

Gonzalo Castro de la Mata  
Chairman

IPN REQUEST RQ 14/04

December 18, 2014

**NOTICE OF RECEIPT OF REQUEST AND  
INITIATION OF THE PILOT APPROACH TO SUPPORT EARLY SOLUTIONS**

**Request for Inspection**

**PARAGUAY: Sustainable Agriculture and Rural Development Project (P088799)**

**Summary**

On July 22, 2014, the Inspection Panel received a Request for Inspection (“the Request”) of the Paraguay: Sustainable Agriculture and Rural Development Project (P088799), (“the Project” or PRODERS). The Request was submitted by two Indigenous People’s Organizations (IPOs), the “Asociación de Comunidades Indígenas de San Pedro” (ACISPE) and the “Mesa Coordinadora Joaju Ha’e Paveime Guara,” who represent indigenous communities in the Departments of San Pedro and Caaguazú, Paraguay.

The Panel verified that the Request meets the admissibility criteria for Registration. After various interactions with the Requesters and World Bank<sup>1</sup> Management, and given ongoing efforts by the latter to address the Requesters’ concerns, the Panel decided to postpone its decision on registration. The Panel is taking this decision in line with its “*Pilot Approach to Support Early Solutions in the Inspection Panel Process*.”<sup>2</sup> In the course of this Pilot’s implementation, the Panel will seek to incorporate lessons and observations from the first Pilot experience.<sup>3</sup>

<sup>1</sup> In this Notice the terms “World Bank” and “Bank” are used to mean International Bank for Reconstruction and Development.

<sup>2</sup> Inspection Panel Operating Procedures, Annex 1, Piloting a New Approach to Support Early Solutions in the Inspection Panel Process (available at: <http://ewebapps.worldbank.org/apps/ip/PanelMandateDocuments/2014%20Updated%20Operating%20Procedures.pdf>).

<sup>3</sup> See Nigeria: Lagos Metropolitan Development and Governance Project (P071340) Notice of Non-Registration and Panel’s Observations of the First Pilot to Support Early Solutions, dated July 16, 2014 (available at: [http://ewebapps.worldbank.org/apps/ip/PanelCases/91-Notice%20of%20Non-Registration%20\(English\).pdf](http://ewebapps.worldbank.org/apps/ip/PanelCases/91-Notice%20of%20Non-Registration%20(English).pdf)). The Panel’s lessons and observations were incorporated in the aforementioned Notice of Non-Registration as well as the Panel’s presentation to the Board of Executive Directors’ Committee on Development Effectiveness (CODE) during an informal meeting on September 3, 2014.

## The Project

PRODERS was approved by the 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 Financing 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."*<sup>4</sup> The Project has five components: (i) Community Organization Development and Capacity Building; (ii) Rural Extension and Adaptive Research; (iii) Sustainable Rural Development Fund; (iv) Animal Health Improvement; and (v) Project Management and M&E.

According to the Project Appraisal Document (PAD), Project management and implementation is the responsibility of the Ministry of Agriculture and Livestock (MAG), in partnership with the National Land and Rural Development Institute (INDERT), the Indigenous People's Institute of Paraguay (INDI), and the National Service for Animal Health and Quality (SENACSA).<sup>5</sup> The Project area covers the 39 municipalities in the Departments of Caaguazú and San Pedro. Project beneficiaries are small-scale farmers, Indigenous Communities (ICs), and rural workers, and they are to benefit from extension services, capacity building and investment funding.<sup>6</sup> The Project triggered five Bank safeguard Policies and was classified within the environmental B category.<sup>7</sup>

With respect to Indigenous Communities, the PAD indicates that the Project was designed to address, in a participatory manner, Indigenous Peoples' concerns regarding food security, the protection of their environment and lands, and the strengthening of their community organizations. The Project provides support through several activities, such as assistance to strengthen community organization, specific studies, diagnostics and community development plans, technical assistance for implementing specific community development plans in each indigenous community and Indigenous Peoples participation in Project management and monitoring. During Project preparation, an Indigenous Peoples Strategy was developed to *"maximize effective indigenous participation in the project."*<sup>8</sup>

