conduct noise, vibration, and odor monitoring at the houses nearest to the waste-to-energy facility.⁶²
- MHP does report annually to IFC on environmental parameters, however only for some of its facilities. In some cases measurement is on a quarterly or annual basis, whereas EU or industry good practice standards suggests they should be more frequent for some pollutants.⁶³
- Based on available reporting, it is unclear to CAO whether IFC has retained sufficient data to demonstrate compliance with relevant WBG EHS Guidelines.
- IFC's supervision documentation provides limited data on the company's assessment and management of GHG emissions in its operations.
- IFC's supervision documentation provides limited comment on the possible impacts of MHP's business activities on water resources. Under IFC's 2023 conditions of investment the company committed to conduct a water resources risk assessment by December 2025, which is pending.⁶⁴ In the meantime, the complainants' representatives have published the results of water testing at local wells conducted in 2021, which found elevated nitrate levels.⁶⁵
- Despite MHP's construction of a bypass in order for its vehicles to avoid local communities, CAO notes complainants' ongoing reports that MHP and contractor vehicles do not consistently use the bypass. IFC's supervision documentation does not provide assurance that MHP and contractor vehicles consistently do not traverse through communities.

IFC's client is operating one of the largest poultry farms and related processing facilities in Europe, presenting diverse E&S risk factors, including those raised by the complainants. Given this context, it is unclear to CAO whether IFC has implemented an adequate regular program of supervision, as required by the Sustainability Policy (para. 45), to assure that MHP is implementing necessary controls to manage E&S risks and impacts. CAO notes that in 2014 MHP stated its intent to implement an E&S Management System consistent with ISO 14001, considered a leading standard for environmental management systems.⁶⁶ However, MHP's 2023 annual report does not include this

⁶² IFC ESRS (34041), available at <https://bit.ly/3YjTGle> and IFC ESRS (46415), available at <https://bit.ly/3VyzQXD>.

⁶³ The following detail good international industry practice: WBG EHS Guidelines, specific EHS guidelines for poultry and European Commission 2017): Best Available Techniques (BAT) Reference Document for the Intensive Rearing of Poultry or Pigs. Industrial Emissions Directive 2010/75/EU

⁶⁴ IFC ESRS (46415), available at <https://bit.ly/3VyzQXD>.

⁶⁵ Ecoaction study is available at <https://bit.ly/4dXA5SH>.

⁶⁶ IFC ESRS (34041) see Investment ESAP, available at <https://bit.ly/3YjTGle>.

accreditation among certifications the company has achieved.⁶⁷ Given the magnitude of MHP's operations, and absent third-party audits which assess all aspects of its operations against the IFC Performance Standards and relevant EHS Guidelines, it is unclear to CAO whether IFC's approach to supervision is sufficient to demonstrate compliance.⁶⁸

Specifically in relation to pollution data and oversight, CAO reviewed IFC's Management Response and MHP's Response, and conducted a preliminary review of available documentation provided. In CAO's view, this documentation does not provide sufficient data or record of IFC supervision oversight to demonstrate that MHP's operational risks and possible impacts upon air, soil, and water resources, as well as dust and odor are managed in accordance with relevant IFC E&S standards. In particular, client reporting to IFC and in its public disclosures does not appear to present comprehensive and regularly collected data for each MHP site providing sufficient assurance that the company's operations meet IFC's E&S requirements.⁶⁹

IFC oversight of client land acquisition:

In relation to land acquisition for MHP's operations, IFC decided not to trigger the application of PS 5. Below is a summary of the relevant IFC actions, and CAO's related review and analysis:

- IFC did not trigger Performance Standard 5 for its 2010,⁷⁰ 2012, 2014, or 2023⁷¹ investments in MHP.⁷² In appraising its 2012 investment, IFC simply noted that the client had significantly expanded its land bank, mostly via the acquisition of companies that leased land. For its 2014 investment, IFC stated that its "due diligence did not identify project issues related to matters covered by PS 5 (Land Acquisition and Involuntary Resettlement) for the following reasons: land plots leased/acquired on a willing-seller willing-buyer principle were already cultivated for decades; the transaction did not involve involuntary resettlement and/or economic displacement. Further development/expansion of the complexes near the towns of Ladyzhyn and Katerynopil in Ukraine will be done within the footprint of existing facilities. In the event that issues anticipated by PS 5 arise, MHP will engage with IFC to ensure these are adequately addressed."⁷³ Based on this analysis, IFC did not trigger PS5 for its 2014 investment.
- After community members submitted their complaint to CAO in 2019, IFC reported engaging with MHP on its land lease approach and recommending that the client strengthen its Land Easement Policy. IFC noted that an agreement was reached during the CAO-led dispute resolution process on increasing transparency when land lease contracts were renewed.⁷⁴ MHP reported that it acquired land lease rights via negotiations with landowners and through the acquisition of entities that owned legal rights for operating leases of agricultural land.⁷⁵

From a preliminary review of available documentation, CAO has not identified an adequate IFC assessment that land-lease transactions were conducted on a willing-seller willing buyer principle as stipulated in PS 5 (para. 6 and Guidance Note 16 and 20).⁷⁶ Moreover, the client's 2016 ESIA-

⁶⁷ The Company's 2023 Annual Report notes multiple Management System Certifications it has achieved. However, from CAO's preliminary review, it is unclear whether these provide sufficient assurance of MHP's environmental indicators.

⁶⁸ Prior to the Covid-19 pandemic and Russia's invasion of Ukraine, IFC generally visited the Company on an annual basis.

⁶⁹ While the Company has disclosed environmental data of its operations (see MHP Environmental Protection, available at <https://bit.ly/42nRISS>), a preliminary review of this information indicates disclosure in relation to some of the company's operations.

⁷⁰ IFC ESRS (29204), available at: <https://bit.ly/4jnUZye>.

⁷¹ IFC ESRS (46415), available at <https://bit.ly/3VyzQXD>.

⁷² United States Development Finance Corporation (DFC) did trigger PS 5 as an applicable requirement for its 2017 investment in MHP, OPIC (DFC) Initial Project Summary: MHP, available at <https://bit.ly/4f8ymLg>.

⁷³ IFC ESRS (#34041), available at: <https://bit.ly/3YjTGle>.

⁷⁴ IFC Management Response, 2022.

⁷⁵ MHP Annual Reports, noted in financial accounts –example MHP Annual Report 2011, notes to accounts, page 37.

⁷⁶ PS5 is not applicable where there is a "willing buyer/willing seller" transaction, and the buyer cannot resort to government authority to gain access to the land (PS5 GN16).

SIR stated that MHP's Land Acquisition Action Plan did not set out the principles of engagement and negotiations with landowners or compensation principles. As a result, the action plan did not achieve full compliance with PS 5 requirements.⁷⁷

Given that the client holds approximately 220,000 individual land lease agreements⁷⁸ covering 351,600 hectares, making it the second largest Ukrainian agricultural land user, CAO considers that further clarity is required from IFC to substantiate its decision not to trigger PS5 for successive investments over two decades.

IFC E&S risk categorization:

IFC categorized its 2010, 2012, 2014, and 2023 investments in MHP as Category B. This designation indicated IFC's view that it was financing "business activities with potential limited adverse environmental or social risks and/or impacts that are few in number, generally site-specific, largely reversible, and readily addressed through mitigation measures."⁷⁹

From a preliminary review of other similar IFC investments, CAO acknowledges that all IFC investments in the poultry farming sector have been classified as Category B, and the majority of investments in the grain production and processing sector have been classified as Category B, with a minority classified as Category A.⁸⁰ EBRD also has categorized its investments in MHP as Category B, as per its policies.⁸¹

At the same time, CAO notes that:

- IFC's 2012, 2014, and 2023 loan investments provided IFC with general purpose exposure to all of MHP's business activities.
- IFC's 2012 and 2014 investments were made in the context of MHP constructing one of the largest poultry farms and processing facilities in Europe. Furthermore, MHP's vertically integrated production model⁸² exposed IFC to MHP's other operations within and outside Ukraine – including grain growing and processing facilities. As of 2023, MHP held long-term land leases (220,000 individual lease agreements) on 351,600 hectares and was the second largest Ukrainian agricultural land user.⁸³
- MHP operations in the Vinnytsia Oblast, across Ukraine, and in other countries expose it to a series of E&S risks and impacts that the client would need to assess and manage in accordance with multiple IFC Performance Standards and specific WBG EHS Guidelines. In particular, the client's business activity potentially necessitates an E&S Management System (ESMS) with a high degree of level of detail and complexity.
- Despite this context, CAO's preliminary review of available documentation for IFC's 2010, 2012, and 2014 investments does not indicate that an integrated ESIA for the poultry operation's expansion project was conducted, including an assessment of the cumulative impacts. Accordingly, it is unclear if IFC and its client adequately identified the investment's expected risks and impacts in order to inform the E&S risk categorization.
- The U.S. International Development Finance Corporation (DFC), another MHP investor, conducted an E&S review in 2017 that classified the E&S risk as Category A because MHP's activities involved the construction and operation of intensive rearing of poultry.⁸⁴

CAO has questions regarding IFC's E&S risk categorization during its pre-investment review (2010,

⁷⁷ MHP Vinnytsia Poultry Farm ESIA Supplementary Information Report, December 2016, p.155.

⁷⁸ MHP 2019, Eurobond Prospectus (2029), available at <https://bit.ly/3WAHdi4>.

⁷⁹ IFC Sustainability Policy, 2012, para. 40.

⁸⁰ CAO review of IFC Investment Disclosure, available at <https://bit.ly/40gfuFO>.

⁸¹ EBRD, 2023. MHP Bond Refinancing, available at <https://bit.ly/4gPBewU>.

⁸² IFC ESRS (34041), available at: <https://bit.ly/3YjTGle>.

⁸³ MHP Annual Report 2023, available at <https://bit.ly/3BTcqFI> and Latifundist (2024), available at <https://bit.ly/3A9zuiW>.

Further, the company's total number of hectares under its control grew significantly between 2010 and 2013 and has not changed significantly over the last decade. As part of its 2014 investment, IFC reported that the MHP controls and operates approximately 360,000 hectares of land, of which 320,000 hectares in Ukraine used in grain production.

⁸⁴ OPIC Initial Project Summary: MHP, available at <https://bit.ly/4f8ymLg>.

2012, 2014 and 2023 investments). Given the scale of the company's operations, and its strategy to operate as a vertically integrated poultry producer, CAO has questions about whether this presented potentially significant E&S risks and/or impacts that were diverse, irreversible or unprecedented.

The consequence of IFC determining an investment as Category B rather than A is that Category A investments require higher IFC management level approval, a longer IFC disclosure timeframe, closer IFC E&S supervision, and frequently require the client to retain qualified and experienced external expert(s) to verify its monitoring information.⁸⁵

Based on the analysis above, CAO concludes that there are preliminary indications that IFC's pre-investment E&S due diligence may not have a) been commensurate with the nature, scale and stage of the business activity (as required by the Sustainability Policy paras. 26 and 28) and b) reflected the magnitude of risks and impacts in its E&S categorization (Sustainability Policy paras. 40 and 42).

(b) Community consultation, disclosure of information, and grievance handling

From a preliminary review of available information, it is unclear whether IFC has assured itself that MHP is disclosing sufficient information about how it manages the risks and impacts of its operations in a manner understandable to affected communities.⁸⁶

CAO notes that:

- During its 2014 pre-investment review, IFC affirmed that MHP had “enhanced its external communications with affected communities and developed a comprehensive SEP supporting an ongoing process for stakeholder engagement. The SEP, consistent with PS1 provisions and good international practices, is based on detailed stakeholder analysis including affected local communities and non-governmental organizations. The plan includes various forms of disclosure and dissemination of information, plans for consultation and participation, and regular reporting on EHS matters.”⁸⁷
- IFC's supervision records state that during site visits and annual E&S monitoring of MHP, local community concerns regarding lack of information and disclosure about the poultry farm's expansion plans were noted, and corrective actions developed.⁸⁸
- As part of its 2023 investment, IFC noted that the client had established a Stakeholder Engagement Plan and Grievance Resolution Mechanism that were consistent with PS1. MHP was implementing the GRM through its charity organization, which receives complaints via a dedicated phone line and email.⁸⁹

However, CAO's preliminary review of documentation does not at this stage support a conclusion that IFC took sufficient action, since 2010, in its investment appraisals and supervision of MHP's activities in the vicinity of the complainant villages. In particular, it is unclear whether IFC assured itself at key points during MHP's expansion of its poultry operations that the client had conducted integrated E&S risk assessments as required by PS1. Without such risk assessments, it is not possible to conduct an adequate, PS1-compliant stakeholder engagement process which discloses information about E&S risks and impacts in an understandable manner in consultation with affected communities. In cases where community concerns were raised about MHP's infrastructure developments, it is unclear at this stage whether IFC assured itself that MHP had adequately considered and responded to such concerns.

⁸⁵ IFC Sustainability Policy (2012), para. 40.

⁸⁶ MHP Environmental Protection, available at <https://bit.ly/42nRiSS>.

⁸⁷ IFC ESRS (34041), available at <https://bit.ly/3YjTGle>.

⁸⁸ IFC Management Response, 2022, Annex B.

⁸⁹ IFC ESRS (46415), available at <https://bit.ly/3VyzQXD>.

(c) Labor and working conditions

From a preliminary review of IFC's documentation, CAO notes a series of OHS incidents and accidents over multiple years. On this basis, it is unclear whether IFC has taken sufficient action to supervise OHS at MHP's operations in the Vinnytsia region during the two-decade course of its investment period. Specifically, CAO notes:

- During its investment supervision until 2019, IFC reported that it had identified gaps in MHP's OHS management systems and agreed actions with the client to address such gaps. On multiple occasions, IFC supervision documentation recorded the need for additional improvements.
- In the E&S Review Summary for its 2023 investment, IFC stated that MHP has documented procedures for reporting and investigating OHS incidents and accidents.⁹⁰ Based on incident reports, IFC noted non-compliance with safety procedures, use of incorrect tools, and non-use of PPE that implied a safety culture that needs improvement.⁹¹ As part of the project E&S Action Plan, IFC required MHP to revise its OHS reporting procedures to include lost time frequency incident rate and implement measures to minimize road traffic related incidents.⁹²

In relation to wages and benefits, IFC's Management Response to the CAO complaint reported that MHP's minimum wages were in line with national law, and overall higher than the average wage in the local market.⁹³ IFC's 2023 pre-investment review considered this issue again, and concluded that in addition to complying with national law for minimum wages, working hours, overtime, holidays, probation period and employment contracts, MHP has provided additional benefits since the outbreak of war in 2022.⁹⁴

5.3 Analysis of Plausible Link between Harm Allegations and Potential IFC Noncompliance

A CAO compliance appraisal must consider whether "the alleged Harm is plausibly linked to the potential non-compliance."⁹⁵ In making this determination, CAO considers the relationship between the potential non-compliance and alleged harm without requiring evidence of causation or contribution.⁹⁶

In this case, CAO considers that there is a plausible link between the complainant allegations of harm and potential IFC non-compliance in its pre-investment E&S due diligence and supervision of the application of its Sustainability Framework. In making this determination, CAO considered that:

- a) The preliminary indications of Harm identified in this compliance appraisal are the types of issues that IFC's Sustainability Framework seeks to avoid and mitigate, and which should be identified and managed as risks and impacts during IFC's E&S pre-investment review and subsequent project supervision.
- b) More specifically, and as outlined above, there are preliminary indications that aspects of IFC's pre-investment reviews for its series of investments in MHP may not have been commensurate with the nature, scale, and stage of the business activity, and with the level of E&S risks and

⁹⁰ IFC ESRS (46415), available at <https://bit.ly/3VyzQXD>.

⁹¹ IFC ESAP (46415), available at <https://bit.ly/3VyzQXD>.

⁹² IFC ESAP (46415), available at <https://bit.ly/3VyzQXD>.

⁹³ IFC Management Response, 2022, Annex B.

⁹⁴ IFC ESRS (46415), available at <https://bit.ly/3VyzQXD>.

⁹⁵ CAO Policy, para. 91.

⁹⁶ OHCHR, The Corporate Responsibility to Respect: An Interpretive Guide, p.5, at: <https://bit.ly/3zuLgSI>; OECD Guidelines for Multinational Enterprises and the United Nations Guiding Principles on Business and Human Rights (UNGPs), 2011, available at: <https://bit.ly/3RLJi94> and <https://bit.ly/3S72BpP>, and OHCHR response to request from Bank Track and OECD Watch for advice regarding the application of the UN Guiding Principles on Business and Human Rights where private-sector banks act as nominee shareholders, August 30, 2021: 4.

impacts posed by MHP's large-scale, integrated agro-industrial business activities in the Vinnytsia region. Consequently, at this stage of CAO's compliance review, it is unclear whether IFC adequately: 1) categorized its investment of these activities based on the magnitude of risks and impacts, including cumulative impacts; 2) identified risks resulting from MHP's need to acquire land through more than 220,000 lease agreements, especially considering the country context; and 3) ensured itself that local concerns and observations were adequately reflected in the risk identification, mitigation, and monitoring process. Where E&S risks are not adequately identified at the outset, experience demonstrates that there is an increased risk of insufficient mitigation measures, supervision, and monitoring systems to ensure that the types of issues raised in this case are addressed throughout the lifetime of IFC's investment.

5.4. Additional Appraisal Considerations

According to the CAO Policy, a CAO compliance appraisal must consider a series of additional considerations.⁹⁷ In this case, the requirements of CAO Policy para 92a were considered:

For any Project or Sub-Project where an IFC/MIGA Exit has occurred at the time CAO completes its compliance appraisal, whether an investigation would provide particular value in terms of accountability, learning, or remedial action despite an IFC/MIGA Exit.

The 2018 complaint to CAO was made in the context of IFC's active investment number 34041. This loan was repaid by MHP in 2019, completing the IFC exit. However, in 2023, IFC approved a new investment in the company.

Given that IFC's 2023 investment is active at the time of this appraisal report, CAO concludes that para. 92a and the other additional Policy considerations do not apply. For the sake of completeness, analysis of each of the considerations under CAO Policy, para. 92 is presented in Annex 4.

6. CAO Decision and Next Steps

CAO will proceed with a compliance investigation into IFC's investments in MHP in the Vinnytsia region of Ukraine. The complaint meets the three appraisal criteria, as described above, and the considerations under paragraph 92a have been duly considered. Terms of reference for the compliance investigation are included in Annex 5.

This appraisal report has been shared with IFC's Board of Directors, the World Bank Group President, IFC management, the Company, and the Complainants. CAO publishes this appraisal report on its website.⁹⁸

⁹⁷ CAO Policy 2021, para. 92.

⁹⁸ CAO Policy, para. 106.

Appendices

Disclaimer: *The boundaries, colors, denominations and any other information shown on the maps in the appendices do not imply, on the part of the World Bank Group, any judgment on the legal status of any territory, or any endorsement or acceptance of such boundaries.*

Annex 1: Complaint

June 5, 2018

Oswaldo Gratacos, CAO Vice President
Compliance Advisor/Ombudsman
International Finance Corporation
2121 Pennsylvania Avenue NW
Washington, DC 20433 USA
Fax: (+1) (202) 522-7400
Email: cao-compliance@ifc.org

Dear Mr. Gratacos,

We are community members¹ from the villages of Olyanytsya, Zaozerne and Kleban in Vinnytsia Oblast, Ukraine, who have been impacted in various ways by the operations of PJSC Myronivsky Hliboproduct (“MHP” or the “Company”) and its subsidiaries, Vinnytska Ptahofabryka LLC, Vinnytsia Poultry Farm Branch Complex for Manufacturing Feeds LLC and PrJSC Zernoproduct MHP.²

The construction and operation of MHP agribusiness activities in our local area, namely its interrelated Vinnytsia Poultry Farm (VPF) and Zernoproduct Farm activities (collectively “the Project”), have caused continuous odor and dust impacts from a significant and growing number of facilities surrounding our villages and from the application of manure on nearby fields. Project activities have led to a drastic increase in heavy vehicle traffic through our villages, resulting in damage to roads and nearby residences, as well as additional impacts from dust, noise and foul odors for residents along major MHP thoroughfares. Community consultation processes have been poor, based on inadequate disclosure of information, and involved pressure from Company representatives to support the Project and suppress any dissent. We also fear additional impacts from the Project, including pollution of our air, water and soil. Water levels in some local wells have been noticeably depleted in recent years, and we fear that this is caused by the construction and operation of the VPF. Moreover, we fear that the planned expansion of the VPF, which will double its operations, will also cause additional impacts. MHP has failed to provide us with basic information that would allow us to understand the full extent of these and other impacts and be assured that the Company’s activities will not negatively affect our environment and health.

¹ See Annex 1 for information on how to contact complainants and our advisors.

² In this complaint the terms MHP and the Company refer broadly to PJSC MHP and its subsidiaries. As local affected people, it is often not possible to distinguish which MHP subsidiary is responsible for a particular operation.

The International Finance Corporation (“IFC”) has provided five separate investments to MHP since 2003.³ The last three investments, provided in 2010, 2013 and 2015, were intended specifically, at least in part, for the development and expansion of MHP’s operations in Vinnytsia Oblast.⁴ While the four earliest investments have since closed, the 2015 investment remains active.⁵

Our concerns and the associated IFC policies that have been or may be violated are detailed in the following sections. We believe that full resolution of this matter remains possible through a constructive facilitated dialogue between MHP and affected community members. There we request that the CAO initiate a dispute resolution process. However, if the parties are not able to agree on a solution, we request that the complaint proceed to Compliance Review.

We further request that the identities of the individual signatories to this complaint remain confidential, as we fear retaliatory actions should our identities be disclosed.⁶ We ask that this complaint be treated as public and posted on the CAO’s website. However, we wish the attached annexes to remain confidential.

I. Factual background

a. The Company

MHP is the largest poultry producer in Ukraine, accounting for 30% of industrially produced poultry consumed in the country in 2017.⁷ It is also one of the country’s top exporters, with products sold in 63 countries, including widely throughout the European Union.⁸ The Company’s vertically integrated business model involves controlling all aspects of the poultry production chain: growing crops to produce chicken fodder; collecting, incubating and hatching eggs; raising and slaughtering chickens; processing, distributing and selling their meat; and re-purposing manure as fertilizer for its crops. The Company also controls secondary facilities to support its operations, such as water treatment facilities and a recent expansion into biogas plants, and has expanded into related markets including cattle breeding and meat and sausage production.

According to the IFC’s Summary of Investment Information for its 2015 investment, MHP produced 472,800 tonnes of chicken meat and harvested 2 million tonnes of crops in 2013 alone.⁹ Since that time, MHP has continued to expand its operations, with the support of its

³ All five loans were for “Myronivsky Khiboproduct, Publichne AT.” We do not know the precise relationship between this entity and PJSC MHP or its subsidiaries named in this complaint.

⁴ See Annex 2 for further detail on all IFC investments in MHP.

⁵ Project ID 34041, IFC Summary of Investment Information (SII), available at <https://disclosures.ifc.org/#/projectDetail/SII/34041>.

⁶ For further context on the reason for our fears of retaliation, see Annex 3.

⁷ Annual Report and Accounts 2017, MHP Agro & Industrial Holding, p. 7, available at <https://www.mhp.com.ua:8443/library/file/ar-2017-as-210318-final2.pdf>.

⁸ European export countries include the Netherlands, France, Germany, Spain, Italy, Belgium, Switzerland, the United Kingdom and Ireland, among others. *Id.* at 9.

⁹ IFC SII for Project 34041, “Project Sponsor and Major Shareholders of Project Company;” IFC Environmental & Social Review Summary for Project 34041, “Project Description,” available at <https://disclosures.ifc.org/#/projectDetail/ESRS/34041>.

“long-term partner” the IFC.¹⁰ By 2017, MHP had expanded its production of chicken meat to over 560,000 tonnes per year.¹¹ The Company controls around 370,000 hectares of crop land, one of the largest land banks in Ukraine.¹² Due to a moratorium on the sale of agricultural land in Ukraine, which has been in effect since 2001,¹³ MHP’s agricultural activities are primarily conducted on plots that are leased from individuals through long-term lease agreements.

While MHP’s vertically integrated model has contributed to its status as a leading Ukrainian agribusiness, the scale and nature of its business have also contributed to mounting concerns about its social and environmental impacts.¹⁴ These concerns are compounded by patterns of poor community consultation and a lack of information provided about MHP’s operations, leaving project-affected people such as ourselves guessing about the true impacts of its operations.

b. The Vinnytsia Poultry Farm and Zernoproduct Farm

The VPF, which MHP has called the largest poultry farm in Europe,¹⁵ accounts for nearly half of MHP’s total poultry production, with output averaging around 277,803 tonnes of chicken meat per year.¹⁶ MHP began construction of the VPF in 2010. Its construction was divided into two phases, the first of which became operational in 2014.¹⁷ Phase 1 includes a fodder production plant and grain storage facilities, a breeder farm and chicken hatchery, 12 brigades of poultry houses, a slaughterhouse, a wastewater treatment plant and workers’ housing facilities. Each brigade consists of 38 poultry houses and has a capacity of approximately 1,484,280 chickens (broilers), meaning that there are currently as many as 17.8 million chickens being reared in the VPF at any one time.¹⁸

¹⁰ In explaining IFC’s additionality for the most recent loan, the SII states that “MHP has relied on IFC as a long term partner through its various phases of growth and will continue doing so in order to support its future expansion strategy.” IFC SII for Project 34041, “IFC’s Expected Role and Additionality.”

¹¹ MHP Annual Report 2017 at 25.

¹² *Id.* at 8.

¹³ “Ukraine’s Ban on Selling Farmland is Choking the Economy,” James Gomez and Kateryna Choursina, Bloomberg (1 Jan. 2018), available at <https://www.bloomberg.com/news/features/2018-01-02/ukraine-s-ban-on-selling-farmland-is-choking-the-economy>.

¹⁴ We are not alone in raising these concerns. Concerns about social and environmental impacts of MHP operations have reported by others: “Наша Ряба скидає в Сільницю стоки невідомого походження,” Ladyzhyn blog (19 Jun. 2013), available at <http://lad.vn.ua/blog/control/nasha-ryaba-skidaє-v-silnicyu-stoki-nevidomogo-pohodzhennya.html>; “В Черкаському районі гине риба - чиновники та місцеві жителі називають різні причини” (2 Feb. 2017), available at <http://kropyva.ck.ua/content/v-cherkaskomu-raion-gine-riba-chinovniki-ta-m-stsev-zhitel-nazivayut-r-zn-prichini%20;> “МИРОНІВСЬКА ПТАХОФАБРИКА НАЗВАЛА ІНЦИДЕНТ ЗІ ЗЛИВОМ НЕЧИСТОТ НЕПРИПУСТИМИМ,” Vicky News (1 Mar. 2017), available at http://vikka.ua/news/84631-mironivska-ptahofabrika-nazvala-intsident-zi-zlivom-nechistot-nepripustimim-video.htm?fb_comment_id=1163207897109968_1163561310407960#fcb872abdaa26c.

¹⁵ MHP Website, “Vinnytsia Poultry Farm LLC,” <https://www.mhp.com.ua/en/operations/op-vinnitskaja-ptitsefabrika-oao-mkhp> (last accessed: 9 May 2018).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Environmental Impact Assessment for Brigade 13, “Spektr” Separate Division of MHP PJSC (Feb. 2015), Sec. 3.1, included in Annex 7. The EIAs for Brigades 7, 8, 9 and 55 all reflect the same numbers. Note that somewhat higher numbers of chickens per brigade are reported on MHP’s website (<https://www.mhp.com.ua/en/operations/op-vinnitskaja-ptitsefabrika-oao-mkhp>) and significantly lower numbers are reported in a 2016 OPIC Supplementary ESIA (Vinnytsia Poultry Farm Environmental and Social Impact Assessment Supplementary Information Report,



*The typical brigade layout. Each brigade requires a total area of 25-30 hectares of land.
Source: 2016 OPIC Supplementary ESIA, p. 6, figure 2.3.*

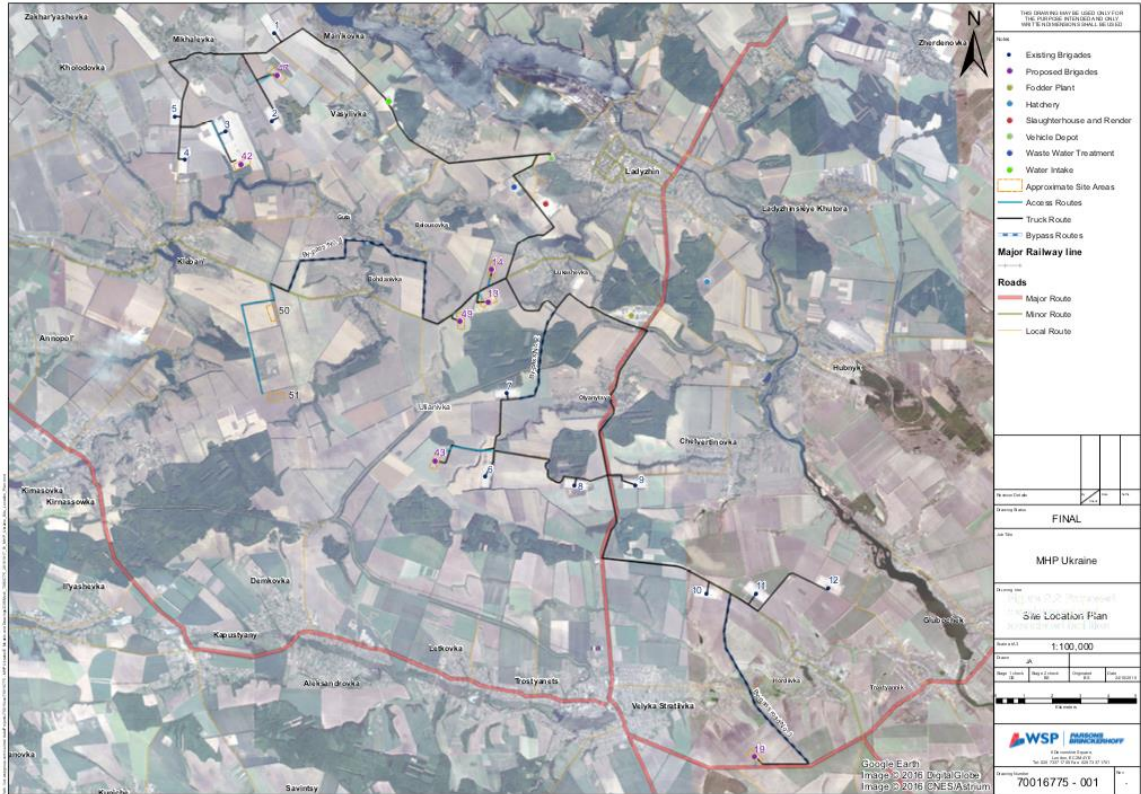


Existing poultry houses within the VPF.

The “overall project area” of Phases 1 and 2 of the VPF will use an estimated 27,000 hectares of land in the Vinnytsia Oblast between and surrounding our communities.¹⁹

WSP Persons Brinckerhoff, Prepared for the Overseas Private Investment Corporation (Dec. 2016), p. 6). We believe that the numbers in the environmental assessment documents to be the most accurate, as they are consistent across Brigades.

¹⁹ OPIC Supplementary ESIA at sec. 2.4. It is not clear to us exactly which facilities this estimate includes.



Existing and proposed facilities are indicated by various coloured dots (see map key). Source: 2016 OPIC Supplementary ESIA, p.5, figure 2.2. This map is approximate as some facility locations have changed.

MHP’s Zernoproduct Farm (“Zernoproduct”) operations span across an overlapping area of Vinnytsia Oblast. Established in 2004, Zernoproduct grows, produces and stores grains, which are in turn processed into fodder for the VPF and other MHP animal rearing operations.²⁰ Zernoproduct Farm’s sunflower seed husks are used as bedding for the VPF’s chickens, while the VPF reportedly sells “organic matter from chicken-broilers” to Zernoproduct for use as fertilizer.²¹ In 2013, Zernoproduct Farm controlled a reported 25,867 hectares in the area around Ladyzhyn.²²

Despite the massive size of the VPF and Zernoproduct Farm, MHP has not publicly released an environmental assessment or other document explaining the social and

²⁰ Although they are technically two separate legal entities with a common parent, the distinction between the operations of the Zernoproduct Farm and the operations of the VPF in our local area are not entirely clear. For example, some operations such as Brigade 13, the fodder plant and the sunflower crushing plant are included in the description of the VPF yet are listed elsewhere as being owned by Zernoproduct Farm. See, e.g. Annual Report and Accounts 2013, MHP, p. 20. The description of operations in this complaint comprises our best understanding of the two entities’ interrelated operations.

²¹ “Куряче гімно стало головним болем мешканців Ладизжина” Vinnitsa.info (12 Sep 2013), available at <http://www.vinnitsa.info/news/kuryache-gimno-stalo-golovnim-bolem-meshkantsiv-ladizhina.html>.

