

The Inspection Panel
1818 H Street, N.W.
Washington, D.C. 20433
USA

REQUEST FOR AN INSPECTION PANEL ON THE MINING DEVELOPMENT AND ENVIRONMENTAL CONTROL TECHNICAL ASSISTANCE PROJECT (PRODEMINCA)

Dear Sirs:

We, the undersigned, Cecilia Alvarez and Carlos Zorilla, President and Vice President of *Defensa y Conservación Ecológica de Intag* (DECOIN), and others, all residents and/or representatives of social organizations in the Intag Zone, Province of Imbabura, Ecuador, submit the following complaint, substantiated by the documents we enclose with this letter:

That the Bank is financing implementation of the Mining Development and Environmental Control Technical Assistance Project (PRODEMINCA), the main purpose of which is to support the development of the mining industry in Ecuador (further details are to be found in the attachments).

We consider that:

I. The PRODEMINCA project threatens our fundamental right to engage in farming and animal husbandry, the principal economic activity in the area. It will have a negative impact on our security and on our constitutional right to live in an ecologically balanced and pollution free environment.

II. The PRODEMINCA project also threatens several protected nature reserves (critical natural habitats) that protect our sources of drinking water and guarantee us a stable and varied climate. The protected areas affected include the Cotacachi-Cayapas Ecological Reserve, one of the most biodiverse protected areas in the world. These areas protect the last remnants of Ecuador's Western Forest and dozens of species in danger of extinction. They are recognized throughout the world as being among the forests that contain the greatest biodiversity and are most threatened by deforestation, and are one of ecologist Norman Meyers' "biodiversity hotspots."

III. As we indicate in the attached documents, we have verified a series of violations of World Bank standards and guidelines, particularly with respect to protection of natural habitats and critical natural habitats, as well as serious and inexcusable deficiencies in the Environmental Assessment. The EA was drawn up without the participation of the communities and NGOs involved and without taking their opinions into account. Not did it include analyses or plans for mitigating potential impacts on protected nature reserves, private reserves, endangered species, or communities living in areas affected by the project.

IV. To safeguard our rights and environment, we request that the information gathered in any protected area, public or private, including its buffer zones, and areas in which conflicts have arisen between communities and mining companies, not be made public.

We consider, therefore, that the above-mentioned omissions, which run counter to Bank policy, have already harmed and may further curtail our rights and interests, as described above, and we request that the Panel recommend to the Board of Directors of the Bank that it conduct an investigation into this matter in order to solve the problem.

As recommended in your Bank Procedures, this is a résumé of our request for an Inspection. A more extensive statement of our demand is enclosed and we would be prepared to supply further information upon request.

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Sincerely,

Signatures of:

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Carlos Zorrilla
Vice President, DECOIN

Silvia Quilumbago
Secretary, DECOIN

Luis Robalino
DECOIN

Edgar Cabascango
President
Asociación de Caficultores "RIO INTAG"

Jose Cueva
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Asociación de Caficultores "RIO INTAG"

Edmundo Varela
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Sonia Dillmann
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ADDRESSES OF ORGANIZATIONS REQUESTING A PANEL INSPECTION

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ASOCIACION DE CAFICULTORES ORGANICOS "RIO INTAG" (AACRI)

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We, Cecilia Alvarez and Carlos Zorilla, President and Vice President of *Defensa y Conservación Ecológica* (DECOIN), and others who signed the foregoing document, who are all residents of the Intag Zone, Province of Imbabura, Ecuador (see map of the area in Annex 1), hereby request an inspection of the Mining Development and Environmental Control Technical Assistance Project (PRODEMINCA), for the following reasons:

1. The World Bank is providing financing for the Mining Development and Environmental Control Technical Assistance Project (PRODEMINCA), a project under way in Ecuador since 1994 and originally due to close in January 2000, a date that has now been postponed. The principal objectives of this project are:

- A. To attract new private mining investment by supporting the systematic development of mining and development of the mining industry in Ecuador.
- B. To promote and increase environmentally sound mineral production.
- C. To arrest mining-related environmental degradation resulting from the use of primitive and inadequate technology by informal miners.

