

**Gonzalo Castro de la Mata
Chairman**

IPN REQUEST RQ 14/04

March 11, 2015

**MEMORANDUM TO THE EXECUTIVE DIRECTORS
INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT**

**Request for Inspection
Paraguay: Sustainable Agriculture and Rural Development Project (P088799)**

**Notice of Non-Registration
and
Panel's Observations of the Second Pilot to Support Early Solutions**

Summary

1. This note presents the results of the second Inspection Panel (“the Panel”) case under its “Piloting a new approach to support early solutions in the Inspection Panel process” (“the Pilot”)¹ and the Panel’s observations of this Pilot. On July 22, 2014, the Panel received a Request for Inspection (“the Request”) of the Paraguay: Sustainable Agriculture and Rural Development Project (P088799) (“the Project” or “PRODERS”), alleging a gap in consultation and participation of indigenous people in the Project.

2. Following the Requesters’ and Management’s agreement to process this case under the Pilot approach, the Panel decided to postpone its decision on registration to allow the implementation of Management’s Action Plan. On February 2, 2015, the Requesters and Bank Management informed the Panel that the Action Plan had been successfully implemented. After a brief visit to the Requesters in Paraguay, the Panel concluded that the Pilot approach was an appropriate instrument to handle this case as it led to a rapid and effective resolution of the issues raised. The Panel thus decided to issue this Notice of Non-Registration.

Request for Inspection

3. The Request (attached as Annex I) was submitted by the leaders of two indigenous peoples organizations, the “Asociación de Comunidades Indígenas de San Pedro” (ACISPE) and the “Mesa Coordinadora Joaju Ha’e Paveime Guara,” who represent indigenous communities in the

¹ Under the newly adopted Pilot Approach (IPN’s Operating Procedures, Annex 1, Pilot Approach for Early Solutions, para. 8), the Panel is required to verify that the Request meets basic requirements for Registration, but based on agreement from both Requesters and Management to seek an opportunity to resolve the concerns, the Panel can postpone its decision to register the Request and instead initiate a Pilot Approach.

Departments of San Pedro and Caaguazú, Paraguay. The Requesters claim that they feel severely disrupted in their rights of consultation and participation.

4. The Requesters explain that they require financial and operational resources in order to participate in the Project and choose the communities that will benefit from the Project. These resources are needed to (i) cover subsistence and travel expenses for consultations with community leaders from each Department; (ii) allow community leaders to take part in technical assistance for the implementation of development plans in accordance with the communities' own cultural and economic practices; (iii) cover travel and lodging costs for leaders to attend trainings planned by the Project; (iv) allow community leaders to join the efforts of lawyers hired by the Project and working with the Indigenous People's Institute of Paraguay (INDI) on title processes and regularization; and (v) allow community leaders to manage requests and complaints before national authorities in relation to health, education, roads, electricity and ongoing assistance to the communities. The Requesters state that these requirements and activities are part of the Project's indigenous peoples strategy and its annual operating plans, and thus represent the Project's organizational strengthening activities.

5. The Requesters explain that in 2011, two NGOs were chosen as service providers to ensure adequate means to carry out consultations and activities for organizational strengthening, but the hiring process was cancelled in August 2011. In late 2012, the NGO Alter Vida was hired as the Project's service provider. The Requesters state that during 2013 they were able to participate in the Project, that all planned activities were carried out, and that they and other leading community members evaluated the service provider's support very positively. In 2014, however, the contract with Alter Vida was discontinued. The Requesters explain that Project officials and the President of INDI informed them that, in 2014, it was not legally possible to transfer funds from the Project to INDI for organizational strengthening. According to the Requesters, since the beginning of 2014, they thus cannot meet, attend trainings, or participate in the Project or monitor it.

6. The Requesters state that they communicated several times with the World Bank and other stakeholders to express their concerns, and ultimately requested the suspension of the Project and a written response from the Bank. They claim that the Bank did not adequately intervene or take effective action to ensure their right of consultation and participation in a sustainable manner throughout Project implementation.

The Project

7. PRODERS was approved by the World Bank Board of Executive Directors on January 29, 2008, and is supported by two Bank loans totaling US\$137.5 million. According to the Project's Loan Agreement, the Project Development Objective is "*to improve the quality of life of Small-Scale Farmers and Indigenous Communities in the Project Area in a sustainable manner, through the support of actions to strengthen community organization and self-governance, improve natural resources management, and enhance the socio-economic condition of said farmers and communities.*"² The Project has five components: (i) Community Organization Development and Capacity Building; (ii) Rural Extension and Adaptive Research; (iii) Sustainable Rural

² Loan Agreement between the Republic of Paraguay and the International Bank for Reconstruction and Development, Schedule 1: 5.

Development Fund; (iv) Animal Health Improvement; and (v) Project Management and Monitoring and Evaluation.

8. According to the Project Appraisal Document (PAD), overall project management and implementation is the responsibility of the Ministry of Agriculture and Livestock (MAG), in partnership with key rural development and environmental institutions, including the National Land and Rural Development Institute (INDERT) and the Indigenous People's Institute of Paraguay (INDI).³ The Project area covers 39 municipalities in the two poorest departments in the country's Eastern Region (Caaguazú and San Pedro). Direct project beneficiaries are small-scale farmers (those with less than 20 hectares of land), indigenous communities, and rural workers. They will benefit from extension services, capacity building and investment funding.⁴ The Project triggered five Safeguard Policies (Environmental Assessment, Natural Habitats, Pest Management, Indigenous Peoples, and Forests) and was classified as Environmental Category B.

9. With specific regard to indigenous communities, the PAD explains that the Project has been designed to incorporate indigenous peoples' concerns focusing primarily on food security, the protection of their environment and lands, and the strengthening of their community organizations.⁵ The Project provides support through several activities, including assistance to strengthen community organization, specific studies, diagnostics and community development plans, technical assistance for implementing specific community development plans in each indigenous community, access to the Sustainable Rural Development Fund, and participation in Project management and monitoring by indigenous people.