In communications with the Panel, Bank Management noted that under PRODERS the consultations are carried out through representatives of ICs in each department supported by a service provider<sup>9</sup> to facilitate: (i) meetings of indigenous communities (members and leaders) for the preparation of Indigenous Community Development Plans (ICDP); and (ii) one assembly per indigenous organization per year. Additionally, the service provider is expected to deliver training events on communications, planning, citizenship, legal issues, community organization, and evaluation of community development plans.<sup>10</sup>

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<sup>4</sup> Loan Agreement between Republic of Paraguay and the International Bank for Reconstruction and Development, Schedule 1.

<sup>5</sup> Project Appraisal Document (PAD), Report No: 4 14 19-PY, December 21, 2007: 17.

<sup>6</sup> PAD: 10.

<sup>7</sup> These are: Environmental Assessment (OP/BP 4.01); Natural Habitats (OP/BP 4.04); Pest Management (OP 4.09); Indigenous Peoples (OP/BP 4.10); and, Forests (OP/BP 4.36).

<sup>8</sup> PAD: 148.

<sup>9</sup> As per the IPPF, the service provider can be an NGO, a firm or an institution with experience in working with ICs.

<sup>10</sup> Information provided by Bank Management to the Panel on September 9, 2014.

## The Request for Inspection

The Requesters state that in 2011, two NGOs, “Oguasu” and “Centro de Estudios Paraguayos Antonio Guasch” (CEPAG) were hired as service providers but their contracts were cancelled in August 2011. In late 2012, another NGO, “Alter Vida,” was hired as the service provider and in 2013, with its support, they were able to participate in *“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 [their] rights of consultation and full participation.”* The Requesters state that *“this support was evaluated by themselves and other indigenous leaders [...] as very positive.”* In 2014, however, the contract with Alter Vida was discontinued. According to the Requesters, this was done because it was no longer legally possible *“to transfer funds from the Project to the INDI for organizational strengthening.”*

The Requesters claim that the Bank did not intervene or take effective action to ensure their *“right of consultation and participation in the Project in a sustainable manner throughout its implementation.”* According to the Requesters, the INDI Participation Agreement provides that 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,”* and that the Project is no longer providing the *“financial and operational resources”* to strengthen their organizations and to enable them to participate in the Project. They add that the lack of such resources is adversely impacting their ability to *“meet, have training, participate or monitor the project.”* They further add that the consequences *“are obvious and harmful to [them]; [their] 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.”* They consider that they *“cannot take part in community plans nor facilitate their implementation in accordance with [their] knowledge, experience and cultural practices.”*

Therefore, the Requesters believe that their rights to consultation and participation in the Project have been *“severely disrupted.”* The Requesters concerns relate to: (i) potential harm if new activities are elaborated without their consultation and participation; and, (ii) harm from their inability to participate and monitor ongoing Project activities. They ask that the Panel recommend both an investigation into these matters, as well as the suspension of the Project until their right to consultation and participation is reinstated and ensured going forward.

## Admissibility of the Request

The Panel confirms that: (i) the Request was submitted by two or more persons in relation to a project supported by the World Bank; (ii) the Bank’s financing for the Project had not yet reached 95% disbursement and the Project had not yet closed by the time the Request for Inspection was submitted;<sup>11</sup> (iii) the Requesters assert that they are affected by activities supported by the Bank, and the Request raises issues of harm which are plausibly linked to Bank supported activities and result from alleged actions or omissions by the Bank; (iv) although procurement matters are raised in this Request, the Requesters’ allegations of harm extend beyond issues of procurement as they concern indigenous peoples effective participation and consultations in Project activities, and (v) the Panel has not made a previous recommendation relating to the concerns raised. Furthermore, the Requesters provide a list of

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<sup>11</sup> The Project is financed by two Loans; Loan No. 83160 (of US\$100 million), which at the time of receipt of the Request for Inspection hadn’t started disbursement, and Loan No. 75030 (of US\$37.5 million), which at the time of receipt was about 70.1% disbursed.

communications during which they raised their concerns with the Bank,<sup>12</sup> adding that although the Bank committed to provide measures to address the situation, these were not fully implemented.