The main components of the project are:

- (a) Compilation of geoinformation, including the development of thematic maps highlighting potential mining districts, and based on prospecting activities (collection of river sediment samples and rocks to be tested for the presence of 36 chemical elements). This is the best-funded of the project components.
- (b) Support for a change in Ecuador's mining policy, through amendments to the mining law and strengthening of governmental mining entities.

Thus, the project seeks to:

- (1) Promote small and large-scale mining in Ecuador;
- (2) Compile geological data to facilitate the development of industrial-scale mining;
- (3) Introduce and disseminate environmentally less harmful technology;
- (4) Privatize mining, by inducing the State to give up its current role in mineral production;
- (5) Devise a monitoring program to identify and measure the extent of the impact of mining on communities and the environment.

In practice, PRODEMINCA is carrying out minerals prospecting activities by conducting surveys of mining potential in different parts of the country. Although, in principle, prospecting is a

necessary part of this branch of industry, it will pose a serious threat to the critical natural habitats in which we live, including one protected area. Were the mining information regarding these areas to be disseminated, it would create pressure from both mining companies and informal miners, which the authorities, given the environmental protection mechanisms at their disposal, would have difficulty resisting, particularly in public and private protected areas.

2. The World Bank has adopted the following policies on natural areas, among others:
 - (A) Paragraph four of the World Bank's operational policies on natural areas (OP, 4.04) states: "The Bank does not support projects that, in the Bank's opinion, involve the significant conversion or degradation of critical natural habitats." According to the definition given in OP 4.04, Annex A: "Natural habitats are land and water areas where:
 - (i) the ecosystems' biological communities are formed largely by native plant and animal species; and
 - (ii) human activity has not essentially modified the area's primary ecological functions."

Critical natural areas are existing protected areas, areas officially proposed for protected status by governments (reserves that meet the specifications of World Conservation Union, IUCN, classification), areas initially recognized by local communities as protected (sacred forests), and places determined (by government environmental assessment) to be essential for the viability of these protected areas.

Degradation is defined as modification of a critical habitat or of a natural habitat which substantially reduces the possibility of that habitat's being able to sustain a viable population of its native species.

3. Dissemination of information compiled and systematized by the PRODEMINCA project on the natural and protected areas in our surroundings will seriously threaten their stability. Our interests as organizations concerned with both the environment and sustainable agricultural development are to conserve the forests and biodiversity that still exist, to avoid overall degradation of the environment, including pollution of our rivers and drinking water sources, and to safeguard the quality of that resource. We also support sustainable development projects, in particular in agriculture, animal husbandry and ecological tourism, and we are concerned to safeguard public safety and communal peace. The areas we refer to are:

- (i) The El Chocó ecosystem or northwestern forests of Ecuador, which according to the well-known biologist Norman Myers constitute one of the world's eight "hotspots;"
- (ii) The Cotacachi-Cayapas Ecological Reserve and its buffer zones (see map of the area in Annex 1).
- (iii) Legally protected protecting forests (see Annex 1).

To substantiate this item, we enclose documents issued by the World Conservation Union (IUCN), the Ecuadorian Ecological Studies Foundation (ECOCIENCIA), and a paper by Dr. Edward O. Wilson of the Museum of Comparative Zoology, which also underscore the importance of these two natural areas. (Annexes 2, 3, and 4)

The PRODEMİNCA project has announced on its web page that it will make available a compact disc (CD-ROM) containing computerized data on mineral resources all along the western slopes of the Ecuadorian Andes, where the aforementioned areas are located. As soon as mining companies or even informal miners obtain this information, the Government will be subject to intense pressure to open up those areas as mining concessions. Alternatively, as has happened in other places, such areas will simply be invaded, and then the policy adopted will be to treat the situation as a *fait accompli*. Also to be taken into account is the potential impact if the Government did authorize mining activities or if invasions simply occurred, whether by miners or others (usually both types of invasion occur simultaneously). Moreover, it should be pointed out that even in the prospecting phase of the PRODEMİNCA project damage has already been done to the areas mentioned by paths being opened up for the personnel engaged in prospecting and then being used by people who have nothing to do with the project as access routes to the Cotacachi-Cayapas Ecological Reserve.