²² *Id.* This appears to be corroborated by information on MHP’s website, which states that Zernoproduct Farm has a land bank of over 90,000 hectares, around 25,000 of which is concentrated in its Tulchynska, Bershadska, Haysynska, Horyivska and Olianytska branch offices, which we presume correlate with the villages and rayons (districts) of the same names near Ladyzhyn.

environmental impacts of and total resources used by its local operations. Many basic facts are therefore unknown to local communities.

A 2016 Supplementary Environmental and Social Impact Assessment (“ESIA”) for the VPF released by the U.S. Overseas Private Investment Corporation (“OPIC”) in connection with its own investment review process attempts to estimate the resource use and other impacts of the VPF, by adding together predictions and reports found in other documents, produced at varying times, for individual facilities.²³ However, discrepancies between the OPIC Supplementary ESIA and other project documents call into question the accuracy of these numbers.²⁴ No ESIA has been publicly disclosed for Zernoproduct Farm’s crop growing activities, or for the associated application of manure as fertilizer.

The OPIC Supplementary ESIA reports that Phase 1 of the VPF uses over 3.4 million cubic meters of water per year, taken from the Pivdenny Bug River, and produces over 224,000 tonnes of manure per year, which is re-purposed as fertilizer on Zernoproduct’s local crop land.²⁵ A 2015 MHP benchmarking exercise found that the VPF produced 787,870 tonnes of CO₂ equivalent greenhouse gases.²⁶ Used wastewater from the slaughterhouse, fodder plant, hatchery and rearing brigades is processed by the VPF’s wastewater treatment facility and discharged back into the river.²⁷

MHP had a goal to begin construction of Phase 2 of the VPF in 2017.²⁸ Phase 2 may include construction of between 10 and 12 additional poultry brigades, each with 38 poultry houses.²⁹ It will entail the expansion of all VPF facilities, with the aim to drastically increase the volume of production at all levels.³⁰ Finally, Phase 2 also involves construction of a biogas plant to accommodate the additional manure produced by twice the number of chickens and to power MHP’s local operations. Once fully operational, the VPF is expected to:

- Include a total of at least 836 separate chicken houses, positioned in at least 22 brigades;
- Have capacity to house 32 million chickens at a time;³¹
- Consume over 6 million cubic meters of water per year;³²

²³ See OPIC Supplementary ESIA. To our knowledge, OPIC has not yet made a decision to invest in the VPF.

²⁴ For example, the OPIC Supplementary ESIA reports that each of the 12 existing brigades houses 39,050 chickens (sec. 2.5), whereas environmental assessment documents for individual brigades indicate that a standard VPF brigade houses nearly 1.5 million chickens (around 39,000 chickens per *poultry house*, with 38 poultry houses in each brigade) (see, e.g., EIAs for Brigades 7, 8, 9, 13 and 55).

²⁵ OPIC Supplementary ESIA at 112, 139.

²⁶ OPIC Supplementary ESIA, Appendix C: Best Available Techniques at sec. 2.4.

²⁷ OPIC Supplementary ESIA at 9-10.

²⁸ Annual Report and Accounts 2016, MHP, p. 14.

²⁹ OPIC Supplemental ESIA at sec. 2.5 reports that MHP plans to build 10 new brigades; page 113 reports that it plans to build 9 new brigades. Elsewhere, MHP has stated that Phase 2 will double the VPF’s production capacity, suggesting that the final number of brigades will be double the 12 constructed in Phase 1. See, e.g., 2017 MHP Annual Report at 10. It appears that at least 10 new brigades are already in the early stages of planning and/or construction.

³⁰ OPIC Supplemental ESIA at 6-11.

³¹ Calculated based on standard capacity of existing MHP brigades.

³² OPIC Supplemental ESIA at 139.

- Produce on the order of 1.5 million tonnes of greenhouse gases per year;³³
- Produce potentially close to 6 million cubic meters of sewage per year;³⁴ and Produce over 411,000 tonnes of manure per year.³⁵

c. IFC investments in MHP

The IFC has provided repeated investments in MHP’s agribusiness operations in Ukraine since 2003.³⁶ Its first loan of 30 million USD aimed to increase efficiencies in the Company’s poultry production operations.³⁷ The IFC followed this with a \$60 million loan and \$20 million equity investment in 2005 for further expansion and construction of new poultry facilities.³⁸ In 2010 and 2013, the IFC provided its first two investments targeting MHP’s operations in the Vinnytsia oblast, for \$50 million each, to support MHP’s acquisition of additional agricultural land in the region.³⁹

In 2015, the IFC provided a further loan to finance the company’s expansion plans in the Vinnytsia Oblast.⁴⁰ The Environmental and Social Review Summary (“ESRS”) specifically references the VPF as part of the focus of the IFC’s scope of review, Phase 1 of which was fully operational in 2014, shortly before the IFC’s loan was approved. Although no ESIA’s are disclosed on the IFC’s website in relation to any of its investments in MHP, the Summary of Investment Information (“SII”) and ESRS for the 2015 loan indicate that a primary goal of this investment was to support MHP’s Phase 2 expansion of the VPF.⁴¹

³³ This is a rough estimate. The OPIC Supplementary ESIA reports that MHP estimated Phase 1 GHG emissions at 787,870 tonnes in 2015 (Appendix C at sec. 2.4), and we understand that Phase 2 will double the VPF’s operations. While the ESIA for the biogas plant claims that it will reduce the overall GHG emissions of the VPF, this claim is not well supported in project documents and we fear that the plant may even increase overall GHG emissions, if there are fugitive losses of methane, or if manure is still stored for long periods in the open air before it enters the plant, or if the conversion into biogas is less efficient than the Company expects.

³⁴ The OPIC Supplemental ESIA states that the wastewater treatment plant has a current capacity to process 11,000m³ of wastewater per day for Phase 1, operating 312 days per year, meaning its current annual capacity is around 3.432 million m³/year. MHP is building out an additional treatment line for Phase 2. (OPIC Supplemental ESIA at 10)

³⁵ This number is calculated by multiplying on the estimated 18,722.2 tonnes of manure produced per brigade per year by 22 (the estimated total number of brigades to be constructed). BR. 55 EIA at p. 128.

³⁶ The IFC is not alone in supporting MHP with hundreds of millions of dollars in financing. The European Bank for Reconstruction and Development, European Investment Bank and Atradius (a Dutch state trade insurance agency) have also supported MHP through financing and guarantees.

³⁷ Project ID 21071, IFC Summary of Investment Information, available at <https://disclosures.ifc.org/#/projectDetail/SPI/21071>.

³⁸ Project ID 24011, IFC Summary of Investment Information, available at <https://disclosures.ifc.org/#/projectDetail/SPI/24011>.

³⁹ Project ID 29204, IFC Summary of Investment Information, available at <https://disclosures.ifc.org/#/projectDetail/SPI/29204>; Project ID 32632, IFC Summary of Investment Information, available at <https://disclosures.ifc.org/#/projectDetail/SII/32632>. The 2010 investment also included an \$11.25 million guarantee.

⁴⁰ IFC SII for Project 34041. The ISS describes the Project location as Vinnytsia Oblast.

⁴¹ The loan was provided to support MHP’s expansion plans and the ESRS explains that “[i]n May 2010, MHP started the construction of the Vinnytsia complex, which increases gradually its production of chicken meat.” IFC ESRS for Project 34041. At the time the loan was approved, VPF Phase 1 was just becoming fully operational and MHP was beginning to plan the Phase 2 expansion. This expansion therefore appears to be a primary focus of the 2015 loan.

II. Community concerns

As described in the following sections, MHP's operations in our immediate vicinity have led to a number of actual and feared impacts on us. Heavy vehicle traffic has resulted in damage to village roads and nearby residences. We have experienced continual impacts from dust, noise and foul odors caused by vehicles passing through our village as well as emanating from MHP's nearby poultry farming and other agricultural activities. We also fear additional impacts from the Project, including pollution of our air, water and soil and depletion of water resources. Moreover, we fear that the Company's planned expansion of operations may cause additional harm in the future.

Overlaying all of these concerns are ongoing issues with MHP's consultation and information disclosure practices. We have had limited opportunities to be consulted about MHP's operations and expansion plans. Even when we have been consulted, MHP has failed to provide us with basic information that would allow us to understand the full extent of social and environmental impacts from its operations and be assured that the Company's activities will not negatively affect our environment and health. Consultations have not addressed basic questions regarding social and environmental impacts and have often involved pressure from Company representatives to support development and expansion plans. We have often only learned about and been consulted on planned new facilities after land had already been leased and set aside and initial construction planning was underway, depriving us of the opportunity to be meaningfully consulted on these developments. Even promises made to us during consultation meetings regarding measures to mitigate impacts have not been fulfilled.

We believe that there is still an opportunity for these concerns to be resolved through an independently facilitated dialogue with MHP, should the Company demonstrate a willingness to meet with us in good faith.

a. Problems with MHP's community consultation practices and information disclosure

Consultation

Since MHP first came to our area, we have experienced repeated and systematic problems with their approach to community consultation meetings about Project plans. Since the construction of Phase 1 of the VPF began, residents have only been invited to meetings to discuss facilities directly located on the territory of their village council,⁴² even though facilities on adjacent land also raise social and environmental risks and impacts for nearby communities.⁴³

⁴² A 2010 Trostyanets District Council meeting is the one exception to this that we can recall. At that meeting, a small select group of representatives from villages in Trostyanets Rayon were invited to discuss and approve urban planning documents, which provided for construction of at least 8 major MHP facilities on the land of Olyanytsya, Chetvertynyvka and Hordiivka village councils. Only 22 people from Olyanytsya were present at the meeting. Minutes of Trostyanets District Council Meeting (21 Sep. 2010), included in Annex 8.

⁴³ For example, Olyanytsya community members were not consulted on the construction of Brigades 8 and 9 or the fodder plant, which are located on the territory of neighboring village councils, although these are within a few

Even for those facilities planned on the lands of our own village councils, many local residents only learned about consultation meetings when it was already too late to influence Project plans.⁴⁴ Meetings included presentations about the Company, but potential risks and impacts were not explained during the meetings, and local affected people were not provided sufficiently detailed written information to understand the overall implications for our communities of each proposed facility, nor of MHP's local operations as a whole.⁴⁵

Even some landowners who leased land to MHP have reported that they were not properly consulted on, or even made aware of, MHP's planned Project facilities prior to their construction.⁴⁶ Moreover, local landowners were not given an opportunity to fairly negotiate the terms of the lease agreements, but instead were presented with long-term lease agreements with fixed prices, leaving individual farmers faced with a "take it or leave it offer" with no opportunity to negotiate. Owners of land adjacent to MHP facilities, and within the required sanitary protection zone, also believe they should have been individually consulted about the impacts to their land from dust and other types of pollution produced by these facilities.⁴⁷

As MHP moves forward with its Phase 2 expansion works, the Company is organizing public hearings about its new facilities. Despite some recent attempts to improve its document disclosure practices, many of the same problems that we have experienced for years still persist. MHP still relies on village-level public hearings as the only opportunity for "consultation" with local affected people about its facilities. Local people are only invited to consultations about the specific facilities that are planned for construction on their village council territory, and no consultation meetings whatsoever have been held on the Company's local operations as a whole. As a result, we have had no opportunity to learn about its full impacts, or to ask questions or voice our concerns about the whole Project. Moreover, by limiting consultations to facility-specific public hearings, local people have only learned about each planned facility after it was already too late to influence its development. Permitting processes are often completed and "pre-construction" works at the planned facility location often begin before the MHP has been planning the development of the VPF – including Phase 2 – since at least 2010, yet local people are still uninformed and uncertain of its full scope of operations and impacts.

For example, public hearings for Brigade 47 took place in the village of Vasylivka in July 2016, with 93 people in attendance.⁴⁸ Part of the Phase 2 expansion, Brigade 47 will be an MHP-standard set of 38 chicken houses designed to hold around 1.5 million chickens at a time.

kilometers of Olyanytsya and closer to some Olyanytsya residences than the brigades about which they have been invited to consult.

⁴⁴ Interview with former head of Olyanytsya, *Black Earth: Agribusiness in Ukraine and the marginalization of rural communities*, Natalia Kolomiets, National Ecological Centre of Ukraine and Fidanka Bacheva McGrath, CEE Bankwatch Network (Sep. 2015), p. 26.

⁴⁵ Interview with former head of Olyanytsya, *Black Earth*, pg. 26.

⁴⁶ For example, in 2014, one landowner reported that he had leased land to MHP with the understanding that the Company would use it for agricultural activity and was unaware of their plan to build large farming infrastructure on the land until construction started. This example was documented in the *Black Earth Report*, p. 27.

⁴⁷ Some villagers fear that having chicken brigades or other facilities operating adjacent to their land may cause long-term impacts, which may include reduced crop yields, reduced property value and/or limitations on land use. Issues of land use and land value may become more relevant as Ukraine considers ending its moratorium on agricultural land sales.

⁴⁸ Letter from Zaozerne residents to the EBRD (Nov. 2017), included in Annex 4.

Community members from the neighboring village of Zaozerne did not learn about the public hearing until after the fact, when an article in the local newspaper announced that a hearing had been held on the new facility. The planned site of Brigade 47 sits on the territory of Zaozerne Village Council, which includes both the villages of Zaozerne and Vasylivka.⁴⁹ Nonetheless, no public announcements were made in Zaozerne about the public hearings. Announcements had been posted only in the smaller village of Vasylivka, at their Culture House information desk.⁵⁰ When villagers from Zaozerne attempted to petition their village council to hold a public hearing in Zaozerne, the petition was rejected. Although 79 individuals signed the petition, the village council accepted only 40 of the signatories as legitimate (less than the 50 required by local statute), finding various issues with the rest.⁵¹

A similar situation occurred the following year regarding the new planned biogas plant, which is also planned for construction on Zaozerne Village Council lands. A public hearing was held on 29 June 2017 in Vasylivka, and residents of Zaozerne once again were not adequately informed. However, this time some Zaozerne residents learned of the public hearing beforehand. They collected 166 signatures against the construction of the biogas plant and presented these at the public hearing. However, local public officials refused to accept the petition and announced that only the votes of the 122 people present at the meeting would be counted in the assessment of public support for the new facility. The EBRD project summary⁵² noted that information disclosure and public hearings were conducted as required “under the national permitting process [... as] project information disclosure provided in the frame of above indicated meetings addressed only the aspects associated with the development of the Biogas Complex facility” excluding the linear infrastructure elements and associated overall impacts. The ESAP for the project includes a commitment from MHP to define and implement a Communication and Disclosure Programme to include aspects on the implementation of all project components, however, it is unclear what will be the purpose of this programme given that the biogas plant construction is already advanced.

MHP representatives have claimed that public hearings are open to anyone who wants to attend, yet meetings are not advertised as open to all, nor does this claim match our experience. When affected people from neighboring villages have learned about and tried to attend public hearings of another village council, they have been discouraged from raising concerns and treated by the members of the host village as illegitimate participants.

Recently, on 26 March 2018, a public hearing was to be held by the Mankivka Village Council about the construction of Brigade 55. Prior to the hearing, residents of Kleban and

⁴⁹ While Brigade 47 is closer to the village of Vasylivka than the village of Zaozerne, it is close enough to Zaozerne that residents fear it will directly impact them and wanted an opportunity to be consulted about its construction.

⁵⁰ Letter from Zaozerne Village Council (10 Feb. 2017), included in Annex 4.

⁵¹ For example, villagers who own agricultural land and/or residential property in Zaozerne village council territory but have their official state registration in another village council territory were not accepted as valid signatories. Notice from Zaozerne Village Council (21 Apr. 2017), included in Annex 4. While this practice conforms with local law, it has the impact of preventing affected people from participating in consultations on project activities that will affect them and their properties.

⁵² PSD for MHP Biogas (Project No. 49301), available at <http://www.ebrd.com/work-with-us/projects/psd/mhp-biogas.html>.

Zaozerne sent requests to MHP to hold hearings in our villages as well.⁵³ Our NGO advocates also sent an email to MHP asking that residents of Zaozerne and Kleban be included in the public consultation process on Brigade 55.⁵⁴ MHP responded that they are not responsible for the hearing, and that the Mykhailivka self-governing bodies will decide who can attend and disseminate information to the public about the hearings.⁵⁵ However, this explanation does not accord with Ukrainian law, which states that public discussion of planned activities can take place through one or more hearings, with the number of public hearings defined by the project promoter according to the scale of the expected impacts.⁵⁶

Following this correspondence, community members from Zaozerne and Kleban attempted to attend the public hearing in Mankivka. These villagers were allowed to enter the meeting room, but when one of them began to raise questions and concerns about the new facility, they were shouted out of the room by other participants.⁵⁷ Another visiting community member was accused of being paid by outside interests. These inter-community conflicts are inherent to MHP's practice of limiting consultations to only one meeting per facility, held by the village council on whose territory the facility will be constructed, with an MHP representative in attendance but not facilitating the meeting. This has resulted in a widespread understanding by local villagers that only residents of that village council are welcome to attend the public hearings, which effectively prevents affected people from other villagers from being consulted.

The Company's under-inclusive consultation practice is compounded by other issues. Public hearings have not provided a genuine opportunity for local people to hear about and understand the negative risks and impacts of MHP facilities before decisions are made. Documents to be voted on – including environmental assessments and spatial plans – are not widely distributed before the meeting, making informed participation difficult. Hearings are often facilitated in such a manner as to discourage discussion of negative impacts.

We can turn to the consultation process for Brigade 43, a set of 38 chicken houses to be constructed on Olyanytsya Village Council land as part of the VPF Phase 2, as an example. In September 2016, the Olyanytsya Village Council held a public hearing about MHP's planned construction of Brigade 43. The minutes from the hearing state that the subjects to be discussed were the Detailed Spatial Plan and the "Preliminary EIA"⁵⁸ for Brigade 43, yet neither of these documents was publicly distributed prior to or during the hearing and information requests to

⁵³ See letter from Zaozerne residents to MHP (23 Mar. 2018), included in Annex 4. While neither Kleban nor Zaozerne is the closest village to the site of Brigade 55, residents of both villages fear that Brigade 55 will cause cumulative impacts that may worsen any existing pollution of local air, water or soil, potentially posing a health risk for local people throughout the area.

⁵⁴ Email from Vladlena Martsynkevych, CEE Bankwatch Network/Centre for Environmental Initiatives "Ecoaction" to Anastasia Korniyuk, Public Relations and CSR Specialist, MHP (22 Mar. 2018), included in Annex 4.

⁵⁵ Email from Anastasia Korniyuk, Public Relations and CSR Specialist, MHP, to Vladlena Martsynkevych, CEE Bankwatch Network/Centre for Environmental Initiatives "Ecoaction" (23 Mar. 2018), included in Annex 4.

⁵⁶ Provision of the Cabinet of Ministers of Ukraine, № 989 від (13 Dec. 2017).

⁵⁷ Video recording of Mankivka Public Hearing, 26 Mar. 2018, available at <https://www.youtube.com/watch?v=w-YnXfUxcxk>.

⁵⁸ Ukrainian law does not include any reference to a "Preliminary EIA," but MHP has explained it as a short version of an EIA, developed before complete information is available about a new facility. Letter from MHP to Chyhyryn community members (9 Mar. 2017). It is not clear when a full ESIA will be completed or whether it will be disclosed to local people.

MHP and the Trostyanets Rayon Administration have not produced any results.⁵⁹ We still have not seen either document. A summary description of the new facility was published in the local newspaper prior to the meeting, but the description of impacts is too brief to provide meaningful information.⁶⁰

During the public hearing, the negative impacts of Brigade 43 were not discussed.⁶¹ Discussion instead focused on the benefits of Brigade 43 and MHP's promise to build water infrastructure for the village of Olyanytsya, in return for the public's support for construction of Brigades 43 and 44 on Olyanytsya Village Council territory. Only 20 minutes were allocated for questions about Brigade 43, and another 20 minutes for public comments.⁶² With 324 people attending the meeting, this was not enough time to hear and address all questions, and we fear that meeting organizers may have been avoiding calling on some of the participants likely to have questions and comments about the facility's risks and negative impacts. In the view of some community members, the hearing was facilitated in such a way as to prevent dissenting voices from speaking.⁶³

A group of around 225 villagers signed a letter expressing their opposition to the planned Brigade 43, which they presented at the public hearing. Despite this letter, and additional comments raised at the meeting, the Company dismissed all of the concerns raised, which included documented impacts from MHP's heavy vehicles on local roadways (discussed below), with little explanation, calling them "groundless."⁶⁴ Such a dismissive response to community members' legitimate concerns prevents public hearings from serving as a genuine forum for discussion or information gathering. Yet, this practice is typical: a brief newspaper announcement is often the only written information distributed about new MHP facilities prior to public hearings,⁶⁵ and information about negative risks and impacts at the hearings themselves is often absent or misleading.⁶⁶ The minutes of the public hearing on Brigade 43 report that because "no substantiated comments were received," the Village Council Chairman declared that the detailed spatial plan and preliminary EIA for Brigade 43 were approved.⁶⁷

Many public hearings have also suffered from an atmosphere of intimidation, discouraging participants from raising concerns or voting against MHP facilities, and dissuading some affected people from attending hearings at all. An open "voting" process at public hearings,

⁵⁹ See, for example, the written requests for information sent on 15 February 2017, included in Annex 4.

⁶⁰ For example, regarding impacts on air and soil, the newspaper posting simply states that they will not exceed standards, without any further detail. ЗАЯВА ПРО НАМІРИ, Тростянецькі ВІСТІ (19 Aug. 2016), included in Annex 8.

⁶¹ Ecoaction interviews with two Olyanytsya community members, 4 Nov. 2017.

⁶² Minutes of Olyanytsya Village Council Public Hearing (21 Sep. 2016), p. 3, included in Annex 8.

⁶³ Ecoaction interviews with two Olyanytsya community members, 4 Nov. 2017.

⁶⁴ Minutes of Olyanytsya Village Council Public Hearing (21 Sep. 2016), included in Annex 8.

⁶⁵ For example, this was also the case for Brigade 47. See Notice of Commencement of the Review Procedure, Brigade 47, Tulchyn Rayon (1 Jul. 2016) included in Annex 8.

⁶⁶ For example, during a 2010 meeting of the Trostyanets District Council to discuss and approve urban planning documents, which provided for construction of at least 8 major MHP facilities on the land of Olyanytsya, Chetvertynyvka and Hordiiivka village councils, a Company representative ensured participants that the farm facilities will not have adverse effects on people and the environment. Minutes of Trostyanets District Council Meeting (21 Sep. 2010), included in Annex 8.

⁶⁷ Minutes of Olyanytsya Village Council Public Hearing (21 Sep. 2016), p. 17-18 included in Annex 8.

conducted through a public show of hands rather than a secret ballot or another method, has made some community members – especially MHP employees and their family members – feel pressured to publicly show their support for MHP’s plans. Under Ukrainian law, there is no requirement to hold a vote at public hearings, which are intended as an opportunity to gather information on public opinion about a project.⁶⁸ However, we believe that MHP and local public officials who support them use these votes as a way to influence public opinion about new facilities. We consider that voting may be a useful way to show the public’s attitude about a planned new facility, but only if voting is done properly, with adequate protections in place to guard against community members feeling pressured or intimidated to vote in a certain way. We believe that a secret ballot voting process would be one way to guard against this potential pressure or intimidation. We have suggested this for past public hearings about MHP facilities, such as in the public hearing on Brigade 43, but these requests were not taken up.

Some community members with relatives working for MHP simply do not attend public hearings because they fear that if they attend and speak against MHP’s construction plans, they or their family member may be subject to retaliation.⁶⁹ We fear that MHP influences employees to attend public meetings in support of MHP’s planned new developments. At least two employees have reported such pressure.⁷⁰

“For meetings even in other villages, as their employee, I was pressured to participate and ‘defend dignity of the company.’ First they gather everyone, ... promise to give you a day off and 500 UAH if you participate in the ‘right’ way. If you are not willing to participate, they make hints that you can be fired. Always you were told that there will be a person at the meeting who will watch how you vote.”⁷¹

For an example of other community intimidation tactics, we can look again to the under-inclusive consultation process surrounding Brigade 47, discussed above, and the response by community members in Zaozerne. When community members in Zaozerne learned that the public hearing on Brigade 47 had already taken place, nearly 350 villagers signed a petition expressing their disapproval of the planned construction – far more than the 93 villagers who were present at the original public hearing.⁷² The petition was presented in a meeting with an MHP Director on 27 January 2017. In the meeting, community members explained that the July 2016 public hearing for Brigade 47 was not adequate on its own because it did not include the village of Zaozerne and requested the Company to halt construction of Brigade 47 until it is determined whether the public hearing was legitimate and in conformance with Ukrainian legal

⁶⁸ Law on ecological expertise, Bulletin of the Verkhovna Rada, 1995, No. 8, p. 54, Article 11, available at <http://zakon3.rada.gov.ua/laws/show/45/95-%D0%B2%D1%80>.

⁶⁹ Ecoaction interview with Olyanytsya community member, 4 Nov. 2017.

⁷⁰ Ecoaction interview with current or former MHP employee, 4 Nov. 2017; Interviews with current and former MHP employees, April 2018.

⁷¹ Ecoaction interview with current or former MHP employee, 4 Nov. 2017.

⁷² Petition, “Residents of the Zaozerne Village Council who opposed the construction of the brigade for the cultivation of chickens #47 within Vasylivka” included with a letter from community members to Vinnytsia Broiler Director (27 Jan. 2017), included in Annex 4.

requirements.⁷³ The Director refused this request outright, and in a follow-up letter after the meeting accused the community members of illegally violating the Company’s right to conduct business.⁷⁴

In the following weeks, individuals who had signed the petition were subject to intimidation and pressure to change their opinion on the new facility and to retract their signatures. Around eight out of nearly 350 signatories eventually signed form letters of “signature recall.”⁷⁵

In May 2017, Zaozerne activists filed a case in the Vinnytsia Administrative Court demanding cancellation of the Ruling of the Tulchyn Administration to develop the documentation and permits for construction of Brigade 47. The petition argued that the public hearing for Brigade 47 did not satisfy the requirements of Ukrainian law and MHP was also a party to the case.⁷⁶ The court ruled against the petitioner in March 2018, and on 24 May 2018 the decision was appealed to the Vinnytsia Administrative Court of Appeal. The filing of the court case shows how frustrated some community members have become with the MHP’s practice of holding limited consultation meetings that do not allow for a genuine understanding of Project impacts, nor an opportunity to influence Project designs.

These problems are indicative of a pattern of illegitimate consultations that we have experienced since MHP first arrived in the region.

Information disclosure

The Company has claimed that environmental assessment documents are available upon request,⁷⁷ but MHP has often failed to provide documents in response to requests dating back to 2012.⁷⁸ Local community members’ attempts, in 2016, to obtain environmental assessment documents related to Brigade 43 are an example, as described above.⁷⁹ Prior to 2016, a community-based NGO requested several technical and environmental documents from the Company, including information about its manure management system, but never received the requested information.⁸⁰ To date, we have not been provided with full environmental assessments for the slaughterhouse, hatchery, waste water treatment facility, or manure storage

⁷³ See letter from community members to Vinnytsia Broiler Director (27 Jan. 2017), submitted to MHP on the day of the meeting, included in Annex 4. The Vinnytsia Broiler is an affiliate of Vinnytska Ptahofabryka LLC.

⁷⁴ Letter from Vinnytsia Broiler Director addressed to a local community member (14 Feb. 2017), included in Annex 4.

⁷⁵ These letters are dated between 14 April 2017 and 20 April 2017. Included in Annex 4.

⁷⁶ See National Ecological Centre of Ukraine (NECU) “Прокуратура почала досудове розслідування щодо підробки рішення громадських слухань по будівництву курника МХП” (17 May 2017), <http://necu.org.ua/prokuratura-pochala-dosudove-rozsliduvannya-schodo-pidrobky-rishennya-hromsluhan-mhp/> and Вінницьким Окружним Адміністративним Суд “УВАГА! ПОВІДОМЛЕННЯ ЩОДО РОЗГЛЯДУ СПРАВИ!” (26 Jul. 2017), http://voas.gov.ua/news/podiy/uvaga_pov_domlennya_shchodo_rozglyadu_spravi/.

⁷⁷ *Black Earth*, p. 27.

⁷⁸ For an explanation of difficulties accessing environmental assessment documents, see, e.g., Letter from NECU to EBRD (25 Oct. 2013), included in Annex 4.

⁷⁹ An Olyanytsya community member sent written requests for information to MHP and the Trostyanets District Administration. See the letter dated 15 February 2017 in Annex 4.

⁸⁰ *Black Earth*, p. 27.

facility. These facilities were all built years ago as part of the VPF Phase 1, but we understand that at least some of them will be expanded to accommodate Phase 2.⁸¹ We have not been informed of any plan to provide environmental assessment documents that address the expansion plans.

Company representatives have at times refused to provide any document that is not explicitly required to be disclosed under Ukrainian law, or advised requesters to ask local government entities for documents.⁸² This approach strains the relationship between local communities and the Company and presents additional barriers to affected people accessing basic information about Project operations.

When the Company does disclose information, it generally provides environmental assessments that cover only single facilities within the farm, or one- to two-page excerpts of environmental assessments. These have not included sufficient detail to address our questions regarding the impacts of Project operations. For example, a “Statement of Environmental Impact” that we received related to the hatchery is less than two pages long and states simply that environmental risks are insignificant, since MHP has taken comprehensive measures to protect the environment.⁸³ It does not specify which measures were taken. Likewise, the Statement of Environmental Impact for the Brigade 6 water drainage system, which was implemented to reduce groundwater levels to prevent flooding of chicken brigades, states that if the drainage system is operated in a normal manner, “the impact on the environment is absent.”⁸⁴ These statements do not provide enough detail to address our questions and concerns about the Project.

Even when we have received more complete assessments, they have not provided full information on risks and impacts. We received nearly identical assessments for Brigades 7, 8 and 9, giving the appearance that each assessment was comprised of boiler-plate language and that little thought had been put into site-specific assessment of impacts.⁸⁵ Risks related to increased heavy vehicle traffic or storage and application of manure were not identified or assessed in any of the documents we have seen. As described in the following sections, assessments of air pollution do not provide enough detail to determine whether pollution impacts will have long-term impacts on our health.

Following extensive advocacy on this issue with MHP and with international lenders, we have recently noticed some improvements in access to information. Community members’ efforts to access documents related to Brigade 47 are a relevant example of this progress. As discussed above, community members from Zaozerne attended a meeting with an MHP official on 27 January 2017 and presented him with a letter requesting information, including environmental assessments, in relation to Brigade 47. Following the meeting they received a

⁸¹ OPIC Supplementary ESIA at sec. 24.

⁸² See, e.g., Letter from Vinnytsia Broiler Director to affected community member (23 May 2017), refusing to provide a copy of the building permit for Brigade 47 and explaining that he does not interpret the Ukrainian law on access to information to require disclosure of that document. Included in Annex 4.

⁸³ See excerpted Statement of Environmental Impact for the Hatchery, included in Annex 7.

⁸⁴ See excerpted Statement of Environmental Impact for Brigade 6, Drainage System on the territory of the construction of Brigade no. 6 (Sep. 2010), included in Annex 7.

⁸⁵ These documents are included in Annex 7.

letter denying their request, explaining that, “According to Article 19 of the Constitution of Ukraine the legal order in Ukraine is based on fundamentals, according to which none can be forced to do something which is not foreseen by the legislation. The poultry farm ‘Vinnystya Broiler’ operates within Ukrainian legislation.”⁸⁶ However, after an intervention by MHP’s Public Relations and Corporate Social Responsibility Director, copies of the Preliminary EIA and Detailed Spatial Plan for Brigade 47 were eventually provided in April 2017. Unfortunately, the former Public Relations and Corporate Social Responsibility Director is no longer employed by MHP, and it is therefore unclear whether recent progress on MHP’s disclosure practices will continue.

Disclosure practices of state authorities have also improved over the past year. In 2017, the Detailed Spatial Plan for the biogas plant was posted on the Tulchyn Administration’s website and sent on request. Also in 2017, after community members finally succeeded in accessing the Pre-EIA and Detailed Spatial Plan for Brigade 47, and many months after the public hearing on these documents, both were posted on the Tulchyn Administration’s website. A new Ukrainian EIA law that came into effect in December 2017 has further improved public access to documents, as EIAs are now posted publicly on the website of the Ministry of Environment.⁸⁷ This is helpful for some community members, who can now access these documents with the assistance of NGO advocates, but not all affected people have internet access or would know to look on the Ministry of Environmental website for information about the impacts of Project operations. This new online disclosure policy alone should not relieve MHP of its responsibility to ensure local people have reasonable access to Project information.