### **Decision to Implement the Pilot for Early Solutions**

Upon receipt of the Request, the Panel considered the option of initiating the Pilot approach as well as the regular registration procedure. Since then, the Panel has maintained constant communications with both the Requesters and Bank Management, as follows.

On July 30<sup>th</sup>, 2014, the Panel met with Bank Management to better understand the background and context of the Project and of the issues raised in the Request. Bank Management acknowledged the Requesters' concerns and affirmed the Bank's commitment to ensure proper implementation of the Project, and that a series of actions were in place to resume consultations as soon as possible. In Management's view, the impact of the delay in consultations had been temporary and limited since by design, no new investments could take place without the involvement of the Indigenous Communities.

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.*" On October 31, 2014, Bank Management summarized their proposed actions to solve the *impasse* in the form of an Action Plan (Annex 1) as required in order to proceed with the Pilot approach. Management also indicated its agreement with the Pilot approach. Some of the proposed activities in the Action Plan to resume consultations have already been completed before the issuance of this Notice, while other activities are under implementation. On December 15<sup>th</sup>, 2014, and after various communications with Bank Management and the Panel, the Requesters formally agreed to the implementation of the case under the Pilot approach.

The Panel is satisfied that the criteria to process the Request under the Pilot Approach have been 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, have formally informed the Panel that they desire a postponement of the decision on Registration to explore this additional opportunity for an early solution to their concerns.

In the course of preparing for the initiation of this Pilot, the Panel took into consideration the lessons derived from the first Pilot,<sup>13</sup> as they apply to this case. Specifically: (i) the Panel verified that there are no concerns over the adequacy of representation, given that the affected parties have submitted the Request directly to the Panel and that this is clear to all stakeholders; (ii) the Panel has ensured that to date, the Requesters are well-informed and thoroughly engaged in the process; (iii) moving forward, the Panel is committed to maintain open and frequent communications with the Requesters and has agreed to

<sup>12</sup> The Requesters state that they have expressed their concerns with Bank staff (and others) on multiple occasions. These occasions include communications; in September and November, 2011, and later in January, May, and June, 2014. They also indicate receiving responses in October and December, 2011 and also in May, 2014.

<sup>13</sup> See Nigeria: Lagos Metropolitan Development and Governance Project (P071340) Notice of Non-Registration and Panel's Observations of the First Pilot to Support Early Solutions, dated July 16, 2014 (available at: [http://ewebapps.worldbank.org/apps/ip/PanelCases/91-Notice%20of%20Non-Registration%20\(English\).pdf](http://ewebapps.worldbank.org/apps/ip/PanelCases/91-Notice%20of%20Non-Registration%20(English).pdf)). The Panel's lessons and observations were incorporated in the aforementioned Notice of Non-Registration as well as the Panel's presentation to the Board of Executive Directors' Committee on Development Effectiveness (CODE) during an informal meeting on September 3, 2014.

communicate with them every four weeks or more often if required; (iv) all stakeholders, including Requesters, Management, and Government authorities are willing to abide by this established process, and (v) in order to guarantee the existence of clear and shared expectations by all stakeholders, the Panel has ensured that the Action Plan includes clearly defined milestones and a timeline for achieving the list of actions provided.

### **Conclusion**

In light of the above, the Panel has decided not to register this Request for Inspection at this time to provide an opportunity for an early resolution to the Requesters' concerns. In line with the Pilot approach, the Requesters have the right, at any time, to indicate that they are not satisfied and request the registration of the Request.