These protected areas and their buffer zones provide a number of very important environmental goods and services for the inhabitants. Hundreds of rivers and streams have their source in these areas and the forests protect the water for human use and farming. The natural forests in these areas play an essential part in regulating the climate and providing enough humidity and rain for farming and animal husbandry, the principal economic activities in our area. Moreover, as we pointed out above, the forests native to this region are extraordinary examples of biodiversity and protect dozens of endangered species (see Annex 2). This makes them apt for sustainable forms of ecotourism, an activity of increasing importance in our area and one supported by the Ecuadorian Government precisely because it is sustainable.

4. In light of the above, we consider that the Bank has transgressed its own policies and procedures in the following ways:

- I. The operational policy that "the Bank does not support projects that, in the Bank's opinion, involve the significant conversion or degradation of critical natural habitats" has been disregarded in the execution of this project, because it is evident that the activity PRODEMİNCA tends to encourage is one that will significantly alter the areas we have mentioned;
- II. Another policy adopted by the World Bank and recognized by the international community is to consult and bear in mind the views of affected groups and local NGOs on the carrying out and implementation of a project, and above all in the preparation of Environmental Assessments. It is also Bank policy to keep local communities clearly and sufficiently informed regarding the significance and scope of the project being executed. However, in this case, that procedure was reduced to an occasional meeting with an isolated, non-representative local group. There was no contact with local organizations or authorities, not even with other public and private coordinatory bodies such as the Coordinating Unit for Sustainable Forest Management in the Province of Esmeraldas [*Unidad Coordinadora para el Manejo Forestal Sustentable de la Provincia de Esmeraldas*], which comprises representatives of the Ministry of the Environment, community organizations, environmental groups, and producer organizations, and which covers the buffer zone

area around the Cotacachi-Cayapas Ecological Reserve. This omission has been admitted on several occasions by PRODEMİNCA and World Bank representatives, who agree that the information and consultation process was not well handled.

- III. [The Bank has also transgressed] Ecuadorian laws by fostering activities prohibited by domestic law. Article 199 of the General Regulations issued pursuant to the Wildlife, Natural Resources and Forest Law, for instance, states that "mining is not one of the activities permitted in the State's Natural Areas System." [Similar rulings are to be found in] Article 5 and Chapter III (Articles 74-78) of the Forest Law, and in Article 87 of the Mining Law, which specifies: "The State shall not foster mining activities in Protected Areas." Article 18 of the same Law defines prospecting as "collection of river sediment and rock samples to test for mineral traces." Thus the project clearly transgresses paragraph 14 of the World Bank's OD 4.01, which states that both the Borrower and the Bank should use common sense when applying EA procedures, in order to ensure that project design and execution are satisfactory from every point of view, both environmental and economic, and that they conform to the laws, policies, and procedures of the borrower.

The project referred to here was described as Category A (according to Mr. Gotthard Walser, a World Bank mining specialist, and Pilar Larreamendy, the World Bank's representative in Ecuador at the meeting held on November 12, 1999 in Cotacachi, several months after PRODEMİNCA activities had got underway in the area). Category A means that a project has significant environmental impact and therefore requires a rigorous environmental assessment (see OP 4.01 Annex B). This requirement is all the more crucial given the ecologically sensitive nature of the areas we refer to. In the course of its analyses, the PRODEMİNCA project neglected several points:

- It failed to consult local communities and NGOs, as well as regional authorities and coordination entities.
- It failed to consider endangered ecosystems.
- It neglected to take into account the institutional inability of mining enterprises to protect the areas from possible invasions.
- It failed to take into account the possible impact of divulging the information contained in the mineral maps.

Furthermore, it is important to point out that the information obtainable from the Environmental Assessment did not include research into or data on the impact on ecosystems in northwestern Ecuador, but focused rather on the south, on totally different ecosystems, and mostly on the study of the impact on artisan mining activities.