Improvements in disclosure practices by MHP and the government have not gone far enough – environmental assessment documents are still not made publicly available by the Company, and the Preliminary EIA for Brigade 47, while longer and more detailed than previous environmental assessment documents that were shared with us, still has many information gaps. It notes that the facility will contribute to air pollution and includes a list of pollutants to be discharged but does not estimate the amount of any pollutant.⁸⁸ The document provides no baseline assessment or assessment of the cumulative impacts of Brigade 47 and surrounding planned or existing facilities and denies that the facility will cause any social impacts whatsoever.⁸⁹ This does not comport with our own experience of existing brigades. As described in the following sections, existing brigades have contributed to a number of social impacts from Project operations, including foul odors and impacts from heavy vehicle traffic on local roads.

Even the ESIA for Brigade 55, which is the longest and most detailed environmental assessment document that has been disclosed for any MHP brigade, does not include an

⁸⁶ Letter from Vinnytsia Broiler Director addressed to local community member (14 Feb. 2017), included in Annex 4.

⁸⁷ The new EIA law only applies to new developments, so the Brigade 55 EIA and consultation process was our first experience with the new law.

⁸⁸ Preliminary Environmental Impact Assessment, Brigade 47, “Spektr” Separate Division of MHP PJSC (2016) Section 5.1 The air environment, included in Annex 7.

⁸⁹ Preliminary EIA, Brigade 47, Section 7, Assessment of the impact of planned activities on the surrounding social environment, included in Annex 7.

assessment of cumulative impacts, and its baseline air quality assessments are not detailed enough to provide meaningful information on health impacts from Project-related dust.⁹⁰

Perhaps most importantly, MHP has yet to produce a comprehensive ESIA that provides a holistic assessment of Project activities and their impacts. Community members and local CSO representatives have been requesting a comprehensive environmental assessment for the VPF since it was first constructed, without success.⁹¹ We understand that MHP has not developed any comprehensive environmental impact assessment of its VPF operations. Its Zernoproduct operations are largely not subject to environmental assessment requirements, making it difficult to obtain information on the potential risks or impacts of its agricultural operations, and specifically the storage and application of pesticides and thousands of tonnes of manure onto local agricultural lands as fertilizer.

Without a comprehensive assessment of all local operations, community members are left guessing about the exact size and impacts of the Project. The exact number of chicken brigades that will ultimately be included in the VPF is unknown to us. MHP develops brigades using a seemingly random numbering pattern, making it difficult for local people to understand how many brigades have been built and how many more are in development. For example, we understand that Phase 2 construction is currently scheduled to involve construction of (at least) Brigades 13, 22, 23, 42, 43, 44, 47, 49 and 55. The EBRD-financed biogas plant is an example of a piecemeal impact assessment even for separate greenfield facilities within the VPF. The project was approved for construction in December 2017, based on a Preliminary EIA that included only the biogas plant, but not the linear infrastructure, such as roads and biogas pipeline. The EBRD project summary justified this by saying that “in line with national regulatory requirements the linear infrastructure components do not require environmental impact assessment or environmental permitting and are only subject to construction permitting.”⁹² In addition, the EBRD financing covers also a CHP plant at a different location in the VPF, however, at the time of project approval this facility lacked an EIA altogether.

The biogas plant project is also an example that even when we believe that we understand a facility’s size and impacts, these have at times been changed following public hearings. For example, the biogas plant’s Preliminary EIA described it as a 10 MW plant.⁹³ We recently learned that MHP is now considering doubling its size, to produce as much as 24 MW of power.⁹⁴ We do not know whether a new public hearing will be held on this updated plan. Regardless, MHP has already begun construction of the biogas plant, the EBRD has already approved a new loan for a 10MW facility, and we are skeptical that a new public hearing would provide a genuine opportunity to raise concerns and provide input into the facility’s design and development.

⁹⁰ Environmental Impact Assessment, Brigade 55 (2018), included in Annex 7.

⁹¹ See, e.g., Letter from Ladyzhyn Civil Council, NECU, Public Centre of Ecological Control and Voice of Nature to EBRD (21 Oct. 2013), included in Annex 4.

⁹² PSD for MHP Biogas (Project No. 49301), available at <http://www.ebrd.com/work-with-us/projects/psd/mhp-biogas.html>.

⁹³ Biogas Plant Preliminary Assessment of Environmental Impact, Sec. 4 Overview of Project Design, p. 68.

⁹⁴ Annex 2 to the Biogas Plant ESIA, available at <http://eia.menr.gov.ua/uploads/documents/521/reports/2f17300608809f80aec56da3b8950b80.pdf>.

Efforts to resolve these issues to date

As early as 2011, local residents have raised concerns about inadequate consultations and lack of information about negative impacts of the Project. Following numerous letters and appeals to the IFC and other multilateral financiers,⁹⁵ and due to the recommendation of the EBRD and IFC, MHP hired two stakeholder engagement consultants in 2016 and 2017. While this was a welcome decision, the nature and purpose of the consultants' roles was unclear to us throughout their appointment.⁹⁶ While we had hoped that hiring these consultants would have resulted in a noticeable increase in opportunities for us to engage with MHP and discuss our concerns, this has not been the case. We have seen little change in the consultation problems detailed above.

To our knowledge, the MHP-hired consultants held just two meetings with selected community members in our area, in the summer and autumn of 2017. Community members from our villages were invited to one of these meetings, in November 2017. The discussion covered important topics, including environmental impacts, the need for improved consultation with all affected people and better disclosure of information about negative Project impacts.⁹⁷ Unfortunately, since that meeting, we have not been offered an opportunity to follow up on the matters discussed, and we have not noticed a change in MHP's handling of the issues discussed. In our opinion, the one-time nature of the meeting and the lack of clarity around follow-on actions prevented the meeting from having any real impact. Moreover, we believe that meetings with the Company would be more productive in the presence of an independent third-party facilitator, and preferably a trained mediator. The MHP-hired consultant was not well-positioned to play such a role.

We learned that the contract of at least one consultant has now ended. More recently, we also learned that MHP's Director for Public Relations and Corporate Social Responsibility, who also attended the meeting in November 2017 and appeared to play a positive role in improving information disclosure, has also left the Company. This has left us with additional uncertainty around how MHP's stakeholder engagement will be led.

In 2017, MHP released a new Stakeholder Engagement Plan (SEP) that lays out its processes for consulting and communicating with local people and other stakeholders.⁹⁸ The new plan includes useful language, but much of it is framed in such general terms that it is difficult to know exactly what MHP is committing to, or to hold the Company accountable to those commitments. Further, since the plan was released in 2017, we have not noticed a change in the

⁹⁵ Other multilateral financiers of MHP include the European Bank for Reconstruction and Development and the European Investment Bank. MHP has also received numerous financial guarantees from Dutch trade credit insurance agency Atradius DSB.

⁹⁶ When asked by NGO representatives about the role of the consultants, MHP indicated that the nature of their role was an internal matter, not public information. Meeting between representatives of MHP, CEE Bankwatch Network and NECU, 7 Apr. 2017. Notes from this meeting are included in Annex 4.

⁹⁷ Minutes of meeting between MHP representative, MHP-hired consultant, local community members and local NGO representatives (16 Nov. 2017), included in Annex 4.

⁹⁸ MHP Stakeholder Engagement Plan, Kiev (2017) available at <https://www.mhp.com.ua/en/responsibility/communication/stakeholder-engagement-plan>.

major consultation challenges discussed above, leaving us fearful that the new SEP will not have much impact on MHP's practice of consultation and communication with our local communities.

Moreover, the VPF also has its own SEP, and it is not clear how or whether the new MHP-wide SEP will impact the site-specific plan. The VPF's SEP is inadequate in several ways. The only regular method for consulting with and receiving feedback from local communities is through public meetings scheduled to take place 4 times per year, but there are no minimum standards or guidelines for what information will be included in these meetings. In fact, the document does not specify any requirements for reporting information to local communities, other than a vague statement that "the enterprise regularly reports on its activity to ... various interested parties."⁹⁹ The document further specifies that annual reporting on health and safety and environmental protection is provided only to "internal interested parties."¹⁰⁰ It does not articulate a process to allow local communities to access this information.

b. Impacts from heavy vehicle traffic on village roads

Since MHP's local operations began, and particularly since 2010 when the construction of VPF Phase 1 began, heavy vehicle traffic on local village roads has increased dramatically, leading to public safety concerns and physical damage to roads and surrounding buildings. A particularly serious example is MHP's use of the main road through Olyanytsya, although other villages have experienced impacts from MHP road use as well.

Most of the local village roads, including the main road through Olyanytsya, were roads of regional significance, however, became major transport corridors when MHP operations began in the area. Now MHP relies extensively on this route to transport chickens, chicken parts, manure, fodder and other cargo between its facilities. This road is currently the most logical route to travel between MHP's manure storage facility and seven of its existing brigades on one side, and its hatchery, slaughterhouse, fodder plant, waste water treatment plant and another five brigades on the other side. As a result, since 2010, people in Olyanytsya have experienced significant negative impacts caused by heavy traffic from large industrial vehicles associated with the Project.

⁹⁹ Plan of Interaction with Stakeholders (sic.) for year 2016, LLC Vinnytsia Poultry Factory Branch "Processing Complex," p. 13, included in Annex 10.

¹⁰⁰ *Id.* at 12.



Large vehicles frequently utilize village roads creating risks to pedestrian safety and damage to physical property.

These impacts were particularly severe during construction, when heavy machinery traveled through the main road regularly. However, even after Phase 1 construction ended, heavy vehicles have continued to use the main road through Olyanytsya. In November 2017, we installed a video recorder to collect footage of the Olyanytsya main road for a full 7-day period. The footage shows an average of 400 MHP-related heavy vehicles traveling on the road each day, which accounted for approximately 70% of heavy vehicle traffic during the recorded period.¹⁰¹

The size and weight of these industrial vehicles has caused damage to the road and surrounding properties, which were not built with the expectation of having to sustain vibrations from such frequent heavy vehicle traffic. Many houses near the main road now have noticeable cracks in their walls and roofs, which were not present prior to MHP's construction of the VPF. These cracks can be seen in houses bordering both sides of the road, regardless of the year of construction of the house. In addition to vibrations, MHP-related heavy vehicle traffic has also led to noise and dust pollution, as well as strong odors from vehicle cargo, causing a constant nuisance for local residents. Matters are made worse by the speed of passing trucks and lack of effective speed control and road safety measures, which causes a safety concern for local residents.

¹⁰¹ See Annex 5 for more details on the findings of that exercise.



Cracks have appeared in recent years in residents' homes close to the road, both on building exteriors and along the walls and ceilings of interior rooms.

Impacts from MHP's heavy road use were foreseeable. In fact, MHP acknowledged them in meetings with community members in Olyanytsya in 2010.¹⁰² Local residents have made numerous appeals for the immediate construction of the bypass road and other measures to address road impacts, dating back to 2012 or earlier.¹⁰³ In one such letter, community members in Olyanytsya again raised concerns about road impacts and presented a series of demands to MHP to address the issue, including construction of a bypass road, major road repairs, construction of sidewalks, speed limits, and an agreement not to construct any new brigades on Olyanytsya lands until these measures are carried out.¹⁰⁴ The Company and local officials agreed to implement all of the requested actions,¹⁰⁵ but to date, we have not seen any real progress.

¹⁰² The newspaper L'Express published an article on 25 March 2010 about the public hearings in Olyanytsya and describes MHP's promises "to develop the proposal for the road building and reconstruction in the region with total length of 120 km and could be used publicly." (Article included in Annex 6).

¹⁰³ See, e.g., Letter from The Committee to Save Olyanytsya to the Trostyanets Administration and Council (21 Sep. 2012), included in Annex 4.

¹⁰⁴ This letter is discussed in the Minutes of an Olyanytsya Village Council Public Hearing (6 Dec. 2015), included in Annex 8.

¹⁰⁵ *Id.*

In early 2015, as MHP was negotiating loans for the VPF expansion with the EIB,¹⁰⁶ and the EBRD, the Company developed a draft plan for a bypass road, but then progress stalled.¹⁰⁷ Construction has been delayed time and again for various reasons, despite continuing promises that it will be completed soon.¹⁰⁸ Meanwhile, the Company's construction of VPF Phase 2 facilities has continued on time. We interpret this as a prioritization of MHP's profit-making operations over the interests and wellbeing of local communities.



The planned Olyanytsya bypass is indicated by the blue dotted line. Source: OPIC Supplementary ESIA, figure 2.2.

According to the Supplementary ESIA released by OPIC, the construction of the long-promised bypass road to “relieve traffic in villages that are affected by MHP activities” will now form part of the VPF’s Phase 2 expansion.¹⁰⁹ The Supplementary ESIA does not include any discussion of the long history of requests for the bypass road or the delay in building it, nor does it discuss the resulting significant impacts to community members in Olyanytsya from MHP’s current road use. We are concerned that the document reflects a continuing failure by MHP to prioritize identifying and addressing its impacts on local people.

¹⁰⁶ EIB project information on fodder plant project: <http://www.eib.org/projects/pipelines/pipeline/20120184>.

¹⁰⁷ Minutes of an Olyanytsya Village Council Public Hearing (6 Dec. 2015), included in Annex 8.

¹⁰⁸ A March 2017 letter from MHP stated, “the road will be finished in the nearest future”. See letter in response to Commission findings (31 Mar. 2017). In a meeting to discuss MHP’s intentions to build Brigades 43 and 44 on Olyanytsya Village Council lands in exchange for financing new water supply infrastructure, the Chairman of the Trostyanets Rayon Administration promised that the construction of the bypass road is underway, and that it would be completed and open for use “before the start of active construction and operation” of the new brigades. Minutes of a general meeting in Olyanytsya (2 Jul. 2016), included in Annex 8.

¹⁰⁹ OPIC Supplemental ESIA at 10.

In 2016, seeing little progress on any planned bypass road, community members in Olyanytsya sent another collective appeal to the local government,¹¹⁰ which led to the establishment of a commission to evaluate the damage to buildings from heavy vehicle traffic.¹¹¹ The commission included a number of experienced technical personnel, including:

- Chief Architect of the Rayon State Administration;
- Head of the Housing and Utilities Sector of the Rayon State Administration;
- Chief Specialist of the Urban Development and Agriculture Department of the Rayon State Administration; and
- Police Major of the Road Safety Sector.

In November 2016, the commission conducted visual inspections of the technical condition of 46 buildings in the village located near the main road.¹¹²

“As a result of the survey, it was found that in all of the ... buildings subject to visual inspection there is *massive damage to building structures* of varying degrees of gravity, namely, subsidence of foundation, splitting of foundations, splits and cracks of walls, wall displacements, cracks and sagging ceilings, splitting on the perimeter of the buildings, destruction of plaster, both in the middle and the outside of the premises.”¹¹³

The commission confirmed that similar damage was visible in buildings along the road regardless of when they were constructed; buildings from the 1940-50s and from the 1980-90s had suffered similar damage.¹¹⁴ Among the primary causes of the damage, the commission listed:

- Continuous use of the road by heavy vehicles to transport goods, causing vibrations and dynamic impacts to houses;
- Non-observance of traffic rules, namely speeding; and
- Aggressive driving practices, such as continuous breaking, accelerating and maneuvering during heavy traffic.¹¹⁵

On 14 March 2017, the Olyanytsya Village Council sent a letter to MHP, explaining the results of the commission investigation.¹¹⁶ MHP responded in March 2017 by denying responsibility for the cracks, stating that it is a public roadway and implying that they are simply one of many road users.¹¹⁷ MHP also noted that it follows restrictions on the weight of goods carried by vehicles, as set by the vehicles’ manufacturers, instructs its drivers to follow all road

¹¹⁰ Collective complaint from 20 Olyanytsya residents (Sep. 2016), included in Annex 4.

¹¹¹ Decision #151 of the Trostyanets Rayon Council (27 Sep. 2016), included in Annex 8.

¹¹² Road Commission report (Act) (14 Nov. 2016), included in Annex 8.

¹¹³ *Id.* at p. 2 (emphasis added).

¹¹⁴ *Id.*

¹¹⁵ *Id.* The commission also identified other contributing factors, such as poor quality road cover, houses having been built too close to the road, or with shallow foundations or low quality building materials.

¹¹⁶ This letter was addressed to the Vinnytsia Broiler (14 Mar. 2017), included in Annex 4.

¹¹⁷ Letter from Vinnytsia Broiler to Olyanytsya Village Council (31 Mar. 2017) p. 2, included in Annex 4.

rules, pay taxes and also donated money to repair the road through Olyanytsya in 2016.¹¹⁸ These actions are welcome, but they do not negate the need for MHP to address the direct impacts of its operations on surrounding residents.

Local residents in other villages have also been impacted by MHP's heavy use of local roads and fear that these impacts will become more serious as Phase 2 is constructed and becomes fully operational. For example, the planned biogas plant to be constructed on Zaozerne Village Council lands will likely lead to a significant increase in manure transport vehicles passing close to the villages of Zaozerne and Kleban, but the Company has not discussed with us any measures to mitigate impacts from this heavy vehicle traffic.

c. Foul odors

Local communities have regularly experienced foul odors originating from the Company's operations, particularly from their chicken rearing brigades and from heaps of manure piled in local fields for eventual use as fertilizer, in addition to foul smells from heavy vehicles carrying chickens, manure, and other organic matter. At least one community member has reported that foul odors within the village are at times so extreme that they have induced vomiting. We fear that the Phase 2 expansion, including the construction of a biogas plant, will increase these problems.

In 2013, "Technical Conditions" were established that allow the Company to store manure in open organized manure storages and temporary field piles.¹¹⁹ This has had significant implications for our communities, as manure piles are regularly stored for extended periods of time in the fields near our villages, causing an increase in odor problems. As of 2013, the Zernoproduct Farm had registered 38 official field storage piles in the area surrounding Ladyzhyn, Trostyanets, Tulchyn, Bershad and Haysyn rayons.¹²⁰ Residents of Kleban raised this issue in complaints to their district government, advocating for their assistance to apply strong mitigation requirements and to enforce government regulations to address the terrible smell and other potential impacts from these manure piles,¹²¹ and in a letter to the Minister of Environment, advocating for government inspections into MHP's operations.¹²² The State Environmental Inspection of Ukraine responded, per the Minister's request, explaining that it would not be possible to conduct an inspection of MHP as requested because inspections can only be carried out with the permission of the Cabinet of Ministers of Ukraine or at the request of the entity to be audited, plus budget allocations for state supervision of compliance with environmental regulations had been reduced.¹²³ This concern was also confirmed during an NGO fact finding

¹¹⁸ *Id.* at 2-3.

¹¹⁹ "Куряче гімно стало головним болем мешканців Ладизжина" Vinnitsa.info (12 Sep. 2013), available at <http://www.vinnitsa.info/news/kuryache-gimno-stalo-golovnim-bolem-meshkantsiv-ladizhina.html>. We are unsure what the process is for granting these Technical Conditions, whether they were properly granted in this case, or whether MHP has registered additional field storage piles since 2013.

¹²⁰ *Id.*

¹²¹ Letter from Kleban residents to the Tulchyn District Administration, included in Annex 4.

¹²² Letter from Kleban villagers to Minister of Ecology (19 Oct. 2014), included in Annex 4.

¹²³ Under current Ukrainian law, state environmental inspections of large enterprises, such as the VPF, are permitted but the company is given 2 weeks' notice prior to the audit. Community members have not been able to access full inspection documents, although authorities have provided some excerpts.

trip in 2015, and recorded in the Black Earth report, published by CEE Bankwatch Network following that mission.¹²⁴



Chicken excrement lays uncovered in a manure storage facility.

Regarding smells emanating from chicken brigades, MHP has responded to this concern by stating that it complies with sanitary protection zone requirements,¹²⁵ characterizing the smell as “insignificant” and claiming that it “can be felt only in case of unfavourable strong wind. Discomfort is short.”¹²⁶ While the sanitary protection zone is welcome, MHP’s response has felt dismissive of what community members experience as a significant and ongoing problem.

Moreover, the sanitary protection zone that MHP has allotted around each brigade is currently nothing more than an open space: an allotted distance between each brigade and the next building. Under Ukrainian law, sanitary protection zones surrounding chicken houses should have landscaping and shrubs covering at least 50% of their width, and any sides that face residential developments should be provided strips of trees and bushes, of a width not less than 50 meters.¹²⁷ We believe that these natural barriers would help to mitigate the foul smells and potential environmental impacts from MHP’s chicken rearing operations.

For years, community members from Kleban have been petitioning MHP and local government bodies for these natural barriers to be added between brigades and residential

¹²⁴ *Black Earth*, p. 21.

¹²⁵ Under Ukrainian law, a sanitary protection zone is a required buffer zone of a certain size separating facilities that generate pollution, or otherwise influence the environment, from residential buildings and social infrastructure. Facilities are generally required to ensure that pollution impacts at the edge of the sanitary protection zone do not exceed defined standards. State Sanitary Rules of Planning and Development of Human Settlements № 173-96.

¹²⁶ *Black Earth* at 21, citing MHP Chief Ecologist, 26 Aug. 2015, General comments provided to FFM report, via e-mail to CEE Bankwatch and SOMO.

¹²⁷ Order of the Ministry of Health No. 173, “On Approval of the State Sanitary rules of planning and construction of settlements,” (19 Jun. 1996) sec. 5.13, available at <http://zakon2.rada.gov.ua/laws/show/z0379-96>.

developments.¹²⁸ Following a petition from local residents and rejection of initial planning documents by the Kleban Village Council,¹²⁹ MHP eventually agreed, in 2011, to build a forest barrier around Brigade 4, which was constructed on Kleban Village Council land.¹³⁰ To date, MHP has not followed through on these commitments and as a result the village of Kleban is experiencing undue odor impacts from multiple MHP brigades to the Northwest, which is typically upwind of the village.

d. Lack of information and fear of potential impacts: pollution and loss of water resources

We also fear that the Project may be causing negative impacts to our local environment. Air, soil and water impacts have all been associated with large-scale industrial chicken farms and large-scale agricultural production,¹³¹ and the VPF and Zernoproduct operations include both of these at an unprecedented scale in our region. As MHP has not provided detailed or comprehensive information on its local operations or their risks or resource use, we are left questioning how our environment may be impacted by MHP's current and future activities.

Specifically, we fear that storage of large quantities of manure in the open air has caused or will cause unnecessary pollution to air, soil and groundwater. Although the VPF has a designated manure storage facility on Hordiivka Village Council lands, we have seen the Company store manure in open fields in other locations near our villages for months at a time. This is a particular problem for the communities surrounding Brigades 1-5, which are located the farthest from MHP's manure storage facility. It is presumably more time consuming for MHP to move manure back and forth between brigades in that area and the manure storage facility, when there are MHP-controlled fields near to Brigades 1-5 that manure can be stored on. We imagine that this approach makes sense from a time and cost saving perspective, but it creates significant additional impacts on local communities, which MHP has not adequately taken into account or addressed. Moreover, we fear that the minimalist construction of the manure storage facility itself, with no roof and walls on only some sides, may not provide adequate protection against pollution impacts from stored manure.

We are also concerned that other MHP practices may contribute to unknown pollution impacts, such as its use of pesticides and application of used water from poultry houses to irrigate crop land. For example, on 6 May 2017, a local resident witnessed pesticide spraying on a field leased and controlled by the Company across the road from her residence, at a distance of

¹²⁸ See, e.g., Letter from Kleban villagers to Minister of Ecology (19 Oct. 2014), included in Annex 4.

¹²⁹ Letter from Kleban villagers with comments and suggestions on territorial plan (undated), included in Annex 4; Minutes of Public Hearing on Council Spatial Plan, Kleban Village Council (25 Mar. 2011). See also Remarks and proposals on the Council Spatial Plan, Executive Committee of the Kleban Agricultural Council (12 Jul. 2010), included in Annex 8.

¹³⁰ Letter from Vinnytsia Broiler to Kleban Village Council (22 Jun. 2011), included in Annex 4.

¹³¹ See, e.g., Natasha Geiling, *Environmentalists Want This State to Take Chicken Poop Out of Its Clean Energy Plan*, ThinkProgress (Nov. 18, 2015), <https://thinkprogress.org/environmentalists-want-this-state-to-take-chicken-poop-out-of-its-clean-energy-plan-7af26f98ddc/>; GRACE Communications Foundation, *Industrial Crop Production* (last visited Sep. 20, 2017), www.sustainabletable.org/804/industrial-crop-production; P. Gerber, C. Opio and H. Steinfeld, *Poultry Production and the Environment - a Review*, FAO (2008), p. 6, http://www.fao.org/ag/againfo/home/events/bangkok2007/docs/part2/2_2.pdf.

about 10 meters from her land and without prior notice to her.¹³² Recently, on 4 May 2018, the same community member again noticed Zernoproduct Farm spraying pesticides close to her residence and without prior notice. This recent incident was again raised through a phone call to MHP’s Corporate Social Responsibility team, and after that the spraying did eventually stop, but we fear such incidents may continue to occur. Community members fear that spraying of pesticides may lead to potential pollution of soil and groundwater, as well as unknown health impacts for local residents. Disposal of treated wastewater in the Pivdenny Bug River raises similar concerns.¹³³ For example, in May 2018 local community members noticed dead fish floating in the river near the outflow pipe of the wastewater treatment plant and we fear that this may have been related to the Company’s operations.¹³⁴



Community members reported seeing dead fish floating in the river near the outflow pipe of the wastewater treatment. Source: Facebook (see further Annex 6).

In response to community fears that the VPF may be polluting water sources, in spring 2016, a Trostyanets Rayon Council Deputy requested that the sanitary inspection service investigate water safety in the area. Water samples taken from a selection of wells in Olyanytsya found elevated levels of nitrates of 130-165 mg/L,¹³⁵ which is 2-3 times the World Health

¹³² Following the incident, this matter was immediately raised in a letter to the Company. See Letter from Zaozerne Village Council Head to Zernoproduct Farm (10 May 2017), included in Annex 4.

¹³³ The Company claims that the water released from the water treatment plant meets all relevant quality standards, but we have not been provided information to understand the basis for this claim. We are aware of reports of visibly discolored water being released from an MHP water treatment facility in another region of Ukraine, although as far as we are aware these reports have not been investigated. See, e.g., “На “Миронівській птахофабриці” не змогли пояснити появу коричневих стоків до річки Росава,” NECU, available at <http://necu.org.ua/myronivska-ptahofabryka-skyd-rosava/>; <https://www.youtube.com/watch?v=EqmSzDPjygl>. The VPF’s water treatment facility releases treated water well below the surface of the river, so we have no way to see if it is similarly discolored.

¹³⁴ See Facebook posts and comments, May 2018, included in Annex 6.

¹³⁵ Water sampling results included in Annex 9.

Organization's ("WHO") recommended guideline level of 50 mg/L.¹³⁶ We understand that high levels of nitrates in water are toxic to humans and may be associated with health impacts.¹³⁷ Agricultural activity, including excessive application of fertilizer, is one known cause of excessive nitrates in groundwater.¹³⁸ The same water samples also showed the presence of e.coli and levels of ammonia of 1.82 to 3.85 mg/L, and we are afraid this may indicate a higher level of ammonia than is naturally occurring in the area.¹³⁹ The WHO identifies intensive animal rearing as a possible cause of elevated levels of ammonia in groundwater,¹⁴⁰ and the United States Agency for Toxic Substances and Disease Registry specifically points to the application of excessive amounts of chicken manure fertilizer as a possible cause.¹⁴¹

Following the water testing, public officials responded by providing warnings to the local community of the danger of using contaminated well water, but for many of us, our wells are our only source of water for household use. The cause of nitrate pollution in local wells was not investigated, but we fear that it may be related to the operations of the VPF in the area.

Further, in July and August of 2016, a Ukrainian State Environmental Inspection team found that the VPF's subsidiary fodder production facility violated permit requirements by failing to properly measure or document air pollution emissions.¹⁴² An inspection of the Zernoproduct Farm from August 2015 found violations of use restrictions on water protection areas along the riverbank, including plowing of land, and improper documentation of the use of pesticides.¹⁴³ We have not been provided with the full report from this visit, but based on the summary document we have seen, these findings seem to substantiate our fears that MHP may not be doing everything that is possible, or even required, to limit pollution impacts to our local environment.¹⁴⁴

We fear that potential environmental pollution from VPF operations may lead to health impacts for local community members. For example, some community members believe that there has been an increase in rates of cancer and asthma in our villages since the construction of

¹³⁶ WHO Guidelines for Drinking-water Quality, Fourth Edition Incorporating the First Addendum (2017), p. 398, available at <http://apps.who.int/iris/bitstream/10665/254637/1/9789241549950-eng.pdf?ua=1>.

¹³⁷ See "Nitrate: Health Effects in Drinking Water," Natural Resources Cornell Cooperative Extension, available at <http://psep.cce.cornell.edu/facts-slides-self/facts/nit-heef-grw85.aspx>, discussing nitrates' potential to cause methemoglobinemia or "blue baby disease," as well as the association between nitrates in drinking water and the presence of other possible contaminants, such as bacteria or pesticides.

¹³⁸ WHO Guidelines for Drinking-water Quality, Fourth Edition Incorporating the First Addendum (2017), p. 398, available at <http://apps.who.int/iris/bitstream/10665/254637/1/9789241549950-eng.pdf?ua=1>.

¹³⁹ The WHO states that naturally occurring levels are usually below 0.2 mg/l. WHO Guideline, 4th Edition, p. 313, available at <http://apps.who.int/iris/bitstream/10665/254637/1/9789241549950-eng.pdf?ua=1>. See also, Toxicological Profile for Ammonia, Agency for Toxic Substances and Disease Registry, US Department for Health and Human Services, 2004, Sec. 6.4.2, available at <https://www.atsdr.cdc.gov/toxprofiles/tp126-c6.pdf>.

¹⁴⁰ WHO Guideline, 4th Edition, pp. 313, available at <http://apps.who.int/iris/bitstream/10665/254637/1/9789241549950-eng.pdf?ua=1>.

¹⁴¹ Toxicological Profile for Ammonia, Agency for Toxic Substances and Disease Registry, US Department for Health and Human Services, 2004, Sec. 6.4.2, available at <https://www.atsdr.cdc.gov/toxprofiles/tp126-c6.pdf>.

¹⁴² Letter from I. Osadchuk, Acting Chief, State Environmental Inspection of Ukraine (19 Jan. 2017) at p. 1, included in Annex 9. This information was provided in response to an information request sent to the State Environmental Inspectorate in January 2017.

¹⁴³ *Id.*

¹⁴⁴ EIB Completion Report, <http://www.eib.org/infocentre/register/all/81223755.pdf> included in Annex 2.

the VPF, which may be tied to pollution from VPF facilities, or to cumulative impacts from the VPF and other local polluters.¹⁴⁵

In addition to potential pollution impacts, we are also concerned that the VPF's heavy water use has impacted the availability of water resources for community use. Almost immediately following construction of VPF Phase 1, community members in Olyanytsya began to notice water levels dropping in their wells. The drop in water level corresponded with MHP's deliberate dewatering, in 2010, of a local field to lower the water table and prevent flooding during the construction of its Brigade 6.¹⁴⁶ Local community members have raised this issue several times with MHP and local government representatives.¹⁴⁷ When this issue was raised with MHP in 2015, the Company responded that according to their data, "the level of groundwater decreased this year all over Ukraine with some minor exceptions. This process is cyclical and the level of groundwater should increase soon again."¹⁴⁸ This explanation does not match community members' experience. In the more than seven years since the time of the dewatering, we have not observed water levels in local wells return to previous levels.

Moreover, the water levels in the Ladyzhyn Reservoir and southern Pivdenny Bug River, which are immediately downstream from MHP's water intake for the entire VPF, have dropped significantly in recent years, especially in the summer.¹⁴⁹ Local communities have raised this fear a number of times,¹⁵⁰ but MHP has not provided information to show that the reduced water levels in the river are unrelated to the Project's water use. Phase 1 of the VPF has been estimated to use over 3.4 million m³ of water per year, and this estimate does not include the additional water needs of the Zernoproduct Farm's agricultural operations.¹⁵¹ According to a February 2016 Monitoring Report commissioned by the European Bank for Reconstruction and Development (EBRD), at that time, no assessments were available regarding the VPF's impacts on sustainable water yield in the river.¹⁵²

¹⁴⁵ We understand that some studies have shown an apparent link between increased rates of asthma in rural schoolchildren and the presence of nearby intensive agriculture operations. See, e.g., Sigurdarson, S. T., and Kline, J. N., *School proximity to concentrated animal feeding operations and prevalence of asthma in students*, *Chest*, 129(6) 1486-1491, (2006), <https://www.ncbi.nlm.nih.gov/pubmed/16778265>; Sara G. Ramussen, Joan A. Casey, Karen Bandeen-Roche, and Brian S. Schwartz, Proximity to Industrial Food Animal Production and Asthma Exacerbations in Pennsylvania, 2005-2012, 14 *Int'l J. Environ. Res. Public Health* 362 (2017), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5409563/pdf/ijerph-14-00362.pdf>.