10. In communications with the Panel, Bank Management noted that under PRODERS, consultations are carried out through representatives of indigenous communities in each Department, supported by a service provider that facilitates meetings of indigenous community members and leaders for the preparation of Indigenous Community Development Plans (ICDP) and one annual assembly per indigenous organization. Additionally, the service provider is expected to deliver training events on communications, planning, citizenship, legal issues, community organization, and evaluation of community development plans.⁶

Notice of Receipt, Adoption of the Pilot Approach, and Pilot Process

11. The Panel's due diligence established that while the Request met the admissibility criteria for Registration, it could also be processed under the Pilot approach. The Panel consulted closely with both the Requesters and Bank Management before deciding to process the Request under the Pilot approach, as described below.

12. On July 30, 2014, the Panel met with Bank Management to better understand the background of the Project. Bank Management acknowledged the Requesters' concerns and affirmed the Bank's commitment to ensure effective implementation of the Project. In Management's view, the impacts of the delay in consultations were temporary and limited since, according to the Project design, no new investments could take place without the involvement of

³ Project Appraisal Document (PAD), Report No: 4 14 19-PY, December 21, 2007: 17.

⁴ PAD: 10f.

⁵ PAD: 135.

⁶ Information provided by Bank Management to the Panel on September 9, 2014.

the indigenous communities. Management explained that a series of actions were in place that would lead to the resumption of consultations as quickly as possible, and indicated that it agreed to move forward under the Pilot approach.

13. The Panel informed the Requesters about its procedures and outlined both the regular process involving Registration of the Request, as well as the Pilot approach. On August 15, 2014, the Requesters informed the Panel that they were seeking “*a quick and simple solution to [their] just demands and in the shortest time possible.*”

14. The Panel received an initial Action Plan from Management on September 9, 2014, which proposed specific actions and a timeline to solve the issues, as required by the Pilot approach. On September 10, 2014, the Plan was shared with the Requesters for their consideration. After several communications with the Requesters, Bank Management updated its Action Plan (attached as Annex II) on October 31, 2014. On December 15, 2014, the Requesters accepted the updated version of the Action Plan and formally agreed to proceed with the case under the Pilot approach. At that time, some of the proposed activities in the Action Plan had already been completed, while others were under implementation.

15. The Panel was satisfied that the criteria to process the Request under the Pilot Approach were met, as follows: (i) the issues of alleged harm presented in the Request are clearly-defined, focused, limited in scope, and appear to be amenable to early resolution in the interests of the Requesters; (ii) Management informed the Panel of steps or measures, agreed upon with the Government of Paraguay, already initiated and/or planned to address the alleged harm with an anticipated timeframe and deadlines for the implementation of these measures; and (iii) the Requesters, having reviewed Management’s suggested actions, and having confirmed their full understanding of the Pilot process, formally informed the Panel that they preferred the option of a postponement of the decision on Registration to explore this additional opportunity for an early solution to their concerns.

16. The Panel thus informed the World Bank Board of Executive Directors on December 18, 2014, through its “Notice of Receipt of Request and Initiation of the Pilot Approach to Support Early Solutions” (the “Pilot Notice”), that it would ask the Requesters and Management to engage in direct dialogue on these matters, and to keep the Panel updated on the progress in addressing the concerns. In line with the Pilot approach, the Requesters retained the right, at any time, to indicate their dissatisfaction with the process and request Registration of the Request. The Panel committed to ensure open and frequent communications with the Requesters, at least every four weeks, and to review the situation three months following the Pilot Notice. The Panel informed the Requesters of the formal initiation of the Pilot, and shared a Spanish translation of the Pilot Notice with them on January 13, 2015.

17. On February 2, 2015, Bank Management informed the Panel that the Action Plan had been successfully implemented, that the NGO Alter Vida was hired as the long-term service provider in December 2014, and that it had started providing its services on January 12, 2015. Based on this information, the Panel contacted the Requesters to inquire about the situation and to assess whether they were satisfied with the implementation of the Action Plan. The Requesters explained that the services to enable their participation and consultation were indeed functioning well. They stated that the concerns they had raised in the Request had been satisfactorily addressed by Management

and were now resolved. On February 23, 2015, both the President of the Mesa Coordinadora Caaguazú and the President of ACISPE sent written confirmations expressing their satisfaction with the results of the Pilot process.

The Panel's Site Visit

18. With the objective of gaining an improved assessment of the situation, between March 1 and 4, 2015, Panel Chairman Gonzalo Castro de la Mata and Operations Analyst Birgit Kuba visited Paraguay. In Asunción, the Panel team met with the Project's Task Team Leader Renato Nardello and the Bank's Resident Representative Dante Mossi.

19. The Panel team also traveled to Caaguazú and met with the Requesters and around 50 indigenous community leaders. The Panel shared information with them about the Panel process in this specific case and, more generally, about the Panel's mandate and function, and responded to questions. The Requesters informed the Panel that their participation and consultation was taking place in a satisfactory manner with the support of the new service provider. They stressed their position that PRODERS was an important development project and that their active participation was crucial. They also emphasized that it is key for the success of the Project that all stakeholders recognize indigenous peoples' rights, and ensure the realization of these rights, and the need for the constant attention of all stakeholders to the issues of indigenous participation and consultation to prevent future problems.

20. The Requesters also expressed their wish for continued meaningful interactions with the different parties involved in the Project, and expressed their appreciation for the Panel's process and for its visit to the community.

Panel's Observations and Lessons from the Second Pilot

21. Drawing from the experience of the first Pilot process, the Panel placed close emphasis on ensuring that a clear and shared understanding existed by all stakeholders regarding the Panel process, and that there was clarity and agreement about the Requesters identity and community representation. The Panel also ensured that the Requesters were involved and informed about any relevant developments at all times, thus close contact was maintained with them throughout the process. The Panel also ensured that the Action Plan included measurable, specific and time-bound actions. The Panel notes that during this Pilot's implementation, no issues regarding the Panel's process and the implementation of the Action Plan arose.

22. The Panel recognizes the efforts and accomplishments of Bank Management throughout the implementation of the Pilot process in bringing about a successful outcome. Management effectively resolved the issues in a timely manner, and to the full satisfaction of the Requesters. The Requesters and Management recognize the Panel's involvement in this case as a positive factor in speeding up and bringing about a successful solution to the issued raised in the Request.

23. The Panel concludes that the Pilot approach was an appropriate instrument to handle this case, as it led to a rapid and effective resolution of the issues, as explicitly expressed by the Requesters. This Pilot also allowed the Panel to gain valuable insights and lessons for future Panel cases. From the experience of this Pilot, the Panel notes the significance of a field visit to meet the

Requesters in person, assess the Pilot's results on the ground, and ensure the satisfaction of the Requesters before making its determination on the case.