The Panel will review the situation three months following the submission of this Notice. If the Requesters are satisfied that their concerns are being successfully addressed, and they so inform the Panel in writing, the Panel will not register the Request and will issue a Notice of Non-Registration. To be able to better inform its judgment, the Panel may visit the Requesters and the Project area to engage in direct discussions with all relevant stakeholders. If the Panel decides to register the Request, it will outline to the Board the steps taken so far as well as the reason for registering the Request.

The Request has been assigned IPN Request Number RQ 14/04.

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

Annex 1

**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 Completion dates (mm/dd/yyyy) (bold = completed)	Status
<b>1</b>	<b>Consultations for all Indigenous Communities (IC) under the Project</b>				
1a	Consultations in the Department of San Pedro for the selection of four ICs.	Self-selection of four ICs	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).	<b><u>06/19/2014</u></b>	<b><u>Completed on time</u></b>
1b	Consultations in the Department of Caaguazú for the selection of six ICs.	Self-selection of six ICs,	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).	<b><u>09/20/2014</u></b>	<b><u>Completed on time</u></b>

#	STEP	Objective/ Issue(s) to be solved	Substantive outcome(s) expected	Expected Completion dates (mm/dd/yyyy) (bold = completed)	Status
2	<b>Dedicated Consulting Services</b>				
	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> <p>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;</p> <p>Two annual assemblies, one for each departmental indigenous organization (ACISPE and MCJGPG), organized and undertaken, including payment of all logistical and subsistence costs;</p> <p>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;</p> <p>Advancing costs of administrative or judicial procedures (for land regularization and titling, environmental disputes, and indigenous rights)</p>	<p><b>12/01/2014</b></p> <p>Identification of firm: <b>09/15/2014</b></p> <p>Bank clearance of contractual documents: <b>10/10/2014</b></p> <p>Ministerial approval of single sourcing: <b>10/27/2014</b> (Ministerial Resolution n. 1797)</p> <p>Publishing<sup>14</sup>: <b>10/31/2014</b></p> <p>Opening: <b>11/07/2014</b></p> <p>Award: 11/21/2014</p> <p>Signature: 11/30/2014</p> <p>Start of services: by 12/01/2014</p>	<p><b>Ongoing, on track.</b></p> <p>Single sourced firm: CADES (Centro Agropecuario de Desarrollo Social).</p> <p>Single-sourcing with Bank's no objection and ministerial approval;</p> <p>Published in the National Procurement Portal;</p> <p>Next step: contract award by Nov 21, 2014</p>

<sup>14</sup> 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
<b>3</b>	<b>Selection of a new Service Provider to cover the provision of services throughout 2015</b>				
	Contracting a Service Provider for the remainder of the Project starting in 2015	Contracting a Service Provider:	<p>Eleven capacity building events for IC members organized and undertaken, including payment of logistical and subsistence costs;</p> <p>Two meetings for participatory evaluation of Project activities;</p> <p>Training for and participation to rural radio communication activities in the Project area;</p> <p>Technical, logistical, and administrative support to ACISPE and MCJGPG for the implementation of an action plan to strengthen their organizational capacity;</p> <p>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;</p> <p>Costs of administrative or judicial procedures (for land regularization and titling, environmental disputes, and</p> <p>Advancing costs of administrative or judicial procedures (for land regularization and titling, environmental disputes, and indigenous rights)</p>	<p><b>03/31/2015</b></p> <p>Bank's no objection to bidding documents: <b>09/10/2014</b></p> <p>Publishing: <b>10/01/2014</b></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><b><u>Ongoing, on track.</u></b></p> <p>Bidding document with Bank final no-objection to publication</p> <p>Bidding published in the National: Procurement Portal</p> <p>Next Step: Bid opening scheduled for Nov 17, 2014.</p>