¹⁴⁶ This dewatering is described in a half-page environmental impact statement, which claims without further explanation that "in the process of operating a drainage system in the normal mode with the release of water into the water intake vaporizer, the impact on the environment is absent." Statement of Environmental Impact, Drainage System on the territory of the construction of Brigade no. 6 (Sep. 2010), included in Annex 7.

¹⁴⁷ See, e.g., Minutes of Olyanytsya Village Council Public Hearing (21 Sep. 2016), included in Annex 8.

¹⁴⁸ *Black Earth* at 24.

¹⁴⁹ Local people have observed this drop, and it is also reflected in news reports. See "Через вкрай низький рівень води у водосховищі Ладжинська ГЕС працює лише 2-2,5 години на добу" *My Vin* (31 Aug 2015), available at <http://www.myvin.com.ua/ua/news/region/36843.html>.

¹⁵⁰ See, e.g., Letter from Olyanytsya community members to Vinnytsia Broiler Director, Trostyanets Administration, Trostyanets Rayon Council and Prosecutor's Office (24 Mar. 2016), included in Annex 4.

¹⁵¹ OPIC Supplementary ESIA at 139.

¹⁵² Monitoring Assessment Summary Report, Assessment Subject: MHP Group, WSP Parsons Brinckerhoff (Feb. 2016), Sec. 4.3, available at <http://www.ebrd.com/cs/Satellite?c=Content&cid=1395250435187&d=&pagename=EBRD%2FContent%2FDownloadDocument>. The Monitoring Report found it unlikely that the VPF's use of water from the river would create an

Further, the 2016 State Environmental Inspection team found that a local MHP facility had violated conditions for special water use permits by neglecting its annual reporting requirements on groundwater use.¹⁵³ Similar concerns have been raised by local communities living near MHP's chicken rearing operations in other areas of Ukraine, and in those scenarios, the Company has been equally reticent to disclose information on its water use and other potential impacts.¹⁵⁴

The Company has denied any responsibility for reduced water availability or water pollution,¹⁵⁵ although they have not provided evidence to support these claims, or any other documentation regarding the impacts of their water use. Without seeing evidence of their water use, it is not clear how MHP concluded that the reductions of water in our wells are unrelated to their industrial water use. Nor is it clear how much the Company has looked into this question. We therefore continue to fear that VPF operations may have impacted our access to water and that the planned expansion may lead to additional impacts.

In response to our ongoing concerns about water access, MHP has offered to pay for pipes to connect some villages to a water grid, to avoid the need to rely on existing village wells. For example, in Olyanytsya, the Company offered to construct a water grid for the village in return for villagers' support to construct Brigades 43 and 44 on Olyanytsya Village Council land. Unfortunately, this measure has not provided a true solution for many residents. While MHP offered to pay for the construction of public water pipes through the village, it has left each resident to finance the installation of additional pipes necessary to connect their residence. The cost of such installations, approximately 4000 UAH (around 150 USD) per residence, is prohibitive for some community members. Moreover, we have not been provided information about the quality of the water from this new source. We understand that water will be sourced from underground aquifers, but we have no further information to confirm whether this will impact water resources in other ways, or whether the quality of water from the new pipes will be better than our existing well water and safe to drink.

e. Employment concerns

A number of complainants have worked for MHP at some point, and based on those experiences, we are concerned that the employment conditions at Project facilities fall below national and international standards for reasonable working conditions. At times, conditions have even posed a danger to employees' health and safety. Some workers have also experienced intimidation or retaliation in connection with concerns they or their family members have raised

issue, given the volume of the river's flow, but it is unclear whether this assessment took into account the reported reduced water levels of the downstream reservoir and Southern Pivdenny Bug River.

¹⁵³ Letter from I. Osadchuk, Acting Chief, State Environmental Inspection of Ukraine (19 Jan. 2017) at p. 1, included in Annex 9. This report is concerning, but without further information on MHP's reporting of water use at the state level, we are unable to determine its significance.

¹⁵⁴ For example, communities in the Kaniv Rayon in Cherkasy Oblast noticed a significant drop in the water table, and local people have been unable to identify any possible cause for the drop other than the operations of MHP's poultry brigades nearby. The Myronivska Poultry Farm, a subsidiary of MHP operating in the region, had planned to help to identify alternative water sources in the area, but it has offered only limited funds for this initiative and still has not provided information about its actual water impacts. For further information, see Comments from NECU and CEE Bankwatch Network on MHP's Stakeholder Engagement, p. 2-3, included in Annex 4.

¹⁵⁵ Minutes of Olyanytsya Village Council Public Hearing (21 Sep. 2016), included in Annex 8; *Black Earth* at 24.

about the Project.

Many jobs at MHP involve difficult and demanding work, and some jobs also come with inherent health and safety risks. We are concerned that MHP is not doing enough to mitigate these risks and ensure a safe working environment for its employees. For example, one mechanist reported that MHP provided a synthetic uniform to wear, which presented a fire hazard during welding activities.¹⁵⁶ The same person also reported that in rooms where welding was taking place, no eye protection was provided for surrounding workers, which caused them to experience some vision problems after working around welding activities.¹⁵⁷ A driver reported being asked to work two days in a row without any time to sleep in between. This person reported falling asleep while driving on multiple occasions, luckily without causing any damage or injury.¹⁵⁸ A third employee reported that they were given an unreasonably large workload: “working for three people” and being told that no other employees would be assigned to help, a situation which they believe led to their development of serious pain in their hands and legs, which has persisted.¹⁵⁹

At least two workers reported that jobs in the slaughterhouse are paid an unfairly low wage considering the challenging nature of the work.¹⁶⁰ All of the current and former employees that were interviewed during the preparation of this complaint reported that MHP promised them certain benefits as part of their employment, but then deducted those benefits from their wages.¹⁶¹ Employees reported that these deductions included things like the bus fare to ride on MHP’s worker buses, the cost of employee uniforms and things like soap and shampoo that were kept at the MHP facility for the use of all workers (a standard fee was deducted from employee salaries regardless of who actually used these products).¹⁶² The Company also offers chicken meat as a monthly “bonus” to employees with good performance, but the cost of the meat is nevertheless deducted from the employee’s salary.¹⁶³

Workers have also reported various forms of pressure and intimidation, including apparent retaliation against employees who raise concerns about poor working conditions. For example, a slaughterhouse employee reported falling ill with pneumonia after being asked to work in a very cold room.¹⁶⁴ The employee reported that following their illness they requested to be transferred to another facility, but this request was denied and the Company instead asked them to leave, explaining that “sick employees are not needed.”¹⁶⁵ Another employee reported experiencing pressure from MHP related to a family member who had publicly raised questions and concerns about the impacts of MHP facilities.¹⁶⁶

Local communities believed that the Project would serve as an opportunity to improve

¹⁵⁶ Interview with current or former MHP employee #5, April 2018.

¹⁵⁷ *Id.*

¹⁵⁸ Interview with current or former MHP employee #3, April 2018.

¹⁵⁹ Interview with current or former MHP employee #2, April 2018.

¹⁶⁰ Interviews with current or former MHP employees #1 and #2, April 2018.

¹⁶¹ Interviews with current or former MHP employees, April 2018.

¹⁶² Interview with current or former MHP employee #5, April 2018.

¹⁶³ Interviews with current or former MHP employees #2-5, April 2018.

¹⁶⁴ Interview with current or former MHP employee #1, April 2018.

¹⁶⁵ *Id.*

¹⁶⁶ Interview with current or former MHP employee #5, April 2018.

the local economy, in part by providing jobs to local people. While it is true that MHP has become a significant local employer, this has created a situation in which employees are reliant on MHP for work, making it difficult for workers to advocate for better working conditions or wages by raising concerns directly with their employer or “voting with their feet” and leaving jobs with substandard working conditions.

III. Claims under the IFC’s policies

a. IFC repeatedly mis-categorized its investments as Environmental Category B

IFC’s investments in MHP, and particularly its most recent 2015 investment, were improperly identified as Environmental Category B projects. According to the IFC’s Environmental and Social Review Procedures Manual, Category A applies to projects with potential significant adverse social or environmental impacts that are diverse, irreversible, or unprecedented, while Category B applies to projects with potential limited adverse social or environmental impacts that are few in number, site-specific, largely reversible, and readily addressed through mitigation measures.¹⁶⁷ IFC’s social and environmental assessment and its associated categorization takes into account inherent risks related to the sector of operation.¹⁶⁸

IFC’s most recent investment was intended to support MHP’s expansion efforts in Ukraine, and specifically the expansion of the VPF in rural Vinnytsia.¹⁶⁹ The inherent risks of intensive animal rearing, coupled with the sheer scale of operations concentrated in the overlapping VPF and Zernoproduct Farm and the concerns that have long been raised by local communities, media and NGO representatives about MHP’s operations, provide more than adequate reason to consider this a Category A investment.

Intensive animal rearing is an inherently risky sector, which an ever-growing number of studies has linked to serious impacts including pollution of air and groundwater and damage to biodiversity in local rivers from improper disposal, treatment and use of waste water and manure.¹⁷⁰ These impacts have in turn been linked to health impacts for nearby populations, including higher incidence of asthma and a variety of pulmonary and neurobehavioral impairments.¹⁷¹

¹⁶⁷ IFC’s Environmental and Social Review Procedures Manual at p. 2.

¹⁶⁸ IFC Interpretation Note on Environmental and Social Categorization (1 Jan 2012), para. 9, available at <http://www.ifc.org/wps/wcm/connect/18993fe1-0c0f-4b83-9959-8e021f313e6f/Interpretation+Note+on+E+and+S+Categorization.pdf?MOD=AJPERES>.

¹⁶⁹ The “Location of Project and Description of Site” tab in IFC’s Statement of Investment Information explains that “[t]he expansion project linked to the IFC loan is located in a rural area of the Vinnytsia region in Ukraine.” See <https://disclosures.ifc.org/#/projectDetail/SII/34041>. The VPF and Zernoproduct Farm are MHP’s only major operations in that region.

¹⁷⁰ See, e.g., P. Gerber, C. Opio and H. Steinfeld, *Poultry Production and the Environment - a Review*, FAO (2008), pg. 6, http://www.fao.org/ag/againfo/home/events/bangkok2007/docs/part2/2_2.pdf.

¹⁷¹ See, e.g., *School proximity to concentrated animal feeding operations and prevalence of asthma in students*, Chest, Sigurdarson, S. T., and Kline, J. N. (2006), 129(6) 1486-1491, available at <https://www.ncbi.nlm.nih.gov/pubmed/16778265>; *Proximity to Industrial Food Animal Production and Asthma Exacerbations in Pennsylvania*, Sara G. Ramussen, Joan A. Casey, Karen Bandeen-Roche, and Brian S. Schwartz (2017), 2005-2012, 14 Int’l J. Environ. Res. Public Health 362, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5409563/pdf/ijerph-14-00362.pdf>; *Neighbors of vast hog farms say*

The massive scale of local Project operations only makes the inherent risks of intensive poultry rearing all the more probable in this instance. The higher the concentration of poultry in a given area, the greater the risk that pollutants will be released into the air in quantities high enough to be dangerous for local people and the environment. It also increases the need for grain and fodder production, the amount of water needed for cleaning and sanitation purposes and the amount of waste and waste water produced, each of which comes with environmental risks that will intensify accordingly. As discussed above, MHP advertises that the VPF is the largest poultry farm in all of Europe.¹⁷² Its vertically integrated business model means that the VPF, and its planned expansion, will involve construction of significant additional facilities within a relatively concentrated geographic area, in a rural setting that has never before experienced this degree of industrial activity. IFC's investment is assisting MHP to double the operations of the VPF,¹⁷³ which will increase its risks and impacts accordingly. Once fully constructed, we expect that the VPF will:

- Include a total of at least 836 separate chicken houses, positioned in at least 22 brigades;¹⁷⁴
- Have capacity to house 32 million chickens at a time;¹⁷⁵
- Consume over 6 million cubic meters of water per year;¹⁷⁶
- Produce on the order of 1.5 million tonnes of greenhouse gases per year;¹⁷⁷
- Produce potentially close to 6 million cubic meters of sewage per year;¹⁷⁸ and
- Produce over 411,000 tonnes of manure per year.¹⁷⁹

foul air endangers their health, Lee, J., The New York Times (2003, May 11), available at <http://www.nytimes.com/2003/05/11/us/neighbors-of-vast-hog-farms-say-foul-air-endangers-their-health.html>; *Human Impairment from Living near Confined Animal (Hog) Feeding Operations*, Kaye H. Kilburn, 2011, available at <https://www.hindawi.com/journals/jeph/2012/565690/>.

¹⁷² MHP Website, <https://www.mhp.com.ua/en/operations/op-vinnitskaja-ptitsefabrika-oao-mkhp> (last accessed: 6 May 2017).

¹⁷³ Phase 2 is expected to double current production of the VPF. MHP Annual Report 2017 at 10.

¹⁷⁴ As each brigade holds at least 1.4 million broiler places, this triggers a compulsory EIA requirement. Annex I (17) of the EIA Directive requires that installations for the intensive rearing of poultry or pigs with more than 85 000 places for broilers or 60 000 places for hens must have an EIA.

¹⁷⁵ Calculated based on standard capacity of existing MHP brigades.

¹⁷⁶ OPIC Supplemental ESIA at 139.

¹⁷⁷ This is a rough estimate. The OPIC Supplementary ESIA reports that MHP estimated Phase 1 GHG emissions at 787,870 tonnes in 2015 (Appendix C at sec. 2.4), and we understand that Phase 2 will double the VPF's operations. While the ESIA for the biogas plant claims that it will reduce the overall GHG emissions of the VPF, this claim is not well supported in project documents and we fear that the plant may even increase overall GHG emissions, if there are fugitive losses of methane, or if manure is still stored for long periods in the open air before it enters the plant, or if the conversion into biogas is less efficient than the Company expects.

¹⁷⁸ The OPIC Supplemental ESIA states that the wastewater treatment plant has a current capacity to process 11,000m³ of wastewater per day for Phase 1, operating 312 days per year, meaning its current annual capacity is around 3.432 million m³/year. MHP is building out an additional treatment line for Phase 2. (OPIC Supplemental ESIA at 10)

¹⁷⁹ This number is calculated by multiplying on the estimated 18,722.2 tonnes of manure produced per brigade per year by 22 (the estimated total number brigades to be constructed). BR. 55 EIA at p. 128.

MHP has also indicated a need to expand its agricultural land bank in order to grow enough crops to supply its expanding chicken operations with sufficient fodder.¹⁸⁰ While some of the potential pollution impacts from this type of operation may in theory be mitigated through careful planning and innovative management practices, the risk of significant long-term impacts is nonetheless high, and it may not be immediately clear whether the chosen mitigation measures are adequate. Further, longstanding weaknesses in MHP's impact assessment and monitoring practices mean that the Company is unlikely to implement such innovative measures. The IFC should have categorized its investment accordingly.

Moreover, OPIC classified its potential investment for a similar loan – also intended to fund the expansion of the VPF – as Category A. This is significant, as OPIC's definition of Environmental Category A is nearly identical to the IFC's: "Category A projects are likely to have significant adverse environmental and/or social impacts that are irreversible, sensitive, diverse, or unprecedented."¹⁸¹ OPIC's stated rationale for the Category A classification is simply that the VPF expansion "involves the construction of an installation for the intensive rearing of poultry."¹⁸² For OPIC, it seems that the significant and diverse risks generally associated with intensive poultry rearing were enough to merit a Category A rating.

b. Basic social and environmental assessment information has not been disclosed

As discussed above, community members have had great difficulty accessing basic Project information, including environmental assessments, in violation of Performance Standard 1. The IFC should have required MHP to conduct and disclose a comprehensive ESIA covering all Project operations. Instead, even the piecemeal environmental assessments that the Company has carried out on individual Project facilities are not easily available to local affected people.

1. The IFC should have required MHP to conduct and disclose a comprehensive ESIA covering all Project operations

Performance Standard 1 specifies that for greenfield developments or large expansions with specifically identified physical elements, aspects, and facilities "that are likely to generate potential significant environmental or social impacts," the IFC client must conduct a comprehensive ESIA.¹⁸³ As discussed in the previous section, this Project was clearly likely to generate significant impacts. The IFC should have recognized this and required MHP to develop and disclose an ESIA covering all facilities of both the VPF and Zernoproduct Farm.¹⁸⁴

¹⁸⁰ See MHP 2014 Consolidated Financial Statements, Director's Report at 8; MHP SA 2016 Annual Report, Director's Report at 28.

¹⁸¹ OPIC Environmental and Social Policy Statement, p. 4, available at https://www.opic.gov/sites/default/files/consolidated_esps.pdf. The slight language variation between the two standards – "likely to have" rather than "potential" – suggests that OPIC may in fact set a slightly higher standard for Category A projects than the IFC, making the IFC's lower categorization of the Project that much more difficult to justify.

¹⁸² OPIC Initial Project Summary, p. 1.

¹⁸³ PS 1 at para. 7, fn 11.

¹⁸⁴ The operations and impacts of the Zernoproduct Farm and VPF should have been considered together for the purposes of developing a comprehensive ESIA. The language of the 2015 IFC loan states that it was provided to support MHP's expansions in the Vinnytsia region, which include both the VPF and Zernoproduct Farm. Summary of Investment Information, "Location of Project and Description of Site," IFC Project 34041, available at

Moreover, even if the IFC considered the Project to be unlikely to generate significant impacts, a comprehensive ESIA would still have been necessary to meet a key objective of Performance Standard 1: providing affected communities with access to Project information, including information on the purpose, nature, scale and duration of a project, its risks and potential impacts on communities and relevant mitigation measures.¹⁸⁵ MHP's farming operations in the Vinnytsia Oblast function as one large, interconnected farm, and it is impossible to adequately identify and address some impacts in the absence of a holistic assessment of all Project operations.

For example, the main road through Olyanytsya is currently the only logical route between many of MHP's slaughterhouse, fodder plant and many chicken brigades on one side and their manure storage facility in Hordiivka on the other. As a result, impacts from heavy vehicle traffic through Olyanytsya are inextricably linked to the operations of both the VPF and Zernoproduct Farm. MHP's approach of producing separate environmental assessments for each facility resulted in these road use impacts being missed entirely. Likewise, pollution impacts can only be meaningfully understood through an examination of all Project facilities together, to identify how impacts from each facility may add up and interact. Again, MHP's approach of assessing impacts separately for each facility, at the time it is constructed, prevents any comprehensive understanding of pollution impacts.

Absent a comprehensive ESIA, MHP has failed to provide us with relevant information on the Project's scope, scale, risks, impacts and relevant mitigation measures.¹⁸⁶ We are still uncertain about the exact size and scope of VPF Phase 2 – including basic questions, such as the final number of chicken brigades that will be included in Phase 2 – even though MHP has been planning on building out Phase 2 since at least 2010. MHP has never provided us with total figures for the pollution impacts or resource use of the whole Project, let alone updated, forward-looking information on Phase 2.

2. Even if a comprehensive ESIA was not required, MHP disclosure practices fell short in numerous other respects

<https://disclosures.ifc.org/#/projectDetail/SII/34041>. Moreover, the operations of the Zernoproduct Farm and VPF, and their social and environmental impacts, are so interconnected that they can only usefully be viewed as one operation for the purposes of assessing social and environmental impacts. The manure produced by VPF chicken brigades is currently transported directly to the manure storage facility in Hordiivka, which is owned by Zernoproduct Farm, or alternatively deposited on fields leased by Zernoproduct Farm. Grains grown on Zernoproduct lands are transferred to a processing facility near Olyanytsya, which is owned by the Vinnytsia Poultry Farm Branch Complex for Manufacturing Feeds LLC, a branch office of Vinnytsia Poultry Farm LLC. This processing facility turns the Zernoproduct harvest into chicken fodder and chicken bedding, which is then used to sustain chickens in the VPF brigades. Some local MHP facilities, such as a water intake facility that draws water from the Bug River and a water treatment facility, are likely being used to benefit the operations of both entities.

¹⁸⁵ PS 1 at para. 29.

¹⁸⁶ The OPIC Supplemental ESIA gives the impression that even the drafters of that document did not have access to comprehensive information on the cumulative impacts of the VPF, but were instead forced to estimate total impacts and resource use based on piecemeal figures provided in separate environmental assessment documents for each facility, some of which are themselves no more than calculated estimates from before a facility was constructed.

Disclosure practices have been deficient in a number of other ways as well. Most notably, MHP has failed to provide easy access to Project documents. The environmental assessment documents that have been disclosed did not provide adequate information on Project risks and potential negative impacts, and no documents that we have seen provided any information on the IFC's environmental and social action plan for this Project, which we understand was a required condition of the IFC investment.

IFC clients are expected to deliver Project information to affected communities and ensure access to such information by other stakeholders.¹⁸⁷ The precise timing and the method of disclosure may vary depending on national law requirements, the characteristics and needs of affected communities, the type of assessment involved, and the stage of a project's development or operation, but should be as early as possible.¹⁸⁸ At a minimum, IFC clients must disclose project information no later than 30 days before a project is voted on by the IFC Board of Directors.¹⁸⁹

In contrast to the Performance Standard requirements, the Company typically does not make its environmental assessments publicly available, and it has an inconsistent record of disclosure to directly to affected people. On a number of occasions, MHP has failed to provide documents even in response to a direct request or has advised community members to request them from public authorities instead. Local public authorities have been equally unresponsive to requests for information, leading to frustration and confusion regarding how and where to obtain basic information about MHP facilities. Further, many of the documents that we have received were only made available after it was too late to influence the location or design of a given facility, and long after the IFC's 2015 investment. For example, the Preliminary EIA for Brigade 43 still has not been shared with local community members, despite multiple requests. The Preliminary EIA for Brigade 47 was only disclosed after intervention by MHP's Public Relations and CSR Director, who has since left the position. This meant that the document was disclosed many months after the public hearing on the facility, and only to community members who requested it persistently multiple times. It is still unclear what is the scope and size of the new biogas plant, with the EIA process starting after the plant construction is well advanced.

When we have managed to obtain environmental assessment documents, these have not provided enough information to answer our questions about the Project's risks and negative impacts. Far from the comprehensive ESIA that community members and our NGO advocates have requested, MHP's practice has been to produce piecemeal environmental assessment documents for each new facility it develops, at the time of development. Many of the environmental assessment documents we have seen are brief excerpts of larger documents, providing little more than a mention of negative risks or impacts, far from the level of detail needed to allow us a meaningful understanding of the Project and wholly inadequate to provide the full scope and amount of information envisioned by Performance Standard 1. More recent documents, such as the Preliminary EIAs for Brigade 47 and the ESIA for the biogas plant and Brigade 55, are an improvement on these excerpts, but still suffer from significant gaps, failing

¹⁸⁷ PS 1 at para. 29 and Guidance Note 99.

¹⁸⁸ *Id.*

¹⁸⁹ For Category A projects, the local disclosure requirement is 60 days before the Board vote. IFC Interpretation Note on Environmental and Social Categorization (1 Jan. 2012), p. 8.

to provide a meaningful baseline assessment or a sufficiently detailed analysis of air pollution impacts, or any assessment of cumulative impacts.¹⁹⁰

Further, we have not received any information or updates about the status of MHP's Environmental and Social Action Plan ("ESAP") for this Project. Performance Standard 1 requires the IFC client to provide periodic reports to affected communities on ESAP implementation progress on issues that involve ongoing risk or impacts, and particularly on issues that were identified as of concern to those communities.¹⁹¹ The ESAP for this Project includes actions of concern to us, including MHP's use of pesticides and environmental management, monitoring and reporting.¹⁹² Nonetheless, the language of the action plan has not been shared with us locally in Ukrainian, nor have we received any update from MHP on progress in completing the described actions.

As mentioned above, MHP's information disclosure practices have improved somewhat in the past year, as have the disclosure practices of government representatives. In particular, with a new, more robust law governing EIAs in Ukraine in effect as of December 2017, environmental assessment documents for future new constructions will be made publicly available on the website of the Ministry of the Environment. However, many local community members do not have internet access and are not well-informed of the implications of the new EIA law, so simply posting environmental assessment documents on the Ministry of Environment's website is not enough.

Moreover, even with these recent changes, affected people still do not have effective access to information about the full impacts of MHP's local farming operations. The new law only applies to new constructions and will play no role in filling existing and past gaps in MHP's document disclosure. For information about existing and currently under construction facilities, community members will still have to petition MHP and/or the local government. Forcing community members to file a request with MHP in order to access basic information about the impacts of the Company's operations creates a risk that MHP will use its discretion to decide when and to whom to release documents. Even if this discretion is never abused, forcing affected people to file a request for information acts as a deterrent for many community members, who may fear repercussions if such requests are seen as raising questions or seeking information about the VPF's impacts. We believe that MHP's poor record of information disclosure does not comport with the requirements of Performance Standard 1.

3. The IFC should have disclosed a project ESIA and updated ESAP on its website

Further, IFC's Access to Information Policy requires that the IFC disclose certain information in relation to Category A or B investments, including: any ESAP produced after Board approval of the investment; the implementation status of the ESAP "where required by IFC;" and any ESIAs reviewed by the IFC, as they become available.¹⁹³

¹⁹⁰ These issues are discussed further in the following sections.

¹⁹¹ PS 1 at para. 36.

¹⁹² ESAP, IFC Project 34041, available at <https://disclosures.ifc.org/#/projectDetail/ESRS/34041>.

¹⁹³ IFC Access to Information Policy, para. 41(a)-(d).

No ESIA for any VPF or Zernoproduct Farm facility is available on the IFC website, nor does the IFC website list any management plans. The IFC does have an ESAP posted for each of its investments, but these documents appear to have been posted at the time of investment and never updated since then.¹⁹⁴

c. Consultations have not met the requirements of the IFC Performance Standards

MHP's process of consultation on the development and expansion of the VPF falls short of the IFC Performance Standards in many respects. The improper categorization of the VPF as Environmental Category B means that improperly lax standards were applied to the consultation process, which has exacerbated these consultation violations.

Performance Standard 1 requires IFC clients to identify and facilitate dialogue with all relevant stakeholders and provide affected communities an opportunity to express their views on project risks, impacts and mitigation measures.¹⁹⁵ Consultation should begin early and continue on an ongoing basis as risks and impacts arise.¹⁹⁶ It should be free of intimidation or manipulation,¹⁹⁷ and based on prior disclosure and dissemination of information.¹⁹⁸ For projects that pose potentially significant adverse impacts, there is a heightened requirement for an Informed Consultation and Participation (ICP) process.¹⁹⁹ This involves a more in-depth exchange of views and information through an "organized and iterative consultation" that leads the client to incorporate into their decision-making process the views of local affected people on matters that directly affect them, such proposed mitigation measures.²⁰⁰

MHP's consultations have consistently lacked prior disclosure of adequate information to allow for meaningful participation in discussions about the impacts of VPF facilities and about necessary avoidance or mitigation measures, in violation of PS 1.²⁰¹ Even during meetings, facilitators have not provided necessary information on a facility's potential risks and negative impacts and have avoided responding to questions about negative impacts. For example, in the September 2016 consultation meeting about Brigade 43, an MHP representative provided no substantive response to concerns raised about the environmental impacts of the VPF, calling these concerns groundless and unsubstantiated accusations.²⁰² The overall discussion was imbalanced: village council leaders controlled the meeting and as a result only one person with questions and comments about negative impacts was able to speak.²⁰³ The company

¹⁹⁴ ESAP, IFC Project 34041.

¹⁹⁵ PS 1 at para. 26, 30.

¹⁹⁶ *Id.* at para. 30.

¹⁹⁷ *Id.*

¹⁹⁸ *Id.* at para. 29, Guidance Note 99.

¹⁹⁹ *Id.* at para. 31.

²⁰⁰ *Id.*

²⁰¹ "Engagement should be based on the timely and effective dissemination of relevant project information, including the results of the process of identification of environmental and social risks and impacts and corresponding mitigation measures, in languages and methods preferred by the Affected Communities and that allow for meaningful communication." *Id.* at GN 93.

²⁰² Minutes of Olyanytsya Village Council Public Hearing (21 Sep. 2016), p. 12, included in Annex 8.

²⁰³ *Id.*

representatives responded by publicly calling that person's comments "groundless and non-substantiated," without further explanation.²⁰⁴

Further, consultations have not always been free of manipulation, interference or intimidation, in violation of PS 1.²⁰⁵ As described above, employees have experienced pressure to vote in favor of a new construction, including receiving encouragement from MHP to attend community consultation meetings and implications that their job may be endangered if they do not vote in favor of new developments. Non-employees have also experienced pressure to support MHP project plans, including pressure to remove their names from a petition opposing the construction of Brigade 47. Employees have reported experiencing pressure related to family members voicing negative opinions about MHP's operations. MHP's practice of having only one consultation meeting per facility, hosted by a local village council, amounts to avoidance of its responsibility to consult with local affected people. Moreover, as described above, it has also effectively excluded many affected people from attending consultations.

MHP's consultation practices have at times fallen below the requirements of Ukrainian law as well. Up until a new EIA law came into effect in December 2017, Ukrainian law required developers to first publicly disclose an Announcement of Intent before developing a new facility.²⁰⁶ The public had to be given an opportunity to comment on that intent, and only after receiving those comments, the developer was permitted to publish and allow comments on an Announcement of Consequences for the new development.²⁰⁷ This was the relevant law in effect for all MHP facilities that have been constructed to date, yet this sequencing was not always followed. For example, for Brigade 43, comments were invited on the Announcement of Intent and the Announcement of Consequences at the same time. This accelerates the approval timeline and may diminish the Company's ability to incorporate input received during the public comment period, contrary to the intention of the law.

These deficient consultation practices are even more egregious in light of the IFC's miscategorization of the Project. As discussed above, this Project should have been classified as Category A, subjecting it to heightened consultation requirements. Specifically, all local people affected by the Project should have been subject to an ICP process. Consultations should have been held on the entire Project since the time of IFC's investment and before. Consultation should have been an iterative process, providing more than one opportunity for community members to discuss Project plans with the Company, and MHP should have listened to community members' feedback and incorporated it into relevant aspects of Project plans, including the development of mitigation measures to reduce impacts for local people. None of the public hearings we have witnessed have come close to the required ICP process.

d. Significant risks and impacts from heavy vehicle traffic were not properly identified or mitigated

²⁰⁴ *Id.* This situation directly violates PS 1, GN 103, which requires that the client's representatives "meet with the Affected Communities and explain the project information, answer questions and listen to comments and suggestions."

²⁰⁵ Consultations must "be free of external manipulation, interference, coercion, or intimidation." PS 1 at para. 30.

²⁰⁶ Law of Ukraine on ecological expertise.

²⁰⁷ *Id.*

We believe that local road use by Project-related heavy vehicles has led to impacts that were not properly assessed and identified in the Project's environmental assessment documents, in violation of Performance Standards 1, 3 and 4.²⁰⁸ As a result, we believe that the IFC has not required, and the Company has not developed, appropriate measures to avoid or mitigate those impacts.²⁰⁹ As discussed above, MHP has disclosed only limited information about the risks and negative impacts of Project operations, making it difficult to know exactly how this assessment and impact management process has been conducted internally. However, even the few measures to lessen heavy vehicle impacts that have been promised to local community members have not been carried out as planned. As a result, impacts from MHP's heavy vehicle road use persist.

As described above, MHP's heavy vehicle traffic –transport of live and dead chickens, chicken fodder, manure and other waste products, and workers' buses – has drastically increased overall heavy vehicle traffic on local roadways. This has led to a range of impacts for local residents, including property damage, safety concerns, foul odors, noise and dust pollution. These impacts have been particularly severe on the main road through Olyanytsya, which has for years served as a major artery for transportation to, from and between many key Project facilities, and they remain unaddressed despite repeated promises by MHP, dating back to 2010, that it would build a bypass road.

Local roads and buildings were built long before MHP began its operations in the region, and before anyone had reason to foresee the type of heavy vehicle traffic that has continuously inundated the village since the arrival of MHP, so it stands to reason that they were not built to withstand MHP's heavy road use. This does not relieve MHP from responsibility for mitigating the foreseeable impacts of its operations. While Olyanytsya is a particularly severe example, people in other communities also feel the impacts from MHP heavy vehicle traffic and fear that these impacts will worsen as the Company doubles VPF operations through the development of Phase 2.

The significant impacts on local roads and infrastructure from heavy vehicle traffic should have been identified in environmental assessment documents. Measures like the planned bypass road around Olyanytsya and additional road safety measures should have been identified as necessary to relieve road dust, pollution and odor impacts, as well as safety risks.²¹⁰ These measures should have been treated as a requirement of the IFC's financing and included in the Project ESAP. The IFC should have followed up with the Company to ensure that such measures were implemented in a timely manner, or that the Company developed alternative solutions to address these impacts. MHP should not have proceeded with development of new Project facilities that will aggravate these road-related impacts for Olyanytsya residents until after the planned bypass road, or a similar measure to avoid or mitigate impacts from heavy vehicle traffic, was in place.