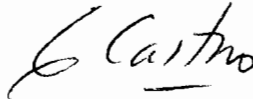
24. The Panel wishes to express its gratitude to the Management team for keeping the Panel informed about developments during the Pilot process, and to the staff of the World Bank's country office in Asunción for its assistance in organizing the logistics for the Panel's field visit to Caaguazú.

Conclusion

25. In light of the foregoing, the Panel is not registering the Request for Inspection.

26. As stated in the document outlining the Pilot approach, the results and effectiveness of the pilot will be assessed by the end of 2015. The modalities for such an independent assessment will be determined in consultation with Bank Management and other stakeholders.

Yours Sincerely,



Gonzalo Castro de la Mata
Chairman

Mr. Jim Yong Kim, President
International Bank for Reconstruction and Development

The Executive Directors and Alternates
International Bank for Reconstruction and Development

Mr. Catalino Penayo, President
Mesa Coordinadora Joaju Ha'e Paveime Guara

Mr. Secundo Vera, President
Asociación de Comunidades Indígenas de San Pedro (ACISPE)

ANNEX I

A: Executive Secretary, The Inspection Panel 1818 H Street, NW Washington, DC 20433, EE.UU
Fax No. 202-522-016 u oficina local del Banco Mundial.

1. Nosotros, dirigentes de la Asociación de Comunidad Indígenas de San Pedro (ACISPE) que reúne a comunidades indígenas del Departamento de San Pedro y de la Mesa Coordinadora Joaju Ha'e Paveime Guara que reúne a organizaciones y comunidades del Departamento de Caaguazú, ambas Paraguay. Agregamos la dirección de correo electrónico del Presidente de la ACISPE, el Sr. Secundino Vera – secundinoacispe@gmail.com y del Presidente de la Mesa Coordinadora de Caaguazú, Sr. Catalino Penayo: mcoordinadoracaaguazu@gmail.com.

2. Nosotros nos sentimos afectados gravemente en nuestros derechos consulta y participación y de buena fe que tuvimos hacia el Proyecto de Desarrollo Sustentable (PRODERS) Convenio de Préstamo N° 7503-PA, el cual es un proyecto del Ministerio de Agricultura del Paraguay financiado por un préstamo del Banco Mundial y que está destinado al desarrollo rural de campesinos e indígenas de los Departamentos de Caaguazú y San Pedro.

3. El Banco Mundial no ha objetado ni ha actuado suficientemente como garante para que el PRODERS y el Ministro del Ministerio de Agricultura del Paraguay aseguren efectivamente nuestro derecho de consulta y participación en el Proyecto y de manera sostenible a largo de su ejecución. Esta falta de participación y consulta efectiva a nuestras organizaciones se ha truncado definitivamente en este año 2014 y etapa final del Proyecto. El Banco permite que esta fase continúe e incluso se ha firmado una ampliación del préstamo a otras áreas del país, sin que hasta ahora contemos con los medios y servicios de fortalecimiento organizativo prometidos. Para poder participar en el Proyecto y elegir comunidades beneficiarias de sus planes de desarrollo necesitamos recursos financieros y operativos, esos recursos son para llevar a cabo las consultas con los líderes de las comunidades de cada departamento – cubriendo su alimentación y gastos de traslado –; asimismo, los recursos se necesitan para que dirigentes elegidos por nosotros acompañen la asistencia técnica prestada a comunidades con planes de manera a que se ejecuten conforme a nuestra cultura y prácticas económicas y culturales. Igualmente, necesitamos fondos para trasladarnos y alojamiento adecuado para asistir a las capacitaciones planificadas por el Proyecto y para poder acompañar las gestiones de los abogados/as contratados/as por el Proyecto y que trabajan con el INDI en los procesos de titulación y regularización de nuestras comunidades; así también necesitamos fondos para gestionar ante las autoridades nacionales solicitudes y reclamos en materia de salud, educación, caminos, electricidad y asistencia permanente a nuestras comunidades. Todas estas necesidades y actividades las hemos planteado al Proyecto y éste las ha habido incluido en sus documentos como la "Estrategia Indígena" y en sus planes operativos anuales. El conjunto de estas actividades para la consulta y participación constituyen el "fortalecimiento organizativo" de nuestras organizaciones.

Nosotros fuimos contactados por funcionarios de la Coordinación de la Estrategia Indígena del Proyecto a finales del año 2010 – aunque sabemos que el Proyecto empezó oficialmente en el año 2009. En ese entonces nos dijeron que se iban a asegurar los medios adecuados para que se hagan las consultas y actividades para nuestro fortalecimiento organizativo. En ese entonces nos informaron que se tenía previsto la contratación de dos organizaciones no gubernamentales (ONGs) – CEPAG y Oguasú - que eran de nuestra confianza y que ya habían trabajado previamente con nuestras organizaciones, puesto que no había otra vía legal o administrativa conocida, disponible y rápida para llevar a cabo el fortalecimiento organizativo. En el año 2011 se llevaron a cabo dos consultas departamentales con participación de los líderes comunitarios de cada departamento y eso se hizo con apoyo de las ONGs citadas. Sin embargo, por razones

ajenas a nosotros y propias del Proyecto y el Banco, se inició pero luego se canceló el proceso de contratación de tales ONGS en agosto de 2011. Por tal motivo, solicitamos una reunión con representantes del Banco y el Proyecto en base a reclamos específicos para nuestra participación. El 15 noviembre de 2011 se realizó dicha reunión en la Ciudad de Caaguazú, en la misma los representantes del Banco y del Proyecto se comprometieron a buscar y trabajar alternativas a la contratación de CEPAG y Oguasú – ya cancelada - para asegurar nuestra participación en el Proyecto con recursos suficientes y metodología adecuada. Dimos una vez más nuestra confianza al Proyecto y concurrimos a dos consultas departamentales, una en abril en Caaguazú y otra en junio en San Pedro, en las que nuestros líderes miembros eligieron a comunidades beneficiarias de planes de desarrollo e inversión del Proyecto; sin embargo estas consultas fueron financiadas nuevamente por ONGs. Durante ese año 2012 los funcionarios de la Estrategia Indígena del Proyecto y también funcionarios del Banco en ocasión de sus visitas al país, nos informaban que se estaba trabajando en el proceso de contratación y nuevo llamado abierto para una Prestadora de la Estrategia Indígena de servicios de fortalecimiento organizativo, conforme a los reclamos hechos en noviembre de 2011.

