

THE INSPECTION PANEL

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
INTERNATIONAL DEVELOPMENT ASSOCIATION

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IPN REQUEST RQ05/2

December 1, 2005

NOTICE OF REGISTRATION

Re: Request for Inspection
Democratic Republic of Congo: Transitional Support for Economic Recovery Credit
(Proposed) and Emergency Economic and Social Reunification Support Project (EESRSP)
(Credit No. 3824-DRC and Grant No. H 064-DRC)

On November 19, 2005, the Inspection Panel received a Request for Inspection, dated October 30, 2005, (the "Request") related to the above-referenced Projects. The Organisations Autochtones Pygmées et Accompagnant les Autochtones Pygmées en République Démocratique du Congo submitted the Request on their own behalf and on behalf of affected local communities living in the Democratic Republic of Congo. Representatives of local communities of Kisangani in the Orientale Province, of Béni and Butembo in the Nord-Kivu Province, of Kinshasa/Mbandaka and Lokolama in the Equateur Province, of Inongo in the Bandundu Province, of Kindu in the Maniema Province, and of Bukavu in the Sud-Kivu Province, are signatories to the Request. The Request for Inspection includes 32 annexes.

The Requesters claim that they have been harmed and will be harmed by the forestry sector reform activities supported by the Projects, which includes a plan for zoning the forests and, they fear, the implementation of a new commercial forest concession system. They note that the Project includes the preparation of "*a forest zoning plan,*" for the forests of the Equateur and Orientale Provinces, where they have lived for centuries, even millennia. The Requesters claim that if the zoning of the forests occurs without consulting the indigenous peoples and considering their interests and if new forest concessions are assigned, the International Development Association (the "Bank") will be violating indigenous peoples' rights and harming their interests. They claim it will lead to violating their right to occupy their ancestral lands, to maintaining the integrity of their traditional lands, to accessing their traditional lands and existing resources, to managing their forests and resources according to traditional knowledge and practices, and to protecting their cultural and spiritual values. They claim this would then lead to the destruction or loss of their natural living environment and their means of subsistence, impose or force change in their way of life, and cause serious social conflict.

The Requesters assert that their grievances result from omissions and failures of the Bank regarding its policies and procedures. They specifically claim, for example, that in the

Emergency Economic and Social Reunification Support Project (EESRSP), the Bank ignored OD 4.20 on Indigenous Peoples despite the presence of indigenous Pygmies people in the Project implementation area. Moreover, they contend that the Project was classified as Category B under OP 4.01 on Environmental Assessment, but because of its potentially sensitive impacts, it should have been classified as Category A. They also assert that the preparation of the environmental assessment was delayed more than twelve months after the Development Financing Agreement for the Project became effective (December 5, 2003), and that the environmental assessment is still not available. The Requesters further state that Bank activities pertaining to the forestry sector in DRC are not consistent with OP 4.36, and lack popular legitimacy, as they are being implemented without adequate consultation and do not respond to indigenous peoples' concerns or to the requirements for sustainable management of the Congolese forests and the development of their inhabitants.

The Requesters claim that OD 4.20 should apply to the EESRSP. They reject the Bank's claim that the Project is not expected to include activities in indigenous peoples' areas and claim this does not correspond to the reality on the ground. They add that the Pygmies were the first inhabitants of the region and have lived and traveled in the forests of the Equateur and the Orientale Provinces for centuries, even millennia, and that their survival, cultural identity and traditional knowledge are intimately linked to the forest. The Requesters further allege that the Bank prepared terms of reference for a Pilot Zoning Plan covering the axis Maringa-Lopori-Wamba, which recognized the presence of Pygmies indigenous people communities in these forests. This means according to the Requesters that OD 4.20 must apply.

The Requesters state that under the EESRSP, the Bank plans to lay the ground for the implementation of a new forestry concession system. The Requesters fear that this will raise the moratorium on granting forestry exploitations titles and will lead to assigning new forest concessions even before the zoning plan is finalized. They add that this concession system will lead to the revival of the logging industry without any mechanisms for effective control or for ensuring transparency. The Requesters note that no regulation related to the rights and interests of local communities or to environmental protection has been adopted. They claim that the EESRSP "forest component's" performance indicators refer only to the number of new concessions granted, without considering risks from a failure to consult indigenous people or to suspend the moratorium prematurely. The Requesters note that according to the Bank's own estimates, the policies supported by the Bank will ensure 60 million hectares of forests are available for forest production, which constitutes three-quarters of the 80 million hectares of tropical forests in the DRC.