²⁰⁸ PS 1 at para. 7; PS 3 at para. 4; PS 4 at para. 5.

²⁰⁹ PS 1 at paras. 13, 14; PS 3 at para. 4; PS 4 at para. 5.

²¹⁰ Such measures are required by the Performance Standards. See PS 1 at paras. 13, 14; PS 3 at para. 4; PS 4 at para. 5.

Despite extreme delays in its construction, residents in Olyanytsya continue to believe that the planned bypass road will serve as an effective measure to avoid or mitigate future traffic-related impacts.²¹¹ MHP should complete the bypass road immediately, communicate directly with community members and the public about its progress, and compensate for the damages and inconvenience caused by the years-long delay in constructing this critical mitigation measure.²¹² MHP should likewise proactively address impacts from heavy vehicle traffic in other local villages. Environmental impact assessments should be updated to include road-related impacts, and lenders should actively monitor and supervise the Company's efforts to address these impacts.

e. We fear that MHP's operations have reduced or will reduce our access to water, without adequate identification, mitigation or monitoring

As discussed above, community members fear that the VPF's operations and its extensive water use have caused or will cause water levels in residents' wells to drop and have or will contribute to reduced downstream flow in the Pivdenny Bug River. Phase 1 of the VPF has been estimated to use over 3.4 million m³ of water per year, and this estimate does not include the additional water needs of the Zernoproduct Farm's agricultural operations.²¹³ The VPF Phase 2 has been estimated to add another 2.6 million m³ of water use per year.²¹⁴ Yet, despite the Company's high water needs, this is not an impact that was identified or adequately discussed in environmental assessment documents, in violation of Performance Standard 1.

Additionally, Performance Standard 3 requires IFC clients to apply technically and financially feasible resource efficiency principles and techniques that are best suited to avoid, or where avoidance is not possible, minimize, adverse impacts on the environment.²¹⁵ Where a project is a potentially significant consumer of water, clients must also "adopt measures that avoid or reduce water usage so that the project's water consumption does not have significant adverse impacts on others."²¹⁶ These measures may include "the use of additional technically feasible water conservation measures within the client's operations, the use of alternative water supplies, water consumption offsets to reduce total demand for water resources to within the available supply, and evaluation of alternative project locations."²¹⁷

Communities fear that MHP has not effectively undertaken such water conservation measures and that its operations may be at least partly responsible for the reduced water availability experienced by many community members. Given that the VPF Phases 1 and 2 are estimated to need more than 6 million m³ of water per year,²¹⁸ in addition to the water needs to the Zernoproduct Farm, this Project should have been identified as a significant water user. IFC should have actively supervised the Project to ensure that MHP assessed local water availability

²¹¹ Completing the bypass road in the shortest possible time was also a recommendation of the November 2016 road commission report (see Commission report at 2).

²¹² See Section V for a more complete explanation of proposed actions to resolve this complaint.

²¹³ OPIC Supplementary ESIA at p. 139.

²¹⁴ *Id.*

²¹⁵ PS 3 at para. 4.

²¹⁶ PS 3, para. 9.

²¹⁷ PS 3, para. 9.

²¹⁸ OPIC Supplementary ESIA at p. 139.

and sustainable yields and tracked its impacts on river flow and groundwater resources, including its cumulative impacts from all expansions.²¹⁹ Had IFC been properly supervising this situation, it would have been able to identify if MHP's local water use is contributing to significant impacts on local water resources, at which point IFC should have directed the Company to implement necessary mitigation measures immediately, including considering alternative locations for new Project facilities that will not cause additional strain on the same local water resources. Instead it appears, based on information currently available to us, that no one knows the extent to which MHP's water use is affecting local water resources.

While MHP has taken some action to address the real or potential impacts of its water consumption on local residents, for example by offering to provide main water hook-ups to some towns, these initiatives cannot be considered an effective mitigation measure. MHP has approached these initiatives as a voluntary community benefit projects, and as a result has not designed the initiatives to ensure access to the most vulnerable users or those most likely to be impacted by MHP's activities. Additional resources would be needed to connect water lines up to the homes of all impacted or potentially impacted residents before this measure can address potential water impacts on local residents. Moreover, even if MHP were to take additional action to connect each individual house to the main water line, this measure would still not be enough on its own to address all potential impacts to community water supply from MHP's operations. The mitigation hierarchy discussed in Performance Standard 1, and the limits on water use required by Performance Standard 3, dictate that the Company must first attempt to avoid or reduce its water use before it turns to other mitigation measures, such as providing alternative methods of water access for local residents.

f. We fear that MHP's operations have polluted or will unreasonably and unnecessarily pollute our local environment, which may lead to health impacts

We fear that MHP's operations in the area have caused or will cause pollution to our soil, groundwater and air, in violation of Performance Standards 3 and 4, and the World Bank Environmental, Health and Safety Guidelines (EHS Guidelines). Specifically, we fear that the long-term storage of large quantities of manure on agricultural fields in the open air, and the use of a manure storage facility that does not have a roof or walls on all sides, causes unreasonably high emissions to our air, soil and groundwater. We are also concerned that MHP's use of pesticides on local crop lands, its application of used water from poultry brigades to irrigate croplands, as well as the disposal of treated wastewater in the Pivdenny Bug River, may lead to unknown pollution impacts. We fear that the rearing, slaughter and processing of millions of chickens near our villages also contributes to air pollution and that the total air pollution impacts from all Project operations may currently, or in the future, exceed health standards.

1. It is not clear that MHP has implemented all necessary mitigation measures

Performance Standard 3 requires that IFC clients apply technically and financially

²¹⁹ Such tracking would have been in line with recommendations in the EBRD's 2016 monitoring report. Monitoring Assessment Summary Report, Assessment Subject: MHP Group, WSP Parsons Brinckerhoff (Feb. 2016), Sec. 5.3, available at <http://www.ebrd.com/cs/Satellite?c=Content&cid=1395250435187&d=&pagename=EBRD%2FContent%2FDownloadDocument>.

feasible pollution prevention principles and techniques that are best suited to avoid, or where avoidance is not possible, minimize adverse impacts on human health and the environment.²²⁰ The measures implemented should be consistent with Good International Industry Practice (GIIP) and the World Bank EHS Guidelines.²²¹ Given the information disclosure challenges discussed above, we do not have full information on the anticipated or actual pollution impacts of MHP's operations. The IFC claims that MHP follows international standards on environmental management,²²² but based on our own experience and observations and the information that has been disclosed, we remain concerned that MHP has not implemented standard practices needed to protect the local environment and safeguard the health of local people.

The Company's operations involve storing large quantities of chicken manure for extended periods of time and eventually applying the manure directly onto Company-controlled fields as fertilizer. These activities naturally carry risks of environmental pollution and foul odors, which is why the World Bank EHS Guidelines and GIIP call for manure storage facilities to be covered with a fixed roof or plastic sheeting.²²³ To reduce odors and emissions, the EHS Guidelines advise minimizing the surface area and controlling the temperature and humidity of stored manure.²²⁴ Similar recommendations are supported by GIIP.²²⁵ The European Union's best available techniques list as the last and least preferable technique for manure storage: "store the manure in a field heap placed away from surface and/or underground watercourses which liquid run-off might enter."²²⁶ It recommends that manure be stacked on fields prior to land spreading for not more than "a few days or several weeks."²²⁷ The EHS Guidelines further recommend that manure piles can be covered with a geotextile material to help reduce dust and odor impacts.²²⁸

MHP's manure storage facility does not have a roof or other covering overhead, nor is it walled on all sides. Absent a full enclosure, the facility does not appear to have the capacity to

²²⁰ PS 3 at para. 4, 10.

²²¹ PS 3 at para. 4, 10.

²²² IFC Project ESRS, Environmental and Social Mitigation Measures, PS 1.

²²³ World Bank Environmental, Health and Safety Guidelines for Poultry Production, World Bank Group (30 Apr 2007), p. 3, available at <http://www.ifc.org/wps/wcm/connect/26baaf004886581fb43ef66a6515bb18/Final%2B-%2BPoultry%2BProduction.pdf?MOD=AJPERES>.

²²⁴ World Bank Environmental, Health and Safety Guidelines for Poultry Production, World Bank Group (30 Apr 2007), p. 4, 6, available at <http://www.ifc.org/wps/wcm/connect/26baaf004886581fb43ef66a6515bb18/Final%2B-%2BPoultry%2BProduction.pdf?MOD=AJPERES>.

²²⁵ For example, the European Union has established similar standards in its established best available techniques. See BAT CONCLUSIONS FOR THE INTENSIVE REARING OF POULTRY OR PIGS, COMMISSION IMPLEMENTING DECISION (EU) 2017/302 (15 Feb 2017), BAT 13-15, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017D0302&from=EN>.

²²⁶ *Id.* While this may provide support for MHP's practice of heaping manure in fields for long time periods, it is not clear in this case whether MHP completed the necessary assessments of groundwater resources to be able to safely place these heaps. Moreover, the EHS Guidelines contain no such provision.

²²⁷ BAT CONCLUSIONS FOR THE INTENSIVE REARING OF POULTRY OR PIGS, COMMISSION IMPLEMENTING DECISION (EU) 2017/302 (15 Feb. 2017), BAT 15, sec. 5.4.5, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017D0302&from=EN>.

²²⁸ World Bank Environmental, Health and Safety Guidelines for Poultry Production, World Bank Group (30 Apr 2007), p. 7, available at <http://www.ifc.org/wps/wcm/connect/26baaf004886581fb43ef66a6515bb18/Final%2B-%2BPoultry%2BProduction.pdf?MOD=AJPERES>.

control the temperature or humidity of manure, which can lead to unnecessary air emissions and odors.

Further, local residents have witnessed manure piles stored in fields for months at a time. When asked about its manure storage practices in the context of another large farm, MHP has explained that it places a layer of straw or wood shavings under manure before placing the manure in open fields, and it believes this measure to be adequate to address pollution concerns.²²⁹ The OPIC Supplemental ESIA reports that manure is stored in fields for “up to two months before spreading” and that its location takes into account “proximity to water courses.”²³⁰ However, local residents have witnessed manure piles stored in fields for much longer,²³¹ and to our knowledge groundwater resources have not been fully assessed to determine exactly how close manure piles are in relation to groundwater aquifers relied on by local communities.²³²

An additional concern is the lack of barrier between many poultry brigades and local residences. While MHP does in most cases ensure a sanitary protection zone of at least 1200 meters between its poultry brigades or other facilities and local residences, these empty zones do not provide as much protection for MHP’s residential neighbors as would a “natural barrier” of dense trees or shrubs.²³³ Natural barriers are required under Ukrainian law and recommended by the European Union’s best available techniques for intensive poultry rearing.²³⁴ This matter has been raised many times by local residents dating back to the construction of the VPF Phase 1 in 2010 and 2011, but such natural barriers have still not been constructed near local brigades that were the subject of those requests.

Likewise, it is unclear to us whether MHP is following best practices for pesticide use and management. As discussed above, community members have witnessed MHP’s use of pesticides near residences without prior warning, which we fear may pose potential health risks. Performance Standard 3 dictates that chemical pesticides should only be applied as a last resort,²³⁵ but because MHP has not shared its pesticide management plan with us, we do not know whether it is following this requirement, what type of pesticide it is using, or what its environmental and health risks may be. The IFC ESAP for this Project called for MHP to update

²²⁹ MHP in-line responses to issues raised in letter from CEE Bankwatch Network (26 Jul. 2017). This letter and MHP’s comments were in relation to the Company’s operations in the Cherkasy region of Ukraine.

²³⁰ OPIC Supplementary ESIA at 124.

²³¹ For example, community members and NGO representatives observed the same pile of manure on a field near Olyanytsya from August 2016 through March 2017.

²³² A 2016 EBRD Monitoring Report recommended that MHP undertake “a robust assessment of water availability and sustainability yields across the Vinnytsia region.” Monitoring Assessment Summary Report, Assessment Subject: MHP Group, WSP Parsons Brinckerhoff (Feb. 2016), Sec. 5.3, available at <http://www.ebrd.com/cs/Satellite?c=Content&cid=1395250435187&d=&pagename=EBRD%2FContent%2FDownloadDocument>. It is not clear whether this assessment was ever carried out.

²³³ Additionally, MHP has at times elicited exceptions to the 1200 m sanitary protection zone requirement and placed its brigades closer to residential buildings. See, e.g., Environmental Impact Assessment for Brigade 55, “Spektr” Separate division of PJSC MHP (2018), included in Annex 7.

²³⁴ Section 5.13 of the State Sanitary Regulations, the rules and regulations of the Ministry of Education and Science of Ukraine, and the building of the Ministry of Health, 19.06.96 No 173; BAT CONCLUSIONS FOR THE INTENSIVE REARING OF POULTRY OR PIGS, COMMISSION IMPLEMENTING DECISION (EU) 2017/302 (15 Feb. 2017), BAT 13(c), available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017D0302&from=EN>.

²³⁵ PS 3 at para. 14.

its policy and procedures to avoid use of products that fall under Class II (moderately hazardous) of the WHO Recommended Classification of Pesticides,²³⁶ but that ESAP does not appear to have been updated since the IFC approved its investment, and we are unaware of any publicly available monitoring reports that cover this issue. Further, as discussed above, in the excerpted information we have been able to access from state inspections of MHP facilities, there is a reference to a violation of pesticide monitoring requirements.

We fear that by failing to apply necessary avoidance and mitigation measures, MHP's operations cause unnecessary pollution to local air, water and land.

2. Feared risk of water-related diseases

We are concerned that MHP's operations may be reducing groundwater quality in the area, with potential detrimental impacts on our health. Performance Standard 1 requires IFC clients to establish procedures to monitor and measure the effectiveness of its environmental management programs.²³⁷ Additionally, Performance Standard 4 requires IFC clients to avoid or minimize any potential for community exposure to water-related diseases.²³⁸

Despite these requirements, we are not aware of any regular testing of the quality of local groundwater surrounding MHP facilities and MHP-operated agricultural fields. Instead, water monitoring appears to have been conducted on a one-off basis, as requested by local government administrations, and local people do not always have access to the results of such testing.²³⁹

Even if groundwater is in fact being monitored regularly, we fear that MHP has not taken adequate steps to respond to pollution. We fear that MHP's poor manure storage practices and other polluting aspects of its operations, such as its pesticide use, may be negatively impacting groundwater or may do so in the future. As discussed above, some public wells in our community have been found to contain e. coli and dangerously high nitrate levels. The cause of these water problems has not been investigated, and we fear that MHP's operations may be responsible, at least in part, for this poor water quality, especially given the known relationship between large-scale poultry farming and these types of water pollution.

To provide a specific example, in Olyanytsya, local well water was only subject to state inspection once in 2016, following a specific request that was prompted by the concerns of local villagers. To our knowledge, this was a one-off assessment and the well water in Olyanytsya has not been subject to any further testing since, despite the troubling results of the 2016 tests, which are described above. Without sufficiently detailed and reliable data, it is difficult to understand how the IFC can have met its obligations to monitor and measure the effectiveness of MHP's pollution management program, or its compliance with relevant standards.

3. Fear that Project operations have caused or will cause air pollution to exceed

²³⁶ "PS 3: Resource Efficiency and Pollution Prevention," IFC Project 34041 ESAP.

²³⁷ PS 1 at paras. 22, 23.

²³⁸ PS 4 at para. 9.

²³⁹ For example, residents of Zaozerne are aware of recent testing of well water quality, but have not been permitted to see the results.

international health standards, without adequate monitoring

We fear that the Project's environmental monitoring practices are not adequate to ensure emissions stay within healthy levels. Neither the EIAs produced for local MHP operations nor Ukrainian state environmental inspections have produced adequate data to enable meaningful monitoring of the Project's air pollution impacts or ensure that the air quality surrounding MHP brigades is within healthy levels. This is in violation of Performance Standard 1, which requires IFC clients to establish procedures to "monitor and measure the effectiveness of the management program, as well as compliance with any related legal and/or contractual obligations and regulatory requirements."²⁴⁰ It also prevented the IFC from ensuring that MHP had adequate pollution prevention and control measures in place, in contravention of Performance Standards 1 and 3.²⁴¹

Nonetheless, in the environmental assessments we have seen for individual Project facilities, information on air quality is inadequate to determine the health-related impacts from Project pollution. The recent EIA disclosed by the Ukrainian Ministry of Environment for Brigade 55 is a pertinent example. To date, this is the longest and most comprehensive environmental assessment that has been publicly disclosed for any of the Project's poultry brigades. The assessment includes information on the maximum concentrations of total suspended particulate (TSP) expected to be produced at the planned site of Brigade 55 and at the edge of the sanitary protection zone,²⁴² but it does not provide information on the prevalence of smaller particles – PM 10 or PM 2.5. TSP is an outdated measure of health risks from particulate matter, whereas the more focused measures of PM 2.5 and PM 10 are the best indicators of health risks from dust, which are specifically linked to exposure to these finer dust particles.²⁴³ Moreover, the predicted TSP levels at the edge of the sanitary protection zone are high enough that it seems entirely possible, and even likely, that PM 2.5 levels will be higher than recommended levels, and high enough to cause health impacts. For example, the EIA indicates that at the edge of the village of Vasylivka, expected TSP levels would reach 362 µg/m³.²⁴⁴ The World Health Organization's Ambient Air Quality Guideline Value for exposure to PM 2.5 on an annual average basis is 10 µg/m³,²⁴⁵ and we understand that while the ratio of TSP to PM 2.5 can vary widely, average associations between the two may place PM 2.5 levels well above that safe standard.²⁴⁶

²⁴⁰ PS 1 at para. 22.

²⁴¹ Performance Standard 3 requirements to apply pollution prevention techniques to avoid or mitigate impacts (PS 3 at para. 4) are naturally predicated on the client's maintenance of an adequate understanding of a Project's impacts on human health and the environment.

²⁴² Brigade 55 EIA at Sec. 5.1.3., p. 99.

²⁴³ See WHO Air quality guidelines for particulate matter, ozone, nitrogen dioxide and sulfur dioxide: Global Update 2005, World Health Organization (2005), p. 9-10, available at http://apps.who.int/iris/bitstream/handle/10665/69477/WHO_SDE_PHE_OEH_06.02_eng.pdf?sequence=1 (explaining that PM 10 and PM 2.4 particles are small enough to enter the respiratory tract and these are the types of particulate matter considered to contribute to health effects. This publication also discusses the link that has been shown between long-term exposure to PM 2.5 and mortality).

²⁴⁴ The ESIA indicates that TSP levels at the edge of the sanitary protection zone near Vasylivka is 0.7253 of the maximum allowable concentration, which is 0.5 mg/m³. Brigade 55 EIA at Sec. 5.1.3., p. 99.

²⁴⁵ WHO Air quality guidelines, p. 9.

²⁴⁶ See *The Relationship Among TSP, PM₁₀, PM_{2.5}, and Inorganic Constituents of Atmospheric Particulate Matter at Multiple Canadian Locations*, Jeffrey R. Brook, Tom F. Dann & Richard T. Burnett *Journal of the Air & Waste*

Air quality monitoring by the Tulchyn branch laboratory of the Ministry of Health has suffered from the same lack of specificity. The monitoring results we have seen do not provide separate measurements for PM 2.5 or PM 10, instead relying on TSP as the only quantitative dust measurement.²⁴⁷ Once again, the measurements are high enough that it seems possible, and maybe even likely, that dust particles in the air have already reached a level high enough to impact human health, particularly in circumstances of prolonged exposure.²⁴⁸ Further, the methodology used to arrive at these monitoring results is not clear. The documents disclosed to us do not indicate whether they are the result of multiple readings over a period of time, taken at different times of day and in varying wind conditions, or if each figure is based on a single reading.

Taken together, these problems call into question whether the Project's air pollution impacts are being adequately monitored, and we fear that the Project's emissions may cause or may already have begun to cause, negative health impacts in our communities.

4. Fear that MHP has not adequately assessed GHG emissions

We fear that MHP's measures to assess GHG emissions are not adequate. Performance Standard 3 requires IFC clients to implement any feasible measures to reduce GHG emissions during the design and operation of a project.²⁴⁹ For all projects that produce more than 25,000 tonnes of CO₂-equivalent annually, the client must quantify direct emissions from the facilities owned or controlled within the physical project boundary.²⁵⁰ Project-induced changes in soil carbon content or above ground biomass, and project-induced decay of organic matter, may contribute to direct emissions sources, and clients must include these sources in their emissions quantification where such emissions are expected to be significant.²⁵¹

MHP should have assessed the cumulative GHG emissions of all VPF and Zernoproduct Farm facilities, including emissions related to the storage and spreading of manure as fertilizer. As discussed above, no comprehensive assessment of environmental impacts related to IFC's investment has been publicly disclosed by either IFC or MHP. Even the 2016 OPIC Supplemental ESIA, which attempts to quantify the total impacts of the Phase 2 expansion of the VPF, provides no current estimate of total GHG emissions for MHP's operations in the region. Instead, it notes that in 2015, MHP benchmarked GHG emissions of the VPF and reported emissions of 787,870 tonnes of CO₂ equivalent.²⁵² The document recommends that MHP should

Management Association, 47:1 (1997), 2-19, DOI: 10.1080/10473289.1997.10464407, available at <https://www.tandfonline.com/doi/pdf/10.1080/10473289.1997.10464407>, showing that on average across a large sample set of locations, PM 2.5 made up approximately 25% of TSP.

²⁴⁷ Included in Annex 9.

²⁴⁸ The WHO sets a different significantly lower recommended standard of exposure to particulate matter in the case of prolonged exposure, compared to short-term exposure. It justifies this with reference to multiple studies that have demonstrated "robust associations" between long-term exposure to PM_{2.5} and mortality. WHO Air quality guidelines at 9-10.

²⁴⁹ PS 3 at para. 7.

²⁵⁰ PS 3 at para. 8.

²⁵¹ PS 3 at para. 8 and fn 7.

²⁵² OPIC Supplemental ESIA, Appendix C: Best Available Techniques, Section 2.4.

calculate a GHG inventory using actual data, not estimates, and should monitor and report this information on an annual basis, to allow for benchmarking of actual emissions against international standards.²⁵³ We understand that manure produced by VPF chicken houses is immediately sent to Zernoproduct Farm for storage and treatment. It is therefore unclear whether the GHG emissions from stored manure were included in the Company's 2015 VPF GHG benchmarking exercise. Regardless, Performance Standard 3's requirement to track Project-induced changes in soil carbon content or above ground biomass and decay of organic matter means that MHP should already be regularly collecting data on GHG emissions. The IFC should have required an initial ESIA that included actual GHG emissions numbers for the whole VPF and the local operations of Zernoproduct Farm, in addition to annual monitoring and reporting on actual GHG emissions data since the time of its investment. Any weaknesses in the Company's assessment and monitoring of GHG emissions will be particularly relevant as the planned biogas plant comes into operation, in order to provide context for the claimed "*significant reduction in GHG emissions*"²⁵⁴ resulting from the Biogas plant.²⁵⁵²⁵⁶

g. The disclosed environmental assessment documents do not include necessary baseline data

We are concerned that Project baseline data is not sufficiently detailed to form the basis of an accurate impact assessment. Performance Standard 1 requires that the process of identifying a project's risks and impacts must be based on "recent environmental and social baseline data at an appropriate level of detail."²⁵⁷ Performance Standard 3 further specifies that a client must consider existing ambient conditions in order to address a project's potential adverse pollution impacts.²⁵⁸ This in turn requires the collection of adequate recent environmental baseline information. Performance Standard 3 also specifies that "when the project has the potential to constitute a significant source of emissions in an already degraded area, the client

²⁵³ OPIC Supplemental ESIA at 101.

²⁵⁴ Project Summary Document for MHP Biogas plant (Project No. 49301), section on Transition Impact, available at <http://www.ebrd.com/work-with-us/projects/psd/mhp-biogas.html>.

²⁵⁵ Preliminary Environmental Impact Assessment, New construction for the processing of organic agricultural waste and biomass of plant and animal origin into biogas (Jun. 2017), sec. 6.1.2, included in Annex 7. This claim of significantly reduced GHG emissions is not well supported and we fear that the plant may even increase overall GHG emissions, if there are fugitive losses of methane, or if manure is still stored for long periods in the open air before it enters the plant, or if the conversion into biogas is less efficient than the Company expects. As the ESIA makes clear, the air emissions from the biogas plant are significant (estimated to equal 2,102 tonnes per year of methane, 4.157 t/year of ammonia and 2.4883 t/year of hydrogen sulfide) and any claim of reduced overall GHG emissions requires further substantiation and context. Preliminary EIA for Biogas Plant at sec. 6.1.2.

²⁵⁶ The air emissions from the biogas plant are estimated to equal 2,102 tonnes per year of methane, 4.157 t/year of ammonia and 2.4883 t/year of hydrogen sulfide. Preliminary Environmental Impact Assessment, New construction for the processing of organic agricultural waste and biomass of plant and animal origin into biogas The total air emissions methane amount (for 6 cycles/year) from open-air storage of manure from poultry brigades equals to 1789,4 t/year, ammonia and ammonium sulfate – 1,656 and 0,520 tons per year accordingly. Preliminary EIA for the biogas plant (Jun. 2017), sec. 6.1.2, included in Annex 7. While the ESIA for the biogas plant claims that it will reduce the overall GHG emissions of the VPF, this claim is not well supported in project documents and we fear that the plant may even increase overall GHG emissions, if there are fugitive losses of methane, or if manure is still stored for long periods in the open air before it enters the plant, or if the conversion into biogas is less efficient than the Company expects.

²⁵⁷ PS 1 at para. 7.

²⁵⁸ PS 3 at para. 11.

must consider additional strategies and adopt measures that avoid or reduce negative effects,” such as evaluating location alternatives and emissions offsets.²⁵⁹

Available environmental assessment documents do not demonstrate that adequate baseline data was collected on critical questions, such as local air, soil and water quality, prior to construction of the VPF. For example, an environmental assessment document for Brigade 13,²⁶⁰ which was shared by one of MHP’s international financial supporters, Atradius, does not discuss any baseline information whatsoever. The environmental impact assessment document for Brigade 47, which was shared in 2017, long after a public hearing on the facility, includes an air monitoring assessment from 2015 for a location over 15 km from the project site.²⁶¹ Likewise, an Environmental Impact Assessment for Brigade 55, disclosed in 2018, uses air quality information from a meteorological station in the city of Haysin, located more than 10 km from the proposed site of the Brigade.²⁶²

Further, these air quality baseline assessments suffer from many of the same methodological deficiencies and lack of specificity discussed in the previous section. For example, the EIA for Brigade 55 does not provide sufficient information to determine whether the assessment of baseline air quality followed a sound methodology. Specifically, it is not clear whether the baseline numbers provided were collected from single measurements or an average of measurements, and if so, how many measurements were averaged over what period of time, what the minimum and maximum readings were during that period of time, and how frequently readings were collected over the given period. A robust and reliable baseline assessment would typically account for spatial and temporal variations to ensure that impacts to air quality levels are not underestimated.²⁶³

Moreover, the Brigade 55 EIA does not provide sufficiently detailed information to understand whether air pollution impacts meet international standards for safe air quality, nor whether they are significant enough to cause health impacts. The EIA provides baseline air quality data, but it provides a value for total suspended particulate (TSP) without specifying the amount of PM 10 or PM 2.5 in the air.²⁶⁴ As discussed above, TSP is an outdated parameter for assessing the burden of particulate matter on ambient air. Nonetheless, the stated value of 0.2 milligrams/m³ (= 200 µg/m³) of TSP suggests that the ambient levels of PM 2.5 likely exceed international guidelines for safe and healthy air quality.²⁶⁵

²⁵⁹ *Id.*

²⁶⁰ Included in Annex 7.

²⁶¹ Preliminary EIA for Brigade 47 at Annex 3, included in Annex 7.

²⁶² Environmental Impact Assessment Report, Brigade 55 (2018), sec. 5.1.3.

²⁶³ Guiding Principles for Air Quality Assessment Components of Environmental Impact Assessments, International Association for Impact Assessment (Feb. 2017), sec. 2.6.1. The biogas plant ESIA contains similar issues. See “Not Fit for Purpose: MHP Biogas Plant,” a briefing by CEE Bankwatch Network (11 Dec. 2017), p. 3, included in Annex 4.

²⁶⁴ Brigade 55 EIA, Table 3.6.1.

²⁶⁵ See *The Relationship Among TSP, PM₁₀, PM_{2.5}, and Inorganic Constituents of Atmospheric Particulate Matter at Multiple Canadian Locations*, available at <https://www.tandfonline.com/doi/pdf/10.1080/10473289.1997.10464407> showing that on average across a large sample set of locations in Canada, PM 2.5 made up approximately 25% of TSP. The WHO recommended guideline value for long-term exposure to PM 2.5 is just 10 µg/m³ (WHO Air quality guidelines, p. 9).

Thus, even in the limited instances in which we have seen some baseline air quality data, it is questionable whether the information is sufficient to allow the IFC to determine whether the Project is being carried out in an “already degraded area” that would give rise to additional requirements to avoid or reduce pollution impacts, such as locating new facilities farther away in less degraded areas.²⁶⁶ Moreover, we have not seen any baseline data regarding groundwater quality and are not sure whether MHP has ever collected such data.

h. A cumulative impact assessment has not been conducted

The IFC should have required MHP to conduct and disclose a cumulative impact assessment covering all existing and planned polluting activities, including all local operations related to MHP and other major polluters. Performance Standard 1 requires assessment of a Project’s risks and impacts, including “cumulative impacts that result from the incremental impact, on areas or resources used or directly impacted by the project, from other existing, planned or reasonably defined developments at the time the risks and impacts identification process is conducted.”²⁶⁷ Performance Standard 1 also provides examples of impacts that are generally recognized as important enough to merit inclusion in a cumulative impact assessment, including “incremental contributions of gaseous emissions to an airshed; reduction of water flows in a water shed due to multiple withdrawals ... or more traffic congestion and accidents due to increases in vehicular traffic on community roadways.”²⁶⁸ Further, Performance Standard 3 requires a client to consider existing ambient conditions, the finite assimilative capacity of the environment, and the potential for cumulative impacts with uncertain or irreversible consequences in the course of developing a plan to address negative environmental impacts.²⁶⁹

Existing industrial operations in the area were already impacting air quality at the time MHP began Project construction and should have been subject to a cumulative impact assessment. Most notably, the 1800 MW Ladyzhyn coal-fired power station is located within 5 km of some components of the VPF.²⁷⁰ The air pollutant emissions from the coal-fired power station and from the Project’s chicken brigades, hatchery, slaughterhouse, and manure storage piles likely affect overlapping land areas. We have heard public officials suggest that the baseline assessment of air quality is the same as a cumulative impact assessment,²⁷¹ but this is not the case. A baseline assessment of air quality and GHG emissions, even if done properly, would not be enough to fully anticipate and understand cumulative pollution impacts. Dispersion modeling would be needed to establish the full extent of cumulative air pollution impacts, as would a detailed assessment of the interaction of emissions from the Project facilities and the power plant together. For example, each chicken brigade is a substantial source of ammonia

²⁶⁶ This is of course putting aside the question of whether such an assessment would have been possible given MHP’s practice of releasing piecemeal environmental assessment documents for individual facilities at the time of construction, which makes any holistic assessment of total Project impacts at a single point in time exceedingly difficult.

²⁶⁷ PS 1 at para. 8.

²⁶⁸ PS 1, para. 8, footnote 16.

²⁶⁹ PS 3 at para. 11.

²⁷⁰ Source Watch, https://www.sourcewatch.org/index.php/Ladyzhyn_power_station. 