Todo ese año 2012 paso y recién a finales del mismo se concretó la contratación de la única entidad que se presentó al concurso público la ONG Alter Vida. Desde el inicio del 2013 finalmente contamos con los medios por parte del Proyecto para participar a través de dicha Prestadora, realizando una planificación inicial y plan anual conjuntos a inicios del año, cuyas actividades se fueron cumpliendo durante el año, y por primera vez de acuerdo a lo que decían los documentos de la Estrategia Indígena y conforme a nuestro derechos de consulta y participación plena. Todas las actividades planificadas se pudieron realizar: capacitaciones, asambleas organizativas, programas de radio con nuestro propio enfoque y bajo nuestra dirección, apoyo a nuestros dirigentes que elegimos de facilitadores, gestiones ante autoridades nacionales diversas, entre otros. Tanto nosotros como dirigentes como los líderes miembros de nuestras organizaciones evaluamos a finales del 2013 como muy positivo este apoyo, gracias al cual también se pudo ejecutar mejor los planes de inversión en las comunidades y expresamos la necesidad de que el mismo continúe en el 2014 para avanzar y e ir mejorando.

Asimismo, nos hicieron saber también que este trabajo conjunto y nuestra participación fue bien vista por el Banco, el Proyecto y como un éxito de su Estrategia Indígena. Sin embargo, a inicios del 2014 al no concretarse la continuidad de estos servicios por problemas internos del Proyecto, como esperábamos y confiábamos que ocurriría, nos comunicamos en el mes de febrero con el Banco – como se señala en la nota del 11 adjunta - expresando nuestra preocupación por este nuevo retardo en los servicios de fortalecimiento organizativo y conjunta.

Pasaron los meses y no teníamos respuestas positivas sobre cuando se iban a empezar las tareas conjuntas, entonces volvimos a escribir al Banco el 16 de mayo del 2014 reiterando nuestra preocupación, la respuesta que adjuntamos y citamos fue que: “La Coordinación del Proyecto, a quién consultamos sobre este asunto, nos ha confirmado que el trámite habría completado su ítem de aprobación y que la firma del contrato con la proveedora debería poderse firmar en una cuestión de días”.

Sin embargo, pasaron los días y más de un mes y no tuvimos más noticias, consultando a los funcionarios de la Estrategia Indígena nos dijeron que faltaba la firma del Ministro de Agricultura y a finales del mes de junio del 2014 nos comunicaron que el mismo no estaba dispuesto a firmar la recontractación de estos servicios. Ante esto, escribimos una nota conjunta de ambas organizaciones el 30 de junio del 2014 solicitando y comunicando varios puntos a todas las autoridades intervinientes e implicadas en el Proyecto, entre ellos solicitamos la suspensión del Proyecto por no concretarse efectivamente nuestra participación, exigimos la no colaboración del

INDI para su continuidad y pedimos al Banco una respuesta escrita sobre estas demandas al Banco. No tuvimos respuesta de ninguna de las autoridades hasta el presente.

En definitiva, el PRODERS y el Ministerio de Agricultura, sólo han asegurado en un año – el 2013 – de toda la duración del Proyecto (2009-2014), nuestro derecho de participación y consulta efectiva. En esta etapa final en vez de consolidar nuestro fortalecimiento organizativo, consulta y participación lo que se ha hecho es retroceder al punto por el cual estábamos en desacuerdo y no aceptábamos el Proyecto. Con esto también se hecho por el suelo la confianza y buena fe que depositamos en el mismo.

Lo que nos preocupa y afecta es que también en el Banco en el cual que confiamos en un principio no nos dé una respuesta sobre que va a hacer respecto a esta situación. Queremos recordar que el Convenio 7503-PA dice en el artículo 4, apartado 4.01, que un evento adicional de suspensión del Proyecto para el Banco es, entre otros, el incumplimiento del INDI de alguna de sus obligaciones del Convenio de Participación con el MAG. Según ese convenio INDI-MAG, el INDI debe **“adoptar o permitir, en consulta con las comunidades,** que se adopte toda medida a fin de hacer posible que, cumpla con sus obligaciones referidas en el Convenio de Préstamo relacionadas con la participación del INDI bajo el Proyecto”.

¿Qué medidas se pueden adoptar por el INDI o el Proyecto en consulta con nosotros– por ejemplo, elegir a las nuevas comunidades beneficiarias de planes del 2014 - si no hay medios efectivos para llevarlas a cabo, ni por lo que parece los habrá hasta términos de este año, por ende no podemos reunirnos, capacitarnos, participar y monitorear el Proyecto?

Las consecuencias son evidentes y perjudiciales para nosotros; nuestro derecho de consulta, previa, libre e informada en las acciones del Proyecto y de participación efectiva en el mismo depende del humor de las autoridades de turno y no de medidas efectivas y sostenibles, en el presente no se respeta nuestra autonomía ni protagonismo real, no podemos acompañar los planes comunitarios ni facilitar su ejecución conforme a nuestros conocimientos, experiencia y prácticas culturales. Además, se pide más dinero al Banco para el PRODERS por parte del ejecutor el Ministerio de Agricultura, sin que al mismo tiempo se proponga y disponga de medios legales y efectivos a corto o mediano plazo para asegurar nuestra participación y consulta. De acuerdo a los que averiguamos con los funcionarios del Proyecto y el propio Presidente del INDI, no es posible legalmente transferir en este año 2014 por parte del Proyecto fondos al INDI para el fortalecimiento organizativo hecho del cual están al tanto el propio Ministro y el Banco.

Finalmente, en el pasado nos habían sugerido que nos podrían reunir como organizaciones y comunidades usando vehículos del Proyecto y dándonos comida para las reuniones, pero muchas veces explicamos que esto no es posible hacerlo por las distancias – nuestras comunidades están dispersas a todo lo ancho y largo de los departamentos de Caaguazú y San Pedro – y además esto es un trato indigno, puesto que no somos animales para ser arreados.