- IV. It is our view that the Bank has not monitored the PRODEMİNCA project carefully enough, and that lack of control and surveillance has done harm to the parties involved (OD 13.05).

5. For the above reasons, we, the undersigned representatives of *Defensa y Conservación Ecológica de Intag* (DECOIN) and *Asociación de Caficultores "Río Intag"* (ACCRI), firmly believe that our rights and interests have been harmed by the failure of PRODEMİNCA and World Bank staff to implement the policies of the very institution financing them.

DECOIN is an environmentalist organization based in the Intag area. Its members are inhabitants of the area engaged in environmental protection activities, the promotion of sustainable activities such as agriculture and community-based ecological tourism, biological research, reforestation using native species, and the creation of communal forests, and other related activities.

Because of its recognized role in defending the environment, DECOIN is a leading member of the National Coordinating Office of CEDENMA (Ecuadorian Committee for the Defense of Nature and the Environment), a national organization representing over 80 environmental organizations throughout the country.

Apart from the failure to comply with the World Bank's own policies, there are a number of additional potential impacts should PRODEMİNCA decide to divulge mining data on the area in question, which would further harm our rights and interests. The mining activity that PRODEMİNCA fosters will bring about major changes in our natural and socioeconomic environment, including such specific instances of damage as:

- I. A decrease in the farming, livestock, and ecotourism potential which constitutes a major source of income in the region;
- II. Adverse impacts on the social landscape, owing to the irruption of settlers, mineworkers, and informal miners, and the resulting appearance of social problems such as prostitution, alcoholism, delinquency, etc., so far nonexistent in the area;
- III. Pollution of water sources.
- IV. Destruction of critical areas of the overall ecosystem, with the consequent reduction or disappearance of biodiversity and of species that are of use to local communities.
- V. Downgrading of the legal and administrative concept of "Protected Area," because now that PRODEMİNCA has entered the Cotacachi-Cayapas reserve in order to carry out activities aimed at promoting mining and has cut paths to facilitate this entry, local people have begun to assume that the protected areas are good for productive activities. The damage done could spread to other areas of the country.
- VI. From the legal standpoint, PRODEMİNCA'S explicit intention to develop mining even in protected and ecologically critical areas contravenes the Constitution,

specifically its Article 86, which specifies that "The State shall protect the right of the population to live in a healthy and ecologically balanced environment guaranteeing sustainable development. It shall take care to ensure that this right is not curtailed and shall guarantee nature conservation ."

The following are declared to be in the public interest and to be subject to regulation in accordance with the law:

1. Preservation of the environment, conservation of ecosystems, biodiversity, and the integrity of the nation's genetic heritage.
2. Prevention of pollution, rehabilitation of environmentally degraded natural areas, sustainable management of natural resources, and whatever requirements are needed to ensure that public and private activities pursue these ends.
3. Creation of a national protected natural areas system to safeguard biodiversity and the maintenance of ecological services, in accordance with international agreements and treaties.

In declaring that "preservation of the environment, conservation of ecosystems, biodiversity, and the integrity of the nation's genetic heritage" and the "creation of a national protected natural areas system to safeguard biodiversity and the maintenance of ecological services" are in the public interest, the authorities are expressly providing for the oversight of protected areas and critical ecosystems. This means that activities which degrade those areas, such as mining, should not be allowed there. Were PRODEMİNCA to pave the way for mining activities in such areas, it would be contravening and weakening Ecuador's Constitution and environmental legislation, and impairing its judicial safeguards.

6. Without exception, the actions and omissions referred to have been those of PRODEMİNCA and the World Bank. We, for our part, have made a number of overtures to those responsible for implementation of this project in hopes of convincing them to go about their work in a way that does not harm our interests.