²⁷¹ The minutes of the Sept 2016 meeting re brigade 43 says that cumulative impacts were taken into account in calculating GHG emissions from Brigade 43 because they were included in the background concentrations of pollutants.

emissions. By itself, this may not present a significant danger, but when ammonia interacts with sulfate (SO₂) and nitrates (NO_x), it can form secondary particulates (ammonium sulfate and ammonium nitrate), adding to the total levels of particulate matter in the air.²⁷² The IFC should have required MHP to conduct dispersion modeling to quantify cumulative air pollution impacts from MHP's operations and the nearby power station before it provided any funding for the construction or expansion of the VPF, yet the environmental assessment documents that we have seen provide no evidence that this has been done.²⁷³

Far from properly considering the cumulative impacts of existing industrial operations in the area, we believe, as discussed in the previous section, that MHP has failed to adequately assess and disclose to affected people even the cumulative impacts of the various local MHP facilities. The environmental assessments we have seen have been carried out individually for each Project component, which does not provide adequate information to affected people about the overall impacts of the whole Project. This piecemeal assessment process has resulted in some impacts – such as impacts from heavy vehicle traffic on the main road through Olyanytsya – being left out of environmental assessment documents entirely. Other impacts, such as air pollution or impacts on local water resources, simply cannot be meaningfully assessed without understanding the cumulative impacts of the VPF and the local Zernoproduct Farm operations as a whole. A 2016 Monitoring Report commissioned by the EBRD confirmed the need for a robust assessment of cumulative impacts,²⁷⁴ but since that time MHP has not publicly indicated any plan to conduct such an assessment. Moreover, the new EIA law in Ukraine clearly requires a cumulative impact assessment,²⁷⁵ yet no such assessment is included in the ESIA for Brigade 55.

i. Impacts on vulnerable people were not adequately assessed

The presence of vulnerable people in the Project area, and the particular ways in which the Project may impact them, has not been adequately addressed. Performance Standard 1 requires IFC clients to identify vulnerable individuals or groups who may be particularly affected by the Project as part of the initial due diligence process.²⁷⁶ In meeting other obligations of the Performance Standards, such as the need to consult with affected people, to avoid or minimize impacts to community health and to avoid potential exposure to water-based and water-related

²⁷² See, e.g., Sharma, M., Kishore, S., Tripathi, S. N., & Behera, S. N. (2007). Role of atmospheric ammonia in the formation of inorganic secondary particulate matter: a study at Kanpur, India. *Journal of atmospheric chemistry*, 58(1), 1-17; Erisman, J. W., & Schaap, M. (2004). The need for ammonia abatement with respect to secondary PM reductions in Europe. *Environmental Pollution*, 129(1), 159-163; Schlesinger, R. B., & Cassee, F. (2003). Atmospheric secondary inorganic particulate matter: the toxicological perspective as a basis for health effects risk assessment. *Inhalation toxicology*, 15(3), 197-235.

²⁷³ This requirement is reflected in internationally accepted best practice in the area of cumulative impact assessment. See International Association for Impact Assessment, February 2017, *Guiding Principles for Air Quality Assessment Components of Environmental Impact Assessments*, https://www.iaia.org/uploads/pdf/Guiding%20Principles%20for%20Air%20Quality_2.pdf.

²⁷⁴ “The assessments of potential impacts are not considered to be fully robust within the OVNS, in particular in relation to cumulative impacts across a whole farm scale development.” EBRD Monitoring Report 2016, sec. 4.3 (in reference to VPF-wide water impacts).

²⁷⁵ Ukraine EIA law, Article 6 on the content of the EIA report and Article 9 about the conclusion on the EIA report.

²⁷⁶ PS 1 at para. 12.

diseases, the client must pay particular attention to the needs and sensitivities of vulnerable groups.²⁷⁷

The EIA for Brigade 55 is the only instance we have seen in which MHP attempted to address the question of vulnerability, but even this cannot be considered a meaningful assessment of the issue. The one-page section on vulnerable populations simply identifies all local people as “vulnerable” and maintains that they will not experience any negative impacts due to their distance from the facility.²⁷⁸

Our communities have a high incidence of elderly people and elderly households,²⁷⁹ who are particularly susceptible to some of the feared and actual impacts from this Project. For example, damage to homes from MHP-related heavy vehicle traffic is particularly challenging for this population due to low income-earning potential and limited funds to fix the damage, and the vibrations are particularly bothersome as this population may spend a higher percentage of their time at home and experience vibrations throughout the day. Pollution impacts may also hit elderly people especially hard, as they may be more likely to experience negative health impacts, and health impacts are more likely to escalate into a more serious condition or exacerbate existing health problems.²⁸⁰ Accordingly, convenient access to clean drinking water is especially important, yet elderly people may be less likely to be able to afford paying for the water hook-ups (that they had understood MHP would pay for), potentially preventing them from accessing MHP-installed water systems.

Female-headed households may be another potentially vulnerable group relevant to this Project, but MHP has not included gender-disaggregated assessments in ESIA documents, making it impossible to determine how many such households are located near the Project area, or how they may be impacted.²⁸¹

Children are another potential vulnerable group in the area. Some community members have noticed an increased incidence of asthma in the local community, which has particularly affected children. If this health impact is indeed related to MHP’s local activities, it suggests particularized impacts on children that should have been identified from the outset.

²⁷⁷ PS 1 at para. 30; PS 4 at para 1; PS 4 at para 9.

²⁷⁸ Brigade 55 ESIA at p. 64. The planned location is less than a kilometer away for the nearest local residences.

²⁷⁹ For instance, Zaozerne community consists of 1043 villagers, out of which 365 are elderly/retired (approx. 35%). Brigade 55 ESIA at p. 60.

²⁸⁰ See, e.g., “Adverse Effects of Outdoor Pollution in the Elderly,” M. Simoni, S. Baldacci, S. Maio, S. Cerrai, G. Sarno, G. Viegi, *Journal of Thoracic Disease* (Jan. 2015), DOI: 10.3978/j.issn.2072-1439.2014.12.10 available at <https://www.ncbi.nlm.nih.gov/pubmed/25694816>.

²⁸¹ Studies have shown, however, that a significant number of rural households in Ukraine are female-headed, and many of those households are likely headed by elderly women. For example, according to the Complex research of the state of women living in the rural areas of Ukraine (2015, <http://www.ombudsman.gov.ua/files/alena/Doslidzhennya%20Sil's'ki%20zhinky.pdf>), women made up 52.3% of the rural population at the time of the study, with 38% retired and up to 45% typically unemployed. Women tend to live around 10 years longer than men (average age of 75.19 compared to 64.61 years) and the study revealed that 19% of families in rural areas had only one parent and in 91% of cases it was the mother. About half of all households in rural areas are female-headed households.

The IFC should have required MHP to properly identify vulnerable households, using the criteria specified in the Performance Standards, and to tailor specific mitigation measures to the needs of any vulnerable groups identified.

j. Employment conditions

As discussed above, we are concerned that MHP has not taken appropriate measures to provide employees with reasonable working conditions and terms of employment and a safe and healthy workplace, in violation of Performance Standard 2.²⁸² We also fear that the Company has failed to put in place appropriate measures to meet the Performance Standard 2 requirements related to preventing and addressing instances of intimidation.²⁸³ Numerous past and present employees have raised concerns regarding MHP’s workplace safety standards, the long hours that drivers are expected to work, and other health and safety concerns. Employees have also reported pressure or intimidation related to the activities of family members who have raised concerns about the Company’s health and environmental impacts on local communities, and one employee also reported having been asked to leave after asking for a transfer to a position with more hospitable working conditions.

k. Grievance mechanism

We are concerned that MHP does not have an appropriate, local grievance mechanism to resolve community concerns. Performance Standard 1 requires clients to actively engage with stakeholders, including setting up a grievance mechanism to receive and resolve concerns from affected communities about the client’s environmental and social performance.²⁸⁴ The grievance mechanism should be scaled to the risks and adverse impacts of the project and should seek to resolve concerns promptly and effectively, in a transparent manner, that is culturally appropriate and readily accessible to all segments of the affected communities at no cost and without retribution to the party that originated the issue or concern.²⁸⁵ MHP’s grievance mechanism process must protect the confidentiality of anyone raising a complaint.²⁸⁶

The 2016 Stakeholder Engagement Plan for VPF Processing Complex says that anyone can submit a complaint either by physically filling out a form and putting it in a complaint box at the Project site, submitting a complaint via an online form or through email, mail, fax, or phone. It says that anonymous complaints will be registered and sent to the responsible managers, but it explains that “[a]ccording to the Law of Ukraine ‘On citizens’ appeals’ the company reserves the right not to respond to such requests.”²⁸⁷ This explanation creates uncertainty about MHP’s treatment of anonymous complaints, discouraging potential complainants from raising their concerns unless they are willing to disclose their identity. The referenced law does specify that

²⁸² PS 2 at paras. 10, 23.

²⁸³ PS 2 at para. 15.

²⁸⁴ PS 1 at para. 35.

²⁸⁵ PS 1 at para. 35.

²⁸⁶ PS 1, GN 110.

²⁸⁷ VPF Processing Branch 2016 Stakeholder Engagement Plan, p. 12-13, included in Annex 10. A similar process is outlined in MHP’s company-wide Stakeholder Engagement Plan. MHP Stakeholder Engagement Plan, Kiev (2017), p. 11, available at <https://www.mhp.com.ua/library/file/mkh-eng-small.pdf>.

enterprises are not required, under that law, to review and consider anonymous complaints,²⁸⁸ but this does not relieve MHP of its obligations under the IFC Performance Standards to provide a culturally appropriate and accessible grievance redress mechanism. Accepting anonymous complaints – from both workers and communities – is particularly important in the context of MHP’s local operations because many community members do not feel comfortable filing a complaint unless they know that their identity will not be disclosed.²⁸⁹

Further, beyond listing various ways to submit a complaint and providing timeframes for responding, the Stakeholder Engagement Plan does not provide any further explanation of processes or procedures for responding to a complaint. The lack of a clear process is an additional deterrent, leaving local people uncertain as to the value of raising complaints through the company’s formal process. It is also unclear whether every complaint from affected people has been properly recorded, and we are aware of some complaints that have not been adequately addressed.²⁹⁰

IV. Prior attempts to raise these issues

Throughout the years since we first began experiencing impacts from MHP’s local operations, we have raised our concerns not only through local public hearing processes, but also through letters and other communication directly with MHP, with local, regional and national government bodies, and with international lenders. Below is an overview of some of the steps we have taken. Please note that this is not a comprehensive list, but is meant to provide a general sense of some of our communications to date.

Kleban

In 2011, when the Company was still making plans for Phase 1 of the VPF, 465 villagers from Kleban signed a letter rejecting the planned placement of MHP facilities to the Northwest of their village, due to fears that pollution and bad odors from the facilities would affect their village.²⁹¹ Through this petition and other efforts, villagers succeeded in eliciting agreements from local government and MHP to erect a natural barrier around MHP facilities constructed near Kleban, as part of the required Sanitary Protection Zone.²⁹² However, MHP has not ultimately followed through on these commitments.

In October 2014, Kleban villagers sent a complaint letter to Ukraine’s Minister of Ecology raising concerns with MHP’s local operations, including a lack of natural barriers to block pollution and odor emanating from poultry brigades and odors and feared pollution

²⁸⁸ Law of Ukraine ‘On citizens’ appeals’, Bulletin of the Verkhovna Rada, 1996, No. 47, p. 256, Article 8, available at <http://zakon2.rada.gov.ua/laws/show/393/96-%D0%B2%D1%80>.

²⁸⁹ For further explanation of this potential discomfort, see Annex 3.

²⁹⁰ For example, the Zaozerne Village Council and at least one individual community member have raised concerns on multiple occasions about the impacts of MHP’s pesticide spraying upwind, close to residences, and without prior notification, yet the practice continues. Letter from Zaozerne Village Council to Zernoproduct (5 May 2017), included in Annex 4.

²⁹¹ Letter from Kleban villagers with comments and suggestions on territorial plan (undated), included in Annex 4.

²⁹² Letter from Vinnytsia Broiler to Kleban Village Council (22 Jun. 2011), included in Annex 4.

impacts from MHP's practice of storing manure piles in open fields for extended periods.²⁹³ The State Environmental Inspection of Ukraine responded, per the Minister's request, explaining that it would not be possible to conduct an inspection of MHP as requested because inspections can only be carried out with the permission of the Cabinet of Ministers of Ukraine or at the request of the entity to be audited, plus budget allocations for state supervision of compliance with environmental regulations had been reduced.²⁹⁴

In February 2017, following a local meeting to discuss the potential construction of two new brigades near the village of Kleban, residents sent a collective appeal to the Tulchyn District Administration.²⁹⁵ The appeal demands respect for local residents' right to decide whether the Company can build a new development on their village council land and respect for the sanitary protection zone requirement that provides for a physical barrier surrounding polluting facilities such as MHP's brigades.²⁹⁶ Community members also raised this matter during meetings with MHP representatives in February, March and November 2017,²⁹⁷ yet still have seen no action taken to construct the promised barrier.

Olyanytsya

In June 2012, villagers from Olyanytsya sent a letter to the People's Deputy of Ukraine raising concerns regarding decreasing water levels in local wells and damage to houses along the main village road, claiming that both issues began shortly after MHP began construction of Phase 1 of the VPF.²⁹⁸ A few months later, in September 2012, Olyanytsya villagers held an environmental protest to publicly express their frustration with the impacts they were experiencing. In conjunction with the protest, villagers sent a letter to the Trostyanets Rayon Administration and Council, again raising concerns about water depletion and damage to houses from heavy vehicle traffic.²⁹⁹ As discussed above, some progress has been made on demands related to mitigating road impacts, but after years of delay, some of the primary demands – for a bypass road and compensation for damage to houses – still have not been implemented and concerns regarding water depletion still have not been investigated.

In April 2016, over 1800 residents of Trostyanets Rayon, including residents of Olyanytsya, sent a letter to President Poroshenko, raising concerns about MHP's inadequate consultation processes and compliance with international environmental standards.³⁰⁰ These

²⁹³ Letter from Kleban villagers to Minister of Ecology (19 Oct. 2014), included in Annex 4.

²⁹⁴ Ukrainian law on environmental inspections has since been changed to allow for regular state inspections without an invitation from the Company to be audited. Community members have not been able to access full inspection documents, although authorities have provided some excerpts.

²⁹⁵ Letter from Kleban residents to Tulchyn District Administration (24 Feb. 2017), included in Annex 4.

²⁹⁶ *Id.*

²⁹⁷ See, e.g., Minutes of meeting between MHP representative, MHP-hired consultant, local community members and local NGO representatives (16 Nov. 2017), included in Annex 4.

²⁹⁸ Letter from residents of Olyanytsya to the People's Deputy of Ukraine (25 Jun. 2012), included in Annex 4.

²⁹⁹ Letter from the "Rescue Committee of the Village of Olyanytsya" to Trostyanets Rayon Administration and Trostyanets Rayon Council (21 Sep. 2012), included in Annex 4.

³⁰⁰ Letter from residents of Trostyanets rayon of Vinnytsya oblast to President Poroshenko (6 Apr. 2016), included in Annex 4. Of the three villages involved in this complaint, only Olyanytsya sits within Trostyanets Rayon, but the letter raised concerns similar to those of neighboring communities as well. Project activities span across multiple rayons, including Trostyanets and Tulchyn.

concerns are still outstanding and unaddressed. In September 2016, 225 villagers signed a petition opposing construction of Brigades 43 and 44. As discussed above, this was presented at the Olyanytsya Village Council meeting to no effect.³⁰¹

Zaozerne

In January 2017, villagers in Zaozerne met with an MHP representative and presented a letter requesting disclosure of certain documents and a petition signed by nearly 350 community members in opposition to the development of Brigade 47, absent further consultations.³⁰² The Company responded by refusing all of the community members' requests and accusing them of illegally violating the Company's right to conduct business.³⁰³

In May 2017, Zaozerne villagers made phone calls and sent MHP a letter raising concerns about alleged spraying of pesticides too close to a residence and without prior notification.³⁰⁴ Community members who raised this concern to the Village Council have not been satisfied by the Company's response to date and concerns about pesticide spraying continue.³⁰⁵

In June 2017, Zaozerne community members signed a petition opposing the construction of the planned biogas plant and submitted comments on a draft Detailed Spatial Plan of the facility.³⁰⁶ Construction of the plant has moved forward nonetheless, and we have not seen any updated version of an EIA or Detailed Spatial Plan with our comments incorporated.

International Lenders

We have also made numerous attempts to communicate our concerns to international lenders, including the IFC. In 2012, community members contacted national and international environmental NGOs requesting support to resolve the issues detailed in this complaint. The CEE Bankwatch Network and its Ukrainian member organizations, currently the Centre for Environmental Initiatives Ecoaction, have since assisted us to raise concerns through a series of in-person meetings, emails and letters.³⁰⁷

³⁰¹ Minutes of Olyanytsya Village Council Public Hearing (21 Sep. 2016), included in Annex 8.

³⁰² Letter from community members to Vinnytsia Broiler Director (27 Jan. 2017); Petition, "Residents of the Zaozerne Village Council who opposed the construction of the brigade for the cultivation of chickens #47 within Vasylivka" (Undated), included in Annex 4.

³⁰³ Letter from Vinnytsia Broiler Director addressed to a local community member (14 Feb. 2017), included in Annex 4.

³⁰⁴ Letter from Zaozerne Village Council to Zernoproduct (5 May 2017), included in Annex 4.

³⁰⁵ For example, on 4 May 2018, a local community member again noticed Zernoproduct Farm spraying pesticides close to their residence and without prior notice. This recent incident was again raised through a phone call to MHP's Corporate Social Responsibility team, and after that the spraying did eventually stop, but we fear such incidents may continue to occur.

³⁰⁶ Letter and petition from Zaozerne community members (29 Jun. 2017); Letter from Zaozerne community member to Zaozerne Village Council, Tulchyn District Administration and Vinnytsia Broiler and the VPF (16 Jun. 2017); Letter from NECU to Zaozerne Village Council, Tulchyn District Administration and Vinnytsia Broiler and the VPF (Jun. 2017); all included in Annex 4.

³⁰⁷ See Annex 4 for a record of this correspondence.

Communication with the IFC dates back to 2015, when our NGO advocates met with IFC representatives prior to publishing a detailed report on the VPF and its impacts on local communities.³⁰⁸ The NGO team sent a follow-up letter to the IFC after the publication of that report, highlighting the social and environmental concerns identified in the report and requesting increased attention from the IFC to ensure MHP's compliance with the Performance Standards.³⁰⁹ The IFC did not respond. Our NGO advocates also sent further communications to the IFC in 2017, including comments on MHP's new SEP and on the planned biogas plant.³¹⁰ IFC did not respond to either of these communications.

Communication with the EBRD, another MHP lender, dates back to 2012 and 2013, when NGO advocates first reached out to the lender to request better information disclosure and later to raise concerns prior to a planned increase in financing to MHP.³¹¹ Following the release of the Black Earth report in 2015, the EBRD planned a monitoring trip to the VPF and another large MHP farming operation in 2016.³¹² This visit was welcome. While we believe that the trip report downplayed some community concerns, it made useful recommendations regarding topics such as impacts to water resources, discussed above. More recently, we and our NGO advocates have corresponded with representatives of the EBRD about its 2017 investment in the planned VPF Phase 2 biogas plant, raising concerns regarding consultation, information disclosure and feared environmental impacts.³¹³ While the EBRD has responded to our communications,³¹⁴ we have still not seen significant changes in the majority of issues raised above.³¹⁵

V. What we want from this process

We believe that many or all of the concerns discussed in this complaint can be addressed through an independently-facilitated dialogue process with the Company. Many of our concerns relate to a lack of information and poor consultation with MHP about its planned developments, which limit our ability to understand and assess environmental or other potential impacts to our communities. We therefore believe that a well-facilitated information sharing process is the first step to resolve these issues. While further needed actions may become clear only after an initial process of information sharing, we generally believe that resolution of our concerns would require the following actions:

- 1) Publicly release information, in an appropriate form and language, about the Project and

³⁰⁸ *Black Earth*.

³⁰⁹ Letter from NECU to Rafal Golebiowski, Principal Investment Officer, Manufacturing, Agribusiness and Services, IFC (30 Sep. 2015), included in Annex 4.

³¹⁰ Email from Vladlena Martsynkevych, NECU and CEE Bankwatch Network, to Olena Harmash, IFC, and representatives of the EIB, EBRD and OPIC (18 Apr. 2017); Email from Vladlena Martsynkevych, NECU and CEE Bankwatch Network, to Olena Harmash, IFC, and representatives of the EIB, EBRD and OPIC (27 Jun. 2017).

³¹¹ Email correspondence between CEE Bankwatch Network and the EBRD (May-Jun. 2012); Letter from NECU, Ladyzhyn civil council, Public centre of ecological control and "Voice of Nature" to the EBRD (21 Oct. 2013), included in Annex 4.

³¹² EBRD Monitoring Report 2016.

³¹³ See Annex 4 for a record of this correspondence.

³¹⁴ Letter from EBRD to CEE Bankwatch Network (30 Aug. 2017); Letter from EBRD to CEE Bankwatch Network (12 Dec. 2017); both included in Annex 4.

³¹⁵ One possible exception is the issue of information disclosure. We have noticed recent improvements in Project disclosure practices, however there are still significant gaps, as discussed above.

its local impacts. This should include, but not be limited to, information on the total water use of the VPF and Zernoproduct Farm, impacts on surrounding groundwater and other water resources and cumulative pollution impacts on air, water and soil. Information should also explain the cumulative impacts of the Project together with other polluting activities in the area. Finally, it should include information about all currently envisioned new MHP operations in the area, including construction of VPF Phase 2 facilities, new land acquisitions by Zernoproduct Farm and other local Project operations.

- 2) Work with local communities to develop improved consultation processes that enable all affected people to meaningfully consult on the entire planned farm expansion, and on any specific facilities that may affect them;
- 3) Commission an independent investigation into the Project's local air, water and soil pollution impacts and any potential links to health impacts in local residents;
- 4) Implement, and ensure strict adherence to, effective mitigation measures to address odor and pollution impacts;
- 5) Implement necessary measures to address and minimize impacts from Project-related heavy vehicle road use, including by constructing necessary bypass roads, implementing and effectively enforcing vehicle speed and safety measures, repairing and strengthening roads along primary MHP thoroughfares and funding repairs for property damage caused by heavy vehicle road use;
- 6) Commission an investigation into reported employment issues and work with independent experts to make any necessary improvements to workplace policy, practice and/or culture; and
- 7) Suspend construction of Phase 2 facilities until a comprehensive assessment of social and environmental impacts is disclosed and meaningful, inclusive consultations are held.

VI. Conclusion

We remain optimistic that a constructive dialogue with MHP is possible. We request the CAO's support to provide a structured and independently facilitated framework for such a dialogue, to move past our current pattern of unfulfilled promises and towards a lasting resolution and more positive future engagement with the Company.

Should such a dialogue fail, we alternatively request that the CAO conduct an independent and thorough compliance investigation into all of the concerns raised in this complaint.

Please do not hesitate to contact our advisors and us with any questions regarding this complaint.³¹⁶ We look forward to hearing from you about this important matter.

Sincerely,

[signature page confidential]

³¹⁶ Contact information is included in Annex 1.

Annex 2: IFC Management Response

INTERNATIONAL FINANCE CORPORATION

**MANAGEMENT RESPONSE
TO THE CAO COMPLAINT
ON**

**MYRONIVSKY HLIBOPRODUCT (MHP)
UKRAINE
(PROJECT NO. 34041)**

February 11, 2022

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ABBREVIATIONS AND ACRONYMS

AMR	Annual Monitoring Report
CAO	Office of the Compliance Advisor Ombudsman
CAP	Corrective Action Plan
E&S	Environmental and Social
EBRD	European Bank for Reconstruction and Development
ESAP	Environmental and Social Action Plan
DR	Dispute Resolution
EHS	Environmental, Health and Safety
GPS	Global Positioning System
GRM	Grievance Redress Mechanism
HR	Human Resources
IFC	International Finance Corporation
ISO	International Organization for Standards
MHP	Myronivsky Hliboproduct
NGO	Nongovernmental Organization
OHS	Occupational Health and Safety
PCM	EBRD's Project Complaint Mechanism
PS	IFC's Environmental and Social Performance Standards
SE	Stakeholder Engagement
SEP	Stakeholder Engagement Plan
US\$	United States dollar
WBG	World Bank Group

EXECUTIVE SUMMARY

Background

- i. The International Finance Corporation (IFC) and the Compliance Advisor Ombudsman (CAO) received an environmental and social (E&S) complaint in June 2018 against Myronivsky Hliboproduct (MHP, or “the Company”), a leading agribusiness company in Ukraine, in relation to MHP’s expansion of the poultry production facility in the Vinnytsia region of Ukraine. Prior to the complaint, in 2014 IFC committed US\$250 million loan package to refinance MHP’s Eurobond due in 2015, which was previously raised to finance the Company’s expansion of poultry production, animal feed and arable farming in Ukraine (the “Project”). The complaint was received from local community members in Olyanytsya, Zaozerne, and Kleban villages (“Complainants”), with support from CEE Bankwatch Network/Center for Environmental Initiatives “Ecoaction,” a Ukrainian nongovernmental organization (NGO), and Accountability Counsel (an NGO based in the United States). The complaint alleges actual and anticipated negative impacts to the residents of these three villages and the local environment caused by the Project and, in particular, by the construction and operation of the Vinnytsia Poultry Farm and Zernoproduct Farm which began in 2010.
- ii. The IFC investment under the Project consisted of (a) an A loan of US\$100 million for IFC’s own account; (b) a loan of US\$75 million from IFC acting in its capacity as the implementing entity for the Managed Co-lending Portfolio Program; and (c) a B loan of up to US\$75 million from participating banks (together, the IFC Loans). The loans had been disbursed by April 2015, except for (i) US\$20 million from the B loan, which was disbursed in March 2017, and (ii) another US\$30 million, also from the B loan, which was dropped as sufficient financing was available to MHP from other sources. The IFC Loans were fully prepaid in September 2019 from excess liquidity available to MHP because of better-than-expected operational and financial performance. The Company’s expansion of the Vinnytsia Poultry Farm and Zernoproduct Farm were completed at the time the IFC Loans were prepaid.
- iii. IFC’s long-standing relationship with MHP began in 2003 and has included five investment projects and multiple advisory engagements, focused on resource efficiency assessment, implementation of a food safety management system, enhancements in waste management and animal welfare standards, and support in improving E&S practices. With IFC’s strategic engagement, MHP has: (a) contributed to global food security as the Company has ramped up its exports of grains, vegetable oil, and poultry meat; (b) created thousands of jobs, particularly in rural areas where opportunities may be scarce; (c) expanded economic opportunities for micro, small and medium enterprise entrepreneurs; and (d) had a demonstration effect, as other companies have learned from MHP’s advanced practices. There were no outstanding investment or advisory projects after prepayment of IFC Loans in September 2019.
- iv. IFC Management takes E&S concerns in relation to its projects seriously and appreciates CAO’s engagement in this case. It is important that complainants are able to raise any issues and concerns they may have.

The Complainants concerns related to reported actual and potential impacts, including:

1. Odor and dust, including odor from the application of manure on nearby fields, as well as additional impacts from dust, noise, and other foul odors, which affect residents along major MHP thoroughfares.
2. An increase in heavy vehicle traffic through their villages resulted in damage to roads and nearby residences.

3. Inadequate consultation processes and sub-optimal disclosure of Project information. Complainants also allege that the Company's representatives suppressed dissent about the Project.
4. Air, water, and soil pollution, as well as the depletion of local water resources allegedly caused by MHP operations.
5. Possible future impacts of the planned expansion of the Vinnytsia Poultry Farm, including the construction of a new biogas plant in Zaozerne.
6. Lack of an appropriate grievance mechanism prevents the Company from handling community concerns in a prompt, transparent, and effective manner.
7. Employment with MHP, alleging poor working conditions, insufficient mitigation of employee' health and safety risks, low wages for some jobs, improper salary deductions, and retaliation against employees who raise concerns or whose family members criticize MHP.
8. Calls for increased transparency on renewing land leases, which was raised during the mediation process, although this was not in the original complaint letter.

Review of the concerns in the complaint

- v. This Management Response addresses the issues raised in the complaint, specifically MHP's compliance with the applicable requirements of IFC's Performance Standards (PS) at the project level. The concerns raised in the CAO complaint have been grouped into four clusters of issues.
- vi. IFC identified several risks such as those raised in the complaint, at appraisal and had included related mitigation measures in the Environmental and Social Action Plan (ESAP), to support the client in improving its practices. These risks and issues raised at appraisal continued as the Company expanded. Following CAO's assessment of the complaint, in January 2019, IFC took additional actions, including meeting with the client and communities, to better understand the issues and explore possible solutions, as needed. However, IFC loans were prepaid in full in September 2019 by MHP, and in the absence of any loan exposure and respective legal obligations from MHP's side, IFC's leverage on the Company to finalize the implementation of the ESAP and to resolve the dispute with the Complainants has been limited. In order to exit responsibly, the IFC team engaged with MHP on corrective actions which led to completion of the ESAP in June 2020, however, further follow up was not possible. The European Bank for Reconstruction and Development (EBRD) remains an active investor in the biogas project which forms part of the Company's expansion, and which IFC did not finance. EBRD is following up on E&S compliance.

1. Consultation processes, disclosure, community grievance mechanism, retaliation, and information sharing on land leases (Concerns #3, #5, #6 and #8)

- vii. During IFC's investments with MHP, gaps were identified in the Stakeholder Engagement (SE) and Grievance Redress Mechanism (GRM). IFC worked closely with the Company to develop a Stakeholder Engagement Plan (SEP) which engaged local and international experts to advise on the development of a community GRM. During subsequent site visits and Annual Monitoring Report (AMR) reviews, concerns from local communities and NGOs regarding lack of information, and disclosure of expansion plans were noted, and corrective actions were developed.
- viii. With IFC's support, the Company demonstrated its commitment to address the issues, by establishing a Corporate Social Responsibility and Public Affairs department to work closely with communities and NGO's and revised and disclosed policies/procedures including the SEP and GRM. During the CAO's Dispute Resolution (DR) process, the Complainants and the Company

adopted a communication protocol to address any urgent matters arising from the SEP. The Company assigned local staff to attend to these issues.

- ix. IFC takes seriously allegations of reprisals against project stakeholders and engaged with MHP on how they addressed concerns regarding construction or expansion of facilities such as the Vinnytsia poultry plant and the biogas plant in Zaozerne. As a result, MHP hired additional staff to support SE, facilitated trainings and workshops to boost internal capacity and increased engagement with communities, especially around expansion projects.
- x. The issue of lack of transparency when renewing land leases was raised during the DR process, rather than in the complaint. After the complaint in 2019, IFC recommended MHP to strengthen its Land Easement Policy regarding compensation and expropriation. The revised policy was disclosed on MHP's website. An agreement was reached during the DR process on increasing transparency when renewing land lease contracts.
- xi. With the support of IFC, MHP diligently worked to improve disclosure and compliance with PS. However, as MHP continued to grow its business, compliance with the PS was not consistent and IFC worked with the Company to address these gaps.

2. Working conditions, OHS and salary issues (Concern #7)

- xii. During IFC's investments, gaps were identified in the Company's Occupational Health and Safety (OHS) management systems, such as a procedure to determine the root cause of accidents. The ESAP included an independent audit of OHS practices and results of the audit included improvements to reduce accidents through further development of standard operating procedures. In subsequent site visits, IFC noted that more improvements were necessary. Accordingly, MHP engaged experts to train staff on, for example, appropriate use of equipment to prevent accidents and injuries. Despite prepayment of the IFC Loans in September 2019, IFC continued its engagement at MHP's request and provided comments on plans to enhance OHS.
- xiii. On the allegations of low wages and benefits, IFC verified that MHP's minimum wages were in line with national law, and overall higher than the average wage in the local market, which is in line with PS requirements.
- xiv. IFC is therefore of the view that the Company has progressed on health and safety performance, with the support of IFC, although MHP's increased operational footprint has led to inconsistent occupational health and safety (OHS) performance across its operations. IFC and MHP both recognize these shortcomings and have been working on further improvements.

3. Air, water, soil and noise pollution and depletion of water resources (Concerns #1 and #4)

- xv. IFC conducted due diligence on MHP's Environmental Health and Safety (EHS) management systems and found gaps. IFC engaged with MHP to make improvements in liquid and solid waste management as well as to the pesticide and fertilizer application plan. During site visits, IFC noted that MHP was taking steps to improve EHS management, in compliance with the PS.
- xvi. After the complaint, IFC supported MHP to continue its improvements in pollution prevention measures, particularly for odor and waste management. During the DR process, the issue of the use of pesticides was discussed and MHP provided the list of pesticides used, their dosage, and the application methods, in line with IFC standards.
- xvii. IFC concludes that MHP had in place the necessary procedures and results remained within the national and World Bank Group (WBG) EHS limits, and were in compliance with the PS.

4. Impacts of heavy vehicles (relates to Concern #2 above)

- xviii. The use of heavy vehicles by MHP was identified as a risk by IFC and the ESAP action required the Company to develop a traffic management plan. Due to concerns about heavy traffic movement and damage to local roads and residences, MHP constructed a bypass road around Olyanytsya village and installed GPS tracking devices in the trucks to monitor their movements so that internal roads were not being used. After the complaint, IFC advised MHP to increase communications with the communities to inform them of the additional measures MHP was taking to reduce the impact of traffic through the villages.
- xix. IFC is of the view that MHP has worked to address the issues of traffic-related impacts in compliance with the IFC PS.

Conclusion

- xx. Since 2003, IFC's long-standing relationship with MHP has resulted in five investments which helped the Company evolve from a middle-sized local producer to a European leader in poultry production.
- xxi. While E&S risks and issues remained throughout the lifetime of the Project, MHP demonstrated its commitment to comply with the PS over the years. To address the outstanding issues, the Company allocated resources to implement necessary changes, including investments in physical assets such as a bypass road and wastewater treatment facility, along with investments in building the capacity of E&S staff. EBRD remained an active lender to the Company after IFC's exit and monitored E&S compliance.
- xxii. MHP prepaid the IFC loan in September 2019 but remained committed to completing the outstanding ESAP items recognizing the value this would bring to its operations. All ESAP items were completed by June 2020. The Company participated in the DR process, determined to resolve the issues raised in the complaint, and made efforts to find suitable solutions in consultation with the Complainants.
- xxiii. IFC therefore concludes that, throughout the course of the Project, MHP worked to improve compliance with IFC PS, with the support of IFC. However, as MHP continued to grow its business, compliance with the PS was not consistent. IFC and MHP continued to work together to address the gaps in compliance.