4. La política operacional que no se observa claramente es la OP 4.10 sobre pueblos indígenas, que en su primer artículo dice: “Esta política contribuye al cumplimiento de la misión del Banco de reducir la pobreza y lograr un desarrollo sostenible asegurando que el proceso de desarrollo se lleve a cabo con absoluto respeto de la dignidad, derechos humanos, economías y culturas de los Pueblos Indígenas. En todos los proyectos propuestos para financiamiento por el Banco que afectan a Pueblos Indígenas, el Banco exige que el prestatario lleve a cabo un proceso de consulta previa, libre e informada indígena afectada, El Banco sólo otorga financiamiento para el proyecto cuando las consultas previas, libres e informadas dan lugar a un

amplio apoyo al mismo por parte de la comunidad. En los proyectos financiados por el Banco se incluyen medidas para a) evitar posibles efectos adversos sobre las comunidades indígenas, o b) cuando éstos no puedan evitarse, reducirlos lo más posible, mitigarlos o compensarlos. Los proyectos financiados por el Banco se diseñan también de manera que los Pueblos Indígenas reciban beneficios sociales y económicos que sean culturalmente apropiados, e inclusivos desde el punto de vista intergeneracional y de género”.


5. Hemos manifestado nuestras quejas y preocupaciones al personal del Proyecto de la Estrategia Indígena y sus sucesivos Coordinadores, al Ministro y al personal de Banco en múltiples ocasiones, de las cuales sólo citamos las fechas de las que aún guardamos registro por nota o correo electrónico: 28 de setiembre de 2011, 15 de noviembre de 2011, 13 de enero de 2014, 16 de mayo de 2014, 19 de mayo de 2014 y 30 de junio de 2014. Hemos recibido respuestas, también en ocasión de las misiones del Banco y algunas escritas en fechas del: 6 de octubre de 2011, 29 de diciembre de 2011 y 21 de mayo de 2014.

En principio y en su momento estas respuestas fueron atentas y alentadoras, por lo que supimos esperar los resultados que finalmente se concretaron en el 2013, pero respecto a la última respuesta de fecha 21 de mayo del Banco esta resultó no ser cierta dado que se nos comunicó más adelante, y no oficialmente, que el Ministro Gattini había cancelado la contratación de los servicios de fortalecimiento organizativo alegando la necesidad de “dar amplia participación a libre oferentes, que puedan cumplir con el servicio requerido, enfatizando la igualdad y libre competencia”. Tal decisión nos afecta directamente, el Ministro no nos consultó ni informó previamente sobre sus razones ni de las alternativas posibles para llevar a cabo el fortalecimiento organizativo a corto plazo, ante esto, tampoco el Banco no nos respondió respecto a las medidas que tomará ante esta situación.

6.- Pedimos por ende al Panel de Inspección que se recomiende al Directorio Ejecutivo del Banco Mundial que se lleve a cabo una investigación sobre estas cuestiones y que también se recomiende la suspensión del Proyecto hasta tanto no se concreten los medios para asegurar nuestro derecho de consulta y participación.

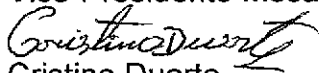
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Secundino Vera Vera
Presidente ACISPE
C.I. N° 977515




Isidro Benítez
Secretario ACISPE


Catalino Penayo
Presidente Mesa Coordinadora Joaju Ha'e Paveime Guara


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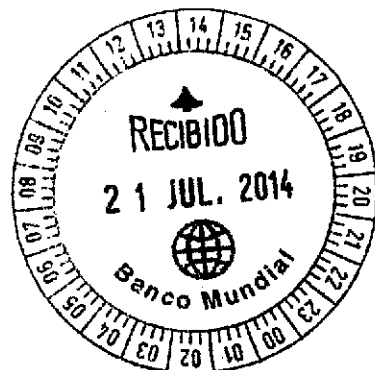
Isidro Aquino: teléfono 0975-939626

Cristino Duarte: teléfono 0983-170410

The following documents are not part of this Notice but are on record with the Inspection Panel

Lista de Documentos adjuntos:

- a) Nota del 6 de octubre de 2011 de Jefe de Proyecto Diego Arias a dirigentes de la Mesa Coordinadora de Caaguazú
- b) Nota (Borrador) presentada por Mesa Coordinadora de Caaguazú en reunión de 15 de noviembre de 2011 al Coordinador del PRODERS y la antropóloga Judith Lisansky.
- c) Nota del 29 de diciembre de 2011 del Gerente de Proyecto Renato Nardello al Presidente de la Mesa Coordinadora de Caaguazú
- d) Nota del 13 de enero de 2014 de la ACISPE a representantes del Banco Mundial
- e) Nota del 13 de mayo de 2014 de la Mesa Coordinadora de Caaguazú a representantes del Banco y a Coordinador General del PRODERS
- f) Nota del 16 de mayo de 2014 de la ACISPE a representantes del Banco y a Coordinador General del PRODERS
- g) Respuesta del 21 de mayo de 2014 del correo electrónico del Gerente del Proyecto Renato Nardello al Presidente de la ACISPE Secundino Nuñez.
- h) Nota del 30 de junio la ACISPE y la Mesa Coordinadora de Caaguazú dirigida al Ministro de Agricultura Ing. Agr. Jorge Gattini, al Sr. Dante Mossi representante residente del Banco Mundial, al MA. Jorge Servín, presidente del Instituto Paraguayo del Indígena, al Diputado Tadeo Rojas, presidente de la Comisión de Asuntos Indígenas de la Cámara de Diputados.
- i) Nota del 7 de julio de 2014 del Coordinador General del PRODERS Ing. Agr. Guillermo Céspedes al Ing. Agr. Cesar Duarte Director de la DINGAP.
- j) Resolución del MAG N° 1.029/2014 firmada por el Ministro de Agricultura Ing. Agr. Gattini de cancelación de contratación de servicios de fortalecimiento organizativo.



[Handwritten Signature]
VICTOR AVILA

A: Executive Secretary, The Inspection Panel 1818 H Street, NW Washington, DC 20433, USA Fax No. 202-522-'016 or local office of the World Bank

1. We, the leaders of the Association of Indigenous Communities of San Pedro (ACISPE) which unites indigenous communities in the San Pedro Department, and of the Joaju Ha'e Paveime Guara Coordination Bureau which unites organizations and communities in the Caaguazú Department, both in Paraguay. Have added the e-mail address of the President of the ACISPE, Mr. Secundino Vera - secundinoacispe@gmail.com and the President of the Coordinating Bureau of Caaguazú, Mr. Catalino Penayo: mcoordinadoracaaguazu@gmail.com.