7. To that end, we have had the following meetings with World Bank and PRODEMİNCA staff:

1. Meeting in the office of the Ecuadorian Committee for the Defense of Nature and the Environment (CEDENMA) on Thursday, October 14, 1999, with the participation of: Mr. Antonio Bermeo, Director of PRODEMİNCA; Mr. John Aspin, of the British Geological Survey; Ms. Inés Mencias, on behalf of the United Nations; Mr. Gotthard Walser of the World Bank; Mr. Vicente Pólit, Chairman of CEDENMA; Mr. Carlos Zorrilla and Mr. Luis Robalino of DECOIN; Mr. José D'Coux of the Tropical Forest Research Center (CIBT); and Dr. Byron Real, an attorney for the Defense of Life Corporation (CORDAVI). At this meeting, environmentalist organizations and local communities expressed their concerns regarding the PRODEMİNCA project. It was suggested that one way to avoid mining problems in the protected areas would be to refrain from publicizing information on those areas, leaving blank spaces on the maps,

CD-ROMs, and other materials PRODEMINCA is scheduled to disseminate.

2. Meeting at the Colón Hilton Hotel on November 4, 1999, with the participation of: Mr. Gotthard Walser, representing the World Bank; Messrs Carlos Zorrilla and Luis Robalino and Ms. Sonia Dillmann of DECOIN; Dr. Byron Real of CORDAVI; and Mr. José D'Coux of CIBT. At that meeting, Mr. Walser promised to make available the environmental assessment and other pertinent information regarding the PRODEMINCA project. That promise was only partly kept, because the study referred to was not sent in the appropriate form (it was transmitted via e-mail in an unusual format which meant that the material could not be recovered).
3. Meeting in Cotacachi on November 12, 1999, with the participation of Gotthard Walser, Mining Specialist, World Bank; Pilar Larreamendi, the World Bank representative in Ecuador; Ms. R. Kunanayagam, of the World Bank; Mr. Antonio Bermeo, Executive Director of PRODEMINCA; Messrs. Edmundo Varela, José Cueva and Carlos Zorrilla and Mmes. Cecilia Alvarez and Sonia Dillmann of

DECOIN; and Mr. Alfonso Román of *Acción Ecológica*. At this meeting, Mr. Walser was handed a document containing our request not to divulge the information gathered by PRODEMINCA, together with a summary of the previous meetings (Annex 5).

Apart from these meetings, we have repeatedly asked Ms. Larreamendi and especially Mr. Walser (Annexes 6, 7, 8, and 9) for a copy of the project environmental impact study (EA). Nevertheless, two months after our first request, we have received only a copy of part of that document containing no information at all on our region.

At these meetings, we have insisted on pointing out the omissions attributable to PRODEMINCA, and on our request that mining data on the areas referred to, and in general on protected areas anywhere in Ecuador, not appear on either the map or the CD-ROM to be distributed. Despite these efforts, we have not yet discerned a clear response by either PRODEMINCA or the World Bank in the sense of a readiness to reach agreement, and we certainly have not received any communication in this respect.

8. For all the above reasons, we consider that the replies to our numerous requests for documents such as the EA (environmental impact study) have been totally unsatisfactory. Instead of receiving prompt and complete information from the above-mentioned officials, particularly Mr. Walser, we have received only partial and inadequate information.

9. Apart from the actions described above, we have taken the following steps toward solving our problem:

- (i) We are denouncing, in Ecuador and abroad, the threat posed by fostering mining activities in Ecuador's protected areas, their buffer zones, and forests in Intag and north-west Ecuador, together with the part played by World Bank financing in this threat (Annexes 10 and 11).
- (ii) We have alerted government bodies (the Ministry of the Environment) and nongovernmental organizations in Ecuador to the illegal and harmful aspects of the PRODEMINCA mining project (Annex 12).

On the basis of the above considerations and reflections, we hereby request an Inspection Panel on PRODEMINCA, in order to verify the omissions we have pointed out and to analyze the adverse effects they will have on our interests. Once that process has concluded, we request that PRODEMINCA objectives be reformulated, in the sense that support not be available for mining activities in either critical natural areas or protected areas, and that mining information on those areas therefore not be disseminated.

We would be happy to provide any further information and/or details upon request.

Intag, December 6, 1999

[Signatures of interested parties are appended to the first part of the document.]

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