I. INTRODUCTION

1. In June 2018, the CAO received a complaint from local community members in Olyanytsya, Zaozerne, and Kleban villages (the “Complainants”), with support from CEE Bankwatch Network/Center for Environmental Initiatives “Ecoaction,” a Ukrainian NGO, and Accountability Counsel, an NGO based in the United States, regarding IFC’s investment in MHP in Ukraine. In addition to filing a complaint with CAO, the Complainants submitted a complaint to the Project Complaint Mechanism (PCM) of the EBRD,¹ which is also an investor in MHP.

CAO found the complaint eligible in June 2018 and began an assessment of the complaint which was completed in December 2018. After the assessment, the Complainants and the Company agreed to engage in a voluntary dialogue process to try and resolve the dispute. As agreed by the Complainants and the Company, CAO and PCM jointly facilitated the DR process. In January 2022, CAO shared a DR Conclusion Report, noting that some agreements had been reached; however, not all complaints had been resolved. At the request of the Complainants, the case was then transferred to CAO Compliance. This Management Response presents IFC’s understanding of the issues raised in the complaint.

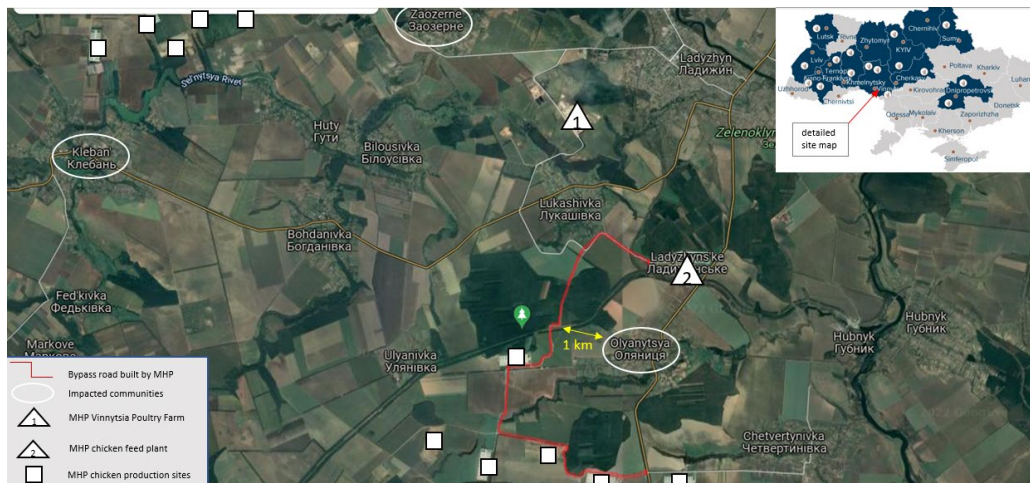
II. THE PROJECT

A. Project Background

2. MHP is one of the leading agro-industrial companies in Ukraine and focuses on the production of chicken meat and the cultivation of grains and oilseeds. MHP’s business is divided into three segments: (i) poultry and related operations; (ii) grain growing operations; and (iii) other agricultural operations. It is the largest poultry production company in Ukraine, with annual poultry sales of about 730,000 metric tons. The Company manages about 380,000 hectares of land in several regions of Ukraine and produces grains and oilseeds for internal feed production and trading. As part of its large-scale expansion program to double chicken meat production, in 2010 MHP began construction of the Vinnytsia poultry production complex, which became operational in 2013.

¹ The status of the complaint can be checked here: <https://www.ebrd.com/work-with-us/projects/ipam/2018/09.html>. The PCM operated from 2010 to 2020, when it was replaced by the Independent Project Accountability Mechanism.

Figure 1.



Map of MHP's operations in Ukraine including detailed site map of the facilities in the impacted area.

B. Project Purpose and IFC Investment

3. IFC's US\$250 million investment under the Project was dedicated to financing MHP's capital expenditure of US\$16 million and refinancing of a US\$234 Eurobond due in April 2015, which had been previously raised to support the Company's poultry production expansion in the region. IFC undertook five investments with MHP between 2003 and 2019. During this period, MHP recognized the additional value IFC brought to the company through its investment and advisory programs. IFC's first investment was to a medium sized local producer and by the time of the fifth investment, MHP was a European leader in poultry production. While the fifth investment was mainly financial in nature, MHP looked to IFC for guidance and support as it worked on its E&S commitments.

4. IFC's initial investments in the Company took place in 2003 and 2005. Subsequently, in 2010, IFC provided a US\$50 million A loan for working capital and cleaner production capital expenditures, and a US\$11.25 million partial credit guarantee to ING Lease Ukraine on a leasing portfolio of agricultural machinery to MHP (Project No. 29204). In 2012, IFC provided a US\$50 million A loan to help MHP fund its permanent working capital requirements as it expanded poultry production and backward integrated into cropping operations (Project No. 32632).

5. Project No. 34041 was IFC's fifth investment in MHP. It consisted of (i) an A loan of US\$100 million for IFC's own account; (ii) a loan of US\$75 million from IFC acting in its capacity as the implementing entity for the Managed Co-lending Portfolio Program, and (iii) a B loan of up to US\$75 million from participating banks. The loans were committed in June 2014 and had been disbursed by April 2015, except for US\$20 million from the B loan, which was disbursed in March 2017, and another US\$30 million, also from the B loan, which was dropped as sufficient financing was available to MHP from other sources.

6. IFC's loans were prepaid in full in September 2019 due to better-than-expected operational and financial performance. EBRD remains an investor in MHP's biogas facility, which was a subject of the concerns raised by the Complainants.

7. During IFC's engagement with MHP, the Company has evolved from a middle-sized local producer to a European leader in poultry production, achieved a more than threefold increase in output, accessed new export markets, improved corporate governance, established sound E&S management systems,

strengthened occupational health and safety practices, and advanced in stakeholder engagement. As confirmed by IFC's audits, MHP has maintained high standards in management of biosecurity, animal welfare, and antibiotic usage. Today, MHP is pursuing a strategy of becoming carbon neutral and is seen as a leader in the transformation of Ukrainian agriculture toward a modern, productive, and sustainable sector.

C. PS Assessments and Activities

8. The Project (No. 34041) was categorized as B per IFC's Policy on Environmental and Social Sustainability. IFC Performance Standards (PS) 1, 2, 3, 4 and 6 were assessed to be relevant. An Environmental and Social Review Summary was disclosed for the Project in April 2014 and the Project was committed in June 2014.

9. An appraisal site visit was undertaken in 2014, and, as with the earlier projects, the Company was found to be implementing integrated management systems in accordance with international standards such as ISO 9001, ISO 22000 and HACCP.²

10. Specific safeguards had already been integrated into the investment agreement for the 2010 Project in the form of an ESAP including items related to EHS management and monitoring and worker and community GRM. Between 2010 and 2012, the Company worked on developing the procedures and policies as per the ESAP. However, during the 2012 appraisal for the new loan, it was noted by IFC that E&S management plans required further fine tuning and MHP committed to addressing this in its 2012 ESAP.

11. IFC regularly received AMR's from MHP and noted that issues persisted, especially around OHS and community complaints. IFC worked with the Company to address these issues and introduced corrective actions. Site supervision visits took place in 2012, 2015, 2016, 2017 and 2019, when outstanding issues were discussed on site. Corrective action plans to address gaps concerning OHS, odor, dust, monitoring plans and SE related to improving information flow to stakeholders.

12. Recognizing that community-related issues continued to arise not only at MHP, but also in other IFC agribusiness clients in Ukraine, a stakeholder engagement workshop was organized by IFC in November 2019. Over the course of 2 days, clients came together to discuss how to respectively improve their community engagement.

13. Though MHP repaid the IFC loans in September 2019, the Company remained committed to completing the outstanding ESAP items, as it recognized the value this would bring to its operations. MHP was in compliance with all ESAP items for the Project by June 2020.

III. CAO COMPLAINT

14. In June 2018, CAO received a complaint from local community members in Olyanytsya, Zaozerne, and Kleban villages, with support from CEE Bankwatch Network/Center for Environmental Initiatives "Ecoaction" (a Ukrainian NGO), and Accountability Counsel (a US NGO), regarding IFC's investment in

² The ISO 9000 series is a set of standards of the International Organization for Standards that helps organizations ensure they meet customer and other stakeholder needs within statutory and regulatory requirements related to a product or service. ISO 22000 is a food safety management system. Hazard analysis and critical control points, or HACCP, is a systematic preventive approach to food safety from biological, chemical, and physical hazards in production processes that can cause the finished product to be unsafe and designs measures to reduce these risks to a safe level.

MHP in Ukraine. In addition to filing a complaint to the CAO, the Complainants also submitted a complaint to EBRD's PCM.

A. Key Issues

15. The key concerns raised by the Complainants in the complaint and through the CAO dispute resolution process are elaborated below.

- ***Concern #1 – Odor, dust and noise impacts related to farm facilities and application of manure***

Construction and operation, in particular the Vinnytsia Poultry Farm and Zernoproduct Farm, have caused continuous odor and dust impacts from a growing number of facilities and from the application of manure on nearby fields.

- ***Concern #2 – Odor, dust and noise related to heavy vehicle traffic***

Project activities have led to a drastic increase in heavy vehicle traffic through the Complainants' villages, resulting in damage to roads and nearby residences, as well as additional impacts from dust, noise, and foul odors affecting residents along major MHP thoroughfares.

- ***Concern #3 – Consultation processes and disclosure***

Consultation processes and disclosure of Project information have been inadequate and Client representatives suppress dissent about the Project.

- ***Concern #4 – Air, water and soil pollution, depletion of water resources***

Client's operations cause air, water, and soil pollution, and deplete local water resources.

- ***Concern #5 – Concerns about future impacts from expansion of the Vinnytsia Poultry Farm***

The Complainants expressed fear about possible future impacts related to the planned expansion of the Vinnytsia Poultry Farm, including the construction of a new biogas plant in Zaozerne.

- ***Concern #6 – Local grievance mechanism effectiveness***

The complaint claims that MHP does not have an appropriate local grievance mechanism to handle community concerns in a prompt, transparent, culturally appropriate, and effective manner. The complaint raises concerns about the existing limitations to the acceptance of anonymous complaints and alleges lack of clarity regarding the process for filing complaints with MHP through the local grievance mechanism.

- ***Concern #7 – Working conditions, OHS, salary issues and retaliation***

The complaint states that some Complainants have worked for MHP at some point, and they express employment and workplace-related concerns, including poor working conditions, insufficient mitigation of employee health and safety risks, low wages for some jobs, improper salary deductions, and retaliation against employees who raise concerns or whose family members criticize MHP.

- ***Concern #8 – Other issues raised in DR***

While not in the original complaint letter, the issue of renewing land leases was raised during the DR process. The Complainants required more transparency and clearer information regarding lease rates, incentives/stimuli for landowners, assistance to cover funeral costs, benefits for childbirth, details on formalizing the inheritance documents for the land parcels and information on how landowners could access these incentives.

16. In relation to the issues summarized above, the complaint alleged Project non-compliance with IFC PS 1 (Assessment and Management of Environmental and Social Risks and Impacts), PS 2 (Labor and Working Conditions), PS 3 (Resource Efficiency and Pollution Prevention), and PS 4 (Community Health, Safety, and Security).

B. Summary of CAO Process

17. The Complainants and the Company agreed to initiate a constructive dialogue through CAO's DR function and a PCM Problem-solving Initiative. With the assistance of two regional mediators, 23 meetings

were held both in person and, from March 2020, virtually due to the COVID-19 pandemic. In July 2021, the Company formally notified CAO and PCM of its withdrawal from the process. In August 2021, CAO and PCM facilitated a virtual bilateral meeting with the Complainants and the Company to discuss the way forward. The Complainants requested the case to be transferred to the Compliance function, per CAO's Policy on transitional arrangements.³ In October 2021, CAO's regional mediator traveled to Ukraine and facilitated closure meetings with each party to gather feedback on the process and provide information about the next steps.

IV. MANAGEMENT RESPONSE

18. This Management Response addresses the issues raised in the complaint, specifically MHP's compliance with the applicable requirements of IFC's PS at the project level. The concerns raised in the CAO complaint have been grouped into four clusters of issues. IFC appraisal and supervision efforts prior to receiving the complaint and its response after receipt are described below. IFC Management takes E&S concerns in relation to its projects seriously and appreciates CAO's engagement in this case. It is important that complainants are able to raise any issues and concerns they may have.

A. Consultation Processes, Disclosure, Community Grievance Mechanism, Retaliation, and Information Sharing on Land Leases (Concerns #3, #5, #6 and #8)

19. *Appraisal.* During the due diligence in 2010, the GRM and SE for communities was identified as a gap and reflected in the ESAP. MHP developed the GRM and SEP which was disclosed on their website. However, during the due diligence for the repeat deals in 2012 and 2014, IFC identified shortcomings with the implementation of the GRM and SEP across the Company and further actions were included in the ESAPs to address these concerns.

20. *Supervision regarding GRM and SE.* In 2014, following community and NGO complaints, regarding negative impacts from the expansion of the Vinnytsia complex and biogas plant in Zaozerne, IFC noted that the SEP developed by MHP at the headquarters was not being implemented at the individual facilities, including the Vinnytsia complex. In addition, it was noted that appropriate channels for receiving feedback from communities were not defined. To address gaps in the ESAP, IFC proposed a supplemental corrective action plan (CAP) during supervision, which included the hiring of a local SE specialist to design a process for ongoing consultation with communities, as well as a team of local mediators to establish a dialogue with affected communities. In 2014, IFC also assigned a social specialist to oversee MHP's work further emphasizing IFC's commitment to work with the company to bring it in compliance with the ESAP.

21. MHP revised the SEP in 2014, assigned a SE team at the corporate level, revised and approved a GRM for communities, and initiated implementation. IFC paid particular attention to how incoming grievances were managed by MHP on the ground in line with the revised policies and procedures.

22. However, in the supervision visits of 2015 and 2016, IFC found that implementation of the SEP remained an issue and assisted the Company in preparing a roadmap to enhance stakeholder engagement and to support the delivery of community development projects in a way that reflected community expectations and priorities. As part of the roadmap, IFC requested MHP to hire an international expert to identify gaps in MHP's SE and GRM. With IFC's support, the Company addressed the issues by establishing a Corporate Social Responsibility and Public Affairs department and revising and disclosing public policies/procedures, including for the SEP and GRM. Following the disclosure of the revised GRM

³<https://www.cao-ombudsman.org/sites/default/files/downloads/CAOPolicy-TransitionalArrangements.pdf>

it was noted that there was increased transparency and involvement of the community regarding MHP expansion plans and community-based development projects.

23. A stakeholder engagement workshop organized by the international consultant hired by MHP (on IFC's advice) was held in February 2017, to advise on implementation of the plans and IFC to provide additional support and guidance. An IFC social specialist also worked diligently with MHP on institutionalizing the SEP and GM through (i) establishing accountability of senior management; and (ii) monitoring SE performance and grievances through issue-specific performance indicators

24. During the CAO's DR process, MHP expressed its commitment to enhance its SE and hired an additional expert to review it. IFC's social specialist supervised the process and noted that positive outcomes included the establishment of Issue Management Teams to work actively to respond to community grievances and appeals. In 2019, IFC visited the Complainants' communities and participated as observers in a CAO mediation meeting. IFC observed that MHP had a complaint box at each affected village which allowed the community members to confidentially submit their complaints. Competent community liaison staff were available in the field for regular consultations. IFC identified cases during the site visit where MHP had adjusted its expansion plans to accommodate feedback received from the local community. Following the site visit IFC facilitated a SE workshop for all agribusiness clients in Ukraine, including MHP, to share ideas on ways to further improve SE.

25. *Supervision regarding retaliation.* IFC takes allegations of reprisals against project stakeholders seriously. The private sector has a role to play in engaging workers and communities and creating a safe environment in which they can raise E&S concerns. Central to this is an effective grievance mechanism to report issues, and stakeholder engagement activities in place which provide that two-way information channel to share company information and receive feedback. In 2014, IFC engaged with MHP on how they addressed concerns regarding construction or expansion of facilities, and the public meetings which they held to discuss plans until public agreement was reached. After the complaint in 2019, IFC continued to engage regularly with MHP to check on the robustness of its SE program with local communities and NGO representatives. This included working with MHP to develop an NGO engagement procedure in 2020 available at <https://api.next.mhp.com.ua/images/512bd/a8005/2ec9117b.pdf>. Additional staff were hired by MHP to support SE and internal trainings and workshops were held to boost internal capacity. IFC's institutional practices on screening, preventing and responding to reprisals has continued to evolve in recent years, including the release of the Good Practice Note for Private Sector in 2021.

26. *Supervision regarding the sharing of information on the specific issue of land leases.* Although it was not in the original complaint letter, the issue of renewing land leases was raised during the DR process. The Complainants sought more transparency and clearer information regarding lease rates and other incentives/stimuli for the landowners. Throughout the supervision process, IFC engaged with MHP to confirm that leasing of new land plots was not associated with involuntary resettlement. After the complaint was shared with IFC in January 2019, IFC recommended MHP to strengthen the Land Easement Policy regarding compensation and expropriation. Upon completion, the policy was disclosed on its website <https://api.next.mhp.com.ua/images/512bd/a8005/6fa2134263.pdf>. During the DR process, an agreement was reached on how MHP would communicate with landowners when renewing land lease contracts.

27. IFC is therefore of the view that over the course of the Project, improvements were implemented, and resources were made available to address the concerns of the Complainants. Throughout the course of the Project, IFC engaged with MHP to facilitate compliance with IFC's PS. Since MHP's compliance with the ESAP was lagging, IFC and MHP continued to work together to address gaps in compliance. While the Company has made progress on SE and GRM aspects, both IFC and the Company identifies these as areas for ongoing improvement. MHP has continued to work on enhanced disclosure of information and further

strengthening of SE and its GRM (<https://api.next.mhp.com.ua/images/d0665/51ce4/437a4e02.pdf>), such as access through multiple grievance channels and confidentiality to prevent reprisals.

B. Working Conditions, OHS and Salary Issues (Concern #7)

28. *Appraisal.* During appraisal in 2010, IFC identified areas for improvement related to compliance with PS 2. IFC requested MHP to: (i) develop a procedure for internal monitoring, registering and reporting of incidents, near misses and determining the root cause of accidents; (ii) develop a procedure for handling pesticides; (iii) develop a procedure for dealing with actual and potential non-conformities and for taking corrective and preventive actions; (iv) enhance the corporate human resources (HR) policy by focusing on management commitments to employees' rights to labor protection; (v) develop procedures to improve staff retention; (vi) develop HR organizational structure and responsibilities; (vii) improve internal communications; and (viii) develop a workers' GRM. IFC and MHP agreed to include actions items to address these gaps as part of the ESAP.

29. *Supervision regarding OHS.* By 2012, MHP had completed the ESAP items identified during appraisal, however issues remained regarding OHS. In 2014 IFC advised MHP to hire a local consultant to conduct independent OHS audits of selected individual facilities. Corrective actions implemented under senior management responsibility included the completion of ISO 18001 training for key OHS engineers; introduction of measurable performance indicators and risk analysis to improve accident reporting; and a comprehensive program for improvement of OHS performance.

30. As a part of its supervision, IFC continued to regularly monitor OHS compliance and noted that improvements were still required regarding accident prevention. IFC recommended MHP to employ additional OHS professionals at the head office and engage consultants to establish an internationally aligned OHS management system specifically for identification of actions to prevent accidents and injuries. These actions eventually resulted in improvements in the Lost Time Injury Frequency Rate to 1.1 in 2018, which is better than the industry average.

31. After the CAO complaint in 2019, as a part of its supervision, IFC continued to monitor OHS practices and provided additional recommendations to close health and safety gaps. MHP enhanced staff training and engaged with experts to further prevent accidents and injuries. Despite prepayment of the IFC loans in September 2019, the IFC team continued its engagement at MHP's request, and actively reviewed and provided comments on plans for OHS improvements.

32. *Supervision regarding salary and working conditions.* In 2014, IFC observed that the minimum wage at the Vinnytsia poultry complex was higher than the average wage in the local market. As specified in the employment contracts, staff did not work beyond the maximum legal limitations. IFC recommended that MHP review HR policies at individual facilities, with Vinnytsia as a priority and implement the workers' GRM and address concerns from workers. In its various supervision activities (physical as well as in AMR reviews), IFC has not found evidence of concerns on account of wages, benefits and/or working conditions.

33. Despite full prepayment in September 2019, and after the complaint, IFC continued to engage with MHP on corrective actions to address OHS limitations, including guidance to MHP on revising enforcement of personal protective equipment use; improvement of the fatality investigation process; workers' GRM and worker retention measures. IFC actively reviewed and provided comments and feedback on reports that MHP provided on these actions.

34. Over the course of IFC's investment in MHP, IFC recognized that OHS management procedures were a concern and therefore developed and implemented strategies with the Company, which showed

improvements over time. However, an increased footprint has meant that OHS performance has not been consistent. IFC and MHP both recognize this and have worked on improvements regarding OHS management systems, staff training and awareness building, accident prevention procedures and monitoring.

C. Air, Water, Soil and Noise Pollution and Depletion of Water Resources (Concerns #1 and #4)

35. *Appraisal.* In 2010, IFC conducted due diligence on MHP's EHS management system which was developed to address the issues of resource efficiency and pollution prevention. An ESAP was developed to address gaps including improvements in liquid and solid waste management, the development of a pesticide management plan and a plan to reduce greenhouse gas emissions and air pollution.

36. *Supervision regarding air and noise pollution.* During supervision between 2010 and 2012, deficiencies were noted regarding monitoring and reporting of air emissions. MHP implemented measures to mitigate and manage potential environmental pollution such as installing air filters at feed mills and grain silos and making sure buffer zones of sites located in the vicinity of villages complied with national laws and regulations and organic waste was disposed of in rendering facilities to reduce odor. IFC monitored implementation of these measures and in addition, in 2012 requested MHP to prepare a corporate management program for gradual implementation of the EHS management system consistent with ISO 14001 at individual plants, prepare E&S Management Plans for operations of the Vinnytsia poultry facilities and establish systematic monitoring and review of MHP and contractors' EHS performance. IFC also requested MHP to provide environmental report templates with performance indicators, including frequency of tests of air emissions and ambient air (dust, odor, noise) at the edge of the nearest residential areas.

37. In 2014, MHP began construction of a bypass road round Olyanytsya village to reduce the impacts on communities of odor, noise, dust, and exhaust gases. Manure storage facilities were established away from communities to manage odor impacts and only composted manure was applied to the fields under appropriate weather conditions with the amount controlled by soil analysis. The purpose-built ring road was used to transport manure at a distance from villages.

38. During supervision visits in 2015 and 2016, it was reported that the pollution prevention and control plan and emissions plan were being implemented. Results from point source monitoring were in line with national regulations and WBG guidelines IFC held several meetings with MHP EHS representatives on topics related to compliance with PS 3 and MHP E&S performance, and recommended MHP to improve disclosure of relevant EHS information and engagement with local NGOs and communities. IFC also requested MHP to monitor air emissions from Vinnytsia complex monthly.

39. *Supervision regarding water and soil pollution and water resources.* During supervision site visits and AMR reviews from 2012 onwards, the quality of liquid effluents was monitored regularly and met national standards and the WBG EHS effluent guidelines. Monitoring covered analysis of liquid effluents from poultry farms, meat processing plants and slaughterhouses and was supported with inspections by authorities. In 2012, a state-of-the-art wastewater treatment plant installed at the Vinnytsia complex was designed to receive wastewaters from the poultry breeding/rearing farms, the slaughterhouse, and the meat processing plant. During a supervision visit in 2016, it was noted that a resource efficiency program was in place to monitor the use of water and adapt operations in case of need. Water intake from the river was in line with extraction permits. MHP implemented recycling and waste minimization initiatives, such as using crop residues and waste as natural fertilizer, using recycled sunflower husk as biofuel, maintaining low water content in organic manure, and using pesticides and chemicals certified and permitted by relevant local authorities and in line with WBG guidelines. In parallel with the DR process, MHP supported the

development of a water supply system in Olyanytsya village through its corporate social responsibility funds, as the community had identified water supply as a priority.

40. Following the complaint, IFC recommended MHP to increase communications with the communities to share monitoring data and actions that it had taken to manage impacts of air, water, soil, and noise pollution.

41. IFC concludes that MHP had in place the necessary procedures and that results remained within the national and WBG EHS limits and in compliance with the PS.

D. Impacts of Heavy Vehicles (Concern #2)

42. *Appraisal.* During appraisal in 2012, IFC identified gaps in compliance with PS 4 related to transport safety and requested MHP to establish a safety transport program. Following complaints from local communities regarding increased traffic through villages and related health and safety concerns, in 2014, MHP began constructing a bypass road round Olyanytsya village to reduce odor, noise, dust, and exhaust gases and enhanced monitoring of air emissions from the fodder production plant at the Vinnytsia complex. IFC supervised the commitments and the completion of the bypass road.

43. *Supervision.* During supervision visits by IFC in 2015, and after the complaint in 2019, local stakeholders and NGOs reported unresolved problems and inadequate measures to mitigate increased traffic and road safety risks. IFC recommended MHP to improve the disclosure of EHS information and communicate project related developments through its public relations function. IFC also recommended that more robust GPS monitoring be undertaken so that no MHP trucks use the Olyanytsya village internal road, together with signage to direct trucks to the bypass road. MHP has implemented these recommendations.

IFC concludes that MHP worked to address the issues of traffic related impacts and was in compliance with IFC PS.

V. CONCLUSION

44. IFC takes the concerns raised by the Complainants seriously and has assessed them in relation to the Project. Based on its initial assessment of the issues in terms of the projects legal and E&S requirements, IFC is of the opinion that:

- Throughout IFC's engagement with the Company over the years and several projects, the risks associated with PS's 1, 2, 3 and 4 were identified. IFC worked with the Company to address these risks including SE; OHS; water, air, and soil pollution and water resources management; and traffic management.
- Over the course of IFC's investments, improvements were made, and resources were available to address the concerns of the Complainants. Throughout the course of the projects, IFC engaged with MHP to facilitate disclosure and compliance with IFC's PS. Since MHP's compliance with the ESAP was lagging, IFC and MHP continued to work together to address gaps in compliance.
- IFC concludes that with regards to water, air, and soil pollution and water resources management, MHP put in place the necessary procedures and that results were within the national and WBG EHS limits and in compliance with PS 3. IFC also concludes that MHP was in compliance with PS 4 regarding traffic related impacts.

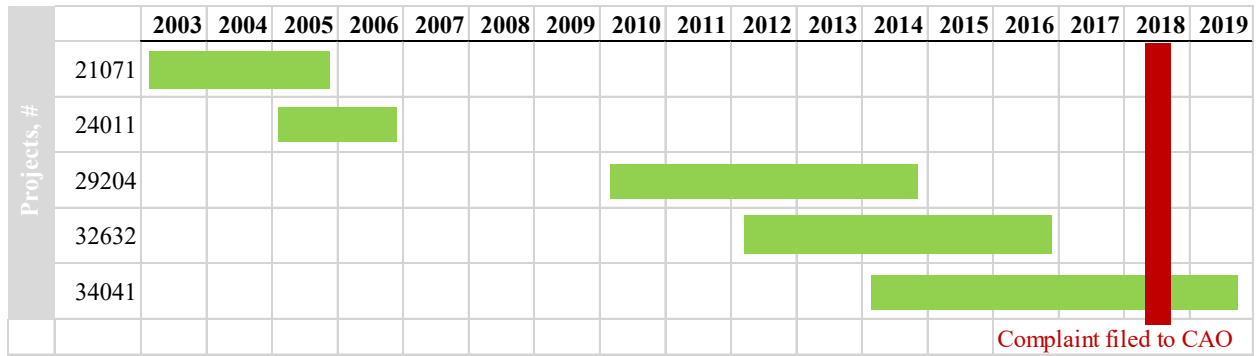
- Progress has been made by MHP on SE and GRM aspects of PS1, however, both IFC and the Company identify these as areas for ongoing improvement. MHP has continued to work on disclosure of information and strengthening of SE and its GRM for example, providing access through multiple grievance channels and confidentiality to prevent reprisals.
- Regarding OHS, IFC identified gaps and recommended remedial actions throughout the years of IFC's engagement. While MHP improved its OHS practices, some gaps in compliance with PS 2 may potentially remain as the Company amends its systems and processes to adapt to the Company's rapid growth.

45. MHP prepaid the IFC loan in September 2019 but remained committed to completing the outstanding ESAP items as it recognized the value this would bring to its operations. All ESAP items were completed by June 2020. Based on its assessment of the issues raised by the Complainants in terms of the Project's legal and E&S requirements, IFC believes that MHP's engagement, even after prepaying the IFC loan, demonstrated its commitment to addressing and resolving the concerns raised by the Complainants.

ANNEX: BRIEF TIMELINE

Timeline	Event Description
2003	IFC invested in the Company with a US\$30 million loan to support its efforts in pioneering chilled poultry distribution, introducing innovative sunflower protein technology, and expanding poultry production.
2005	IFC committed US\$20 million equity investment and a US\$60 million loan. In 2006, IFC exercised its put option to sell its entire shareholding.
2010	MHP started a large capacity expansion in the Vinnytsia region to double its poultry production capacity. In June, IFC committed US\$50 million A loan for working capital and cleaner production capital expenditures, and a US\$11.25 million partial credit guarantee to ING Lease Ukraine on a leasing portfolio of agricultural machinery to MHP. The team conducted site visit as part of the project appraisal.
2012	In December, IFC committed a US\$50 million A loan to help MHP fund its permanent working capital requirements for its expansion of poultry and crop production. The team conducted a site visit in August. The site became operational in 2013.
2014	IFC committed US\$250 million under Project No. 34041 to refinance MHP's bond. The team conducted supervision visit in February 2014 as part of the project appraisal.
2015	In October, IFC conducted a supervision visit to the production site in Vinnytsia and met with the local NGOs and affected communities. As a result, IFC and MHP agreed to an extended corrective action plan (CAP) aimed at improvement of MHP's stakeholder engagement activities, including enhancement of the community GRM, and measures to address OHS issues.
2016	As part of an enhanced supervision, a social specialist was assigned to the IFC team to help MHP in planning and establishing stakeholder engagement as an ongoing process and to lead social and community development discussion with MHP. Following a supervision visit in September, additional action points on improving stakeholder engagement were added to the CAP.
2017	IFC received several letters from local NGOs in relation to IFC's financing of MHP and concerns about MHP's stakeholder engagement practices. IFC conducted site supervision visits in July and February. To maximize leverage on MHP to deliver on the CAP, IFC insisted on including several critical action points in the conditions for disbursement of the residual B loan in March. As a result, MHP improved its SEP, adopted a Communication Policy, further enhanced its GRM for affected communities, increased staffing for corporate social responsibility and engaged external consultants and mediators in meetings with affected communities.
2018	In June, CAO received a complaint from members of affected communities in Vinnytsia region regarding IFC's investment in MHP and found the complaint eligible. In addition to filing a complaint to CAO, the Complainants submitted a complaint to EBRD's Project Complaint Mechanism (PCM). EBRD was also an investor in MHP. IFC held E&S supervision meeting with the client in October.
2019	In January, the Complainants, MHP and other relevant stakeholders reached an agreement to work with CAO and PCM in order to try to resolve the issues through a collaborative approach under a DR process. In September, IFC conducted a supervision visit, including attending one mediation session and meeting with local communities. MHP fully prepaid IFC loans due to excessive liquidity following bond issue in September. EBRD partially retained its loan exposure to MHP.
2020	Despite full prepayment, IFC continued engagement with MHP on the CAP, providing comments and guidance to help achieve progress in the implementation of the action points.

***IFC's investments timeline**



Disclaimer

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Official comment letter from MHP Company on the issues raised in the Complaint (2018)

To: IFC

From: MHP mediation team

February 08, 2022

There was a number of questions and concerns raised by the Complainants in the Complaint about possible, in their opinion, violations of the environmental, labor and other laws of Ukraine by the enterprises of the MHP Group (hereinafter - MHP). By this letter, once again the Company would like to confirm, that MHP carries out its business activities in accordance with the requirements of the current legislation of Ukraine, constantly improving production processes, taking into account the latest European and global practices.

With this letter, MHP provides comments and explanations about the issues raised in the Complaint.