2. We feel severely disrupted in our rights of consultation, participation and good faith which we had in relation to the Sustainable Development Project (PRODERS for the Spanish acronym) under Loan Agreement No. 7503-PA, which is a project of the Ministry of Agriculture of Paraguay financed by a World Bank loan, aimed at rural development for farmers and indigenous peoples in the departments of San Pedro and Caaguazú.

3. The World Bank has not adequately intervened or taken action as the guarantor to see that the PRODERS and Minister of the Ministry of Agriculture of Paraguay effectively ensure our right of consultation and participation in the Project in a sustainable manner throughout its implementation. This effective participation and consultation of our organizations has been definitively cut short in this year 2014 at the final stage of the project. The Bank allows this phase to continue, and at that has signed an extension of the loan to other areas of the country, meanwhile we have neither the means or services for organizational strengthening that were promised. In order to participate in the project and choose beneficiary communities of its development plans we require financial and operational resources. These resources are to carry out consultations with community leaders from each department - covering their food and travel expenses. Also, resources are needed so that the leaders elected by us may take part in the technical assistance provided to Communities with development plans in order that these would be implemented in keeping with our culture and economic and cultural practices. We also need funds for travel and suitable lodging to attend training planned by the Project, and in order to join the efforts of lawyers hired by the project and working with the INDI on title processes and regularization of our communities. We also need funds to manage requests and complaints before the national authorities in relation to health, education, roads, electricity and ongoing assistance to our communities. All these needs and activities we have raised with the Project, which has included them in documents such as the "Indigenous Strategy," and in its annual operating plans. This set of activities for consultation and participation represent the "organizational strengthening" of our organizations.

We were contacted by officials of the Indigenous Strategy Coordination of the Project in late 2010 - though we know the project officially began in 2009. At that time they said they would ensure adequate means so that consultations and activities for our organizational strengthening could be carried out. At that time we were informed of the

planned enlistment of two non-governmental organizations (NGOs) - CEPAG and Oguasu - which were trusted by us and had previously worked with our organizations, since there was no other legal or administrative remedies known and readily available to undertake the organizational strengthening. In 2011, two departmental consultations took place with the participation of community leaders from each department, and this was done with support from the aforementioned NGOs. However, for reasons beyond our control but relating to the Project and the Bank, the process of contracting these NGOs was initiated, but later canceled in August 2011. For this reason, we requested a meeting with representatives of the Bank and the Project on the basis of specific claims in connection with our participation. On November 15, 2011 the meeting was held in the City of Caaguazú, and at it representatives of the Bank and Project pledged to seek and work out alternatives to the contracting of CEPAG and Oguasu - by then canceled - to ensure our participation in the Project with sufficient resources and appropriate methodology. We again gave our endorsement to the Project, and we attended two departmental consultations, one in April in Caaguazú and another in June in San Pedro, where our leader members selected beneficiary communities of development and investment plans under the Project; however these consultations were again funded by NGOs. That year 2012, officials of the Project's Indigenous Strategy and Bank officials, on the occasion of their visits to the country, informed us that they were working on the contracting process and a new open call for a service provider for the organizational strengthening laid out in the Indigenous Strategy, pursuant to the claims made in November 2011.

All of 2012 went by, before finally at the end of same the contracting of the NGO Alter Vida took shape- the only entity to submit a bid in the public tender. Since the beginning of 2013, through the aforementioned Provider we finally have the means to participate as promised by the Project, carrying out initial planning and forming a joint annual plan early in the year with activities that were fulfilled over the course of the year, and this for the first time in accordance with the wording of the Indigenous Strategy documents and in line with our rights of consultation and full participation. All planned activities were carried out: training, organizational meetings, radio programs with our own focus and under our direction, support for our leaders that we choose as facilitators, negotiations with various national authorities, among others. Both we as leaders and the leading members of our organizations evaluate this support at the end of 2013 very positively, which support also made it possible to better implement the investment plans in the communities, and we express the need for this to continue in 2014 in order to keep progressing and improving. Furthermore, we have also been informed that this collective effort and our participation was well received by the Bank and the Project, making its Indigenous Strategy a success. However, in early 2014 given the failure to continue these services due to internal problems with the Project, as we expected and we hoped it would, we communicated in February with the Bank - as noted in note 11 attached - expressing our concern for this new delay in the joint organizational strengthening services.

Months passed and since we received no positive response as to when the joint tasks would begin, we then wrote again to the Bank on May 16, 2014 reiterating our concern,

and the answer which we enclose and cite was that: "The Project Coordination, who we consulted on this matter, has confirmed that the item approval would be completed and the signing of the contract with the provider should be possible within a matter of days."

But the days went by and more than a month later we had no more news. We consulted with the officials of the Indigenous Strategy, who said that they just needed the signature of the Minister of Agriculture, and by the end of June 2014 they informed us that the Minister was not willing to sign off for the reinstatement of these services. Given this, we wrote a joint note from both organizations on June 30, 2014 requesting and communicating several points to all the authorities involved and implicated in the Project, including a request for the suspension of the project since our participation was not effectively realized, we demanded the non-cooperation of INDI in its continuation, and asked the Bank for a written answer to these demands made on the Bank. We have had no response from the authorities to the present.

In short, the PRODERS and the Ministry of Agriculture, have only secured in one year - 2013 - through the entire duration of the project (2009-2014), our right to effective participation and consultation. In this final stage, rather than consolidate our organizational strengthening, consultation and participation, what has been done is to back track to the point where we were at odds and would not accept the project. This also does away with the trust and good faith which we had placed in it.

What concerns and impacts us in addition is that the Bank we trusted at one point will not give us an answer on what it will do about this situation. We will recall that in Agreement 7503-PA, it states in Article 4, paragraph 4.01, that an additional event for suspension of the project for the Bank is, inter alia, the breach by INDI of any of its obligations under the Participation Agreement with MAG. Under that INDI-MAG agreement, INDI must "**take or allow to be taken, in consultation with the communities**, all steps to enable compliance with its obligations as referred to in the Loan Agreement, relating to INDI's participation under the Project."