The Requesters refer to a Bank-financed structural adjustment credit, the Economic Recovery Credit, approved in May, 2002 and to the DRC Forestry Code adopted in August 2002 as a condition of the Credit. According to the Requesters, the Forestry Code, which set the policy framework for the country's forest management, was adopted without the participation of civil society or the involvement of the indigenous population. They argue that the type of lending instrument used (an Emergency Recovery Loan) resulted in the Bank bypassing its safeguard policies and procedures related to environment, forestry, and indigenous peoples.

The Requesters note that the Bank's Board of Executive Directors will be reviewing a new Project, the Transitional Support for Economic Recovery Credit, which includes a component on

forestry sector governance. They state that although they have not been granted access to the details of this component, they fear that if the Project is approved in the same form as the previous EESRSP project and the earlier Economic Recovery Credit, *“it would allow the application of the Bank’s safeguard policies and procedures to be sidelined,”* would *“risk marginalizing indigenous people even more,”* and would build upon flawed and inadequate forestry sector reforms already in place. This would threaten their rights and their survival.

The Requesters state that they have tried several times to have the Bank clarify its real motivations and to explain its failure to apply its own policies and procedures, but without success. They also list several meetings and exchanges they had with the Bank and state that these did not provide any substantial answers to the concerns and recommendations of the organizations of the Pygmie indigenous people or of civil society generally. The Requesters sent the Request to the Inspection Panel and ask that the Panel recommend to the Board of Executive Directors an investigation into the Bank’s actions and omissions. For the existing EESRSP, they request that the Bank implement OP4.20 on indigenous people, reconsider the EESRSP classification under OP 4.01, so that it is classified as Category A rather than B; and disclose the EESRSP’s environmental assessments. They further request that their concerns and observations be considered as part of the approval process for new projects having a forest component, such as the Transitional Support for Economic Recovery Credit. This project is scheduled to be presented to the Bank Board of Executive Directors for approval on December 8, 2005.

The above claims may constitute non-compliance by the Bank with various provisions of the following operational Policies and Procedures:

OP/BP 4.01	Environmental Assessment
OD 4.15	Poverty Reduction
OD 4.20	Indigenous People
OP/BP 4.36	Forestry
OP/BP 8.50	Emergency Recovery Assistance
OPN 11.03	Cultural Property
OP/BP 13.05	Project Supervision
BP 17.50	Disclosure of Information

All communications with the Requesters in connection with this Request will be sent until further notice to Messrs. Adrien Sinafasi Makelo, Willy Loyombo Esimola, Pierre Bonkono Empita, and Ms. Adolphine Muley.

In accordance with paragraph 17 of the Panel’s Operating Procedures (the “Operating Procedures”), I am notifying you that I have, on December 1, 2005, which is also the date of the dispatch of this notice, registered this Request in the Inspection Panel Register.

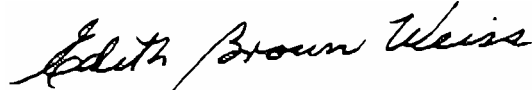
In accordance with paragraph 18 of the Bank Resolution that established the Panel (the “Resolution”), paragraphs 2 and 8 of the *“Conclusions of the Board’s Second Review of the Inspection Panel”* (the “1999 Clarifications”), and paragraph 18 (d) of the Operating Procedures, Bank Management must provide the Panel, no later than January 2, 2006, with written evidence that it has complied, or intends to comply, with the Bank’s relevant policies and procedures in

relation to the above-referenced Project. The subject matter that Management must deal with in a response to the Request is set out in paragraphs 3 and 4 of the 1999 Clarifications.

After receiving the Management response, the Panel will, as outlined in the 1999 Clarifications and as provided by paragraph 19 of the Resolution, *“determine whether the Request meets the eligibility criteria set out in paragraphs 12 to 14 [of the Resolution] and shall make a recommendation to the Executive Directors as to whether the matter should be investigated.”*

The Request has been assigned IPN Request Number RQ05/2.

Yours sincerely,

A handwritten signature in black ink that reads "Edith Brown Weiss". The signature is written in a cursive, flowing style.

Edith Brown Weiss
Chairperson

TO:

Adrien Sinafasi Makelo
Pygmies Indigenous People Association Network (RAPY) – Bukavu
President of the Board

Willy Loyombo Esimola
Organization for the Settling, Literacy and Promotion of the Pygmies (OSAPY) – Kisangani
President

Adolphine Muley
Indigenous Woman’s Emancipation Union (UEFA) – Bukavu
Coordinator

Pierre Bonkono Empita
International Center for Defense of the Rights of Forest People “Batwa” (CIBD) – Kinshasa /
Mbandaka
Environmental Rights Coordinator

Mr. Paul Wolfowitz
President
International Development Association
Room MC12-750

CC:

The Executive Directors and Alternates
International Development Association