1. Regarding the location of broiler chicken rearing brigades in the direct proximity of human settlements.

Construction of facilities is carried out in accordance with the requirements of the Law of Ukraine "On Regulation of Town-Planning" Activities", the Resolution of Cabinet of Ministers of Ukraine "On Town Planning Cadastre", the State Construction Regulations of Ukraine, taking into account the requirements of environmental legislation. The current legislation of Ukraine provides for the placement of facilities in compliance with the sanitary protection areas.

Sanitary protection areas for livestock and poultry farming agricultural enterprises are established in accordance with the State Sanitary Rules of planning and development of settlements approved by Order of the Ministry of Health of Ukraine No. 173 dated June 19, 1996, State Building Standards of Ukraine 360-92 * "Urban Development. Planning and development of urban and rural settlements" and the State Building Regulations of Ukraine B.2.4-3-95 "General layouts of agricultural enterprises".

The legislation provides for different sizes of the sanitary protection areas for each type of activity. The placement of all MHP facilities was carried out in compliance with the sanitary protection areas, as indicated in the construction permits issued by the authorized state bodies of Ukraine after conducting the necessary studies and documents.

2. Regarding insufficient information and failure to involve communities in public hearings on the planned activities on the location of MHP facilities.

In pursuance of the requirements of the Law of Ukraine "On Regulation of Town-Planning Activities", the Cabinet of Ministers of Ukraine adopted a Resolution No. 555 dated May 25, 2011 "On Approval of the Procedure for Public Hearings to Consider Public Interests in the Development of Draft Urban Planning Documentation at the Local Level". Also, on December 18, 2017, the Law of Ukraine "On Environmental Impact Assessment" was enacted in Ukraine, which regulates the issue of involving communities in discussions on the planned activities of business entities for the location of facilities that have or may have an impact on the environment. MHP complies with the requirements of this legislation and holds consultations with communities in the manner prescribed by law.

On this issue in 2017, the Public Organization National Environmental Center of Ukraine jointly with two residents of the village Zaozerne applied to the Vinnytsia District Administrative Court with a claim to the Tulchyn District State Administration to hold invalid the order of the Chairman of the District State Administration on the approval of the detailed layout of the territory due to violation of the procedure for public hearings and lack of public awareness (the third party on the defendant side without independent claims was MHP). This case was considered in the courts of the first, appellate and cassation instances. On May 13, 2021, the Supreme Court of Ukraine made a Judgment that upheld the rulings of the courts of previous instances, rejecting the plaintiffs claims. The court ruled that the defendants did not violate the requirements of Ukrainian law in the process of conducting public hearings.

3. Regarding the possible negative impacts on air quality and bad smell from the operation sites of MHP.

The MHP enterprises comply with the Law of Ukraine "On Protection of Atmospheric Air", the enterprises have received permits for emissions of pollutants into the atmospheric air by stationary sources in accordance with the procedure established by Resolution of Cabinet of Ministers of Ukraine No. 302 dated March 13, 2002. The MHP enterprises are subject to constant state supervision and, according to laboratory tests by regulatory authorities and tests carried out at the request of MHP, not exceeding the permissible norms (violation has ever been detected). The Company is constantly working to improve and optimize manufacturing processes that could improve the situation with the smell. In particular, the Company has an algorithm of actions, according to which the vehicles transporting poultry litter (organic fertilizer) are tilt-covered, and the fertilizer is applied as soon as possible.

4. Regarding the possible violations in the use of agrochemicals and poultry litter.

MHP complies with the requirements of the Law of Ukraine "On Land Protection", constantly monitors the state of land and introduces new technologies and methods to improve soil fertility. MHP has developed technical specifications TU U 01.4-35878955-004:2015 "Organic mix from keeping chickens – broilers", which passed the State Sanitary and Epidemiological Examination and were agreed by the Technical Committee of TC 111 "Fertilizers and Pesticides", by the State Enterprise "Vinnytsia Research and Production Center of Standardization, Metrology and Certification", and according to which process cards for the application of organic fertilizers on the land have been developed. MHP does not use prohibited pesticides and agrochemicals in its activities and complies with fertilizer application regulations.

5. Regarding the direction of the process transport of MHP bypassing the village Olianytsia in Trostianets District.

Having considered the appeal of the community and the Olianytsia Village Council of Trostianets District of Vinnytsia Region, understanding the urgent need of the inhabitants of Olianytsia village in

the construction of a bypass road, MHP has taken a decision and allocated funds to address this issue. Since 2015, MHP has been working on the construction of the bypass road past the village of Olianytsia and the construction of a railway crossing through which this road passes. The construction work on this facility has been completed in full and the facility has been commissioned in 2019. For the construction of the bypass road and railway crossing, the Company spent a total of UAH 23,000,000.00. Since the date of commissioning, all of MHP's process and freight transport has used this road exclusively.

6. Regarding the destruction of houses in the village of Olianytsia, which are located near the highway.

Highway R 33 Vinnytsia — Turbiv — Haisyn — Balta — Velyka Mykhailivka — road of regional significance passes through the village of Olianytsia. In accordance with the Road Traffic Regulations of Ukraine, this road may be used by all individuals and legal entities without exception, in compliance with the road traffic regulations. During the mediation process, MHP repeatedly initiated and made proposals that could help resolve this issue, but unfortunately did not find support among the mediation participants. In order to establish the reasons for the destruction of buildings, an independent technical inspection by experts in this field should be carried out with mandatory calculations, measurements and tests, samples collection, with the provision of appropriate conclusions on the reasons for the destruction of buildings.

7. Regarding the deterioration of fresh water quality and falling water levels in the wells of some communities.

Protection of water resources is regulated by the Water Code of Ukraine and other bylaws. At the territory of Vinnytsia Region, there are the facilities of "Vinnytsia Poultry Farm" LLC. A special permit for special water use was obtained to provide water to the MHP enterprises, and water is obtained from the Southern Bug River. MHP has built a water intake and a water filtration station that provide the enterprise with the necessary amount of water. The laboratory constantly monitors the condition of water which is taken from the river, filtered and purified at the station and later used for the needs of MHP. The withdrawal of water resources from the Southern Bug River in no way affects the water level in the wells of the settlements. After the use of water by the enterprise, it carries out its treatment with the help of biological treatment facilities (constructed by MHP), built with the latest global technologies. After the water is purified and laboratory tests are conducted, it returns to the Southern Bug River.

Vinnytsia Poultry Farm LLC has an approved State annual water intake limit of 8.481 million m³/year, with only 5.982 million m³/year withdrawn in 2021 and 2.852 m³/year returned to the river, which is 47.68% of the actual water intake. That is, the Company returned almost half of the water to the river. For understanding the order of numbers are following: the Ladyzhyn power plant has a limit of 52.208 million m³/year of water intake from the Southern Bug River, and the Vinnytsia water utility (Vodokanal) – 64.532 million m³/year.

It is clear that there are much more water users in the Vinnytsia Region that take water from the Southern Bug River, then share of Vinnytsia Poultry Farm LLC among these three enterprises (mentioned above) will be (the limit, not the actual water consumption) only $8.481 \text{ million m}^3/\text{year} / (8,481 + 52,208 + 64,532) = 6.77\%$, and against the background of all water users in the region it will be fractions of a percent. And if we take into account that the river flows through five regions of Ukraine, the impact of the water intake of the poultry farm cannot be considered significant at all.

8. Regarding the compliance with the requirements of Ukrainian legislation on occupational health and safety and creation of proper working conditions at the MHP enterprises.

MHP complies with the requirements of Ukrainian occupational health and safety legislation. It consists of the Constitution of Ukraine, the Law of Ukraine "On Occupational Health and Safety", the Labor Code of Ukraine, the Law of Ukraine "On Compulsory State Social Insurance Against Occupational Accidents and Diseases that Caused Loss of Working Capacity" and the regulations adopted in accordance with them. MHP ensures compliance with these legislative acts and creates proper working conditions for its employees. MHP has obtained all permits required for the activity issued by the State Labor Service of Ukraine.

9. Regarding the terms and conditions of land lease agreements concluded with owners of land plots and the procedure for amending them.

MHP complies with the requirements of the Land Code of Ukraine, the Civil Code of Ukraine, the Law of Ukraine "On Land Lease" regulating the procedure for entering into land lease agreements, as well as the procedure for complying with the terms of the agreements. Negotiations and agreements are reached with each owner of land plots on the essential terms of the land lease agreement. Only after agreements are reached and all issues are settled, a land lease agreement is signed with the owner, which is registered in the State Register of Proprietary Rights to Immovable Property. Regarding the issue of certain compensation and incentive payments to owners of land plots, MHP constantly informs the owners by placing relevant announcements in the settlements where MHP enterprises are present, and the relevant articles are also published on the official websites of the Company.

10. Regarding the afforestation of the sanitary protection area around Rearing Brigade No. 4.

Given the requirements of biosafety and prevention of disease outbreaks (including avian influenza) caused by wild birds which are carriers of diseases, the Company sees risks in afforestation of chicken rearing brigades (including around Rearing Brigade No. 4). Therefore, as an alternative solution, a park was created in the village of Kleban (2016-17).

In addition, the facility is located outside of the settlement and its sanitary protection area consists exclusively of agricultural lands, and given that according to clause 8.56 of the Order of the Ministry of Health of Ukraine "*On Approval of State Sanitary Rules of Planning and Development of Settlements*", land plots that form a part of a sanitary protection area, are not withdrawn from the land users and can be used as agricultural lands, then the Company has no legal grounds at all to conduct any negotiations with the owners of land plots located within the sanitary protection area of the facility, regarding their afforestation, instead of conducting current crop production activities.

**Faithfully,
MHP Mediation Team**

MHP Updated Response, November 2024

Навколишнє середовище

Оновлення інформації по питанню № 7

Для забезпечення водопостачання ТОВ «Вінницька птахофабрика» було побудовано водозабір та водофільтрувальну станцію. Вода для виробничих потреб забирається з річки Південний Буг, яка є однією з трьох найбільших річок України та протікає через п'ять областей країни. Тут важливо, що забір води підприємством здійснюється із єдиної точки, і вплинути на рівень води в колодязях місцевих жителів підприємство не може, особливо на воду верхніх водоносних горизонтів, на які облаштовані домашні колодязі. Крім того, трохи нижче місця забору води птахофабрики знаходиться дамба, яка своєю спорудою утворює стінку Ладжинського водосховища, тож браку води в регіоні немає і саму кількість води в водосховищі регулює інше підприємство через контроль самої дамби.

Щодо ТОВ «Вінницька птахофабрика», то після використання вода проходить очистку за допомогою біологічних очисних споруд, що побудовані за новітніми світовими технологіями. Після очищення і проведення лабораторних досліджень вода повертається до річки Південний Буг. При цьому, лабораторія підприємства постійно контролює якість води на всіх етапах – від забору її з річки, до скиду очищених стічних вод у Південний Буг.

Підприємством отримано дозвіл на спеціальне водокористування, яким державою встановлено ліміт забору води в обсязі 8,481 млн м³/рік. У 2023 році підприємство забрало лише 6,331 млн м³, а повернуло до річки 2,863 млн м³, що становить 45,22% від фактичного забору води. Тобто ми повертаємо до річки майже половину води від тієї, що взяли.

Для порівняння: Ладжинська ТЕЦ має ліміт забору води з річки Південний Буг 52,208 млн м³/рік, а Вінницький водоканал – 64,532 млн м³/рік.

Зрозуміло, що у Вінницькій області є багато водокористувачів, які здійснюють забір води з річки Південний Буг. Але, якщо порівняти частку ТОВ «Вінницька птахофабрика», навіть серед цих трьох підприємств, вона становить (за лімітом, а не фактичним водоспоживанням) лише 6,77%. На фоні всіх водокористувачів області це будуть частки відсотка.

Щодо якості води в колодязях місцевих жителів і їхніх побоювань щодо впливу на це діяльності МХП, важливо зазначити наступне. Підприємства групи МХП ретельно розраховують кількість добрив та пестицидів, що вносяться в ґрунт. Тому надлишкового внесення азоту та надлишкового накопичення його та оксидів азоту в ґрунті та ґрунтових водах немає.

МХП з великою увагою ставиться до таких

Environment

Update on issue #7

To secure water supply for Vinnytsia Poultry Farm LLC, a dedicated water intake and filtration plant were established, drawing water from the Southern Bug River, a major Ukrainian river that flows through five regions. The company takes water from a single point, which does not impact local residents' well levels, particularly the upper aquifers used in domestic wells. Additionally, the presence of the Ladyzhyn Reservoir dam downstream from the farm's intake point ensures a stable water supply in the area, as the reservoir's water levels are regulated by another entity.

After usage, Vinnytsia Poultry Farm LLC processes water through advanced biological treatment facilities before returning it to the river. The company's in-house laboratory monitors water quality at each stage—from intake to post-treatment discharge—ensuring compliance with environmental standards. The farm has a water use permit allowing an annual withdrawal limit of 8.481 million cubic meters; in 2023, it withdrew 6.331 million cubic meters and returned 2.863 million cubic meters (45.22% of the total intake) back to the river.

For comparison, Ladyzhynska CHPP and Vinnytsia Vodokanal have substantially higher withdrawal limits of 52.208 million and 64.532 million cubic meters per year, respectively. Among these entities, the poultry farm's withdrawal represents only 6.77% of the total authorized volume, and only a fraction of the region's overall water usage.

Regarding groundwater quality concerns and potential impacts on local wells, it is important to note that MHP Group carefully manages fertilizer and pesticide application to prevent nitrogen and nitrogen oxide buildup in soil and groundwater. A joint analysis with KPMG confirmed efficient nitrogen use, with all values within the optimal threshold except for 2023, when nitrogen removal increased due to a larger-than-usual harvest, even as nitrogen application was reduced. Thus, no excess nitrogen accumulation is occurring in the soil or groundwater.

The potential increase in nitrate and nitrite levels in domestic wells is more likely due to household cesspools lacking concrete lining and shallow aquifer usage, rather than MHP's agricultural activities.

питань і разом із KPMG було проаналізовано ефективність використання азоту. Результати (інформація додається) показали, що МХП знаходиться в межах оптимального порогового значення, за винятком 2023 року. Високий рівень у 2023 році пояснюється збільшенням на третину виносу азоту з урожаєм на тлі зменшення внесення азоту. Тобто ми навіть внесли менше, ніж винесли з урожаєм, тому говорити про надмірне накопичення азоту в ґрунті та, відповідно, в ґрунтових водах неможливо. Таким чином, причину можливого підвищення вмісту нітратів та нітритів слід шукати у незабетонуваних вигрібних ямах домогосподарств та у тому, що вода береться з водоносних горизонтів невеликої глибини

Охорона праці

Оновлення інформації по питанню № 8

Менеджмент МХП ставить за мету досягнення міжнародних стандартів охорони праці, водночас забезпечуючи безперервність роботи та виробництва. Основними інструментами досягнення високих показників безаварійної роботи є навчання персоналу з питань охорони праці та регулярний контроль техніки безпеки на підприємствах.

Принципи МХП у сфері охорони праці та промислової безпеки:

- Пріоритет життя та здоров'я працівників над будь-якими бізнес-процесами.
- Відповідальність за безпеку праці кожного працівника, від роботодавця до виконавця, як на підприємствах, так і в компанії в цілому.
- Ризик-орієнтований підхід: глибокий аналіз ризиків і небезпек на робочих місцях, їх усунення або мінімізація до допустимого рівня.
- Постійне навчання та розвиток персоналу.
- Дотримання законодавства та міжнародних стандартів.
- Готовність до змін задля досягнення сталого розвитку компанії.
- Відкритість і інформування зацікавлених сторін.

Occupational health and safety

Update on issue #8

MHP's management is committed to achieving high international standards in occupational health and safety, ensuring both employee safety and operational continuity. The company's core strategies for maintaining a safe, accident-free workplace include extensive occupational health and safety training and ongoing safety monitoring across all facilities.

Key Principles of MHP's Occupational Health and Safety Policy:

- **Employee Priority:** The health and life of employees are prioritized above any business activities.
- **Shared Responsibility:** All employees, from management to individual workers, share responsibility for workplace safety.
- **Risk-Based Approach:** MHP identifies, analyzes, and mitigates workplace hazards to maintain risks at acceptable levels.
- **Continuous Training:** Regular training and skill development are provided to enhance employee safety.
- **Compliance with Standards:** The company adheres to both Ukrainian law and international safety standards.
- **Adaptability:** MHP is committed to continuous improvement and sustainable growth.
- **Transparency and Communication:** The company maintains open communication with stakeholders regarding safety practices.

МХП використовує ризик-орієнтований підхід як невід'ємну частину своєї стратегії з охорони праці, спрямованої на забезпечення безпеки та добробуту працівників. Компанія строго дотримується вимог законодавства України у сфері охорони праці, зокрема Конституції України, Закону України «Про охорону праці», Кодексу законів про працю, Закону «Про загальнообов'язкове державне соціальне страхування від нещасного випадку на виробництві та професійного захворювання» та інших відповідних нормативних актів.

МХП забезпечує виконання законодавчих вимог, створюючи належні і покращуючи існуючі умови праці для своїх співробітників, має всі необхідні дозволи, видані Державною службою України з питань праці.

A risk-based approach is central to MHP's health and safety strategy, ensuring the company not only meets Ukrainian legal requirements but also proactively enhances working conditions. Compliance is supported by adherence to relevant Ukrainian legislation, including the Constitution, the Law on Occupational Health and Safety, the Labor Code, and the Law on Compulsory State Social Insurance against Occupational Accidents and Diseases. The State Labor Service of Ukraine has issued MHP all necessary permits, confirming regulatory compliance and workplace safety efforts.

Юридична сторона

Поправка до пункту №2

визначення МХП третьою стороною, так як це звучить в судових рішеннях.

2. Щодо недостатнього інформування та не залучення громадськості до обговорень планованої діяльності з розміщення об'єктів МХП.

На виконання вимог Закону України «Про регулювання містобудівної діяльності» Кабінетом Міністрів України прийнято Постанову від 25.05.2011 року № 555 «Про затвердження Порядку проведення громадських слухань щодо врахування громадських інтересів під час розроблення проектів містобудівної документації на місцевому рівні». Також 18.12.2017 року в Україні введено в дію Закон України «Про оцінку впливу на довкілля» яким врегульовано питання залучення громадськості до обговорень планованої діяльності суб'єктів господарювання з розміщення об'єктів, які мають або можуть мати вплив на навколишнє середовище. МХП дотримується вимог вказаного законодавства та проводить консультації з громадськістю у способи передбачені законодавством. З даного питання у 2017 році Громадська організація Національний екологічний центр України спільно з двома жителями села Заозерне звернулися до Вінницького окружного адміністративного суду з позовом до Тульчинської районної державної адміністрації про визнання недійсним розпорядження голови РДА про затвердження детального плану території через порушення процедури проведення громадських слухань та недостатньої поінформованості громадськості (третьою особою, без самостійних вимог на

Legal aspect

Amendment to Point #2

To define MHP as a third party, as stated in court decisions:

2. Regarding insufficient information and lack of public involvement in discussions of the planned activities for the location of MHP facilities.

In accordance with the requirements of the Law of Ukraine "On Regulation of Urban Development," the Cabinet of Ministers of Ukraine adopted Resolution No. 555 on 25.05.2011, "On Approval of the Procedure for Public Hearings on Consideration of Public Interests in the Development of Draft Urban Planning Documents at the Local Level." Additionally, on 18.12.2017, the Law of Ukraine "On Environmental Impact Assessment" came into effect, regulating public involvement in discussions regarding the planned activities of business entities to locate facilities that may have an impact on the environment. MHP complies with the requirements of this legislation and conducts public consultations in the manner prescribed by law.

In 2017, the NGO National Ecological Center of Ukraine, together with two residents of Zaozerne village, filed a lawsuit against the Tulchyn District State Administration to annul the order of the Head of the District State Administration on the approval of the detailed territorial plan due to violations in the public hearings process and insufficient public awareness. MHP was involved as a third party, without independent claims against the defendant. This case was considered in the courts of first instance, on appeal, and in cassation. On 13.05.2021,

стороні відповідача було залучено МХП). Дана справа розглядалася в судах першої, апеляційної та касаційної інстанції. 13.05.2021 року Верховний суд України виніс Постанову якою залишено в силі рішення судів попередніх інстанцій відмовивши позивачам у задоволенні їх позовних вимог. Суд встановив, що відповідач не порушив вимог законодавства України в процесі проведення громадських слухань.

the Supreme Court of Ukraine issued a ruling, upholding the decisions of the lower courts and dismissing the plaintiffs' claims. The court found that the defendant had not violated the requirements of Ukrainian legislation in the process of holding public hearings.

Annex 4: Additional Appraisal Considerations

The CAO Policy⁹⁹ provides for the compliance appraisal to consider additional considerations, as outlined in the table below.

CAO Policy provision	Analysis for this case
For any Project or Sub-Project where an IFC/MIGA Exit has occurred at the time CAO completes its compliance appraisal, whether an investigation would provide particular value in terms of accountability, learning, or remedial action despite an IFC/MIGA Exit (para. 92a).	While IFC's client prepaid the IFC loan subject to this compliance appraisal in 2019, in 2023 IFC provided MHP with a new financial package of US\$ 130 m (# 46415) that includes investments in the business activities subject to this Complaint.
The relevance of any concluded, pending, or ongoing judicial or non-judicial proceeding regarding the subject matter of the Complaint (para. 92b).	Not applicable
Whether Management has clearly demonstrated that it dealt appropriately with the issues raised by the Complainant or in the internal request and followed E&S Policies or whether Management acknowledged that it did not comply with relevant E&S Policies (para. 92c).	As outlined in the body of this report, CAO concludes preliminary indications of non-compliance. CAO notes that IFC has not provided substantiation that it dealt appropriately with all issues raised by the complaint and mentioned in IFC's management response.
Whether Management has provided a statement of specific remedial actions, and whether, in CAO's judgment after considering the Complainant's views, these proposed remedial actions substantively address the matters raised by the Complainant (para. 92d).	IFC's Management Response does not include any statements indicating plans to undertake remedial actions to address issues raised by the Complainants.
In relation to a Project or Sub-Project that has already been the subject of a compliance investigation, CAO may: (a) close the Complaint; (b) merge the Complaint with the earlier compliance process, if still open, and the Complaint is substantially related to the same issues as the earlier compliance process; or (c) initiate a new compliance investigation only where the Complaint raises new issues or new evidence is available (para. 93).	Not applicable

⁹⁹ CAO Policy, para. 92.

Annex 5: Terms of Reference for Compliance Investigation of IFC’s Environmental and Social Performance Related to IFC Investments in MHP, Ukraine

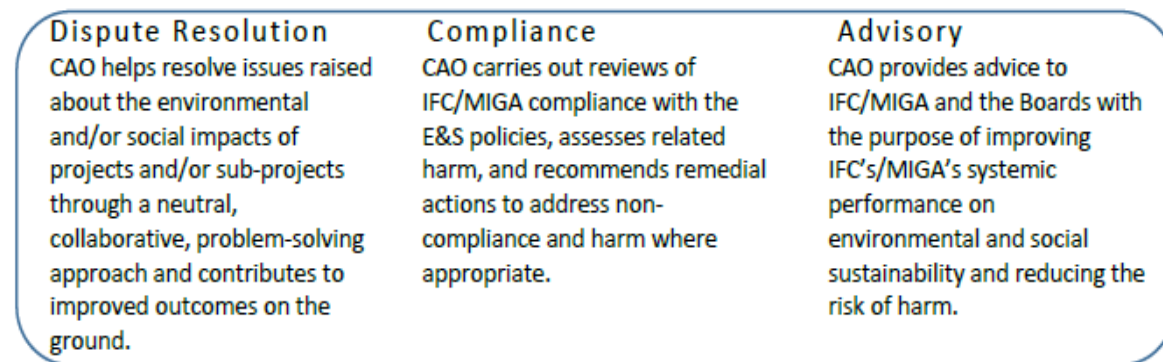
About CAO and the Compliance Function

The Office of the Compliance Advisor Ombudsman (CAO) is an independent recourse and accountability mechanism for people and communities affected by projects financed by the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA). CAO works to address Complaints fairly, objectively, and constructively while enhancing the social and environmental outcomes of IFC and MIGA projects and fostering public accountability and learning at these institutions.

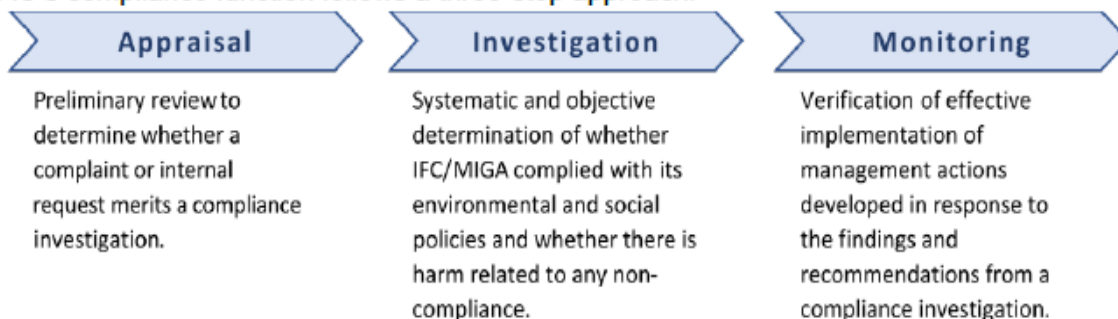
CAO’s independence and impartiality are essential to fostering the trust and confidence of stakeholders involved in Complaint processes. CAO is independent of IFC and MIGA management and reports directly to the IFC and MIGA Boards.

CAO carries out its work in accordance with the IFC/MIGA Independent Accountability Mechanism (CAO) Policy (“the CAO Policy”). Its three functions are shown below. For more information, visit: www.cao-ombudsman.org.

CAO’s compliance function follows a three-step approach:



CAO’s compliance function follows a three-step approach:



Context and Investment

Private Joint-Stock Company “MHP” (MHP, the company) has been an IFC client since 2003 and has benefited to date from six IFC investments with a total volume of US\$ 451.25m. The 2018 complaint was made in the context of IFC’s Corporate Loan Project #34041, approved by IFC’s Board of Directors in 2014. It was structured as a long-term corporate loan facility of up to US\$ 250m to support MHP’s expansion project in the Vinnytsia region of Ukraine. This loan was repaid in 2019. In 2023, IFC approved another finance facility to support MHP’s operations in Ukraine.

The Complaint

In June 2018, CAO received a complaint from community members from Olyanystya, Zaozerne, and Kleban villages in the Vinnytsia region, alleging numerous impacts from the MHP operations in the vicinity of their villages. Their submission was supported by local and international civil society organizations (CEE Bankwatch Network, Ecoaction – Center for Environmental Initiatives, and Accountability Counsel). A similar complaint was simultaneously submitted to the Independent Project Accountability Mechanism (IPAM) of the EBRD.

The complainants stated that the construction and operation of MHP agribusiness activities in their area have caused ongoing odor and dust impacts from a significant and growing number of facilities and from the application of manure on nearby fields. They also alleged that MHP’s activities led to a drastic increase in heavy vehicle traffic, resulting in damage to roads and nearby houses, as well as additional impacts from dust, noise, and foul odors along major MHP thoroughfares. They further complained that the stakeholder consultation processes had been generally poor, citing inadequate disclosure of information and the lack of opportunities to voice their concerns, and stating that community members had been pressured to accept newly proposed facilities and enter into land lease agreements with MHP. Furthermore, they feared additional impacts, including pollution of air, water, and soil, to be generated by the planned expansion of the Vinnytsia Poultry Farm, which involved doubling its operations and constructing a new waste-to-energy plant. The complainants questioned IFC’s conduct in providing financing to MHP, particularly the categorization of the projects as Category B (Limited Risks), the failure to consider the cumulative impacts of MHP operations given that it is a vertically integrated company, and MHP’s compliance with IFC’s Performance Standards (PS).

Investigation Terms of Reference

Where, as in the present case, the CAO appraisal process results in a decision to investigate, CAO’s appraisal report includes terms of reference for the compliance investigation, outlining:

- a. The objectives and scope of the investigation.*
- b. Any limitations on the scope of the investigation that may be appropriate, considering, among others, issues closed at the appraisal stage, the presence of concurrent judicial proceedings, or an IFC/MIGA Exit.*
- c. The approach and method of investigation, and specific consultant qualifications; and*
- d. A schedule for the investigation tasks, timeframe, and reporting requirements. This schedule will include deadlines for the submission of information by IFC/MIGA to inform the compliance investigation process.*

Objective and Scope of the Compliance Investigation

As established in CAO’s Appraisal Report, CAO will conduct a compliance investigation of IFC’s investments in the client company in relation to the issues raised in the complaint:

- Complaint concerns about the operations of Vinnytsia Poultry Farm and the Zernoproduct Farm, including land leases
- Complaint concerns about the company's Community Consultation, Disclosure of Information and Grievance Handling
- Complaint concerns about Occupational Health and Safety at the company's facilities
- Complaint concerns regarding IFC's categorization of the E&S risk.

In relation to these above points, the investigation will review IFC compliance with its E&S Policies and assess related harm. In determining whether IFC has complied with its E&S Policies, CAO will include, where appropriate, an assessment of whether IFC deviated in a material way from relevant directives and procedures.

Methodological Approach

CAO will base the compliance investigation on information available to CAO from interviews, statements, reports, correspondence, CAO observations of activities and conditions, and other sources that CAO deems relevant.

The compliance investigation process and compliance investigation report will include:

- a. The investigation findings with respect to compliance, non-compliance, and any related Harm.*
- b. Context, evidence, and reasoning to support CAO's findings and conclusions regarding the underlying causes of any non-compliance identified.*
- c. Recommendations for IFC/MIGA to consider in the development of a Management Action Plan (MAP) relating to the remediation of project-level non-compliance and related Harm, and/or steps needed to prevent future non-compliance, as relevant in the circumstances. In case of a project where the IFC/MIGA exit has occurred, recommendations will consider the implications of such an IFC/MIGA exit.*

Sufficient, relevant evidence is required to afford a reasonable basis for CAO's compliance findings and conclusions. CAO will assess whether there is evidence that IFC/MIGA applied relevant E&S requirements considering the sources of information available at the time the decisions were made and will not make findings and conclusions with the benefit of hindsight.

External Expert(s)

As per its established practice, CAO will engage one or more external experts for this investigation, and considers the following qualifications as necessary:

- Significant expertise in management of environmental and social risks and impacts associated with large scale industrial facilities. Experience in the poultry industry is a plus.
- Track record of work on environmental and social issues in the Ukraine and/or Eastern Europe.
- Significant knowledge of IFC's E&S policies, standards, and procedures, particularly the 2012 Sustainability Policy and the 2012 Performance Standards.
- Experience and knowledge relevant to conducting compliance investigations.
- Demonstrated ability to analyze policies and practices and develop proposals for reform in complex institutional contexts; and
- Fluency in English; familiarity with Ukrainian is desirable.

Field Visit and Potential Limitations of the Investigation

A field visit to the complainants' communities and MHP's facilities will be considered during the compliance investigation.

Compliance Investigation Schedule, Timeframe, and Reporting Requirements

According to the CAO Policy, a draft compliance investigation report must be circulated within one year of the disclosure of an appraisal report. CAO will share a draft compliance investigation report for this case with IFC Management for factual review and comment. Management may share

the draft report with the client on the condition that appropriate measures are in place to safeguard the confidentiality of the draft report prior to public disclosure. IFC will have 20 business days to provide written comments.

At the same time, the draft investigation report will be circulated to the complainants for their factual review and comment, provided that appropriate measures are in place to safeguard the confidentiality of the draft report prior to public disclosure. If such confidentiality measures are not in place, complainants will, at a minimum, receive a draft table of the investigation's findings for factual review and comment and as a source of information to inform future consultations on any IFC Management Action Plan (MAP).

Upon receiving comments on the consultation draft from IFC and the complainants, CAO will finalize the investigation report. The final report will be circulated to the Board for information and shared with IFC. The Board has no editorial input on the content of a CAO compliance investigation report. Once the investigation report is officially submitted to IFC Management and circulated to the Board, CAO will notify the public on its website of the investigation's completion.

Upon CAO's final submission of the compliance investigation report to IFC, IFC Management has 50 business days to submit a Management Report to the Board for consideration. Where IFC proposes to take actions in response to CAO's investigation report, the Management Report must include a MAP for Board approval. A MAP contains time-bound remedial actions that IFC proposes for the purpose of addressing CAO findings of non-compliance and related Harm. IFC must consult with complainants and the client during its MAP preparation process, and its Management Report must also include a reasoned response to CAO's finding or recommendations regarding non-compliance or related Harm that IFC is unable to address in the MAP.

CAO will submit comments on the proposed MAP to the Board, and the complainants may submit a statement to CAO on the proposed MAP and the adequacy of consultations for circulation to the Board. Upon the Board's approval of the MAP, the compliance investigation report, Management Report, and MAP (as relevant) will be published on CAO's website.