What measures can be taken by the INDI or the Project in consultation with us— for instance, choosing the new beneficiary communities of the 2014 plans - if there are no effective means to implement them, nor so it seems will there be until the end of the year? This means we cannot meet, have training, participate or monitor the project.

The consequences are obvious and harmful to us; our right to prior, free and informed consultation on the project actions and effective participation therein is subject to the whims of the authorities in power rather than effective and sustainable measures. At present, neither our autonomy nor our true role is respected, we cannot take part in community plans nor facilitate their implementation in accordance with our knowledge, experience and cultural practices. In addition the executing agency, namely the Ministry of Agriculture, is seeking more money from the Bank for the PRODERS, without at the same time proposing or having in place legal and effective means in the short or medium term to ensure our participation and consultation. According to those of us who checked with Project officials and the President of INDI himself, it is not legally possible

this year 2014 to transfer funds from the Project to the INDI for organizational strengthening, a fact known to the Minister himself and the Bank.

Finally, in the past it was suggested that we could gather as organizations and communities using Project vehicles and providing us with food for the meetings, but many times we explained that this is not possible due to the distances - our communities are scattered all across the departments of Caaguazú and San Pedro - and regardless this is simply an indignity as we are not animals to be herded.

4. The operational policy which is not observed is clearly OP 4.10 on Indigenous Peoples, which in its first article states: "This policy contributes to the fulfillment of the Bank's mission to reduce poverty and achieve sustainable development by ensuring that the development process is carried out with full respect for the dignity, human rights, economies and cultures of Indigenous Peoples. In all projects proposed for Bank financing that affect Indigenous Peoples, the Bank requires the borrower to undertake a process of free, prior and informed consultation with the affected indigenous peoples. The Bank only provides funding for the project when the prior, free and informed consultations result in broad support for it by the community. The projects financed by the Bank include measures to a) avoid potentially adverse effects on indigenous communities, or b) when they can not be avoided, to the extent possible to reduce, mitigate or compensate them. The projects financed by the Bank are also designed so that Indigenous Peoples receive social and economic benefits that are culturally appropriate and inclusive from an intergenerational and gender standpoint."

5. We have expressed our complaints and concerns to the Project staff of the Indigenous Strategy and its successive Coordinators, the Minister and the Bank staff on multiple occasions, of which we cite only the dates of which we still retain a record via note or e-mail: September 28, 2011, November 15, 2011, January 13, 2014, May 16, 2014, May 19, 2014 and June 30, 2014. We received responses, also on the occasion of Bank missions and some in writing on the dates: October 6, 2011, December 29, 2011 and May 21, 2014.

Initially and at the time these responses were thoughtful and encouraging, so we knew to await the results that finally materialized in 2013. But with regard to the last response dated May 21 by the Bank, we saw that this was not the case since it later informed us, and unofficially to boot, that Minister Gattini had canceled the contracting of organizational strengthening services, citing the need to "allow free participation by broad bidders who can fulfill the required service, emphasizing equality and free competition." This decision affects us directly, and the Minister had not consulted nor informed us beforehand about his reasons or possible alternatives to accomplish organizational strengthening in the short term. Faced with this, neither did the Bank answer us as to what measures would be taken in light of this situation.

6.- We ask therefore that the Inspection Panel recommend to the Executive Board of the World Bank to conduct an investigation into these matters, and furthermore to recommend the suspension of the project until such time as the means can be identified that will ensure our right to consultation and participation.

Catalino Penayo
President, Joaju Ha'e Paveime Guara Coordination Bureau

Isidro Aquino
Vice President, Joaju Ha'e Paveime Guara Coordination Bureau

Cristino Duarte
Committee Member, Joaju Ha'e Paveime Guara Coordination Bureau

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Isidro Aquino: telephone 0975-939626

Cristino Duarte: telephone 0983-170410

The following documents are not part of this Notice but are on record with the Inspection Panel

List of Attachments:

- a) Note from October 6, 2011 from Project Manager Diego Arias to the leaders of the Coordination Bureau of Caaguazú
- b) Note (Draft) presented by the Coordination Bureau of Caaguazú at the meeting of November 15, 2011 to the PRODERS Coordinator and anthropologist Judith Lisansky.
- e) Note from December 29, 2011, from Project Manager Renato Nardello to the President of the Coordination Bureau of Caaguazú
- d) Note from January 13, 2014 from the ACISPE to World Bank representatives
- e) Note from May 13, 2014 from the Coordination Bureau of Caaguazú to representatives of the Bank and the General Coordinator of PRODERS
- f) Note from May 16, 2014 from the ACISPE to representatives of the Bank and the General Coordinator of PRODERS
- g) Response from May 21, 2014 via email from Project Manager Renato Nardello to the President of the ACISPE Secundino Nuñez.
- h) Note from June 30th from the ACISPE and Caaguazú Coordination Bureau addressed to the Minister of Agriculture Mr. Jorge Gattini, to Mr. Dante Mossi, resident representative of the World Bank, to Mr. Jorge Servin, president of the Paraguayan Indigenous Institute, to Deputy Tadeo Rojas, president of the Committee on Indigenous Affairs of the Chamber of Deputies.
- i) Note from July 7, 2014 from the Coordinator General of PRODERS Mr. Guillermo Céspedes to Mr. Cesar Duarte, Director of the DINCAP.
- j) Resolution of the MAG No. 1,029/2014 signed by the Minister of Agriculture Mr. Gattini, cancelling the contracting of organizational strengthening services.

ANNEX II

PARAGUAY
Sustainable Rural Development Project (P088799 – PRODERS)

**Action Plan Presented to the Inspection Panel
and its Status as of October 31, 2014**

A. Introduction

1. At a meeting on August 26, 2014, the Inspection Panel (IPN) requested information on the extent to which the delay in renewing the Service Provider's contract may have affected or will affect the Project's support to Indigenous Communities (ICs). It also inquired as to Management's plans for preventing interruption to that support going forward.
2. On September 9, 2014 the team provided the information requested and an action plan to address the issues mentioned in the Request for Inspection.
3. On October 21, 2014 the IPN proposed, and Management accepted, to process this Request under the Pilot approach.
4. This document formalizes the Action Plan and its status as of the date of this document.

B. Proposed next steps and estimated time-line.

5. The Government and the Bank have agreed on an Action Plan that is expected to satisfactorily resolve, by March 31, 2015, the situation created by the delay in contracting the Service Provider.
6. The Action Plan includes the following three major steps and milestones:
 - 1) Consultations for all Indigenous Communities (IC) under the Project in support of the preparation of their Indigenous Community Development Plans (ICDP) will be completed by September 30, 2014.
STATUS: Completed on time. Consultations were successfully undertaken and concluded on September 18-20, 2014. Ten additional ICs self-selected in 2014 to participate in the Project.
 - 2) Dedicated Consulting Services (DCS) will be in place no later than December 1, 2014, to provide, on an interim basis for a period of six months, services that were delayed by the lack of the Service Provider, namely: logistical support for community gatherings; capacity building activities; and advancing the administrative and judicial costs to support the land/regularization titling process.
STATUS: Ongoing and on track. Contracting of DCS is in its final stages: the single-source selection of a DCS firm has been cleared by both the Government and the Bank. It is expected that the contract be awarded by November 21, 2014 (the date depends on the time needed to complete the public procurement process in Paraguay) and services would start no later than **December 1, 2014**.
 - 3) Selection of a new Service Provider to cover the provision of services throughout 2015.
STATUS: Ongoing and on track. The bidding process was launched and bid opening is set for November 17, 2014. It is expected that the contract be awarded by December 31, 2014 and services would start no later than **March 31, 2015**.
7. The following table presents the main actions taken and/or planned with respect to these steps, their contribution to address the situation, and their expected completion date.

TABLE 1: Project-level activities

#	STEP	Objective/ Issue(s) to be solved	Substantive outcome(s) expected	Expected <u>Completion</u> dates (mm/dd/yyyy) (bold = completed)	Status
1	Consultations for all Indigenous Communities (IC) under the Project				
1a	Consultations in the Department of San Pedro for the selection of four ICs.	Self-selection of four ICs	<ul style="list-style-type: none"> • Free, prior, and informed consultations for the self-selection of four ICs in the Department of San Pedro. • Assembly of San Pedro ICs self-selects communities to be supported by the Project in 2014-2015. • Project supports 44 ICs, out of a total target of 45 (99 percent of Project's overall target). 	<u>06/19/2014</u>	<u>Completed on time</u>
1b	Consultations in the Department of Caaguazú for the selection of six ICs.	Self-selection of six ICs,	<ul style="list-style-type: none"> • Free, prior, and informed consultations for the self-selection of six ICs in the Department of Caaguazú. • Assembly of Caaguazú ICs self-selects communities to be supported by the Project in 2014-2015. • Project now supports 50 ICs, out of a total target of 45 (111 percent of Project's overall target). 	<u>09/20/2014</u>	<u>Completed on time</u>

#	STEP	Objective/ Issue(s) to be solved	Substantive outcome(s) expected	Expected Completion dates (mm/dd/yyyy) (bold = completed)	Status
2	Dedicated Consulting Services				
	Contracting Dedicated Consulting Services to replace the NGO Service Provider for six months (2014/15)	Satisfactory levels of services to ICs for the remainder of 2014 and the beginning of 2015, including avoiding gaps in services pending effectiveness of the contract with the Service Provider to be recruited for 2015 (see below).	<p>Main services include:</p> <ul style="list-style-type: none"> • Four capacity building events for IC members organized and undertaken, including payment of logistical and subsistence costs, on (i) administrative management of ICDP, and (ii) technical training of indigenous promoters; • Two annual assemblies, one for each departmental indigenous organization (ACISPE and MCJGPG), organized and undertaken, including payment of all logistical and subsistence costs; • Four indigenous facilitators, selected by ICs, provided with necessary means to accompany the implementation of ICDP and project activities for a period of 6 months; • Advancing costs of administrative or judicial procedures (for land regularization and titling, environmental disputes, and indigenous rights) 	<p><u>12/01/2014</u></p> <p>Identification of firm: 09/15/2014</p> <p>Bank clearance of contractual documents: 10/10/2014</p> <p>Ministerial approval of single sourcing: 10/27/2014 (Ministerial Resolution n. 1797)</p> <p>Publishing¹: 10/31/2014</p> <p>Opening: 11/07/2014</p> <p>Award: 11/21/2014</p> <p>Signature: 11/30/2014</p> <p>Start of services: by 12/01/2014</p>	<p><u>Ongoing, on track.</u></p> <ul style="list-style-type: none"> • Single sourced firm: CADES (Centro Agropecuario de Desarrollo Social). • Single-sourcing with Bank's no objection and ministerial approval; • Published in the National Procurement Portal; • Next step: contract award by Nov 21, 2014

¹ Per Paraguay's procurement code, even direct contracting is subject to a public bidding process which includes publishing, opening of bid, evaluation, and award.

#	STEP	Objective/ Issue(s) to be solved	Substantive outcome(s) expected	Expected Completion dates (mm/dd/yyyy) (bold = completed)	Status
3	Selection of a new Service Provider to cover the provision of services throughout 2015				
	Contracting a Service Provider for the remainder of the Project starting in 2015	Contracting a Service Provider:	<ul style="list-style-type: none"> • Eleven capacity building events for IC members organized and undertaken, including payment of logistical and subsistence costs; • Two meetings for participatory evaluation of Project activities; • Training for and participation to rural radio communication activities in the Project area; • Technical, logistical, and administrative support to ACISPE and MCJGPG for the implementation of an action plan to strengthen their organizational capacity; • Four indigenous facilitators, selected by ICs, provided with necessary means to accompany the implementation of ICDP and project activities for a period of 12 months; • Costs of administrative or judicial procedures (for land regularization and titling, environmental disputes, and • Advancing costs of administrative or judicial procedures (for land regularization and titling, environmental disputes, and indigenous rights) 	<p><u>03/31/2015</u></p> <p>Bank's no objection to bidding documents: 09/10/2014</p> <p>Publishing: 10/01/2014</p> <p>Bid opening: 11/17/2014</p> <p>Award: 12/31/2014</p> <p>Start of services: between 01/05/2015 and 03/31/2015.</p>	<p><u>Ongoing, on track.</u></p> <ul style="list-style-type: none"> • Bidding document with Bank final no-objection to publication • Bidding published in the National: Procurement Portal • Next Step: Bid opening scheduled for Nov 17, 2014.